

**Town of Caroline**  
**Town Board Special Meeting**  
**August 22, 2007**

The special meeting of the Town Board of the Town of Caroline held on August 22, 2007 at the Brooktondale Community Center was called to order by Supervisor Don Barber at 6:05 p.m.

**Present:** Don Barber, Supervisor  
Ed Cope, Councilman  
Tim Seely, Councilman  
Dominic Frongillo, Councilman  
Nelly Frongillo, Councilwoman

**Recording Secretary:** Debra DeAugustine, Town Clerk

***Important note:** This meeting was not taped, and this is not a verbatim account of people's comments. I typed as fast as I could and tried to capture what people were saying as they spoke, but sometimes fell behind. Other times, when more than one person spoke at once, I couldn't hear the main speaker. Near the end of the meeting, some people did not give their names before speaking.*

### **Meeting introduction and procedure**

Signup sheets were passed around for people who want to speak tonight. First the town board members will give comment, then people who have put their names on a signup sheet will be given time to comment, then people who raise hands will be called on to comment.

Don Barber recapped history of noise law, from residents initially bringing problem to board, talking to sheriff, appointing committee to see if a noise law could be written in a rural community. Town board drafted a right to peace and quiet law, and are here tonight to discuss the draft and listen to public comment. No matter what problem a resident might have, it is the job of the town board to look into it. Noise is a form pollution; sound is an energy that cannot be contained on one's property, and cannot be blocked from another's. If the listener is annoyed by the sound, it becomes noise. In Caroline, the only recourse for an aggrieved person is a civil suit, which can take months to resolve. Must balance everyone's right to do what they want to do on their property -- make noise or sleep -- without infringing on private property rights. Don is willing to look at this issue and try to resolve it, and requests Caroline community to follow the same balanced approach.

Nelly Farnum: One thing that has come up repeatedly is solving any issue in a neighborly way, by coming to a mutual agreement. But for when that doesn't work, thinks it's important to pursue setting up a resolution board composed of an impartial group of citizens. Legally, this cannot be binding, nor even required. Having said that, does not think we should wait for this in order to move forward. Reminder that the town board played this role in response to the original complaint, it didn't work, and they should not be the group to mediate complaints. Why are we continuing if we hear so much input from community that we should stop? I have not heard a solution yet that would deal with it. Activities that initiated the law have ceased, but stopping now would be targeting that one problem, and not the broader issue. Way to measure sound: is "normal hearing" an appropriate way? Viable alternative to decibel meters. Caroline is a town with some of the largest land areas in the county. Both densely populated and rural areas. Under the comp plan, we do not want to treat different areas of the community differently (like with zoning). We should all be in this together. Why we don't take a hand vote: need to be responsible to all citizens.

Ed Cope: Thinks the draft we have now is much better, after removing firearms, adding dispute resolution. Two things on why we need to continue: 1. law is only necessary because there are times when people can't work things out. Majority of the time it is not needed, but in the couple percentage of the time it doesn't work, people need some recourse. There was no recourse for the people who came to us. 2. Other than pass a law, we could go through this whole process again. Do we want to go through this process every time this comes around? Wants a law to take care of these dire situations. The law as it stands does not limit any activities.

Dominic Frongillo: This is the first time during my time on board that people have directly contacted me. Have talked to people who have moved out of the town because of noise. Can we have a law in the town of Caroline to take care of the extreme situations. Task in front of the board was to provide a legal recourse for people suffering from noise without regulating activity. We've heard many great suggestions that we've incorporated into the new draft.

Tim Seely: Since last meeting, have heard from people about problems in law and have tried to work through these issues. Lot more to firearms use than hunting. Property owners will no longer be liable for uses they didn't give permission for on their property. Business owners also can not be overburdened by any law. Landlords cannot be held responsible. All comes down to balance, and that needs to be worked through.

Duane and Pam Austin: Decibel levels: ATVs come in at 89. Are people annoyed by noise or the people creating the noise? Don: decibel level for one ATV is different from several. There might be a cumulative effect. Tim: methods of measurement came out of the committee. Pam suggested there be different measures for different sizes of property. Pam worries that law would restrict her decision to use her property like she wants.

Bruce Smith: Neighbors should resolve conflict. But, his problem started because there was a standoff. The law as it is currently written is very lenient. It says prolonged, excessive, and unnecessary. Excessive amount of noise at a close distance. Lots has been said of ATVs. Personally, I'm not bothered by them.

Tim Levatich: Lots of folks are sensitive to ATVs; more language in the law should be about them. Law does not protect from new business coming in. Excessive noise determination section: thinks reasonable hearing is squishy. Set numbers with a decibel meter would be easier to enforce and comply with. Petition that was presented: said it is against the noise law. Points actually address the process, like the noise meter. The petition was signed before the draft of the law.

Anna Payton: We live here so we can do anything we want. Why is board consulting the State Attorney? Don said that we belong to the Association of Towns, which has legal resources. If we ask a question, they answer.

Jay Payton: Lives in a neighborhood with lots of sounds, lots of activities. To him, this is life. Important that we don't try to take life away. People who have been here forever have a tradition of doing things a certain way. When people take into consideration why they want to move here, why not take into consideration how we in this town live?

Rebecca Phillips: Is from a small community nearby. Now the community is split; would like to get this over with without having a law.

Cal Snow: Compliments the board for seeing the process through, an unpopular issue, and doing it well, without sweeping it under the rug. Thanked the board.

Bruce Murray wants to thank board also. Wants to point out the notion of a "perceived" problem. If the officers of the law did not perceive a problem, why did the board? If he tells the law, you have to take care of this problem, then they should take care of the problem. So, why take it to the board? Don commented that sheriff could not do anything, and read the legal opinion. There is no disturbing the peace law in NYS; there is a disorderly conduct law, which will not work in most cases.

Darla VanOstrand: lived here for four decades. Lot of the problem is that we don't know each other any more. Law will pull us apart, not bring us together. Likes the idea of dispute resolution. Can't expect neighbors to respond to complaining to each other.

Jim Raponi: don't need more laws here. If people have a problem, they should go to the neighbor. Some people have just moved in and are not used to it. We just want to continue doing what we've always done. Motorcycle shop: this is their living. People who've lived their lives and never been in trouble might get into trouble now because of doing what they're always been doing.

[first name?] Jablonski: for the noise ordinance. There are a few people causing the distress. Most people are not the problem. When he was heckled by the other residents present, he pointed out that this is why we don't confront our neighbors: they are not neighborly. We don't want to take away anyone's fun; there must be a middle ground. Reasonable people can behave reasonably and never affect one another

Don Short: Agrees with Jim Raponi. One part bothers him; talked to people in Cortlandville who said the 300 foot deal didn't work, and thinks they have to drop the 300 foot deal.

Don Short's daughter: Referendum. Town will vote on it anyway because it will go to referendum.

Bob Anderson: wrote a letter to the board mentioning problems he sees with the law. He lives remotely, but still hears human sound. Problem he sees is that this is such a divisive issue. He now thinks that people might worry about their activities if the law is on the books. State law: Common law (civil) everyone has the right to quiet enjoyment of their property. What is involved in proving an invasion of that quiet enjoyment is very difficult to do. This law would be criminal. The civil is a long process, and it should be.

Cindy Whittaker: physically sick from the whole ordeal. What might be annoying to one person might not be to another. Without a decibel meter, will not work. Why do we have to be a first? In other towns, people do get tickets for disorderly conduct. I don't think you were elected to be the police of the town of Caroline. Don: we have not decided to make a law, we're going through the process.

Steve Crispell: changes to the outline? Is there an exemption for ATVs? Don: We have not begun to work on it, but lots of good comment about ATVs. Even though we have lots of state land, we don't have a place for ATVs. Steve: are you thinking of exemption so we can use our land? Don: ATV trails would be exempt just like snowmobiles. Duane Austin mentioned that one ATV would be exempt. Tim: instead of exempting specific activities, should raise the level or duration to "exempt." Standoff issue was not a standoff. We're willing to compromise; we did compromise. We're not disrespectful. People aren't understanding who we really are. You guys should take more time and look into this for us.

Jonathon Snow: Everyone is butting heads and we're not getting anywhere. I don't fire up my tractor to piss people off. Cops have too much to do already; spread thin.

Jim Burlich: Question for Ed about the guest column. Talked about the need to demonstrate malice. Ed: law would have to lay out duration, other factors. Whole point earlier that all the activities you mention will be limited, are not limited. Only for when there is no recourse.

Ron Spada: you can hear everything up on Bald Hill Rd. You guys are trying to do something that is almost impossible. I don't think it's necessary.

Matt Mix: occasion where there's a party late and loud; when I was young, I had the parties, now I'm the one with the problem with the party. But as the law is written, there's a time limit. Depending on the circumstance, the 7 am is too early. So the town does not need to create a law, need a resolution board to approach the person being annoying. He agrees that continued and frequent noise can be annoying, and might need to be mediated. As soon as you put a law on the books, someone is going to beat someone over the head with it. Even if a person is exempt, he will hear about the problem he's causing.

Pete Hoyt: the board is trying hard. Thinks this is an impossible task, and is not the board's task. Thinks we're going to a lot of fuss for the one percent who have a problem. Town should not micromanage people's lives, even with the best intentions.

Jeremy Richards: was on the committee. It was quite a challenge to fit the varying density of the town. One reason we picked the 300 foot rule, was because the sheriff dept has only one decibel meter. Also used a distance measurement because it took into account sizes of lots. On larger pieces of land, their activity would not be considered excessive noise. What if you live in the most densely populated area in the town. The last lot in the area was developed long after most of the people had been there for years. This new place impacts 40 households. Law enforcement said there was nothing we could do without noise law. Spoke with the neighbors, who said go to hell. Pete is saying that the people in my neighborhood have a petty problem and we're a small percent. What about the future of things moving in and impacting the area?

John Morse: Lived in town 7 or 8 years. We own Celebrations. This is an impossible task, trying to please too many people. Permitting concerns. If it's allowed, how often, how much, how late? Makes me nervous because it can be interpreted in many different ways. People in five years will interpret it differently. If it is to move forward, physical definitions are a must. Someone will use this against someone else someday – probably not much. Noise travels differently. If so many different activities make the same level of noise, are we really targeting noise or activities? I sympathize with people who had an issue that couldn't be resolved. Looks like people were not being neighborly. Mediation sounds like a good idea; and will involve both sides giving some. We don't want peace and quiet all the time. We don't all want quiet at the same time.

Toby McDonald: Two points: The way the board is going about this is to not restrict activity, but to define the problem in the ear of the listener. Talked about cases in other towns that were struck down because of unconstitutionality. Probably not constitutional or enforceable. If you want to regulate noise that is being made, can't use listener's perception. 2. Currently told there is no immediate remedy. I don't think there's a problem taking the civil suit route; that in itself will qualify the problem as something they're taking seriously. If someone does not follow the court order, they will be in real trouble. Thinks town board does not need to be all things to all people.

Renate Ferro: first experience in reading the law – very suburban sounding. At the same time, I realized that our community really needs to come together. We have a problem: we need to be thoughtful and patient in letting this play through. Need to reconsider density, and intent, and the temporary quality of the noise. Also the issue of mediation and enforcement. Otherwise, no sense in the law; no sense if people don't resolve the issue. Don't think we've done enough research, based on what Toby said. What have other rural areas done? We live in the United States and we have a constitution. Just because someone has lived here for a long time, does not have more of a vote than the person who just moved in. If this law and this process can sensitize people, it's doing a great thing.

Kate Kelley MacKenzie: lived here for 15 years. I have an acre of land. I don't want to have to buy a lot of land to have quiet. There are different needs in our community. It really bothers me to hear you people make fun of the fact that they're upset about something. You talk about your right, but what about others? We do have to meet people, and build bridges. I'm for the noise ordinance. I don't have \$10,000 to sue my neighbor.

Ann Tursick: Finds it hard to believe that someone would move because of dirt bike noise. Thinks that if a law passes, people are just waiting for it so they can complain about ATV activity. Fought for duration in the law. Hard to believe you're putting this much time into a law that you don't plan to pass.

Levi Pierce: an avowed noisy guy. Trying to address the pursuit of happiness, which is upheld by the constitution. Thinks the law is for a minority (rich people).

Jim Burgess: people have unknown agendas. do not open the can of worms, because this is not a perfect world. More legislation does not make a more perfect world. I moved to this town 28 years ago for the one reason: this place did not have zoning. Has been implemented by fiat, slowly.

Chris Fillinger: Multiple sources of noise do add up. Accepted by many sources that 85 decibals can have bad health effects. Hopefully, having these meetings has made everyone think about their neighbors and their rights.

Kathy Mix: I would not want to be in any of your shoes. What you're doing is important. Question about who is the enforcement officer. Police? [Yes.] Concerns about that. She is involved in fire company. Often you can't get police agency response because they're not available. Real concerns about putting in a law that will pull police officers from emergency activities. Need to come together as a community; we all have the right to what we want to do. We're lucky for that. Encourage you to have more public meetings, listen to the people and take what they say to heart, and consider the enforcement issue.

Sue Pearce-Kelling: reiterated Cal Snow's sentiment. I have a lot of respect for views I've heard that I haven't heard before. I think we all make noise and have a right to make noise. There's a way to regulate excessive noise that will not cause conflict. She noted that the race [Enduro?] didn't bother her, maybe because decibel levels at the race are controlled, but other time dirt bikes do bother her.

Jackie [last name?]: I do have some rights as a landowner. Something should be done about excessive noise that happens over a long period of time, but a law won't address it. When you're in a small area where you've lived for a long time and a new noise comes into your area. Landowner has rights; should work the other way also. Likes the idea of disclosure form for people to sign when they move in that says they understand noise happens. But what if you subdivide your farm, and new people move in? How do you stop that?

Pat Bhrel: we're all spending time on this, repeated meetings. If we were all neighborly, we wouldn't be here discussing it. Town board was on the right track with the ordinance. We need places for people to do noisy things, like riding ATVs, and we need quiet areas where people to go bird watching. We need a way to deal with the jerk who won't keep it down at 2am.

Connie Bulger: Addressed Jeremy, and why he doesn't get respect from the kids.

Doug Vorhis: lived here for 50 years. When I was a kid, we rode motorcycles and no one complained. Between me and my brother, we own [many] acres in the town, and nobody will tell me what I can do on my land. Granted, people should be respectful.

[unstated name]: lives on Besemer Rd: we've always heard motorcycles, coming from the gravel pit. Not new

[unstated name]: has a business in town, also rides motorcycles. Has never had a problem. Community needs to pull together and work it out. We don't need a town board to regulate what the rest of us are doing. I enjoy going outside and hearing kids riding motorcycles. I want my kids to grow up riding like I did. If my neighbors have a problem, I hope they come and talk to me.

James Cornell: two people running for the board spoke and made sense. Thinks Jeremy wants the board to pay his legal fees.

Duane Austin: another thing he sees wrong. Snowmobiles would be allowed; trails go by his house. Dogs bark when they go by late at night. Why should they be exempt? Just because they have established trails?

[unstated name]: once this law goes into effect, it's easy to build on a law once it goes in. Don: actually it's not easy to change. Just as hard to change a law as it is to make one.

[unstated name]: have lived in and out of tomkins county since 1989; never been called wealthy, and I just want peace and quiet.

Rebecca Phillips: would need the right equipment, and would have to buy a decibel meter. If you're set on doing it, you have to do it right and do it fair. Must be written very precisely, so it can't be a personal thing.

Levi Pierce: happening in towns across America; people want to move to the country and push the rednecks out. Thinks that trying to pass a law for their own good.

Ken Baker: board is doing a great job; doing what you're paid to do. But you're barking up the wrong tree, and will pit neighbor against neighbor.

John Morse: I do respect what you're doing; done an amazing amount of work. I hope it's not a done deal and that you're listeneng. Still thinks this is a reasonably quiet community. Is there anytning else that would help the situation besides a law? We brought a business here because of the lack of zoning.

Dave VanDeMark: thinks this noise law is a wrong thing. Better way to spend our tax dollars. Don't waste the money on a law that can't be enforced.

Kathy Mix: Seems like we're pitting neighbors against neighbors; could cause more EMS calls.

Don: town board had every anticipation of working on the law tonight, but not time now; next meeting is first Tuesday of September. What I'm getting from this is that people are very defensive about what they do on their property; others feel differently. Does the town have to have a law? If nothing else comes out of this, neighbors coming out and talking to neighbors is a great thing.

Jay Payton: does not think new people moving in are taking the people already here into consideration when they want to change the way we operate. They shold consider our way life before coming.

Bruce Murray: This wide sweeping law will be tough to regulate.

Chris Fillinger: next racing season, how many hours a day will the racing team be out there every day?

## **Adjourn**

On a motion, the meeting adjourned at 9:10 p.m.

Respectfully Submitted,

Debra DeAugustine, Town Clerk