

MINUTES
Citizens Advisory Council Meeting
February 16, 2010

Chair Richard Manfredi convened the meeting at 11:22 am. The following members attended:

Richard J. Manfredi, Chair	Walter Heine.
Joyce Hatala, Vice Chair	Janet Keim
Cynthia Carrow	Thad Stevens
Jim Clauser	David Strong
Eric Conrad	Burt A. Waite

I. CHAIR'S REPORT

Walter moved approval of the minutes of the January 19, 2010 CAC meeting; Burt seconded the motion. The motion carried.

II. PUBLIC COMMENT ON AGENDA ITEMS

There were no public comments

III. MRAB ELECTION

Richard reminded Council that Bernie Hoffnar's resignation from CAC also created a vacancy in the CAC representation on the Mining and Reclamation Advisory Board. In addition, Walter Heine indicated that he is not seeking reelection to the MRAB.

Eric Conrad and Curtis Kratz had both indicated their interest and willingness to stand for election to these two seats. In addition, Cynthia nominated Mark Killar, from the Western Pa. Conservancy's Watershed Conservation Program, as an alternate to the MRAB. Jan moved approval of the slate; Cynthia seconded it and Council approved.

Walter was recognized for all his years of service for working on the MRAB and was asked that with all of his historical knowledge, if he could be available for consultation if called upon.

IV. DEPARTMENT REPORT

Secretary Hanger reported that the Governor's proposed General Fund budget for DEP is 1% less than the current budget. The General Fund is only one funding source for DEP. Some federal funds (nearly \$10 million) may be lost due to insufficient matching funds.

There will be significant discussion on two programs, which may be noticeable to the public -- West Nile and Black Fly. These programs will continue until the money is depleted.

By June 2010, DEP will be hiring 68 new employees to oversee Marcellus activity. In 2009 37 employees were hired. Funding for those employees came from increased fees for drilling permits. Those fees, were established in 1984 at \$100 and significantly raised in 2009, will generate \$11-13 million, depending on how many permits are received for Marcellus drilling. The Marcellus well fees can be up to \$10,000 depending on how deep the well is to be drilled. Shallow well drillers pay a low fee, even though those fees have increased in 2009 from \$100 to \$250 due to inflation.

The Secretary then opened the floor for questions.

Walter stated that both President Obama and Governor Rendell advocate volunteerism. CAC is a volunteer organization but has been crippled by having two-thirds of its staff furloughed. He asked that there be consideration given to replacing the staff CAC lost. Secretary Hanger stated that he understood the point but also asked that the CAC understands the cut in the DEP budget and the resulting choices that had to be made. Should the recovery and progress that has been made over the last year continue and revenues return, DEP may be able to address the concern.

Burt commented that he has served on the Oil and Gas Technical Advisory Board for many years. The board is working through revisions of Chapter 78: Oil and Gas regulations, focusing on reducing the number of stray gas issues in the state. The process is working very well and DEP has been very helpful and cooperative. Secretary Hanger appreciated Burt's work on the board and acknowledged that there have been infrequent explosions over the years, property damage, and some injuries/fatalities. One of the positives that has come out of the Marcellus development is that there is more attention to these issues. DEP plans to take this package to the EQB by April.

Joyce commented that folks in her area are very appreciative with the opening of the Scranton office for Marcellus inspectors. The Secretary said that the Governor wants to be certain that the waters are protected and the gas is produced. Appropriate oversight of the industry is needed to accomplish this.

Jim said that whatever DEP can do for the conservation districts would be sincerely appreciated. The conservation districts want to help DEP, especially with Marcellus shale issues. They have trained staff and expertise in erosion control. The Secretary stated that DEP is proposing fee increases in the Chapter 102 package and that this revenue would mostly go to the conservation districts. Conservation districts should help support this fee increase. If those that would benefit from this increase don't speak up, it could easily become orphaned.

Pulling all responsibility for Oil and Gas activities back to DEP made sense as DEP is already on site inspecting drilling operations. For other activities, it makes sense to use conservation districts. Revenues have not been able to keep up with all the good work that the conservation districts do and it's unfortunate that some of the conservation districts had to close.

Thad asked if the gas industry has generally been cooperative. The Secretary stated that generally it has been. DEP made it clear that DEP rules will be followed and expectations will be met. If lines are crossed there will be consequences.

One of the reasons DEP supports a severance tax is because there is no such thing as zero impact drilling. Damage gets done to roads; accidents will happen. Once the gas is produced, wealth will be created and that will help to solve problems. Taking advantage of the Marcellus Play also gets cleaner energy in use, which will also help to solve climate change issues.

In response to a question from the last meeting, Dan reported on DEP's complement numbers: field operations has 1,831 and Central Office has 784 for a total of 2,615.

V. CNRAC UPDATE

Kurt Leitholf reported that in the Governor's proposed budget DCNR would take another 1 percent budget cut. DCNR state parks would remain open, though there would be a reduction in services and operations there. DCNR would also receive 12 new positions in the Bureau of Forestry to oversee Marcellus development.

There is an on-going debate on how much is enough development of Marcellus shale on state forest lands. There was an agreement made in the last budget that DCNR would be obligated to provide \$180 million to the General Fund budget through additional leasing of forest lands for drilling. DCNR leased about 32,000 acres several months ago, which generated about \$60 million. With that budget agreement of last year, DCNR is still obligated to generate another \$120 million for additional state forest land leasing. There is deep concern within DCNR on how this will impact biodiversity, habitat and resources and how many more acres of land will have to be leased to generate that amount of money. DCNR is not opposed to this development, but wants to proceed with caution and monitor those activities very closely.

There is a great deal of concern with the bat population in the Commonwealth. In some areas, the loss in population of bats is as high as 90-95 percent. The loss is from White-nose Syndrome, a fungus affecting the bats. Even though bats are under the management of the Pennsylvania Game Commission (PGC), DCNR manages one of the largest bat populations in Pennsylvania at Canoe Creek State Park.

In the last 10 years, the PGC has leased about 20,000 acres of land for drilling. They own approximately 45% of their mineral rights on game lands. In comparison, the Bureau of Forestry owns between 80-85 % of the mineral rights on the state forest system. PGC is looking to acquire more lands to manage in exchange for the rights of the development of Marcellus shale. The commission is seeing an increased value in communicating with DCNR because the future of this development is becoming multi-agency.

Cynthia asked about mineral rights owned on state park lands. Kurt thought only 15-20 percent of mineral rights were owned by State Parks. The remaining 80-85 percent is owned by people who owned those lands before they were acquired, i.e., coal companies. The breakdown of those ownerships is being determined.

Up until last year, the Oil and Gas Lease Fund was directly controlled by the DCNR Secretary; now use of the money requires legislative approval. Much of that money was used to purchase

mineral rights. Due to the development of the Marcellus shale, the mineral rights prices have soared and are too expensive to acquire.

Jim questioned how DCNR will be able to oversee 700,000 acres with just 12 more employees. Kurt said that this is clearly a cooperative effort with DEP. DEP folks will be going onto forestry lands and working with the forest managers, trying to keep on top of the development. It appears that those 12 employees, in conjunction with the existing three employees in the Minerals section, would be housed in Central Office to manage new lands that will be drilled, as well as maintaining the 700,000 acres presently under lease in the system.

Eric mentioned SRBC's plans to fund water quality monitoring stations and questioned whether there has been consideration for creating a private partnership for this type of monitoring and inspection activity. Kurt believes that there is a Governor's Task Force with industry, state agencies, and river basin representation involved with this development. County task forces are also being formed to oversee what impact the counties may endure. Eric also suggested that townships could hire an engineer to complement department staff, and that industry could step up and pay for that monitoring.

VI. CLIMATE CHANGE ACTION PLAN UPDATE

Kim Hoover is the Energy Program Specialist in the Office of Energy and Technical Deployment (OETD). Kim gave a PowerPoint presentation on the Climate Change Action Plan of 2009. Some of the topics that were highlighted included climate science, mitigation of greenhouse gases, what's happening in Pennsylvania, implementation on some of the mitigation on recommendations on a federal level, and adaptation.

OETD was created in the spring of 2009 and consists of four staff. The office oversees implementation of the act and provides technical support. Grant monies have been given to seven municipalities for their greenhouse inventory and to develop their local action plans.

Act 70 of 2008, the Climate Change Act of Pennsylvania, established a Climate Change Advisory Committee. The advisory committee consists of 18 members, with six members appointed by the Governor, six by the Senate, and six by the House.

There is a greenhouse inventory and a voluntary registry. The committee monitors federal activities. The committee has prepared and published the *Climate Impact Assessment Report* in June 2009, with the assistance of the Penn State research team. The report gives a detailed explanation of the impacts affecting natural resources, fisheries, wildlife, tourism, recreation, public health, agriculture, and forestry that are expected through climate change.

Global warming is more accurately termed climate change because it is more than just the warming of temperature. Other effects include increased precipitation, extreme storm events, longer growing seasons, etc.

In the Climate Change Action Plan, there are specific recommendations for mitigation of greenhouse gases to lower the CO₂ that is emitted. Carbon sequestration, urban forestry

(TreeVitalize Program), and efficient lighting are among the recommendations. By following the report and its recommendations and recent actions, there is expected to be about a 39% reduction in CO₂ by 2020.

Goals for the committee are to implement energy recommendations with other state agencies (DCNR), identify existing programs and incentives on grants and tax relief, do outreach programs on education, and assist local governments on energy efficiency recommendations.

Joyce commented on how important the TreeVitalize Program is in addressing climate change. The program requires that a “shade tree” committee be established for tree care and maintenance.

VII. COMMITTEE REPORTS

Strategic Planning Workgroup--Sue reported that Phase I of the transition report (a list of issues that the CAC wants the gubernatorial candidates to discuss) is complete and has been disseminated. In Phase II, the target audience will be the Governor-elect and the Secretary-designee. Council members with issues to put on the list for consideration should hand in an outline of the issue and proposed solutions. Plans are to begin discussions in March.

Air Committee--Sue reported that the committee met with BAQ to receive an overview of what initiatives are coming over the next few months. There are about 8-10 different regulatory packages that will be moving forward. Air Quality staff will update the committee on outdoor wood boilers at either the March or April meeting.

They also discussed the low sulfur fuel (heating oil) regulation which will be moving forward. Burt brought up the anti-idling issue and reported that the firm (IdleAir) that was contracted to install this technology at truck stops is now in bankruptcy. Pending federal issues are the CAIR rule and mercury.

Joint CAC-CNRAC Workgroup--Cynthia reported that the joint session on the severance tax was very successful. Mark Morton, Director of West Virginia’s Tax Department’s Legal Division, Michael Wood, Research Director of the Pennsylvania Budget and Policy Center and Dan Hassell, Acting Secretary of Pennsylvania Department of Revenue provided very good information which helped to resolve some unclear areas. Both councils should continue to pursue this effort and discuss what other issues both councils could work on jointly.

Thad asked if a study or report has been done that counters or verifies the study that Penn State did relative to the severance tax vs. the current arrangement. That report states that the severance tax would reduce drilling activity and overall state revenue from other taxes. Sue said that the PSU report did state that, without providing any data to back it up. A study was done in West Virginia and Wyoming and that data indicated that a severance tax had no impact on the level of drilling activity within those states.

Pennsylvania has been recognized as having the best state parks in the country. Some of the severance tax money could be used for environmental issues for DCNR or DEP, and/or local environment.

VIII. NEW BUSINESS

Richard reported that Burt has indicated that he may want to step down as Water Chair, due to the workload and high activity level of the Oil and Gas Technical Advisory Board. Richard mentioned the potential for some additional changes in committee chairs and asked that members get back to him with any suggestions or comments before the next meeting.

Eric moved that the CAC send a letter to the Department, Governor's office, Budget Secretary and General Assembly leadership requesting an increase the Department's General Fund appropriation, without harming other Commonwealth agencies, by an amount sufficient to ensure that available federal grant funds are adequately matched so they do not need to be returned to the granting agency. The letter should be sufficiently specific to identify where this issue has emerged and the amount of funding that is needed to provide the necessary match. As a public policy issue the Commonwealth should not return federal funds due to matching budget shortfalls.

Jan seconded the motion. After discussion of this letter, Richard suggested that Sue prepare a draft to be reviewed and considered by Council by the next meeting. The motion and stated process were approved. Dan Lapato agreed to provide a spread sheet of:

- programs that receive federal matching funds, how much each program received,
- how much each had/has to return to the granting agency and why,
- the amount (by Commonwealth account and whether direct or indirect) of state money provided to each relevant program, and
- whether the state has primacy or not for the program

Sue distributed DEP's portion of the Governor's proposed budget, along with the proposed complement changes. The budget will be discussed in greater detail at the March meeting.

IX. UNFINISHED BUSINESS

Richard asked for a motion to adjourn the meeting. Jim so moved; Cynthia seconded the motion. The meeting was adjourned at 1:50 PM.

Notice of the February meeting was published in a newspaper of general circulation in Dauphin County and mailed to individuals and offices in compliance with the Sunshine Act (1986-84). These minutes constitute the official record of the Citizens Advisory Council meeting; no official transcript is prepared.