



MINUTES –November 10, 2021
Regular Virtual Meeting

AQCB MEMBERS PRESENT

Ms. Kitty Richards (COUNTY), Chair
Ms. Judy Calman (COUNTY)
Ms. Maxine Paul (CITY)
Mr. Morris “Mo” Chavez (CITY)
Ms. Lauren Meiklejohn (CITY)
Ms. Elizabeth Reitzel (CITY)

AQCB MEMBERS ABSENT

Ms. Susan Langner (COUNTY), Vice Chair

AQCB NON –VOTING MEMBER

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

STAFF PRESENT

Ms. Mara Elana Burstein, EHD Deputy
Director, Secretary to the Board
Ms. Susan Chappell, AQCB Attorney
Ms. Stephanie Apodaca, AQCB Liaison
Mr. Albert Chang, Asst. City Attorney
Ms. Samantha Hults, Deputy City Attorney
Mr. Kenneth Miller, EH Reg Dev. Cord
Ms. Elizabeth Pomo, EH Scientist
Ms. Kelsea Sona, Asst. City Attorney
Mr. Dario Rocha, EH Manager
Mr. Dwayne Salisbury, EH Manager
Mr. Damon Reyes, EH Manager
Mr. Isreal Tavarez, EH Manager
Mr. Kyle Tupane, EH Supervisor

MEMBERS of the PUBLIC PRESENT

Ms. Marla Painter
Ms. Maslyn Locke
Mr. Steven Abeyta
Ms. Jazmine Johnson
Mr. Eric Jantz
Ms. Ona Porter
Mr. Cliff Villa

Due to COVID-19 this meeting was held via Zoom Video Conference.

CALL TO ORDER

Chair Kitty Richards called the meeting to order at 5:31 PM.

Vice-Chair Langner was absent

Chair Richards introduced Commissioner Joseph Cruz Jr to the AQCB board.

Item #1 Approval of November 10, 2021 Agenda (Chair)

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

Item #2 Approval of September 8, 2021 meeting minutes (Chair)

Member Paul moved to approve the minutes and Member Chavez seconded. The motion passed by a vote of 5-1 Abstained by member Reitzel

PROGRAM REPORT

- Update by Mara Elana Burstein, Deputy Director, City of Albuquerque, Environmental Health Dept.
 - Deputy Director Burstein provided updates over the past two months
 - Mayor launched a new hazardous air pollution monitoring trailer in the San Jose neighborhood on October 21, 2021.
 - On November 3rd, 2021, the Air Quality Program, UNM School of Law and Los Jardines Institute co-hosted a community event on Environmental Justice and Cumulative Impacts.
 - US DOT awarded over \$7 million to the airport/sunport to install zero and low emissions infrastructure.
 - Health alert sent out on 9/8 for ground level ozone and on Sunday alert was sent out on high level PM for a local fire burning and tonight until 7pm there is an alert for blowing dust due to high winds
 - Update on Regulation Development actions: Rulemaking is moving forward with the clean car standards. NMED's draft rule is out for public comment, deadline to comment is November 18th. The AQP's similar draft will come out in the new year.
 - Two stakeholder meeting were held in September and November
 - NMEDE plans to petition the EIB with their rule on December 1st. EHD will petition the Air Board early next year
 - For Regional Haze, EHD plans to file a petition with the Air Board April of 2022. The Board will have 60 days to consider the petition.
 - Permitting actions: An application for a hot mix asphalt plant was deemed incomplete. Denied a permit in the Mountain View neighborhood for a bulk fuels terminal. A request for a source registration was denied for an industrial laundry facility in the international district. The applicant needed an air quality permit and not just a registration.
 - Enforcement and compliance: brought four violations back into compliance, two for Maverick, one for Panorama homes and one for Guzman
 - Air Quality programs status update on our goals for calendar year 2021
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- Chair Richards asked Deputy Director Burstein if she can go over the goals and explain what has been completed and what is still in process at the December meeting.

PUBLIC COMMENT

(Suggested five-minute time limit)

Mr. Steven Abeyta talked about cumulative impacts stated that many of the industrial companies are locating in our particular region, simply because the land is zoned for industrial use

- Mr. Abeyta worked with City Council to improve Zoning regulations and was told that Air could not be included in the language or could not include Mountain View because it was in Bernalillo County.
- Mr. Abeyta stated that everything that happens in Mountain View effects San Jose. The Industries are having a toll on the neighborhood when you have an asphalt refinery

company, crushing companies, metal recyclers, petroleum storage facilities and cement companies. When many companies are combined the emissions harm the community.

- Mr. Abeyta believes that people are getting sick because the particulate matter comes down to ground level.
- Mr. Abeyta stated when trying to challenge an air permit always told that the ozone gases go straight to the air and don't come to the ground.
- Mr. Abeyta would like the van to be moved closer to the industries.
- Mr. Abeyta would hope in the future that they can work with the board to abate and reduce air pollution and hoping it could happen by looking at cumulative impacts

Chair Richards asked Deputy Director Burstein how the decision was made to place van where it is and why it is not closer to industries.

- Deputy Director Burstein stated that EPA has a number of requirements to determine where monitors need to be located. Including distance to road, railway and trees.
- Worked with San Jose neighborhood association president about potential locations
- Chair Richards asked if there is an opportunity to move the van after the initial monitoring at this location and move to an alternative location that may provide the criteria closer to the industrial areas. So there is a better understanding of what the emissions are.
- Chair Richards would like EHD to meet with Mr. Abeyta and other residents to talk about the criteria and recommendations.
- Member Reitzel would like a report back from Deputy Director Burstein on the meeting with community members.
- Deputy Director stated that the meeting would come closer six months, and would like someone from the community to be hired on a temporary basis to learn about the trailer and what is being collected and to be able to communicate that to community members.
- Chair Richards asked is there a way to provide a monthly data from the monitoring at the swimming pool and to not only provide the information to the Board but to community members as well.
- Deputy Director Burstein answered yes to the above question. Quality assurance and verification process will need to take place before any data is released to the public.
- Chair Richards would like to put this on the agenda for next month to follow and track the progress in terms of sharing data.

Ms. Marla Painter stated that EHD goes through a lot of Public Liaisons and would like to know how many liaisons and directors had EHD gone through in the past four years.

REPORTS/DISCUSSION/ACTION ITEMS

Item #3 Update by Public Concerns Committee regarding the committee's work to create a procedure for receiving public comments for the Albuquerque Bernalillo County Air Quality Control Board. (Committee member Reitzel lead the discussion).

Member Reitzel stated that Deputy Director Burstein provided the policy for receiving written comments on October 25 and had asked if board members had a chance to review it. Member Reitzel stated that it is not ready to be finalized. Member Reitzel was wondering if the board should expand policy from how the board deals with written comments and public comments. Member Reitzel stated it's helpful to have public comment not just limited to agenda items.

Board Attorney Chappell stated that the board does not have any actual rules or policies about public comment, it is based on custom. Would like the committee to address the acceptance of public comments of every type whether its written, verbal, or at a meeting and whether it is before or after the board acts on a matter. Advised the board that they should adopt a rule that would speak to all issues across the board.

Member Meiklejohn encourages the community to be involved every step of the way and that the board preserve the ability for the constituents to bring up issues that fall outside of the agenda items they're concerned about.

Chair Richards would also like to address the comments that come through the chat function and would assume that would be considered verbal comments.

Item #4 Mr. Cliff Villa presented on cumulative impacts on the state of research and policy making at local, regional, and national levels and stood for questions.

- Member Paul would like the board to continue to be updated on the laws across the country.
- Member Chavez asked how much pushback from industry he got on environmental justice ordinances or statues.
 - Professor Villa stated that there was certainly pushback from industry but also had a lot of support.
- Member Meiklejohn would like Mr. Villa follow up with Chair Richards
- Chair Richards asked if UNM students or other professors of law are contemplating as a project on how cumulative impacts can be introduced at the local level.
- Professor Villa has had conversations with Deputy Director Burstein and talked about putting together a workshop.

Item #5 Disclosure of inadvertent receipt by Board of written ex parte contact in AQCB Docket No. 2020-1, NMTS 3340-RMD (New Mexico Terminal Services), and action on Notice of Disclosure for filing pursuant to Board's authority to expedite the efficient resolution of the action or to avoid obvious injustice. (Board Attorney).

Board Attorney Chappell, stated that the board does not have a public comment policy. The Open Meetings Act does not require public meetings to allow public comment. The acceptance of public comment by the Air Board at its meeting is a function of custom. Example the bylaw do not address the acceptance of public comment nor does the City or Bernalillo County Ordinances. Under the adjudicatory procedures New Mexico Administrative code section 20.11.81 ex parte contacts regarding a petition are prohibited. A comment letter from Interfaith Power and Light was received on July 8, 2021 by Stephanie Apodaca. Ms. Apodaca then submitted the letter by email to the board. Attorney Chappell reviewed the letter and contacted board members to disregard the letter since it met the definition of ex parte communication. The board is being asked to approve the notice of disclosure and will be filed in the record proper.

Member Reitzel moved to approve the disclosure with the additional sentence stating the the board was directed to disregard the letter and Member Paul seconded. The motion passed by a vote of 6-0.

Item #6 Action on AQCB Docket No. 2020-1, NMTS 3340-RMD (New Mexico Terminal Services), Environmental Health Department's Unopposed Motion for Stay of Proceedings. (Board Attorney), including closing the meeting under NMSA 1978, § 10-15-1(H)(3), as needed

Board Attorney Chappell stated this is a procedural motion and does not call for the board to make a ruling. But asks the board to order the applicant in this proceeding New Mexico Terminal Services to produce certain documents and to issue a stay of the proceedings. The recommendation is for the board to request the hearing officer to act on the motion consistent with the hearing officer's authority under the adjudicatory procedures. The board has been provided with a proposed order for consideration.

Chair Richards moved to approve that the motion go back to the Hearing Officer and Member Reitzel seconded. The motion passed by a vote of 6-0.

Item #7 Resolution 2021-1, Determining Reasonable Notice of Public Meetings of the Albuquerque-Bernalillo County Air Quality Control Board - Mara Burstein, Secretary to the Board.

Member Paul moved to approve the Resolution 2021-1. The motion passed by a vote of 6-0.

Item #8 Resolution 2021-2, Setting the Official List of Regular Albuquerque-Bernalillo County Air Quality Control Board Meetings for the Year 2022 - Mara Burstein, Secretary to the Board.

Member Paul moved to approve Resolution 2021-2 and Member Meiklejohn seconded. The motion passed by a vote of 6-0.

Item #9 Discussion of possible future agenda items. (Board)

Member Meiklejohn would like to talk about cumulative impacts and a review of what accomplishments the committees had for this year and what the focus would be for the upcoming year.

Chair Richards and Member Reitzel would like to further discuss the location of the San Jose monitoring trailer also to address the criteria on the mobile monitoring location based on EPA directions.

Board Attorney Chappell asked if the board would like an item for the public information committee to be on the agenda. Member Reitzel and Member Chavez stated yes.

Member Reitzel asked if an agenda item should take place to answer how many community liaisons and directors EHD has had in the last four years.

Member Reitzel should have the draft policy ready for review by January's meeting

