

NEW JERSEY NOISE CONTROL COUNCIL MEETING

February 12, 2013

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), I. Udasin (Public Member – Medical Doctor), N. Dotti (Public Member), Drake Rizzo (Member-NJDCA), C. Accettola (Public Member-pending confirmation), J. Kapferer (Public Member), S. Szulecki (Public Member-pending confirmation, Ecologist), Eric Zwerling (RNTAC), D. Triggs (NJDEP).

I. ADMINISTRATIVE

Draft minutes of the January 8, 2013 meeting were reviewed and approved with minor corrections. The December 11, 2012 minutes contained discussion of membership status, quorums, and Bylaws (see below) and Chairman Lepis requested that approval be deferred.

The January 8 meeting discussion on sirens had surfaced possible inconsistencies in a section of NJAC 7:29. It was suggested that a “running list” be kept of areas needing to be addressed in the next version. Vice Chairman Schmidt agreed to keep this “running list.” The current NJAC 7:29 expires in 2019. Given the length of time to formulate and adopt changes, it was suggest that the group begin to work on the next version in 2017.

II. NCC MEMBERSHIP AND QUORUM DEFINITION

Secretary Feder has been waiting for years for Governor approval of his membership, despite a number of submissions of his application. (He has served as NCC Secretary for almost five years.) Similar inaction has uniformly affected all other NCC membership applications, to the extent that no applications have been approved for many years, despite multiple submissions across two prior administrations. Current formal membership consists exclusively of representatives of designated governmental agencies, who do not need Governor approval, and public members, whose status has not been renewed, but retain status due to “grandfathering.” Despite good attendance, the February 12 meeting lacked the seven members to meet a seven member numerical quorum definition. Furthermore, the lack of approvals on three public members has resulted in protracted deviation of membership makeup from the legislative directives of the 1971 Noise Control Act (NCA). Secretary Feder stated that the NCC needed to take action in clarifying the Bylaws to bring NCC membership and operation into conformance with the larger legislative directives of the NCA, which failed to foresee extended non-functionality of the approval mechanism.

Although some effort address the quorum problem was begun at the December 11, 2012 meeting, in a conceptual discussion of adjusting quorum definitions to account for vacancies, the consensus of the group was that a better way of accomplishing this was to treat participants whose applications had been properly submitted, yet experienced non-response by the Governor’s office for six months, as members for the purpose of establishing a quorum. Mr. Dotti drafted and read a preliminary resolution to this effect which received near unanimous support among those present. Mr. Dotti will forward his language to Secretary Feder who volunteered to add contextual information and then circulate to the group via email for refinement and vote at an upcoming meeting.

III. NCC LETTER REQUESTING PARTICIPATION BY MOTOR VEHICLE COMMISSION AND DEPARTMENT OF HEALTH AND SENIOR SERVICES

Chairman Lepis reported that the letters have been sent.

IV. TREATMENT OF A CONDOMINIUM COMPLEX

The minutes discussion prompted a request by Mr. Zwerling for the NJDEP to prepare a letter declaring that condominiums be treated as multi-use properties. Mr. Triggs stated that we should amend the Model Ordinance to include language (subject to approval by the NJDEP) that can be cited or used in a policy statement. It was noted that there already exists some considerations of condominiums, in that the definition of “person” includes a condominium. There was consensus that the issue of treatment of condominiums needs further discussion.

V. EMERGENCY GENERATORS

Impending widespread deployment of emergency generators following hurricane “Sandy” has moved emergency generators to the top of the list of noise issues needing to be addressed. Mr. Zwerling stated that local health officers are looking for guidance. The initial portion of the discussion consisted of members voicing perspectives which were often strong and sometimes in conflict. There was a sense that emergency generators should comply with the 65 decibel day 50 decibel night limit for non-emergency testing. However, few, if any generators could meet a 50 decibel restriction during emergency night-time use. There was a sense that use of generators following failure of the commercial utility to supply power should be considered as an emergency. However, there was resistance to a position that, since it is an emergency, any noise level should be permissible and tolerated, since users have ability to reduce impacts by selection of quieter generators, siting in a manner not to bother neighbors, noise shielding, and avoiding use during periods when noise is most objectionable.

- 1) Chairman Lepis attempted to insert structure into the discussion by some categorization: 1) fixed permanent installations vs portable temporary; 2) residential vs commercial. Fixed permanent installations generally receive scrutiny and approval by town building departments, whereas small portable units are simply purchased and used without any review.
- 2) Mr. Zwerling, in an attempt to move to a simple, clear cut, rule, proposed a 65 decibel limit for day and night use of generators during an emergency. Mr. Szulecki felt that 65 decibels would be unacceptable in condominiums and close quarter dwellings.
- 3) There are large differences in noise, especially for the small portable generators. Rather than a simple policy of allowing all portable generators in an emergency, it might be best to establish sound level limits, including use during an emergency, that would encourage quieter generators and discourage usage during hours when they would be more objectionable.

Several members suggested that review of policies in other jurisdictions might be helpful in setting policy. Furthermore it was suggested that the NCC prepare a list of “best practices” with respect to the treatment of emergency generators. Since it was already 12 noon and several members had to leave, the emergency generator discussion will be continued at a subsequent meeting.

V. NEXT MEETING

The next meeting scheduled for March 12, 2013.

Respectfully submitted:
Jerome Feder, Secretary

Attested by: J. Lepis, Chairman