

Minutes of Environmental Justice Advisory Board
November 17, 2009

Call to Order: The quarterly meeting of the Environmental Justice Advisory Board (EJAB) was held in the Rachel Carson State Office Building, Delaware Room, 400 Market Street, Harrisburg, PA.

The meeting convened at 8:35 am with Arthur Frank presiding as Chair.

Members in attendance:

Laureen Boles
Rev. Rocky Brown (by phone)
Nora Carreras
Dr. Arthur Frank
Hazem Hijazi
Dr. Clea Patrick Hollis
Mary Vuccola
Dr. Mark White

Members absent (excused):

Erlinda Aguiar
Eli Brill
Mario Browne
Ann Morrison

Non-members:

Tammey Adams
Rob Altenburg
Marylou Barton
Holly Cairns
Ken Murin
Barbara Sexton
Alice Wright-Bailey

Welcome and Introductions:

The Chair, Arthur Frank, welcomed everyone to the meeting.

Approval of Minutes:

A motion was made by Rev. Rocky Brown to approve the minutes of the May 5, 2009, meeting. It was seconded by Dr. Mark White. The motion was approved unanimously by the Board.

Board Composition:

Arthur Frank initiated a discussion on reducing the size of the Board down to 13 from the original 21 members.

A motion was made by Arthur Frank to reduce the size of the Board. It was seconded by Dr. Clea Patrick Hollis. The motion was approved unanimously by the Board.

Office of Environmental Advocate Regional Staff Reports:

Arthur Frank requested highlights and discussion on the three regional Office of Environmental Advocate (OEA) reports.

Alice Wright-Bailey had no comments on her quarterly report for the Southeast Region.

Holly Cairns highlighted the very complex Dunkard Creek issue in Greene County in the Southwest Region. This was an aquatic life kill where golden algae bloomed and killed everything in its path. The cause of the golden algae bloom is still under investigation and no enforcement actions have been taken. Ms. Cairns suggested that someone from the Department of Environmental Protection (DEP) come to a future board meeting to explain and give an update on this situation. Arthur Frank also suggested that DEP work with the Department of Health (DOH) to review environmental tracking data for the area to learn what additional things may have been affected other than aquatic life.

Nora Carreras mentioned that the Southcentral Regional DEP staff has invited the Environmental Advocate's Office to be involved in the Exide air quality permitting process. There are many concerns because this community has been through years of lead contamination and soil was removed from various areas. Because of the large Latino population in this area, it was suggested that contamination signs posted at the nearby lake by the Environmental Protection Agency (EPA) be printed in Spanish. Additional outreach will be provided. The department will assist with an interpreter at any upcoming public hearings for this site. Arthur Frank suggested that Reggie Harris be invited to speak to the Board regarding environmental justice involvement in this community.

Nora also mentioned that Alice Wright-Bailey, Holly Cairns and herself attended an environmental justice informational meeting on the evening of November 16, 2009, related to the Hazleton Creek Properties. Representative Eachus requested the informational meeting and over 250 concerned citizens were in attendance. Ms. Cairns commented on a large group of non-local attendees who work for the applicant disrupting the tone of the meeting for the small group of attendees from the local community who want to express their concerns.

Arthur Frank questioned what an Environmental Justice (EJ) community is and what the department uses as a definition of an EJ community. Holly Cairns stated that it's used as an identifier now instead of a legally-defined definition to identify EJ communities as

those that are in the 20 percent low-income and/or 30 percent minority. Nora Carreras discussed the definition and plans to have upcoming meetings with department staff to streamline the definition. Lauren Boles suggested that the EJ community definition be discussed at a future meeting. She also suggested the possibility of meeting with Lisa Garcia, the Senior Advisor for Environmental Justice for EPA in Washington, DC.

EJ Conference Report and Next Steps:

Arthur Frank initiated a discussion on the EJ Conference held in April.

- What did it do?
- What changes has it made?
- What do we need to find out and think about for the future?

In reference to the money that was raised for the conference by state and private investors, approximately \$22,000 remains at Drexel University after all conference expenses have been paid. Mr. Frank suggested sending an evaluation form/survey to all participants of the conference.

Holly Cairns suggested using the money to provide grants and technical assistance to EJ communities. The Board would need to approve/disapprove the proposed projects. Nora Carreras explained comments in reference to the department's suggestions on possible conference-related activities that could be funded with this balance.

Arthur Frank suggested using the 55 universities across the Commonwealth could provide long-term technical assistance to the EJ communities. Mary Vuccola commented on watershed groups in her area that receive assistance from Lock Haven University and that smaller universities seem to be offering more assistance. She also suggested offering grant writing training to the EJ communities.

Dr. Mark White suggested a competition to get EJ communities started on potential projects. Ms. Carreras suggested local workshops for EJ communities, possibly preparing toolkits to provide the appropriate educational information.

Holly Cairns suggested forming a committee to prepare and distribute a simple survey to conference participants. Arthur Frank made the suggestion that Lauren Boles, Dr. Mark White and Alice Wright-Bailey coordinate a survey mailing. He suggested that the draft could be finalized by the next meeting in February and that Drexel University would handle the mailing. The results could then be presented at the May Board Meeting.

A motion was made by Mary Vuccola to form a committee to prepare the survey. It was seconded by Dr. Mark White. The motion was approved unanimously by the Board.

Introduction of Barbara Sexton, Executive Deputy Secretary:

Arthur Frank made introductions between Barbara Sexton and the Board members. Ms. Sexton made the announcement that beginning Monday, November 23, Nora Carreras will become official in her capacity as Director of the Office of Environmental Advocate replacing Ayanna King who resigned earlier this summer. Budget information explaining program cuts was distributed to the Board members by Ms. Sexton and a discussion followed. Arthur Frank reiterated the fairness of the Board to EJ communities. He also discussed the statewide conference held in April and the possible use of the remaining funds for a questionnaire/survey to all conference participants.

Kenneth Murin, Chief, Division of Waterways, Wetlands and Stormwater Management:

Arthur Frank introduced Kenneth Murin who gave a power point presentation on Chapter 102, Erosion and Sediment Control and Stormwater Management.

Mr. Murin discussed the proposed rulemaking for erosion and sediment control and stormwater management. The department is in the process of revising these regulations with public comment periods and public hearings. These revisions are an update of the regulations since originally adopted in 1972, and include the increase of permit fees. During the power point presentation by Mr. Murin, the Board asked specific questions in relation to the permit-by-rule portion of the regulation, agriculture aspects in relation to pesticides, green infrastructure, oil and gas activities, and the increase of permit fees. The changes to the regulation will be finalized by the summer of 2010. The power point presentation will be e-mailed to all Board members.

Future Activities:

Nora Carreras discussed the geographic location of present Board members and which regions need additional representation on the Board. She requested a clarification on the process of nominating an individual to become a Board member. It was stated that Ayanna King took care of this process previously and arranged interviews for the potential members.

Ms. Carreras discussed a proposed project in Steelton which would utilize chicken waste to create energy. No permit application has been submitted.

Arthur Frank suggested viewing the movie *Unnatural Causes* over the next several Board meetings.

Public Comment Period:

The Chair opened the floor for public comments. There were no public comments presented.

New York Case Review by Marylou Barton, Counsel to the EJ Advisory Board:

Marylou Barton discussed the New York case as it relates to disparate impact. Disparate impact means that a group of people are unintentionally or intentionally affected by a regulation. The New York City African-American firefighters said that there was no legitimate business reason to test them because the questions were not relative to them being good firefighters.

Arthur Frank initiated a discussion on a legally-binding definition of an EJ community with Marylou Barton. He discussed using other factors to define an EJ community such as poverty level, medically-underserved communities, education level and green business characterization. Nora Carreras would like to continue this discussion with Ms. Barton and Rob Altenburg of the Policy Office in order to lay the framework for an EJ community definition utilizing environmental tracking. Mr. Frank also suggested inviting Lisa Garcia, Senior Advisor for Environmental Justice at EPA, and the environmental law clinics from various Pennsylvania Universities for a discussion on the EJ community definition. It was suggested to revisit this discussion at the May Board Meeting.

Air Quality Program Update by Dean Van Orden, Assistant Director of the Bureau of Air Quality:

Dean Van Orden's presentation was cancelled due to a number of Board members having to leave the meeting early. It was discussed that Mr. Orden's presentation be rescheduled.

New/Unfinished Business, Questions and Comment Period:

Arthur Frank made a suggestion to adjourn the meeting. A motion was made by Nora Carreras to adjourn the meeting. It was seconded by Mary Vuccola. The meeting adjourned at 2:00 pm.