

EXHIBIT C

APPROVED SEPTEMBER 22, 2020

MEETING MINUTES

HOUSE COMMITTEE ON CITY, COUNTY, AND LOCAL AFFAIRS

Tuesday, August 11, 2020

The House Interim Committee on City, County, and Local Affairs met on Tuesday, August 11, 2020, at 10:00 a.m., Multi-Agency Complex (MAC), Room A, Little Rock, Arkansas.

Committee members present: Representatives Lanny Fite, Chair; Frederick Love, Vice-Chair, Karilyn Brown, Frances Cavenaugh, Cameron Cooper, Carol Dalby, Jana Della Rosa, Spencer Hawks, Monte Hodges, Lee Johnson, Milton Nicks, Marcus Richmond, Johnny Rye, Matthew Shepherd, and Nelda Speaks

Other members present: Representatives Denise Ennett, Vivian Flowers, David Hillman, Jack Ladyman, and Danny Watson

The meeting was called to order by Representative Lanny Fite.

Motion to Consider Approval of the June 15, 2020, Meeting Minutes [Exhibit C]

Representative Love made a motion to approve the meeting minutes of June 15, 2020. The motion was seconded by Representative Dalby, and without objection, the motion carried.

Discussion and Consideration for Adoption of Interim Study Proposals (ISPs)

Interim Study Proposal (ISP) 2019-131 (Representative Jana Della Rosa) - *“An Act to create a study of public notice and participation in the environmental permitting process; and for other purposes.* [Exhibit D1]

Representative Della Rosa provided a brief explanation of ISP 2019-131. She stated the purpose of the ISP is to address inconsistencies in environmental related public notices dealing with permitting and actions. The goal is to create consistency in how public notices are issued and change the method that is used, as public notices in newspapers are not effective.

Mr. Michael Grappe, Director of Special Projects, Arkansas Energy and Environment (AEE), Arkansas Division of Environmental Quality (ADEQ), was recognized. [Exhibits D1.a – Part 1 and D1.a – Part 2]. Mr. Grappe stated environmental policies and permits are issued for storm water, mining, air quality issues, solid waste, etc. Guidelines that are followed for these permits were implemented 30 years ago. It is an onerous task to follow the guidelines under the current law with ongoing complaints from citizens. One concern is providing a sufficient public notice to the public while reducing the cost for the state. Mr. Grappe is

interested in looking at other ways to efficiently carry on the state's business without burdening the industries that request the permits. Mr. Grappe stated some states publish their notices on websites in addition to newspapers. One issue with just a newspaper notification is some individuals may not receive or read the newspaper.

Representative Ladyman asked for suggestions for creating legislation on improving the public notice process. Mr. Grappe suggested creating legislation that allows all agencies to submit and respond to notices with their own rules and regulations. The committee discussed other methods, suggestions, and concerns for public notices that include:

- Enhance state public websites
- Mailing postcards
- Research constitutional issues
- Newspaper partnerships
- Internet/social media
- Text messaging and email
- Review public notice responses from Arkansas citizens
- Funds for advertising

Representative Fite announced the committee will have a follow up meeting on this issue to invite various agencies to discuss ideas.

Mr. Terry Paul, Environmental Health Branch Chief, Arkansas Department of Health (ADH) and Ms. Laura Shue, General Counsel (ADH), were recognized and gave a brief overview of the Department of Health's Environmental Health Protection (EHP) program. **[Exhibit D1.b]**. Some of the main areas of the EHP program include:

- On-site wastewater programs ensure the safety of water resources
- Swimming pool and swim beach safety programs review plans for recreational facilities and test water quality to prevent waterborne diseases
- Marine sanitation program ensures safety of water resources by regulating wastewater disposal at marinas and on marine crafts
- Clean Indoor Air program enforces Act 8 of 2006, which protects patrons of public businesses from second hand smoke

Ms. Shue reported ADH promulgates rules pursuant to the Administrative Procedures Act, and all ADH rules go before the Public Health, Welfare, and Labor Committee. Public notices are published when rules are filed with the Bureau of Legislative Research and Secretary of State's office. The public comment period lasts for 30 days. Representative Della Rosa asked why the environmental base items, specifically water, falls under ADH and not ADEQ. Mr. Paul replied,

from a historical perspective the on-site wastewater program is generally different. The ADH permitting processes are different from ADEQ in that ADH deals with homeowners, not businesses or entities. From an individual perspective, the permits are for individuals, whereas ADEQ permits are based on the output from a treatment plant or some type of industrial process that include a public hearing. The ADH approves a lot of the sites behind the different systems, but each one of those systems has to have a water permit or an air permit depending on what the class is through ADEQ to permit their discharge. According to Mr. Paul, the Division of Engineering's focus is on making comments that relate to the public.

Ms. Denise Oxley, General Counsel, Arkansas Division of Labor, Department of Labor and Licensing (ADLL), was recognized and provided a brief overview of ADLL's blasting program. [Exhibit D1.c]. Ms. Oxley stated the ADLL is not an environmental permitting agency, as it does not issue permits with respect to blasting. The program has two (2) components. First, there is a certification program for individuals performing blasting operations. Second, the division is the enforcement authority for the Arkansas Quarry and Open Pit Mine Blasting Control Act. Statutes and rules do not establish or address minimum standards for the performance of blasting operations. They address only the minimum qualifications for individuals performing blasting. The minimum qualifications for certification are primarily the completion of basic training. Regarding blasting in quarries and open pits, the Act does not have a permit, certification, or general pre-approval process.

In response to a question by Representative Della Rosa regarding quarries and mining and why this segment falls under the Department of Labor, Ms. Oxley replied, historically, it is not considered an environmental regulation, as it deals with explosives. When the Act was passed, there were two agencies that were looked at (State Fire Marshal and the Department of Labor). Moreover, the Act's biggest component is public safety, and worker protection standards are important as well. Notably, the blasting standards that are used within the limits are federal blasting limits established by the Office of Surface Mining not the Environmental Protection Agency and the Mine, Safety, and Health Administration, which is part of the U.S. Department of Labor.

Mr. Ryan Benefield, Deputy Director, Arkansas Natural Resources Division (ANRC) and **Mr. Wade Hodge, Chief Counsel, Arkansas Department of Agriculture (ADA)**, were recognized and discussed the ADA's covered permit and/or required authorization. [Exhibit D1.d]. Some permits and certifications include:

- Surface water
- Ground water
- Dams
- Poultry feeding operations registration
- Nutrient management planner certification
- Nutrient applicator certification

The permits have different types of notice provisions and different types of public participation provisions. Representative Della Rosa asked why the programs are under the ANRC or ADA. It was stated that the ANRC was formerly called the Soil and Water Conservation Commission. This Commission was established to deal directly with soil and water issues. Also, the ANRC is under the ADA because so much ground water and surface water usage in the state is for agricultural issues along with the poultry feeding operations and agricultural permits they issue.

Mr. Michael Grappe, Director of Special Projects, AEE, and Mr. Shane Khoury, Deputy Director, General Counsel, Arkansas Oil and Gas Commission (AOGC), were recognized, and Mr. Grappe stated everything he discussed earlier in terms of concerns and issues applies to the AOGC [**Exhibit D1.e**].

Representative Della Rosa stated because AEE and AOGC's permitting process is combined, how would the public know which agency to contact for issues.

Mr. Grappe replied under AOGC, for instance, drilling a well is a residual water issue, and AOGC stores water for some of the drilling applications, which is their specific area of expertise. Whereas, ADEQ expertise deals with what happens when the water gets out of the tank or starts flowing on the ground toward streams. ADEQ works closely with AOGC on water issues and environmental issues and the ADH regarding septic tank issues.

Representative Della Rosa made a motion to adopt ISP 2019-131. The motion was seconded by Representative Brown, and without objection, the motion carried.

Interim Study Proposal 2019-148 (Representative Fredrick Love) - *An Act to be known as the "George Floyd Act of 2020"; concerning the immunity from lawsuits granted a law enforcement agency; to allow a citizen who is negligently or recklessly harmed by a law enforcement officer to seek redress; and for other purposes.* [**Exhibit D2**]

Representative Love provided a brief explanation of ISP 2019-148. He stated the ISP will be studied to address issues that involve police officers that act outside of the line of duty. Representative Love reported he is working with various groups to gather ideas to address the issues to draft legislation, which he expects to present in the upcoming legislative session.

After a lengthy discussion, Representative Richmond stated he would feel comfortable if Representative Love sought law enforcement input before the General Assembly addresses the issue to avoid wasting time.

Representative Love made a motion to adopt ISP 2019-148. The motion was seconded by Representative Hodges, and without objection, the motion carried.

There being no further business, the meeting adjourned at 3.14 p.m.