

**ENVIRONMENTAL JUSTICE ADVISORY BOARD**  
**Meeting Minutes**  
**Tuesday, August 3, 2004**  
**Room 105, Rachel Carson State Office Building**  
**Harrisburg, PA**

**Members in attendance:**

Ayanna King  
Edgar Howard  
Mario Browne  
Al Ryan  
Calvin Little  
Arthur Frank  
Eli Brill  
Marcus Kohl  
Ed Thomas  
Cyndi Romero  
Janine Legg  
Rev Strand  
Jerome Balter  
Peter Simms

**Others in attendance:**

Stan Sneath  
Bill Cluck  
Harold Miller  
Jessica Warren  
Janis Dean

Meeting called to order at 10:51 a.m.

**Ed Thomas:** announced that Ayanna King has been appointed by the Governor as the new Director of the Office of Environmental Advocate and will start her position August 23, 2004.

**Ed Thomas:** called for an approval of the minutes and allowed a few minutes for the review of the February 23, 2004 minutes.

**Eli Brill:** proposed changes to the February 23, 2004 minutes. He had already commented on the same changes and would like to make sure these minutes are corrected and returned to the board.

**Ed Thomas:** ensured Eli that the changes would be made. With the new changes, the minutes were accepted. He then proposed the acceptance of the June 30, 2004 board minutes.

The board members looked over the minutes and no changes were made. The minutes were accepted.

**Ed Thomas:** suggested the agenda be re-arranged in order to accommodate the late board members. As such, he requested Marcus begin his report on the action plan.

**Marcus Kohl:** reported that a conference call involving several board members was held since the last board meeting. During that conference call, the board members determined Marcus should ask DEP to respond to the action plan and supply the status of the progress by the department. This information was then put into handout and supplied to each board member. Marcus went over the action plan handout in detail.

**Al Ryan:** noted that the department had listed an April 2004 meeting in Harrisburg. He asked if that meeting had been publicized.

**Marcus Kohl:** answered that the meeting had not been publicized. Instead, letters were sent to specific groups for attendance. The meeting had been set up by the Alliance for the Chesapeake Bay and the meeting was held to discuss what needed to happen regionally. Baltimore and Virginia had similar regional meetings.

**Eli Brill:** asked if "statewide" was referring to statewide review in phase 3.

**Calvin Little:** inquired what the status was for data sharing.

**Marcus Kohl:** replied that this was just a small working group.

**Arthur Frank:** said there was a growing collaboration between the Department of Health and Department of Environmental Protection, including data sharing. Specifically, both departments are reviewing the issue of air pollution.

**Ed Thomas:** said the board should pursue a health-related basis. The action plan has 4 items and each of these will be assigned to a subcommittee.

**Marcus Kohl:** said that the internal working group did meet with the Secretary to discuss the permitting process. He also reiterated that the internal working group and the department are pushing for plain language within permit applications.

**Janine Legg:** asked if DEP/OEA could be tasked with helping the community to understand the language.

**Marcus Kohl:** replied that the regional advocates are tasked with this and the advocates work to put these into plain language. If the board is looking for more technical assistance, the public participation policy could do this.

**Janine Legg:** said that risk communication is still an issue. She then asked how the department can make these permit applications plain language.

**Bill Cluck:** added that the monitoring portion of permit applications has no reference to public participation. He referred to the Harrisburg incinerator as an example.

**Jerome Balter:** commented that DEP has never investigated a permit application in terms of civil rights. He pondered the purpose of the department and the board, especially citing the Harrisburg incinerator, if the department does not aid the community.

**Ed Thomas:** responded that Ayanna King has been named as the permanent director for the OEA. With a new director, the structure of the board will improve and the board can move forward.

**Janine Legg:** suggested the board put the EJ protocol back on the schedule for the EJAB meetings.

**Marcus Kohl:** responded that this would be answered in the policy discussion later in the day.

**Ed Thomas:** informed the board that during the conference call six weeks ago, they had assigned a leader to each goal.

Goal 1: Ed Thomas

Goal 2: Eli Brill

Goal 3: Al Ryan

Goal 4: Ayanna King

Goal 5: Action plan and follow-up on action plan to be conducted by the Chair & Vice-Chair (which are to be elected today)

**Marcus Kohl:** discussed the four committees

1. Cumulative and disparate Impact Subcommittee
2. Environmentally Burdened Communities Subcommittee
3. Oversight Subcommittee
4. Public Participation Subcommittee

**Jerome Balter:** asked if environmentally burdened communities are shown on the maps in the 2001 report.

**Ed Thomas:** replied that "environmentally burdened community" does not have an official definition. The board should task the subcommittee to work on a definition.

**Eli Brill:** clarified that with respect to the Work Group report, there are typically two triggers, which consist of filing of plan approval in EJ area and filing a plan approval with a major source.

**Jerome Balter:** asked for clarification as to whether the goal is to get the permittee together with the community.

**Marcus Kohl:** responded that this is the goal, however, the department will still be involved.

**Rev Strand:** asked if the Office of Environmental Advocate had a mission statement.

**Marcus Kohl:** answered that the OEA is a liaison of the department to aid the community. Advocates get involved in trigger permits in an EJ community.

**Rev Strand:** asked if the OEA should automatically be involved, whether a trigger permit or not. He asked what stage of the process advocates become involved and what that involvement entails.

**Marcus Kohl:** replied that permit applications are first checked to see if the application is located in an EJ community. Permitting staff in DEP does this review. There are no set ways of involvement but an example of how the advocates could become involved would be to hold public meetings.

**Rev Strand:** asked if the OEA could be automatically involved in the application process for DEP.

**Marcus Kohl:** explained that it is not DEP's role to explain the project to the community.

**Lou Guerra:** clarified that the discussion this afternoon will cover this. There is a difference between permitting and other activities.

**Ed Thomas:** asked each board member to decide which subcommittee to be part of and each board member chose the subcommittee of interest.

**Ed Thomas:** announced the board still has two open seats. He asked the board to submit recommendations for the open positions.

**Eli Brill:** asked if there were any criteria for these positions.

**Marcus Kohl:** said there was no one from the central region represented by the current board.

**Ed Thomas:** said ideally, the two positions should be filled by women. He also said that no one is representing the Asian/Pacific or Hispanic portions.

**Al Ryan:** felt uncomfortable suggesting anyone, considering the recent application by Mr. Cluck. He recommended the new Director rectify this situation.

**Ayanna King:** agreed she would do so.

**Ed Thomas:** asked for nominations for the positions of Chair and Vice-Chair of the board. The Chair and Vice-Chair determine the agenda for the meetings. Additionally, they represent the board and have the authority to speak with the Secretary, who is setting the direction of the board. Several names were suggested and the voting would be held later in the day.

#### **PUBLIC COMMENT PERIOD:**

**Bill Cluck:** expressed his disgust at the lack of communication from the department. He still had not received any word regarding his application for the board. He also raised the issue of the Harrisburg waste management plant. In this case, there was no opportunity for public participation and no municipal ratification or public comment.

Several board members wanted to know what Bill Cluck expected from the board.

**Bill Cluck:** answered that the EJAB is a policy board and as such should be able to help. He thought the policy department should be involved with this issue.

**Rev Strand:** asked if he was seeking a specific response from DEP requiring public participation.

**Bill Cluck:** stated he felt the incident with the Harrisburg incinerator should be deemed a regulatory failure. He also felt that the power and discretion DEP failed to exercise should be addressed in action steps.

**Jerome Balter:** added that he felt these steps could also help to eradicate political and economical collusion.

**Ed Thomas:** stated that this could be accomplished through the proposed public participation policy. The public participation subcommittee should review this policy and make changes. He agreed that regulatory changes are required and the board should work to have these changes instituted.

**Rev Strand:** suggested the board call Bill Cluck back and have DEP give him a response.

Board members broke into sub-committees and had a working lunch. The board members reassembled at 1:05 p.m.

**Rev Strand presented recycling video, including footage of the Chester incident. Questions for Rev Strand were postponed until later in the day.**

**Ed Thomas:** introduced John Dernbach, Director of the Policy Office.

**John Dernbach:** provided a brief overview of the policy department. He quickly discussed the ways which DEP develops statutes, regulations, and notice/comment concerning EJAB. He also noted that the policy department would like to see more public involvement. The policy department wants a system that can be administered. In order to do this, the policy department wants to figure out EJAB interests.

**Jerome Balter:** expressed his apprehension at the policy department's process for developing regulations. He stated the process excludes an evaluation of the role of the community. DEP needs set of guidelines, a simple way of making decision. He felt the community should have the ability to determine either a "go" or "no-go" decision.

**John Dernbach:** agreed that the community should be involved and would like to see guidelines set for a "go" or "no-go" situation.

**Calvin Little:** asked how the department ensured promises for jobs and recreational facilities are met and if this is addressed through regulations.

**John Dernbach:** answered that the department can determine these are met through harms/benefits analysis.

**Stan Sneath:** discussed the permit process that typically occurs at the department.

**Eli Brill:** added that within landfill permits, there is a detailed description of what can and cannot happen.

**Arthur Frank:** asked if DEP had any ways of leveling the playing field. More specifically, when EJ community is affected, how does the department get technical or scientific help to explain the process to the community?

**John Dernbach:** said the disparity of resources should be mentioned during the capturing session with Jennifer Handke and suggested the board begin that portion of the agenda.

**Ed Thomas:** asked if grant money or funding, such as discretionary funding from EQB, could be used to help the communities gain technical or scientific help.

**John Dernbach:** said this depends on the grant program but the department would be open to looking into this option.

**Jennifer Handke:** gave an explanation of her role in DEP. She stated that DEP would like to have a working process with the EJAB. EJAB can influence the department's thinking before things go to the Secretary. Today will help with potential regulation development. This section of the day is simply about gathering ideas to help in forming the department's thinking. She quickly went over the Internal Working group handout and asked for board input.

**Rev Strand:** asked a preliminary question about who makes the final decisions and approvals in regards to permits at DEP.

**John Dernbach:** answered that the regional offices make the final decisions. The program managers and regional directors have this ability.

Gathering Session occurred with board members contributing their thoughts and concerns.

**Ayanna King:** asked if someone would return with the results of the gathering session.

**John Dernbach:** explained that everything discussed and gathered today would be committed to electronic format. He said a formal response would be prepared for the next meeting. He also suggested that Ayanna, as the new Director for the OEA, needed to be involved in the process to formulate everything into a regulation.

**Ed Thomas:** thanked both John and Jennifer. He then opened the floor for questions.

**Mario Browne:** asked Rev Strand if he could have a copy of the tape shown earlier.

**Rev Strand:** said he could supply a copy to any interested board member.

**Calvin Little:** asked if there were any benefits to the community in Chester.

**Rev Strand:** replied that the local community gained some jobs but they were low-end jobs.

**Ed Thomas:** Overview of everything:

1. Public Participation Policy Comments—August 25 is deadline. Please email comments to Lou Guerra
2. Subcommittee Structure
  - a. Contact Marcus and set up a conference call
  - b. Elect chairperson and important priorities outlined
  - c. Have chairperson contact Marcus

Public Participation – Rev Strand  
Environmentally Burdened Communities – Mario Browne  
Oversight – Cyndi Romero  
Cumulative/Disparate Impact – Eli Brill

Monitoring – Ayanna & Al

3. Look into Department assistance

**Ed Thomas:** asked members to fill out ballots and give to Marcus and Britte for counting.

Ed Thomas elected as Chairperson. Janine Legg elected as Vice-Chairperson.

The meeting was adjourned at 4:05 p.m.  
Minutes taken by Britte Earp.