

# Citizens Advisory Council

March 20, 2012

Room 105, Rachel Carson State Office Building, Harrisburg, PA

Members in Attendance:

Cynthia Carrow	Pat Lupo
Gail Conner	Richard Manfredi
Terry Dayton	Thaddeus Stevens
Walter Heine	John Walliser

**Call Meeting to Order** -Chair John Walliser called the meeting to order at 11:10 am.

## Chair's Report

Walter Heine addressed the concern of waiting for an hour after the EQB meeting until the Citizens Advisory Council meeting. Council discussed making the beginning time flexible based off of EQB's agenda. John Walliser suggested moving the next meeting up to 10:30 and sending notice of the change of beginning time for the already published council meeting notices.

There was no quorum in the meeting, so action items will be discussed but not voted on. The council members will have to vote on minutes at the next meeting. Dave Strong has resigned from the CAC. Jolene Chinchilli has decided to not seek re-appointment with the council, but will stay on the board until her replacement is named. Jolene will also be stepping down as a member of the EQB. In terms of appointment updates, John will be scheduling meetings with the House and Senate to discuss the current vacancies. There are two in Senate, one in the House. They also want to introduce Marge Hughes as the new Director. They are hoping to meet with leadership in both chambers but definitely the majority and minority chairs of the Environmental Resources and Energy Committees in both chambers.

The council has reached out to DEP for help in having the Governor's Office fill the two vacancies from their appointments, as well as the two reappointments they have.

Terry Dayton questioned if the council members are allowed to have alternates during the meetings. Richard Manfredi stated that the bylaws do not allow for an alternate. Richard Manfredi asked if any recognition for Dave Strong is planned for his years of service. In the past for members, they have passed a resolution or accreditation. Jolene should also be recognized for her service. Marge Hughes and Susan Wilson will draft recognition for Dave and Jolene. Marge encouraged council members to notify her of specific accomplishments they would like acknowledged.

A Nominating Committee for Officers needs to be established for the election for officers of the council, coming up in June. John Walliser opened the floor for council members interested in serving on the nominating committee. Cynthia Carrow volunteered and Burt is mentioned for possible appointment. Richard Manfredi also volunteered for the Nominating Committee.

With Dave Strong resigning, there is no chair for Environmental Standards Committee. There is also a vacancy on AQTAC now. Nancy Perkins will not be able to serve on AQTAC due to her teaching schedule.

John Walliser named Marge Hughes as the official CAC alternate for the Mining and Reclamation Advisory Board (MRAB), the Solid Waste Advisory Committee (SWAC), the Air Quality Technical Advisory Committee (AQTAC), and the official CAC representative for the Low-Level Radioactive Waste Advisory Committee (LLWAC).

**Interim Election for EQB and MRAB-** The elections were postponed due to a lack of a quorum. There are two vacancies in EQB. John Walliser and Cynthia Carrow are both interested. The vacancies were reintroduced to council in case there are other CAC members interested.

Cynthia Carrow and Eric Conrad were elected for another two year term on MRAB at the February 2012 meeting. There is still one vacancy.

Terry Dayton volunteered for the vacancy on MRAB, and until the election, he will serve as an alternate.

### **Public Comment**

Mr. Walliser opened the floor for public comment and the public attendees introduced themselves. In attendance were Stephen Kunz, Michael DiMatteo, Jeff McNelly, Patrick Henderson, Patricia Allan, and Jennifer Hoffman.

Stephen Kunz, Senior Ecologist with Schmid & Company, noted Council's plan to complete its comments on the latest *Act 54* Review Report next month, and indicated that the Citizens Coal Council is eagerly looking forward to those comments. He offered comments on *Act 54* today, including the failure to balance the goals of those who drafted and those who adopted *Act 54*.

He noted that this latest *Act 54* Report indicates that mine-related impacts to structures, water supplies, and other surface and near-surface features are increasing, that actual repair or restoration of those impacts is rarely done, and that resolution of impacts - when there is some resolution - takes a very long time, sometimes many years.

Mr. Kunz indicated that he was speaking on behalf of those in the coalfields who are growing ever more frustrated with the lack of action and lack of attention to these problems. He hoped that the Council is ready to hit the ground running next month and that CAC's comments and recommendations will be the spark that leads to the changes that are sorely needed in *Act 54*. Mr. Kunz also asked the status of General Permit 8. Dan Lapato reported that it is still in internal review.

**Department Report** -Dan Lapato is filling in for the Secretary on giving the Department Report. First he would like to address concerns brought up in the last meeting. Lehigh River is an issue that is still being looked into. The Litterbug Hotline has been removed, the expense did not justify the amount of calls they received. Other outlets are still available, such as the Waste Management Bureau. Also on SB 1380 on the repeal of buffer standards, the bill is in the Senate currently.

A question was raised by a council member not in attendance about the Advisory committees asking if there is discussion of realignment or combination of advisory committees. Dan Lapato stated they are still in the process of fleshing out the reorganization. DEP is looking into the possibility of combining some of the committees while also looking into areas where advisory committees may be needed.

Another member of council that could not be there inquires about the future of Pollution Prevention and Energy Assistance Office. Dan stated that the office is now aligned with External Affairs along with the GGCC, PEDDA, and Small Business. The office is currently establishing next year's agenda with funding with EPA, doing ISO workshops, and working with all of Pennsylvania's energy programs. The office is working very closely with PA Treasury for the Keystone Help program.

John Walliser asked about the timeframe on Chapter 78, sub chapter C, surface activities related to Oil and Gas vetted by the Oil & Gas Technical Advisory Board. Dan explained that before Act 13 was passed, DEP was already looking at sub chapter C. A white paper has been posted on the TAB website concerning this issue. Since Act 13 became law, it does change some aspects of sub chapter C, so they are currently analyzing it to see what all was changed. Timeframe is not yet known.

April 16<sup>th</sup> is the effective date and implementation date for Act 13. With the CAC meeting on April 17<sup>th</sup>, the Council is hoping Oil and Gas office can discuss Act 13 more at that meeting.

A council member inquired about the above ground impoundment structure and asked if that is more easily permitted. Dan responded that there have been inflatable tanks and that the industry is moving more towards that direction because they are movable, and more flexible.

John Walliser asked about Regional Roundtables. Western PA held its regional roundtable recently, and all regions have now reestablished roundtables. An energy roundtable occurred recently in the Southwest. Dan stated he will send the agendas for regional roundtables out to council members once we have them. The roundtables are open to the public. Pat Lupo asks if citizens can participate. Dan indicated that the public is invited and he asked Council members to encourage citizens to attend and participate in regional roundtables. Northwest Roundtable is the longest running roundtable and has a more formal set up. The Secretary has encouraged open forums for all regional roundtables. The meeting agendas are generally set by the participants and cover all DEP programs.

**Environmental Justice Advisory Board Report** -Nora Carreras passed around the Plain Language Guide to Regulations recently released by her office. They are hoping this guide will help the public and lower income residents to understand the regulatory process. She reported that the Department has reestablished the Environmental Justice Internal Work Group. The Internal Work Group provides technical support to the Environmental Justice Advisory Board and serves as resources for the Board and in the communities as needed.

She also stated the EJ office is putting out Fact Sheets in Spanish as well as English for use in emergency situations. She mentioned a recent fish advisory issued in Spanish. Pat Lupo noted a student working with a Sea Grant some time ago produced fish advisories in Spanish, Russian, Korean and several other languages. Pat Lupo asks how many members are currently in Environmental Justice Advisory Board. Nora responded 15 members, with two vacancies. She encourages everyone to give suggestions for new members. They are especially interested in representation from the north and south central as well as northwest regional.

Nora indicated that the EJAB would like to follow CAC's lead and schedule a road trip with listening sessions, in addition to scheduling a joint meeting/session with CAC. John Walliser states the Council will be happy to have a joint session.

**Act 13 Update & Overview - Patrick Henderson**, Energy Executive, Office of Governor presented information on Act 13 summarizing its many chapters, and noting that much of the act is a consolidated Oil and Gas act put into a new law. Pertaining to the unconventional gas well fee – Pat noted that if a county does not adopt the fee, municipalities and townships can adopt fee and if 50 % adopt, it is imposed. DEP will send the gas permit information to PUC. Patrick reviewed the breakdown of gas well fee. Gail Conner raised a concern regarding the protection of private property rights of homeowners regarding pipeline placement. She noted that utilities are claiming use of right of ways without providing property owner compensation. Patrick responded that gas transmitting companies are not considered public utilities. Gail noted that there is a gap that needs attention specifically the

secondary impacts from the use of “public utility” designation for off-shoot lines and impacted properties. Patrick McDonnell, from PUC, indicated that he will look into this issue.

The council has extended an invitation to PUC to speak at the Citizens Advisory Council April meeting.

Council members asked questions regarding single well and pad development as well as fee calculations. Terry Dayton asked if Act 13 pertains to vertical wells as well. Patrick clarified that Act 13 pertains to unconventional wells, and he anticipates that DEP will be identifying extra conditions that will need to be met for multiple well pad development.

Walter Heine questioned about the impact on local government land use controls with Act 13, Chapter 33. Patrick offered to send a more detailed summary on that particular chapter. (Note: the summary was distributed to Council March 22, 2012) Pat Lupo argued that Act 13 is the State using its preemptive power to strip resources and disrupt communities, not looking out for citizens and homeowners. Patrick disagreed and indicated there is a role for both local government, and state government- the state’s role is environmental protection and uniform consistency. She expressed concern that there would be little support for communities when problems occur. Patrick voiced confidence in the significant funding to local government as well as the Commonwealth’s responsibility to make sure nothing goes wrong

Richard Manfredi explained that landowners have to follow the regulations and zoning ordinances. Patrick explained that if there is an aggrieved company / owner, they are encouraged to talk to the Environmental Hearing Board or Public Utility Commission.

Terry Dayton asked about the counties that opt out of the fee. Patrick and PUC representative Patrick McDonnell explain that the county distribution gets adjusted to not include that split.

Marjorie Hughes requested clarification on fee distribution to Conservation Districts. Patrick explained the “budget offset” notation in his presentation recognizes that districts receive allocations from DEP and Department of Agriculture and those allocations are part of the budget negotiations.

**Act 13 DEP Plan of Action** - Dan Lapato announced that DEP implementation of Act 13 includes a four-part WebEx series, review of bonding, E&S controls, and electronic notification of the Spud date. Council members asked if companies have been asked to voluntarily submit information on the disposal of wastewater to the DEP, not just when there is a particular request. Dan replied that the operators, the trucking company and the receiving facility must all maintain records. Waste water information will be included on DEP’s Act 13 website and he will include these questions in the site’s “Frequently Asked Questions (FAQ)” link.

Gail Conner asks if production data can be provided to the public. Dan Lapato encourages Council to go DEP's Oil and Gas website, under Act 13. He noted that production data will be updated every 6 months.

Patrick McDonnell offered that the PUC has a PUC Order open for public comment. He directed Council to their website for all of the documents associated with PUC Act 13 implementation including notice of which counties have adopted the fee.

**CAC Director's Report** -During the Director's Report, clerical help was thanked and it is announced that the temporary clerical help, Rajendra Dave, who has been assisting Susan Wilson and Marge Hughes with files and reports, has had his work extended for 6 months.

Council members are providing ideas to Marjorie during one on one discussion, and one idea came from Thad Stevens. He mentioned that once the vacancies of the CAC are filled, it would be an opportune time for a visioning session, or a strategic planning session. A time to have this discussion may be when the Council has a joint meeting with the Environmental Justice Advisory Board.

During the EQB meeting on the same day as the March Citizens Advisory Council meeting, the Council was asked to take part in developing a procedure for use when DEP decides to withdraw a regulation after EQB has taken action. Michelle Tate, DEP's Regulatory Coordinator, will poll the EQB members and see who wants to be involved, and then will schedule a conference call to discuss.

**Act 54 Updates** - Sue Wilson would like the subgroup to meet via Conference Call sometime in early April. Comments for the deliverables were requested from council members and they will e-mail the comments by mid-day the next day.

### **Committee Reports**

**Water** – Committee Chair Thad Stevens reported that the Committee met following the 2/21/12 CAC meeting to listen to reports on changes to Chapter 93 (Water Quality Standards) and the proposed ESCGP-2 for oil and gas activities.

**Air** - The AQTAC meeting and CAC Air committee conference call were both cancelled. May 2 is the GP5 close of comment period.

### **New or Unfinished Business**

Possible topics for the March meeting include PUC Act 13 responsibilities, inviting Representative Miller's office to discuss HB1855 legislation, Council's Act 54 report and additional information from DEP on Act 13 implementation.

### **Adjourn**

Meeting was adjourned at 2:30 pm.

DRAFT