

**N.J. NOISE CONTROL COUNCIL (COUNCIL)**  
**MAY 10, 2022**  
**MEETING MINUTES**

**ATTENDEES**

*Council 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), Gina Fishetti (Department of Community Affairs), Norm Dotti (Public Member, Industrialist), Joe DiFillippo (Public Member, Local Governing Body), Mark Roskein (Public Member) and Jack Zybura (Public Member).

*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:* Bob Fedinetz (Behrens & Associates Inc) and Lynette Dooley (Somerset County Department of Health)

Chairman Schmidt read the Sunshine Act opening statement.

**PUBLIC DISCUSSION**

Jack Zybura motioned to go into public session with Mark Roskein seconding. All were in favor, so the meeting was open to the public.

Bob Fedinetz stated that he is a noise consultant with Behrens & Associates, and he offered their consulting services to the Council. Steve Szulecki clarified that the Council is strictly an advisory board to the Commissioner of the DEP. Eric Zwerling offered to include the consulting firm on the list of acoustical consultants and vendors located in the Rutgers Community Noise Enforcement Manual, which he distributes at the Noise Certification training classes. Due to a busy agenda, the Council limited their conversation with Mr. Fedinetz and recommended that he return when there is a lighter agenda, which he agreed to do.

Mark Roskein motioned to end the public session with Norm Dotti seconding. All were in favor, so the public session ended.

**CHAIR REPORT**

- Chairman Schmidt thanked Vice Chairman Steve Szulecki for running the April meeting in his absence.
- Mr. Schmidt requested that new member Gina Fischetti submit a short bio to David Triggs, so that it can be posted on the Council's page on the DEP's Noise website (if she chooses to do so).
- Chairman Schmidt reminded the Council members to take the mandatory Ethic's training sent out by Mr. Triggs. Verification for completing the course is also necessary. He asked Mr. Triggs to resend the email with a link to the training to the Council members.

## **EXECUTIVE SESSION**

Mark Roskein motioned to go into executive session to interview Lynette Dooley for an open position on the Council with Norm Dotti seconding. All were in favor, so the Council went into executive session, which is closed to the public.

## **MEETING MINUTES**

*March 2022:* Salvatore Fama motioned to approve the March meeting minutes with Mark Roskein seconding, which opened the motion for discussion.

Chairman Schmidt noted that in the April minutes, Gina Fishetti suggested that the Council's meetings be recorded. He asked if David Triggs could provide guidance on how to do this, and whether it is also possible to visually record the meetings. Mr. Triggs stated that he is not aware of the Department having that kind of equipment and when it was investigated for a DEP meeting outside of its headquarters, they were told to use an outside vendor that had to be paid. Norm Dotti asked who would maintain the recordings and distribute them to the public upon request? He added that this is not a courthouse and that court recordings aren't great, even with state-of-the-art equipment. This topic was tabled until June when there will be more time for a discussion.

Chairman Schmidt read the draft April meeting minutes discussion pertaining to the length and detail of the meeting minutes. Steve Szulecki noted that he believed that the conversation was about reducing the length and detail of the "Public Discussion" portion of the record and not the entire meeting minutes. He stated that the public portion did not need to be so detailed as members of the public don't always have the opportunity to verify statements that they made that were then challenged or altered by Council members. Chairman Schmidt added that he likes the detail in the minutes, as it creates a more accurate depiction that he uses to prepare the meeting agendas and it is a good reference for Council members who were absent. Jack Zybura stated that he did not recall a proposed delineation between shortening the public portion and the general meeting minutes. Michelle Feasel agreed with Mr. Zybura and added that the discussion was about keeping the general minutes succinct. Chairman Schmidt read a portion of the proposed March meeting minutes from the anonymous presenters. He noted that although requesting to be anonymous, they gave extensive personal information about themselves. Salvatore Fama inserted a comment in the minutes regarding a statement he believed the main presenter made regarding the continuous operation of the gun range in question. Steve Szulecki disputed the amendment, adding that the minutes accurately reflected the presenter's statements, one of which is that the facility was closed for a period of time. Mr. Fama mentioned that the presenter was talking out of "both sides of his mouth," and that he believed the statement he heard was accurate and therefore should be added to the minutes. Chairman Schmidt stated that Council members should not take sides, as we are an advisory committee. Norm Dotti added that he has a problem with speakers remaining anonymous and that he is not against adding missed statements. Mr. Szulecki agreed that it is problematic to have members of the public speak at length anonymously.

Mr. Triggs mentioned that he recommended that the Sussex County Department of Health and Human Services (Sussex) provide assistance to the presenters by taking sound level measurements and to investigate whether the gun range exemption applies to the facility in question. If Sussex

determines that it does not and there is an exceedance of the permissible limits, he advised to give them the 30-day grace period to comply. If after that, they refuse to cooperate or pay a penalty, bring it to court and let a judge determine the outcome. The Council should not be tasked with making that determination, which could require extensive research. Chairman Schmidt recommended inviting the affected parties and the gun range owner to share their side of the story. Mr. Triggs stated that the DEP was not going to get involved as it is at the county's discretion on how to proceed, since portions of the gun range exemption in the statute are vague and a request for a DAG review, while helpful, did not resolve the ambiguity. Mr. Fama added that he did not think it was the Council's place to put anything into the guidance document regarding the gun range exemption which he feels is clear. Eric Zwerling disagreed, stating that "maintained continuously" is vague and no one can agree on what "maintained" means or what constitutes "continuous use." He added that the goal of the Council should be to determine what is considered exempt. The anonymous March presenters were asked to come in and share their story as an example, but we are not mandated to adjudicate on their behalf. That should be determined by a judge.

Chairman Schmidt stated that he called the anonymous March presenters and told them that if they wanted to remain anonymous, their full statements may not be included in the minutes. The complainants requested to remain anonymous so Chairman Schmidt asked the Council if they knew of any legal document that says an anonymous person's statements can't be included? He read Robert's Rules, and the Council By-laws, but could find no such language. Unless under oath, it's a formality and not a requirement. He added that the Council could amend the By-laws for future public speakers but starting now would be wrong. Steve Szulecki stated that the Council had told the speakers before they presented that they weren't happy about their request to remain anonymous. Chairman Schmidt added that the owner of the gun range wanted to read the minutes to see what was presented before determining whether he would attend a future meeting. Chairman Schmidt added that removing the details in the minutes would put the gun range owner at a disadvantage. Gina Fishetti asked the Council, why a member of the public would come to a Council meeting for guidance if we can't advise them? Mr. Szulecki stated that it elevates that topic as an issue and brings it to the Council's attention, which can then be brought to the DEP and their DAGs for clarification. The Noise Control Act is clear on mandating that the Council is advisory to the Commissioner of the DEP and not the public.

Mr. Szulecki motioned to not include the full statements made by the anonymous speakers for the March Meeting Minutes with Jack Zybura seconding. Daniel Lefkowitz stated that he felt this would be contrary to the By-laws. Gina Fishetti added that there was nothing in the By-laws that distinguishes between anonymous and named speakers from the public, so if the Council wants to make a distinction, it should be added to the By-laws. Chairman Schmidt stated that the Council has never encountered something like this before and it would again put the gun owner at a disadvantage. Norm Dotti stated that the Council edits the meeting minutes all the time, and that this is an example of that. A vote was then taken. Voting in favor of the motion were Steve Szulecki, Jack Zybura, Randy Hauser and Norm Dotti. Voting against the motion were Salvatore Fama, Daniel Lefkowitz, Chairman Schmidt and Mark Roskein. Gina Fishetti and Joseph

DiFillippo abstained since they were not present at the March meeting. This resulted in a tie vote, so Mr. Fama made a second motion to approve the March meeting minutes with the presenter's full dialogue and his and Jack Zybura's proposed amendments. Chairman Schmidt seconded. Voting in favor were Salvatore Fama, Randy Hauser, Chairman Schmidt, Mark Roskein and Norm Dotti. Voting against the motion were Steve Szulecki, Daniel Lefkowitz and Jack Zybura. Gina Fishetti and Joseph DiFillippo again abstained. The motion therefore carried, and the March meeting minutes were approved.

### **EXECUTIVE SESSION**

Mark Roskein motioned to go into executive session for a second time to discuss and vote on who to elect to the open positions on the Council with Randy Hauser seconding. All were in favor, so the Council went into executive session which is closed to the public.

### **COMMUNICATIONS**

There was no new communication to report.

### **NEW BUSINESS**

No new business was discussed.

### **OLD BUSINESS**

No old business was discussed.

### **ADJORNMENT**

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

### **NEXT MEETING**

The next meeting is scheduled for Tuesday, June 14<sup>th</sup> at 9:30 A.M. possibly at the Extension Conference Center, as there is more room for social distancing.

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