

MINUTES
STATE AIR POLLUTION CONTROL BOARD MEETING

WEDNESDAY, JULY 7, 2021

The Westin Richmond
6631 West Broad Street
Richmond, Virginia 23230

Board Members Present:

Kajal B. Kapur, Chair
Richard D. Langford
Gail M Moore
Joshua G. Behr

Staci F. Rijal, Vice-Chair
Dr. Lornel G. Tompkins
Hope F. Cupit

Board Members Absent: None

Department of Environmental Quality:

David K. Paylor, Director

Cindy M. Berndt

Attorney General's Office:

Jerald Hess, Assistant Attorney General

These minutes summarize activities that took place at this Board meeting. The meeting was convened at 10:03 a.m., recessed at 12:04 p.m., reconvened at 12:24 p.m., and adjourned at 1:48 p.m.

Minute No. 1 - Election of Officers: The Board, on a motion by Ms. Moore and seconded by Ms. Rijal, unanimously elected Ms. Kajal Kapur Chair of the Board. On a motion by Ms. Cupit and second by Ms. Kapur, the Board unanimously elected Ms. Rijal Vice-Chair of the Board.

Minute No. 2 - Review and Approval of Agenda: The Board, on a motion by Ms. Cupit and seconded by Dr. Tompkins, unanimously approved the agenda with two additions: consideration of a new appointee to the Public Engagement Committee and discussion of Board member/public communication. In addition, the Board discussed, for those attending the meeting, the prior removal of the Mountain Valley Pipeline, LLC Lambert Compressor Station draft permit from the agenda.

Minute No. 3 - April 23, 2021, Minutes: The Board, on a motion by Mr. Langford and second by Ms. Moore, the Board unanimously approved the minutes from the Board's meeting on April 23, 2021 with a correction to the date of the September 2021 meeting in Minute 9.

Minute No. 4 - Update on Environmental Justice Activities: The Board received a report from Mr. David K. Paylor regarding the Department's environmental justice activities, including activities being undertaken by the director of the new environmental justice office and the status of development of environmental justice communities.

Minute No. 5 - Director and Division Directors' Report: Mr. Paylor updated the Board on the agency response to COVID-19. Mr. Dowd updated the Board on pending regulatory actions (site-suitability criteria, greenhouse gas emissions inventory, and advanced clean cars), pending permits (Lambert Compressor Station), and RGGI.

Minute No. 6 - Public Engagement Committee Update: Ms. Kapur provided the Board with an interim report from the Public Engagement Committee and reviewed the report with the Board.

Ms. Kapur presented motion 1 which read: that the Board direct the Department to develop a list of disadvantaged/environmental justice communities; that the communities on the list be defined geographically at a level no larger than the census tract level; that the Department identify the communities using a blend of available data (census data, economic data, race data, etc.) to identify the communities consistent with the current definition of a disadvantaged/environmental justice community as contained in Virginia law; and that the Department provide the Board with the list and publish the list.

After Board discussion, Mr. Langford moved to table consideration of motion 1 until the Department's environmental justice office has had an opportunity to review and provide input to the Board. The motion passed unanimously.

Ms. Kapur then presented motion 2 which read: that the Board direct the Department to initiate a regulatory process to amend those elements of the public participation process that relate to development and review of permit applications so as to broaden public outreach, address the complexities of public participation by environmental justice communities and provide more clearly and more precisely defined language within the regulations; that the amendment process consider (1) requiring a permit applicant seeking a permit for a facility located in or near an environmental justice community to develop a specific, particularized public outreach/education/engagement plan that the applicant submits to the Departments' senior environmental justice director for approval, rejection or modification; (2) creating baseline/minimum requirements or performance standards for any such public outreach/education/engagement plan that would include but not be limited to, for example, use of multiple social media platforms (i.e., more than a single notice in a local newspaper), placement of signage at and/or near the proposed facility site, outreach to local faith communities, language needs (e.g., Spanish), etc.; and (3) requiring that any public information meeting or public hearing be held on a weekend with the environmental justice community.

After Board discussion, Mr. Langford moved to table consideration of motion 2. Ms. Rijal seconded and the motion passed 6 to 1 with Ms. Kapur voting no.

Lastly, Ms. Kapur reviewed for the Board additional follow-up items from the Committee's work and Mr. Paylor provided the Board with updated information if new information was available.

Minute No. 7 - Public Engagement Committee - Addition of Member: The Board on a motion by Mr. Langford, seconded by Ms. Cupit, unanimously approved the appointment of Ms. Rijal to the Public Engagement Committee.


Minute No. 8 - High Priority Violators Report: The Board received a report on High Priority Violators for the Second Quarter of 2021 from Ms. Kerri Nicholas.

Minute No. 9 - Board Member/Public Communication Discussion: The Board discussed communications between Board members and the public. The Board was reminded of the best practices prepared by the Department and the Attorney General's Office on this subject, but were reminded that there was no legal prohibition on individual members talking to the public. During the discussions it was pointed out that substantive communications needed to be included in the agency record, and that the statute would control what could be considered by the Board when rendering a decision; e.g. for permitting the statute provides that the Board consider public comment received during the public comment period.

Minute No. 10 - Public Forum: The following persons appeared during the public forum: Katie Whitehead, Rod Morgan (Protect Hanover), Glen Besa, Mary Jones, Joshua Vana, Jessica Sims. Topics of discussion included health impacts of projected emissions, public outreach, emergency generator permitting at the proposed Wegmans Distribution Center, new advanced recycling industry should be major permit, regional haze rule, livestreaming of Board meetings, public comment period on periodic review of public participation guidelines.

Minute No. 11 - Public Participation Guidelines Public Comment Period: The Board, on a motion by Ms. Rijal, seconded by Ms. Kapur, approved extending the public comment period on the periodic review of the Public Participation Guidelines to at least 60 days. The vote was 6-0-1 with Mr. Langford abstaining.

Minute No. 12 - Future Meetings: The Board confirmed September 17 and December 3, 2021, as the dates of their future meetings. In addition, the Board discussed the possibility of a 2-day meeting in September.


Cindy M. Berndt

Approved December 2-3, 2021 Meeting