

ENVIRONMENTAL ADVISORY COUNCIL
Lansing, Michigan
Thursday, May 17, 2007 1:00 – 4:00 p.m.

Members in attendance: Jon Allan, Bill Bobier, Steve Chester, Cathy Brubaker-Clarke, David Gard, Jeffrey Haynes, Larry Merritt for Andrew Hobbs, Vincent Nathan, Rick Plewa, Del Rector, Richard Rediske, Doug Roberts, David Rinard, Andy Such, Guy Williams, Brian Beauchamp for Lisa Wozniak.

DEQ Staff in attendance: Linda Albro Sparks, Amy Butler, Marcia Horan, Robert Jackson, Frank Ruswick.

OPENING

Frank opened with welcoming everyone to the second meeting of the new group and proceeded with introductions.

CURRENT ISSUES

Director Chester described recent action on the DEQ FY 08 budget. The House Appropriations Subcommittee had recommended the DEQ budget with a funding level \$1 million above the Executive recommendation. The Senate Appropriations Subcommittee is holding a series of hearings focusing on each of the DEQ divisions. It is likely that the Senate Subcommittee will recommend a lower funding level than the House Subcommittee.

On May 2, 2007, Governor Granholm issued a series executive orders that eliminated a number of unnecessary or obsolete boards and commissions involving several state departments. Those affecting the DEQ include:

Septage Waste Storage Facility Management Practices
Michigan Environmental Science Board
Water Quality Monitoring Advisory Board
Temporary Reimbursement Program Advisory Board
Groundwater Conservation Advisory Council
Michigan Underground Storage Tank Financial Assurance Policy Board
The Agricultural and Rural Communities Roundtable

Director Chester indicated that there may be additional boards and commissions eliminated that could affect the DEQ.

In all cases, the functions and responsibilities of the board or commission has been transferred to the DEQ. Director Chester explained that the elimination of a board or commission could save staff time previously devoted to support the board or commission. He cited the tremendous amount of staff time devoted to supporting the Agriculture and Rural Communities Roundtable.

In response to a question, Director Chester indicated that as far as he knew the Attorney General had not been requested to make any determinations on the Executive Orders.

Director Chester briefed the EAC regarding recent events relating to the proposed Kennicott Mining project near Marquette. The DEQ recently received a report from a panel, headed by Dr. Donald Inman, to review the DEQ's handling of documents pertaining to the mine. The panel also included Ms. Jean Stacy from the Department of Human Services, and Ms. Jennie Daniels from DEQ Office of Human Resources. The group collectively concluded that no documents in the project file were purposefully suppressed. Problems in document handling did arise because of staff misunderstandings of the Freedom of Information Act (FOIA). Dr. Inman made a series of recommendations to improve the management of the project and the DEQ document handling process, including training on the FOIA. In response to these recommendations, Deputy Director Skip Pruss will become directly responsible for operation of the mining team and a Coordinator will be appointed to assist in handling FOIA requests involving the project. The mining team will be convened under a specific set of written procedures detailing roles and responsibilities.

The DEQ is also in the process of securing an outside expert to review geotechnical information on the mine. The DEQ believes it has identified an expert that is supported by both the industry and environmental groups associated with the mine project.

In response to a question, Director Chester indicated that the application fee for the Kennecott project is rather modest, in the neighborhood of \$5,000, and does not begin to cover the Department's expenses in reviewing the permit application.

The EAC discussed the decision-making procedure set forth in the statute governing the mine permit decision and the implications of the Kennecott experience for that procedure.

A member requested that information developed for the FOIA training the Department will provide to its staff be posted on the DEQ website. Director Chester indicated he is willing to do that if the Department of Attorney General is comfortable with it.

Director Chester described an issue he wanted to discuss with the EAC. Recent public communications involving large concentrated animal feeding operations and the Kennecott Mine have urged the DEQ to just "say no" as if the DEQ has the unbridled discretion to do so. It appears that the public, including influential opinion leaders, have the mistaken impression that the DEQ is unlimited by established decision-making criteria and the need to make principled decisions. Director Chester asked for the EAC's thoughts on how to increase public understanding of how the DEQ is legally obligated to operate. The ensuing discussion contained the following observations:

Some members of the public clearly understand that the DEQ must issue a permit if the applicant meets all qualifications for that permit.

Communicating on emotionally charged issues, like whether or not a permit should be granted or denied, is very difficult. This is especially difficult because some people view a permit as a license to pollute, rather than a set of limitations that allow a project to proceed while protecting the environment. The DEQ should try to convey this understanding.

Perhaps the DEQ should develop a training program for professional organizations and others explaining the legal framework under which the DEQ makes decisions.

The DEQ should consider responding in the media to explain how decisions are made.

Part of the problem is caused by the Department's own mission statement of "protecting the environment." The public doesn't understand this as "administering the laws". The perception is that anything that could be considered to present environmental harm should necessarily be stopped.

Another aspect of the problem is the on-going budget reductions have hampered the DEQ's ability to fully administer the laws.

The DEQ must recognize that it exercises discretion at different levels. Environmental laws have been developed over the past 30 plus years, and they present differences in standards and processes. The public wants and expects you to exercise good judgment in what you do, whether that is in determining how a general standard will be embodied in a decision-making criteria, or applying the standard in the context of a specific case. Yet, the DEQ is put in a difficult situation by the public's demand for modern goods and services, but opposition to the activities that create those goods and services.

It would be difficult for the DEQ to respond to some public complaints about what it does and how it does it. Sometimes one must recognize that some charges and issues cannot be effectively addressed in the media.

On the other hand, sometimes a forceful statement that makes its point directly and dramatically can be more effective than an expensive media campaign.

Some groups don't want to listen and learn and others do. It is most effective to find and work with the latter.

The DEQ receives a lot of criticism in the legislature because some members of the public and some legislators don't understand how the department operates. A lot of resources and energy are expended on responding to this criticism. This creates some need to increase understanding in order to be able to operate more efficiently and effectively.

The DEQ should be more vocal and effective in describing the benefits it provides.

Time spent on informing the public on the process by which decisions are made will be time well spent.

The DEQ staff is comprised of individuals who are technically strong and make valid professional judgments. Yet there is a perception outside the Department that professional judgments are often overruled by political decisions. This creates a perception that issues are best addressed at the political level rather than the professional, technical level.

Because of legislative term limits, the DEQ must continually help legislators understand the role they can legitimately play in administrative decision-making and those that are inappropriate.

The DEQ has a lot of support among the affected communities and should continue doing what it is doing despite the difficulties and criticisms.

In response to a question, Director Chester indicated that he is aware that several bills had been introduced to implement some recommendations developed through the multi-stakeholder review of the Part 201 remediation program. He is disappointed that this has happened since he thought there was an agreement among the stakeholders to advance legislative recommendations comprehensively.

DISCUSSION – THE POWER OF GREEN

Frank opened the discussion of a New York Times article by Thomas L. Friedman's entitled "The Power of Green." We would like to hear from the EAC if you agree with Friedman's thesis and, if so, what Michigan might do to advance it. Staff from the Environmental Science and Services Division will present a summary of what Michigan has recently done to advance involved topics like alternative energy, energy conservation, and product stewardship.

The ensuing discussion included the following comments and observations:

Environmental compliance has become well established in the regulated community. It is now usually part of a plant manager's performance evaluation, which means it receives appropriate management attention.

Green design and construction is still an evolving discipline. The Ford Rouge plant, for example, illustrates some things that work and some things that don't.

Control of pollutants by media creates some difficulties for achieving efficiencies in design and operation.

The demand for alternative energy and other environmentally beneficial products is creating a huge new economic opportunity, and is a magnet for venture capital. Michigan is missing this opportunity.

Recognizing that waste creates costs is a powerful motivator for innovation and waste reduction.

Michigan would encourage development of more alternative energy, if there was a better system of reverse metering under which the power could be sold back to the power companies.

Our society has demonstrated the ability to move quickly to address environmental problems, like chlorinated hydrocarbons. We can do the same for current problems like climate change, if we think in terms of integrated systems.

The federal government could make a huge difference in advancing progress, if it treated the need to address environmental problems like the national effort to put a man on the moon. Yet some targeted federal programs, like the federal highway system that has had huge impacts on sprawl and wetland destruction, have caused significant environmental problems.

Is Michigan positioning itself to diversify its economy and take advantage of the need for clean technology by taking money out of the 21st Century Jobs Fund to cover budget deficits?

There is an increasing awareness among corporate leaders that decisions need to be based upon principles of sustainability. The same awareness is not so evident among political leaders.

New automobile manufacturing plants have been slated to be built in states like Indiana and Kentucky. These are states that burn a lot of coal and that have some of the nation's lowest energy costs. However, there is also a projection that these states are not in compliance with federal air requirements coming on line and that energy costs will rise there significantly as a result.

It is unfortunate that when Michigan does do something bold, like the Green Chemistry Executive Directive, it gets sidetracked by the state's budget problems.

PRESENTATION

Marcia Horan from ESSD has responsibility for pollution prevention programs. She gave a presentation on recent and current state of Michigan initiatives related to alternative energy, energy efficiency, product stewardship and climate change. See Attachment 1. Marcia also provided handouts providing more detail on those programs and describing recently proposed legislation on those topics. See Attachments 2 and 3.

DISCUSSION

The ensuing discussion included the following comments and observations:

Director Chester reiterated a major point in the presentation that Michigan along with thirty-two other states has joined the climate registry.

Consumers Energy currently has approximately 10,000-15,000 customers who have signed up for greener energy, out of approximately 1.8 million customers. For every dollar spent to bring the price of energy into parity, you create a pool of individuals who can't afford their energy bills. This population is completely missing from these discussions.

The premise is that we need to think long term, which is extremely challenging with a legislature that only serves six years at the most. Still 54% of people polled support term limits.

Reverse metering costs were further discussed. Consumers Energy is working on updating their system. They have already put \$800 million towards improving that system. Over time greener energy can become more efficient than coal.

An appreciation was voiced about Friedman's energy section on page 17, "The bottom line is this: Clean-tech plays to America's strength because making things like

locomotives lighter and smarter takes a lot of knowledge – not cheap labor.” Michigan has many assets including great research universities training future workers in technology. Michigan has one of the largest chemical plants in the world. West Michigan is becoming a green building hotspot. Michigan has clean air and water. We need to continue to protect these assets and tell the world about them. Part of our role as EAC members is to talk about Michigan’s strengths that will encourage creative people to want to come and stay.

A member encouraged DEQ to work with other states to exchange information on issues such as alternative energy and climate change, and to not use state resources to recreate the wheel.

There was a general discussion about state participating in carbon reduction and fostering new programs that encourage good behavior beyond business as usual, such as building in target emission reduction rates. This discussion led to the question of whether the State of Michigan has inventoried its own greenhouse gas emissions. Director Chester responded that the state had contracted with students from University of Michigan to do an inventory looking at 40 or 50 state office buildings which resulted in some recommendations. For instance the state could save approximately \$200,000 in Constitution Hall the first year. DEQ is trying to obtain certification in energy efficiency in certain facilities. Our Warren facility has Silver LEED certification. DMB is looking at building a new state facility in Saginaw Bay that would be a certified facility. We’re hoping to achieve platinum certification, which would mean that they refund all certification fees.

There was a suggestion that the department produce a pamphlet on what the state is doing to reduce energy.

There was a discussion about what the government can do as a market participant to advance green initiatives. Director Chester stated that Governor Granholm has issued an Executive Directive regarding promotion of green chemistry that includes coordinating the efforts of state departments and agencies to promote green chemistry. There was a suggestion made that this could become an evaluation tool for department heads and teams.

Frank asked members to focus on how government encourages action, rather than enforcing action. There was agreement that government should do environmental compliance and oversight. Setting requirements is one way to encourage action, and continuing to create an environment where this approach works.

Frank concluded the meeting letting members know that next month we will discuss the funding issue along with discussing a study on relative funding of state conservation programs across the country. Member commented that this particular subject matter was very interesting. This is an area where the EAC members bring a lot to the table. Director Chester thought that there appeared to be a fair amount of agreement on this important issue and requested that members give some thought on how they may be able to share their perspective with other stakeholders.

Notes by Linda Albro Sparks; summarized by Linda Albro Sparks and Frank Ruswick.