

Environmental Justice Advisory Board

Rachel Carson State Office Building, Delaware Room, 400 Market Street, Harrisburg, PA
February 4, 2014 Minutes

Members in attendance

Eli Brill (via phone), Adam Cutler (via phone), Hazem Hijazi (via phone), Dr. Arthur Frank, Clea Patrick Hollis (via phone), Dr. Horace Strand, John Waffenschmidt, Dr. Mark White (via phone).

Members absent

Erlinda Aguiar (unexcused), Marcia Hinton (excused) Laureen Boles (excused).

Non-Members

Holly Cairns, Kimberly A. Morewood, Alice Wright, Michele Tate, Vince Brisini, Ann Roda, Laura Edinger.

Call to Order

Chair, Arthur Frank, welcomed everyone and called the meeting to order at 8:50 a.m.

Approval of Minutes

Dr. Arthur Frank asked if there were any comments or corrections to the November 13, 2013, minutes. Dr. Frank then called for Motion for approval of the minutes. Clea Patrick Hollis moved and John Waffenschmidt seconded the Motion to approve the minutes. Motion passed to approve the minutes.

Pennsylvania Climate Change Action Plan Update

Vince Brisini, Deputy Secretary for Waste Air Radiation and Remediation, gave a presentation on the PA Climate Change Action Plan update. The Action Plan update is being done in response to requirements under Act 70, which is the Pennsylvania Climate Change Act. The department's Action Plan responsibilities are to submit an update every 15 months of the effective date and every three years thereafter. DEP is obligated to produce an Action Plan and an Action Plan update to the governor. The Action Plan update is a department document, but it is developed in consultation with the Climate Change Advisory Committee. The Climate Change Advisory Committee members are appointed by the Senate and House.

The first Action Plan was submitted to the governor on December 18, 2009. The first update was then submitted, December 31, 2013. The next update is due on or about October 9, 2015. Although the first report was submitted outside of the 15-month requirement, that does not change the 3-year requirement.

The Action Plan requirements are to identify Green House Gases (GHG) emissions, sequestration trends and baselines, evaluate strategies for reducing or offsetting GHG emissions, identify cost, benefits and co-benefits of GHG reduction strategies, including impact of future energy needs, identifies areas of agreement and disagreement and recommend legislative changes.

Bureau of Labs Tour

The EJAB members and staff traveled to DEP's Bureau of Labs for a tour.

Reorganization Update

Ann Roda, Director of Program Integration, gave an update of the reorganization of DEP. Ms. Roda passed out copies of the most recent organization chart (org chart) for DEP to board members in attendance. This org chart was last revised in December 2013.

Ms. Roda then stated that on December 5, 2013, DEP Secretary Abruzzo announced a minor reorganization of the central office. The reorganization was done to better serve both internal and external partners on matters concerning education, energy and environmental justice. These changes were made after Special Deputy Secretary for External Affairs, Alisa Harris resigned. The sub-offices that were under External Affairs were blended in with other offices within the organizational structure.

Some specific changes include, moving the Office of Pollution Prevention and Energy Assistance to report under the Policy Office; Environmental Education and Information Center now reports under the Communications Office. Also, the Small Business Ombudsman Office now reports directly under Executive Deputy Secretary Jeff Logan through the Office of Administration and Management. The Office of Administration and Management handles the Grant Center so the combining those two offices to coordinate them was an efficient fit for those activities.

The Environmental Advocate Office now reports directly to the Secretary of DEP.

The Local Government Liaisons report directly to the Regional Directors in their Regional Offices, but they also get direction from the Secretary, as well as, the Legislative Affairs Office. Regional Directors report directly to Executive Deputy Secretary Aunkst who oversees Programs.

Electronic Permit Submittal Proposal

Eli Brill gave information on an Electronic Permit Proposal and supplied information electronically of other states agencies that post air permits online and are searchable.

Virtually all state agencies post full air permits, and in many cases draft air permit applications and statement of basis documents on their environmental agency webpages. With the exception of "general permits," which all read the same, and certain other very minor situations, EJAB should move to have DEP have a way to search posted air permits and draft air permits online.

Not included in the review is California, which has local air districts, and it doesn't include many other local air districts, e.g. Louisville KY, etc. However, it convincingly shows that Pennsylvania is very behind on making this information easily available to the public on the web. Environmental Justice Communities' and their technical advisors and advocates need easy access to this type of information, not file reviews scheduled in PADEP offices.

Mr. Brill also stated that that he brought this information to the board so that the board could make a concrete proposal that DEP put certain classifications of air permits online, possibly also draft permits, maybe permit applications as well, and technical responses.

John Waffenschmidt then added that the general concept of transparency, access to date, access to permits is a goal and if you look at it from the standpoint of communities, the more access, even electronic access, is opportunity for them to have information. Board members then discussed the findings that Mr. Brill shared of the other state agencies environmental websites.

Dr. Arthur Frank, Chair, asked if any of the board members would make a motion that EJAB recommends posting air permits online to the Secretary of DEP. Eli Brill stated that before he would make a Motion, he would suggest that Holly Cairns, Environmental Advocate Director, give the information that he supplied to the appropriate DEP staff to get their thoughts on the subject of posting the permits online.

Dr. Frank suggested that Mr. Brill make a motion that DEP look at and consider the issue of posting online permitting and to respond to EJAB as to why PA doesn't have it or what would be the impediments to online posting of permits. Mr. Brill suggested that if a Motion was made that it should be to start with Title V Permits. Dr. Frank then stated that EJAB recommend to DEP Secretary Abruzzo that online permit posting be piloted and evaluated for adoption in PA.

Eli Brill then stated that based upon the work that EJAB has done in documenting online webpages of other states showing such states publication of permits, the Board recommends that DEP review the information supplied and develop a proposal for the online publication of appropriate air permits. Dr. Mark White then seconded.

Dr. Frank then opened for any discussion, to which board member, Adam Cutler then stated that he agrees with Mr. Brill. Dr. Frank called for a vote, which was unanimous. Motion carried.

Citizens Advisory Council Update

Michele Tate, Executive Director, Citizens Advisory Council, introduced herself and updated EJAB members on CAC issues. Ms. Tate has been with DEP for almost 19 years, with the majority of that time spent in the Policy Office, and former Regulatory Coordinator for 8 of those years. The January 2014, CAC meeting had been planned to be a more formal strategic planning process meeting; however, the area was hit with a snow storm so the meeting was shortened. Council will pick up with this process as soon as they can.

In 2013, CAC did a more formal strategic work plan and are still building off of those priorities and I just wanted to share what those priorities were. CAC wants to continue to center on DEP's performance, advancing transparency, public participation and policy development, program

implementation, public service, enforcement actions and permitting decision, ongoing review and analysis of department activities as mandated by state statutes. Council will review issues quarterly, consult with and bring issues to the attention of the legislature, and lastly, the department's ability to fulfill its statutory mandated responsibilities as they should in light of continued budget cuts at the state and federal level.

Also last year, CAC invoked on a broad public participation initiative, where it invited the public and members of our various advisory councils to provide input to CAC on perhaps how DEP can enhance its public participation initiatives. We did make tremendous progress in working with the department last year on a number of policies, initiatives, updating the website, and getting the calendar of events posted, but there are still some straggling issues that we would like to focus on. Part of that list included the Environmental Justice Policy. CAC would be very interested in working with EJAB on potential refinements to that policy. There are also a number of guidance documents that are 15+ years old from DEP that CAC believes need to be updated which are from, at least, the Ridge Administration in the late 90's that council would very much look forward to working with the department on updating those policies. Ms. Tate also answered questions from EJAB members and discussed topics that were brought up.

2014 City of Chester Listening Session

Discussion on the May 6, 2014, listening session of the EJAB that will be held in the City of Chester was held. Specifically discussed items included a tentative agenda, location for holding the meeting and listening session, possible tour, meal or catering and travel arrangements for board members. Dr. Frank asked if an hour long board session could be held before the listening session. Holly Cairns stated that the Community Room in Chester has been booked for the event from 6:00 p.m. to 8:00 p.m., so a meeting could be held before the public arrives for the listening session.

The Community Room organizers will need the information from EJAB on the setup of the room and any other requirements or equipment. Another item discussed was advertising for the listening session. Hiring of a stenographer will be needed for the listening session. Moreover, having a sign-up sheet for individuals who would like to speak and set a time limit. Holly Cairns suggested a five minute time limit for speakers.

EJAB By-laws Annual Review and Elections Discussion

Dr. Arthur Frank brought up the need for the EJAB by-laws annual review and elections. Dr. Frank asked that the by-laws be sent out to all members for review and to let himself or Holly Cairns know if there is anything they think should be reconsidered, and then discuss at the next home site meeting. Also for consideration is election of new Chair and Co-Chair, or leave as is.

Office of Environmental Advocate Updates

Southeast and Northeast Updates: Dr. Arthur Frank asked Alice Wright for an update on several items in the Southeast and Northeast area, which included, people parking on the street and leaving cars at a junk yard. Ms. Wright stated the issue is moving slowly on the junk yard issue, and that the police have already ticketed.

Chair Frank also asked for an update on the Ardmore Plaza issue, to which EA Wright stated that there has been no movement on the Ardmore issue from the community's perspective. Dr. Frank then stated that Reverend Strand had made the comment during the Bureau of Labs visit earlier in the meeting and "how much the test costs," and would it be possible to do a split samples.

Continuing, Chair Arthur Frank requested an update on the Eastwick issue, to which EA Wright stated that there hasn't been much going on in Eastwick other than issues with the city over an airport expansion. Specific issues include the building over a wetland.

Southwest and Northwest Updates: Dr. Arthur Frank asked Environmental Advocate Kim Morewood if she had any updates for the Southwest and Northwest region; to which EA Morewood stated she is doing more outreach to make people aware of the office, and that there is a meeting scheduled for Thursday in the region regarding a site in Indiana County. Reverend Strand then asked if EA Morewood has received any calls regarding the drinking water in that area and if it is an issue. Ms. Morewood replied that she has not received any calls but that she would need to check with the complaints filed with that office and get back to him with an answer.

South-central and North central Updates: Holly Cairns, Director, Office of Environmental Advocate, brought an issue to the board regarding a permit in the Northeast and translation for limited English proficiency. DEP has been helping those with limited English; however, with the particular case we have received requests from individuals, who are not part of the community in question, for permits to be completely translated into Spanish. In this case we tried to go above and beyond what would typically be done to try and make the information more assessable by having it translated, however, going forward we need to have some consensus on how far we are willing to go when receiving requests based on preference vs need.

Discussions among board members reviewed how often these requests occur, how often people outside the community are making the requests and whether or not the department can get by without proving these docs. It was concluded that need within the community prevails preference.

Reverend Strand then suggested setting a policy for translating, if a request is made for documents to be in Spanish. John Waffenschmidt then stated that the problem arises when there are individuals that use these tools to work against the project, or individuals who are not even from the community but make a request and being a regulatory agency wouldn't have that information. Reverend Strand then asked how it would be possible to get by not having a document translated if requested, also asking what the demand for documents being translated is and cost involved in doing so. Ms. Cairns then stated that the her question is if the individual is asking for a document to be translated into Spanish because their understanding of document in the English language causes difficulty understanding what is happening in their community, in which case it is a legitimate and necessary request. Director Cairns also suggested that it may be more cost effective to send staff and an interpreter into the community to hold a meeting and translate the documents, than to spend thousands of dollars on translating a document that is so technical that most individual's may not understand anyway.

Public Comment Period

There were no public comments presented.

New/Unfinished Business

Dr. Arthur Frank went back to address the subject of the reorganization of DEP from earlier, and what was the role of the EJAB. Dr. Frank stated that he had some concerns that there are only three staff to cover the whole state of PA for environmental justice areas. Reverend Strand then offered that environmental justice areas are not covered the way they used to be covered. Chair Frank inquired about how seriously DEP takes environmental justice and the EJAB board if the staff are becoming fewer and fewer with more and more work and less staff to do that work.

Chair Arthur Frank then asked if there was any new or unfinished business, to which John Waffenschmidt stated that he was asked to draft some language for the pharmaceutical issue for consideration, however, a decision was not made on it. Reverend Strand then stated that he believed that it was voted to make a recommendation. Mr. Waffenschmidt then stated that staff was going to review it but it was never voted on, he also stated that he would like it to be wrapped up at the next meeting. Dr. Frank then asked to have the language resent out to board members. Discussions were made regarding what was stated by staff and decided by board members at the last meeting and needing to check the minutes of that meeting. Mr. Waffenschmidt asked to have it researched and communicated to the board. Reverend Strand then stated that one of the issues was that the state of Pennsylvania has different rules than other states on the handling of pharmaceuticals, and that there was one issue that needed to be agreed upon in order to make PA's rule the same as other states.

John Waffenschmidt then reiterated that the board had never made a formal vote, to which Reverend Strand stated that the board could vote to support it at any time and then ask Ms. Cairns to contact the appropriate staff and let them know that the board wants a response, however, no longer having a quorum, Holly Cairns suggested to schedule a conference call with DEP staff for the board to have a discussion on next steps and vote on it at the May meeting.

Chair Arthur Frank asked if there is any other new or unfinished business for the meeting, to which there was none.

Adjournment

Dr. Frank then called for Motion to adjourn the meeting. John Waffenschmidt made a Motion, which was seconded by Reverend Horace Strand. Motion passed and the meeting was adjourned at 2:28 p.m.