

**NEW JERSEY
NOISE CONTROL COUNCIL (COUNCIL)
September 10, 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), Sal Fama (Motor Vehicle Commission), Gina Fischetti (Department of Community Affairs), Philip Makrelis (Public Member, Local Governing), David Triggs (Public Member), Joe DiFillippo (Public Member) and Chris Bergacs (Public Member),

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

Attendees from the Public: Fletcher Platt, Washington Township, NJ

PUBLIC DISCUSSION

David Triggs motioned to go into Public Session with Randy Hauser seconding. All were in favor. The meeting was now open to the public. Chairman Szulecki read aloud the a statement regarding the Council's role and how it makes use of comments from the public. Fletcher Platt thanked the council for having him. Chairman Szulecki asked if he would summarize the letter, he sent the council dated, July 26, 2024. Mr. Platt stated that his letter addressed two different issues, the first is the FAA procedures for noise control regarding drones. He added that there is little to no approach to public health and safety, and that it should be included in the EPA and FAA environmental assessment. The second part is that the Model Ordinance should regulate drones. He stated he used the resources provided from the last meeting he attended to look at other ordinances that regulate drones and only found one which applied to model aircrafts. He asked that the council reconsider the wording of the aircraft exemption in 7:29 and stated he feels that it is unclear. Chairman Szulecki stated that the additional documentation Mr. Fletcher sent to the council about the Hummingbird unmanned aircraft mentioned noise limits. Mr. Platt stated that they need to come up with these standards in the future. Jack Zybura asked about elevation and stated that they need a larger sample size. Chairman Szulecki added that the FAA has jurisdiction over what's allowed to fly. He added that the state cannot supersede federal rules; however, it differs for drones as towns can regulate them. Sal Fama asked what the zoning department said. Mr. Platt stated that he filed through municipal court, and they found their was no cause to take action. He added that the town pushed it to the police department, adding that they have no training and do not do anything about the noise. Mr. Zybura stated that training is not needed for the nuisance code. Chris Bergacs stated that an electric car has a minimum noise standard for safety, adding he does not think it is the council's position to regulate noise from the drone itself, he stated he believes this is a zoning issue where the town could regulate where drones are allowed to be flown. Chairman Szulecki stated that it is the will of the community, as the noise ordinance would need to be approved by the municipal council. Mr. Platt stated that if drones were included in the ordinance than it would need to meet the noise standards at the property line. Chairman Szulecki asked about drones used in commerce. Mr. Platt stated those would be excluded. Chairman Szulecki stated that it would be difficult for the council to tailor regulatory language to residential use of drones. Gina Fischetti stated that it would target recreational drones and added that a drone dropping off a package would not linger. David Triggs asked how feasible is it for enforcement to take measurements and added it would be especially difficult with the elevation variation. Mr. Zybura reiterated that the ordinance would still need to be adopted by Mr. Platt's municipality. Mr. Platt stated that was step two, adding that the noise control council's recognition of this issue would go a long way. Mr. Triggs asked if there was anywhere that racing drones is allowed.

Mr. Platt stated he was unsure, but there are some indoor tracks. Chairman Szulecki suggested that since other neighbors are impacted too, Mr. Platt get them to write impact statements regarding the effects they experience due to the drone use by their neighbor. He added that impact statements are the basis for rulemaking, and it would at least require a written response from NJDEP. Mr. Platt stated that he would reach out to neighbors and get back to the council in writing. *Dave Triggs motioned to end Public Session with Jack Zybura seconding. All were in favor.*

MEETING MINUTES

July 2024: David Triggs had a few minor amendments. Jack Zybura asked if clarification was needed for Mr. Triggs motion about addressing the ordinance to the attention of the noise coordinator. It was discussed and “procedures for written approval for the Department portion of the model noise ordinance” was agreed upon. *Jack Zybura motioned to approve the meeting minutes as amended, David Triggs seconded. A vote was taken, all were in favor, except Steve Szulecki and Gina Fischetti who abstained due to being absent at the July meeting. The motion carried.*

CHAIR REPORT/ COMMUNICATIONS

Noise website: David Triggs asked if there were any updates on the noise website redesign. Michelle Feasel stated the web developer told her he would be reaching out for some clarification a few weeks ago but she hasn’t heard anything since.

N.J.A.C. 7:29 comments: Michelle Feasel stated that she has not received any update on the proposed amendments. Steve Szulecki suggested that she reach out to the attorney for an update.

Amazon warehouse: Philip Makrelis stated that he has not heard from the members of the public since the meeting.

Warehouse Guidance: Jack Zybura stated that there have been no updates, and that he has been monitoring the issue. He added that this topic could be taken off the agenda for now.

Glenn Rock School Siren: Steve Szulecki asked if anyone had any updates on this case. Michelle Feasel stated that Bergen County investigator had reached out to her, stating that they were investigating and looking into the evidence that the siren was grandfathered into the exemption. Chris Bergacs stated that if the exemption holds it would be a town issue. Eric Zwerling agreed and added that the town has the authority to regulate the siren regardless of when it was installed.

Noise Article: Steve Szulecki stated that a reporter from NorthJersey.com had reached out to Dr. Iris Udasin about the Noise Control Council. She referred the reporter to Chairman Szulecki. Chairman Szulecki spoke with the reporter adding it was mostly about the modified exhaust issue. He added that he spoke with the other legislative sponsor for the Bill but added there was not a lot of updates as they had not held session yet. Chairman Szulecki added that he is holding off on sending the letter from the NCC to the DEP Commissioner until he knows where the legislature stands.

Assistant Noise Coordinator: Michelle Feasel stated that the Department is filling the vacant position left by David Triggs retirement. She stated they are waiting to hear if the candidate has accepted. The new hire would take over as the assistant noise coordinator and would be attending council meetings and helping with the meeting minutes.

NEW BUSINESS

No New Business was discussed.

OLD BUSINESS

Model Update: Eric Zwerling and Jack Zybura had a proposed amendment for the Indoor Impulsive language that was approved last meeting. They suggested that the last sentence about being separated by a real property line, be replace with the language from the note under table 2. *Jack Zybura motioned to make the change, with Gina Fischetti seconding. A vote was taken, and all were in favor. The motion carried.* The discussion went back to footfalls which were left out of the interior impulse standards. Joe DiFillippo asked if it covered people with disabilities who need to move using a device. Eric Zwerling stated more than likely that would not be impulsive, unless it was a device such as a cane which usually has a softener on the end. Sal Fama suggested the language could be made broader to not include human mobility. Mr. Zwerling stated that this section only covers indoor impulsive and stated if an exemption is to be added it would need to be added into the appropriate section.

Gina Fischetti asked if in the definition of “real property line” that the use of “commercial” was intentional or if it was meant to be “non-residential.” Mr. Zwerling stated that if he had to guess, that usually the issue is with commercial facilities. Mr. Zybura stated that the second use of “commercial” is in an example so that could be left, and only the first use would need to be changed. He added that he never cared for the strip-mall exemption of a real property line. Chairman Szulecki stated that a strip mall would be a landlord/tenant issue. He gave an example of a sign company next to a DJ studio who was initially using the space for storing their DJ equipment until Covid, when they evolved into a music studio. The landlord beefed up the structure to better protect the sign company. Michelle Feasel asked if the violator in a strip-mall situation would be the tenant, or the landlord. Mr. Zwerling stated that both could be issued the violation. Mr. Zybura gave a hypothetical example of a church in a strip mall next to a spa, stating that the church could be enforced upon because the exemption is only for commercial receptors and commercial sources. *Jack Zybura motioned to change “commercial” to “non-residential” in (a) for the definition of a real property line, with Sal Fama seconding. All were in favor, the motion carried.*

The discussion went back to the strip-mall exemption. Chairman Szulecki stated that CEHA and local enforcement personnel should not be involved in landlord issues. Mr. Zwerling stated that he believes it should be reasonably enforced. Mr. Zybura stated that they could enforce on the daytime limit. Chairman Szulecki stated that tenants are successful when the lease says, “quiet use of space”. He added that when two buildings are separated, they have no legal connection, but tenants have one through their landlord. Ms. Fischetti asked about a downtown area where buildings might share a wall but be individually owned. Chairman Szulecki stated that these would be covered as they are separate parcels.

Jack Zybura motioned to add “this provision shall not apply to footfalls between dwelling units” to the indoor impulsive section, Steve Szulecki seconded. The motion was opened for discussion. Mr. Fama stated that anyone moving from point A to point B should be covered. Mr. Zybura stated that without the motion no footfalls would be covered. Chairman Szulecki stated that the council should vote on this motion, and suggested Mr. Fama create language for his point at the next meeting. *A vote was taken all were in favor, except Sal Fama who voted no, stating that the discussion was not completed before a vote was taken and the language needs to be expanded to include mobility devises. The motion carried.*

ADJOURNMENT

Steve Szulecki motioned to end the meeting with Dan Lefkowitz seconding. All were in favor, so the motion carried.

NEXT MEETING

The next meeting is scheduled for Tuesday, October 8th at 9:30 A.M.
Respectfully submitted by Michelle Feasel, NJDEP Liaison to the Council.