

NEW JERSEY NOISE CONTROL COUNCIL MEETING
APRIL 13, 2010
MINUTES

NCC ATTENDEES: J. Lepis (Chairman, Civil Engineer), A. Schmidt (Vice Chairman, Public Member-Registered Environmental Health Specialist), J. Feder (Secretary, Public Member-pending confirmation), R. Hauser (DOL, Member), C. Accettola (Public Member-pending confirmation), I. Udasin (Public Member-Medical Doctor), T. Pitcherello (Member-NJDCA), N. Dotti (Public Member), M. Klewin (NJ Motor Vehicle Commission), John Kapferer (Public Member), John Surmay (Public Member – Local Governing Body), Eric Zwerling (RTNAC), D. Triggs (NJDEP).

I. ADMINISTRATIVE

Minutes of the March 9, 2010 meeting were reviewed. A number of corrections and changes were suggested. Updated minutes will be reviewed at the next meeting in May. It has been reported that the Christie Administration has been examining the role of various Councils as part of an effort to reduce costs and streamline government. Since NCC volunteers perform a valuable service with no budget or cost to the state, Chairman Lepis and Mr. Zwerling volunteered to prepare letters clarifying the role and value of the NCC as input to the state council review process. Chairman Lepis confirmed his plans to give a presentation on NCC activities at the April 14, 2010 Clean Air Council meeting.

II. WIND TURBINE POWER GENERATION

There was a brief discussion of what aspect of the facility was causing the noise at the Ocean Gate wind turbine electric generator – whether it was caused by gears, fan blades, or some other aspect. Secretary Feder had visited the facility over the previous month, but unfortunately, it was not on a windy day; the fan blades were stationary and the facility was silent. Mr. Dotti’s planned visit had been postponed from the previous month and he intends to visit this coming month. Hopefully there will be sufficient wind during his visit to allow measurement and evaluation of the sounds produced.

III. MODEL CODE

3.1 Motor Vehicles

The requirement for a “grace period” for minor environmental violations has presented a problem with respect to enforcement of sound arising from motor vehicle exhaust and music amplification systems. The likelihood of the same officer encountering a repeat offender for a second offence after the “grace period” is small. Vice Chairman Schmidt had prepared alternative versions of Section X of the Model Ordinance, which covers motor vehicles, to help frame the discussion. Discussion focused on whether or not disabled/malfunctioning MV exhaust systems and amplified music (from MVs as well as non-vehicular sources) should be considered “purposeful” and therefore “non-minor” violations. Most in the group felt that it was reasonable to consider such violations purposeful and therefore “non-minor.” Chairman Lepis’s felt, based on his understanding of the grace period law, that the concept and language, which absolutely assigns guilt, should be

reviewed by Debbie Pinto of the DEP, and, if necessary, by the Deputy Attorney General. The group voted overwhelmingly [8 in favor; 1 opposed] in favor of a resolution to have draft language that would consider the above noted violations, plus violations from excessive sound from non-vehicular, portable, self contained, sound production systems, as “non-minor.”

There was some additional discussion as to who would be cited in a violation. The sense was that this would normally be the owner of the vehicle. Finally, DEP enforcement requires Notice of Violation and Notice of Penalty Assessment documents to have specific language, and, due to the traceability of local enforcement of the state code, the question was raised as to whether a police summons would even suffice.

3.2 Other Issues

There was some discussion of the degree to which portions of the Model Ordinance could be rendered optional. A municipality can remove or modify provisions, but such modifications are subject to review by the Department of Environmental Protection. No explicit provisions have been placed in the Model Ordinance to render particular sections optional.

Secretary Feder had pointed out in email prior to the meeting that language placing hourly restrictions on landscaping and home maintenance work unless they met stated sound limits, left this sound unregulated during other hours. His fear was that the limits were more lenient than in N.J.A.C. 7:29. Several members pointed out that the N.J.A.C. 7:29 limits applied to noise from industrial, commercial, public service or community service facilities, where the definition of commercial facilities does not include facilities with six or fewer dwelling units. Therefore, the Model Ordinance does insert additional regulation beyond N.J.A.C. 7:29. Whereas the regulatory effects of N.J.A.C. 7:29 are limited in terms of the source of the noise, the Model Ordinance is more inclusive with respect to the types of activities that might create noise.

IV. NEXT MEETING

The next scheduled meeting is on May 11, 2010.

Respectfully submitted:

Jerome Feder