

ENVIRONMENTAL JUSTICE ADVISORY BOARD
Meeting Minutes
Monday, February 23, 2004
Room 105, Rachel Carson State Office Building
Harrisburg, PA

Members in Attendance:

Mr. Edward Thomas
Mr. Edgar Howard
Ms. Pheralyn Dove
Mr. Gary Horton, Sons of Lake Erie
Mr. Jerome Balter, Public Interest Law Center of Philadelphia
Mr. Eli Brill, Dechert, Price & Rhoads
Mr. Alfred Ryan, PECO Energy
Mr. Patrick O'Neill, City of Philadelphia Law Department
Ms. Ayanna King, Ayanna's Consulting & Concepts
Mr. Marcus Kohl, Pa. DEP

Members not in Attendance:

Ms. Deborah Kilmartin, Kilmartin Environmental Consulting, Inc.
Mr. Calvin Little
Mr. Mark Freed, Langsam Stevens, LLP

Others in Attendance:

Janine Legg
Fred Brown
William Cluck
Gregg Gripp
Janis Dean
Michael Terretti
Alice Wright Bailey
Holly Cairns
Krishnan Ramamurthy
Lou Guerra, Jr.
Justina Wasicek
Ann Miller

Board Chair, Ed Thomas called the Environmental Justice Advisory meeting to order at 10:10 a.m. on February 23, 2004.

Edward Thomas: Explained to the board members some of the changes that occurred since the last board meeting in October. Alisa Harris left the

Department and Wilder Bancroft retired. The board is still trying to fill the vacancies on the board.

Edward Thomas: Made a motion to the board to approve the minutes of the August 5, 2003 board meeting.

Eli Brill: said that on page six of the minutes, he needed some changes in his comments to reflect what he said. The changes are to read “expressed the concern that if the board is going to appoint five more people and get five individual opinions about environmental issues in certain areas and there is movement on developing methodology to assess if the community is an environmental justice community or experiencing disproportionate adverse impact, he feels the board is wasting their time.”

The minutes of the August 5, 2003 meeting were accepted by the board with the changes.

EPA Tool Kit

EPA published a tool kit on Environmental Justice, which was e-mailed to all of the board members prior to the meeting. A paper copy was not included because of the length of the document.

Alice Wright: said she contacted Reggie Harris who is an epidemiologist with EPA and also the chairman of the Region 3 EJ All States Committee. He feels the EPA Tool Kit was not suitable for the Environmental Justice Advisory Board and it was not suitable to use in environmental justice communities.

Eli Brill: said the tool kit was similar to the EPA 2000 Final Guidance Document.

Ayanna King: asked the question if the board has problems/questions about the tool kit, how does the board address this issue?

Edward Thomas: suggested that the questions/problems with the tool kit be addressed through the comment process of the Department. Comments are due on March 4, 2004.

Ayanna King: suggested that several board members review the document and then make comments before the March 4, 2004 deadline. Several board members volunteered: Edward Thomas, Eli Brill, Ayanna King.

Edward Thomas: said there are three major issues facing the board:

- Permanent replacement as Director, Office of Environmental Advocate
- Board vacancies

- Does board want to suggest that DEP re-initiate Mike Corbin's contract as an advisor to the board?

Patrick O'Neill: asked the questions about Mike Corbin's contract, and if there was someone in the department that could replace his role?

Krishnan Ramamurthy: explained that Mr. Corbin was a technical and legal advisor to the department on overall issues concerning environmental justice.

Alice Wright: asked the board if anyone in the Department dealt with cumulative and disparate impact for the board?

Krishnan Ramamurthy: said one of his roles at one time was dealing with cumulative and disparate impact for the Department, but his role has recently changed and he cannot spend as much time on these issues anymore.

Edward Thomas: explained that he was asked by Joe Powers to solicit recommendations from current board members to submit resumes for candidates for the Director position. Patrick O'Neill asked for a job description. A suggestion was made that Marcus Kohl meet with Mr. Powers about what the job description will involve for the Director position.

Lou Guerra, Jr.: explained to the board members that all of the resumes for potential candidates for the board have been reviewed. He said that the Secretary wanted to wait until the new Director is appointed before filling vacancies on the board.

Pheralyn Dove: suggested to the board members that a meeting be scheduled with the Secretary along with a memo containing the three issues above.

Edward Thomas: volunteered Ayanna King, Pheralyn Dove, Patrick O'Neill and himself to work on the issues mentioned above and then to meet with the Secretary concerning these issues.

Lou Guerra, Jr.: explained about a survey from the Secretary that went out to the advisory committees and boards and its members. **Janis Dean** further explained how the process worked and some of the results.

Lou Guerra, Jr.: presented to the board members a summary of the EJ Policy comments. He said the public participation policy that DEP had for environmental justice was opened for public comment in October of 2003 and was closed on December 18, 2003. He said the public participation policy was to foster communication with the communities and to encourage better public participation within the environmental communities. DEP received comments from four different entities: Pa. Chamber of Business and Industry, the Pa.

Waste Industry Association, Pa. Coal Association and Evergreen Environmental Corporation. The Policy office has reviewed all of the comments and is currently in the process of developing responses to those comments. The responses will be circulated internally for review within the next three weeks. He further stated that within two months the final policy should be published.

He said the internal work group is still in process of determining how to address the next 10 steps and will decide how to address them at a later time.

Jerome Balter: asked what does community participation mean?

Lou Guerra, Jr.: stated it means having a more informed community in an environmental justice area.

Eli Brill: asked if he could see the comments that were sent? He also asked if the list of trigger permits were criticized in the comments.

Lou Guerra, Jr.: said there were comments about the trigger permits.

Janine M. Legg: wanted to know if she could send in additional comments. She asked again where the comments were published.

Lou Guerra, Jr.: said even though the comment period is closed and no additional rule making could be reopened for comment, if anyone sent in comments, they would be considered if time permitted, however they would not receive a formal response.

PUBLIC COMMENT:

William Cluck: an environmental attorney shared his personal feelings on how the Department works with the Environmental Justice Advisory Board. He also stressed the Department's need to communicate to the public.

William Cluck: worried that a revised definition of "renewable energy" would include resource recovery i.e. energy from incinerators. He worried that under the new definition the state could purchase the electricity at the Harrisburg Incinerator as "renewable energy." He was especially concerned with the impact on the minority community where the facility is located.

William Cluck: also noted that he had submitted a resume for becoming a member of the board and had yet to hear anything.

Ed Thomas: replied that in his conversation with Executive Deputy Secretary Powers, he had mentioned that it was important for the Department to contact prospective board members. Executive Deputy Secretary Powers said he would pass the request on to the Secretary.

Janine Legg, MBA: presented a research paper on Building Health Communities in Environmental Justice Areas: Evaluation of Chester Pa. The handouts were distributed to the board members.

Janine Legg, MBA: asked the board based on her presentation, to consider the disease indicators and actually measure the health of communities.

END OF PUBLIC COMMENT

Holly Cairns: presented to the board the Update on Public Comment Protocol. This handout was part of the board package and distributed to all board members. Changes were made to the Comment Review section: Oral comments made to the board will be discussed and comments provided with a written response from the Board Chair no more than 60 days following the board meeting in which they were presented.

SUMMARY:

- Marcus will talk to Joe Powers regarding the commitment and resources to the Office of Environmental Advocate, sending a letter to potential members to update them on the progress and the possibility of moving the meeting location;
- Ed, Krishnan and Marcus are going to review the talent within DEP to examine cumulative and disparate impact analysis;
- Ed, Ayanna, and Eli are going to form a response to the EPA Toolkit for the March 4 deadline;
- Ed, Patrick, Pheralyn and Ayanna are going to work on the memorandum of understanding to meet with the Secretary to discuss the issues mentioned earlier in the meeting;
- Marcus should talk to Joe about notification to new board members when they are selected;
- Eli, Patrick and Al to work on the work product;
- Ed will follow up on Janine's request of the disease indicators based on her presentation to the board.

Patrick O'Neill: stated that EPA is holding a public hearing in Philadelphia on Wednesday, February 25, 2004 dealing with the Mercury Rule. He asked the question of whether DEP has taken a position on this?

No one could answer this question.

A suggestion was made to publish the comments in other locations besides the Pennsylvania Bulletin. It was also suggested that the policy be made available in other languages. Lou Guerra, Jr. said he would check into this.

Jerome Balter: feels that the board spends all of its time on administrative matters rather than the investigation of the issues. He feels the board never gets around to the issue of what does the board want the Secretary of DEP to propose to the Governor?

Pheralyn Dove: suggested that time should be allowed in the agenda to discuss the issues that are necessary for this board other than just administrative issues.

Al Ryan: made a suggestion to the board that the meetings be held in other parts of the state, rather than just Harrisburg.

Marcus Kohl: will check into this matter.

Meeting adjourned at 2:25 p.m.
Minutes taken by Lorraine Wagner