

NEW JERSEY NOISE CONTROL COUNCIL (NCC)
MAY 14, 2017
MEETING MINUTES

ATTENDEES: Arnold Schmidt (Chairman, Public Member), Steve Szulecki (Vice Chairman, Public Member, Ecologist), Randy Hauser (Department of Labor), Salvatore Fama (Motor Vehicle Commission), Eric Lieberman (Department of Health), John Lagos (Department of Community Affairs), Dr. Iris Udasin (Public Member, Medical Doctor), Joseph Lepis (Public Member, Civil Engineer), John Kapferer (Public Member), Mark Roskein (Candidate Member), Joseph DiFillippo (Candidate Member) and David Triggs (Department of Environmental Protection, Noise Control Council Liaison).

PUBLIC: Jack Zybura (Lewis S. Goodfriend and Associates)

MEETING MINUTES:

The February meeting minutes were reviewed and approved with Eric Lieberman motioning to accept and Randy Hauser seconding. All were in favor with Joseph Lepis abstaining since he was not present at the meeting. Meeting minutes for the February Executive Session were numbered and handed out for review. John Kapferer motioned to accept and Joseph Lepis seconding it. All were in favor to approve. The Executive Session minutes were then collected by David Triggs, to be filed in the NCC archives housed at the DEP.

CHAIR REPORT:

- Mr. Triggs was contacted by the DEP's Senior Policy Advisor for additional information and clarification on NCC appointments. Even though the paperwork was submitted months prior, apparently the letter of recommendation from the DEP Commissioner to the Governor's Office was not sent. Part of the reason was the NCC's ability to conduct their meetings with a quorum. Even though some members are waiting to be re-appointed, they can still vote as members. The recommendation for new members Joseph DiFillippo (to replace John Surmay) and Mark Roskein (to replace Carl Accettola) was included.
- The NCC received an e-mail from a resident regarding leaf blower noise as an emerging issue. Chairman Schmidt and NCC DEP Liaison David Triggs have been in contact with the resident regarding how leaf blowers and other landscaping equipment can be regulated for noise. The resident was also invited to attend a NCC meeting.
- Mr. Triggs informed the NCC that a citizen has submitted a "petition for rulemaking" to amend N.J.A.C. 7:29 to include residential properties as a source of noise and to permit citizens to submit a noise complaint while on a public right of way and to have the sound level measurements taken from the source's property line. Mr. Triggs could not tell the NCC what the Department's response would be at this time. Joseph Lepis suggested that the NCC submit its recommendations on the matter through a resolution, which he offered to draft. Some points brought up by the NCC included:
 1. It's inconsistent with the scheme of noise control by adding source categories.
 2. Some aspects are already handled under the Model. The NCC can further update the Model to address these concerns.
 3. It could lead to people seeking out noise which would overwhelm local noise enforcement with complaints.
 4. The definition of "Affected Party" should be included in any response.
 5. A person on a public right of way has "no standing."
 6. It creates a potential for an unlimited amount of violations with no parameters.

NCC COMMUNICATIONS/CORRESPONDENCE:

There was no correspondence to the NCC.

OLD BUSINESS:

- *Penalty Matrix:* While most of the members were satisfied with the current version of the matrix, Joseph Lepis suggested adding “not obligatory or not mandatory” in addition to advisory. After discussing the suggestion the NCC decided to leave advisory as is. Other points of discussion included:
Mark Roskein: Historically there is a 50% penalty reduction if there is compliance.
Jack Zybura: #5 might result in an automatic penalty increase. He recommends a hard number.
Steve Szulecki: The matrix, as drafted, does not address a violator’s initial efforts to come into compliance in a timely manner, which is inconsistent with the Noise Control Regulation.
Chairman Schmidt: Lowering decibel levels that still exceed the standard should not be considered “leading to compliance,” and therefore should not be rewarded with a reduced penalty.
John Kapferer moved to approve as is and Randy Hauser seconded. A vote was taken with seven members voting in favor of the current version of the penalty matrix. Steve Szulecki and Joseph Lepis voted against it. The motion therefore was passed by a majority. Chairman Schmidt emphasized that it will always be a work in progress that can be adjusted as needed, especially after the counties start to use it. David Triggs will present it to upper DEP management for review, before making it available on the CEHAN Portal.
- *N.J.A.C. 7:29 Revisions:* Tabled.
- *Model Ordinance Revisions:* Tabled.
- *Roundtable Part 150 Study:* The FAA and Port Authority are considering remedial measures for buildings within the 65 LDN area by the end of the year. They are in the process of identifying properties in need of some sort of remediation.
- *Motor Vehicles Entering and Exiting Properties:* Tabled due to Norm Dotti’s absence.
- *Emergency Generator Guidance:* While the guidance was approved during the February meeting, the NCC could not act until the meeting minutes were approved.

NEW BUSINESS:

- *Sound Level Measuring Phone App:* NCC member Salvatore Fama pointed out that NIOSH has developed a free phone app that is considered very accurate in comparison to other apps available. It is based on Type 1 and 2 meters and must be used with an Apple phone. It was developed to help reduce noise for workers. It’s something that might be added to the emergency generator guidance document so citizens can determine where best to locate their generator with minimal impact to their neighbors. The only drawback is that it must be tested with an external mike which could limit its use for the average homeowner. It also cannot be used for enforcement purposes.

PUBLIC DISCUSSION:

Eric Lieberman motioned to open the meeting to the public and Joseph Lepis seconded. All were in favor.

Jack Zybura brought up an interesting noise case where a private road was being used by publicly-owned vehicles. The road crosses a dam which is also owned by the road owner. When vehicles cross the dam it creates noise, possibly caused by weak or faulty expansion joints. Nearby neighbors are complaining about the noise. The question put to the NCC is, does the exemption for vehicles on public roadways apply in this case? The NCC pointed out that it may depend on how the easement agreement is written (if one exists). An easement could be considered a public roadway and may be exempt if the town obtains the owner’s permission to open it to the public. However, it may not be exempt if the town adopts the Model as private right of ways are considered sources of noise and the actual noise is not from the vehicles but the act of the vehicles traveling over the dam, which is part of the right of way. More information is needed before the NCC can give an accurate assessment on how to proceed.

EXECUTIVE SESSION:

There was no need to go into Executive Session.

Motion was made by Joseph Lepis to adjourn and Eric Lieberman seconded. All were in favor.

NEXT MEETING:

The next meeting is on June 13th at 9:30 a.m.

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