

**NEW JERSEY NOISE CONTROL COUNCIL MEETING**  
**January 8, 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), R. Hauser (DOL, Member), 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).

**GUEST:** Michelle Dartley (Englewood Cliffs resident consulting with the NCC on siren issues)

**I. ADMINISTRATIVE**

Draft minutes of the October 9, 2012 meeting were reviewed and approved with minor corrections. Review of the December 11 minutes led to an extended discussion of membership status, quorums, and bylaws (see below) and approval was deferred. Since a member of the public was present seeking to consult on the Englewood Cliffs siren, the agenda was adjusted to address the siren topic first.

**II. SIRENS**

Michelle Dartley of Englewood Cliffs attended the meeting to consult with the NCC on her town's efforts to replace a conventional siren with an electronic one. The old siren was located on the site of a previous Firehouse, which had been subsequently converted into a senior center. The siren was near both a school and children's playground. It was reportedly utilized about 300 times a year for what appeared to be primarily or exclusively local emergencies. The Town sirens were the subject of both local complaints and a lawsuit. Ms. Dartley reported that the Town had not considered alternate, less sensitive, sites for the siren. Mr. Dotti disclosed that he had been involved in measurements of the siren and that the NCC should take his involvement into consideration when considering any comments that he might make. His measurements of the siren showed A-weighted levels of 112 decibels in a school playground about 100 feet away, which far exceeds NJ state requirements for both day and night regulated sound. (Emergency sirens are generally exempt from these limits.)

The extended discussion included whether the siren was "grandfathered" and how the particular situation related to NJAC 7:29-1.4 requirements for "Stationary Emergency Signaling Devices." The sense of the NCC members present was that further research was needed on the contents of a possible position letter by the NCC. Some issues were: 1) When the firehouse was converted into a senior center, did the usage lose its exemption from NJAC 7:29 requirements prohibiting the siren near a school? 2) Did the upgrade of the siren from mechanical to electronic, which also accepted voice, result in loss of "grandfather" status? 3) Was the siren truly a dual use signaling device used for both local and FEMA signaling needs, thereby qualified for NJAC 7:29 exemptions.

The Town's position is that the siren is a replacement for one that was already there and also that it qualified for the dual use exemption. However, some members present felt that the siren was an upgrade and not a replacement. In responding to the dual use claim, it was questioned whether the siren was, in fact, subject to dual use, i.e. were any of the 300 usages over the past year for other than local signaling needs? Furthermore, it was brought out that there are sound level and sound distribution requirements for an emergency signaling device for FEMA, which it was questionable whether the Town's signaling

arrangement met. It was suggested that Ms. Darley investigate whether documentation exists as to whether the siren had met certification requirements for FEMA or other dual use that the Town was claiming. Pending Ms. Dartley's investigation and possible off-line research by NCC members, the issue may again be taken up at a subsequent NCC meeting.

The close reading of NJAC 7:29 prompted by this siren investigation pointed out possible inconsistencies that should be reviewed, and possibly repaired, for the next revision of NJAC 7:29.

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

Neither the NJ Motor Vehicle Commission nor the Department of Health and Senior Services has participated actively in the NCC for some time, resulting in a loss of their perspective and expertise on issues and resulting in frequent difficulties in achieving a quorum. Draft letters to both organizations requesting participation were reviewed and finalized.

### **IV. NCC MEMBERSHIP AND QUORUM DEFINITION**

The combination of failure to obtain approval (or any response at all) to the long pending applications for three NCC members, who have been attending meetings and participating for an extended period, prompted a discussion of practical steps to enable the transaction of NCC business. Chairmen Lepis argued for a strict numerical interpretation of quorum requirements (seven in Noise Control Act and Bylaws), whereas several other members argued that current bylaws permitted, and in fact directed, the taking into consideration of vacancies when determining a quorum. While letters are being sent, as previously described, to reduce the number of agency vacancies, prospects are poor that any of the existing pending public members will be approved in the foreseeable future, nor are any other approvals likely to be granted. The approval role of the Governor's office according to NJAC 7:29 is not being carried out. Secretary Feder stated that the NCC needed to make appropriate adaptations to the situation in order to continue to conduct its business going forward. A variety of alternatives were discussed, but conclusion was deferred to a future meeting.

### **V. NOISE FROM COMMON AREAS IN A CONDOMINIUM COMPLEX**

Mr. Triggs had received a phone call from a condominium board seeking advice on how to deal with a Notice of Violation (NOV) resulting from newly installed HVAC equipment in a condominium complex. Mr. Triggs sought advice from the NCC on how to deal with the situation. The situation brought out a number of issues constituting "grey areas" in current regulations: 1) much of the regulation seeks to address noise transitioning across a "property line," yet the notion of what constitutes a "property line" in a condominium complex is unclear; 2) since the condominium members are all part of the same organization, in effect the complaint that generated the NOV was for an organization issuing a complaint against itself; 3) based on the number of dwellings, the condominium complex would constitute a "commercial use, and there were questions on how that affected the regulation. Since the topic was introduced very late in the meeting, further discussion was deferred. Chairman Lepis offered a possible practical resolution to the situation by bringing out that condominium bylaws and offer statements were frequently detailed and explicit on what was permissible within the condominium and, although the specific documentation for the condominium in question was not available, Chairman Lepis thought that review of the condominium rules would likely help resolve the situation.

**V. NEXT MEETING**

The next meeting scheduled for February 12, 2013.

Respectfully submitted:  
Jerome Feder, Secretary

Attested by: J. Lepis, Chairman