

DECEMBER 14, 2021 MEETING MINUTES

ATTENDEES

NCC Voting Members: Arnold Schmidt (Chairman, Public Member), Steve Szulecki (Vice Chairman, Public Member, Ecologist), Randy Hauser (Department of Labor), John Lago (Dept. Community Affairs), Salvatore Fama (Motor Vehicle Commission), Dr. Iris Udasin (Public Member, Medical Doctor), Mark Roskein (Public Member), Jack Zybura (Public Member). Joe DiFillippo (Local Governing Body).

Rutgers and NJDEP Representatives: Eric Zwerling (Director of the Rutgers Noise Technical Assistance Center) and David Triggs (NJDEP Liaison to the NCC), Michelle Feasel (NJDEP Co-Liaison to the Council).

MEETING MINUTES

November 2021: Salvatore Fama emailed the NCC proposed revisions to the gun range exemption section of the minutes. His changes were discussed, and Randy Hauser motioned to approve the minutes as amended with Jack Zybura seconding. All were in favor, except for John Lago, who abstained since he did not attend the November meeting. The motion therefore carried.

CHAIR REPORT

- *DOH NCC Vacancy:* A formal letter signed by Chairman Schmidt was sent to the Department of Health's Commissioner, requesting that the NCC Ex-Officio vacancy left by Eric Lieberman be filled.
- *Gun Range Issue:* The farmer who complained about a gun range expanding into a skeet shooting range near his home, reached out to Chairman Schmidt about attending the December NCC meeting. Chairman Schmidt informed him that there was a full agenda, but he was still welcome to attend, however, he would have limited time to speak. Chairman Schmidt added that there would likely be more time available at the January meeting. The farmer stated that he would therefore attend the next meeting. After he presents his position to the NCC, Chairman Schmidt will reach out to the gun range owner to see if he'd like to attend a meeting to present their side. Upon hearing from both parties, the NCC will prepare a position statement.

COMMUNICATIONS

No correspondence to report.

NEW BUSINESS

No new business was discussed.

PUBLIC DISCUSSION

There was no public discussion.

OLD BUSINESS

- *Hunting Exemption:* Salvatore Fama prepared a PowerPoint presentation to outline his proposed “Hunting” exemption. There was some discussion on whether this topic needed to be given priority status. The NCC is still in the process of re-adopting N.J.A.C. 7:29 with amendments that are considered technical in nature. Most members of the NCC stated that adding a new exemption would result in a policy shift which would require another stakeholder meeting that would delay the Rule Making process. Mr. Fama said that it should be included as the Code currently prohibits hunting. Chairman Schmidt disagreed and Steve Szulecki pointed out that there have been no cases regarding noise from hunting and even if there were, it wouldn’t prevent one from doing so, as N.J.A.C. 7:29 regulates noise not hunting. Jack Zybura added that the proposed new changes to the Agricultural and Public Celebration definitions might require another stakeholder meeting. Mr. Szulecki pointed out that although the language was amended for further clarification of existing exemptions the topics were in fact discussed at the stakeholder meeting. In addition, once the amendments are approved, they will be posted in the New Jersey Register and the public will have the opportunity to comment. The “Agricultural activities” and “Public celebrations” exemptions have delayed the process of submitting the NCC amendments for DEP attorney review. Chairman Schmidt motioned to focus this meeting on the Agricultural and Public Celebration exemptions and Mark Roskein seconded. All were in favor, so the motion passed. Note: During the February review of the meeting minutes there was a disagreement regarding whether excluding consideration of a hunting exception was included in the language of the motion
- *Agricultural Exemption:* An updated handout with the “Agricultural activities” exemption and definition was handed out. Steve Szulecki reiterated his initial point that the current NCC-approved exemption requires the noise control investigator to go through the 30-page Agricultural document to decide what might be enforceable. It is a complicated document and for the average investigator it would be difficult to interpret which could result in viewing 7:29 differently. There was then a discussion on “background music” and Mr. Szulecki noted that if the State Agricultural Commission wanted to include regular music, they would not have added the qualifier of “background.” Salvatore Fama gave the example of a Mr. Softee truck playing music to advertise their business. Why would a farm be different? Mr. Szulecki noted that there was a difference between marketing and selling. A catchy jingle is part of marketing, however selling requires handing someone a product in exchange for money. The State Agricultural Commission makes a clear distinction between the two. Jack Zybura brought up the possibility of cannon’s that farms use to launch farm products such as pumpkins. Mr. Zwerling noted that those would not be a sound production device because its sole purpose is not to make noise but to shoot pumpkins and the noise is just a byproduct of the action. Mr. Szulecki motioned to approve the revised agricultural definition and exemption with Mark Roskein seconding. All were in favor, so the motion passed.

- *Public Celebration:* Eric Zwerling handed out his revised “Public Celebration” exemption. The main issue with the NCC’s previously approved exemption, was that marching bands playing during football games were previously exempt under the original exemption, but the new language would no longer exempt them. After discussing Mr. Zwerling’s proposed language, Mr. Szulecki suggested that these were two separate issues and therefore should be made into two separate exemptions. Football games are not considered a public celebration under the new exemption because they do not require a permit to operate. So, trying to carve out marching bands inside the exemption did not make sense. After agreeing to separate this into two exemptions the language was discussed for the new marching band exemption. Mr. Szulecki motioned to approve the new marching band exemption with Salvatore Fama seconding. All were in favor, so the motion carried. Mr. Szulecki then motioned to maintain the NCC approved language for “Public Celebration” with Jack Zybura seconding. All were in favor, so the motion also carried.
- *N.J.A.C. 7:29:* No new updates.
- *Vehicles entering and exiting:* Due to a lack of time for a discussion this topic was tabled.

EXECUTIVE SESSION

The NCC did not meet in Executive Session.

ADJORNMENT

Randy Hauser motioned to end the meeting with Jack Zybura seconding. All were in favor, so the motion carried, and the meeting ended.

NEXT MEETING

The next meeting is scheduled for Tuesday, January 14th at 9:30 A.M. possibly at the building across the street from the Operator Training Center, as there is more room available for social distancing.

Respectfully submitted by Michelle Feasel with edits by David Triggs, NJDEP Liaisons to the NCC.