



Meeting Minutes

Monday November 23, 2020

Virtual Meeting

The meeting was called to order by Chairman Jim Johnson at 3:02 pm. He informed all in attendance that the WebEx was being videoed and recorded, and Board members were reminded of the ethics statement. Ms. Renee Kramer, DEQ Staff Liaison, called the roll.

Board Members Present:

Jeff Anstead
William Barber, III
Veronica Carter
Jamie Cole
Ranee Haven-O'Donnell
Dr. Susan Jakes
Dr. James Johnson Jr.
Dr. Marian Johnson-Thompson (signed on at 3:04)
Carolina Fonseca Jimenez
Dr. Deepak Kumar
Dr. Danelle Lobdell
Marilynn Marsh-Robinson
Reverend Dr. Rodney Sadler Jr. (signed on at 3:04)
Carlos Velazquez (signed on at 3:07)
Elke Weil
Sherri White-Williamson

Board Members Absent:

Naeema Muhammad

Old Business

Received an agenda for today's meetings. Motion to accept the agenda as printed by Randee Haven-O'Donnell, Dr. Deepak Kumar seconded the motion.

August 24th meeting minutes- Motion to accept the agenda as printed by Veronica Carter, Randee Haven- O'Donnell seconded the motion. Accepted

Special ACP meeting- Accepted

Special October 5th meeting minutes- Motion to accept the agenda as printed by Veronica Carter, Randee Haven- O'Donnell seconded the motion. Accepted

ACP Subcommittee meeting- Accepted

New Business

Chairman Johnson explained that Board leadership had been working closely with DEQ staff over the past several months to clarify and enhance several items within the Charter and internal operating procedures. Ms. Mundt will review the amendments to both.

Ms. Mundt acknowledged that both documents had been provided to all board members prior to the meeting. She went on to highlight the following changes to each document:

The Charter:

- The number of members on the board was now 17 instead of 16;
- A designation for two vice chairs instead of one;
- Change in qualification for membership, noted that none of those changes impact those that are currently appointed to the board.
- Including the Agency's definition of environmental justice.

Ms. Mundt noted that Secretary Regan has adopted these changes with his signature and therefore represents the current charter as is. Opened the floor up for questions or comments.

No questions or comments were made

The Internal Operating Procedures:

- The Board is comprised of 17 voting members (pg 1);
- Clarification regarding Board officers- The Secretary will designate one member as the chair and two members as the vice-chairs. One vice-chair would be responsible for facilitating the boards internal communication while the second vice chair would be responsible for coordinating the work of the subcommittee's and serving as presiding officer in the wake of chair's absence.
- The Board meetings would be held on the fourth Monday of the months of quarterly meetings (to reflect a schedule change previously voted on);
- DEQ will write thank you letters on behalf of the Chair for public commentators within two weeks after a Board meeting;

- Amended the names of 3 subcommittees (and now 4 subcommittees). The names are; (1) Building Climate Resilient Communities; (2) Health, Cumulative Impacts, Environmental Regulation & Public Engagement; (3) Clean & Equitable Energy Transition; and (4) Economic Justice. Ms. Mundt then stated that the materials that the Board received the week prior from Ms. Renee Kramer should reflect the membership for the new subcommittees and further added that there was consideration/accommodations for each members' top two preferences.
- An additional document outlining the goals and objectives for each Subcommittee has been drafted, and that DEQ has been working with the Board leadership team to help work out the goals for the new subcommittees. Ms. Mundt stated that DEQ anticipate the goals will be finalized in the next couple of weeks.

Ms. Mundt concluded that all of these changes to the Operating Procedures are pending and that the Board must vote to adopt them. Opened the floor for questions or comments.

No questions or comments were made

Chairman Johnson entertained a motion from the Board to accept the amended Operating Procedures. All of the amended standard operation procedures were accepted.

Chairman Johnson then proceeded with new business and introduced Ricky Burnett, the Chair of the Commission of Indian Affairs.

Ricky Burnett, also known as Reverend Burnett, is the chair of Commission of Indian Affairs. Chairman Burnett stated that the Commission of Indian Affairs was created in 1971 and since then, it has worked diligently to deal fairly and effectively with issues concerning Native Americans in NC. The Commission is comprised of 30 members, who are appointed via various Native Tribes and Native organizations throughout the state. Chairman Burnett stated that there are three ways in which tribes are recognized or not recognized: Federal recognition, State recognition and No recognition (unrecognized). This important because with recognition tribes have their sovereignty. There are eight recognized tribes within the state of NC, and these tribes represent various counties and are responsible for membership appointment. The Commission of Indian Affairs promotes advocacy with workforce development, community development, supporting undergraduate Native students, section eight housing/rental assistance, welfare assistance and domestic violence and sexual assault, but have yet to receive any funding from environmental justice advocacy. Environmental issues have impacted Native communities in NC. Issues such as climate change, which have resulted in higher frequencies of storms and contributed to increased flooding, has also had an adverse impact on the soil conditions within Native communities, preventing them from successfully farming. Other environmental issues include hog farms and the impact on air quality within Native communities, and the water quality concerns from PFAS and the Chemours situation. Chairman Burnett closed by stating that there has been little representation of Native Americans in the state or federally within the environmental justice sector.

Chairman Johnson opened the floor for questions

Chairman Johnson moved to entertain a motion to accept the amended standard operating procedures

Randee O' Donnell motioned to accept.

Rodney Sadler seconded the motion.

All were in favor.

Chairman Johnson accepts the amended standard operating procedures.

Ms. Veronica Carter commented by stating that she too is impacted by Chemours and that there is currently a study being done by the state of NC headed by Dr. Jane Hopkins who is trying to make sure that she has significant representation of people of color within her study. Ms. Carter suggested that Chairman Burnett notify members of the Commission of Indian Affairs about this study so that they can participate. Ensured that she will provide contact information for Dr. Hopkins.

Chairman Burnett thanked Ms. Carter.

Ms. Randee Haven-O'Donnell asked the number of unrecognized tribes and what happens to them in terms of resources.

Chairman Burnett answered that he is not sure how many unrecognized tribes exist, but shared that within NC, there are eight recognized tribes and the funding that they receive comes from the state. Federally-recognized tribes get funding from the federal government, as of now the Lumbee Tribe is not federally-recognized tribe and is currently going through the process of becoming federally-recognized.

Chairman Johnson asked Chairman Burnett if he could comment on the trend of state funding of Native American tribes.

Chairman Burnett commented that currently funding is at a plateau, that additional funding would be beneficial to Native Americans. He noted that every time there are cuts, it adversely impacts tribes because they receive less funding. Chairman Burnett understands that there are current hardships but also stated that there needs to be more funding because the current amount is not covering what is needed to help Native communities.

Mr. Jeff Anstead commented by stating that one problem that he's noticed is that there is a failure for NC state legislation to recognize that Native Americans have sovereign government and that Native people should receive funding. Mr. Anstead continued to say that they are trying to replace Columbus Day with Indigenous People's Day and he closed his remarks by saying representatives from DEQ that regularly attend Commission of Indian Affairs meetings.

Chairman Johnson thanked Chairman Burnett.

Chairman Burnett thanked the Advisory Board.

Chairman Johnson moved on to the presentation of DEQ permit activity updates which included updates on two projects: Active Energy Power Facility and Piedmont Natural Gas Liquefaction Facility. The Chairman asked that DEQ presenters provide the background and updates about both projects and then opened the floor for Mike Abraczinskas' presentation, followed by a presentation by Brian Wrenn.

Michael Abraczinskas, Director of the Division of Air Quality: Introduction of Air Quality of Permitting and Review of Active Energy Power Facility

https://files.nc.gov/ncdeq/EJ/Basics_Air_Permitting_And_Active_Energy_112320_FINAL.pdf

Brian Wrenn, Director of the Division of Minerals, Energy, and Land Resources: Erosion and Sedimentation Control and Stormwater Programs and Robeson LNG.

<https://files.nc.gov/ncdeq/EJ/ErosionSedimentationControl-Robeson-112320.pdf>

Ms. Sherri White-Williamson asked Mr. Wrenn about the decision whether or not to hold a public hearing was based on the best interests of the public and also asked would it not be best for every community that may have environmental justice implications to have public hearings. Ms. White-Williamson then described one instance in which the public was not made aware of public meeting until later and were uninformed.

Mr. Abraczinskas stated they are still working on their processes.

Ms. White Williamson then followed up asking when a community is made aware of a pending permit and how can they do it.

Secretary Regan advised Mr. Abraczinskas that before he responded to Ms. White Williamson question that he should lay out the timeline of how the Department made the public aware of that specific hearing.

Mr. Abraczinskas responded that the Align biogas draft permit went through the necessary review process, along with intense outreach, implementing a number of measures to educate the community and identifying and ensuring information was provided to the sensitive receptors within the community. Mr. Abraczinskas noted that the Department also provided extra opportunities to get public comments outside of the ways in which public comments are typically obtained.

Ms. Kramer added they had a team meet with community organizations in order to solicit best ways to reach community members and noted that the Internal Translation Team provided translation services as well.

Ms. Carolina Fonseca Jimenez agreed with Ms. Kramer's recollection of the Department's activities and emphasized Spanish language translation actions.

Secretary Regan added that DEQ provided public notice for the meeting 30 days before it took place and noted that the EJ Team took extra steps to make sure that the community had been acclimated to the subject matter that would be discussed during the public hearings.

Ms. Carter referred back to the Active Energy permit process and noted that there were similar complaints about the permitting notifications with that project and added that there was mention of a saw mill. She was not sure if the saw mill was operating with or without a permit, and that was of great concern to her. She then asked Mr. Wrenn whether or not he would alert or call attention to any mishaps that other parts of DEQ if he witnessed it. This question segues to her final point regarding how to notify another part of DEQ if there is a problem with a certain operation. Ms. Carter concluded her comments by stating that despite the progress of EJ reports, she believes that DEQ should not hand out certain permits and should look into the fact that poorer/marginalized/EJ communities should not be dumping sites and should not have accept or endure the fact that sites within their communities will never get cleaned up.

Secretary Regan responded by stating that he agrees with Ms. Carter and that he and Chairman Johnson have surmised that in order for there to be long-term changes in the amount of consideration of cumulative impact that she mentioned, there needs to be legislative change. The Secretary noted that this is part of the Andrea Harris Task Force long terms goals.

Ms. Carter responded that she understands that there needs to be laws but, suggests that there can be creative solutions, brings up the Methyl Bromide situation, which resulted in rulemaking. So she further asked how exactly can communities be protected without there being a current law in existence.

Secretary Regan responded by explaining that what differentiates the Methyl Bromide situation from these permit situations - that in the Methyl Bromide example, DEQ has granted duties with EMC that has allowed them to pursue additional rulemaking. He noted that DEQ has significant legal constraints, for example there are laws that prevent NC from enacting rules that are stricter than the federal government. The Secretary concluded by stating that DEQ has to be careful in how creative it can be in rulemaking whilst following and acting within the law.

Mr. William Barber III stated that the question asking time period provided is not adequate and suggested that members work with Board leadership to submit questions directly to the presenters. Mr. Barber followed up with a question about the air quality permit and its relation to climate change and asked whether or not DEQ has considered carbon dioxide and carbon monoxide emissions and other greenhouse gas emissions. Mr. Barber further asked whether DEQ has considered whether to include deforestation, industrial logging and the wood pellet industry in the overall state greenhouse gas emission inventory.

Mr. Abraczinskas responded that for a facility like Active Energy, there are no regulatory requirements for public participation. Mr. Abraczinskas went on to state that there is not a climate lens or even a greenhouse gas lens in the regulatory process. He assured that this does not mean that DEQ is not interested, that DEQ is aware of concern, but from regulatory and permitting standpoint those lenses are available for review for this type of facility. Mr. Abraczinskas answered Ms. Carter's earlier question of whether or not DEQ notifies the other divisions if they see something wrong, and answered yes. He concluded his comments by answering Ms. White-Williamson's question in regards to Align Energy and stated that DEQ sent letters to one hundred addresses near the facility as a form of public outreach.

Chairman Johnson noted the time, and suggested that any additional questions be submitted to Ms. Kramer, so that she can forward them to Directors Abraczinskas and Wrenn.

Dr. Johnson asked for a motion to adjourn the meeting. A motion was made by Veronica Carter, Sherri White-Williamson seconded the motion. The meeting was adjourned at 4:55 pm.