

**NORTH RIDGEVILLE CITY COUNCIL
SAFETY COMMITTEE
MINUTES OF MEETINGS HELD
OCTOBER 19, 2021**

To Order:

Chairwoman Holly Swenk called the meeting to order at 6:15 p.m.

Pledge of Allegiance:

Led by Chairwoman Swenk.

Attendance:

In attendance were Committee members Bruce Abens, Jason Jacobs, and Chairwoman Holly Swenk.

Also in attendance were Mayor Corcoran, Councilman Dennis Boose, Councilman Jim Maleski, and Assistant Clerk of Council Fijabi Julien-Gallam.

Minutes:

Chairwoman Swenk asked if there were any corrections to the minutes from August 24, 2021. No discussion was offered. The meeting minutes stand approved as submitted.

Discussion regarding proposed legislation:

AN ORDINANCE AMENDING CERTAIN SECTIONS OF N.R.C.O. CHAPTER 476, SNOWMOBILES, OFF-HIGHWAY MOTORCYCLES AND ALL-PURPOSE VEHICLES.

Chairwoman Swenk asked Councilman Maleski to give a brief overview of the legislation.

Councilman Maleski stated that the Safety Committee recommended some changes in August 2021. The committee wanted to change "Noise Control" to "Sound Control", because "Nose Control" sounded more like a nuisance and it left an arbitrary way to judge the level of the issue. Making the change to sound control makes it a quantifiable measurement that turns it into a certain number of decibels. The decibels calculation was added to the ordinance. The committee also added to reduce down from five to three acres. The committee also added the time change. It says dawn to dusk, but the committee would like to change it to dusk to 9 a.m. The timeframe falls in line with the normal time of the previous ordinances that were presented to the committee. The change to the end time which is dusk is based on daylight savings time. The rating is switched to the 94.96-decibel level at a 50% RPM, 20 inches from the source using the device that

the police already have. The 50% RPM rate is higher than the old rate at 83. This increases up to 94 decibels, which is the national level.

Councilman Maleski reiterated that this legislation is for recreational vehicles. It does not prohibit someone from plowing at 5:00 a.m. At a previous Safety Committee meeting, the Police Chief requested an ordinance to be able to address complaints. The legislation was based on the American Motorcycle Association standards and guidelines.

Chairwoman Swenk asked members of the Committee, Administration, and City Council members from the audience if there were any questions or comments.

Councilwoman Swenk wanted to clarify that the change of the timeframe would be dusk to 9:00 a.m., Monday to Monday. Councilman Maleski agreed with the clarification that the change would be from dusk to 9:00 a.m. to reflect daylight savings time for this particular ordinance.

Chairwoman Swenk asked if there were any comments or questions from the audience.

Paula Cope at 6795 Stoney Ridge Road, North Ridgeville – remarked that she does not understand why the ordinance is changing. Ms. Cope expressed that the way the legislation is currently worded seems to be sufficient. She noted that in the previous minutes the complaints that are being reported are coming from the one rule that requires 200 ft. between the riders and a residence. She requested the 200 ft. rule to remain in the legislation. She expressed that the decibel level that allowed anything over 85 is an unhealthy level. Anything protruding into the living space of a residence is very unhealthy and it's unhealthy for humans and companion animals. She remarked that she is glad there's an amendment to make the time change to 9:00 a.m. because dawn to dusk is a bit extreme. Ms. Cope added that she has suffered seven hours of non-stop riding of the recreational vehicles within 125 ft. of her house. The 200 ft. rules make a difference. Ms. Cope explained that the police officers could measure the distance by going to Lorain County Auditor's site. Ms. Cope noted the Noise Control Act of 1972. She expressed that other neighbors make it bad for the riders that follow the law. Ms. Cope reiterated her request.

Councilman Maleski remarked that the 200 ft. rule is staying in the legislation. He explained the decibel level changes. Mr. Maleski explained that there were two pieces of legislation, one that was put in front of the Committee previously (T 94-2021), and one that was presented without a temporary (T) number.

Ms. Cope wanted to know the definition of, "All-Purpose Vehicles." She also requested that "Utility Vehicles" be added to the legislation. The Ohio Revised Code Section 4501.01 (VV), Motor vehicles definitions, has the definition for utility vehicles.

Councilwoman Swenk remarked that they are changing the wording from, "All-Purpose" to "Recreational Vehicles."

Ms. Cope remarked that “Recreational Vehicles” are different from “Utility Vehicles.” She added that utility vehicles are used by homeowners to maintain their lawns and there should not be any minimum acreage for those types of vehicles. The complaint is using the utility vehicles as recreational vehicles when coming within the 200 ft. distance.

Councilman Maleski added that the initial complaint was the 200 ft. and the sound issue. He reiterated that the rates and regulations in the legislation are the standards for the American Motorcycle Association.

Ernest Fesco at 6743 Stoney Ridge Road, North Ridgeville – noted that he is a neighbor of Paula Cope. He remarked that Ms. Cope is referring to his utility vehicle. He explained that Ms. Cope and he had some problems in the year 2020, and he was able to address the problems as far as the 200 ft. borderline. Mr. Fesco extended a path on the other side of his barn by 250 ft. away from the property line for his grandchildren to travel through. He believed the “Utility Vehicles” should not be added to the category of “Recreational Vehicles”. He has some physical illness that would prevent him from walking his property. He noted that other machines are louder than what he drives like chainsaws and wood chippers. Mr. Fesco has two other neighbors that do not have an issue with his utility vehicle and he is very respectful when he travels near Ms. Cope’s property. Mr. Fesco expressed that he does not want to be forbidden for something he is doing on his property.

Councilman Abens pointed out that the legislation is for recreational use. When a person is riding their vehicle to inspect their property or to get firewood, it would not apply to recreational usage.

Mr. Fesco expressed that is how he understood the legislation.

Chairwoman Swenk asked if there were any comments or questions from the audience.

Blaise Miller at 5305 Case Road, North Ridgeville – remarked that he has a four-wheeler and a side-by-side utility vehicle/recreational vehicle. He noted that his vehicle is capable of 75 miles an hour with a hundred horsepower. Mr. Miller expressed that they should be allowed to do whatever they want on their property. Mr. Miller noted that he has 13 and ½ acres. Mr. Miller wanted to know if the 200 ft. range is from the back of a dwelling or, is that going to be thrown in the mix. He does not know why the 200 ft. range is being brought back up. Mr. Miller reminded everyone regarding the neighborly dispute on Gatestone Road and Bagley Road. He believed this issue is turning into a dictatorship. He expressed that he does not agree with a lot of things that are being changed, and why neighbors can’t get along.

Chairwoman Swenk asked if there were any comments or questions.

Councilman Abens remarked that this legislation is not for operators that compromise

with their neighbors. Mr. Abens stated that this legislation is aimed at those operators who don't care about their neighbors. The police do not have any ordinances to be able to stop the sound issues. Mr. Abens admitted that he receives calls all the time about neighbor disputes. It is usually because two neighbors would not work with each other. The legislation would address disputes. Mr. Abens expressed he does not like more laws, but legislation is needed for neighbors being unneighbourly. It would keep the neighborhoods quiet and respectful. Mr. Abens wish legislation wasn't needed.

Kenneth Gabel at 6725 Stoney Ridge Road, North Ridgeville – wanted clarification that the change was to change five acres to three acres. He noted that was his concern.

Chairwoman Swenk asked if there were any comments or questions from the audience. There were no more discussions.

Chairwoman Swenk believed the 200 ft. would be adjoining residential dwelling, not fences, shed, or swing set. Mrs. Swenk asked the Safety-Service Director to explain more in detail regarding 200 ft. of adjoining residential dwelling.

Safety Service Director Armbruster explained that it's going to be in the eyes of the person that's developing the 200 ft. Many factors could play into the 200 ft determination.

Mayor Corcoran noted that the 200 ft. guideline is no longer in the revised version that was submitted to the committee.

Chairwoman Swenk asked Councilman Maleski to go to the microphone to be on record for the minutes.

Councilman Maleski noted that he sat down with the law director to finalize the changes that were recommended by the committee. He reiterated that there are two versions of the legislation. The legislation from August 2021 would soon die in committee and another one was submitted to the committee for this evening's meeting. The new piece of legislation is separate from the legislation that was reviewed in August 2021.

Mayor Corcoran noted what was on T 94-2021 – legislation that was introduced in August 2021. He added that the T 106-2021 is separate too. There was a consensus that the 200 ft. guideline is not listed under the new legislation that did not have a T number and it was listed under T 94-2021, which would die in committee soon before it could go back to City Council.

Councilman Maleski believed the wrong revised copy was sent out, and it may be confusing.

Safety Service Director Armbruster remarked that the dwelling should be where the person or the house is.

Councilman Abens recommended using the “Occupied Dwelling” to define the meaning of dwelling.

Safety Service Director Armbruster added that there could be an issue when people are defining the term, “dwelling”.

Chairwoman Swenk asked if Mr. Armbruster recommends the 200 ft. from the property line.

Safety Service Director Armbruster was not implying that the 200 ft. should be from the property line.

Mayor Corcoran noted that the technical definition of a dwelling is a house, apartment, or another place of residence.

Chairwoman Swenk added presumably a residence with bedrooms.

Mayor Corcoran remarked that according to the dictionary tents, trailers and igloos are considered dwellings.

Chairwoman Swenk reopened the lobby session with consensus from the committee.

Blaise Miller at 5305 Case Road, North Ridgeville – remarked that he had a question regarding the combined properties. Mrs. Swenk explained the legislation is excluding the combined property and it is not like the guidelines for combined acreage for hunting. Mr. Miller believed that the guidelines regarding combined acreage should be the same throughout the code. Mr. Miller added that maybe the neighbors sign something that they are combining their lots to say they have a certain amount of acres for sharing with their neighbors.

Kenneth Gabel at 6725 Stoney Ridge Road, North Ridgeville – noted that he has permission from his adjacent owners to be allowed to ride on his neighbor’s property. He did assume that the combined acres guidelines were going to be the same as the hunting guidelines. He believed the combined acres should be in the legislation.

Chairwoman Swenk remarked that she does not believe an officer could cite you for riding on a property that you have permission to ride on.

Councilman Maleski noted that this legislation is complaint-driven legislation from residents and police officers. Mr. Maleski agreed with Mr. Abens, that he hates adding legislation on people as well. The police department had about 1500 calls in the past few months - a lot for noise complaints. He reiterated that the police department has to have a way to settle the disputes. He provided how the police officers have to determine what a nuisance is. The decibel in the proposed legislation gives the police officer a way to

address the complaint.

Paula Cope at 6795 Stoney Ridge Road, North Ridgeville – remarked that she knows the ordinance does not talk about the combining properties. She expressed that it is not a bad idea as long as the use of the recreation vehicles is staying 200 ft. away from a residence. Ms. Cope remarked that a resident should have it in writing that they are sharing their property for recreational use. She noted that the hunting legislation is different from the recreational use legislation. For hunting, a resident is bathing a nuisance and to eliminate a nuisance to many neighbors. This legislation is for recreational vehicles and to eliminate a nuisance to many neighbors. Mr. Cope explained the neighbor dispute that Mr. Fesco and Ms. Cope were having regarding the 200 ft. guidelines. Ms. Cope expressed her concern with the sound from the recreational vehicles being less than 200 ft. to her house. Mr. Cope requested the 200 ft. to be put back in the legislation.

Ernest Fesco at 6743 Stoney Ridge Road, North Ridgeville – noted that he was 165 ft. from what Ms. Cope complained about and he addressed the issue by moving the path.

Councilman Abens remarked that he does not want to get into neighbors' disputes, but he appreciates the 200 ft. to 250 ft. Mr. Abens would like to see a more clear definition for the main dwelling where most of the activity is, excluding tents, playhouses, and sheds. He believed it should be 200 ft. from the main dwelling. Mr. Abens added that he has experienced loud noises like motorcycles, but it is only for a small amount of time. He expressed that residents should be allowed to ride recreational vehicles on their property, but also be considerate of their neighbors. He noted that the resident's rights stop at their property line and noise invades the property lines. The legislation is not disputing where a resident could use their recreational vehicles on their property, but trying to control the sound traveling across that makes life uncomfortable for neighbors. The committee is trying to come up with a compromise that would benefit both parties.

A possible structure of a motion was put on the table by Mr. Abens. Mr. Abens wanted to know if there is a better definition of dwelling.

Mayor Gorcoran remarked that previously when they were looking at this code change the first time, it said, 200 ft. of an adjoining residential dwelling. He wanted to know what it means by "adjoining residential dwelling".

A possible structure of a motion was added to the motion that was put on the table by Mr. Abens. Mrs. Swenk wanted to change section b of the legislation from saying, "Between dawn and dusk," to "Between dusk and 9 a.m. based on daylight saving time."

Safety Service Director Armbruster remarked that snowmobiles are normally driven at night.

Clerk notes: Discussions continued in the audience and not on the record. The chairwoman requested the meeting to stay in order.

Chairwoman Swenk asked the Mayor if there is a way to define the definition of dwelling.

Mayor Corcoran remarked that the committee members could define the definition of a dwelling by adding additional language.

The consensus is the word “dwelling” needs to be defined in the legislation.

Mayor Corcoran explained the legislation process.

Councilman Abens remarked that they could use, “Permitted occupied dwelling.” It would eliminate tents and playhouses.

Safety Service Director Armbruster discussed more on how the police officers would be able to determine where the path is located. He added that evidence of a path could help the police officers measure the 200 ft. distance.

Councilman Maleski explained how he came up with the regulations in the legislation.

Mayor Corcoran wanted to know how the police officers would measure the sound. He noted that for the police officers to enforce the fireworks ordinance they have to catch the person in the act and wait 5 minutes.

Councilman Maleski explained that the police officers have a device that can measure the decibel and they are trained to use the device.

Councilman Abens reiterated that the legislation is complaint-driven.

Mayor Corcoran wanted to know how the police officers would enforce the complaint.

Safety Service Director Armbruster explained that the legislation would probably be enforced like the muffler laws.

Councilman Maleski explained that the police officers could also go down to Columbus for training at a cost.

Safety Service Director Armbruster wanted to know if the equipment requires the police officer to be certified.

Councilman Maleski explained that it does not. The police officer would have to be trained on it.

There were some discussions on how to move forward with a motion for the amendments.

Moved by Abens and seconded by Swenk to add “(c) Upon any private property within 200-feet of an adjoining permitted occupied residential dwelling.” under Section 476.12 Additional Regulations.

Moved by Swenk and seconded by Abens to change “(b) between dawn and dusk based on daylight savings time.” to “(b) between dusk and 9:00 A.M. based on daylight savings time; and,” under Section 476.12 Additional Regulations.

A roll call vote was taken and the motion was carried.

Yes – 3

No – 0

Discussion regarding proposed legislation:

AN ORDINANCE AMENDING N.R.C.O. CHAPTER 634 NOISE CONTROL TO SOUND CONTROL

Chairwoman Swenk asked members of the Committee, Administration, and City Council members from the audience if there were any questions or comments. No discussion was offered.

Chairwoman Swenk asked if there were any comments or questions from the audience.

Chairwoman Swenk remarked that this ordinance is separate from the previous legislation that was voted on. The previous legislation was for amending N.R.C.O Chapter 476.12 and this legislation is to amend N.R.C.O Chapter 634. N.R.C.O Chapter 634 does not exclude the acres and it is about noise.

Moved by Abens and seconded by Swenk to move forward with an ordinance amending N.R.C.O. Chapter 634 noise control to sound control.

A roll call vote was taken and the motion was carried.

Yes – 3

No – 0

The meeting was adjourned at 7:12 p.m.

These minutes were approved on 31st day of January, 2022.



Fijabi Julien-Gallant
Assistant Clerk of Council