

WV AIR QUALITY BOARD

MEETING MINUTES

December 6, 2005

I. General

On December 6, 2005, a quorum of the members of the Air Quality Board conducted a meeting at the Board's office located at 601 57th Street, SE, Charleston, WV. Mike Koon, Chair of the Air Quality Board called the meeting to order at 9:00 a.m.

Board members present were:

Dick Calvert, Vice Chair
Robert Foster
Randy Curtis
Doug Hudson
Tom Hansen

Board member participating by telephone:

Mike Koon, Chair

Absent Board member:

Jean Neely

Staff members present were:

Kathy Coleman, Administrative Secretary
Sandra Castillo, Clerk
Wendy Radcliff, Attorney for the Boards

II. Administrative Matters

1.) Laptop Computer

Ms. Coleman explained that the Environmental Quality Board has suggested and approved the purchase of a laptop computer to be utilized by the Boards' attorney, Wendy Radcliff. The laptop will not be connected to the DEP network, thus, creating a

firewall for the security of appeal information and documents. Currently, the Boards have \$1,750 budgeted for the purchase of computer equipment. Whereupon, Mr. Hansen moved and Mr. Hudson seconded the approval of the purchase.

2.) National Association of Legal Assistants

Ms. Coleman explained that the Clerk, Sandra Castillo, has requested membership to the National Association of Legal Assistants for seminar and training opportunities at a cost of \$144 annually. Whereupon, Mr. Foster moved and Mr. Hansen seconded the approval of the membership fee.

3.) Budget Reports

The Board members were provided with a financial update through October 31, 2005. A copy of this report is attached and made a part of these minutes as Exhibit "A". Ms. Coleman reported that as of October 31st the Boards have spent 16% of the combined AQB/EQB budget which represents a four month period, 33% of the fiscal year.

4.) Fiscal Year 2007 Budget Requests

Ms. Coleman reported that the Budget Office sent the drafts of the fiscal year 2007 appropriation requests to the Board office for approval. Upon review, Ms. Coleman discovered that the DEP had cut the Boards' funding without prior approval from the Boards. The Air Quality Board's 2007 appropriation request was reduced by \$10,500 and the Environmental Quality Board's was reduced by \$17,353. The funds were transferred to the DEP's Water Quality Standards Program.

Mr. Koon added that the Chairs had decided to retain the services of Wendy Radcliff from the Attorney General's Office, rather than hiring a full-time attorney and that it has worked out favorably. However, it is on a trial basis and will be evaluated from year to year. Additionally, Mr. Koon commented that the debt service and operating costs are higher than had been anticipated. Though the Board is experiencing a surplus for fiscal year 2006, the reduction of funding in 2007 will decrease the Board's flexibility.

Mr. Hansen commented that the Legislature should recognize that the Boards need flexible budgets in order to expand appeal activities as necessary from year to year, unless the DEP would commit to being the Boards' flexible funding source.

Ms. Radcliff commented that the DEP has informed the EQB that within a 30-day period, 100 to 400 appeals may be submitted as a result of the proposed designation of the Tier 2.5 streams. This may occur as early as January 2006 or carry over to the next fiscal year.

Ms. Radcliff added that the Boards have a non-discretionary duty to hear appeals - industry and citizens could take court action to force the Boards to hear cases.

5.) Purchase Card Report

Ms. Coleman provided the second and third quarter Purchase Card Reports for review which detail the purchases for the months of April 2005 through September 2005. The BB & T Visa card statements were also attached. A copy of this information is attached and made part of these minutes as Exhibit "B" and Exhibit "C". Whereupon, Mr. Hudson moved and Mr. Curtis seconded that the Board accept the Purchase Card Reports and the motion carried unanimously 6 to 0.

6.) Personnel Matters

Ms. Coleman commented that she was eligible for the across the board increase, effective November 1, 2006, in the amount of \$900; however, Ms. Castillo, Clerk, was ineligible due to her employment start date of July 25, 2005 as a Board employee.

Ms. Radcliff discussed the idea of an award and recognition for staff employees and agreed to provide additional information to the members regarding the process. Attempts for a merit increase for Ms. Coleman have been denied by the Governor's Office due to the current freeze on merit increases.

Mr. Koon informed the Board that Edward Snyder, Chair, EQB, would oversee staff evaluations. The 360 evaluation method would not longer be utilized. Ms. Castillo's evaluation is due in January and Ms. Coleman's is due later in 2006.

7.) Board Meeting Dates

Ms. Radcliff reported that the Dean of the College of Law, West Virginia University, extended an invitation to the AQB and EQB to hold an appeal hearing at the College of Law for the law students to attend and observe the procedures of a Board hearing. The Board approved to hold a hearing in Morgantown.

The Board scheduled future meeting dates for calendar year 2006 as follows: January 17th, March 14th, April 18th, May 16th and June 6, 2006. The Air Quality Board would like to hold joint meeting with the Environmental Quality Board.

8.) Consolidation of Air Quality Board, Environmental Quality Board and Surface Mine Board

Mr. Hudson requested an update on the consolidation of the three Boards. Wendy reported that the consolidation is moving forward and that the party who filed the suit appears to be satisfied with the actions taken to date. Attorney fees are currently under negotiation.

9.) July Meeting Minutes

The Board meeting minutes of the July 19, 2005 were presented to the Board members for consideration. After review, Mr. Hudson moved and Mr. Calvert seconded that the minutes be approved as written and motion carried unanimously 6 to 0.

III. Appeal Matters

Ms. Castillo provided an appeal update. Appeal No. 05-06-AQB Dominion Transmission and Appeal No. 05-07-AQB Wheeling Pittsburgh are pending and the appellants have requested continuances. Appeal No. 05-04-AQB Capital Cement and Appeal No. 05-05-General Electric are currently under settlement negotiations.

Ms. Radcliff reported that the Kanawha County Circuit Court upheld the Board's decision in the Jarrett Jamison Appeal No.04-02-AQB.

Whereupon, Mr. Hansen moved and Mr. Hudson seconded that the December 6, 2005 Board meeting be adjourned and the motion carried unanimously 6 to 0.

I certify that the forgoing is a true and correct record of the proceedings of the meeting held on December 6, 2005, by the West Virginia Air Quality Board.

Kathy Coleman
Administrative Secretary