

NEW JERSEY NOISE CONTROL COUNCIL (NCC)
OCTOBER 10, 2017
MEETING MINUTES

ATTENDEES: Arnold Schmidt (Chairman, Public Member), Steve Szulecki (Vice Chairman, Public Member, Ecologist), Randy Hauser (Department of Labor), Salvatore Fama (Motor Vehicle Commission), John Lugo (Department of Community Affairs), Eric Lieberman (Department of Health), Dr. Iris Udasin (Public Member, Medical Doctor), Joseph Lepis (Public Member, Civil Engineer), Norm Dotti (Public Member, Industrialist), Jerome Feder (Public Member), John Kapferer (Public Member), Jerome Feder (Public Member), Joseph DiFillippo (Candidate Member), Eric Zwerling (Director, Rutgers Noise Technical Assistance Center) and David Triggs (Department of Environmental Protection, Noise Control Council Liaison).

MEETING MINUTES

Norm Dotti motioned to accept the September meeting minutes without change. Joseph Lepis seconded. All were in favor so the motion passed.

CHAIR REPORT:

- Chairman Schmidt requested that David Triggs give an update regarding the NCC's request for a DAG's advice on the Mercer County Park concert venue noise complaint. The NCC asked whether the municipality could enforce against the county and whether the "public celebration" exemption in N.J.A.C. 7:29 applies. Mr. Triggs informed the NCC that the DAG stated that there is a precedent of prior agency policy indicating that concerts on "state" property are not exempted. New Jersey statutes do not define celebrations outside of relating to holidays. Likewise, the regulations or case laws do not define celebration either. Internet and dictionary definitions generally refer to it as a "social gathering" and more broadly as "being part of a festival." The DAG conveyed that referring to a concert as a "celebration" would not stand if it went to litigation. As far as the municipality enforcing against the county, the DAG stated that a "superior public authority is immune from municipal ordinances," and thus "likely" cannot enforce a locally adopted noise ordinance against a county-owned park. Prior to the DAG's advice, the DEP advised the Mercer County Division of Public Health to take sound level measurements to establish whether a violation exists and to hold off on enforcing pending the DAG and NCC's recommendations. The complainant was provided with the county hotline number and was encouraged to call if the noise was found to be too loud. The NCC will come up with their own definition for "public celebration" and include it with the amendments to N.J.A.C. 7:29.
- Dr. Udasin and Jerome Feder did in fact receive questionnaires from the Governor's Office to fill out as part of their re-appointment to the NCC.

NCC COMMUNICATIONS/CORRESPONDENCE:

- Refer to item one in the Chair Report.

OLD BUSINESS:

- *Roundtable Part 150 Study:* There will be a Technical Advisory Committee meeting on November 8.th
- *Motor Vehicles Entering and Exiting Properties:* The question of backup beepers came up and whether a delivery truck such as UPS would be considered part of a facility's operations. If the property owner has no control over what vehicles enter, should they be responsible for the noise they create? Eric Zwerling recommended tabling the subject for future discussion as a separate agenda item. The NCC agreed.
- *N.J.A.C. 7:29 Revisions:* **Chairman Schmidt** recommended forming a subcommittee to speed up the process by dedicating the entire subcommittee meeting to revising N.J.A.C. 7:29. Joseph Lepis recommended dedicating every third regular meeting to the revision process but Chairman Schmidt stated that something else always comes up as a distraction. Salvatore Fama conveyed that a subcommittee would exclude NCC members not on it from being heard. Eric Zwerling pointed out that many school boards are broken down into subcommittees, which proves to be more efficient. Subcommittee findings and recommendations are then presented to the board, which then votes on accepting or denying the recommendations. Eric Lieberman motioned that a subcommittee be formed and Joseph Lepis seconded. All were in favor except Mr. Fama so the motion passed. Chairman Schmidt stated that the Chair and Vice Chair should be on the subcommittee, as well as Eric Zwerling and David Triggs, each representing Rutgers and the NJDEP respectively. He also recommended that Joseph Lepis be appointed as a member due to his extensive experience with the Noise Control Regulation amendment process. He then requested volunteers and Norm Dotti and Salvatore Fama asked to be included. John Kapferer motioned to accept the subcommittee with Joseph Lepis seconding. All were in favor, except Mr. Fama, so the motion passed. Chairman Schmidt preferred to wait until after the November NCC elections are conducted before scheduling a date for the first subcommittee meeting.

Eric Zwerling submitted his suggested changes to N.J.A.C. 7:29 the day before the NCC meeting via e-mail, so not all of the members had a chance to review them. Any discussion regarding his suggested amendments was therefore tabled.

Chairman Schmidt handed out a list of specific regulatory topics and definitions as a basis to start with the revisions to N.J.A.C. 7:29.

Landscaping equipment: It was agreed that landscaping equipment is an important source of noise that should be addressed by the subcommittee. Landscaping equipment on commercial property is covered under 7:29, while it is not on residential property. The Model Ordinance does include a section that curfews landscaping equipment on residential property. The idea of transferring the language in the Model to the Code should be part of any future discussion.

Stationary warning device: The stationary warning device section of the Code requires significant revisions. Steve Szulecki volunteered to draft amendments to present to the subcommittee.

Agricultural exemption: Salvatore Fama recommended that activities on farms such as concerts, fall festivals, tractor pulls and anything associated with amplified sound, should be exempt. Eric Zwerling is proposing that amplified sound must meet with the current sound level standards. The State Agricultural Board has indicated support for this. Any event should somehow be related to promoting the farm and selling products grown there and should be conducted using the "best management practices." The definition for agriculture in N.J.A.C. 7:29 should be the same as the definition used by the Department of Agriculture.

NEW BUSINESS:

None of the members presented new business.

PUBLIC DISCUSSION

There was no public discussion.

EXECUTIVE SESSION:

There was no need to go into Executive Session.

NEXT MEETING:

The next meeting is on November 14th at 9:30 A.M.

Respectfully submitted by: David Triggs, NJDEP Liaison to the NCC