

City of Portland
Noise Task Force

Meeting Minutes
Thursday, September 10, 2015

Members Present: Maryhelen Kincaid, Ryan Pittel, Tina Penman, Dick Roy, Jim Brunkhorst, Ryan Hyke, Doug Shapiro, Melissa Stewart, Paul van Orden

Members Absent: Brad Nile

Guests: Raihana Ansary, Garrett Frey, Mary Sipe

Staff: Jasmine Wadsworth, Claire Adamsick, Kathy Couch, Commissioner Amanda Fritz, Theresa Marchetti, Kathy Couch

Welcome, Introductions and Group agreements (Ground rules for discussion)

Commissioner Fritz welcomed the Noise Task Force members and guests. Members, staff and guest took turns introducing themselves.

Commissioner Fritz announced the three issues she would like the members to look into: how we can improve our process when it comes to noise variances, appeals and notification to the public; EX zones and how the interface with residential neighborhoods as our city continues to develop; and the desire for greater specificity around terms we use in the Noise Code to talk about pile driving.

Agenda and materials overview

Claire Adamsick in Commissioner Fritz's Office discussed group agreements (ground rules) and meeting logistics. Commissioner Fritz will be presenting the Task Force's recommendations on November 12, 2015 to City Council. The goal of the Task Force is to come up with preliminary recommendations at the end of each meeting on that topic area. EX Zones is the first topic that will be discussed in-depth at the September 17 meeting.

Introduction to Variance, Appeals and Notification discussion

Introduction to Variances

Paul van Orden from the Noise Office discussed the general process of Noise Variances and partnerships with City Bureaus. Paul provided Task Force members with a flow chart of the Noise Variance process. He described the variance intake process as well as the staff capacity issues that stem from receiving incomplete variances and the need to pursue unusual requests that require site visits. He commented that the types of events that go to the Noise Review Board vary. Paul added that the Portland International Race Track receives on average 25 complaints – it is a primary example of a venue that receives multiple complaints.

Paul pointed out factors taken into consideration when the Noise Review Board reviews a variance. This includes (1) physical characteristics, times, and duration of sound admitted; (2) geography, zoning of property, and population density; (3) impact on

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safety and welfare of public; (4) whether the sound source predates the receiver; (5) whether compliance with the standard or provision would produce hardship without greater public benefit; and (6) the applicant's compliance history. This list can be found on page 22, section 8 of Title 18. The Noise Review Board and The Noise Control Officer use these six criteria to deny or approve a variance.

Maryhelen Kincaid asked whether there is a measurement tool that the Noise Office uses to measure population density, Paul answered that the Noise Office does not use specific measurements.

Appeal and Notification

Paul van Orden shared that if notification requirements are not complete, the Noise Office will deny variances. The standard for extended hours depends on the applicant's relationship with the community. Noise variances tend to be from people through the City. Paul reiterates that the Task Force is exploring Noise Variances, and appeals process. Paul informs the Task Force members that applicants need to appeal through the Auditors office within 10 days of the effective date of decision. There is no record of people being notified of appeals.

Maryhelen Kincaid requested additional information for the next meeting on how other Cities handle inspections and complaints, and asked for greater specificity on the variance process, particularly in terms of how it ties into the complaint process. Noise Office staff will provide the group with copies of Variances for their reference.

Statistics of Variances and complaint data – [Link to statistics](#) In response to a question from Dick Roy on community policing, Paul van Orden said that the Noise Office has a single mobile noise meter but is currently short-staffed as it recently lost a field inspector. Citizen complaint logs are primary sources for community policing. In regard to staffing concerns, Claire Adamsick said that while the Task Force could make recommendations that might signal the need for adding staff in future budget cycles.

Paul also shared that there is no log of repeat offenders. Doug Shapiro, construction/development representative, requested data on repeat offenders. Paul noted that noise complaints have recently gone from a priority 4 to a priority 7 for the Portland Police Bureau, meaning that enforcement is limited on complaints that are called in. Kathy Couch from the Noise Office provided a summary report of complaint data and on the type of events that receive complaints. Some complaints are duplicates – either the complainant or a repeat complaint on a specific location. The Noise Office uses software to track complaints, but the software is not able to identify duplicates.

Doug Shapiro and Maryhelen Kincaid discussed the importance of comparing complainant data to that of other cities. The Noise Office has contacted Noise offices in other cities, and found that it was difficult to get in contact with people.

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Maryhelen asked whether a high number of complaints can help to validate the relevance of a particular noise as a human health issue. She believes that whether people call or don't call to report a complaint is not necessarily indicative of the need to act.

Dick Roy and Paul van Orden discuss distinction between human health and nuisance. Paul van Orden clarified per Jim Brunkhorst's question that three complaints received in the last year were on events that had variances. Noise staff agreed to bring citation data to the next meeting.

EX Zones introductory discussion

Claire informed Task Force members that City staff from the Bureau of Planning and Sustainability and Bureau of Development Services will be attending the next meeting dedicated to EX Zones.

Paul van Orden handed out material to review zoning maps and EX Zone regulations. Title 18 is written with funding from the U.S. Department of Housing and Urban Development (HUD) and the Environmental Protection Agency and is the basis for almost every code in the U.S. for setting decibel levels. Paul explained that other cities typically use the exact same code as Portland, but some cities have a more restrictive or more expanded code. The City of Portland has set a maximum decibel level that is not a statistical standard, and base permitted standards are based on zoning. Paul informed members that the Noise Review Board feels the EX Zone has migrated far from what it once was, and EX zones in our city have become more commercial than the industrial operations that were intended. He also noted the Noise Review Board's position is that citizens should be protected in EX zones at a commercial standard.

Maryhelen Kincaid mentioned a concern that the EX zone change would not address concerns about impact hammer pile drivers. She requested that the Bureau of Planning and Sustainability staff give the Task Force a timeline/occurring timeline about their concept. In regard to the request on sample Noise Variances, Maryhelen would like to know how much is charged, the location of collection, and where the revenue goes.

Task Force members discussed cost of noise studies, and decibel standards for variances. Paul described how the code includes an audibility standard, i.e. how far away a given noise can be heard.

Public comment

Mary Sipe, Pearl resident, said she supports Maryhelen Kincaid's comment about EX zone changes not addressing what she feels is the core problem of impact hammer pile driver – as this equipment is exempt from noise limitations.

Mary also commented that an appeal on a noise variance must be filed within 10 days of a decision on a variance. She said that in order for a person to qualify to appeal a variance decision, an individual must submit oral or written testimony on the variance application. Since public notification requirements are vague, she believes that most applicants are not sending notifications to the community. When community members are not aware of an application, or are not notified in a timely manner, it is impossible to make an appeal. Also, even if a person receives notification and provides comments on the application, the item is often heard by Council after the variance event has taken place.

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Raihana Ansary, Portland Business Alliance, commented that it's important for strike a balance in this discussion between physical health and economic health. She is concerned that Central East Side Industrial Council is not at the table.

Introduction to Equipment Definitions/Pile Driving discussion

Paul van Orden reviewed the new language in Title 18 that adds minimum standards to pile driving operations, excluding pile driving on Saturdays and amending how early pile driving can begin operations each morning. He explained that current code allows construction sites to set up for pile driving, but actual work driving pile cannot start until 8am. Applicants need to notify neighbors within 500ft if they will be pile driving. The Task Force also discussed the city's responsibility in notifying community members.

Melissa Stewart commented that she would like to see the Task Force clarify the actual impact of pile driving in livability.

Housekeeping/Logistics

Claire Adamsick encouraged Task Force members to contact her directly with questions and requests for information in between meetings. Public comment can be submitted directly to Noise@portlandoregon.gov.

The meeting adjourned at 5:28 p.m.