

NEW JERSEY NOISE CONTROL COUNCIL (NCC)
MARCH 12, 2019
DRAFT MEETING MINUTES

ATTENDEES: Arnold Schmidt (Chairman, Public Member), Steve Szulecki (Vice Chairman, Public Member, Ecologist), Randy Hauser (Department of Labor), Eric Lieberman (Department of Health), Salvatore Fama (Motor Vehicle Commission), Joseph Lepis (Public Member, Civil Engineer), Dr. Iris Udasin (Public Member, Medical Doctor) Norm Dotti (Public Member, Industrialist), Jerry Feder (Public Member), Joseph DeFillippo (NCC member candidate to replace John Surmay), David Triggs (NJDEP Liaison to the Council) and Michelle Feasel (NJDEP Co-Liaison to the Council).

PUBLIC: Jack Zyburra (Lewis Goodfriend and Associates), Rick Ferruggia (Branchville, N.J.).

MEETING MINUTES

Norm Dotti motioned to approve the February meeting minutes and Salvatore Fama seconded. All were in favor, so the motion carried.

Joseph Lepis (who was not present at the February meeting) disagreed with Eric Zwerling's comments in the minutes, that the NCC did not propose any substantial amendments (just technical i.e., definitions, references, update for modern technology) to the regulations that would require a stakeholder's meeting. Mr. Lepis stated that a stakeholders meeting should be held. The other members disagreed. Regardless, the Commissioner of the NJDEP chose to re-adopt 7:29 without change, which would not require a stakeholders meeting or public comment.

CHAIR REPORT

- Someone in Fort Lee contacted Eric Zwerling regarding an issue with interior impulse noise, which currently has no set sound level limits. Mr. Zwerling was not at the March meeting to discuss his recommendations. At past NCC meetings, Mr. Zwerling stated that he would like to address this issue in the Model.
- Chairman Schmidt received an email from Axel Carrion (Director of State Public Affairs for UPS) asking where the NCC was with their proposed amendments to 7:29. Chairman Schmidt advised him that the NCC submitted their recommended amendments to the Department, and that UPS's proposed amendment (to grandfather industrial facilities when an adjacent property zoned commercial/industrial is rezoned residential), was not included.
- Chairman Schmidt received an email from Dominic Scalcione, a member of the Elmwood Park Board of Adjustment, who attended the NCC's February meeting. Mr. Scalcione requested feedback on a site plan for a Wendy's drive through. Chairman Schmidt advised him that the NCC nor the DEP advises on site plans. Noise concerns should be addressed by the applicant through an Environmental Impact Statement. The applicant would be responsible for hiring an acoustical consultant to ensure that the proper measures are taken to reduce the noise to the permissible levels before construction commences.

- A resident of Pequannock Township contacted Chairman Schmidt about fireworks at a wedding venue. “Public celebrations” fall under 7:29-1.5 “Exceptions,” however, it isn’t defined. The NCC’s proposed amendments to 7:29 includes a definition for “public celebrations,” which will help to clarify when this type of noise is exempt. Steve Szulecki stated that if it is a commercial wedding venue it would not be exempt. Most of the NCC members agreed.
- Chairman Schmidt contacted Jack Zybura to see if he was still interested in joining the NCC as a replacement for Jerry Feder, who wishes to step down. Mr. Zybura stated that he is interested. His updated resume was e-mailed prior to the meeting and additional copies were made available.
- Chairman Schmidt spoke to Liam Ryan from the Governor’s Office, on March 6th. Mr. Ryan informed him that there was nothing new to report on NCC appointments, and that the recommended candidates are under review. He stated that he would contact Chairman Schmidt if anything changes.
- As requested, NCC members Randy Hauser and Eric Lieberman gave their personal email addresses for emergency contact purposes.

PUBLIC DISCUSSION

Norm Dotti motioned to open the meeting to the public, which was seconded by Joseph Lepis. All were in favor, so the motion carried.

Rick Ferruggia from Branchville, N.J., came to the meeting to discuss loud vehicles with after-market mufflers near his home. He has seen an increase in the popularity of after-market exhaust systems, especially on diesel trucks. He described it as excessive and unusual noise. He recently contacted NCC member Salvatore Fama, who represents the Motor Vehicle Commission, about this issue. Mr. Fama then contacted the Division of Motor Vehicle Inspection Services, who informed him that it was a police issue. Mr. Fama read from a handout he brought entitled, “2013 New Jersey Revised Statutes Title 39 - Motor Vehicles and Traffic Regulation Section 39:3-70 Mufflers.” Title 39 specifically states that “*Every motor vehicle having a combustion motor shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle on a highway.*” Steve Szulecki pointed out that noise inspector’s do not have curbing ability, and as such, vehicles on public roadways are exempt under N.J.A.C. 7:29. Norm Dotti stated that mufflers can be changed, but there is no requirement that the replacement be acoustically equivalent. Joseph Lepis referenced wide-bore mufflers from the 70’s and 80’s, which gave police probable cause to pull vehicles over, and that many new vehicles have mufflers equivalent to older cars. The NCC suggested that Mr. Ferruggia request that an Assemblyman propose a bill to expand motor vehicle inspections to include mufflers. Mr. Szulecki stated that Eric Zwerling has offered Motor Vehicle inspectors free training on how to measure exhaust noise. David Triggs pointed out that the Department’s Model Noise Ordinance includes an optional section that addresses vehicle mufflers. Mr. Ferruggia will contact the State Police for their opinion on this matter. It was also recommended that he research California law, which more aggressively addresses this type of noise.

Randy Hauser motioned to close the public session and Norm Dotti seconded. All were in favor, so the motion carried.

OLD BUSINESS

7:29 amendments:

- David Triggs informed the NCC that the NJDEP Commissioner chose to readopt 7:29 without change. If it is filed on time, it should be in the June 3rd New Jersey Register. Once it is readopted without change, the NCC will send the Commissioner a letter requesting that the Chapter be re-opened to address their proposed amendments.
- The NCC discussed Norm Dotti's proposed changes to 7:29 to address zoning issues. One option would be to address this in the Model; however, the recommended change would make the model less stringent than the code, which is not allowed.

NEW BUSINESS

- *Model Noise Ordinance Update:* David Triggs handed out copies of the first page of the Model with his proposed amendments. The changes mainly correct his DEP's program's name and addresses and revises the language to emphasize that minor changes, such as curfews, would be reviewed and approved on a case-by-case basis. Major changes, such as changing the permissible decibel limits, will not be permitted. Steve Szulecki suggested that municipalities show any proposed changes using "track changes" or by some other means, so the reviewer doesn't have to search page by page for them. Since there is no hard deadline to amend the Model, a subcommittee will probably not be needed.
- *Part 150:* Joseph Lepis informed the NCC that the FAA hasn't met to discuss noise-related issues at Newark International Airport. The Advisory Council will not hold a meeting until Port Authority offers something substantial.

EXECUTIVE SESSION

The NCC did not meet in Executive Session.

NEXT MEETING

Arnold Schmidt motioned to adjourn, and Steve Szulecki seconded. All were in favor, so the meeting ended.

The next meeting is scheduled for Tuesday, April 9th at 9:30 A.M.

Respectfully submitted by Michelle Feasel and David Triggs.