

MEETING NOTES

COMMUNITY INVOLVEMENT ADVISORY COUNCIL

APRIL 16, 2013

SMYRNA STATE SERVICE CENTER

Members Present: Robert Frederick, Joseph Farrell, Dr. Jay Julis, Pamela Meitner, William Pelham, Harold Truxon and Marvin Thomas.

Members Absent: Bethany Hall-Long and LaVaida Owens-White.
A quorum was met.

I. Meeting Called to Order at 9:40

Chairman Pelham called the meeting to order at 9:40 a.m. The Council welcomed a new member, Joseph Farrell, from the University of Delaware, representing Sussex County.

II. Meeting Protocol Review

Chairman Pelham reviewed the mission of the Council from the back of the name plates.

III. Review/Approval of Meeting Notes

MOTION was made by Ms. Meitner to approve the meeting notes and a second was made by Mr. Julis. All in favor and the motion carried

IV. CIAC

A. Membership

Mr. Brunswick said there are two openings on the Council and he spoke with David Small about it. He said they will be seeking members from Kent County and is seeking a meeting with the President of Kent County Levy Court.

B. CIAC by Laws- Jay Julis

Mr. Pelham said that the Council agreed at the last meeting to develop By Laws and he asked Mr. Julis to come up with a draft. He said that Mr. Brunswick sent a couple of examples of other advisory groups By Laws. Mr. Pelham said that Mr. Julis took SB 33 that established the council and HB 197 to develop the By Laws.

Mr. Frederick asked that the review and possible vote of the By Laws be put on the Agenda for the next meeting. He said that the Council members can email any comments they have during the next 60 days.

Article 1 Mission

Section 1.2 Guiding Principles

In the 4th line add the word “the” before the word “Secretary”.

Article II Duties of the Council

Section 2.1 (a)

In the 2nd line remove the words “addressing and work” and change “resolving” to “resolve”.
In the 5th sentence change the word “serve” to “serves”

Section 2.1 (b)

In the 1st line add the words “to the Secretary” after the word “recommendations”.

Section 2.1 (c)

In the 3rd line, remove the words “The Secretary at his or hers discretion, shall determine whether a proposed Project is” and add the words “and are”

In the 6th line remove the sentence “The Secretary shall ensure that the records identify the location of each civil or administrative penalty.”

Section 2.1 (d)

Change the word “of” with the word “with” in the last sentence.

Article III Membership

Section 3.1 (a)

In the 1st line change the words “member” to “members”. In the 2nd line change the word “of” to “by” before “the Governor”.

Article IV Officers

In the 3rd line, change the words “will” to “shall”. In the 4th line change the word “shall” to “may”. In the 7th line change the word “will” to “shall.” In the 8th line change the word “Chairman” to “Chairperson”.

Article V Council Business

Section 5.1 Meeting

Replace the two sentences “The Council will meet every other month. The date and time will be determined by a vote of the Council” with “The Council will meet on a regular basis with the date and time to be determined.”

Section 5.2 Quorum

In the 1st line delete the word “official” and change the word “member” to “members”. In the 2nd line change the word “can” to “may”. In the 5th line add the word “then” after “resigned” and remove the words “and the replacements have not been appointed, then a Quorum is define as follows.”

Section 5.3 Special Meetings

In the 1st sentence replace the word “can” with the word “may” and replace the words “a majority vote of the Council” with “three members of the Council.”

Article VI Amendments

In the 3rd line replace the word “can” with “may”.

A pre- final draft version, which incorporates all the changes indicated above for smooth reading, review, comment and file convenience will be prepared for the Council.

MOTION was made by Mr. Frederick to approve the draft By Laws and a second was made by Ms. Meitner. All in favor and the motion carried.

The Council members also recognized Mr. Julis for all of his hard work in drafting the bylaws.

V. CEPF funding Update

A. Fund Balance

Mr. Brunswick said the CEPF balance is \$106,882 and growing very slowly. He said he met with Bob Z. to review funds that are available and prospects for additional funding. Mr. Brunswick said the projection is showing the fixed cost for the council and fund exceeding the projected revenues.

Mr. Pelham said sometime the Council should review the fixed expenses to DNREC. He also said the Council was authorized by HB 192 to oversee 25 percent of the penalties but HB 192 did not mention funding the Ombudsman salary.

Mr. Brunswick said there is an administrative reserve to cover a portion of the Ombudsman salary for two years and when we get below \$100,000 we do not have grant monies.

Ms. Meitner said that Chapter 6041 says money may be expended from the fund only for community environmental projects. She recommended the Council go to the Secretary and ask if that part of the Ombudsman salary legally comes from the CEPF grant monies.

Mr. Frederick said the Council needs to ask the legality of funding Mr. Brunswick from the penalties funds and the Council should ask David where we are going forward from here.

Ms. Meitner said the original formation of the council was without the penalty fund.

Mr. Frederick made a recommendation that the Council request clarification and future direction from DNREC.

Mr. Pelham said that he would contact David Small at DNREC with the purpose of setting up a meeting in the Dover office to discuss past, present and future responsibilities of the Council. Mr. Pelham asked Pam Mietner, Bob Frederick , Jay Julis and Marvin Thomas to join him in meeting with Deputy Secretary Small.

B. Interfaith Power and Light Proposal

Mr. Brunswick said that Division of Energy and Climate Director Phil Cherry called to inform him of a CEPF proposal the Secretary was interested in supporting. Interfaith Power and Light approached the Secretary about a warning system that would notify senior citizen organizations and other vulnerable groups of poor air quality and the Secretary asked them to submit an application. Mr. Brunswick informed Mr. Cherry about the CEPF fund balance. He told him he would contact the Secretary to make certain that he was aware of the balance, and see whether the Secretary wants to dip into the reserve to fund the project. Mr. Brunswick said he informed the Secretary in writing that we did not have the funding and he said he has not heard back.

C. Draft CEPF Funding Review

Mr. Brunswick distributed a draft of guidelines for reviewing CEPF grant applications. He said there are policy issues the Council should also consider. Mr. Brunswick said that one big issue that surfaced with DE City Environmental Coalition is whether an organization without federal non-profit status 501(C)3 should be eligible for funding. There are two other issues the Council might consider. The first is what to do when the penalty funds are very limited, and second whether CEPF monies, or project outcomes could be used in legal actions.

Mr. Brunswick said that DE City Environmental Coalition approached the refinery about being actively involved in the Bucket Brigade Project, but they declined. Evraz Claymont Steel had been actively engaged in the Claymont Community Coalition air monitoring project but withdrew. He said the reason for their lack of participation is that they both feared that information gathered by the community could be used in a law suit against them. Mr. Brunswick said the Council could lose opportunities for collaboration and that Evraz participations in meetings with the Claymont Community Coalition was an important part of shaping the pollution controls and the timeline for completion.

Ms. Meitner said since the Council has had projects that have needed legal representation, so the Council should not state that information gathered could not be used in a legal action. She said that no one has asked the Council to fund litigation and we would not do it. Ms. Meitner also said the Council should go ahead and give people money to gather technical information.

Mr. Pelham asked for members to say how they feel about it.

Mr. Julis said the Council cannot restrict the gathering of the information.

Mr. Thomas said it goes against our code.

Mr. Truxon said he agrees with Ms. Meitner.

Mr. Farrell said the Council should be true to their mission.

VI. Ombudsman Report

A. Frankford Meeting

Mr. Brunswick said on March 26 he attended a Town meeting at Trinity Holiness Church in Frankford that involved Sussex County Engineering, USDA, Office of Drinking Water, the Delaware Rural Water Association, and the Southeastern Rural Community Assistance Program. The meeting was about the Town of Frankford extending water services to 13 African American households on the Delaware Avenue Extension. He said the Town's 2008 comprehensive plan contained provisions for water and sewer services from the Town of Frankford, but the new administration is not honoring the original plan to provide water to the Delaware Avenue Extension. Mr. Brunswick said the Town of Frankford says they are not providing services because they have not annexed the community within the town borders. Mr. Brunswick said there are only 13 households and the cost was estimated to be in the order of \$200,000. He also said there is a pretty substantial history of the Town providing services to other communities that are not within the town limits. However, the residents of Delaware Avenue are not interested in being annexed by the town and they are circulating a petition against annexation.

Mr. Brunswick said the meeting ended with an agreement that Sussex County will pursue funding for a USDA planning, engineering, and environmental assessment grant on behalf of the community. The County will look at alternatives such as a new well, and small community drinking water system, or providing drinking water through the Town of Selbyville water treatment plant. He said there may be some need for DNREC Financial Assistance Branch funding to help USDA while their money is limited by the Sequester. Mr. Brunswick said that while residents appear satisfied with the County alternative, they feel that the discussion ignored issues that point towards racial discrimination

Mr. Pelham said they reconfigured the town boundary to move a community resident outside of the town limits when he was being encouraged by other residents to run for Mayor.

Mr. Brunswick said he talked with Secretary O'Mara about looking into the criteria for Title VI Civil Rights violations. He said there are some surrounding communities that don't have services including a nearby a Latino mobile home community and another African American community without water or sewer services from the Town.

Mr. Emory said the Secretary and the Governor is looking into this issue.

Mr. Truxon said he read an article in the paper about pollution traveling down Route 9.

Mr. Brunswick said that he believed that the issue is being monitored by the Site Investigation and Remediation Branch and that filters have already been installed where they have found drinking water contamination. He would have an answer to the question by the next meeting.

B. Evraz Bag House Opening

Mr. Brunswick said the Evraz celebrated the opening of the new baghouse on March 11. There was a big ceremony to mark the event with DNREC, state and local officials in attendance. Unfortunately, Evraz did not distinguish between the Claymont Community Dust Study Team, which supported the construction of the baghouse, and another Claymont group that is pursuing a civil suit. There was a report in the newspaper about the work of the Dust Study Group and Evraz's failure to invite the Dust Study

Team. Fortunately, Secretary O'Mara, Ali Mirzakhilili (Division of Air Quality Director), Marjorie Crofts, (Waste and Hazardous Substances Director) all singled out Dee Whilden and the Dust Study Team for praise. Representative Byron Short invited the Dust Study Team onto the floor of Legislative Hall and recognized the group for all their efforts.

C. Delaware City Updates

Delaware Audubon NPDES Workshop Request

Mr. Brunswick said he received a request from Mark Martell of Delaware Audubon for a workshop on the Refinery's cooling system. Delaware Audubon has had a long-standing concern about fish kills from the cooling intake system and the issue was not addressed by the Division of Air Quality at the Delaware City Refinery March 25 Title V Public Workshop. Mr. Brunswick said this is a National Pollution Discharge Elimination System Permit issue. So, he referred the request to Kathy Stiller, Director of the Division of Water Resources. Ms. Stiller explained that there is no NPDES Permit request at this time but that Water Resources has no objection to holding a workshop, once there has been an NPDES permit application from the Refinery.

Bucket Brigade

Mr. Brunswick is very concerned with reports that Bucket Brigade volunteers have been detained by Delaware City Refinery Security while trying to take air samples at the refinery fence line. He said that Public Health is releasing a new cancer report on April 30, 2013 which will identify cancers that might have environmental causes.

Mr. Emory said that if the Bucket Brigade was taking samples on the fence line they were inside Evraz property and it would be a homeland security issue. He also said that DNREC is looking into claims from the refinery about the bucket brigade. Mr. Emory said one report from their security is that someone from the bucket brigade sprayed something inside the fence line and their sampling plan did not call for samples at the fence line. Mr. Emory said the bucket brigade had a certain charge and parameters and if they went outside those parameters the outcomes could be questioned. He said he will get the parties together and confirm the bucket brigades sampling parameters.

D. Countryside Glenn

Mr. Brunswick also reported that Countryside Glenn is a mobile home community that had contacted Mr. Truxon with complaints about poor water quality in their community in which the residents cannot drink, or bathe with the water. Mr. Brunswick learned about a \$10,000 grant from Tidewater Utilities in his capacity as a Southeast Rural Community Assistance Project (SERCAP) Board member. The SERCAP State Director, Marie Betty Lafortune, made a presentation to Tidewater for the grant on behalf of the community but unfortunately it was not funded.

Mr. Emory said that Jerry Esposito, President of Tidewater Utilities is a former DNREC employee who he knows personally and continues to work with on DNREC related issues. He said he could try to arrange a meeting between Jerry Esposito and Mr. Truxon.

MOTION was made to adjourn the meeting at 11:45 by Mr. Julis 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.