

**NEW JERSEY
NOISE CONTROL COUNCIL (COUNCIL)
November 12, 2024
MEETING MINUTES**

ATTENDEES

Council Voting Members: Steve Szulecki (Chair, Public Member, Ecologist), Jack Zybura (Vice Chair, Public Member), Randy Hauser (Department of Labor), Daniel Lefkowitz (Department of Health), Philip Makrelis (Public Member, Local Governing), David Triggs (Public Member), Chris Bergacs (Public Member), Dr. Iris Udasin (Public Member, Medical Doctor) and Arnold Schmidt (Public Member).

Rutgers and NJDEP Representatives: Eric Zwerling (Director of the Rutgers Noise Technical Assistance Center), Michelle Feasel (NJDEP Liaison to the Council), and Christy Choo (NJDEP Co-Liaison to the Council).

MEETING MINUTES

October 2024: Chairman Szulecki and Chris Bergacs had a few minor amendments they emailed to the council ahead of the meeting. *David Triggs motioned to approve the minutes as amended, with Arnie Schmidt seconding.* Eric Zwerling pointed out his name was misspelled. *A vote was taken to approve as additionally amended, all were in favor, except Jack Zybura and Daniel Lefkowitz who abstained due to being absent at the October meeting. The motion carried.*

CHAIR REPORT/ COMMUNICATIONS

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

Bill S507: Chairman Szulecki stated that the Bill has been released from the transportation committee, with some modifications as of October 28th, 2024, he added that these were considered verbal amendments and have now been added into the legislation. Chairman Szulecki stated he drafted a letter from the council to the DEP commissioner in support of the Bill. He read the letter aloud, stating it was short and to the point. David Triggs asked if the letter recommended that the DEP Commissioner review it along with the MVC Commissioner. Chairman Szulecki stated that he felt it was implied and stated that right now the Bill is still with the legislature. Chris Bergacs pointed out that motorcycles are not inspected in NJ and therefore the only enforcement would be through their use on roadways. Chairman Szulecki agreed and stated that the Bill is impressive with how it is framed, with protocols to inspect vehicles, prohibiting autobody shops from installing these modified exhausts, and if they are a private inspection station they could lose their license. Arnie Schmidt asked how they were inspected. Chairman Szulecki stated that right now the criteria is “excessively loud” Mr. Schmidt stated that that is subjective. Mr. Bergacs pointed out that provision in the Bill that let a violation carry up to 30 days in jail was removed as part of the floor’s amendments. He stated that shops could work the penalty into the price of the modification. Chairman Szulecki stated that there are other hammers that enforcement could use outside of the Bill, such as selling illegal goods. He added that he would email the council a copy of the Bill with it’s new amendments as well as a template letter they could fill out and send to their local legislature in support of the Bill. Dr. Iris Udasin stated that members with jobs should make sure they won’t be targeted for reaching out to their legislative representatives. Chairman Szulecki stated that he doesn’t believe the letters should be written as a member

of the NCC, adding it should be from the individual and doesn't need to reference a professional role. Chairman Szulecki asked the council if they had any comments on the letter he drafted from the council to the DEP Commissioner. Eric Zwerling stated that the footnote at the bottom of the page only mentions "acceleration" and it should include "deceleration" as well. Jack Zybura suggested removing a reference for simplicity. Chairman Szulecki stated that he had a copy of the letter, ready to be sent out and that the proposed change did not alter the purpose of supporting the Bill. *David Triggs motioned to accept the letter as written with Randy Hauser seconding. All were in favor, the motion passed.* Chairman Szulecki stated he would give the final copy of the letter to Michelle Feasel to pass along to the DEP Commissioner and reiterated that he would send the council a copy of the template letter to local legislatures as well as the latest version of the Bill.

PUBLIC DISCUSSION

There was no one present from the public to comment.

NEW BUSINESS

NCO guidance: Eric Zwerling asked how Noise Control Officers (NCO) and Noise Control Investigators (NCI) whose municipality has no noise ordinance, or a noise ordinance not approved by the Department, who still wanted to enforce the state's regulations locally, would be able to bring a penalty. Jack Zybura asked if the county was reluctant to enforce. Mr. Zwerling stated he was unfamiliar with the exact circumstances of the situation. Chairman Szulecki stated that the county can enforce the state's regulations through the County Environmental Health Act (CEHA), which allows them to serve as an agent of the state. He added he was unsure how to shoe horn in those who are not apart of CEHA. Michelle Feasel stated that an issue with local NCO's enforcing the state's regulations independent of the County is that a complainant may contact both and they may conduct two independent investigations, which could possibly lead to two Notice of violation or notice of penalty assessment being issued. Mr. Zybura added the findings of the two investigations could come out different, leading to confusion. Mr. Zwerling stated that the guidance document states that a properly trained and certified NCO can enforce the state's noise code. He asked if the council should reach out to the Department's Deputy Attorney General for guidance. Chairman Szulecki stated that their answers are usually indirect and that their may be more downside to reaching out to them. Randy Hauser stated that jurisdiction is a difficult subject for lawyers and added there is a class for it in law school. Chairman Szulecki stated that their local prosecutor should be pursuing the penalty and that this was not something that the council has the authority to dictate. Philip Makrelis agreed that penalties would be handled under the local prosecutor's office. Chris Bergacs stated that state troopers can issue a ticket, and the hearing is in a municipal court. Chairman Szulecki stated that the statute and the regulations are different and added that the State Police's regulations dictate enforcement, and the noise regulations say only CEHA can act as agents to enforce. David Triggs stated that whoever is sending these officers to get certified in noise enforcement through the training program is expecting them to be able to enforce and stated that the NCO should bring this to their chain of command such as a Chief of Police. Mr. Zwerling stated that many who attend the training class do not have a department approved noise ordinance and some only have nuisance codes but get trained so that their violations will hold up better in court. He agreed to tell potential certified NCO's to speak with their local prosecutor's office about enforcement.

Schedule: Chairman Szulecki had sent the draft dates for the 2025 NCC meeting schedule to the council ahead of the meeting. He stated that the council typically meets the second Tuesday of the month but noted

that for November the second Tuesday is Veteran's Day. Dan Lefkowitz confirmed that the ex-officio members from the State offices would be off that day. Chairman Szulecki proposed pushing it back a week to the third Tuesday of the month. Mr. Lefkowitz stated that is usually the week the league of municipalities meets. Jack Zybura confirmed the League of Municipalities will be meeting that week. He suggested the council could meet Wednesday November 12th. Chairman Szulecki stated that he would need to check the room's availability. Mr. Lefkowitz asked if the ex-officio members could send alternates to the NCC meeting. Chairman Szulecki stated that that was up to the member's department and that it has been done in the past by the Department of Community Affairs. He asked that there be something in writing authorizing the person as the alternate and that advanced notice would be appreciated. *Chairman Szulecki motioned to approve the 2025 NCC meeting schedule with the alternate days of November 12th or November 18th depending on room availability, Arnie Schmidt seconded. All were in favor, the motion carried.*

Octave guidance: Jack Zybura stated that sometimes through work he comes across codes buried in performance standards or zoning regulations which reference the old octave band ranges. He added that modern equipment cannot measure these older standards anymore. He handed out a statement he prepared and suggested putting it in the guidance document. Chris Bergacs asked why modern technology is less equipped to measure older standards and if the technology has regressed. Eric Zwerling stated that the center frequency for the octave bands were moved slightly, this puts the center frequency in a different place so modern technology is unequipped to measure it. David Triggs added that these older codes would not be approved by the Department. Mr. Zybura stated that as a consultant for new projects, these octave codes are obsolete, and they cannot do anything with it. He added that it would carry more weight coming from the Department by being added to the guidance document or the website. David Triggs stated it would be a policy statement. Mr. Zwerling stated that these codes are not measurable today and the levels they set are extremely restrictive adding in one place the level they set would be equal to 46 dB instead of the current 60 dB. Chairman Szulecki stated he felt it was best placed in the guidance document. *Jack Zybura motioned to accept his prepared statement as written, David Triggs seconded. The motion was now open for discussion.* Mr. Zwerling stated the prepared statement makes a reference to municipal ordinances and suggested that this might be the wrong term. Chairman Szulecki stated that a zoning code is also an ordinance. He also stated that the language "remove or replace" was good as it directs them but was concerned that having them replace just the octave section of an antiquated code, gives a tacit approval to an unapproved code. He suggested that "reference the requirements of N.J.A.C. 7:29" be included. Mr. Zybura stated that would reinforce on a municipal level that N.J.A.C. 7:29 exists. Mr. Zwerling asked if the townships are required to adopt the state code in a planning ordinance and gave an example of a facility who had to meet the octave limit minus ten. He added that this gives local municipalities the latitude to have stricter standards. Chairman Szulecki stated that the council agrees that the older octave ranges needed to be clarified. Mr. Zybura stated that the last two sentences of the prepared statement could be amended and asked what direction the council wants to give the municipalities. Chairman Szulecki stated he likes the idea of directing them in a neutral way to the noise ordinance, adding he feels it is the right solution. Mr. Zybura stated that some towns have the model noise ordinance and this old octave regulations in a zoning code. There was then a separate discussion on nuisance provisions in the model ordinance and banning activities on certain days/ after certain hours. Mr. Zwerling asked if the council could chew on the language for the octave guidance until the next meeting. Chairman Szulecki stated that this topic will be tabled until the next meeting, stating the council should focus on the last three sentences of the prepared statement.

OLD BUSINESS

Model Update: Jack Zybura was absent at the October meeting when the footfall exemption was finalized. He stated that the footfall exemption was not supposed to conflict with the building code, but now footfalls are not excluded from the indoor impulsive standard. David Triggs suggested adding a note to Table 2 to exclude footfalls. Eric Zwerling stated that they should be exempted from the impulsive sound section, adding the council does not want neighbors stomping. Mr. Zybura suggested language that would state the section is “not to supersede building code requirements” Chairman Szulecki stated that would help in some ways. Chris Bergacs asked what if someone was dancing around their living room. Mr. Triggs added what if someone wanted to do aerobics, or a home workout that may involve jumping. Mr. Zwerling stated that the person would have to do it for so long before a cop would even make it out to investigate. Chairman Szulecki suggested the guidance document to address the building standards in relation to footfalls, and also suggested adding the original sentence about the footfall exemption back in the impulsive section. Mr. Zybura stated he could draft the guidance document. Mr. Zwerling asked if a dance studio is on the first floor that the statement could exempt footfalls not in multi-dwelling building units. Mr. Zybura suggested not including any language in the model and only putting it in the guidance. Mr. Zwerling stated that resident to resident footfalls should be exempted and not commercial. He added that not a lot of noise control officers refer to the guidance document, adding that measurement protocol is not specified. *Mr. Zybura motioned to add “This provision shall not apply to noise associated with footfalls between dwelling units to 7.2(b). Steve seconded the motion. All were in favor, the motion carried.*

Measurement protocol: Steve motioned to add the footnote as written, David Triggs seconded the motion. All were in favor, the motion carried.

ADJOURNMENT

Steve Szulecki 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, December 10th at 9:30 A.M.
Respectfully submitted by Michelle Feasel, NJDEP Liaison to the Council.