NEW JERSEY NOISE CONTROL COUNCIL (COUNCIL) August 8, 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), Salvatore Fama (Motor Vehicle Commission), Dr. Iris Udasin (Public Member, Medical Doctor), Norm Dotti (Public Member, Industrialist), 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 DUSCUSSION

Chairman Schmidt read the Sunshine Act aloud. *Jack Zybura 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. *Jack Zybura motioned to close Public Session with Joe DiFillippo seconding. All were in favor, so the meeting was closed to the public.*

MEETING MINUTES

July 2023: Randy Hauser motioned to accept the meeting minutes as they were written with Joe DiFillippo seconding. The minutes were now open for discussion. Eric Zwerling clarified that the "noise meter kit" is around \$1000 and suggested that "kit" be added to the meeting minutes. A vote was taken to approve the meeting minutes as amended, all were in favor, the motion carried.

CHAIR REPORT

Chairman Schmidt stated he had nothing new to report.

COMMUNICATIONS

Council Appointments: Michelle Feasel stated she received word that all the appointment questionnaires from candidate members were submitted and were now under review of the Governor's Office.

Nuisance vehicles: Ms. Feasel stated she had received word that the nuisance "boom" vehicle legislation was likely to be passed any day. Chris Bergacs stated that he read an article the night before that it had been passed.

N.J.A.C 7:29 *updates*: Ms. Feasel stated that she received the justifications from everyone who had been assigned to them in June, and she was working on putting it together to send to the Department's attorney for review.

OLD BUSINESS

Virtual Meetings: Daniel Lefkowitz stated he was able to get some information from the Clean Air Council, on how they conduct their virtual meetings. He stated that they have an administrator who sets up the

meetings, takes the meeting minutes, and works with the DEP liaison to the Council. Steve Szulecki stated that usually on councils the liaison is in a higher position such as a director. Michelle Feasel stated that she could set up the virtual meetings and continue taking the meeting minutes, but feels the issue is the practicality of using them during emergencies. She would need to post the link/ announcement the Thursday before the meeting, which may be difficult to know that far ahead of time. Dr. Iris Udasin asked if there was a possibility of the Council getting a different room which had wi-fi to do hybrid meetings. Steve Szulecki stated other rooms in the Environmental Science's building get booked up quickly, so it would be difficult to get another room. He then asked, what problem is virtual meetings solving? Dr. Udasin stated that hybrid meetings would help with low quorum as more people would be able to attend. Mr. Szulecki added that other than Covid there have been no real emergencies in which the Council had to cancel a meeting.

Modified Motor Vehicles: Sal Fama spoke with the legal team at the Motor Vehicle Commission and read the Council a number of state laws that would protect citizens from noisy vehicles. These included N.J.A.C 13:20-4.4 which prohibits the use of a straight pipe exhaust, as well as a muffler which lacks interior baffle plates. N.J. statue 39:3-70. "Mufflers" which states every motor vehicle shall be equipped with a muffler in good working order on a highway. N.J. statue 39:3-69 "Horns and audible warning devices" which does not allow for a horn or warning device to be unreasonably loud or harsh and N.J. statue 39:3-76.4 "Muffler systems for motorcycles". He added many of these, such as Title 39:3-70 can be enforced by any police department. Chris Bergacs gave a personal anecdote of a noise issue he had with regards to noisy landscaping equipment and how his town's police department was uneducated on the issue. David Triggs stated that if a police department does not enforce the State's laws then the affected person could sue under the Environmental Rights Act. Chairman Schmidt shared how New York has a bounty system for catching modified cars. Steve Szulecki added that it is great that these laws are in place but that the police are not cutting open a muffler to check if there is baffling. Mr. Fama read N.J.A.C 13:20-33.20 "Vehicle inspection: exhaust systems" and 13:20-32.20 "Vehicle inspection: exhaust system requirements, all vehicles; vehicle inspection at official inspection facilities". He stated that these laws let an inspection facility fail a vehicle that comes into an inspection station with a modified muffler, even if the muffler is not part of the inspection. He added that he believes vehicle owners tune the car before inspection so that they won't fail for it. Eric Zwerling stated that sometimes you cannot tell just from looking at a straight pipe if it has a muffler, and that the sound is most noticeable at extreme acceleration and deceleration. He then read a paragraph statement that he had previously drafted about Vehicle Backfiring Provision and stated that they may be able to get it through the MVC, since the nuisance vehicle law was passed so there may be someone in office who cares about this issue. He even suggested proposing it as a new law. Mr. Szulecki stated that anything the Council proposes needs to be recommended to the DEP Commissioner. Mr. Fama added that he believes the issue of modifying cars is a culture and that they want to get the car to the maximum sound pressure levels. Mr. Zwerling suggested that the Council could come up with a pre-approved provision that townships would be able to adopt, similar to the ATV stand-alone ordinance. Mr. Szulecki stated that in California a police officer can issue a summons to anyone they suspect to have a modified exhaust, the vehicle owner can then go to a facility to get it tested and if it passes, they can submit that to the court and the summons would be thrown out. Chairman Schmidt stated that this issue goes beyond what can be done in the Model Ordinance and proposed that Mr. Fama, Mr. Szulecki and Mr. Zwerling form a subcommittee and work on a proposal.

Model Noise Ordinance: Sal Fama had made proposed changes to the Model Noise Ordinance and sent them to the Council ahead of the meeting. He read through the first of his proposed changes. He stated that he felt the ten second testing time limit for an emergency device should be removed, it should be up to the facility's engineer to decide how long the equipment should be tested, and it was not up to the Council to

put a cap on it. He gave the example of an industrial facility. Steve Szulecki stated that Mr. Fama's example was not of a stationary emergency signaling device, and then read the definition aloud. Chairman Schmidt asked if the type of emergency device at an industrial facility that Mr. Fama had described needed to be addressed. Chris Bergacs asked what about those at a power plant? Mr. Szulecki stated that those were not covered, explaining it was about notifying emergency personnel to a local emergency, a power plant's signals would be part of the business. Mr. Bergacs then read the definition of "emergency" asking what if it's an alarm to tell contractors of an emergency, since they are listed under the definition, he added that he thinks their alarms would then fall under the stationary emergency signaling device category. Eric Zwerling stated that there are merits to both sides, and that maybe they should be exempted but added that emergency generator testing is not. Mr. Szulecki stated that if the Council wants to address this issue it will require a re-write of section 1.4 of the State code. He added that most of that section is statutory language that cannot be changed. Mr. Zwerling stated that there should be some limit set but it could be less based on a an engineer's recommendation. Jack Zybura stated that the language in the Model currently just reiterates what is stated in the noise code, he added that it should just reference section 1.4. Jack Zybura motioned to change 3(C) of the Model Noise Code to end after "7:29 1-4" Steve Szulecki seconded. The motion was now open for discussion. Mr. Fama asked if anything in section 1.4 limits an engineer's time for testing equipment? Dave Triggs stated that the original intent was not for facilities but for firehouses and emergency response facilities. A vote was taken all were in favor, except Sal Fama who opposed. The motion passed. It was discussed that the rest of Mr. Fama's proposed changes were encapsulated by the Motor Vehicle issue that the subcommittee was tasked to work on.

Eric Zwerling also had proposed changes to the model ordinance which he sent to the Council prior to the meeting. He read his proposed changes aloud. He stated that the proposed interior impulsive standard of 65 decibels is based upon a structural attenuation of 15 decibels and assuming the outdoor limit of 80 decibels. It is not based upon impact. Norm Dotti stated that "decibel" should say "dBA". Mr. Zwerling agreed. Jack Zybura motioned to approve as amended, Norm Dotti seconded. The motion was now open for discussion. Mr. Zwerling then stated he did not include human footfalls, such as walking up the stairs. Mr. Zybura stated there would be provisions for that in the building code. Mr. Dotti questioned whether a roof/ceiling counted as a real property line, he suggested it say "dwelling barrier" instead. Mr. Zwerling read the definition of "real property line" which described it as a property line. Jack Zybura motioned to approve 7b(1) as presented with "dBA" replacing "decibels" Steve Szulecki seconded. All were in favor so the motion carried. Mr. Zwerling stated that he would re-write 7b(2) and try and incorporate footfalls without allowing for intentional harassment from neighbors. Mr. Zybura stated it should not conflict with the building code. He added that he previously did a study on carpet and vinyl floors. Mr. Zwerling then stated, based on that study that footfalls could not apply. Mr. Szulecki stated he felt that this issue should be left up to the landlord.

Mr. Zybura stated the last time the Council was working on revisions to the model, he suggested that commercial to commercial properties be addressed for indoor noise. He gave an example of an upscale restaurant next to a kick-boxing gym. Mr. Szulecki stated he felt that would be a landlord/ tenant issue and stated that lease agreements have a peaceable use of property clause. Mr. Zybura stated that the way the model is currently written the commercial indoor limit only applies if there is an apartment next door. Mr. Szulecki asked how the council can set a limit, in some cases 40 decibels is too low for a business and for others 55 is just fine. He added that one number does not fit all.

NEW BUSNESS

Norm Dotti stated that there were no definitions to go along with the motor vehicle racing exemption.

ADJORNMENT

Randy Hauser motioned to end the meeting with Norm Dotti seconding. All were in favor, so the motion carried.

NEXT MEETING

The next meeting is scheduled for Tuesday, October 10th at 9:30 A.M. Respectfully submitted by Michelle Feasel, NJDEP Liaison to the Council.