

MINUTES
CITIZENS ADVISORY COUNCIL MEETING
July 21, 2015

CITIZENS ADVISORY COUNCIL (CAC) MEMBERS PRESENT:

Walter Heine, Cumberland County
Terry Dayton, Greene County
William Fink, Bedford County
Mark Caskey, Washington County
Thaddeus Stevens, Tioga County
John Over, Jr., Fayette County
Joi Spraggins, Philadelphia County
John Walliser, Allegheny County
Donald Welsh, Chester County

CITIZENS ADVISORY COUNCIL STAFF PRESENT:

Michele Tate, Executive Director

CALL TO ORDER:

Chairman Bill Fink called the meeting to order at 10:03 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

APPROVAL OF JUNE 16, 2015, MEETING MINUTES:

With no corrections or additions recommended by Council, Chairman Fink asked for a motion to approve the June 16, 2015, Council meeting minutes.

Terry Dayton moved to approve the June 16, 2015, meeting minutes as presented to Council. Joi Spraggins seconded the motion, which was unanimously approved by Council.

CHAIRMAN FINKS REPORT TO COUNCIL:

Chairman Fink noted to Council that he and Don Welsh met with Secretary Quigley prior to Council's meeting to discuss the CAC's priorities and how DEP can most effectively use the expertise on Council to strengthen the Department's regulatory, policy, and other proposals.

Chairman Fink stated that Michele Tate submitted comments to DEP on the Department's proposed changes to its technical guidance #012-0900-001: Policy for the Development and Publication of Technical Guidance. He stated that Ms. Tate provided a copy of those comments to Council by email and would be happy to address any questions the CAC may have on the policy or the comments she developed on it.

Chairman Fink asked John Walliser to update the CAC on a review he observed of the Commonwealth's air regulations as they relate to the oil and gas industry. Mr. Walliser explained that the review was conducted by STRONGER (State Review of Oil and Natural Gas Environmental Regulations), which is a non-profit, multi-stakeholder organization that assists states in documenting their oil and natural gas environmental regulatory programs and identifying opportunities for program improvement. He noted that the review process is a non-regulatory initiative driven by states who volunteer for such programmatic reviews in order to continuously improve their programs and operations. He stated that the STRONGER review team met with

staff from DEP's Bureau of Air Quality on July 16, 2015, and that the review team will develop a report on their findings and recommendations for the Bureau. STRONGER has indicated that the target date for publication of the report is December 3, 2015. Mr. Walliser stated that STRONGER has completed several reviews of DEP's Oil and Gas program but this review is the first time it has examined the state's air regulations as they pertain to oil and gas development.

Chairman Fink reminded Council members that its next meeting will occur on September 15, 2015, and identified a number of topics the CAC will be focusing on in the fall, including EPA's Clean Power Plan regulations, DEP's response to the CAC's comments on the Act 54 Report, DEP's Chapter 78 and 78a oil and gas surface regulations, SMCRA Reauthorization and AML funding, and Water Well Construction Standards legislation.

In closing, Chairman Fink noted that there are five vacant seats on Council, including one under the appointing authority of the Speaker of the State House of Representatives, three from the President Pro Tempore of the Senate, and one from the Governor's Office. He noted the importance of filling these vacant seats on Council and suggested that the CAC's Legislative Committee could play a role in working with the appointing authorities in the General Assembly to identify candidates for appointment to the CAC. Ms. Tate also noted that she would be contacting the appointing authorities to the CAC to ask for their assistance in nominating individuals on Council.

DEP REPORT TO COUNCIL:

Prior to providing his report to Council, Secretary Quigley thanked the CAC for the comments it developed on the latest Act 54 Report on the effects of subsidence resulting from underground bituminous coal mining for the years 2008-2013. He expressed his appreciation of Council efforts in developing its comments, including Council's commitment to public engagement on the report, which included sponsoring two public hearings and a public comment period on the report.

In other topics, Secretary Quigley announced that the Pipeline Infrastructure Task Force would be convening its first meeting on July 22, 2015. He noted that the task force was created at the direction of Governor Wolf to achieve a world-class pipeline infrastructure system in Pennsylvania. Secretary Quigley emphasized that in the next decade the Commonwealth will undergo substantial pipeline development and construction to support the Marcellus Shale natural gas industry and that the task force was organized to get ahead of that development through smart planning, community engagement and the identification of best management practices. He noted that the task force is comprised of 48 members representing state agencies, the legislature, federal and local governments, the pipeline and natural gas industries and environmental groups, and that the task force will be supported and informed by twelve workgroups, comprised collectively of approximately 110 individuals. He noted that all meetings of the task force will be open to the public and that the task force will provide a report detailing its findings to Governor Wolf by February 2016.

Secretary Quigley announced that DEP is in the process of developing a plan to reboot Pennsylvania's Chesapeake Bay cleanup initiative and will be sharing the plan with stakeholders for input in the near future. Although the Commonwealth has invested over \$4 billion since 1985 to improve water quality in the Chesapeake Bay region, Secretary Quigley emphasized that the Commonwealth is not meeting its goals and responsibilities for the Chesapeake Bay and that additional work is necessary. He acknowledged the voluntary efforts by the Commonwealth's agricultural community to improve water quality and noted the state's commitment to ensure those

efforts are recognized and counted in the Chesapeake Bay model. He also stated that DEP is working closely on the strategy with other state agencies, including the Department of Conservation and Natural Resources and the Department of Agriculture. He also noted that the Department of Agriculture is working with several public and private organizations to submit an application for additional federal funding to support conservation efforts and the implementation of agricultural best management practices in Pennsylvania.

Secretary Quigley announced that the comment period for DEP's Draft Nonpoint Source Management Plan 2014 Update closed on July 21, 2015, and that the agency will be reviewing the public comments submitted on the plan before finalizing it. He explained that Pennsylvania is required to develop the plan to reduce nonpoint source pollution in response to the receipt of annual Section 319 funding under the Federal Clean Water Act. As part of receiving that federal funding, Secretary Quigley explained the Commonwealth is required to develop and update the Management Plan every five years in order to outline the major activities the state will implement or support with the funding to reduce nonpoint source pollution. He noted the plan includes a description of the significant efforts taking place in Pennsylvania to address nonpoint source pollution and milestones to demonstrate progress.

In his closing remarks to Council, Secretary Quigley advised the CAC that the drought watch that was previously issued for 37 counties throughout Pennsylvania was recently lifted. He noted that the increase in rainfall in several areas of the state restored groundwater levels and streamflow resulting in the lifting of the drought watch. Despite the improvement in conditions, the Secretary encouraged all Pennsylvanians to continue to conserve water use whenever possible. In other matters, he noted the current Commonwealth Fiscal Year 2015-2016 Budget impasse and the implications of that impasse to DEP operations. While he stated that there are no anticipated delays to employees' scheduled pay as a result of the budget impasse, he explained that a number of state expenditures cannot be made without an approved budget, including most payments to vendors and grantees, and that reimbursement for employee travel would be delayed until a budget is passed.

In response to questions from Council members, Secretary Quigley discussed the draft regulatory proposal by DEP to allow consideration of alternative sewage treatment technologies in the onlot planning phase of development. He stated that he was aware of Council's concerns, as articulated in CAC's Transition Documents to the Wolf Administration, and noted that he would be happy to meet with CAC members to discuss their concerns in more detail. In response to inquiries about EPA's Waters of the U.S. rulemaking, Secretary Quigley noted that Department staff are reviewing the final rulemaking but do not expect it will pose any significant impacts to Pennsylvania, as the Commonwealth already has similar rules under the state's Clean Streams Law.

Secretary Quigley, in response to Council inquiries, also updated the CAC on the status of the Clean Power Plan regulations by EPA. He stated that he and other state government executives recently met with federal officials to discuss the rulemaking, which is anticipated to be published in early August 2015. He noted that the Wolf Administration – unlike the Corbett Administration – supports the Clean Power Plan rulemaking and believes it provides the state with opportunities to address climate change and improve public health, the economy and the power system. Once the final rulemaking is announced by EPA, Secretary Quigley explained that Pennsylvania will be responsible for developing a Clean Power Plan tailored to fit the Commonwealth's economy within one year; however, that plan must be submitted to the state's General Assembly 100 days

before it is due to EPA. As part of the development of Pennsylvania's plan, he noted that DEP will actively seek stakeholder input and will release a schedule announcing how it plans to solicit feedback on the rulemaking and Pennsylvania's Clean Power Plan.

PUBLIC COMMENT:

Susan Carty, League of Women Voters of Pennsylvania: On behalf of the League of Women Voters of Pennsylvania, Susan Carty provided comments to the CAC where she emphasized three areas on the CAC's meeting agenda that were of interest to her organization.

First, she stated the League's interest in learning about the Commonwealth's progress in meeting its commitments under the Chesapeake Bay TMDL and noted the League believes DEP has a critical role in supporting the protection and wise management of natural resources in the public interest.

Second, Ms. Carty noted the League's concern for and involvement with longwall mining practices and policies and expressed the League's optimism that the CAC's Recommendations on the Act 54 Report will call for the revision of Act 54 to cease the negative consequences of longwall mining on aquatic chemistry, water life and the vital ecological balance in nature.

Third, Ms. Carty noted that the League is pleased that DEP has established a Pipeline Infrastructure Task Force to recommend and define a series of best practices for natural gas pipeline development. She expressed the League's hope that the task force will recommend similar recommendations as those raised at the federal level through the work of the Pipeline Informed Planning Alliance. She also referenced a new guidance document released by the Pipeline Hazardous Materials Safety Administration and the Federal Emergency Management Agency entitled "*Hazard Mitigation Planning: Practices of Land Use Planning and Development near Pipelines*" and that the document outlines best practices for communities to reduce the risks of pipeline incidents, including those caused by natural forces.

Last, Ms. Carty noted Council's anticipated discussion of Public Participation Guidelines at CAC meetings and expressed the League's hope that the guidelines developed by Council will be instructive given the League's encouragement of citizen involvement in government at the local, state and national levels.

Joanne Kilgour, Sierra Club: Joanne Kilgour, Director of the Sierra Club Pennsylvania Chapter, provided comments to the CAC where she discussed the Clean Rivers Campaign, which is an education and advocacy program designed to raise awareness of the stormwater runoff and sewage overflow issues in Allegheny County. The organizations involved in the coalition include the Sierra Club, Action United, Pennsylvania Interfaith Impact Network, Clean Water Action and the Nine Mile Run Watershed Association.

She stated that the campaign participants are collectively working to ensure that the communities and ratepayers in the Allegheny County Sanitary Authority (ALCOSAN) receive the maximum benefits back from their \$3 billion investment to fix the authority's antiquated water and sewer infrastructure. ALCOSAN, under a court-ordered Consent Decree, is required to implement necessary improvements to control sewer overflows from its system. ALCOSAN's response to the court order has included plans for infrastructure improvements, which are anticipated to increase rates of ALCOSAN customers.

Ms. Kilgour emphasized that the coalition is advocating for the adoption of green solutions in order to help solve the sewer overflow problems in Allegheny County. She also noted that the campaign is advocating ALCOSAN establish a Customer Assistance Program to ensure that water and waste services are affordable for low-income residents. She also stressed that the Clean Rivers Campaign is working to ensure that parties pay their fair share throughout the project, including entities that now pay little to ALCOSAN but contribute large amounts of stormwater to the system.

In closing, she noted that communities in the ALCOSAN service area are exploring opportunities and cost-savings that a “green-first” approach would provide in comparison to the infrastructure development plans proposed by ALCOSAN. She noted this is an opportunity to create a comprehensive regional vision that maximizes green infrastructure to comply with water quality standards and asked for the CAC’s support of the campaign and its approach.

DEP WORKFORCE AND SUCCESSION PLANNING:

Jason Swarthout, Director of DEP’s Bureau of Human Resources, provided Council with an overview of DEP’s workforce planning efforts, including steps the agency is planning to address succession planning. He provided background information to Council on how human resource programs are administered in state government, including the responsibilities of the State Civil Service Commission, the Office of Administration, and the respective human resources offices of each state agency. He noted that DEP currently has 2,680 salaried positions, of which 95% are civil service and 70% are covered by union contracts. He further pointed out that 72% of positions at DEP are located in field offices and DEP uses approximately 300 different job titles.

Mr. Swarthout emphasized that DEP’s current workforce is aging and that there are fewer candidates to succeed retiring staff. He noted that 30% of DEP’s workforce will be eligible to retire in the next four years, but explained that retirement eligibility does not always lead to the immediate retirement of staff; therefore, DEP is using the information as a planning tool. He stated that on average, approximately 6%-8% of DEP employees retire each year and the average age of staff members who retire from DEP is 59.

Mr. Swarthout emphasized that DEP has developed workforce planning and succession models to provide agency managers with the tools necessary to assure future workforce needs are met. For succession planning, this effort includes the identification of core competencies required for each position, a competency gap analysis, and the identification of developmental opportunities in order to develop and maintain a talent pool. Mr. Swarthout noted that for succession planning, DEP has found “job shadowing” to be particularly beneficial to the agency where the successor learns first-hand the “ins and outs” of a job from his or her predecessor before they retire. For workforce planning, including attracting and retaining qualified individuals for employment at DEP, Mr. Swarthout explained the process DEP follows to identify future workforce needs and noted the adjustments in hiring practices that may be needed by the Commonwealth in order to meet the expectations of younger employees who differ in comparison to employees of the “baby boomer” generation. For example, he noted that younger employees are inclined to prefer streamlined application processes in line with features supported by NEOGOV, which includes on-demand human resources software for the public sector to automate hiring. He also stated that younger employees are also expected to change jobs frequently and rarely stay with one company or agency for their entire career unlike employees from the baby boomer generation.

At the conclusion of Mr. Swarthout’s presentation, members of the public inquired what DEP is undertaking to ensure additional inspectors are hired in the Oil and Gas program. Council

members also inquired about pension costs relative to the expected departure of approximately 30% of DEP's complement in the next several years, how pension reform may impact state job recruitment efforts, and what the CAC can do as a bi-partisan organization to assist in highlighting the need for changes by the Commonwealth to attract and retain qualified individuals for jobs at DEP.

EPA INTERIM EVALUATION OF CHESAPEAKE BAY 2014-2015 MILESTONES AND WIP PROGRESS:

Suzanne Trevena, EPA Region 3 Water Protection Division, and Chair of the Milestone Workgroup, provided a presentation to the CAC on the EPA's Interim Evaluation of the Chesapeake Bay 2014-2015 Milestones and Watershed Implementation Plan (WIP) progress. She emphasized that the Chesapeake Bay restoration effort operates through a measurable accountability framework, which includes Watershed Implementation Plans (WIPs), annual progress reviews, and two-year milestones. She explained to the CAC the importance and purpose of the two-year milestone evaluations and identified the staff who serve on the Evaluation Team who review the progress of each jurisdiction. She emphasized that the milestone evaluation process is a critical step to determine if Chesapeake Bay jurisdictions and federal agencies are on track to achieve specific commitments to improve the Bay's water quality. She noted that in 2016, EPA will evaluate whether Pennsylvania achieved its 2014-2015 milestones and has commitments to achieve the Chesapeake Bay Program partnership goal of having practices in place by 2017 that would achieve 60% of the nitrogen, phosphorus and sediment reductions necessary to achieve water quality standards in the Bay compared to 2009.

Ms. Trevena provided an overview of the progress jurisdictions are making, including the efforts of Delaware, Washington DC, Maryland, New York, Pennsylvania, Virginia, West Virginia and federal agencies. She noted each jurisdiction's achievements and the issues each must address to meet their commitments. She stated that according to data provided by Pennsylvania, the state is on track to meet the 2017 targets for phosphorus, but is not on track for nitrogen or sediment. She emphasized that Pennsylvania will need to place additional emphasis on improving implementation in the agriculture and urban sectors to meet its WIP and Chesapeake Bay Total Maximum Daily Load (TMDL) commitments by 2025. Ms. Trevena did identify several achievements of Pennsylvania, including its use of transect surveys to improve tracking and reporting for tillage and cover crop acres, the three targeted watershed assessments the state conducted to ensure compliance with state regulations, and the fact that the Commonwealth conducted over 376 stormwater construction permit termination inspections in 2014.

At the conclusion of Ms. Trevena's presentation, Council members discussed a number of concerns associated with Pennsylvania's progress in meeting its Chesapeake Bay TMDL obligations, including the sanctions that may be levied by EPA for failure of the state to meet its targets. Council members also inquired about the overall environmental quality of the Chesapeake Bay and if significant improvements are being realized. In response to questions from Council members, DEP staff explained a number of initiatives DEP is working on to increase the implementation and use of BMPs by Pennsylvania's agricultural sector, including efforts by DEP to collect data on BMPs already being implemented but not documented.

CAC COMMITTEE REPORTS:

Act 54 Report Ad Hoc Review Committee: Terry Dayton submitted the committee's final recommendations on the Act 54 Report for action by the CAC. He expressed his appreciation of the committee's hard work in reviewing the report, including the committee's support of public

engagement, which it demonstrated by sponsoring a public comment period on the report, as well scheduling two public hearings. He explained to Council that the CAC's comments include specific recommendations on several areas, including Act 54 itself, DEP regulations and permitting procedures, DEP resources, and DEP policies and protocols for public engagement and transparency. Mr. Dayton noted that Council received correspondence from the Citizens Coal Council and the Pennsylvania Coal Alliance on the CAC's Act 54 comments in advance of today's meeting.

Mr. Dayton noted that after action by the CAC, the Council's final comments would be submitted to Secretary Quigley with copies to be sent to Governor Wolf, House Speaker Turzai, Senate President Pro Tempore Scarnati and the leadership of the House and Senate Environmental Resources and Energy Committees.

John Walliser moved to approve the CAC's final comments and recommendations on the report entitled "*The Effects of Subsidence Resulting from Underground Bituminous Coal Mining, 2008-2013*", commonly referred to as the Act 54 Report. Mark Caskey seconded the motion, which was approved by a majority of Council Members, with one abstention by Terry Dayton. Four Council members cast their approval of the CAC's final Act 54 Report comments by proxy as follows: Burt Waite provided his proxy vote to Terry Dayton; Cynthia Carrow provided her proxy vote to John Walliser; John Hines provides his proxy vote to John Walliser; and Tim Weston provided his proxy vote to Bill Fink.

Public Participation Committee: On behalf of the CAC's Public Participation Committee, Michele Tate presented changes to Council's rules of procedure for accepting public comments at CAC's public meetings. She stated the changes were directed by the CAC in response to Council's discussion at its June 16, 2015, meeting where members expressed the need for the CAC to establish more definitive protocols for how and when it accepts comments from the public at its public meetings so that a more fair and equitable process can be established.

Ms. Tate elaborated on the specific modifications to the CAC's rules of procedures, which included that the CAC would reserve a minimum of 15 minutes on each meeting agenda to accept comments from the public. Council also clarified in its procedures that while it will accept public comments at a public meeting, the CAC is not a decision-making body and is only authorized to provide advice to DEP on issues of concern raised by Council members and the public. Ms. Tate also emphasized that Council is requesting individuals wishing to present public comments at a CAC meeting to contact the CAC 24-hours in advance of the meeting in question. Ms. Tate further noted that the CAC will encourage the submission of written comments by the public in advance of a meeting so that those comments can be shared with Council members in advance of the meeting. All written comments submitted to the CAC will be posted on the CAC's website under the relevant meeting at which the comments were received. She also noted that all public comments received by the CAC will be summarized in the meeting minutes developed by Council. Last, Ms. Tate emphasized that in order to ensure all parties are given an equal chance to present comments to the CAC, Council recommends that comments be limited to no more than five minutes in duration, unless prior arrangements are made, and that groups or organizations will be asked to designate one representative to provide comments to the CAC on behalf of the organization.

Terry Dayton moved to approve the changes to the CAC's rules of procedures pertaining to the receipt of public comments, as presented to

Council by Ms. Tate. John Walliser seconded the motion, which was unanimously approved by Council.

Administrative Oversight and Management Committee: Joi Spraggins expressed the need for the CAC to establish an Administrative Oversight and Management Committee to oversee the CAC's review of a number of DEP administrative issues, including the Department's budgetary, information technology, and human resources needs. Given the impending retirement of at least 30% of DEP's complement in the next several years, Ms. Spraggins emphasized the importance of this committee, including having the committee initially focus on workforce and succession planning at DEP, with a goal of increasing greater diversity in DEP's workforce. Ms. Spraggins noted that if the CAC approves the creation of an Administrative Oversight and Management Committee, she would be willing to chair the Committee.

Joi Spraggins moved for the CAC to create an Administrative Oversight and Management Committee, which, among its priority duties, would focus on providing advice to DEP on workforce planning and succession issues. Thad Stevens seconded the motion, which was unanimously approved by Council.

NEW/UNFINISHED BUSINESS:

Council members did not identify any new or unfinished business for the CAC's consideration.

ADJOURN:

With no further business, Chairman Fink requested a motion for Council to adjourn the meeting. Terry Dayton moved to adjourn the meeting, which was seconded by John Walliser. The July 21, 2015, meeting of the CAC was adjourned at 1:22 p.m.