

# PETER A. WADSWORTH

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**TO:** Supervisor Larry Cantwell, Councilpersons Burke-Gonzalez, Overby, Van Scoyoc, Overton

**RE:** Proposed Legislation re: Airport Noise Restrictions

**DATE:** March 16, 2015

As one of the original proponents of airport noise abatement (2003), especially for helicopters, which cause approximately two thirds of all airport related noise complaints, I commend Councilwoman Burke-Gonzalez and the Airport Noise Subcommittee for proposing an aggressive noise reduction program for consideration by the Town Board in the form of four local laws (the Proposed Laws).

Since the Proposed Laws were introduced on February 4<sup>th</sup>, however, a number of legitimate concerns have been raised, which should not be dismissed as mere opposition by the aviation community. As a member of the Town's Budget & Financial Advisory Committee (BFAC), the Airport Finance Subcommittee, the former Airport Noise Abatement Advisory Committee (ANAAAC) and as a resident of East Hampton who has been deeply involved in airport matters for 12 years, I feel a responsibility to raise some of these issues and suggest some adjustments to the Proposed Laws that would perhaps be fairer and reduce the potential for costly and time-consuming litigation that could distract the Town Board and employees from other important issues for years to come.

## **DEFINITION OF NOISY AIRCRAFT**

First of all, I believe that the definition of Noisy Aircraft is flawed and that some not particularly noisy aircraft are getting caught in an insufficiently discriminate net. The problem stems from the fact that, according to the Town's noise consultants, there is no accepted methodology to differentiate helicopter noise from that of other, fixed wing aircraft with the same noise emissions as measured in decibels. Yet we know from the complaint data that helicopters provoke 2.5 times as many complaints per flight operation as jets and 5 times as many as other fixed wing aircraft. Whether this is because of the type of sound emitted by helicopters, i.e. percussive, the slower speed at which they fly or the lower altitude at which some of them fly is immaterial. There is ample evidence that the helicopter annoyance factor cannot be measured by decibels alone. By using a one size fits all definition of noisy aircraft, the Proposed Laws unduly penalize some pilots and owners of fixed wing aircraft.

## **UNINTENDED CONSEQUENCES**

Second, the law of unintended consequences may be writ large this summer. We have already heard from the Concerned Citizens of Montauk and from two elected officials in the Town of Southampton, who worry that the summer weekend ban on helicopters may create more of a noise problem in Montauk, the potential overflight communities of Springs and Amagansett, Southampton Village and West Hampton. The BFAC Airport Finance Subcommittee could not agree on any financial projections because of widespread concerns of longer term unintended or simply unknowable consequences. These concerns were not limited to the aviation members of the Subcommittee, who only comprise 25% of the voting members.

## **SUMMER WEEKEND BAN**

Third, there are indications that the summer weekend ban on helicopters may not be solving the problem it is designed to solve or may represent a bazooka where a rifle would do. Questions have been raised as to whether some of the complaints from the North Fork are about helicopters going to and from Block Island, Fishers Island, Martha's Vineyard and Nantucket rather than East Hampton Airport. Certainly complaints as far east as Orient are suspect. Unfortunately, the Town lacks the data to correlate specific flights with complaints and its flight tracking equipment does not reach the North Fork. In addition, while it is well known and accepted that helicopters flying at higher altitudes are less disturbing, the Town's complaint data has no ability to correlate complaint data with specific aircraft, let alone altitudes. Despite the Town's prior noise consultant's report showing widespread lack of compliance by helicopters, the potential of rigorously enforcing higher minimum altitudes remains unexplored as a potential solution. One local operator claims to do all of its ascent to and descent from 2500 feet over airport property, yet this goes unexplored in the search for solutions and that operator is treated no differently under the proposed law than less responsible operators.

## **LESS EXTREME ALTERNATIVES SHOULD BE EXPLORED**

Fourth, many thoughtful people with knowledge of the situation feel that a slot system that would limit the number of helicopters that could land in an hour and a day, especially during busy periods like Friday and Sunday afternoons and Monday mornings, combined with rigorous compliance with flight procedures, routes and altitudes, would be a far more rational solution to the helicopter noise problem with fewer financial repercussions. In addition, it would not shut out a whole class of part-time residents who rely on fast transportation to spend their summer weekends in the Hamptons. (Some of us used to be those people.) The current problem with slots is that there is no known system that can be dropped in this summer because the existing systems are all administered by the FAA. But for a Town that is preparing to impose noise restrictions that have never been successfully applied except arguably in New York City, it is bordering on irrational not to consider the development of a slot system that many feel is a better solution than an outright ban, even if it will take a year or two to design and implement.

## **COST & DISTRACTION OF LITIGATION**

Finally, the prospect of years of litigation should be daunting to the Town Board if it isn't already. Although \$3 million was the working number proposed to the BFAC Airport Finance Subcommittee for consideration, the actual cost could be much higher. There are owners of multi-million dollar aircraft that fly into East Hampton Airport for whom \$3 million is chump change. Much has been made of the court precedent set by the New York helicopter case, in which New York City imposed restrictions on the hours that helicopters could operate from the City's heliport. But New York City has a budget of \$75 billion, approximately 1000 times that of the Town of East Hampton, and they were being sued by just one helicopter operator. By contrast, the Town's summer weekend ban on helicopters and its partial ban on "noisy" aircraft is being or will be opposed by several large helicopter companies, some national aviation organizations and a number of individuals with deep pockets, some of whom are already funding the Friend of East Hampton Airport. Naples Municipal Airport spent around \$5-6 million to defend a much more limited ban on Stage 2 jets. The prospect of big time litigation could ultimately cost East Hampton taxpayers millions of dollars and distract the Town from other pressing environmental problems with more far reaching consequences, such as coastal erosion in Montauk and town-wide water quality. Moreover, it is conceivable that the Town could be constrained from even implementing the Summer Weekend Ban for years to come while the litigation works its way through the court system. The prospect of years of litigation with no noise abatement benefit is depressing, at best.

## **PROCEED WITH CAUTION**

For all these reasons, I suggest that the Town Board proceed with caution and consider the following modifications to the Proposed Laws that might be nearly as effective but far less disruptive:

- **Redefine the "shoulder curfew" to conform to East Hampton's and Southampton's quieter night-time (7 PM to 7AM) limits** on noise in the town codes, a de facto community standard that can be defended in court.
- **Amend the trip limit from once a week to once a day** or include an exemption where the FBO and local hangar leases conflict in order to address the needs of locally based aircraft while not opening the floodgates to high volume operators to and from New York City and other points west.
- **Redefine "noisy aircraft" so that helicopters stand head and shoulders above all other aircraft** as reflected by their much higher rates of complaints per flight and consider an amortization or phase-in period for "noisy" local aircraft.
- **Impose a moratorium on helicopters during 2015 and test drive a temporary summer weekend ban** (on holiday weekends and the month of August). Even without the summer weekend ban, the shoulder curfew for noisy aircraft would address part of the helicopter noise problem.
- **Analyze the 2015 results with better data than currently exists**, such as correlating flights and altitudes with complaints, and explore alternatives such as a slot system for the 2016 season.

Wisdom comes with time and the Town Board has not had much time to consider the Proposed Laws, the unintended or unexpected consequences or possible alternatives or modifications.

Sincerely



**RECOMMENDATIONS TO OPTIMIZE  
PROPOSED AIRPORT NOISE RESTRICTIONS**

Although there is no question that the East End suffers from a helicopter noise problem, many people have expressed concerns that the proposed noise restrictions may not have the desired effect or may have unintended consequences that could inflict more noise on some neighborhoods. For example, some noise complaints, especially on the North Fork, may be caused by aircraft unrelated to East Hampton Airport (HTO); and other noise complaints may be able to be remediated by greater compliance with minimum altitudes or rerouting. Taken as a whole, the questions raised suggest that the Town may not have adequately defined the noise problem or considered viable alternatives to some of the Proposed Laws.

The following are some suggestions for modifications to the Proposed Laws and ways in which the Town could proceed in a prudent and cautious manner that could help minimize unintended consequences and litigation.

**1. PASS THE OVERNIGHT (11 PM TO 7 AM) CURFEW**

There is very little resistance to a night-time (11 PM to 7 AM) curfew, the highest ratio of complaints to flights occurs during this period and it will have minimal financial impact.

**2. CONFORM SHOULDER CURFEW TO TOWN NOISE CODE**

Consider redefining the “shoulder curfew” as 7 PM to 7AM, which conforms to the quieter night-time limits on noise in both East Hampton’s and Southampton’s town codes and is therefore a community standard that can be better defended in court.

**3. MODIFY THE ROUND TRIP LIMIT FROM ONE A WEEK TO ONE A DAY.**

This law was designed to minimize charter or “commercial” flights by transient aircraft but unduly penalizes locally based business people and recreational fliers. A limit of one trip per day would drastically cut back seaplane and helicopter flights (in the absence of a ban) to and from Manhattan and points west.

**4. RE-EXAMINE CURRENT DEFINITION OF NOISY AIRCRAFT**

This provision inadvertently catches some small fish in the big net and penalizes jets that cause far fewer complaints per flight than helicopters. Even the Town’s noise consultants (HMMH) have acknowledged that they can’t adequately quantify the excessive annoyance factor of helicopters with existing science.

- a. Study effect on locally based aircraft
- b. Consider multiplier for helicopters that reflects much higher complaint to flight ratio
  - i. **Helicopters**                      **2.1 complaints per flight**
  - ii. Jets                                      0.8 complaints per flight
  - iii. Other Fixed Wing              0.4 complaints per flight
- c. Consider an amortization or phase-in period (e.g. 5 years) for this provision, at least for locally based aircraft.

**5. MAKE THE SUMMER WEEKEND BAN A MORATORIUM**

There is ample precedent for moratoria on land use activities while governments decide on new environmental rules (see Lake Tahoe building moratorium). Applying this concept to the summer weekend ban on helicopters could accomplish the Town’s immediate objective of reducing helicopter noise while sending a signal to helicopter operators that the Town is willing to explore alternative ways to achieve the same or even more precise noise abatement objectives in the future. In addition to buying the Town Board time to consider alternatives while satisfying the demands of the noise afflicted, it would change the conversation in court and strengthen the Town’s chances against a temporary restraining order.

**6. TEST DRIVE SUMMER WEEKEND HELICOPTER BAN BEFORE FINALIZING**

Test driving the summer weekend helicopter ban this summer would give the Town and the helicopter operators an opportunity to take stock and consider alternatives. And it would provide time for the Town Board to consider refinements to its approach and build a stronger case (for litigation defense) before it

finalizes the rule or an alternative to it. The schedule below would ban helicopters at some of the noise sensitive times representing almost 45% of all helicopter complaints - holiday weekends and the month of August. This can be done stepwise starting with Memorial Day Weekend, so that the rule can be modified, if necessary, even before the full summer season is upon us.

- a. Memorial Day Weekend (noon Th., May 21 to 7 AM Wed. May 27)
- b. July 4<sup>th</sup> weekend (noon, Th., July 2 to Noon, Tue., July 7)
- c. August 1 through Labor Day Weekend (noon, Th., July 30 to 7 AM Wed., Sept. 9)

## **7. EXPLORE LONG TERM VIABILITY OF A SLOT SYSTEM FOR HELICOPTERS**

Many people I have talked to think that a slot system for helicopters, at least during peak periods, would be a better solution than an outright ban. But the only known slot systems currently operating are administered by the FAA, an unlikely partner for this endeavor. My thought is to create a task force consisting of representatives of the Town, the helicopter operators and some professionals to see if they can devise a system that would work and to which the helicopter operators would commit. This would be a long term project that would require funding, but might take some of the pressure off the summer weekend helicopter ban if it is viewed as temporary.

## **8. EXPLORE MANDATORY HELICOPTER FLIGHT PROCEDURES FOR 2016**

As stated earlier, current data does not enable the Town to correlate complaints with route or minimum altitude compliance, as well spiral landings and takeoffs to a specified altitude within the airport grounds. Installation of a Noise and Operations Monitoring System (NOMS) in 2015 (see below) should provide that kind of data and enable the noise consultants to analyze the effect of mandatory flight procedures with penalties for non-compliance. Coupled with a summer weekend moratorium, studying the effect of mandatory flight procedures might enable the Town to enact more precise restrictions than an outright ban.

## **9. ANALYZE 2015 RESULTS TO INFORM 2016 RESTRICTIONS.**

Whether or not the test drive approach is employed for helicopters, it will be essential to put study protocols and data gathering in place before the summer season to address possible unintended consequences such as flight diversion and the possibility that some complaints are not related to HTO traffic.

- a. Diversion study data gathering + interviews or survey.
- b. Install full Noise and Operations Monitoring System (NOMS) to correlate flights with complaints
- c. Special study of north fork flights and complaints, which are beyond the reach of HTO's flight tracking system, may not be flying at or above minimum altitudes and may not even represent HTO traffic.
- d. Helicopter compliance study
  - Compliance with minimum altitudes and resulting complaints
  - Compliance with bans
- e. Correlation of "noisy" aircraft definition with complaints.
- f. Financial impact
  - Fuel sales/FBOs
  - Airport revenues