

**Noise Control Board Meeting
 Wednesday, December 19, 2018
 Council Chambers
 6:30 p.m.**

<u>Members</u>	<u>Present</u>	<u>Absent</u>
Irene Bellamy	<u>X</u>	<u> </u>
Adele Ellis	<u>X</u>	<u> </u>
Harry Pitt	<u>X</u>	<u> </u>
Mark Shroder	<u>X</u>	<u> </u>
Alan Stillwell	<u>X</u>	<u> </u>
Larry Wenzel	<u>X</u>	<u> </u>

Also Present:

Bob Ryan, Public Services Director; Suellen Ferguson, City Attorney; Mark Russo, College Park Code Enforcement Officer; Vivian Cooper, Animal Control Officer; Sheryl DeWalt, Recording Secretary

I. Call to Order

The meeting was called to order at 6:30 p.m. by Mr. Stillwell, Chair.

II. Approval of Agenda

Ms. DeWalt stated that the agenda listed approval for November 30, 2017 minutes, however the minutes were approved at the January 29, 2018 meeting.

Mr. Shroder moved to approve the agenda with the correction. Mrs. Bellamy seconded the motion. All were in favor. The motion passed 6-0-0.

III. Approval of January 29, 2018 Minutes:

Ms. DeWalt stated that the minutes had a date error of “2017” instead of “2018.” Mrs. Bellamy moved to approve the minutes as amended. Mr. Shroder seconded the motion. All were in favor. The motion passed 6-0-0.

**IV. Hearing: 5203 Lackawanna Street, College Park
 Property Owner:**

Richard Schefer

Complainants:

Eric Newman
 Maritza Newman
 Tom Pearson

Noise Control Board Chairman Stillwell explained the process for the hearing. Mr. Schefer stood up and stated out of turn that he objected to the hearing. Mr. Stillwell informed Mr. Schefer that he would have his time to respond and needed to be seated and quiet until it was his time. Mr. Stillwell then continued with reading §138-5: Prohibited acts of the Noise Ordinance, §138-1: Violations and Penalties of the Noise Ordinance, §138-6B(1), (2), and (3), Noise Control Board and the complaint received on October 5, 2018. Mr. Shroder read additional complaint letters received on October 20, 2018 and December 17, 2018 from Mr. Thomas Pearson.

The Complainants, Eric Newman and Maritza Newman approached the table.

Mr. Eric Newman of 5205 Lackawanna Street voiced that the main concern outlined in the letter was the constant noise generated about 12 hours daily from Mr. Schefer. He then started to read from an outline he had composed. Mr. Stillwell reminded Mr. Newman that he needed to stick to the facts relating to the noise complaint. Mr. Newman proceeded to give a synopsis of various noise issues that affect both his wife and himself daily from Mr. Schefer.

After listening to Mr. Newman's account, Mr. Wenzel asked for clarification of the music as to the fact that it is playing from sunrise to sunset. Mr. Newman stated that the noise has been an irritant for over a year. Both his wife and he work from home and the constant music playing from the garage, the deck, or the home of Mr. Schefer is interfering with their work and has become an invasion of privacy.

Mr. and Mrs. Newman left the table and Adam Jackson of 3217A Birdwell Court, Laurel, MD came forth to offer his account.

Mr. Jackson stated that he was house and pet sitting for the Newmans October 18-22, 2017 and October 20-21, 2018. While at the Newman's, he noted that music was continuous without interruption for approximately 9-10 hours per day. It was very noticeable inside the house.

A copy of the Newman's "History of Harassment" and Mr. Jackson's written statement was received as additional evidence.

Mr. Ryan stated that several complaints were received online. He also stated that on August 24, 2018, Code Enforcement Officer Mark Russo responded to 5203 Lackawanna for a complaint from several neighbors. Officer Russo was present, and the Board asked him to comment.

Officer Mark Russo approached the table:

Officer Russo stated that he has been with the City of College Park for 4½ years as a part-time code enforcement officer. On the evening of August 24, 2018, at 8:04pm, he responded to a noise complaint at 5203 Lackawanna Street. He arrived at 8:18pm. There were also two Prince George's County police officers present. There was music coming from the backyard and it was measuring at 55 decibels which is considered ambient noise. The police officers and Officer Russo departed at 8:30pm. At 8:38pm, another call was received from Mr. Newman to come back and measure the noise. After arriving for the second time, the neighborhood ambient noise level measured 66 decibels outside. Mr. Newman invited Officer Russo into his home and the noise level measured 51 decibels in the Newman living room. Officer Russo could not hear any outside music in the Newman home. Officer Russo encouraged the Newmans to call back if the music seemed any louder. He also explained the process of how to register a complaint and request a hearing with the Noise Control Board. He left the Newman home at 9:25pm. He did not hear any music playing when he left the Newman home.

CEO Russo's incident report was submitted to the Board.

Respondent approached the table:

Mr. Richard Schefer of 5203 Lackawanna Street once again objected to the entire process. He also stated that he never saw or read the letter from Mr. Pearson. He then showed the board a copy from Google Maps of Lackawanna Street showing his home and the Newmans' home. He began to explain about the Newmans' building an extension on their home and showing the proximity of their houses. In the past, he had helped Mr. Newman with the various small projects and helped with suggestions and

ideas concerning a contractor working on the Newman house. Mr. Schefer kept asking the same questions: "Who decides what is loud and raucous?" "What is the level I can play my music? Is it at '2' or '4' on my radio?" He also stated that Mrs. Newman screamed at his dog. He thinks of his dog as his 3-year-old child and has spent over \$20,000 on his dog. He doesn't incite his dog to bark intentionally; the dog is sensing that the Newmans do not like him and that is why he barks. Mr. Schefer also remarked that the dog has received a Good Citizenship Award and an AKC award.

He said that on the night of August 24, 2018, he dozed off and he thinks the radio may have been on level 4. Since that time, he has kept the radio at 2, never at 4.

Board members asked the Respondent questions:

Mr. Stillwell asked if he has ever discussed the noise complaint concerns with the neighbors. Mr. Schefer stated that the Newmans are not receptive to him. Mr. Wenzel asked if the music is being played from sunrise to sunset. Mr. Schefer stated that the music is turned off at about 6:00pm. Mr. Wenzel also asked if the music is being turned on as soon as he gets up. Mr. Schefer stated he plays his music from 11am-6pm. Mr. Stillwell asked if he brought his boom box and Mr. Schefer said no. Ms. Bellamy asked that since you seem to like your music so loud, have you thought about wearing headphones. Mr. Schefer stated he doesn't like headphones and thinks they are bad for your ears and hearing. Mr. Stillwell asked if he has ever turned down the music. Mr. Schefer responded yes, that he only plays the radio loud enough for him to hear. Mr. Pitt stated that it seems wearing headphones or earphones may help promote neighborhood harmony. Mr. Schefer stated he does conform to the city standards. Mr. Stillwell stated that everyone is entitled to enjoy their homes and neighbors should try and get along with each other.

The Complainants approached the table.

Mr. Newman stated that since the hearing notice had been received that the music and dog barking seems to have ceased somewhat. His wife and he are afraid that once the hearing is over, the music will return to its former loud level.

Mr. Shroder asked where the music seems to come from. Mr. Newman stated that it comes from garage, the back porch and sometimes from an open window in the home.

Respondent approached the table:

Mr. Schefer stated that he is retired and works out in his yard and plays with his dog. He agrees to put up higher fencing in the spring, so the dog doesn't scare the Newmans. He stated that the Newmans do not like anything that he does or the fact that he lives next door to them. He then showed and played the toy police car with flashing lights and siren he stated had been part of an outside Halloween decoration. Ms. Ellis stated that the toy may not be loud, but it is annoying.

Chairman Stillwell asked if anyone had additional questions.

The Board recessed at 7:35 p.m.

The Board returned at 7:47 p.m.

Chairman Stillwell reconvened the hearing.

With respect to whether Mr. Schefer had generated loud or raucous sound on his property, so as to cause unreasonable annoyance or disturbance to others living or located nearby; Chairman Stillwell stated the Board found that a violation had occurred; Chairman Stillwell requested a motion that a violation had occurred.

Mrs. Bellamy moved that a violation had occurred Mr. Shroder seconded the motion. All were in favor. The motion passed 6-0-0. **Chairman Stillwell explained that the Board may impose a maximum fine of \$500.00 with possible reductions as follows:**

(1) The person subject to a fine has taken action recently calculated under the circumstances to prevent or mitigate future violations, is remorseful, has a present demeanor and sincere desire to reduce future violations.

The board found the Respondent's demeanor and response to be appropriate to mitigate the violation. **Mrs. Bellamy moved that the fine be reduced. Mrs. Ellis seconded the motion. All were in favor. The motion passed 6-0-0. The fine was reduced \$100 as the Respondent was found to be remorseful.**

(2) The person subject to a fine has apologized prior to the hearing to the person(s) who has/have filed the complaint and other known persons who were disturbed by the violation.

The Respondent or Complainants did not offer testimony regarding an apology and/or attempts to resolve concerns prior to the hearing.

Mrs. Bellamy moved that the fine should not be reduced. Mr. Pitt seconded the motion. All were in favor. The motion passed 6-0-0. The fine was not reduced

Chairman Stillwell issued the final decision:

The total fine resulted in \$400.00. Chairman Stillwell urged the neighbors to work together to resolve the issue.

V. Other Business

No other business

VI. Adjournment

Mr. Shroder moved to adjourn the meeting. Mrs. Bellamy seconded the motion. All were in favor. The motion passed 6-0-0. The meeting adjourned at 7:56 p.m.

Respectfully submitted by Sheryl DeWalt, contract secretary.