

Citizens Advisory Council Meeting - May 22, 2013

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

Citizens Advisory Council (CAC) Members in Attendance: Cynthia Carrow, Terry Dayton, David Hess, Seth Mendelsohn, Nancy Perkins, Thaddeus Stevens, Burt Waite, John Walliser, Don Welsh and Acting DEP Secretary, Chris Abruzzo.

Call Meeting to Order: Chair John Walliser called the meeting to order at 11:05 am and welcomed two Governor's Office appointments to CAC, Seth Mendelsohn and Don Welsh. CAC legal interns Monica Adams (Widener Law School) and Peter Lyle (Duquesne Law School) were also introduced.

The Chairman asked for comments or corrections to the April 16, 2013 minutes. Burt Waite moved and Dave Hess seconded a motion to approve the minutes as presented. The motion passed unanimously.

CAC Elections: Nominating Committee members Cynthia Carrow and Burt Waite reported a slate of officers: Terry Dayton for Chair and Nancy Perkins for Vice-Chair. There were no nominations from the floor. Thad Stevens moved and Burt Waite seconded a motion to approve the slate as presented. The motion passed unanimously.

Marge Hughes noted that there are five CAC members who serve on the Environmental Quality Board (EQB) and those elections take place annually. Prior to the meeting she had asked members to let her know if they were interested in serving on the EQB. She reported that Cynthia Carrow, William Fink, Walter Heine, Burt Waite and John Walliser indicated they would like to serve on the EQB as CAC representatives and that Terry Dayton and Pat Lupo were available to serve as alternates. There were no additions from the floor. Thad Stevens moved and Seth Mendelsohn seconded a motion to approve the EQB slate as presented. The motion passed unanimously.

She reported that there was no need for elections of CAC members to serve on the Mining and Reclamation Advisory Board (MRAB) at this time because the current members' terms extend into 2014. Those members are: Cynthia Carrow (term 2/28/12 to 2/28/14), Terry Dayton (term 5/31/12 to 5/31/14), Dave Hess (term 1/15/13 to 1/15/15) and Burt Waite (term 2/28/13 to 2/28/15). Burt Waite indicated he would step down from MRAB if another member was interested in serving.

CAC Committee Reports

EHB Rules Committee: Chair Walliser reminded Council that Gail Conner is currently serving as the CAC representative on the Environmental Hearing Board Rules Committee. However she was not reappointed to Council when her term expired. Chair Walliser suggested that unless a council member would like to serve in this capacity, Gail Conner will be asked to continue as the CAC representative. Council agreed.

Legislative Committee: Chair, Cynthia Carrow asked Marge Hughes to provide an update.

Ms. Hughes reported the Committee is interested in more active communication with the General Assembly including meeting with key legislators and their staff members as schedules permit. All Council members will be informed of any meetings scheduled and are welcome to participate. CAC summer legal intern, Pete Lyle will be working with the Committee and reviewing specific legislation.

Public Participation: Committee Chair Dave Hess reported the committee has been busy collecting input from the CAC March 27th invitation to the public and DEP advisory committee members for ideas on improvements to public participation in developing environmental regulations, technical guidance and formal policies. . He presented a summary of the input received and recommendations developed by the Committee He reminded Council that the invitation was designed to help Council provide DEP with early input into its announced plan to update its existing regulatory and technical guidance development public participation policies. In response to the invitation, Council received comments from individuals, groups, local governments and advisory committee members offering suggestions and comments.

There were many suggestions and discussion regarding a simplified regulation summary, plain language statements, “read-me-first” sections, citizen’s guide and other opportunities to clearly communicate. Terry Dayton moved and Cynthia Carrow seconded that the full suite of recommendations presented by the Committee and discussed by Council has the concurrence of Council and should be transmitted to the Secretary. The motion passed unanimously.

Department Overview: Acting Secretary Chris Abruzzo provided a quick overview of his first 6 weeks on the job and indicated that he would be travelling to the regional offices soon. He expressed a willingness to be more active on Council and will be looking for Council’s guidance and insight on a variety of issues. He offered that he thought the Department needs to do a better job of communicating with the public and the regulated community and he welcomed Council’s input in that area.

Responding to questions from Council, he indicated that there are several key issues taking his time including oil and gas development, air quality, mining, budget and reaching out to solve complex issues such as the Susquehanna River water quality. He indicated he thought the best solution to the on-lot sewage disposal in high and exceptional value watersheds might be a legislative solution, but the Department continues to work with stakeholders on a policy that is protective of these special waters.

Public Comments:

Roberta Winters, League of Women Voters (League) presented a statement regarding the upcoming fiscal budget approval and encouraging adequate funding for DEP programs. The League asks DEP to enforce fines and make the consequences of development not become the burden of the PA taxpayer. The League also urged DEP to provide funding in the budget to hire staff to review and learn to use the PNDI tool.

Steve Todd, Lower Susquehanna Riverkeeper urged that the Susquehanna River be designated as impaired. In response to questions from CAC member, Mr. Todd offered that the Fish and Boat Commission has adequate data to support such a determination and he was relieved to hear the Secretary report that DEP is now working with the Commission.

Jeff Schmidt, Chapter Director of the PA Sierra Club noted that in his remarks to Council April 16th, his concern was that Secretary Krancer was acting as a surrogate for presidential candidate Mitt Romney, not the Governor. He appreciated that the Department has answered some of the questions raised by environmental groups concerned about private water well testing and the coalition will be reviewing their request and identifying those items that have not been addressed as well as requesting a meeting with DEP. He noted recent news reports regarding the number of private water wells contaminated by oil and gas development and offered to share details with Council.

DEP Enforcement/Fines: Richard Morrison, Office of Chief Counsel provided an overview of various enforcement tools, the authority to take certain enforcement actions, how penalties are calculated, using a mining technical guidance as illustration, and where the collected fines are deposited. In response to Council questions he noted the roles of the regional compliance manager and regional attorneys and noted that the DEP policy regarding community environmental projects that can be offered in lieu of enforcement is being revised and is currently under review

PNDI Coordination During Permit Review and Evaluation: Office of Chief Counsel attorney, Jason Oyler, gave a presentation on the revised Policy for Pennsylvania Natural Diversity Inventory (PNDI) Policy. Among items reviewed were DEP outreach effort, purpose of the policy, guidance for DEP and regional staff and a new PNDI tool which will be made available for permitting purposes. Overall changes include a reorganization to improve clarity and definitions including critical habitat and rare and significant ecological features. Mr. Oyler also stated that effective July 2, 2012; clearance letters were valid for two years. Specific questions from the council members involved how and when the list is updated and the impact on economic development.

Rose Bud Mining Stream Reclamation: Active & Abandoned Mine Operations Deputy Secretary, John Stefanko and Joel Koricich with the California District Mining Office presented information on the St. Michaels AMD Water Treatment Project and the Rosebud Mining Company. Council members were invited to tour the facility with the MRAB in July.

New/Unfinished Business:

Holly Cairns noted a Permit Decision Guarantee quarterly report press release and a “pre-application” interactive tool is expected to be available in the late summer. She estimated that publication of the draft public participation guidance would be soon and it would open a 30-day public comment period. Dave Hess thanks her for her participation on the Public Participation Committee conference call.

Dave Hess reminded Council that the Auditor General’s office has invited Council to offer issues or comments the Auditor General should explore in their current review of DEP’s oil and gas program, or future ones. The Auditor General review of DEP’s oil and gas program is expected to be completed by the end of 2013.

Adjourn: The meeting was adjourned at approximately 3:00 pm.