

**NEW JERSEY
NOISE CONTROL COUNCIL (COUNCIL)
December 12, 2023
MEETING MINUTES**

ATTENDEES

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

Members of the Public: two anonymous men

COMMUNICATIONS

Council Appointments: Michelle Feasel stated that she received copies of the re/appointment letters from the Governor's office for the council members nominated except Philip Makrelis and Dr. Iris Udasin. She stated she received Joe DiFillippo's but was later told to disregard his for now. Mr. DiFillippo shared that he needed to send in a certified oath. Mr. Makrelis stated he was going to double check his mail. Chairman Schmidt stated that even without a re-appointment letter, Dr. Udasin and Mr. DiFillippo were still members of the Council and could vote, adding that they are still members unless they resign or are replaced.

PUBLIC DISCUSSION

Chairman Schmidt stated that a member of the Public had reached out to him with more information on the Clove Spring's Gun Range and had shared some documents with him, which he had sent to the council before the meeting. The gentleman was in attendance as well as his neighbor. Chairman Schmidt read the Council's prepared "Statement to those presenting written or in-person comments on a specific or comprehensive noise issue." *Randy Hauser **motioned** to go into Public Session with Joe DeFillippo seconding. All were in favor.* The gentleman stated that he had been to the council for this issue about two years prior, since then he has hired a lawyer. He stated that he and his fellow neighbors attended town council meetings for over two years. They had a petition which about sixty residents signed. He stated that the gun range owner Mr. Atlier had applied for a gun range expansion going from two stations to sixteen and when the application got sent to the town, an environmental study was not done and the property is near wetlands. The gentleman stated he just wanted sound barriers put up around the stations, and in the beginning he even offered to pay for half. He stated since then Mr. Atlier has given them and the town the run-around and has claimed to have done a sound study although no record or copy of such study has been provided. He added Mr. Atlier stated that the sound study was inconclusive. The gentleman stated that the zoning board told them to hire a lawyer if they wanted to make an appeal. The gentleman decided to pursue this route however, last week the court threw out their request and they will now need to take the case

to Superior Court. He added that he feels that the town is afraid of being sued by the gun range owner if they rescind the zoning status.

Chairman Schmidt asked if Sussex County had gone out and taken a measurement? The gentleman stated that Sussex County has not gone out. David Triggs stated that he emailed Sussex County when they were his county and asked them to go out. He added that the Department can't force them to go out, as it is up to the County to decide if it is exempt. Steve Sulecki stated that even if Sussex found a violation, the case would still need to go to court, adding that the gentleman and his neighbors already did most of the groundwork, and that only a court could make the determination if the exemption holds. Norm Dotti stated that the role of the council is not to determine if its use is exempt. Sal Fama asked if they knew the County had not gone out to take a measurement and asked if Michelle Feasel could ask for a case history from the County. The second gentleman present stated that the County told them they would charge them if they went out and did not find a violation. Chairman Schmidt stated that to charge a resident to respond to a complaint was unheard of and inappropriate. Mr. Szulecki stated that the council has done all that they are able to do in this case. Chairman Schmidt stated that there are two separate issues, the first being whether the range is exempt or not, adding that the DEP has requested that Sussex County go out and they have not, and he feels it is not up to the county to decide if it is exempt. He added that we don't know if the range would be in violation, stating that the county has a contract with the DEP to do noise measurements. He feels that the DEP should send a letter to Sussex County telling them they are obligated under contract to investigate this gun range noise complaint. Mr. Triggs stated that the County is not required to go out if there is an exemption. Michelle Feasel agreed and gave the example of airplane noise. Chairman Schmidt stated he thought the council had agreed it was up to a court to decide if it is exempted. Mr. Szulecki stated that the council is not privy to the contract language between the County and the Department, to know if it allows the county discretion to decide cases. He added that this situation is bigger than noise and that this is also a zoning issue. Eric Zwerling stated that if the Department does get the County to go out to make sure that there is a fresh complaint from the complainant closest to the range, where the levels are the highest. The gentleman then played the council an audio recording of the shooting from the gun range at his house. He added that the original range was a Winchester range and sold Winchester ammo which was designed to be quieter, the new range allows participants to bring their own ammo. Mr. Zwerling stated that if the shots are fired close enough it can be measured as continuous, not just impulsive. *Chairman Schmidt made a motion to have the DEP, Michelle Feasel or Walter Beland, send a letter to Sussex Health Department and require, based off the contract that if they receive complaints from the gun range they need to investigate.* Gina Facinelli seconded. The motion was open for discussion. Mr. Hauser asked if the council should see the DEP's contract with the county first. Mr. Fama stated that the council should have the DEP ask Sussex what has been done, and that the council is assuming that they have not investigated. Mr. Szulecki stated that the DEP should review the contract to determine if it is required that the county investigate, then they should reach out to the county and see what's been done. Chairman Schmidt rescinded his motion and *Steve Szulecki then motioned to for the DEP to review the contract between DEP and Sussex and if there is language that compels or could compel Sussex to go out and investigate then the DEP should act on it.* David Triggs seconded. The motion was now up for discussion. Mr. Fama asked what if the contract does not compel the county to go out, he stated the motion should go both ways. Adding that Sussex may already have a big case file on this issue. Ms. Feasel stated that she would reach out to Sussex and ask if any investigations had been done for this range and if they haven't, she can move forward with reviewing the contract. A vote was taken, all were in favor except Sal Fama who opposed and Chris Bergacs who abstained. The gentleman then asked if they could remain anonymous in the minutes. Mr. Dotti asked what the council did last time. Ms. Feasel stated they left them anonymous. It was agreed the council should

continue with that and leave the attendees anonymous in the minutes. *Joe DiFilippo **motioned** to close the Public Session with Randy Hauser seconding. All were in favor, so the meeting was closed to the public.*

COMMUNICATIONS

Eric Zwerling stated that at his last re-certification course a question was raised on ambulance sirens. He stated that once on the property of the hospital the ambulance siren becomes part of the emissions of the hospital noise. David Triggs stated that it would be exempted under the emergency exception. Michelle Feasel agreed and stated that the person could be considered the site of the emergency. Mr. Zwerling stated he just wanted to bring it up and have it on the radar of the council.

MEETING MINUTES

*November 2023: Randy Hauser motioned to accept the meeting minutes as they were written with Chris Bergacs seconding. The minutes were now open for discussion. Chairman Schmidt stated that during the vote for chair and vice chair, one person voted Arnold Schmidt as Chairman and Steve Szulecki as Vice-Chair. Therefore, the vote was not unanimous as stated in the minutes. It was agreed “unanimously” would be removed. Randy Hauser **motioned** to accept the meeting minutes as amended, Chris Bergacs seconded. All were in favor, except Norm Dotti who abstained due to being absent at the November meeting. The motion carried.*

CHAIR REPORT

Chairman Schmidt gave a thank you to the council and to everyone who proceeded him. He stated that ten years was enough, and it was time for a change, he happily and peacefully passes on his role. He gave congratulations to Steve Szulecki and Jack Zybura. David Triggs stated that Chairman Schmidt had done a great job as chairman. Steve Szulecki echoed his sentiments and added that Chairman Schmidt brought the council back to a functional body. Dr. Iris Udasin added that it was quite the accomplishment, and he handled the role with grace, adding that he deserved a round of applause. Eric Zwerling asked if the council should schedule a celebratory lunch, suggesting possibly in March. Dr. Udasin suggested a brunch during the council’s meeting. Mr. Szulecki stated that everyone could pitch in and they could order food services. Chairman Schmidt stated that he appreciated everything that was said about him.

OLD BUSINESS

N.J.A.C. 7:29 (Response to DEP attorney’s comments): The Council began to discuss the comments made by the DEP’s attorney in response to their most recent round of proposed amendments. A detailed accounting of the responses and votes is being prepared in a separate document.

NEW BUSINESS

There was no new business to discuss.

ADJOURNMENT

*Chairman Schmidt **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, January 9th at 9:30 A.M.

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