

**N.J. NOISE CONTROL COUNCIL**  
**JUNE 14, 2022**  
**MEETING MINUTES**

**ATTENDEES**

*NCC Voting Members:* Arnold Schmidt (Chairman, Public Member), Steve Szulecki (Vice Chairman, Public Member, Ecologist), Randy Hauser (Department of Labor), Salvatore Fama (Motor Vehicle Commission), Daniel Lefkowitz (Department of Health), Joe DiFillippo (Public Member, Local Governing Body), Jack Zybura (Public Member) and Dr. Iris Udasin (Public Member, Medical Doctor).

*NCC Candidate Members (Pending confirmation from the Governor's Office):* Lynette Dooley (Local Governing Body candidate) and Christopher Bergacs (Public Member candidate)

*Rutgers and NJDEP Representatives:* Eric Zwerling (Director of the Rutgers Noise Technical Assistance Center), David Triggs (NJDEP Liaison to the NCC) and Michelle Feasel (NJDEP Co-Liaison to the Council)

*Members of the Public:* Philip Makrelis (Middlesex County)

**PUBLIC DISCUSSION**

Chairman Schmidt began by reading the Sunshine Act aloud. Randy Hauser motioned to go into Public Session with Dr. Iris Udasin seconding. All were in favor, so the meeting was open to the public. From the public, Philip Makrelis said that he had nothing to discuss at this time. Jack Zybura motioned to end the Public Session with Randy Hauser seconding. All were in favor, so the Public Session ended.

**MEETING MINUTES**

*April 2022:* Dr. Iris Udasin made a motion to approve the April meeting minutes with Randy Hauser seconding, so the meeting minutes were now open for discussion. Chairman Schmidt pointed out that the minutes incorrectly referred to Steve Szulecki as the "Co-Chairman" when he is the "Vice-Chairman." A vote was taken to approve the amended minutes, all were in favor except Daniel Lefkowitz who abstained due to being absent at the April meeting.

*May 2022:* Jack Zybura motioned to approve the May meeting minutes with Randy Hauser seconding which opened the meeting minutes for discussion. Salvatore Fama had emailed the Council his proposed amendments prior to the meeting, which he read aloud. Steve Szulecki stated that these amendments were declarative statements. Chairman Schmidt asked the Council if they wanted to consider adding public participant Larry Nelson's name to the March meeting minutes, as he was only referred to as an anonymous speaker who in fact provided his name to the Council. David Triggs stated that the March meeting minutes were already posted on the Council's webpage. Michelle Feasel added that when the motion to approve the March minutes was made, the Council knew that Mr. Nelson's name was not included and that adding it in now would not reflect the motion. Chairman Schmidt then made a motion to note in the May meeting minutes Larry Nelson's name was inadvertently left out of the March meeting minutes as one of the public

presenters at the March meeting and leave the March minutes as they are. Salvatore Fama seconded, and all were in favor, so the motion carried. Mr. Szulecki noticed that one of Mr. Fama's proposed amendments was added in the middle of some of Eric Zwerling's statements, making it unclear who made them. Mr. Szulecki suggested that Mr. Fama's proposed amendment be moved to after Mr. Zwerling's statement to make it clearer. A vote was taken to approve the amended May meeting minutes. All were in favor except Dr. Udasin, who abstained due to being absent at the May meeting.

### **EXECUTIVE SESSION**

Jack Zybura motioned to go into Executive Session to approve the two sets of Executive Session meeting minutes from May with Randy Hauser seconding. All were in favor, so the Council went into Executive Session. Lynette Dooley, Christopher Bergacs and Philip Makrelis, stepped out of the room during the session. Jack Zybura motioned to close the Executive Session with Steve Szulecki seconding. All were in favor so the motion carried.

### **CHAIR REPORT**

- Chairman Schmidt noted for the candidate members, that the Council's November meeting will be held on the third Tuesday of the month, November 15<sup>th</sup>. The date was moved from the second Tuesday due to Election Day.
- Chairman Schmidt informed Ms. Dooley and Mr. Bergacs of their current position as Council candidate members. In their current status they are allowed to discuss issues without having to be in public session, but they cannot vote until they are appointed to their positions. He also advised them that in the past, it has taken years for some candidate members to be appointed by the Governor's Office. Mr. Szulecki stated that candidate members should receive a copy of the By-laws. Chairman Schmidt noted that it was sent with the agenda prior to this meeting. Mr. Szulecki added that the candidate members needed to state that they reviewed and accepted the By-laws. Chairman Schmidt then read the section of the By-laws which states that newly appointed members need to acknowledge and accept the Council By-laws. Mr. Szulecki stated that the By-laws should be updated from member to candidate member, since that category was added.
- Chairman Schmidt informed the Council that the Clove Springs Gun Range will not be sending a representative to speak regarding the noise issue associated with their facility.
- Chairman Schmidt noted that on the Council's website, Joseph DiFillippo and Mark Roskein are missing biographies. He asked them to send one to Mr. Triggs if they wish to.
- Prior to this meeting the mandatory Ethics Training was re-sent by David Triggs to the Council members. Mr. Triggs stated that Joseph DiFillippo, Steve Szulecki, and Norm Dotti still need to be submitted. Chairman Schmidt noted that he recently completed his and it only takes about ten minutes.

### **COMMUNICATIONS**

*Open Positions:* David Triggs stated that he submitted the Council's member appointment memo to upper management, and he was told that it should be sent to the Governor's Office expeditiously.

Eric Zwerling stated that he received a noise complaint from Lebanon Township in Hunterdon County, regarding a neighbor who purchased a wildlife propane canon. It is believed that the canon

was bought in retaliation for a complainant who owns roosters. The neighbor is allegedly leaving the canon on while they are away from the home, leaving the complainant to deal with the noise. County enforcement stated that they could not investigate this complaint as the state's noise code does not cover resident-to-resident complaints. The municipality does not have a noise ordinance, and the township adopted the Model by reference but only for continuous noise not impulsive sound. They also stated that the township will not do anything under the nuisance code. Michelle Feasel added that Fish and Wildlife is responsible for giving out permits for propane canons and asked if you can enforce against people who use them without a permit. It was pointed out that this was happening at a residence and not on farmland. Daniel Lefkowitz looked up the canons on his phone and found that anyone could order one from Amazon, at a variety of prices. Eric Zwerling stated that the town wants to get three quotes from acoustical engineers.

Prior to the meeting Randy Hauser sent the Council an article relating to the health impacts caused by noise pollution. Dr. Udasin stated that it was written by her former supervisor. She then went on to thank Jack Zybura for some scholarship information he had previously sent out, as one of her students, George Hseeh applied and was awarded the scholarship. She added that Mr. Hseeh, who sat in on the Council's March meeting, had given a presentation to Rutgers Department of Occupational Medicine faculty on the gun range noise issue the anonymous speakers had presented to the Council.

### **OLD BUSINESS**

*Ordinance Update:* Eric Zwerling and Jack Zybura consulted on the issue of impulsive noise in the Model Noise Ordinance. They handed out a Letter of Interpretation to the Council. The issue is that the Model states that four or more impulses should be measured as continuous noise, making it less stringent than the state code. Steve Szulecki stated that the change should be made in the Model Ordinance. Mr. Zwerling argued that many towns have already adopted the Model and changing it now will not retroactively make them aware of the issue, and that is why a Letter of Interpretation was drafted. Mr. Szulecki stated this is the same issue as when the Council updated the maximum penalty. It was suggested that the change be made to the Model and then send a letter to all of the municipalities notifying them about the change. Mr. Szulecki stated that we should not "trickle out" changes to the Model, especially since the Council is in the middle of revising it with many changes that have already been voted on and approved. Mr. Zwerling stated that it would be best to do what the Department did for the patron vehicle issue. Chairman Schmidt asked Mr. Zwerling to put something together for the guidance document. Mr. Zybura replied that's what this Letter of Interpretation is. Mr. Zwerling stated that if it was to go in the guidance document the heading should be removed as well as the first paragraph. The new heading would be "Model Ordinance Impulse Noise at Night." Salvatore Fama asked if this sort of thing has ever been done to the guidance document. Mr. Szulecki stated that once the Model is updated with the change then this information can be removed from the guidance document. Mr. Fama also stated that not only is the current language in the Model inconsistent with the state code, but it is also incorrect, and he feels the new guidance should state that. Mr. Zybura also added that another inconsistency is that the Model says "decibels" whereas the state code says "dBA". Chairman Schmidt asked Mr. Zwerling to make the changes to the Letter of Interpretation to make it suitable

to go into the guidance document and that the Council would vote on it at the next meeting. Mr. Zwerling asked Ms. Feasel to send the Council the current revised version of the Model with all of the suggested changes the Council has approved. Chairman Schmidt added that if anyone has any proposed changes to the Model, they should start putting something together so it can be discussed.

### **NEW BUSINESS**

*Modified Exhaust:* Mr. Szulecki stated that noise from modified exhaust systems is one noise source that effects everyone throughout the state, adding that it is an intentional act to modify their vehicle. He stated that there are four parts of 13:1G that created N.J.A.C 7:29. He then read aloud an email he had distributed to the Council, which contained sections of 13:1G which he states gives the DEP the authority to regulate vehicular noise. He wants to introduce language to the DEP Commissioner to bring to the Governor's Cabinet in conjunction with the MVC Commissioner. Mr. Fama added that the loud pop at the end, can also lead to distracted driving. Mr. Zwerling stated that NYC has an ordinance for loud vehicles. Mr. Szulecki thinks that since this issue effects the whole state, the laws should be created on a state level. Chairman Schmidt asked Mr. Szulecki and Mr. Zwerling to collaborate on something for the next meeting. Mr. Szulecki asked if Mr. Fama could bring information to the next meeting on how inspections are done, if there are still private inspection stations and can they take noise measurements? Mr. Zwerling stated that about 15 years ago he offered to train inspection station employees on noise readings for free, but the MVC refused.

*Master List:* Mr. Zwerling stated that he feels the introductory paragraph at the top of the Master List of Approved Noise Ordinances should be changed to add that nuisance codes do not need approval from the Department. He stated that if a concerned citizen was looking at the Master List and saw that their municipality was not listed or was "disapproved" they may think that they are not covered at all, not knowing their town may have a nuisance code.

*Gun Range Issue:* Chairman Schmidt stated that the gun range owner was not going to attend a NCC meeting. He asked, how did the Council want to proceed with the gun range issue? Mr. Triggs read a correspondence between himself and the Sussex County CEHA coordinator. Sussex has been out to investigate but they haven't taken measurements and will not be enforcing. Chairman Schmidt stated that at the next meeting the Council could discuss the possibility of adding something to the guidance document regarding gun ranges.

### **PUBLIC DISCUSSION**

Jack Zybura motioned to go into Public Session, with Randy Hauser seconding. All were in favor, so the motion carried, and the meeting was open to the public. Philip Makrelis said that he had nothing to discuss. Jack Zybura motioned to end the Public Session with Randy Hauser seconding, all were in favor so the Public Session ended.

### **ADJORNMENT**

Jack Zybura motioned to end the meeting with Randy Hauser seconding. All were in favor, so the motion carried, and the meeting ended.

**NEXT MEETING**

The next meeting is scheduled for Tuesday, July 12<sup>th</sup> at 9:30 A.M. possibly at the building across the street from the Operator Training Center, as there is more room available for social distancing.

Respectfully submitted by Michelle Feasel with edits by David Triggs, NJDEP Liaisons to the NCC.