



MINUTES –December 8, 2021
Regular Virtual Meeting

AQCB MEMBERS PRESENT

Ms. Kitty Richards (COUNTY), Chair
Ms. Susan Langner (COUNTY), Vice 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

AQCB NON –VOTING MEMBER

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

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, AQ Reg Dev. Coord
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 Scientist

MEMBERS of the PUBLIC PRESENT

Mr. Lauro Silva
Mr. Forest Replogle
Mr. Richard Moore
Ms. Marla Painter
Ms. Maslyn Locke
Mr. Steven Abeyta
Ms. Jazmine Johnson
Mr. Eric Jantz

STAFF PRESENT

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

CALL TO ORDER

Chair Kitty Richards called the meeting to order at 5:37 PM.

Member Chavez was absent but would be joining the meeting later.

Chair Richards and all other members of the Board said farewell to AQCB Board Attorney Sue Chappell

Item #1 Approval of December 8, 2021 Agenda (Chair)

Chair Richards made a change to the agenda by stating that Isreal Tavarez will be reading a letter from Deputy Director Burstein addressed to the Air Board regarding the City’s efforts to address Cumulative Impacts and Environmental Justice.

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

Item #2 Approval of November 10, 2021 meeting minutes (Chair)

Member Meiklejohn noted a correction to the meeting minutes. Los Jardines Institute was misspelled.

Chair Richards moved to approve the minutes with the correction and Member Meiklejohn seconded. The motion passed by a vote of 6-0

PROGRAM REPORT

- Report regarding the following entities that came into compliance as requested by Member Paul: Sal's Brothers, Quikrete, and Albuquerque Asphalt (Damon Reyes, EHD)
 - Damon Reyes opened the floor for questions on the three sources
 - Chair Richards asked if the board should know anything else now that the three entities came into compliance.
 - Damon Reyes stated that Deputy Director Burstein wished to keep the board informed of any enforcement actions, when NOV's are issued and settled.

No other questions were asked.

- Letter to the Board to Provide Board members with an update on the City's efforts on Cumulative Impacts and Environmental Justice (Isreal Tavarez, EHD)
 - Mr. Tavarez read the December 3, 2021 letter addressed to Chair Kitty Richards and Air Board Members from Deputy Director Burstein.
 - Member Meiklejohn asked if anyone from EHD has been working on the City's efforts on Cumulative Impacts.
 - Kelsea Sona replied to member Meiklejohn's question, stating that she as well as others were working on it.
 - Member Paul mentioned that WRAP/EPA have talked about toxic modeling and how it can be integrated into the modeling done right now. Member Paul was curious if the city is involved. Would like to discuss at the next board meeting.
 - Kelsea Sona stated that Andrew Daffern attends WRAP sessions and was not sure who else attends, but will let Deputy Director Burstein know.
 - Chair Richards would like the letter and the boards' responses to be included at the next meeting. And would like for someone to request information from Deputy Director Burstein regarding who in the city is involved in the intercity work to address EJ and Cumulative Impacts. Chair Richards also asked if there is talk of an intergovernmental work group, and would like to know which government entities we're talking about this, if there are other entities outside of EPA and the city and the county working on it as well. Chair Richards was also curious to know what the strategy is in terms of the stakeholder involvement and how that's going to be figured out and how the invitations are going to go out.
 - Chair Richards also stated that they've been working on cumulative impacts committee and is setting the stage for that. Was wondering how the work that the Board is doing segways with what the city is doing.

- Chair asked if Deputy Director Burstein can answer questions at the next meeting in January or February.
 - Forest Replogle of the Mid Region Council of Governments expressed interest in joining the cumulative impacts committee since he has experience in mapping and analysis of Environmental Justice and Equality.
- Member Chavez joined the meeting at 6:00 pm.

PUBLIC COMMENT

(Suggested five-minute time limit)

Ms. Marla Painter Commented on the Letter to the Board and stated that Mountain View community would be interested and in addition would be interested in seeing what the timeline for the task force and how the stakeholders are going to be involved. She would like to know if this is a five year, ten year project or a six month project.

REPORTS/DISCUSSION/ACTION ITEMS

Item #3 Discussion regarding meeting as a Board absent legal counsel (Vice-Chair)

Chair Richards stated that the Board is actively looking for applicants to fill the role of Legal Counsel to the Air Quality Control Board.

Board Attorney Chappell stated that a Board meeting can still be held without legal counsel. Although, Attorney Chappell advised the Board that they would need to hold the meeting properly and that would include to notice items on the agenda. The Board may want a lawyer to make sure they comply with the law and whether or not the Board can conduct the meeting that complies with the law without a lawyer depends on the ability of the board to understand it's powers and duties according to its bylaws, Open Meetings Act, and statutes.

- Member Reitzel asked if it's still possible to still have meetings and discuss keeping the agenda items that don't require action, ask EHD for updates, and still have an avenue for public to share its concerns.
- Member Chavez agreed to still have meetings and not take action on items that require the board to do so.
- Vice Chair Langner would like Board Attorney Chappell to leave a roadmap on how to set the agenda accordingly.
- Chair Richards stated that from her understanding the board will still meet but will not be discussing any kind of adjudication, litigation or rulemaking actions and limiting the board to items that will not risk liability.

Item #4 Creation of, and assignment of interested Board members to, Interview Committee to interview candidates for Board Legal Counsel, subject to Board approval (Chair)

Chair Richard first asked if she can get a motion to create an interview committee.

- Member Meiklejohn moved to approve the creation of the interview committee and Vice Chair Langner seconded. The motion passed by a vote of 7-0

Chair Richards noted that Board members Paul and Meiklejohn were on the committee and asked if any other board member would like to be on the committee. Member Calman agreed to be on the committee.

Members on the Interview Committee are Member Paul, Meiklejohn and Calman.

Item #5 Commissioner Chavez’s invitation to join to the EHD Liaison Committee (Chair)

Commissioner Chavez was not present at the meeting.

Board Attorney Chappell suggested that someone reach out to Commissioner Chavez to extend the invite to join the committee.

- Member Meiklejohn stated she would be happy to reach out to Commissioner Chavez

Item #6 Presentation on local, state and national efforts to develop Environmental Justice and Cumulative Impacts policies (Richard Moore, Los Jardines Institute)

Mr. Moore presented and stood for questions.

Member Meiklejohn asked if Dr. Sheets was willing to share some of his pitfalls that they have come across in New Jersey since the rule passed there was not ideal.

- Mr. Moore replied that he is not going to speak for Dr. Sheets but Dr. Sheets has a willingness to work with the community.
- Chair Richards stated that the Board has been talking about developing a cumulative impacts committee comprised of stakeholders, and that there are three different entities working on this. Chair Richards asked Mr. Moore if the community comes up with something and then brings it to the City. Chair Richards also asked if Mr. Moore can share some experiences he had with the sawmill district or elsewhere.
 - Mr. Moore replied that Ex-governor Richardson moved forward with an executive order on environmental justice with cumulative impacts as one of the primary issues. The lead organization at the time was the New Mexico Environmental Department in which a stakeholders group was formed. The Executive order came out of recommendations that took place in listening sessions.
- Member Meiklejohn asked if there were any copies of the recommendations that were made at the first interagency process with NMED under Governor Richardson.
 - Mr. Moore replied that he may have them and will have to look through his archives.
 - Assistant City Attorney Kelsea Sona asked if there are recommendations to strengthen the order.
 - Mr. Moore responded not to his knowledge, but did say to redo the executive order.

Item #7 Committee Report Update: Public Concerns Committee, EHD Liaison Committee, and Information Committee (Board)

Public Concerns Committee- Member Reitzel stated that there were no updates but still working on the public comment policy.

EHD Liaison Committee- Member Paul or Member Meiklejohn didn't have anything to update

Information Committee- Member Calman didn't have anything to update.

Chair Richards did a presentation on "Possible Framework for Considering Cumulative Impacts Policy based on NJ and CA Experience"

Item #8 Invitation to public to comment on cumulative impacts during February's AQCB meeting and to submit letter of interest in participating on a Cumulative Impacts Committee to the AQCB Liaison, Stephanie Apodaca (Chair)

Chair Richards is asking stakeholders to submit their name if they are interested in sitting on the cumulative impacts committee and to provide input. Chair Richards asked Air Quality Control Board liaison Stephanie Apodaca how they would communicate in terms of submitting their information.

- Stephanie Apodaca stated they could send the information to her through email or contact her directly by phone.

Item #9 Presentation on the Emissions Inventory submitted to EPA for 2020 (Travis Miller, EHD).

Mr. Travis Miller presented and stood for questions

Member Paul asked for a brief summary of the changes to expect to see in this most recent NEI.

- Travis Miller stated that NEI's should not be used for trends.
- Member Paul asked if ozone particulate matter in the 2.5 micron level are increasing
- Travis Miller replied would have to look at the data and can give a report on it.

Chair Richards asked if Mr. Miller could share the URL link to EPA and the URL link to the 2017 emissions

Item #10 Presentation and Discussion on the Clean Car Rulemaking Timeline (Ken Miller, EHD).

Mr. Ken Miller presented stood for questions. Also asked the Air Board to schedule a two-day public hearing for May 2-3, 2022 on February 9th. The AQP will also suggest setting aside May 4, 2022 as an additional day for deliberations.

Chair Richards stated that it is a really aggressive timeline and asked how the Air Quality Control Board coordinates with the environmental improvement board for a meeting hearing date and time.

- Ken Miller Replied that it would be up to the two Boards, but as far as how they coordinate and talk to each other he would find out and get back to the Board with that information.
- Member Paul would like to move forward with the time line. Wouldn't mind putting in extra work to get counsel in place for the Board

- Board Attorney Sue Chappell stated that the Board will have to take action on February 9th, and if it's not taken properly the board can be subject to appeal. The Board will have to notice it properly on the agenda will have to take the action to decide to hold the hearing.
- Member Meiklejohn stated that she wouldn't mind putting in effort as well to get counsel in place for the Board so they can proceed with the timeline.
- Assistant City Attorney Kelsea Sona wants to make sure that the City is giving the Board as much information as they can in helping them along the way and to guide them through the process.

Item #11 Discussion of possible future agenda items. (Board)

Chair Richards would like a follow up with deputy director Burstein in January regarding some of the questions their board members had from the letter.

Member Meiklejohn would like to come up with the next step for following up on Item number eight, which was the invitation to the public, to submit a letter of interest and maybe get an idea at the January meeting for the people who have submitted letters and a timeline for the committee getting up and running.

PUBLIC COMMENT

(Suggested three-minute time limit)

Mr. Abeyta stated that cumulative impacts is real. Has been mentioning it to everyone at the board meetings for many years now, and every time he went to a public information hearing he was told by EHD that cumulative impacts does not exist. Mr. Abeyta stated that in 2008 there was a in environmental justice task force that made recommendations and one of them was to consider cumulative impacts. No action has been taken on cumulative impacts. Mr. Abeyta is getting ready to request a public information hearing for Western asphalt, but has to go through hoops by going around the neighborhood asking for them to sign a petition. Also stated that if you are not with the neighborhood association you cannot request a public information hearing anymore.

OTHER BUSINESS

Chair Richards wanted to reiterate that if people are interested in sitting on the cumulative impacts committee to submit their name to Stephanie Apodaca.

ADJOURNMENT

Chair Richards adjourned the meeting at 8:01 PM.

NEXT SCHEDULED BOARD MEETING:

January 12, 2021

SUBMITTED:

READ AND APPROVE:

Ms. Mara Elana Burstein date
Board Secretary/Deputy Director
Environmental Health Department,
Air Quality Program

Ms. Kitty Richards date
Chair
Albuquerque-Bernalillo County Air
Quality Control Board

