

ENVIRONMENTAL JUSTICE ADVISORY BOARD
RCSOB, 16th FLOOR, DELAWARE ROOM
HARRISBURG, PA
FEBRUARY 20, 2020

VOTING MEMBERS PRESENT:

Jennifer Baka
Heather Bedi
Adam Cutler
Arthur Frank
Rafiyqa Muhammad
Allison Robinson
Jerome Shabazz
Horace Strand
Tom Torres

VOTING MEMBERS PRESENT VIA PHONE:

Gary Horton

NON-MEMBERS PRESENT:

Allison Acevedo
John Brakeall
Glenda Davidson
Justin Dula
Rebecca Dunlap
Kara Fetter
Andrew Foley
Edith Abeyta

Melissa Harrison
Andy Klinger
David Saunders
Gladys Strand
Alice Wright
Saba Williams

CALL TO ORDER:

Chairman Cutler called the meeting to order at 9:00 A.M.

INTRODUCTION OF NEW MEMBER:

Jennifer Baka is a newly appointed EJAB member and a native of the Scranton area. She is an Assistant Professor of Geography at Penn State University where she works on energy and environmental policy. Jenn has done a lot of work on the energy sector. Her main areas of focus in recent years have been biofuels and hydraulic fracturing, as well as the petrochemical corridor in the southwestern part of the state.

APPROVAL OF MINUTES:

Chairman Cutler solicited additions or corrections to the Minutes of the November 19, 2019 meeting. Hearing none, the Chairman requested a motion to approve the Minutes:

Arthur Frank made a motion to approve the Minutes of the November 19, 2019 meeting. Allison Robinson seconded the motion, which was unanimously approved.

REVIEW OF ACTION ITEMS FROM NOVEMBER 19, 2019 MEETING:

Parliamentarian

Arthur Frank stated that he may tender his resignation next year. In light of that, he volunteered to perform the duties of Parliamentarian for one year.

Allison Robinson made a motion to appoint Arthur Frank as the Acting Parliamentarian. Rafiyqa Muhammad seconded the motion, which was unanimously approved.

EJAB Board Terms

The current bylaws read that each member is appointed for a two-year term, leading to many reappointments at the same time. If vacancies are filled for the remainder of an existing member's term, the Board could maintain a consistent reappointment date in odd and even years. The only action that is needed is to update the bylaws to read: "The Secretary of the Department shall appoint or reappoint members of the Board at his or her discretion to a two-year term appointment **or to complete an existing vacant term.**"

Arthur Frank made a motion to approve the bylaw change. Horace Strand seconded the motion, which was unanimously approved.

The floor opened for discussion about keeping the Chair and Vice Chair on the same schedule or to stagger the terms. The Chairman encouraged the members to think strategically about succession planning and suggested making this an agenda item for the April 16 conference call.

Boards and Commissions

OEJ made recommendations for individuals to serve on boards and commissions whose names were either submitted through EJAB members or other stakeholders. Many of those individuals were not able to participate because of prior obligations. Allison Acevedo sought EJAB's guidance on ways to address the issue of diversity on DEP boards and commissions and locate folks who have the time to serve. Member suggestions included possibly compensating folks for lost time at work, educating folks through a Webex training, or providing an orientation on board service.

RECOGNITION OF EJAB SERVICE:

Eli Brill resigned in August 2019 after serving on EJAB for 17 years. He was a part of the original Environmental Justice Workgroup, which recommended the formation of EJAB and OEJ. Clea Hollis served on EJAB for 14 years. She did not ask to have her term renewed. Certificates will be mailed to Eli and Clea in recognition of their valuable service to the Board. Beyond the certificates, member suggestions included recognizing both individuals on the EJ webpage and in the EJ newsletter.

A suggestion was made that a plaque be placed somewhere in Chester for Dr. Strand as the progenitor of environmental justice in the Commonwealth. Allison Acevedo offered that Secretary McDonnell may focus the Department on a different topic each month, one of which

would be environmental justice. Perhaps the best time to talk about Dr. Strand and the possibility of presenting a plaque to him in Chester would be during the time designated for environmental justice. Chairman Cutler suggested including DEP's Communications folks on the April conference call to discuss messaging.

DEP UPDATES:

Budget

Secretary McDonnell offered that the 2020 budget includes a proposal to return line items that were moved into Special Funds last year back into the General Fund. Additionally, the proposed budget requests a \$2.5M increase in General Fund line items to increase DEP's complement by 25 positions; \$1M and 10 positions for the Chesapeake Bay initiative; \$1.5M and 15 positions to increase resources for air quality program.

The Governor's budget also proposes a \$1 per ton increase on the municipal waste tipping fee to fund DEP's Hazardous Sites Cleanup program, which was almost exclusively funded by revenue generated from the Capital Stock and Franchise Tax. The Department received \$40M annually from the Capital Stock and Franchise Tax until 2016 when this revenue source was phased-out. Currently, the only funding source is the Marcellus Legacy Fund, which amounts to \$20M annually. The average annual cost to support the Hazardous Sites Cleanup program activities is \$45-\$55M.

The Secretary fielded questions regarding proper disposal of the asbestos removal from schools, recycling, air quality issues, and RGGI.

LEGISLATIVE AND BUDGET UPDATES:

Greg Kauffman, DEP's Director of Legislative Affairs, reported on Senate Bill 790 related to conventional oil and gas wells. The Department collaborated with the conventional industry and some of the members of the legislature, but no significant progress was made.

In response to a question regarding the status of the permitting reform bills and the Environmental Hearing Board reform, Greg stated that the Department has been monitoring the bills and believes the Wolf Administration continues to be opposed.

Regarding the Regional Greenhouse Gas Initiative (RGGI), Greg believes there is significant bipartisan interest because it will bring new revenues to the table. There are incentives on both sides of the aisle to work together.

In response to a question about whether the Department intends to spend some of the increased funds allocated to the Air Quality program in rural and/or environmental justice areas, Greg indicated that he will get information and will follow up with the EJAB.

A question was posed about the possibility of doing a Brownfields to Playfields pilot project in the northwestern part of the state. There appears to be much speculation in the Erie community

in light of the closing of Erie Coke about what can or will be done with the former industrial site. Greg will get information on that and report back to the EJAB.

INTERAGENCY UPDATES:

David Saunders, Director of the Office of Health Equity at the Department of Health, stated his office is following up with folks who attended the Health Equity Summit to attempt to keep the momentum going. A re-engagement survey will be sent out shortly.

The Pennsylvania Interagency Health Equity Team continues to engage all participating agencies by providing health equity principles and encouragement to address equity within their departments, which will impact health equity in general.

Regarding Public Health 3.0., 10 counties in northeast, central, and western Pennsylvania have health coalitions. Hopefully, the Erie area will be included by the end of the year.

The Office of Health Equity is holding a Legislative Day on April 8 in Harrisburg. The purpose is to engage the members of the Department of Health's Advisory Committee with local representatives to promote health equity in general and to talk about the plan of action to eliminate health disparities by 2030.

A comment was offered that Pennsylvania ranks 50th in the country in terms of the number of public health professionals per capita. David Saunders responded that DOH has 60 health centers throughout the state, which tend to do a lot of the immunizations and monitoring of health issues.

PRESENTATION:

Draft Guidance on Trenchless Technology

Environmental Considerations for the Construction and Operation of Trenchless Technology
Andrew Foley is a Water Program Specialist with DEP's Regional Program Coordination Office. The draft Technical Guidance Document (TGD) on Trenchless Technology is related to a Stipulation of Settlement with DEP between a group of appellants related to the Mariner East 2 (ME2) pipeline. Two main workgroups were born from the settlement; Trenchless Technology and Alternatives Analysis. Both TGDs are related to the state's Chapter 102 and Chapter 105 regulatory programs which deal with erosion and sedimentation, stormwater, and encroachments.

Trenchless Technology refers to any sort of operational crossing that is underground and does not involve an open trench. The TGD provides guidance on enhanced best practices related to the prevention of and response to inadvertent returns, preventing and response to hydrological impacts from inadvertent returns, groundwater quality and quantity protection, procedures to identify water supplies in the vicinity of a proposed horizontal directional drilling beyond just the state's Groundwater Information System, as well as recommendations for the permittee to conduct water supply testing (quality and quantity) for landowners within the vicinity of crossing. Contributors to the guidance documents included multiple state agencies, the Federal Energy Regulatory Commission, the Pipeline and Hazardous Materials Safety Administration, and oil and gas and drilling experts.

Draft Guidance on Alternatives Analysis

Methods and Factors to Consider to Complete Alternatives Analysis

Rebecca Dunlap, a specialist in DEP's Regional Program Coordination Office, explained that an alternative analysis must be produced by an applicant seeking a 105 permit to cross waterways or wetlands. The alternative analysis is a request for the applicant to provide documentation that their proposed alternative is the least environmentally impactful. Rebecca discussed the rules and regulations behind the Alternatives Analysis TGD are in Chapter 105. The alternatives analysis is the project applicant's written documentation of efforts to avoid or minimize environmental impacts and to demonstrate to DEP that impacts from the proposed water obstruction(s) and encroachment(s) have been avoided and minimized to the greatest extent practicable. Additional factors include making sure the applicant is looking at other locations to be certain that the location most appropriate will be permitted and on-site design avoidance and minimization to avoid and minimize impacts to environmental resources. Components of an alternative analysis should include accounting of aquatic resource impact, the cost, existing technology, and environmental policies, and best management practices. The final part of the document reviews different scenarios and highlights differences on land development, linear, transportation, restoration, and pollution abatement.

Both TGDs were drafted with input from stakeholders. The TGDs were presented to several of DEP's advisory boards and committees for comment and DEP is currently incorporating the feedback collected from the advisory groups.

PUBLIC COMMENT:

Saba Williams, Co-founder of Melanin Essentials, spoke about how she co-founded the business to provide eco-friendly and healthy hair and beauty products when recognizing all the chemicals in many other products. Saba Williams was seeking guidance on how to grow a business that focuses on environmentally sustainable products and practices.

Chairperson Adam Cutler suggested reach out to PA Resources Council, which does a lot of work on zero waste.

Member Allison Robinson suggested engaging businesses and business platforms focused on sustainable business models. Some platforms including the Keystone Energy Alliance, Sustainable Pittsburgh, B Core, U.S. Green Building Council, Philadelphia Sustainable Business Network, and others.

Member Jerome Shabazz mentioned a zero-waste program in Philadelphia targeting businesses. The funding is coming through the Commerce Department because there is a direct correlation with improving business and improving access to business by removing clutter and litter and the esthetic deterrents that make neighborhood people not want to use neighborhood enterprises. Communicating the information to business owners on initiatives like this could be a great business enterprise.

Member Heather Bedi noted that Remake encourages recycled and sustainable clothing businesses.

Director Allison Acevedo mentioned DEP's Small Business Advantage Grant for small businesses with less than 100 employees. There is a Small Business Ombudsman within DEP that administers the grant and can also aid small businesses.

PUBLIC COMMENT:

Edith Abeyta lives in North Braddock, Pennsylvania, and is a founding member of the North Braddock Residents for Our Future. The group convened when working with neighbors and residents in surrounding communities regarding an unconventional gas well with serious community concerns.

Edith explained that Merrion Oil & Gas proposed to construct an unconventional well pad in East Pittsburgh and received a conditional use permit from the Borough. However, Edith presented a letter from East Pittsburgh rescinding Merrion's conditional use permit based on inactivity. Because Merrion no longer has a conditional use permit, Edith would like to understand what that means for DEP's permit review process and what the community can do to oppose the proposed activity.

Edith also shared concerns including: Merrion's receipt of 11 deficiency letters from DEP, which suggests the company is unable to implement the project to DEP standards; and PennDOT's proposal to implode the Dukers Hollow Bridge. If there is an explosion that requires a one-mile radius evacuation, there will be a lot of people who are unable to evacuate because of the imploded bridge. Edith stated she would appreciate anything EJAB can do delay the review.

Member Tom Torres requested a motion that the Environmental Justice Advisory Board formally request DEP: provide a formal written response to any part of Edith's statement that is not covered in the anticipated Comment-Response document for Merrion's project to meet; to meet with North Braddock Residents for Our Future to learn more about their concerns; and provide another public engagement meeting in the community to allow residents to engage DEP staff and the applicant about the project.

The members debated the motion.

Adam Cutler moved to amend the motion by substituting the word recommend for request. The motion was seconded by Tom Torres, which was unanimously approved.

PRESENTATION:

Driving PA Forward

Samantha Harmon is a DEP Air Quality Program Specialist and the primary contact for all Driving PA Forward funding programs. Volkswagen and its subsidiaries were caught cheating on emissions testing. As a result of the lawsuit, a trust was set up for Pennsylvania with approximately \$118.5M was allocated to the state to spend over 10 years.

The purpose of the Driving PA Forward Program is to offset the greatest amount of NOx emissions in the most cost-effective way as possible. As part of the trust agreement, DEP must consider how to direct the benefits to areas that bear a disproportionate share of air pollution, such as environmental justice areas. Extra points are awarded during the scoring process for projects located in environmental justice areas, as well as extra points for areas that are nonattainment for fine particulate matter or ozone. The focus is on large engines such as locomotives and tractor trailers as well as quantity of engine replacements. Electric engine technology is substantially more expensive than other technologies funded under the Driving PA Forward program and does not offer the same pollution reductions per dollar spent. Based on the estimate of emissions reductions in the beneficiary mitigation plan, there are about 1,275 projects selected so far that yield a NOx reduction of 27,762 tons.

EJAB UPDATES:

Heather Bedi and Rafiyqa Muhammad discussed the Climate Change Open House event hosted by Harrisburg University and Dickinson College on February 15. Secretary McDonnell, Representative Patty Kim, and Auditor General Eugene DePasquale provided opening remarks. Dickinson College provided approximately 30 Spanish speaking student translators. Heather and Rafiyqa will share community remarks with EJAB once they are compiled.

ADJOURNMENT:

Chairman Adam Cutler requested a motion to adjourn the meeting.

Arthur Frank made a motion to adjourn the EJAB meeting, which was seconded by Allison Robinson. The meeting was adjourned at 2:45 P.M.