

NEW JERSEY
NOISE CONTROL COUNCIL (COUNCIL)
June 11, 2024
MEETING MINUTES

ATTENDEES

Council Voting Members: Steve Szulecki (Chair, Public Member, Ecologist), Randy Hauser (Department of Labor), Daniel Lefkowitz (Department of Health), Sal Fama (Motor Vehicle Commission), Norm Dotti (Public Member, Industrialist), Dr. Iris Udasin (Public Member, Medical Doctor), Philip Makrelis (Public Member, Local Governing Body), David Triggs (Public Member), Arnold Schmidt (Public Member), Joseph DiFillippo (Public Member) and Chris Bergacs (Public Member),

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

Attendees from the Public: Fletcher Platt, Washington Township

PUBLIC DISCUSSION

Chairman Szulecki read the council's statement to the public aloud. *Randy Hauser motioned to go into Public Session with Dan Lefkowitz seconding. All were in favor.* The meeting was now open to the public. Fletcher Platt stated that his neighbor has begun racing drones again. He stated that drones are controlled by the FAA, but that local governments can regulate them regarding health, safety and land use. He gave the example that the State controls drone usage on DEP property. He stated he feels that the Noise Control Council has the authority to take steps to regulate drone usage and would like the council to make a statement to that effect. He also stated that he would like the council to look at the exemption language in the noise regulations which exempts aircrafts engaged in flight operations, and that the council apply the decibel standards to drones. He added that he has contacted his police department, but they will not enforce this under the nuisance code. Chairman Szulecki stated that the difficulty is in distinguishing use between drones, and that it is not up to the council to determine what is considered a nuisance. He added that townships have the ability to regulate drones, and that this could be added to his town's nuisance code. Mr. Platt stated that hobby drones have a slower frequency when being flown compared to racing drones. He added that the frequency given off by racing drones increases significantly and there is a noticeable pitch difference. Chairman Szulecki stated that regulating drones in the state code would not help Mr. Platt as the state code does not cover residential sources. Chris Bergacs looked up the nuisance code for Mr. Platt's town and stated that it was not extensive but advised him that drones could be regulated there. Mr. Platt stated that he needed the council to acknowledge that drones could be regulated so that the town would be more inclined to add their own regulations. Eric Zwierling stated that any exemption to the state code only matters to ordinances adopted pursuant to the noise statute 13:1G and added that nuisance codes are not under the statute. Mr. Platt stated that nuisance codes are subjective, and that the neighbor would stop flying his drones if the police come out. Sal Fama stated that Mr. Platt should contact his local prosecutor's office if other enforcement agencies refuse to enforce his town's local ordinance and that Prosecutor's offices have jurisdiction to enforce all new jersey laws. Mr. Platt stated that he has gone to municipal court and was told that noise is not enforced under the nuisance code. Arnie Schmidt asked if Mr. Platt has done any research on drone regulations in other states. Mr. Platt stated that he has not. Mr. Zwierling stated that a useful resource is NoNoise.org, as they have ordinances from many states. Chairman Szulecki stated that he did not want to give Mr. Platt the impression that it was going to go one way or the other and added that the council had a lengthy discussion on this topic a few months ago. He added that there is an issue of determining use, nuisance or not nuisance, and unforeseen complications that may arise from regulations. *Chris Bergacs motioned to end Public Session with Joe DiFillippo seconding. All were in favor.*

MEETING MINUTES

May 2024: Chairman Szulecki and Jack Zyburra had emailed a copy of their proposed amendments ahead of the meeting. David Triggs also had a few minor modifications that were discussed. Arnie Schmidt asked if the website should state that the Operation Training Center is off College Farm Rd., to help give attendees some direction. Chairman Szulecki added that it does not get posted on the website when a meeting is moved to the neighboring building. He suggested making a sign to put on the operator training center's door. Philip Makrelis stated he could laminate the sign. Mr. Schmidt stated that he was grateful to have such detailed meeting minutes. *David Triggs motioned to approve the meeting minutes as amended, Chris Bergacs seconded. A vote was taken, all were in favor, except Joe DeFillipo who abstained due to being absent at the May meeting. The motion carried.*

COMMUNICATIONS

Ethics training and Biographies: Michelle Feasel read off a list of members whose ethics training and member biographies still needed to be completed. She asked that council members make the acknowledgment email a priority as she needs to confirm to the Ethics liaison that they have been received. Chairman Szulecki asked if the member biographies were holding up the noise website re-design. Ms. Feasel stated that she did not believe so, as the CEHA webpage, which has much less information, has not been updated yet either. Chairman Szulecki suggested that when she sends the updated member bios it may push the developers into getting the website updated.

NJ Planning Commission Warehouse guidelines: Chairman Szulecki stated that the council move on from this topic leaving it at suggesting the NJ Planning Commission have warehouses meet the regulations of N.J.A.C. 7:29. Arnie Schmidt asked if it should include that the applicant should have a noise expert. Chairman Szulecki stated that the applicant needs to bring a strong case to the board, which often pushes them to get a noise expert, but added that a land use board can't require them to have one.

N.J.A.C. 7:29 comments: Ms. Feasel stated that she has not received any update on the proposed amendments.

Eric Zwerling conference: Eric Zwerling stated that he was asked to give a presentation at a conference hosted by the National Academy of Engineering "Urban Noise; impact and control" being held October 29th- 30th in Washington D.C. He stated that his presentation will be focused on things that worked/ do not work in noise regulations. He stated if any council members had any examples they could provide, he would appreciate it. Arnie Schmidt asked if the presentation would be recorded. Mr. Zwerling stated that he was not sure. David Triggs added that he felt the beach bar regulation was not effective since beach bars were never defined, and there is no need for a beach bar to be exempted over a regular bar. Chairman Szulecki stated that that was an issue with the legislature. Mr. Zwerling then passed out copies of the updated manual to council members.

CHAIR REPORT

Chairman Szulecki had nothing to report.

OLD BUSINESS

Model Update: Eric Zwerling stated that he drafted proposed language for the indoor impulsive limits. It was decided that the council would wait until Jack Zyburra was present to discuss.

Mr. Zwierling stated that there was a minor grammatical error which was found in several sections of the Restricted Uses category. It read as “manufacture” when it should have been “manufacturer”. Chairman Szulecki stated that these are simple grammatical changes and therefore would not need to be voted on.

Michelle Feasel stated that the council previously voted to remove the blank section under enforcement section XI., in the Model Ordinance, where the applicant would fill in the name of their Health Department as the enforcement agency. Ms. Feasel stated that recently she has received a number of ordinances where the township has listed the county as their enforcement agency, assuming they will enforce the ordinance. She added that there is a statement at the beginning of the ordinance that states if the county is the enforcement agency they need to include a shared services agreement, but that most townships do not comply. She stated that by removing the fill in the blank space, these townships would adopt ordinances without an actual enforcement agency. Chairman Szulecki stated that the issue is that the blank refers to the “Health Department” and sometimes there is no health department at the municipal level. It was suggested that “included but not limited to: departments of Health, Code, Police, or County Health Department with a shared services agreement” be added. Sal Fama stated that he would like to broaden enforcement to allow any citizen to be able to enforce sections of the nuisance ordinance. Chairman Szulecki stated that a complainant is needed, and investigations need to be done at the complainant’s property line. Mr. Fama stated that the citizen would be the complainant. Eric Zwierling stated that there are many towns who do not want to adopt the noise ordinance, buy a meter, and train enforcement officers. He stated that he wanted to float the idea of the council eventually creating a model nuisance code. Mr. Triggs stated that he felt the Council should not be drafting something that the Department does not review or approve. Mr. Fama shared a personal story dealing with modified cars in his neighborhood. Chairman Szulecki stated that New York City has something similar to what Mr. Fama is proposing in regard to music from bars, he stated that it caused mayhem. Mr. Fama stated that he was not proposing something similar to New York’s law. Mr. Szulecki added that the best thing to do is reach out to the legislature in support of the new Bills being proposed to address vehicles that are excessively loud. He stated that he is still working on his letter for the Council to send the DEP Commissioner in support of the Bills. Mr. Zwierling added that citizens do not have the ability to curb vehicles, making enforcement nearly impossible. Sal Fama explained that what he was proposing did not involve citizens curbing a car and that the model ordinance discusses the role of a Noise Control Officer (NCO), and Noise Control Investigator (NCI) for the investigation and bringing of cases against a violator. Sal indicated that the only difference between the two, is that the NCO has taken Eric’s course and the NCI has not and that an NCI qualifications are the same as a citizen’s qualifications with regard to the model. Sal explained that the nuisance code should specifically allow for the ability for any citizen to bring enforcement upon a nuisance noise violator, especially one emitting noise exceeded the threshold of pain for the human ear and stated that Nuisance plainly audible noise, and noise exceeding the pain threshold for human hearing, all should be included in what an NCI and a citizen is able to enforce. Mr. Triggs gave the example of a car running in a driveway. Philip Makrelis asked how the Notice of Violation would get processed, asking if it would go to the township or the prosecutor’s office. Mr. Zwierling stated that there would likely be many unintended consequences. Chairman Szulecki asked if the list of examples should be stated at the beginning of the ordinance or next to the blank space, the majority of members felt it should be by the blank space. Arnie Schmidt asked if the ordinance was in a Word document where the blank space could allow them to select an option. Norm Dotti asked if municipalities could contract out their enforcement. Mr. Triggs stated that they cannot. Mr. Zwierling stated that that could create a bounty hunt, with enforcement officers looking to find a violation. Mr. Fama asked if the prosecutor’s office should be listed as an example. Chairman Szulecki stated that they already have authority, so they do not need to be specifically named. Sal Fama indicated that not including the Prosecutor’s Office would leave it incomplete. *Chairman Szulecki motioned to approve adding “included but not limited to: departments of Health, Code, Police, or County Health Department with a uniform shared services agreement” next to the fill in the blank. Randy Hauser seconded. A vote was taken, all were in favor except for David Triggs who opposed. The motion carried.* Chairman Szulecki asked Mr. Triggs why he opposed.

Mr. Triggs stated he did not like the wording around “health department.” Ms. Feasel re-read the proposed statement. Chairman Szulecki agreed and suggested adding “municipal” in front of “Departments of health” to distinguish it from the county health departments. Ms. Feasel suggested changing it to “NCO/NCI’s appointed by the _____ (municipality).” She added that some towns keep their ordinances for decades and if they elect one party, such as the police department as their enforcement agency, but then get a health department, they would be stuck only having the police able to enforce their ordinance. Chairman Szulecki agreed that this language would give the townships more flexibility down the road. *Chairman Szulecki motioned to approve “by the NCO/NCI appointed by the _____ (municipality)” Dan Lefkowitz seconded. A vote was taken, all were in favor. The motion carried.*

Mr. Triggs stated that he wanted to clarify that the written consent from the county health agency must be in the form of a uniform shared services agreement. *David Triggs motioned to add “(in the form of a uniform shared services agreement)” Chairman Szulecki seconded. All were in favor. The motion carried.*

Ms. Feasel stated that the ordinance does not specify that the townships need 24-hour coverage. She added that it is part of the language for the CEHA contracts with the counties who enforce noise. Chairman Szulecki stated that coverage was up to the townships. He added that is why it is mostly police departments who enforce ordinances because they have around the clock coverage.

Chairman Szulecki stated that he wanted to discuss the possibility of allowing municipalities to adopt more stringent decibel limits. He stated that in more rural regions the 65 dB daytime limit is not very protective. He added that places like New York have an increase above ambient limit which is more protective in rural areas where the ambient is lower. He added that there could be a cap on how low they could make it. Michelle Feasel asked how she would determine which towns are rural enough to lower their limits. Chairman Szulecki stated it would be up to the townships to decide. Norm Dotti stated that the 65 dB daytime limit is based on speech interference and 50 dB nighttime limit is based on sleep interference, he asked on what basis would we set a lower limit and stated that the council does not determine what is an annoyance.

NEW BUSINESS

There was no new business discussed.

ADJOURNMENT

Chris Bergacs motioned to end the meeting with David Triggs seconding. All were in favor, so the motion carried.

NEXT MEETING

The next meeting is scheduled for Tuesday, July 9th at 9:30 A.M.

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