

**MINUTES
OF
THE TOWN OF RENSSELAERVILLE TOWN BOARD
PUBLIC HEARING
PROPOSED NOISE ORDINANCE
JULY 7, 2015
6:30 PM**

The Town Board of the Town of Rensselaerville held a Public Hearing on the 7th day of July 2015 at 6:30 in the evening at the Rensselaerville Town Hall, 87 Barger Road, Medusa, NY. The meeting was convened by Supervisor Lounsbury and the roll was called with the following results:

PRESENT WERE: Supervisor Valerie Lounsbury
Councilman Robert Bolte
Councilwoman Margaret Sedlmeir
Councilman Gerald Wood
Councilwoman Marion Cooke
Town Clerk Victoria H. Kraker

Also present were Code Enforcement Officer/Building Inspector Mark Overbaugh and sixteen interested citizens.

The purpose of the Public Hearing was to hear public comments on the proposed Noise Ordinance.

Supervisor Lounsbury began by reading the written comments which were submitted as follows:

JANE HERSHEY

To: Town of Rensselaerville Board
RE: Noise Control Law

Due to a previous commitment I am unable to attend the Public Hearing tonight. Thank you for considering my concerns and suggestions listed below.

- On page 2 No. 2: Private Residence and Meeting Halls:
Limiting the hours of 'noise' from a party to '12 midnight and not to resume until after 8 AM'. This allows the neighbors to get a proper 8 hours of quiet for sleep.
- Page 2 No. 3 Construction: Change the hours of unreasonable noise to between 7:00 AM and 9:00 PM. Any construction noise before 7:00 AM

is a brutal way to wake up. The way it is currently in the draft does not allow for more than 7 hours of quiet.

Sincerely,
Jane Hershey

FROM A RESIDENT OF THE TOWN OF RENSSELAERVILLE

June 29, 2015

To the Town Board of Rensselaerville,

This letter is being written so that it can be read into the record of the meeting of July 7, 2015 regarding the noise ordinance that is being discussed.

I live in one of the hamlets in the Town of Rensselaerville and value the quiet country town feeling. The houses are fairly close together and everyone is friendly but respects their neighbor's privacy for the most part.

I believe for people to live together as good neighbors it is always important to be considerate of one another. Just as I would not blare music in the middle of the night or leave the contents of my kitchen on the lawn to ruin my neighbors' views, I think it is only considerate and appropriate to restrict the loud noises of three and four wheelers in the confines of the hamlets. The noise from these machines is very loud and it can go on for hours as the area to ride them in is small! Is it fair to inflict that loud continuous noise on others?

I believe neighbors should be able to enjoy the quiet sounds of nature when they sit in their yards or have a meal with friends. The loud noise of these machines in the hamlets where homes and backyards are right next to each other ruins the quiet and enjoyment of each other's company and the natural country atmosphere that the citizens of this town love. When youths are on these vehicles, people in neighboring areas cannot hear each other talk.

We need to be respectful of our close neighbors and let our residents enjoy their peace and quiet on their properties. Three and four wheelers should only be used in the open country where there are not other citizens so close by.

Should just a few disturb the peace and quiet of many others? I think not!
Additionally, the value of the homes nearby is diminished as what prospective buyer would buy a home where there is often loud and unreasonable noise?

From a Resident of the Town of Rensselaerville

LAWRENCE J. STRICKER

Dear Ms. Lounsbury:

I'm sorry I can't attend the meeting of the town board on a noise ordinance. I would like to request that the following statement be read at the meeting:

I don't know whether a noise ordinance is needed. But the draft is problematic. Motor vehicle noise is already covered by the state motor vehicle laws. And here are significant gaps in the coverage of other noise.

The ordinance ONLY covers extreme noise—noise a reasonable person would not tolerate, and ONLY such noise from two sources—residences and halls, and construction, and then ONLY for as little as five hours in the middle of the night.

This means that extreme noise is PERMITTED from residences and halls between 6 a.m. and 1 a.m. the next day and from construction between 5 a.m. and 10 p.m. Just as important, this extreme noise is permitted from ALL other sources, such as businesses and nonprofit properties, 24 hours a day.

The ordinance, as presently drafted, does more harm than good. If Rensselaerville needs an ordinance, a more comprehensive and more fully thought out version is called for, if goals are to be realized.

Regards,
Lawrence J. Stricker

Supervisor Lounsbury noted that she previously received from Mr. Stricker, a model noise control ordinance from New Jersey if anyone would like to review it.

Supervisor Lounsbury opened the floor for audience comments and called citizens in the order in which they signed in to speak.

STEVEN COOK

Mr. Cook stated his concern that if the law were to be adopted it is not going to stop with just three and four wheelers. If three and four wheelers can be targeted, others things such as cow bells may be next.

Mr. Cook also had a few concerns regarding DEFINITIONS: unreasonable noise: "...volume that a reasonable person of normal sensitivity would not tolerate..."

In a day and age where we are taught to tolerate and be sensitive to everything,

who is going to determine what is normal, sensitive, and tolerant. If we are trying to determine who is normal and sensitive and how much we can tolerate, we are in a bit of trouble.

Another concern Mr. Cook has is that his family are grave diggers and on occasion they are needed to run generators and jack hammers at ungodly hours in the cemetery. Mr. Cook is concerned that they may not be able to accommodate someone's deceased friend or relative because digging would only be allowed between certain hours due to the noise their equipment makes.

WALTER COOK

Mr. Cook addressed DECLARATION OF POLICY: it states that "...so as to preserve, protect, and promote the health, safety, and welfare..." He stopped there to state that he serves on the Planning Board and they recently issued a permit for a brewery. He feels this is much more serious as alcohol does more damage and takes more lives, but he has never known noise to kill anybody. There was no one at the Public Hearing for the brewery permit and Mr. Cook was the only one that voted against it. He went on to say that he doesn't see where a noise ordinance would have anything to do with public health or safety.

Next, Mr. Cook addressed PROHIBITED ACTS. The noise ordinance doesn't have anything to do with this as law enforcement takes care of it.

EXEMPTIONS, Mr. Cook noted that the "...law shall not apply to farm operations conducted in accordance the Town of Rensselaerville's Right to Farm Law" and inquired whether or not the Town has such a law. Supervisor Lounsbury responded that the Town did adopt the Right to Farm Law. Mr. Cook suggested that signs be put up on all roads entering the township.

Mr. Cook inquired as to how this subject came about. Supervisor Lounsbury responded by saying that numerous people have complained about noise in different areas where they live and how it has affected them.

Mr. Cook stated that he is putting his confidence in the Board to come up with a reasonable noise ordinance.

JEANNETTE RICE

Mrs. Rice stated that she is in favor of a noise ordinance of some kind, and appreciates the effort put forth, but feels that this version needs to be revisited with the exception of the Right to Farm Law. She feels that farmers should be able to

do whatever they need to do to farm and this proposed ordinance is clear about that.

Mrs. Rice and her husband have lived on Pond Hill Road since 1968 near the Rensselaerville Institute which was usually very quiet. Since the Rensselaerville Institute is now the Carey Center for Global Good, she has noticed an increase in parties, particularly weddings. The noise from these parties usually stops around 11:00. The proposed law giving private residences and meeting halls until 1:00 AM, only prolongs the torture time. They appreciate the business and try to be tolerant of it, but 11:00 would be much better.

The noisy parties that go on in the hamlet sometimes until 4:00 in the morning have affected Mrs. Rice's health in the way that she was going through cancer treatments and needed her rest. She feels as the law reads now, 1:00 AM is much too late. She also believes that 6:00 AM is much too early and suggests 8:00 instead.

The duration and intensity of recreational vehicles is of importance. Snowmobiles that simply pass through is certainly tolerable, but when snowmobiles and four wheelers go on hour after hour, it becomes disturbing.

Mrs. Rice would like to see the term 'noise beyond ambient' incorporated into this proposed law. She stated that it makes it easier to identify the noise. Brooklyn has this in their noise law and does not allow 'noise beyond ambient' after 10:00 PM.

DIANA HINCHCLIFF

Ms. Hinchcliff feels that this proposed noise ordinance is quite a dilemma. She understands that law enforcement needs a tool to use when there is a situation of unreasonable noise.

Ms. Hinchcliff suggests some changes for improvements as follows:
Under DEFINITIONS, 'a' and 'b', she feels that both are rather squishy. As the attorney mentioned, it is difficult to define what unreasonable might be; as what may be unreasonable to one may not be unreasonable to another. Perhaps there could be some way to come up with a definition, perhaps by decibel level. Ms. Hinchcliff suggested contacting law enforcement to ask them what they would need to have to determine what an unreasonable level of noise is.

The draft needs to be more precise; there needs to be a better way to determine if there is a violation or not.

PROHIBITED ACTS: Ms. Hinchcliff noted that horn honking through the village has been a problem and would like to see if horn honking could be an addition to Section 4 as a sound violation.

Under Private Residence and Meeting Halls: Ms. Hinchcliff believes that any private resident or meeting hall party that is held outside should end at 10:00 PM. Parties at the Carey Center are asked to move inside at a certain point, but Ms. Hinchcliff feels that there should be a time, specifically 10:00, when parties are either moved inside and/or windows closed. She also feels that a 6:00 AM start time is much too early, 8:00 or even later is more reasonable.

Ms. Hinchcliff understands that contractors like to get an early start, but 5:00 AM is very early for those who live next to a location where there is construction going on. She suggests that between 6:00 and 7:00 would be better. She also believes that a 10:00 PM end time is late and suggests 9:00 or even 8:00.

Ms. Hinchcliff addressed Steven Cook's concern about the cemetery. She thought that this might qualify as a case of public safety or an emergency and may not even be a problem under this law. She thought it may be a good idea to specify that.

Ms. Hinchcliff noted a typographical error in Section 5 and also recommended that after the word 'synagogue', the phrase 'or other house of worship' be added as there may be other types of buildings that may be considered houses of worship that may not be considered a church building or synagogue.

Lastly, Ms. Hinchcliff feels that under section 9, 'This law shall become effective immediately upon filing with the Secretary of State' is also squishy. State legislation usually states the law shall become effective 30 days (for example) after enactment; meaning after it is voted on, it becomes effective 30 days from that point. As it stands now, people will not know when it is actually filed with the Secretary of State.

MARIE DERMODY

Mrs. Dermody also leans toward wondering if this law is something that is really needed. If the instances are so occasional, she feels that there should be some other way to resolve neighbor problems instead of putting another law on the books. On one hand she understands the desire to protect the people being affected by the noise, but on the other hand, the people who are making the noise are paying taxes and have a right to enjoy their property. She described it as being caught between the devil and the deep blue sea.

Mrs. Dermody went on to recommend that the two paragraphs in Section 2 be reversed. She feels that the philosophy and rationale should be first and then intent to act, second.

Under DEFINITIONS, Mrs. Dermody finds this section very subjective. Who is going to decide what is unnecessary or unreasonable and how is it going to be measured? There needs to be some concrete way to determine what is unnecessary and/or unreasonable. Mrs. Dermody reminded everyone that the Attorney for the Town has said that these laws are very difficult to enforce and it opens the Town up for litigation for denying people their rights. She doesn't know if the Town can afford that.

Under PROHIBITED ACTS, Mrs. Dermody feels that according to the way the proposed law is written, it sounds like private residences and meeting halls would be allowed to make all the unreasonable noise they wanted to *outside* the hours of 1:00 AM and 6:00 AM.

Under CONSTRUCTION, she feels that this Town is begging for business and is now going to step on toes and tell people when they can and cannot conduct their business. She understands when people are next to construction sites and that is another dilemma that needs to be addressed, but can the Town afford to lose any more businesses?

Under EXEMPTIONS, why should the Town be exempt?

Under ENFORCEMENT, Mrs. Dermody inquired whether or not the Town has received a commitment from law enforcement agencies that they will actually enforce the law, and if a law will not be enforced why should the Town have a law? She cannot see calling Officer Overbaugh out in the middle of the night either. Also on a second offense, a summons will be issued to appear before the Town Judge; will the Judges be seeking input, will they have a hand in designing or creating this law? There are no parameters to these penalties.

Mrs. Dermody did some research on the Town of New Scotland's Noise Ordinance (which the Town of Rensselaerville's ordinance is fashioned after) and noted that New Scotland is much larger than the Town of Rensselaerville and has only had one instance where their ordinance has come into play. This one instance cost the Town of New Scotland thousands of dollars in litigation.

In conclusion, Mrs. Dermody's opinion is that she is not sure that this law is needed. But, if it is, she strongly suggests that the Town Board go back to the drawing board, start from scratch and take into account all suggestions and concerns that have been presented so that the Town has a law that will work.

TIM GUNN

Mr. Gunn is in support of the noise ordinance. He feels that a lot of people live in this area because they enjoy the quiet and peaceful existence, and excessive noise damages that. He stated that he doesn't think it could harm someone's health but admits that it may be a possibility. He also feels that excessive noise could affect property values. He has not been bothered by regular noise - it is part of everyday life. What has made him support this law is the dirt track that has been built across the valley. It is the intensity and duration of the noise that drives himself, his wife, and he believes others, simply batty. He would be happy with the stipulation set forth in the new law that off-road vehicles would be bound by the same limitations that on-road vehicles are in terms of noise and, as he understands the law to read, these bikes, even on private property, must have mufflers.

Mr. Gunn understands and appreciates some of the concerns that have been presented, but simply because it is difficult does not mean that something positive should not be enacted.

ERNEST KUEHL

Mr. Kuehl understands the philosophy that the law may crepe bigger and bigger. He noted the lack of specificity and lack of congruency with the State law. He also noted some interesting regulations stated in the Snowmobile book such as a working muffler shall not exceed 73 decibels; only snowmobiles that operate on public land are required to be registered. One cannot operate a snowmobile within 100 feet of a dwelling between midnight and 6 AM at speeds greater than needed to maintain forward motion. These rules apply to ATVs also. He feels that if the State thinks midnight is a good cut-off, the Town should go with that also. Unfortunately the requirement for ATVs is to have a muffler that is in good operating condition and meets Federal standards. Furthermore, as he has read on the laws on ATVs and snowmobiles, there are State restrictions, but the local municipality may increase the restrictions. In addition there are no restrictions on private lands – ATVs and snowmobiles do not have to be registered or insured. The law also states that a person in charge of an ATV is allowed to have an off-road competition as long as the State is notified 30 days in advance. If it is held on private property, the notification is waived. Also on private property, these vehicles are exempt from the muffler, light, and tire requirements.

Under Section 4, Mr. Kuehl suggested that the term motor vehicle covers ATVs and snowmobiles and the wording should be more specific, as some people do not realize that these machines fall into that classification. He also suggests specifying the noise level for the muffler at 100 feet.

Supervisor Lounsbury opened the floor to those who had not signed in, but still wished to speak.

K.B. COOKE

Mr. Cooke understands all the comments that have been made, but noted that these vehicles cannot be driven on the roads or wherever you want. He remembers in years past that riders were considerate of the properties of others and always asked permission to either ride on or pass through. No law was needed. He doesn't believe that anyone – not the Town, not the County - can stop someone from riding on their own property. Most of the rules for these vehicles are already in effect. He feels that a law would not be enforceable and that a lot of these problems can be solved by simply being neighborly.

BARRY KUHAR

Mr. Kuhar noted that when he was on the Town Board in the 90's, the Board entertained the possibility of a noise ordinance at that time as well, but the more it was discussed, the more the Board realized that this is a rural community bringing in suburb rules that cannot be enforced. He agrees with Mrs. Dermody that this could cost the Town a lot of money if the 'i's aren't dotted and the 't's aren't crossed. Mr. Kuhar cautions that before the Town jumps into anything, to think twice.

AMANDA RONCONI

Ms. Ronconi is quite squeamish about a law limiting noise. She feels it would be difficult to do and to enforce. She noted the dirt bike situation echoing across the valley. The bike track is on private property, so she believes the mufflers would not be regulated under law. It is a dirt bike track and the noise is constant usually on Sundays between noon and 6 PM - it stays in one place and echos across the valley. If a law regulating noise were to be established, and a decibel meter were to be used, she is quite sure it would register high. She also understands the difficulty in regulating people's noise.

A motion was made by Councilman Wood to close the Public Hearing at 7:21 PM; 2nd by Councilwoman Sedlmeir.

Motion carried: Ayes (5) Lounsbury, Bolte, Sedlmeir, Wood, and Cooke; Nays (0)

RESPECTFULLY SUBMITTED;

Victoria H. Kraker
Town Clerk