

MEETING NOTES
COMMUNITY INVOLVEMENT ADVISORY COUNCIL

JUNE 18, 2013

SMYRNA STATE SERVICE CENTER

Members Present: William Pelham, Joseph Farrell, Robert Frederick, Dr. Jay Julis, LaVaida Owens-White, Marvin Thomas and Harold Truxon.

Members Absent: Dr. Bethany Hall-Long and Pamela Meitner.

I. Meeting Called to Order

Chairman Pelham called the meeting to order at 9:33 a.m.

II. Meeting Protocol Review

Chairman Pelham reviewed the mission of the Council from the back of the nameplates.

III. Review/Approval of Meeting Notes

MOTION was made by Ms. Owens-White to approve the meeting notes and a second was made by Mr. Truxon. All in favor and the motion carried.

IV. CIAC

A. CIAC/DNREC Secretary Meeting Request

Mr. Frederick said that he, Mr. Julis, Mr. Thomas, Ms. Meitner, Mr. Pelham, and Mr. Brunswick met with Deputy Secretary, David Small and Chief Operating Officer, Bob Zimmerman on June 4, 2013. Secretary O'Mara was able to join them late in the meeting. The core issue discussed was whether HB192 (CEPF enabling legislation) permits the Department to establish an administrative reserve to pay salary, benefits and CIAC administrative costs from the 25 percent of civil and administrative penalties that are set aside for community environmental projects.

Mr. Frederick said that drawing down money for administrative costs from project funds is a big issue throughout every Department. The group raised the question hoping to have a response at their August meeting. Deputy Secretary, David Small said that before initiating the Administrative Reserve the Department had consulted with the Legislature during the budget process, came to an agreement and then informed the CIAC at one of their meetings. He said he is certain they are in good standing on the issue but he would like to look at some funding alternatives and confer with the Attorney General's Office, if necessary. Mr. Small said that he

and Bob Zimmerman would be in a better position to answer the question after they begin the FY 2015 planning process in September.

Mr. Frederick said that Secretary O'Mara agreed with the time needed to consider alternative funding sources and confer with a Deputy Attorney General as David Small had suggested.

Mr. Emory apologized for missing the June 4, 2013 meeting and explained that he had to address legislative issues in the General Assembly. He confirmed the conversation that Mr. Frederick had just described and added that DNREC would also suspend all activities removing monies from the penalty funds. Mr. Emory said that half of Mr. Brunswick's salary is paid through this funding source, so they would identify another source for his salary. He also said that all of the penalty monies will still go back into the pot and that hopefully by the end of the August the Department will have the opinion from the Attorney General's Office, and by the August or October meeting they should have a recommendation.

B. Review and Approval of By Laws

MOTION was made by Mr. Frederick that Section 3.4 Replacement of Council Members be revised to read: "The Council shall by a simple majority vote, submit a request to the Secretary for the resignation of the non-participating members. The Secretary will then make the request for the resignation to the non-participating member" and a second was made by Ms. Owens-White. All in favor and the motion passed.

****The Council discussed this motion and by consensus recommends that the sentence "The Secretary will then make the request for the resignation to the non-participating member" be removed.****

C. CIAC Documents Review

Mr. Brunswick gave the Council a brief historical review of the activities and focus of the CIAC using historical documents as a reference. The CIAC began as the DNREC Environmental Justice Committee, evolved into the Community Involvement Advisory *Committee*, and finally became the Governor's Council it is today.

Mr. Brunswick said the Council discussed members concerns about how grant-making has become the primary focus of CIAC activity. He said that Marvin Thomas, Harold Truxon, and others have suggested that the CIAC should return to the practice of holding meetings in the community and advocate for DNREC practices and policies that make a difference in impacted communities. Mr. Brunswick said that on some occasions he has referred back to the CIAC's Original 33 Recommendations for clues as to where the Council might go. He said he agrees that the Council may have lost some sight of their original mission, but he does not think the Council needs to recreate the wheel, instead the Council can gain more clarity about their mission and purpose with a look back at some of the historical documents and activities that led to the adoption of our Mission. He said that a quick review of these handouts shed a lot of light on the practices and policies to which the Council might return to make it more actively engaged in communities and more focused on environmental justice issues and DNREC policy. The documents he handed out were:

- The CIAC helped shape public policy with Community Hearings that were held by the CIAC in the community with testimony and active input from local groups.
- The Department developed Environmental Technical Assistance Panels that brought the Department's technical experts into communities to solve problems in collaboration with other state and local agencies.
- The work of the CIAC focused on issues that impact the environment and health in communities with multiple environmental stressors.
- The CIAC addressed Environmental Justice and public policy issues such as public hearing regulations, permitting, and relationships between communities and industry

Mr. Brunswick said that the CIAC was first conceived in 1999 by a DNREC Environmental Justice Committee composed of the Department's top leadership including the Secretary and DNREC's Division Directors. The Environmental Justice Committee was formed so that the Department could comply with President Bill Clinton's 1994 Environmental Justice Executive Order 12898; "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations". The Order directed federal agencies to make environmental justice a part of their mission and to:

"Address as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations." (Addition to Meeting Notes)

Community Hearings - See 3/17/99 DNREC Environmental Justice Action Plan

Mr. Brunswick said the Environmental Justice Committee chartered the Community Involvement Advisory *Committee*, as an interdisciplinary group with representatives from state and local government, industries, minority and low income communities. The Committee preceded the development of our Community Involvement Advisory *Council*. Pam Meitner, Bob Frederick, and Marvin Thomas were members of the original Community Involvement Advisory *Committee*. He said the Committee was authorized by the Department to meet in environmentally stressed communities on a monthly basis, at locations throughout the state and participated in a tour of South Wilmington that was organized by the Southbridge Civic Association and 4th District Planning Council to highlight their environmental concerns. The tour was followed by a community hearing with testimony from at least 33 residents. Mr. Brunswick said that three specific environmental concerns emerged from the community hearing: air quality, land use and zoning, and special concerns about the air permitting process in Southbridge. He said that Southbridge is a community with many sources air, water, and hazardous waste pollutants.

Environmental Technical Assistance Panels – See 3/29/2000 DNREC Letter to Frances Stafford, President 4th District Planning Council, Marvin Thomas, President Southbridge Civic Association.

Mr. Brunswick said that there is a lot of information in this letter. He said it informs the community leadership that the Department has a special responsibility to address the environmental health

impacts from the “Synergistic effects of multiple chemical reactions”. He said the letter is addressed to Ms. Frances Stafford of the 4th District Planning Council and Marvin Thomas in his role as President of the Southbridge Civic Association and responds to all of the issues raised by community residents in the tour. Mr. Brunswick said it acknowledges first that the community is impacted by the “combined effects of multiple sources of pollution”, and then goes on to identify environmental justice policies aimed at reducing the disproportionate environmental health effects of pollution in Southbridge. He said it also discusses Regulation 25, and the Screen Model which are both aimed at preventing significant new deterioration of air quality. He said that finally, the most striking to him, was the creation of an Environmental Technical Assistance Task Force in which DNREC takes the initiative to bring its own expertise into the community to resolve an environmental issue. He said it then goes the extra mile to bring together state and local agencies to develop a Zoning and Land Use Ordinance with the City of Wilmington and its partners.

Mr. Brunswick added that the the Clean Air Council got a grant this year to work with the City of Wilmington to work on enforcement of the ordinance that requires the buffers and steps for local companies to prevent fugitive dust from becoming airborne. He said it was certainly a time when there were more resources available and he is not sure how much of this could be still be done in this economic climate.

CIAC Recommendations Update

Mr. Brunswick briefly mentioned examples of community outreach and environmental justice policies and practices in the Recommendations. He suggested the Council could create a subcommittee to take a look at all these ideas, and meet before the next CIAC meeting to take a look at the original recommendations from the CIAC to DNREC.

Mr. Thomas said the good thing is that we do not have to reinvent the wheel. He said the Council has a source of information to review to see how we move forward and determine where we go.

Mr. Pelham said he would like to see more done to help communities in need in Sussex County.

Mr. Truxon said the people of Coverdale Cross roads in Ellendale have bad water and this was in the 2001 recommendations and still nothing has been done.

Mr. Frederick said it is a great idea to have a subcommittee to review the roots of the Council. He said we could have meetings at Appoquinimink School with community groups to learn what the community needs and then bridge the gap with DNREC.

Mr. Frederick also said the original recommendations were made in October 2000 and updates in 2001. He said these recommendations led to legislation and the development of the CIAC.

Mr. Pelham said that Bob Frederick and Pam Meitner will co-chair the subcommittee along with Mr. Thomas.

Mr. Thomas asked Mr. Brunswick to look at what funding within the DNREC may be available as far as when issues or projects are identified.

Mr. Pelham asked for a report of the sub-committees progress.

V. Community Ombudsman Report

A. Delaware City Update

Mr. Brunswick said he spoke with Ali Mirzakhilili, Director of Air Quality, and discussed Ali's concern for what seemed to him to be a lack of movement in the project.

Mr. Julis said if there have been problems with DNREC's evaluation of the sampling results and concerns from people in the town about the project and the jobs at the refinery then the Council should meet with Main Street to see why there has been a delay.

Mr. Brunswick said there was a Steering Committee meeting on June 14, 2013 but not all the parties were there. He said the group reported that they are beginning to pull the sampling together and that one obstacle has been sampling locations and getting permission from Delaware City and Delmarva Power to hang the mini- vol particulate samplers.

Mr. Brunswick said there has been some contact between volunteers with refinery security and law enforcement. He said the refinery security raised concerns that some of the sampling was taking place on refinery property and the issue has raised concerns with everyone. He said the Steering Committee is concerned with the impact on volunteer recruitment and participation and discussed the need for the group to meet with local law enforcement and refinery security to notify them when and where the samples were to be taken. Mr. Brunswick said there was a training session with Denny Larson about the numbers of volunteers involved in the sampling and he said the group should have more of the partners at the table. He also said that the Department of Public Health has agreed to look at monitoring results.

An unidentified visitor (Mark Martell?) said the DE Audubon is waiting for a revised NPDES Permit Application for the refinery. He said representatives of the Division of Air Quality come to DE City often, but they cannot get anyone from Water Resources to come. He said they are waiting for Regulation 316B with the EPA to come out and he wants the Division of Water Resources to come to the community and educate them about water issues. He said Delaware Audubon and the Sierra Club have both asked the Secretary about water involvement with the refinery and to want to talk about the expired permit.

Mr. Brunswick said that to the best of his knowledge the issue with DE City Refinery NPDES Permit involves the intake with screens at the river. He said in February a low tide in the river involved fish kills and clogging of the intake filter that resulted in a flaring incident. Mr. Brunswick said he spoke with Kathy Stiller, Division of Water Resources Director, about the meeting and her position is that there is no NPDES permit application at this point and no need for a Public Workshop. He said the steps toward a public hearing process are that the

Department receives a Permit Application, publishes it, and takes public comment. The Secretary schedules a Public Hearing to respond to any significant comments to the Notice and prior to a public hearing, the Department has an option to schedule a public workshop to explain the contents of the Permit Application to the public and finally there is the public hearing

Title V Public Hearing

Mr. Brunswick said that around 1,800 people attended the Title V public hearing which included the public and an estimated 800 union employees and contractors who arrived in 10 to 12 yellow school buses. He said the most significant issues that surfaced involved the legality of the shipping operations under the Coastal Zone Act and the heavy rail traffic. He also said that several speakers addressed the need for a real time air monitoring in Delaware City.

B. SERCAP HOA Project

Morningside Village

Mr. Brunswick said that on May 7, 2013 he organized of a tour with the EPA Grant Officer, Garth Connor, and the Southeast RCAP State Director, Marie Betty LaFortune for the EPA Environmental Justice Small Grant that was awarded to SERCAP of Morningside Village. He said the grant is focused on working Homeowner Associations that own their community drinking or waste water systems and that a group of ten HOAs had been identified by the Division of Water Resources as having difficulty with financial management. He said these HOA's are facing long term maintenance issues and the eventual failure of their systems if they can't collect the money to run and maintain their systems. Mr. Brunswick said that Morningside Village cannot get a significant number of residents to consistently pay their utility bills and that 29 of the 47 residents are delinquent on their utility bills. He said that many homeowners have multiple liens placed on them for non-payment and with the liens there is no revenue until the house sells. He said he has been trying to work with the Department of Justice Deputy Attorney General to establish a BAR Association committee to provide pro bono work placing wage attachments on the delinquent homeowners. He said their drinking water system also serves Walkers Mill, a small community of less than 50 homes, which could be impacted by the failure of Morningside Village. Mr. Brunswick said the Morningside HOA financial issues are so severe that the HOA is considering declaring bankruptcy.

Mr. Pelham said he wants to know how much money would be helpful to the community.

Mr. Farrell said he is wondering if DNREC or Public Health has public funds to respond to an imminent public issue. He said that DNREC could help with the pump out of the two fields of septic.

Mr. Brunswick said the issues the folks in Morningside Side are having with their water is the heavy amounts of chlorine in the first dose of drinking water and they provide water for another community.

Mr. Pelham suggested the Council ask DNREC to look for some help with funding because of the water violations.

West Side Grows

Judy Johnson Park

Mr. Brunswick said that cameras have been installed at the Judy Johnson Park at 2nd and Clayton streets in Wilmington. The cameras were installed under our Environmental Crimes Enforcement Unit Trash Stoppers program to catch and prosecute people in the act of dumping trash and there have been no arrests or prosecutions to date. Mr. Brunswick also said that an emerging issue now is the demand from Wilmington City Council and local groups stepping up to ask for cameras in their parks.

VI. Open Forum

Mr. Truxon said the meeting with Tidewater was successful and they plan to meet again.

Mr. Brunswick said they met with Tidewater because Gerry Esposito, the President, has a golf tournament each year to help low income communities and he made a pitch for a water filtration system for Enchanted Meadows. He said it is possible that Tidewater owns the contract for the operator of the systems and they may be able to do something with financing to help the community. He said that the Office of Drinking Water checked the water and reported there is nothing wrong, just a lot of iron. He said they are looking at finance changes to free up money and they plan to meet with the new owner of the mobile home park.

MOTION made to adjourn the meeting at 11:28 by Mr. Thomas and a second was made by Mr. Truxon. All in favor and the motion carried.

Respectfully submitted,

s/Gail Henderson

Gail Henderson

Administrative Specialist II, DNREC

The notes of this meeting are not intended to be a verbatim record of the topics that were presented or discussed. They are for the use of the Community Involvement Advisory Council members and the public in supplementing their personal notes and recall of presentations.