



ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD



MINUTES – October 11, 2006

Meeting

**Vincent E. Griego Chambers, Albuquerque-Bernalillo County Government Center
400 Marquette NW, Albuquerque, NM 87102**

AQCB MEMBERS PRESENT

Mr. Jens Deichmann, Chair
Mr. Augustine Grace III, Vice Chair
Mr. Mike Minturn
Ms. Karen Wentworth

AQCB MEMBERS ABSENT

Dr. Matthew Campen
Dr. Johnnye Lewis

STAFF PRESENT

Mr. Chris Albrecht, Air Quality Division (AQD), Mgr.
Mr. Neal Butt, AQD
Mr. Glen Dennis, Vehicle Pollution Mgt. Div., Mgr.
Ms. Maria Dominguez, Board Attorney
Mr. Billy Gallegos, AQD
Ms. Judith Jaramillo, AQD

Ms. Adelia Kearny, Deputy City Attorney
Mr. Fabian Macias, Environmental Health Mgr.
Ms. Margaret Nieto, AQD
Ms. Felicia Orth, Hearing Officer
Mr. Dario Rocha, AQD
Mr. Jeff Stonesifer, EH Scientist, AQD
Mr. Isreal Tavarez, Environmental Engineering Mgr.

VISITORS PRESENT

Mr. Matt Cross-Guillen, Bernalillo County/EH
Ms. Patty Grice, Mt. View Neighborhood Assn.
Mr. Claude Morelli, North Valley Coalition
Ms. Sarah Piltch, NM Environmental Law Center
Mr. Juan-Carlos Rodriguez, Albuquerque Journal
Capt. Sonntag, APD, Crime Lab

Hearing

Presentation made by Capt. Sonntag, Supervisor of APD Crime Lab, request for variance from 20.11.68.200 NMAC, Incinerators and Crematories, in order to allow construction of an incinerator in the North Valley. Mr. Isreal Tavarez, Environmental Engineering Manager for the City of Albuquerque, Environmental Health Department, made a recommendation to grant the variance. Mr. Claude Morelli, North Valley Coalition, presented the neighborhood concerns on building the incinerator in their area. Concerns included: distance of proposed incinerator to the nearest residence; information regarding the proposed siting of the incinerator was not provided in Spanish and concerns over the level of toxic substance created when narcotics are incinerated. Hearing was then closed.

Hearing

Ms. Margaret Nieto, Control Strategies Supervisor, Air Quality Division, made a proposal to adopt a new regulation, 20.11.81 NMAC, Adjudicatory Procedures – Air Quality Control Board. Comments and questions were raised by Member Wentworth on the issues of sanctions, issues regarding a Board member or hearing officer having a personal bias or prejudice concerning a party or the outcome of a proceeding and the issue of cost duplication. Ms. Sarah Piltch addressed the following issues: there is no rule-making regulation for the Board; the definition of personal bias or prejudice; and there needs to be more time for the public to become involved and public notices should also be in Spanish. Hearing was then closed.

Regular Monthly Meeting Agenda

CALL TO ORDER

The meeting was called to order at 7:59 p.m. on October 11, 2006, with four (4) Air Quality Control Board members present. Board Chair Jens Deichmann presided.

Item #1 Approval of the Agenda. Board Chair moved to approve the agenda as amended. Motion was seconded by Member Grace. Motion carried unanimously 4-0.

Item #2 Approval of the September 13, 2006 Meeting Minutes. Motion made to approve the minutes by Member Grace, seconded by Member Wentworth. Motion carried 4-0.

ACTION ITEMS

Item #3 Discussion and vote by Board on whether or not to approve request by APD for variance from 20.11.68.200 NMAC, Incinerators and Crematories, in order to allow construction of an incinerator. Motion to approve variance made by Chair Deichmann and seconded by Member Grace. Motion passed unanimously 4-0.

Item #4 Discussion and vote by Board on whether or not to accept request by the Air Quality Division to adopt 20.11.81 NMAC, Adjudicatory Procedures –Air Quality Control Board, as amended by staff floor amendments. A motion was made by Member Grace to adopt Regulation 20.11.81 NMAC, to include the following two floor amendments proposed by the Board:

A. Page 4, line 33, add the following subparagraph: “(b) In making its decision regarding whether a board member or hearing officer should be disqualified or recuse himself or herself, the board and hearing officer may rely on applicable legal authority”.

B. Page 6, line 29, add the following sentence to the existing subparagraph: “If the requested documents are available in an electronic format, the department will provide a copy by electronic transmission without charge, or the documents will be copied onto a CD, DVD, or other electronic media, if provided by the requester, without charge”.

Note: Clarification was made that the changes were to Exhibit 1, not Exhibit 11 by Member Grace and seconded by Chair Deichmann. Motion passed unanimously 4-0.

The motion to adopt Regulation 20.11.81 NMAC was seconded by Member Minturn. Motion failed by a vote of 3-1.

A motion was made by Member Wentworth to postpone a final decision on 20.11.81 until the next regularly scheduled Board meeting in order to give staff time to completely incorporate all of the written and verbal amendments drafted. Motion was seconded by Chair Deichmann.

Note: A motion was made by Member Grace to adopt the following language to the previous motion:

C. Page 2, line 33, add the following language to the existing Subsection: “and any other person granted intervenor status by the hearing officer or board following a motion”.

Motion was seconded by Member Wentworth and motion passed unanimously 4-0.

Motion to postpone decision to adopt AQCB Resolution 2006-1Failed 3-1, so the matter will be addressed at the next meeting.

Item #5 Request made by Air Quality Division for permission to hold a hearing on proposed amendments to 20.11.63 NMAC, New Source Performance Standards for Stationary Sources, and 20.11.64 NMAC, Emission Standards for Hazardous Air Pollutants for Stationary Sources, on December 13, 2006. Request also included providing a court reporter and hearing officer for the hearing. A motion was made by the Chair to accept the request and seconded by Member Wentworth. The motion passed 4-0.

PRESENTATIONS

Item #6 Mr. Jeff Stonesifer, Environmental Health Scientist, AQD, gave a presentation on "Meteorology and the No-Burn".
Mr. Billy Gallegos, Air Quality Division, provided information on the procedures on "No-Burn" days.

REPORTS Division reports provided in writing. Staff is available for questions.

Item #7 Board Committee Updates. Chair Deichmann asked that the Mountain View Committee provide finding/results on the issues concerning the Mountain View Community at the November 8, 2006 Board meeting. Chair Deichmann also requested a bylaws committee be formed to develop bylaws, in terms of internal procedures and code of ethics for the Air Quality Control Board. The committee will include Chair Deichmann, Maria Dominquez, Mr. Isreal Tavarez and Member Grace.

OTHER BUSINESS

Item #8 Reminder given to the Board of upcoming hearings: 20.11.2 NMAC, Fees, November 8, 2006.

PUBLIC COMMENT None.

ADJOURNMENT Board Chair Jens Deichmann adjourned the meeting at 8:57 p.m.

NEXT SCHEDULED BOARD MEETING AND HEARING: November 8, 2006

SUBMITTED:

READ AND APPROVED:

Mr. Isreal Tavarez, Date
Board Secretary / Environmental Engineering Manager Air Quality Division
Environmental Health Department

Mr. Jens Deichmann Date
Board Chair
Albuquerque-Bernalillo County Air Quality Control Board