

The Mining & Energy Commission's Local Government Study Group met in Sanford, January 16, 2013

Charles Taylor, Chair (sick, by phone), Vice Chair Marva Price, conducted the meeting

Next Meeting: Fri, February 15, 9 am somewhere in Chatham (Sally Kost to find meeting room)

The study group task is to provide recommendations to the Legislature by October on local government jurisdictional interests in relation to this industry (light, setbacks, noise, taxes), but cannot EXCLUDE the industry.

MEC Chairman James Womack said public was not there to speak, but listen only and could write questions to the Chair, which might or might not be addressed. Then he said the Committee Chair could decide on his/her own process for dealing with the "public," but he discouraged engagement. Marva Price took written questions.

Two very interesting presentations: ETJ and authority for zoning; NC DOT on road/bridge infrastructure and impacts.

1. Discussion about Extra-Territorial Jurisdictions (ETJs) Johanna Reese (NC Assoc County Commissioners) and Erin Wynia (League of Municipalities) presented. Who is in charge? The entity with police powers is in charge. This resides under Public Health at the city/county level and was established under old legislation. An ETJ is the urbanizing fringe of towns and supports economic development, promotes land uses, business-ready areas. Not "part" of a city, and does not have to be contiguous (map of Raleigh showed dozens of ETJ squiggles everywhere). If city creates an ETJ, residents in that area must serve on city planning and zoning boards (appointed by Commissioners). Towns can informally create a 1 mile ETJ without county consent, but must have subdivision and zoning ordinances, and building codes. An ETJ has max distance of 3 miles (except in Chatham Co) and requires formal process with county and notification of property owners, public hearings, etc. in that new area. Parts of ETJ's can be annexed by towns, then it would be incorporated into town boundary. Showed map of ETJs in this part of Piedmont...western Wake has the most ETJs in our triassic basin, and Moore County; not much in Lee County since Sanford has annexed and not extended ETJ.

What powers do towns have in ETJ? Zoning, subdivision, flood, building codes, historic properties, open space acquisition, sedimentation, community development

What powers are towns prohibited from applying in the ETJ? General town regulatory ordinances; any power NOT already exercised inside the city limit.

Womack said mining & energy wants State to preempt local noise ordinances. Question about sedimentation and stormwater being local matter, unless under a federal authority. Local governments can have more protections by ordinance that state law requires.

2. DOT Impacts on Infrastructure, Emily McGraw: Five highway divisions across Piedmont could be affected, and require coordination.

Issues: roads, bridges, safety, schools, trucking, public transit.

NC DOT sent peer exchange group to PA DOT to talk to industry and local governments, and observe ALL phases of this process.

AVERAGE TRUCK ROUND TRIPS PER WELL: 1,450 truck trips per well, as follows:

- (a) Pad development 3-5 acres, 6-8 wells on pad; 4-6 weeks construction; 300-400 trucks
- (b) Drilling, 4-5 weeks; 150-200 superheavy trucks hauling water and cement [permitting for vehicular weight, more than 26,000 lbs gross weight (13 tons)]
- (c) Fracturing, 7-30 days; 800 to 1,200 trucks; 24 hours day, sand and water—USES 16 trucks as generators to keep constant pressure
- (d) Reclaiming, 3-4 weeks; truck traffic does not stop; uses a drier system to separate gas from water, hauled off

In PA the State DOT only maintains state highways and interstates; townships maintain their secondary roadways. Townships enter into maintenance agreements with EACH drilling company. Little recourse if problems. They did not get information from PA on what percentage of maintenance is covered by industry.

Trucks run in convoys, creating ENFORCEMENT problem and taking of roads.

Some operators in PA are now building 24 million gallon retention ponds to reuse water, thus decreasing truck traffic.

Emily mentioned that while they were in PA, saw a spill and how it was managed and cleaned up quickly by the company (not government). Also mentioned there were good and bad operators.

Showed Moore County map of bridge locations...lots, and just LESS THAN HALF have posted weight restrictions and also contain timber components (really old bridges).

NCDOT working on process for maintaining infrastructure during heavy hauling; developing maintenance agreement with industry; assessment tools.

Local government ETJ can require traffic lane widening (for these trucks).

Womack... 25 other states already "dealing" with this so anyone partnering with industry can work proactively and see which areas will be involved in drilling, and expect heavy traffic. Says could lay surface pipe from Deep River for water and regionalize operations...or bring stuff in by rail. NC can "break new ground" on getting materials to drilling site, in fact, bring barges up the Cape Fear for off-loading.

There will be transportation choke points, school buses, peak commute times, railroad crossings. How about those gathering pipelines, who has jurisdiction if they are in the DOT right-of-way?

Sally Kost, Chatham BOC, mentioned that even though Chatham doesn't show much activity in ETJs, the Pittsboro ETJ will be extended 8,000 acres to encompass Chatham Park, and Town of Cary will probably annex certain portions of western Chatham Co, currently within its ETJ.

3. Comparison of Local Govt Regulations in Other States, Toby Vinson (DENR). This comparison just getting started. Most interested in reviewing setbacks and noise restrictions, severance and *ad valorem* taxes on property receiving value from sale of gas, present use. Womack suggested adding a representative from NC Dept of Revenue to this committee, may need some legislation on this issue.
4. Final Local Government Study Report, Toby Vinson (DENR). Rough outline, but list of issues includes:

Setbacks

Noise and Light restrictions

Infrastructure Placement Impacts (Register of Deeds; Roads; Gas & Water lines to new infrastructure; zoning)

Unfunded mandates (Inclusion in receipts collected through State Severance taxes; *ad valorem* taxes)

Environmental concerns (Air, water quality, erosion controls)

Property Rights (Mineral rights vs surface owner rights; easements, land use management)

BIG QUESTION: What is the extent of authority (regulating entity) for each item? County, Town, State?