

MEMORANDUM

TO: Asheville-Buncombe Air Quality Agency Board of Directors

FROM: Ashley Featherstone, Director

RE: Minutes for March 8, 2022

DATE: May 17, 2022

Enclosed, please find the Minutes for the **Tuesday, March 8, 2022** Asheville Buncombe Air Quality Agency (AB Air Quality) board meeting. The next meeting of the AB Air Quality Board is scheduled for **Tuesday, May 24, 2022 at 4:00 pm** in the meeting room located at the Buncombe County Permit Office at 30 Valley Street, Asheville, NC 28801. The Board Retreat begins at 2 pm at the same location.

The attendance of the Board members was conducted by roll call and was as follows:

Members Present:

*Karl Koon
Vonna Cloninger
Joel Storrow
Evan Couzo
Garry Whisnant*

Members Absent:

None

Staff Present: *Ashley Featherstone, Director; Kevin Lance, Field Services Program Manager; James Raiford, Permitting Program Manager; Mike Matthews, Senior Air Quality Specialist; Betsy Brown, Air Quality Coordinator; Alex Latta, Senior Air Quality Specialist*

Others Present: *Michael Frue, County Attorney; Haylee Madfis, Planner, Buncombe County Planning Department; Tom B, unknown*

Mr. Storrow called the meeting of the Asheville-Buncombe Air Quality Agency Board of Directors to order on March 8, 2022, at 4:00 pm.

The order of business was as follows:

I. Public Comment Protocol Announcement

Mr. Storrow read the announcement:

Due to recommendations to limit public gatherings and Corona Virus disease 2019 (COVID-19), this meeting will be conducted remotely as authorized by Session Law 2020-3 and GS §166A-19.24.

Public comment on agenda items is taken via electronic means only and must have been received by 5:00pm Sunday before the Board Meeting by email or voice message. Comments should be limited to air quality or specific topics relevant to the Board. Comments will be heard later in the meeting.

II. Adjustment and approval of agenda

Mr. Storrow suggested that discussion of a Board retreat be included under new business.

Mr. Koon made the motion to accept the agenda with the inclusion of the Board retreat under New Business. Ms. Cloninger seconded the motion.

Voting was conducted by roll call.

Mr. Koon-yes

Ms. Cloninger-yes

Mr. Whisnant-yes

Dr. Couzo-yes

Mr. Storrow-yes

The motion passed 5-0.

III. Special Presentation

A. Buncombe County Comprehensive Plan 2043. Haylee Madfis, Buncombe County Planning Department

Haylee Madfis, a Planner in the long-range planning department of the County, gave a presentation. A short video about planning was presented.

The comprehensive planning document involves members of the community coming together to look at the past and consider where the community wants to go. This can include infrastructure, land use, neighborhood plans, equity, tourism, etc. They are looking at what the community will look like in five years, ten years, and twenty years. This document will help guide future plans. There is an informal plan in place and previous plans will not be forgotten.

The County is reaching out to all residents, including youth, stakeholder groups and communities to come up with a plan which includes goals and actions on how to reach that vision. The Board of Commissioners, the Technical Advisory Committee, Steering Committee, the County project team will all be involved along with the rest of the community. The committee plans on working on the document until they get it right. This might take several drafts. Our Board Member, Mr. Karl Koon, is on the Steering Committee for this project.

There are four planning phases. The County is currently in the second phase. There is a focus on equity and equal opportunities for all residents. The plan is under regional context contributing to sustainability. It was noted that Air Quality is integral to all parts of the plan – infrastructure & energy, resiliency, hazard mitigation, environmental protection, recreation, community health, transportation, land use, and economic development (job growth and industry).

The AB Air Quality Board is being asked to fill out a survey from our organization’s perspective. Planning is reaching out to all Buncombe County Boards for their input. The County is interested in the top long-range planning issues and would like Air Quality to provide them with three big action ideas. These can be new policy, program, or project ideas. Ms. Cloninger mentioned recycling – to advocate for the increased use of materials that can be recycled or ban items that cannot.

The survey needs to be returned by the end of March, or at the latest, by mid-April. Ms. Featherstone has a copy of the survey and has emailed that to the Board members. The County is trying to leave this open ended without too much guidance. The survey should be returned to Gillian Phillips and copy Haylee Madfis. There is an option to do online and submit individually. Mr. Storrow noted that he would like to see everyone’s survey and with Ms. Featherstone compile the comments to send to the Planning Department. Board members wanted some time to consider before a discussion.

Ms. Madfis encouraged the Board to tell friends and neighbors about this plan. Information and a survey are available at www.buncombecounty.org/plan2043.

Later in the meeting, it was decided that the Board members would take time to consider the survey. Mr. Storrow asked that they submit their comments to Ms. Featherstone and Mr. Storrow by March 15 close of business. If there is any conflict they will reach out to the Board. Ms. Featherstone and Mr. Storrow will consolidate the comments and copy the Board on the combined comments when they submit the survey to Planning.

IV. Consent Agenda:

A. Approval of minutes from January 11, 2022

Ms. Cloninger moved to approve the minutes. Dr. Couzo seconded the motion.

Voting was conducted by roll call.

Ms. Cloninger-yes

Dr. Couzo-yes

Mr. Whisnant-yes

Mr. Koon-yes

Mr. Storrow-yes

The motion passed 5-0.

V. Director’s Report:

A. FY 2023 Budget Discussion

Documents were included in the packet which include the Budget Ordinance, the Budget Draft and the Fund Balance History. The Air Quality Budget Draft was generated from a new software now in use by County Budget. Ms. Featherstone went over the columns including the 2021 actuals, 2022 budget, the year-to-date actuals for the 2022 budget and the draft 2023 budget. She noted that the fund balance draw in this document is at the bottom next to “Net Impact to Fund Balance.” For fiscal year 2021, the Agency did not draw from the fund balance, but rather added \$119,000 at the end of the year. We do not have a projection for the impact for the current year fund balance. For FY 2023 the fund balance draw is predicted to be \$32,279. The fund balance draw is how we balance the budget each year. We think this is conservative. The most accurate way to track the fund balance is to run a report at the end of the fiscal year. Noted is the change to Workday in 2018 and the comparison from 2017 to 2018 may not be “apples to apples,” but from 2018 on, we are using the same accounting system. Ms. Featherstone noted that for a couple of years we have been down a position and not traveling due to COVID and that has helped to keep the fund balance healthy.

B. Permit Fee Increase Update

An updated Annual Permit Fee Comparison document was included in the Board packet. When we did the fee increase last year there were a lot of unknowns. One was how much the Duke Energy invoice would decrease from the transition from burning coal to natural gas. Our invoices are partially based on emissions, and we did not have a full year of emissions data since the Asheville plant switched to natural gas. Also, the revenue from taking back the Title V permit for the landfill had not been included. The document shows the proposed increase from the fees in 2021 and adds the landfill fee and subtracts the calculated average annual loss from Duke. The net increase is \$32,751. This is just the annual fees. We also raised application fees; we did not include those because they are hard to predict.

C. Monitoring Update

Mr. Lance said the ozone monitors have been installed and calibrated. Ozone season officially started March 1. Data completeness for PM 2.5 is 98% for the year. The Agency is working toward relocating the PM 2.5 equipment from the roof top of the Board of Education to the ground. There was some red tape, but we were able to get school board approval. We also must get EPA approval and there are some logistical issues to solve. We estimate the cost to be about \$7,000 primarily for pouring the concrete pad, installing a security fence, and running electrical connections. The good news is that it will be safer for staff and there will be accessibility for educational opportunities. The EPA said if we can make that move, they will give us a colocation shelter for air sensors. Ms. Featherstone said that one of the main reasons we are moving the site is safety. Currently, access to the roof is a ladder with a cage around it.

D. Air Quality Workshop

This workshop went well in January. We had 50-60 people, mostly planners from across the state. We offered educational credits for planners. Nathan Ramsey and Brownie Newman did the introductions for those two days. Mr. Jim Renfro who is with the Great Smoky Mountains Nation Park also presented.

E. Debt Set Off for Unpaid Civil Penalties

The Debt Set Off is something new we are doing to try to collect unpaid civil penalties. Open burning penalties are generally the ones that go unpaid. If the penalty is for a facility or a contractor, they typically pay. We need to make an effort to collect the penalties which go to the school board. The Debt Setoff

Clearinghouse helps local governments collect debts that are outstanding by putting a lien on state tax refunds and state lottery proceeds. Ms. Brown has been working on this, participating in training, and looking at the procedures. A letter is sent to the person to notify them that they have unpaid fees and that the Agency is going through this process. They are given an opportunity to respond. Fees for this service are paid by the person that owes the debt. This service is also utilized by other County Departments like Tax and Health and Human Services. The debt is not assigned to the third party. When we receive the civil penalties, those funds are earmarked for the school board and transferred by County Finance. The Agency is allowed to charge administrative fees and we receive that part as income.

Mr. Frue said the person who was issued the fine has the ability to appeal the civil penalty. If the civil penalty is not resolved, the Agency would just follow the debt-setoff procedures. If someone who owes a debt is on the list, their refund or lottery proceeds would be taken for the agencies or municipalities who filed a debt for that person in the order those debts were entered into the system.

This does not prevent us from negotiating penalties. The person who receives the civil penalty has the opportunity to give extenuating circumstances. An example is when the owner of the property is not responsible for the violation.

Ms. Brown said that most of the cases we would refer are people who do not respond to our letters or refuse our letters. We have not really had this type of recourse in the past. We do have to get social security numbers; we have a way through the County to do that. There is a lot of information on the website, ncdebtsetoff.com. They have recovered millions of dollars in debt for municipalities and government agencies in the state of North Carolina. If the person does not get a state tax refund or win the lottery this will not be effective for that case.

Ms. Featherstone said that we have new procedures in place where we are issuing a letter stating that they have a notice of violation, and the party has 10 to 15 days to respond before a civil penalty is issued. This is now being done for open burning violations. We have many circumstances where the people doing the burning are not the people who owned the property. Ms. Featherstone thanked Mr. Frue and Mr. Freeman for helping us with updating our processes. We also have a contact with the Sheriff's department who can help us get the letter delivered to the address when the letters are refused or returned.

Mr. Storrow asked Mr. Frue if he wanted to do his report at this point in the meeting since he has another meeting at 5pm and this meeting will run past that time. See VII. A.

F. Commissioners Briefing Presentation March 15-Open Burning

The County has several departments that are running into code enforcement issues at the same locations. The County formed a Code Enforcement Workgroup which includes Air Quality, Planning, Building Permits & Inspection, Environmental Control and Environmental Health. The team meets regularly, compares notes and discusses how to tackle some of the challenges. For us, the issue is open burning. For Planning and Building Permits and Inspections, the issue is people living in storage units and electrical cords laying across the ground. For solid waste, it is a large amount of trash in yards. For Environmental Health, the issues are septic system failures, and people living in places with no septic or proper sanitation. There is a lot of drug activity and a large number of vagrants. Several of the departments are going to present at a special Commissioners briefing at 3pm before

a regular Commissioner's meeting. We will talk to the Commissioners about two of our issues. Both are open burning, the illegal burning of household trash, and the other, land clearing burning. The County is getting more and more crowded, there is more property being cleared for development and we are getting more complaints. Our Air Quality regulations used to limit burning for land clearing to 1000 feet from an occupied dwelling. In 2011 the General Assembly changed the set back to 500 feet, and now there is burning where it would not have been allowed before. We have had more and more complaints. A resident started a petition online about land clearing open burning, requesting that the county prohibit that practice. We wanted to let the Board know that Air Quality is participating in the briefing for the County Commissioners on March 15.

G. Facility Permit Renewals

Dr. Couzo noted that the Flint Group had a CAM (Compliance Assurance Monitoring) plan-not actual emissions monitoring. Certain large facilities must have plans in place to prevent them from having a violation associated with exceeding an emissions limit. This facility is one of the few that is subject to that requirement. They have to track their emissions with triggers in place. An example would be that if their control device drops below 97% efficiency, then some other action must be taken. They would need to refer to their plan, figure out what is not working and shut down the process if need be. This is to prevent them from having an exceedance due to a problem with the control equipment.

Dr. Couzo also asked about the ongoing discussion with EPA on Flint Group's compliance strategy regarding HAP emissions. Years ago, Flint group submitted a request for alternative monitoring to the EPA. We do not have the authority to approve this request. Under Title V procedures, a facility can propose alternative monitoring to the EPA if that authority is not allocated to the state or local agency. They are required to follow the plan they submit until they get approval or disapproval from the EPA. We have worked for years with EPA headquarters concerning this and then the person we were working with retired. We were really making progress working with the EPA at Research Triangle Park in more recent years, then COVID hit and EPA was not traveling. They said they could not make a determination without visiting the site. It is a very complicated facility. The EPA is not back in the office yet, so they have not started traveling. We have worked with the facility on subsequent proposals from the original and have what we think is a solid plan in place that we hope the EPA approves. Currently they are operating under the rules that say the facility proposes a plan and is required to follow the plan until which time the EPA gives the approval or finds the plan unacceptable. Our position is that the facility is in compliance because they are following their proposed monitoring plan.

Mr. Raiford said that working off that proposal is like a negotiation at this point. If the EPA does not approve the plan, then there would be a permit modification again to implement whatever proposal agreed upon by the EPA, the Agency, and Flint Group. Ms. Featherstone noted that would be a significant modification which would require public notice and comment. This permit has gone to public notice and comment. The proposed plan was included and there were no comments.

There is a section in the permit review for Flint Group about dispersion modeling for toluene in 2004. Dr. Couzo asked if this was enough to be of concern for an increase of ozone in the area. In the southeast we are NOx limited. There are a lot of natural VOC sources. Instead of looking at VOC and NOx to limit ozone, we just look at NOx. They have control equipment in place whose efficiency reduces VOC emissions by over 95% to comply with other rules. We are concerned about the

toluene more from a toxics standpoint. Their emissions have dropped significantly since 2004 as they have had to comply with some of the MACT (Maximum Achievable Control Technology) standards associated with the alternative monitoring. They used to emit 240 tons of toluene a year, now emissions are approximately 150 tons. Since they modeled at the higher rate, they can make some changes that may increase toluene emissions without redoing the modeling.

There was an inconsistency pointed out in the facility inspection report for PLI. In one place it stated the facility was in compliance and in another that it was not. The facility changed out a printer without notifying the Agency. The facility thought it was an insignificant source as it had very low VOC emissions. However, there is no exemption for low emissions for a printing process. The facility could have changed out the printer through our rules without a permit modification, but they did not request a determination by the Agency. This was discussed during the review of the inspection report. One place in the FIR was subsequently corrected, but the other was not. That will be corrected. The facility will be issued a notice of deficiency, but that is not a reason to not renew the air quality permit.

Facility Name	Type of Facility	Facility Classification	Location	Changes from Existing Permit
Carolina Colortones	Wood & Cement Siding Finishing Facility	Small	Industrial Drive, Arden	Remove permit condition for rule that is no longer applicable (VOC work practice standards)
Cremation Services of WNC	Funeral and Cremation Services	Small	Smoky Park Highway, Candler	None
New Belgium Brewing Company, Inc.	Beer Brewing Facility	Synthetic Minor	91 Craven Street, Asheville	None
Flint Group	Fabricated Rubber and Urethane Products for the Printing Industry	Title V	Glen Bridge Rd., Arden	Move equipment from Part II of permit (construction permit) to Part I (operating permit). Remove equipment that was sold to another facility (XSYS).
Plasticard - Locktech International, LLP dba PLI	Specialty printer of plastic and paper products	Small	Sweeten Creek Industrial Park Road, Asheville	Update permitted equipment and insignificant activity list

Mr. Koon made the motion to approve all the above renewals with the correction to the Plasticard-Locktech facility inspection report. Ms. Cloninger seconded the motion.

Voting was conducted by roll call.

Ms. Cloninger-yes

Mr. Koon-yes

Mr. Whisnant-yes

Dr. Couzo-yes

Mr. Storrow-yes

The motion passed 5-0.

H. New Facilities

Flint Group has multiple processes at their facility. They sold one to another entity that is operating it now. When a facility goes from a Title V to a less stringent

permit like a synthetic minor by taking a limit to change their source classification, the permit must go to public notice and comment. This permit went to public notice. The facility did take a limit to stay below permitting thresholds. The Agenda and facility review form both list the permit as a Title V but it is a synthetic minor with this limit. Dr. Couzo noted that it appears when Flint Group sold some of the equipment that equipment was no longer subject to some of the standards. This was one reason we had to go to public notice. If they are considered a major source with emissions of an individual HAP of over 10 tons per year or over 25 tons of combined HAPs, then they are subject to major source standards. As a synthetic minor and a separate facility, XSYS is subject to a different set of rules, area source HAPS. These are typically work practice standards. They have taken a limit and are no longer subject to the major source standards. The fiberglass base building, the Rotec process, is complying with major source limits by using compliant materials, low styrene resin, and XSYS does still plan to use those same materials. Practically speaking their emissions are not going to be able to go up due to the limit in the permit. They are not going to be operating any differently even though they are no longer subject to the major source standards.

There are definitions and policies around what is a facility. We have to look at the facility, if it is collocated and related to another facility, we are required to look at that. We notified the EPA about this situation and had them weigh in on it to make sure that what we were doing was acceptable per current guidance. We got information back from EPA that this is okay. Going to public notice addresses those types of concerns as well. We are required to look at the nature of the business, whether or not it is the same management, and if one is making something for the other one's process. Flint Group has five different processes. It was asked if this was circumvention of Title V rules. If five different business took over to circumvent the Title V rules, that would be a concern. In this case Flint Group is still Title V, but they showed enough of a distance from the other company that this move appears to be acceptable. We have to keep a close eye on the situation. Mr. Raiford said the facility would need to notify us if they change a material to a higher percentage styrene. They are synthetic minor for PM, not for VOC or HAP. As a synthetic minor the permit limits any single HAP to 10 tons. There is a built-in semi-annual reporting requirement of the amount of styrene being using to make sure they do not go over Title V limits. They are reporting styrene in semiannual reports and annual emissions. Synthetic minor emissions are uploaded into the national Emission Inventory System. Ms. Featherstone said technically XSYS can switch resins, but they would have to account for that in their emissions calculations. The facility has been using the same resin for the last 10 or 15 years. Their potential emissions for styrene is at 9 tons, and the limit is 10. They must stay under the 10 tons, or they would be subject to Title V and MACT rules for HAPs. The EPA has a memo on collocated facilities and common control. Someone else is in charge of this company and is responsible for any violations of the permit.

Facility Name	Type of Facility	Facility Classification	Location	Proposed Equipment
XSYS North America	Fabricated Rubber and Urethane Products for the Printing Industry	Synthetic Minor	Glen Bridge Rd., Arden	Fiberglass base building and filament winding operation, two coating operations, wet and dry grinding process, packaging operation

Mr. Koon made the motion to approve the permit for XSYS North America with synthetic minor classification. Mr. Whisnant seconded the motion.

Voting was conducted by roll call.

Mr. Whisnant-yes

Ms. Cloninger-yes

Dr. Couzo-yes

Mr. Koon-yes

Mr. Storrow-yes

The motion passed 5-0.

VI. New Business:

Mr. Storrow wanted to discuss the retreat after the Advisory Committee report. We decided not to have a retreat at the last meeting. He thought we still have a lot to discuss. The Advisory Committee is back on track. The retreat allows us additional time to hear Dr. Couzo's vision for that committee. We have a budget that we will vote on at the next meeting in May. The retreat will also give the Board time to do a formal performance review for the Director. Mr. Storrow spoke with Ms. Sybil Tate who said it would be helpful to for her to receive any Board input concerning that review by May.

After discussion it was decided that the retreat would begin at 2 pm before the Board meeting on May 10, and it would be in person, though some Board members could call in per the legal counsel report. This meeting would be open to the public This should allow adequate time to discuss the Mount Carmel Road building, the budget and Ms. Featherstone's review in closed session before the regular Board meeting at 4 pm.

If meetings are held in person, Mr. Koon may have an issue with the Comprehensive Plan meetings at 5 pm on Tuesdays.

VII. Other Business:

A. Legal Counsel Report

At Mr. Storrow's request, Mr. Frue reached out to the City Attorney about two weeks ago to inform the City of the County's position on the 49 Mount Carmel lease with Buncombe County Schools. He is aware that Air Quality moved out of that building several years ago. The City Attorney agrees with Mr. Frue that the building is not an asset. The City Attorney sees the Agency as an interlocal government agreement. He has no issues or compunction with the current process. He understands that if the Air Agency ceased to exist or the City and County decided to dissolve the Agency, that building would go back to Buncombe County Schools. There would be no payment or reimbursement required or expected.

The local state of emergency for COVID has lapsed. The Governor's current order runs thru April 5. This does not include mask orders but does authorize local governments to have them. While the Governor's orders are still in place, the statutory orders are still in place and the public board meetings can be virtual under this order. What happens after that order expires is under discussion. Only county commissions and municipal governments are required to have in person meetings. This Board can have virtual meetings. Mr. Frue looked at the Agency interlocal agreement and the organizational set up of this Board; our rules only specifically state that the entire board must be present to vote to hire or fire the Director. He would feel more comfortable if there were some language in the bylaws that said members can meet remotely and that that participation counts as a quorum. Members of the board can meet remotely, ideally with a number of the Board present that counts as a quorum, in case someone objects. An example would be

three Board members attending in person and two on the phone. Mr. Frue says a Board member could call into board meeting and it would be appropriate for that member's vote to count. If someone attends and objects, the Board would still have 3 people there in person, and the motion would pass with a quorum present.

B. Advisory Committee Report

1. Committee met February 15, 2022

Dr Couzo: The committee reviewed a couple of applications and plans to review a couple more next time. We got updates on the Breath of Mountain Air workshop and the Advance program. We talked a bit more about projects we could do and the possibility of working with UNCA students.

Dr. Couzo is still waiting to hear on the P3 monitoring grant. This funding would support students setting up low-cost monitors collocated with the regulatory monitors.

The rest of the information is in the minutes included in the Board packet. The three applicants are James Neely, retired from Massachusetts; Ichaya Dhungal, the Eaton Environmental Health and Safety Officer; and Kevin Tipton, the Interim Fire Marshal.

Our guidelines say that the Board is supposed to appoint new members. A couple of new applications came in after the meeting.

Ms. Cloninger made a motion to add the three individuals discussed to the Advisory Committee. Mr. Koon seconded the motion.

Voting was conducted by roll call.

Dr. Couzo-yes

Ms. Cloninger-yes

Mr. Whisnant-yes

Mr. Koon-yes

Mr. Storrow-yes

The motion passed 5-0.

C. Calendar

1. Next regularly scheduled meeting is May 10, 2022. Board Retreat will be held on the same day.

The retreat and meeting will both be in person at 30 Valley Street in the meeting room. The retreat will start at 2:00 pm and the regular meeting will start at 4:00 pm.

D. Announcements

Ms. Cloninger's and Mr. Storrow's terms expire in July of 2022. Ms. Cloninger is finishing up her third 6-year term. Board members usually serve no more than two full terms. The agency notifies the City and the County about 3 months in advance if a Board members term is up and if that person would like to be considered for another term.

VIII. Public Comment

There were no public comments.

IX. Adjournment

Mr. Whisnant made the motion to adjourn. Ms. Cloninger seconded.

Voting was conducted by roll call.

Mr. Whisnant-yes

Ms. Cloninger-yes

Dr. Couzo-yes
Mr. Koon-yes
Mr. Storrow-yes
The motion passed 5-0.

The meeting was adjourned at 5:40pm.