

ENVIRONMENTAL ADVISORY COUNCIL
Lansing, Michigan
Thursday, November 18, 2004 – 1:00 – 4:00 p.m.

Members in attendance: Jack Bails, Chris Bates, William Beckman, Janis Bobrin, Steve Chester, Wil Cwikel, Chuck Hersey, Bill Murphy for Don Inman, Terry Link, Steve Luzkow, Mark Parrish, Pamela Pugh, Lana Pollack, Allen Reilly, Jr., Debra Rowe, Dr. Janet Vail, Scott Piggott for Wayne Wood.

DEQ Staff in attendance: Linda Albro Sparks, Dave Hamilton, JoAnn Merrick, Frank Ruswick, Jim Sygo.

OPENING

Frank opened the meeting asking if anyone had any concerns with the proposed meeting schedule for 2005. No concerns were mentioned. The 2005 meeting schedule was approved.

Frank indicated that the FY 05 Public Involvement Implementation Plan was being prepared for the Director's signature. A final version will be presented to the EAC and DEQ staff soon. The Plan calls for several new policies—including one regarding public notices for contested case proceedings and another relating to public involvement. These are also nearing completion. The public involvement policy will be brought to the EAC for possible review in December.

Frank indicated that the EAC's discussion of the draft Implementation Plan in October included a lengthy discussion of two issues related to Land and Water Management Division (LWMD) programs: information available to assist local units of governments in land development decisions and interactions with local units of government. He introduced Dave Hamilton from LWMD to provide further information on those items.

Dave Hamilton provided examples of the variety of materials available to local citizens and government to assist in land development decisions. The LWMD will be reviewing materials for possible updating and the need for developing additional materials. Dave also indicated that there was a suggestion at the October meeting that LWMD field staff work more closely with local planning staffs and drain commissioners. Dave explained that LWMD frequently work with local government officials and that those officials are provided notices of proposed projects. Dave also serves as the liaison with county drain commissioners. The LWMD also establishes workgroups as necessary. For example, drain commissioners have been involved in the current effort to update the Part 301 rules. The LWMD also holds quarterly meetings with Michigan Department of Transportation (MDOT) staff and drain commissioners regarding important road projects.

A member complimented the Part 301 rules development process and stated it is helpful when the LWMD staff joins drain commission staff in the field to identify and resolve concerns. This has worked well in the soil erosion and sedimentation control process as well. The member stated that the way the DEQ conducts its business is important. Providing educational materials can also be very helpful. Since many types of organizations provided educational material, perhaps the DEQ has a role in serving as a clearinghouse for such information. The web site could be very useful for this purpose.

A member reported receiving anecdotal information about developments being approved by local officials prior to DEQ involvement. This can cause problems when the DEQ has to come in later and express concerns or objections.

In response, a member indicated that, although this may occur occasionally, it is not as common as the stories would indicate. There are certainly some drain commissioners that don't agree with the DEQ.

A member indicated that any development project will involve a series of applications. Good local planners pay attention to the details and try to coordinate with the DEQ. Others try to pit one party against another. The interaction would be improved by better communication between DEQ field staff and local governments, although some local officials have very directly focused political agendas.

A member indicated that one problem is that early communication with the DEQ can help in formulating a project, but the DEQ is reluctant to provide input that could be interpreted as a final position without adequate details on the proposed project. Dave indicated that this is a balancing act for staff that can sometimes be difficult. Frank thanked Dave for his information.

CURRENT ISSUES

Director Chester discussed several current issues. He described the settlement with Ford and Kingsford products to address a contamination site in the Upper Peninsula. Jim Sygo was instrumental in reaching that settlement. We had some question about how the community would respond to some aspects of the settlement, including placement of methane monitors in homes, but the community has really embraced the result. Director Chester indicated his appreciation for the role Ford played in reaching the settlement.

Director summarized the budget situation. Current estimates approach a billion dollars shortfall in FY 06. This is the result of a structural deficit that will be difficult to address. The DEQ is also working on a project called EDGE2 that promotes energy efficiency and clean technology. The hope is to establish Michigan as a magnet for start-up companies in these fields. Director Chester indicated that Michigan spends about \$20 billion annually on energy, but \$12 billion of this reflects payments made to out of state suppliers. Michigan needs to find a way to keep those dollars here.

Director Chester reported that legislation to regulate non-ferrous metallic mineral mining is moving in the legislature. However, a provision was added in the House that will require administrative rules to be promulgated in one year. This is much shorter than is typically required to develop administrative rules.

A member reported that legislation supporting watershed management by local governments is also moving through the legislature. This legislation, developed on the model used for the Rouge River, could assist in similar efforts statewide.

A member inquired of the status of discussions to address dioxin contamination in the Midland/Saginaw Bay watershed area. Director Chester indicated that discussions are proceeding on a priority basis, but that a deadline for completion of those discussions has not been set.

COMMON THEMES AND REQUEST FOR RECOMMENDATIONS

Frank gave a PowerPoint presentation that summarizes the discussions of the EAC to date. See Attachment 1. He indicated the following common themes that are weaved through those discussions. There will always be more demands for the DEQ to do more or to do things better. As a result, the DEQ will always have to carefully consider the use of its resources, establish priorities, and look for efficiencies. In doing so, the DEQ has to attend not only to reducing risk in the short term, but also to navigating long term policy directions. Achieving these results depends both on the choices made by individuals and by institutions such as businesses and local governments. Therefore, to be successful over the long term, the DEQ needs to shift how it does business in two ways. First, because of interconnections and complexities, the DEQ needs to shift to more of a systems based, rather than a site-specific focus. Secondly, the DEQ must shift its role from that of a regulator to more of a steward that encourages proper choices by individuals and organizations. These shifts do not mean that the DEQ would never have a site-specific focus, or never act as a regulator. Rather, the general way of doing business must move in the direction indicated. Importantly, these changes have to occur in such a way that will result in increased environmental protection.

Based on these needs, the DEQ is asking the EAC to recommend specific steps to facilitate this transition and whether there are ways to jump start the transition.

DISCUSSION

Frank indicated that he would like the discussion to achieve three purposes: 1) Identify and resolve questions about the presentation and what the DEQ is requesting. 2) Agree on a focus for EAC recommendations. 3) Identify what needs to be done between now and the next EAC meeting on December 16th in order to complete this project by February, 2005.

A member suggested that a better word than “focus” might be “perspective”. The DEQ will sometimes need to apply one perspective and at other times the other perspective. The real need is to know when to apply each of the alternatives—site for system, for example. In addition, the role of the DEQ is not to act as steward; rather it is to facilitate how others can act as stewards.

A member asked how the EAC can assist. Perhaps the EAC can help to debunk some unfounded stories about how the DEQ operates. The DEQ should challenge the EAC on the role it can play.

Director Chester suggested that perhaps these issues should be conceived as a series of concentric circles rather than a continuum. Thus, even when the DEQ is focusing on a smaller site, it needs to consider that site in the context of a larger system.

A member agreed with the need to balance the roles of regulator and steward. The member reported on a situation where a farmer was hurt because he was reluctant to report on leakage from an underground storage tank for fear of regulatory penalties. Perhaps the DEQ should consider amnesty programs to encourage compliance.

A member indicated that one issue with the systems approach is the increased need for data. The question of role is how the DEQ can encourage the state to have a stewardship ethic. At the

same time, the DEQ cannot be afraid of their regulator responsibility. In the end, the DEQ has to be a facilitator for positive change.

A member agreed that the systems approach requires data. In that regard, perhaps the best role for the DEQ in land management decisions is providing technical assistance that allows local government to make better decisions.

A member indicated that one way the DEQ can be more successful is to create more partnerships. For example, with respect to the farm storage tank problem discussed earlier, perhaps the DEQ should work with the MDA to assist farmers.

A member indicated that one common theme in the discussion is communication. One idea is a campaign to help legislators understand the DEQ and its work. Perhaps the EAC could assist in that effort.

A member indicated that the need for a long term view needs to be emphasized. We should be looking generations down the road when we make choices. The DEQ should facilitate that kind of conversation.

A member indicated that, with the need for these types of transitions involved, the EAC could help the DEQ set its priorities. How do we maintain core programs while undertaking programs that move the DEQ toward a future level?

A member questioned how much latitude the DEQ has in implementing programs. Aren't most DEQ activities required by law?

Director Chester responded that the vast majority of programs are regulatory and are statutorily mandated, but there are others, such as pollution prevention programs, that are trying to change behaviors in a broader sense. The state is currently going through an exercise, based on The Price of Government, authored by Dave Osborn, to set priorities among programs. This is a different budget process than has been used in the past. This exercise is designed to determine the price citizens are willing to pay for government and then determine, based on a ranking of programs, what programs can be funded within that price. The state of Washington went through this process. If programs fall below the price willing to be paid, then statutory changes may be necessary to eliminate or otherwise modify those programs.

A member indicated that the important question is what specific steps can the DEQ take to be a better communicator? The EAC's recommendations to improve public involvement relate to communication and there needs to be a continuation of the effort focused on communication generally.

A member observed that the bulk of environmental statutes were enacted 15 to 20 yrs ago. This is a constraint on what we perceive the need for programs are.

A member indicated that some programs reflect federal obligations and perhaps changes in those should be considered.

Director Chester stated that part of the issue is that lower ranked programs have dedicated funding sources, while higher ranked programs, such as wetland protection, are sometimes funded through the general fund. This drives the need for fees in such programs.

A member observed that moving toward a systems approach will be difficult since most legislation is site driven. It will be difficult to explain to legislators the need and reasons for a systems approach. This will demand effective communication.

A member agreed that working toward a systems approach is a good idea. Perhaps the EAC could help to identify impediments to doing that and how those impediments can be addressed. It is important to provide specific examples in order to help people understand what needs to be done and why.

Director Chester indicated that one impediment to a systems approach is a lack of authority. He cited the example of locating a new facility in an urban area that looks at the specific emissions from that facility rather than the larger issue of air quality.

A member observed that the issue of environmental justice had been previously discussed, but was not described in the summary. Frank indicated that he had originally planned to have a specific meeting devoted to environmental justice, but the need to complete a project during the term of current members prevented that. Director Chester plans to ask the EAC to consider environmental justice issues during the next term of the EAC, which begins in March 2005.

A member cited an example to illustrate the importance of having a long-term time frame. Community leaders in West Michigan worked hard 20 years ago for the South Beltline as was consistent with their long-term vision. That road is now coming on line as Grand Rapids is developing to the south.

A member observed that we must attend to cumulative impacts. In making decisions, we cannot look only at particular sites, but must look at the whole system because actions on specific sites can affect the whole system. We need to create tools for staff to allow them to do that.

A member noted the difficulties of incorporating a long term perspective into decision-making since legislators serve for limited terms. It is also important to structure programs to make decisions in light of real world impacts. As an example, it does not make sense for the total maximum daily load program to require habitat creation in a highly urbanized watershed. Those resources could be better spent elsewhere.

A member suggested that the best way to approach the issue of a systems approach is to break it down to what is manageable by looking at a specific program or issue. This will facilitate the EAC being able to make recommendations.

A member commented that the best way to do this will be to focus on desired outcomes rather than process questions.

A member asked whether the DEQ planned to use the value stream mapping process, as had been used in the air permitting program, to improve other DEQ programs. Director Chester agreed that the value stream mapping process can be a powerful tool, but there are others that can and will be used to find efficiencies in DEQ programs.

A member observed that the DEQ is very compartmentalized. There should be more cross training, which would allow more pooling of resources. This would be easier if funding was not tied so directly to individual programs.

A member suggested that a cornerstone of environmental policy should be to first do no harm. This requires looking downstream from decisions. Funding new projects that divert development from urban areas just encourages the creation of new Brownfields.

A member recommended that the EAC concentrate on a specific program area that has a lot of aspects to it. The Water Bureau was cited as an example. In that way the EAC can develop a template for the type of analysis that can be done in other programs.

In response to a question, Jim Sygo indicated that he agrees with evolving toward a systems approach. The question is the time frame for making changes.

A member agreed with using the Water Bureau as a starting point. The EAC could comment on how to take a more systems approach with respect to watershed management and facilitate the development of specific recommendations that staff can use.

A member agreed that looking at one division's programs would be more consistent with the time frame available to current EAC members. Another member suggested that the EAC would get lost in the complexities and details if it looked across all DEQ programs.

A different member indicated that taking a larger view will allow the EAC to look for relationships between individual programs. These relationships would get lost, if the focus is too narrow.

A member noted the need for a systematic allocation of resources, citing the Relative Risk project done in the early 1990s as an example. Perhaps the EAC is not the right group to undertake such a project, but the EAC could recommend that it be done. The member questioned whether the EAC should be constrained in thinking it has to solve a particular problem. One effective role for the EAC is simply to be a sounding board for the DEQ.

Frank indicated that the EAC's discussions during the entire year had been very helpful in and of themselves. As indicated in his presentation, those discussions have served to highlight the need for the DEQ to move in specific policy directions. The question before the group now is how to take the next step to move in that direction during the time remaining in this term.

A member suggested that what really needed to be done is to help other agencies understand how their actions fit into a systems approach to protecting the environment. The development of an automotive test track on a Greenfield site, which was supported by MDOT and the Department of Labor and Economic Growth, was cited as an example.

A member cited the Michigan Land Use Leadership Council which was a very diverse body that made recommendations in six months. The member questioned whether there has been an analysis done of the progress in implementing the Council's recommendations.

Director Chester indicated that the DEQ is evaluating its programs in light of the Land Use Leadership Council recommendations. That evaluation can be shared with the EAC at a later date.

Director Chester went on to say that he is hearing two different preferred approaches from EAC members. One group wants to look at the DEQ broadly to determine how to facilitate a systems approach, while another wants to focus on a specific program. Both approaches have merit. He

suggested that the issue of which approach to pursue should be considered by DEQ management. EAC members agreed with this approach.

CLOSING BUSINESS

A member extended an invitation on behalf of Michigan State University (MSU) for EAC members to attend a presentation on November 29th. Professor David Orr, a nationally known expert on environmental literacy in higher education, will be speaking on education for sustainable development. This is the first of a year-long series on sustainability being sponsored by MSU.

Notes by Linda Albro Sparks, summarized by Frank Ruswick.