



ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD



DRAFT MINUTES – September 11, 2013

Regular Meeting

Vincent E. Griego chambers

Albuquerque-Bernalillo County Government Center

One Civic Plaza NW, Albuquerque, NM 87102

AOCB MEMBERS PRESENT

Dona Upson, M.D. (City), Chair
Ms. Kelsey Curran (City), Vice Chair
Ms. Jane Cudney-Black (City)
Mr. Jens Deichmann (County)
Robert A. Goldstein, M.D. (County)
Naomi Kistin, M.D. (County)
Mr. Jack Sullivan (City)

AOCB MEMBERS ABSENT

Lenton Malry, Ph.D. (BCPC Liaison)

STAFF PRESENT

Mr. Neal Butt, EH Scientist, AQD
Mr. Bill Grantham, Air Board Attorney
Ms. Liz Jones, AQCB Liaison
Ms. Adelia Kearny, Deputy City
Attorney
Ms. Mary Lou Leonard, Director, EHD
Mr. Fabian Macias, Air Quality Official
Mr. Danny Nevarez, Acting Deputy
Director, EHD
Ms. Margaret Nieto, AQCB Secretary,
EH Supervisor
Mr. Isreal Tavarez, EH Manager,
Permitting

VISITORS PRESENT.

Mr. Sam Bregman, Bregman Law Firm
Mr. Frank Salazar, Sutin Law Firm
Mr. Andy Carrasco
Mr. Tim Adler, Sutin Law Firm
Mr. Pat Toledo
Ms. Traci Olivas, Sutin Law Firm
Mr. Pete Domenici, Jr., Domenici Law Firm
Mr. Matt Cross-Guillen, Bernalillo County
Mr. John Wakeland

Draft Meeting Minutes

CALL TO ORDER

The meeting was called to order by Chair Dr. Dona Upson at 6:08 pm on September 11, 2013 with seven Board members present: Chair Dona Upson, M.D., Ms. Kelsey Curran, Ms. Jane Cudney-Black, Mr. Jens Deichmann, Robert A. Goldstein, M.D., Dr. Naomi Kistin, M. D., Mr. Jack Sullivan; and the BCPC liaison absent: Lenton Malry, Ph.D.

Item #1 Approval of Agenda (Chair)

Vice Chair Kelsey Curren moved to approve the agenda, seconded by Dr. Goldstein. The motion passed by a unanimous vote of 7-0

Item #2 Approval of July 10, 2013 Meeting Minutes (Chair)

A motion was made by Member Sullivan and seconded by Member Deichmann to approve the July 10, 2013 minutes. The motion passed by a unanimous vote of 7-0.

PUBLIC COMMENT

There was no public comment.

HEARING

Item #3 Hearing to Consider Smith’s Food and Drug Centers, Inc. Motion to Dismiss for Lack of Standing (re: AQCB Petition #2013-6) – Felicia Orth, Hearing Officer

Hearing Officer Felicia Orth opened the hearing, providing background, reviewing filings, and noting that the following hand-outs had been introduced: an aerial map, provided by Mr. Atler, and copies of regulations 20.11.41 NMAC and 20.11.81 NMAC and the State Air Quality Control Act provided by Ms. Kearny. Smith’s legal representative, Mr. Tim Atler with the Sutin, Thayer and Browne law firm, presented his arguments first, since the Motion was filed by the Sutin firm on behalf of his clients, Smith’s Food and Drug Centers, Inc. Ms. Adelia Kearny, representing the City of Albuquerque Environmental Health Department followed with her client’s arguments. Lastly, Mr. Pete Domenici, representing Petitioners Andy Carrasco, Dempsey Power, and Pat Toledo, presented the Petitioners’ arguments.

After extensive arguments by the parties’ attorneys, questions to the attorneys by the Board members, advice from the Hearing Officer and Board Counsel, and discussion among Board members, a motion to grant the Motion to Dismiss for Lack of Standing was made by Vice Chair Curran, seconded by Member Deichmann. The motion passed by a vote of 6-1 (For: Upson, Curran, Cudney-Black, Deichmann, Goldstein, Sullivan; Against: Kistin).

Because the Board determined that all three Petitioners lacked standing and the Petition for a Hearing (AQCB Petition #2013-6) was dismissed, the hearing on the merits initially set for October 1-2, 2013 was cancelled.

REPORTS

Item #4 Division Report. Staff available for questions.

There was no discussion.

OTHER BUSINESS

There was no Other Business

