

Safety Committee Minutes

Honorable Council
City of Newark, Ohio
October 18, 2022

The Safety Committee met in Council Chambers on October 17, 2022 following the Finance Committee meeting with these members present:

Mark Labutis, Chair
Spencer Barker
Beth Bline
Michael Houser
Jeff Rath

We wish to report:

1. **Ordinance No. 22-43** AN ORDINANCE AMENDING CHAPTER 634 OF THE CODIFIED ORDINANCES OF THE CITY OF NEWARK, OHIO RELATIVE TO THE NOISE ORDINANCE OF THE CITY OF NEWARK

Tricia Moore, Law Director – First of all, since I became Law Director, one of the biggest things I heard time and time again, was the City needs a Noise Ordinance. So ,from the very beginning, last October, November, I have been meeting with various members of Council. I would like to thank some council members they've put in an extreme amount of time trying to make this thing great. A good stuff for the City of Newark as well as the Safety Director and Chief of Police were in our meetings and some meetings that I've attended included business owners and I have taken their input in putting this together. When I said this was a cooperative effort, it truly was. Thanks to the Safety Committee for listening, and putting this Ordinance together and assisting me. So, what I discovered about the City of Newark is that we already have a Noise Ordinance and that we have a system put in place that allows places of entertainment to be able to hold events within the City after being granted a variance by the Safety Director that can be appealed to Council. Now, the problem with that Ordinance is that it was never really completed. AAS you will see under the language from the variance that it requires the Safety Director to be giving out permits that are applied for, that are posted, that a determination is made on them and then the terms that can be granted are then given to the event holder. In my 18 years as Assistant Law Director and now Law Director I've never seen this offered. So, what I decided to do was rather than reinvent the wheel, let's take the system that's already in place in the Newark Codified Ordinance under Section 634 and let's make it work, let's make it enforceable for our Police

and let's make it fair for both the residents and business owners. Now this can be a very tricky thing to do because residents want to be able to enjoy the peace and quiet of their home and businesses want to be able to have events and bring in business to their location and make the City come alive, so how do we do that? First of all, starting with places of public entertainment, we have put into place, we changed some times to be more fair to places that want to hold events. So, now the cut-off time went from 9:30 to 10:00. For places of public entertainment, on Fridays and Saturdays they can go to 11:00 without a variance as long as they keep it within those decibel ranges in the Ordinance. Now, if a location feels like they are going to break the Ordinance, if they are going to go above the levels or they are going to go longer than 10 or 11 o'clock, they can apply for a variance with the Safety Director and what you will find in the packet is the instructions, a kind of overview that will be passed out with the application as well as an application with the information that we are requesting. The considerations that we have taken, because some locations are big and they can afford higher fees and they can afford if we made them publish it in the newspaper which is the way it was set up, but then we have smaller locations like JUGZ, like TOWNZ, that have outside events and that might be a hardship for them. Our point is not to shut businesses down. So, the Noise Ordinance originally said that all events would be published in the paper. I don't know if any of you know the price of publishing in the paper, but it can be high. So, rather than do that, we know that the City of Newark is working on a fantastic website, so we changed that part of it so say that events will be published on the City of Newark website, which will then be charged to the vendor. After that, anyone who has a problem, or doesn't want that event to occur, or thinks they will be effected can then also submit a written response. Once the Safety Director makes his decision, either against or for, either one of those people can then appeal it to Council and it will be done over, which means from the beginning. We are going to allow events to put multiple events on one variance as long as they are the same in nature. So if TOWNZ wants to have a band outside on Saturday nights through the summer months and the setup is going to be the same, the performing there will be the same, they can put multiple things on the permit. Where the City kind of says yes, we will give you a variance for these events, however, if you are found in violation of that variance then it can also disqualify all of those events on the variance and you would have to start from the beginning. So it gives people some incentives to abide by that variance. A variance will only be granted if it is an unreasonable hardship on the event to abide by our Noise Control Violations. So, other than the changing of times and the process a little bit to make it a little more friendly to event holders, it pretty much has stayed the same. The City of Newark does have a decibel meter which will make the noise control part enforceable. What I like about the Heath codified Ordinance in regards to their Disorderly Conduct Statute, is they also addressed noise concerns in their Disorderly Conduct Statute. What's great about this part of Disorderly

Conduct is it doesn't make it based on decibel meters it makes it based on a reasonableness test. So, let's say that the officers are outside, they get a complaint that somebody is playing loud music at their house. There's actually a clause in here that says, can definitely be heard from a distance beyond 50 feet from the structure, vehicle or source of the sounds and that is prima facie evidence of a violation of disorderly conduct. Which is a misdemeanor first time, if you persist it's an M4. First of all, City of Newark events will be exempt, any school related program or activities will be exempt and any event that's going to prove in compliance with a variance issued by the Safety Director will be exempt from our disorderly conduct statute as well. What this does is give law enforcement an easier way, let's say that the decibel meter is over at that location and they are over at a house and they don't have the decibel meter. They can make a determination based on reasonableness, based on distance they are from the location, whether or not there is a variance in place, to decide if enforcement is necessary. So, my goal with the Disorderly Conduct Statute is to make it an easy tool for law enforcement to use in conjunction with the noise control. There was a part of the Disorderly Conduct Statute that was taken out a few years ago that was precious to my prosecutors in the realm of the Domestic Violence arena. So, while I was changing the Disorderly Conduct section I also asked that be added back in and that's if the victim of a disorderly conduct is a family or household member that it automatically be a misdemeanor of the 4th degree because it is a domestic situation. This was a great tool for my prosecutors to use in a domestic situation that didn't necessarily meet the level of an assault, but was not good at the same time. It gave us a good charge that also identified it as a family crime without them having to do it again and again to a family member. So, that's why you'll see that under section 2 on the last page for that to be added back in so that we can utilize that. So, at this time are there any questions.

Mr. Houser – I have a question about the multiple events. Let's say an event that has a concert schedule essentially for the summer let's say, how does that work, so they have to give information such as dates and details on each individual one, let's say I'm having 15 events that would be similar.

Director Moore – Let's say, for example. They say every Saturday during the summer they want to have a band, we believe there will be a hardship if we have to abide by the noise ordinance, so we are requesting either to go louder than what's specified or go longer. At that time they will put down what they want to do, it will be a musical band and how many the Safety Director allows beyond that will be up to him, I'm sure he will communicate to that person, but as long as it is the same in nature and their hardship is the same, I don't have a problem with one application and the Safety Director probably doesn't have a problem with fewer applications.

Michael Houser – Let's just say I added a few dates what would that do?

Director Moore – Any Change like more dates or longer hours or we want to go to higher levels, anything that we need to give the public a chance to respond to should be a separate application.

Jeff Rath – Just to follow up on the application, you are asking an application be submitted 60 days prior and you're asking for a single person to be a point of contact and it could be an employee could be that single point of contact. That employee could change after the application within that 60 day period, so would they have the opportunity to be able to edit the application?

Director Moore – Any kind of substantial change for me, would be it would be a change in something that the public would need to know. They don't want to go to midnight, they want to go to 1am or they don't want to keep it at 60 they're asking for 75. The point of the person for a point of contact, the reason we did that is because we want someone to be able to be held responsible if they are breaking that variance. SO that way Chief McKee and his officers go to the location, they have the decibel meter, they can prove they are over the limit they are allowed in their variance, we can find the person in charge and give them the opportunity to turn the music down and if they don't then that's going to force them to take place. If that person changes as long as they let Safety Director know, who lets Chief know, hey this person will no longer be the person in charge, this is the person now in charge and this is their phone number, I don't think that would require a new application.

Mr. Houser – Let's say you had a last minute venue that was 20 days before the event, can you upgrade it?

Director Moore – What we put in that letter is that it's not guaranteed that that will be reviewed. So if you're going to have event, make sure you stay within the decibels that are already there and you shut off at the times that are allotted. Which is another reason that we extended that time, to be kinder to businesses that want to hold events as long as they keep it within that decibel range, so on Friday and Saturday they can go to 11pm as long as they keep it at that decibel range without a variance.

Mr. Rath – Can you explain the decibel range again?

Director Moore – Yep, it's in the and you probably don't have the original. So residential neighborhoods, this amendment that I'm making is 7-10, Sunday through Thursday, that's for private events would be in that until 10 o'clock, that would be 60 decibels in a residential neighborhood. Which I think when we went out on a night of Roost on the River, those decibel readings were all about 55/54, so they were within that 60.

Mr. Rath – When you say in a residential neighborhood are you saying where the sound originated from?

Director Moore – No, sound carries over, unless it's in a residential neighborhood where that's happening. So, Roost on the River is not a residential neighborhood, but they cannot produce sound over into the residential neighborhoods over 60 decibels.

Mr. Rath – So if it's a business, they are held to the residential standards.

Director Moore – They are responsible for the noise they are putting into the residential area. So then obviously for the limit for on Friday and Saturday from 11-7 for businesses it would still be 60.

Ms. Bline – I have a question about the 50 foot after 11 on Friday and Saturday that may be clearly and definitely heard. Most of the complaints I get are those fielded from those who are within that 50 feet. I know the one night we were at Newark Station it was at 56 and it was rough.

Director Moore – I took one at Newark Station that was at 74, so that was outside the scope if that variance.

Ms. Bline – So, since they built their structure within that 50 feet and if they had a variance, what would they be allowed to produce?

Director Moore – That's all going to come down to what they ask for and what the Safety Director determines to be reasonable. And that's taking into account any citizens that disagree with it in writing to the Safety Director he will take that into consideration as well. One thing that I added in there that is not necessarily permission for the City, but I left that as an option because I think it's important, is the ability for the Safety Director to go, if requested, they have to allow him to come in and inspect the venue. So if there is a venue that is going to be potentially a problem, just by location, he could say, we'll grant your variance if you move the stage, or turn it this way, or sound blockers, those are all options that we can talk about to minimize the noise especially if it is causing such a high level of problems.

Ms. Bline – Please know that in writing this, I just appreciate the Law Director, I appreciate that you talked with the residents and some of the businesses that this is an opportunity to do something brand new, this could benefit the businesses in ways that we never dreamed of. Just by maybe hanging sound blockers or turning in such a way, we can't discount this opportunity to do something new and as a result of thinking outside the box. This could be a really good thing. I want to thank everybody that came out tonight. I see a lot of familiar faces out there and feel free if you have something to say.

Mr. Marmie – I just have a question, there is a business and they get the variance and they have a venue and they have all the safeguards in the contract with the band or whoever is creating the noise that they are not allowed to exceed this many and then that entity is the one that's in violation. So, how do we protect the businesses when it's not them, they are trying to keep the sound down, but that band or whoever is the one's that's actually truly in violation.

Director Moore – Because what the idea is, is that if you are an owner of a bar or a restaurant and you are agreeing to have a band come in, they are going to have to understand that there is going to be limits on what they can do based on where they are

and ultimately it's the owners of the bar that are going to be held liable. I mean if they have to shut it off, they have to shut it off. If you're not going to comply with the terms then we have to protect residents as much as businesses.

Mr. Labutis – I know there are more comments, but we are going to suspend the meeting now so we can have 5 minutes before we go to Council meeting and then we will re-convene after Council meeting.

Mr. Labutis – I will call the Safety Committee Meeting back to order, thank you for sticking around to finish this, again we are discussing Ordinance no. 22-43 and 22-44

Director Moore – One thing I discussed with the Chief is, reports or complaints cannot be anonymous, so they have to have a name for us to take it seriously and to respond to a complaint because we mean business. There's a complaint and we have to respond and it's going to go to court and I need people to testify, so that's one thing we wanted to address.

Mr. Barker – I just want to make a comment on the whole process of this. You know as Tricia said we did start this, since I've been on Council in 2019 it was what I was hearing and it's been something that I hear every month about and we've worked on it and worked on it and I have to commend Tricia for working on this because she polled multiple different municipalities across the State, across the Country of all different sizes to really see what they did as far as a noise ordinance or the DOC, so a lot of thought a lot of time, a lot of discussion has gone into this and I would just really love to see this get passed through, get everyone's support so we can get this working after the first of the year.

Jeff Molden, 494 Beacon Rd – One of the things I wanted to ask is they said hardship for the business itself is what I don't understand and when we talked about this before, the decibel reading we were told if it wasn't calibrated after every one that it couldn't stand up in court.

Director Moore – So let me explain the difference between re-calibrating and calibrating, okay. The decibel meter and Chief McKee can speak to this as well, they are capable of being checked to make sure they are working properly. So that is what we call checking the calibration, not re-calibrating. Most machines, if there is an error, it will let you know. If there's an error or if it doesn't check right with the calibration check that says there is a problem, it will be sent out to the company to be re-calibrated. In order to use those, let's say we have a violation using the decibel meter, we will bring that to court and we will have experts from the company fly in and testify as to the accuracy of that device and reliability. At that point the court will make judicial notice of it, so that once that is journalized with the court that it's a reliable working machine and it's been properly checked in the hands of a trained officer, reliable, we won't have to do that again. Then the court will go on the testimony of the first responder. The officer gets up there and they testify how they check that machine for accuracy. They have to put that in front of the court, they say this is what I did to make sure this is working properly. This is the reading I have. After that reading is checked with compliance of the standards it was put into service.

Tim Waldren, 167 S. Second Street – Some questions and some answers. I'm stuck in the middle. One question I got is what is the charge to fill out the paperwork? Is there going to be a charge? How much? If someone comes in the beginning of the year and says I'm going to have one every weekend, but if it rains, I might not have one that weekend. Can they go all year long, or every month or something like that? The multi events. The decibel, I want to ask is the meter the same one we had twenty years ago? You said 50 feet. When somebody calls the police, where does he take the reading at, is it at the property line of the owner or at a far distant place. Do you know what I mean?

Director Moore – Yes, but we're talking about two different things. The Disorderly Conduct Statute talks about 50 feet, so let's say there's a guy down the road playing a radio really loud and I'll give you an example because we actually have a case in Heath. The officer pulls up, he can hear the music coming out of an apartment, 50 feet away and he can hear every word of the song he played and they had a complaint that music was too loud. So, that's an example of the Disorderly Conduct, it doesn't rely on a decibel reading for that but we certainly could use a decibel reading to prove the unreasonable if we wanted to. Now in reference to music from concert venues that may not be in residential areas, we are going to go to the site of the complaint. They're the ones calling in saying the music is too loud at my house, I live here, they're going to go to the site of the complaint and take a reading from that property.

Mr. Waldren – Multi calls. They had a "group of people". What would happen if a group of people get together and say we are against music at this corner bar, we're going to start calling in every week and make complaints, how is that going to be handled?

Director Moore – There has to be an investigation. So, the police are going to have to go out to that scene. They're going to stand there, they're going to listen, if it's a reading situation they'll take a reading, if it's unfounded, there is no action. We won't just go off of a citizen complaint with nothing else. That's why I want to know people's names.

Mr. Waldren – The location for the reader, there'll be one officer per shift qualified or just anybody can grab that meter and go out?

Director Moore – I believe they have to be trained. In the legislation, this is how it was written, that is going to be a cost.

Unknown Citizen – What are the fines?

Director Moore – Let me play this out, Chief, let me know if you need to add anything. Police are going to go out, your music is too loud, please turn down your music, they don't turn it down, that's a minor misdemeanor, and after that minor misdemeanor citation and they will have the ability to issue those that does not need to come to my office, if they continue after the minor misdemeanor citation, that becomes a jailable offense, a misdemeanor 4th degree with up to \$250 and possibility of 30 days in jail. It says fees shall be paid by the applicant at the time of filing by a schedule of fees formulated by the

Director of Public Safety. This is already in our ordinance, we're trying to make it fair to businesses, but this is currently as it reads. If this ordinance weren't to pass, the times would be 9:30, there would be no exceptions for businesses to go longer and the variances would work the same except we would have to publish it in the newspaper, which would be really expensive. The owner would have to pay for that before the application is even accepted. So we're actually trying to make it more friendly, allowing to operate longer than how it's written right now and could be enforced right now.

Steven Smith, 237 Violet Ct. – I think you might have missed my question, my question actually is, not quite understanding what you're reading here now, what's stopping them from taking those fees as part of being a business and who is actually getting jailed in this case, who is actually sitting in jail?

Director Moore – The person that is indicated to be responsible. Now, if that person is not on the variance, or they didn't request the variance, it's anyone who operates, plays or permits the operation of whatever is violating the noise ordinance. My hope is that business owners take charge of their buildings.

Rochelle Volen-Smith, 237 Violet Ct. – Several things, one is I feel that a lot of these particularly outdoor venues need to build in noise barriers and that has been proven and effective in other cities, the other thing is I think key here, I'm not understanding the DBA, the thing is this is a safety issue and on certain decibels in the high range and low range especially can be debilitating not just to hearing but to other parts of the body too. I think that really has to be considered very strongly, I think that just saying they are putting a sign outside that says we're going to be loud tonight is insufficient. The people who have been living in the areas do have rights and they have been living in these areas for the large part, a lot longer than these businesses have been in existence. I think that needs to be considered and I'm not sure that's in here.

Director Moore – The part you're reading about the sign has to do with the noise levels inside the venue. So, if a concert inside a venue is higher than 95, which is really loud, then they have to place a sign where anyone coming into the event knows there could be hearing damage. That's already in the ordinance, that's already part of it, I left that part in.

Ms. Volen-Smith – How does that effect the neighborhood though.

Director Moore – It has nothing to do with the sound coming out. That would have to do with the variance and the readings we are receiving in the residential neighborhoods coming out from that venue.

Tamara Linton, Jugz Tavern, 420, W. Main – My question is, because I'm a bar tender there on Saturday's, we have karaoke every Saturday, so if I put in this order then every Saturday I have to sign for it right?

Director Moore – It depends if you're going to break the sound ordinance.

Ms. Linton – From 8-12 on Saturday is when we have karaoke, what if I get sick on Saturday and I can't go to work?

Director Moore – Then you would have to let us know who would be in charge.

Ms. Linton – Who do I get ahold of to let them know that?

Director Moore – I would say the police department because they would be the one's enforcing it.

Chief McKee – When we show up, we say who's in charge? If somebody goes I don't know, as long as somebody goes yes, she was sick I'm in charge, I'm responsible. Okay please turn it down, we got a complaint.

Everett McKee, 255 Upson Downs Rd. – First of all, 95 inside a building, needs to be lowered to 80-85 something like that inside the building and with that, less sound's going to get out.

Director Moore – That's just the way it was written, that was already in there I did not write that part.

Melissa Molden, 494 Beacon Rd – This isn't a question, it's more of a concern. Everyone is talking about bars and venues. My biggest concern is Roost on the River. It's not a bar, it's not a venue, they're trying to make it like a Legend Valley. I keep an eye on the Roost on the River page, he just got a new stage, anew sound system, so they're going to go bigger than ever. What's to say they just pay the fine and that's it and just go on with life.

Director Moore – First of all, Roost on the River, whoever is in charge of that can also go to jail. This ordinance is already on the books, so there is no grandfather, we're changing it to actually make it friendlier to businesses. Like I said if this doesn't go through Council then it's 9:30. There's no exceptions. e have to have a variance of what he considers approved by Council. But, he Disorderly Conduct Statute now has some teeth if goes through with reference to noise it addresses, radios, loud speakers and it's a reasonable person stance. So the officers go out and you have somebody who's pictures are falling off the wall or whose walls vibrate with the base every time, they're c=going to collect that evidence and we're going to go to court.

Stacey Williams, Jugz Tavern Manger – My question is we have a lot of benefits and fund raisers that we cannot predict dates, like someone's house caught on fire, so when we file an application with you I can't give you dates for this, so you have an exception to the rule?

Director Moore – The question is, are you going to break the noise ordinance?

Ms. Williams – I mean, sometimes we have one of these bands out on the patio, so I don't know.

Director Moore – When you go to apply for your permit, you can always go, well we have up until this date planned. You're saying this can't be planned 60 days in advance. The bands are what's causing the problem.

Ms. Williams – Right, it's a benefit. So will there be an exception to the rules for benefits. Sometimes we'll have a 5 piece and it's very loud.

Director Moore – What the ordinance says is anything submitted less than 60 days because we have to go through a process and people are fighting you having your variance, so I would say get it in as soon as you can and if there is any way you can follow the normal procedures it would be helpful to us, we can try to get those reviewed prior but there are no promises and if we can't just try to keep the music down. If the police aren't getting complaints, they're not going to be driving by your place trying to see if they can hear. They are only going to respond to complaints. It doesn't have to be you, you just have to tell us who is in charge.

Mr. Rath – I have a list of questions here so I'll just rattle through them. Is there a reason why it's 60 days for the application? Can it be 30 or 45 can we be a little more flexible?

Director Moore – As I was talking to Mr. Cost, it's going to be something new, the Safety Director is going to have to get used to reviewing these documents and etc. We thought 60 days was a good time frame to give the Safety Director time to look at all the evidence, like I said earlier, I've given him the option if he or his designee wants to go out to the venue just to look and see is this set up in the best way to minimize noise. He has that option. That 60 days allows him to make the decision it allows people to respond and we have to come to Council if we want to appeal his decision. We may need more than 60 days, it depends. We thought 60 days was a fair amount of time for all of that to get done.

Mr. Rath – You had mentioned the Safety Director or his designee visiting the site, which I love. It's a great idea. Then making suggestions about how to improve the noise, which I love I think it's a great idea. It sounds like we need a sound engineer, I would not have that expertise, I can certainly say okay you've got speakers pointing at this house, they're complaining can we move those speakers, but I don't have the expertise to do that, I don't feel that our Safety Director does or his designee.

Director Moore – Why I did that is because we don't have a position for that and we don't have funding for a contractor or subcontractor to come in and go to these venues, I would hope we might get that in the future, maybe. If this is a success and we can only up our game by being more precise about where these venues are, hopefully that will be something of value to the city where we can then contract with someone whose an expert and can go in and say I need this stage moved this way, I want sound curtains here, if you do this, then you can have this concert. We don't have that yet, which is why I made it a may, so that we have that option in the future if that's the direction the City wants to go.

Mr. Rath – There's no doubt in my mind we can approach this with a spirit of cooperation, I don't think the people at the venues would have the experience to say, I think this will be too loud, well what if I do this.

Director Moore – That would be great assuming we would get that cooperation.

Mr. Rath – And I would expect that. I would be surprised and shocked if we didn't get that cooperation.

Director Moore – They're going to have to agree to everything in the variance and also agree to our decibel reader are the readings we are going to go by. If they don't agree to that, they don't get the variance.

Mr. Rath – So, this is complaint drive, so if Jugz, I'm only picking on them because they are here, thank you for coming, but they have a band and it's a 5 piece band and nobody says anything about it.

Director Moore – The police have plenty to do, ask my prosecutors, they have plenty to do. Unless they get a complaint, they're not going to be harassing businesses and policing where no one is complaining.

Mr. Rath – Does the same hold true for the Disorderly Conduct?

Director Moore – Yes.

Mr. Rath – Okay, so a police officer drives by apartments, hears music blaring out of this apartment, he's not going to stop.

Director Moore – He can't be the victim.

Chief McKee – Police can't be the victim of DOC.

Mr. Rath – So, if we have a cooperative compliance, there's not going to be a fine levied. If they show up say hey your too loud, turn it down, they turn it down, everyone goes about their business.

Director Moore – Yes.

Chief McKee – Yes, the complaint is over at that point, if you satisfied the resident, it's satisfied.

Mr. Rath – What is the fee for the application.

Director Moore – That is something that has to be formulated by the Safety Director here. I originally had \$150 on there, but that could include multiple events.

Director Hickman – I just found out tonight it was up to my discretion.

Mr. Rath – So that variance is good for an event or multiple events.

Director Moore – That was an idea I had, it was never finalized and it's left up to his discretion.

Mr. Rath – I don't know if that's cost prohibitive, I don't know.

Mr. Barker – We looked through all of these that ranged from, some were \$75, some that were thousands of dollars, \$350, it was all over the board, so we talked about \$150 and then ended up making it at the discretion of the Safety Director.

Mr. Barker – As long as it's the same for everybody.

Director Moore – Yes, there will definitely be guidelines. If that's something Council would like for us to have formulated if this gets through committee and before it goes to Council we will do that.

Rochelle Colen-Smith, 237 Violet Ct. – I was thinking for some of those bigger venues as a cost of doing business at the onset, I know when we go to concerts in Columbus they consult with various sound engineers and that to set up things so they are an acceptable range and that seems like it would apply here too. I know Columbus has sound engineers in existence can perhaps we can develop a list of that sort of thing to solve some of these problems, but I do know there are an awful lot of acoustic things that you can do to resolve this problems and it's a matter of courtesy.

Bill Cost, 1639 Krebs Ct. – Having been down this road 4 or 5 years ago, it's really refreshing to hear the conversation come back again and to hear things like trying to do this to be business friendly at the same time trying to be respectful to a resident, trying to work with the Safety Director, the Chief of Police , the Law Director and see what we can do to make this work, I don't think we quite got that far last time we were so hung up on some of the details like decibel readings and that sort of thing that we never got to the point of trying to work with everybody to make it a reasonable situation for everybody. One question you asked Mr. Rath, you and I dealt with situations where the police were called and when they got there the music had been turned down and when they went away the music was blaring again and I don't know how many trips a night they want to make, you want to think you're going to work with people wanting to be respectful and I think this is really wonderful stuff. Thank you.

Everett McKee – I think we might have lost our focus too. The fundamental problem here is too loud and it's so simple an easy to keep it not too loud. You simply don't play it that loud. You don't need sound abatement, just reduce the volume. I'm a dancer and I've worked with bands before at venues, I took over the sound one time and we kept it down to 80 db and everyone thought wow that was cool. One time the band was playing a bit louder and there was no complaint because they got comfortable with that level. We don't need abatement you just need to keep the volume down. I know bands like to play loud and it gives everyone a high, but if everyone gets accustomed to what's normal not blasting their ears out, eventually they'll like it that way and they'll still get their high. So, the idea of playing it too loud and putting sound barriers up or whatever is ridiculous. I just can't comprehend why we would do that, just turn it down that solves the problem. One more thing, what if they don't turn it down, they pay the fine and they keep doing that, what then?

Director Moore – They go to jail.

Mr. McKee – That's the next step? That'll work.

Tim Waldren - What about foul language, is that going to be under the freedom of speech law or what?

Director Moore – There is a section under the DOC statute that talks about loud obscene utterances, so I don't know how bad it has to get for that to come out, it would have to be

pretty bad and it would be a case by case basis, it would require an investigation to see if it violates the DOC. Speech is one of our most protected forms of anything, so we're not going to trample on that.

Mr. Waldren – The times, I understand the weekdays, but people work on weekends too. Now it's 12 o'clock.

Director Moore – No, it's 11.

Mr. Waldren – We were told by a police officer it's 12.

Director Moore – It's 11 unless a variance is granted.

Mr. Waldren – So, how long can they go. Can they go from a Friday to a Monday 24 hours a day?

Director Moore – It's going to be a case by case situation. It's going to be based on the application, what they're requesting and what the community has to say about it. We're going to weigh both sides to see should it be granted or shouldn't it be granted. Is it such a hardship to keep it to 11 o'clock that it's unduly difficult for this venue, does this override the needs of the residents.

Mr. Waldren – Another thing, about the cost. For someone who just want to have a banquet or something \$150 can be a lot, maybe think about keeping it down to like the cost for yard sales or \$20 at the most, maybe think about that. Let's keep it to no more than \$25 because some places can't afford that because if they have a band come in it's like \$500 for a band.

Director Moore – This is also a lot more paperwork for departments to do, time to process as well as if we want to have a contractor come in they've got to be paid. The City is going to have some expenses associated with this that maybe \$20 is not going to work for.

Mr. Waldren – Another thing, why are schools and the city and things like that exempt? I can sit at my house in the south end and listen to the band playing on White's Field. If you're going to do it for the public, for the people, why not for the City too?

Director Moore – So, like there is the 4th of July Celebration, it's open to the public and sponsored by the City, that's not necessarily something we want to quash at 10 o'clock because that's usually when the fireworks start, I mean just examples, the St. Francis Parrish Festival, I don't think we get a lot of complaints on that and it's a school function and things like the band playing at football games, we didn't want to make them have to get a variance for every week, we think that's kind of unfair to the schools.

Motion to send t full council by Mr. Barker, second by Ms. Bline, motion passed 5-0

2. **Ordinance No. 22-44** AN ORDINANCE AMENDING CHAPTER 648.04 DISORDERLY CONDUCT OF THE CODIFIED ORDINANCES OF THE CITY OF NEWARK, OHIO RELATIVE TO NOISE

CONTROL IN THE CITY OF NEWARK AND DISORDERLY CONDUCT BETWEEN FAMILY OR
HOUSEHOLD MEMBERS

Motion to send to full council by Mr. Rath, second by Ms. Bline, motion passed 5-0

Safety Committee stands adjourned

Mark Labutis, Chair