

THE MARYLAND COMMISSION ON ENVIRONMENTAL JUSTICE AND SUSTAINABLE COMMUNITIES

ANNUAL REPORT

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Governor Parris N. Glendening

Lieutenant Governor Kathleen Kennedy Townsend

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EXECUTIVE SUMMARY

Purpose

The Maryland Commission on Environmental Justice and Sustainable Communities has completed its first annual report. At Maryland's annual Environmental Legislative Summit on January 21, 2002, Mr. Scot T. Spencer, the Commission's Chairman, presented an official report to Maryland's Governor, Parris Glendening for his review and consideration. The report contains the Commission's findings and recommendations in accordance with an Executive Order issued by the Governor on January 1, 2001.

Background

The Commission held its inaugural meeting on May 11, 2001. The Maryland Department of the Environment's Secretary, Jane Nishida, Assistant Secretary Denise Ferguson-Southard and the Commission's Chair, Scot T. Spencer, presented the charge and goals to the Commission. The Commission has had seven (7) meetings since its first meeting in addition to the first community forum, which was held on December 21, 2001. The Commission's meetings have identified several problematic areas of concern across the state of Maryland. There is significant concern about the full integration of stakeholder-based/community involvement and planning within the framework of the regulatory mandates, processes, and procedures. General concerns articulated by Marylanders during the 2001 meetings include inequities in research practices associated with lead paint studies, power plant siting, landfill siting, the provision of wastewater and sewer infrastructure, permitting, hearing processes, public outreach, and involvement, and protection of public health.

The Commission has made several recommendations that could result in the development of more sustainable communities. One concept that is intriguing to the Commission is the development of a comprehensive framework to respond to environmental inequities in targeted communities. This concept builds on the foundations of Maryland's Smart Growth paradigm and those created by the visions adopted as State policy in the 1992 Growth Act.

This concept embodies the development of policies with the use of State resources that support communities and influence the location of specific development. It will attempt to use the authority of state government in communities designated by counties and local government as environmentally challenged or higher risk communities. These designated communities would receive priority attention that could manifest in several forms: additional compliance and enforcement activities, additional state funding and tax benefits, and special analyses of potential developmental benefits and impacts, with the idea of steering away environmentally detrimental activities while encouraging environmentally and economically beneficial ones.

The Commission is looking at mechanisms to identify high-risk communities so that state agencies can focus their limited resources on the highest priority areas. To facilitate this identification, the Commission has started to develop criteria to better define high risk or environmentally challenged communities.

Recommendations

This initial Commission report recognizes the unique challenges faced by many Maryland communities and is recommending the integration of an environmental justice and sustainable communities ethic within all state agencies. In this context, the Commission is recommending that state agencies develop plans using MDE's Strategic Environmental Justice Plan as a guideline for developing a comparable approach in achieving their own agency missions.

The Commission recommends the use of alternative dispute resolution (ADR) as a response mechanism to community-based environmental disputes. We are striving to develop innovative practices and approaches that can better lead to resolving environmental disputes before executive branch agencies in Maryland.

The Commission also recommends continued education of state agencies on environmental justice and sustainable communities, with special attention given to marginalized and disenfranchised communities; the creation of state-wide community forums to discuss these issues; the development of environmental justice related guidance for state agencies; focused effort to improve public participation before agencies; and, the building and strengthening government "infrastructure" at local levels to support marginalized communities.

Finally, the Commission applauds Governor Glendening for his vision and foresight to innovate in this area. The members have recognized the enormity of the Commission's tasks. They do not see these tasks as challenges, but as opportunities to build upon and strengthen all of Maryland communities, consistent with the state's legacy of inclusion and sustainable communities.

INTRODUCTION

On March 9, 2001, Governor Parris N. Glendening formally announced the establishment of Maryland's Commission on Environmental Justice and Sustainable Communities in accordance with an executive order issued on January 1, 2001. State lawmakers joined the Governor and environmental justice advocates who fully supported the initiation of this worthy effort.

The Maryland Commission on Environmental Justice and Sustainable Communities (CEJSC) Executive Order is the *first* one ever to be issued by a state. It marks a bold gesture by Maryland in fulfilling its commitment to enhance the quality of life in all of Maryland's communities and for all residents. It is consistent with the approach taken by the federal government in Executive Order 12898 issued by President Clinton on February 11, 1994.

Environmental justice seeks equal protection from environmental and public health hazards for all people regardless of race, income, culture, and socio-economic class. Additionally, environmental justice means that no one group of people should bear a disproportionate share of the negative environmental consequences resulting from land-use, planning or zoning decisions, governmental or commercial operations or as a result of any inequities in the application of governmental regulatory programs and related policies.

MISSION

The mission of the Commission is concerned about developing strategies to enhance the quality of life in all Maryland communities through a vision of superior environmental protection and intelligent economic development that eliminates sprawl and supports the optimal use of existing infrastructure while protecting our unique natural resources. At its foundation is the tenet that, regardless of race, national origin, age, or income, no segment of our population should bear disproportionately high and adverse effects of environmental pollution. Finally, the Commission endeavors to address environmental concerns within communities and provide new economic opportunities, while enhancing and preserving the ecological integrity of the environment and protecting human health. In this aspect, the Commission strives to identify sustainable economic opportunities for Maryland communities while identifying opportunities for state agencies to protect human health. The Commission will also attempt to identify opportunities for state regulatory programs to improve quality of life for all Marylanders and ensure fair treatment of all citizens in those programs.

COMMISSION'S MANDATES

Under the directions highlighted in Executive Order **01.01.2001.01** (*Appendix A*), the Commission shall perform the following duties:

- (1) Advise State agencies on environmental justice and related community issues;
- (2) Review and analyze the impact of, including determining whether a causal relationship exists between, current State policy, laws and regulations on the issue of environmental justice and sustainable communities;

- (3) Assess the adequacy of State and local government laws and regulations to address the issue of environmental justice and sustainable communities;
- (4) Coordinate with the Children's Environmental Health and Protection Advisory Council on recommendations related to environmental justice and sustainable communities;
- (5) Develop criteria to assess whether communities of the State may be experiencing environmental justice issues; and
- (6) Recommend options to the Governor for addressing issues, concerns, or problems surfacing through the review process, prioritizing areas of the State, which are targets for immediate attention.

MEMBERSHIP *(see appendix A for Commission's composition)*

MEMBER	AFFILIATION
Scot T. Spencer, <i>Chair</i>	Environmental Defense
Senator Ulysses Currie	State Senate Appointment
Mary Rosso	House of Delegates Appointment
Jane Nishida	Maryland Department of the Environment
Georges Benjamin	Maryland Department of Health and Mental Hygiene
Roy Kienitz	Maryland Department of Planning
Sherilynn Ifill	Professor, University of Maryland
Tracey D. Newsome	Center for Poverty Solutions
Stephanie Proestel	Housing Initiative Partnership
Timothy Pula	Struever Bros. Eccles & Rouse
Bill Stack	Baltimore City Department of Public Works
Barrie P. Tilghman	Mayor of Salisbury
Bonnie Wilson	Safety Kleen
Jean Yarborough	Community Association
Andrew Sawyers	Staff

ACTIVITIES OF THE COMMISSION

Leadership

Mr. Scot. T. Spencer has ably served as the Commission's first Chair, as designated by Governor Parris Glendening. Andrew Sawyers, Coordinator for Environmental Justice and Community Planning with the Department of the Environment, provides staff support to the Commission.

Work Groups Formation

In order to facilitate a comprehensive work plan, for the Commission established four work groups to target its efforts in achieving the mandates of the Executive Order (*see appendix B for workgroup members*). Those workgroups are:

- **Community Index Workgroup**, Acting Co-Chairs, Jim Richmond and Mary Rosso
- **Regulatory Workgroup**, Co-Chairs, Mary Rosso and Andrew Sawyers
- **Siting and Zoning and Economic Development**, Acting Chair, Tim Pula
- **Community Health and Protection**, Acting Chair, Dawn MC Cleary.

The community index workgroup has been charged with the responsibility of developing a basic framework for the Commission to identify communities that may be disproportionately affected by regulatory and private activities in a manner that may create environmental justice concerns. A preliminary draft report incorporating integral components of that framework is contained in Appendix C. The other workgroups will develop their frameworks and work plans in 2002. *See appendix C for Community Index's Work Group draft plan.*

Summary of 2001 Commission Meetings

General Overview

The Commission held its inaugural meeting on May 11, 2001. Secretary Nishida, Assistant Secretary Denise Ferguson-Southard and Chairman, Scot T. Spencer, presented the charge and goals to the Commission. The Commission has had seven (7) meetings since its first meeting in addition to the first community forum, which was held on December 21, 2001.

The Commission has discussed a variety of topics and issues since its inaugural meeting. One of the noteworthy events that occurred during the 2001 meetings was the review and approval of the Maryland Department of the Environment's Strategic Plan on Environmental Justice and Sustainable Communities (Strategic Plan). The Commission deliberated for several meetings and ultimately adopted the Department's Strategic Plan as a model approach that should be embraced by other state agencies. The Commission is recommending in this first report that all state agencies develop similar plans using MDE's Strategic Plan as a tool and guideline for developing comparable approach for use in their achieving their own regulatory missions. *See Appendix D for MDE's Plan.*

The Commission's meetings have also identified several problematic areas of concern across the state of Maryland. There is significant concern about stakeholder-based/community planning and environmental issues within the framework of the regulatory mandates, processes and procedures. General concerns include inequities in research practices associated with lead paint studies and outcomes, power plant siting, landfill siting, wastewater and sewer infrastructure, permitting, and hearing processes. There is recognition among many citizens that the issues of environmental justice and sustainable communities should be elevated within regulatory agencies and provided appropriate resources and response mechanisms to resolve these concerns.

Citizens have deemed the following additional areas as needing immediate attention. These include (1) protection from environmental and public health hazards for all people regardless of race, income, culture and social class; (2) engagement with stakeholders – particularly community interest groups to improve outreach efforts, environmental education, and community planning efforts that can inform and improve environmental decision-making processes; (3) examining demographic and other socio-economic information to mitigate potentially disproportionate impacts and negative environmental consequences resulting from private or public operations or the execution of federal, state, local and municipal program and policies; (4) developing permitting standards and regulatory authority to consider and resolve environmental justice and community sustenance concerns; and, (5) actively engaging efforts to improve children's health and support research efforts that can improve knowledge and operationalization in all the topical areas.

Finally, the meetings have yielded some initial strategies, formulated in the context of the Commission's mandate that may serve to enhance the quality of life in Maryland communities through a vision of collaborative partnerships with government. These include enabling proactive community and other stakeholder planning and outreach efforts to go hand in hand with environmental protection and economic development. To facilitate these efforts, the Commission will initiate workshops and forums to solicit information from stakeholders across the State in an effort to develop and recommend appropriate paradigms which may help create sustainable and engaged communities. Additionally, several other efforts have been recommended that ultimately could result in the development of sustainable community development strategies. These include:

- Identifying high-risk communities so that state agencies can focus their limited resources on the highest priority problems;
- Developing criteria to better define high risk or environmentally challenged communities;
- Creating a database of high risk or environmentally challenged communities;
- Developing a comprehensive framework that builds on the Maryland's Smart Growth paradigm. This paradigm would engage different tools and strategies that would not only identify challenged communities but be responsive when and where appropriate with state resources;
- Developing alternative dispute resolution (ADR) strategies as response mechanisms for environmental disputes;
- Using neutral third parties more frequently, where appropriate and financially feasible to facilitate dialogues and ADR processes;

- Integrating environmental justice into the core mission of state agencies;
- Improving the training and tools made available to permit writers and increase permit writers' awareness of environmental justice concerns and what can be done about them;
- Improving community-based monitoring to identify emissions that cause the most concern;
- Increasing the resources available for communities to participate in the permitting process; and,
- Working more closely with communities

Coordination with related Councils:

The Commission's mandate requires it to collaborate with the Children's Environmental Health Policy Advisory Council (CEHPAC) to better achieve environmental justice and sustainable communities. CEHPAC and the Commission achieve that goal through the exchange of minutes and materials, as well as through the attendance of Ms. Tracey Newsome-Smith, who is a member of both groups. Additionally, the Commission will work closely with the Lead Commission, as well as the Sewer Task Force and other Commissions or Council's to the extent that there are common interests and issues that those entities are addressing and will enhance its work.

Participation from the U.S. Environmental Protection Agency

One of the many opportunities that the Commission has availed itself of is obtaining input from interested parties that can bring experience and expertise to bear on achieving its mandates and mission. One of the entities, which has valuable experience and insight into environmental justice issues locally and nationally, is the U.S. Environmental Protection Agency (EPA). Representatives from both the national headquarters and the Region III Office, which includes Maryland within its jurisdiction, have brought interesting and unique perspectives to the discussions. Two prominent individuals within the EPA hierarchy who have made presentations to the Commission this year are Mr. Charles Lee, the Director of Policy and Research in the Office of Environmental Justice and Mr. Barry Hill, the Director of the Office of Environmental Justice. Summarized below are the presentations provided by the EPA representatives.

Mr. Hill discussed EPA's environmental justice program by highlighting its core responsibility, which is to promote and oversee the full integration of environmental justice into all Agency programs, policies, and activities, consistent with existing environmental laws and their implementing regulations. Currently, the Office of Environmental Justice (OEJ) is focusing its efforts upon integrating environmental justice into the Resource Conservation and Recovery Act (RCRA), the Clean Air Act (CAA), and the Clean Water Act (CWA) permitting programs nationally.

Mr. Hill described the capabilities of EPA's recently introduced Environmental Justice Mapper, which is a tool for investigation, evaluation, and assessment of environmental justice complaints and communities at risk. The Mapper will provide the following tools for use in researching environmental justice issues:

- Links to the health-related database of the Department of Health and Human Services;
- Links to demographic data provided by the Bureau of the Census;
- Links to the database system of the Department of Labor's Occupation Safety and Health Administration; and,
- Links to OECA's database system regarding a facility's compliance information.

Mr. Hill also emphasized the importance training in environmental justice for state agencies and the need to develop guidance for state officials. He also highlighted the need for Alternative Dispute Resolution (ADR) and discussed EPA's commitment to the issue of environmental justice. This was made particularly clear with the issuance of EPA's Administrator's memorandum on EPA's commitment to integrating environmental justice in all its programs. *See Appendix E for EPA's memorandum on Environmental Justice.*

Mr. Charles Lee's presentation focused on broadening the view of environmental justice and sustainable communities by suggesting the need for all state and local agencies to incorporate environmental equity and community sustainability plans within their operational activities. The presentation further identified the need for collaborative strategies as the most optimal methodologies for sustaining communities. Mr. Lee provided information on a pilot project that his office has developed to identify and nurture opportunities, in certain communities, for developing these collaborative strategies which integrate a community-visioning process with development of a action plan to implement that vision. It involves an inclusive process with a variety of constituents, ranging from community leaders and residents, to business and governmental representatives.

Aside from these EPA representatives, each Commission meeting has been attended by at least one member of EPA's Region III Office of Environmental Justice from Philadelphia, Pennsylvania. Although they have not been involved in providing formal presentation, their involvement and input into many discussions, which has occurred during Commission meetings has been supportive, informative, and welcome. Those individuals are Mr. Reginald Harris and Mr. Harold Yates.

CEJSC First Public Forum

On December 12, 2001, the Commission held its first public reporting and briefing session concerning environmental justice and sustainable communities. The meeting went very well and achieved its main objective, which was to allow Maryland citizens to meet state legislators and Commission members and voice their positions and concerns regarding environmental justice issues within their communities. Several legislators, notably, Senator Neal, Currie, Delegates Rosso, and Boschert were in attendance. The community participants were appreciative of the opportunity and made several important recommendations to the Commission.

The briefing, which was held in the Joint Hearing Room, Legislative Services Building, 90 State Circle, Annapolis Maryland, focused on issues and concerns that included the development of

Chesapeake Terrace Landfill proposal; lead poisoning research, expansion or reopening of a landfill in the Shipley Hill/Carroll area of Baltimore City; industrial activities and inappropriate zoning near communities of color in Central Prince Georges County; and the potential permitting of multiple power plants in the Point of Rocks Community. In addition, residents from Oxon Hill, Maryland, wrote a letter for distribution at the forum discussing their concerns with the proposed National Harbor Project in Prince Georges County.

The landfill issue in both Central Prince Georges County and Baltimore County involved concerns that the communities' rights were violated based upon limited opportunity to provide public input. It was also articulated by residents that public health hazards and impacts would result from any development or expansion of landfills in the three identified communities. All of the speakers felt that their communities would bear a disproportionate share of the negative environmental consequences resulting from the industrial, land-use planning and zoning, municipal and commercial operations within the Prince Georges and Baltimore communities with respect to these landfills. They also indicated that the projects would not work to enhance the quality of life in their communities. ***See appendix F. for full briefing to CEJSC on December 12, 2001 concerning landfills.***

The Point of Rocks community member who testified represented that the community is opposed to the siting of five or six power plants within that area. It was suggested that the lands targeted for industrial development are clearly zoned as agricultural lands, and the placement of these plants would circumvent a carefully crafted, integrated zoning plan for the Point of Rocks area, although it appears that a state agency may have the ability to legally override local planning in these circumstances. Other problems identified during the testimony included the disruption of historical artifacts and heritage; the over use of water from the Potomac; air pollution; and excessive nitrogen pollution. ***See appendix F. for full briefing to CEJSC on December 12, 2001 concerning power plants.***

The Commission was briefed on concerns related to lead research undertaken by Kennedy Krieger Institute (KKI) in 1993-1995. The representatives acknowledged that while KKI's intentions were good, there might have been inappropriate communication with the children and parents who were involved in these studies. ***See appendix E. for full briefing to CEJSC on December 12, 2001 concerning KKI lead research.***

Residents in Oxon Hill Maryland are concerned about the proposed National Harbor project and the potential impacts upon their community. They suggested that a more appropriate project should be sited in the heart and downtown of Oxon Hill. ***See appendix E. for full briefing to CEJSC on December 12, 2001 concerning Oxon Hill Residents concerns.***

FOCUS AND PRIORITIES FOR CEJSC

The Commission will strive to develop innovative practices and approaches that can better lead to resolving environmental contestations before executive level regulatory agencies in Maryland. In so far, as the Commission's mandate and regulatory instruments will allow, the following areas will be the primary focus of the Commission in the next calendar year;

- Continue to heighten awareness of environmental justice and sustainable communities among State regulators, with special attention to marginalized and disenfranchised communities;
- State-wide community forums to discuss E.J. and sustainable community issues;
- Continue discussions and meetings to solicit best practices and innovative recommendations that may be important in the context of improving sustainability of communities;
- Resolve the challenges of ensuring that all appointed members regularly attend the meetings: at least three members have not attended any meetings;
- Develop community characterizations projects and analyses;
- Develop E.J. related permitting review guidance for MDE and other state agencies;
- Build alliances and relationships with various stakeholders via meetings, MOUs and other forms of agreement;
- Coordinate and recommend efforts to improve public participation before regulatory agencies;
- Build and strengthen government "infrastructure" at local/community levels;
- Identify governmental public policy themes and relationships to environmental justice and sustainable communities;
- Actively encouraging existing and new agency demonstration projects;
- Work with governmental policy makers to consider proactive and preventative approaches;
- Integrate the environmental justice and sustainable community approaches into state agency practices and also community planning;
- Create opportunities with assistance from regulators and state agencies to stabilize administrative support for Council;
- Develop more coordinated regulatory approaches to environmental justice;
- Create beneficial relationships in the areas of Smart Growth, Children Youth and Families (environmental health issue, etc.), Environmental Crime and Safety and Brownfields;
- Develop a sustainable community index in the context of key focus areas;
- Encourage all state agencies to develop E.J. and sustainable communities plan; and,
- Develop livable communities' indicators.