

**MINUTES
CITIZENS ADVISORY COUNCIL MEETING
March 18, 2014**

CITIZENS ADVISORY COUNCIL MEMBERS PRESENT:

Terry Dayton (Chairman), Greene County
Walter Heine, Cumberland County
David Hess, Dauphin County
James Clauser, Carbon County
William Fink, Bedford County
Janet Keim, Lehigh County
Thaddeus Stevens, Tioga County
Seth Mendelsohn, Dauphin County
John Walliser, Allegheny County
Donald Welsh, Chester County
R. Timothy Weston, Cumberland County

CITIZENS ADVISORY COUNCIL STAFF PRESENT:

Michele Tate, Executive Director

CALL TO ORDER:

Chairman Terry Dayton called the meeting to order at 11:02 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

CHAIRMAN DAYTON'S REPORT TO COUNCIL:

Chairman Dayton asked for a motion to approve the nomination of Cynthia Carrow to serve on the Mining Reclamation Advisory Board (MRAB). Ms. Carrow currently serves on the MRAB; however her term on the Board expired on February 28, 2014. Chairman Dayton noted to Council that Ms. Carrow had indicated to him that she wishes to continue to serve on the MRAB.

Thaddeus Stevens motioned to accept the nomination of Cynthia Carrow to serve on the MRAB for another two-year term. Dave Hess seconded the motion, which was unanimously approved by Council.

Chairman Dayton noted to Council that since quorums were not attained for the January and February 2014 meetings, Council could not take official action on the November 19, 2013, and January 21, 2014, meeting minutes. In response, Chairman Dayton asked for a motion to collectively approve the November 19, 2013, January 21, 2014, and February 18, 2014, meeting minutes.

Dave Hess motioned to collectively adopt the November 19, 2013, January 21, 2014, and February 18, 2014, meeting minutes as presented to Council. Seth Mendelsohn seconded the motion, which was unanimously adopted by Council.

**PROPOSED DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP)
FY 2014/2015 BUDGET:**

In response to an invitation by Council, DEP Executive Deputy Secretary Jeff Logan presented detailed information to Council on the Department's FY 2014/2015 budget, as proposed by Governor Corbett. In his remarks to Council, he emphasized the program efficiencies

accomplished by DEP in spite of declining federal funding to the Department and increased obligations attributed to employee health care and pension costs. To that end, he emphasized the productivity metric improvements that were realized through the Department's Permit Decision Guarantee Program, the consolidation of the human resource departments of DEP and the Department of Conservation and Natural Resources, and electronic permitting instituted by DEP's Oil and Gas Program. Mr. Logan also noted that DEP's FY 2014/2015 budget includes a \$10 million increase in General Fund revenue but a reduction in complement by 66 positions.

In response to his presentation, Council inquired about the overall trend of filled staff positions over the past several years in relation to overall complement. Mr. Logan responded that the number of filled positions, as opposed to overall staff complement at DEP, has remained relatively level. Council also inquired about the current location, including program area and region, of the 66 positions that would not be filled, as well as measures DEP is taking to ensure resources are available in the future to meet all mission critical obligations, beyond those resources directed toward permitting efficiencies. Council questioned the implications associated with complement reductions, including asking about the current makeup or composition of total positions filled in the Department, and emphasized the importance of investments in enhanced technology to support work efficiencies. Council also pointed out the cuts to its own complement, which has hampered its effectiveness and noted its position that it believes DEP cannot sustain any further cuts to complement without seriously jeopardizing its ability to meet certain standards and legal obligations. With regard to its position on halting further staff cuts at DEP, Council noted its inclination to articulate its position on the record, including letters to both the House and Senate Appropriations Committees.

DEP REPORT TO COUNCIL:

In his report to Council, Secretary Abruzzo elaborated on a number of topics, including DEP's proposed budget. He emphasized to Council that he agreed the Department can no longer sustain cuts to its complement. Although the Department has seen marked improvements in productivity, he noted that it is not sustainable to continue to ask staff to consistently do more with fewer resources. He emphasized that the Governor's Budget Office is supportive of strategically filling positions where the need for complement can be substantiated. In other topics, Secretary Abruzzo announced various activities the Department is planning for Earth Day, which is April 22, 2014. Among those activities include the presentation of the Governor's Environmental Excellence Awards, the announcement of recipients of the Department's Environmental Education grants, and public service announcements, in cooperation with the Department of Transportation, to seek volunteers for this year's *Great American Cleanup of Pennsylvania*. He also noted that DEP is participating in a special Philadelphia Phillies baseball *Red Goes Green* event and will showcase its DEP At Home energy conservation display at the Capitol Building in Harrisburg.

In other remarks, Secretary Abruzzo updated Council on the Environmental Quality Board's proposed 25 *Pa Code* Chapter 78 rulemaking, which includes amendments to enhance oil and gas well surface regulations, and answered questions relating to the PA Supreme Court's decision on the Act 13 drilling law. He also noted to Council that an additional 6 watersheds have been chosen by DEP for targeted compliance assistance, similar in fashion to what the Department provided to the Soft Run Watershed in Mifflin County. In response, Council inquired the names and/or locations of those 6 watersheds chosen by the Department, which Secretary Abruzzo stated he would confirm and report back to Council.

PUBLIC COMMENTS:

Bonita Hoke, PA League of Women Voters: Bonita Hoke, Executive Director of the PA League of Women Voters, provided comments to Council in which she expressed the League's belief that the pinnacle of strategic planning by Council and DEP should be a review of all programs, policies, and procedures in light of Article 1, Section 27 of the Pennsylvania Constitution. She emphasized that the Department's Office of Program Integration should be reformulated in order to accomplish such a review, where efficiency, consistency, and metrics of evaluation are minimized in lieu of goals that integrate all Department activities in order to preserve and protect Pennsylvania's natural resources. She questioned if the Department is measuring the right things with the right tools, and noted that despite improved permitting efficiencies touted by the Department, she questions if the public believes that the Department has grown more efficient, effective, and consistent in maintaining the Commonwealth's natural resources.

DISCUSSION OF DEP 2104 PRIORITIES:

In response to Secretary Abruzzo's request to Council, Council discussed areas it believes the Department should prioritize its focus in 2014. Among the suggestions deliberated by Council included the Department's enforcement of existing regulations, with an emphasis on increasing voluntarily compliance by the regulated community. In order to focus its discussion, Council believed it would be more effective to suggest to the Department a specific program area it should concentrate to make enhancements. Council collectively agreed that focus should be placed on analyzing the Department's Act 537 Sewage Planning Program, with attention toward defining the impediments that currently impede the program's effectiveness. Council suggested that the program be analyzed with attention toward linking specific program enhancements to particular environmental outcomes, in order to deter simple "bean counting". Council recognized that the Department's Sewage Advisory Council (SAC) is also looking into the Act 537 program and noted that Council could assist DEP in reviewing the program by focusing on areas that would not be examined by SAC. Council suggested that to better define the scope of program evaluation, data would need to be assembled and analyzed, including areas of major water quality impairments in Pennsylvania. Council remarked that it would be beneficial if it could organize panel discussions to hear from Department experts and others about the Act 537 Program, including suggestions for improvement.

CAC 2014 STRATEGIC PLANNING:

In addition to focusing resources on the review of the Act 537 Program, Council discussed various topics it would like to focus on in 2014. Those areas included the following:

- **Collaborative Public/Private Partnerships for Abandoned Mine Reclamation:** Council discussed heightening awareness of the need for public and private sector investment in mine reclamation, given that Pennsylvania will continue to see reduced AML funding. Council discussed the many vehicles that could be used to demonstrate the opportunities that can be realized through public/private partnerships including activities associated with the beneficial reuse of mine water for fracking in the Marcellus Shale industry, as well as the beneficial reuse of reclaimed mining lands.
- **Climate Change:** Council is aware that DEP is seeking public input for the eventual implementation of federal standards, imposed in accordance with Section 111(d) of the Clean Air Act, to address carbon pollution from modified, reconstructed and existing EGUs. Once the federal regulations are in place, states will be required to develop and

submit to EPA a plan that provides equivalent or greater CO₂ emission reductions from modified, reconstructed or existing power plants. In anticipation of these new standards and the impact they may have in Pennsylvania, Council feels it is imperative that it be involved in these continued discussions with DEP on the implementation of the federal regulations and other initiatives aimed at climate change.

- **Private Water Well Construction Standards:** Council expressed interest in continuing its examination of legislative efforts to establish statewide private water well construction standards.
- **Act 54 Report:** Council is required by statute to receive from the Department an analysis or report (Act 54 Report) of the effects of deep mining on the subsidence of surface structures and features and on water resources, including sources of public and private water supplies. Such an analysis is completed at five-year intervals, with the most recent report covering the span of 2009 – 2013. Council discussed that the review of the Act 54 Report in 2014 will be a priority.
- **DEP Program Performance Audit:** In light of the marked cuts to DEP's budget over the last decade, including cuts that have resulted in a reduction of staffing levels, Council discussed the importance of conducting an evaluation of all DEP programs to identify where core functions and responsibilities are not being met. Council agreed that such an evaluation would be timely as it would produce recommendations that could be presented to Governor Corbett or his successor to help guide future resource allocations to DEP over the next four years. Council also discussed limiting the scope of such an evaluation to those program or program areas that are believed to have been particularly hampered by budget cuts.
- **Enhancing Public Participation at DEP:** Last year, Council developed, with public input, a number of recommendations for DEP to enhance public participation and transparency in its development of environmental regulations and policies. While progress was made in a number of areas highlighted in Council's recommendations to DEP, enhancements in several areas are outstanding, including the Department's update on a number of public participation policies. Council reiterated its interest in working with DEP to continue to enhance public transparency and involvement.
- **Regulatory Development:** Council would like to see greater cooperation among Pennsylvania and its neighboring states in the development of regulations that are required to be separately implemented by a group of states, such as those involved in the Ozone Transport Region (OTR). Council believes economies of scale could be greatly realized if DEP more closely solicits and shares data with states that have experience in developing and implementing similar regulations that need to be implemented in Pennsylvania.

Council agreed to review the above priorities discussed at the March 18, 2014, meeting, and agreed to come prepared at the April 15, 2014, meeting to rank or prioritize the above issues for imminent action by Council.

COMMITTEE REPORTS:

Dave Hess, on behalf of the Policy and Regulatory Oversight Committee, reported on the committee's review of three draft proposed regulations relating to measures to reduce VOC

emissions from Fiberglass Boat Manufacturing Materials; Miscellaneous Metal Parts Surface Coating Processes, Miscellaneous Plastic Parts Coating Process and Pleasure Craft Surface Coatings; and Industrial Cleaning Solvents. With the exception of the rulemaking on Industrial Cleaning Solvents, the committee recommended that Council adopt a motion indicating Council's support of the Department in moving the regulations forward to the Environmental Quality Board (EQB) for consideration. For the draft proposed rulemaking on Industrial Cleaning Solvents, the committee recommended Council refrain from recommending that the rulemaking move forward to the EQB until the Department could provide Council with more background information on the rulemaking, including details associated with the number of facilities potentially impacted by the regulation in Pennsylvania, as well as the anticipated implementation costs of the regulated community. Lastly Council was updated on modifications that were recently made to the Department's draft final rulemaking on Flexible Packaging, Printing and Lithographic and Letterpress Printing. Based upon a briefing by Department staff at a January 8, 2014, conference call, the committee encouraged Council to adopt a motion indicating its support of moving the regulation to the EQB for consideration.

Dave Hess motioned to approve the committee's recommendations. Bill Fink seconded the motion, which was unanimously approved by Council.

NEW/UNFINISHED BUSINESS:

Chairman Dayton noted to Council that Nancy Perkins' last meeting with Council will be on April 15, 2014. He noted that Council would be making plans in the near future to commemorate Ms. Perkins' tenure on Council, in addition to Marjorie Hughes who recently retired from her position as Executive Director of Council.

ADJOURN:

With no further business, Chairman Dayton requested a motion to adjourn the meeting. Bill Fink motioned to adjourn the meeting, which was seconded by Tim Weston. The March 15, 2014, Council meeting was adjourned at 2:30 p.m.