



AIR QUALITY BOARD

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MINUTES

MARCH 13, 2002

I. General

On March 13, 2002, a quorum of the members of the Air Quality Board met. The meeting was held at the Board's office located at 1615 Washington Street, E., Suite 301, Charleston, West Virginia. The Chair, Tom Hansen, called the meeting to order at 9:05 a.m.

The Board members present were:

Tom Hansen, Chair
Dick Calvert
Randy Curtis, designee of the Commissioner of the WV Bureau for Public Health
Robert Foster

The Board members who participated telephonically were:

Mike Koon

Absent Board members were:

Robert Frame, designee of the Commissioner of the WV Department of Agriculture
Jean Neely

Others present were:

Becky Charles, Attorney
Melissa Carte, Clerk

Libby Chatfield, Office Supervisor
Kathy Coleman, Administrative Secretary

II. Administrative Matters

1.) Review and Approval of the minutes of the December 19, 2001, AQB Meeting:

The minutes of the December 19, 2001, AQB meeting were presented to the Board for consideration. After review Mr. Foster moved and Mr. Curtis seconded that the minutes of the December 19, 2001, AQB meeting, as written, be adopted, and the motion passed unanimously 5 to 0.

2.) Review and Approval of the minutes of the December 19, 2001, joint meeting with the Environmental Quality Board:

The minutes of the December 19, 2001, joint meeting with the WV Environmental Quality Board were presented to the Air Quality Board for consideration. After review, Mr. Foster moved and Mr. Calvert seconded that the minutes of the December 19, 2001, joint meeting with the Environmental Quality Board, as written, be adopted, and the motion passed unanimously 5 to 0.

3.) Budget Report:

The Board members were provided with a memo from Ms. Coleman that contained a financial update through February 28, 2002. As of that date, the Boards have spent 62% of the combined budgets. A copy of this budget report is attached to and made a part of these minutes as Exhibit "A".

Ms. Coleman also reviewed a memo dated January 23, 2002, which contained an analysis of projected expenses for the remaining six months of the fiscal year. The Boards' have an estimated balance of "uncommitted funds" of approximately \$16,000. The Boards are also pursuing reimbursement for the overpayment of Worker's Compensation premiums which is estimated to be \$6,000. This brings the total for "uncommitted funds" to approximately \$22,000. Ms. Coleman informed the Board members that the Environmental Quality Board has suggested that a portion of these funds be used to hire a webpage designer to assist the staff in developing the Boards websites.

Additionally, some of these “uncommitted funds” will be used for staff training and development. Also, Ms. Coleman stated that she would like to carry forward a portion of these funds into the next fiscal year.

4.) Purchasing Card Report:

The State Auditor’s office is requiring that all boards and commissions be provided with a report of purchasing card transactions made by the staff. A copy of the report is also sent to the Purchasing Card Program section of the State Auditor’s Office. Ms. Coleman provided the Board members with the Purchasing Card Report for the months of October 2001 through December 2001. In addition, she provided a copy of the BB&T visa card statements for their review. The Board members did not have any questions regarding any of the transactions on the report or statements. A copy of this report is attached to and made a part of these minutes as Exhibit “B”.

5.) Maintaining the Data Circuit Line:

In September 2001, the WVDEP upgraded the Boards’ data circuit line from a 56-K line to a T-1 line. This has resulted in an increased expense of \$4000 annually.

The Board discussed whether to disconnect the T-1 line, at a cost of \$900, and reconnect the 56-K line. The benefits of the T-1 line are that it has increased the speed for research and retrieval of information from the internet; it could be used as a telephone line which would potentially save money on long distance telephone calls; and also can be used for video conferencing. The T-1 line also provides the staff with better on-line access to professional training and development programs. The Board members determined that the benefits of the T-1 line warranted its retention at this time.

6.) Update on the Board’s Website:

The Board members were provided with a copy of the basic working draft of the Board’s website. They reviewed the draft and made suggestions regarding the general layout of the webpage; revised some of the Board member biographies; and determined that the Boards did not need the services of a graphic artist when designing the webpage. In addition, Mr. Curtis provided Ms. Coleman with the name of a company that did some

website development for his agency and suggested that she review their webpage.

7.) Brochures:

The Air Quality Board's brochures have been completed. Copies have been distributed throughout the WV DEP and the WV Legislature. They will be automatically provided to individuals requesting information regarding appeals or the Board in general. Methods for additional distribution of the brochures are being researched.

8.) Legislative Update:

The Board members discussed the status of the petition filed by the West Virginia Attorney General with the WV Supreme Court in which he is seeking to bar all state agencies and boards from employing their own counsel and to require use of the Attorney General's office for all legal services. The oral arguments were conducted on February 5, 2002.

The AQB and the EQB currently have the authority to employ support staff. However, as directed, Ms. Charles drafted a bill that would have given the Boards the specific statutory authority to hire in-house legal counsel. In addition, she contacted Secretary Callaghan of the WV DEP and his staff for assistance in getting the bill introduced during the 2002 legislative session. Although this was done in a timely manner by the Boards' staff, the bill was not introduced until very late in the legislative session and the proposed bill was not passed by the WV Legislature.

It was noted that the bill authorizing the Department of Tax and Revenue's Division of Banking to hire in-house legal staff was passed by the legislature during the session and has already been signed into law by the Governor.

9.) Schedule future dates for Air Quality Board meetings:

The Board members scheduled Air Quality Board meetings for May 8, 2002, June 12, 2002, and July 10, 2002.

10.) Board Member Appointments:

The Board members were informed that there has not been a reappointment or new appoint made to the Air Quality Board to date. Board member Jean Neely's term on the Air Quality Board expired on June 30, 2001 and Bob Foster's term on the Air Quality Board will expire on June 30, 2002.

Upon the expiration of a member's term of appointment, the Board member may continue to serve until he or she is reappointed or until a successor is appointed. Consequently Mr. Foster may continue to serve on the Board after June 2002 until he is reappointed or a successor is named. Ms. Neely has not attended any AQB meetings since July 2001 because she is not comfortable serving as a Board member without a current active appointment.

11.) Status of Personnel Handbook:

The Board members were informed that the revisions to the Personnel handbook have been completed. After a final review by the staff, copies of the handbook will be provided to the Board members.

12.) Review of calendar of events for the months of March and April:

The Board members reviewed the calendars which highlight the various administrative deadlines and important events for the months of March and April.

13.) Status of Title V Program in WV

During a previous Board meeting, it was determined that the Board could potentially gauge the number of appeals that may be filed with the Air Quality Board by determining the status of the Title V permit applications since clearing up the backlog could affect the number of appeals filed. Ms. Coleman could then consider the potential number of appeals that may be filed and the projected Board meetings required to address these appeals when preparing the Air Quality Board's budget.

The Board members were provided with a graph which was prepared by the WV DEP's Division of Air quality that highlights the WV Title V Operating Permit Program 2001 accomplishments. There appears to have been a

dramatic increase in the number of permits issued between 1999 and 2001. Of the 209 major Title V sources, 95 operating permit applications are pending, and the goal for 2002 is a 75% issuance rate for initial (43 first-time) Title V operating permits.

III. APPEALS

The Board members were provided with a list of the appeals pending before the Air Quality Board and the status of such appeals:

1. Appeal #02-01-AQB (Kanawha River Terminals):

Appeal #02-01-AQB (Kanawha River Terminals) was filed with the Board on January 24, 2002 and set for hearing during the March 13, 2002 AQB meeting. However, on March 3, 2002, the parties filed a Joint Motion for Continuance citing ongoing settlement negotiations which will likely resolve the matters of the appeal without the need for a hearing.

This motion was granted by the Chair and the hearing has been continued until the April 10, 2002, AQB meeting. The parties were informed that the Board would not grant any further continuances based on assertions that the parties want to continue discussions or settlement negotiations and that, barring other unforeseen circumstances, the parties will be required to appear before the Board on that date if the appeal has not been settled and/or withdrawn.

2. Appeal #02-02-AQB (Hollinee):

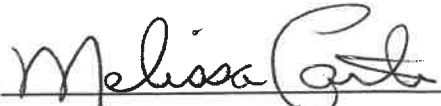
Appeal #02-02-AQB (Hollinee) was filed with the Board on January 25, 2002 and set for hearing during the March 13, 2002 AQB meeting. However, on March 4, 2002, the parties filed a Joint Motion for Continuance citing ongoing settlement negotiations which will likely resolve the matters of the appeal without the need for a hearing.

This motion was granted by the Chair and the hearing has been continued until the April 10, 2002, AQB meeting. The parties were informed that the Board would not grant any further continuances based on assertions that the parties want to continue discussions or settlement negotiations and that, barring other unforeseen circumstances, the parties will be required to

appear before the Board on that date if the appeal has not been settled and/or withdrawn.

WHEREUPON, at 10:35 a.m., Mr. Foster moved and Mr. Calvert seconded that the March 13, 2002, Air Quality Board meeting be adjourned and the motion passed unanimously 5 to 0.

I hereby certify that the forgoing is a true and correct record of the proceedings of the meeting held on March 13, 2002, by the West Virginia Air Quality Board. These minutes were approved by the Air Quality Board on May 8, 2002.



Melissa Carte, Clerk