



## We all win when NJMP noise finally brought under control

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Letters to the Editor/The News of Cumber...

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**Special to The News**

### Part 2

TrackRacket, acting for members of the community who live near the NJMP, filed suit on the City of Millville and the NJMP on Dec. 23, 2009. TrackRacket filed a private and public nuisance claim against the NJMP and an Action in Lieu of Prerogative Writs (forces a government to enforce its laws) claim against the City of Millville. We did not enter into this decision to file a lawsuit lightly, quickly or easily. There were many compelling reasons that finally led to this course of action.

Throughout the winter of 2008 and the entire 2009 racing season, residents called in complaints, voiced their discontent at commissioner meetings, wrote numerous letters to the editor with hopes that the city would do something about the noise.

City officials kept telling us "that something needs to be done" or "we are looking into it," or "we are gathering information." There were no open forums, no public meetings or official communications that would help set the stage to solve the noise problem. There was only one meeting that came about and it was at our request. This meeting, held in early March of 2009, consisted of three members of TrackRacket, two city commissioners, two city officials, and two NJMP officials. The NJMP official stated that under no circumstances would they erect sound walls, and requiring mufflers is out of the question. However, they said they will look into the public address system and see if they can't do something to redirect the speakers.

The consensus between the city and NJMP officials by the end of this meeting was that they did not believe there was a noise problem.

In May of 2009, just before the elections for city commission, TrackRacket held its first formal meeting at the Millville Public Library. Contrary to the views of some NJMP supporters, this was not an open public forum, but a formal TrackRacket meeting. The full story can be read on our website: [www.trackracket.org](http://www.trackracket.org). Another year and a half has gone by since this meeting and the city never did hold a public forum in a proper

location.

In 2004, Millville city officials wrote a noise ordinance for the town. This ordinance was crafted and adopted years before the first car raced around the NJMP — before anyone knew what the noise would actually sound like in their backyards. The decibel limits set by the State of New Jersey's Model Noise Ordinance is 65 during the day and 55 at night and exempts motor vehicle racetracks. Millville, however, set its limits at 80 decibels.

This level is in violation of the state's Model Noise Ordinance standards and Millville's ordinance is not approved by the DEP. The city wrote a separate clause for the NJMP stating the noise needs to be 80 decibels for "20 minutes sustained." In my opinion, it is this stipulation that gives the track a lot of leeway so they would not be in violation. The noise levels go up and down as cars shift gears around the turns and travel around the track, making it near impossible for the noise to be in violation of the ordinance.

According to this ordinance, it allows the noise in the surrounding communities to be up to 16 times louder than what residents normally experience as sound pressure doubles logarithmically for every 10 decibel increase. Put in another way, noise levels going from 40 (Porreca Drive average) to 80 decibels, the sound would double then double again then double again and double again. In a demonstration presented to the commissioners on Dec. 1, 2009, I showed how loud noise from race cars would have to be in order to be in violation of this ordinance (**Watch a video of the demonstration here.**)

During the first full racing season in 2009, the city and the NJMP conducted sound studies. Monitoring locations were chosen around the NJMP. The results of these studies concluded that the NJMP did not violate the city's noise ordinance. Millville's noise ordinance sets the limit at 80 decibels at the closest residential property. The closest properties average a mile from the NJMP. But many of the monitor locations used by the city and the NJMP were much farther away. Noise diminishes with distance so a reading taken 2 miles away would be hard pressed to be in violation.

When crafting the noise ordinance, the city neglected their nuisance ordinance. Because the noise ordinance did nothing to protect their eroding quality of life, residents began to call the county health department to lodge complaints as nuisance calls are traditionally handled by them. Noise is covered under nuisance laws. However, the health department was instructed to pass all NJMP nuisance calls to the Millville Police Department. When residents called the police department to lodge a complaint, they were instructed to call a certain number and extension at city hall. This number was the construction office.

It was becoming clear that there was no concrete way of lodging a noise or nuisance complaint. Residents were not sure that their complaints were being correctly documented. After navigating through the convoluted manner in which one lodges a nuisance or noise complaint, I finally pinpointed the one person charged with documenting the calls, and that is the Zoning Officer, Wayne Careganto. A formal public service

announcement by the city was never issued — it was through the hard work and determination of TrackRacket that the proper way to lodge a complaint was reported.

Shortly after our lawsuit was filed, the NJMP filed requests to move the location of the ATV/motocross track from the approved location on the south side of Buckshutem Road to the existing facility on the north side. To do so requires approval from the city to change its development plan. This move would put the new track closer to the denser populated residential communities. The city formed a “Noise Committee” comprised originally of one commissioner, two city officials and officials from the NJMP to negotiate a “noise fix” that would enable the NJMP to move forward with their plans. No one from any of the residential communities impacted by the noise was a member of this committee. Later in the game and under pressure from citizens, Commissioner Vanaman, who lives in the zone, was brought onboard. Behind closed doors they negotiated and presented an ordinance that allowed the NJMP to address the noise in a “good-faith effort.” This was not a noise fix. Under pressure from TrackRacket and the community to reject this ordinance, the city tabled it.

Due in part by the city’s failure to adequately resolve the noise issues, their failure to enforce an existing ordinance, and to have a meaningful and enforceable noise agreement enacted is the true motives behind our suit and our reasons to continue the fight.

If you live within the noise zone and are not bothered by the noise, consider yourselves fortunate, but why criticize those who are? If you live outside the zone, from another town, or another state, it is presumptuous to tell people in the affected area how to act and think by demanding us to “deal with it” or move.

For all the residents who are affected by the noise, no matter where you live in the zone, the time to take a stand is now. TrackRacket started the ball moving, but it will take the combined financial support of all of those burdened by the noise to be successful in reducing it. Civil lawsuits are expensive and it is unfair for the financial strain to be shouldered by a few to the betterment of many. When the excessive noise is brought under control, we all win.

*Michelle Post is the founder of TrackRacket, a citizen action group dedicated to reducing excessive noise from the NJMP. To learn more about TrackRacket, visit their website: **[www.trackracket.org](http://www.trackracket.org)**.*

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