

**Virginia Council on Environmental Justice (VCEJ)**  
**Inaugural Meeting**  
**July 12, 2019 – 10:00am – 3:15pm**  
**Department of Environmental Quality, 3<sup>rd</sup> Floor**  
**1111 East Main Street, Richmond, VA 23219**

**Executive Summary**

The Virginia Council on Environmental Justice (VCEJ or Council), established by Governor Ralph S. Northam under Executive Order 29, held a public meeting on Friday, July 12, 2019 at the Department of Environmental Quality office in Richmond.

The meeting began with a welcome by Secretary of Natural Resources, Matthew J. Strickler and was followed by introduction of Council members, state agency staff, and other attendees. Secretary Strickler announced the selection of Ms. Beth Roach as Council Chair and Dr. Janet Phoenix as Council Vice Chair. The Council heard a presentation from Council member Dr. Mike Ellerbrock regarding the history of environmental justice efforts at the federal level. Dr. Phoenix and Ms. Roach then offered historical context related to the first iteration of the Governor's Advisory Council on Environmental Justice, describing the previous entity's work and the 2018 report to the Governor. The Council then reviewed Governor Northam's Executive Order 29, which outlines the duties and structure for the work they will do. Council members then identified initial priorities based on Executive Order 29, and received a training on the Freedom of Information Act and Conflict of Interest Act from Justin Bell on behalf of the Office of the Attorney General. Next, the Virginia Council on Environmental Justice members heard public comments from a number of Virginia residents as well as several organizations. On a motion by Dr. Ellerbrock, the Council expressed the consensus view that the Department of Environmental Quality and the Office of the Secretary of Natural Resource should consider meeting with Cumberland County residents to educate members of the public about the state's role in permitting landfill sites. The Council closed the meeting by requesting represented agency staff and Council members volunteer for each of the proposed subcommittees, and requesting that staff find appropriate times and venues for the Virginia Council on Environmental Justice to meet.

**Welcome & Introductions, *Secretary of Natural Resources Matthew J. Strickler***

The council meeting was called to order by Secretary of Natural Resources, Matthew J. Strickler. Secretary Strickler introduced himself and thanked members of the Council for agreeing to serve in the Governor's Advisory Council on Environmental Justice. Secretary Strickler noted that he is looking forward to working with the group as a whole, and that the Northam Administration hopes to build on the foundation that was laid by the first iteration of the council. Finally, Secretary Strickler noted that his office and the agencies he works with continue to find ways to incorporate environmental justice concerns into the work they are doing and are eager to listen to the recommendations that will come from the group in the coming weeks and months.

## **Council Member Introductions**

Secretary Strickler invited council members, agency staff, organization representatives, and members of the public to introduce themselves.

Council members present: Nikki Bass, Jevonte Blount, Herbert Brown, Nathan James Burrell, Taysha DeVaughan, Dr. Mike Ellerbrock, Jay Ford, Faith Harris, Nathaniel Marshall, and Beth Roach. Council members participating by phone included EJ Scott and Dr. Janet Phoenix.

State and agency staff present: Meryem Karad, Katie Sallee, and Deputy Secretary Josh Saks with the Office of the Secretary of Natural Resources; Carter Hutchison from Governor Northam's Policy Office; Marshall Herman from the Secretary of Transportation's office; Trieste Lockwood, Chris Bast, and Sharon Baxter with the Virginia Department of Environmental Quality; Director Clyde Cristman, Isaac Sarver, and Darryl Glover with the Virginia Department of Conservation and Recreation; Director Julie Langan from the Department of Historic Resources; Rick Walton with the Virginia Department of Transportation; Michael Skiffington with the Department of Mines, Minerals, and Energy; Lara Johnson with the Department of Forestry; Jennifer DeBruhl with the Department of Rail and Public Transportation; Allen Knapp with the Virginia Department of Health; Don Anderson and John Bell from the Office of the Attorney General.

### **Council Staff Remarks, *Meryem Karad and Trieste Lockwood***

- *Chair and Vice Chair Announcements*

Secretary Strickler noted that Ms. Beth Roach has agreed to serve the Council as Chair for the upcoming year, and Dr. Janet Phoenix has agreed to serve as the Vice Chair.

Trieste Lockwood reviewed the agenda for the day, noting upcoming remarks from Dr. Ellerbrock, Dr. Phoenix, and Deputy Secretary Saks and noted that discussion of the schedule for upcoming meetings will be discussed later in the program.

### **Environmental Justice Introduction, *Dr. Mike Ellerbrock***

- *EPA/EJ Definition*

Dr. Ellerbrock noted his background as a Professor of Economics at Virginia Tech and member, currently serving in his second term, of the U.S. Environmental Protection Agency's Environmental Justice Advisory Council. Dr. Ellerbrock noted the origins of environmental justice as a topic at the federal level, noting Executive Order 12898 issued by President Bill Clinton in 1992 to establish the Office of Environmental Justice within the Environmental Protection Agency. He offered that the federal government has defined environmental justice as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies."

With this definition of environmental justice as context, Dr. Ellerbrock noted that “fair treatment” means that “no group of people should bear a disproportionate share of the negative environmental consequences resulting from environmental laws, regulations, and policies.”

Dr. Ellerbrock also noted the ethical principle of subsidiarity, specifically the idea that people who have to live with the consequences of a decision should be principally involved in making that decision or have meaningful input, and emphasized the importance of pro-actively involving all stakeholders in decisions.

Dr. Ellerbrock shared journal articles which provide a short history of the environmental justice movement in the United States, including recent actions from the Office of Environmental Justice related to Hurricane Katrina, health disparities among vulnerable communities in Minneapolis, toxic chemicals in discount retail stores, and health issues among fishing communities along the Gulf Coast in the wake of the Deepwater Horizon oil spill. Dr. Ellerbrock expressed concern that the current administration had recently moved the Office of Environmental Justice at the EPA under the broader auspices of the EPA Office of Policy. The Office of Environmental Justice at the EPA has moved into the EPA Policy Office. Secretary Strickler raised concerns about the relative independence of the office of Environmental Justice at EPA from political considerations due to recent changes at EPA.

Dr. Harris noted that she had sent some information about the Robert Bullard environmental justice movement in the 1970’s, and the role that the Church of Christ had in elevating the environmental justice movement long before the federal government became involved.

Ms. Scott, via webinar, noted that she does have a chemist background, and serves with the NAACP environmental advisory group. Ms. Scott indicated she would be interested in following up on the topic of toxic chemicals in discount retail stores with Dr. Ellerbrock.

### **Background and History, Dr. Janet Phoenix**

- *Presentation of 2018 Report and Past Work*

Dr. Phoenix (participating by phone) acknowledged Dr. Ellerbrock for the great context that he was able to provide for new members to the Virginia Council on Environmental Justice. Dr. Phoenix noted that the last Advisory Council on Environmental Justice first convened in December of 2017, and invited other members of the prior council to offer their feedback during her presentation. Dr. Phoenix recognized that there were many environmental justice issues rooted in particular parts of the state, and that it took some time for the prior group to sift through those issues deeper. Dr. Phoenix noted that while that work began in Buckingham County with a site visit, the previous council had planned to pursue issues in the Hampton Roads and Southwest Virginia areas moving forward through additional site visits.

Dr. Phoenix noted that the previous council had a good working relationship with the Department of Environmental Quality, but one of the report recommendations that emerged was to include participation from other agencies and secretariats moving forward. Dr. Phoenix noted that the inaugural meeting for this council today featured a significant cross-section of state

government agencies, and thanked the Administration and agency staff for embracing that recommendation.

Dr. Phoenix noted recommendations from the previous report, including the request for a budget. Dr. Phoenix noted ensuring adequate grassroots and community-based representation was a priority of the last Council and is likely to remain an ongoing goal. As part of that, and to ensure direct feedback to the council, Dr. Phoenix expressed hope that the new Council would continue to step out into the communities and frame those issues from a local perspective. Dr. Phoenix noted that prior to conducting site visits, the report had included recommendations that Council members be briefed on issues thoroughly.

Dr. Phoenix noted that the prior Advisory Council on Environmental Justice report acknowledged that the group is an advisory body, and that our role is to try and translate concerns raised to us into actionable items by the Governor and his staff. Dr. Phoenix noted the challenge before the prior Advisory Council on Environmental Justice, specifically the problem of how to balance processes so that members received good feedback from the public and grassroots while still being able to drive some discussion on issues of greater statewide significance. Dr. Phoenix reiterated her hope that the Advisory Council on Environmental Justice's challenges would help inform decisions moving forward about council structure and how we proceed as a group.

Dr. Phoenix and Beth Roach took a moment to acknowledge the scholarly work that Dr. Mary Finley-Brook did in summarizing the work of other councils across the country, and specifically noted the data about how other states structure and accomplish things. Praise was echoed for other former council members as well. Ms. Roach expressed her particular interest in how the Council can work together effectively with Native American tribes moving forward.

Dr. Mike Ellerbrock suggested that the newly comprised Council should be aware that under the Trump administration the EPA has realigned the national priority list, which is the ranking of the 100 worst SuperFund sites in need of clean up. Dr. Ellerbrock noted that this council may want to look at if any Virginia sites have lost priority in the Environmental Protection Agency re-ranking process.

Dr. Harris notes that in terms of coastal resiliency, the Gulf Coast is presently facing Hurricane Barry while Virginia is second only to Louisiana in terms of coastal vulnerability. Dr. Harris noted her appreciation to have representatives from so many agencies of state government present.

Dr. Ellerbrock inquired about whether the Advisory Council on Environmental Justice received a response to the initial report. Dr. Phoenix expressed that the report was dropped off in December and that a number of the council's recommendations from that report have been reviewed. Secretary Strickler responded that a number of the council's recommendations from that report have been incorporated into the work of his office and that the Governor have been hard at work implementing recommendations from that report into the final Executive Order 6 report.

Ms. Roach thanked members of the public who came to previous meetings and who have come today. Ms. Karad reminded members of the public to sign up for public comment.

Queen Shabazz, on behalf of the Virginia Environmental Justice Collaborative, presented a certificate expressing VEJC's appreciation to Dr. Phoenix acknowledging her service on the Governor's initial council. Queen Shabazz indicated that other members of the prior Advisory Council on Environmental Justice were also recognized with certificates of appreciation.

### **Working Lunch**

- **EO 29 Overview by Meryem Karad and Trieste Lockwood**
  - Ms. Lockwood reviewed the text of Executive Order 29 (EO29), which established the newly comprised Virginia Council on Environmental Justice, noting the goals, structural components, and the main issue areas the EO29 addresses. Ms. Lockwood noted that the main task for the VCEJ is a report to the Governor focused on recommendations for long-term framework to incorporate environmental justice into decision-making.
  - Ms. Lockwood noted Executive Order 29 specifically asks the council to address local government, public health, climate change and resilience, transportation systems, clean energy transition, and outdoor recreation access for underserved populations. She noted that Deputy Saks would present on the Governor's Executive Order 24 related to coastal resiliency as one example of an emerging issue.
  - Ms. Karad added that, as requested by the last council's report, there are now representatives of the Virginia Department of Transportation and Virginia Department of Health, among other agencies, to support the VCEJ's efforts.
  - Ms. Roach noted that on the topic of emerging issues, speaking as a state recognized tribal member, there is a lot to learn with how the tribes can exercise their newfound rights. Ms. Roach indicated that area may be ripe for discussion and a broader two-way conversation with the tribes and state agencies.
- **Review – Clean Energy Advisory Board Recommendations**
  - Trieste Lockwood notes that HB 2781, sponsored by Delegate Lashrecse Aird establishes a Clean Energy Advisory Board. The Board will be responsible for dispensing grants to reimburse individuals who install solar panels or other forms of clean alternative energy for their home who reduce their electric bill by 12%. The legislation specifically asked the Governor's Advisory Council on Environmental Justice to weigh in on individuals who might be able to serve on such a board. Members shared recommendations and were encouraged to email Ms. Karad and Ms. Lockwood with further recommendations of people to serve on the Board.

**Council Guidelines and Freedom of Information Act, Don Anderson and Justin Bell from the Office of the Attorney General**

Don Anderson and Justin Bell from the Virginia Office of the Attorney General presented a training on the Freedom of Information Act and shared some general guidelines for communication between board members. Mr. Bell also briefly addressed aspects of the Conflict of Interest Act. Mr. Ford noted that since public meeting notice has consistently been an environmental justice issue cited in several communities, it may make sense to examine that code section as a body at large to see if there are ways in which it can be improved.

### **Executive Order 24, Sea Level Rise and Flood Resilience, Deputy Secretary Josh Saks**

Deputy Secretary of Natural Resources Josh Saks introduced himself to the body, noting that his portfolio includes outdoor recreation, land conservation, as well as flood insurance, dam failures, and natural disasters. Deputy Saks noted that Sea Level Rise and Flood Resilience are an emerging EJ issue, hence why the Governor chose to include the topic in two Executive Orders: EO 24 which established a Chief Coastal Resiliency Officer within his administration and EO 29 which re-established the Virginia Environmental Justice Council. Deputy Saks shared a number of headlines from the Richmond Times-Dispatch related to sea level rise, as well as anecdotes about recent tropical storm and hurricane impacts both coastal and inland within the Commonwealth of Virginia and nationwide. Deputy Saks acknowledged that frequently communities in need tend to suffer a disproportionate amount of the burden during flooding events, and defined resilience as “the ability of a social or economic system in a community to adapt to stress and change.”

Deputy Saks noted that while we have some tools to identify vulnerable communities, like the Social Vulnerability Index used by the Division of Dam Safety at the Department of Conservation and Recreation, that there is still much work to do to help these communities prepare. Deputy Saks acknowledged that some of the most endangered communities have neither the structural protection they need, nor the economic clout, nor the political clout to tackle these issues themselves.

With that background as context, Deputy Saks solicited members of the Virginia Council on Environmental Justice for their help, expertise, and creative ideas to address the very real threat of flooding and sea level rise to environmental justice communities on the coast and inland.

Dr. Faith Harris inquired about any listening sessions held in the communities most impacted by sea level rise and flooding. Josh Saks notes that most of the work that has taken place has primarily been through the PDC’s at this point through the SNR’s office. Mr. Ford notes that Ann Phillips, the Governor’s Chief Resiliency Officer, has had some meetings on the Eastern Shore with communities that have been most impacted by these issues.

### **Consensus Building – Brainstorm Discussion on Council and EO 29 Subcommittees**

- **Brainstorm Discussion**
  - Ms. Lockwood and Ms. Karad noted that this brainstorm session would be focused on identifying emerging issues or issues that would naturally fit in the priorities identified in EO29 for the Virginia Council on Environmental Justice to consider.

- The members largely discussed climate and resiliency. Herbert Brown spoke about the role of environmental justice as it relates to farming and flooding. Nathan Burrell commented about the challenges facing recreation access in urban areas and flooding resilience, noting areas of parkland in Richmond that are being eroded, damaged and overwhelmed. Rev. Harris noted that construction practices are changing in response to different weather patterns, and it may be prudent to look at how those new building requirements impact vulnerable communities housing affordability. Deputy Secretary Saks added that in the next round of building code updates, state government officials are looking at ways to account for resilience without driving the price point to a place of unaffordability for vulnerable populations. Ms. Bass mentioned a social vulnerability map that Deputy Secretary Saks had displayed during his presentation, and indicated that her tribe's ancestral lands and population distribution are predominantly in Hampton Roads and on the maps displayed.
  - Mr. Marshall mentioned the threat of the Lynchburg College Dam failure as impacting vulnerable communities in Lynchburg. Deputy Saks discussed the topic of flooded mines in the western part of the state, and the challenge of holding property owner's responsible for flooding. Dr. Phoenix raised the topic of environmental justice as it relates to emergency planning, thinking about what risks might be occurring, and plugging those populations into planning for sheltering in place, evacuation, and emergency shelter. Deputy Saks acknowledged fragmentation of responsibilities in state government between the Department of Conservation and Recreation which manages the dam safety and floodplain program for the state, while the Virginia Department of Emergency Management is primarily focused on the state emergency response plan that relies on the same data. Faith Harris noted that in the group's previous report, the body called on agencies to work together to resolve issues like that and made a recommendation as such, and inquired about how the EJ Advisory Council could make inroads on that topic. Gustavo (member of the public) inquired as whether Deputy Saks or the state government had considered the concept of sustainability hubs, to allow vulnerable communities to shelter in place. Deputy Saks indicated that it is an issue that is being examined by the state.
- **Subcommittee Sections**
    - Ms. Lockwood recommended members begin to choose and develop subcommittees to examine certain issue areas more closely.
    - Discussion ensued among members to determine the appropriate number and types of committees. Dr. Phoenix commented that last year the group discussed the idea that issues should bubble up to the group, and advocates taking a more regional approaches. Members discussed the pros and cons of regional meetings. Jay Ford recommends a subcommittee around Permitting, Programs, and Policies of State Government. There being no further discussion, Ms. Lockwood solicited input for members of the subcommittees.

- Committees:
  - **Policies, Permits, Programs, Procedures and Including Local Government, Partnerships, and Communication Subcommittee**
    - Volunteers included Jay Ford, Faith Harris, and Jevonte Blount.
  - **Climate Change and Resiliency Subcommittee**
    - Volunteers included Faith Harris, Jay Ford, Taysha DeVaughan, Jevonte Blount, Nikki Bass, and Mike Ellerbrock. Nathan Burrell and Beth Roach indicated tentative interest.
  - **Outdoor Recreation Access Subcommittee**
    - Volunteers included Nathan Burrell, Beth Roach, Jay Ford, Jevonte Blount, Herbert Brown, Nathaniel Marshall, Mike Ellerbrock
  - **Public Health Subcommittee**
    - Volunteers included Janet Phoenix, Nikki Bass, and Taysha DeVaughan.

## **Public Comment**

Ms. Karad called on members of the public in the order in which they had signed up to speak. Speakers addressed three broad topics: the Cumberland County Landfill, stakeholder organization comments about the new VCEJ council composition and structure, and interactions between law enforcement and the community as an environmental justice concern.

### *Cumberland County Landfill Public Comments*

Pine Grove Project members Mr. Kevin Halligan, Laurie Halligan, Muriel Branch, Mike Scales; Cumberland County Landfill Alert member Christal Schools; and Cumberland County residents Cora Cooke, Roberta Miller, and David Clark addressed concerns to the VCEJ members regarding the landfill project under development in Cumberland County. Comments from those members of the public included the following:

- Unanimous concern expressed about the prospect of increased tractor trailer traffic, with particular regard to the safety of older residents who must cross the road to retrieve their mail.
- Frustration noted by residents that Cumberland County refused the opportunity to update floodplain maps through FEMA.
- Residents expressed alarm that the expected buffer between the landfill and adjacent property, as well as the boundaries of the landfill property itself, could infringe heavily on the Rosenwald School in Pine Grove and historic cemeteries and burial sites for the African American community.
- Members of the public noted concern about long-term health, sanitation, drinking water, property value, and quality of life impacts for residents who are unable to relocate from Pine Grove if the project moved forward.
- Nathan Burrell inquired if the school has been historically designated through the Department of Historic Resources. Ms. Branch responded that they are currently in the



second phase of that process, due by August 14<sup>th</sup> in hopes of a December 19<sup>th</sup> Board of Historic Resources meeting to approve the designation.

- All Cumberland County residents requested that the VCEJ members consider asking the United States Army Corps of Engineers for an Environmental Impact Study of the proposed landfill project, to gain a better understanding of the associated issues.

#### *Stakeholder Organization Public Comments*

Appalachian Voices Environmental Policy Fellow Saachi Kuwayama, Virginia Interfaith Power and Light Representative Laura Grier, Virginia Environmental Justice Collaborative Coordinator Queen Zakia Shabazz, and Chesapeake Climate Action Network Virginia Director Harrison Wallace addressed the VCEJ during public comment on behalf of their stakeholder organizations. Public comments from those members of the public included:

- Concerns expressed by several stakeholder organizations about the current council structure and effectiveness, particularly citing a lack of operational funding and enforcement mechanisms to force compliance with recommendations.
- Virginia Interfaith Power and Light and Virginia Environmental Justice Collaborative noted a desire for more representation from frontline environmental justice communities.
- All stakeholder organizations expressed their gratitude to the members of the VCEJ for stepping up to serve in this new iteration of the council, and noted that the council's existence is an encouraging sign for the future of the environmental justice movement in Virginia.
- Stakeholder organizations expressed concern that Executive Order 29 specified four topics of particular concern for the VCEJ to look into, and reiterated their hope that this would not preclude the VCEJ from listening to issues that could percolate up from the local level through environmental justice communities.
- Mr. Wallace noted that the Chickahominy Power Plant comment period was particularly troubling to members of CCAN, and that an Air Board meeting to receive public comments was held forty minutes from the proposed site. Ms. Grier echoed those concerns, and noted a need for greater inclusion of African American and indigenous populations in both the Chickahominy Power Plant as well as other permitting processes.
- Ms. Shabazz noted Governor Northam's stated desire to focus the remainder of his time in office on equity. Ms. Shabazz stated there is an opportunity to focus on this through the Virginia Council on Environmental Justice.

#### *Community Law Enforcement as an Environmental Justice Concern*

Emily DeCarlo, a resident of Hopewell, spoke on the topic of community law enforcement as an environmental justice concern.

- Ms. DeCarlo introduced herself and shared the story of her daughter, Angel DeCarlo who was shot by a police officer in December 2018 in Hopewell.
- Ms. DeCarlo asks the council to consider the issue of justice in the environment more broadly, and consider what happened to her daughter as an environmental problem that

had a great impact on the psychological well-being of the citizens of Hopewell who knew her daughter.

- Ms. DeCarlo asks the members of the Virginia Council on Environmental Justice to consider supporting two bills. The first bill would require mandatory release of the name of police officers in officer-involved shootings. The second piece of legislation Ms. DeCarlo asked support for involves mandatory transportation to nearby hospitals or medical centers for injured citizens who have been shot by law enforcement.

### **Next Steps**

Dr. Ellerbrock expressed an interest in making a motion encouraging an environmental impact statement for the Cumberland County landfill project, and asks why an EIS has not taken place yet. Deputy Secretary Saks, in response to the inquiry from Dr. Ellerbrock, indicated that no state permit has been applied for by the company involved, but expects that the size of the project will trigger an automatic environmental impact study. Jay Ford noted it might be important to see what else people need in the local community, and Dr. Harris indicated that it might be prudent to raise awareness about the permitting process among members of the community in Cumberland County.

Dr. Ellerbrock make a motion, properly seconded by Beth Roach, and passing on a voice vote to encourage the office of the SNR and DEQ to hold a meeting with members of the Cumberland County community to explain the environmental permitting processes that may be relevant and hear their concerns. The motion passes unanimously.

Chris Bast, Chief Deputy of the DEQ, confirmed that DEQ has not yet received a permit from this specific landfill, and Deputy Secretary Saks indicates that to his knowledge the only actions taken at this point related to the landfill are specific to the local zoning permits.

- ***Future Meeting Dates***

Meryem notes that tentatively we have three dates held on the calendar, with a plan to meet every other month until December. Those dates are September 18<sup>th</sup>, November 13<sup>th</sup>, and December 5<sup>th</sup>. She noted Subcommittee meetings will be scheduled soon.

### **Meeting Adjourned**

Ms. Roach named previous council members who laid the foundation for this work, thanked members of the public for their comments, and thanked the agency staff who were present today. There being no further business, the Advisory Council on Environmental Justice adjourned.