

CENTER FOR THE INLAND BAYS

BOARD OF DIRECTORS

DRAFT Meeting Minutes

Offices of the CIB
Indian River Inlet, Delaware
December 18, 2009

IN ATTENDANCE:

Board Members Present	Center for the Inland Bays Staff
Rick Eakle (<i>Chair</i>)	Ed Lewandowski
Dr. Bill McGowan (<i>Vice-chair</i>)	Loretta Smith
Dell Tush (<i>Treasurer</i>)	Eric Buehl
Ron Wuslich (<i>Secretary</i>)	Jenn Jones
Secretary Collin O'Mara (DNREC)	Sally Boswell
Secretary Ed Kee (DDA)	Chris Bason
Joanne Cabry	E.J. Chalabala
Dr. Sergio Huerta (STAC)	
Board Alternates Present	Public
Hal Godwin (Sussex County)	Bob Gallagher
	Pete Keenan
Board Members Absent	Bill Zak
Dave Baker (County Administrator)	John Austin
	Robert Adams
EPA Representatives	Steve Callanen
Ed Ambrogio	Leah Hoenen
	Harry Haon

Summary of Motions

- Motion by Dr. Bill McGowan to enter executive session to discuss personnel issues; seconded by Secretary Ed Kee; motion by Mrs. Cabry to amend to allow her statement to be read prior to entering executive session; no second; original motion passed by voice vote (5 yeas; 3 nays).
- Motion to accept the Secretary's report by Joanne Cabry; seconded by Secretary Ed Kee; passed unanimously.
- Motion by Joanne Cabry to accept the Treasurer's report; seconded by Dr. Bill McGowan; passed unanimously.
- Motion by Joanne Cabry to direct the Chair to rescind the proposed Diversity Plan that was presented at the Citizens' Advisory Committee meeting; seconded by Ron Wuslich; motion withdrawn by Joanne Cabry.

- Motion to adjourn made by Dell Tush; seconded by Joanne Cabry.

Action Items

MINUTES:

Call to Order/Welcome

Chairman Rick Eakle called the meeting to order at 1:02 p.m. and welcomed those in attendance. The Chair asked the attendees to stand to honor the flag by reciting the Pledge of Allegiance. He also reviewed the procedures for considering public input during the Open Forum period on the agenda, time permitting

Agenda

The Chair announced that a copy of the CAC Diversity Plan had been included in the Board package to support the agenda item. Dr. McGowan suggested that this item directly related to a personnel issue and he moved to enter into executive session to discuss personnel. Mrs. Cabry asked for more information concerning the personnel issue before agreeing to enter executive session. Sec. Kee seconded the motion to facilitate discussion on this matter. Dr. McGowan reiterated his request to enter executive session to discuss a matter of personnel that directly related to the diversity issue. Mrs. Cabry requested an opportunity to read a statement prior to entering executive session. Dr. Bunting-Howarth asked the Chair for clarification whether the personnel issue was related to an agenda item. Mrs. Cabry again asked to go on record regarding her views. The Chair indicated her request was out-of-order because the Citizens' Advisory Committee Diversity Plan had not been brought before the Board yet and he suggested it should be removed from the agenda because the plan was prematurely presented at a Citizens' Advisory Committee meeting. Mrs. Cabry stated that her request is not specifically related to the Diversity Plan. The Chair called the question to enter executive session; motion adopted: 5 yeas and 3 nays. Sec. O'Mara said he saw no reason not to have Mrs. Cabry's statement read first. Mrs. Cabry moved to amend the motion to allow her statement to be read before entering executive session. The Chair responded that a vote on the motion had already been taken and asked for a hand-count to validate the voice vote (Eakle, yea; McGowan, yea; Wuslich, nay; Tush, yea; O'Mara, nay; Kee, yea; Cabry, nay; Huerta; yea; Godwin, yea). Mr. Eakle instructed the staff and public to leave the room.

Chair Eakle called the meeting back to order at 1:45 p.m. and stated that no action concerning personnel was recommended during executive session and asked for continuation of the agenda.

Ron Wuslich provided the Secretary's report. He asked for a motion to approve the minutes of the September Board meeting as presented. Joanne Cabry moved to accept the minutes, which was seconded by Sec. Kee. The motion passed unanimously.

Treasurer's Report

Dell Tush gave a detailed Treasurer's report. She provided a summary of the FY2010 operating income and expenses. Mrs. Tush asked if the Board had any questions pertaining to the budget summary. Rick Eakle asked for a motion to accept the Treasurer's report as submitted. Joanne Cabry moved to accept the report, which was seconded by Dr. McGowan. The motion passed unanimously.

Committee Reports

Citizens Advisory Committee

Prior to the report from the CAC Chair, Joanne Cabry asked to read her prepared statement (enclosed) and requested that it be recognized in the meeting record. The statement questioned the authority of the Executive Committee. Following her statement, discussion ensued. Dr. Huerta suggested that a Diversity Plan should be developed by the CAC in coordination with the Executive Director. The Chair responded to Mrs. Cabry's statement and contended that he did not introduce the Diversity Plan to the CAC, but rather, a member of the Citizens' Advisory Committee initiated that action. Mr. Eakle also referred to the CIB By-laws, which describe the process by which committees are expected and empowered to make recommendations to the Executive Committee and thence to the Board. Mrs. Cabry contended that the Executive Committee has no decision-making authority; the only three standing committees of the CIB are the Finance Committee, Scientific & Technical Advisory Committee and Citizens' Advisory Committee. The Chair agreed that the Executive Committee has no decision-making power and stated that the job of the Executive Committee is to review and complete work for the Board in preparation for its meetings. He also suggested that the intent of the Executive Committee concerning the Diversity Plan was to assist the Citizens' Advisory Committee with formulation of the Plan. Chair Eakle also stated that the Executive Committee has the authority to prepare items for consideration by the Board of Directors.

Mrs. Cabry referred to the June 20 Board meeting minutes in which she believed that the Executive Committee made a decision concerning the Citizens' Advisory Committee applicants. The Chair reiterated his understanding about the role of the Executive Committee in preparing actions for consideration by the Board. Dr. McGowan asked Mrs. Cabry to clarify whether she would prefer that the Board discuss all items without being screened by the Executive Committee to which she responded affirmatively.

Mrs. Cabry made a motion that directed the Chair to rescind the proposed Diversity Plan that was presented at the recent Citizens' Advisory Committee meeting; seconded by Ron Wuslich. Upon discussion, she withdrew her motion in advance of Mr. Wuslich's report on the Citizens' Advisory Committee.

Ron Wuslich provided the Citizens' Advisory Committee report that described progress on the development and delivery of the *Our Inland Bays* outreach presentation and recognized the efforts of Doug Parham and the Executive Director in preparing the presentation. He reported on the recent presentations at the Citizens' Advisory Committee meetings. Mr. Wuslich also reported that the CAC voted 17-1 to reject the

Diversity Plan proposed by the Executive Committee and described the efforts of the Citizens' Advisory Committee to recruit a more diverse membership. He stated that he read the CAC's By-laws and expressed that the CAC generally felt that the Executive Committee's Diversity Plan could impose restrictions on who could participate on the CAC as well as what issues could be brought for consideration. Mr. Wuslich also mentioned the content of a letter that he received from the Chair concerning the CAC's possible violation of the FOIA law.

Discussion ensued on the report. Joanne Cabry commented on the lengthy discussion by the CAC membership concerning the Executive Committee's proposed Diversity Plan. She stated that she feels there is an adversarial relationship between members of the Citizens' Advisory Committee and the Executive Committee. Joanne asked the Executive Committee to acknowledge that it had overstepped its bounds.

Dr. Bill McGowan responded that he felt quite comfortable with the actions of the Executive Committee. He stated that the Executive Committee meetings are open meetings. Mrs. Cabry said that she had no knowledge of the Executive Committee meetings. The Chair said he felt that Mrs. Cabry was attacking the Executive Committee. He also suggested that although the Executive Committee could have done a better job communicating, there was no attempt made to withhold information from the Citizens' Advisory Committee. Chair Eakle then pointed out a Citizens' Advisory Committee action that he believed was inconsistent with the Board's policies. Mr. Wuslich described his consultation with the Executive Director in that instance, and it was agreed that the CAC could undertake such action as long as it wasn't externalized outside the CAC. The Chair stated that a fix is needed to improve communication between the CIB's committees and that the constant in-fighting had to end.

Mr Wuslich felt that such improvements would require teamwork, but the impression he had is that the CAC is always accused of being the guilty party. The Chair acknowledged that the Diversity Plan process could have been handled better, but to contend that associated actions were illegal is incorrect.

To illustrate that the adversarial relationship is also the result of the Chair's behavior, Mr. Wuslich conveyed an occasion when Mr. Eakle contended that Mr. Wuslich had embarrassed the Board of Directors.

Joanne Cabry stated that she resented that her actions were characterized as "attacking the Executive Committee." Rather, she thought she was attempting to address these issues legally within the Center's By-laws. She disputed the Executive Committee's decision to defer certain Citizens' Advisory Committee applicants.

Secretary Kee alluded to Title 7 of Delaware Code, which established the CIB's framework and inquired if there has been any formal action in the past to delegate authorities to the Executive Committee. The Chair responded that the role of the Executive Committee is established in the By-laws.

Secretary O'Mara suggested that discussion about the role of the Executive Committee was not on the agenda and the issue should be deferred. He also suggested that it might be necessary to get a legal determination about the role of the Executive Committee. In addition, Sec. O'Mara expressed the importance of the Citizens' Advisory Committee in engaging broader stakeholder interests, but acknowledged the need for diverse representation. He also stated that there are more important issues that the Board should be addressing and it was time to move forward as a Board.

Dr. McGowan felt that he needed to step back from the conflict and suggested that a third party or special committee should be engaged to examine the role of the standing committees of the CIB. He recommended that the examining committee might be composed of individuals that were historically involved with the CIB.

Joanne Cabry responded that she preferred that current members of the Board, Citizens' Advisory Committee and Scientific & Technical Advisory Committee should work to solve the problem. Bill McGowan expressed his frustration concerning his involvement in such a process for the past year without any apparent success. The Chair stated that there are some members of the Board who do not have the time to invest in such a process and that's why the recommendation for outside review might be appropriate.

Dell Tush added that she felt having someone with a historical understanding of the CIB is important if we are to move forward.

Senator George Bunting expressed his concerns that there were two cabinet secretaries in attendance and that there were a myriad of problems in the State that needed their attention. He also suggested that the risk of the current CIB conflict is that organizational funding may be cut if the problem is not resolved.

Joanne Cabry asked for clarification about the suggested next steps. Dr. McGowan asked if time would be allotted at the upcoming Board retreat to deal with the conflict. Ed Lewandowski responded that the draft agenda does include sufficient time to address these issues.

Scientific & Technical Advisory Committee

Dr. Huerta gave the STAC update. He reported on the proceedings of the 4 DEC meeting of the Scientific & Technical Advisory Committee. Presentations from that meeting have been posted on the CIB's web site. Dr. Huerta announced that he has appointed a nominating committee to identify candidates for the election of Presiding Officers (Chair & Vice-chair) of the Scientific & Technical Advisory Committee. It is anticipated that a slate of candidates will be presented to the Board for endorsement at its March meeting per the guidelines of the Scientific & Technical Advisory Committee. The next Scientific & Technical Advisory Committee meeting is scheduled for 26 MAR 2010.

Executive Committee

The Chair stated that the CAC Diversity Plan was the only issue for discussion and he suggested that it be taken off the table following the actions that had been taken.

The recent cancellation of a meeting with an official from the Chesapeake Bay Foundation was introduced by Joanne Cabry. She felt that this was troublesome and the meeting should have been permitted. The Chair responded that the meeting was cancelled because it was not scheduled in coordination with the Executive Director per CIB's By-laws nor did it provide the required public meeting notice. Mrs. Cabry took exception to the tone of the Chair's letter and felt it was another example of the adversarial relationship between the Board and the Citizens' Advisory Committee.

Secretary O'Mara suggested that establishing a policy for informal meetings might be necessary.

Sussex County

Hal Godwin offered no report on behalf of the County.

Department of Natural Resources & Environmental Control

Secretary Collin O'mara provided the report. He commented on the coastal impacts from the recent storm, his Department's efforts to coordinate with the County and the federal delegation to address problems on the ocean beaches, the NPDES permit for the Indian River Generating Station, and the Burton's Island Coal Ash Landfill. He also stated that the agency has reached out to counterparts in other states on how to deal with coal ash and has made contact with the EPA and the University on how to conduct research on the issue. He reported that EPA does not have consensus on how to deal with the issue of coal ash waste classification.

Ron Wuslich related a conversation he had with a friend on how the impacts of pollution of air and water are being minimized through innovative approaches in other States and suggested more innovation can occur in Delaware.

Ed Lewandowski mentioned the Science & Technical Coordinator, Chris Bason, met with the DNREC Site Investigation and Restoration Branch to address the previous BOD action item on the Burton's Island Landfill.

Department of Agriculture

Secretary Ed Kee provided the report. He offered to solicit the agricultural community for active representation to the CAC. Sec. Kee stated his commitment to assist in moving past the adversarial relationship. He remarked that in 10 years time, technology will have made great advances in how crops can be grown with less fertilizers.

Sergio Huerta remarked that the STAC is exploring new ways to measure dissolved oxygen and other technologies to measure water quality parameters.

Sussex Conservation District

Dr. Bill McGowan delivered the report. Approximately 11,000 acres were planted in cover crops last year. The District runs a small equipment operation that is used for drainage improvements. The district also conducts formal preliminary meetings with

representatives of development projects. The district has been overwhelmed with calls concerning the above average precipitation and flooding.

Sussex County Association of Towns

Dell Tush had nothing to report.

EPA

Ed Ambrogio provided the report. He related that Sean Garvin is the new EPA Region III administrator. Mr. Ambrogio said that the Chesapeake Bay Executive Order is driving the non point source program in the EPA now.

Senator George Bunting commented that Dr. Kreitzer at Sussex Tech is running a training program for weatherization. He remarked that energy conservation creates jobs. He recounted the history of Delaware's fisheries and remarked that farmers are scared about potential new regulations.

Delaware House of Representatives Report

Joanne Cabry provide a summary of environmentally important legislation that was passed by the House. She remarked it was a good year for the environment in the House.

Delaware Senate

Rick Eakle reported that the Senate continues to focus on the budget situation.

Wetland Condition Presentation

Amy Jacobs made the presentation and distributed the Inland Bays wetland health report card publication.

Secretary O'mara said that economics should drive the process of managing wetlands because the alternatives for replacing the services are ridiculously expensive while the costs of protecting them are cents on the dollar.

Open Forum

No public requests submitted.

Dr. Huerta acknowledged the work of Chris Bason, Dr. Kent Price, and Dr. Doug Miller to advance the environmental indicators work.

Adjournment

The Chair asked for a motion to adjourn. Dell Tush moved for adjournment, which was seconded by Joanne Cabry

Respectfully submitted,

Ron Wuslich, Secretary
RW/cb & el