

N.J. NOISE CONTROL COUNCIL (COUNCIL)
OCTOBER 11, 2022
MEETING MINUTES

ATTENDEES

Council Voting Members: Arnold Schmidt (Chair, Public Member), Steven Szulecki (Vice Chair, Public Member, Ecologist), Daniel Lefkowitz (Department of Health), Randy Hauser (Department of Labor), Gina Fischetti (Dept. Community Affairs), Jack Zybura (Public Member), Dr. Iris Udasin (Public Member, Medical Doctor), Joseph DiFillippo (Public Member, Local Governing Body), and Mark Roskein (Public Member)

Council Candidate Members (Pending confirmation from the Governor's Office): 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: Gayle Salaman (Farmingdale, Monmouth County)

SUNSHINE LAW

Arnold Schmidt began the meeting by taking roll call and reading the Sunshine Act aloud.

PUBLIC DISCUSSION

Mark Roskein motioned to go into Public Session, with Randy Hauser seconding. All were in favor, so the motion carried. Arnold Schmidt read the Council's statement to the public. From the public, Gayle Salaman stated that she has had a noise issue with the Monmouth County Pistol and Rifle Club across the street from her house in Farmingdale. Chairman Schmidt stated that gun ranges that have been maintained continuously since 1972 are exempt under the state code. Ms. Salaman said that she believes the gun range has expanded their facility closer to local residents. She added that there is a disagreement between Howell and Wall Townships regarding the jurisdiction. Chairman Schmidt asked if she had sound level measurements taken. Ms. Salaman stated that no one has come out to take a measurement. Eric Zwerling asked if the range had moved within the same lot and block. Ms. Salaman stated that she wasn't sure but believed so. Steve Szulecki stated that the Council is working on adding language in our guidance document to further clarify how the gun range exemption applies. A range needs to be in operation before 1972 and be in continuous operation. The guidance will help our inspectors troubleshoot how and when to enforce. Mr. Zwerling added that we will have to clarify what the term "maintain" means. Chairman Schmidt added that the gun range guidance was on the agenda for later in the meeting. Mr. Szulecki added that when an issue like this gets brought to the Council from the public, it assists them in determining what types of noise are a concern throughout the state. David Triggs stated that the Department leaves it up to the counties or township inspectors to determine if a gun range is exempt. Jack Zybura stated that since the gun range and residences are in different municipalities, Ms. Salaman should contact the Monmouth County Health Department to see if they will come out to take a measurement. *Mark Roskein motioned to end the public session, with Dr. Iris Udasin seconding. All were in favor, so the motion carried.*

MEETING MINUTES

June 2022: Jack Zybura motioned to approve the August meeting minutes, with Joseph DiFillippo seconding. There was no discussion. A vote was taken to approve the minutes as written and all were in favor, so the motion carried.

CHAIR REPORT

- Chairman Schmidt noted that in the September 26th edition of the “Home News Tribune” the New Jersey historical note stated that on September 29th, 1972, the first state noise control citizens council was formed.
- Chairman Schmidt once again noted that the Council’s November meeting will be pushed back one week due to Election Day. The meeting will be held on November 15th. He also added that he will not be able to attend this meeting. Vice-Chair Steve Szulecki will run the meeting.

COMMUNICATIONS

Leaf Blowers: David Triggs stated that a citizen sent him an email with multiple proposed State Bills to ban gas powered leaf blowers. He was asked for his comments. Mr. Triggs responded that he was unaware of the Bills. Mr. Triggs will resend the e-mail to the Council members. The recent Bills are A1939 (a carry-over of A6238) and A3906. Bill S437 was also introduced this year on a similar topic.

Part 150: David Triggs was sent an email from a citizen about the Federal and State Part 150 Study to reduce noise at area airports. He stated that Council member Norm Dotti said that he would send comments in since he was a member of the Roundtable. Since Mr. Dotti was absent from the meeting, this topic was tabled. Mr. Dotti will submit his comments as a citizen, and they therefore will not reflect the views of the Council on this matter.

7:29 Update: David Triggs stated that the DEP’s attorney has made comments to the proposed Council amendments to *N.J.A.C 7:29*. He sent them out to the Council for review. Chairman Schmidt stated that these comments will be discussed in more detail later in the meeting and subsequent meetings.

Open Council Positions: David Triggs stated that the Council member appointment memo was at the Governor’s Office. He added that they sent out questionnaires for the appointees to fill out and submit. He added that the Governor’s Office will not be moving members into other positions as was recommended by the Council.

Boat noise complaints: Eric Zwerling stated that he recently received two boating complaints on Lake Hopatcong regarding boats with highly amplified music. David Triggs added that he also had multiple correspondence with the complainant over the phone and via email. He instructed the complainant that this type of noise is under the jurisdiction of the Marine Police and conveyed the number to call. Mr. Zwerling stated that he informed the complainant that the state noise code does not apply to boating noise, as the source is not a listed source property category. After reviewing the Marine Police regulations, Mr. Zwerling stated that they only regulate the noise emissions from

the motor, not music. The measurements must be made immediately adjacent to the motor of the boat under investigation, and the permissible sound level limits are quite high at that location. Thus, he can understand the reluctance of the Marine Police as he does not see an enforcement tool that they can currently use. He advised that a bill drafted by the State Legislature, if a sponsor could be found, would be a more reasonable approach. The complainant conveyed that the Marine Police were not showing a willingness to enforce. Steve Szulecki asked why the township is not enforcing this type of noise as a disturbing of the peace violation, under their nuisance code. Mr. Triggs stated that Lake Hopatcong covers multiple townships and two counties. Mr. Zwerling added that that is why he suggested a state law that would reduce any boundary disputes. He added that he has trained the Marine Police in the past, as per the Marine Regulations which only apply to engine noise, with the proper protocols followed. Gina Fischetti stated that there is a Lake Hopatcong Commission, suggesting that they could assist. Mr. Zwerling asked if they have regulatory powers over the lake. Ms. Fischetti believes that they do and added that they were having a meeting later that night. Mr. Zwerling stated he would inform the complainant about the meeting.

OLD BUSINESS

Gun Range Guidance: Steve Szulecki drafted a guidance document and offered to read it aloud to the Council. Chairman Schmidt suggested that he first email it to the Council so that our members can review it in preparation for the next meeting.

Modified Exhaust: Steve Szulecki stated that Salvatore Fama brought this topic to his upper management at the Motor Vehicle Commission, and he is still waiting for a response. This topic was tabled until Mr. Fama is present to discuss the outcome.

Vehicle entering and exiting: This topic was tabled until Norm Dotti is present to discuss it.

Model Ordinance Update: Eric Zwerling sent the Council an updated document. Salvatore Fama also sent out his proposed edits to the document. Mr. Zwerling stated that he made some additional amendments based on Mr. Fama's comments. He brought copies to the meeting, but Chairman Schmidt suggested that he email it to the members so that they can review it on their own time and make any comments.

Recording meetings: Chairman Schmidt reiterated that "hybrid meetings" would not be possible as the Rutgers building that the Council meets in does not have access to Wi-Fi. He stated that virtual meetings should only be done in emergency situations and reminded the Council that they did not meet for over a year due to the Covid pandemic. Dan Lefkowitz stated that the Council can set up virtual meetings the same as the Clean Air Council. Chris Bergacs asked how far in advance of an emergency would the Council members be notified that the meeting was being held virtually? Steve Szulecki stated that the Sunshine Act requires 48 hours' notice of a meeting posting. David Triggs suggested that Michelle Feasel could set up the link through Microsoft Teams. Ms. Feasel added that she could create the link, but she would need the Department's website developer to post it on the Department's website. *Chairman Schmidt motioned to hold virtual meetings in emergency situations when they can be set up 48 hours in advance with Joseph DeFilippo seconding.* The motion was now open for discussion. Mr. DiFillippo asked if the Council would

need to vote on whether something was an emergency? Mr. Szulecki stated that an emergency would be decided by the Chair, Vice-Chair, and the Department's liaisons. Ms. Feasel pointed out that since the Council meets on Tuesdays, 48 hours' notice would be Sunday. Since that is a weekend, the Council would need to make the determination that there is an emergency by the Thursday prior to the meeting so that the website developer could post it on the website. She added that for a situation such as snow it might be hard to determine if it is an emergency that far in advance. Gina Fischetti suggested that the Council could meet virtually every other month. Mr. Bergacs suggested that the Council could decide to meet virtually in January and February to avoid the winter months and Cold and Flu season. Jack Zybura stated that he was in favor of this idea and added that by setting up these winter months as virtual meetings, the Council would be able to test out the concept. *Chairman Schmidt amended his motion to have scheduled virtual meetings in December and January of this year, Jack Zybura seconded.* The motion was now open for discussion. Steve Szulecki questioned why the Council would lock in two virtual meetings, stating that the first one might be a disaster. Chairman Schmidt stated that it could be a disaster, but the second meeting would help smooth out those issues. *A vote was taken with Chairman Schmidt, Jack Zybura, Mark Roskein, Joe DiFillippo, Daniel Lefkowitz and Gina Fischetti voting in favor. Steve Szulecki and Randy Hauser abstained. The motion therefore carried.* Mr. Zwering asked if the Council should record the meetings? Chairman Schmidt stated that since these two months were to test out the virtual meeting, they should not be recorded but that possibly future meetings could be. Ms. Feasel stated that it was harder to record minute notes for a virtual meeting and without a recording those meeting minutes may not be as detailed as in person meeting minutes. *Daniel Lefkowitz motioned to record virtual meetings with Jack Zybura seconding.* The motion was now open for discussion. Mr. Zybura stated that the meetings are open and that recording them keeps everything open. Mr. Triggs asked who would maintain the recordings? Mr. Lefkowitz stated that they can be stored right on the Microsoft Teams account. Mr. DiFillippo asked if you could call in? Chairman Schmidt stated that you could. He then asked how would the Council address public participation? Jack Zybura stated that the public could be placed in a waiting room during executive sessions. Gina Fischetti stated that she was in favor of recording meetings in general and stated that the Council could look at the OIT's SOP guidance on recording meetings. Chairman Schmidt asked Ms. Fischetti to look into what that guidance is. Mr. Lefkowitz stated that he would also reach out to his colleague on the Clean Air Council to see what they do for virtual meetings. Mr. Lefkowitz withdrew his motion to record the virtual meetings until more information was available. Mr. Bergacs found a seven-page emergency meetings document for the State online and sent it to the Council. Contingent on finding more information on the requirements and SOP of virtual meetings *Chairman Schmidt made a new motion to move the scheduled virtual meetings to January and February instead of December and January, Mark Roskein seconded.* The motion was now open for discussion. Jack Zybura asked why the Council would kick the can down the road, adding that we could have this information by the November meeting. Mr. Triggs stated that there is a chance the Council might not have a quorum to vote at the next meeting. *A vote was then taken with Randy Hauser, Joseph DiFillippo, Steve Szulecki, Arnold Schmidt and Gina Fischetti in favor with Daniel Lefkowitz and Jack Zybura against. The motion therefore carried.*

7:29 Update: Eric Zwering stated that he was unsure which comments made by the DEP attorney were old and which were new. Michelle Feasel stated that all of the comments were new because this was a new document created from the responses to the last round of the attorney's comments.

Steve Szulecki reminded the Council that the document is broken up into two parts one is a description and justification of the changes and the other is the revised rule text. Chairman Schmidt asked if the Council wanted to review the entire document at a meeting or create a subcommittee. Mr. Szulecki stated that he felt there was a third option where members would be assigned to the parts that they previously worked on. Jack Zybura stated that the Council now had four new members who were not a part of the previous draft. David Triggs stated that not every member had a copy of the document with them presently to start working on it during this meeting. Mr. Szulecki reiterated that the Council's job moving forward is not to make changes to N.J.A.C. 7:29 but to respond to the attorney's comments. Ms. Feasel suggested that the entire Council review the document and members could respond back to the attorney's comments as they choose. At the next meeting the Council will review the entire document and discuss their proposed amendments. If the Council feels a change is needed that the attorney suggested was not, the justification paragraph would be enhanced. *Chairman Schmidt made a motion to let everyone comment on the sections they want to discuss at the next meeting. Any sections that get left out would be discussed by the full Council with Jack Zybura seconding. All were in favor, so the motion carried.* Ms. Feasel suggested that Chairman Schmidt send out an email to the Council about making the amendments, so the members who were not present at this meeting would have enough time to work on their comments. Chairman Schmidt agreed to follow-up with an email.

NEW BUSINESS

No new business was discussed.

EXECUTIVE SESSION

The Council did not meet in Executive Session.

PUBLIC DISCUSSION

Arnold Schmidt motioned to go into Public Session, with Jack Zybura seconding. All were in favor, so the motion carried. No one from the public was present. *Mr. Schmidt motioned to end the Public Session with Jack Zybura 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.

NEXT MEETING

The next meeting is scheduled for Tuesday, November 15th (which is the third week due to Election Day) 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.