

## MEMORANDUM

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

FROM: Ashley Featherstone, Director

RE: Minutes for April 15, 2021

DATE: May 3, 2021

Enclosed, please find the Minutes for the **Thursday, April 15, 2021** WNCRAQA board meeting. The next meeting of the WNCRAQA Board is scheduled for **Monday, May 10, 2021 at 4:00 pm**. 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. The meeting will be hosted via Zoom Webinar. The public may listen to the meeting as is occurs at the following link: <https://bit.ly/3gNQVte> Meetings will continue to be virtual until further notice.

*\*\*\*Public comment on agenda items will be taken via electronic means only. The following criteria for comment will apply: (1) any public comment must be received by 5:00 pm Sunday before the Board Meeting by sending an email to [wncair@buncombecounty.org](mailto:wncair@buncombecounty.org) or by leaving a voice message at 828-250-6777; and (2) must be no more than 350 words.\*\*\**

Comments will be read into the record, but the Board reserves the right to limit this practice to one hour. All comments received will be retained by the Agency as permanent record.

The Western North Carolina Regional Air Quality Agency Board of Directors met via Zoom Webinar and phone on Thursday, April 15, 2021 as authorized by Session Law 2020-3 and GS §166A-19.24 due to COVID-19.

The attendance of the Board members was as follows:

**Members Present:**

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

**Members Absent:**

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

**Others Present:** *Patty Beaver, CIBO; Rusty Mau, Budget; Sybil Tate, Assistant County Manager; Jeff Shook, IT; Althea Hamilton*

**Agenda for Board Retreat**

- A. Rebranding
- B. FY22 Budget Update
- C. Revenues and Expenses Forecasting
- D. Fund Balance
- E. Discussion
- F. Advisory Committee Roles and Responsibilities

Mr. Storrow called the meeting of the Western North Carolina Regional Air Quality Agency Board of Directors to order on April 15, 2021 at 10:05 am. Mr. Storrow thanked the staff for all their hard work getting this information together. The Agency provided a PowerPoint presentation to support the meeting. A pdf of this PowerPoint presentation will be included with these minutes.

**A. Rebranding**

Ashley Featherstone said that we mentioned this topic at the last board meeting. The Agency has not had an official logo. Since we pay indirect costs and have access to Buncombe County (BC) Communication Team services, we asked them to come up with a logo. In a slide the Agency's old logo was shown next to a proposed logo developed by Cataldo Perrone with the BC PR team. Staff is very pleased with the new logo. The design represents the sun, air, mountains and the French Broad and keeps the same theme as the logo we had been using. The logo utilizes ADA compliant colors and fonts, which are available in most computers and printers. Mr. Perrone supplied an explanation of the representation conveyed in the design, as well as the colors and fonts. If the logo is approved, the PR team can provide letterhead, logo for signatures and social media accounts, a PowerPoint template, and black and white versions for our use. Board members made comments about the design and the colors used; those comments will be conveyed to Mr. Perrone.

Board members also discussed the name of the Agency. New board members wanted to know why we were a "regional" authority when we only had authority over Buncombe County. The name is confusing. Now that we are rebranding, it might be a good time to rename the Agency to reflect our service territory. The Agency was originally set up with multiple counties and the regional designation makes it possible for other counties to join. No counties have expressed interest since the early 2000's. Ms. Featherstone said that we would have to talk with Mr. Frue, the county attorney. We might have to

open and amend our interlocal agreement. The City and County would have to buy off on a name change. It would not affect our authority as delegated by the EPA and we would still be structured as a regional agency per NC general statutes. We would also have to notify the State since we are certified through the Environmental Management Commission. We do not think that it would be that difficult to change the name. The Asheville-Buncombe Water Authority was mentioned as an entity that covered both the City and the County. If another county wanted to join, the name could be changed again.

Mr. Perrone noted in his documents about the branding that our acronym was not functional- it is long and not easily pronounceable, and so he did not want to use it in the logo.

It was decided to take comments to Mr. Perrone and request that he make some amendments to the logo. The rebranding and name change will be an Agenda item for the next Board meeting. Ms. Featherstone will check with legal and the state to see what would be necessary.

## **B. FY22 Budget Update**

Board members were emailed updated budget sheets for the FY22 Budget, that starts July 1, with more accurate information than those shared at the March 2021 Board meeting. One is the Annual Budget Comparison- Summary Detail that compares the AQ budget from year to year. There was a salary and benefits (S&B) decrease which resulted in a lower appropriated fund balance draw. Two employee salaries and benefits were incorrect. The reclassification of a position was denied, so the proposed increase was removed. Another position was still listing the salary and benefits of an employee that was promoted into another position. The decrease was about \$20,000, which is reflected in the S&B line as well as the reduced appropriated fund balance from approximately \$171,000 to \$152,000. The 2021 indirect charge was projected at the budgeted amount of \$104, 891. It will more likely be about \$114,000 per note in spreadsheet; this will affect the projected excess funds. The indirect figure for 2022 has been budgeted at \$120,000. This will likely be updated as well.

Staff explained the difference between different workbooks and columns. There are “budgeted” numbers (what the budget was for that year), “actual” numbers (final at end of BC fiscal year) and “projected” numbers for current budget year of 2021. All the S&B numbers for budgeted and projected are provided by the County. The budgeted S&B for 2021 was much higher than the projected S&B because the seventh position was not filled; and we were not able to fill the sixth position for most of the budgeted year. This resulted in the projected S&B to be much lower than the budgeted amount.

For several years the Agency has budgeted for expenditures that did not occur. To make the numbers more representative of what we expect, the seventh position was not budgeted for 2022. In the future we hope that we might be able to add it, but see no sense in including it if we know we will not fill it at this time.

Rusty Mau said that a budget is a tool; it never works out exactly. Examples: Perhaps you planned for a piece of equipment to be \$40,000 and it ends being \$35,000, or \$45,000; or you are unable to fill a position or the Director retires. Throughout the year, Budget monitors the amount being spent in each department. If expenses are lower than the budget, that is usually good. If expenditures are over the budget, action might need to be taken in a budget amendment. This is not a problem.

We are different from other County departments. If we spend more than our income, we have to pull that out of the fund balance which is a finite amount around half a million

dollars. What we see going forward is that our spending will continue to increase and our income is projected to remain flat. The Agency has done well so far, some years pulling from the fund balance and some years putting money back in. With the decrease of Title V fees and other challenges, we are looking at depleting the fund balance in just a few years. We want to address these issues and make plans for the future.

**C. Fund Balance**

The fund balance has been accumulated from the receipt of funds over the years greater than the expenses. This amount can vary considerably over the year. We look at it at the end of the BC budget year. Mr. Mau said state statute requires the County to keep a minimum of 8% of the total budget in a Fund Balance. County policy is 15% minimum. The idea is that you have a large unexpected event, you have the funds to cover the expense. One can consider Budget as the checking account, and the Fund Balance as the savings account. The minimum of 8% in our fund balance is mentioned in our interlocal agreement in Chapter 1. We do not consider 8% of our budget a sufficient amount for our Agency. This is how we pay for large purchases, or capital expenditures like monitoring equipment. From the projections shown, the Agency would not just need to pull money from the fund balance for one-time large expenditures, but be dependent upon it for basic expenditures in the future. There exists both a Title V fund balance and a 105 grant fund balance. The sum of those two accounts is what we refer to as our fund balance. The Title V balance is a negative amount due to the program being underfunded, but the 105 balance is healthy.

**D. Revenues and Expenses Forecasting**

The Agency compiled revenue and expense information from 2007 to the present to show the Board certain trends. These are actual numbers until FY2022 and beyond where we are projecting revenues and expenses. We are 100% self-funded. Our biggest revenue sources are our EPA Grants, industrial and commercial permit fees and NC gas tax. Revenues have stayed rather flat and expenses have trended up, yet staff has been reduced. The workload has not. The revenues have been reducing for Air Quality agencies all over the nation. The federal Title V permit program that applies to the large facilities like power plants and paper mills, based its fees on emissions, which have decreased over time. These emissions reductions are due to stricter regulations, the use of pollution abatement equipment such as scrubbers, and the switch from coal to gas by power plants. This is excellent for air quality but not for air quality agencies whose job has not gotten any easier.

The EPA 105-grant amount has stayed close to the same amount over time (since 2004). Inflation during this period has been about 16%; this is the same as a decrease. The gas tax has been steady, but it is expected to decrease in the future. We put together a five-year projection that we needed to do now; however, our projections will be better after we have a couple of years of actual emissions data from the Duke plant since it switched from coal to natural gas. We used a very conservative figure for their emissions. Duke is not required to report emissions for 2020 until June 30, 2021. We use the annual emissions inventory from the previous year to calculate the invoice for the current year. Power plants fluctuate over time. We do anticipate a capital expense of \$50,000 in 2023 for ozone monitoring equipment. As part of the Personnel Ordinance, the County gives its employees a cost of living increase in pay every year. This is not the only benefit that goes up. Longevity and the 401 contribution goes up with salaries. Air Quality staff are County employees per the interlocal agreement.

Our assumptions estimated expenses going up 2% per year that we consider conservative. Some expenses probably will remain flat, like travel. The County compensation study is expected to raise some salaries based on market rates, which are expected to increase S&B by 5% in FY2024. We are trying to account for the

compensation study, yet this is another unknown. We also include a contingency each year for unexpected expenses and flexibility.

We are projecting about an \$89,000 decrease in Title V permit revenue for FY2022. We think we may have more revenues in asbestos fees and overall we have projected a \$67,000 decrease in permit fees in 2022.

A pie chart of the 2022 Budget Revenue summary was shared. It shows permit fees by % and a fund balance draw of 16% of the budget. The pie chart of expenses illustrates that S&B are by far our largest expense; with indirect charges budgeted at 13%. In another slide, a graph of major sources of income shows fluctuations in the income stream. There were increases in 2011 when we last raised our fees. One thing that might be confusing is that synthetic minor fees are about \$30,000. These facilities have federally enforceable permit limits so we can include them under small facilities or under Title V for accounting purposes. We have adjusted where we are accounting for those a couple of times over the years. In 2022, we moved those permit fees under the smalls per EPA guidance. The main point is that Title V fees have dropped and it would be unlikely for them to go back up due to emissions.

The Title V fees have varied for various reasons. When Duke (DEP) first installed their scrubbers, they ran them at the highest efficiency levels. The first invoice after that was \$88,000. The next year they used a different coal and varied how they ran the scrubbers and the invoice went up to approximately \$150,000. Of the total Title V fees, the DEP invoice was about 50%. In 2010, the Agency lost BASF; their permit fee was second highest at about \$30,000. In 2014, we turned the BC Landfill permitting over to the State DAQ when our Air Quality Director was also the Solid Waste Director. It was considered a conflict of interest because we would be issuing a permit to ourselves. Mr. Brigman was only over the landfill for a few months, but we never took the landfill back as a permitted source. That annual fee was around \$10,000 or \$11,000.

#### **E. Discussion**

The Agency has not raised fees in over ten years. We need to look at a proposal to increase fees. There is uncertainty around the DEP new power plant emissions, which could fluctuate. Over the next couple of years, we will get a clearer picture going forward. Mr. Whisnant, former DEP Asheville Plant Manager, felt he could give us an idea about the DEP plant moving forward. We use the emission inventory for Title V facilities from the previous year to invoice for the coming year. So the 2020 emissions are used to calculate invoices sent out in 2021. This falls in the BCFY2022, which begins July 1. We can bill facilities as early as August. If we present a fee proposal to the Board in May and the Board adopted the new fees in July that would be ahead of the next billing cycle for the Title V facilities. This would be our goal. It would help make up some of the loss we are projecting.

It was asked if the EMC had to approve NCDAQ's Title V fee increase before we could utilize a new fee structure. No. The NCDAQ has put forth a proposal to raise Title V fees. What we want to do is similar. They have come up with a different structure. Instead of relying so much on emissions, fees would be figured on how complex the facility is. We would raise base fees and charge a complex source fee based on how many rules and regulations to which a facility is subject. Facilities subject to many rules are more time consuming to permit, manage and inspect.

The DAQ met with stakeholders and they came up with a fee proposal. This proposal was approved by the EMC. There is a review process where the legislature reviews the proposal. This has been delayed. There were several letters of objection, not by any of the stakeholders or permittees that pay the fees, and the legislature now has the

opportunity to weigh in. Our fees are part of our rules. We will go through the rule making process, go to public notice and reach out to our permit holders. Our Board would have to approve the changes. It would be ideal if NC's changes were now in effect. However, even though DAQ's fee increase is on pause, we are able to move forward in rule making with a proposed fee increase independent of their situation.

Every dollar that we spend is allocated to our programs: Title V, EPA 105 Grant, and the EPA 103 Grant. Title V expenses are those associated with operating that program-these include a portion of our S&B, as well as indirect and direct costs of the Agency. Different percentages of staff salaries are expensed to the different programs based on what each staff member does.

In the slide showing the Total Expenses vs Revenues (less any appropriated fund balance) the expenses and revenue are somewhat balanced until 2022 where the DEP revenue loss is projected moving forward. This projection does not include any proposed increase to fees.

The projected budget shortfalls, which are very conservative and include budgetary contingency are as follows:

FY2022 - \$152,069

FY2023 - \$225,246 (includes \$50,000 for monitoring equipment)

FY2024 - \$244,738 (includes %5 increase for staff)

FY2025 - \$268,835

This is worst case; however, it is clear we need to take action.

Revenue structure based on emissions seems designed to create these budget shortfalls. Unfortunately, it comes with no less work. We have lost 37% of our staff. DAQ has lost about 30% staff. The EPA has lost 1000 staff. All the agencies are dealing with this problem associated with declining revenues linked to decreasing emissions.

We have made some estimates for adjusting our fees based on the state's new model with the complex source fee. The base fee is \$5,000. The lowest Title V fee any of our permitted facilities is paying is around \$10,000 to \$11,000. The lowest without the complex source fee would go up about \$5,000. The complex source fees would be \$2,500 and \$7,500. Some of them could go up more. We have had conversations about taking the landfill back under our jurisdiction and that would be additional income, roughly another \$16,000 if we adopt this new fee structure. We could also raise some of the small permit fees. Some facilities only pay about \$300 and the fees have not increased in over ten years.

There are rough estimates that we think we could meet with the results of a fee study:

Title Permit increases - \$65,000.

Permit Buncombe County Landfill - \$15,000

Other permit increases - \$10,000

This would reduce the shortfall across the projections.

In the fee study we propose, we would calculate for each facility what their fee would be and the change from the previous year.

Questions were asked about the DAQ and the landfill. DAQ would lose revenue if we took the facility back under our jurisdiction. DAQ has pointed out that they regulate state facilities; like the universities. The County issues permits to the County (building permits). It would not be a conflict for us to take it back since we no longer have the employment sharing relationship. We would have to approach DAQ. It is a mutual decision and we have a good relationship. We have shared with them that we are discussing it.

It was asked if we were prohibited from implementing a carbon fee. We do not think so. The NC Regulations do not allow charges for pollutants like CO. There was some discussion about this when the EPA started regulating greenhouse gases (GHG) after the Supreme Court decision in 2007. EPA did not require the states to charge fees for GHGs but did not prohibit it either. The political will in the states is not supportive of such a fee. Ms. Featherstone did not know of another state that charged fees for GHGs. It would solve funding problems. We would have to check to see if it is allowed. If the NC legislature heard of it, they might pass a law prohibiting it.

Duke's CO<sub>2</sub> emissions are not going down, so this extra fee would be helpful. Is Duke monitoring CH<sub>4</sub> leaks from natural gas lines? Not to date. They do integrity tests.

The proposed EPA budget includes an increase in air grants. However, we are not sure what Congress will pass. If the grant went up in an amount similar to what our national association is requesting, it could be as much as \$77,000 to help adjust for the grant being level for so many years.

The increase we would like to propose is similar to what DAQ is proposing for Title V facilities across the state. Many states have been successful raising their Title V fees. SCDHEC proposed to raise Title V fees to \$30,000 and their stakeholders told them to get the money from the legislature. The last time we raised fees ten years ago, the increase was significant and we did not receive any objections. The DAQ fee changes have been approved by the EMC and the NC Manufacturer's Association is supporting this. The Title V fee program is required by law to pay for itself. One issue we have is that we can easily justify a fee increase, but we do not want our fees to be a lot higher than the state. The state gets 50% of their funding from the gas tax and the Inspection and Maintenance (I&M) monies, so they have been able to keep their permit fees low. We have been waiting for them to experience the cuts that we have so that they would have to increase their fees, which helps us justify an increase.

We recently participated in a nationwide Title V fee survey. For our Agency in FY2018, revenues paid for about 77% of Title V expenses. This makes a good argument for increasing fees.

There was discussion about the Title V expenses, and how the Title V fees have not covered the expenses in some years. Title V does not pay for itself even though it is supposed to. Unfortunately, politics are involved. A local program is an optional program. The County and City are not required to have an air pollution program. If we raised the fees as high as we could justify, they would be quite a bit higher than the State of NC who has other sources of revenue. So while we are required by law to have this program pay for itself, we do not want our fees to be so high that we lose the support of the community.

We have six full time employees (FTE). The S&B for the Title V program is budgeted for 1.4 FTE. Percentages of staff expenses are allocated to 105, 103 and Title V based on their job. We have a maintenance of effort (MOE) with our EPA 105 Grant. In 2019 when we were not able to fill a position, we had to shuffle money around to meet our MOE. To reset our MOE we would have to give up that \$200,000 grant for one year.

Air Quality has improved and Air Quality has done their job. WNC is beautiful and we want it to stay that way.

Mobile sources are the biggest source of pollution in NC now that the power plants and other facilities have lowered their emissions due to being subject to new regulations or economic drivers. There are other sources of revenue being researched by the state. Things like adding \$1 to each license to help fund the air quality programs have been considered in the past. We hope that if they come up with new sources of revenue that local programs like ours can be included.

We may be able to get some financial support from the City and the County. Our interlocal agreement, in Chapter 1 of our rules, says we must be self-supporting and if we are expecting a shortfall, we must notify the City and the County and request funds in the amount that the City and County are represented on the Board. There are three Board members from the County and two from the City.

Mr. Storrow mentioned an additional stipend from the two local governments of \$25,000. Forsyth County is putting money into their local air program. Citizens want clean air and clean water as noted in the Strategic Plan. Just covering one county, we do have some stricter rules for asbestos and fugitive dust. We offer complaint response 24/7. We do extra things in a local program that our citizens are benefiting from so we would hope to be able to receive a modest amount of funding.

Ms. Tate is very supported of the Air Quality Agency; however, she noted it would not be her decision to approve County money to support the Agency. The County Commissioners would have to weigh in on that decision. She said she would be supportive.

Forsyth County air quality fees were being raised to cover their program. The Forsyth Chamber of Commissioners complained, and the air agency was required to keep rates low to match the state. We do not have the actual figure, but Forsyth County is contributing \$500,000 to \$1M to support their air program. Forsyth is exploring a sustainability position, which will be inside their air quality agency, under their air director.

It was pointed out that even with projected fee increases including those from the landfill, the Agency is still looking at a \$70,000 shortfall. We do hope to see an increase in EPA funds, but cannot count on them. There is a \$15,000 contingency budgeted for FY2022 and in the projected budgets. We hope not to use or need that, but we would be hesitant to remove it.

It was asked if the Mt. Carmel building issue was settled. Mr. Frue wrote a memo about this subject last year. The County returned funds to the Agency in indirect equivalent to the money the Agency put into the building. The Agency cannot own property so we could not sell it. The County considers it settled. It is an older building and the County is looking to get out of it. The lease is still in our name and if the County did not supply us with space, we would have the right to go back there. The County says they intend to offer us space and plans to move the Agency in with other forward facing departments. Mr. Storrow wanted to verify by revisiting the building discussion. Board members wanted something in writing and wanted the Mt. Carmel building settled. Ms. Tate said we could have Mr. Frue back to remind the Board of what was discussed, and put it into writing. Mr. Storrow and Ms. Featherstone can have further discussion with Ms. Tate and come up with something to present at one of the next couple of Board meetings.

Another possible source of revenue mentioned besides a possible carbon tax was the hotel tax or a vehicle tax for visitors associated with hotel charges, since cars are our largest source of pollution. These are creative ideas. Ms. Tate said that pursuing these ideas would be important to take in front of the Commissioners to show that we have



thought through different options. It would be good to find out if any other air agencies receive any hotel tax or similar funding. The Texas air quality program receives income from rental car revenue.

The airport is in Buncombe County, and it is an authority. We permit stationary sources. They mostly have mobile sources and they do not have a permit with us. Their emissions are accounted for in the state mobile sources division. However, this is the type of entity we might be able to partner with on a grant to help them reduce their emissions. This could include getting electric ground equipment.

**G. Advisory Committee Roles and Responsibilities**

The guidelines of the 2011 memorandum on the Advisory committee were presented as well as possible roles and projects. A Board member serves as the chair. The committee can do a lot of work such as research projects, gauging public reaction, specific project, new programs, and making recommendations. Working with the advisory committee takes a lot of time. One must stay engaged to keep them busy and give specific tasks. The committee has dwindled down to just a few people. They have not been meeting much except for judging the Clean Air Excellence award. Members could work on public outreach such as free radon test, wood stove change out, and the personal air sensor citizen science project. They could help with grant applications. We have received grants for diesel retrofits in the past, now there are monies available for replacements with electric vehicles. We work with the Clean Air Campaign; we have talked about doing workshops or training, even a history of the air quality in the region.

Board members support the continuation of the Advisory Committee and want to honor Dr. Dean Kahl who put so much time and effort into the committee over the years. This will be put on the May Agenda.

The next meeting is in May and will be virtual. We are still under emergency orders from the Governor. We are allowed to continue meeting virtually if that is what we want to do.

The meeting adjourned at 12:00 pm. Mr. Storrow thanked everyone, including Ms. Tate and Mr. Mau, for their time. Ms. Featherstone thanked the Board, on behalf of the staff, for their time and support.