

NEW JERSEY NOISE CONTROL COUNCIL (NCC)
JUNE 13, 2017
MEETING MINUTES

ATTENDEES: Arnold Schmidt (Chairman, Public Member), Steve Szulecki (Vice Chairman, Public Member, Ecologist), Randy Hauser (Department of Labor), Dr. Iris Udasin (Public Member, Medical Doctor), Joseph Lepis (Public Member, Civil Engineer), Jerome Feder (Public Member), John Kapferer (Public Member), Mark Roskein (Candidate Member), Joseph DiFillippo (Candidate Member), Eric Zwerling (Director, Rutgers Noise Technical Assistance Center) and David Triggs (Department of Environmental Protection, Noise Control Council Liaison).

PUBLIC: Jack Zybura (Lewis S. Goodfriend and Associates) and Rich Tuosto (Glen Ridge)

PUBLIC DISCUSSION:

Out of courtesy to a member of the public in attendance, the agenda was modified to move the public portion up. Randy Hauser moved and Jerome Feder seconded to open the meeting to the public. All were in favor.

Mr. Rich Tuosto came to the NCC for advice on a potential noise issue with his neighbor. He lives in a Glen Ridge neighborhood where homes are situated extremely close to one another (approximately five feet apart). Mr. Tuosto would like to install a new air conditioner, which could potentially impact his neighbor. The town currently does not have an approved noise ordinance. Mr. Tuosto is asking if the Department would approve a noise ordinance that would exempt air conditioners, since it might be impossible to comply with the sound level limits established under N.J.A.C. 7:29 with the limited setback. Because of the small lot size, there is no other location to put a unit. If the neighbor objects and the sound can't be reduced to acceptable levels, he would have to suffer through hot days with no means of relief. He believes the readings would be approximately 55 dBA, which would slightly exceed the nighttime limit with margins of error factored in.

The NCC discussion:

1. What if someone installed a large, noisy unit or had an old, poorly maintained air conditioner?
2. A blanket exemption would not be recommended. However, an exemption for units on a lot with restrictive setbacks might be acceptable under certain conditions, such as a requirement to purchase new, quieter units that must be properly maintained. Some means of sound reduction, such as a fence or a sound barrier might be an additional requirement when feasible.
3. A stakeholders meeting to discuss the issue was recommended.
4. In the past, a survey was conducted and it was determined that 90% of HVAC units would be in violation of the former 50 dBA limit, so it was raised to 55 dBA.
5. The NCC is in the process of reviewing and amending the regulations and the Model, which could address this issue in some way.
6. Similar problems have been encountered at condominium complexes.
7. One option might be to grandfather existing units with limited setbacks.
8. New construction and zoning regulations should plan for and address this issue before the units are installed, as it would be unreasonable for a resident to not have an air conditioner because it is too loud.
9. The first step for Mr. Tuosto would be to see if the town would even consider adopting the Model and if so, whether they would entertain the idea of exempting air conditioning units.

MEETING MINUTES

The approval of the May meeting minutes was delayed until a quorum was present. Randy Hauser motioned to accept and Dr. Udasin seconded with Norm Dotti and Jerome Feder abstaining, since they were not present at the meeting. All

other members were in favor with some minor amendments.

CHAIR REPORT:

- Chairman Schmidt witnessed a Rutgers police officer preparing to ticket the NCC member's vehicles prior to the meeting. He explained to the officer the purpose and history of the NCC meetings at the Operator Training Center. The officer did not issue tickets but said that the NCC needed to contact the university to determine if permits are required.
- There was no update on NCC appointments.
- The NCC contact list was handed out for review and changes.

NCC COMMUNICATIONS/CORRESPONDENCE:

There was no correspondence to the NCC.

OLD BUSINESS:

- *Petition for Noise Control Rule Changes:* Mr. Triggs informed the NCC that the recent Petition for Rulemaking was denied by the Department. He will forward the Notice of Action to the NCC once the DEP's upper management approves it.
- *Roundtable Part 150 Study:* Some modeling in the noise contour maps were found to be in error and must be redone. The proposed mitigation strategy of 65 DNL at area airports may be denied due to aviation concerns. The roundtable meetings will be on summer recess. The next meeting will be in September. A public meeting will be scheduled after the contour maps are finalized. They would like to hold meetings with municipal planning boards to see if towns are willing to impose building code restrictions to reduce noise in key areas, but the local municipalities have been resistant.
- *Penalty Matrix:* Since the relevant meeting minutes have now been approved, the matrix can be posted on the CEHAN Portal and sent to the municipalities. It can also be a part of the Rutgers Noise Certification Course and mentioned in the Rutgers newsletter.
- *Motor Vehicles Entering and Exiting Properties:* Norm Dotti stated that they are still trying to put something together to present to the NCC. Joseph Lepis, Arnold Schmidt and Joseph DiFillippo, all current or former county noise enforcement personnel, claim that this type of noise was never a major issue. However, noise can become more prevalent when roads are covered in gravel or the pavement is pitted. Mr. Dotti emphasized that they are not seeking a blanket exemption, just a reasonable compromise that might satisfy all parties.
- *N.J.A.C. 7:29 Revisions:* Chairman Schmidt handed out copies of some issues that he feels should be addressed as part of any Noise Control Regulation amendments. He encourages other NCC members to submit their ideas, which could be combined into one list, rather than reviewing 7:29 page by page. Joseph Lepis suggested including the entering/exit issue as part of the review process, but other members of the NCC and Eric Zwerling, felt that it would be more appropriately addressed in the Guidance Document. It was recommended that Mr. Lepis draft language to present to the NCC. Chairman Schmidt felt that it wasn't necessary to create a subcommittee at this time. While the entering/exit issue has been addressed through policy statements and letters from the Department in the past, the guidance document went through a more vigorous vetting process by multiple people, not just one author, which is often the case when drafting a policy letter. The current guidance document was created based on previous policy letters from the Department and therefore encompasses them all. Mr. Schmidt requested copies of the letters.
- *Model Revisions:* The NCC agreed that their priority, due to time constraints, should be to focus on revisions to N.J.A.C. 7:29, since there is a sunset date and a more strenuous approval process. Amendments to the state code could also transcend to the Model.
- *Emergency Generator Guidance:* Chairman Schmidt thanked Joseph Lepis and Salvatore Fama (not present) for the work they put into the generator guidance. David Triggs will post the document on the CEHAN Portal and the

Department's noise website. It can also be sent to the municipalities once Chairman Schmidt drafts a statement to include with the e-mail.

NEW BUSINESS:

At or Within: Joseph Lepis requested to revisit the "at or within" concept of taking sound level measurements. It has long been his contention that all sound level readings should be taken at the property line. Chairman Schmidt permitted Mr. Lepis to speak, only if he could provide new information, as the NCC has already voted to rest the issue, which has been a topic of discussion for over two years. Mr. Lepis distributed a handout and stated that he felt the "at or within" concept was a "trap" for consultants, and asked if it was ever used. Many NCC members felt that it is used all of the time, especially when noise reaches a second floor window of a home or business. The NCC again reiterated that where to measure sound should be at the discretion of the noise control investigator and the complainant should not have the ability to direct them where to take a measurement. Chairman Schmidt, cut the discussion short, as it was more of Mr. Lepis's opinion with no additional substance to back up his argument.

EXECUTIVE SESSION:

There was no need to go into Executive Session.

NEXT MEETING:

The next meeting is on July 11th at 9:30 a.m.

Respectfully submitted by: David Triggs, NJDEP Liaison to the NCC