

ENVIRONMENTAL ADVISORY COUNCIL
Lansing, Michigan
Thursday, April 17, 2003 – 1:00 – 4:00 p.m.
MEETING SUMMARY

Members in attendance: Chris Bates, Skiles Boyd, Dave Borgeson (for Sam Washington), Barry Cargill, Sally Churchill, Wil Cwikiel, Charles Griffith, Chuck Hersey, Andrew Hobbs, Don Inman, Patrick Krause, Sara Lile, Steve List, Corky Overmyer, Lana Pollack, Delbert Rector, Andy Such, Maureen Kennedy Templeton, Dr. Janet Vail, Wayne Wood, Paul Zugger.

DEQ Staff in attendance: Linda Albro Sparks, Frank Baldwin, George Bruchmann, Steven Chester, Tom Godbold, Dave Hamilton, JoAnne Merrick, Frank Ruswick, Jim Sygo.

OPENING

Mr. Ruswick began the meeting with a brief review of the last meeting. The Civil Discourse Project materials developed by the Tip of the Mitt Watershed Council were mailed to the members. The draft public involvement matrix was sent via e-mail to members in preparation for possible use at the April meeting. The Department of Environmental Quality (DEQ) Environmental Advisory Council (EAC) website is now operational and members are encouraged to visit it. He also asked that if members had any comments regarding summaries and meeting agendas, they should please feel free to e-mail him. At this time we are still working on the creation of a list serve for members. In the meantime, please feel free to use the e-mail link provided on the website and he will then forward your message onto the other members. The main focus of this meeting will be to complete the Division presentations. Rich Powers, Water Division Chief was unable to attend this meeting due to his workload preparing the fee package. The remainder of the meeting will be devoted to initiating EAC discussions on recommendations to improve public involvement in DEQ activities and beginning to identify future topics for the EAC.

Wayne Wood thanked the EAC members that attended the recent Agriculture's Conference on the Environment held at the Lansing Center which had a very strong attendance (over 630). He also thanked Director Steven Chester for speaking at the event.

DIVISION OVERVIEW AND PUBLIC PARTICIPATION MECHANISMS

A joint presentation was made by Dave Hamilton and Tom Godbold from the Geological & Land Management Division (GLMD). (See Attachment)

Following the presentation EAC members questioned Mr. Hamilton and Mr. Godbold on specific aspects of the GLMD public participation process. It was noted that the wetlands program generates the most public comment and requests for public hearings. Some other areas that generate strong interest include inland lakes and streams, great lakes, and sand dunes issues.

Mr. Hamilton did not have a specific estimate of the number of public hearings that are held annually, but noted that hearings are held quite regularly by District staff. The specific provisions applicable to public comment periods and criteria for public hearings are determined by individual statutes. GLMD publishes a list of pending permit applications (wetlands, inland lakes and streams, etc.) that interested parties can subscribe to for \$25. Several environmental and conservation groups subscribe to this publication.

An EAC member asked what mechanisms exist for the public to become involved in enforcement actions, for example, if someone is destroying wetlands without a permit. Mr. Hamilton explained that there is no official procedure for that and there is no requirement for public participation in enforcement actions administered by GLMD. Some EAC members viewed this as a deficiency and contrasted these programs with those, such as the Federal Water Pollution Control Act, that provide for citizens to sue violators directly in order to protect the environment. Mr. Ruswick suggested that this issue be flagged as a potential gap in the DEQ's public involvement process for future discussion.

An EAC member noted that sometimes public involvement is needed on general policy issues, as opposed to site-specific projects. As an example, the member asked what public involvement was done on the question of directional drilling under the Great Lakes. Mr. Godbold explained that public informational meetings were held on directional drilling before the DEQ's policy was finalized and the Department did take feedback from the public on the issue.

A presentation was made by Jim Sygo, Remediation & Redevelopment Division (RRD) Chief. (See Attachments.)

After his presentation and in response to a question, Mr. Sygo confirmed that RRD did not, and does not hold "confessional style" public hearings. An EAC member indicated concern that future funding would not be available for cleanup activities by RRD. Mr. Ruswick suggested that topic be held for a future meeting.

Given his short time in the program (six months), Mr. Sygo was reluctant to provide specific suggestions for improving public participation in RRD programs, although he did note the benefits of meeting regularly with people affected by Division actions.

An EAC member indicated that a significant problem with the Part 201 program is that the public and neighbors do not know in advance of remediation work that is to take place on a particular site. A case where a drill rig appeared unannounced in a neighborhood was described. Mr. Sygo agreed that the example described indicated a problem with communication and said that steps were being taken to see that it does not occur again.

In response to a question, Mr. Sygo indicated that technically the Michigan Underground Storage Tank Financial Assurance Board (MUSTFA) Board still exists, but they have not met in two years. The MUSTFA bonds will be paid off shortly, and then the program will terminate.

EAC members indicated that the matrix Mr. Sygo provided describing public involvement in RRD programs was very informative. EAC members indicated that the public should be

informed of remediation activities as soon as possible and that the ability to affect a project is very limited at the Remedial Action Plan (RAP) stage. Mr. Sygo agreed that earlier public involvement is beneficial and said that RRD tries to keep citizens informed even during the investigation stage of remediation. The DEQ no longer publishes a list of contamination sites in hard copy form, and no specific notice of individual sites is provided. However, information on sites of environmental contamination is available on the DEQ website.

A presentation was made by George Bruchmann, Waste and Hazardous Materials Division Chief. (See Attachments.)

After Mr. Bruchmann's presentation, the EAC discussed the similarities and differences between the Site Review Board (SRB) in the Part 111, Hazardous Waste program and the former Michigan Environmental Review Board (MERB). Both forums could be effective in educating the public and providing them an opportunity to modify projects. However, it was noted that the SRB no longer has decision-making authority and that has limited its effectiveness. While MERB did not have specific decision-making authority, it was effective in negotiating provisions of permits that would address specific community concerns (e.g., hours of operation). This may have been largely due to the personalities of MERB members. EAC members recognized that the effectiveness of public involvement vehicles cannot be wholly dependent on personalities.

An EAC member recognized that the administrative rule making process is problematic because the public often does not have an interest in the detailed aspect of administrative rules. This might be improved if the DEQ were to develop and provide to the public the required small business analysis before the public comment period. Other EAC members agreed that it is important to improve public involvement in the rule making process.

In response to a question, Mr. Bruchmann affirmed that there is no provision in Part 169 for public involvement in the registration process for scrap tire collection sites. Mr. Bruchmann described Part 169 requirements for controlling operations of scrap tire sites and the grant process to clean up abandoned scrap tires.

At the end of the discussion, a member asked if other EAC members had heard about Amy Butler's accident. Frank Baldwin described that Amy's car had skidded off the road during a recent bad ice storm. As she was being assisted, another car lost control and struck and badly injured Amy. She was in the hospital with severe internal injuries and broken bones. The EAC expressed its concern for Amy's condition and asked that their sentiments for a speedy and full recovery be conveyed to her.

DISCUSSION OF IMPROVED PUBLIC PARTICIPATION IN DEQ ACTIVITIES

Mr. Ruswick invited an open discussion on the subject of improved public participation in DEQ activities.

One EAC member suggested that the EAC explore the potential for more involvement opportunities, changed opportunities, or different opportunities. This would have to be done with recognition that the DEQ is limited by funding and staffing. EAC members made two

specific suggestions: 1) providing for a forum that would allow citizens to negotiate with respect to extremely controversial projects; 2) providing opportunities for informal interaction between DEQ staff and the affected publics so that individuals could get to know one another in non-threatening situations.

The EAC began to focus on issues suggested by Mr. Bruchmann's presentation as a framework for EAC discussions: 1) Look at objectives at public involvement. 2) Define conditions that foster those objectives. 3) Define barriers.

EAC members noted specific aspects of effective public involvement: 1) Timing is not as important as people having a capacity to affect the decision before the agency. 2) The public needs to be part of the decision-making process. One way of doing that is provide for decision-making bodies comprised of members of the public (as was available prior to elimination of such commissions). 3) The public needs to be educated on the issues. 4) There needs to be trust between the citizens and the government.

EAC members expressed opinions on how public decision-making bodies provided for an educated public and established trust. It was noted that the Natural Resources Commission still provides such a forum for the Department of Natural Resources (DNR), but there is no such forum for the DEQ. In response to a question, Director Chester indicated that Governor Granholm has made it clear that she intends to merge the DNR and DEQ, but much can happen in that regard and the EAC should not let this be a limiting factor in its consideration of public involvement in the DEQ.

EAC members discussed that their recommendations should recognize that change in government does occur. Therefore, recommendations must be meaningful beyond who is currently the Governor or the DEQ Director. The goal should be to develop recommendations that can be supported by all affected parties so that they all find benefit from, and will support over the long term, the public involvement structure.

The EAC agreed that the "public" should be considered to be anyone who might be affected by a DEQ decision or action.

Mr. Baldwin agreed to provide data on who is accessing the Environmental Assistance Center and what types of questions they are asking.

Mr. Ruswick suggested, and the EAC agreed, that in preparation for continuing this discussion at the next meeting, EAC members send to him their comments on two topics: 1) The framework for public involvement (e.g., objectives, elements, barriers, and suggestions), and 2) Issues surrounding the concept of a public decision-making body. He will collect this information, organize it and then provide the synthesis to EAC members before the next meeting. The next meeting will focus on the framework for public involvement. It is very likely that the EAC will need to discuss in depth the issue of a public decision-making body at some point during its consideration of the general issue of public involvement. He will follow-up with an e-mail providing more specific guidance on the task for EAC members.

FUTURE TOPICS

Mr. Ruswick invited EAC members to begin describing topics they might address in the future. The following topic areas were raised:

- The status of the DEQ budget. Present and pending threats to DEQ being able to do its job.
- Development of generic solutions to categories of environmental problems rather than continuing to use a piecemeal approach.
- Identification of DEQ's priorities. Making sure the DEQ is focusing on the right issues.
- Reporting on the status of the environment and the results of DEQ programs. There was a suggestion that Mr. Bill Rustem make a presentation to the EAC on the "Greening the Government" Report.
- How to improve the image of the DEQ among affected interests.

An EAC member asked Director Chester whether the EAC would be used as a means to obtain input on major policy issues. The example of directional drilling was given. Director Chester replied that it should be recognized that the EAC does not fully represent all interests and that other forums exist for discussion of specific issues. He is more interested in the EAC providing input on long term issues. However, he recognizes that the EAC will be an evolving forum and that there may be a role to discuss specific policies in the context of relative risks posed for the environment.

CLOSING BUSINESS

The EAC agreed to the proposed 2003 meeting schedule (attached).

The EAC agreed that the Water Division would not need to make a presentation on its public involvement process, but requested a matrix similar to that prepared by RRD and WHMD for the Water Division programs.

The next EAC meeting will be on Wednesday, May 28, 2003 from 1:00 – 4:00 p.m. in Constitution Hall, ConCon Room.

Meeting summary prepared by Linda Albro Sparks and Frank Ruswick.