

MINUTES OF THE CLIMATE ACTION COUNCIL INFORMATIONAL MEETING
HELD ON JUNE 28, 2021

Pursuant to Notice and Agenda, a copy of which is annexed hereto, an informational meeting of the Climate Action Council (“Council”) was convened at 2:00 p.m. on Monday, June 28, 2021. The following Members attended:

Council Co-Chairs

- Doreen Harris, President and CEO, New York State Energy Research and Development Authority
- Basil Seggos, Commissioner, New York State Department of Environmental Conservation

Council Members

- Richard Ball, Commissioner, New York State Department of Agriculture and Markets
- Donna L. DeCarolis, President, National Fuel Gas Distribution Corporation
- Marie Therese Dominguez, Commissioner, New York State Department of Transportation
- Gavin Donohue, President and CEO, Independent Power Producers of New York
- Dennis Elsenbeck, President, Viridi Parente, Inc.
- Thomas Falcone, CEO, Long Island Power Authority (Rick Shansky, Designee)
- Eric Gertler, Acting Commissioner and President and CEO-designate of Empire State Development (Kevin Hansen, Designee)
- Rose Harvey, Senior Fellow for Parks and Open Space, Regional Plan Association
- John Howard, Interim Chair and CEO, New York State Public Service Commission
- Dr. Bob Howarth, Professor, Ecology and Environmental Biology at Cornell University
- Peter Iwanowicz, Executive Director, Environmental Advocates of NY
- Jim Malatras, Chancellor, State University of New York
- Gil C. Quiniones, President and Chief Executive Officer, New York Power Authority
- Roberta Reardon, Commissioner, New York State Department of Labor (Yvonne Martinez, Designee)
- Anne Reynolds, Executive Director, Alliance for Clean Energy New York
- Rossana Rosado, Secretary of State, New York State Department of State (Sarah Crowell, Designee)
- Raya Salter
- Dr. Paul Shepson, Dean, School of Marine and Atmospheric Sciences at Stony Brook University
- RuthAnne Visnauskas, Commissioner and CEO, New York State Homes and Community Renewal
- Howard A. Zucker, Commissioner, New York State Department of Health (Henry Spliethoff, Designee)

Also present were various State agency staff and members of the public.

Mr. Seggos and Ms. Harris, Co-Chairs of the Council, welcomed all in attendance.

Pursuant to the expiration of the Governor's Executive Order 202 on June 25, 2021 governing COVID-19 protocols for conducting public meetings, no quorum was established for the meeting. No action was taken at this meeting, which was held for informational purposes only.

Consideration of the Minutes of the June 8, 2021 Meeting

Given the lack of a quorum for this meeting, the Minutes for the June 8, 2021 meeting were not acted upon and will be taken up at the next Council meeting.

Presentation and Discussion: Climate Justice Working Group

Co-Chair Harris stated that the presentation will be on a climate justice framework and a focused discussion to receive input and feedback from the Climate Justice Working Group on the recommendations advanced by the Transportation and Housing and Energy Efficiency Advisory Panels.

Climate Justice Framework

Co-Chair Seggos began the discussion by stating the deep commitment of the Council to ensure that justice and equity are part of every action and product generated by the Council and that every Advisory Panel maintains representation to further these issues.

Co-Chair Seggos introduced Elizabeth Yeampierre, Executive Director of UPROSE, who presented the strategy framework for the Climate Justice Working Group. Ms. Yeampierre is also a member of New York Renews, the New York City Environmental Justice Alliance, and Co-Chair of the Board of Directors of the Climate Justice Alliance. She began by stating that climate justice operates at the intersection of racial and social rights, environmental and economic justice, and focuses on the root causes of climate change, and calls for the transformation to a just, sustainable, community-led economy. She presented a graphic depicting a Strategy Framework for Just Transition and asserted that the Scoping Plan should include clear guidance for how benefits and investments will be defined, measured, tracked, and shared over the long term. She suggested that NYSERDA's system of distributing benefits and investments should be codified so that high standards are maintained over the long term, including clear guidance on whether the 35-40% target is additive to current spending. She maintained that the process must be community driven, have accountability, include directives for information sharing, and have defined accounting for the social cost of carbon and co-pollutants. Ms. Yeampierre added that different

regions have different needs and identifying those needs can only happen at the local level and better data will be needed to accurately measure the success of Climate Act implementation.

Advisory Panel Recommendations Feedback – Transportation and Energy Efficiency and Housing

Abigail McHugh-Grifa, Executive Director, Climate Solutions Accelerator, framed the discussion on the Climate Justice Working Group observations and general impressions of the Transportation and Energy Efficiency and Housing Advisory Panels and how their respective strategies could impact disadvantaged communities. Overall, the Climate Justice Working Group believes that the Energy Efficiency and Housing Advisory Panel did an excellent job in presenting the issues and explaining its recommendations but felt that the Transportation Advisory Panel fell short in this regard. Primary concerns and observations regarding the Transportation Advisory Panel included:

- A general lack of clarity and detail that made it difficult to thoroughly understand the recommended strategies and their impact on disadvantaged communities, citing vague language or terms of art not commonly used, making it difficult to assess the potential success of the intended impact;
- Problematic themes that included (1) encouraging or incenting behavioral change rather than suggesting concrete, enforceable policy changes to advance systemic transformations; (2) a lack of data and clear accountable goals; and (3) the commitment to public engagement and community-led decision-making and the failure to include environmental justice groups and community leaders as key stakeholders is insufficient. Community engagement and local decision-making are particularly important in the transportation sector as regional differences in this sector are so pronounced;
- A lack of emphasis on improving public transportation as compared to other strategies and a lost opportunity for enhancing workforce development within this sector;
- No indication that the potential for population shifts due to climate migrants or refugees has been accounted for and how this may change the transportation needs in any given region over the coming decades;
- Overemphasizing investment in electrification at the expense of investment in public transportation and transit-oriented development could exacerbate existing inequalities, as could over-emphasis on individual vehicle ownership; and
- The lack of strategies that improve access between regions, such as high-speed rail or improvements to bus and rail services between regions.
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Suggestions for improving the Transportation Advisory Panel recommendations included:

- Recognizing that goals, benchmarks, and accountability are essential;
- Every action should be better scrutinized for justice to avoid false market-based solutions;
- Providing better clarity, reasoning, and purpose to avoid arbitrary goals, and presenting details on how a recommendation would work in practice while using plain language; and
- Focusing more on regional connectivity, refining the strategy to elevate estimated greenhouse gas reduction impacts by 2050 from medium to high, and de-emphasizing vehicle electrification.

Eddie Bautista, Executive Director, New York City Environmental Justice Alliance, addressed a critique of the Transportation Climate Initiative (TCI), which included that:

- The best available evidence shows cap and trade systems do not eliminate air pollution hotspots and can exacerbate them;
- Like the Regional Greenhouse Gas Initiative (RGGI), TCI funds are vulnerable to budgetary raids;
- Reforms to cap and trade initiatives are unlikely to remedy pollution disparities given the effort's inability to surgically reduce mobile source emissions which are more complex than stationary sources;
- Inherent design flaws in cap and trade result in environmental racism (citing diesel emissions on major highways that surround many disadvantaged communities, as an example);
- Inadequate involvement of environmental justice groups in the policy process reflects a failure of democracy and bolsters the case for abandoning sector-specific carbon pricing policies for a comprehensive carbon fee; and
- Unlike the TCI, the Climate Community Investment Act (CCIA) includes a rebate program that is designed to reduce the regressive impacts of a gas tax.

Mr. Bautista addressed the following concerns regarding the Clean Fuels Standard:

- Allowing high carbon fuel producers to meet their credit obligations by paying clean producers appears to be a weak way to enforce the standard and will not guarantee that emissions reductions and investments in overburdened communities occur at the speed and scale required by the Climate Act and serves to perpetuate current disparities, albeit at a lower level; and
- Allowing vehicles to combust lower carbon liquid fuels that still emit criteria pollutants will not eliminate air pollution hotspots.

Mr. Bautista presented additional recommended actions that were not included in the final Transportation Advisory Panel recommendations. These included:

- Strive for the electrification of everything that moves, including ZEV programs for medium and heavy-duty vehicles with explicit targets for truck and bus conversions that prioritize diesel emissions;
- Mandating rapid phase-in of the conversion of the State fleet to ZEVs; and
- Rapidly expand policies to encourage the uptake of electric vehicles.

Ms. McHugh-Grifa added to the suggested recommendations with the following:

- Establishment of a State-supported equitable transit-oriented development effort through the regional economic development councils, or a Statewide program;
- Include at least a 20% affordable housing minimum for all new transit-oriented development and amending the Municipal Home Rule Law to allow fees on new development to offset public service transportation service costs;
- Requiring at least 50% of transportation climate monies be spent on non-car programs; and
- Incorporate requirements for prospective developers and employers to identify how prospective projects funded through the Regional Economic Development Councils will consider public transportation options for low-income workers and incent the hiring of disadvantaged workers in transit manufacturing.

In sum, the Climate Justice Working Group recommends that the Transportation Advisory Panel revisit its draft recommendations with more input from environmental justice groups.

Rahwa Ghirmatzion, Executive Director, PUSH Buffalo and founding member of the New York Renews Steering Committee, underscored that the work of the Council needs to reflect a fundamental shift and actions need to be additive to activities currently underway. She praised the work of the Energy Efficiency and Housing Advisory Panel as being specific, comprehensive, and reflected the environmental justice experience of the Advisory Panel members. Suggestions to delve deeper on the recommendations put forth by the Energy Efficiency and Housing Advisory Panel included:

- Further recognize that when disadvantaged communities benefit, everyone benefits and this is imperative for a just transition. The transition is inevitable, but justice is not;
- The State's energy affordability goal of 6% or less of household income should be acknowledged in the recommendations;
- Regulatory action and investments in efficient appliances and clean heating, cooling, and cooking must be front-loaded in disadvantaged communities so as to not leave those households behind;
- Sunset dates for combustion appliances and systems are inadequate without added goals;
- Make consumer financing options available as part of the CCIA;
- Include and update the Utility Customer Bill of Rights so that it addresses a guarantee of renewable energy for every household, public education measures to alleviate the opaqueness of the energy system, clawback provisions to defend against rate increases and other actions, and energy benchmarking and disclosure requirements.

Ms. Ghirmatzion presented additional actions for inclusion in the Energy Efficiency and Housing Advisory Panel recommendations that included the:

- Creation of standards for upgrading existing buildings;
- Proper cost projection and place-based strategies for buildings in need of substantial repair or remediation;
- Bolstering of local supply chains and job creation;
- Outlining of plans for preservation, diversification and growth of local supply chains and material and appliance distributors serving disadvantaged communities;
- Heeding the special needs of and jurisdictional issues of the State's public housing stock, specifically NYCHA and New York City housing;
- Tweaking NYS Public Service Commission policies to encourage energy efficiency and additional funding as part of the rate base; and
- Calculating costs and benefits holistically by considering health impacts and incorporate the cumulative cost burden related to housing, energy, transportation, and health care.

In response to an inquiry from Co-Chair Seggos regarding whether any potential regulatory or legislative fixes were included in any of the research regarding the performance of market-based mechanisms that may have led to success, Mr. Bautista, using California cap and trade efforts as an example, stated that transportation growth offset any reductions in emissions attributable to fuel efficiency

regulations. Mr. Bautista suggested this raises the underlying question of the effectiveness of projecting accurate vehicle miles travelled and policies regarding sprawl. In New York, he cited an example of resistance to building multi-unit housing and affordable housing, particularly around transit-oriented development. Mr. Bautista believes a comprehensive, economy-wide approach will be much more successful than a regional approach and the range of solutions includes full electrification, mass investments in transportation, and a more comprehensive approach with inherent accountability.

In response to an inquiry by Commissioner Dominguez regarding the appropriate mechanism for guaranteeing the earmarking of funds for targeted efforts benefitting disadvantaged communities, Mr. Bautista noted a disparity in the timing between when market-based efforts are launched and the ability for environmental justices groups to offer substantive participation in such efforts. He also expressed concern about the ability to appropriately legislate and reducing the vulnerabilities of earmarking funds for their intended purposes. He also advocated for a more “command and control” approach to reducing emissions rather than additional market-based incentives, allowances, and options. Ms. Yeampierre added that the notion of throwing more funding at the problem is not the solution when frontline solutions, such as investments in infrastructure and systems, will engage communities in climate, adaptation, mitigation and resilience. Ms. Ghirmatzion suggested that State agencies need to improve coordination, engage in greater collaboration and remove barriers. She cited examples of policies that result in seemingly unnecessary, complicated regulatory hurdles that detract from what should be positive policies.

In response to an inquiry by Anne Reynolds regarding legislatively-mandated electrification of internal combustion engines and her suggestion that evolving market-based approaches such as TCI could be effective when backstopped with a command and control requirement, Mr. Bautista remained skeptical that the guaranteed earmarking of revenues could be fixed structurally as he sees this as a fatal flaw. He advocated for the bonding of the revenue as a greater protection, such as the approach taken with congestion pricing and the CCIA.

In response to an inquiry by Janet Joseph, Co-Chair of the Energy Efficiency and Housing Panel, regarding more elaboration on the suggestion for creating standards for existing buildings, Ms. Ghirmatzion explained that a regional approach that includes weatherization, green efficiency work, and mold remediation are what is needed to ready the homes to produce energy through new systems such as heat pump technology.

Dr. Howarth expressed his concerns that the recommendations from neither Advisory Panel will meet the 2030 requirement of reducing greenhouse gas emissions by 40%, although the Energy Efficiency and Housing Advisory Panel came closer, albeit with a tougher challenge. In response to his inquiry as to how much emphasis should be on the 2030 limit rather than the long term goal, Ms. McHugh-Grifa stated that there is a need to resist “kicking the can down the road” when there is much opportunity to improve lives by making smart investments now. Sonal Jessel, Director of Policy, WE ACT for Environmental Justice, added that the timing is important as the work is difficult, and if delayed, will lead to the need for interventions if the work in buildings for people who cannot afford to pay up front is not addressed soon.

In response to an inquiry by Dr. Howarth regarding the type of information on the CCIA that would be most useful to the State Legislature in response to its desire for Council input, Mr. Bautista stated that the CCIA would be an economy-wide approach that would establish a polluter penalty fee, including co-pollutants, and which would also address issues of climate change, public health, and environmental justice communities. The CCIA is also projected to generate significant revenues that would provide much needed funding to implement the goals of the Climate Act, funding which Mr. Bautista asserts is lacking.

In response to an inquiry by Dennis Elsenbeck regarding how to define benefits that are location-specific and that have clear objectives and goals, Mr. Bautista stated that this work is in progress and that approaching the objectives with “investments” rather than “benefits” is more transparent and accountable. Mr. Elsenbeck agreed and believes that the investment approach leads to different business models and can be used to incent neighborhoods, utilities, investors, and others to do the right thing. Mr. Bautista also believes that the Advisory Panels emphasize parts of the economy that are not yet ready and missed an opportunity to pursue 85% of the Climate Act total emissions reduction goal that is ready, and instead focused on the 15% that is not by focusing on topics such as green hydrogen.

In response to an inquiry by Rose Harvey regarding setting up lasting efforts that transcend changes in Administration and increase accountability, Ms. Yeampierre suggested that some of the protections need to be legislated and it will take a cultural shift within governance to make sustainable commitments, with short and long-term timelines.

In response to an inquiry by Rose Harvey regarding the ability to determine the level of specificity for the types of investments and benefits needed in disadvantaged communities through the use of pilot

programs, Ms. Yeampierre stated that work is already happening all over the State where such infrastructure investments are being made, citing the offshore wind project in Sunset Park. She also reported on efforts to identify a variety of urban and rural projects with different topography and geography that employ a host of interventions, that are replicable, and promote social cohesion. Ms. Ghirmatzion added that a change from an approach of scarcity to one of collaboration is needed, as is one that alleviates the competition for financial resources and guarantees their availability after careful planning is undertaken.

Peter Iwanowicz expressed his gratitude for the work effort put forth by the Climate Justice Working Group in reviewing the Advisory Panel recommendations. He requested that the peer review studies referenced by Eddie Bautista be made public along with the slides.

In response to an inquiry from Peter Iwanowicz regarding replicable solutions and how best to understand the just transition success that is happening, Ms. Yeampierre stated that generations have fought against the polluting infrastructure that has contributed to health disparities. During that fight, communities began to envision what the industrial waterfront could be – an area that can have regional impacts and can build for climate adaptation and mitigation. She mentioned the community-owned solar initiative, offshore wind, an industrial hub – all of which lead to social cohesion. She stated that investments in infrastructure will provide jobs, prevent displacement, and create jobs that address future climate needs, calling it “green industrialization”. She suggested that one must move away from thinking of communities of color as being the passive recipients of other’s good intentions and toward recognizing them as drivers of transformation on infrastructure, food, sovereignty and community building. Ms. Ghirmatzion provided her perspective on activities ongoing in Western New York, including efforts that serve as an international model for place-based work. She provided an affordable and supportive housing project and work with 40 low-income households (20 in New York City and 20 in Western New York) and a pilot program to transition from gas to induction ovens, including air quality monitoring as examples. She explained that these demonstration programs involve challenges with codes, permitting, and factors inherent to the two geographic locations, and will result in forthcoming costs estimates for implementation.

In response to an inquiry by Peter Iwanowicz regarding whether a low carbon fuel standard, a market-based mechanism, fits within the bounds of the Climate Act, Mr. Bautista stated that, in his opinion, it is not prohibited. However, it is his belief that the Climate Act narrowly defined the universe

of offset-style program and sources, and that biofuels, not considered renewable, are not an acceptable offset under the Climate Act.

Commissioner Dominguez expressed her gratitude to the Climate Justice Working Group for the amount of work and thoughtful suggestions, insights, and recommendations that were provided during the meeting. She looks forward to continuing to consult and share the details of the work of the Advisory Panel.

Update on Disadvantaged Communities Criteria

Rosa Mendez, Director of the NYS Department of Environmental Conservation Office of Environmental Justice and Chair of the Climate Justice Working Group, provided an update on the development of the disadvantaged community criteria and milestones. Thus far, in addition to reviewing the Advisory Panel recommendations, the group has been working on the development of draft criteria for defining disadvantaged communities. This has involved reviewing the available models of disadvantaged communities, and developing a universe of criteria. Work continues on the development of draft criteria, including indicators, methodology, and documentation of data sets. In this process, an evaluation rubric is being used to ensure the criteria and indicators used are aligned with the Climate Act and have quality data and integrity. In its work, the Group considered about 150 separate indicators. The public comment process on the draft criteria is expected to occur between August and November 2021, and is anticipated to include at least six public hearings, with finalization expected in November 2021.

In addition to highlighting the expertise of the overall Group, Ms. Mendez also presented a slide on the process used for draft criteria development that showed the key, iterative steps of indicator selection, the scoring approach, methods considered for designation, and ground-truthing the considered approaches to ensure that the message and indicators reflect the on-the-ground expertise. She reviewed the three groups of categories to be considered: (1) areas burdened by cumulative environmental pollution that can lead to health impacts; (2) certain social and economic and demographic areas; and (3) areas vulnerable to the impact of climate change.

The Group is working to review and ground-truth the draft scenario, which includes how to group the indicators and how to score for geographic designations. The Group is preparing to incorporate new State data from the NYS Department of Environmental Conservation, the NYS Department of Health, and

from ongoing climate analysis, with a goal of reaching consensus on the draft criteria, indicators, and scoring approach, as well as developing the documentation that will be used as part of the public engagement process.

Next Steps

Council Executive Director Sarah Osgood announced that the next Council meeting scheduled for July 22, 2021 will include a presentation regarding the integration analysis. Thus far, the meeting is planned to be held in person.

Opportunities will also be scheduled for the Council to receive additional feedback on Advisory Panel recommendations from the Climate Justice Working Group. In response to an inquiry by Raya Salter regarding the process for iterating feedback from the Climate Justice Working Group into the Scoping Plan, Ms. Osgood stated that several work streams are coming together simultaneously, particularly the integration analysis. In addition to receiving scheduled feedback from the Working Group, meetings scheduled in July, September and October will feature results from the integration analysis with opportunities for discussion, and there will be the potential for additional feedback throughout the remainder of the year and in the development of the draft Scoping Plan.

Raya Salter expressed her concerns as to the timing of the availability of the disadvantaged community criteria and the substantive feedback that will result in significant adjustments to some of the Advisory Panel recommendations. She believes this may provide challenges in the ability to iterate the additional information. In response, Co-Chair Harris suggested that a monthly schedule be provided to the Council Members that overlays the work of the Climate Justice Working Group.

With that, the meeting was adjourned.



Climate Action Council

ANDREW M. CUOMO
GOVERNOR

DOREEN HARRIS
CO-CHAIR

BASIL SEGGOS
CO-CHAIR

Meeting Agenda

June 28, 2021

- Welcome
- Consideration of June 8, 2021 Minutes
- Presentation and Discussion: Climate Justice Working Group
 - Climate Justice Framework
 - Advisory Panel Recommendations Feedback – Transportation and Energy Efficiency and Housing
 - Update on Disadvantaged Communities Criteria
- Next Steps

In keeping with measures designed to limit the spread of COVID-19, the meeting will be conducted by teleconference and members of the public will be welcomed to observe and listen to the meeting via webcast only. The webcast may be accessed by going to the Climate Action Council website: climateact.ny.gov