

Data Center Ordinance Advisory Group (DCOAG)

August 21, 2024

Prepared by the people for the people



Do Not Schedule a Community Engagement Meeting Without an Effective Noise Ordinance

- Current proposal does not provide material pain relief to residents suffering now
- An inferior product is worse than no product – we need to get this right
 - Effectively setting a benchmark for other jurisdictions across the Commonwealth & the Nation.
 - Cannot create a false impression that the problem has been solved and alleviate any urgency for enacting real solutions.
 - Page 8 of the project SOW: “The first community engagement meeting will present the revised outline of the potential Noise Ordinance changes”.
 - Anticipating consensus by October creates pressure to meet arbitrary deadline
 - The community is unlikely to understand the technical details of what is necessary for their protection, susceptible to ignorantly assuming “new” equals “improved”.
- State enabled regulation of the data center industry is the only way to achieve a truly effective long-term solution & avoid unintended consequences to other uses
 - Better County ordinance is achievable until that happens
 - **Must not allow the remedy to be hamstrung by past regulatory concepts when the problem is presenting never-before envisioned challenges**

Relying on “Best Practices” for an Entirely New Challenge Does Not Solve the Problem

- NYC, Kern and Riverside County examples cited in Planning Office document provide some useful information and ideas – but DO NOT cite examples of data center noise
 - No best practices to regulate 24/7 continuous industrial noise*
 - Example: "Ambient noise level measurements may be performed when wind velocities at the proposed project site are sufficient to allow wind turbine operation, provided that the wind velocity does not exceed thirty (30) mph at the ambient noise measurement location."
 - JMT proposal doesn't even go as far at these "best practices" WRT dBC effect on dBA adjustment
- The Great Oak data from 2+ years of collection clearly show dBA limits need to be set at 50 daytime, 45 nighttime for normal, safe, healthy residential quality of life >>> PWC IS the jurisdiction with the best data and experience
- Enforcement is unclear and ineffective, cannot halt operations
 - County Police Chief or designee shall have the authority to revoke, as set out in this section, any event or gathering permit, issued through a written revocation, which shall be effective immediately for the reasons below:
 1. If Permit holder has misrepresented a material fact in applying for a permit;
 2. If the permit holder is convicted twice in any calendar year of violation of this Chapter (Noise);
 3. Upon certification and documentation by the County that the premises covered by the permit are not in compliance with applicable regulations or with the permit restrictions as approved by the County

????

*Chandler, AZ implemented new ordinance specific to data center noise, but their example has been dismissed WRT the JMT proposal.



Review JMT's Original Tasking and Insist on a Revised Effort



Ordinance must mandate meaningful noise relief with:

- Lower maximum levels
- 24/7 continuous noise characteristics addressed
- Enforceable, meaningful penalties for violations*
 - large financial penalties depending upon type of violator and nature of violation
 - \$100K - \$1 mil per incident for industrial violations

!! The purpose of the proposed ordinance must be to fix the problem, not to minimize industry objections or legislative obstacles

*Needs rigorous examination for State legislation



Is JMT acting under any guidance or assumption to limit its recommendations to remain within current legislative constraints or avoid legal issues?

Page 3 of the project SOW says the scope of work includes: "county-level ordinance development to include revision and/or the development of new or targeted code provisions and Dillion Rule governance."

Page 7 of the project SOW states: "The Contractor shall identify impacts and unintended consequences that the proposed Noise Ordinance Changes might have on other uses."



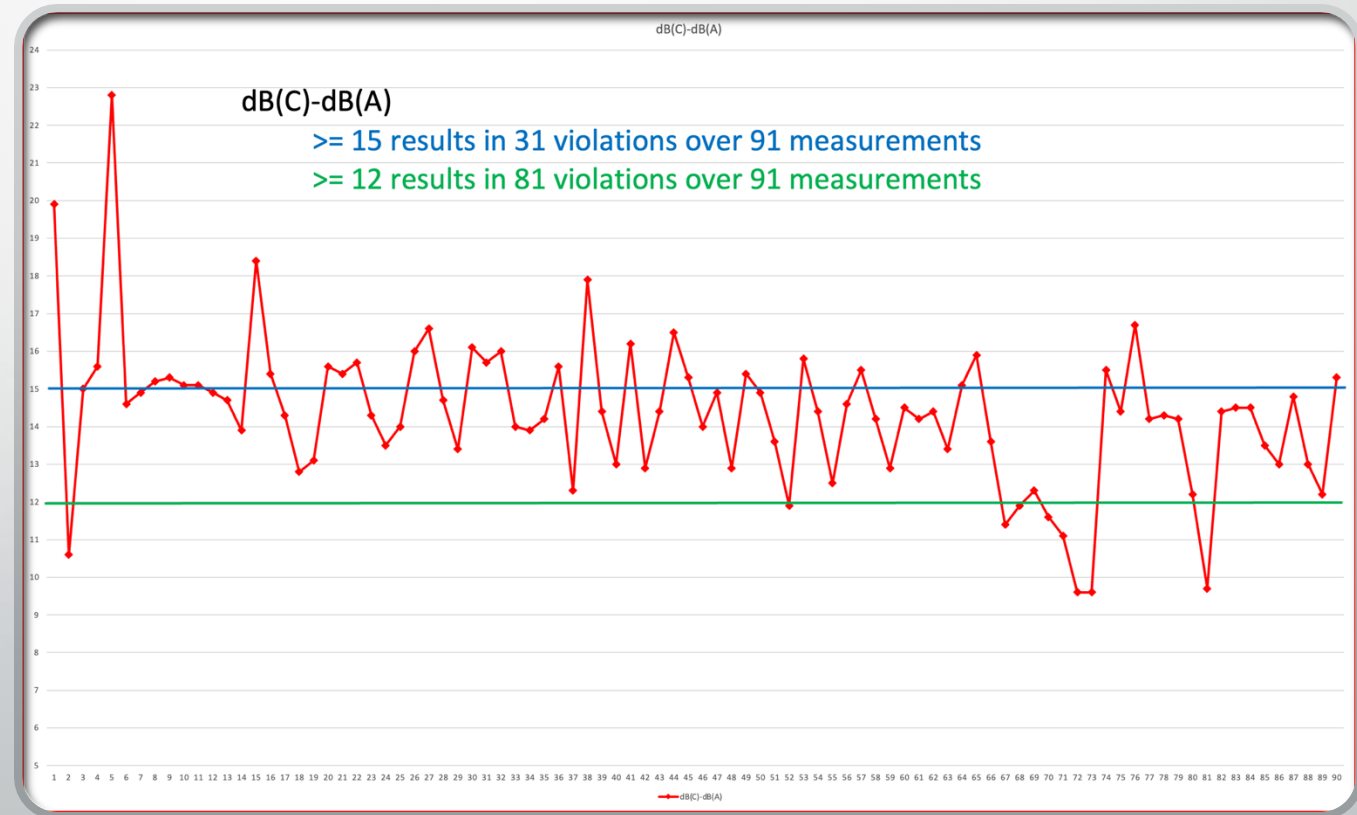
JMT should identify issues posed by an effective noise ordinance, and provide recommendations to address these, not limit or avoid real solutions.

Page 7 of the project SOW states: "What risks are foreseen (government, industry, residential) with adding, removing, or modifying any element of the Noise Ordinance or related policy?"

Can JLARC team be included in our discussions to provide visibility of our challenges and input to their ultimate recommendations?

Questions:

1. Why does inserting an additional measurement scale (dBC) and manipulating actual measurements (dBA), based on that additional measurement, create an ordinance less vulnerable to legal challenge or conflict with State Code than simply changing the existing dBA limits themselves?
2. Why do the dBC limits appear to be increased by 3 decibels in the JMT proposal from the best practice cases relied upon.



State-Enabled Regulation of the Data Center Industry is the Most Effective Solution, But Prince William County Can Lead Now by Example

Maximum Allowable Sound Levels Must Come Down From Current Ordinance

The table at bottom right includes:


- two additional columns for 24/7 noise sources.
 - Once a violation is reported the source must be determined to be continuous operation (24/7).
 - Equivalent Continuous Sound Level (Leq) could be employed to determine this characteristic.
 - If the source is 24/7 continuous, lower levels would apply. Determination methodology needs to be crafted.

PWC NOISE ORDINANCE RECOMMENDATIONS, cont.

14.4 Maximum Permissible Sound Levels generally, continued

MAXIMUM PERMISSIBLE EQUIVALENT CONTINUOUS SOUND PRESSURE LEVELS (Leq)

Zoning District Classification	Maximum dBA Daytime	Maximum dBC Daytime	Maximum dBA Nighttime	Maximum dBC Nighttime
Residential	60	72	55	67
Mixed Use District	60	72	55	67
Commercial	65	77	60	72
Office	65	77	60	72
Industrial	79	91	72	84



Zoning District Classification	Maximum dBA Daytime	Maximum dBC Daytime	Maximum 24/7 Noise Source dBA Daytime	Maximum dBA Nighttime	Maximum dBC Nighttime	Maximum 24/7 Noise Source dBA Nighttime
Sensitive: Residential, Parks, Schools	60	62	50	55	57	45
Mixed Use	60	72	60	55	67	55
Commercial	65	77	65	60	72	60
Office	65	77	65	60	72	60
Industrial	79	91	79	72	84	72

Moseley Kick-off Meeting Initial Concerns

- First look at the approach not encouraging – reminiscent of JMT's shortcomings
- Heavy on “facilitation” & what they *cannot* accomplish
- Light on effective, insightful research to craft groundbreaking policy to lead the region and nation
- Focus is on “compromise”, not SOLUTIONS
- *Offensive assumptions of team member positions*

WRONG!!

Draft Peer Communities

Loudoun County, VA
Fairfax County, VA
Henrico County, VA
Montgomery County, MD
Culpeper County, VA
Prince George's County, MD
Virginia Beach, VA
Others?

20 | DCOAG Kickoff Presentation

Peer communities were selected based on:

- Population
- Demographics: education, employment, age, median income
- Data center quantity
- Community size and land use makeup

Fauquier County, VA?

Draft International Communities

Sunnyvale, CA Atlanta, GA
Phoenix, AZ Chandler, AZ
Rockland County, NY Elk Grove Village, IL Hillsboro, OR Quincy, WA
Salt Lake County, UT
Irving, TX
Essex County NJ
Denver, CO
Middlesex County, NJ
St. Louis, MO
London, UK
Slough, UK
Frankfurt, Germany
Dietzenbach, Germany
Amsterdam, Netherlands
Diemen, Netherlands
Others?

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International communities were selected based on:

- Proximity to a data center "hub"
- Data center quantity
- Population density
- Land use makeup