

NEW JERSEY NOISE CONTROL COUNCIL MEETING
December 11, 2012
MINUTES

NCC ATTENDEES: A. Schmidt (Vice Chairman, Public Member-Registered Environmental Health Specialist), J. Feder (Secretary, Public Member-pending confirmation), R. Hauser (DOL, Member), I. Udasin (Public Member – Medical Doctor), Drake Rizzo (Member-NJDCA), S. Szulecki (Public Member-pending confirmation, Ecologist), Eric Zwerling (RNTAC), D. Triggs (NJDEP).

I. ADMINISTRATIVE

Since Chairman Lepis was absent, the meeting was run by Vice Chairman Schmidt. Draft minutes of the October 9, 2012 were reviewed but final review was deferred to January pending a quorum.

II. NCC OPERATING PROCESS AND BYLAWS

A number of administrative items were discussed. It was also pointed out that the group has not held a public meeting in some time. Several good candidate issues were mentioned. There was consensus that there needed to be more formality and attention to procedures for determining whether a scheduled meeting should be cancelled and the timing of related notifications.

There was extended discussion regarding quorums and membership status. The lack of formal approval of Secretary Feder, Mr. Accettola, and Mr. Szulecki, for which appropriate applications have been submitted without response, and who have each served actively on the NCC for several years, combined with the failure of the Motor Vehicle Commission and the Department of Health and Senior Services to appoint members, as is statutorily required, has created a situation in which it is difficult to achieve a quorum based on the total of official positions in the NCC. However, Mr. Zwerling performed a detailed examination of the Bylaws and found the following provision: “SECTION 3: VACANCIES - No vacancy in the membership of the Council shall impair the right of a quorum to exercise all the rights and perform all the duties of the Council.” The Bylaws also provide that, absent unusual circumstances, absence at three consecutive meetings essentially renders the position “vacant” and direct the NCC to attempt to fill those positions. There was discussion of possibly lowering the quorum requirements to take into account vacancies. Going forward, there was consensus that it was critical to immediately send a letter to Motor Vehicle Commission and the Department of Health and Senior Services informing them of their obligation to each appoint active representatives. Secretary Feder, who has been active on the NCC for a number of years, stated that it was also unreasonable to allow the delay in formal approvals to impede the performance of the duties of the NCC, and suggested that since there have been no approvals granted of anyone for many years, there be a means to move to formal membership status the applications for long term participating members that have experienced unreasonable delays in the approval process. It was agreed that the January meeting will take up Bylaw revisions to address the issues previously described. Mr. Triggs agreed to distribute electronically the latest version of the Bylaws.

II. NCC LETTER OFFERING HELP TO NJDEP IN REVIEWING EIS

There was question as to whether the EIS letter unanimously adopted at the October meeting had actually been distributed. Mr. Triggs stated that it had not yet been received by the designated recipients. It was later determined that the letter was in the process of being issued.

III. FIRE SIRENS

A municipality within Bergen county has recently experienced conflict regarding the installing a new electronic siren at a site near a school, replacing the siren that was previously there. There was a sense that the previous siren had been there for some time and was therefore “grandfathered,” but that the replacement by a new one should be reviewed with respect to conformance with state and local noise regulations. It was brought out that the siting of the siren may have been done for maximum audibility. There was an extended discussion of the nature of usage of the signaling device and what were the applicable regulations; some off-line research was necessary. However, this also prompted the seeking of interim action. The siren was being exercised at noon every day, and regardless of applicable regulations, and due to proximity to the school, was disruptive to the education of the children. This situation is sufficiently undesirable to warrant seeking action to minimize negative impacts. In that regard, several questions were asked: 1) what were the manufacturer’s recommendations in terms of how frequently the siren system needed to be tested; did the system need to be tested every day? 2) did the testing need to include the final sound device or could correct operation be verified by testing the electromechanical components without activating the actual sound device? 3) given the location near a school, could the testing be performed outside the normal school day; i.e. after 3PM?

IV. ROAD CONSTRUCTION

Vice Chairman Schmidt stated that there was currently repaving work underway on Sections of Route 28 in the town of Westfield (Union County) that ran through residential areas. To minimize traffic disruption, the town had arranged with the Department of Transportation (DOT) for the work to be conducted at night. However, this resulted in significant noise at night, disrupting local residents. No Environmental Impact Statement had been performed. A Notice of Violation (NOV) has been issued by the Westfield Regional Health Department to the contractor. Mr. Schmidt said the Health Department has been advised that the work may be shut down in the next week or two and start up again in March. Mr. Triggs stated that the NOV might have been more appropriately issued to the DOT. The legalities of the situation were unclear, specifically whether a locality could enforce violations by a state agency using a municipal ordinance. Because of the normally heavy daytime traffic on Route 28, there is a legitimate reason to perform the work at night. It was suggested that Mr. Schmidt recommend that the Town of Westfield seek a meeting with both the contractor and the DOT to press for more sensitivity to the construction environmental impacts and to encourage effort to minimize this. Mr. Zwerling suggested that a possible area for contribution by the NCC would be the creation of a set of environmental “best practices” or guidelines for the DOT if these do not already exist.

V. NEXT MEETING

The next meeting scheduled for January 8, 2013. Vice Chairman Schmidt agreed to prepare an agenda in advance covering some issues and suggestions raised during the meeting, including possible suggestions for a public meeting.

Respectfully submitted:

Jerome Feder, Secretary

Approved by: J. Lepis, Chairman