



EAST HAVEN DEPARTMENT OF POLICE SERVICES

471 NORTH HIGH STREET • EAST HAVEN, CONNECTICUT 06512

Mayor Joseph A. Carfora

Honorable Board of
Police Commissioners

HONORABLE BOARD OF POLICE COMMISSIONERS SPECIAL MEETING

DECEMBER 3, 2020 AT 7:00 PM

VIRTUAL MEETING VIA ZOOM

COMMISSIONER(S) PRESENT: Chairman Paul Carbo (presiding), Vice Chairman Dominic Balletto, Commissioner Dawne Flynn

ALSO PRESENT: Chief Edward Lennon, Deputy Chief Patrick Tracy, Clerk Marsha Maldonado, Attorney Michael Luzzi, Dianne Romans, (203) XXX-3966, (203) XXX-8289

Chairman Carbo called the meeting to order at 7:00 PM.

Due to Governor Ned Lamont's March 10, 2020 declaration of a public health emergency and civil preparedness emergency and subsequently issued Executive Orders, and Mayor Joseph A. Carfora's March 16, 2020 declaration of a state of emergency in the Town of East Haven due to the spread of Coronavirus Disease 2019 in the State of Connecticut including New Haven County, in-person public access to this meeting will not be permitted.

[The public can access this meeting from a computer, tablet, or smartphone. Tonight's meeting is taking place remotely via ZOOM. Videoconference links and dial-ins were provided to the public.]

1. Pledge of Allegiance
2. Moment of Silence
3. Roll Call - Clerk Maldonado; quorum obtained
4. Announcement(s)

Chief Lennon would like to introduce Dianne Romans as the Mayor's new appointment to the Board to fill the vacancy and complete the term of former Commissioner Marc Conte. Ms. Romans will actively participate in future meetings upon being sworn in by Mayor Carfora in the coming days. Chief Lennon believes she will be a great addition to the Commission.

Ms. Romans is excited about this appointment and looks forward to working with the Commission.

All welcomed Commissioner Romans to the Board.

5. Consider and act upon the approval of the Regular Monthly Meeting minutes of October 27, 2020

Clerk Maldonado noted that the full Traffic and Public Safety subcommittee written report submitted by Commissioner Torrealba was inadvertently omitted from the minutes and is added here in its entirety as a matter of record:

Subcommittee report

ATVs and Dirt Bikes.

The subcommittee has received numerous complaints regarding this issue.

The improper use of unregistered dirt bikes and all-terrain vehicles (“ATVs”) on public streets has increased substantially throughout Connecticut during the last decade, and the widespread illegal use of these vehicles in East Haven represents a growing health and safety hazard for residents and visitors.

In 2013 and 2016 the Connecticut General Assembly passed public acts 13-154, S.1 (2013) and 16-208, S.1 (2016), which enable municipalities to increase penalties for violations of local regulations governing the operation and use on public property of dirt bikes, all-terrain vehicles, and snowmobiles. The Acts increase the maximum penalties to \$1,000 for a first violation, \$1,500 for a second violation, and \$2,000 for a third or subsequent violation. These Acts also permit municipalities with a population of 20,000 or more to enact ordinances to provide for the seizure and forfeiture of dirt bikes and all-terrain vehicles under certain circumstances.

East Haven chose to have fines in an amount between \$500 to \$1,000 for a first offense, between \$1,000 to \$1,500 for the second offense, and between \$1,000 to \$2,000 for the third offense. The town also enacted, as part of the same ordinance, the power for the EH police department to seize those vehicles pending the disposition of that property “by court order or otherwise by law and proof of ownership of such property”.

The city of New Haven is in the process of updating their ATV ordinances, increasing their fines from \$99 to the maximum allowed by law, making it a violation to be handled by the city, requiring ATV dealers to display the new ordinance in their place of business and restricting the fueling of ATVs at a gas station located in that city, along with fines for the violation of either of these.

This proposal will provide the East Haven Police Department with additional tools to address this quality of life issue by better regulating the use of ATVs in town.

The recommendation of the subcommittee is that the board propose the town council amend the Code of ordinances, Sec. 11-2. - Regulating the operation or use of dirt bikes, all-terrain vehicles, snowmobiles, motor-driven cycles, or mini-cycles, to:

1. Increase the fines to the maximum allowed by law and make them a violation.
2. Establish a procedure for the payment and contentment of those fines similar to the one used for the Town parking violations.
3. Establish a procedure for the seizure and disposal of vehicles including the right to a hearing prior to the forfeiture of the vehicle.
4. Require ATV dealers to prominently display this ordinance and fines for the violation of this requirement.

And

5. Prohibit the sale of gasoline to motorized recreational vehicles being driven illegally.

More specifically:

- Modify fines to increase them to maximum allowed Under the Connecticut General Statutes in Sec. 11-2 (c) (1), Sec. 11-2 (c) (2), Sec. 11-2(c) (3), Sec. 11-2 (c) (4):

First offense, \$1,000.00

Second offense, \$1,500.00

Third offense, \$2,000.00

- Modify the last sentence of Sec. 11-2 (c) (6) to read: Pending a disposition of such property after a hearing as prescribed in Sec. 11-2 (e) or otherwise by law and proof of ownership of such property.
- Adding a payment of penalty as indicated in Sec. 11-17 (b), as applicable.
- Adding a procedure for contesting the fine as indicated in Sec. 11-18, as applicable.
- Adding a Sec. 11-2 (d) Procedure for Seizure and disposal of vehicles aligned with Sec. 11-18 (see foot note 1, New Haven proposed ordinance as an example).
- Adding a Sec. 11-2 (e) Procedure for hearing prior to forfeiture of vehicle similar as prescribed in Sec 11-18 (see foot note 1, New Haven proposed ordinance as an example).
- Adding a Sec. 11-2 (f) Posting by motorized recreational vehicle dealer. Requiring that motorized recreational vehicle dealer offering for sale, lease or rental any motorized recreational vehicle shall post this ordinance in a prominent location at said any motorized recreational vehicle dealer's place of business. Including penalties for violation of this section (see foot note 1, New Haven proposed ordinance as an example).
- Adding a Sec. 11-2 (g) Sale of gasoline for illegal purposes. Prohibiting the sale of gasoline to a motorized recreational vehicle unless that vehicle is conveyed to and from the retailer's premises by a registered motor vehicle. Requiring the posting of this ordinance in a prominent location and establishing penalties for violation of this section per vehicle, per occurrence (see foot note 1, New Haven proposed ordinance as an example).

These proposed changes will alleviate this quality of life issue, making the drivers, riders and owners of the vehicles, literally, pay for their actions. An additional benefit is that it will not place our youth on a path towards the criminal justice system, but it will make them accountable for their actions. Additionally, the income from the fines and or sale of the vehicles seized may help the town defray the costs of enforcement.

Lastly, if we do not align our fines and penalties with New Haven's we are at risk of becoming the place that illegal riders will come to ride in order to avoid more severe consequences in New Haven.

Loud motor vehicles

Another quality of life issue that the commission has received numerous complaints about is loud motor vehicles.

These loud motor vehicles driven in East Haven represent a growing health and safety hazard for residents and visitors. The town "recognized that people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health or safety or welfare or degrade the quality of life."

The department of motor vehicles (DMV) set noise standards for motor vehicles (See foot note 2, Regulations of Connecticut State Agencies. Maximum Permissible Noise Levels for Vehicles Inclusive Sections §§ 14-80a-1—14-80a-10a Measurements of noise emissions). Additionally, Connecticut general statues Sec. 14-80 provides that all motor vehicles be equipped with a muffler, making "straight pipes" illegal in CT.

This proposal will provide the East Haven Police Department with additional tools to address this quality of life issue by better regulating the use of loud motor vehicles in town. The noise standards and the

prohibition on motor vehicles without mufflers can be enforced through the town noise ordinance. The proposal will make these a town ordinance violation, while allowing for motor vehicles with mufflers that does not conform with the DMV noise standards or motor vehicle that plainly lack a muffler, to be referred to DMV for inspection.

This may require the Town council to budget money for Decibel Meters, if the ones the department has are not serviceable or appropriate for this task. It should be noted, however, that there is no equipment required to determine that a motor vehicle has no muffler or a nonfunctional muffler.

The recommendation of the subcommittee is that the board propose the town council amend the Code of ordinances ARTICLE IV. – NOISE in order to:

1. Prohibit motor vehicles that exceed the noise standards set by the DMV and establish a fine for offenses.
2. Establish a higher fine for motor vehicles without mufflers (straight pipes).
3. Establish a procedure for the payment and contentment of those fines similar to the one used for the Town parking violations.

More specifically:

- Add a Sec. 12-53 (k) (5) to specifically prohibit the emission of noise from a motor vehicle that exceeds the standards set by the Department of Motor Vehicles.
- Modify Sec. 12.55. Penalties, to establish a fine for a violation of section 12-53 (k) (2) in the amount of one hundred fifty dollars (\$150.00) per offense.
- Modify Sec. 12.55. Penalties, to establish a fine for a violation of section 12-53 (k) (5) in the amount of one hundred fifty dollars (\$150.00) per offense.
- Modify Sec. 12.55. Penalties, to establish a procedure for the payment of penalty as indicated in Sec. 11-17 (b) (1), as applicable.
- Modify Sec. 12.55. Penalties, to establish a procedure for contesting the fine as indicated in Sec. 11-18, as applicable.

These proposed changes will alleviate this quality of life issue, making the violators responsible for their actions. Also, the income from the fines may help the town defray the costs of enforcement.

Finally, this proposal will provide the department with additional tools to address this quality of life issue through the town's town noise ordinance.

Foot notes:

1.- Relevant portions of the New Haven proposed ordinance regarding ATVs.

Sec. 29-134. - Seizure of motorized recreational vehicles; disposal.

Any person who operates a motorized recreational vehicle in violation of subsection 29-132 (a) above, or is the owner of any such vehicle who knowingly permits its operation in violation of subsection 29-132(a) above, and any operator or owner of an EPAMD who violates subsection 29-132 (d) above, will be subject to seizure of said vehicle(s) or EPAMD pursuant to C.G.S. Section 54-33g which allows for seizure of property. A police officer who observes any motorized recreational vehicle or EPAMD being operated in violation of subsection 29-132(a), subsection 29-132(b), subsection 29-132(c), and/or subsection 29-132(d) above may detain such person for purposes of enforcing the provisions of this article, and may remove or tow such motorized recreational vehicle or EPAMD to a secure location for impoundment.

Before the owner of any such impounded property may remove the vehicle from a vehicle pound, he or she shall furnish to the operator of such pound, or such other person as the chief of police shall designate, evidence of registration and ownership, shall sign a receipt for such property, and shall pay the cost of impoundment and administration, plus the cost of storage for each day or portion of a day that such property is stored in excess of the first twenty-four (24) hours after seizure. The operator of such pound shall refuse the release of any such property lawfully seized that the chief of police has authorized to hold as evidence in a criminal investigation or proceeding. Such operator shall obtain written permission from the chief of police on any form or document prescribed by the chief of police prior to the release of such property held for evidence.

(b) Any such motorized recreational vehicle or EPAMD that is not claimed by its owner under the terms of this section for a period of forty-five (45) days after seizure, or in the case of a vehicle being held as evidence, not claimed by its owner within forty-five (45) days of the cessation of such investigation or disposition of such criminal proceeding, whichever is later, may be disposed of at the direction of the chief of police after serving notice in the same manner as that required for the disposal of abandoned vehicles under C.G.S. Section 14-150(e), except in the case that a vehicle that is not registered, such notice shall not require mailing to persons whose names are registered with the state department of motor vehicles.

Sec. 29-134.1. Hearing prior to forfeiture of motorized recreational vehicle

The Chief of Police, or his/her designee may order the forfeiture of any motorized recreational vehicle that has been seized as the result of conduct amounting to probable cause for a violation of Sec. 29-132 or any other City ordinance or state law pursuant to the process provided herein. Notice in writing will be delivered on a form approved by the Chief of Police to any lien holder and to the owner of the motorized recreational vehicle, or if no owner can be identified, to the rider, within thirty (30) days of the seizure advising the recipient of the right of the owner or lienholder of the motorized recreational vehicle to a hearing prior to the disposal of the motorized recreational vehicle. Written request for a hearing before the Chief of Police, must be received, by hand delivery or certified mail, return receipt requested, to the Chief, New Haven Police Department, 1 Union Ave., New Haven, CT 06519 within thirty (30) days of receipt of the notice. Said request for a hearing by an owner must be submitted with proof of ownership or by a lienholder with proof of lien or other security interest in the motorized recreational vehicle.

(b) Said hearing shall be conducted by the Chief of Police or his/her designee and shall be held not more than thirty (30) days after the receipt of the written request, except that written requests for an extension of time may be granted for good cause shown. Notice of the date and time of said hearing shall be provided to the owner or lienholder no later than ten (10) days before the date of the hearing by electronic delivery and/or by certified mail, return receipt requested, at the email or residential address provided by the owner or lienholder in the written request for a hearing.

(c) Any party to the hearing may, at his or her expense, record the hearing. Any party to the hearing may be represented by counsel.

(d) A motorized recreational vehicle may be ordered forfeited upon a finding of any, but not limited to, of the following:

1. There is probable cause to believe that the motorized recreational vehicle was possessed, controlled or designed for use, or is or has been or is intended to be used, to violate or, in violation of, any City Ordinance or of the motor vehicle or criminal laws of this state; or
2. There is probable cause to believe that the motorized recreational vehicle was operated with reckless and wanton disregard for the welfare or property of others.

(e) Following the hearing, the Chief of Police, or his/her designee who conducted the hearing, shall issue a written decision ordering the forfeiture of the motorized recreational vehicle, or ordering the return of the motorized recreational vehicle to its owner, except that the Chief of Police or his/her designee who conducted the hearing shall not order the release of any motorized motor vehicle that is required to be kept as evidence in any investigation or legal proceeding related to any criminal or motor vehicle offense.

(f) Any motorized recreational vehicle that is subject to a bona fide mortgage, assignment of lease or rent, lien or security interest, shall not be ordered forfeited in violation of the rights of the holder of such mortgage, assignment of lease or rent, lien or security interest.

(g) Any motorized recreational vehicle ordered forfeited shall be disposed of consistent with applicable law.

(h) If within thirty (30) days of the delivery of the notice of the right to a hearing under this Section, no owner or lienholder of the motorized recreational vehicle has requested a hearing, the vehicle will be considered abandoned, and disposed of under applicable law.

(Ord. No. 21-17, 10-23-17)

Sec. 29-135. - Posting by motorized recreational vehicle dealer.

Each motorized recreational vehicle dealer offering for sale, lease or rental any motorized recreational vehicle shall post this ordinance in a prominent location at said any motorized recreational vehicle dealer's place of business.

Any such dealer who violates any provision of this section shall have committed an infraction. For a first violation, the chief of police or his or her authorized agent shall issue a written warning providing notice of the specific violation and the time period within which it shall be corrected. If the dealer receiving the written warning fails to correct the violation within the time period specified in the warning, the chief of police or his or her authorized agent shall issue a fine of ninety-nine dollars (\$99.00). Any continuing violation that is discovered during any subsequent re-inspection shall result in a fine of one hundred dollars (\$100.00) each re-inspection at which a violation is discovered shall constitute a separate violation.

(Ord. No. 24-08, 9-8-08; Ord. No. 09-13, 10-28-13; Ord. No. 21-17, 10-23-17)

Sec. 29-136 Sale of gasoline for illegal purposes.

(a) No owner or employee of any retail dealer of gasoline shall sell, offer for sale, or attempt to sell, any article or product represented as gasoline for use in any motorized recreational vehicle as defined in this ordinance, unless that vehicle is conveyed to and from the retailer's premises by a registered motor vehicle, as defined in C.G.S. Section 14-1, as may be amended, and no individual shall purchase or attempt to purchase gasoline for use in any motorized recreational vehicle as defined in this ordinance.

(b) Signs with the words "FUELING OF ALL-TERRAIN VEHICLES, MINI CYCLES OR DIRT BIKES OR OTHER UNAUTHORIZED VEHICLES PROHIBITED" in English and "PROHIBIDO DESPACHAR GASOLINA A ALL-TERRAIN VEHICLES, MINI CYCLES O DIRT BIKES O A OTROS VEHICULOS NO AUTORIZADOS" in Spanish at least one (1) inch in height with a contrasting margin shall be posted at all dispensing locations. The location of warning signs shall be based on local conditions but shall be visible and legible from all gas pumps.

(c) Any owner or employee of any retail dealer of gasoline who violates any provision of subsections (a) and/or (b) of this section who owns or is employed by a retail dealer that has been previously issued one

warning as the result of a previous violation of subsections (a) or (b) of this section shall be fined one hundred dollars (\$100.00).

2.- Regulations of Connecticut State Agencies. Maximum Permissible Noise Levels for Vehicles Inclusive Sections § § 14-80a-1–14-80a-10a Measurements of noise emissions

Link to regulations:

https://eregulations.ct.gov/eRegsPortal/Browse/RCSA/Title_14Subtitle_14-80a_HTML/

3.- Sec. 14-80. Mechanical equipment.

Sec. 14-80. Mechanical equipment. (a) Each motor vehicle and the devices on such vehicle shall be operated, equipped, constructed and adjusted to prevent unnecessary or unusual noise.

(b) Each motor vehicle operated by an internal combustion engine shall be equipped, except as hereinafter provided, with a muffler or mufflers designed to prevent excessive, unusual or unnecessary exhaust noise. The muffler or mufflers shall be maintained by the owner in good working order and shall be in use whenever the motor vehicle is operated. No person, including a motor vehicle dealer or repairer or a motorcycle dealer, shall install, and no person shall use, on a motor vehicle, a muffler or mufflers lacking interior baffle plates or other effective muffling devices, a gutted muffler, a muffler cutout or a straight exhaust except when the motor vehicle is operated in a race, contest or demonstration of speed or skill as a public exhibition pursuant to subsection (a) of section 14-164a, or any mechanical device which will amplify the noise emitted by the vehicle. No person, including a motor vehicle dealer or repairer or a motorcycle dealer, shall remove all or part of any muffler on a motor vehicle except to repair or replace the muffler or part for the more effective prevention of noise. No person shall use on the exhaust system or tail pipe of a motor vehicle any extension or device which will cause excessive or unusual noise.

(c) The engine of every motor vehicle shall be equipped and adjusted to prevent excessive fumes or exhaust smoke.

(d) All pipes carrying exhaust gases from the motor shall be constructed of, and maintained with, leak-proof metal. Exhaust pipes shall be directed from the muffler or mufflers toward the rear of the vehicle and shall be approximately parallel with the longitudinal axis of the vehicle and approximately parallel to the surface of the roadway, or shall be directed from the muffler upward to a location above the cab or body of the vehicle so that fumes, gases and smoke are directed away from the occupants of the vehicle. Exhaust pipes on a passenger vehicle shall extend to the extreme rear end of the vehicle's body, not including the bumper and its attachments to the body, or shall be attached to the vehicle in such a way that the exhaust pipes direct the exhaust gases to either side of the vehicle ensuring that fresh ambient air is located under the vehicle at all times. The Commissioner of Motor Vehicles may adopt regulations in accordance with the provisions of chapter 54 to establish safety standards for passenger vehicles equipped with exhaust pipes located in front of the rear axle.

(e) Every motor vehicle shall, when operated on a highway, be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle.

(f) No vehicle shall be equipped with, nor shall any person use on a vehicle, any siren, whistle or bell as a warning signal device, except as otherwise permitted by this section. Any motor vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal. Any authorized emergency vehicle may be equipped with a siren, whistle or bell, capable of emitting sound audible under normal conditions from a distance of not less than five

hundred feet and of a type approved by the Department of Motor Vehicles. Such signal shall not be used unless the vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which event the driver of the vehicle shall sound the signal when reasonably necessary to warn pedestrians and other drivers of the approach of the vehicle.

(g) Any person who violates any provision of this section shall be fined one hundred fifty dollars for each offense.

Vice Chairman Balletto made a motion to accept and approve the regular monthly meeting minutes of October 27, 2020 as amended; seconded by Commissioner Flynn. Voice Vote. All in favor. No one opposed or abstained. Motion carried unanimously.

6. Consider and act upon the approval of the Monthly Reports (November 2020)

Vice Chairman Balletto made a motion to accept the monthly reports as received; seconded by Commissioner Flynn. Voice Vote. All in favor. No one opposed or abstained. Motion carried unanimously.

7. Consider and act upon Committee Reports & Recommendations

8. Public Comment

9. Correspondence Received/Sent

- a. State Representative Joseph Zullo on behalf of Andrew Gambardella (72 Sorrento Avenue), email dated November 17, 2020 – Consider erecting “NO PARKING” signs along the right side of the road approaching Silver Sands Road to reduce the risk of people parking in the blind spots.

Vice Chairman Balletto made a motion to defer this matter to the Traffic & Public Safety Committee for review; seconded by Commissioner Flynn. Voice Vote. All in favor. No one opposed or abstained. Motion carried unanimously.

10. Department Updates (Chief Lennon)

a. Personnel Matters/Injured Employees

- i. An in-person Special Meeting will need to be scheduled in late December/early January 2021 to conduct interviews for Police Officer – Grade C candidates and promotions. Proposed December 22, 2020. Date to be determined.
- ii. Several personnel remain on light duty.
- iii. Two (2) personnel remain on long term injury status. Date of return undetermined at this time.
- iv. A few personnel had/have tested positive for COVID (both on/off-duty exposures) and additional personnel have had to quarantine by associated exposures. We are maintaining a high level of decontamination/sanitation throughout Headquarters and in patrol vehicles, and calls for service are required to wear the appropriate PPE. Additionally, by Special Order, all employees are required to self-check their temperature at various building entry points prior to reporting for duty and self-report if they are symptomatic.

b. Overtime

Still elevated but expected to level off and stabilize in the new year as vacancies are filled through hirings/promotions.

c. Awards & Commendations

d. Noteworthy News

II. Old Business

12. New Business

a. Request a certified Police Officer – Grade C Recruit list from the Civil Service Commission

Vice Chairman Balletto made a motion to request a certified Police Officer – Grade C Recruit list from the Civil Service Commission; seconded by Commissioner Flynn. Voice Vote. All in favor. No one opposed or abstained. Motion carried unanimously.

b. Discussion and approval of revised policies 102.5 (Professional Development & Training), 203.8 (Addressing Biased Policing), 302.7 (Weapons and Weapons Storage), 404.6 (Use of Force), 405.7 (Use of Lethal Force), 406.7 (Less Lethal Force Effective)

Vice Chairman Balletto made a motion to approve the revised policies en masse effective December 21, 2020; seconded by Commissioner Flynn. Voice Vote. All in favor. No one opposed or abstained. Motion carried unanimously.

Deputy Chief Tracy commented that the revisions were minor changes and language cleanup to comply with the House Bill and/or for CALEA compliance.

c. Consider and act upon the Annual Schedule of Meetings for 2021

Vice Chairman Balletto made a motion to approve the Annual Schedule of Meetings for 2021; seconded by Commissioner Flynn. Voice Vote. All in favor. No one opposed or abstained. Motion carried unanimously.

13. Adjournment

Vice Chairman Balletto made a motion to adjourn; seconded by Commissioner Flynn. Chairman Carbo adjourned the meeting at 7:17 PM.

Respectfully submitted,

Marsha M. Maldonado
Clerk to the Honorable Board of Police Commissioners

[Audio recording on file – duration 17:00]