

U.S. Environmental Protection Agency

Local Government Advisory Committee (LGAC)

Workgroup Meetings and Full Committee Meeting

April 19-20, 2012

Meeting Summary

The Meeting Summary that follows reflects what was conveyed during the course of the meeting which is summarized. The Committee is not responsible for any potential inaccuracies that may appear in the meeting summary as a result of information conveyed. Moreover, the Committee advises that additional information sources be consulted in cases where any concern may exist about statistics or any other information contained within the Meeting Summary.

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EXPANDING THE CONVERSATION (EJ) WORKGROUP

Welcome

Mayor Lisa Wong, Chairwoman of the Workgroup, called the meeting to order at 8:11 a.m. After the members introduced themselves, she introduced the first presentation.

EPA Region 8 Environmental Justice Initiative

Corbin Darling, Environmental Justice Program Chief, EPA Region 8, spoke on the EPA Region 8 Environmental Justice (EJ) program. Region 8 is involved in many projects addressing disproportionate impacts to communities and the meaningful involvement of communities in EJ activities. The Salt Lake City Children's Environmental Health/Environmental Justice Initiative was highlighted in the discussion as an EJ Region 8 Showcase Project.

The project's purpose is to make a positive difference in the environmental health of children through collaboration and community problem-solving. The project has four goals:

- Empower the community to reduce environmental risk to children;
- Achieve a more holistic, integrated approach to children's environmental health that is sustainable and replicable;
- Build collaborative, community-based partnerships; and
- Improve agency coordination and leverage resources.

The program works in nine contiguous neighborhoods on the central and west side of Salt Lake City. The community was chosen due to the potential for disproportionate environmental impacts and social vulnerability. About 80 percent of the refugees in Salt Lake City are in these west side communities, and 39 percent of the people in those neighborhoods are ethnic minorities. Half of the residents are not English speakers.

As an EJ Showcase Community, it received \$100,000 from EPA's Office of Environmental Justice (OEJ). Another \$50,000 was leveraged through other partners and activities. Developing a model for collaboration was the first step in the effort after mobilizing the partners. The project established a highly-collaborative, community-based project with local, state, and federal agencies, community organizations, and neighborhood residents. The city government has been very active and supportive. The project was tailored to engage the stakeholders in the project and to incorporate the needed time for that.

A comprehensive community needs assessment identified children's environmental health as an issue and that there was at some concern regarding health risks. The issue identified was potentially unsafe and unclean conditions and communities at risk in the Jordan River watershed which also had unhealthy homes, childhood obesity, air and noise pollution, and unsafe neighborhoods.

While there is a good deal of work to do, there have been a number of positive outcomes so far:

- The relationships that were established,

- EPA's improved ability to understand and implement a collaborative approach, and
- The integration of EJ into the activities of the regional office.

The OEJ website has further information on the EJ showcase program (see <http://www.epa.gov/compliance/ej/grants/ej-showcase.html>).

Mr. Wenstrom mentioned that there will be a one-day river cleanup, and the important thing to note is how many people are engaged. **Supervisor Carbajal** noted that for best effects, there should be more than a one-time cleanup. The one-day cleanup is for the purpose of awareness and to connect people with the process, and that needs to be ongoing from our experience in California. **Commissioner Cope** asked if behavior modification, as tracked by the local health departments, can be a measure of success. Mr. Darling said both state and local health departments are involved. **Mayor Kautz** asked if there is outreach to partners in the private sector. Mr. Darling said private sector partnerships will be included as the work develops. **Executive Director Tiberi** mentioned watershed groups as important potential partners with these types of projects and he also mentioned how effective they are at engaging the many stakeholders.

CARE Grants—Caring for Communities

Michael Wenstrom, EJ/CARE Coordination for Region 8, and Dr. Charles Chase of the University of Colorado, spoke on Community Action for a Renewed Environment (CARE) grants. Mr. Wenstrom said the CARE program breaks down silos in the Agency and builds community and sustainable local partnerships. Over 100 grants have been awarded over the five-year pilot period. The National Academy of Public Administration (NAPA) analyzed the CARE program (see NAPA Report). It concluded that the CARE model provides a solid, tested framework for engaging communities and other stakeholders and is a highly effective program. Over 50,000 people have been contacted through the CARE process in 100 communities; 2800 businesses have been engaged. The program has worked with schools and local health departments. There have been annual trainings. The program intends to build 'lessons learned' opportunities and impart tools for problem-solving in the community. The model does not have to be EPA-driven. It can be used in any community and under different circumstances. CARE is not in EPA's FY12 budget, but it is in the President's Budget for next year.

Mayor Davis emphasized the importance of stakeholder partnerships developed through CARE. He said as Committee members there may be limitations about advocacy for this project but in their individual capacities this is a possibility. He also said that within the LGAC Charter there should be a way for the LGAC to make note of the importance of CARE for communities.

Deputy Director Ortiz asked what the CARE funding is used for. Mr. Wenstrom said it goes to staff, materials, and outreach. The National Environmental Justice Advisory Council (NEJAC) has written a letter to the Administrator supporting the CARE program. There was discussion on recommending funding the program. Ms. Eargle pointed out that the Committee's purpose is to advise the Administrator; it is within the scope of the Charter for the LGAC to highlight and describe the attributes of CARE that are helpful to communities, especially from the perspective of local governments. **Deputy Director Ortiz** encouraged the members to support the program as individuals. **Councilman Somers** moved that the Committee write a letter to the Administrator concerning the benefits of CARE to communities and outlining some of the

positive aspects of the program. **Mayor Murrell** seconded the motion. The motion carried unanimously. The letter will be prepared by the workgroup and distributed to the full Committee to go out in an expedited manner.

Dr. Chase, project manager, worked on the first CARE grant through Groundwork Denver, a project called Healthy Air for Northeast Denver. Though this grant has expired, the program and benefits continue. CARE provides technical support and ensures that the community goes through a process that results in successful environmental change. When funding ends, communities can still access the expertise for ongoing and future projects. It also builds a cooperative spirit between different communities, a network of communities helping each other achieve their goals and objectives in their respective communities.

Doing things in communities is effective only if the communities do the work. The CARE process has protocols that guide the community effort. EPA provides a roadmap for creating the project from identification of a problem to resolving the problem. CARE brings stakeholder groups together for effective, successful dialog. It also helps people understand that not all conversations will be successful. EPA has successfully brought resources to the communities as issues and conflicts emerged. EPA has folded lessons learned into the roadmap to improve the process going forward. The entire CARE budget is \$2 million per year. He stated that it is also noteworthy what resources CARE has leveraged with other programs.

Plan EJ 2014—EPA’s Charge to the LGAC

Charles Lee, Deputy Associate Assistant Administrator for Environmental Justice (*via teleconference*), said the Committee brings experience and credibility to the issue of land use, which is at the heart of EJ. The Committee provides an important local government perspective on the idea of EJ in the community.

Mayor Wong said there has been an ongoing discussion of *Plan EJ 2014*. There was workgroup consensus that the comments given so far are sufficient. Mayor Wong was supportive with the recommendation to EPA that promoting greater access to its resources and services is critical to fully engaging local governments and enabling them to be part of the solution.

Councilman Somers said the language should make note that the tribal interests are also met. Ms. Eargle commented that there is a similar committee for tribal involvement known as the National Tribal Operations Committees (NTOC). **Mayor Wong** said there can be more interaction with the National Tribal Operations Committee. Mr. Lee spoke on tribal issues related to *Plan EJ 2014*. The 1994 Executive Order addressed disproportionate impact on minority and low-income populations. This includes tribal groups. There is a need to highlight that EJ includes minority, low income, tribal, and indigenous populations. **Mayor Wong** said the LGAC letter sent to the Administrator on February 8, 2012, congratulated EPA for the work on tribal consultation. That letter included support for the *Plan EJ 2014* and the tribal recognition piece. **Mayor Murrell** commented that tribes are sovereign nations, so they do not consider local governments to be peers. That should be taken into account in any work with tribes.

Mayor Davis mentioned a 14-month *USA Today* investigation citing an environmental problem with lead in Cleveland. When a government agency knows about these issues and does not inform the community, “*there must be a process to hold people accountable and ensure that the communities are cleaned up, the situation is corrected, and the land is restored.*” **Supervisor Carbajal** said EPA sent investigators and outlined a course of action in that matter. The state and local governments failed to comply with the orders. EPA could have raised more red flags, but there were failures all around. It may be useful for EPA to give the EJ Workgroup an overview of this incident. **Mayor Wong** said this is a major issue and there can be a presentation on this at the next teleconference.

Mr. Darling said many statutes and programs are intended to be authorized or delegated to the state for implementation. EPA works in partnership with the states. **Councilor Coons** commented that there is a process by which communities can request EPA to come in.

Mayor Kautz asked that a list of deliverables from *Plan EJ 2014* be distributed to the members.

Workgroup Discussion

Mayor Wong said the draft permitting guidance letter, which was discussed over the last three meetings, can go to the full committee. **Mayor Peterson** asked whether or not it was voted on and supported by the Committee. Ms. Eargle said it was passed out at the last two workgroup meetings for technical edits.

The next item was the draft letter on the 2008 ozone standard and the potential for the increased health risk to EJ communities from ozone. The members of the Air Climate and Energy Workgroup were present, so she opened the discussion to both workgroups. **Supervisor Carbajal** said it was a good letter with good advocacy issues. **Mayor Wong** acknowledged Dr. Gonzalez’s work on the letter and said this is the first step in acknowledging and reinforcing that the LGAC supports this, but the big question is how to go about doing it and what to recommend as next steps. **Supervisor Carbajal** said low-income communities often already have health challenges, and the letter emphasizes looking at specific communities that have extenuating circumstances. EPA should look at enhancing ambient air quality standards to ensure that there is a more aggressive approach to these communities. He supported the letter.

Mayor Wong said Dr. Gonzalez emailed in an additional paragraph to include in the letter. **Mayor Hosterman** supported the letter. **Councilor Coons** supported the letter but warned that it is impossible to have different standards for different communities. The solution to the at-risk community problem is to set a tightened standard that protects the most at-risk populations and therefore protects everyone.

Mayor Murrell warned against placing stricter regulations on the communities that they are trying to protect. The standards may include unfunded and unattainable mandates. **Commissioner Cope** objected to the second paragraph, which recommended stricter limits. This dumps the responsibility on communities that cannot afford it. **Councilman Somers** said the EJ issue has to be taken seriously, but he read the letter as a call for generally lowered standards. Recommendations about standards should be more specific or should reflect the importance of

recognizing the effects of ozone on EJ communities. **Supervisor Carbajal** said the letter can be tweaked to highlight exploring measures that can enhance and mitigate those circumstances. It is reasonable to expect EPA to look at the uniqueness of these communities. **Mayor Wong** suggested tabling the discussion since the time was cutting into the Air, Climate and Energy workgroup's time. *The workgroup was adjourned at 9:56 a.m.*

AIR, CLIMATE, AND ENERGY WORKGROUP MEETING

Call to Order

Supervisor Salud Carbajal, Chair of the Workgroup, called the meeting to order at 9:56 a.m. After the members introduced themselves, he introduced the first presentation.

EPA Region 8 Climate Initiatives

Laura Farris, Director of State Partnerships and Sustainable Practices Program, EPA Region 8, said the region developed its first climate change strategy in 2008. The internal strategic planning document consists of five categories: assessment, mitigation, adaptation, partnerships, and accomplishments. It has 80 different activities and is updated annually.

For assessment, the Climate Change Workgroup provides cross-program coordination. There is a methodology to identify and prioritize climate change activities. Implementation of that methodology resulted in the identification of 15 high-priority climate change mitigation activities and 22 high-priority adaptation activities.

Mitigation is the largest section. It includes Energy Star, the WasteWise Voluntary Partnership Program, the Clean Diesel Grant Program, PSD and Title V permitting activities related to greenhouse gasses under the Clean Air Act, enforcement activities, and leading by example. There is also a list of high-potential activities—things the region would do given the resources.

Adaptation efforts in the Region started with water resource and stormwater management, but an additional 90 adaptation activities in twelve different program areas throughout the regional office have been identified and prioritized. The Region will implement the highest priority activities, as appropriate.

Partnerships include work with states, tribes, municipalities, and federal partners. It includes the Climate Showcase Communities Grant Program, the Partnership for Sustainable Communities, the Federal Green Challenge, and the work with states and communities to develop climate action plans.

Under accomplishments, there is annual reporting on the 15 high-priority mitigation activities. These activities have resulted in 500,000 to a million metric tons of CO₂e reduced or avoided per year. A comprehensive progress report is developed periodically. Key components of that include co-benefits such as reductions in use of natural resources; cost savings for home owners, water utilities and manufacturers; enhanced livability of communities; and helping communities understand and address environmental issues and expand their partnerships.

Councilman Somers asked about public outreach. Ms. Farris said she works in partnership with universities and nonprofit organizations to facilitate outreach. **Councilor Coons** asked if the periodic reports are available on the website and whether it is possible to request to have an EPA person speak to her community. Ms. Farris said an EPA staffer would be available to speak to the community. However, the documents are internal at this point.

EPA Region 8 Air Activities

Carl Daly, Director of the Region 8 Air Program, spoke on air priorities in Region 8: the ozone standard, regional haze, and voluntary programs and grant efforts. Last year, EPA implemented the ozone standard at 75 parts per billion. EPA had considered a lower standard and will continue to study whether or not to lower it.

The Ozone Flex Program has been revised and is now the Ozone Advance Program. State and local governments are encouraged to look at this program, which looks at areas that are close to the standard but are not nonattainment areas. State and local governments can participate in the program to take action before the area becomes nonattainment. Measures are put in place to lower the emissions that cause ozone: nitrogen oxides and volatile organic compounds. Some state governments in the region are already participating in this program. Many of the current nonattainment areas were nonattainment for the old standard. Some areas have high ozone values but not enough information to classify them as nonattainment areas.

Regional haze is a large effort for states, EPA, and large industries. The program is designed to reduce haze in national parks and wilderness areas. This is done by analyzing the necessary controls to reduce the impacts of visibility-obscuring pollutants such as particulate matter, sulfur dioxide, and nitrogen oxides. The analysis determines whether large point sources need additional controls to reach the long term goal of natural background visibility by 2064.

Voluntary programs and grants include the Salt Lake City Initiative, a pilot project to address environmental concerns that are important to that community. The Initiative includes an air subcommittee that is working on mobile sources and asthma triggers. Most of the success has been in outreach. The Diesel Emission Reduction Act (DERA) has several programs for diesel emissions reduction. There are two sides to the program—grants directly to the states for diesel projects and competitive grants for which local groups and governments can apply. The City of Denver has received DERA grants to reduce emissions from their garbage trucks and snowplows. Radon funding continues to be cut, but the states are doing good work on improving indoor air quality. Indoor air grants are available in all the regions to cover educational or outreach efforts on environmental triggers related to indoor air, such as asthma, mold, and second-hand smoke. Local governments are encouraged to apply.

Supervisor Carbajal asked for insight on EPA's efforts to focus broadly on at-risk communities for the grant programs. Mr. Daly said EPA does extensive health effects analysis, such as for the ozone program. The goal of any ambient air quality program is to be protective of sensitive populations. Ozone is a regional problem more than a local program, but some areas can be particularly sensitive. There are various grants for areas interested in air quality issues. **Deputy Director Ortiz** asked about grant programs for air quality monitoring. Mr. Daly agreed that the monitors are both important and expensive. Ozone can be followed using less expensive non-regulatory reporting methods or a saturation study to see where the highest impact is and the best places to position the monitors.

EJ Draft Letter on Ozone and Risks—Discussion

Supervisor Carbajal and **Mayor Wong** opened both the Air, Climate, and Energy Workgroup and the EJ Workgroup to order simultaneously to make a motion to continue the discussion on the substance of the EJ draft letter during the full committee meeting. **Mayor Wong** said she would provide an amended letter and moved to send the amended letter to the full Committee. **Councilor Coons** seconded the motion and the joint workgroup approved the motion unanimously. *The meeting recessed at 10:37 a.m.*

LOCAL GOVERNMENT ADVISORY COMMITTEE MEETING

Call to Order

Mayor Heather McTeer, chairwoman of the LGAC, called the meeting to order at 10:47 a.m. After addressing a few housekeeping items, she urged the members to connect with EPA through social media. She introduced **Mayor Kautz** who gave a brief introduction of herself.

Remarks to the LGAC

Joyce Frank, Principal Deputy Associate Administrator of the EPA Office of Congressional and Intergovernmental Relations, welcomed the participants. These meetings are important to the Administrator. EPA recently celebrated its 40th Anniversary. She referred to an insert from the *Washington Post* on environmental leadership. She thanked EPA Region 8 for hosting the meeting and helping to bring the great speakers and resources of the meeting together.

Remarks to the LGAC and Discussion

James B. Martin, Regional Administrator, Region 8, welcomed the attendees. EPA Region 8 consists of six states: North Dakota, South Dakota, Montana, Utah, Colorado, and Wyoming. It contains many national parks, 27 tribes, and 26 reservations. It is a large and diverse region. Local government is vital to achieving environmental goals. Standards cannot be achieved without the work of local governments. Local governments handle land use, transit, and development, which have a massive impact.

Senator Whipple asked what Region 8's largest challenges are. Mr. Martin said working with tribes is a priority and sometimes a challenge. As resources decline, it is harder to do work with tribes. Visiting remote tribal lands and reservations is expensive and difficult. Reservations have challenges due to the lack of a tax base, so they rely heavily on services provided by federal agencies. Growing energy development is another issue EPA is trying to stay abreast of. Resources must be developed in a rational way that protects public health and the environment while developing that resource. There are very challenging Superfund sites, especially the Libby, Montana, site. **Chairwoman McTeer** asked how tribal and local officials can better work with EPA. Mr. Martin said EPA does not hear from local officials as much as they would like. The LGAC provides EPA with a great opportunity to build that partnership.

Implementation of Title VI of the Civil Rights Act of 1964

Rafael DeLeon, Esq., Director of the EPA Office of Civil Rights, spoke (*via videoconference*) on EPA's nondiscrimination statutes and requirements. EPA's Strategic Plan commits the Agency to expanding the conversation on environmentalism to include environmental justice (EJ) and Title VI (*1964 Civil Rights Act 42 U.S.C §§ 2000d - 2000d-7*). He looks forward to building on the advice the committee will give the Agency. EJ and Title VI are related. He and Helena Wooden-Aguilar, Assistant Director for External Compliance, are responsible for administering

Title VI programs and processing complaints. He also thanked the DFO, Frances Eargle, for including Title VI on the LGAC agenda and thanked her for her work with his office.

Title VI prohibits recipients of financial assistance from engaging in acts of discrimination in their programs or activities. Grant recipients provide signed assurances that they are not discriminating, and EPA ensures compliance with ongoing monitoring compliance activities pre- and post-award. EPA is not prescriptive on how compliance is done but allows flexibility in demonstrating compliance. The Title VI regulations can be found at 40 CFR Parts 5 and 7. EPA's Office of Civil Rights (OCR) is required to process and review Title VI complaints filed in accordance with the statute and regulations.

OCR has published two documents on how to enforce Title VI. Title VI requires EPA grant recipients to provide meaningful access to limited English language proficient individuals, and OCR published guidance in 2004: Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting LEP or Limited English Proficient Persons. Mr. DeLeon also recommended Title VI Public Involvement Guidance For Assistance Recipients Administering EPA Programs, published in 2006.

He offered a few key points on demonstrating compliance with Title VI. Applicants must ensure that their programs or activities comply with the requirements and be prepared to show EPA how they are in compliance. This can include information related to processes that ensure non-discrimination, notices of discrimination lawsuits that may be pending, descriptions of applications for financial assistance that are pending, and a statement describing civil rights compliance reviews during the two year period prior to application. An assurance of non-discrimination (*Form 4700*) is submitted to EPA. The regulations require that recipients have compliance information readily available, a grievance procedure in place, and a designated Title VI coordinator. OCR hopes for a continuing dialog on how OCR can help recipients demonstrate compliance.

Mayor Hosterman asked about neutral policies. Mr. DeLeon said neutral policies with no intent to discriminate can also have discriminatory effects. **Mayor Wong** commented that her workgroup had discussed a similar issue earlier. She suggested forwarding the issue to the EJ workgroup for discussion to develop recommendations for the next meeting. Deputy Director Ortiz asked for an idea of the most common complaints. Mr. DeLeon said public participation is important. Most complaints in reference to Title VI involve the community not feeling like a part of the process. Permitting is always an issue. Policies having to do with limited English proficiency (LEP) and access are also issues. The LEP issue can be addressed by looking at the four-factor test in the guidance document. **Chairwoman McTeer** noted that this issue is very important to everyone and that local officials can take steps to make processes inclusive and transparent by engaging communities.

Oil and Gas Development in the Rocky Mountains: A Discussion on Cooperative Strategies for Managing Environmental and Land Use Impacts

Kate Fay, Senior Advisor for Energy and Climate, EPA Region 8, said the rate of domestic oil and natural gas production is increasing, which has drawn a lot of public attention. People have concerns about odor, noise, traffic, safety, and illness. However, there are also the issues of economic development, jobs, and domestic energy production. EPA has oversight and enforcement responsibility for certain regulations and protects public health and the environment, but it is not ideal for EPA to be the primary regulator of the oil and gas industry. Instead, EPA should work with state and local governments.

Bob Randall, Deputy Director of the Colorado Department of Natural Resources, spoke on oil and gas development in Colorado, some of the regulatory actions, and the governor's executive order. In 1996, the Colorado Oil and Gas Conservation Commission issued 1,002 permits. There were over 8,000 in 2008. This is a 750 percent increase in permitting activity. Much of this drilling is in new areas due to new technology that allows drilling in tight shale formations in western Colorado. In 2007, legislation increased the regulatory authority of the Oil and Gas Commission to address public health, the environment, wildlife, and resources, shifting the mandate of the Commission to balance development of the resource with protection of the environment, public health, and wildlife. It called for a new process of consultation among the Commission, the Health Department, and the state's Division of Wildlife. The Commission was reformed to reduce the percentage of industry seats on the Commission and add more voices, including a local government representative, a reclamation expert, an environment and wildlife expert, and two representatives from the Western Slope. The legislation called for a rule-making that would foster responsible development of the resource while protecting public health, safety, the environment, and wildlife. After an extensive process, the Commission adopted a comprehensive and protective set of rules that took effect in 2009. When the rules were written, the concerns were mainly in western Colorado. Industry is now focused along the Front Range, the most populous part. Local governments are concerned that the rules do not address their concerns.

Chip Taylor, Executive Director of Colorado Counties, Inc., gave a county government perspective. Many of the concerns county governments have are similar to municipal officials' concerns. Oil and gas is not a new industry in Colorado, but it is something local officials grapple with. The Land Use Control Enabling Act (*§ 29-20-104, C.R.S.*) charges local governments with providing for planned and orderly development in Colorado and balancing basic human needs of a changing population with environmental concerns. The state provides broad authorities to local governments to plan for and regulate the use of land within their jurisdictions. This includes protecting lands from danger to wildlife, regulating the use of land according to the impact on the community and surrounding areas, and planning land use for orderly use of land and protection of the environment.

Several counties have had oil and gas activity for a long time, and they all have their own approaches based on the local geography, economy, and population. These different approaches are accommodated with the doctrine of operational conflict.

With so much activity, counties are working to ensure that no irreparable harm is done. The updated regulations have changed the playing field, but the courts have so far applied the operational conflict doctrine. It is hoped that the Governor's Task Force will provide a venue for dealing with issues without litigation or legislation.

Mr. Randall added that there is a history of operators, state, and local governments working the issues out. The Governor created a task force that developed mechanisms to work collaboratively and cooperatively. The Task Force agreed that further legislation was not desirable. Instead, coordinated regulation through a collaborative approach is preferable. They focused on three things: use of the local government designee process to ensure that local concerns can be addressed at the state level; allowing delegation of the state's inspection authority to local governments; and focusing on reporting spills and violations to the local governments.

Councilor Coons added that the Quality Control Commission promulgated regulations affecting the oil and gas industry in Colorado at the same time that the Conservation Commission was working on its rules. Most surface owners in Colorado do not own the mineral rights to their properties, which can cause conflicts with those who have the mineral rights. When the minerals are extracted, there is a fee that goes to the federal, state, and county governments that can be significant to county government budgets. This puts local officials in a conflicted position.

Mayor Hosterman asked if there is a way to link the fee to mitigation efforts. She further asked if it is known what chemicals are being injected in the hydraulic fracturing process (fracking). Ms. Fay said there are efforts to disclose the chemicals. *FracFocus* is a voluntary method for companies to provide that information. The 2008 rules in Colorado represent a move toward disclosure. The Bureau of Land Management has proposed rules for disclosing fluids used on federal lands. Mr. Taylor added that the severance tax and federal mineral lease taxes are given to local governments as direct payments that are allowed to go into the general fund. There is also a grant program that requires a demonstration of impact, what the project is, and how the project relates to industry operations. Mr. Randall addressed chemical disclosure. The 2008 rules require a chemical inventory that is available upon request and subject to a confidentiality agreement due to proprietary information. A new 2011 rule requires operators to submit information to *FracFocus*. A higher level of rigor is required for claims of proprietary information. The industry has become more accepting of disclosure requirements.

Mayor Peterson asked for the results of the report, which Ms. Fay will submit to the Committee. New York is a home rule state, so many municipalities there are claiming land use privileges to zone out these activities. So far, the courts have supported home rule. It is unclear how the state will handle enforcement, so communities may have to do enforcement, raising the question of who will pay for it. Mr. Randall said that in Colorado, the local jurisdiction pays for the inspector, since the operators are already paying for state inspectors. If the county wants further inspection, the county pays for it. Mr. Taylor added that there is a distinction between inspection and enforcement. The issue is whether local officials feel their issues will be addressed in the state process. He is currently encouraged by the way industry and the local and state governments are working together on the Gunnison agreement. Mr. Randall pointed out that the Oil and Gas Commission ensures that proper training is provided to local inspectors.

Supervisor Carbajal said localities in California can regulate the industry more extensively than regulation has been under the California Environmental Quality Act (CEQA). Through land use and zoning, localities put in place significant environmental review. The industry was given the option of individual Environmental Impact Reports (EIRs) or a programmatic EIR. Each fracking licensee will have an individual EIR done. He urged the federal government to not undermine local governments that have found a way to regulate the issue.

Mayor Murrell said the State of Oklahoma is behind on regulating oil and gas companies. The industry is regulated by the Corporation Commission, which consists of three political appointees. Her city established an ordinance prohibiting injection wells. When a company tried to build one in her city, the Commission overruled the local ordinance. The injector is located near the local water supply. Ms. Fay commented on the diversity of ways state and local governments work on the issue. This diversity is part of the reason for the federal role.

Mayor Kautz asked about the surface rights of property owners and mineral rights. Mr. Randall said mineral rights in the State of Colorado are often purchased and sold separately from the surface property rights. In Colorado, the mineral rights' owner has a right of access to the property, and the surface owner must make reasonable accommodations to the mineral interest owner. There is usually a negotiated surface use agreement that includes compensation. Surface use agreements often address where the well will be located. **Mayor Peterson** commented that in New York, the industry went door to door and purchased mineral rights from owners at less than their value. Horizontal fracturing is another issue that is difficult to regulate. **Executive Director Tiberi** asked about the liquified petroleum gas (LPG) technology for hydraulic fracturing. Ms. Fay said rules that make it more difficult for a company to operate oftentimes result in changes in technology, sometimes to cleaner approaches.

Sustainability: The New Energy Economy

The Honorable Bill Ritter, former Governor of Colorado and the current Director and Senior Scholar of the Colorado State University's Center for the New Energy Economy, works with governors, state legislators, and regulatory and utility commissions as well as interest groups to help state governments think about how to manage clean energy public policy and regulations to move a clean energy agenda. The new energy economy is the idea of changing the energy portfolio in Colorado in a way that addresses environmental issues, helps economic development, and protects rate-payers. During tenure as governor, Mr. Ritter signed 57 pieces of legislation on clean energy. The renewable energy standard moved from 10 percent to 30 percent over that period with a 2 percent rate cap. Colorado became the number one state per capita for solar workers. Colorado has become a wind turbine and tower manufacturing state.

There was a battle with the oil and gas industry over reforming the Oil and Gas Conservation Commission. The transformation made it possible to create the gold standard for oil and gas regulation in the US. Governor Ritter required the Public Utilities Commission to look at up to 950 megawatts of power in the metropolitan area, reduce the nitrous oxide emissions by 70 percent, and reduce NOx discharge by 2017. This involved replacing coal plants with natural gas-fired plants. EPA accepted Colorado's proposed State Implementation Plan without amendment, partially because Colorado developed an energy portfolio with a deadline.

There has been significant job creation in the oil and gas, solar, and wind industries. Colorado should be able to meet the 2020 goal to reduce emissions by 20 percent. Reaching the 2050 goal will require further work, but there are ways to reach those goals by connecting energy policy to climate policy, environmental policy, and public health policy.

Three of the major barriers to progress are political. The existence of human-caused climate change is still a political wedge issue. This creates ideological opposition to clean energy policies. Second, some political persuasions are opposed to mandates in general. Third, there have been attempts to erode EPA's authority.

Mayor Hosterman asked how to achieve fuel switching. Governor Ritter said this was part of a bill that was passed quickly. Most states have to fight the coal industry. The utility was on board because they would eventually have had to install scrubbers on the smokestacks, which was almost as expensive as transitioning to natural gas. The utility and the natural gas industry put together a 20-year contract that sets a window for the price of gas that provides stability. The environmental community was at the table, and trust was built among all the stakeholders.

Mayor Kautz asked what mayors are doing in Europe. Governor Ritter said Europeans have a low opinion of energy regulation in the US and are shocked to see progress. While there is no national renewable energy standard, two thirds of the US population lives in a state with one. American cities are making remarkable progress, including movements toward fully-sustainable cities. States and localities are vital to achievements like this. By 2025, many American military bases will be at zero net energy.

Mayor Wong asked how to keep manufacturers in Massachusetts without passing the cost onto other companies and residents. Governor Ritter suggested looking at the State of Connecticut, which has done important work in the last year on creating a clean energy economy. They created a Green Bank to incentivize the manufacturing economy. Connecticut is buying hydroelectric power from Canada. Wind power recently sold in Colorado at 3.2 cents per kilowatt hour. Increased production of wind power leads to a decrease in the price, making it viable. **Deputy Director Ortiz** said there is opposition to offshore windpower in the State of Maryland. Many prefer a free-market solution over a large government-funded project. Governor Ritter said the opposition to windpower is political. Windpower will be more expensive than coal in some states because the price of pollution is not factored in.

Councilor Coons reinforced the narrative of the Clean Jobs Act and fuel switching. There are divided motivations around coal and natural gas among local environmentalists. The coal industry is launching lawsuits, so the issue is not over. Governor Ritter agreed that there are environmental groups fighting fuel switching. The coal industry is engaged in a significant political and lobbying battle. Emission reduction mandates will affect the coal industry. **Commissioner Cope** asked if developing technologies that allow the coal industry to continue existing is feasible. Governor Ritter said carbon capture and sequestration is not currently economical. At the current rate, natural gas will replace diesel fuel.

Sustainability Roundtable: Collaboration that Leads to Results

James B. Martin, Regional Administrator of Region 8, moderated the panel.

Keeping our Border Sustainable: Sustainability Efforts in Laredo, Texas

Dr. Hector Gonzalez, Director of the Public Health Department of Laredo, Texas (*via teleconference*), said that the cities of Laredo (U.S.) and Nuevo Laredo (Mexico) have been working together to improve the environment, particularly the Rio Grande. The City of Laredo has worked with EPA, the Department of Homeland Security, local groups, and industry to safeguard the environment. This has included cleaning up the riverbanks and improving vegetation as a means for security. He described a number of local projects.

The Killam Lake Brownfield Project was funded through the EPA Brownfields Cleanup Activities and included picking up trash. One large problem was the dumping of tires, which provide places for disease vectors like mosquitoes to breed. The city pays people to turn in used tires. The Chacon Creek project worked through the Wetland Development Program to restore retention ponds and banks along the Rio Grande. Vegetation and gardens were planted, and there is an annual cleanup day on both sides of the river.

The Green Space Ordinance requires buffer zones along creeks and streams and preserves the upper areas of the watersheds. There is an effort to purchase property to develop natural restoration projects to serve as a buffer area that will connect the parks to create walking trails and provide enhanced security. Builders are required to donate land for green space.

Through Border 2012, there have been environmental risks assessments and environmental health surveillance to track disease and environmental risks. Many environmental hazards are due to inappropriate disposal of hazardous household materials. The Physician's Pesticide Manual was developed in 2009. A Border 2012 grant was used to develop a video to educate children on environmental issues, including hazardous materials disposal.

A Community Action for a Renewed Environment (CARE) grant allowed the city to work on household hazardous materials management, working with families on disposal. Though the grant has ended, the work continues through the city programs.

The Laredo Riverbend Ecosystem Restoration looked at restoring the banks with the local universities and with industry to restore vegetation and protect source water. The Haynes Health and Wellness Center was a totally green development with recycled and recyclable building materials, a roof garden, solar energy, and rain water reuse. It was done in cooperation among the city, EPA, and private donors.

All of these projects are examples of public/private partnerships to address environmental improvement, conservation, industry, and health wellness promotion.

Sustainability: Public Works—Innovative Tools and Practices

Sue Hann, City Manager of Palm Bay, Florida, said her city is not yet to the level of renewable energy and is still struggling with recycling. Public works is where sustainability meets people, since public works has a direct interface with the citizens and businesses in the communities. Her community is among the late adopters of environmental progress. Many issues do not resonate in this community. For that reason, she has to be strategic about what the city tries to implement. For example, recycling toilets by crushing them for road base is explained in terms of saving money, not in terms of sustainability.

The County of Arlington, Virginia, has a community energy plan that is forward-thinking and collaborative. She suggested it as a model. However, it is important to consider what the community will accept and what resonates. The successes of renewable energy projects are related to being able to effect change at a rate the community can accept. She referred to some resources for effecting change: Climate Communities, an advocacy group; Greenroads, an infrastructure rating system; the Federal Highway Administration's INVEST Sustainable Highways Self-Evaluation Tool; the American Public Works Association's Center for Sustainability; the Institute for Sustainable Infrastructure, which offers a self-assessment checklist, the ENVISION rating tool, an enhanced tool for major projects, and an optimization tool; and resources developed by federal agencies such as the Department of Transportation (DOT), EPA, and the Department of Energy.

The self-assessment checklists are useful for communities seeking to invest in sustainability and green infrastructure options. All the available information can be overwhelming, but these resources can help communities. It is important to persevere in thinking about leading communities to become more sustainable.

EPA Region 8 Sustainability Initiatives

Eddie Sierra, Senior Interagency Project Advisor for EPA Region 8, noted that EPA's collaborative approach has moved the Agency's regulatory approach "*from doing things to people to doing things with people.*" EPA achieves its mission by helping others do what they do best.

Cynthia Cody, Sustainability Coordinator for EPA Region 8, was happy to see the LGAC letter supporting the Partnership for Sustainable Communities. All EPA, Department of Housing and Urban Development (HUD), and DOT regional officers are engaged in the partnership. This unique partnership is especially efficient and effective. The Partnership is getting used to collaborating on major infrastructure and is looking at how to support states and communities on these sustainable approaches.

In the small community area, EPA provided a small amount of money to Garfield County, especially the city of Rifle, Colorado, to develop a modeling tool for scenarios the decision-makers can use for growth policy. This model grew out of Envision Utah. The county and city have used it to make large decisions. Rifle, a fully sustainable city, used the modeling work to apply for DOT and HUD grants for more work.

Richardson and New England, North Dakota, received EPA Building Block assistance for preferred growth on oil and gas impact. EPA will help them work on the growth of industry. In western North Dakota, there was a HUD challenge grant to look at the same issue from an economic development standpoint with sustainability plans. They hope to access impact fee money, and the people working on the HUD grant will provide capacity to help communities access funds for planning and implementation.

Kimball Crangle, Project manager of the City of Denver Housing Authority (DHA), spoke on an EPA/DHA collaboration. When public housing was constructed in Denver, they were pushed to undesirable locations: near industry, train tracks, and dirty rivers. In the last few years, there has been a transformation in light rail and bike trails along the river. This has transformed the public housing sites into livable communities. A 17.5 acre site with 270 public housing units will have an 800-unit mixed income, mixed use, transit-oriented development community. A 2008 brownfields grant moved the project forward.

The master planning process started in 2009, focusing on sustainability, improving the health of the residents, and neighborhood safety. The planning process resulted in a shovel-ready project, making stimulus money available. That was leveraged with low income housing tax credits and city funds, resulting in a 100-unit senior/disabled LEED Platinum building.

The Partnership for Sustainable Communities fits in naturally with this. The city began to look at greening the area. DOT, the city, and regional transportation looked at stormwater solutions. The partnership focused on energy, transportation, and stormwater. Using funding from a Technical Assistance Grant and the Partnership, it was shown that it is possible to work on a local level and create effective change. Many pilot projects are being implemented at the site to show that they can work, leading to more projects.

The Partnership also worked with the National Renewable Energy Lab to design buildings that improve environmental quality. There were requirements that the buildings produce no more than eight pounds of carbon annually per square foot. A bike-sharing station, shared electric cars, and a pedestrian-friendly neighborhood will provide further transportation solutions.

The Partnership for Sustainable Communities made it possible to bring in the stakeholders, develop plans, make commitments, and follow through. This led to a 2010 HOPE 6 award from HUD for \$22 million, which made possible over \$100 million leveraged funds. The first phase of development has broken ground and will be completed in 2018.

In discussion, **Chairwoman McTeer** emphasized the focus “*on small communities is vital*”, since these programs should reach beyond the small urban communities. She asked how to reach communities not yet in a position to identify needs and apply for grants. Ms. Cody said many grants are targeted at a regional level. Those grants look at whether the regions are targeting the small communities, and much of the grant money is targeted in that direction. EPA is also working directly with communities through the Building Blocks program. Work is being done to develop a user-friendly website that consolidates resources and tools. On a national level, EPA is seeing an increase in the number of communities applying for the programs. There is an effort to

fund capacity. **Dr. Gonzalez** said working with EPA to continue the dialog at the local level is not easy, but partnership with local government and rural areas is important. He emphasized the importance of informing county commissioners on the importance of environment and health protection. Education, outreach, and follow-up are vital.

Mayor Hosterman asked how to grow and develop in a sustainable fashion without losing local control. Ms. Crangle said the challenge is to create mixed income housing without displacing the residents and without the stigma of having a market rate tenant move into a poor neighborhood. Sustainability has to be independent of growth. It takes years of planning to overcome a neighborhood's social stigma.

Commissioner Cope asked about public health issues across the Mexican border. **Dr. Gonzalez** said Laredo has a good relationship with its sister city, so they do joint outreach and joint projects. With good sanitation, solid waste management, pest control, and health education, there has not been a dengue fever case in two years.

Denver Metropolitan Air Quality Initiatives

Ken Lloyd, Executive Director of the Regional Air Quality Council (RAQC), said the RAQC has a broad membership of elected officials, industry representatives, citizen representatives, and sister state representatives. Its main responsibility is developing plans to meet air quality standards. They do public education and link air quality planning to local governments in the region. A strength of the RAQC is its strong relationship with its agency partners, including the state Department of Public Health, the state Department of Transportation, the Council of Governments, and the EPA regional office.

In Colorado, the RAQC develops plans with a State Implementation Plan (SIP) and stakeholder process. This is submitted to the Air Quality Control Commission. The Commission formally adopts the plan. The General Assembly reviews and approves the plans. The final step is EPA approval.

Colorado was the first state to use oxygenated gasoline to combat carbon monoxide (CO) problems. It also was a leader on wood-burning stove standards and banning fireplaces in new construction. One large success was to reduce PM-10 in the air due to sand put on roads in the winter by using alternative de-icing methods. RAQC is working on reducing oil and gas emissions. The Clean Air Fleets program has involved retrofits on diesel vehicles to reduce emissions. Re-designation to attainment for CO, PM-10, and ozone were achieved. The newly-lowered ozone standard led to a focus on ozone and an effort to reach attainment. The RAQC will focus on ozone, since Denver is within attainment by every other measure.

Deputy Director Ortiz asked how hard it will be to reach attainment. Mr. Lloyd said the standard is attainable. The problem is regional, so regional and federal solutions are necessary.

Councilman Somers asked about enforcement. Enforcement is done at the state level.

Councilor Coons commented that wood-burning ordinances are regional, as are auto emissions.

Public Comment

Chairwoman McTeer opened the floor to public comment. (There were no members of the public requesting to speak). Chairwoman McTeer asked for a motion to accept the meeting summary of the *LGAC February 24, 2012 Teleconference*. **Mayor Peterson** noted that she had sent some modifications to the summary. Approval of the summary with edits was moved, seconded, and carried unanimously.

EJ Workgroup Item

Mayor Wong reported that CARE funding has been cut. There is a two-prong strategy to comment on this reduced funding: private action by individual LGAC members and an LGAC letter of support that is being developed. There will be a letter on *Plan EJ 2014* with several recommendations. There will be technical edits to the letter. There was also a letter on ozone risk that was drafted in conjunction with the Air, Climate, and Energy Workgroup. The language is still being worked on, and a draft was expected the next day. Her action item was the approval of a *Plan EJ 2014* permitting guidance draft letter.

Mayor Hosterman moved for approval. **Councilman Somers** seconded and the letter was approved unanimously.

After some housekeeping items were addressed, the Committee recessed at 4:22 p.m.

[The Committee conducted a walking tour of the EPA Region 8 sustainability tour highlighting green building sustainability principles].

PROTECTING AMERICA'S WATERS WORKGROUP

Call to Order

Commissioner Robert Cope (*for Representative Ross*) called the meeting to order at 8:01 a.m.

USDA's Water Quality Initiative

Phyllis Philipps, Staff Conservationist for Colorado, USDA, spoke on the White House Rural Council, the Working Lands and Healthy Watershed Initiative, and the National Water Quality Initiative. The White House Rural Council was created to encourage all agencies to collaborate, cooperate, and help rural America have a robust economy. Agricultural communities will face pressures to produce more food, which must be tempered with natural resource conservation. The Council hosted a meeting in March called *Working Lands and Healthy Watersheds* that included EPA, USDA's Natural Resources Conservation Service, and other agencies and educational institutions. Some focus areas that emerged from the meeting were the importance of partnerships and on-the-ground leadership, stakeholder education, and engagement.

The Clean Water Act Section 319 33 U.S.C. §1251 *et seq.* (1972) and Farm Bill programs provide financial and technical assistance to help farmers and ranchers take on the economic burden of implementing best management practices to achieve resource objectives within the watershed. The watershed focus makes the program more effective. Targeted conservation approaches allow a focused effort that creates a cumulative effect. That is why the National Water Quality Initiative will have each state focus five percent of its Environmental Quality Incentive Program (EQIP) Funding on one to three watersheds in the state. This is in conjunction with EPA and the local department of water quality. The State Technical Committee will provide additional recommendations. Once a watershed is chosen, there will be meetings with stakeholders to provide education, discuss the goals, and talk about what the stakeholders are willing to do in this voluntary conservation effort.

Councilor Coons asked about collaborating with federal land managers, since localities cannot make a meaningful impact without them. Ms. Philipps said the initial planning will be with private land owners. A more coordinated effort will be looked at going forward. **Commissioner Cope** said there is an opportunity to work with those working on federal lands.

Mayor Hosterman said there is a study in Montana on grazing animals and fisheries. She added that much work is very short-sighted in California. Now that the salmon population is up, no one is looking at dangers to the fisheries. She said a coordinated effort is needed of people who can make decisions. **Commissioner Cope** said the holistic approach, including invasive species, stream banks, and hillsides, is the right approach. **Mayor Peterson** asked about aquatic invasive species. Use of chemicals is the only way to kill the invasive species. Ms. Philipps said she had looked at land-based invasive species. The USDA State Conservation Districts are working on a variety of other efforts.

EPA's Water Quality Updates

Nancy Stoner, Acting Assistant Administrator of EPA's Office of Water, spoke on work with USDA and on agricultural lands. Nutrient pollution is probably the primary focus in this program. Last year was a bad year for nutrient pollution in many regions. The problem is nationwide and worldwide, and it is an issue that can be addressed. EPA is helping to develop the tools that people can use to clean up their watersheds. Improvements have been made, but there is room for more improvement. EPA and USDA are committed to cooperative efforts with state agencies, federal agencies, and private and public landowners. They are also committed to better monitoring to see what management problems are working and to develop more sophisticated solutions.

The *Clean Water Act Section 106* funding is planned in the FY13 budget for state partners working on nutrient pollution reduction planning and implementation. New data tools are being developed on nutrient pollution to help states develop plans. The National Aquatic Resource Survey on water quality and nutrients provides good information, as does the US Geological Survey (USGS). The point is to look at the problems and the solutions. The increase in information on nutrient pollution and the solutions makes it possible to tailor solutions that will work. The Office of Wastewater Management is working to help permit writers create water quality-based effluent limits for dischargers. EPA is also working on how to develop and implement nutrient criteria for the individual states in such a way that will help make progress.

Commissioner Cope said, when dealing with public lands, it is important to use best management practices. Litigation can stop active management on public lands or suspend it indefinitely. **Mayor Hosterman** said she has partnered to bring back public water fountains. She emphasized the importance of having rate payers understand the importance of maintaining the health of the public drinking water supply. Ms. Stoner also pointed out that nutrients that go into the water represent lost money for farmers.

Jim Hanlon, Director of the Office of Wastewater Management, added that there was a briefing on the nutrient issue that shows that, globally, humans put 30 percent more nitrogen into their systems every year. Rising corn prices and dropping fertilizer costs will require focusing on incentives. The government has to look forward and get ahead of this curve.

Councilor Coons said she testified before the state Water Quality Control Commission about the nutrient issue on behalf of the City of Grand Junction, Colorado. (*She introduced into the workgroup record three letters: from the City of Grand Junction, from the Mesa County Commissioners, and from the 521 Drainage Authority*). These groups are concerned about the rate-payer issue. It is unclear how the state and localities can have an effect on nutrient pollution if the issue of federal lands is not addressed. The science is not as well-defined as it could be, especially on exactly what to control. The proposed regulations are driving toward enhanced biological nutrient technology. That technology will drive nitrogen into the air, leading to atmospheric nitrogen deposition. Colorado has new regulations on NOx for ozone, haze, and nitrogen deposition. The regulations conflict with each other. The technology to make the correct controls may not yet exist.

Mayor Hosterman asked for information on nitrogen and phosphates, since the wastewater treatment facilities are not looking at phosphate recovery for recycling. She asked for EPA to develop language on that phosphate recovery. Mr. Hanlon said there is ongoing research on that by the Water Research Council. There is a potential net energy gain when the technology is developed. Ms. Stoner added that in Milwaukee, sewage and food waste are being used to generate energy. There are many ways to use sewage as a resource.

Commissioner Cope pointed out gridlock between the Forest Service, the National Oceanic and Atmospheric Administration (NOAA), and the Fish and Wildlife Service. Permit applications are being delayed. Mr. Hanlon said the small land owner issue has been reviewed. The Forest Service and the Bureau of Land Management (BLM) have consulted with NOAA and Fish and Wildlife. Permits are supposed to be issued on a 30 day turnaround. **Commissioner Cope** gave him a letter about an overdue permit involving herbicides delayed for a biological assessment on the salmon population. He said the relationship has not gone well and gridlock has been common.

Mayor Hosterman said there is a continued disconnect between the regions and the federal level. **Mayor Hosterman** also indicated there are concerns raised in her community about the costs of cleaning up drinking water. Often there are fewer options to remove pollutants and achieve safe drinking water standards. She said that increasingly she is hearing that keeping the water clean at the source and keeping the nutrients out is the best way to go. **Senator Whipple** added that it would be better to have EPA tell communities what it takes upfront to keep the water supply clean and safe rather than to regulate it at the end. We know that they may have a price tag upfront of say \$10 million, but it beats the alternative of a costly \$30 million clean up at the end. Also, there are fewer options at the end of the pipe rather than preventing it upfront. Ms. Stoner said EPA continues to work on this. EPA Regional Administrators and Water Division Directors should continue to be on board. *The work group adjourned at 9:13 a.m.*

LOCAL GOVERNMENT ADVISORY COMMITTEE MEETING

Call to Order

Chairwoman McTeer called the meeting to order at 9:36 a.m. After covering some housekeeping matters and urging members to have their staff use social media to make the meeting known, she arranged the agenda to accommodate schedules.

Expanding the Conversation (EJ) Workgroup Report Out

Lisa Wong, Chairwoman of the Workgroup, handed out the revised EJ Ozone draft letter for final work and approval. The letter is a joint effort of the EJ and Air, Climate, and Energy workgroups. **Chairwoman McTeer** opened the floor for discussion.

Mayor Kautz wanted to know about the uncited research that was presented in the letter. She also asked how point sources will be determined, how the standard will be enforced, and how to determine the financial impact on cities and counties. **Mayor Murrell** seconded the concerns about making statements about the research. She was concerned about air quality limits, since she has no control over the air quality in her town but can be penalized if it is poor. She pointed out possible misstatements in the letter, such as differences in exposure for different socioeconomic groups. She opposed the letter in its current form.

Councilor Coons emphasized that ozone control is an airshed issue. She asked that the language be fixed to clarify that the letter recommends that EPA should develop a standard that is protective of everyone especially those most vulnerable, thereby protecting everyone. **Chairwoman McTeer** suspended the discussion until later in the day in order to accommodate Mayor Hancock's scheduled time of address.

Address to the LGAC by the Mayor of Denver

Michael B. Hancock, the Mayor of Denver, discussed some of the city's accomplishments, including the city's livability, sustainability, and green energy industry. Denver has a history of working with the EPA regional office and is committed to sustainability, preserving natural resources, and preserving a healthy environment. Sustainability is not a program but a value that should be part of everything the city does. The economy must be green and sustainable to build a Denver for future generations.

Residents must be inspired to make choices that lead to sustainable living. Denver has placed a focus on areas where the community can participate and take action. This includes energy, water, transportation choices, and stimulating the economy through sustainability efforts. Since the creation of the Greenprint Denver office, the city has reduced energy use by 23 percent in the core city buildings. The city has saved 190 million gallons annually through fixture retrofits and irrigation system upgrades. In 2012, Denver met its greenhouse gas reduction goals three years ahead of schedule. Denver launched the country's first community-wide bike-sharing program. It is a top tier city investing in solar energy. It adopted a climate action plan and a river vision implementation for cleaning up the South Platte River.

EPA has been a partner in these initiatives. Through the Climate Showcase Communities Grant, Denver has implemented an energy challenge connecting residents and businesses to energy and water rebates, retrofit experts, and advice for implementing efficiency upgrades. Denver owns its water system, so it is in a position to better foster efficiency efforts. Denver is looking at a comprehensive approach to recycling and composting, perhaps connected with a pay-as-you-throw system.

Transportation is the next priority to building a sustainable community. Bike-sharing and trails are part of that. The goal is to have 10 percent of commuters on bikes by 2018. The region is building out the light rail system that will reach as far as the airport.

Denver is committed to delivering a green economy that supports innovative clusters around green collar jobs. *Denver Seeds* is an initiative to build a local food infrastructure, create jobs, help with climate change, support reuse of brownfields, and keep money in the local economy. The *Veterans to Farmers Initiative* will build a greenhouse to teach veterans how to farm with new technologies.

Mayor Hosterman invited Mayor Hancock to become a member of the U.S. Conference of Mayors' Water Council, stating that his experience and insights could be helpful. **Deputy Director Ortiz** asked about influencing residents' behavior to encourage sustainable behaviors. Mayor Hancock said that Denver's goal is to have people opt in enthusiastically and to not have a punitive system. The city encourages sustainable activities through fun PSAs and challenges. The water community does outreach at festivals. The utility offers rebates for residents that are using less energy, and there is a report card on energy use sent to the residents.

Senator Whipple asked for more information on the Denver Seeds program. Mayor Hancock said the Veterans to Farmers program is the first step in the initiative. **Commissioner Cope** asked whether the city is using methane wells in landfills as an energy source. Mayor Hancock said Denver is doing that on its landfill.

Integrated Water Quality Planning

Nancy Stoner, Acting Assistant Administrator of EPA's Office of Water, and **Jim Hanlon, Director of the Office of Wastewater Management**, spoke on integration, prioritization, and looking at clean water investments at the local level. It is a joint effort between the Office of Enforcement and Compliance Assurance and the Office of Water in partnership with a number of state and local level organizations. EPA is listening to feedback from local colleagues, including utilities and local governments, on how to achieve more water quality protection. Ms. Stoner, along with the Assistant Administrator Giles, put out a memo in the fall about this program and did a series of stakeholder meetings to ensure input. The meetings were well-attended. There has been a lot of interest and support in these meetings.

There are three overarching principles in the draft framework: maintaining existing regulatory standards that protect public health and water quality, allowing municipalities to balance clean water act requirements in a manner that addresses the most pressing public health and

environmental protection areas first; and the responsibility to develop an integrated plan rests with the municipalities that chooses to pursue this approach. It is important to not spend years planning. Instead, the plan should be on how to move forward in a smarter fashion now. She thanked the LGAC for its draft comments. The document is being prepared for a May release.

Mr. Hanlon emphasized that this is a framework, not a recipe. EPA will not force projects on individual utilities. This framework can help EPA speak with the states on their priorities and the sequence of projects that will best use local resources. These are not required, but the framework is offered to inform the conversation.

Mayor Hosterman thanked EPA for its efforts in these ongoing discussions. Both local governments and American families are short of money, and the rate-payers cannot afford many of these improvements. It is important to find creative ways of updating, improving, and maintaining the wastewater and stormwater systems. She is grateful for the integrated planning strategy and looks forward to further guidelines. She asked for help in communicating with some regional offices that are not as cooperative with the local authorities.

Mayor Kautz said a relationship has evolved in which the cities must trust that EPA will not come down hard on cities that cannot afford to replace their systems. It is important to listen and facilitate solutions. **Deputy Director Ortiz** asked about smaller communities that are struggling for basic green infrastructure while states receive much more money for highway construction. He hoped money could be brought into these smaller, older communities for walkable, greener infrastructure. Ms. Stoner said much of this discussion is about making cities places where people want to live. Better and greener infrastructure will make people want to live in the cities. Revitalizing communities will also improve the economic situation.

[Chairwoman McTeer requested on behalf of the Committee for Ms. Kate Fay to be added to the agenda to address specific question of Mayor Peterson and others of the Committee regarding oil and gas regulations].

Oil and Gas Development Regulations

Kate Fay, Senior Advisor for Energy and Climate, Region 8, gave a general update on the oil and gas rule development. On Tuesday (April 17, 2012), EPA announced updated air pollution standards for oil and gas production and development. The regulations will protect public health and the environment under the Clean Air Act (42 U.S.C. §7401 et seq. (1970)) while allowing continued, responsible growth in U.S. oil and natural gas production. Most of the provisions in these rules rely on available technology that is already in use in many parts of the country. The net effect of the updated rules will vary based on the underlying rules in a given state. The rules are designed to reduce ozone pollution and volatile organic compounds (VOCs). Though it is not a methane or climate change rule, controlling VOCs also decrease methane emissions.

The rule requires that natural gas wells that are hydraulically fractured use a proven process – known as a reduce emission completion – to capture natural gas that currently escapes to the air. The companies cannot vent the gasses that come from the ground. Instead, emission of the gasses in the flowback must be reduced by 95 percent. The rule has a phase-in period of two years.

However, during this phase-in period, vented emissions must be flared. The rules also require all the storage tanks to be controlled. In Colorado, tanks are already controlled for condensate. The rules are normally written out of EPA Headquarters, but the EPA Regions had more input this time. They are being designed so the control technologies necessary have already been proven and are easier to implement. Other equipment covered in this rule includes pneumatic devices and compressor station equipment. There are now controls in place from the location of production to the pipeline.

Because these are performance standards, the states will not be burdened with a permitting process. This makes the standards easy for the states to support. Local communities have been concerned about odor. Reduction in VOCs will result in decreased health risks, but odor reductions and health benefits cannot be quantitatively estimated without an extensive modeling exercise. Next steps will include looking at evaporation ponds. This rulemaking took comment on those sources.

Mayor Murrell asked about the health research component. Ms. Fay said some counties and some public health institutions can look at information about emissions to do the public health portion. EPA already has partnerships with CDC and HHS. The partnership will use the emissions information once it is collected. **Mayor Murrell** said the health organizations should be part of this early in the process. **Chairwoman McTeer** recommended that a joint session of the EJ and Air, Climate, and Energy workgroups discuss this issue and return to the full committee with recommendations.

Report from the Expanding the Conversation (EJ) Workgroup Continued

The LGAC returned to discussion of the draft letter on ozone and environmental justice (EJ). **Senator Whipple** said a previous letter on air quality standards has been sent. This letter adds to that letter and asks EPA to look at all populations. The LGAC has already said it is in favor of a tighter air quality standard. **Councilman Somers** said the letter's statement that certain populations are more sensitive is consistent with his understanding of the research. He favored moving it forward. **Mayor Peterson** said the letter will be ready if comments from the Air, Climate, and Energy Workgroup are incorporated.

Mayor Murrell was concerned that some statements in the letter were inaccurate, especially, since the health effects have not been quantified. The letter is well-intended, but it may say more than is actually known.

Chairwoman McTeer said the intent of the letter could be stated in a way that does not raise these objections. The letter can address exposure rather than impact. **Mayor Peterson** said the exposure portion should be rewritten with a focus on its original intent. **Councilor Coons** said there is research showing the effects of breathing toxic materials. If EPA creates a standard that helps the most vulnerable of the population (e.g. the elderly, the immune compromised, infants), it has protected everyone.

Councilman Somers recommended asking EPA for a factsheet with citations. **Mayor Davis** warned against slowing the letter. He hoped the Executive Committee could move the letter forward and did not want the full committee to hinder progress.

Chairwoman McTeer said the comments will be noted and will be sent to the Executive Committee for a full report-out. **Mayor Davis** moved to do so. The motion was seconded by **Councilman Somers**. **Senator Whipple** moved that the letter be sent and acceptable if the first and last sentences, which have all the insertions, are removed. The motion carried unanimously.

Small Communities Advisory Subcommittee (SCAS)

Mayor Dixon, Chairman of the Subcommittee, referred the members to a draft letter on policy papers developed by EPA's Decentralized Wastewater Memoranda of Understanding (MOU) Partnership. The letter encourages EPA to work with conservation districts and local boards of health. There is aging infrastructure in small communities. The SCAS supports the letter, which emphasizes the need for cross-departmental work. The letter takes into account future generations. The Subcommittee continues to work on clean air and water regarding a variety of subjects important to small and rural communities. **Executive Director Tiberi** moved the LGAC approve the letter. **Mayor Murrell** seconded and the letter was approved unanimously.

Gulf Coast Workgroup

Mayor Davis (for Mayor Randy Roach) reported that the Gulf Coast Taskforce has presented its plan to the President. The Workgroup had comments, and the LGAC sent those forward to the Administrator. The Gulf Coast is being restored, and things are still in motion. One concern is the recent warm climate and the approaching hurricane season. He submitted a Draft Charge for the Workgroup for the Committee to review and approve.

Air, Climate, and Energy Workgroup

Mayor Peterson (for Supervisor Carbajal) said there was a meeting in April at which the three next steps were decided upon. First, there will be a rule on EPA standards for heavy duty trucks. Many fire chiefs are concerned about this rule, which would result in higher fuel consumption and maintenance costs. There was a request for a fact sheet on the fire truck rule (official title, Heavy Duty Highway Program for Emergency Vehicles and SCR Maintenance). The second item was the reciprocating internal combustion engines (RICE) rule. There was discussion on residential wood heaters. The group does not want to deal with the issue of existing stoves and fireplaces. The last issue is on new carbon emission standards for power plants. The Workgroup will review this issue.

Protecting America's Waters Workgroup

Mayor Hosterman (for Representative Chris Ross) focused on the main agenda item: EPA's work on achieving water quality through an integrated municipal stormwater and wastewater

plan. There was much discussion on the issue. The workgroup awaits guidelines from the EPA. EPA has been working with the U.S. Conference of Mayors Water Council on a website on bringing back public water fountains to raise awareness of the healthy municipal water supply. She will ask mayors to sign on to that effort.

Wrap-Up and Next Steps

Chairwoman McTeer, after dealing with some housekeeping issues, raised two final items. The Gulf Coast Workgroup put forward a draft charge that had been circulated for review and acceptance by the LGAC. **Councilman Somers** moved to approve. The motion was seconded and carried unanimously. The letter from the Integrated Water Quality Workgroup was distributed and a motion to approve was entered by **Senator Whipple**. The motion was seconded by **Councilor Coons** and approved unanimously.

Chairwoman McTeer recognized Ms. Joyce Frank who acknowledged the great work of the Committee. She thanked the Chairwoman and all of the Committee members for their hard work to help EPA improve its work to protect human health and the environment and to strengthen our relation with our local, state and tribal partners. She thanked EPA Region 8 for their tremendous efforts to host the LGAC meeting and to identify topics and speakers. She looked forward to the follow up work of the LGAC and thanked them for the very important discussion and recommendations on matters that are central to the work of the Agency.

Chairwoman McTeer thanked Ms. Joyce Frank for her support and coming to the meeting. She also thanked and acknowledged EPA Region 8. She then asked for a motion to adjourn the meeting. *The meeting was adjourned at 11:55 a.m.*

**Environmental Protection Agency
Local Government Advisory Committee
Full Committee Meeting
April 19-20, 2012**

Participants

LGAC Members

Mayor Heather McTeer, Chairwoman
Mayor Bob Dixon, Chair, Small Communities Advisory Subcommittee
Councilor Jill Duson, Esq.
Supervisor Salud Carbajal
Councilor Teresa Coons
Commissioner Robert Cope
Mayor Ronald K. Davis
City Manager Susan Hann
County Executive Tom Hickner
Mayor Jennifer Hosterman
Mayor Elizabeth Kautz
Mayor Marilyn Murrell
Deputy Director Adam Ortiz
Mayor Carolyn Peterson
Councilman David J. Somers
Executive Director Jeffrey Tiberi
Senator Mary Margaret Whipple
Mayor Lisa Wong
Dr. Hector Gonzalez (*via teleconference*)

EPA Representatives

Jack Bowles, Director, EPA's State and Local, OCIR
Cathy Davis, DFO, SCAS
Cynthia Cody, Sustainability Coordinator, EPA Region 8
Carl Daly, Air Program Director, Region 8
Corbin Darling, Environmental Justice Program Chief
Rafael DeLeon, Office of Civil Rights (*via videoconference*)
Frances Eargle, DFO, LGAC
Kate Fay, Senior Advisor, Office of Energy and Climate, Region 8
Laura Farris, Climate Change Coordinator & International Program Manager, Region 8
Joyce Frank, Principal Deputy Associate Administrator, Office of Congressional and Intergovernmental Relations
Abby Fulton, EPA Region 8
Bert Garcia, EPA Region 8
Doug Gutro, EPA Region 1 (*via teleconference*)

Sadie Hoskie, EPA Region 8
Kelly Kubena, EPA's Office of Wastewater Management
Charles Lee, Deputy Assistant Administrator for Environmental Justice (*via teleconference*)
James B. Martin, Administrator, Region 8
Eddie Sierra, Senior Sustainability Advisor, Region 8
Nancy Stoner, Acting Assistant Administrator, Office of Water
Michael Wenstrom, Environmental Justice Program, Region 8
Helena Wooden-Aguilar, Assistant Director for External Compliance (*via videoconference*)

Also Present

Charles Chase, Ph.D., Director of Landscape Architecture Studies, University of Colorado
Kimball Crangle, Project Manager, City of Denver Housing Authority
Mayor Hancock, Mayor of the City of Denver
Ken Lloyd, Regional Air Quality Council
Phyllis Philipps, State Conservationist for Colorado, USDA
Bob Randall, Colorado Department of Natural Resources
Governor Bill Ritter, Director of the Center for the New Energy Economy, Colorado State University
Chip Taylor, Executive Director, Colorado Counties, Inc.
Michelle Weingarten, Special Assistant to the Mayor, City of Denver, Colorado

We hereby certify that, to the best of our knowledge, the foregoing minutes are accurate and complete.

Submitted by:


Signature

7/31/12
Date

Frances Eargle, EPA DFO



Signature

Date 7/31/12

Mayor Heather McTeer, Chairwoman, LGAC