

Prince George's County Environmental Justice Commission (HB 183 - 2018) MSAR# 11623

Report on the Commission

FEBRUARY 25, 2019

Prince George's County Environmental Justice Commission

Participating Members

Gary Cunningham, Department of Permitting, Inspection and Enforcement, Chair
Councilman Calvin Hawkins, Prince George's County Council

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Staff

Akosua Dosu, Prince George's County

Executive Summary

Concern for environmental health and its impact on public health prompted the Maryland General Assembly to establish a commission to study environmental justice issues confronting Prince George's County. Specifically, the Commission is required to (1) study environmental justice issues in Prince George's County; (2) make recommendations regarding actions that should be taken to address environmental justice issues in Prince George's County and work to extend the duration of the Commission (3) report its findings and recommendations to the Prince Georges' County House Delegation on or before December 31, 2018. Commission findings and recommendations were due to the House of Delegates by December 31, 2018. The Commission was not able to meet this December 31 deadline due to encounter of delays associated with the formation, and subsequent convening, of the Commission. The report of findings and recommendations is delivered herewith.

The report is a compilation of input from individual Commission members who have expertise in the various topics addressed throughout the document. Subject matter experts on the Commission have contributed their research and recommendations to help guide the Commission's work moving forward. Based upon information which was presented at Commission meetings and reference materials and tools which were shared with the Commission, certain populations and geographic areas of the County have reported higher exposure to adverse environmental conditions than others. These conditions are said to pose risks to the health and welfare of affected populations which are largely comprised of low income and minority residents. The Commission finds that further study of environmental justice issues in the County is in order. The recommendations of the Commission are detailed later in this report.

Introduction

The Prince George's County Environmental Justice Commission (Commission) presents this report to the Prince George's County House Delegation in accordance with House Bill 183 (PG 411-18). Governor Hogan approved HB 183 on May 15, 2018 and thereby established the Commission to study and make recommendations regarding certain environmental justice issues and other matters concerning Prince George's County. It provides for the composition, chair and staffing of the Commission and requires this Commission to report its findings and recommendations to the Prince George's County House Delegation on or before December 31, 2018.

Composition of the Commission

In accordance with HB 183, Prince George's County Government designated representatives of the Office of the County Executive, County Council, Department of the Environment and Department of Permitting, Inspection and Enforcement to serve as members of the Commission. On October 3, 2018, the Intergovernmental Division of the Prince George's County Office of the County Executive advised the Office of Delegate Jay Walker (then Chair of the Prince George's County House Delegation) of these designations. On October 11, 2018, Delegate Walker designated Gary Cunningham (Deputy Director, Prince George's County Department of Permitting, Inspection and Enforcement) as Chair of the Commission.

In accordance with HB 183, representatives of an environmental organization and the public are members of the Commission. Sacoby Wilson, PhD, MS, Director, Community Engagement, Environmental Justice and Health (CEEJH) is a member of the Commission. Kamita Gray, County resident, is a member of the Commission.

Commission Staff and Maryland State House of Delegates Representation

The Department of the Environment assigned Akosua Dosu, Sustainability Coordinator, to serve in the capacity of staff for the Commission. Former Delegate Angela Angel facilitated

meetings of the Commission and communications with members of the public and environmental groups.

Commission Business

The Commission met on November 20 and December 12, 2018 to discuss the composition of the Commission, establish the goals, identify environmental justice issues which impact the County and outline the Commission's report.

Goal of the report

The goal of the report is to provide a summary of environmental justice issues in the County and recommend actions to address such issues. To this end, the Commission set objectives as described below.

1. Define the term "environmental justice" and invoke conversation about what environmental justice means for Prince George's County.
2. Identify environmental justice issues in the County and EJ areas in Prince George's County.
3. Review local regulatory and enforcement authority on matters of environmental justice and identify gaps in this authority.
4. Provide recommended actions areas for the Commission.

What is Environmental Justice?

Environmental justice (EJ) is defined by the United States Environmental Protection Agency (US EPA) 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."

Commission members expounded on the federal definition with the shared understanding that most scholars who use the terms environmental justice or environmental racism do so with little attention to how to define these concepts. Even fewer scholars use or properly define terms like environmental injustice and environmental inequality. Bunyan Bryant provides a more holistic definition of environmental racism in his book, *Environmental Justice* (1995):

“Environmental racism is an example of an environmental injustice. An environmental injustice occurs when a particular social group-not necessarily a racially ethnic group-is burdened with environmental hazards [...] It refers to those institutional rules, regulations, and policies of government or corporate decisions that deliberately target certain communities for least desirable land uses, resulting in the disproportionate exposure of toxic and hazardous waste on communities based upon prescribed biological characteristics. Environmental racism is the unequal protection against toxic and hazardous waste exposure and the systematic exclusion of people of color from decisions affecting their communities.” (p. 6)

According to Bryant, Environmental justice (EJ) [...] refers to those cultural norms and values, rules, regulations, behaviors, policies, and decisions to support sustainable communities where people can interact with confidence that the environment is safe, nurturing, and productive.

Environmental justice is served when people can realize their highest potential supported by decent paying and safe jobs, quality schools and recreation, decent housing and adequate health care, democratic decision-making and personal empowerment; and communities free of violence, drugs and poverty. These are communities where both cultural and biological diversity are respected and highly revered and where distributed justice prevails.

Social Determinants of Health

When considering and addressing Environmental Justice based on Bunyan Bryant’s definition it is important to understand social determinants of health (SDOH) and other cumulative impacts. Cumulative impacts are the combined interdependent actions in one area that are stressors to the environment, health and wellbeing of the place or its people. Social determinants of health are the complex circumstances in which individuals are born and live that impact their health. They include intangible factors such as political, socioeconomic, and cultural constructs, as well as place-based conditions including accessible healthcare and education systems, safe environmental conditions, well-designed neighborhoods, and availability of healthy food.

These are important factors that can contribute to environmental justice including disparities in burden, exposure risk and health outcomes. Researchers have shown that differentially exposed communities such as environmental justice populations have increased health risks due to inequities in power and privilege. There are disparities due to racism, classism, segregation, socioeconomic position and capital, and discrimination in community planning and zoning that lead to disproportionate health impacts. Socioeconomic vulnerability contributes to variation in community health including higher levels of stress, morbidity and mortality in communities overburdened by the presence of environmental hazards. Environmental injustice leads to some communities and populations being overburdened by environmental hazards and unhealthy land uses which lead to a differential exposure to both environmental and psychosocial stressors. These communities are also underserved by health promoting infrastructure that will mitigate or fortify them against the adverse health consequences of their differential exposure.

Environmental Justice Issues

Poor environmental health, lack of access to life sustaining resources and the overall cumulative impact of social, economic and environmental stressors give rise to environmental justice (EJ) issues. Individual members of the Commission identified EJ-related issues and conditions of the natural and built environment that they work on in Prince George's County. These conditions and issues are listed below.

1. Cumulative Impacts of Environmental Hazards
2. More comprehensive Health Impact Assessments (HIA)¹ that take into account cumulative exposure and risks
3. Air Pollution, Traffic, and Public Health
4. Inequities in Zoning, Planning, and Development
5. Differential Permitting of Environmental Hazards and Locally Unwanted Land Uses (LULUs)
 - a. Location and concentration of power plants
 - b. Neighborhood Use Compatibility
6. Environmental Justice and Health Disparities
7. Lack of Compliance with Title VI of the Civil Rights Act by County Agencies
8. Access to safe and affordable housing and poor indoor environmental health

- 9. Food Insecurity and Accessibility Issues
- 10. Water Quality, Lead Issues (water)
- 11. Landfills, Brownfields, Rubble fills

Identifying Environmental Justice Hotspots in Prince George's County

There are a number of communities and areas of Prince George's County that Commission members have worked in to address environmental justice concerns. Those communities include: 1) Brandywine, Maryland, 2) Sheriff Road Community, 3) Bladensburg, Maryland, and 4) Upper Marlboro, Maryland area that hosts a landfill.

The Commission has an opportunity to use Geographic Information Systems (GIS) to examine environmental justice concerns in areas/neighborhoods/communities in the County using the US EPA EJ SCREEN tool or a Maryland tool under development known as MD EJ SCREEN. MD EJ SCREEN has some overlap with US EPA EJ SCREEN and CALENVIROSCREEN, which are EJ screening tools using National and California respectively that provides an EJ score to a specific unit of analysis (i.e., census block group or census tract). The MD EJ SCREEN tool should be discussed by the Commission as an option for understanding and prioritizing communities with EJ concerns; highlighting those communities with EJ concerns with elevated health risks; highlighting communities with EJ concerns who should have enhanced engagement in decision-making related to permitting, enforcement, and regulatory activities; and prioritizing communities who should be targeted for additional investments for clean-up and redevelopment.

¹ HIA is a systematic process that uses an array of data sources and analytic methods, and considers input from stakeholders to determine the potential effects of a proposed policy, plan, program or project on the health of a population and the distribution of those effects within the population and provides recommendations on monitoring and managing those effects.

Intersection of Title VI and Environmental Justice

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color and national origin in programs and activities receiving federal financial assistance. Where federally-funded programs and activities affect human health or the environment, Title VI can be used to enforce environmental justice violations. Further study of the intersection of Title VI and environmental matters is in order.

A good case study for review of this intersection is the Title VI administrative complaint by the Brandywine I TB, Southern Region Neighborhood Coalition (BTB Coalition) against the Maryland Public Services Commission, Maryland Department of the Environment and the Maryland Department of Natural Resources. This administrative complaint concerns (1) whether the process and decision to issue a Certificate of Public Convenience and Necessity (CPCN) to Mattawoman Energy, LLC for the construction of a natural gas fired power plant in Brandywine, Maryland discriminated on the basis of race, color or national origin in violation of Title VI; and (2) whether the public engagement process prior to the decision to issue a CPCN discriminated on the basis of race, color or national origin in violation of Title VI.

Local Regulatory and Enforcement Authority

Department of Environment

The Department of the Environment is responsible for the overall administration and coordination of the County's environmental policies and programs including, but not limited to, solid waste and recycling management, sustainability, and water quality and flood management planning. In accordance with the County Charter, DoE may study and report on master plans, capital improvement programs, and any planning and zoning matters related to the County's environmental policies and programs which may be referred to the Executive branch.

For environmental justice, the Department is notified of permits to construct. For permits to construct notices, the DoE provides feedback to MDE to encourage equitable permitting decisions and informs the community of public comment periods and opportunities. DoE

works collaboratively with County sister agencies to address environmental justice concerns.

Department of Permitting, Inspections and Enforcement (DPIE)

The functions of this Department include the authorization and regulation of building, site/road and utility permits, as well as business licensing, all of which help to drive the local economy and ensure the health and safety of County residents, businesses, investors and visitors. DPIE provides inspection, oversight of construction, development and grading activities for residential and commercial construction and renovations to verify Code compliance. In addition, DPIE is charged with the enforcement of County codes that address property standards to ensure that Prince George's County's many diverse communities are aesthetically maintained for the benefit of all. DPIE also has administrative oversight for various boards and commissions associated with the building process within the County.

DPIE's enforcement power is limited to actions which may be taken to ensure compliance with requirements of County-issued permits and to achieve property standards as defined in the County Code. DPIE may inspect dust and noise complaints. DPIE can issue citations for noise violations but cannot issue Notices of Violations specifically for dust and pollutants.

Health Department

The functions of the Prince George's County Health Department are carried out by the Behavioral Health, Environmental Health/Disease Control, Family Health Services and Health and Wellness Divisions. Matters pertaining to poor air quality conditions may be directed to the Environmental Health/Disease Control Division. However, the Health Department cannot issue a Notice of Violation (NOV) for an air quality nuisance. Instead, they can elevate a NOV to the Maryland Office of Air and Radiation Management Administration (ARMA) for code enforcement.

In 2011, the Prince George's County Council passed CB-41-2011. The ordinance required the Health Department to conduct Health Impact Assessments (HIAs) for major

development projects. This legislation was passed to ensure public health is considered in development projects to minimize or eliminate negative impacts. The Health Department Environmental Engineering/Policy Program (under the Health Services department) is tasked with completing the HIAs. The HIAs completed by the Health Department take into consideration health statistics and environmental conditions of the areas surrounding the proposed development and provides that assessment to the Planning Department of the Maryland National Capital Park and Planning Commission(M-NCPPC).

Maryland-National Capital Park and Planning Commission

The State empowers the M-NCPPC to provide land use planning for Prince George's County. Members of the M-NCPPC serve on the County's Planning Board to facilitate, review and administer matters affecting the County. The Planning Board's responsibilities include supervising preparation of land use plans and comprehensive zoning maps, advising the County Council on zoning map amendment and special exception applications, and reviewing and approving site plans.

Gaps in Permitting Process, Regulatory Oversight and Enforcement

Members of the Commission have experience with environmental justice cases from various angles, including but not limited to, litigation, policy, research and government intervention. With the collective knowledge and observations of individual Commission members, the individual Commission members have identified barriers to effectively mitigating environmental injustices in the County below:

1. Absence of local policy requiring cumulative impact assessments (See definition in "Social Determinants of Health" section). The County lacks policy requiring inter-agency review of projects and plans which may adversely impact environmental and public health (cumulative impacts assessment)
2. Performance of Health Impact Assessments (HIAs). The County could use more dedicated resources (e.g. funding and staff support) to conduct HIAs.
3. Limited local authority for enforcement and inspection. The Maryland Office of Air and Radiation Management Administration (ARMA) Compliance Program will acknowledge County complaints and can issue Notice of Violations (NOV) and corrective action recommendations. The decision as to what level of enforcement action may be taken is decided by ARMA.

4. M-NCPPC has authority to make specific requirements for special exception uses. More regulatory authority should be afforded to the County. Also, the special exception process needs to be redesigned to allow consideration of community input or opposition at the earliest stages.
5. Technical support and equipment for onsite air monitoring is lacking.

Recommendations

The Commission has developed a list of short, medium, and long term actionable tasks that will meaningfully and effectively advance environmental justice across Prince George's County and its communities. To achieve these goals it has been recommended to organize the work as follows: a) Phase 1: Learning (TBD) b) Phase 2: Listening (TBD) c) Phase 3: Analyzing and Recommendation (TBD). A compilation of suggested actions for the Commission include:

1. Extend the term of the Commission for an additional six (6) months to allow additional time to study EJ issues in the County
2. Prioritize environmental justice issues.
3. Develop working groups to examine specific environmental justice concerns
4. Expand the charge of the Commission to involve and engage the community in identification of and approaches to address environmental justice issues. Town hall meetings should be required to inform knowledge base of residents and local businesses
 - a. Meaningfully engage stakeholders of concern by hosting town hall meetings throughout the County
 - b. Share the report with local residents and other impacted stakeholders as part of dissemination efforts
5. Brief state and local delegates on environmental justice and bills having environmental justice sensitivity
 - a. Develop a report that will be shared with the Maryland House Delegation and Prince George's County delegation

- b. Share a report to the delegations that provides recommendations on how to address environmental justice priorities
6. Expand Commission membership to include representatives of the County Health Department and Maryland-National Capital Park and Planning Commission
7. Draft Title VI policy for the County
8. Since the issues of Environmental Justice are so broad, the Commission's focus needs to be narrowed

Conclusion

Policies, laws, planning and development practices and code enforcement shape how residents and visitors experience life in Prince George's County. Certain populations in certain geographic areas of the County experience higher levels of exposure to pollutants in air and water than other County residents. These populations also live near sources of toxic air emissions and areas that handle hazardous chemicals. Sometimes, environmental injustice is an outcome of well-intentioned policy, land use decisions and land development. Exploring answers to the question, "Who experiences the benefit and who experiences the burden?" and meaningful community involvement are essential to good policy, land use and land development decision making. Sound and just answers to the above questions will enhance how residents and visitors experience life in our County.

References

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- Katrina Bibb et. al. *An Investigation of the Scope and Utility of a New Environmental Benefits District Framework for Prince George's County, Maryland*. 2017

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