

NEW JERSEY NOISE CONTROL COUNCIL (NCC)
JULY 9, 2019
MEETING MINUTES

ATTENDEES: Arnold Schmidt (Chairman, Public Member), Steve Szulecki (Vice Chairman, Public Member, Ecologist), Salvatore Fama (Motor Vehicle Commission), Norm Dotti (Public Member, Industrialist), Eric Lieberman (Department of Health), Dr. Iris Udasin (Public Member, Medical Doctor), John Kapferer (Public Member), Joseph DeFillippo (NCC member candidate to replace John Surmay). Eric Zwerling (Director, Rutgers Noise Technical Assistance Center), David Triggs (NJDEP Liaison to the Council) and Michelle Feasel (NJDEP Co-Liaison to the Council).

PUBLIC: Jack Zybura (Lewis Goodfriend and Associates), Mark Roskein (Bridgewater) and Freddie the wonder dog.

MEETING MINUTES

The June meeting minutes were discussed, and a few minor changes were suggested, such as clarifying that selling farm products at weddings could count as an agricultural activity, changing the word “from” to “for” for grammatical purposes, and adding Steve Szulecki to the final vote, as his name was unintentionally omitted. Also, under Mr. Zybura’s proposed changes to the Model Ordinance, it should show that the definition of “real property line” was tabled. Norm Dotti motioned to approve with the suggested changes and Chairman Schmidt seconded. All were in favor except for John Kapferer, who abstained since he did not attend the June meeting. The motion passed.

CHAIR REPORT

- John Kapferer, who was on medical leave, was welcomed back by Chairman Schmidt.
- Jerry Feder submitted his resignation letter. The NCC will meet in Executive Session to discuss his replacement. The primary candidate to fill the vacancy is Jack Zybura.
- Chairman Schmidt sent a letter to NJDEP Commissioner Catherine McCabe, requesting that the Department re-open N.J.A.C. 7:29 to address the NCC’s proposed amendments. David Triggs mentioned that based on the letter, he was instructed to submit A Decision Memorandum to the Commissioner on June 27th. He has not been back to the office since, so he was unsure if there was a response.
- David Triggs was recently informed that the NCC membership re-appointment memo was never submitted to the Governor’s Office. While disappointing, this will allow him to re-submit an updated memo that addresses other NCC members whose terms have expired, as well as filling the vacancy left by Mr. Feder.
- Chairman Schmidt noted that since his retirement, he enjoys sitting outside and has observed that noise from landscapers working in the vicinity of his home can be quite disturbing.

OLD BUSINESS

There was no old business

NEW BUSINESS

Woodland Township Noise Ordinance:

- The Township of Woodland submitted a noise ordinance for the Department's review and approval; however, the curfew hours were less restrictive than the recommended hours in the Model Ordinance. While not in favor of this, Mr. Triggs pointed out that it is still more restrictive than the state regulations (where these activities are exempted), which follows the statutory requirement. He was seeking the NCC's opinion on the matter. Eric Lieberman stated that approving it would set a bad precedent, but the law is clear, and it should be allowed because it is still more restrictive than the state regulations. Mr. Triggs mentioned that there was a time when municipalities could not deviate from the model for it to be approved. Eric Zwerling stated that municipalities should be allowed to adjust their curfew hours. He also pointed out that the alternative is that if the changes are not approved, the municipality may decide to not adopt an ordinance, which would be less protective than the proposed curfew hours. Chairman Schmidt stated that the NCC is responsible for protecting residents and not special interests and that the less restrictive curfews should not be allowed. Eric Lieberman stated that by approving it, it could be challenged in court because they have "standing." Norm Dotti suggested that the NCC find out why they want the less restrictive curfew hours but added that he thinks they should be allowed. Michelle Feasel pointed out that Woodland Township originally submitted a much older version of the ordinance, with the same less restrictive curfew hours and that they may have maintained the same standard in the new one. Chairman Schmidt questioned whether the municipality held a stakeholder's meeting to discuss the ordinance. Some members pointed out that if a municipality submitted an ordinance with more restrictive curfews than those recommended in the Model, it would likely be approved. A NCC vote was not needed on this matter. The Department will follow-up with Woodland Township to determine why they want the less restrictive curfew hours and then decide on whether to approve it.

Sound Study on the Navesink River:

- A DEP employee contacted David Triggs for information on conducting a sound study on the Navesink River. Apparently, the study may be funded by a grant sponsored by an assemblyman. Mr. Triggs informed the caller that the Department no longer has an Office of Noise Control and the counties only respond to noise complaints. Any study would have to be conducted by either an acoustical consultant or the Rutgers Noise Technical Assistance Center. Eric Zwerling mentioned that he had previously been contacted by the Morris County Sheriff's Office requesting a training class to enforce noise from party boats on Lake Hopatcong; however, N.J.A.C. 7:29 does not cover this type of noise. Eric informed them that Noise on waterways is generally handled by the Marine Police.

PUBLIC DISCUSSION

Arnold Schmidt motioned to open the meeting to the public and Eric Lieberman seconded. The tabled issue brought up by Mr. Zybura who recommended removing strip malls from the "real property line" definition in the Model was discussed. Steve Szulecki stated by having the indoor provision of the Model Code applicable to a commercial source and a commercial receiver when

both are on the same parcel or contained in the same building would put an undue burden on enforcement personnel. These disputes should be handled by resolution options in the lease agreements these businesses entered into. Eric Zwerling left the meeting earlier and therefore could not participate in the discussion, so it was not voted on. Chairman Schmidt suggested that arguments for and against removing strip malls from the definition be put in writing and sent to the NCC members before the September meeting. Norm Dotti motioned to close the meeting to the public and Salvatore Fama seconded. All were in favor, so the motion passed.

After the NCC met in executive session, Eric Lieberman motioned to reopen the meeting to the public and Dr. Udasin seconded. The NCC announced that Jack Zybura will be recommended to replace Jerry Feder. Eric Lieberman motioned to close the meeting to the public and Dr. Udasin seconded. All were in favor, so the motion passed.

EXECUTIVE SESSION

John Kapferer motioned to go into Executive Session and Dr. Udasin seconded. All were in favor so the NCC met in Executive Session.

NEXT MEETING

The next meeting is scheduled for Tuesday, September 10th at 9:30 A.M. (The August meeting was canceled for summer recess).

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