



ENVIRONMENTAL REVIEW COMMISSION
March 9, 2016
Room 643 of the Legislative Office Building

The Environmental Review Commission met on Wednesday, March 9, 2016 at 9:00 AM. The meeting was held in Room 643 of the Legislative Office Building. Representatives: McGrady, Catlin, Harrison, Steinburg, Yarborough and Hager attended. Senators: Alexander Jr., Bingham, B. Jackson, Lowe Jr., Rabin, Smith and Brock attended.

Visitors list is Attachment 1 of these minutes. List of Sgt at Arms that assisted with meeting is Attachment 2 of the minutes.

Representative Jimmy Dixon, Co-Chair presided

Rep. Dixon gave brief opening comments on meeting etiquette and how we are to proceed. He then calls on Co-Chair Rep. McGrady for opening remarks. Rep. McGrady has none. Rep. Dixon moves to the Commission agenda and acknowledges item 3. He mentions that a subcommittee on Solid Waste was formed and met in February. Rep. Dixon turns the floor over to Commission Counsel Ms. Jennifer McGinnis for a brief summary of what took place at that subcommittee meeting.

Ms. McGinnis gave an overview of what was discussed at meeting. The Subcommittee worked on solid waste management issues as well as leachate and technology. The Subcommittee heard several presentations from different sides of this issue: Counties (Forsythe, Chatham waste managers), Waste Industries, and State personnel etc. All of these items discussed with each presentation are on the ERC website and can be obtained by request to Commission Counsel Members. Rep. Dixon suggests to members that they familiarize themselves with the land available for landfills.

Rep. Dixon moves to agenda item 4, the elimination or consolidation of reports. He calls on Commission Counsel Ms. Layla Cummings to go over this issue and the handout given to each member. The handout details reports looked at and the recommendation of Counsel and the State Agencies involved in the reports. The handout is labeled agenda #4 item (Attachment #3 in the minutes).



Rep. Dixon advised members to look over the list thoroughly between now and our April meeting, as there will probably be some legislation drafted for the upcoming session to make the changes recommended.

Rep. Hager commented that these elimination and consolidation will be beneficial to agencies in reporting in a timely manner going forward.

Senator Bingham asks if there would be a financial savings in making these changes? Rep. Dixon replied with a yes "paper."

Rep. Dixon then moved ahead on agenda to item 5 and called on Dr. Randall Williams (State Health Director, Department of Health and Human Services (DHHS) for an update on the cadmium issue and drinking water in correlation with the coal ash clean up and removal.

Dr. Williams states that they have presented the do not drink ban for well water for 314 wells statewide. This was done in correlation with standards set by the United States Environmental Protection Agency (U.S. EPA).

Rep. Catlin commented that DHHS in their calculations did follow legislation passed with the steps they took on this well water ban.

Rep. Hager asks for the number of remaining wells that haven't had the ban lifted statewide.

Dr. Williams stated that he didn't have an exact total but the remaining wells are banned for other issues, such as lead content--not cadmium and the number is small.

Rep. Yarborough asked how do communities go about getting the same test done DHHS did on coal ash areas? Dr. Williams stated they don't test existing wells but they follow the guidelines set by U.S. EPA on new wells.

Rep. Dixon then opened up floor for public comment and there were none.

Agenda item 6 Presentation of Risk of flame retardants and discussion of legislation to reduce risk.

Rep. Dixon turned the floor over to Rep. McGrady and Rep. Harrison for introduction of the flame retardant topic and the concerns with public safety and the risk involved with this issue for children.

Rep. Dixon asks for questions from the members. There were none.



He called on Dr. Heather Stapleton, Associate Professor of Environmental Chemistry, Duke University.

Dr. Stapleton gave a PowerPoint presentation that followed the handouts she provided. It discussed the testing they did, who was more at risk (children), and what products are flame retardant and why we don't need it. They also provided alternatives and what legislation has already helped and what needs to be done moving forward to continue the removal of flame retardants.

Handouts and full presentation are labeled agenda 6 (items 4, 5 ,6, in minutes).

Rep. Dixon calls on Ms. Susan Inglis (Executive Director for Sustainable Furnishings Council). Ms. Inglis goes over the changes that furniture companies and makers have made in North Carolina to produce good quality product and eliminating the flame retardants at same time. She stated that not all companies have made this change and that the North Carolina General Assembly may have to draft legislation to make all North Carolina companies and makers comply with doing away with these toxic chemicals in their products. Agenda 6 (item 7 is a handout with this info).

Rep. Dixon calls on Mr. Dennis Ozment (retired Minnesota State Representative and retired Minnesota Fire Captain) to discuss the issue of flame retardants and the health risk they pose to firefighters when these chemicals are present. He talked about how they increase smoke and toxicity for firefighters, which is increasing risk of cancer in firefighters who have to battle these chemicals and the dangers. Handouts are labeled agenda 6 (items 8 and 9).

Rep. Dixon opens up the floor for questions from members.

Rep. Harrison makes a statement in which she list firefighters, nurses, doctors, etc. are all in favor of a ban on these chemicals.

Dr. Stapleton also states that there are other health issues besides cancer that come from exposure to these chemicals--hypothyroidism being one. These particles can attach to food.

Senator Smith asks about polybrominated diphenyl ethers (PBDEs) in drinking water? Some cases Dr. Stapleton confirms.

Senator Brock asks about the possible lawsuits that companies may get if a child is harmed because a product does not have flame retardant? Dr. Stapleton states that during testing, mattresses with and without the chemicals burned at approximately the same time.

Senator Smith asks Mr. Ozment if any states had laws on this issue. Mr. Ozment stated yes there were 12 and they are listed on item 9 on the website.



Rep. Dixon informs members that Co-Chairs are putting together a working group to study this issue and report back to the Commission. Rep. Dixon opened up the Commission to public comment. Mom's Rising spoke on the issue along with the handout item 6 and they are asking for legislation to address issue.

Agenda item 7 Stream Mitigation & 404 permit assumption. Rep. Dixon calls on Mr. Tom Reeder, Assistant Secretary, Department of Environmental Quality (DEQ). Mr. Reeder's presentation can be found labeled Agenda 7 (item 10). Both issues are found in item 10 handout.

Mr. Ed Neil of Neil Grading and Construction talks about the wasteful spending that is done for projects that don't need it. There is a better alternative but because of thresholds they are required to do so. He asks members to raise threshold levels and gave an example of box culverts being used instead of bridges being built to cross a small stream.

Mr. Chris Huysman, Huysman & Bandy Inc., a wetland consultant in 96 North Carolina counties, also states the need to make some modifications to current wetlands thresholds.

Senator Smith asks if we had studies ready to go to the Army Corps of Engineers?

Mr. Reeder stated we can get something together for them if needed. If you assume the 404 program the Army Corps of Engineers requires you to implement as currently written.

Senator Brock asks if there is deadline to get info to the Corps if we wanted to adjust.

Mr. Reeder said he wasn't sure of the exact date but will get that info to the Co-Chairs.

Agenda item 8 Third party challenges of Federal Permits issued by DEQ.

Rep. Dixon calls on Mr. Craig Bromby, Deputy General Counsel, DEQ. Mr. Bromby goes over the history of the the Administrative Procedure Act and what is required when these cases are to be heard by the Office of Administrative Hearings and what needs to be proven in the cases. He has several examples of cases that were filed and the results of each one. He also has a letter written from the Secretary of DEQ in response to a letter received from the U.S. EPA regional administrator, in response to their statement that North Carolina has become unduly restrictive.

Both the presentation by Mr. Bromby and the letter to U.S. EPA are handouts labeled agenda 8 (items 11 and 12 in minutes).

Rep. McGrady asks Mr. Bromby what DEQ is asking the North Carolina General Assembly to do in the matter of the U.S. EPA.



Mr. Bromby states that the letter labeled item 12 has been sent and they are waiting on reply.

What the reply is will determine if legislation is needed to address issue.

Rep. Dixon calls Rep. McGrady and Senator Bingham as Co-Chairs on the working group to study the flame retardant issue.

Rep. Dixon asks for final questions from members.

Rep. Harrison asks DEQ about lead and copper piping in reference to drinking water. Mr. Reeder answers the question for DEQ and states that North Carolina has a strong program in place on that issue and that the U.S. EPA does as well.

Rep. Dixon asks Mr. Reeder for a one page report submitted to the Commission on the lead, copper piping program in regards to drinking water.

There being no further business, the meeting adjourned at 11:55am.

Presiding

Michael Wiggins, Committee Clerk