

ENVIRONMENTAL ADVISORY COUNCIL
Lansing, Michigan
Thursday, October 20, 2005
1:00 – 4:00 p.m.

Members in attendance: Bill Beckman, Mark Bertler, Andy Buchsbaum, Steven Chester, Mark Clevey, Jim Frey, Kurt Giberson, Mike Johnston, Ellen Kohler, Lisa Locke, Steve Luskow, Terry Miller, Paul Murray, Allen Reilly, Debra Rowe, Harry Sheehan, Bill Stough, Donele Wilkins, Guy Williams, and Tom Woiwode

Guests in attendance: Brendan Boyle from Department of Community Health, Michelle Lin from Access, and Brad van Guilder from Ecology Center

DEQ staff in attendance: Jim Sygo, JoAnn Merrick, Frank Ruswick, Dipo Oyinsan, Bryce Feighner, Robert Sills, and Karen Shaler

OPENING

Frank welcomed the members. There is going to have a very crucial discussion regarding the environmental justice recommendations. Frank will pass out handouts when going through the current issues discussion. Those include Mike Johnston's map and other maps that show population census information on minority populations and income levels.

CURRENT ISSUES

Director Chester mentioned that the Air and Waste Management Association's breakfast with Mort will begin having breakfast without Mort since he has retired. This event is scheduled for October 24 in southeast Michigan, and Director Chester will be the featured newsmaker.

DISCUSSION OF ENVIRONMENTAL JUSTICE ISSUES

Frank indicated that we are in an unusual position to refine a document involving recommendations, yet there remain some fundamental concerns regarding environmental justice. Frank wants to focus on larger questions and have that discussion and then come back to the recommendations themselves. There are some difficult issues, and today's discussion needs to focus on those questions. The following reflects points made by members and guests during this discussion.

A member supports rolling it back further. They would rather try to keep it in a positive manner that everyone can agree on. Looking at Recommendation #3, the member thought it needs environmental justice goals for businesses that come here. Frank responded that we need to be careful about phrasing things in the negative. Concern was expressed at a previous meeting that Recommendation #2, Paragraph 3, did not go far enough.

Several members then discussed their concerns. One member indicated that when we look at other states, we need to be careful when comparing them to Michigan. We need to remove as many impediments to jobs. No one here feels that environmental justice should not be practiced. We do not want to create problems that are unintended.

Another member said the status quo is not working in Michigan, and changed need to be made in order to become healthy.

Another member stated that we do need to rethink a lot of things about how we are approaching technology in manufacturing in Michigan and need to find some solutions.

Environmental justice needs to be crafted to encourage economic progress. What type of economic progress are we talking about needs to be added. We need to encourage prevention so it is not something we need to fix later.

We need innovative ways to bring manufacturing to Michigan. Is this environmental justice policy the mechanism by which to carry this forward?

Part of the help is by making communities healthier. We need to limit it to a company's own operational aspects. We had better be sure the company is aware of their effects on and protecting the neighborhood/citizens. We need to be fair and meaningful to all areas of the state. Are the companies adhering to environmental justice principles when reviewing baseline assessment? Detroit is actually a seed waiting to grow and bloom, and we are throwing another obstacle in their way. The EAC came out with the public involvement process that was excellent. The member questioned the purpose of the environmental justice policy and is concerned that we are focusing attention to an area that will be a bunch of paperwork without anything getting done. Another member asked about paperwork--where is it referred to? Where would the public/development be impacted?

Director Chester asked members if we are better with or without an environmental justice policy. Is Michigan's economic health and vitality better with or without an environmental justice policy? A member responded that there is uncertainty in the process. A company may have already invested lots of money and there is uncertainty in the decision as the outcome is unpredictable. There is a layer of bureaucracy.

A discussion pursued regarding whether there a problem to be solved? A member indicated that if standards are inadequate, then we need to look at the standards/process and fix that. They are concerned from an investment side of it. We need to answer that question. Standards are designed to apply equally to various sections of Michigan. Some areas of Michigan have clean water, and other areas are much more polluted. Standards do apply differently in urban areas. We need to make sure the rules for air and water are rewritten. Need to prepare an environmental justice policy and need a business community to provide that information to the DEQ.

We are asking manufacturers to change their processes and new green businesses are moving in. Do we help create new processes for existing companies? If we are adding more standards to

make it tougher, a member stated they cannot imagine businesses going along with that. We need to attract businesses to give extra tax breaks and incentives.

Another member asked about what problem are we trying to solve. This process will have intended consequences and could backfire by driving businesses away. Bureaucracy will add layers (assessment and create unintentional consequences).

Another member asked: What is the state of the environment? It's a snapshot in time due to legacy issues. Regulations are very strict. The amount of emissions is incredibly low. Environmental regulations are the wrong tool. Let's deal with legacy challenges. If we start with equal protection, we will begin to see improvement in economic dynamics. We need to make everything equal and start at ground zero.

Another member said the problem is the disparate health issues. They appreciate the legacy issues (soil, groundwater, and lead), but there are health issues, like asthma related to ozone. What are the minimum standards that we want to have in our communities? The map is helpful, but it does not map the aging problems.

Another member gave a couple of examples of projects that could have been addressed through an environmental justice policy. We are talking about social justice—making making sure everyone can live a healthy life. Environmental rules/regulations lead to environmental impact. What layers are we going to put on? We need to make some informed decisions instead of uninformed decisions.

When adding additional layer to review process, how do you know we are not going to get bogged down? It adds another layer of opportunity for someone to oppose the permit. Providing structure to a project is a good thing.

This policy may stimulate creativity. Is this an impediment or opportunity to achieve the growth we want? Legacy is a dead zone. Detroit is the best raw material growing in Michigan. On paper, we are equally protected, but in the real world, we are not. We need to generate new business ideas.

The legacy challenges are huge and complex. Detroit is a potential seed for growth. We need to figure out ways to put money back in Detroit and clean up contaminated sites. What is the road to get there?

We are talking about looking at decisions that affect environmental health in communities and how can we make them better.

Detroit had 40,000-60,000 contaminated parcels. We are talking about quality of life and need to provide a framework on how to reduce health disparities and allow improvement for health and economics.

How does DEQ view this is? Is this another layer of bureaucracy to deal with? Director Chester responded this is not another layer of bureaucracy. The DEQ cannot ignore social issues. This is

an opportunity for the EAC to provide potential guidance to this administration and sees it as an opportunity not to interfere with business growth by adding layers of bureaucracy.

Should the state's policies include a component that looks at environmental/social justice? We need to be a bit more honest about how we are doing things right now. Local health departments work with groundwater and air and do not fully understand why an area cannot be used. From a regulatory perspective, we need to better understand the implications of the decisions we are making.

The problem is so large that no tool is going to help. There are disparate impacts. What small thing can we do to continue the process? The application of environmental laws is automatically going to continue creating disparate impacts. Let's ask DEQ to think about unintended impacts. Can we redline the environmental justice policy document to take out the concerns? We keep hearing the same arguments and need to get narrower rather than broader.

Environment and economics equals equity. There is uncertainty, but we do not want to slow up the process to do good business and not come into a community.

Let's not create an impediment to growth. It is difficult not to trip the low threshold levels of environmental rules. The implementation of the environmental justice policy is what scares one member—not the actual policy. We do not want to impede development. The incentives sound promising, but we need to be realistic.

We need to narrow the focus. What can we do instead of what can't we do? We can come out with some positive steps to take.

Are environmental standards protecting public health in all cases of application? We cannot undo history; can only make permitting decisions going forward. Is the problem narrow enough that it is something we can address? What can we do about legislative changes? We need to look at the process of making environmental decisions and doing it better.

The process should be efficient and not be encumbering. This has been a good benchmark and milestone for the last bit of work to do.

If we are limiting the environmental justice policy to application of standards, do we have a system to determine whether standards are being applied appropriately and fairly? We need to be careful and need to determine whether this policy is external or internal to state agencies. That should have been reached early on. If we are going to progress, it's because people believe we need to.

The two goals are: protect public health even better and make it easier for jobs to be created. How can we get the environmental justice policy to do these?

This is the beginning of a very involved process. There is not a good track record at the state/federal level to check on unintended consequences--measurement, benchmark, norming.

Need to allow for flexibility and revision. Requires open-mindedness to have potential for this to work.

If we decide to take the lead and go forward, a member is curious where the DEQ got the charge to look at environmental justice. What position is DEQ in to carry this out through the process? Frank responded that there are budget, manpower, and resource issues. Charge was from Governor's Office. They asked us to use the EAC to develop this policy.

What's the policy to do? Who are covered by the policy? When you get an interagency work group together, where are we headed with that? That work group would assess gaps in understanding how environmental protection laws are doing across the board. They need to take a look at several other entities of those groups across the country and look at short- and long-term aspects. Maybe some work needs to be done to help agencies talk with each other as a framework. Other state agencies have limited resources, but there has to be a starting place. There are some disparate impacts. It's important for the EAC to look at where there are opportunities to shrink those gaps. The work group will look at this issue in a new way to reduce the impacts.

The petition process is not specific. It has got to be at the front end of this instead of at the back. We need to involve the community at the front end of the process so they are not surprised.

To help move process along, what about letting communities self-identify an area of concern and they bring it to the interagency work group? What are the criteria for development in the area? Then decisions are made up front.

If you self-identify, there's a self-restraining influence.

What are the intentions and challenge to task force? Are they to be charged with having a positive impact and move different parties toward the same direction?

It could be tricky to self-identify. We need statewide assistance to local communities to get out information regarding long-term impacts.

Have other agencies prepared a public involvement policy and do they share information with others? This member would be interested to meet with other state agencies to see what they are required to do with public involvement. We would then be more informed decision makers.

If all agencies are talking with one another, it helps the process along. If there is an interagency work group, they are sharing health effects on a much earlier level. This is about making sure the outcomes for communities are applied equally.

The impacts are large, and there are unintended consequences. The word "policy" is a value statement. Where should the permitting process be incorporated in the policy?

The work group determines what is relevant. Nothing deals with opportunity for the developing entity. The work group will be in a newsworthy position. It's better to play it safe than take a

risk. A consequence is related to credit reviews. Will petition concerns be addressed before developers come for funding?

Based on this discussion Frank offered the following summary of the apparent current level of agreement and remaining issues before the EAC:

There seems to be general agreement that an environmental justice policy should provide encouragement to economic progress. One of the major questions before the EAC is whether this can be done without creating an impediment to business decisions. One of these impediments might arise through additional procedures that might be put in place to address environmental justice concerns. It is unclear at this point if those holding this concern think that such procedure are necessarily going to develop or if the objection is based on the simple potential that they might. One specific example of additional procedures focuses on the petition process contained in the draft recommendations. There are a lot of remaining questions about the costs and benefits of the petition process focusing on the timing of the process and what authority could be exercised through it.

Another major question revolves around how an environmental justice policy might affect the application of decision-making standards, such as what level of pollution control is adequate for an applicant to obtain a permit.

A third major area of discussion touches on the potential unintended consequences of the policy. On the one hand, some are concerned that it will create additional layers of bureaucracy. On the other, some think the policy could actually stimulate creativity. In recognition of the range of potential outcomes, there appears to be some agreement on the need to evaluate the effect of the policy over time and adjust it so that it better achieves its purpose.

Frank asked that members volunteer to address three points in this summary: 1) How can a “petition process” be structured to provide community benefits without creating uncertainty and additional costs? 2) How might the recommendations be amended to accentuate the creative and positive aspects of the environmental justice policy while address the concern that it will create impediments to decision-making? 3) How can we include the concepts of evaluation and follow-up in to the recommendations? Several members agreed to provide language to address these issues.

CLOSING BUSINESS

Frank thanked EAC members and indicated the next meeting will be held on November 17. Frank asked that the members who were given the above assignments provide language to Frank by November 10 if possible. He will add that language to the document and will try to get a new draft out within a couple of days before the next meeting. In response to a member’s question, Director Chester indicated that there is no requirement to turn in an environmental justice policy at the end of this effort. Frank added that there is no preconceived notion of what this document will consist of.

Notes by Karen Shaler; summarized by Karen Shaler and Frank Ruswick.