



ALBUQUERQUE – BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

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



DRAFT MINUTES – November 8, 2017 Regular Meeting

AQCB MEMBERS PRESENT

Ms. Jane Cudney-Black (CITY), Chair
Ms. Michelle Miano (COUNTY), Vice
Chair
Dr. Jens Deichmann, Ph.D. (COUNTY)
Mr. Ben Everson (CITY)
Dr. Josie Lopez, Ph.D. (COUNTY)
Mr. Dale Mack (CITY)
Mr. Matthew Wylie (CITY)
Mr. Bret A. Blanchard (BCPC LIAISON)
Mr. James Peck (COA/EPC LIAISON)

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

AQCB MEMBERS ABSENT

STAFF PRESENT

Mr. Andrew Daffern, AQCB Liaison
Mr. David Duran, EH Supervisor
Ms. Regan Eyeran, EH Scientist
Ms. Mary Lou Leonard, Director, EHD
Mr. Fabian Macias, Air Quality Official
Mr. Ed Merta, Air Quality Regulation
Development Coordinator

VISITORS PRESENT

Dr. Christian M. Carrico, NM Tech
Ms. Andria Cuevas, KAFB
Mr. Vern Hershberger
Ms. Kathryn Kelly, Delta Toxicology
Ms. Sandunie Liyanagamage, Trinity
Consultants
Ms. Georgianna E. Peña-Kues
Ms. Elizabeth Quinley

DRAFT MEETING MINUTES

CALL TO ORDER

Chair Cudney-Black called the meeting to order at 5:34 PM on November 8, 2017.

Item #1 Approval of Agenda (Chair)

Member Deichmann moved to approve the agenda and Member Mack seconded. The motion passed by a vote of 6-0.

Item #2 Approval of September 13, 2017 Meeting Minutes (Chair)

Member Deichmann moved to approve the September 13, 2017 meeting minutes and Vice Chair Miano seconded. The motion passed by a vote of 6-0.

PUBLIC COMMENT

There was no public comment.

AIR PROGRAM REPORT

Mr. Danny Nevarez, Environmental Health Department Deputy Director, presented the air program report.

HEARINGS

In the Matter of the Environmental Health Department's Petition to Amend 20.11.41 NMAC, Construction Permits, to Address Conditional Approval by The U.S. Environmental Protection Agency (AQCB Petition No. 2017-2) – Carol Parker, Assistant City Attorney

Ms. Felicia Orth opened the hearing record at 5:37 PM.

Note: Member Everson entered the meeting at 5:55 PM.

Ms. Carol Parker, Assistant City Attorney, presented a legal overview of the Environmental Health Department's ("EHD") Petition.

Mr. Isreal Tavarez, Environmental Health Manager, presented a summation of his direct written testimony in EHD's Notice of Intent to Present Technical Testimony.

Ms. Parker moved for admission of three supplementary exhibits into the record. The first was a proposed floor amendment to 20.11.41 NMAC by EHD. The second and third were a revised Proposed Order and Statement of Reasons to reflect the floor amendment, in both legislative edit format and clean format. Ms. Orth admitted these three supplementary exhibits into the record.

Ms. Parker, Mr. Tavarez, and Mr. Ed Merta, Air Quality Regulation Development Coordinator, then answered questions from the Board.

There was no public comment.

Ms. Orth closed the hearing record at 6:11 PM.

ACTION ITEMS

Item #3 Decision on the Matter of the Environmental Health Department's Petition to Amend 20.11.41 NMAC, Construction Permits, to Address Conditional Approval by The U.S. Environmental Protection Agency (AQCB Petition No. 2017-2) – Carol Parker, Assistant City Attorney

Member Deichmann moved that the Board approve EHD's Petition, with the floor amendments presented by EHD during the hearing, and adopt EHD's Proposed Order and Statement of Reasons as amended. Member Mack seconded the motion. The motion passed by a vote of 7-0.

The hearing and decision were recorded and transcribed by Court Reporter Cindy Chapman with Bean & Associates. The transcript is available for review during business

hours in the office of the Board's Hearing Clerk, located at One Civic Plaza NW, Suite 3023, Albuquerque, NM 87102.

HEARINGS continued

In the Matter of the Environmental Health Department's Petition to Adopt a New Regulation, 20.11.39 NMAC, Permit Waivers and Air Quality Notifications for Certain Source Categories; and to Adopt Related Amendments to 20.11.41 NMAC, Construction Permits (AQCB Petition No. 2017-3).

**Petitioner – Carol Parker, Assistant City Attorney, City of Albuquerque
Environmental Health Department**

Interested Party – Georgianna E. Peña-Kues

Ms. Felicia Orth opened the hearing record at 6:15 PM.

Ms. Carol Parker, Assistant City Attorney, presented a legal overview of EHD's Petition.

Over the course of the hearing, Ms. Parker moved to introduce four supplemental exhibits into the record. The first and second were a revised Proposed Order and Statement of Reasons to reflect Ms. Peña-Kues' presence as an interested party, in both legislative edit format and clean format. The third was corrected testimony by Mr. Fabian Macias. The fourth was Mr. Nevarez's résumé. Ms. Orth admitted all four supplementary exhibits into the record.

Three panels of witnesses gathered to present testimony to the Board. The first panel consisted of Mr. Tavaréz, Dr. Kathryn E. Kelly of Delta Toxicology, and Mr. Damon Reyes, Environmental Health Manager. The second panel consisted of Mr. Fabian Macias, Air Quality Official and Dr. Christian M. Carrico of the New Mexico Institute of Mining and Technology. The final panel consisted of Mr. Danny Nevarez, Environmental Health Department Deputy Director.

Mr. Tavaréz, Mr. Reyes, and Mr. Nevarez answered questions from the Board.

Mr. Tavaréz, Mr. Reyes, Dr. Kelly, and Mr. Nevarez were cross-examined by Interested Party Ms. Georgianna E. Peña-Kues.

Ms. Orth called for a break in the hearing at 7:36 PM. Ms. Orth reconvened the hearing at 7:52 PM.

Before Interested Party Ms. Peña-Kues started her presentation, Ms. Orth allowed Ms. Parker *voir dire*. As a result, portions of Ms. Peña-Kues' written testimony were excluded as technical testimony, but remained in the record with the status of an offer of proof.

Ms. Peña-Kues presented oral remarks consistent with Ms. Orth's evidentiary ruling. Ms. Parker cross-examined Ms. Peña-Kues.

Public comment in favor of EHD's Petition was offered by Mr. Vern Hershberger.

Ms. Parker and Ms. Peña-Kues presented closing remarks to the Board.

Mr. Orth closed the hearing record at 9:21 PM.

