



# ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

Vincent E. Griego Chambers  
Albuquerque-Bernalillo County Government Center  
One Civic Plaza NW, Albuquerque, NM 87102



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## DRAFT MINUTES – November 16, 2016 Regular Meeting

### AQCB MEMBERS PRESENT

Ms. Jane Cudney-Black (CITY), Chair  
Ms. Kelsey Curran, CIH, CHMM (CITY),  
Vice Chair  
Dr. Jens Deichmann, Ph.D. (COUNTY)  
Mr. Ben Everson (CITY)  
Ms. Michelle Miano (COUNTY)

### AQCB MEMBERS ABSENT

Mr. James Peck, (COA/EPC LIAISON)  
Ms. Deborah L. Stover (COUNTY)

### STAFF PRESENT

Mr. Andrew Daffern, AQCB Liaison  
Ms. Mary Lou Leonard, Director, EHD  
Mr. Fabian Macias, Air Quality Official  
Mr. Ed Merta, Air Quality Regulation  
Development Coordinator

Mr. Danny Nevarez, Deputy Director, EHD  
Ms. Felicia Orth, Air Board Attorney  
Ms. Carol Parker, Assistant City Attorney  
Mr. Damon Reyes, EH Manager  
Mr. Dario Rocha, EH Manager and AQCB  
Secretary  
Mr. Dwayne Salisbury, EH Supervisor  
Mr. Isreal Tavarez, EH Manager

### VISITORS PRESENT

Mr. Pete Domenici, Domenici Law Firm  
Mr. Reed Easterwood, Domenici Law Firm  
Ms. Lynn Mostoller, Sutin, Thayer &  
Browne Law Firm  
Mr. Frank Salazar, Sutin, Thayer & Browne  
Law Firm  
Mr. Pat Toledo

## DRAFT MEETING MINUTES

### CALL TO ORDER

Chair Cudney-Black called the meeting to order at 5:33 p.m. on November 16, 2016.

#### **Item #1 Approval of Agenda (Chair)**

Member Deichmann moved to approve the agenda and Member Everson seconded. The motion passed by a vote of 5-0.

#### **Item #2 Approval of September 14, 2016 Meeting Minutes (Chair)**

Vice Chair Curran moved to approve the September 14, 2016 meeting minutes and Member Deichmann seconded. The motion passed by a vote of 5-0.

### PUBLIC COMMENT

There was no public comment.

## **ACTION ITEMS**

**Item #3 Authorization of Hearing Officer to Take Action, Including Scheduling a Summary Judgment Hearing, Consistent with the Anticipated NM Court of Appeals Mandate in the Matter of the Petition for a Hearing on the Merits Regarding Air Quality Permit No. 3135 Issued to Smith's Food & Drug Centers, Inc. (Smith's Montgomery), Margaret M. Freed, Mary Ann Roberts, and Pat Toledo, Petitioners-Appellants, vs. The City of Albuquerque and Smith's Food & Drug Centers, etc.**

Board Attorney Felicia Orth explained the action the Board was being asked to take. Board Attorney Orth then responded to questions and comments from the Board.

Mr. Pete Domenici, Mr. Frank Salazar, and Ms. Carol Parker offered comment.

Board Attorney Orth then responded to additional questions and from the Board.

Member Deichmann moved that the Board authorize Hearing Officer Orth to take action, including scheduling a Summary Judgment Hearing, consistent with the anticipated NM Court of Appeals Mandate in the Matter of the Petition for a Hearing on the Merits Regarding Air Quality Permit No. 3135. Vice Chair Curran seconded. The motion passed by a vote of 5-0.

Board Attorney Orth also informed the Board that, in the Matter of the Petition for a Hearing on the Merits Regarding Air Quality Permit No. 1655-M1-RV1 Issued to Smith's Food & Drug Centers, Inc. (Smith's Golf Course), Pat Toledo, Petitioner-Appellant, vs. The City of Albuquerque and Smith's Food & Drug Centers, Inc., Respondents-Appellees (No. 35,576), the New Mexico Court of Appeals issued a Memorandum Opinion dismissing the appeal for lack of a final order. The Board need not take further action at this time.

**Item #4 Resolution 2016-1, Setting the Official List of Regular Albuquerque-Bernalillo County Air Quality Control Board Meetings for the Year 2017 – Andrew Daffern, AQCB Liaison, Air Quality Program**

Mr. Andrew Daffern, Air Quality Control Board Liaison, presented Resolution 2016-1, Setting the Official List of Regular Albuquerque-Bernalillo County Air Quality Control Board Meetings for the Year 2017. Ms. Carol Parker, Assistant City Attorney, asked a clarifying question regarding the proposed resolution.

Vice Chair Curran moved to approve and adopt Resolution 2016-1, Setting the Official List of Regular Albuquerque-Bernalillo County Air Quality Control Board Meetings for the Year 2017. Member Deichmann seconded the motion. The motion passed by a vote of 5-0.

**Item #5 Resolution 2016-2, Determining Reasonable Notice of Public Meetings of the Albuquerque-Bernalillo County Air Quality Control Board – Andrew Daffern, AQCB Liaison, Air Quality Program**

