

**NEW JERSEY  
NOISE CONTROL COUNCIL (COUNCIL)  
June 13, 2023  
DRAFT MEETING MINUTES**

**ATTENDEES**

*Council Voting Members:* Arnold Schmidt (Chair, Public Member), Steve Szulecki (Vice Chair, Public Member, Ecologist), Randy Hauser (Department of Labor), Daniel Lefkowitz (Department of Health), Gina Fischetti (Department of Community Affairs), Salvatore Fama (Motor Vehicle Commission), Jack Zybura (Public Member), and Joseph DiFillippo (Public Member, Local Governing Body)

*Council Candidate Members (Pending confirmation from the Governor's Office):* Philip Makrelis (Public Member, Local Governing Body Candidate), Christopher Bergacs (Public Member Candidate), David Triggs (Public Member Candidate)

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

**PUBLIC DISCUSSION**

*Randy Hauser **motioned** to go into Public Session with Joe DiFillippo seconding. All were in favor, so the meeting was now open to the public. There was no one from the public present to comment. Dan Lefkowitz **motioned** to close the Public Session, with Randy Hauser seconding. All were in favor, so the meeting was closed to the public.*

**MEETING MINUTES**

*May 2023: Randy Hauser **motioned** to accept the meeting minutes as they were written with Joe DiFillippo seconding. All were in favor, the motion carried.*

**CHAIR REPORT**

Chairman Schmidt stated that Salvatore Fama needed to leave the meeting a little early. Mr. Fama had some comments about Steve Szulecki's proposed amendments, so Chairman Schmidt wanted to make sure the Council discusses them before Mr. Fama left.

**COMMUNICATIONS**

Chairman Schmidt asked Michelle Feasel how far along the Council's new appointment memo was. Ms. Feasel stated that the memo was drafted and that she was only waiting on one more resume before she could put together the appointment package for approvals. Chairman Schmidt stated if she did not get the last resume by the end of the week, she should send the package with an older version of the resume.

**OLD BUSINESS**

*N.J.A.C. 7:29 (Response to DEP attorney's comments):* Steve Szulecki stated that as he went to draft the justification for the definitions of "Community Service Facility" and "Residential Property" he felt it was unclear to the reader when certain portions of a community service facilities could be considered residential. Adding it is an important clarification because residential receptors have a stricter nighttime limit. Mr. Szulecki passed around a handout with his newly proposed definitions as well as an amendment to Section 1.4(c). Eric Zwerling stated he felt readers would look in the definition of residential property, and it wouldn't be intuitive to also look at the community service facility definition for guidance on residential sources. Ms. Feasel asked where must the measurement be taken if a community service facility such as a hospital has a residential component, does the Council need to specify the reading needs to be taken near the component or can it be anywhere on the property? Mr. Zwerling stated that

measurements should be taken in the manner which is consistent with the complaint. Sal Fama stated that the entire community service property line would now be considered residential at night if it has a residential component. He stated he felt that was a problem and a business could have one person sleeping at the facility and the surrounding businesses would then need to adhere to the stricter nighttime limit. Mr. Zwerling stated that the proposed situation would be unlikely and that most commercial/ residential facilities are made to accommodate many people such as hotels. Mr. Fama indicated that he would like to see the removal of “2. Commercial living accommodations and commercial; property used for human habitation;”. It provides too much latitude with the ability to change a commercial property into a residential property overnight, by installing or claiming to install 1 sleeping person into the commercial facility, and provided an example of a situation such as in New York where schools are turning into housing for immigrants, all the businesses built up around it would now need to comply with the residential nighttime limit, which isn’t fair to the businesses. Chairman Schmidt stated that would be an example of an emergency situation, and asked if they are considered residents, but agreed it would be unfair to the industry next door. Gina Fischetti stated she felt that there was a distinction between a building that is used as a temporary sleeping place rather than as its primary purpose, stating the school’s primary purpose is to teach not provide housing. Chairman Schmidt stated he felt that adding something in the rule text about emergency sleeping situations would be a policy change. Mr. Szulecki then stated it might be best to add a chart to the beginning of N.J.A.C 7:29 for the different types of property categories and what can and can’t be a receptor. He added that his newly proposed chart is not meant to clarify the two definitions. Mr. Zwerling stated that would be oversimplified and there would need to be a lot of footnotes for clarification. Jack Zybura stated he would prefer that kind of a chart be added to the manual instead. Ms. Fischetti stated that she thought the proposed table was confusing. David Triggs stated that instead of a chart the Council could add an “Applicability” section similar to the one in the Model Noise Ordinance. Mr. Zwerling stated that would need some thought put into it as well. He also stated he has some minor changes within the rule text that he would also like to discuss with the council, such as the definition of dBZ. *Steve Szulecki motioned to leave 4. “Community Service facility used for human habitation” in the definition of Residential Property and add in brackets “(see community service definition)” at the end, Dan Lefkowitz seconded, all were in favor, so the motion passed.*

The council then workshopped a sentence to clarify the “Community service facility” definition ultimately agreeing on “the human habitation component of the following facility types is to be considered a “Residential Property” (as defined herein) as a receptor of noise” Mr. Zwerling suggested adding “Shelter” as another example of a healthcare facility under community service facility. Ms. Fischetti argued that without a definition “shelter” is too vague. The wording was workshopped until “Shelter facilities, licensed, or otherwise approved” was agreed upon. *Steve Szulecki motioned to approve the changes as amended, Jack Zybura seconded.* The motion was now open for discussion, Chairman Schmidt stated he wanted to see it in writing before the next meeting, Ms. Fischetti agreed. *A vote was taken all were in favor except Chairman Schmidt and Gina Fischetti who opposed. The motion carried.*

Mr. Szulecki’s proposed change to section 1.4(c) was that “and for emergency purposes” be changed to “and an emergency” Mr. Zybura suggested that the “for” be kept, so it would read “and for an emergency.” Mr. Zwerling suggested the Council change the “and” to an “or” reading “or for an emergency” *Steve Szulecki motioned to accept these changes, Chairman Schmidt seconded. All were in favor, so the motion carried.*

The council then moved on to dividing up the rest of proposed amendments, so that members could work on the justification section before the next meeting. Mr. Szulecki asked that when Ms. Feasel sends out the next version to the council, she includes page numbers and a header which identifies when the document was last amended.

## **NEW BUSINESS**

No new business was discussed.

**ADJORNMENT**

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

**NEXT MEETING**

The next meeting is scheduled for Tuesday, July 11th at 9:30 A.M.

Respectfully submitted by Michelle Feasel, NJDEP Liaison to the Council.