

**NEW JERSEY
NOISE CONTROL COUNCIL (COUNCIL)
March 12, 2024
MEETING MINUTES**

ATTENDEES

Council Voting Members: Steve Szulecki (Chair, Public Member, Ecologist), Jack Zybura (Vice Chair, Public Member), Randy Hauser (Department of Labor), Daniel Lefkowitz (Department of Health), Gina Fischetti (Department of Community Affairs), Sal Fama (Motor Vehicle Commission), Dr. Iris Udasin (Public Member, Medical Doctor), Norm Dotti (Public Member, Industrialist), David Triggs (Public Member), Chris Bergacs (Public Member), Arnold Schmidt (Public Member), and Joseph DiFillippo (Public Member)

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

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

COMMUNICATIONS

NJ Senate Bill: Chairman Szulecki stated that the Senate Bill number for modified exhaust systems has been updated to S507. He noted that he included the new number on the agenda. He added that Arnie Schmidt provided him with information on a sister bill, numbered A1855 that is in the legislation. Chairman Szulecki then passed out copies of the draft letter he wrote from the Council to the DEP Commissioner in support of the Senate Bill. He asked if members of the council have comments on the draft to send him an email. Eric Zwerling stated that he sent the council a provision regarding mufflers and engine carburation, stating that testing protocols need to be put out with guidance and conditions of which the testing would be under. Sal Fama stated that he read the proposed Bill and saw nothing in there about MVC testing, only inspections. Mr. Zwerling asked Mr. Fama if it was still Parson's who ran the inspections. Mr. Fama responded that it is. Mr. Zwerling stated that he offered to give them training in the past, but their contract would need to be changed. Mr. Fama confirmed that they do have a massive contract. Mr. Zwerling stated that the legislatures should know that there needs to be money involved. Norm Dotti added that every inspection station would need a noise meter and calibrator. Mr. Fama stated that he felt that this council should have a lot of input in the testing regulations, adding that two years ago he got information for the council on inspections and that his chain of command is aware that this issue is being discussed at the council. Chairman Szulecki stated that during inspections they used to use a dynameter while measuring tail pipe exhaust but now the inspections are done using internal onboard diagnostics. Chris Bergacs asked if anyone has looked at what California has done. Chairman Szulecki stated that the Bill would not do what California does, for them no testing is involved, it is up to the officer to decide if an exhaust system is modified. Then the violator, if they believe the car is compliant, they can take it to an inspection station to get it verified and avoid paying the fine. He added that NJ regulations already on the books state a vehicle cannot produce excessive noise. He added that currently the fine is \$25. Mr. Fama stated he believed it was \$50. Chairman Szulecki stated that the Bill would increase the penalty to a more substantive \$500. Mr. Schmidt added that when the limits are subjective like excess noise, people can be targeted but with a decibel limit there is a set standard. Mr. Zwerling stated that when states want to pass legislation with the terms "excess noise" and "disturbance" he encourages them to look up the cases in which those terms were cited and how they were applied. Mr. Fama added that he would like a pedestrian to be able to bring enforcement action. Chairman Szulecki stated that he felt that that was not the appropriate avenue and added that pedestrians don't have curbing power. Mr. Fama suggested that they would be able to take a video and

get their license plate number and bring that to the prosecutor. Mr. Schmidt stated that the volume on a phone could be adjusted so it would not be an accurate measure. Mr. Dotti echoed those sentiments stating that you couldn't use a recording device with sound level control in court. David Triggs asked what motivated the legislature to put out these Bills. Chairman Szulecki stated it was probably public outcry. Dr. Iris Udasin asked if there is any purpose for modifying a car outside of a racetrack, asking if it makes it perform better. Mr. Zwerling stated there is no benefit and it makes it perform worse. Chairman Szulecki reiterated if there were any comments on his draft letter to the Commissioner, they should be sent to him. He added that he wasn't sure if it was worth noting the current regulations and stated that he does not want the letter to be long. Mr. Triggs agreed that the letter should be one page. Chairman Szulecki offered to send the letter out electronically for members to make their edits. Mr. Zwerling stated that the legislature might not know that the council exists and that maybe we should send them a letter. Chairman Szulecki stated that the council does not advise the legislature that this council's purpose is to advise the DEP Commissioner. Mr. Schmidt stated that a person, not the council, could send a letter to the legislators to inform them of the noise council. Chairman Szulecki stated that the Clean Air Council gets to meet with the Commissioner once a year and that he feels that is where the council should raise their platform.

Council Appointments: Michelle Feasel stated that she reached out to her appointment memo contact and was informed that there have been no updates.

PUBLIC DISCUSSION

Arnie Schmidt motioned to go into Public Session with Jack Zybura seconding. All were in favor. There were no members of the public present to comment. Arnie Schmidt motioned to close the Public Session with Jack Zybura seconding. All were in favor.

MEETING MINUTES

January 2024: David Triggs asked what a "super car" was referring to. Chris Bergacs stated that they are high end cars such as a Bugatti or Ferrari, adding that they are all over California, and that the police tend to give them a hard time. *David Triggs motioned to accept the meeting minutes as written with Jack Zybura seconding. All were in favor, except Gina Fischetti, Arnie Schmidt, and Joe DeFillipo who abstained due to being absent at the January meeting. The motion carried.*

CHAIR REPORT

Chairman Szulecki had nothing to report.

NEW BUSINESS

NJ Planning Commission Warehouse guidelines: Norm Dotti had sent the council a version of the NJ Planning Commission's Warehouse guidelines which has a section about noise. Chairman Szulecki stated that the language they use is confusing, stating that they reference N.J.A.C. 7:29 but then the procedures they have are inconsistent with N.J.A.C. 7:29. Mr. Dotti stated that he came across these guidelines indirectly through a town he was working with. He stated that normally guidelines will say something like the decibel cannot exceed 60dBA at 100 feet from the source. Noting that these guidelines have a 24-hour sound metric with CNEL. He asked how other sounds incurred during this time would be accounted for. He added that they know the standards of the state code exist as they referenced it. Jack Zybura stated that if the planning commission removed that bullet point, they would be in better shape. Chairman Szulecki stated that they also have a bullet point about vegetative noise barriers. Eric Zwerling asked if the council should send them a letter to offer guidance. Chairman Szulecki stated that the council is an advisory board to the DEP. Mr. Zwerling stated that the council could send a letter stating that these guidelines have come to the council's attention and are inconsistent with the state's noise code. Chairman Szulecki asked if Mr.

Dotti was interested in drafting the letter. Mr. Dotti stated that he would draft something up and send it out for review.

N.J.A.C. 7:29 Drones: Michelle Feasel stated that the Council's proposed amendments have finally made it past their first round of legal review and are now at the DAG's office for review. She is hoping that any further comments will be minimum. Ms. Feasel also stated that the Department feels that drones are considered an aircraft and therefore would be exempt. Drones would fall under both the FAA and the DOT's definition of aircraft. She asked if the council wanted to add a definition for aircraft to the noise regulations, for clarity. Chairman Szulecki stated that the case brought to the council was unique in having many drones flown together at a residential property line adding he believes it was a noise and safety issue. Norm Dotti stated that if drones become regulated then the council would have to regulate model airplanes. Chairman Szulecki stated that the council needs to determine if regulations are needed. Gina Fischetti stated that the council is not tasked with determining if an activity is reasonable. Chairman Szulecki asked Ms. Fischetti if she thinks that the Department of Community Affairs has any take on this from a safety perspective. Ms. Fischetti stated that the Department of Community Affairs does not have jurisdiction over this, and she believes it is a municipality and zoning issue. Mr. Dotti stated that this would be best handled under permitted use, where a municipality can decide where drones can be used. Ms. Fischetti echoed the same sentiments. David Triggs asked why this issue could not be handled under the nuisance code. Jack Zybura asked about Amazon drones. Chairman Szulecki stated that the model states that all definitions are the same as N.J.A.C. 7:29 except as in sections IX and X, adding that it could be possible to exclude drones in the same fashion. Ms. Fischetti then read aloud a drone ordinance she found online for Long Branch, stating where residential drones can be flown, she added that drones for business use were exempt. Mr. Triggs added that his township has a similar ordinance banning drones from public parks. Mr. Schmidt stated he was wary about differentiating residential use drones from commercial. Chairman Szulecki stated that it sounded like the council agreed this would be a municipal issue, and that they believed drones were considered aircrafts and exempted so there was no need to clarify that with a definition in the state code.

OLD BUSINESS

Model Update: Jack Zybura pointed out that the noise website did not have the latest version of the Model. Michelle Feasel stated she would have it updated. Eric Zwerling asked why "impulsive sound" is defined in the model, adding that there is no definition for "continuous sound". Mr. Zybura stated that "continuous sound" is defined in the state noise code. Chairman Szulecki stated that the Model should be a stand-alone document. Mr. Zybura stated that at the beginning of the definition section it states that all words and terms used in the Model shall have the same meaning as those defined in N.J.A.C. 7:29. Chairman Szulecki stated that everything that needs to be understood in the Model should be in in it. Mr. Zwerling stated that means the protocol on how to conduct an investigation would need to be added. Chairman Szulecki agreed that that would be too much. Mr. Zwerling stated that he believes that because the definitions of "impulsive sound" and "continuous sound" are so important, they should both be in the Model. He stated he would workshop it.

Mr. Zwerling stated that Public Roadways are exempt from the state code, however there are sections in the Model, IX and X that have public roadways as a source. Jack Zybura read section IV. (A) in the Model which states that "except as provided in IX. and X. below, the provisions of this ordinance shall not apply to the exceptions listed at N.J.A.C. 7:29-1.5." Arnie Schmidt stated that this is where a possible drone exemption could go. Chairman Szulecki stated that section IV. in the Model is labeled "Exemptions" and section 1.5 in the state code is "Exceptions". Mr. Zybura read definitions from an online source of both words. Chairman Szulecki proposed changing the title of section 1.5 of the state code to "Exemptions" for consistency. Michelle Feasel stated she was not sure if it was too late to make that type of change, but she would ask.

Eric Zwerling stated that Table 1 is the “Maximum permissible A-weighted sound level” adding that it states the decibel limits are 65 daytime and 50 nighttime. Adding that if the meter reads 65 or 50 respectively than there would be a violation, so that is not the maximum limit. He suggested changing the title to “A-weighted sound level limits when measured outdoors”. Dan Lefkowitz suggested leaving the table title but putting “less than” in the table. Philip Makrelis agreed stating it would look cleaner and is an easy solution. Chairman Szulecki asked if it would say “less than” or the symbol would be used. Chris Bergacs stated it would be clearer to spell it out. Jack Zybura asked if we would need to do that for the entire octave band table. Mr. Bergacs stated he likes equals or exceeds 80 decibels. Chairman Szulecki stated it cannot be equal as it needs to be more restrictive than the state code. David Triggs stated the Model is more restrictive because it includes residential as a source. Mr. Zwerling stated he believed the Model needed to be more stringent in every way. Gina Fischetti stated that if a state statute addresses an issue the municipality can be more restrictive, not less or in conflict with the state’s law. Mr. Zybura pointed out that Table 3 has both indoor and outdoor measurements in one table. Mr. Zwerling stated that Tables 1 and 2 need to be separate as they need to share a common wall to allow for indoor measurements. Mr. Makrelis suggested combining the tables but keeping the note that’s under Table 2. Mr. Zwerling then passed out a handout he put together with his proposed language for section VII. Maximum Permissible Sound Levels.

PUBLIC DISCUSSION

Jack Zybura motioned to go into Public Session with Arnie Schmidt seconding. All were in favor. There were no members of the public present to comment. Arnie Schmidt motioned to close the Public Session with Jack Zybura seconding. All were in favor.

ADJOURNMENT

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

NEXT MEETING

The next meeting is scheduled for Tuesday, April 9th at 9:30 A.M.
Respectfully submitted by Michelle Feasel, NJDEP Liaison to the Council.