

MEMORANDUM

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

FROM: Ashley Featherstone, Director

RE: Minutes for September 27, 2021

DATE: November 1, 2021

Enclosed, please find the Minutes for the **Monday, September 27** WNCRAQA board meeting. The next meeting of the WNCRAQA Board is scheduled for **Monday, November 8, 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 it occurs at the following link: <https://bit.ly/wncair1108>. Meetings will continue to be virtual until further notice. If anyone needs an accommodation to be able to listen to the meeting, please call the agency's office at 828-250-6777.

****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 5:00pm Sunday before the Board Meeting by sending an email to wncair@buncombecounty.org or by leaving a voice message at 828-250-6790; and (2) must be no more than 350 words. Comments should be limited to air quality or specific topics relevant to the Board.****

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 Monday, September 27, 2021 as authorized by Session Law 2020-3 and GS §166A-19.24 due to COVID-19.

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, Air Quality Specialist*

Others Present: *Michael Frue, County Attorney; Sybil Tate, Assistant County Manager*

Mr. Storrow called the meeting of the Western North Carolina Regional Air Quality Agency Board of Directors to order on September 27, 2021 at 4:03 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. No comments have been received.

II. Adjustment and approval of agenda

Mr. Koon moved to approve the agenda as written. Mr. Whisnant seconded the motion.

Voting was conducted by roll call.

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

III. Consent Agenda:

A. Approval of minutes from July 12, 2021

Mr. Koon moved to approve the minutes as written. Mr. Whisnant seconded the motion.

Voting was conducted by roll call.

Dr. Couzo-yes
Mr. Whisnant - yes
Mr. Koon-yes

Ms. Cloninger-yes
Mr. Storrow- yes
The motion passed 5-0.

IV. Unfinished Business:

A. Permit Fee Adjustment Update

This was discussed at the Board retreat. The Board heard the information concerning the fee adjustment study during the last meeting. Ms. Featherstone said that the fee changes went to public comment. We sent letters out to the regulated community, our stakeholders, and email to our contact list. We did not receive any comments. The next step would be for the Board to adopt the fee adjustments. It is hoped that these fee adjustments will reduce the depletion of the Air Quality fund balance.

Mr. Koon moved to approve the new fee schedule. Ms. Cloninger seconded the motion.

Voting was conducted by roll call.

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

Staff will implement new fees starting tomorrow. These new fees will apply to any future demolition, renovation and asbestos removal permits, and annual invoices. Stage 1 facilities have been invoiced for the year; however, Title V, where the bulk of the increase will be, will be invoiced between now and the end of the year. The update will be put into our code at Chapter 17.0200. The code will be updated and posted to our website.

B. Renaming of Agency-Interlocal Agreement Updates

The interlocal agreement is between the City and the County. The objective is to rename the Agency to denote the area that we serve. We consulted Mr. Frue on how to proceed. Included in the Board packet is a memo, "Review of Interlocal Agreement." On August 23, 2021, Joel Storrow and Ashley Featherstone met with Buncombe County Manager Avril Pinder, Assistant County Manager Sybil Tate, Attorney Michael Frue, Asheville City Manager Debra Campbell, and the City Sustainability Coordinator Amber Weaver to present possible revisions to the Agreement. Both managers were amendable to the name change for the Agency and agreed that the proposed revisions would need to be ratified by their respective governing boards. Assuming the WNCRAQA Board accepts and supports the revisions at the upcoming September 27 meeting, it was proposed that the Buncombe County Board of Commissioners consider the changes at their October 19 and Asheville City Council at their October 26 meetings. An edited version of the interlocal agreement was also included in the Board packet.

As long as we were opening the interlocal, we thought we should look to see if other aspects of it needed to be changed. Mr. Frue assisted in reviewing the Interlocal Agreement. Those changes included correcting typographical errors and updating to the current Agency Mission Statement which had been amended two times since the agreement was signed. The Board packet includes a line through strike out of Chapter 1 of our rules where the Interlocal Agreement is found. Item number four addresses the Agency having offices at 49 Mt Carmel until such a time as it no longer meets our needs. We elected to delete that paragraph. This is no longer applicable if the Board is amendable to that change.

Item number 6 on the memo relates to “Finances” which we propose updating to “County Support Services.” Originally, we agreed to pay for indirect costs for bookkeeping, financial and payroll services. Since then, the Agency is receiving many additional services such as IT, General Services, and other County services. The Agency agreed to reimburse the county for services in accordance with the County’s indirect cost allocation plan that is approved for use for grant funds. This has been updated in the agreement to include “and other services as necessary.” Number seven on the memo addresses the Clean Air Community Trust, a sister organization created as the same time as this organization. This entity is no longer in existence and we recommend deleting that section of the agreement. Although the memo outlines the proposed changes, should the Board approve the changes, legal would be drafting the resolution for the City and County with an explanation of why wording or a section is no longer applicable or needs to be changed for their consideration. Asheville Buncombe Air Quality Agency was the name proposed to the City and County and both parties were amendable. Mr. Storrow invited Board members to discuss any other possibilities. If changes are amendable to the Board, Mr. Storrow would like to have the resolutions ready for the next County Commissioners meeting, October 19, and City Council meeting, October 26. This is a potential consent agenda item, and a presentation might not be necessary.

1. Mount Carmel Road Office Space

Mr. Storrow introduced the subject of the 49 Mt Carmel Road property. A legal opinion regarding Agency office space from Mr. Frue (dated January 20, 2020) was included in the Board packet. The Agency used its funds to build a building for office space. This building was constructed on property owned by the Buncombe County Schools and made available for use by the Agency through a long-term lease agreement between the school board and Buncombe County. The Agency cannot own property. After a period of time the Agency did not need that large a space and vacated the building with the understanding that the County would reimburse the Agency for the building. This has been reasonably satisfied over the years. The County did not really have the authority to bind themselves to do that for the Agency. The time is past to test this in any formal way, and we need to move on from this item all together. Mr. Frue noted that Buncombe County leased the property from the Schools and the County sublet the property to Air Quality. If the lease agreement is terminated for any reason or at the end of the lease, any improvements to the property would go to Buncombe County Schools free and clear. The only thing missing is a formal agreement to end the lease, and this would be a good time to consider terminating that lease agreement between Air Quality and Buncombe County. Since the Agency, by agreement, cannot own any real property, that would mean that the Agency would not have standing to be reimbursed for the current perceived value or construction cost of the building, as it is not an asset of the Agency. This met with a lengthy discussion and it was decided that this subject would be discussed at the next Board meeting in November. Mr. Frue said the City and the County can always terminate the interlocal agreement within three months’ notice prior to the end of the fiscal year. The lease agreement was for 40 years (through 2034) with the option of five, five-year extensions. Ms. Featherstone said that the Agency had seen a reduction in building maintenance and utility costs, and the Agency is more centrally located in the current shared space provided by the County. When Haywood County was part of the Agency, the Mt Carmel address was a good office location. Mr. Storrow asked Mr. Frue to research terminating the lease agreement. He asked staff to look at indirect savings we have received over

budget years. The Board will table the termination of the lease agreement until the next Board meeting if the information is available at that time. Mr. Frue did not think it was necessary to terminate the lease to amend the Interlocal.

The Board accepted the name of Asheville Buncombe Air Quality Agency.

Mr. Whisnant moved to approve recommendations to change the name of the Agency and update the interlocal agreement. Dr Couzo seconded the motion.

Voting was conducted by roll call.

Ms. Cloninger-abstain

Mr. Whisnant-yes

Dr. Couzo-yes

Mr. Koon-yes

Mr. Storrow-yes

The motion passed 4-0 with 1 abstention.

C. Rebranding and Agency Logo

Included in the Board packet is an updated version of the Agency logo with the proposed name. This includes changes made in response to Board suggestions. The first graphic shows the business card. We now have three proposed website names that are available for us to select. Mr. Perrone has left the County, but his department can complete the process. Board comments requested that the phone and fax numbers line up vertically and the website be all in the same dark blue color as it would be visually less busy. Board support was given for “abairquality.org” as the new official website address for the Agency.

Mr. Whisnant moved to accept recommendations with stated modifications and adopt the change in the Agency logo and website name subject to the final approval of the interlocal agreement. Ms. Cloninger seconded.

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.

V. Director’s Report:

A. Buncombe County Building Study and Office Relocation Update

The Buncombe County Commissioners have approved the study. They are currently looking for an architect. Our Agency will move to 35 Woodfin along with other forward-facing departments We have filled out a preliminary survey with our needs and wants, and we will have an opportunity to discuss our needs with the architect. The building study is why we moved to 30 Valley Street. It is good to have all our offices and the Board room under one roof. Teleworking is permanent. We are working in the office one or two days a week. Mike Matthews still has his office in Permits and Inspections and he is not teleworking. Instead of four spaces, Kevin Lance, James Raiford, Betsy Brown, and Alex Latta, are sharing two spaces. Currently we are sharing a multifunction printing device with Environmental Health. We had budgeted \$5,000 for a new multifunction printer in this year’s budget. This has enabled us to postpone that expenditure. The County has a tracking system which tracks our printer use for billing purposes.

B. Monitoring Update

Mr. Lance said that he has good news on the monitoring side. About a month ago the EPA contacted the Agency and told us that there was about \$50 million from the American Rescue Act made available for enhanced air quality monitoring. This is going to be a direct award. We were asked to submit a spreadsheet with our needs. About two weeks ago we sent a spreadsheet with our requests. Our total request was \$168,164. He did not feel confident that we would get all of that but felt it is a good possibility that we would get a healthy portion of it. This will really help the Agency. With our population estimates the Agency will be required to run a PM10 monitor in the next couple of years or so. Our ozone equipment is older. We requested PM10 equipment and ozone equipment replacement. The EPA deadlines for Region 4 to submit requests have passed. The Agency Award will occur next year. This is quick for the EPA.

We run co-located PM2.5 monitors, so we run two PM2.5 monitors and will run one PM10 monitor. We also run a toxics monitor and an ozone monitor. This would be a onetime grant award. We would have to submit a budget amendment to the County for whatever amount we are awarded. It would be great for the Agency to receive funds to pay for the PM10 monitor and to replace an aging monitor.

C. COVID-19 Update

Buncombe County does have a mask mandate in place. We are wearing masks when we are around other people in the building. Permits and Inspections is limiting the number of people requesting permits in the building. They are asking people to sign up and wait outside to get called to be served. Visitors are required to wear masks in the building. Staff are required to submit vaccination proof or submit a negative Covid 19 test result weekly.

Buncombe County received funds from the American Rescue Act. They have accepted applications for those funds. Betsy Brown is helping the County review applications. She is on the Environmental and Energy Team for Buncombe County.

After the flood event due to hurricane Fred, Mike Matthews helped the Building and Planning Departments to access the damage and get the data needed for the County be eligible for disaster relief funds.

Alex Latta has participated in Mindworks program with the County. Mindworks deals with strategic innovation in government programs.

James Raiford is working with the IT department to get us up and running with Accela, both online permits and our complaint module.

In addition to our regular air quality duties, there is a lot going on with the County right now.

D. Buncombe County Landfill Permit Update

We have been working with the State and Buncombe County Solid Waste to take the landfill permit back under our jurisdiction. This is taking longer than we had hoped. We were required to give the facility a 60 days' notice that we would be issuing a new permit. Then there is a 45 day EPA review period and a 30-day public notice.

Solid Waste plans to submit a brief application with updated information early October. We hope to have a draft permit ready in November. We do not expect it will be brought before the Board until the January Board meeting.

We shared information with Solid Waste about our fee changes. We modeled our Title V fee updates after the State of NC so the changes in their fees would be

similar. The State's fee changes were held up in legislative review. They have been included in the budget bills so when those pass they will be final. The State DAQ has separate bills in the House and Senate in case the fee changes do not get passed in the budget. Their fee updates passed the EMC (Environmental Management Commission) and have support from the regulated industry and other stakeholders. They expect their fee increase to go into effect this year, and if not this year, then next year.

We waived the application fees for Solid Waste for this permit. We did not want to ask them to pay a fee. We gave up the permit because we had an employee sharing arrangement in 2014. Our Director was also Director of Solid Waste. We will now get that fee revenue. The landfill air quality permit fees were about \$10-11 thousand per year. The annual fees for this permit, with the fee changes, will probably be closer to \$17 to \$18 thousand. There is a lot of interest from the County Commissioners in the landfill, so we are glad that we will be handling the air permit.

E. EPA's Advance Program

We had a presentation from the EPA about this program. It is voluntary, a technical support program for air agencies if in attainment, meeting the standards for fine particles and ozone. The EPA can do an analysis of the area and give us an idea of where most of our emissions are coming from. This is a collaborative partnership type arrangement. We would commit to join and address PM or ozone or both. Buncombe County has made energy efficiency and reducing greenhouse gases priorities. Reducing GHG has the co-benefit of reducing fine particles and ozone. There are projects and grant funding out there for emissions reductions that are all voluntary. This may be an opportunity to do some projects like we have before, such as the diesel retrofits on older school buses and fire engines. There is funding out there now to replace equipment, such as electric buses and electric trucks. One project might be to replace tractor trailers that carry waste from the transfer station to the landfill. There may be programs for us to look at and we wanted to share this with the Board and the Advisory Committee. There is minimum commitment required. This gives us an opportunity to partner with other groups in the area on environmental projects. The Advisory Committee can review and advise the Board.

F. Facility Permit Renewals

We went through a cycle of three years without any permit renewals. This was because the State legislature mandated that small permits be for a minimum of 8 years. What we have been providing to the Board on these is our most recent inspection. We do periodic inspections, but we always do an inspection 6 months prior to renewal. The inspection reports for these facilities were included in the Board packet. We review the permits to see if anything needs to be updated.

Facility Name	Type of Facility	Facility Classification	Location	Changes from Existing Permit
B.V. Hedrick Gravel & Stone – Grove Stone Quarry	Stone Crushing & Processing Facility	Small	Old U.S. 70, Swannanoa	List specific engines that could be subject to federal standards if they operate at the same site for 12 consecutive months
B.V. Hedrick Gravel & Sand – North Buncombe Quarry	Stone Crushing & Processing Facility	Small	100 Goldview Road, Weaverville	List specific engines that could be subject to federal standards if they operate at the same site for 12 consecutive months

Ingles Markets, Inc.	Grocery Distribution Center	Small	US Highway 70, Black Mountain	None
Southern Concrete Pond Road	Ready-Mix Concrete Facility	Small	80 Pond Road, Asheville	None
Vulcan Construction Materials, LLC	Stone Crushing & Processing Facility	Small	Smokey Park Highway, Enka	Add permit condition for initial testing of equipment subject to 40 CFR Part 60 Subpart OOO

Mr. Koon moved to approve the permit renewals. 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.

G. Facility Permit Modification

This does not require a permit modification, but the facility and the Agency wanted to update their permit.

Facility Name	Type of Facility	Facility Classification	Location	Changes from Existing Permit
Jacob Holm Industries	Non-woven fiber manufacturing facility	Synthetic Minor	Sand Hill Road, Enka	Replace baghouse with control device that exhausts indoors

Ms. Cloninger moved to approve the permit modification for Jacob Holm Industries. Mr. Koon 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.

VI. New Business:

None

VII. Other Business:

A. Legal Counsel Report

Mr. Frue said the main issue here is what standing does the Air Quality Board have in terms of that leased property, the lease itself or ownership of property as discussed. Per the interlocal agreement the Agency cannot own real property. Any personal property the Agency had, would be the property of Asheville and Buncombe County as the establishing units.

Mr. Frue reviewed the definitions and sections about exercising power in interlocal agreements. Air Quality is a joint undertaking. It is a program only.

By the interlocal agreement the County would control Finance and HR for the entity.

Legal title is owned by participating units; so, there is really nothing in play for the Board to own or enforce with regard to Mount Carmel Road.

Revenues and expenditures are determined for any undertaking by the participating units. It was anticipated that Air Quality would be self-supporting and any shortfall for budget purposes would have to be reported to the units. If either entity declined to fund it, then that is an automatic termination of the interlocal agreement.

The Air Quality Board is not a body politic; it has no corporate power. It continues as a program of the County and the City. In that respect it is like the Planning Board or the Board of Adjustment. Air Quality serves the same kind of function.

Air Quality has a very short lease. It does not have an automatic early termination. The County can terminate the lease immediately without notice or pause if they determine there is a breach of the lease. The lease can be modified by both parties with a written agreement.

A Board member noted that this sounds like the Air Quality Board does not have to do anything. Mr. Frue said he views the continuation of the sublease as a loose end. Mr. Frue is unaware if Air Quality has paid the County \$1 each year due on September 1. Mr. Frue said he preferred it be a mutual agreement than a unilateral termination for any reason. There is a mechanism to end this lease that we do not need. Section 6 of this lease may be modified only by written agreement signed by the lessor, Buncombe County, and the lessee, Air Quality. All the Board needs to do to terminate lease is to execute the mechanism.

We can wait until the next meeting. Mr. Storrow asked Mr. Frue to write up the specific language to that effect for the next Board meeting. Mr. Frue said that he would write up and send to Ms. Featherstone. He was asked to include the documents that he cited in this discussion.

1. Future Virtual Meetings Discussion

The virtual meetings are only authorized during the Governor's or Legislature's state of emergency. The current Executive Order (EO) is in effect through November 29. We will have to see what happens after November 9, for future virtual meetings. The discussion was that if we are amending our bylaws, that we might want to include a mechanism for continued virtual meetings. The General Assembly might make that a possibility. Many people like virtual meetings. Even the press is in favor of them because more people can see and hear the meeting in live time. Once the EO ends what allows virtual meeting terminates. To have a meeting you must have a quorum present at some location.

If an Executive Order does not authorize it, Mr. Frue would always advise having a quorum present in the place called for the regular meeting. It is fairly common for local bylaws to allow participation remotely by telephone. It is probably safe to say by phone or virtual means. He would still say that a quorum would have to be present in some location. If the EO was not in effect and a board had a virtual meeting, would it count? Mr. Frue did not have an answer. Mr. Frue has not seen any provisions or actions filed to allow for virtual meetings. The Board will wait to hear from Mr. Frue if things change. The Board can amend bylaws if or when a bill allows provisions for that ability. Mr. Raiford said that technology wise we would continue to have a Zoom component to the meetings. It eliminates the need to use the camera to record. Ms. Featherstone noted that the by-laws are a separate document and would need to have the Agency name updated where it appears in that document. The by-laws are the property of the Board. We would need to take formal action as a Board to amend the by-laws when the name change is official, but this action would not need to go before the City or County.

B. Advisory Committee Report

1. Next meeting is October 18, 2021

Dr. Couzo said that the next meeting is October 18. Ms. Featherstone sent out a Zoom invite. Dr. Couzo has a couple things to run by the Advisory committee such as low-cost monitoring. The committee plans to talk about how to go about finding additional members at the next meeting, whether to advertise and reach out to specific individuals. The committee will also talk about the Clean Air Excellence Awards. Some of the committee members had some ideas about publicity for the award.

C. Calendar

1. Next regular scheduled meeting is November 8, 2021

The next meeting is November 8, not November 9 as was on the agenda.

D. Announcements

Mr. Koon is on the Steering Committee for the County's Comprehensive Plan for 2043. This is a 30-year plan. All County departments have the opportunity to participate.

VIII. Public Comment

There were no public comments for this Board meeting.

IX. Adjournment

Ms. Cloninger moved to adjourn the meeting. Dr. Couzo seconded the motion. Voting was conducted by roll call.

Dr. Couzo-yes

Mr. Whisnant-yes

Mr. Koon-yes

Ms. Cloninger-yes

Mr. Storrow-yes

The motion passed 5-0.

The meeting was adjourned at 5:24 pm.