

MINUTES
CITIZENS ADVISORY COUNCIL MEETING
October 18, 2016

CITIZENS ADVISORY COUNCIL (CAC) MEMBERS PRESENT:

Cynthia Carrow, Allegheny County
John Walliser, Allegheny County
William Fink, Bedford County
Donald Welsh, Chester County
Burt Waite, Crawford County
Walter Heine, Cumberland County
Timothy Weston, Cumberland County
Jim Sandoe, Lancaster County
John Hines, Lebanon County
Joi Spraggins, Philadelphia County
Thaddeus Stevens, Tioga County

CITIZENS ADVISORY COUNCIL STAFF PRESENT:

Katherine Hetherington Cunfer, Acting Executive Director

CALL TO ORDER:

Chairman Fink called the meeting to order at 10:30 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA, with a quorum. The meeting was also broadcast via WebEx for the public.

APPROVAL OF MAY 17, 2016 MEETING MINUTES:

Chairman Fink asked for a motion to approve the June 21, 2016 Council meeting Minutes.

**Burt Waite moved to approve the June 21, 2016 meeting Minutes.
Thaddeus Stevens seconded the motion, which was unanimously
approved by Council.**

DEP REPORT

In Acting Secretary McDonnell's absence, the following updates were provided by Kelly Heffner, Special Deputy Secretary for Water Resources Planning:

Staff Update

Jim Miller began serving as Regional Director in the Northwest Regional Office in Meadville as of June 27.

Ken Reisinger, Deputy Secretary for the Office of Waste, Air, Radiation and Remediation, announced his retirement earlier in October. George Hartenstein will act as Deputy Secretary for the Office of Waste, Air, Radiation and Remediation.

Chesapeake Bay Restoration Initiative

Six recommendations:

- Meet EPA goal of inspecting 10% of farms in Chesapeake Bay watershed annually;

- Focus on local water quality improvements through BMPs;
- Improve reporting and recordkeeping data systems;
- Identify legislative, programmatic, or regulatory changes that will help to meet 2025 TMDL reduction goals;
- Establish DEP Chesapeake Bay Office (now achieved);
- Obtain additional resources for water quality improvement through new funding sources.

29 County Conservation Districts agreed to participate in farm inspections; 9 districts failed to meet application criteria or declined to participate.

Over 40 inspections completed as of the end of September. No major issues were reported.

Governor Wolf has announced an \$11.8 million investment to accelerate Pennsylvania's restoration strategy.

Water Resources Planning

Drought

DEP continues to monitor drought conditions. Drought status changes could be made at the next Drought Task Force meeting which will be held on October 19. Individual county drought statuses could be made at that meeting.

State Water Plan

Work has begun on the first review of the State Water Plan developed under Act 220 of 2002. The six regional committees and one statewide committee will be reformed. The seven committees entail 169 members. Many of the memberships have expired. DEP staff will work with nominating organizations and Committee members to process the paperwork necessary to apply for and be appointed to the committees.

Grower Greener

DEP will be announcing at the beginning of November the availability of the Grant Solicitation Package for the 2016 Growing Greener Plus Grant Program. The Department will be investing in projects that will ultimately protect and/or restore Pennsylvania's watersheds from impairments due to nonpoint source pollution. Particular focus will be placed upon reducing non-point source pollution within the Chesapeake Bay watershed by allocating more than half of the available Growing Greener funds for this purpose.

Zika Virus

DEP has released surveillance results for the Aedes mosquitos, which have been found to be vectors of the Zika virus. At this time, no mosquitos have tested positive for the virus. The primary mosquito carrier of Zika has not been found in Pennsylvania since 2002. Information about the Zika Response Plan can be found on DEP's and the Department of Health's website.

Chapter 78a Publication

In June, Governor Wolf signed Act 52 of 2016 into law, creating the Pennsylvania Grade Crude Development Act. Act 52 abrogated the regulations for conventional oil and gas wells and created the Pennsylvania Grade Crude Development Advisory Council. DCED is charged with

providing administrative support to this new Council. The rule was published in the *Pennsylvania Bulletin* on October 8, 2016. DEP has been working with TAB and COGAC to develop and review all forms. Technical guidance documents for this rule were published as interim final with a 60-day comment period running October 8-December 7. On October 13, the Department was sued by the Marcellus Shale Coalition.

Alternative Fuel Incentive Grant (AFIG) Announcement

Ten AFIG grants have been awarded. Grants awarded will help fund alternative fuel vehicle purchases and retrofits, alternative fuel stations, and electric vehicle-to-grid projects. A total of 111 vehicles will be put into service through these grant awards. The AFIG program remains open through 2016 and will accept applications for the final round closing December 30. The program will reopen and accept 2017 applications in January. Information on the AFIG program can be found on the DEP Energy Office website.

Environmental Education Grant Revamp

The program has been revamped. For the 2017 grant round, DEP will fund large scale, high-impact projects while also supporting smaller-scale mini projects. Applicants for the larger scale grants may request up to \$50,000 for a two-year project. Mini grant applicants may apply for \$3,000 for a one-year project. Applications are due on December 16, 2016. Information can be found on DEP's Environmental Education webpage.

Environmental Cleanup and Brownfields Conference

The 11th Annual Pennsylvania Brownfields Conference will be held October 26-28 at the Lancaster County Convention Center. DEP will host the conference in partnership with the Engineers' Society of Western PA. The conference includes highlights of successful brownfields projects, sponsorship and networking opportunities, and grant writing workshops.

Abandoned Mine Lands Revitalization Program

Pennsylvania was one of three states to receive a \$30 million grant from the federal Abandoned Mine Lands Economic Revitalization Pilot Program. The pilot program will transform 14 of Pennsylvania's abandoned mine remediation sites into productive spaces for industrial and recreational use. The success of the pilot program will help Congress pass the proposed RECLAIM Act, which will direct approximately \$67 million of additional federal AML funding per year to Pennsylvania over the next five years. These funds will help Pennsylvania accelerate efforts to clean up abandoned mine lands while supporting economic development in coal regions.

CHAIRMAN REPORT

Chairman Fink thanked Acting Executive Director Katherine Hetherington Cunfer for coordinating the Lancaster City Green Infrastructure tour this past July, which the members found to be very educational.

EOB BOARD ELECTIONS

Current membership includes Bill Fink, Don Welsh, Burt Waite, Cynthia Carrow, and John Walliser. Terry Dayton and Jim Sandoe are alternates. All members indicated their willingness to continue in their current capacities. Walter Heine also volunteered to be an alternate.

Tim Weston moved to adopt the current slate of EQB members for reappointment for FY 2016-2017. The motion was seconded by Jim Sandoe and unanimously approved by Council.

CORRESPONDENCE

Acting Executive Director Katherine Hetherington Cunfer offered the following:

Donna Shue was a former Administrative Officer 1 with CAC from 1982-1986. Donna is currently working on an advanced degree, which program offers to give participants credit for existing work experience. Donna contacted the Acting Executive Director requesting a letter memorializing her work and the position description language. The letter, as prepared by Katherine Hetherington Cunfer, was read aloud to the CAC members.

Tim Weston moved that the Council approve the letter. The motion was seconded by Thad Stevens and unanimously approved by Council.

A letter to the Governor's Office, with a copy to the legislature, expressing CAC's support for the Governor's choice of Patrick McDonnell to lead DEP was read aloud by Katherine Hetherington Cunfer. The letter is not an endorsement, but it memorializes the positive working relationship Council has had with Patrick and the DEP staff under his leadership. The letter also memorializes Patrick's humble roots as a PMA intern with CAC at the beginning of his career and CAC's pride in his trajectory.

Jim Sandoe made a motion to approve the letter on behalf of Patrick McDonnell. The motion was seconded by Burt Waite and unanimously approved by Council.

Acting Executive Director Katherine Hetherington Cunfer has been contacted multiple times by Etta Albright expressing concern about fossil fuel development in Cambria County, Pennsylvania's policies on fossil fuel development, legacy environmental degradation from extractive industries, climate change, and the Paris Climate talks. Katie Hetherington Cunfer prepared a letter from the Council in reply explaining the role of CC, CAC's work with DEP, the legislature, and the Governor's Office on climate change and renewable energy, efforts DEP has undertaken to promote renewable energy, and the importance of a diverse energy portfolio to Pennsylvania's economy.

John Walliser moved that Council ask Katherine Hetherington Cunfer to approach the Department for a response to Etta Albright. The motion was seconded by Thad Stevens and unanimously approved by Council.

2016 PA INTEGRATED WATER QUALITY MONITORING AND ASSESSMENT REPORT

Gary Walters, Environmental Group Manager for the Division of Water Quality Standards, Bureau of Clean Water, stated that the 2016 PA Integrated Water Quality Monitoring and

Assessment Report was put out for public comment on July 31. It was open for a 45-day comment period, which closed on September 12. The Department received 19 comments. The focus of most of the comments was DEP's assessment of the Susquehanna River main stem from Sunbury to Holtwood. Responses to those comments are currently being developed.

The Integrated Report is a requirement of the Federal Clean Water Act Sections 303(d) and 305(b). Section 305(b) requires states to report water quality status of all surface waters every two years. Section 303(d) requires states to report from time to time the status of waters that will not meet water quality standards after application of treatment technology and will require the development of a TMDL for pollutants.

The Integrated Report consists of a total of five different categories.

Category 1 contains waters that have been assessed for all uses and water quality standards are being met.

Category 2 contains waters that have been assessed and been found to be attaining at least one protected use.

Category 3 contains waters that have not been assessed due to a lack of information.

Category 4 contains waters that are impaired, but do not require the development of a TMDL. There are three subsets:

- (A) Impaired waters for which there is an approved TMDL for a particular pollutant;
- (B) Impaired waters that are expected to come into compliance with water quality standards within a reasonable time; and
- (C) Waters that are impaired by pollution rather than a pollutant.

The Clean Water Act defines pollutants as metals, nutrients, organic compounds, sediment, or thermal discharges. Pollution is defined as alternations of flow, trash, etc. Impairment is addressed through implementation of a remediation/restoration plan. Waters listed in Category 4(B) typically receive point source discharges. New permit limits are set to allow for the attainment of designed uses and when attainment is documented, the water is moved to Category 1 or 2.

Category 5 contains waters that require the development of a TMDL within 13 years. These are waters that are impaired by a pollutant.

New for 2016 is a subset called Category 5alt which contains waters impaired by a pollutant that have been prioritized for restoration using a TMDL alternative. These waters must be evaluated every two years and demonstrate progress toward achieving water quality standards or the water will be moved to Category 5 and require development of a TMDL.

Four water uses in lakes are being assessed: aquatic life use, fish consumption use, recreational use, and potable water supply use.

PENNSYLVANIA CLIMATE CHANGE ACT REPORT

Mark Brojakowski with the Climate Change Section of the Bureau of Air Quality stated that the Climate Change Action Plan, Act 70 of 2008, mandates that the Department, in consultation with the Climate Change Advisory Committee, must submit an Action Plan to the Governor. The first Action Plan was submitted to the Governor on December 18, 2009. The first update was submitted to the Governor on December 31, 2013, and the latest iteration was submitted to the Governor on August 20, 2016.

The main focus of the Action Plan is to identify greenhouse gas emissions, sequestration trends, and baselines. It evaluates strategies for reducing or offsetting greenhouse gas emissions and identifies costs and other co-benefits of greenhouse gas reduction strategies, including the impact of future energy needs. The Action Plan identifies areas of agreement and disagreement among committee members and also makes recommendations for legislative changes.

The 2015 Impacts Assessment Update shows that Pennsylvania has undergone a long-term warming of more than one degree Celsius over the past 110 years. Models used in the Impacts Assessment Update suggest that this warming is a result of anthropogenic influence and that the trend is accelerating. Projections show that by the middle of the 21st century Pennsylvania will be about three degrees Celsius warmer than it was at the end of the 20th century.

Frank Purtell, Air Quality Program Specialist with the Division of Air Quality Control, advised that the Climate Change Advisory Committee has established two subcommittees, or Pocket Groups, for work plan development. The work plans cover a wide range of options for emission reductions in the energy, residential, commercial, industrial, land use, transportation, agricultural, and forestry sectors of Pennsylvania. Thirteen different work plans were developed, and the Department incorporated all 13 work plans into the Impacts Assessment Update. The work plans are recommendations, not policy. Each work plan contains a summary of what the work plan involves, what the goals are through the year 2030, what the implementation steps would be, and what assumptions were used in the calculations that projected how much greenhouse gas reduction the particular work plan would provide.

MRAB COMMITTEE

Katherine Hetherington Cunfer noted the Regulatory, Legislative, and Technical Committee has been reviewing the fee package presentation from the Department. One big concern of the RLT committee is a proposal to increase underground mining fees, with no representation of the underground mining perspective on MRAB. The Department is attempting to reach out to constituencies from the underground mining industry. A proposal is expected from the RLT that will not be the \$12 million the Department is seeking in funding. It will be considerably less than that, but will include some funding for administrative elements for which the Department does not currently charge. If the package can get through the next set of meetings, then it may be up for EQB review in the spring.

AGGREGATE ADVISORY BOARD

Burt Waite advised that the Aggregate Advisory Board is also having the same discussion regarding fee increases.

OIL AND GAS TECHNICAL ADVISORY BOARD

Burt Waite advised that COGAC will be disbanded in favor of a legislatively-created committee called the Pennsylvania Grade Crude Advisory Committee. While CAC always had representation on COGAC and TAB, the CAC does not have representation on the Pennsylvania Grade Crude Advisory Committee, although there are a number of people close to CAC who hope to be appointed to it. Katherine Hetherington Cunfer indicated that no additional information has been received. In the legislation, the Committee was given to DCED.

SOLID WASTE ADVISORY COMMITTEE

Katherine Hetherington Cunfer noted that the Solid Waste Advisory Committee met recently in conjunction with the Recycling Funding Advisory Committee (RFAC). Discussion was held regarding the recyclability of agricultural plastic waste. Although a good idea, recycling of agricultural plastic waste tends to be dirty, tends to be infrequent, and tends to be far away from the majority of places that could use it. Act 101, the Recycling Fee (\$2.00 tipping fee per ton of waste going into landfills), sunsets December 31, 2019. She is hopeful that this is an issue that can be brought forward in the spring when the legislature reforms. Katherine inquired whether members of Council would be interested in a joint letter from SWAC and CAC addressed to the legislature seeking to keep the legislation alive so it does not sunset. Tim Weston suggested a future presentation providing a status update on the program. He encouraged the Council to be aware of the policy implications before endorsing it. Katherine Hetherington Cunfer will attempt to have such a presentation at the January 2017 meeting.

The AQTAC meeting was canceled due to no actionable items. The committee will meet again on December 8. Methane GP5 will be discussed.

VACANCIES

The Low Level Radioactive Waste Advisory Committee is seeking a CAC member. Katherine Hetherington Cunfer will look up the appointment term. The election of a CAC member was tabled for the next CAC meeting.

LEGISLATIVE UPDATE

Katherine Hetherington Cunfer noted that only a few days remain for the legislature. Bills not passed will die and will have to be reintroduced after the next legislature is formed in January 2017.

Patrick McDonnell was nominated by Governor Wolf on September 21, 2016 to serve as DEP Secretary. Confirmation meetings are currently underway, but a hearing has not officially been scheduled.

Both Secretary McDonnell and Secretary Redding will testify at the Chesapeake Bay Restoration Plan Joint Senate AG and ERE Committee hearing. Funding sources needed to be able to accomplish the Bay goals will be discussed.

SB 114 (Yaw) - Alternative Systems. DEP still has no position on that Bill. The 537 regulations will be reviewed internally, but the review has been hampered by mass retirements this past

summer. Secretary McDonnell is very much interested in working on these regulations. The Bill is waiting for action in the House Environmental Resources Committee. It did pass the Senate, but may not cross the finish line in the House.

HB 1393 (Everett) - Guaranteed Minimum Royalty. Currently under second consideration in the House.

HB 1103 (Zimmerman) - High Tunnel Stormwater Exemption. DEP is opposed to the Bill because of current language would increase the number of structures that are exempted from stormwater management. DEP is working with Representative Zimmerman.

HB 2387 (Zimmerman) - Erosion and Sedimentation Control Act. This Bill would affect Chapter 102 permits that are non-NPDES and would require permits to be approved in 20 days if administratively complete and comply with Chapter 102. This forces conservation districts to approve the permits within 45 days of receipt. Written denials are due 5 days after the denial. This would remove the chance to edit or resubmit permits and the technical deficiency letter process. It also requires an annual report to the legislature. The Bill is currently sitting in the House Environmental Resources Committee.

SB 1374 (Killion) - Establishes guidelines for Growing Greener III. Discussions are being held about how this will be funded.

SR 385 (Brooks) - Directs the Joint Conservation Commission to review all environmental regulations and identify those that are more stringent than federal law. This gives the Joint Conservation Commission a year to review current environmental regulations within the state. The goal would be to roll back those that are more stringent than federal law.

DRAFT BYLAWS

Tim Weston discussed proposed amendments to the Bylaws and solicited comments. He asked that the Committee review the Bylaws and email comments to him by mid-November. The Bylaws should be finalized in the December/January timeframe.

POLICIES

The travel ban policy was discussed by Committee members and legal counsel and was tabled for additional discussion at a later time.

NEW BUSINESS

CAC and EJAB will hold a joint session in the AM on November 15. Secretary McDonnell will facilitate a discussion between the two groups regarding public participation, with the expectation that there will be additional meetings and possibly a white paper. Additional discussions will include the VW settlement and what it looks like for Pennsylvania, the brownfields program as it relates to environmental justice communities, and also a discussion regarding Robinson Township. Chief Counsel Alex Chiaruttini will provide an update on the Robinson Township matters. A PSU Chesapeake Bay Ag surveys presentation will be given in the afternoon session.

2017 CAC Meeting Dates:

January 17

February 21

March 21

April 18

May 17 – May 16 is Primary Day

June 20

July 18

September 19

October 17

November 14 – Moved from November 21 to avoid Thanksgiving

ADJOURNMENT:

With no further business, Chairman Bill Fink requested a motion for adjournment. Don Welsh moved to adjourn the meeting, which was seconded by Tim Weston and all were in favor. The October 18, 2016 meeting of the CAC was adjourned at 1:30 PM.