

DELAWARE CENTER FOR THE INLAND BAYS

BOARD OF DIRECTORS' MEETING

Meeting Minutes

Delaware Center for the Inland Bays Office
Rehoboth Beach, Delaware

June 18, 2010

IN ATTENDANCE:

Board Members Present	Chris Bason
Rick Eakle (<i>Chair</i>)	Sally Boswell
Dr. Bill McGowan (<i>Vice Chair</i>)	Eric Buehl
Ron Wuslich, CAC Chair (<i>Secretary</i>)	E.J. Chalabala
David Baker, County Administrator	Jenn Jones
Joanne Cabry	Loretta Smith
Dr. Bill Ullman, STAC Chair	Beau Croll, Intern
Board Members Absent	Public Audience
Ed Kee, DDA Secretary	Bennett Anderson, DNREC
Collin O'Mara, DNREC Secretary	Ellen Malenfant, DNREC
Dell Tush, SCAT (<i>Treasurer</i>)	Lawrence Lank, Sussex County
Board Alternates Present	Paul Driscoll, URDC
Dr. Kathy Bunting-Howarth	John Austin
Austin Short, DDA Deputy Secretary	Henry Evans
EPA Representatives (Ex-officio)	Leah Hoenen
Susan McDowell	Carl Mantegna
Center for the Inland Bays Staff	Molly Murray
Ed Lewandowski, Executive Director	

Summary of Motions

1. Motion to accept the minutes by Cabry; seconded by Ullman; passed unanimously.
2. Motion to accept the Treasurer's report by McGowan; seconded by Wuslich; passed unanimously.
3. Motion to enter Executive Session to discuss personnel matters by McGowan; seconded by Bunting-Howarth; passed unanimously.
4. Motion to create a Deputy Director position by McGowan; seconded by Ullman; passed unanimously.
5. Motion to approve the Fiscal Year 2011 budget by Cabry; seconded by Wuslich; passed unanimously.
6. Motion to approve the CAC applications for Alesi, Ford, Grahne, Spence, and Zak by Cabry; seconded by Bunting-Howarth; passed unanimously.
7. Motion to adjourn the meeting by McGowan; seconded by Wuslich; passed unanimously.

Action Items Assigned by the Chair

No action items assigned by the Chair.

MINUTES:

Call to Order/Welcome

Chairman Rick Eakle called the meeting to order at 9:03 a.m. and welcomed those in attendance. Meeting participants were asked to join in reciting the Pledge of Allegiance.

Secretary's Report/Approval of Minutes

Ron Wuslich gave the Secretary's Report. Being no corrections, Joanne Cabry moved to accept the March 19, 2010 Board meeting minutes as presented. Dr. Bill Ullman seconded the motion. The motion passed unanimously.

Treasurer's Report

Dr. Bill McGowan gave the Treasurer's report. Being no questions, Bill McGowan moved to accept the Treasurer's report as presented. Ron Wuslich seconded the motion. The motion passed unanimously.

Executive Session

At 9:06 a.m., Chairman Rick Eakle asked for a motion for the Board plus the Executive Director to enter Executive Session for the purposes of discussing personnel matters. Bill McGowan motioned for the Executive Session and Kathy Bunting-Howarth seconded. The motion passed unanimously.

The Chair reconvened the Board meeting and Dr. Bill McGowan motioned for the creation of a Deputy Director position. The motion was seconded by Dr. Bill Ullman. The motion passed unanimously. Rick Eakle announced that Chris Bason would fill the newly created position.

Update on State Funding

Joanne Cabry mentioned that "pass-thru" funding may be reinstated by the Joint Finance Committee. She will be talking to local legislators later today and will let Ed know if anything changes.

Fiscal Year 2011 Budget

Being no discussion on the proposed Fiscal Year 2011 budget, Joanne Cabry motioned for approval of the Fiscal Year 2011 Budget as submitted. Ron Wuslich seconded the motion. The motion passed unanimously.

Ed Lewandowski advised that there may need to be a proxy vote by Board members between meetings if changes to the budget are needed to meet EPA guidelines. He said that any changes would be acted upon by the full Board.

COMMITTEE REPORTS:

CAC Report

Citizens' Advisory Committee (CAC): Ron Wuslich reported that Ed Lewandowski gave a presentation on the Strategic Planning Committee at the April CAC meeting. He noted that the new STAC Chair, Dr. Ullman, was present and introduced himself to the CAC, which was followed by CAC member John Austin's presentation on arsenic in the Inland Bays. Ron then gave the Board an overview of the CAC Outreach Committee's presentation as well as a review of the number of individuals and groups that have seen the presentation. He said the goal is to reach 1,000 people in the watershed.

STAC Report

Scientific & Technical Advisory Committee (STAC): Dr. Bill Ullman introduced himself as the new STAC Chair and provided the STAC report. He also introduced the new STAC Vice-chair, Judy Denver. Dr.

Ullman said he works at the University of Delaware College of Earth, Ocean, and Environment, that he previously served as STAC Chair many years ago, and that his interests relate to nutrients and Inland Bays' issues. Judy Denver said she works for the U.S. Geological Survey and her interests are also in nutrients and water quality issues in the Inland Bays. Dr. Ullman spoke about his goals for STAC for the coming year and stated that STAC will be responding to the CAC's request to look into the arsenic issue.

Executive Committee Report

Executive Committee: Rick Eakle gave the Executive Committee report. Regarding the by-laws, it is recommended to abandon the Nominating Committee and have "open floor" nominations. The Board will be presented with future by-law changes. Rick then read the last paragraph of the Board "Statement on the CIB's Comments Concerning the Wandendale Wastewater Coastal Zone Act Permit Application" commending Ed and Chris for their efforts. Ron Wuslich stated that that CAC will engage the STAC and the Board if the Coastal Zone Application for Wandendale is approved.

Rick stated that there are currently five applications for membership for four vacant seats on the CAC and the Executive Committee recommends approval by the full Board. The applicants include Carl Alesi, Thomas Ford, Mark Grahne, Randy Spence, and William Zak. Since Spence's application was received last, he will not be seated on the CAC until the next available vacancy. Joanne Cabry motioned to accept the five CAC applications. Kathy Bunting-Howarth seconded the motion. The motion passed unanimously.

Water Use Plan Implementation Committee Report

Water Use Plan Implementation Committee (WUPIC): Ed Lewandowski gave the WUPIC report. Ed updated the Board on WUPIC's efforts to date to identify and mark a navigable channel east of Massey's Ditch to help alleviate boat traffic congestion. He also updated those present about the upcoming 6th annual Inland Bays Cleanup.

Board Updates

Sussex County: David Baker gave the County report and stated that the County was using Clean Water Advisory Council (CWAC) stimulus funds on the Angola, Oak Orchard, and Johnson Corner wastewater projects. Next year, the County plans to expand the capacity at the Inland Bays Wastewater Treatment Plant from 1.4 to 2 million gallons per day. He also encouraged support for \$2 million in the Bond Bill for the CWAC. Mr. Baker also pointed out that there will be a public hearing on the County's budget this coming Tuesday.

There were questions about how many septic systems had been eliminated by the County's sewer work and funding for those who cannot afford to upgrade their systems. Neither the County nor DNREC had information on-hand about the number of systems removed, but they did describe funding options available to complete system upgrades. There was an additional question about the timing of septic inspections. It was noted that it generally occurs when the property is sold.

Delaware Department of Natural Resources and Environmental Control (DNREC): Division Director Dr. Kathy Bunting-Howarth gave the DNREC report. She reported that regulatory updates were underway, including revisions to the on-site system regulations and that the Sediment and Stormwater regulation updates should be completed by the end of the year. She said a major focus of the Department is currently the Chesapeake Bay and watershed implementation plans. She also reported that DNREC is working with the Delaware Department of Agriculture on the Confined Animal Feeding Operation (CAFO) regulations and that as part of a pilot project, two farmers in the Middletown area are accepting

wastewater for crop irrigation based on legislation passed last year that allows this practice. She noted that regulations may have to be adjusted to make this a standard procedure.

Ron Wuslich asked Kathy Bunting-Howarth to respond to several questions that he emailed to DNREC Secretary O'Mara prior to the meeting on behalf of the CAC. Kathy noted that prior to responding to Ron's questions, she could only read the responses provided and would not be able to answer any further questions on behalf of other DNREC programs. Question 1 was related to the Board of Directors' request of DNREC regarding once-through cooling negotiations: Bunting-Howarth said that an announcement was made at the public hearing that Unit 3 was to be closed, so there is no reason to install a cooling tower. DNREC is working on an amendment to the permit which would result in a 95% reduction in water intake. NRG responded last week to the draft permit and negotiations are on-going. DNREC expects to complete the NRG permit in next few months.

Question 2 was related to the Board of Directors' coal ash mitigation resolution: Bunting-Howarth said that the Site Investigation and Restoration Branch (SIRB) of Air and Waste Management stated that DNREC has been overseeing an investigation of the Burton Island landfill (shoreline and sediment impacts) since 2006. A final plan for remedial action was approved by DNREC in 2008 and NRG was ordered to perform remedial action to stabilize the shoreline in 2009. In 2010, NRG provided a work plan to perform a remedial investigation of the landfill itself, including groundwater evaluation. NRG is expected to initiate this phase in the coming weeks. SIRB agrees that the Burton Island site is a priority, since erosion hazard was the main concern because it was the largest pathway for contamination to enter the Inland Bays. DNREC has contacted an outside consulting firm (Louis Berger Group) to conduct an ecological risk assessment and natural resources damage assessment. It was felt that changing the remedial process at this point in time is believed to be "detrimental" to the outcome that SIRB hopes to achieve. Bunting-Howarth noted that Director of Air & Waste Management (Marjorie Crofts) is willing to visit CIB and provide a presentation to the CAC on coal ash management in Delaware.

Joanne Cabry asked for clarification about DNREC's decision-making processes in this matter. Dr. Ullman inquired whether associates from Louis Berger might appear before the Scientific & Technical Advisory Committee to explain NRG's work. Rick Eakle and Ron Wuslich discussed the intent of the Board resolution concerning an "independent" team of scientists. Joanne Cabry asked about the qualifications of Louis Berger. Ron Wuslich reasserted the position that an independent study was necessary to address the NRG remediation issues. Ron then distributed his "Discounted Cash Flow" spreadsheet related to the installation of a slurry wall at the NRG plant. The end result was that he felt that there was no incentive for NRG to perform any mitigation.

Question 3 related to the outcome of the hearing on Air & Waste Management regulation 6.1.3.8: Dr. Bunting-Howarth commented that the hearing officer recommended no changes and the language remains in the regulation.

Dr. Bunting-Howarth continued the DNREC report by noting that there will be a public hearing on July 13/14 at Delaware Technical and Community College regarding the U.S. Army Corps of Engineers' efforts to dredge the Delaware Bay. She also reported that the Clean Water State Revolving Fund (SRF) was able to approve new projects due to U.S. Department of Agriculture stimulus funds and a new financial model that DNREC was using. The SRF projects include green projects such as stormwater retrofits, some of which are located in the Inland Bays.

Delaware Department of Agriculture (DDA): Deputy Secretary Austin Short gave the DDA report. He gave an update on the CAFO regulations and noted that they were getting farmers' input and said there will be a public hearing on July 21. He said that the hiring process is underway to find a replacement for Bill Rohrer, who recently left the Nutrient Management Program and that the Department is also looking for a new State Forester. Austin Short commented on the Agricultural Lands Preservation Program's recent round of easement purchases and referenced the new partnership between DDA and DNREC that utilizes Clean Water SRF funds to help municipalities increase the amount of forested lands.

Sussex Conservation District (SCD): Dr. Bill McGowan gave the District report. He reported that the requests for Pre-sidedress Nitrogen Tests (PSNT) this year have doubled. He noted that due to the late application of manure this spring, recommendations on the application of additional nitrogen are generally lower.

Environmental Protection Agency (EPA): Susan McDowell gave the EPA report. She distributed a fact sheet on coal combustion residual. She said she was waiting for the Center's 2011 work plan and that the budget has been increased to \$800,000, with an additional \$40,000 allocated to Region III to support the Center for the Inland Bays' and Maryland Coastal Bays Program's exhibit project at the National Aquarium. She pointed out that the funding guidance was received late, but that it clarified the use of Section 320 funds for conferences and workshops as well as land purchases. She said to use the 2007 Program Evaluation for guidance on public involvement and participation and that the amendment to Section 320 of the Clean Water Act may increase the workload and oversight and might result in competition for grant funds. Susan McDowell also provided an update on the Rain Garden Campaign, which involves EPA Region III, the Maryland Coastal Bays Program, the Partnership for the Delaware Estuary, DNREC, and the Center. She anticipates a fall kick-off with a goal of 1,000 rain gardens on the landscape and that they are currently working on marketing materials and a website as well as demonstration projects.

New Business

Sussex County Comprehensive Plan/Ordinances Update

Dave Baker, County Administrator, was joined by Lawrence Lank, County Director of Planning and Zoning, and Paul Driscoll, URDC, the County's consultant on the current land use plan update. Paul reviewed a list of 23 recommended ordinances that related to well-head protection, forested buffers, permissible open space, community design standards, and the like, all of which have been approved by the Sussex County Council since the plan was adopted in 2008. He focused on the ES-1 Environmentally Sensitive Overlay District and the two recommendations currently before the Council. The first is a maximum impervious surface recommendation and the second is an incentive for "Leadership in Energy and Environmental Design" (LEED) homes. He said the County Attorney is currently drafting these recommendations into ordinance form for consideration by the Council. There was a question about whether the County would adopt a new Transfer of Development Rights (TDR) ordinance. Paul said it was doubtful that the County would adopt a new TDR ordinance beyond what it currently has, which includes a density bonus and increased open space.

Delaware Oil Spill Response/Preparedness

Bennett Anderson from the DNREC Division of Water Resources and Ellen Malenfant from the DNREC Division of Air and Waste Management gave a presentation on the Gulf of Mexico's oil spill and its potential impact to Delaware waters. They also covered how Delaware responds to oil spills and discussed the local command structure and the role of various state, federal, and local partners.

Old Business

There was no old business brought before the Board.

Open Forum

Chairman Eakle noted that there were two questions from the public for DNREC and that they would be entered into the minutes:

“Will ambient water quality testing for arsenic and selenium be resumed in the Inland Bays? If so, at what frequency and locations?”

“A recent study shows wide spread contamination by pharmaceuticals. What should be the minimum separation distances between wastewater disposal sites or septic systems and well heads, baywaters and wetlands. How will DNREC assure implementation of such minimums?”

Adjournment

At 11:43 a.m., Dr. Bill McGowan moved to adjourn the meeting. Ron Wuslich seconded the motion. The motion passed unanimously.

Respectfully submitted,

Ron Wuslich, Secretary
RW/eb