

ENVIRONMENTAL ADVISORY COUNCIL
Lansing, Michigan
Thursday, July 24, 2003 – 1:00 – 4:00 p.m.

Members in attendance: Chris Bates, Barry Cargill, Sally Churchill, James Clift (for Lana Pollack), Wil Cweikel, Dr. Phillip Davis, Marty Fluharty, Chuck Hersey, Andrew Hobbs, Abed Houssari (for Skiles Boyd), Maureen Kennedy Templeton, Patrick Krause, Sara Lile, Scott Piggott (for Wayne Wood), Del Rector, Andy Such, Dr. Janet Vail, and Paul Zuger.

DEQ Staff in attendance: Linda Albro Sparks, Frank Baldwin, George Bruchmann, Mary Ellen Cromwell, Hal Fitch, Jan Graham, Vince Hellwig, Andy Hogarth, JoAnn Merrick, Frank Ruswick, Pat Spitzley, Jim Sygo, and Wendy Wilson.

OPENING

Frank Ruswick opened the meeting by indicating that Director Chester cannot be here today because he has been in Washington, D.C. making a presentation to Congress on legislation pertaining to solid waste importation.

The purpose of today's meeting is to have a discussion with the Department of Environmental Quality (DEQ) Division Chiefs on possible Environmental Advisory Council (EAC) recommendations for improving public involvement in the DEQ. The hope is that the EAC will be able to agree by the end of the meeting on a set of draft recommendations that can be submitted to the public for comment. If we achieve that purpose, the second part of the meeting will be devoted to deciding upon the precise form for the EAC to obtain public input on its draft recommendations.

Frank indicated that he planned on asking the Division Chiefs to respond first to any issues they thought were not currently included in the draft, then to address the general tone or approach of the draft, and finally to offer comments on specific recommendations.

A Division Chief began by noting that the recommendations contained little discussion of the role of local governmental officials. This was important since local officials could make the DEQ process easier or more difficult depending on how they interacted with the public in the context of the DEQ's public involvement process.

EAC members agreed that it was important to involve local officials early in the process. Educating local officials on specific projects as well as on environmental issues generally is important in that regard. A member agreed that providing information early on will allow local officials to participate fairly and justly in the decision-making process. A member suggested that the DEQ should take advantage of seminars by the Michigan Townships Association and Michigan Association of Counties to provide general environmental education.

A Division Chief indicated that often the DEQ finds out about proposed projects from local citizens and officials. Therefore, it is important to foster good two-way communication.

EAC members agreed that better coordination with local officials could improve efficiency by, for example, allowing joint public hearings. It could also help the public understand the relative roles of the DEQ and local officials as they relate to, for example, decisions affecting land use.

Frank agreed to draft a recommendation concerning better communication and coordination with local officials.

A Division Chief indicated that a problem with the draft recommendations is that they do not adequately recognize the current efforts and activities of the DEQ to foster public involvement. Several other Division Chiefs agreed that they have undertaken a variety of efforts to address many of the topics—such as early notification of affected interests—noted in the recommendations. Several of these specific efforts were discussed.

EAC members agreed that the draft did not provide sufficient recognition of the DEQ's current efforts. The purpose of the draft is not to be overly critical or to suggest that the DEQ's efforts are inadequate. Rather, it is to build upon and expand current public involvement programs. The "Assessment" Section of the draft recommendations was singled out as being problematic for this reason. It should be redrafted to point out the positive things that the DEQ does undertake and to put the recommendations in the context of fostering, rather than criticizing, current activities.

A member asked about Recommendation A.3. concerning training for DEQ staff on public involvement. How feasible is that? In addition, what does the DEQ think about Recommendation B.7 concerning an ombudsman?

A Division Chief indicated that the DEQ took some offense to Recommendation A.3. since it appeared to blame staff for a shortcoming. It is true that training in public involvement is not usually part of typical professional development, but the DEQ has had several programs to improve staff skills in this area. Several Division Chiefs described the public involvement training provided to staff. It was also recognized that the resources associated with training do need to be balanced against other needs.

The EAC agreed that Recommendation A.3. needs to be redrafted to be less judgmental and to encourage further efforts to improve staff skills in various aspects of public involvement.

A member asked how concerned the EAC should be with budget issues in making its recommendations. Frank responded that the Director wants the EAC to provide its recommendations without regard to budget issues. It would then be up to the DEQ to determine how best to meet those recommendations in light of budgetary demands.

The discussion turned to the issue of the ombudsman recommendation. Both Division Chiefs and EAC members agreed that an ombudsman, in the sense of an advocate for a particular position, would present problems. For example, if an issue had numerous concerned parties, who would the ombudsman be an advocate for? How could one person be totally informed in all DEQ programs and activities? The EAC discussed the necessary function which is assisting members of the public in navigating the DEQ's organization and processes. It was suggested that this is a role that all staff should play at some level and that every employee should have a responsibility to be responsive to the public. Ensuring this was a function of leadership. It was

also recognized, however, that there is a value in having the function carried out through some specific identifiable means, so that it does not get subsumed within all other demands on staff time. A Division Chief described the current activities of the Environmental Services and Science Division in assisting members of the public understand and work with the DEQ. Another Division Chief pointed out that how the DEQ allocated assistance resources is important. For example, the Remediation and Redevelopment Division (RRD) has a full-time community relations person whose role is to assist staff within the division with outreach efforts. Preventing questions from arising can be more effective than reacting to questions as they arise.

The EAC agreed that the important function is assisting citizens navigate the DEQ. The DEQ should determine how best to do this.

A member suggested that the DEQ could really help citizens understand the department by improving the web site and making it more user friendly. DEQ staff agreed that this was important as there are a lot of problems with the web site. However, it should also be recognized that many members of the public do not use computers or the internet.

An EAC member suggested that the DEQ make efforts to train associations and other outside professionals in how to work with the department. These individuals could, in turn, work with their members or associates to assist them in working with the DEQ.

A member asked about how the DEQ envisioned using the EAC recommendations. Frank responded that the Director expected that the DEQ senior management would be charged with evaluating their own programs in light of the recommendations and then determining how to make improvements in response to the recommendations. The DEQ would then report back as the EAC requested. For example, the DEQ could report back to the EAC in three months or so on what activities were underway, and then again after about a year to describe what had been accomplished.

At this point, Frank opened the draft to discussion by EAC members, and Division Chiefs, section by section. The following changes were suggested and Frank was asked to develop a new draft:

Introduction

Indicate that the public should be given an opportunity for a meaningful role.

Principles

Fourth bullet under “decision-making process”: delete “for scrutiny” and add “to the public”. There was a discussion about deleting the reference to accountability for the decision-maker (because it would be understood), but it was eventually maintained.

Delete the bullet referencing the public’s ability to influence the DEQ’s decision. The nature of influence depends on the criteria applicable to the decision and the type of information provided.

Amend the last public under “meaningful role” to describe that a member of the public should be able to ascertain how a comment was considered, because the DEQ should be able to explain how a decision was made.

Assessment

Rewrite based on previous discussion.

Clarify that not everyone believes that past decisions were not always based upon applicable facts and legal principles. Eliminate any suggestion that this is the EAC’s position.

Recommendations

A.1. should be phrased as a general statement of intent behind the recommendations.

A.2. needs to distinguish between activities of DEQ staff in their professional capacity and in their personal capacity. With respect to the latter, there should be recognition of the need to avoid conflicts of interest and inappropriate use of authority.

A.3. should be redrafted in line with the earlier discussion.

A.4. should be redrafted to refer to all staff, not just future leaders. There should also be a new recommendation concerning the development of leadership within DEQ and other organizations involved in DEQ activities.

Section B. should be amended by adding an introductory discussion of the variety of activities undertaken by the DEQ, especially how it relates to the differential applicability of the recommendations.

B.1. should be amended by deleting the first sentence and deleting the reference to consulting experts. It should also be positioned after the recommendation that currently exists as B.2.

B.2. should be amended by deleting the reference to encouraging an applicant to involve the public in the proposal formulation stage and before submission of an application to the public. This is often just not practical and can have a variety of other problems. On the other hand, it can be very effective in actually avoiding the need for DEQ actions in some types of cases. The EAC agreed to recommend “encouraging applicants to voluntarily involve the public as early in the process as...”

B. 3. should be amended by removing the first sentence to the “Assessment” section. There was a discussion of who should receive notice of site specific decisions and that it pertained to permit decisions. It was generally agreed that recommendation should reference individuals “directly” affected.

B.4. should be amended by removing the first sentence to the “Assessment” section.

At this point, Frank indicated that the EAC needed to make some process decisions since the end of the meeting was approaching. It was agreed that Frank would redraft the recommendations consistent with today's discussions and provide another draft. EAC members are to provide comments to Frank **in writing** on this draft by August 15. This should allow Frank to determine further areas of concern and more effectively manage the discussion.

EAC members **should also** provide written comments to Frank by August 15 describing what steps should be taken to provide public comment opportunities on the draft recommendations.

It was agreed that the presentation on alternative dispute resolution would be postponed until September. It was agreed that the August 21 EAC meeting would include initial discussions on a citizen decision-making body. An EAC member provided copies to the EAC of a letter that had been sent by a large number of public interest organization to Governor-elect Granholm on this issue.

Meeting notes prepared by Linda Albro Sparks, summarized by Frank Ruswick.