



Albuquerque-Bernalillo County Air Quality Control Board



Angel Martinez Jr., Director

MINUTES –January 11, 2023 Regular Hybrid Meeting

AQCB MEMBERS PRESENT

Ms. Lauren Meiklejohn (CITY), Chair
Ms. Maxine Paul (CITY), Vice Chair
Ms. Judy Calman (COUNTY)
Dr. Elis Eberlein (CITY)
Dr. Johnnye Lewis (COUNTY)

AQCB MEMBERS ABSENT

Ms. Kitty Richards (COUNTY)

AQCB LIAISONS ABSENT

Ms. Connie Chavez (Bernalillo County Planning Commission Liaison)
Mr. Joseph Cruz Jr. (City of Albuquerque Environmental Planning Commission Liaison)

STAFF PRESENT

Mr. Angel Martinez, EHD Director
Mr. Chris Albrecht, Associate Director
Mr. Albert Chang, Deputy Director
Ms. Maria Gallegos, Community Liaison
Ms. Yvette Garcia, Executive Assistant
Mr. Ken Miller, Env Health Manager
Ms. Valerie Armijo, AQCB Liaison
Ms. Antoinette Sedillo Lopez, AQCB Atty.
Ms. Lisa Serna-Cordova, Program Data Analyst
Ms. Kelsea Sona, Asst. City Attorney
Mr. Tony Romero, Env Health Supervisor
Mr. Dwayne Salisbury, Env Health Manager

MEMBERS of the PUBLIC PRESENT

Mr. Xavier Barraza
Mr. Russell Brito
Ms. Elaine Cimino
Ms. Nora Garcia

MEMBERS of the PUBLIC PRESENT (Continued)

Mr. Adam DeVoe
Mr. Martin Schluep
Ms. Sofia Martinez
Mr. Eric Jantz
Ms. Jazmine Johnston
Ms. Samantha Kretz
Ms. Elisa Navarette
Mr. Matt Cross Guillen
Ms. Jane Kotovsky
Ms. Marla Painter
Ms. Mia Lombardi
Ms. Sue Schuurman
Mr. Lauro Silva
Ms. Jane Jernigan
Ms. Jeanine Montoya
Mr. Vincent Martinez
Mr. Isreal Tarez
Ms. Kelly Roepke-Orth
Mr. Roger McNew
Ms. Elizabeth Pomo
Mr. Jim Garcia
Ms. Danielle Shuryn
Ms. Rhiannon Samuel
Mr. Cory Payton
Ms. Justine V.
Mr. Pete Domenici Jr.
Mr. Richard Moore
Penny
Jeanine
Robert
Paul
Ken

This meeting was conducted in a hybrid format with both in-person and remote participation via Zoom Video conference.

1. CALL TO ORDER

Chair Meiklejohn called the meeting to order at 5:35 p.m.
Member Richards was absent.

2. CONSENT AGENDA

- a. Approval of the January 11, 2023 meeting agenda**
- b. Approval of the December 14, 2022 meeting minutes**

Vice Chair Paul moved to approve the items on the consent agenda. Member Lewis seconded. The motion passed by a vote of 5-0. Chair Meiklejohn then announced that the matters discussed in the closed session on December 14, 2022 were limited only to those specified by the Board attorney prior to the motion for closure, which was a pending Title VI administrative proceeding faced by the Board. She further stated that no votes were taken and noted that the Board intended to continue the discussion later that evening during a closed session. Due to the late hour, the Board overlooked making the announcement when they returned from closed session at last month's meeting. Chair Meiklejohn, Vice Chair Paul, Member Eberlein, and Member Lewis all voted in favor of the motion to close the meeting. Member Richards left the meeting before the vote and Member Calman was absent.

3. AIR PROGRAM REPORT

- a. Discussion of the Air Quality Program's January Report**

Member Lewis stated that the Air Program Report indicated there were no unhealthy days in December and asked if the Environmental Health Department (EHD) could address this because she remembered receiving at least one daily report in December saying it was unhealthy. Mr. Miller clarified that the report stated that no health alerts were issued by EHD in the month of December, and further clarified that a health alert is different than a daily report saying the AQI is in the unhealthy range. Member Lewis asked if the Air Program Report could start including a summary of how many days registered as unhealthy based on the AQI, and Mr. Miller stated that he would discuss this potential change with EHD staff.

Member Lewis also asked if there was any progress on figuring out the lack of relationship between particulates and "No-Burn" days. Deputy Director Chang stated that EHD is looking at ways to message more effectively around that, but he would defer to comments by Director Martinez during the upcoming discussion on woodburning.

Vice Chair Paul stated that the graph in the Air Program Report is not sensitive enough, and that because averages are being used, there is not enough detail to see that you actually are getting unhealthy times. She stated that there may be some value in quantifying that, because summary data could relate back to wood stoves etc.

- b. Discussion of the Air Quality Control Program's Draft Policy Regarding Written Comments to the Air Quality Control Board**

Chair Meiklejohn asked EHD to provide a brief background on the draft public comment policy. Mr. Miller explained the origin and purpose of the policy and stated that EHD was providing it to

the Board to review before putting it into effect on February 1, 2023. He stated that Board members could submit comments on the policy to the Board Liaison once they had a chance to examine it further. Chair Meiklejohn stated that the Board would look over the draft and provide feedback as necessary.

4. FIRST PUBLIC COMMENT OPPORTUNITY

Ms. Nora Garcia (Mountain View Neighborhood Association) gave comment regarding the cumulative impacts draft regulation. Ms. Kelsea Sona (Asst. City Attorney, on behalf of the City of Albuquerque Environmental Health Department, Air Quality Program) then asked that comments provided for the petition remain on the record for it and considered only on the record, and suggested that Ms. Garcia submit her comment through her attorney or through public comment for the record.

5. REPORTS/DISCUSSION/ACTION ITEMS

a. Discussion Regarding Woodburning and Air Quality (EHD and Board)

Director Martinez provided some background on the woodburning regulation and how it was implemented and enforced in the past. He indicated that EHD is having discussions about the need to put something out that encourages people not to burn on certain nights, and evaluating how to correlate that message with the air quality index. He then stood for questions from the Board.

Member Lewis stated that the concentration of coarse particulates should be taken into account, not just PM 2.5, in terms of “No-Burn” nights. She also stated that some people aren’t aware of the woodburning regulations and more public announcements should be sent out regarding the woodburning program. Director Martinez stated that the department would take her feedback into consideration and noted that woodburning is still the sole source of heat for some households, and they apply to EHD for an exemption.

Chair Meiklejohn stated that she didn’t know there was a permitting program for households using woodburning as their sole source of heat and asked for further information from Director Martinez. He replied that those households identify themselves to EHD and disclose why woodburning is their sole heating source in the permitting process. EHD then follows up with an inspection before issuing a permit.

Vice Chair Paul referenced a previous public comment to the Board regarding what people are allowed to burn and noted that people sometimes burn trash for socioeconomic reasons even though you’re only supposed to burn wood. She then asked if EHD could consider including a public service announcement that it is illegal to burn trash in any information campaign and provide resources to help people who have no other means of disposal not burn trash. Director Martinez stated that EHD is discussing a public relations process to address woodburning and possible incentives that are feasible. Vice Chair Paul stated that the Board would like to continue the conversation and the Board would like to support methods to produce less pollution that are also economically reasonable for everyone. Chair Meiklejohn agreed she would like to discuss this topic further.

b. Presentation on the Precautionary Principle (Member Lewis)

Member Lewis gave a presentation on the Precautionary Principle as a brief introduction to start a discussion and consideration of whether it would be appropriate to think about for future board actions. She then stood for questions from the Board. Chair Meiklejohn asked if in her research and experience in seeing the precautionary principle applied in various locations and contexts if she had any more to add regarding cost-benefit analyses. Member Lewis stated that she hasn't been able to find a comprehensive summary but that it would be beneficial. She also mentioned that a full cost accounting would be needed to get an accurate cost-benefit analysis.

c. Discussion Regarding Holding a Work Session to Plan for a Hearing in the Matter of the Petition to Amend Title 20, Chapter 11 of the New Mexico Administrative Code to Require Review and Consideration of Health, Environment and Equity Impacts (AQCB Petition No. 2022-3) (Board)

Chair Meiklejohn stated the purpose of a work session and stated that during the work session there would be no discussions regarding the merits of the petition and no decisions would be made regarding timing or logistics of a hearing. Members of the Board, the Board Attorney, Mr. Miller and Ms. Sona then had a detailed discussion regarding the logistics of a work session and hearing officer appointment.

Ms. Sona made an oral motion for the Board to vote that the portions of the audio recording for this meeting that pertain to the rulemaking be put in the record for posterity. She noted that she had discussed this with Mr. Jantz, and he supported it. Vice Chair Paul subsequently made a motion to add the audio recording for this meeting to the hearing record. Member Calman seconded. The motion passed 5-0, Member Richards being absent.

Member Lewis then made a motion to delegate authority to the Chair and Vice Chair to make the selection of a hearing officer. Member Eberlein seconded. The motion passed 5-0, Member Richards being absent.

The Board took public comment with regards to the work session and also encouraged any individuals or entities interested in participating to consider becoming a party to the case. Ms. Kelly Roepke-Orth (Associated General Contractors of New Mexico) requested a 12-month window to engage in dialogue with the impacted industries regarding possible negative ramifications of the proposed rule. Mr. Jim Garcia (Associated Contractors of New Mexico) stated that sustainability is a part of the process for building highways/roads in NM and requested that industry be a part of the process, and agreed with Ms. Roepke-Orth that 10-12 months was necessary. Mr. Pete Domenici Jr. stated that he will making an entry of appearance on behalf of industry and expressed disappointment that the Board was not considering a facilitated pre-hearing process to narrow the issues prior to a hearing, and stated that the hearing will be much longer and more contentious absent such a process. Ms. Samantha Kretz (operating/industry community) stated that EHD doesn't have the staff to take on this significant new program and noted that many permit renewals are already taking longer than they are supposed to. Chair Meiklejohn repeatedly stated that any public comment should be on the agenda item under discussion, which is whether to hold a work session, and not related to the petition or its merits. Ms. Sofia Martinez (Los Jardines Institute) commented in support of the Board and working together in the hearing process. Ms. Elisa Navarette (HF Sinclair Asphalt) stated that successful regulations are accomplished with workshops and expressed support for the work session. Mr. Xavier Barraza (Valle de Oro) thanked the Board for working with everyone

and stated the urgency of the petition. Ms. Marla Painter (Mountain View Community Action) stated that the neighborhood association will be engaging in conversation with the industrial community and expressed her support of a pre-hearing conference in a timely manner. Mr. Lauro Silva (Mountain View Neighborhood Association) expressed support for the working group and expressed interest in connecting with stakeholders. Mr. Richard Moore (resident of 87105) stated the urgency of a hearing and expressed support for a work session.

d. Discussion of Possible Future Agenda Items (Board)

Mr. Miller stated that EHD would like to give a presentation on the 2021 regional sulfur dioxide emissions and milestone report. Member Calman requested an update on the hearing officer process and Member Lewis agreed. Member Lewis also requested information from the hearing officer, if one is selected before the next meeting, on the possible outcomes of a work session.

6. Second Public Comment Opportunity

No members of the public gave comment during the second comment opportunity.

7. Closed Meeting Session Under the Open Meetings Act, NMSA § 10-15-1(H)(7), for Board Members and the Board Attorney Only, for Discussion of the Board’s Response to a Proposed Settlement Agreement Regarding Complaint No. 13R-14-R6 Against the Board and the Albuquerque Air Quality Division Alleging Violations of Title VI of the Civil Rights Act of 1964 (Board and Board Attorney)

Ms. Sedillo-Lopez explained the purpose of a closed session. Vice Chair Paul made a motion to go into a closed meeting session under the Open Meetings Act, NMSA § 10-15-1(H)(7), for discussion of the Board’s response to a proposed settlement agreement regarding Complaint No. 13R-14-R6 against the Board and the Albuquerque Air Quality Division alleging violations of Title VI of the Civil Rights Act of 1964. Member Eberlein seconded the motion. The motion passed 5-0, Member Richards being absent.

The Board went into closed session at 7:41 p.m. The Chair reconvened the open meeting at 8:09 p.m.

Chair Meiklejohn stated that the Board limited its discussion in closed session to the matter specified in the motion to go into closed session, that a vote was taken on the response to the proposed settlement agreement, and that the result of the vote was unanimous. She then announced the continued presence of Member Lewis, Member Calman, Member Eberlein, Vice Chair Paul and Chair Meiklejohn.

8. Other Business

No other business was discussed.


9. Adjournment

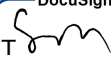
Chair Meiklejohn adjourned the meeting at 8:10 p.m.

NEXT SCHEDULED BOARD MEETING: February 08, 2023 at 5:30 p.m.

SUBMITTED:

READ AND APPROVED:

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2/9/2023 | 9:49 AM PST
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Mr. Angel Martinez Jr.
Director
Environmental Health Department

DocuSigned by:

2/9/2023 | 12:30 PM MST
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Ms. Lauren Meiklejohn
Chair
Albuquerque-Bernalillo County Air Quality
Control Board