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Minutes of a Public Hearing of the Town Board of the Town of Riverhead, held in the Town Hall, Riverhead, New York, on Thursday, April 22, 1982, at 7:00 P.M.

Present: Joseph F. Janoski, Supervisor
Victor Prusinowski, Councilman
Vincent Artale, Councilman
Louis Boschetti, Councilman

Also Present: Richard Ehlers, Town Attorney

PUBLIC HEARING - 7:00 P.M.

Thursday, April 22, 1982

TRIO LOUNGE SPECIAL PERMIT

The Town Clerk submitted affidavits of publishing and posting of a public notice for a public hearing to be held at Riverhead Town Hall at 7:00 P.M. to give the owners/or agents of the Suffolk Garden Restaurant Corp. d/b/a Trio Lounge the opportunity to offer evidence to refute allegations of excessive noise.

The affidavits were ordered to be placed on file.

Supervisor Janoski: "This hearing is declared opened. Mr. Town Attorney."

Richard Ehlers, Town Attorney: "Yes, we are here tonight before the Board members to consider the revocation of the Special Permit for the Trio Lounge for live entertainment. As the board recalls, when that permit was issued, the permit included a stipulation that the entertainment would be only during the weekends and it would not be audible to a person of normal hearing at a distance of one hundred feet or more from the establishment. Mr. Ronald Bailey, a resident from the area is here tonight to testify as to some of the events which have occurred at that place. I believe there is a representative from the Trio Lounge here. I'll ask him to come forward so that he can listen and answer some questions and also if you state your name and give it to the clerk."

Rick Mighdoll: "M-i-g-h-d-o-l-l-."

Richard Ehlers: "And you're the owner of the Trio Lounge."

Rick Mighdoll: "Yes."

Richard Ehlers: "So we would like to call on you -inaudible."

Supervisor Janoski: "Mr. Bailey, would you step up to the microphone, raise your right hand, do you in these proceedings, swear to tell the truth, the whole truth and nothing but the truth? Please state your name and address?"

PUBLIC HEARING continued

Ronald Bailey: "2 Old Stone Road, Timber Park, Calverton."

Richard Ehlers: "Mr. Bailey, how long have you resided at 2 Old Stone Road?"

Ronald Bailey: "Since July of 1978. Since July of 1978."

Richard Ehlers: "Okay, and did you reside at that location with your family on the 20th of March."

Ronald Bailey: "Yes Sir, Yes Sir."

Richard Ehlers: "What kind of house do you have?"

Ronald Bailey: "It's an L-shaped ranch house."

Richard Ehlers: "A ranch house and is there a business establishment near by known as the Trio Lounge?"

Ronald Bailey: "Yes, Sir, there is."

Richard Ehlers: "And approximately how far is the house from that establishment?"

Ronald Bailey: "Approximately two hundred feet."

Richard Ehlers: "And which direction are you from the establishment?"

Ronald Bailey: "I'm slightly north-east, I guess you call it."

Richard Ehlers: "Are you on the same road?"

Ronald Bailey: "No, that establishment is actually on Route 25, and I'm on Old Stone which is in Timber Park."

Richard Ehlers: "And were you home in your house about 10:22 P.M. on the 20th of March."

Ronald Bailey: "Yes, Sir, I was, we were there. I had friends over. We were playing cards and at that time the noise became quite loud from the Trio Lounge. So I had already spoken earlier, I complained several times both to the police and also to the, some of the Councilmen of the Town about the noise and so I had made arrangements. I had spoken with Lou Boschetti, a Town Councilman to -- I let him know as to whether there was any noise that evening and when I did he, came to our house and I believe on the 20th, anyway, and we listened for the noise and at first it wasn't too loud and as time went on it progressed to which point the police were called."

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PUBLIC HEARING continued

Richard Ehlers: It's into this year which as of January 1st, how many times have you called and asked the police to come to your house?"

Ronald Bailey: "Oh, I would guess somewhere in the neighborhood of four to six times and the only reason I didn't call more-The police explained to me, they were pretty much handcuffed. There is no noise ordinance in the Town and while they are sympathetic and I didn't want to be a harassing individual to the Police Department. They got other things they could do besides going to the Trio Lounge. I gave up per se since all they could do is ask them to turn it down, which they would and it would be a short time later and then the noise would be right back up again."

Richard Ehlers: "What kind of noise is it?"

Ronald Bailey: "It's essentially a sound of bass. It's not the higher sounds. It's more pronounced when you have live music. We've has problems ever since the Trio Lounge went into existence, and especially in the summertime. It helps with the requirements that the Town board set forth as far as having doors closed and things of that nature but you hear this ba-boom, ba-boom, ba-boom ba-boom and as it is for instance we go to bed and go to sleep, try to sleep. If the band happened to take a break, if we could drift to sleep. So they would take a break, you'd drift off to sleep, but then you might half wake up, half go back to sleep. It's that sort of thing, it isn't as though you can't sleep at all, but it's pretty annoying, and we've got our storm windows down now too, so it's not even summertime yet."

Richard Ehlers: "Are you aware that the permit provides that the live entertainment be only on the week-ends?"

Ronald Bailey: "Ah, yes, sir."

Richard Ehlers: "Have there been any occasions when entertainment has not been on the week-end."

Ronald Bailey: "That's something I can't prove although for instance, Monday and Tuesday of this week, it, the noise was loud enough and it sounded from the repetition of the noise as though it were, they had a live bank perhaps auditioning or something, I don't know. It wasn't even late, it was early and we were watching T.V. as a matter of fact and we could hear it. So, but I can't, there's no way I could categorically say that."

Richard Ehlers: "And except for that has it always been on the week-ends?"

Ronald Bailey: "Yes, sir, it has."

Richard Ehlers: "And in also where in the time limits, when the music is to should stop."

Ronald Bailey: "It should stop somewhere around two, if I remember correctly. That a couple of times it has gone a little bit longer that's not you know really too important. It generally starts, the noise starts around 10:30, when John Brown was the owner. I would call and John would turn it down. Right, and I would be on the phone when he would turn it down. Fifteen or twenty minutes later it would go up again. Now, I've got a theory behind this, that peak musicians for instance, when they're playing, if you play in a loud noise environment, you're hearing senses become dull after a short period of time and in so doing, they may think they're not playing loud, but in actuality it slowly gets louder. In fact, if they had hearing tests, you probably find some of their hearing has been destroyed over a period of time, if they play often enough. We found this working around air craft engines. I work around those, so that I know that the."

Richard Ehlers: "You said that the, you gave an indication earlier that the lounge had opened up, would not be in business at a prior time."

Ronald Bailey: "Yes, sir."

Richard Ehlers: "Would you elaborate on when it began business there?"

Ronald Bailey: "Ah, let's see, this has been going on for a long time. I would say, it's been close to a year and a half now, or somewhere around there, but prior to that the place was a burned out relic of---, it looked like an old diner car and."

Richard Ehlers: "How long was it a burned out relic?"

Ronald Bailey: "Oh gee, I really don't know that. We're a little naive in thinking when we spoke with the real estate agents in purchasing the house that this could never happen again that they had many problems before and I guess in buying our house, we."

Richard Ehlers: "When did you purchase the house?"

Ronald Bailey: "In July of 1978."

Richard Ehlers: "And was it a burned out relic at that time?"

Ronald Bailey: "Yes, it was, yeh, boarded up."

Richard Ehlers: "Inaudible They began to operate."

Ronald Bailey: "I think it was somewhere in the neighborhood of October of what, 1980, 1980, I believe, I'm not sure of, about that. I don't remember. Before this special permit became a way of life here, where we could go into this. Had there been many complaints? I had been before the Town, the Zoning Board of Appeals and when they had had live entertainment and they had violated and I won in the Zoning Board of Appeals because of the definition of a restaurant and the fact you're only suppose to have liquor in conjunction with meals and also music and no live music right, and ah, okay."

Richard Ehlers: "The question tonight is the amount of noise, the noise if you will on different occasions."

Ronald Bailey: "Well, it sometimes, it becomes loud enough that when we're watching T.V. in a normal volume, we'd have to go turn up the T.V. and try to overcome that, there's competition with this noise."

Richard Ehlers: "Inaudible"

Ronald Bailey: "Oh, absolutely and now my daughter's room. Our bedroom is the closest one and it's an L-shaped ranch, so my daughter's bedroom and my son's bedroom are down further away. They're another thirty or forty feet and it's kept them awake and ah, and even and of course in the summertime even without the band, it's ridiculous because at that time they had the door open and what have you, you have the screens down as opposed to storm windows and it was pretty bad there then."

Richard Ehlers: "Do they keep the door closed?"

Ronald Bailey: "Oh, they have been pretty good about that. No problem there, I don't know what they could do to compensate anymore, but the problem is, for instance, my wife gets home close to midnight, she's a nurse and try to go to sleep and then, it's a problem."

Richard Ehlers: "Inaudible."

Ronald Bailey: "The only other thing, I'd like to say is I really appreciate the efforts that Lou Boschetti and Vince Artale have made in trying to be fair and impartial and they've been very understanding which is really nice to see. As far as officials in a Town, I'm usually a little suspicious of politicians, anybody in an elected office, but they have been very understanding and very helpful and I appreciate that."

Supervisor Janoski: "You have any questions?"

Councilman Prusinowski: "Mr. Bailey":

Ronald Bailey: "Yes, sir."

Councilman Prusinowski: "I have one question."

Ronald Bailey: "Sure."

Councilman Prusinowski: "When you asked the bar to turn down the noise, did it make a difference?"

Ronald Bailey: "Yes, sir."

Councilman Prusinowski: "And when it made a difference, could you go to sleep?"

Ronald Bailey: "No, it never lasted that long."

Councilman Prusinowski: "But what I'm saying, but when they turned it down to a certain level, was it bearable?"

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Ronald Bailey: "Ah, to be truthful with you. At those times, I was still up. I wasn't, this would be early in the evening, around 11:00-11:30. I was usually at a point of rage beyond that where I got upset and called the police, you know."

Councilman Prusinowski: "My question is, when you asked the bar owner to turn the noise down. Did it make a difference at that level when it was turned down?"

Ronald Bailey: "Yes, it did."

Councilman Prusinowski: "It did."

Ronald Bailey: "Not to that extent that I couldn't hear it, but yes, it did, it was a big difference."

Councilman Prusinowski: "It was a big difference, okay. So in other words when you asked him to turn the volume down, there was a difference."

Ronald Bailey: "Yes, it certainly was."

Councilman Prusinowski: "Okay."

Supervisor Janoski: "Any other questions? John."

Councilman Lombardi: "That was on the juke box before."

Ronald Bailey: "Well no, with the times."

Councilman Lombardi: "Before the band came."

Ronald Bailey: "Oh the juke box was, it was unbearable. It really was and of course at that time, they'd keep the back door opened and in the summertime, it's pretty hot in there. It gets smokey and you know in a place like that. So."

Councilman Lombardi: "Thank you."

Ronald Bailey: "Yes, sir."

Supervisor Janoski: "Is there anyone else present who wishes?"

Richard Ehlers: "We take a position to show why the permit should be revoked at this time. (Inaudible) Rick Mighdoll."

Supervisor Janoski: "Mr. Migdoll, could you stand to the microphone? Rick, would you raise your right hand and in these proceedings, do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?"

Rick Mighdoll: "I do."

Supervisor Janoski: "Would you state your name and address?"

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Rick Mighdoll, 21 Pier Boulevard, Smithtown- "Well, we worked very hard to get this permit and we tried our best to comply with the rules and regulations of the permit. You, Mr. Bailey, you mentioned that we had a, the noise was acceptable on Monday and Tuesday, as the bands were auditioning or something like that. Right, there was no bands auditioning, that was just the juke box and we tried our best, I believe, at that time when John Brown was involved in the bar that he spoke to you and said that if you just call any time that there was loud music that it would be turned down immediately and we just felt that we tried to co-operate with Mr. Bailey and any other neighbors in the area. The juke box alone makes enough noise to disturb you."

Supervisor Janoski: "Try to address."

Rick Mighdoll: "The juke box alone makes enough noise to disturb you and if the door wasn't, and if we didn't co-operate and keep the door opened, the noise would be just as bad as a live band and you know, there is no relatively law against the juke box or a noise ordinance, but I met with the Town Board, oh a couple of weeks ago, was it, and discussed the problem of the noise of the band and I told, and we in fact, one band that relatively refused. We told them to lower it down, they lowered it down for a couple of tunes, then their manager turned it back up and said they sounded better, you know, we told them not to come back no more. When there were continued complaints after the meeting, that afternoon, we stopped having music. There has been no problem in the last three or four weekends, Is that correct?"

Supervisor Janoski: "Rick, you have to address the chair in this preceeding."

Rick Mighdoll: "We stopped, we stopped having the band because we couldn't control the noise level, so rather than just aggravate everyone and all our neighbors, we stopped using the band. We had spoken at that meeting about sound proofing that room and that would eliminate the problem altogether, but because of the cost expense, we haven't done that yet, but we have not had the band to continue to aggravate the people. This weekend we're suppose to have a one man band, which obviously has to be much more quieter and hopefully we'll not draw any complaints and I thought that I would be given the opportunity possibly that if we couldn't control even with a one man band, that then we'd been given the opportunity to sound proof the room absolutely eliminate the noise."

Supervisor Janoski: "Mr. Artale."

Councilman Artale: "Rick, when I was talking to you about using sound board as they do in radio stations, did you investigate that?"

Rick Mighdoll: "Ah, I."

Councilman Artale: "You were talking about an expense involved."

Rick Mighdoll: "Well."

Councilman-Artale: "I told you it was six and something cents a sheet. Now Riverhead Building Supply does have them. I think Mid-Island Supply has them. I know because I bought about ten sheets myself. That's the reason I knew that they exist. It's a sound deadening board. I don't know whether you'd have to do the whole place. You'd probably just get along with the back wall and sides where the band would be."

Rick Mighdoll: "Right."

Councilman Artale: "But have you investigated it? That's what I'm asking."

Rick Mighdoll: "Yes, I've looked into that, but put off spending that money because we tried to quiet the band down, but when that didn't work, we did away with the band, even though it was starting to catch on and increasing business, but rather than to aggravate it, the neighbors and all that, we stopped with the band for three or four weeks, to see how things carried on then and was considering sound proofing the room. Now or before, we have a band again, we just wanted to try this one man band which would be a lot less noise and if that didn't work, then we would not have a band unless we would sound proof the room, where it would not bother anyone."

Councilman Lombardi: "Rick, you're speaking about a one man band. Is that just one man, but with all the equipment?"

Rick Mighdoll: "The equipment that he has is the back ground music."

Councilman Lombardi: "Right."

Rick Mighdoll: "It's not amplified as such."

Councilman Lombardi: "Well that would be like having the whole band."

Rick Mighdoll: "No, not really, that's not amplified. The band, a lot of bands, you know, just refuse to lower the music. You know, we had the Yardleys, the Yardleys was a band, that we told them they had a sound man there to control the and we told them to lower down and they lowered it down for a few tunes, then they said they had to have it loud, that's the way they sounded better. The truth of the matter was, they sounded better when they were quieter, but."

Councilman Prusinowski: "Rick, why didn't you go up to the band and say, if you don't turn it down, I'm not going to pay you."

Rick Mighdoll: "I believe after the officer came, then it was quieted down to a great extent and we even, we had a contract with them. They were suppose to appear the following weekend on Friday and Saturday too and we just told them, just don't bother and they relatively threatened you're going to have to pay us anyway and this and that, you know, we'll straighten that out, but nobody told them not to come back."

Councilman Prusinowski: "But basically, it's been my experience, if people that you hire to do something for you, like entertainment, if they don't co-operate, the hammer that you use over their head, if you don't quiet down, I'm not going to pay you and generally when a guy drives out

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from Queens or from Nassau, which alot of these groups come from. They'll drive a long way and if they don't get any money, you know, that's their tough luck because ultimately, they're doing this for a livelyhood and you know it's tough. I understand, I sympathize with you in that point, because for some reason, they don't want to listen in their head when you go up to them and say please turn it down and they give you every excuse in the book. But finally, ultimately, you have to say, I'm not going to pay you any money and generally as far as the world is today, if you don't want to pay, if people aren't going to pay anything, generally people start to listen, right, real fast. Like I'm not paying my bill because the ad is wrong, that gets my attention right away, because in my business, we have to get paid so everybody else gets paid, when a guy says I'm not paying the bill."

Rick Mighdoll: "Well, one something that's a little unfortunate on my part, I am not there on a continuing basis all the time, but just like this noise which I apologize for occured on Monday and Tuesday would have been just on the juke box and somebody probably did have the door opened which was absolutely uncalled for. The noise of the juke box did not reach there at all and I wasn't there either Monday and Tuesday. The times I am there, the juke box goes any louder, hey, we don't need it this loud, lower it down, I'm not there to control it all the time."

Councilman Prusinowski: "I'm not trying to tell you how to run your business, but you could have a rule that says if any of my employees get a phone call from the police by neighbors who complain because the juke box is above a level that I set, you're fired. Now, generally, that takes the attention of your employees. You know, like I'm saying is that, you set a rule and say we're going to the juke box level to this level, okay, you get more people in the place, you can raise it up, but whoever breaks this rule is fired. Generally, that seems to, does, you know, that does the trick."

Rick Mighdoll: "Alright."

Councilman Prusinowski: "And I'm being constructive, but I'm also stating facts that I know personally for a fact that works."

Rick Mighdoll: "I can understand that and I appreciate that advice."

Councilman Lombardi: You know, Rick, I was down there one night. I was in the back and I walked over east to that first house and that's about two hundred feet away and when I got out of my car. I parked my car behind the place and heard thump, thump, thump, thump, thump, and this thumping got louder and louder, so I started backing up, while I was past this other house and listened to this thump and you got the band right against that wall there.

Riek-Mighdoll: "Right."

Councilman Lombardi: "And if you don't insulate and put enough insulation you're still going to have a noise coming out of there and I don't think I'll tell you personally what I feel, with all the insulation, you're still going to have noise coming out of that place. That's my personal feeling on it."

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Rick Mighdoll: "I thought with the sounding board that the noise could not come, you know."

Councilman Artale: "Ah, well, John, with your insulation will not stop sound."

Councilman Lombardi: "Well, Sound Board."

Councilman Artale: "Sound board, yes, it will (inaudible)"

Rick Mighdoll: "It certainly will deaden it, you know, and if sound board don't do it, there would, you know, I would have to say that they would be just no band, because I mean there have been none, for three, I believe it's three or four weeks now, we had no band not because we didn't want to have a band, because we couldn't control, we really couldn't control them and that's why we did stop having the band, but we would like the opportunity to try this weekend, a one man band, and if that doesn't work, I will accept just being told unless you sound board that room and stop the noise that you cannot have a band, but I have tried to co-operate in every which way to satisfy everyone. I mean, I haven't gone out of my way to just to be abusive or to leave the door open on purpose or play the juke box loud our anything else like that which there is no law against, but I'm not, you know, I'm trying to work with everyone in this. Mr. Bailey, can say anytime you have called, that there has been results immediatèly, results. But if it does you know, after a little while, the juke box goes up another decimal or so and pretty soon it's loud again, but the band, I definitely have, you know, that's the only reason we haven't had the band in three or four weeks, I mean, this cost us, because, you know, at a band, it takes time to catch on. Just when it was catching on, is when all the complaints were coming and I just stopped then."

Councilman Artale: "Rick, are you the sole owner of Trio Lounge?"

Rick Mighdoll: "Yes."

Councilman Boschetti: "May I ask who Katherine Pupello is?"

Rick Mighdoll: "Katherine Pupello is considering buying into the Trio Lounge."

Councilman Artale: "That's the reason I asked because I had heard she already did."

Rick Mighdoll: "Well, believe me, she has not. She's considering it, it's, you know, in negotiations now, but right now, I am the sole owner, there is no."

Councilman Prusinowski: "She hasn't made any applications to the Liquor Authority yet?"

Rick Mighdoll: "No."

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Councilman Boschetti: "If I might. In a recent article in the Traveler Watchman, a local paper. The reason I asked about Katherine Pupello, is that she made a statement regarding repairs that were supposedly going to be undertaken. This particular article dated April 1st, and one of the things that she mentioned was a new roof and a fence etc. Do you have any plans of making those renovations or has it ever been discussed or is this something she."

Rick Mighdoll: "We have since then, we have fixed the roof. I have fixed the roof. I mean, you know, it's not Katherine Pupello, she had planned that if she does go through with negotiations in purchasing part of it, that are proposed, but you know."

Councilman Boschetti: "So at this time you're saying there are not real renovations planned pertaining to the sound proofing of the building at this point."

Rick Mighdoll: "If the one man band is not quiet enough that would be next step before having a band."

Councilman Boschetti: "I see."

Rick Mighdoll: "If the one man band is still loud and there is a complaint you know, at that point, they'll be no more band until the sound board is up and if the sound board is up and the noise is still up, I don't know what to say then, but I've been assured by people who dealt with this that would definitely stop the sound."

Councilman Prusinowski: "In the summertime, when it gets warm out, you run your air conditioner, right?"

Rick Mighdoll: "Yes."

Councilman Prusinowski: "You don't have any door or windows are opened."

Rick Mighdoll: "Not with the air conditioner on, it would be."

Councilman Prusinowski: "Okay."

Rick Mighdoll: "Defeating the purpose."

Councilman Prusinowski: "You have in the other times, when the air conditioner is not running, that you open the windows or the doors right, anything to get the air in there, while the music is playing."

Rick Mighdoll: "We have not come across that yet, We did not have bands last summer. The last summer I know when, you know, that when its cool in the evening and the air conditioner was not required. I believe the doors were left opened."

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Councilman Prusinowski: "The air conditioning you have, is it wall units?"

Rick Mighdoll: "Yes."

Councilman Prusinowski: "I see, okay, but you planned that if it's warm, you plan on keeping the doors closed."

Rick Mighdoll: "The doors closed and the air conditioner on."

Councilman Lombardi: "Well, I think it's in the"

Supervisor Janoski: "It's a requirement in the Permit."

Councilman Lombardi: "Yes, that he had to keep the doors closed."

Supervisor Janoski: "Any other questions? Do you have anyone else you might like to add?"

Rick Mighdoll: "No, I think I've said it all. I've tried to co-operate and I'm continuing to co-operate and I would just like to be given the opportunity that if the one man band is not suitable, then it's the sound board or no band. I mean I've stopped no one has told me not to have a band for the last three or four weeks. I've stopped because I was trying to co-operate with everyone and I knew the complaints were, you know, the people were coming, the officers were coming, I mean you know, wasn't just going to continue to do wrong, until someone comes and hits me over the head. I stopped because I knew it was wrong."

Councilman Prusinowski: "Rick, I have a very important question to ask you, Is it the reason why, you're not going ahead with the sound proofing now, is it financial, would it be a financial hardship for you now, not to put the sound proofing up."

Rick Mighdoll: "Ah, that's a big consideration, there's nothing, you know, I'm not accusing you of anything. If you're in."

Councilman Prusinowski: "Or not accusing you."

Rick Mighdoll: "If you're in business and you want to go forward, and it costs money to do it, you do it."

Councilman Prusinowski: "Right."

Rick Mighdoll: "Or you don't have the band."

Councilman Prusinowski: "Right."

Rick Mighdoll: "You know, it's very simple, it's just a matter of that, if I want to have a band and a one man band is not quiet enough, then I have to put the sound board up or I got to stay where I am without a band, it's you know."

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Councilman Prusinowski: "My opinion and it's just my opinion and I don't vote on this application because I have a liquor license too. This type of business in a residential neighborhood, you have to go that extra mile, There's no question about it, and unfortunately that is it, and I'm not speaking in, the Town Board just have to do it. There is no way physically you can stop the noise from penetrating those walls, unless you take steps to do it and that's what I'm saying the one man band or whatever you still got the juke box and I'm telling you now that if you're going to continue operating that place, you're going to make those changes because whether, whatever we do here in the Town Government, there are other courses of action neighbors can take and I would strongly urge you to do it. I mean there's no question about it. It has to be done and I know from experience and it works. It does work and it can be controlled and little things like the numbers. There's a number on the juke box and it cannot exceed that volume, and if it does you're fired. Those are the things that you have to control, that if you're not going to be there all the time, it's your responsibility to have somebody there who is in charge and that's the nature of the business."

Rick Mighdoll: "Well, at the time prior to that one John was involved you know, I had naturally a lot of help you know, in the place, now, that I own it by myself and I have another business that I have to run, I'm going to get someone, you know, to work for me that's going to see to it that everything is run the way I want it run not the way they want it run or the bar maid that night because she feels like having the music loud, it would not be like that."

Councilman Boschetti: "Rick, would I just understand what you want this board to do is that allow you to continue the way you are, giving you a chance to operate with a one man band to see if that will lower the noise volume."

Rick Mighdoll: "I would like to try that this weekend and see if that lowers the noise volume and I also want to see what the reaction is to a one man band and I wouldn't, will not have a band if that doesn't work, although I do want to have a multi-group band, then I will have the sound board put up. I'm not saying I'm going to stand still. I don't want to go beyond or invest beyond what I have invested, but also want to have a band. I understand in order to have the band, I'm going to have to put the sound boarding up, unless just listen. I'm satisfied to have a one man band which truthfully I think maybe even if that worked, might be a couple of weeks, I would go with him and then put the sound boarding up, because stick with one, you know, is not the answer either. We'll have to change."

Councilman Boschetti: "Correct me, if I'm wrong, but when you appeared before this Board, several weeks ago about, I believe, about five weeks ago, you made a statement that if your live bands at that time didn't work out, you were going to make the renovations of installing sound boards at that particular time, didn't you say something to that effect."

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Rick Mighdoll: "I said if I cannot control the noise that I would go with the sound board, you know, because at that point there was no alternative, I felt."

Councilman Boschetti: "Did you control the noise there?"

Rick Mighdoll: "I stopped having the band."

Councilman Boschetti: "I see."

Rick Mighdoll: "When the noise was too much, I stopped having the band, and until this fellow came around and was a one man band said that he, you know, that it would not be loud and everything else like that, I had no intentions of having a band there again until the sound boarding was up and showed my good intentions by not having a band. The noise, the noise that was caused Monday and Tuesday was from a juke box not by no bands auditioning, and Monday and Tuesday, I wasn't there and if I was there and that door was opened, it would have been closed. I would, you know, when I get back there later on I'm going to leave strict orders that the door be kept closed at all times. I mean the smoke can get out the front door."

Councilman Boschetti: "Thank you, Rick."

Richard Ehlers: "(Inaudible) or as people showing up, officer Von Voigt, as well as Mr. Wallace, I believe, Mr. Wallace would you like the opportunity to (inaudible) If you would just identify yourself, sir, as to where you live, relative to the Trio Lounge, how long you've lived there and what you (inaudible)"

Robert Wallace, Old Stone Road, Calverton- "Okay, I live adjacent to Mr. Bailey and about three hundred twenty-five feet from the Trio Lounge. At the time this gentleman applied for the application to have a band, at the Town Board Meeting. One of the former owners got up and spoke before this board and told you that he himself,"

Tape ended

Tape Began

I don't want to be someone who says that this man can't have a business. I don't want to be someone who says that this man can't have a band, but when we asked for a reasonable length of time, I'm beginning to question on how long is reasonable, because it was not reasonable that we should have this meeting tonight nor was it reasonable for me to be up at 2:00 in the morning, calling the police, nor was it reasonable for you to have to go to Mr. Bailey's house. Now, I'm dumb founded at this point of which is reasonable and again I say I don't want him not to have his business, but the juke box and the band have been too much noise in the past and I felt that it would be too much noise in the future, Thank you."

Richard Ehlers: "Officer Von Voight."

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Supervisor Janoski: "Officer, would you raise your right hand, do you swear to tell the truth, the whole truth and nothing but the truth, so help you God.?"

Richard Von Voight: "Yes, I do."

Supervisor Janoski: "Officer would you raise your right hand, do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?"

Richard Von Voight: "Yes, I do."

Supervisor Janoski: "Would you state your name and occupation?"

Richard Von Voight: "Officer Richard Von Voight, Shield 128, Riverhead Town Police."

Richard Ehlers: "Officer Von Voight, I'd like to show you a field report and ask you if your signature in on there?"

Richard Von Voight: "Yes, sir."

Richard Ehlers: "And if you could look at that and impress your recollection as to whether or not you responded to a location known as the Trio Lounge on January 10, 1982 ?"

Richard Von Voight: "That's, you gave me the wrong one. Yes, I did this report."

Richard Ehlers: "(Inaudible)"

Richard Von Voight: "February 21st."

Richard Ehlers: "And did you respond to the Trio Lounge on that date?"

Richard Von Voight: "Yes, I did."

Richard Ehlers: "At what time?"

Richard Von Voight: "Approximately 1:39 in the morning."

Richard Ehlers: "And were you in uniform and on duty on that time?"

Richard Von Voight: "Yes, sir."

Richard Ehlers: "And what did you find when you got to the Trio Lounge?"

Richard Von Voight: "When I arrived at the scene as I approached the location, I could hear the band with the noise, the music. I wasn't sure if it was a band, but I could hear music coming out from inside. As I pulled into the parking lot, the music got louder. I was greeted by a John Brown, who claimed to be a manager at that time."

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Richard Ehlers: "He said that he was the manager."

Richard Von Voight: "He identified himself to me as the manager. At least, the person in charge. Okay, and I advised him that we received a noise complaint, that the music was too loud and I told him that I could hear it as I approached and I was inside of a motor vehicle with the window, back in February, the window was probably up and I told him I could hear it playing. So if I could hear it approaching the place, and obviously, it was too loud. He assured me that he would take care of it and turned the music down and I left."

Richard Ehlers: "Was the music turned down? (inaudible)"

Richard Von Voight: "Yes, at the time, I was at the scene, it was turned down and I didn't receive any additional complaints that evening, so I could only assume that it was satisfactory to the complainants."

Richard Ehlers: "Did the complaintant come and meet you at that time or was this an anonymous complaint as far as you were concerned?"

Richard Von Voight: "The call came into Police Headquarters and the complainant did not request a police officer to respond to his house, whether it was a he or she I don't know."

Richard Ehlers: "I have no further questions."

Supervisor Janoski: Does anyone on the board have any questions?"

Councilman Artale: "Officer, was it a band that was playing or was it a juke box when you got there?"

Richard Von Voight: "I really don't know. I would believe it was a band, simply because they advertised on the building, a live band, but I did not go inside."

Councilman Artale: "I see."

Councilman Boschetti: "Officer, to your best recollection, about what distance were you when you first heard the noise from the building?"

Richard Von Voight: "I'd be guessing but I would say two hundred feet."

Councilman Boschetti: "Inside the motor vehicle of two hundred feet."

Richard Von Voight: "Yes."

Councilman Boschetti: "Thank you."

Supervisor Janoski: "Thank you Officer."

Richard Von Voight: "Thank you."

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Councilman Lombardi: "Rick."

Rick Mighdoll: "Yes."

Councilman Lombardi: "When you intend to, the sound board this, are you intending to do the top, sides and back?"

Rick Mighdoll: "Of that room when the band performs. Yes."

Councilman Lombardi: "All the way around."

Rick Mighdoll: "Yes."

Councilman Lombardi: "Thank you."

Supervisor Janoski: "Thank you. The Town Board will go over the evidence presented before this preceeding this evening and reserve decision until we have such an opportunity to review the case and this hearing is closed."

IJP:bg

Irene J. Pendzick

Irene J. Pendzick
Town Clerk