

MINUTES
CITIZENS ADVISORY COUNCIL MEETING
October 17, 2017

CITIZENS ADVISORY COUNCIL (CAC) MEMBERS PRESENT:

Cynthia Carrow, Allegheny County
Mark Caskey, Washington County
Terry Dayton, Greene County
William Fink, Bedford County
John Hines, Lebanon County
Duane Mowery, Cumberland County
John Over, Fayette County
Jim Sandoe, Lancaster County
James Schmid, Delaware County
Jerome Shabazz, Philadelphia County
John St. Clair, Indiana County
Thaddeus Stevens, Tioga County
Don Welsh, Chester County
Tim Weston, Cumberland County

CITIZENS ADVISORY COUNCIL (CAC) MEMBERS PRESENT VIA PHONE:

John Walliser, Allegheny County

CITIZENS ADVISORY COUNCIL STAFF PRESENT:

Lee Ann Murray, Executive Director

CALL TO ORDER:

Chairman Don Welsh 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, with a quorum.

APPROVAL OF SEPTEMBER 19, 2017 MEETING MINUTES:

Chairman Welsh solicited additions or corrections to the September 19, 2017 Minutes. Hearing none, Chairman Welsh requested a motion to adopt the Minutes.

Thad Stevens moved to approve the September 19, 2017 meeting Minutes.

Terry Dayton seconded the motion, which was unanimously approved.

CHAIRMAN'S REPORT:

CAC members participated in an informal planning session held on October 16 to discuss improvements to the structure of future meetings to enable the Council to provide the best advice to the Department, to serve the citizens of the Commonwealth, and to do both in a manner that will allow CAC members to contribute effectively and efficiently. Notes from the informal discussion will be provided to the members.

DEP REPORT:

In the absence of Secretary McDonnell, Ramez Ziadeh introduced himself and provided a brief history of his time with DEP. Ramez was named Acting Executive Deputy Secretary for

Programs in June 2017. Prior to that time, he was the Director of the Bureau of Waterways Engineering & Wetlands. He has been with DEP in a variety of capacities since 1994.

In response to questions posed by CAC members, Ramez provided the following information.

Cosmo Servidio, previously the Regional Director in DEP's Southeast Regional Office, was recently appointed as Regional Administrator to the EPA, Region 3. Cosmo's DEP experience will enable him to better understand the agency's processes and challenges as they relate to federal programs.

DEP is still operating under the salary cap imposed by the Administration in December of 2016. The Department is unable to act on vacancies that were frozen prior to the cap.

A variety of fee packages are in the works. The purpose of the fee packages is to offset program costs. The Department hopes to be able to increase the complement as the fee packages move forward.

Budget proposals are changing day-to-day. There is no certainty at this time how DEP's programs will be impacted. The Department is looking at existing processes to identify areas where efficiencies can be improved. E-permitting and mobile inspection programs are two of those processes.

Regarding DEP's special funds, the Department has been proactive in expressing to the legislators the Department's needs and the importance of preserving those funds to allow DEP to provide critical services.

The PAG-02 General Permit for Discharges expires in December 2017. The Department is working diligently on the new PAG-02, and the program has requested a six-month extension. Applications will be accepted until the PAG-02 expires. After the expiration, individual permit applications will have to be filed until the new PAG-02 is issued.

The Department is also currently working on a PAG-01, which is a new authorization that will apply to projects involving less than five acres of disturbance. A need was identified to simplify the process for those types of projects. A draft of the PAG-01 will be shared with the stakeholders in the near future, and there will be a presentation at the WRAC meeting later in October.

Members of the Council requested that the Department provide an overview budget briefing on federal funds, state special funds, and program-by-program funds. Ramez stated that he would get back to the Council with the total amount of funding for DEP.

CONOWINGO DAM:

Veronica Kasi, Director of the Chesapeake Bay Office in DEP's Office of Water Programs, gave a presentation regarding the Chesapeake Bay Total Maximum Daily Load (TMDL) and the Conowingo Dam.

The Susquehanna River is the largest influence on the Chesapeake Bay water quality. It is approximately half of the freshwater inflow to the Bay and contributes 41% of the nitrogen load, 25% of the phosphorus load, and 27% of the sediment load. Because of the changing dynamics of the Conowingo Dam, that impact is getting larger and larger. The 2010 Chesapeake Bay TMDL said that the EPA's intention was to assume that the current trapping capacity would continue through 2025. Obligations for point and non-point sources were based on the fact that until 2025 the dam would continue to hold back sediment and nutrients. The problem is that the dam is no longer doing that. Studies provide information that trapping is no longer happening. What goes into the dam comes out of the dam at the other end. Equilibrium is reached when the input is equal to the output. That loss of net trapping has an impact on how upstream pollution management practices translate into downstream impacts on water quality. The loss of net trapping ability affects outputs of total nutrients, total phosphorous, and suspended sediments.

In summary, the conditions in the Conowingo Dam are different than assumed in the Chesapeake Bay TMDL and all studies suggest that additional reductions in nutrients and sediments are needed to meet water quality goals. Current science describing the changes in trapping and fate/transport is being incorporated into the Chesapeake Bay Program modeling tools. Additional reductions and the date at which they are to be achieved will occur within the Chesapeake Bay Program's Principals' Staff Committee and multiple implementation solutions are being and will continue to be explored to address impacts resulting from changed conditions.

LEGISLATIVE REPORT:

Sarah Clark provided an update on the Bills currently moving on the calendar.

HB 1486 – Representative Zimmerman's high tunnels Bill is scheduled to be on third consideration in the House. It amends the Stormwater Management Act to exempt high tunnels that meet certain requirements from the provisions of the Act. The Department has concerns about the broad definition of high tunnels and about stormwater impacts. DEP currently opposes the Bill unless it is amended to use the USDA definition of high tunnels.

HB 86 – The House Transportation Committee met on Representative Lawrence's Bill to amend Title 75, Vehicles, to eliminate tailpipe emissions testing for 1992-1995 model year vehicles. The Department has reviewed the Bill and has concerns. The State Implementation Plan would have to be amended to put the law into effect, and the emissions testing will be phased out in 2021 anyway. DEP is monitoring the Bill, but has not taken an official position.

HB 1237 – The House Commerce Committee just voted to move Representative Keefer's Bill to the State Government Committee. At the June meeting, Sarah discussed Senator DiSanto's Bill, Senate Bill 561, with the CAC members. Both of those Bills would amend the Regulatory Review Act to provide that any regulation costing more than \$1 million would have to receive a concurrent resolution by the House and the Senate and be signed by the Governor in order to be adopted. This would be detrimental to the Department in implementing most of the federal regulations.

SB 799 – The Senate Environmental Resource and Energy Committee is meeting on Senator Alloway's Bill establishing the Clean Water Procurement Program. This Bill would institute a

competitive bidding program in which PennVest would issue an RFP to purchase DEP verified TMDL nutrient credits. Municipalities or stormwater authorities that discharge a TMDL nutrient to surface or groundwater would be required to pay an aggregate of \$50 million into a fund each year in exchange for being absolved from their wastewater and stormwater requirements. The Department opposes the Bill. The Bill will be amended in Committee to make it optional to municipalities. DEP will continue to monitor the Bill.

Two pieces of legislation that are stalled:

HB 290 – This is Representative Metzgar’s Bill relating to the Underground Storage Tank Indemnification Board. There are two programs – the Environmental Cleanup Program and the Pollution Prevention Program. Both sunset on June 30, 2017. In addition, DEP’s Underground Storage Tank Program is in need of funding to maintain the programs past next fiscal year. HB 290 would provide a transfer from the Underground Storage Tank Indemnification Fund to DEP to implement the program. DEP will be advocating for the Bill.

SB 646 – The recycling fee Bill is due to sunset on January 1, 2020. DEP is now in a position where it will begin shutting down recycling grants unless legislation is passed to extend that sunset. Senator Killion introduced a Bill to eliminate the sunset of the recycling fee. The Bill went to the House, and the House amended it to extend it for one year in order to bring everyone to the table to talk about wholesale changes to the Recycling Act. It was then placed into the Administrative Code Bill, which has not yet been adopted. DEP will be advocating for Senator Killion’s Bill to move so we can keep those grants flowing to municipalities for recycling programs.

CAC 2016 ANNUAL REPORT

A draft annual report was distributed to members of the Council for review and comment. Comments received were acted upon, and a final draft report was made available to the members. Chairman Welsh solicited additional comments or concerns on the Annual Report. Hearing none, Chairman Welsh requested a motion to approve the 2016 Annual Report.

**Tim Weston moved that the Council approve the 2016 Annual Report.
Cynthia Carrow seconded the motion, which was unanimously approved.**

The 2016 Annual Report will be placed on the CAC webpage and distributed to the Governor and the General Assembly.

COMMITTEE REPORTS:

ENVIRONMENTAL QUALITY BOARD:

Chairman Welsh stated that the EQB approved a proposed rulemaking for increasing the fees for the non-coal mining program to cover the cost of that program. Also approved was a proposed rulemaking for requirements for monitoring storage tanks and the Spill Prevention Program.

SOLID WASTE ADVISORY COMMITTEE:

Jim Sandoe stated that Sarah Clark, DEP Legislative Director, attended the SWAC meeting and reviewed with the Committee the specifics of the recycling fee. Currently 900 Series grants are no longer available.

LOW LEVEL WASTE ADVISORY COMMITTEE:

Executive Director Lee Ann Murray stated that a presentation was given at the LLWAC meeting on the Appalachian compact for low-level radioactive waste disposal and a report was given on disused sealed sources. There was discussion at the meeting about financial assurance provisions dealing with the disposal, costs of disposal, and the required protections. The federal government is creating a model document which will attempt to ensure that the costs are equal to the potential problem. Pennsylvania will have to look at that model. Currently Pennsylvania is looking at other states to get some ideas on what other states do, and there will be a more detailed discussion at the upcoming Radiation Protection Advisory Committee meeting.

Lee Ann attended the recent Environmental Hearing Board committee meeting. There is a current rules package, approved by the Attorney General's Office, that makes changes to dealing with the EHB. Those rules were published and are now final. The EHB committee also discussed a report they prepared regarding a joint mediation program. The idea is to have a triage mediation option that could be used early in the litigation process to potentially prevent litigation from ever occurring. For attorneys who want to participate in the mediation process, CLE credits will be given. The committee is hoping to have a program to roll out at the Environmental Law Forum in spring 2018.

ELECTION FOR MEMBERS TO THE ENVIRONMENTAL QUALITY BOARD:

The CAC annually elects five members to serve on the EQB. Balloting was conducted and the following members were duly elected to sit on the EQB are: Jim Sando, Terry Dayton, Don Welsh, Cynthia Carrow, and Bill Fink.

Chairman Welsh requested a motion that James Schmid, John St. Claire, and John Walliser be considered as alternates.

Bill Fink moved to elect James Schmid, John St. Claire, and John Walliser as alternates to sit on the EQB. Jim Sandoe seconded the motion, which was unanimously approved.

NEXT MEETING:

The next meeting of the Citizens Advisory Council will be November 14, 2017.

ADJOURNMENT:

With no further business, Chairman Welsh requested a motion for adjournment. John Hines moved to adjourn the meeting, which was seconded by Thad Stevens, and all were in favor. The October 17, 2017 meeting of the CAC was adjourned at 12:05 PM.