

TO: Western North Carolina Regional Air Quality Agency Board of Directors

FROM: Betsy Brown, Air Quality Supervisor

SUBJECT: January 4, 2019

DATE: March 1, 2019

Please find attached a copy of the **MINUTES** from the **January 14, 2019** Board Meeting. The next meeting of the WNCRAQA Board is scheduled for **Monday, March 11, 2019**, in the meeting room at the Buncombe County Permit Office at 30 Valley Street, Asheville, N.C. 28801.

The Western North Carolina Regional Air Quality Agency Board of Directors met on Monday, January 14, 2019, in the meeting room at the Buncombe County Permit Office located at 30 Valley Street, Asheville, N.C.

The attendance of the Board members was as follows:

Members Present:

*Britt Lovin
Karl Koon
Joel Storrow
Vonna Cloninger*

Members Absent:

Dean Kahl

Staff Present: *David Brigman, Director; Ashley Featherstone, Air Quality Permitting Program Manager; Kevin Lance, Field Services Program Manager; Betsy Brown, AQ Supervisor; Mike Matthews, Senior AQ Specialist; James Raiford, Senior AQ Specialist*

Others Present: *Michael Frue, Attorney; Steve Hodges, Asheville Pet Crematory; Mike Plemmons, CIBO; Brenda and Russell Jefferies*

Mr. Lovin called the meeting of the Western North Carolina Regional Air Quality Agency Board of Directors to order on January 14, 2019 at 4:01 pm.

The order of business was as follows:

I. Public Comment Protocol Announcement

Mr. Lovin started the meeting by reading the announcement about the public comment protocol.

II. Adjustment and approval of agenda

Mr. Lovin requested switching B & A under IV so that those who came to comment on a permit modification would not have to wait through other business. Mr. Koon made a motion to approve. Mr. Storrow seconded. The motion passed 4-0.

III. Consent Agenda:

A. Approval of minutes from November 13, 2018

Ms. Cloninger made a motion to approve the minutes as written. Mr. Storrow seconded. The motion passed 4-0.

IV. Director's Report:

B. Facility Permit Modifications

Facility Name	Type of Facility	Facility Classification	Location	Changes from Existing Permit
Asheville Pet Crematory	Crematory	Small	Summer Haven Road, Swannanoa	Add an additional pet crematory to the permit.

James Raiford: An additional pet crematory was purchased and installed by Asheville Pet Crematory, without notifying the Agency. The modification before the Board is for adding the additional crematory. Notification of new equipment is part of our permit conditions and the facility was issued a Notice of Violation (NOV). When Mr. Hodgens installed the original crematory in 2009, he also failed to obtain the necessary air quality permit.

Mr. Hodgens of Asheville Pet Crematory addressed the Board. He said that he brought the unit onto the property in the summer or fall of 2018. He stated that he did not understand that each furnace must be permitted. Mr. Raiford explained that our rules require the facility to notify the zoning authority. Buncombe County Planning informed the Agency that Mr. Hodgens may need a conditional zoning permit for the additional crematory. Asheville Pet Crematory had an initial violation from this Agency when he put in the first crematory without applying for an air quality permit. The additional crematory uses the same fuel, fuel oil, as the incinerator that is already there. The capacity and charge rate are similar. The calculated emissions fall within the standards and regulations. The second unit has been installed, and tested, but Mr. Hodgens says it has not been used. The new furnace has a redesigned afterburner. It is supposed to burn less fuel and the afterburner is designed to burn more efficiently. Mr. Hodgens answered Board questions. An expansion of the facility is considered a modification. If he swapped out the older unit for the new, it would not be considered an expansion unless it was a higher capacity unit. The neighbors retired and moved in full time and built extra structures. Mr. Hodgens says he runs the unit 4 to 5 days a week. Some weeks he may only run it once, and others 7 times a week. Mr. Hodgens has another full time job, with regular work hours. The hours he runs the crematory are not usual work hours. Ms. Cloninger expressed concern about the smoke. Opacity limits are in the permit. The unit is allowed 87% up to 6 minutes, and up to 20% opacity for up to 12 minutes.

Brenda Gash Jefferies addressed the Board. She lives at 25 Summerhaven which is a property adjacent to Asheville Pet Crematory. Mrs. Jefferies told the Board about her family's history with the house at 25 Summerhaven and with the family of Mr. Hodgens' partner, Jan McGlohan, who owned the property where Asheville Pet Crematory is located until her death in April 2018. Mrs. Jefferies spoke of the terrible odors from the crematory which kept them from opening windows or letting their grandchildren play outside. The location and emissions from the pet crematory affect their family's quality of life. She felt there were many areas in the county more suitable for a pet crematory than on her neighbor's property. She spoke of her concern that there might be fire hazard issues with the facility, and how difficult it was for the fire department to fight fires in their area due to the remoteness and topography.

Russell D. Jefferies is Mrs. Jefferies' husband and also resides at 25 Summerhaven. Mr. Jefferies spoke of the monetary investments that the Jefferies have made at their residence. He brought up issues with the zoning ordinance that opened the opportunity for Mr. Hodgens to get zoning approval for the original pet crematory on site. He spoke of specific instances when the stench from the crematory was overwhelming. At times the noise from the unit was also disturbing. Mr. Jefferies also questioned whether Mr. Hodgens had done proper electrical and mechanical installations or obtained building permits for the initial or additional facility. He noted that Mr. Hodgens was feeding fuel oil to the unit with a rubber hose.

Both Russell and Brenda Jefferies submitted written statements to staff which are attached to the minutes of the Board meeting.

Board members discussed that the location of the facility sounded like a zoning issue and that they should look at the permit modification request purely from air quality permitting viewpoint. Mr. Raiford has spoken with Buncombe County Planning and Zoning. They stated that they had not yet received an application from Mr. Hodgens.

The NOV and civil penalty were assessed per the agency's civil penalty policy. Staff used a spreadsheet which included a multiplier that doubled the penalty amount since this was the second time equipment was installed without a permit. The total including the administrative fee was \$1,167. Mr. Hodgens has an opportunity to appeal the NOV and civil penalty. The civil penalty is \$1,050.

Ashley Featherstone said that our rule 17.0304 states that the permit applicant has to submit a request for a zoning consistency determination. We can issue a permit so long as the business shows that the planning department has received the request. The facility must comply with all state and local rules, including zoning rules.

Mr. Lovin asked Mr. Frue about attaching a requirement that a facility follow all zoning regulations. Mr. Frue said that he saw no problem with that. He said that when someone is issued a permit, such as for crossing the street, they must do so in accordance with the law.

Mr. Koon stated that we should - look at it purely from the air quality permitting requirements. If the application meets those, he does not see how you would not permit it.

Mr. Frue stated that the Board should look at merits of the application based on air quality rules not on zoning rules. Mr. Frue does not have all the facts at this time regarding the zoning rules that apply in this case regarding whether a conditional use permit is required. Mr. Frue was not aware of any issue about issuing the air quality permit before the penalty is paid.

Mr. Brigman noted that the question for the Board is whether the piece of equipment can operate within our air quality rules. The rules do not allow us to limit the hours Mr. Hodgens operates. The heart of the matter is whether he is abiding by zoning ordinances per the permit condition. Enforcement of that condition would be another discussion.

Board members discussed their preference for Mr. Hodgens to run the newer, more efficient incinerator in lieu of the older incinerator. Mr. Hodgens did not want to replace the older unit, but to expand his business.

Ms. Jefferies said that although the primary concern seemed to be smoke, Mr. Hodgens did seem to have that mostly under control. The biggest issue for her is the odor.

The Agency does address odor complaints. A lot of the odor rules written were applied to agricultural issues, such as odors from hog farms. Staff told the Jefferies that we would respond to their odor complaints. It is difficult to deal with odor complaints. They often dissipate before we arrive to investigate. We cannot require anything if we cannot document the odor problem. It is a nuisance rule. In response to a documented odor issue, the Agency can only require controls which are economically and technologically feasible.

Board members were reluctant to vote on the permit modification before the NOV and civil penalty were addressed. The NOV letter went out the day of the Board meeting, January 14, 2019. Mr. Hodgens was made aware of the NOV and civil penalty when he came by the office earlier that day. Mr. Storrow asked that consideration of the permit modification be tabled until the NOV and civil penalty are addressed.

Mr. Koon made a motion to approve the permit modification for Asheville Pet Crematory on the condition that the facility complied with zoning. The motion failed due to lack of a second. Mr. Storrow asked that consideration be tabled until March 11, 2019.

A. Agency Status Update

Mr. Brigman: Eric Hardy (Buncombe County Performance Management Director), Mr. Lovin, and Mr. Brigman have looked at the stability of the Agency. They have drafted a memo concerning the County and the Agency. This concerns office space, indirect costs charged by the County, and about how the Agency is moving forward. Hopefully there will be a sit down meeting with Mr. Wood within the next two weeks. Mr. Wood may choose to have three on three meetings with the Commissioners. We are looking at space for space and lower indirect costs; the county uses the Mt. Carmel building and provides us with adequate office space in return. It looks like we are moving in a better direction. We should know something shortly.

V. New Business:

A. Legal Counsel Report

Mr. Lovin: we are happy to have Mr. Frue there. Mr. Frue had nothing to report. They are busy up the hill. Things are getting back to normal. He stated he was glad to be back.

B. Agency Rule Updates

Ashley Featherstone: this is an update to a report from last year that the Agency is updating all of our codes. She is nearly ready to submit the pre-draft. Before the rules are sent to the State and the EPA for review, their staff like to receive a pre-draft. Then if they find any issues, the issues can be addressed on the front end before the public comment period. Next week she hopes to get the pre-draft submitted. We do not know how long it will take the State and EPA to review, but at some point we will go to public notice. This is taking longer than we expected. We will be doing additional updates to the rules this year as the State updates their rules. EPA had asked us to withdraw our rules updates and resubmit the latest version, because the EPA was so far behind in reviewing and approving the submittals. These are already existing state rules that the agency has adopted by reference. Public comments could not really change them and would have needed to have been submitted when the state rules were adopted.

VI. Other Business:

A. Advisory Committee Report

The committee has not met.

B. Calendar

1. Approval of 2019 Board Meeting Schedule

Mr. Lovin noted that the usual Monday in November was changed to Tuesday due to Veteran's Day. Mr. Koon made the motion to approve. Ms. Cloninger seconded. The motion passed 4-0.

2. Next regular scheduled meeting is March 11, 2019

C. Announcements

VII. Public Comment

Held under IV. B.

VIII. Adjournment

Ms. Cloninger moved to adjourn. Mr. Koon seconded. The motion passed 4-0. Adjournment was at 5:13 pm.