



Meeting Minutes

Monday February 24, 2020

Rural Economic Development Center, Raleigh NC

The meeting was called to order by Dr. James Johnson at 1:10pm.

Board Members Present:

Jeff Anstead
Veronica Carter
Jamie Cole
Randee Haven-O'Donnell
Dr. James Johnson
Dr. Marian Johnson-Thompson
Carolina Fonseca Jimenez
Dr. Danelle Lobdell
Marilynn Marsh-Robinson
Dr. Susan Jakes
Naeema Muhammad
Joey Owle
Elke Weil
Carlos Velazquez

Board Members Absent:

William Barber, III
Rodney Sadler Jr.

Old Business:

A motion to approve the agenda for the day's meeting was moved by Veronica Carter and seconded by Marian Johnson-Thompson. Randee Haven-O'Donnell asked whether the answers to questions brought up in the internal operating procedure discussion from the last meeting would be answered. Dr. James Johnson responded that those questions could be answered during this meeting. A motion to approve to

previous meeting minutes was made by Randee Haven-O'Donnell and seconded by Marian Johnson-Thompson.

Cumulative Impact Subcommittee Updates- Northampton County Visit:

Jamie Cole, the chair of the Cumulative Impact subcommittee, provided updates on the recent visit by several Board members and DEQ staff to Northampton County. She began by thanking the hosts and attendees and emphasizing hers and the subcommittee's desire to continue these visits. Ms. Cole shared that in order to provide appropriate advice to the Secretary on cumulative impact, it is important to bring in community members, reach out to affected communities, and create effective partnerships. She also referred to the recommended next steps that were voted on at the last meeting ("NCDEQ staff should invite advocates to NCDEQ, DEQ should work with cumulative impacts subcommittee to conduct a workshop about the challenges and opportunities around cumulative impacts analysis, cumulative impacts subcommittee and the Board should accept invitations to visit and tour other communities").

The Northampton County visit was hosted by Ms. Belinda Joyner, a resident and community activist. While in Northampton County, attendees witnessed a number of facilities and environmental concerns, including: The Enviva Northampton facility, a coal ash fill site, natural gas infrastructure (prevalent ACP infrastructure), tree loss, CAFOs, and truck traffic. Northampton County is an EJ community, a Tier 1 County, and is majority minority. Attendees also visited Ms. Eleanor Moody's home, which is approximately .25 miles from the Enviva Northampton facility. Ms. Moody spoke to the attendees about impacts to her health and her property from the Enviva facility.

Dr. Marian Johnson-Thompson added that the group visited an air quality monitoring station and a DEQ staff member who was on site at the time answered questions about the monitoring station and data collection. Dr. Johnson-Thompson also explained that there is a school curriculum associated with the station. Naeema Muhammad added that Ms. Moody feared for an explosion or fire due to the proximity to the facility. Carolina Fonseca Jimenez reiterated thanks to the community members who lead the tour. Veronica Carter added that she believes many of the issues in EJ communities have to do with permitting. Naeema Muhammad questioned what the subcommittee wanted to achieve through the visits and whether it would make a meaningful impact in the permitting process. Jamie Cole responded that it is first and foremost about hearing from the community and learning from them to build relationships. Jeff Anstead suggested that county officials be included in the visits.

2020 Census Follow-up Discussion:

Dr. James Johnson began the census follow-up discussion by emphasizing the importance of the census for reapportionment and federal funding. He said that the Board needs to be engaged in census discussions in the community.

Naeema Muhammad suggested that churches and community colleges are a place to spread information about the census and that community colleges are a good place to advertise census-related employment. Elke Weil suggested creating a landing page that could be broadcast to all the various networks the Board members engage with. Susan Jakes suggested leaning on county offices, which can provide workshops and resources. Veronica Carter emphasized that all county and town meetings are public, and that a public comment during these meetings could be effective, she also suggested that

churches could be important for emphasizing the confidential nature of the census with undocumented communities. Carolina Fonseca Jimenez also suggested AMEXCAN as a potential partnership working with undocumented populations.

Dr. Marian Johnson-Thompson thanked everyone for their suggestions but questioned how these recommendations would be carried out. It was concluded that the EJ staff would distribute a poll to identify a time for a follow up phone call in the next week.

At 1:52, Dr. James Johnson departed. Dr. Marian Johnson-Thompson began acting role of chair.

New Business:

Introductions from New Board Members:

Elke Weil is a graduate from NCSU in the Department of Parks, Recreation & Tourism Management. She co-owns a garage door insulation company, is the vice-chair of the NC Hispanic Caucus, is a freelance journalist for Que Pasa media, and is the special advisor to the Mayor of Raleigh on Hispanic Issues.

Carlos Velazquez is a retired mechanical engineer and now currently works with environmental groups and universities on environmental issues. He has traveled around the globe, including to Antarctica.

Climate Risk Assessment and Resiliency Plan Development and Clean Energy Plan Updates, Renee Kramer:

Renee Kramer, DEQ Title VI and EJ Coordinator, gave a brief update on the Climate Risk Assessment and Resiliency Plan and the Clean Energy Plan. Of particular interest to the Board is the Equitable Access and Just Transition section of the Clean Energy Plan which includes several recommendations in which the Board could play a role. The Board has been invited to have representation in two stakeholder groups related to the execution of the Clean Energy Plan (Carbon and Clean Energy Policy Design stakeholder group and the Energy Process Initiative stakeholder group).

The NC Climate Risk Assessment and Resiliency Plan is an effort led by DEQ to provide a scientific assessment of current and projected climate impacts on North Carolina and prioritize effective resiliency strategies. The Board's Climate Change and Extreme Weather Resilience subcommittee provided significant input to Chapter 4 (Climate and Environmental Justice: Equity, Risk and Resilience in North Carolina), along with the NC Office of Recovery and Resiliency and the Title VI and Environmental Justice Program at DEQ.

DEQ Permitting Process, Sheila Holman:

Ms. Sheila Holman, DEQ Assistant Secretary for the Environment, gave a presentation on the basics of the DEQ permitting process. Ms. Holman stated that there are approximately 200 types of permits in 5 divisions. All permit applications must follow federal and state statutes and rules. The only reason DEQ may deny a permit is if the permit is, or would be, in violation of a statute or rule. DEQ has no authority over other decisions made at the local level for a potential site, such as land use or zoning.

In this presentation, Ms. Holman also answered questions posed by the EJE Board, including: the length of permit terms, whether an on-site visit is required, and how complaints are managed. In terms of the length of permits, they are usually valid for between 5-8 years, but some are permitted for a facility's lifetime. Before approval of a permit, there is an on-site visit for most permit types. Complaints will

typically come into one of DEQ's Regional Offices, and all efforts are made to investigate the complaint on the day it is made.

Ms. Holman emphasized that during this Administration there has been a focus on public participation and public notice. Public hearings are generally held to hear whether there is something that was overlooked in complying with the statutes and rules. Ms. Holman provided examples of how permitting works for two permit types—401 water quality certificates and Title V air quality permits. For example, for Title V, the public participation required is codified in the NC Administrative Code.

Ms. Holman explained that DEQ must be cognizant about overstepping the bounds of the agency's authority. "Ultra vires" refers to the legal principle that an authority can exercise only so much power as is conferred on it by law. For DEQ, this means that the agency cannot take actions in violation of the express language of its regulations.

Veronica Carter emphasized that unless there is a legal reason to deny a permit, DEQ can't deny it. Solid waste is the only permit type of permit that takes into account environmental justice, and activists were able to accomplish that by targeting the rules and laws, not specific permits or permit applications. Marian Johnson-Thompson noted that communities and individuals often believe that DEQ develops the rules and regulations, but many issues with permitting need to be addressed with legislative bodies and other entities.

Joey Owle questioned whether there has ever been an analysis of how public comments have played a role in issuing permits and how many permits go forward with overwhelming opposition. Ms. Holman responded that she didn't believe an analysis of that nature had taken place. She also added that the proposed fumigation facility led to drafting new rules, and sometimes communities in opposition can focus on lobbying for new laws and regulations.

Jamie Cole questioned how the Public Participation Plan can play a role in permitting. Ms. Holman responded that the PPP is about encouraging the Department to do a better job with community engagement and trying to answer community concerns and questions.

Veronica Carter asked for an update on the Community Mapping System, to which Renee Kramer responded that an update can be provided at the May Board meeting.

Announcements:

Dr. Marian Johnson-Thompson announced that a form letter will go out to people who make public comments starting at the next meeting (May 18), pending approval from the Board.

Randee Haven-O'Donnell questioned whether a brief summary of the topic that each person discusses during their comments could be added for letter's response.

Susan Jake made a motion to accept the letter, with the addition of the topic spoken on. Jamie Cole seconded. Motion carried.

Subcommittee Breakouts:

Cumulative Impacts:

Elke Weil joined the cumulative impacts sub-committee. Jamie Cole, speaking on behalf of the sub-committee reiterated the sub-committee's desires to continue to visit communities, and to move forward with the cumulative impact workshop that was voted on in the last meeting.

Clean Water and Air:

The Clean Water and Air sub-committee posed several questions to the Board. To begin, they were concerned about whether or not there was a system in place for updates from DEQ or the Secretary following official advice or recommendations from the Board. They also questioned whether the Moore County School District letter, which had approved by the Board at the last meeting, had ever gone out. They also asked when the updated Community Mapping System would be released.

In addition, they provided comments on the permitting process. They emphasized that while DEQ must give a permit if they can't find a legal reason not to, North Carolina, as a state, has not embraced federal discrimination laws in permitting. They argued that the Board owes it to the community and Secretary to show that there is a legal reason to deny a permit if it is discriminatory under Title VI. They, as a subcommittee, would like to help grow the legal basis and arguments to deny a permit based on discrimination.

Dr. Marian Johnson-Thompson asked for them to make a formal statement at the next Board meeting that could be provided to DEQ and the Secretary.

Veronica Carter made a motion to send the Moore County School District letter to the inquiring parties, seconded by Joey Owle. Motion carried.

Extreme Weather Resiliency and Clean and Equitable Transition:

The Extreme Weather Resiliency and Clean and Equitable Transition subcommittees merged and welcomed Carlos Velazquez to the sub-committee. The subcommittee chairs shared that they had seen and commented on the Climate Justice Chapter for the statewide Risk and Resiliency Plan. They also asked about their ability to meet with NCORR and other stakeholders in the EO80 process.

The sub-committee asked whether the Board should develop a strategy to invite broader perspectives at the Board meetings, such as those from the Department of Administration and Department of Transportation.

A Motion to adjourn the Board meeting was made by Jeff Anstead. Seconded by Jamie Cole. Adjourned at 4:01pm.

Public Comments:

Kendall Hale is a resident of Asheville and a climate change activist who attended a renewable natural gas workshop at the Biltmore on renewable natural gas that was sponsored by energy companies. Following this workshop and a number of articles, she grew suspicious of using biogas from hog farms as a renewable energy source and urged DEQ to investigate the issue.

Steven Norris distributed maps from Dominion Energy that display the ACP extending beyond North Carolina and argued that, because of this, the ACP will not stimulate the North Carolina economy as it has been described. Mr. Norris argued that the 401 and FERC permits were given under false pretenses

and should be re-evaluated. He argued that North Carolina's EO80 will be meaningless if the ACP is built.

Lib Hutchby argued that there needs to be greater accountability for Board actions and referred specifically to the outcome of the statement/letter of concern from the previous meeting. Following up on Jamie Cole's presentation on cumulative impact, she spoke about concern for Northampton County being a news desert

Danielle Purifoy from NC Environmental Justice Network provided comments on the settlement agreement. Since the settlement agreement was executed under Title VI, she stated that the complainants have been trying to get DEQ to provide an answer on how they deny permits based on discrimination in its practices. She also questioned the timeline of the settlement asking when the CMS would be updated, when the review of activities will be released, when the point system will be finalized, and when the new versions of the PPP and LEP would be posted.

Cathy Buckley works with Climate Reality and EDF. She urged the Board and everyone in attendance to share with their networks that Climate Reality Training is coming to Raleigh this summer and everyone who can should attend.

Will Hendrick with the Waterkeeper Alliance argued that the Board needs to take action to address environmental injustice surrounding CAFOs. He emphasized the ability of the Board to address any comments made during the comment period for CAFO permitting and argued that the board was formed specifically in response to CAFO issues, and that they should focus more on CAFO issues in the future.

Jeff Currie spoke about the cumulative water impacts evident in the Lumber River watershed. He emphasized the importance of public meetings and argued that division directors should require a public meeting for new permits or facilities in communities where there are cumulative impacts