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Outlook

Reno City Council - 12.4.24 Meeting - D.5

From Eric Lerude <ewlerude@gmail.com>**Date** Tue 12/3/2024 10:55 AM**To** Public Comment - CC <PublicComment@reno.gov>

Dear Reno City Council,

Please direct City of Reno staff to take further steps to address excessive noise from vehicles, both automobiles and motorcycles. This has to happen for increased safety and quality of life of residents, business owners, and visitors.

Increasing enforcement by RPD and Code Enforcement of existing laws could address most if not all of the problems. The only new code that may be needed is adding a C Scale measurement, for that is the measurement that best deals with excessive vibrations from vehicles. There may not be any need for a new sound ordinance to address loud and noisy vehicles. Let's not make this more complicated than it has to be.

Thank you for your time and consideration, and your service to our community.

Eric Lerude

255 N. Sierra Street #1718
Reno, NV 89501
(775) 336-8528



Outlook

Comment for 12/4 City Council Meeting Agenda Item D5.

From Jill Flanzraich <jillflanz@gmail.com>

Date Tue 12/3/2024 9:27 AM

To Public Comment - CC <PublicComment@reno.gov>

To Whom It May Concern:

Regarding Agenda item D5 at the 12/4/24 City Council meeting regarding addressing excessive vehicular noise complaints as a resident of The Montage whose unit faces Sierra Street I feel compelled to stress the importance and immediacy for the council to discuss and act on remedying related issues by enforcing codes and regulations.

When there is excessive vehicular noise (either music pounding or engines roaring) they are usually connected to excessive speed. Those sounds are rarely followed by enforcement vehicles or personnel. The excessive noise and speed condones an unsafe environment for pedestrians and an uncomfortable living situation for residents and tourists.

My request is to provide sufficient personnel to enforce existing codes and regulations and to review and determine if additional regulations are needed to rectify the problems.

As our population continues to grow, our downtown neighborhood requires more attention from our council and safety personnel. Thank you for your time to recognize the urgency of now.

Jill Flanzraich
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Reno, NV 89501
Mobile: 702-498-5455
jillflanz@gmail.com



Referencing Agenda Item D5, Excessive Vehicular Noise Complaints

From Phil Telander <ptelander1@gmail.com>

Date Tue 12/3/2024 11:23 AM

To Public Comment - CC <PublicComment@reno.gov>

Reference the Reno Police Department (RPD) Staff Report dated December 4, 2024.

The report adequately identifies Reno Downtown Residents stated concerns regarding excessive vehicular noise and offers a range of possible solutions. However, the report could benefit from more detailed evidence, a clearer framework for enforcement, and a more comprehensive approach to community engagement and legal considerations. By refining and clarifying these items, the RPD can present a stronger, more actionable case for addressing excessive vehicular noise.

Some areas for improvement:

1. **Ambiguity in proposed ordinances:** The proposal to develop a new ordinance on amplified music is somewhat vague. It mentions adopting measurable standards, such as limiting music audibility to 50 feet, but doesn't delve into how those standards will be enforced. For example, will officers use decibel meters, and if so, what standards will apply to ensure accuracy? There is no mention of the potential for fines or penalties, which would help gauge the effectiveness of the proposed ordinances. Will it mirror ordinances in other cities like Las Vegas, or will it incorporate additional measures that could be more suitable for the specific needs of this city? Critical in this debate is the use of "A" versus "C" scale noise measurements. Most downtown residences and businesses support a C weighting filter which is used frequently and nationally for representing code/ordinance peak levels. The City of Reno is presently referencing the "A" scale metric.
2. **Unclear metrics for success:** While the staff report outlines proposed actions, it does not define what success looks like. For example, how will the city measure whether the increased public awareness campaigns or enhanced police patrols are effective in reducing noise complaints? Setting clear performance metrics (e.g., a 10% decrease in noise complaints within 6 months) would provide a framework for evaluating the success of the initiatives.
3. **Public relations strategy:** There's an opportunity to include a more comprehensive public relations strategy to promote the new ordinances. For example, Reno could partner with local businesses, residences, schools etc. to disseminate information, thereby ensuring broad community buy-in and compliance. A public education campaign could be more specific in its design and include details on how noise violations negatively impact public health and quality of life. I still remember the crying Indian commercials as a child to convince people to quit littering.
4. **Limited exploration of enforcement mechanisms:** While the report acknowledges the subjective nature of current enforcement (e.g., relying on police observation), it does not fully explore alternative enforcement strategies, such as the use of technology like sound level meters or cameras that can capture loud noise violations without the need for police to be present in real-time. The report mentions potential partnerships with the DMV for inspection referrals but lacks detail on how such partnerships might be structured or the feasibility of creating a local inspection program. More specifics here would make the proposed solutions more actionable, palatable. That said, the vast majority of stakeholders agree that the optimal solution is increased police and code enforcement presence, "boots on the ground".
5. **Community engagement and involvement:** While the report notes the need for outreach to residents and businesses, it does not provide a strategy for how to engage the community in the development of a new ordinance. For instance, would there be public hearings or surveys to gauge public support and feedback on the

proposed noise regulations? The report could further emphasize the importance of creating a balanced approach to enforcement, ensuring that all stakeholders are heard and that the final solutions are equitable.

- 6. Lack of data and specific evidence:** The report references complaints from residents but does not provide specific data on the volume or frequency of the complaints. Adding statistics (e.g., the number of complaints received in the past year or trends over time) would strengthen the case for why the issue requires immediate attention. Similarly, the effectiveness of current enforcement methods (e.g., how often police successfully issue citations for loud exhaust or music violations) is not mentioned. The perception of downtown residents is that complaints addressed through services such as Reno Direct are not addressed and that there is little or no follow-up to their complaints. Providing more concrete evidence of enforcement would bolster the rationale for any proposed solutions.

Regards, Phil Telander
Montage Owner, Resident, HOA Board Member



City Council Comment received from Samuel Solace

From Mikki Huntsman <HuntsmanM@reno.gov>

Date Mon 12/2/2024 6:16 PM

To Public Comment - CC <PublicComment@reno.gov>

Contact Info:

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Ward 5

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A new comment has been submitted for the Reno City Council Meeting held on: 2024-12-04.

Section:

D Items - Department Items

Item:

D.4. D.5, additional.

Position:

In Favor

Are they speaking in person?

No, I am submitting a written comment only.

If no, enter comments below:

I started driving rideshare as an evening side gig over a year ago. After living in Reno for 32 years, I never felt I could be surprised by anything until driving around the region in the evenings. During this time, I have been subpoenaed twice for witnessing DWI accidents with dashcam video and prevented an elderly woman from losing \$5,000.00 as a victim of the "fake family member" scam. I've had to take evasive measures to avoid enough traffic and pedestrian accidents that I've lost count. These are just a few examples. There are many more! Law enforcement concerns that I have noticed in the region include: - Law enforcement ignoring certain activities and individuals. Three to five units or more will show up at a traffic stop and linger around, and there could be a good reason. However, vehicles with

headlamps off, dirtbikes, and offroad-only vehicles regularly driving in groups downtown, zipping in and out of traffic, and vehicles with off-highway lighting (partly a state-level NRS issue), such as red headlights, are ignored. A nighttime vehicle without headlamps could be a simple operator mistake or a potential DWI. Do we wait until the latter is involved in an incident? - Pedestrian traffic regularly ignores the right-of-way and steps in front of traffic. Beyond the actual incidents in the database, there are numerous close calls. I have witnessed officers see these actions and ignore them. - I have yet to see a Bird scooter rider issued a citation for operating the wrong way on one-way streets or disobeying various traffic regulations and controls. Bird scooters are great, but someone will get killed if the operators are allowed to ignore common traffic laws. - I have yet to see speed enforcement at any special speed zone (4th street between Vally Rd and Virginia St., Sierra St., and others). It is common to see 35-40+ MPH in these areas. - Loud vehicles (exhaust, music) not participating in special events or operating in residential areas annoy many citizens. I saw this as D.5 in the agenda and agree in part. - Diesel trucks "rolling coal" on pedestrians and others. This is another issue where the NRS is lacking, but Reno could address it independently. I have videos of trucks intentionally dumping large amounts of black/gray exhaust smoke on special event workers and others. Yes, these have been reported to the Smog Spotter program. - Countless vehicles running red lights and stop signs. - School zone speeds around the city seem unmonitored this school year. - I often see more REMSA units around town than police cruisers (marked or unmarked). I have spoken with a few officers, asking if the department is short-handed, and was told no. I feel that the Reno Police Department IS short-staffed if the visible presence of officers in the downtown and high-response zones is limited. Officer safety is paramount. Public safety is equally important, and I believe a more significant "visual" presence of officers in high-demand areas could reduce many problems. Outside of special events, I could see foot patrols or a few random units monitoring activities in parts of downtown to address pedestrian, drug, and other issues. This also leads to positive engagement with the public. I also understand that the department must prioritize responses based on available resources and the level of threat or incident. Evaluating some of these responses and the time and number of officers involved could present areas for improvement. I agree that the City of Reno and Reno PD must address the need for more officers, improved shift scheduling, and increased public engagement. Best Regards,

ACKNOWLEDGEMENTS:

By checking the "Yes" below, you agree that all the information above is true and accurate. For additional information, please refer to the agenda for today's meeting.

Yes

By checking the "Yes" below, you understand, acknowledge, and expressly agree that: (1) all information submitted by you will be entered into the public record, made available for public inspection, and freely disseminated without restriction; and, (2) any contact, personal, financial, or medical information intentionally or inadvertently submitted by you will not be maintained in a confidential manner, or subsequently exempted from public inspection.

Yes

Do you wish to sign-up for Reno Connect e-newsletters?

Reno Connect is the best way to stay informed about the latest news and updates from the City of Reno. We'll never share your email address with third-party persons, companies or organizations. Visit www.Reno.Gov/RenoConnect to view all newsletter topic lists.

Yes

RENO CITY COUNCIL PUBLIC COMMENT CARD

Thank you for participating. We know your time is valuable and we look forward to hearing your comments, ideas and questions. The Mayor and City Council request that all comments are expressed in a courteous manner. Public comment is limited to three minutes each. Comments should be addressed to the council as a whole, not an individual member.

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If you are representing someone, other than yourself, please indicate whom:

☐ WARD 1 ☐ WARD 2 ☐ WARD 3 ☐ WARD 4 ☐ WARD 5
☐ OTHER _____

DO YOU WISH TO SPEAK? YES ☒ NO ☐

AGENDA ITEM D.5

☐ IN FAVOR ☐ IN OPPOSITION ☒ NO POSITION STATED - CONCERNED

COMMENTS: Please distribute Book
"Guide to Modified Exhaust Systems"

☒ PLEASE SIGN ME UP TO RECEIVE IMPORTANT NEWS AND INFORMATION ABOUT THE CITY OF RENO BY E-MAIL.

WHEN COMPLETED, PLEASE RETURN TO THE CITY OF RENO CITY CLERK

THANK YOU FOR YOUR COOPERATION AND PARTICIPATION



The Law Prohibiting Excessive Noise In Nevada

Fifty-three years ago the Nevada Legislature enacted statutes making it illegal for any person to operate any motor vehicle that does not have a muffler system to minimize the noise from its engine. The same legislature also made it a crime for any person to modify any vehicle exhaust system with a “cutout or bypass” or any similar device. A “cutout” or “bypass” is an unlawful device allowing the driver to temporarily disable the vehicle’s exhaust system at any time, at any speed, instantly re-routing exhaust gasses and deafening noise so as to bypass the vehicle’s built-in NOISE MUFFLING system.

268.412 Prevention of Excessive Noise, authorized Nevada city councils to **“regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the city.”** (Enacted by Nevada Legislature in 1971 and amended to the present language in 1997).

NRS 484D.415, enacted in 1971, requires that **“every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation. ... No person shall use a muffler cutout, bypass or similar device upon a motor vehicle.”**

The rerouted exhaust gasses and explosive noise from the engine blast out into the surrounding neighborhood. The noise from such an illegal system is exponentially louder than muffled exhaust, perhaps 1000 times louder. The effect on the surrounding neighborhood is offensive, disorienting and dangerous. People in their homes are often startled, awakened from their sleep, and disturbed by the invasive, offensive and unlawfully emitted noise.

Reno Municipal Code Also Prohibits The Emission of Offensive Noise

The making of any such noise also violates Reno Municipal Code, Section 18.12.020, also adopted more than 50 years ago by its City Council following a Legislative “enabling statute” titled “Powers & Duties Common to Cities

and Towns.” NRS Chapter 268 authorized Nevada cities and towns to: “By ordinance - - - regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes with the comfortable enjoyment of life or property within the boundaries of the city.” NRS 268.412, (1971). Thus enabled, the Reno City Council fifty-three years ago, adopted into law RMC 18.12.020 “**Disturbing The Peace**” making it a crime for any person to commit a breach of the peace by:

“d. Willfully and unreasonably subjecting a person or neighborhood to any noise which is likely to disturb the peace of persons of reasonable and ordinary sensibilities.”

It is obvious that unmuffled engine noise blasted into the surrounding neighborhood is “likely to disturb the peace of persons of reasonable and ordinary sensibilities.” Such persons include other motorists sharing the road with the offending vehicle; people walking or sitting on benches adjacent the street traveled by the offending vehicle; children playing in a nearby park; and residential dwellers in the sanctity of their homes and apartments.

The sudden noise blast resulting from actuation of an exhaust “cutout” from a vehicle engine can startle and frighten an unsuspecting driver or pedestrian in the same way that a gunshot from a high caliber firearm does. The noise blast is often explosive, and the startle response can be dramatic. The driver of a vehicle overtaken by an unmuffled vehicle may instinctively react by swerving her own vehicle away from the offending vehicle, creating the risk of a life-threatening collision with another vehicle or with a sidewalk pedestrian.

Nevada D.M.V. Noise Emission Standards

Nevada’s Dept. of Motor Vehicles, in compliance with the 1971 Legislature’s enabling statute, promptly adopted “rules and regulations governing total maximum noise emissions for vehicles in Nevada.” In the Nevada Administrative Code §§ 484D.150 to 484D.185 the D.M.V. ordained that no motor vehicles (including motorcycles) in Nevada after 1971 could operate if they emitted noise exceeding **84 decibels (Db)** measured from a distance of

50 feet away. (By comparison, gas-powered lawn mowers generally emit noise levels of about 82 decibels).

COURTS GENERALLY UPHOLD VEHICLE NOISE LAWS

Over the past six decades, numerous legal challenges to noise statutes and ordinances that employ language similar to Nevada's NRS 268.412 and Reno's RMC 18.12.020 using phraseology such as "excessive noise" or "any noise likely to disturb the peace," have been brought, contending they are "unconstitutionally vague or broad" and cannot be fairly administered.

That was the argument in the seminal case of *Smith v. Peterson*, 131 Cal. App. 2D 241, 280 P.2d 522 (1955 Cal). In *Smith* the California Court of Appeals decided the constitutionality of the California Vehicle Code, § 673 and 681 which prevents "**excessive or unusual noises** from mufflers on automobiles."

§ 673 mandated that every motor vehicle operated on a highway "shall at all times be equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise, and no such muffler or exhaust system shall be equipped with a cut-out, bypass, or similar device. No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the motor above that emitted by the muffler originally installed on the vehicle."

§ 684 made it unlawful for any person to sell, lease, install or replace, either for himself or as the agent of another ... muffler, exhaust, ... for use in any vehicle...that is not in conformity with the provisions of this code or the regulations made thereunder."

The Smith / "Advance Muffler Co." (manufacturer of modified mufflers) sued for, and initially obtained a restraining order to prevent the California Highway Patrol enforcement officers from attempting to enforce §§ 673 and 684, citing the U.S. Constitution articles III and IV and numerous cases in support of its argument that to do so would violate the manufacturer's right of

equal protection, due process and that the law was uncertain, indefinite and vague in that “**excessive or unusual noise**” provided no reasonable standard. The trial court opined that a more definite standard, such as a sound measurement expressed in decibels, would be necessary and issued an order restraining the defendant Peterson (the California Highway Patrol Commissioner) from enforcing §§ 673 and 674 against the manufacturer.

In reversing the lower court, the California Court of Appeals held that: “We conclude that the words ‘**excessive**’ or ‘**unusual**’, when viewed in the context in which they are used are sufficiently certain to inform persons of ordinary intelligence of the nature of the offense which is prohibited, and are therefore sufficient to establish a standard of conduct which is ascertainable by persons familiar with the operation of automobiles.”

“Order reversed.”

Smith v. Peterson, has been cited with approval by ~ 50 other courts, including 36 California appellate decisions. A few of these are:

* *People v. Silver*, 230 Cal.App.3d 389, 281 Cal.Rptr. 354 (Cal. App. 1991) affirming drug possession conviction. No merit to Silver's contention that section 11401 is unconstitutionally vague. . . "substantially similar" has no scientific meaning, but the Constitution does not require scientific or mathematical precision. All that is required is that the statute be reasonably certain so that persons of common intelligence need not guess at its meaning. (Citing numerous authorities).

* *People v. Olive*, 112 Cal.Rptr.2d 687, 92 Cal.App.4th Supp. 21 (Cal. Super. 2001): "A statute must give fair warning and sufficiently inform ordinary people with average intelligence of the acts it declares prohibited and punishable.”

* *People v. Madearos*, 230 Cal.App.2d 643], 41 Cal.Rptr. 269 (Cal. App. 1964): “While Smith vs Peterson involves excessive noise and we are concerned with excessive smoke, we see no sound reason to make any legal

distinctions herein.” *D.P.S. v. Buck*, Tex. Civ.App., 256 S.W.2d 642, 646: ‘We think any ordinary and interested person would have no difficulty in determining whether or not an excessive and unusual noise or offensive or excessive exhaust fumes accompanied the operation of a motor vehicle.’

* *Mann v Mack*, 202 Cal Rptr 296., Cal.App 1984. Civil damage case where trial court found Los Angeles police officer acted properly in arresting garage rock band musician for violation of Los Angeles noise ordinance (Section 116.01) which provided: “it shall be unlawful for any person to wilfully make ... any loud, unnecessary and unusual noise which disturbs the peace or quiet of any neighborhood ...” Trial judge rejected argument that noise ordinance was unconstitutionally vague. On appeal, the California Court of Appeal, affirmed, holding:

“Plaintiffs’ contention that Officer Hoefel had to use a decibel meter in order to determine whether Darien was violating the Los Angeles Sound Ordinance is without merit. Los Angeles Municipal Code, section 116.01 provides that “Notwithstanding any other provision of this chapter and in addition thereto, it shall be unlawful for any person to wilfully make ... any loud, unnecessary and unusual noise which disturbs the peace or quiet of any neighborhood.”

“A determination as to what constitutes a “loud, unnecessary and unusual noise” requires common sense, not a decibel meter. In any event ... Officer Hoefel needed only reasonable cause to believe that a violation of the sound ordinance had taken place before he was authorized to arrest Darien. Reasonable cause does not require certainty beyond doubt, but only that a person of ordinary care and prudence would be led to believe and conscientiously entertain an honest and strong suspicion that the accused is guilty of a crime. (Citing numerous authorities). (Emphasis supplied). *Mann v. Mack*, 202 Cal.Rptr. 296, 155 Cal.App.3d 666 (Cal. App. 1984).

* *People v. Green*, 44 Cal.Rptr. 438, 234 Cal.App.2d Supp. 871 (Cal. Super. 1965), a disturbing the peace case involving picketing of a commercial bank. The appeal court held that “California Penal code § 415 is not unconstitutionally vague or indefinite.”

* People v. Deskin, 13 Cal Rptr 2d 391 (Cal App 1992): "Although a particular statute is somewhat vague or general in its language because of difficulty in defining the subject matter with precision, it will be upheld if its meaning is reasonably ascertainable. (See 1 Witkin & Epstein, Cal. Criminal Law (2d ed. 1988) Introduction to Crimes, §§ 43, 51, pp. 50-51, 61-62.) Courts must view the statute from the standpoint of the reasonable person who might be subject to its terms. Thus, "[i]t is not necessary that a statute furnish detailed plans and specifications of the acts or conduct prohibited. The requirement of reasonable certainty does not preclude the use of ordinary terms to express ideas which find adequate interpretation in common usage and understanding." (Smith v. Peterson (1955) 131 Cal.App.2d 241, 246, 280 P.2d 522.) Examples of cases applying the rule are numerous. (See cases discussed at 1 Witkin & Epstein, Cal. Criminal Law, supra, § 52, pp. 62-64.)"

* State of Ohio v Richmond, 90-LW-4443, 90-P-2152 (Ohio App. Sep 01, 1990)

* People vs Byron, 17 N.Y.2d 64, 268 N.Y.S. 2d 24, 215 N.E.2d 345, the New York Court of Appeals upheld the constitutionality of § 375(31) 3 of the Vehicle and Traffic Law, forbidding '**excessive or unusual noise' relating to the operation of motor vehicles upon the highways**. Defendant claimed that the statute not only was written in a vague manner but was also indefinite and arbitrarily applied. In rejecting these contentions, the court stated (p. 67, 268 N.Y.S.2d p. 26, 215 N.E.2d p. 347): 'The test is whether a reasonable man subject to the statute would be informed of the nature of the offense prohibited and what is required of him. Such warning must be unequivocal but this requirement does not preclude the use of ordinary terms to express ideas which find adequate interpretation in common usage and understanding.' The New York Court of Appeals held that the statute was not arbitrary and applied equally to all motor vehicles. Other states having laws virtually the same as General Statutes § 14-80(e), pertaining to 'unnecessary [6 Conn.Cir.Ct. 111] or unusual noise,' 4 have sustained their constitutional validity. See Smith v. Peterson, supra; State v. Dorsett, 3 N.C.App. 331, 164 S.E.2d 607; City of Dayton v. Zoller, 96 Ohio App. 424, 122 N.E.2d 28; Ex

parte Trafton, 160 Tex.Cr.R. 407, 271 S.W.2d 814 (Tex.Crim.App.); Department of Public Safety v. Buck, 256 S.W.2d 642 (Tex.Civ.App.); cf. Kovacs v. Cooper, 336 U.S. 77, 79, 69 S.Ct. 448, 93 L.Ed. 513 (upholding ordinance prohibiting the use of instruments emitting 'loud and raucous noises'); note, 49 A.L.R.2d 1202. 'We think any ordinary and interested person would have no difficulty in determining whether or not an **excessive and unusual noise** or offensive or excessive exhaust fumes accompanied the operation of a motor vehicle.' Department of Public Safety v. Buck, supra, 256 S.W.2d 646. There is no error.

* State of Conn v Schuster's Express, 266 A.2d 902..." (Conn. Cir. App. Div. 1970)

* State of Kansas v Lara, 853 P.2d 1168, 18 Kan.App.2d 386 (Kan. App. 1993), Kansas statute that provides:

"Every vehicle shall be equipped, maintained and operated so as to prevent excessive or unusual noise... (and) at all times shall be equipped with a muffler or other effective noise suppressing system in good working order and in constant operation, and no person shall use a muffler cut-out, bypass or similar device" is not vague. "The words 'excessive' and 'unusual' are sufficiently certain and have well-accepted meanings, and give fair warning to those persons potentially subject thereto."

SUMMARY AND CONCLUSION

Nevada statutes making it unlawful to operate a motor vehicle with a modified exhaust system are constitutional. City of Reno Code making it illegal to subject a person or neighborhood to any noise likely to disturb the peace of ordinary persons, is constitutional. Both laws are enforceable, and any law enforcement officer who has reasonable cause to believe a violation of either has occurred is authorized to detain, inspect, and issue a citation to the violator.

RENO CITY COUNCIL PUBLIC COMMENT CARD

Thank you for participating. We know your time is valuable and we look forward to hearing your comments, ideas and questions. The Mayor and City Council request that all comments are expressed in a courteous manner. Public comment is limited to three minutes each. Comments should be addressed to the council as a whole, not an individual member.

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If you are representing someone, other than yourself, please indicate whom:

☒ WARD 1 ☐ WARD 2 ☐ WARD 3 ☐ WARD 4 ☐ WARD 5
☐ OTHER _____

DO YOU WISH TO SPEAK? YES ☒ NO ☐

AGENDA ITEM D.5

☐ IN FAVOR ☐ IN OPPOSITION ☐ NO POSITION STATED - CONCERNED

COMMENTS: _____

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