

ENVIRONMENTAL JUSTICE ADVISORY BOARD
Meeting Minutes
Wednesday, June 30, 2004
Room 105, Rachel Carson State Office Building
Harrisburg, PA

Members in Attendance:

Mr. Edward Thomas
Ms. Pheralyn Dove
Ms. Deborah Kilmartin
Ms. Ayanna King
Mr. Jerome Balter
Mr. Patrick O'Neill
Mr. LaMar Barnes
Alternate for Mr. Arthur Frank, Ms. Sabine Eustache
Mr. Mario Browne
Mr. Alfred Ryan
Rev. Horace Strand
Ms. Cyndi Romero
Mr. Peter Simms
Mr. Marcus Kohl

Members not in Attendance:

Ms. Janine Legg
Mr. Edgar Howard
Mr. Calvin Little
Mr. Gary Horton
Mr. Mark Freed
Mr. Eli Brill

Others in Attendance:

Ms. Holly Cairns
Mr. Joel Pontorero
Ms. Alice Wright-Bailey
Ms. Sakari Sanders
Mr. Lou Guerra, Jr.

Chairperson called the Environmental Justice Advisory Board meeting to order at 11:00 a.m. on June 30, 2004.

Ed Thomas: welcomed everyone and asked each board member to introduce himself/herself including a brief biography.

Janine Legg participated briefly by phone. Each person in the room made an introduction to the board and gave a brief synopsis of his/her work history.

Edward Thomas: explained that he is presently the chairperson of the EJAB and today's meeting is the first meeting of the expanded board. He explained the reasons for the board expansion were: to provide a more racially and geographically diverse board, to create a more productive board, and to reduce the number of issues relating to voting quorums.

Edward Thomas: informed everyone that the new board has 21 positions. 19 positions have been filled and 2 are vacant. Alisa Harris left as the Director of the Office of Environmental Advocate and Marcus Kohl is Acting Director. The board is awaiting the new appointment for this position from the Secretary.

Edward Thomas: said that for the purpose of this meeting any board members who could not attend had the ability to send an alternate but the alternate would act as a non-voting member. He then explained that since Sabine was Arthur Frank's alternate and would not participate in voting.

Holly Cairns: provided an overview of the new member package. The package included: the list of board meetings; instructions for expense vouchers; mission statement; bylaws and membership document; Sunshine Act; Work Group report; brief overview of Civil Rights Act; Copy of Title VI; Executive Order 12898 issued by President Clinton.

Holly Cairns: Informed the members they should always contact Chairman Ed Thomas, Co-Chair Ayanna King, or Marcus Kohl if unable to attend a meeting.

Marcus Kohl: explained that the OEA brochure was not included in the new member package because it needed corrections.

Several board members asked if the brochure could be emailed. Marcus Kohl said the brochure would be emailed to board members and a hardcopy of the corrected OEA brochure was handed out during the meeting.

Deborah Kilmartin: asked if the public policy document had been sent to the board members.

Marcus Kohl: replied it had been sent with each new board member's letter to join the board.

Patrick O'Neill: recommended the new board members look at the Work Group report due to fact that it provides a history and outline of what the group is trying to achieve.

Jerome Balter: inquired about the final publication of EJ policy mentioned in a letter from Secretary McGinty.

Marcus Kohl: replied that this had been sent out electronically on April 24. He also noted that the policy was different from the draft the board had reviewed.

Jerome Balter: asked if the April 24 policy would be applied to Bartram's Garden as mentioned in the Secretary McGinty letter.

Marcus Kohl: replied that the policy would be applied if the Department received an application.

Ed Thomas: explained that the approval of the February 23, 2004 minutes could not be voted upon due to the lack of a quorum.

Patrick O'Neill: noted that he would prefer the board not spend so much time on administrative issues.

Lou Guerra: provided a Policy Office update, in which he provided an overview of the policy office, including its organizational structure and explained the newly formed Center for Environmental Collaboration and Dispute Resolution, for which Jennifer Handke is the contact. He also mentioned that the policy office is in the process of hiring an economist on staff.

Lou Guerra: further explained some of the specific policy initiatives relating to environmental justice, including the recently published Environmental Justice Public Participation Policy and a regulatory start-up memo that was recently written by the internal environmental justice work group. He explained that this memo has not yet gone to the Secretary for approval, but would do so shortly. He explained some of the key parts of the memo, including the involvement of the EJ Advisory Board in the regulatory development process. He also mentioned a soon to be published Proposed Policy on Public Participation in the Permit Application Review Process, which among other things creates a Department wide Comment and Response Document format.

Jerome Balter: asked if denying the application would be an option as a result of the policy.

Lou Guerra: responded no, that this is simply a public participation policy.

Rev. Strand: asked if a mechanism was in place to assist the community in understanding the technical aspects of permit applications.

Lou Guerra: responded no. The Department will use as plain language as possible and minimize technical terms.

Rev Strand: said that the purpose is for community to have input and asked if the information collected from the community goes to the Secretary.

Lou Guerra: answered that the information goes to department staff and the decision is made by the regional offices.

Rev Strand: stressed the public's need for equal scientific knowledge in order to comment.

Lou Guerra: explained that these comments would be useful and should be made on the Proposed Policy on Public Participation in the Permit Application Review Process, which is open for comment until August 25.

Patrick O'Neill: asked if the board could get a copy of the policy before the public.

Edward Thomas: asked if the board could get both a copy of the regulatory memo and the public participation policy.

Alfred Ryan: suggested DEP provide funding for EJ Community. He noted that US EPA provides money to areas for remedial action to Superfund sites and these communities have the ability to comment.

The board members decided to comment on the regulatory memo, providing a formal request for funds from the department. These funds would be independent of the applicant funds. There was some discussion whether the board should comment on both the regulatory memo and the public participation policy and what that response should include.

Lou Guerra: explained that the board would probably want to comment on both. He explained, however, the regulatory memo is more of an internal mechanism for DEP. The Policy Office wants to engage the board in answering questions in the development of the new regulation.

Edward Thomas: determined the board would respond formally with both a minority response and a majority response.

Jerome Balter: asked if DEP will use the new EJ Policy as a general tool to determine whether or not a permit is issued.

Lou Guerra: replied that the policy does not give the ability to approve or deny a permit. The policy provides an outline on how public participation should be conducted and comments collected.

Cyndi Romero: asked if the board could comment on the memo before it went to the Secretary.

Lou Guerra: answered that it would be more appropriate to show the memo to the board once the Secretary has approved it.

Eugene DePasquale: Deputy Secretary DePasquale provided an overview of the Office of Community Revitalization and Local Government Support. He explained the role of the new Brownfields Action Team, or BAT, on the type of projects that this team is trying to promote. He also provided some real-world examples of how involving the community in projects can be successful and why he felt it was important to include EJ in the BAT Guidance.

Deborah Kilmartin: asked how the community was educated in regards to brownfields.

Eugene DePasquale: explained how outreach was completed, which included the use of community meetings, flyers to the area, and the involvement of local elected officials.

Deborah Kilmartin: asked who made sure this was completed.

Eugene DePasquale: explained that if the project was going through the BAT program, DEP makes sure this happens.

Al Ryan: asked what happens when the community is not in favor of the business proposal. Is money available to help the community?

Eugene DePasquale: explained that no, if local government does not sign off on the project it wouldn't get BAT status.

Patrick O'Neill: asked if Deputy DePasquale is involved with the NIR process or the PIP process [public involvement plan]. He recommended that DEP have a policy to deal with the PIP process.

Rev Strand: asked how the program works if the municipality is the developer.

Eugene: explained that more often than not the municipality is looking out for the best interests of the community.

Eugene: explained that the type of projects the program is promoting are encouraging community revitalization.

Rev Strand: asked who determines the level of clean-up of these sites.

Eugene: explained that is the role of technical staff at DEP.

Rev Strand: expressed some concerns on the level of clean-up and the potential future use of land cleaned up for specific uses, but later resold for different uses.

Cyndi Romero: expressed her experiences with this in her position.

LaMar Barnes: asked if Eugene would be available at a later date to speak with the board.

Eugene: agreed to return as long as it was approved by the Chair, but would prefer the board give him specific questions before returning in order to prepare.

Jerome Balter: asked what percentage of projects are located in minority areas.

Eugene: replied that in PA, very few are located in minority areas simply due to the general make-up of the state, but stated that to date, the number of clean-up sites is over 1500.

PUBLIC COMMENT:

No one wishing to provide public comment was present.

END OF PUBLIC COMMENT

Ed Thomas: Put the following administrative issues before the board:

1. Possible cancellation of the December meeting.
2. Changing bi-monthly meeting system to quarterly.

The board decided against canceling the December meeting. After some debate, the board voted in favor of keeping the bi-monthly system. (Vote 9-4)

Pheralyn: requested that administrative issues be discussed at specific times to ensure that the same issues are not discussed again at the board meetings.

Mario Browne: requested descriptions of the subcommittees.

Marcus: replied that the website may contain descriptions, however if it does not, descriptions will be added as soon as possible.

Jerome Balter: proposed the board have an entire meeting based on how DEP would make determination of whether a permit application is in line with civil rights. He would like to discuss a different approach offered from Ed Thomas that is based on civil rights.

Ed Thomas: stated that the health status of community should be a factor in decision making. He also said Jerry's proposal should be put on the agenda.

Deborah: Proposed accepting the Work Group report as the base for the board.

Cyndi: Seconded the motion.

Several board members noticed that portions of the report were outdated. Marcus informed the board that all new maps were available on the website.

The board voted in favor of using the report as the basis of the EJAB. (Vote 9-4)

Pheralyn: asked if the board could make position statements on issues. She also asked how the board is allowed to disseminate information. She also proposed that the first half of the board meeting be used for subcommittee meetings and the second half of the day be used for the entire board meeting.

Lou: replied that the board plays more of an advisory role to the department. He cautioned against engaging the media.

Pheralyn: asked if it would be more appropriate to write position statements to the department or Secretary.

Ed Thomas: replied that this has been done in the past.

Rev Strand: asked if the board deals with current crises. He asked if the board does any investigation.

Ed Thomas: recommended Ayanna's suggestion of assigning board members to a region of the state so that these issues could be brought to the board. Ayanna also suggested taking the board to the community.

Al Ryan: cautioned against securing a position with a certain community since the board is not an investigative body. He reiterated that the board is in existence to develop policy.

Rev Strand: felt the board needed contact with members of the community in order to formulate policies. He stated that one policy implemented correctly could alleviate most of the EJ problems.

LaMar Barnes: agreed with the Rev Strand. He feels that terms and definitions are too broad. All too often the focus in EJ is trigger permits but there are other burdens affecting the communities.

Al Ryan: stated he had no objection to fact-finding, however, the board is diverse in order to bring different views before the board.

Rev Strand: made a request to speak about the problems he has encountered in Chester at the upcoming board meeting.

The board felt that Rev Strand could provide a different perspective on the project and welcomed a presentation.

FOLLOW-UP ITEMS:

Move Board meeting locations: Marcus spoke with Joe Powers and the decision is to continue meeting in Harrisburg.

Publishing policy in different languages: This will be done once the State/Department has a new contract for translation services.

Reviewing DEP talent to help the board: Governor decided that external contracts will not be renewed. DEP has in-house talent for examining cumulative and disparate impact analysis.

Toolkit response: There was no response.

Request for MOU: Instead Ed Thomas met with Joe Powers about expanding the board and naming board members.

Work Product: Joe Powers said he will discuss this with the Secretary.

Janine's request: Tabled until next meeting.

NEW ITEMS

Ed Thomas: explained that Chair and Vice-Chair elections will take place the following meeting. Each position is for a 2-year term.

Lou: distributed copies of the Public Participation Policy to the board members. He asked the members to look it over and provide comments.

Al Ryan: Suggested the Public Participation Committee provide comments. He also requested a quicker turnaround on the board minutes.

Marcus: assured the board they could have the minutes sooner.

Deborah: asked for an explanation of the Committees.

Jerome: proposed a short paragraph be written about each committee and sent out to the board members.

Ayanna: agreed this would be done before the next meeting.

Ayanna: Motioned for this meeting to be adjourned.

Meeting adjourned at 3:56 PM.

Minutes taken by Britte Earp.