

NEW JERSEY NOISE CONTROL COUNCIL MEETING

March 11, 2014

MINUTES

NCC ATTENDEES: A. Schmidt (Chairman, Public Member-Registered Environmental Health Specialist), J. Lepis (Vice Chairman, Civil Engineer), J. Feder (Secretary, Public Member-pending confirmation, Adjunct Advisory Committee -AAC), R. Hauser (DOL, Member), J. Kapferer (Public Member), S. Szulecki (Public Member-pending confirmation, AAC, Ecologist), I. Udasin (Public Member – Medical Doctor), D. Rizzo (Division of Community Affairs, Member), E. Lieberman (DOH, Member), D. Triggs (NJDEP).

I. ADMINISTRATIVE

- 1) Draft minutes of the February 11, 2014 meeting were reviewed and approved with minor corrections.
- 2) Mr. Triggs reported that a planned meeting with Assistant Commissioner Giordano regarding the Hoboken Model Ordinance and the Part 150 Resolution/Governor letter had been postponed and will take place on March 19th.
- 3) Mr. John Surmay, for personal reasons, has not been able to attend NCC meetings for at least a year. It was further ascertained that Mr. Surmay has not responded to inquiries from the Governor's office regarding his reappointment, rendering it uncertain as to whether he will be reappointed. The question was asked as to whether anyone could identify a possible replacement. Action was deferred pending hearing from the Governor's office.
- 4) Since Secretary Feder had to leave early at 11:15AM, Mr. Triggs agreed to cover the last portion of the meeting and communicate what transpired to Secretary Feder.

II. PART 150 STUDIES OF NEW JERSEY AIRPORTS

Secretary Feder reported that in December of 2013, the New Jersey Assembly passed Bill A4355, paralleling similar New York Bills, that would have required the Port Authority of New York and New Jersey (PANYNJ) to perform a Part 150 studies of its airports. The corresponding New Jersey Senate Bill expired in the Transportation Committee at the end of the legislative session. These events were rendered moot by the failure of Governor Cuomo of New York to approve the New York legislation. Governor Cuomo instead directed the PANYNJ to perform a Part 150 study of LaGuardia and JFK Airports and to form an aviation "Roundtable." The NCC had previously responded to the Governor Cuomo action with a Resolution and letter to the NJDEP Commissioner, requesting that he recommend similar action by Governor Christie for New Jersey airports. Mr. Ralph Tragale of the PANYNJ was present at the February 11, 2014 NCC meeting and was made aware of these actions. Subsequent to the February meeting, Vice Chairman Lepis was told by Mr. Tragale that the NY Part 150 effort would be extended to cover Newark Airport. Vice Chairman Lepis communicated this information to the NCC via email. Some NCC members expressed concern regarding the absence of a formal communication regarding this. Vice Chairman Lepis agreed to follow up with Mr. Tragale.

The PANYNJ action was to include a "Roundtable" for communicating and working through aviation noise issues affecting various constituencies. New Jersey was to be included in this Roundtable. Secretary Feder has been in email communication with parties in New York who have formulated a "Memo of Understanding" and "Bylaws" for the Roundtable and gave a brief report of status to date. New York State Senator Avella, as well as a number of groups in NY, have been involved in formulating the proposed Roundtable structure. This structure was described in a letter from Senator Avella's office to Mr. Patrick Foye of PANYNJ. The proposal is to have an umbrella "Roundtable" group plus individual Committees for the various involved airports. Secretary Feder agreed to email a copy of the Foye letter to the members of the NCC. The member list does not yet include NJ representatives and PANYNJ has not, to the best of Secretary Feder's knowledge,

contacted likely interested parties in NJ regarding this. Vice Chairman Lepis stated that he thought that the NCC should

be represented. The formation of the Roundtable remains a “work in progress” currently at an early stage. Furthermore, the scope of the Roundtable remains to be defined. It is unclear whether this would consist primarily of groups proximate to the key airports affected at the 65 DNL level and candidates for Part 150 noise remediation, or whether consideration would extend beyond the DNL 65 affected areas, in which case some areas of northern NJ and CT affected by possible changes in arrival routes would need to be included.

III. GUIDANCE DOCUMENT

Mr. Szulecki brought to the meeting a copy of the Guidance document, to which he had recently made significant additions and edits. Unfortunately, most of the NCC members present had not had a chance to review the extensive changes. Further discussion of the location for performing noise measurements (property line vs. where activities are conducted) had to be deferred, since Mr. Dotti and Mr. Zwerling, who have strong opinions on this were not present. Mr. Triggs had gone through the document and suggested some revisions, but Mr. Szulecki felt that some of the issues involved were sufficiently difficult to address that it would be best to defer discussion until the next meeting. As an example, Mr. Szulecki pointed out that there is a conflict involved in the NJAC 7:29 and Model Ordinance definitions for “Public Space” and “Community Service Facility.” While Public Space is defined as “all government owned property,” it is not a receiving category property. However, some Community Service Facilities such as DPW yards are government owned and operated and can be a receiving property. Chairman Schmidt requested that NCC members review the document so that a thorough discussion can take place at the April meeting.

IV. CITY OF HOBOKEN PROPOSAL TO LOWER THE PENALTY IN THE MODEL ORDINANCE

At the February 11 meeting, a discussion had begun regarding a request by the City of Hoboken to lower the maximum penalty from \$3,000 to \$2,000 in their Model Ordinance. Their attorney had expressed the view that another NJ statute set the maximum penalty for violation of a municipal ordinance at \$2,000, and therefore a higher penalty jeopardized the validity of the ordinance. The severability clause in the Model may provide a basis for which a municipality can modify their ordinance to lower the penalty. Some members felt that there may be a problem with the existing penalty amount, but it would require legal interpretation. David Triggs has a meeting with Assistant Commissioner John Giordano on March 19th to request Attorney General review of this issue.

V. BYLAWS REVISION

The Council Bylaws were discussed. Chairman Schmidt felt that forming a subcommittee was not needed at this time. Two issues were discussed: 1) The language describing voting “biannually” for Chair, Vice chair and Secretary needs to be changed; 2) The definition of a “quorum” reads differently in the By-laws than what is stated in the Noise Control Act. The Bylaws specify four public members must be present where the statute does not. The latter may end up being a moot point if the recommended appointments are approved by the Governor’s Office. The consensus was that revisions to the Bylaws should be tabled until new members are appointed.

V. NEXT MEETING

The next meeting is scheduled for April 8, 2014.

Respectfully submitted:

Jerome Feder, Secretary

Attested by: Arnold Schmidt, Chairman