

Public Hearing – Meeting Summary

Rulemaking- EPB Rule 4
Monday, March 11, 2013
5:00 p.m.

Members Present

Steven T. Jenkins, Chair
Michelle Tappouni, Vice Chair
Bobby L. Baker, P.E.
Tony C. Bellamy, P.E. (arrived 5:05 pm)
Nick Howland (arrived 5:03) – (left 5:43)
Lucinda Sonnenberg, Ph.D.
Michelle L. Mahoney, P.E.

Members Not Present

Gary Bowers, M.D.

Staff/ Resources Present

Vince Seibold, P.E., Chief
James Richardson, EPB Administrator
Ruby Tucker, Executive Secretary I
Cherry Shaw, OGC
Craig D. Feiser, OGC
Steve Pace, Environmental Engineering Manager Senior
Richard Robinson, P.E., Environmental Engineering Manager

Visitors

Jay Worley, JEA
Scott Shine
Mark Casper, Windsor Parke Golf Course

Call to Order

Chair Jenkins called the Public Hearing to order at 5:20 p.m.

Certification of Public Notice

Vince Seibold, P.E., Chief of Environmental Quality certified that the public notice required by Florida law appeared in the Financial News & Daily Record on February 22, 2013.

Chair Jenkins read a statement outlining how the hearing would proceed and made an inquiry regarding the timeframe needed by the proponent and staff to make their presentations. The proponent's response was 20 minutes and staff requested equal time.

Proponent Presentation

Scott Shine, 4390 Richmond Park Dr. E., Jacksonville, Florida, a resident for approximately 18 years provided a brief history of his background and stated that he's petitioning the Board to restore the original language in JEPB Rule 4.207 written prior to 2010. Mr. Shine read language in JEPB Rule 1.205 Conduct of Public Rulemaking Hearings and made his presentation as follows:

- Reasons and needs for proposed rules
- Statistical substantiating evidence of need
- Comparison with other municipalities
- Detailed explanation of proposed rules
- Written comments on proposed rules

Referring to the original language in JEPB Rule 4.207 prior to 2010 Mr. Shine stated that nighttime hours for the maintenance operation was prohibited and in the current language nighttime hours of operation is allowed. At the Air & Odor Committee Meeting (6/23/10) it was stated EQD discontinued issuing permits due to the lack of staffing and as a result JEPB Rule 4.207 was amended to include golf course landscaping equipment in the exceptions for construction or maintenance operations during nighttime hours, not to exceed 60 dBA levels. The new language allows the golf club to operate from 10:00 pm to 7:00 am as long as the golf club doesn't exceed 60 dBA noise level. In the original language certain types of equipment to be used in emergency situations was exempted such as generators, well point pumps but not for landscape maintenance operations. Mr. Shine stated that the rule change does not protect his property rights and enjoyment of his home and requests that the Board restore the original language in JEPB Rule 4.207 prior to 2010.

Staff Presentation

Steve Pace, Environmental Engineering Manager Senior, stated that EQD issued noise pollution permits that dealt with construction or maintenance activities and the language in the permit for the facilities was not to exceed 60 dBA levels. When staff was faced with reducing resources, methods were reviewed to find fair and equitable ways to deal with various noise issues. JEPB Rule 4:207 deals with construction or maintenance operations. The golf club's landscaping equipment used in construction or maintenance operations was placed in a section that already existed with the dBA level established. EQD has made every effort to protect the public health and welfare of the community. Rutgers University has trained and certified EQD staff in Community Noise Measurements and uses JEPB Rule 4 as a model rule for other communities because of the dBA levels, octave band, work practice, and specific time limits. The petition before the Board is to restore JEPB Rule 4.207 to its original language and staff's recommendation is that JEPB Rule 4.207 current language remain the same.

Additional Presentation(s)

None.

Comments from the Public

Mark Casper, General Manager, (5 years) Windsor Parke Golf Course, located at 13823 Sutton Park Drive North, stated that Windsor Parke Golf Course has never received any complaints from the proponent nor any residents of the Windsor Parke Community. The Golf Club has to stage their maintenance equipment for operation by 7:00 am. and any change in the operation will create a huge revenue loss.

Proponent Rebuttal

Mr. Shine reiterated that it has been stated; the golf club's equipment is set up by 7:00 am. and if this is true then the rule change will not interfere with their daily operation. Under the current rule the golf club can operate at 3:00 am and this will be legal as long as the golf club doesn't exceed 60 dBA noise level. The current language in the rule was not in the permit because nighttime hours of operation were prohibited in the permit.

Board Discussion

A lengthy discussion occurred regarding the noise pollution permits, the dBA level, variances, the reason for changes made to JEPB Rule 4.207 in 2010, the work practice, the current language, the original language, the golf club's mobilization and staging of equipment, the board's options, etc.

Board Member Bobby Baker made a recommendation that staff update the language in the rule to be more specific to the mobilization and staging of landscaping equipment only (not operation) in the course of maintaining the golf course.

Cherry Shaw stated that JEPB Rule 1.205(f) reads as follows: At the conclusion of all presentations, the Board may vote to adopt, deny or return the intended rules to the Department staff for further development. In the alternative and in its discretion, the Board may defer action on a intended rule until a subsequent meeting, the date for which shall be set.

Board Member Tony Bellamy made an inquiry concerning the procedure to refer the rule to a committee. Cherry Shaw stated that board can continue the public hearing until the April Board meeting, reconvene the regular board meeting and refer to committee under old/new business.

Board Member Baker made a recommendation to return the intended rule to the Department staff for further development and continue the public hearing.

Board Decision

A motion to return the rule to the Department staff for further development and continue the public hearing until April 8th was properly offered and seconded. The motion was approved unanimously.

Procedural Summary

Cherry Shaw, OGC, stated that the Board has voted to refer the action of the intended rule for further development and to continue the public hearing to April 8, 2013 at 5:00 p.m. Board members can submit any recommendations to James Richardson or attend the Air & Odor Committee on March 20th at 4:30 p.m.

Adjournment

The Public Hearing was recessed at 6:48 pm and is continued until April 8, 2013.

Respectfully submitted

Ruby Tucker, Executive Secretary I
Environmental Protection Board