

**ENVIRONMENTAL ADVISORY
COUNCIL –
October 19, 2005
@ 3:00 P.M., Room 003
County Office Building
MINUTES**



**James E. Slater, Jr.
Environmental Compliance Officer
225 N. Center Street
Westminster MD 21157-5194
410.386.2756**

Members Present: Kevin Dayhoff, Chair
Robyn Gilden
Sher Horosko
Jim Johnson
Karen Merkle
Brian Rhoten

Members Absent: Bob Foor-Hogue
David Pyatt

County Government: Tom Devilbiss, Chief of Resource Management
Tim Feeser, Assistant to Commissioner Gouge
David Humbert, Assistant to Commissioner Minnich
Vivian Laxton, Public Information Administrator
Kim Millender, County Attorney
Hugh Murphy, Hydrogeologist
Cynthia Parr, Assistant to Commissioner Jones
Steven D. Powell, Chief of Staff to Commissioners
James E. Slater, Jr., Environmental Compliance Officer
Dorothy K. Smith, Secretary to EAC

The Press: Sheridan Lyons, The Sun
Justin Palk, Carroll County Times
Heidi Schroeder, Eagle

Others: Gerald Ahnell, P.G., QEP, Hydro-Geo Services, Inc.
Vince Campanella, C & A Associates
Ellen Cutsail, Union Bridge Town Council
Molly K. Edsall, G.P.G., MDE
John Lopez, Finksburg Planning Area Council
Beth Sandifer, Resident
Edwin Singer, Carroll County Health Department
Dennis Wanner, Project Manager for Lehigh Cement

Mr. Dayhoff introduced Mr. Powell, Chief of Staff to the Board of Carroll County Commissioners, at 3:00. Mr. Powell requested a closed executive session from 3:00-3:30. Discussion took place. The EAC failed to get a motion for closure; therefore, the meeting was not opened until 3:30 because the advertised public agenda stated the meeting was closed to the public between 3:00-3:30.

Mr. Dayhoff officially called the meeting to order at 3:30 P.M. by introducing Mr. Powell. Mr. Powell stated the reason he was attending the meeting was in response to the numerous e-mails going back and forth between the EAC and being received in the Commissioners' office regarding

environmental matters, i.e., BGE's Vegetative Management Plan for the Rt. 140, and the abrupt closing of the EAC meeting of September 14, 2005. He also expressed concerns about how the Council should function so that substance and style do not inhibit the process. Mr. Powell said the County could provide assistance to the EAC by offering a seminar on the following:

- The State's Open Meetings Act;
- Robert's Rules of Order; and
- The Public Information Act

There was discussion involving the selection of the EAC Chair. It was suggested that an amendment be made to Chapter 16 (which states the Board of Commissioners will select the Chair) so that the EAC members could appoint the Chair. Mr. Powell pointed out that it is not unusual for the Board of Commissioners to select chairs for various County committees, and that the Board of Commissioners will retain the appointment of the Chair.

Mr. Powell offered to have an attorney quietly present sometime in the future if the EAC does not want information shared publicly. The EAC operations need to be conducted in open session. Draft e-mails can go back and forth, but before anything is adopted, it needs to be presented to a public forum. The nature of the Council needs to be preserved.

Mr. Powell also stated that as a member of the EAC, individual members are not to discuss current discussion items before the public. This is important so that the issue(s) not be prejudiced by a member's point of view. Members can express their personal view only when stating it is not the view of the EAC. The definition of "current" was discussed.

Ms. Horosko expressed concern that to wait until the issues with BGE were resolved would have been too late, resulting in many of the trees being cut down. Therefore, she did share information with the public in case they wanted to do anything about BGE's Vegetative Management Plan. Mr. Johnson voiced his opinion that it is important to let the public know what is happening.

Further discussion took place about how the September 14th meeting ended. Mr. Powell informed everyone that there are procedures to extend a meeting as long as you have plurality in a meeting.

Mr. Johnson asked if the Council members could have reports go to the Commissioners 5 days after the meetings. He feels 2 and 3 months is too long to wait for reports so the issues can get out to the public. Mr. Powell said it can be done.

Open discussion also included when a member should recuse himself/herself. Mr. Powell offered that it should be done when personal conflict has to be considered. He also stated that the County has an Ethics Administrator who can make a determination as to whether or not someone has personal conflict on an issue. Ms. Horosko stated there is a difference between a "vested" interest and "ardent" interest. Again, this is something that can be addressed at a seminar, and there are forms for conflict of interest statements.

A motion was made to approve the minutes of September 14, 2005, as follows:

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MOTION NO. 24: Motion was made by Ms. Merkle and seconded by Ms. Horosko, to approve the minutes of September 14, 2005 with the two following correction:

- On Page 5, Paragraph 5 – Should read: “Ms. Merkle asked how the EAC can assist BGE to inform residents about good choices in the replanting”.

Motion was carried by a majority vote, with Mr. Johnson voting against approval.

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Ms. Horosko also stated she would like to receive the draft minutes earlier so that she would have time to review and comment. This will be done.

Unfinished Business:

Mr. Slater reported the by-laws are to be presented for adoption to the Board of Commissioners on Thursday, October 20, 2005. He recommended they be submitted for adoption, and then, should the EAC feel a need to make any changes in the by-laws, the by-laws can be amended. Mr. Johnson suggested that the 5-day turn around for reports to be added to the by-laws. Mr. Slater reminded the EAC that even though a report may be completed in 5 days, we still have to get on the Commissioner agenda and the scheduling can slow the process down. He feels the 5-day window of opportunity is very optimistic. Mr. Rhoten expressed that he felt Mr. Powell said that after an opinion is formed, then Mr. Slater would write a report on the action, then the Council would review it, and then forward it to the Commissioners and at that time, Council members were free to comment about the issue. Mr. Horn reported that after the final draft is completed, it may be reviewed for approval, and then forwarded to the Commissioners as soon as possible and that Council members could then comment.

Mr. Johnson asked who wrote the by-laws. Mr. Slater responded that he wrote them and had them reviewed and approved by the County Attorney’s office for legal sufficiency. Mr. Johnson then suggested that the by-laws be put on next month’s agenda for discussion as unfinished business.

Mr. Rhoten reported he heard a rumor that the Commissioners spoke to BGE and sent a letter to BGE requesting them to temporarily halt work until the property owners are contacted individually and given a chance to understand BGE’s position and the possibility of mitigation for the trees that were removed. He further stated that it was his understanding that they also requested that BGE reconsider their plans to remove the Leyland Cypress trees at Hillendale. Mr. Tim Feeser indicated that the Board of Commissioners mailed such a letter to BGE this past Monday, October 17th. Mr. Slater requested a copy of this letter. Mr. Feeser indicated that it was in the mail.

Further discussion ensued regarding BGE working with the EAC as the County’s Tree Commission. In the future, the EAC would like to discuss BGE’s Vegetative Management Plan, as it relates to the County, one year in advance of the proposed time of action. Mr. Slater reported that the staff had no direction to do anything at the end September’s meeting.

Mr. Rhoten asked how much notice was needed before an “emergency” meeting of the EAC could be called. Mr. Dayhoff said this is very easy. In the future, when we have an issue like BGE, the EAC can call a meeting. Mr. Slater added that it would take a 24-hour notice.

A motion was made to accept the October 12, 2005 letter from the members Ms. Gilden, Ms. Horosko, Mr. Johnson, Ms. Merkle, Mr. Pyatt and Mr. Rhoten regarding BGE's tree cutting on Route 140. Motion was made as follows:

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MOTION NO. 25: Motion was made by Mr. Johnson and seconded by Mr. Rhoten to accept the October 12, 2005 letter from the EAC with the following addition:

“In the future, the EAC would like BGE to get in touch with the EAC Tree Commission one year in advance of the next Vegetative Management Project.”

The motion passed unanimously.

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Mr. Slater reported that SHA and BGE have indicated a willingness to participate in an effort to work with the County to improve the vegetation along the 140 corridor.

Mr. Rhoten suggested the EAC needs to understand what BGE's "Right Tree, Right Place" means. As he understands it, it means that BGE makes recommendations as to the trees the property owners should plant to replace the ones that have been cut. Mr. Dayhoff feels the EAC should know what trees should be planted in the transmission lines. Mr. Dayhoff feels what the EAC wished to happen to Hillendale is going to happen. From what he has heard, the screen will be replaced.

New Business:

Mr. Ahnell, Hydro-Geo Services, Inc., did a presentation on Lehigh's impact on groundwater and their responsibilities. He discussed the New Windsor Quarry zone of influence. Mr. Slater suggested the zone of influence discussion be put on the next agenda under unfinished business. Lehigh takes responsibility for anyone's well in the zone of influence should it go dry due to Lehigh's water usage.

Mr. Lukas reported Lehigh had the mediation process in the last weeks and had considered the impact on wells and the zone of influence. Mr. Ahnell is the most knowledgeable person to address this issue.

Mr. Dayhoff asked if a report to the Commissioners was needed for this presentation. Mr. Slater responded that he didn't think it was necessary.

Mr. Ahnell did a presentation (for informational purposes only) on the New Windsor property which began in the early 1980's and Lehigh's new operations and how it relates to groundwater and the zone of influence. The County had specific requirements for zoning and the State had concerns about water. Lehigh had a study done to determine whether or not there would be any off-site impacts. It took several years to complete. They published groundwater reports for the area and mapped it. A determination was made where the wells would be placed. The initial area of mining is in the center of the property on about 66 acres. A 30-day test was done and the draw-down was shown at less than one foot. Wakefield marble is being mined. The State of Maryland

imposed a zone of responsibility above the old New Windsor Road. Mr. Ahnell gave a report on the last 15 years of testing done at the quarry.

Ms. Gilden asked what the general direction is of the groundwater flow and if there was an impact to the south? Mr. Ahnell responded there wasn't any impact to the south.

Ms. Beth Sandifer, 1908 New Windsor Road, was concerned about the water supply and responsibilities associated with it, stating she had only been in her new home for the last year. Mr. Ahnell indicated that should her well go dry, Lehigh would take responsibility. Other matters would require a plumber.

Mr. Slater reported that when the quarry was first committed, the County worked with Lehigh and created a water supply contingency plan. He further stated that these plans contain a procedure for residents to follow should there be a problem with their well.

Ms. Horosko asked that if a property owner is outside the zone of influence and their well goes dry, then could MDE be enlisted to determine why the well went dry; and if it is determined it was because of Lehigh, then Lehigh could be held responsible to reimburse the home owner for the well. Mr. Ahnell responded that yes, as long as it is determined that Lehigh was responsible.

It was asked how easy it would be to make the determination on the cause of why a well went dry. Ms. Edsall responded that a well driller could tell a lot. If the water drops by 50 feet, then obviously, something is happening. There could be a lot of other draw-downs in the area causing problems.

As a resident, Ms. Sandifer also expressed concern over the blasting done by Lehigh. Should she have a problem in the future, should she call a plumber and maybe MDE? Mr. Edsall responded she would recommend she do just that. If a well fails, the quarry is responsible if other problems are ruled out.

Mr. Dayhoff asked Mr. Devilbiss if he still had a presentation that he did sometime in the past about the County's groundwater, and if so, would he present it to the EAC. Mr. Devilbiss responded "yes" he has the presentation and he will present it whenever the Council can fit him on their agenda.

Ms. Gilden asked what criteria go into deciding the zone of influence. Ms. Edsall responded that MDE looks over the historical information the list of wells, geologic information in the area, monitoring of wells, string and dye tests, etc. Criteria can include all or some of these things. The Maryland Geologic Survey is also considered.

Other items suggested for future agendas were:

- Zone of Influence (under unfinished business in November)
- By-Laws (under unfinished business in November)
- MTBE's
- Alternative Fuels
- Groundwater
- Pesticides
- Emergency Conservation

- Dark Skies
- Environmental Awareness Awards

Ms. Horosko would like to see the public portion of the agenda be placed on the top of the agenda so if they wanted to leave after they had a chance to voice a concern, they could. Ms. Merkle agreed. It was decided to move the public up on the agenda to follow the “communications” section.

Because of the many different levels of MTBE, Ms. Horosko is concerned that the EAC make the effort to see what the views are of the general public, Tevis, MDE, etc., on the MTBE issues. She would like to share their experiences. Mr. Slater cautioned this issue is far too broad to cover in one meeting. He knows some people who have been impacted by it, and also the Town of Hampstead. The EAC should start with the science and understanding where this is happening and by gathering information from the Health Department and by getting MDE involved. Ms. Horosko would like to know what other communities across the country have done and what Carroll County can do locally in the way of legislation. Mr. Dayhoff suggested we get the science, remediation and actual experience and up-to-date legislation from the State of Maryland. He also suggested the Commissioners may consider asking the local delegation for their assistance. Mr. Slater reported that there was proposed MTBE legislation during the 2005 session.

Mr. Slater stated that the County’s Christmas tree was selected by EAC members last year in November. He asked who would be interested in helping to make that selection for this year. Negative responses were received from a few members. Mr. Dayhoff expressed interest. He also indicated that Mr. Mike Whitson, County Chief of the Bureau of Facilities, could also be asked to assist the group. Mr. Slater will get back to the EAC members willing to participate to let them know what date has been selected.

Mr. Slater also asked the EAC members to consider the Environmental Awareness Awards. The Environmental Affairs Advisory Board (EAAB), which preceded the EAC, gave awards out each year in various categories (agricultural, institutional/educational, individual, and business/industry). Mr. Rhoten recommended that trees could be planted in honor of the winners. Mr. Slater will prepare what was done in the past and place this on a future agenda.

Mr. Dayhoff asked for a motion to adjourn the meeting at 5:40 p.m. Motion was as follows:

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MOTION NO. 26: Motion made by Mr. Horosko and seconded by Ms. Gilden, to adjourn the meeting. The motion passed unanimously.

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The next regularly scheduled meeting is November 16th at 3:00 in Room 003. Please let the secretary know if you will not be able to attend.

