

1 City of Montgomery
2 Law and Safety Committee of City Council Meeting
3 March 7, 2022
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7 **Present**

8 Brian Riblet, City Manager
9 John Crowell, Chief of Police
10 Tracy Henao, Asst. City Manager
11 Paul Wright, Fire Chief
12 Greg Vonden Benken, Asst. Chief of Police
13 Gary Heitkamp, Public Works Director
14 Terry Donnellon, Law Director
15 Connie Gaylor, Clerk of Council
16

Committee Members Present

Ron Messer, Chair
Ken Suer
Sasha Naiman

17 **Guests**

18 J.P. Burleigh, Esq.
19

20 The Law and Safety Committee of Council convened its meeting for March 7, 2022 at
21 3:30 p.m. with Mr. Messer presiding.
22

23 **Update on No Engine Brake Discussion**
24

25 Mr. Heitkamp began the discussion by explaining that at the December 6, 2021, Law and
26 Safety Committee of Council meeting, information was provided regarding a request for
27 creating a "No Engine Brake" zone on Cross County Highway due to noise caused by
28 trucks applying their engine brakes (aka jake brakes) and installing "No Engine Brake"
29 signs. At the December meeting, the Committee requested that Staff perform some
30 additional tasks pertaining to the matter, including taking additional truck counts (and
31 the number of trucks that apply their engine brake) on eastbound Cross County Highway
32 and taking noise level readings along the properties of Kennedy Lane that abut the
33 highway.
34

35 Mr. Heitkamp explained that CT Consultants performed an additional truck traffic count
36 on Cross County Highway to obtain another "sample" of truck traffic experienced in the
37 eastbound direction of Cross County Highway during a typical weekday. Identical to the
38 counts performed on October 6, 2021, CT Consultants was tasked to count all trucks
39 (both single unit trucks and tractor-trailer trucks) heading east on Cross County Highway,
40 and to count the number of trucks that emitted noise consistent with application of an
41 engine brake. The count was performed on Thursday, February 17, 2022, which was
42 randomly chosen, from 6:00 AM and 6:00 PM. A total of 117 trucks were counted, of
43 which none applied an engine brake. The complete results of the count are attached.
44

45 Mr. Heitkamp stated that in addition, the Montgomery Police Department took sound
46 measurements on February 16, 2022, and February 28, 2022. He explained that on
47 February 16 around 1:30 PM, Chief Crowell parked on Kennedy Lane near 7640 Kennedy
48 Lane with a view of Cross County Highway between homes. The location was 275-feet
49 from the highway. Chief Crowell turned his vehicle off and held the noise meter outside
50 of the vehicle window to take readings for about 30 minutes. The ambient noise reading
51 from wind, trees blowing, etc., was 56 decibels. Disregarding noise made from vehicles
52 passing on Kennedy Lane, the highest reading from traffic on Cross County Highway
53 reached 68 decibels. During the 30 minutes, Chief Crowell only observed one semi-truck,

54 and it was accelerating in the westbound direction, registering 63 decibels. No engine
55 braking was heard during his measurements.

56
57 Mr. Heitkamp explained that on February 28 around 10:45 AM, Chief Crowell parked on
58 Cross County Highway and stood up against the tree line on the south side of the highway
59 close to the fence of 7550 Kennedy Lane, 25-feet away from the pavement edge. Chief
60 Crowell took readings for about 20 minutes, during which time the ambient noise reading
61 was 54 decibels, and the highest reading was 82.8 decibels when a dump truck was
62 traveling eastbound (no engine brake was applied). The next highest reading was 81.5
63 when a concrete truck was traveling eastbound (no engine brake was applied). Most
64 traffic traveling eastbound was measuring in the low 70's decibels. No engine brakes
65 were heard during the 20 minutes.

66
67 Mr. Heitkamp explained that with this additional information, Staff does not feel it is
68 necessary to enact an ordinance prohibiting the use of engine brakes and installing "No
69 Engine Brake" signs on Cross County Highway. This is based on several considerations:

- 70
- 71 • The most recent counts demonstrate a very low percentage of trucks are applying
72 their engine brakes at the location.
 - 73 • The noise level readings taken both from Kennedy Lane and in close proximity to
74 Cross County Highway were not excessive, and no truck applied the engine brake
75 during the times of the readings.
 - 76 • The ineffectiveness of a "No Engine Brake" ordinance and associated signage. It is
77 Staff's opinion that these ordinances and signs are at best suggestive as an officer
78 would need to be on site in real time to issue a citation.
 - 79 • The majority of noise generated from Cross County Highway traffic is not a result
80 of engine brake application. Staff has experienced very similar increased noise
81 levels at the subject location when trucks are accelerating in the west bound
82 direction.
 - 83 • Truck traffic volume has been higher than normal over the past couple of years
84 due to the construction of the roundabout project, the on-going construction of
85 the Montgomery Quarter development project, and most recently construction of
86 a new parking field at Moeller High School. Once construction is concluded, it is
87 anticipated the number of trucks entering and exiting Cross County Highway will
88 reduce, and thus the subsequent noise will be diminished. The completion of the
89 Moeller lot may be the best evidence that the problem has been eliminated when
90 comparing the analysis from October 2021 to February 2022.
 - 91 • Staff has received minimal complaints over the past couple of years regarding the
92 noise of Cross County Highway, even with the amount of construction activity
93 occurring in close proximity to Kennedy Lane and Hartfield Place.
 - 94 • Staff feels that enacting a "No Engine Brake" ordinance would be difficult to
95 enforce.

96 Mr. Heitkamp closed stating that staff would recommend we continue to monitor the
97 truck traffic and resultant noise to determine if further action is warranted in the future.

98
99 Mr. Suer explained that he also spent two days visiting the area to observe traffic for this
100 issue. He stated that he parked at three separate locations, including the Burris property,
101 at different times in an effort to gauge the presence of the use of Jake Brakes as well as
102 the noise level. He stated he heard no Jake Brake noise on any of these occasions. He

103 stated the loudest noise he heard was from a car dragging a muffler. He added that he
104 also spoke with a resident and asked if they heard the use of Jake Brakes and they
105 responded they did not.

106
107 Mr. Messer stated that he also had went to the area on two separate occasions to observe
108 traffic. He stated that he walked different areas at different times and that he did hear a
109 loud truck who was accelerating while going west bound on Ronald Reagan. He stated
110 other than that instance he did not hear the use of Jake Brakes.

111
112 Mrs. Naiman explained that based on the data reported, the use of Jake Brakes is low.
113 She stated that she felt that the intermittent noise could be a result of construction from
114 the Montgomery Quarter.

115
116 Mr. Riblet added that construction was simultaneously occurring at the Montgomery
117 Quarter as well as the student parking lot of Moeller High School.

118
119 Mrs. Naiman stated that she is hesitant to create a broad scale Ordinance for this issue as
120 the police department would not be able to assign an officer to this area for the single
121 purpose of attempting to hear for the use of jake brakes and citing for it. She stated if
122 there was a way of communicating with construction companies to request their drivers
123 refrain from using their jake brakes that may be a better control measure. She stated she
124 understood this would be a difficult ordinance to enforce.

125
126 Mr. Riblet stated that traffic will ebb and flow due to ongoing construction at the
127 Montgomery Quarter. He added that staff has contacted the project manager to discuss
128 the use of Jake Brakes by all contractors working on the project.

129
130 Mr. Burleigh, counsel for Mr. Burris, thanked staff and the Committee for their efforts put
131 into the research of the issue. He stated that no one can predict the use of jake brakes.
132 He explained that in the study conducted in October of 2021 there were 32 incidents
133 reported that he felt would be very disruptive. He stated that while he understands the
134 concern of the effectiveness of enforcing a No Engine Brake zone that Mr. Burris does
135 not expect an officer to be stationed in the area. He stated that he felt a sign would be
136 helpful in alerting drivers to not use their jake brake. He added that he did not feel the
137 research shows the decibel level of an engine brake is comparted to an ambient level
138 near roundabout.

139
140 Mr. Donnellon stated that an ambient noise level of 60 decibels is a something that people
141 are already hearing on a day to day basis. He stated that the noise from acceleration
142 could not be regulated.

143 Asst. Chief Vonden Benken explained that Chief Crowell parked on Ronald Reagan,
144 approximately 25 feet from the pavement with a noise measuring device which registered
145 70 decibels. He explained that residents on Kennedy Lane would hear noise as the
146 properties were right next to a highway. Both Asst. Chief Vonden Benken and Chief
147 Crowell would not suggest a sign but would recommend staying in touch with
148 contractors in an effort to defray the use of jake brakes.

149

150 Fire Chief Wright added that the large fire trucks have jake brakes and they do not make
151 the loud popping noises that are associated with jake brakes. He stated he felt it was the
152 choice of the type of brakes used by large trucks.

153
154 Mr. Riblet added that as part of the roundabout construction the City was required to
155 complete a noise study on Ronald Reagan and if the study would have resulted in data
156 outside of acceptable range by ODOT that the City would have been required to install
157 noise barrier walls and we were not.

158
159 Mrs. Naiman asked if it would be helpful to install temporary signage during construction
160 projects to warn people to slow down due to the change of traffic pattern with the
161 roundabout.

162
163 Mr. Heitkamp replied that the required signs are up that state "Construction Ahead" which
164 imply an intent to slow down but do not specifically say that. He stated that he would
165 look into installing "Reduced Speed Ahead" signs to be clearer.

166
167 Mr. Heitkamp explained that it was staff's recommendation to not install "No Engine
168 Brakes" signs but to continue monitoring the issue to determine if there is a need for
169 further action.

170
171 Mr. Suer made a motion to accept staff's recommendation. Mrs. Naiman seconded. The
172 Committee unanimously agreed.

173
174 Mr. Burleigh added that he was concerned about the issue of safety of the roundabout
175 and asked if there will be an ongoing study of data of accidents in the roundabout.

176
177 Mr. Heitkamp replied that staff is monitoring the safety of the roundabout and that the
178 police department can pinpoint the locations of accidents within the roundabout to
179 pinpoint where improvements in signage could be made.

180
181 **Other Business**

182
183 The Committee discussed the news that the City of Madeira passed a Dangerous Wild
184 Animal Law. They asked staff if that was something of concern to the City.

185
186 Mr. Riblet stated that from time to time there is a question about coyotes but that it has
187 not been an issue.

188
189 Ms. Henao explained that the City passed an Exotic Animal Ordinance in 2015 prohibiting
190 the keeping of dangerous animals.

191
192 **Minutes**

193
194 Mr. Suer made a motion to approve the minutes of the February 7, 2022 meeting. Mrs.
195 Naiman seconded. The Committee unanimously approved the minutes.

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200

Adjournment

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202 Mrs. Naiman made a motion to adjourn the meeting. Mr. Suer seconded. The Committee
203 unanimously agreed.

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205 The Law and Safety Committee meeting adjourned at 4:14 p.m.

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Chair of Law and Safety Committee of City Council