

**Air Quality Board  
601 57<sup>th</sup> Street, S.E.  
Charleston, West Virginia  
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Fax: (304) 926-0486**

**MINUTES  
September 18, 2007**

A public meeting of the Air Quality Board was held on Tuesday, September 18, 2007 in Charleston, West Virginia. Members present were Mr. Douglas Hudson, Chairperson; Mr. Dick Calvert; and Mr. Robert L. Foster. Mr. J. Michael Koon participated by telephone.

Members not present were Mr. Randy C. Curtis and Mr. R. Thomas Hansen.

Staff members present were Wendy E. Radcliff, Esquire, Counsel for the Board; Jackie Shultz, Clerk of the Board; and Kathy Coleman, Administrative Secretary.

It being determined a quorum was present, Mr. Hudson called the meeting to order and the Board proceeded with its agenda.

**Minutes of January 16, 2007 Meeting**

Upon a motion duly made by Mr. Foster and seconded by Mr. Calvert, the Board voted unanimously to approve the January 16, 2007 minutes as presented.

**Contract Renewal - Office of Attorney General**

The Board's contract with the Office of the Attorney General for legal counsel services provided by Ms. Wendy Radcliff will expire September 30, 2007. Ms. Coleman reported that during fiscal year 2007, the AQB paid \$9,683 for legal counsel fees and the Environmental Quality Board expended \$34,127, for a combined total of \$43,810. The Office of the Attorney General is currently charging the Boards an hourly rate of \$51.30.

Upon a motion duly made by Mr. Calvert and seconded by Mr. Foster, the Board voted unanimously to renew the contract.

**Fiscal Year 2007 Year-End Report**

Ms. Coleman provided a fiscal year 2007 year-end report and summary to the Board members. Ms. Coleman reported that the AQB ended fiscal year 2007 with a surplus of general revenue funds in the amount of \$12,028. The EQB's general revenue surplus totaled \$7,558 and the EQB's Groundwater Special Operating Fund's year-end balance totaled \$87,276.

Ms. Coleman explained that the Board is realizing a substantial savings by continuing to contract with the Office of the Attorney General for a part-time attorney rather than hiring a full-time attorney. Additionally, the AQB's surplus of funds is the result of a decrease in Board meeting expenditures due to the decline of the number of appeals filed during fiscal year 2007.

### **Fiscal Year 2008 Budget Update**

The Board was provided with a financial update for the period of July 1, 2007 - August 31, 2007. The AQB has spent 14% of its budget as of August 31, 2007. Ms. Coleman added that the Legislature increased the AQB's general revenue funding for fiscal year 2008 by \$1,085 due to the across-the-board increase for state employees. Both staff members were eligible to receive the salary increase.

### **Purchase Card Reports**

The quarterly Purchase Card Report for January - March, 2007 was provided to the Board. The report details the purchase card transactions for this period and includes the Citigroup monthly statements.

Upon a motion duly made by Mr. Foster and seconded by Mr. Koon, the Board voted unanimously to approve Purchase Card Report for January - March 2007.

The quarterly Purchase Card report for April - June 2007 was provided to the Board. The report details the purchase card transactions for this period and includes the Citigroup monthly statements.

Upon a motion duly made by Mr. Foster and seconded by Mr. Calvert, the Board voted unanimously to approve the Purchase Card Report for April - June, 2007.

### **Information for the Joint Standing Committee on Government Organization and the Joint Committee on Government Operations**

The Board was required to submit various specifically requested information to the West Virginia Department of Environmental Protection by August 10, 2007 in accordance with Senate Bill 187. Ms. Coleman provided the Board with the "Response to Memo Dated July 19, 2007." Ms. Coleman was commended for her thoroughness in compiling the response. No action was needed from the Board.

### **Senate Bill 187**

Senate Bill 187, relating to the West Virginia Performance Review Act, was provided to the Board for informational purposes only. Ms. Radcliff explained that, pursuant to Senate Bill 187, Secretary Timmermeyer will make a presentation on behalf of all of the Boards under the WVDEP. No action was needed from the Board.

## **Procedural Rules Governing Appeals before the Air Quality Board**

Ms. Radcliff advised the Board that the revisions to the Procedural Rules became effective May 19, 2007. Changes to the Rules included a more definitive time frame for discovery responses and updating the Board's address to its current location.

## **Code of Conduct for Administrative Law Judges**

158 C.S.R. 13, Code of Conduct for Administrative Law Judges, was provided to the Board for its review. Ms. Radcliff noted that the Board could meet the definition of §158-13-3.10. No action was needed from the Board.

## **Election of Chairperson**

Upon a motion duly made by Mr. Calvert and seconded by Mr. Foster, the Board voted unanimously to re-elect Mr. Hudson as Chairperson.

Upon a motion duly made by Mr. Foster and seconded by Mr. Koon, the Board voted unanimously to elect Mr. Calvert as Vice-Chairperson.

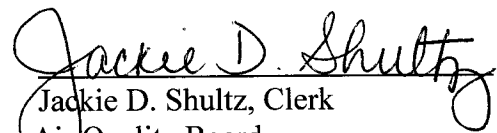
## **Items Not on Agenda**

Ms. Radcliff provided the Board with a copy of the Final Order in *Sierra Club, West Virginia Highlands Conservancy, Greenbrier River Watershed Association v. John Benedict, Director, Division of Air Quality, WV Department of Environmental Protection*, Civil Action No. 07-AA-4 in the Circuit Court of Kanawha County. The Order affirms the Board's decision.

## **Adjournment**

There being no further business to come before the Board, the meeting was adjourned.

I hereby certify that the foregoing is a true and correct record of the proceedings of the Air Quality Board meeting held on September 18, 2007. The Air Quality Board unanimously approved these minutes on December 18, 2007.

  
Jackie D. Shultz, Clerk  
Air Quality Board