

DRAFT MINUTES
Citizens Advisory Council Meeting
November 17, 2009

Chair Richard Manfredi convened the meeting at 1:06 p.m. The following members attended:

Richard J. Manfredi, Chair
Joyce Hatala, Vice Chair
Cynthia Carrow
Walter Heine, P.E.
Janet Keim
Pat Lupo

Thad Stevens
David Strong
Jim Swistock
Burt A. Waite
John Walliser
Peter Wilshusen

I. CHAIR'S REPORT

Richard called for a motion to approve the minutes of the September 15, 2009 CAC meeting. Jan made a motion to approve the September minutes; Peter seconded the motion. The motion carried.

Richard announced that Bernie Hoffnar had resigned from Council and read a proposed Resolution for Bernie. Pat moved to accept and forward the Resolution to Bernie; Dave seconded the motion. The motion carried unanimously.

Richard informed the Council that due to Bernie's resignation there is an opening on the EQB and on the MRAB. Council will be voting at the January meeting to fill the EQB vacancy. Anyone interested in serving on EQB should contact Sue. He also asked members to consider their interest in participating on the MRAB as elections will be held in February.

Richard also mentioned that the following Council members' terms expire in January: John Walliser, Pat Lupo, Jan Keim, David Strong, Cynthia Carrow, and Walter Heine. These members should contact Sue to let her know whether they have an interest in seeking reappointment.

He also announced that the Governor's Office of Administration had approved Patty's position reclassification.

II. PUBLIC COMMENT

There was no public comment.

III. COMMITTEE REPORTS

Joint CAC/CNRAC Workgroup

Cynthia asked members to review the regional meeting draft panel discussions and site visit summaries they were provided. Council staff will be working with CNRAC staff to put together a joint regional meeting report.

She also reported that the following issues were raised as possible areas of concern:

DEP staffing levels, fluid spills both on and enroute to drilling sites, the need for good Pollution Prevention and Control plans, adequate control and oversight of subcontractors, adequacy of bonding, gas migration and its effect on ground water and drinking water wells, restoration of pads and access roads, and monitoring of well pressure to allow for early detection of issues.

Potential paths include compiling of a joint report with CNRAC, referring issues of concern requiring regulatory action to the Oil and Gas Technical Advisory Board and the Bureau of Oil and Gas Management, further studying of a Pennsylvania severance tax proposal, communicating with industry about setting their standards with regard to environmental protection higher than existing regulations, and communicating with the Bureau of Oil and Gas Management about creating incentives for industry to move beyond regulatory compliance.

IV. CONSERVATION AND NATURAL RESOURCES ADVISORY COUNCIL REPORT

Kurt Leitholf, Executive Director, attended the meeting to provide an update on CNRAC and DCNR activities.

Kurt first provided a brief DCNR budgetary update. DCNR has eliminated the following programs: Heritage Areas, gypsy moth spraying, forest pest surveillance, and the PA Map Program. Several other programs such as, the Bureau of Parks, the Bureau of Forestry and environmental education have seen significant reductions in funding. Some funding will be released back to DCNR from the Oil and Gas Lease Fund to assist in keeping Pennsylvania's state parks open. These parks will, however, experience reductions in services.

CNRAC has recommended that Heritage Areas Program funding be reinstated.

DCNR is being required to hold another significant Marcellus lease sale. In light of the current market situation, this does not appear to be the best time to hold such a sale. However, this lease sale will include an additional 32,000 acres of Pennsylvania State Forest land. The first \$60 million made from the lease sale will go to balance the state budget. Any revenues received above \$60 million are to be allocated to the Oil and Gas Lease Fund.

Moving forward, CNRAC would like to look for joint networking opportunities within the Council's transition efforts. They would also like to work together with CAC on an education forum on issues surrounding the severance tax issue.

Council members felt a joint forum and fact-gathering session on the severance tax issue would be appropriate. Staff will work to identify experts to include in this effort.

John Walliser suggested that someone from West Virginia be invited to discuss their model.

V. COMMITTEE REPORTS CONT'D

Water Committee

Burt reported that the Water Committee had met to discuss the proposed Chapter 102, Permit-by-Rule permit provision and formulated formal comments for full Council consideration. Burt motioned for Council to accept the Committee's comments and forward them to EQB, Walter seconded the motion. The motion carried.

Burt informed Council that significant changes have been proposed to Chapter 78. These are the first updates to these regulations in 25 years. The department is working to control stray gas issues. Stray methane gas can be a very real safety concern. DEP was planning to move the proposed regulations to EQB in December. He is not sure if this is still the department's intention. However, the Oil and Gas Technical Advisory Board has requested the opportunity to study the matter further and will be putting together subcommittees and seeking input from stakeholders. OGTAB has asked DEP to wait to move the proposed draft regulatory update to EQB until March. Upon completion of OGTAB's review, they will be providing comments back to the Department.

Burt reported that the OGTAB has a demanding, expanding agenda for 2010.

Sue asked Burt if bonding concerns with regard to Marcellus gas wells are being addressed. Burt replied that these regulations would be forthcoming as well as regulations specific to horizontal wells.

Burt also informed Council that the Water Resources Advisory Committee is continuing to review and study the department's proposed Total Dissolved Solids Strategy. This proposal has significant implications for a broad range of stakeholders. DEP has scheduled 4 public hearings. Burt briefly discussed the cost increases involved with this proposed strategy. Burt encouraged members to attend these meetings and express any concerns they may have with the proposal.

Thad interjected that he heard that EPA might institute a de-nitrofication program. He also reported that the department would be fulfilling only 42.5% of qualified reimbursements of Sewage Enforcement Grants. He said that the Lycoming County Sewage Agency has collapsed just this past week due to lack of funding. He suspects we may see more of this throughout the state.

Sue announced that DEP is looking for volunteers to chair public hearings for proposed regulations. A listing of the public outreach meetings was provided to members. Please contact Council staff if you have an interest in chairing one of these sessions.

Josie Gaskey, from the Pennsylvania Coal Association provided a brief update on WRAC's TDS Task Force and directed Council to WRAC's TDS subgroup webpage to view the presentations and for further information. The task force has been meeting monthly since August.

VI. DEP REPORT

Special Deputy Secretary, Barb Sexton, gave Council an update on the state budget impacts to DEP.

Barb reported that DEP funding was reduced by \$58 million from last fiscal year. DEP, after other cost-cutting measures already implemented, has been left no alternative but to

furlough staff. The furlough process started yesterday for those employees with bumping rights. It will result in 138 employees being furloughed on Friday and 120 vacant positions have been lost; as of Friday DEP will have 0 vacancies.

Barb informed Council that programs and positions supported by Special Funds, which receive revenue from collected fees, fines, and penalties, are in good shape. These programs include air, radiation protection, and the oil and gas program. It is the programs and staff that are paid from the general fund that will be most affected. These include the water program and administrative services.

Affected programs and services include: elimination of some permitting staff, elimination of funding for the Consumer Energy Program, reduction in black fly spraying, elimination of west nile virus grants for 36 counties, and a reduction in planning and technical services provided to local governments.

Joyce Hatala commented about disproportionate cuts to DEP compared to other agencies and how unfortunate it is that the environment does not have a strong enough lobby.

VII. COMMITTEE REPORTS CONT'D

Environmental Standards Committee

Dave Strong expressed concern over potential changes to NPDES permitting due to pending litigation and possible impacts to new treatment facilities being constructed.

He also provided an update on MRAB activities. There was lengthy discussion with regard to proposed fee increases. The MRAB visited several sites in need of reclamation. The department was looking to the board for recommendations. Recent reductions however, may affect the department's ability to get work completed on these sites.

The board also discussed: forwarding a letter supporting the continued use of coal ash in reclamation in Pennsylvania, the department's proposed Total Dissolved Strategy and its impact on industry and water treatment, and the proposed federal Good Samaritan Act as it excludes reclamation efforts.

Dave also reported that a database on ash treatments available for use in reclamation is now available on-line.

Dave said that more information on the NPDES issue from DEP would be helpful. He said CAC might want to weigh in on this issue. John Walliser suggested we have Scott Roberts attend a future CAC meeting to discuss this issue in greater depth.

Joe Pizarchik, Director, Bureau of Mining and Reclamation has been confirmed as Director, Office of Surface Mining.

Strategic Planning Workgroup

Richard reported that the workgroup met in the morning to review and discuss a draft document. He asked that anyone with comments from the morning meeting please contact Sue so she can incorporate them into a re-draft.

Air Committee

John Walliser reported that the Air Committee would be holding a conference call on December 16. They will be discussing several proposed rulemaking packages and receiving an overview of upcoming regulatory proposals from the department.

John requested that Council receive a presentation and overview of the Commonwealth's Climate Control Action Plan, which is scheduled to be released December 9, at an upcoming meeting.

VIII. NEW BUSINESS

Sue asked that comments on the preliminary draft of the annual report be e-mailed to her. The annual report will be an action item at the January meeting.

Dan Lapato reported that the department is looking to move several parts of the waste regulatory package forward including coal ash, infectious waste, etc.

Pat Lupo requested a Great Lakes Compact update and an update on regulatory changes with regard to stormwater discharge. Dan Lapato will get back to Pat with regard to updates on stormwater discharge.

Richard asked for a motion to adjourn the meeting. That so moved, Burt seconded the motion.

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Chair Richard Manfredi adjourned the meeting at 2:18 p.m.

Notice of the November meeting was published in a newspaper of general circulation in Dauphin County and mailed to individuals and offices in compliance with the Sunshine Act (1986-84). These minutes constitute the official record of the Citizens Advisory Council meeting; no official transcript is prepared.