

Albuquerque-Bernalillo County Air Quality Control Board



MINUTES –August 1, 2022 Regular Virtual 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)
Ms. Kitty Richards (COUNTY)

AQCB MEMBERS ABSENT

Ms. Elizabeth Reitzel (CITY)

AQCB LIAISONS ABSENT

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

STAFF PRESENT

Ms. Antoinette Sedillo Lopez, AQCB Atty.
Mr. Albert Chang, Asst. City Attorney
Ms. Maria Gallegos, EH Comm. Liaison
Mr. Travis Miller, EH Manager

STAFF PRESENT (Continued)

Ms. Carina Munoz-Dyer, EH Supervisor
Mr. Ken Miller, AQ Reg. Dev. Coord.
Ms. Yvette Garcia, Executive Assistant
Ms. Kelsea Sona, Asst. City Attorney
Mr. Brenard Beamon, EH Supervisor
Ms. Elizabeth Pomo, Sr. EH Scientist
Mr. Kyle Tumpane, EH Scientist

MEMBERS of the PUBLIC PRESENT

Mr. Lauro Silva
Mr. David Wood
Ms. Jane Kotovsky
Ms. Marla Painter
Ms. Nora Garcia
Mr. Xavier Barraza
Ms. Karina Ortiz
Ms. Penny Avery
Ms. Diane Reese
Mr. Russell Brito
Dionna
Navarro

Due to COVID-19 this meeting was held via Zoom video conference.

CALL TO ORDER

Chair Meiklejohn called the meeting to order at 5:33 p.m.
Member Reitzel was absent.

Item # 1 Approval of agenda (Chair)

Member Richards moved to approve the agenda, Vice Chair Paul seconded. The motion passed by a vote of 6-0.

Item # 2 Approval of corrected April 13, 2022 meeting minutes (Chair)

Vice Chair Paul moved to approve the minutes, Member Calman seconded. The motion passed by a vote of 5-0 with one abstention.

Item # 3 Approval of May 11, 2022 meeting minutes (Chair)

Chair Meiklejohn moved to approve the minutes, Member Richards seconded. The motion passed by a vote of 4-0 with two abstentions.

Item # 4 Approval of June 8, 2022 meeting minutes (Chair)

Vice Chair Paul moved to approve the minutes, Member Calman seconded. The motion failed by a vote of 2-0 with 4 abstentions.

Item # 5 Approval of July 13, 2022 meeting minutes (Chair)

Vice Chair Paul moved to approve the minutes, Member Lewis seconded. The motion passed by a vote of 5-0 with one abstention.

Following the vote on the July 13 minutes, the Board Attorney noted that because there was not a quorum at the June 8 meeting, the minutes of that meeting would never be approved if everyone who was absent abstained. She explained that members who were absent could vote to approve the minutes based on their colleagues' representation that they are an accurate representation of the meeting. Chair Meiklejohn then called for a new motion to approve the June 8, 2022 meeting minutes. Vice Chair Paul asked who was at the meeting and whether they could confirm that the minutes are accurate. Chair Meiklejohn stated that she was at the meeting and the minutes are accurate. Vice chair Paul then moved to approve the minutes. Member Calman seconded. The motion passed by a vote of 6-0.

Air Program Report

Member Richards noted she was unable to find the Notice of Violation (NOV) mentioned in the report on the Program's website and asked if a link to where that information can be found could be provided in future reports. Brenard Beamon, Environmental Health Supervisor, responded that the NOV has not been posted due to a previous Director or Deputy Director decision not to post NOVs because there was no request for them, but he could discuss it with the Enforcement and Compliance Manager and the incoming Deputy Director if the Board would like to have them in the future. Chair Meiklejohn and Member Richards both said that information would be good to have.

Member Richards also noted a reference in the report to permit applications received and asked if the Board could get a list of pending permits. Carina Munoz-Dyer, Environmental Health Supervisor, responded that pending applications are posted on the Program's website with a hyperlink to each permit number. The website also provides a list of applications that have been received and are under preliminary review.

Chair Meiklejohn asked if the BayoTech building permit listed in the report is for administration offices or for an operational facility. Ms. Munoz-Dyer responded that it is for an operational facility, and that she would provide additional information to the Board Liaison to disseminate to the Board.

Chair Meiklejohn then asked whether facilities have to get their operating permit approved before they can get their construction permit approved. Ms. Munoz- Dyer stated they have to obtain a construction permit before they construct. Once construction is complete, if they are a major source, they must apply for an operating permit within 12 months. Member Lewis stated that the order seems odd because there is a substantial financial outlay involved, and it would be problematic if a facility's operating permit didn't ultimately come through. Albert Chang, Assistant City Attorney, responded that both permits are misnomers. The Air Quality Notice of Construction (NOC) permit looks at each piece of equipment or each operating unit and permits each one to be operated. An operating permit, a.k.a. Title V permit, gathers all the underlying NOC permits at a particular facility and rolls them into one package.

Member Lewis then stated that she would appreciate it if the facility inspection information on the Program's website could be made more informative. Sometimes only a street address or intersection is listed, and she wasn't sure if those were from complaints as opposed to routine inspections. Mr. Beamon responded that he would talk to EHD's IT Department about it.

Finally, Chair Meiklejohn asked if there were any new developments regarding EPA's proposal to amend certain NESHAPs. Ken Miller, Air Quality Regulation Development Coordinator, responded that there were not and that it can take some time for EPA to finalize regulatory proposals. The Chair then asked how long EHD has to develop a mitigation plan under the exceptional events rule for PM10. Mr. Miller responded that EHD has two years from the date EPA notified it of the requirement, which was on or about April 27, meaning EHD has until the end of April 2024 to develop and submit the plan to EPA.

PUBLIC COMMENT

(Suggested five-minute time limit)

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

REPORTS/DISCUSSION/ACTION ITEMS

Item #6 Discussion and possible action to approve Board statement in response to the Supreme Court ruling in West Virginia v. EPA (Board)

Antoinette Sedillo Lopez, Board Attorney, gave a brief summary of the case. She then explained that although the decision does weaken EPA's authority, it does not affect the Air Board's work in any way.

Member Lewis asked whether it is correct that the case was about the shifting of generation sources and not EPA's authority to regulate greenhouse gases more broadly, as is often suggested. Ms. Sedillo Lopez responded that it was a narrow decision under Section 111 of the Clean Air Act but raises concerns about the Court's posture with regard to other issues EPA deals with, and discussed some of the ways Congress could respond to the decision.

Chair Meiklejohn then read the Board's prepared statement and asked if there was a motion to approve the statement. Following some discussion, the matter was tabled so changes suggested by Members Lewis and Richards could be made and a revised statement circulated ahead of the September meeting.

Item #7 Discussion and possible action to adopt a rule of order allowing for the use of a consent agenda in future Board meetings (Board)

Ms. Sedillo Lopez explained what a consent agenda is and said it would be good for transparency for the Board to adopt a proposed rule of order allowing for the use of a consent agenda before doing so. Chair Meiklejohn then explained that she suggested the Board consider using a consent agenda in order to get through certain housekeeping items more quickly so more time could be devoted to substantive issues of interest to the public. Following discussion of how the consent agenda would work, Member Lewis moved to adopt the proposed rule of order. Vice Chair Paul seconded. The motion passed by a vote of 6-0.

Item #8 Discussion and possible action to review and approve the Board Attorney's draft work plan (Board)

Ms. Sedillo Lopez gave some background on the requirement to submit a work plan and explained some of the elements of the proposed plan. Following discussion and agreement on minor changes to the plan, which Ms. Sedillo Lopez read aloud, Member Lewis moved to adopt the proposed plan with the changes as read. Member Richards seconded. The motion passed by a vote of 6-0.

Item #9 Discussion and possible action on resuming in-person meetings (Board)

Chair Meiklejohn recommended that, starting in September, the Board hold its monthly meetings at the Mid-Region Council of Governments office building located at 809 Copper Avenue NW, which is set up for hybrid meetings so members of the public can continue to attend virtually if it is more convenient for them. Several Board members have also expressed interest in or would benefit from the option to attend meetings remotely. Concerns were raised during the discussion about the Board's rules regarding only members attending in person counting towards a quorum and limits on what members participating remotely may vote on. The matter was tabled to allow everyone time to look into a potential regulatory change and the timeline for rulemaking proceedings. Mr. Miller noted that the public notice requirement for a rulemaking hearing is 30 days, and the entire process takes a couple of months at a minimum.

Item #10 Announcement regarding the posting of certain information related to the Cumulative Impacts Committee online (Chair)

Chair Meiklejohn thanked members of the public and industry who have expressed interest in the committee and announced that the requested information would be posted on the Board's website on August 8.

PUBLIC COMMENT

(Suggested five-minute time limit)

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

OTHER BUSINESS

No other business was discussed.

ADJOURNMENT

Chair Meiklejohn adjourned the meeting at 6:54 p.m.

NEXT SCHEDULED BOARD MEETING: August 10, 2022 at 5:30 p.m.

SUBMITTED:

READ AND APPROVED:

Mr. Angel Martinez Jr.
Director
Environmental Health Department

Ms. Lauren Meiklejohn
Chair
Albuquerque-Bernalillo County Air Quality
Control Board