

MINUTES
CITIZENS ADVISORY COUNCIL MEETING
June 17, 2014

CITIZENS ADVISORY COUNCIL MEMBERS PRESENT:

Terry Dayton (Chairman), Greene County
Cynthia Carrow, Allegheny County
Walter Heine, Cumberland County
David Hess, Dauphin County
Burt Waite, Crawford County
John Over, Fayette County
William Fink, Bedford County
Thaddeus Stevens, Tioga County
Pat Lupo, Erie County
Don Welsh, Chester County
Seth Mendelsohn, Dauphin County
R. Timothy Weston, Cumberland County

CITIZENS ADVISORY COUNCIL STAFF PRESENT:

Michele Tate, Executive Director

CALL TO ORDER:

Chairman Terry Dayton called the meeting to order at 9:06 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

CHAIRMAN DAYTON'S REPORT TO COUNCIL:

Noting his continued interest in serving on the Mining Reclamation Advisory Board (MRAB), Chairman Dayton asked for a motion to approve his nomination to serve on the MRAB for an additional term. Chairman Dayton currently serves on the MRAB; however his term on the Board expired on May 31, 2014.

Tim Weston motioned to nominate Terry Dayton to serve an additional two-year term on the MRAB. Dave Hess seconded the motion, which was unanimously approved by Council.

Chairman Dayton noted to Council that at the suggestion of Tim Weston, the CAC would be contacting a leading academic expert to solicit information on viable options for the reclamation of coal refuse. The request for information is being initiated by Council in light of the public comments received at its May 21, 2014, meeting concerning DEP's white paper on the agency's recommended framework for implementing EPA's rule to reduce carbon dioxide (CO₂) from existing fossil fuel-fired power plants. In its white paper, DEP proposes to exempt electric generators that use coal refuse and coal bed methane from the CO₂ requirements that are expected under EPA's proposed regulations. A number of public commentators at the May 21, 2014, CAC meeting, questioned this aspect of the Department's proposed plan, noting that these coal waste plants emit a large amount of harmful air pollution and therefore do not create the environmental benefits espoused by DEP through reducing or eliminating coal refuse in Pennsylvania.

Chairman Dayton noted to Council that since a quorum was not attained at the May 21, 2014, meetings, Council could not take official action on the April 15, 2014, meeting minutes. In

response, Chairman Dayton asked for a motion to collectively approve the April 15, 2014, and May 21, 2014, meeting minutes.

Seth Mendelsohn motioned to collectively adopt the April 15, 2014, and May 21, 2014, meeting minutes as presented to Council. Pat Lupo seconded the motion, which was unanimously adopted by Council.

PUBLIC COMMENTS:

Roberta Winters, PA League of Women Voters:

Roberta Winters, PA League of Women Voters, provided comments to Council in which she emphasized the importance of educating the public about best management practices (BMPs) in order to safeguard and restore watersheds in Pennsylvania. She also emphasized the need for additional Department staff in order to properly monitor and enforce existing regulations. In other remarks, Ms. Winters recommended that Council specifically address two issues, including the leasing of additional state lands for natural gas development and the manner in which air quality monitoring data is reported, given that average emissions data can be deceiving when dealing with specific, brief, high intensity periods of discharge, such as those associated from natural gas extraction, processing, and transmission.

CHESAPEAKE BAY WATERSHED AGREEMENT; MILESTONE EVALUATIONS:

Andy Zemba, Director of DEP's Interstate Waters Office, updated Council on a number of issues concerning the Commonwealth's progress in meeting regional commitments to restore the Chesapeake Bay watershed. Mr. Zemba elaborated on Pennsylvania's accomplishments in reducing nitrogen, phosphorous and sediment loadings since 1985 and the work the state must complete in the future to meet additional reduction commitments by 2017. Specifically, to meet its 2017 Chesapeake Bay cleanup milestones, Pennsylvania must reduce its nitrogen loadings by over 10 million pounds, its sediment loadings by nearly 212 million pounds and its phosphorous pollution by 141,000 pounds. In light of the significant reductions the Commonwealth must achieve in the next three years, Council noted the substantial challenges facing Pennsylvania, including the resources that will be needed by the state to reach its commitments. Council also inquired how Pennsylvania's achievements compared to the results of other states in the Chesapeake Bay watershed and Pennsylvania's overall contribution to pollution in the Chesapeake Bay in comparison to other regional states. In other updates, Mr. Zemba discussed the new Chesapeake Bay Watershed Agreement that was signed by Pennsylvania and other partner states on June 16, 2014. Mr. Zemba noted the new agreement will give Pennsylvania new responsibilities to develop management strategies to meet specific goals, including goals for sustainable fisheries, vital habitats, water quality, toxic contaminants, healthy watersheds, stewardship, land conservation, public access, environmental literacy, and climate resiliency. Mr. Zemba noted that he would be happy to regularly update Council on the progress the Department makes in developing management strategies for the Commonwealth associated with the Chesapeake Bay Watershed Agreement.

AGRICULTURAL BEST MANAGEMENT PRACTICES FOR WATERSHED PROTECTION AND RESTORATION:

Steve Taglang, Chief of the Conservation Division in the Department's Bureau of Conservation and Restoration, provided Council with an overview of the measures the Department has put in place to ensure BMPs are being implemented in Pennsylvania to meet Chesapeake Bay Program cleanup milestones. Among those measures include recent amendments in 2010 to the state's

Chapter 102 Erosion and Sedimentation Control regulations to specifically address agriculture operations; revisions in 2013 to the Department's General Permit for Concentrated Animal Feeding Operations (CAFO); and revisions in 2011 to the Department's Manure Management Manual. Mr. Taglang also elaborated on other measures undertaken by the Department and county conservation districts including enhanced and targeted compliance assistance and education outreach visits to farms in the Chesapeake Bay Watershed to ensure farm operations are knowledgeable about their regulatory requirements, including requirements to have conservation, erosion and sedimentation control and nutrient management plans in place. Mr. Taglang also discussed the Department's Regional Agricultural Watershed Assessment Initiative and identified specific BMPs, including cover crops, no-till, diversions, manure storages, waterways, terraces, barnyard improvements and mortality composters that are being implemented on farms in Pennsylvania to reduce environmental impacts and loadings into the Chesapeake Bay. In response, Council discussed the importance of BMPs and their verification and how BMPs need to be recognized in the Chesapeake Bay model to ensure Pennsylvania's pollution reduction efforts are accounted for.

DEP REPORT TO COUNCIL:

Hayley Book, Director of DEP's Office of Policy, provided the Department's report to Council on behalf of Secretary Abruzzo. She elaborated that the Department recently released its 2013 Susquehanna River Sampling Report, which detailed the latest results of DEP's sampling efforts across the Susquehanna River and many of its tributaries. She stated that the Susquehanna River is not proposed to be listed as impaired under the federal Clean Water Act, but noted that the lower main stem of the river will be added to the fish consumption impairment list, for channel catfish larger than 20 inches, due to Polychlorinated biphenyls (PCBs) in the fish tissue. She noted that the recommended consumption for channel catfish is no more than one meal per month and noted that the impairment is attributable to legacy sediment in the river.

In other news, Ms. Book announced that the June 26, 2014, meeting of the Department's Oil and Gas Technical Advisory Board will be webcast live. The Board will discuss a summary of public comments the Environmental Quality Board received on the proposed Chapter 78 regulations pertaining to environmental protection performance standards at oil and gas well sites and will discuss draft changes for a new regulation package that will cover well drilling standards, operations, plugging and underground gas storage. She also noted that the Department anticipates the Auditor General will release its final report pertaining to its audit of DEP's Marcellus Shale water quality program in July.

In other topics, Ms. Book noted that the Pennsylvania Energy Development Authority recently announced that \$12.5 million will be available for awards, with \$10 million exclusively for renewable and energy efficiency deployment projects. She also reported to Council that DEP is analyzing the EPA's recently proposed Clean Power Plan regulations and will present testimony to the EPA on July 31, 2014, at a hearing in Pittsburgh. Ms. Book noted that the Department is concerned, among other things, that the proposal does not provide the flexibility the Commonwealth envisioned to develop compliance plans to meet the requirements in the proposed rulemaking. She also noted concern that the proposed rule does not include consistent baseline starting points for each state. Lastly, Ms. Book noted that the comment period for the proposed Waters of the U.S. rule has been extended until October 20, 2014. The rulemaking, proposed by the Environmental Protection Agency and the U.S. Army Corps of Engineers, recommends a new definition of "water of the United States" in order to define the scope of the agency's jurisdiction under the Clean Water Act. Ms. Book noted that the Department believes the proposed

rulemaking should have little impact in Pennsylvania because provisions in the Commonwealth's Clean Streams Law contain similar stipulations that are included in the proposed rulemaking.

CAC COMMITTEE REPORTS:

Policy and Regulatory Oversight Committee: Tim Weston reported the Committee met by conference call on May 6, 2014, and reviewed two draft proposed Air Quality regulations, including VOC Emissions for Industrial Cleaning Solvents and VOC Emissions for Automobile and Light-Duty Truck Assembly Coatings. He noted that the Committee recommended Council approve the regulations to move forward to the Environmental Quality Board for public comment at Council's last meeting on May 21, 2014, but due to a lack of a quorum, Council could not take official action on the Committee's recommendations.

Dave Hess motioned to approve the committee's recommendations. Seth Mendelsohn seconded the motion, which was unanimously approved by Council.

Public Participation Committee: Dave Hess reported that the Committee met by conference call on May 5, 2014, and recommended Council focus its future public participation efforts on revisiting a previous report from 2004 that identified a number of recommendations to the Department to enhance its working relationships with its various advisory committees. It was noted that a number of recommendations in that report are still valid and should be revisited in order to provide recommendations to the Department on how it can better utilize its advisory committees.

The Committee also discussed plans for Council to directly solicit feedback from the Department's advisory committees on how they are being utilized by the Department. This would involve a two step-process, including first asking each of DEP's advisory committees a short series of questions about how DEP could better utilize their expertise, how well is the committee supported by DEP in getting timely agendas and meeting packages posted and their ideas for improving the Advisory Committee Guidelines, and second, inviting Chairs of the advisory committees as a group in the fall to review the information received from the questionnaires with Council and develop final recommendations for the Department. The tentative schedule for these steps is providing the questionnaire in September for advisory committee responses, convening the meeting with the advisory committee chairs in October, and supplying final recommendations to Council at its November meeting. Council posed no objections to the recommendations of the Committee.

Mr. Hess also clarified to Council that there was miscommunication between DEP and the CAC over the Department's intentions to revise its Environmental Justice Public Participation Policy. He noted that DEP has now confirmed that no changes to the policy are anticipated.

Act 54 Longwall Mining Impact Review Committee: Terry Dayton reported that members of the committee have received the draft Act 54 report from the Department and are continuing to review it. He noted that the final report is expected by the end of August 2014 and that Council would more extensively review the document when it is finalized and available to the public. Council did not pose any questions or objections in response to the committee's report.

2014-2015 CAC ELECTIONS:

Cynthia Carrow reported that Council's Nominating Committee secured interest by Terry Dayton to serve an additional term as Chairman of the CAC and Bill Fink to serve as Vice-Chairman.

Cynthia Carrow moved for the approval of Terry Dayton to serve as Chairman of the CAC and Bill Fink to serve as Vice-Chairman. Tim Weston seconded the motion, which was unanimously approved by Council.

Following the Chairman and Vice-Chairman elections, Chairman Dayton noted that Council representation on the Environmental Quality Board (EQB) needs to be ratified. He noted that the following Council members expressed interest in continuing to serve on the EQB: Burt Waite, Walter Heine, John Walliser, Cynthia Carrow and Bill Fink. The following individuals expressed interest in serving as alternates to the EQB: Terry Dayton, Pat Lupo, Seth Mendelsohn and Dave Hess.

Thad Stevens moved to approve the nominees for EQB members and alternates. Seth Mendelsohn seconded the motion, which was unanimously approved by Council.

NEW/UNFINISHED BUSINESS:

Chairman Dayton as well as Council noted that they did not have any new or unfinished business to discuss.

ADJOURN:

With no further business, Chairman Dayton adjourned the meeting at 11:40 a.m.