

**MINUTES
CITIZENS ADVISORY COUNCIL MEETING
February 17, 2015**

CITIZENS ADVISORY COUNCIL (CAC) MEMBERS PRESENT:

Cynthia Carrow, Allegheny County
David Hess, Dauphin County
Burt Waite, Crawford County
Terry Dayton, Greene County
Mark Caskey, Washington County
John Over, Jr., Fayette County
John Walliser, Allegheny County
R. Timothy Weston, Cumberland County
John Hines, Lebanon County

CITIZENS ADVISORY COUNCIL STAFF PRESENT:

Michele Tate, Executive Director

CALL TO ORDER:

Chairman Terry Dayton called the meeting to order at 10:00 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

APPROVAL OF JANUARY 21, 2015, MEETING MINUTES:

With no corrections or additions recommended by Council, Chairman Dayton asked for a motion to approve the January 21, 2015, Council meeting minutes.

Tim Weston moved to approve the January 21, 2015, meeting minutes as presented to Council. Burt Waite seconded the motion, which was unanimously approved by Council.

CHAIRMAN DAYTON'S REPORT TO COUNCIL:

Chairman Dayton introduced John Hines, who was recently appointed to serve on the CAC by former Governor Corbett. Chairman Dayton noted that Mr. Hines previously worked for DEP and served in numerous executive management positions within the Department, most recently as the Executive Deputy Secretary for Programs. Mr. Hines is currently employed by the Shell Oil Company and serves as the company's Government Relations Advisor. Following Chairman Dayton's introduction, Mr. Hines noted his appreciation of the work Council accomplishes in advising DEP and expressed his enthusiasm for being a member of Council and to be able to share his insights to assist Council in meeting its priorities.

Chairman Dayton noted that Michele Tate has recently been invited by a number of DEP Advisory Committees to discuss Council's recent report, which included recommendations to increase the effectiveness of DEP's advisory committees. He noted that Ms. Tate has been well received at these meetings, where dialogue has been initiated amongst the advisory committee members on how process improvements can be implemented to strengthen the capacity of DEP's Advisory Committees. Chairman Dayton noted that Ms. Tate would continue to update Council on her outreach and coordination efforts with DEP's Advisory Committees.

In addition to being invited to attend meetings of various DEP Advisory Committees, Chairman

Dayton stated that staff with the Department of Conservation and Natural Resources Advisory Committee (CNRAC) contacted Ms. Tate and invited her to speak about the CAC's advisory committee report at its upcoming March 25, 2015, meeting. In addition to attending this meeting, Chairman Dayton noted that Ms. Tate will be coordinating with the CNRAC in the future on topics that are of interest to both advisory councils.

Chairman Dayton asked Council for suggestions on potential subject matters and locations for a field trip for later in the spring. Similar to last year's field trip which showcased best management practices being implemented on Pennsylvania farms to reduce nitrogen and sediment, Council would like to select a topic or subject matter to better understand the environmental challenges of the industry and the opportunities for enhanced environmental protection.

OIL AND GAS TECHNICAL ADVISORY BOARD; MEMBER NOMINATIONS:

Chairman Dayton noted to Council that he received correspondence last week from Acting Secretary Quigley requesting three nominations from the CAC for individuals to serve on the Department's Oil and Gas Technical Advisory Board (TAB). He explained that DEP is looking to reinvigorate membership on the Board by replacing the five members who currently serve on the Board. The Oil and Gas TAB will be organized to review and provide advice on issues pertaining to the unconventional oil and gas industry. By statute, the CAC is responsible for recommending three nominees to serve on the Board, one of which will be selected by the Governor to serve on the Board to represent the public's interests. The individuals recommended by the CAC must be residents of Pennsylvania and be a geologist or petroleum engineer with at least three years of experience. Chairman Dayton noted that nominees selected by Council are not required to be a member of the CAC. Chairman Dayton noted that Burt Waite is Council's current representative on the Oil and Gas TAB and served on the committee with distinction, but given the directive of the Department, was selected by the CAC to lead efforts in obtaining the names of qualified individuals who would replace him on the Oil and Gas TAB.

Mr. Waite provided the resumes of three individuals who he recommended to Council as nominees to the Oil and Gas TAB. Those individuals included Jeff Walentosky, Jack Crook, and Bryan McConnell. Mr. Waite described in detail the qualifications of each individual and noted that each were willing to serve on the Oil and Gas TAB if selected by the Governor.

John Walliser moved to approve the recommendations of Jeff Walentosky, Jack Crook, and Bryan McConnell as Council's nominees to serve on the Oil and Gas TAB. Tim Weston seconded the motion, which was unanimously approved by Council.

CONVENTIONAL OIL AND GAS ADVISORY COMMITTEE; MEMBER NOMINATIONS:

Similar to the Oil and Gas TAB, Chairman Dayton noted to Council that he received correspondence from Acting Secretary Quigley requesting that the CAC nominate three individuals for the Conventional Oil and Gas Advisory Committee (COGAC). The committee is being created by DEP to review and provide advice on issues affecting the conventional oil and gas industry. Chairman Dayton explained that the committee will be comprised of five members selected by the DEP Secretary. Of the three individuals recommended by Council, one member will be selected by the DEP Secretary to serve on the new committee. Similar to the qualifications of the candidates recommended to serve on the Oil and Gas TAB, Council's nominees to COGAC must be residents of Pennsylvania and must be either a geologist or

petroleum engineer with at least three years of experience. As a representative of the CAC on the committee, the member selected will represent the public's interest on COGAC but does not have to be a CAC member.

Mr. Waite provided the resumes of three candidates he recommended to Council as the CAC's nominees to COGAC. In addition to noting that he would like to serve on COGAC himself and would be qualified to do so, Mr. Waite recommended Mark Miller and David Ochs as prospective candidates to serve on COGAC.

Tim Weston moved to approve the nominations of Burt Waite, Mark Miller and David Ochs as Council's nominees to serve on the Conventional Oil and Gas Advisory Committee. Dave Hess seconded the motion, which was unanimously approved by Council.

DEP REPORT TO COUNCIL:

Acting Secretary Quigley provided brief remarks to Council where he discussed Governor Wolf's natural gas severance tax proposal. The proposal, the Pennsylvania Education Reinvestment Act, calls for a 5% natural gas extraction tax that is modeled after a similar severance tax plan in West Virginia. The revenue generated from the severance tax would be dedicated to funding education in the Commonwealth; however, Secretary Quigley noted that not all decisions pertaining to the allocation of the revenue generated from the severance tax have been made. He stated that he does expect some of the revenue will be provided to DEP to fund the agency's regulation of the oil and gas drilling industry. In response to questions concerning the fate of the existing impact fee, and if impacted communities would continue to receive funding under Governor Wolf's plan, Acting Secretary Quigley responded that not all of the details have been finalized about the plan, but that Governor Wolf's proposal calls for continued funding to communities for impacts from drilling operations.

In other topics, Acting Secretary Quigley announced that Governor Wolf's Budget Address will take place on March 3, 2015, and that Appropriations Hearings for DEP are scheduled before the House of Representatives Appropriations Committee on March 11, 2015, and the Senate Appropriations Committee on March 25, 2015. He noted that a date for his confirmation hearing on his appointment as DEP Secretary has not been confirmed but that he expects to be meeting with members of the General Assembly about his appointment shortly. In closing, Acting Secretary Quigley introduced Sarah Clarke to Council. Ms. Clarke is DEP's newly appointed Legislative Director.

PUBLIC COMMENT:

Roberta Winters, League of Women Voters of Pennsylvania: Roberta Winters provided comments to Council on behalf of the League of Women Voters of Pennsylvania. In her opening remarks, she commended DEP for denying the first phase of the siting application for the Falls Township Hazardous Waste Facility in Bucks County. She also noted that the League was eager to hear additional details from DEP on its proposed Recycling Convenience Center Grant Program and stated that the League has a long history of supporting programs in the Commonwealth that promote reuse and recycling. She further noted that the problems associated with illegal dumping in Pennsylvania are critical and must be addressed, given the remote nature of many areas of the state.

In other comments, she reinforced the League's previous statements about Act 54 and its need for revision and urged Council to promote the adequate regulation of long-wall mining to assure that citizens have the right to pure water and the preservation of our natural resources.

In her concluding remarks to Council, she emphasized several ways DEP could implement measures to achieve cost savings. She first noted that a review of the various advisory committees organized under DEP may yield benefits, where opportunities to maximize public participation could be identified at the same time options to consolidate structures could be identified to reduce redundancies. She also emphasized DEP's increased use of technology – such as the use of drones, pollution sensing applications for phones, remote surveillance equipment, and mobile sensors – as possible ways DEP could maximize its resources and enhance its ability to monitor environmental regulations and promote enforcement.

Lastly, Ms. Winters referenced a recent report from PennEnvironment Research and Policy center entitled *Fracking Failures: Oil and Gas Industry Environmental Violations in Pennsylvania and What They Mean for the U.S.* She explained that the report examines violations in well-construction and waste disposal that allowed toxic chemicals to leak into both the water and air. She urged the CAC to review the report and for DEP to re-examine its procedures for why it classifies certain violations as “administrative” in comparison to others that are classified as “environmental health and safety” violations.

Stephen P. Kunz, Schmid & Company: Stephen Kunz, a Senior Ecologist with Schmid & Company, provided comments to Council on the Act 54 Report. He noted he reviewed the report in detail several times and that the report highlights a number of problems with the way DEP identifies impacts from underground coal mining, including how DEP tracks those impacts and monitors efforts to mitigate those impacts. While he noted he was eager to listen to the presentation on the report by the University of Pittsburgh, he stated he was most interested in learning the Department's response to the report, including if it agrees with the recommendations included in it and if DEP has a plan or timeframe for implementing any of the recommendations included in the report. In closing he noted that the information contained in the report clearly indicates that underground mining is causing damage that is not being fixed, and damage – especially to surface and ground waters – that sometimes cannot be fixed. He questioned how the allowance of this damage under Act 54 can be reconciled with the Department's public trust responsibilities.

Joanne Kilgour, Director, Sierra Club, Pennsylvania Chapter: In her comments presented to Council, Joanne Kilgour requested that the CAC consider scheduling an additional public hearing on the Act 54 Report in Southwestern Pennsylvania so that the residents of Washington, Greene, and parts of Allegheny County who are most impacted by longwall mining could provide in-person testimony to the CAC and share their perspectives personally with Council. She noted that while the Act 54 Report provides a solid factual basis on which Council can rely on to evaluate the impacts from underground mining, she stated that Council's ability to listen to the testimony of community members living in proximity to some of the state's largest underground mining operations would help the CAC contextualize the data presented in the report and inform the interpretation of this data. She also emphasized that the CAC's willingness to host a meeting in Southwestern Pennsylvania would be a demonstration of its commitment to serving the public interest of the Commonwealth and fulfilling the mission of the Council.

THE EFFECTS OF SUBSIDENCE RESULTING FROM UNDERGROUND BITUMINOUS COAL MINING 2008-2013:

Tom Callaghan, Director of DEP's Bureau of Mining Programs, introduced Stephen Tonsor with the University of Pittsburgh. Mr. Tonsor and his staff were the contractors selected by DEP to complete the fourth Act 54 Report, covering the years of 2008-2013. The University was selected by DEP to complete the report due to the expertise of its faculty and research staff on all aspects of the effects of mining-related subsidence.

The Act 54 report is required under Act 54 of 1993, which amended the Bituminous Mine Subsidence and Land Conservation Act. Under those amendments, new requirements were placed on mine operators to repair or compensate for subsidence damage to structures and to replace water supplies affected by underground mining operations. The amendments also require DEP to compile information from permit applications, monitoring reports, enforcement actions and other appropriate sources to analyze the effects of underground mining on surface structures and water resources. DEP's analysis and any relevant findings must be presented in the form of a report to the CAC, the Governor and General Assembly at five-year intervals, starting in 1993. Three previous Act 54 reports, also reviewed by the CAC, covered 1993 through 2008.

In his presentation to Council, Mr. Tonsor highlighted the findings and recommendations included in the report. Concerning the findings of the fourth reporting period covering mining activity from August 2008-August 2013, Mr. Tonsor stated that 31,234 acres in Pennsylvania were undermined, which was 18% less area than in the third reporting period. During the fourth reporting period, Mr. Tonsor noted that 389 cases of damage to surface structures were reported, with 315 or 81% of those cases associated with longwall mines. He elaborated that of the 389 cases reported, 238 or 61% cases of damage were determined to be the result of undermining and therefore the mining company was determined to be liable.

Concerning water supplies affected by underground mining operations during August 2008-August 2013, Mr. Tonsor stated that 96 miles of stream were undermined, with longwall mining accounting for undermining 51 miles of those streams. Of the 51 miles of streams undermined by longwall mining, 39 miles (or 40% of streams undermined) suffered flow loss or pooling that has had an adverse impact on aquatic life, pH, and conductivity in the streams. Mr. Tonsor also noted that of the 55 stream investigations initiated during the third reporting period (2003-2008), 8 of the streams have yet to recover from the impacts of mining.

Mr. Tonsor and his associates from the University of Pittsburgh outlined a number of changes they recommend DEP implement to improve data acquisition and management to more thoroughly identify and track the impacts associated with underground mining. Those recommendations included the standardization of data acquisition, including changes in timing and frequency of data acquisition, the establishment of standards for the submission of data, protocols for DEP data entry and management, including measures for QA/QC, and the modernization of DEP's current data management system, including linking it to a GIS system.

In response to questions after the conclusion of Mr. Tonsor's presentation, Tom Callaghan noted that DEP is still reviewing the recommendations and findings included in the report and has not made any final determinations on the course of changes that may be implemented at DEP in response to the report.

ILLEGAL DUMPING IN PENNSYLVANIA; RECOMMENDED POLICIES AND PROGRAMS FOR FUTURE PREVENTION AND ENFORCEMENT:

Michele Nestor, President, Nestor Resources, Inc. provided a presentation to Council on a report completed last year for *Keep Pennsylvania Beautiful* on the prevalence of illegal dumping in Pennsylvania. Shannon Reiter, President, *Keep Pennsylvania Beautiful*, assisted with the presentation. The report, Illegal Dumping in Pennsylvania: A Decade of Discovery, includes key findings and recommendations to deter and prevent illegal dumping and is based in part on the insight gained through a series of comprehensive surveys that identified illegal dump sites in each of the state's 67 counties. The report focuses on several key factors, including the extent and impact of illegal dumping in Pennsylvania, the effect of municipal waste management practices, and the effectiveness of regulatory and enforcement powers in the Commonwealth. The report also highlights demographic profiles and waste/recycling statistics and includes a number of recommendations that can be implemented at the state and local government levels to prevent illegal dumping.

Ms. Nestor and Ms. Reiter discussed in detail the recommendations highlighted in the report. One recommendation included the establishment of recycling convenience centers to provide Commonwealth residents with greater access to recycling options. Other recommendations highlighted included expanding the use of surveillance cameras at dumping sites; installing barriers at illegal dumping sites to prevent entry; creating a Joint Code Enforcement Officer Program to support local governments; heightening awareness and understanding of waste management issues through a statewide multi-media campaign and an Environmental Law Training Program for Enforcement Officers and Justices; and establishing fines that significantly outweigh the avoided cost of disposal and publishing the identities of those who continue to illegally dump. Following the presentation, Council discussed in more detail the availability of resources to help deter illegal dumping, including resources the private sector may offer to work in partnership with government and non-profit organizations to promote recycling.

RECYCLING CONVENIENCE CENTER GRANT PROGRAM:

Larry Holley and Todd Pejack from DEP's Division of Waste Minimization and Planning briefed the CAC on a new demonstration grant program the Department is developing to establish a limited number of recycling convenience centers in areas of the Commonwealth with limited recycling services. Mr. Holley stated that approximately \$750,000 in Act 101 recycling funds would be set aside for the demonstration projects which would be capped at \$350,000 per project. Mr. Holley explained the overall goals of the program and the proposed grant funding guidelines, which are proposed to cover 80% of the costs in establishing a recycling convenience center. Mr. Holley noted that the Department is still in the process of developing the demonstration grant program guidelines and is identifying certain parameters to specify how waste may be stored on the site, including considerations for the size and amount of waste that may be dropped off at the centers, and the duration the waste may be contained at the center. Following the Department's presentation, Council discussed a number of issues the Department may want to consider when establishing specifications for the acceptance of waste at the recycling convenience centers.

CAC COMMITTEE REPORTS:

Act 54 Report Ad Hoc Review Committee: Chairman Dayton updated Council on the number of individuals who have pre-registered to testify at the CAC's upcoming public hearing on March 17, 2015, on the Act 54 report. He also requested that the committee meet by conference call to discuss the request that the CAC hold an additional public hearing on the Act 54 Report in

Southwestern Pennsylvania.

Legislative Committee: Cynthia Carrow provided Council with an update on a number of outreach strategies the committee is preparing in order to better coordinate and communicate with the General Assembly. She stated that an email to all General Assembly members was recently sent by Michele Tate to introduce and familiarize the legislators with the CAC and the important work the Council accomplishes. The email described the statutory origin of the CAC, its mandate, mission and membership and included links to recent work of the CAC, including its most recent Annual Reports and the Transition Documents prepared for the Wolf Administration. In addition to this outreach, Ms. Carrow noted that the committee will be scheduling meetings with the leadership of the House and Senate Environmental Resources and Energy Committees to discuss important CAC priorities and how the CAC may work cooperatively with the committees on common goals.

NEW/UNFINISHED BUSINESS:

Chairman Dayton as well as Council noted that they did not have any new or unfinished business to discuss.

ADJOURN:

With no further business, Chairman Dayton requested a motion to adjourn the meeting. Burt Waite moved to adjourn the meeting and Tim Weston seconded the motion. The February 17, 2015, meeting of the CAC was adjourned at 1:12 p.m.