

DELAWARE CENTER FOR THE INLAND BAYS
BOARD OF DIRECTORS' MEETING

DRAFT Meeting Minutes

Delaware Center for the Inland Bays Office
 Rehoboth Beach, Delaware

March 13, 2009

IN ATTENDANCE:

Board Members Present	Center for the Inland Bays Staff
Rick Eakle (<i>Chair</i>)	Ed Lewandowski, Executive Director
Dr. Bill McGowan (<i>Treasurer</i>)	Dennis Bartow
Carol Bason, CAC (<i>Acting Secretary</i>)	Sally Boswell
David Baker, County Administrator	Eric Buehl
Joanne Cabry	E.J. Chalabala
Dr. Sergio Huerta, STAC	Jenn Jones
Secretary Ed Kee	Loretta Smith
Acting Secretary David Small	Public Audience
Dell Tush, SCAT	Joan Deaver
Board Members Absent	Leah Hoenen
Ron Wuslich, CAC Chair	Pete Keenan
Board Alternates Present	Martha Keller
None	Paul Sample
EPA Representatives (Ex-officio)	Michael Short
Amie Howell	Bill Zak

Summary of Motions

1. Motion to accept the minutes by Tush; seconded by Huerta; passed unanimously.
2. Motion to accept the Treasurer's report by McGowan; seconded by Tush; passed unanimously.
3. Motion to nominate McGowan as Vice-Chair by Kee; the motion passed by acclamation.
4. Motion to nominate Tush as Treasurer by McGowan; the motion passed by acclamation.
5. Motion to enter Executive Session to discuss pending litigation by Tush; seconded by McGowan; passed unanimously.
6. Motion to adopt CIB position statement on the County's lawsuit against DNREC regarding the Pollution Control Strategy by McGowan; seconded by Kee; passed with two abstentions.
7. Motion to adjourn the meeting by Tush; seconded by Huerta; passed unanimously.

Action Items Assigned by the Chair

1. Executive Director asked to contact the three Citizens' Advisory Committee applicants to notify them about the status of their applications

MINUTES:

Call to Order/Welcome

Chairman Rick Eakle called the meeting to order at 9:32 a.m. and welcomed those in attendance. Meeting participants were asked to join in reciting the Pledge of Allegiance. Rick Eakle reported that the Center had received its audited financial statement and there are no findings to report. He acknowledged the efforts of the CIB's Administrative Assistant to keep the organization in good financial standing. He also directed everyone's attention to the annual report and said it reflected a job well done. Ed Lewandowski introduced Dr. Dennis Bartow, the Center's newest employee, who will be working on the Schoolyard Habitat Program with funding provided by the Chichester-DuPont Foundation. Rick Eakle welcomed two new Board Members, Joanne Cabry, who was appointed by the Speaker of the House of Representatives and Ed Kee, Delaware's new Secretary of Agriculture.

Secretary's Report/Approval of Minutes

Carol Bason, CAC Vice-Chair, gave the Secretary's Report. Being no corrections, Dell Tush moved to accept the December 12, 2008 Board meeting minutes as presented. Dr. Sergio Huerta 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. Dell Tush seconded the motion. The motion passed unanimously.

Election of Officers

Chairman Rick Eakle pointed out that since Pat Campbell-White was no longer on the Board, there was a need to elect a new Vice-Chair. Rick Eakle opened the floor for nominations. Ed Kee nominated Dr. Bill McGowan for Vice-Chair and asked that the floor be closed for nominations. Being no other nominations from the floor, Chairman Eakle announced that Dr. Bill McGowan was elected Vice-Chair by acclamation.

Chairman Rick Eakle pointed out that since Bill McGowan would not be able to serve as Treasurer, there was a need to elect a new Treasurer. Rick Eakle opened the floor for nominations. Bill McGowan nominated Dell Tush for Treasurer and asked that the floor be closed for nominations. Being no other nominations from the floor, Chairman Eakle announced that Dell Tush was elected Treasurer by acclamation.

COMMITTEE REPORTS:

CAC Update

Citizens' Advisory Committee (CAC): Carol Bason gave the CAC report and reported that the CAC last met on February 10 and heard a presentation by Lee Ann Walling of DNREC on property rights and reported on their follow-up contact with DNREC regarding the Indian River Generating Station ash landfill and cooling water resolutions. Carol also reported on the Outreach and Public Policy committees' activities. The Outreach Committee has 10 upcoming events and is working on expanding diversity and Public Policy has been working with the County on open space and superior design.

Carol then brought up the issue of voting members and pending applications. CAC recently dismissed six members for lack of attendance and has three pending applications for membership, which were presented to the Executive Committee on March 3. The Executive Committee would like to increase diversity on the CAC and would like more industry and business representation. She noted that last August, CAC itself said that it should increase its own diversity. She said that recent focus has been on

environmental issues and they haven't had a chance to develop a PowerPoint presentation to give to potential member groups. She then went on to read a written statement prepared by CAC Chair Ron Wuslich. The full statement is included and labeled as Attachment 1. Following the reading of the statement, Joanne Cabry pointed out that there was confusion between the list of organizations in the CAC operating guidelines and the citizen-at-large position. She also suggested that the Board of Directors should clearly state the type of diversity it desires. Carol Bason concurred with the statement by Ms. Cabry. Chairman Eakle said that it is time to revisit and clarify the CAC operating guidelines. Amie Howell suggested that CAC develop specific criteria for membership and suggested groups such as commercial fishermen as well as looking at cultural diversity. Dave Small asked that the three applicants be contacted directly and informed as to the status of their applications.

STAC Update

Scientific & Technical Advisory Committee (STAC): Dr. Sergio Huerta gave the STAC report. He spoke about the Frontiers in Nutrient Management Conference and acknowledged key contributions of the agricultural community in efforts to reduce nutrient contributions to the Inland Bays. Dr. Huerta announced that the next STAC meeting will be April 3 at the College of Marine and Earth Studies in Lewes. Ed Lewandowski recognized the efforts of Chris Bason to organize and manage the Frontiers in Nutrient Management Conference.

Executive Session

At 10:00 a.m., Chairman Rick Eakle asked for a motion for the full Board plus the Executive Director to enter Executive Session for the purposes of discussing pending litigation. Dell Tush motioned for the Executive Session and Bill McGowan seconded. The motion passed unanimously.

At approximately 10:45 a.m., the Board adjourned the Executive Session and the Chair reconvened the regular Board session. Dr. Bill McGowan read the following statement related to Sussex County's lawsuit against DNREC regarding the Pollution Control Strategy:

**Statement to address Sussex County's lawsuit concerning
DNREC's "jurisdictional authority" to promulgate an
Inland Bays Pollution Control Strategy, more specifically,
the application of the buffer regulation.**

The Board of Directors of the Center for the Inland Bays, Inc. does not intend to take a position concerning Sussex County's challenge concerning the Department of Natural Resources & Environmental Control's authority to promulgate a buffer regulation. This matter involves pending litigation between Sussex County and DNREC, two members of the Board of Directors of the CIB. Any such statement would be inappropriate at this time, since the Center's Board members, staff and/or committee members might be called to provide testimony, evidentiary materials, or other substantive information for consideration in this case. Maintaining an objective position could enhance CIB's status as a technical resource in any legal proceedings.

The Board of Directors would like to affirm the Center's previous statement concerning the Proposed Inland Bays Pollution Control Strategies, which was offered for the public record before the hearing officer during the June 23, 2008 public hearing.

Dr. Bill McGowan motioned to accept the statement as read. Ed Kee seconded the motion. The motion passed with two abstentions; David Baker, County Administrator, and David Small, Acting DNREC Secretary. Dr. Sergio Huerta asked that minutes reflect that although he is a DNREC employee, his vote on this matter is that of the STAC Chair as their elected representative to the Board.

Board Updates

Sussex County: David Baker gave the County report and stated that budget concerns are a priority at this time. However, he said the County is collaborating with DNREC on programs such as *Supergreen* and a pilot project in Lewes has been approved. Mr. Baker described Levels 1, 2 and 3 for the Supergreen program. He also reported that work continues on three new sewer districts (Angola, Johnson's Corner and Oak Orchard) with total costs of approximately \$65 million and that the County is still working with DNREC and the U.S. Department of Agriculture on funding for these projects. It is anticipated that these sewer districts would remove 2,400 existing septic systems in the Inland Bays watershed. Mr. Baker also indicated that the County has applied for a 2,100 acre expansion of spray irrigation activities at the Inland Bays wastewater treatment plant. Joanne Cabry inquired about the use of federal stimulus funding to support wastewater expansion.

Delaware Department of Natural Resources and Environmental Control (DNREC): Acting Secretary David Small gave the DNREC report. He reported that the Department has received \$19 million in federal stimulus funds for Clean Water State Revolving Fund projects. The Clean Water Advisory Council is scheduled to meet in mid-March to consider projects and funding. The initial response to project solicitation exceeded \$400 million in funding requests. In addition, Dave Small suggested that DNREC is exploring ways to collaborate with USDA Rural Development to supplement the State Revolving Fund. The Acting-Secretary also announced that Delaware will be receiving \$30 million for energy efficiency projects, with \$5 million obligated to support local municipalities. He reported that the budget deficit is presenting challenges to the Department, which is awaiting the Governor's budget recommendations.

Amie Howell mentioned that 20% of the CWSRF funds have to be obligated for "Green Reserve Project" funding. Dave Small stated that the Clean Water Advisory Council was ready to reopen the solicitation for "Green Reserve Projects" using the \$3.5 million that was set aside.

David Small mentioned two recent CIB projects- Slough's Gut Marsh Enhancement and the Frontiers in Nutrient Management Conference- and thanked the Center for its terrific efforts.

Delaware Department of Agriculture (DDA): Secretary Ed Kee gave the DDA report. He provided an update on the federal irrigation cost-share program, which will provide funding up to \$50K for five operations on agricultural preservation properties. Sec. Kee pointed out that no one was enrolled in the Inland Bays watershed. He also updated those present about the number of concentrated animal feeding operations (CAFOs) and how these farmers will need to develop nutrient management plans. There are now 301 Notice of Intent applications, which is up from 16 NOIs that had been submitted by 28 JAN.

Sussex Conservation District (SCD): Dr. Bill McGowan gave the District report. He reported that the number of construction plans being submitted has slowed. This is allowing the Stormwater Program to focus its efforts on maintenance and digitizing data.

Sussex County Association of Towns (SCAT): Dell Tush gave the SCAT report and stated that concerns raised at their legislative breakfast included transfer fees, municipal street aid, and recycling.

Environmental Protection Agency (EPA): Amy Howell gave the EPA report. She updated everyone on the recent National Estuary Program (NEP) meeting in Washington, D.C. She said EPA has a new administrator but still needs regional directors. She also spoke about the use of federal stimulus funds, the FY 2010 budget, and CIB's upcoming program evaluation.

Formation of a Nominating Committee

Chairman Eakle asked that Dr. Sergio Huerta, Joanne Cabry, and Dell Tush serve as a Nominating Committee and make recommendations to the full Board at the September meeting. Dr. Huerta will serve as the Committee's Chair.

Sloughs Gut Marsh Enhancement Project Presentation

Eric Buehl, Habitat Coordinator, gave a presentation on the Sloughs Gut Marsh Enhancement Project at the James Farm and on the Middle Island Heron Rookery Project near Long Neck.

New Business

There was no new business brought before the Board.

Old Business

There was no old business brought before the Board.

Open Forum

Chairman Eakle made reference to an e-mail from CAC member Harry Haon and asked that it be added to the meeting minutes. It is included and labeled as Attachment 2.

Bill Zak informed everyone that he lost his appeal to DNREC regarding coal ash at the Indian River Generating Station and offered the information he had in his possession to CIB. He also discussed the results of a recent contaminant study around Burton's Island.

Dell Tush reminded everyone that they will be planting beachgrass in Dewey Beach on March 21.

Ed Lewandowski reminded everyone that the next Board meeting will be on Saturday, June 20 at 9:00 a.m., prior to the Governor's Wade-In Event. This will include a site visit by EPA as part of the Center's program evaluation.

There were no other requests to speak or issues brought before the Board in the open forum.

Adjournment

At 11:46 a.m., Dell Tush moved to adjourn the meeting. Dr. Sergio Huerta seconded the motion. The motion passed unanimously.

Respectfully submitted,

Carol Bason, Acting Secretary
CWB/eb

ATTACHMENT 1

STATEMENT FROM THE CHAIR OF THE INLAND BAYS CITIZENS ADVISORY COMMITTEE (CAC) CONCERNING THE DECISION TO TABLE THE PENDING APPLICATION FOR CAC MEMBERSHIP

During the past several days, an unfortunate controversy has arisen regarding the CIB Executive Committee's decision to table consideration of three CAC applications, two of whom were recruited by me and a third Dr. Graham Purchase. The decision to table the subject applications was made according to the Executive Committee "to allow the CAC the opportunity to recruit a more diverse pool of applicants for Board consideration." Personally, I have been trying to recruit a more diverse pool of applicants since December of 2007 as the Executive Director and others are aware.

Following this decision, numerous arguments have occurred that need to be resolved so that both sides can concentrate on the CIB's mission to restore and protect our Inland Bays.

It has been difficult for me to understand the Executive Committee's decision and its logic for delaying action on these applications given the candidates' qualifications.

However, in the interest of achieving an amicable resolution and reuniting our efforts to remove our Bays from the State's list of impaired waters, I respectfully request an opportunity for the Board Chair and me to meet with the Executive Director for further discussion concerning operating rules, associated CAC activities and CAC recruiting activities. I anticipate that such a meeting will be scheduled some time in April, and we will commit to present a report to the Board and CAC membership regarding the outcome.

Ron Wuslich, Chair
Citizens Advisory Committee

ATTACHMENT 2

From: HarryHaon@aol.com [mailto:HarryHaon@aol.com]
Sent: Monday, March 09, 2009 2:06 PM
To: Yramnor@aol.com; prnmed@mchsi.com; CAROL.BASON@COMCAST.NET; 97433@UDel.Edu; racloutier@hotmail.com; hgpurchase@mchsi.com; Cjmantegna@aol.com; rcollins@mchsi.com
Cc: director@inlandbays.org
Subject: Re: Decision on CAC Applicants

I can't be there Friday. Here are some thoughts.

The current composition of the CAC represents a broad range of backgrounds in terms of education, work experience, age, gender, geographical location, recreational interests and community service. The members are all land/home owners in the Inland Bays watershed and share a common objective - namely that the Center be a catalyst for and a participant in vigorous programs and activities aimed at improving the quality of the bays for the benefit of property owners today and tomorrow.

We know there are citizens who don't believe such programs are necessary ("I'm still catching fish" or "Gov Minner saw her sneakers again last summer") or believe that the Center should be more passive and less proactive in promoting and supporting change which will improve water quality. (Some with these viewpoints have even supported legal action to block implementation of new State regulations aimed at improving the quality of the bays.) I don't believe that addition of such citizens to CAC would be productive or consistent with CIB's and CAC's fundamental goals.