

NEW JERSEY NOISE CONTROL COUNCIL (NCC)
FEBRUARY 19, 2019
DRAFT MEETING MINUTES

It should be noted that the meeting was postponed a week due to inclement weather.

ATTENDEES: Arnold Schmidt (Chairman, Public Member), Steve Szulecki (Vice Chairman, Public Member, Ecologist), Randy Hauser (Department of Labor), John Lago (Department of Community Affairs), Eric Lieberman (Department of Health), Salvatore Fama (Motor Vehicle Commission), Norm Dotti (Industrialist, Public Member), Jerry Feder (Public Member), Eric Zwering (Director, Rutgers Noise Technical Assistance Center), David Triggs (NJDEP Liaison to the Council) and Michelle Feasel (NJDEP Co-Liaison to the Council).

PUBLIC: Dominic Scalcione (Member of the Elmwood Park Board of Adjustment).

MEETING MINUTES

Eric Lieberman motioned to approve the January Meeting Minutes without change and Arnold Schmidt seconded that motion. All were in favor, so the motion passed, and the minutes were approved.

OLD BUSINESS (This item was moved up the agenda to ensure a quorum)

Approval of N.J.A.C. 7:29 Proposed Amendments:

Norm Dotti motioned to approve the amendments to 7:29 and Eric Lieberman seconded, which opened the motion for discussion. Salvatore Fama expressed concern that the proposed new definition for “continuous airborne sound” is more stringent than the original. Eric Zwering agreed and added that it would make it difficult on investigators. It was suggested that the definition be changed back to the way it was before the revisions. For continuity, the sentence about impulsive sound on page 16 of the Regulations would also have to revert to the original text. Based on the discussion, Mr. Dotti amended his motion to accept the changes to 7:29 with the proposed amendments to the definition for “continuous airborne sound” removed. The proposed amendments for impulsive sound on page 16 would also be removed. Steve Szulecki seconded. All were in favor, so the motion passed.

John Lago attended the Stakeholder meeting for the Stormwater Rule at the NJDEP. The stakeholders were vocal about the slow-moving process and that there were only modest changes being proposed instead of the major amendments they felt were needed. He suggested that it might be a bad indication of how the NCC’s proposed amendments to 7:29 might be addressed by the Department.

Eric Lieberman mentioned that a public hearing/stakeholder meeting may not be required if only technical changes are proposed for 7:29. Since no substantive changes or new rules have been proposed by the NCC, it should be pointed out to upper management and the legal team.

Although he voted to accept the proposed amendments, Salvatore Fama stated that the proposed changes in the agriculture exception are substantial and could negatively impact wineries.

CHAIR REPORT/COMMUNICATIONS

- A resident has repeatedly contacted DEP liaison to the NCC, David Triggs via email. She wants the Department to add residential properties as a source category in the Regulations. The Department is currently in the process of considering amendments to 7:29, which sunsets on June 7, 2019. All indications are that this will not be considered as an option for reasons outlined in the minutes from past meetings. Stakeholders will have the opportunity to express their opinions regarding this in writing, at stakeholder meetings and public hearings, should the NCC's proposed amendments be considered by the Department. No meetings or hearings will likely be held if the Regulations are readopted without change. An assemblyman was copied on her last e-mail.
- NCC member John Kapferer has been out for medical reasons. He may return for the March meeting.
- On February 7th Chairman Schmidt contacted Liam Ryan, the Appointment Officer in the Governor's Office. He reiterated the NCC's difficulty maintaining a quorum at a crucial time (7:29 amendments). At Mr. Ryan's request, Mr. Schmidt submitted resumes for Mark Roskein and Joseph DiFillippo, both of which are recommended to fill current vacancies. Mr. Ryan gave assurances that the NCC's membership problems would be placed on the agenda for an upcoming meeting.
- Chairman Schmidt requested the home email addresses for NCC members. They are needed for easier access when issues like weather, rescheduling and the need for a quorum arise. He stated that they would not be made public.

PUBLIC DISCUSSION

Dominic Scalcione, a member of the Elmwood Park Board of Adjustment (BOA), attended the meeting to learn more about what the NCC does. NCC members went around the table and briefly introduced themselves. Mr. Scalcione mentioned the responsibility he feels to ensure that new projects the BOA approves are compliant with environmental regulations, such as noise. He stated that Elmwood Park is a mixed residential and industrial community, with truck traffic being a major concern.

NEW BUSINESS

- Chairman Schmidt queried the NCC members as to whether they would support filling Jerry Feder's (Mr. Feder wishes to step down) seat with Jack Zybura. Mr. Zybura, a noise consultant who has attended meetings for years as a member of the public, has expressed an interest in the past in joining the NCC. Salvatore Fama motioned to consider Mr. Zybura (not in attendance) for membership, if he is interested. Norm Dotti seconded. All were in favor, so the motion passed. Eric Zwerling would like to inquire about getting a police officer on the NCC. Many officers attend his Noise Enforcement Certification courses.
- Norm Dotti handed out his recommended changes to 7:29, to address the issue of property zoned for business/industrial being re-zoned as residential by grandfathering the less stringent permissible limit. While some members were in favor of further discussion, Steve Szulecki stated that the change would be a significant policy shift that would require greater

discussion. Eric Lieberman explained the “Last Best Chance” doctrine for when you come to a problem. He fears the proposed amendment could undermine the Statute, which says “people of the State are entitled to and should be insured an environment free from noise which unnecessarily degrades the quality of life.” With the current amendments approved by the NCC, it is unlikely that this would be added. Mr. Szulecki gave Raceway Park as an example of the potential problem we could be facing. The Existing racetrack was encroached on by development and this resulted in multiple noise complaints from new residents and subsequent enforcement actions against the racetrack, which is no longer in business. Noise complaints were handled locally under permit guidelines.

- Joseph Lepis was not present to discuss his proposed “at or within” amendment to 7:29. However, his proposed wording was discussed at the January 2019 meeting and the motion to accept was voted down. This discussion has been ongoing for many years. Based on this, and the approval of the NCC amendments, Chairman Schmidt considers the issue closed.
- The Model Noise Ordinance is due to be updated. The March meeting will begin the process. Chairman Schmidt encouraged the NCC members to start reviewing it.

EXECUTIVE SESSION

The NCC did not meet in Executive Session.

NEXT MEETING

Randy Hauser motioned to adjourn, and Norm Dotti seconded. All were in favor, so the meeting ended.

The next meeting is scheduled for Tuesday, March 12th (weather permitting) at 9:30 A.M.
Respectfully submitted by Michelle Feasel and David Triggs.