



Minutes of the Clark County

Air Pollution Control Hearing Board Meeting

February 5, 2015

I. CALL TO ORDER

Vice-Chair Karen Purves called the meeting of the Air Pollution Control Hearing Board to order at 1:32 p.m. A quorum was present and Affidavits of Posting of the agenda were provided as required by the Nevada Open Meeting Law. The Affidavits will be incorporated into the official record.

PRESENT: Karen Purves, Vice-Chair
Tom Foster, P.E.
William Kremer
Craig Schweisinger
Evan S. Wishengrad, Esq.
Melvin Zeldin

LEGAL COUNSEL: Ofelia Monje, Esq., Counsel for DAQ

DAQ STAFF: Gary Miller, Compliance and Enforcement Manager
Lewis Wallenmeyer, Director
Araceli Pruett, Administrative Secretary

OTHERS

PRESENT: Maurice Messih, 24-Seven Gas and Food Mart; Michelle Reily, Big Daddy Oil; Wendy Philley, Big Daddy Oil; Travis Seegmiller, Big Daddy Oil; Chuck Richter, DAQ; Shibi Paul, DAQ; Lea Kain, DAQ; Jeffrey Robb, DAQ; Tim Fogarty, DAQ; Scott Rowsell, DAQ; Camon Liddell, DAQ; Anna Sutowska, DAQ; Andrew Kirk, DAQ; Scott Jelinek, DAQ; Mike Sword, DAQ; Phillip Wiker, DAQ; Russell Roberts, DAQ

APPROVED APC HEARING BOARD
DATE: 2/9/15
BY: apmest
Board Secretary

II. PUBLIC COMMENT

There were no public comments.

III. OATH OF OFFICE

1. William Kremer (Citizen Member)
Mr. Kremer took the Oath of Office. His term will expire October 6, 2017.
2. Melvin Zeldin (Citizen Member)
Mr. Zeldin took the Oath of Office. His term will expire October 6, 2017.
3. Karen Purves (Citizen Member)
Ms. Purves took the Oath of Office. Her term will expire November 15, 2017.

IV. ELECTION OF VICE-CHAIR

Vice-Chair Purves asked for any nominations for a new Vice-Chair. Board Members Purves, Schweisinger, and Wishengrad nominated themselves for the position. Each nominee was given an opportunity to make a brief statement about their candidacy. Following these statements, Vice-Chair Purves questioned how to proceed with voting and whether it should be done one at a time. Mr. Miller implied a motion should be made when the board was ready to move on to voting. Vice-Chair Purves asked if there was a motion to move to vote. Board Member Schweisinger made a motion to move to vote, which was seconded by Board Member Wishengrad. Vice-Chair Purves asked those in favor of Mr. Wishengrad taking the position of Vice-Chair to signify by saying aye. The motion was affirmed by Board Members Schweisinger, Wishengrad, and Foster. It was opposed by Board Members Purves and Zeldin. Board Member Kremer abstained. The motion carried on a majority vote. Board Member Wishengrad was elected Vice-Chair.

V. APPROVE MINUTES OF JUNE 12, 2014

Vice-Chair Purves called for changes, questions, or comments to the June 12, 2014 minutes. Being none, Board Member Schweisinger made a motion to approve the minutes, which was seconded by Board Member Wishengrad. Vice-Chair Purves asked those in favor of approving the June 12, 2014 minutes to signify by saying aye. The motion was affirmed by Vice-Chair Purves and Board Members Foster and Kremer; Board Member Zeldin abstained. The motion carried.

VI. OVERVIEW OF NEVADA OPEN MEETING LAW

[This item was moved later in the agenda after Item VII, Matters Requiring Board Discussion/Possible Action].

Deputy District Attorney Ofelia Monje provided an overview of the Nevada Open Meeting Law (OML) and members were presented with a handout highlighting areas of OML (copy attached as Appendix A). Board Members were also provided a copy of the OML, Eleventh Edition, dated June 2012.

VII. MATTERS REQUIRING BOARD DISCUSSION/POSSIBLE ACTION

[Board Member Schweisinger questioned whether the meeting should be turned over to the new Vice-Chair. Counsel Monje stated Ms. Purves could proceed as Vice-Chair and that her term would run until the end of the meeting.]

A. APPEALS

1. **BIG DADDY 1, LLC (Source: 9409) – NOV #8479** – Big Daddy 1, LLC is appealing the Air Pollution Control Hearing Officer's Order. On May 28, 2014, the Hearing Officer found Big Daddy 1, LLC in violation of Air Quality Regulations Subsections 12.8.1, 52.4(a)(1), 52.5(a)(1), 52.6(a)(1), and 52.7(b)(1) (Permit Conditions IV-B-1-e, IV-B-2-f, IV-B-2-g, IV-F-1-b, IV-F-1-I, IV-F-3-a, IV-E-1, IV-E-2, IV-G-2, and IV-G-4) for failing to maintain all Phase I and Phase II vapor recovery equipment in a leak free, vapor tight condition, and in good working order; for installing a Venturi hose in the reverse direction recommended by the manufacturer; for failing to notify Air Quality and conduct annual performance testing prior to the anniversary date of the previous performance test that the source passed; and for failing to provide records of Phase I and Phase II vapor recovery equipment inspections for review, identified during a full compliance evaluation conducted on September 23, 2013 at the Big Daddy's Lamb Gas & Mini Mart Gasoline Dispensing Operation, located at 551 North Lamb Boulevard in Clark County, Nevada. A \$9,000 penalty was assessed.

Michelle Reily, Wendy Phillely, and Travis Seegmiller appeared on behalf of Big Daddy Oil. Vice-Chair Purves asked DAQ to move forward with a summary of the appeal.

Counsel Monje pointed out the agenda lists the action item for this matter as "present Settlement Agreement for Board's approval," adding DAQ was not ready to present the agreement for approval. Because of the way the action item was listed, she did not feel there was proper notice to proceed with hearing the appeal per the Open Meeting Law (OML) and that discussion would be limited to the Settlement Agreement. Ms. Monje deferred to DAQ to provide an update on the status of the agreement.

DAQ Compliance and Enforcement Manager Gary Miller referred to the Settlement Agreement included in the board books and provided a status update on the agreement. The subject agreement was sent to Big Daddy in December 2014 with a request that they review the document and, if they agreed to the terms therein, to return the signed original. It was also requested that they contact DAQ staff to discuss the development of a training plan. One of DAQ's concerns was the apparent lack of understanding of the requirements of the operating permit and federal regulations concerning gasoline dispensing facilities among source personnel; therefore, DAQ recommended a training plan be developed to address those requirements. In January 2015 DAQ staff notified the source it had not received the signed agreement, nor any response from them. DAQ received the signed agreement on January 12.

The parties eventually met on January 28 to discuss the training plan and terms of the agreement. At that time the source submitted a draft plan, which did not meet the department's satisfaction, and DAQ recommended the plan be amended to meet the requirements of the operating permit. DAQ established deadlines for the source to return the amended plan to allow adequate time to review the plan before this meeting. The amended training plan was submitted in the late

afternoon the day before the meeting, February 4, and remained deficient. Staff has inspected the source and they have complied with the items addressed in the subject NOV; however, the training plan remains deficient and DAQ recommends the agreement/plan not be approved until those deficiencies are addressed. Mr. Miller offered that the matter could be continued to the next board meeting to allow the parties to resolve the problems with the training plan. Counsel Monje added the matter would be properly noticed at that time to allow the board to proceed with hearing the matter, if needed, or approve the Settlement Agreement.

Board Member Wishengrad inquired about DAQ's position on the matter. Mr. Miller stated the department would recommend the matter be continued. Board Member Wishengrad felt that was appropriate and made a motion to continue the matter to allow the applicant time to come up with a training plan that is satisfactory to the department. Board Member Schweisinger seconded the motion.

Board Member Foster inquired why action could not be taken today. Counsel Monje explained since the agenda listed the action requested as "present Settlement Agreement for Hearing Board's approval" that is the only item we are able to discuss or proceed on per the OML. The OML requires the actions being requested be clearly written. If we would have added "for other possible action or proceed with the appeal" we would be able to proceed with the appeal. Board Member Foster clarified that the board could approve the agreement. Board Member Wishengrad added it could also deny the agreement, and recited paragraph 4(b)(2) of the agreement on bates stamp 0048 that states the source must develop a training plan. He added the plan was not satisfactory based on staff's summary and it is his understanding is that DAQ is requesting the application be held. Mr. Miller concurred. Counsel Monje pointed out it was Big Daddy's appeal, adding a Settlement Agreement was on the table but DAQ is asking that the matter be taken off the agenda because all the conditions of the agreement had not been met.

Board Member Wishengrad thought it was appropriate to ask the appellant if they agree with a postponement. Vice-Chair Purves felt it was important to allow other board members to ask any other questions they have that might not allow that motion to carry, and would not permit a vote that did not allow all board members to ask questions. Counsel Monje cautioned the board that discussing anything other than the Settlement Agreement could be construed as a violation of OML. Board Member Wishengrad stated since a motion was made and seconded, he believed it needed to go to a vote. Vice-Chair stated further discussion was needed. Board Member Wishengrad responded that board members could deny the motion.

Board Member Zeldin requested the motion be restated. Board Member Wishengrad stated the motion was to continue this appeal hearing until the next board meeting of April 9 to allow the appellant time to come into compliance with the Settlement Agreement so the board could make a determination as to whether they would approve it or not. Vice-Chair Purves reiterated the motion was made and seconded to not take further action on the Settlement Agreement today and to continue the item until it can be properly noticed. At that time she opened the motion to debate. Counsel Monje added proper notice would be given to allow the board to proceed with the appeal or to do something other than what was noticed for today's meeting.

Vice-Chair Purves referred to the Settlement Agreement on bates stamp 0047-0049 and stated, based on DAQ's summary, it appeared everything in the agreement has been complied with except the training plan, asking if that was correct and if DAQ has a copy of the plan. Mr. Miller

stated a plan was submitted late yesterday and staff reviewed it this morning. Vice-Chair Purves asked if the board members would have the opportunity to see the plan today. Mr. Miller did not have a copy of the plan. Big Daddy representatives stated they had copies. Vice-Chair Purves referred to Mr. Wishengrad comments that Big Daddy agreed to develop a training plan and it was her understanding they are showing good faith in trying to establish a training plan. Mr. Miller responded that the plan submitted had deficiencies. She clarified that the plan does not meet the standards necessary for DAQ to want to proceed with the agreement. Mr. Miller concurred. Board Member Schweisinger asked if those deficiencies have been provided to Big Daddy. Mr. Miller responded the source has been notified on multiple occasions of what they needed to include in their training plan.

Board Member Wishengrad recited paragraph 4(b)(4) of the agreement that state the parties will meet to discuss what is expected of the training program. He also recited paragraph 5 of the agreement that states compliance with the agreement would fully resolve the NOV. He added that he would not support an agreement knowing there are outstanding issues.

Vice-Chair Purves asked if a copy of the plan could be presented. Big Daddy staff stated they could provide a copy. Board Member Wishengrad pointed out a motion was pending; Board Member Schweisinger agreed stating this was a discussion about the mechanics of working on the plan and called for the question. Vice-Chair Purves responded per the rules of order once the motion is moved and seconded, there is an opportunity for debate and that is what she was calling for at this time. Board Member Schweisinger felt debate was among the board members and did not include questioning the appellant.

Board Member Foster pointed out the agreement does not state the plan must be approved by the département nor does it identify any deadlines, and inquired about what has not been complied with. Mr. Miller referred to paragraph 4(b)(2) of the agreement, stating it would help the source meet operating permit and regulatory requirements. DAQ negotiated this settlement in good faith that Big Daddy would follow through and there were numerous attempts to get the source to meet with staff to work on the plan. Board Member Foster felt a deadline should have been stated in the agreement as well as the requirements of the plan. Mr. Miller responded the operating permit is clear about what is needed in their Phase 1 and Phase 2 operations and that these deficiencies were identified in the NOV. Mr. Miller concluded that deadlines were provided before the hearing and DAQ did not receive anything until late yesterday.

Mr. Miller reported many of the deficiencies observed by DAQ are due to lack of training among personnel and helping sources develop training plans has been successful in addressing these issues. The agency's goal is to get compliance and the best way to achieve that is to have the source develop a training plan to help them deal with permit and regulatory requirements. Board Member Foster inquired about the problems with the draft plan submitted by the source. Mr. Miller responded the plan was deficient in addressing Phase 1 and Phase 2 permit requirements and suggested the source look at its permit and amend the plan to address those areas.

Ms. Reilly pointed out that Mr. Seegmiller was hired to help them develop a training plan with the goal of having a system in place for staff to refer to regardless of who comes and goes. She added, although the plan did not meet DAQ's standards, it is the beginning of something that will help them comply with all regulations. Board Member Wishengrad acknowledged their efforts and questioned if it was the source's position then to hold the appeal so they could develop a

sufficient plan and return at next board meeting to have the agreement approved. Ms. Reilly concurred.

Board Member Zeldin questioned if the motion is passed and the matter is continued to the next board meeting, would the penalty be held in abeyance until that meeting. Mr. Miller concurred.

Vice-Chair Purves called for a vote on the motion. Board Member Schweisinger asked that the motion be repeated prior to the vote. Vice-Chair Purves reiterated the motion was to continue the item for possible action- Big Daddy, NOV #8479- until the next meeting, asking all of those in favor to signify by saying aye. The motion was affirmed by Board Members Foster, Kremer, Schweisinger, Wishengrad, and Zeldin; and was opposed by Vice-Chair Purves. The motion carried on a majority vote.

2. **24-SEVEN GAS AND FOOD MART, LLC (Source: 17232) – NOV #8609.** On November 19, 2014, the Hearing Officer found 24-Seven Gas and Food Mart, LLC in violation of Air Quality Regulations Subsections 12.1.3.1, 12.1.4.1(d), 12.1.4.1(f), 40 CFR 63.11115(a), 40 CFR 63.11118(b)(1), and 40 CFR 63.7(a)(2) (Permit Conditions IV-B-1-b-ii, IV-B-1-b-iii, IV-B-1-d-iii, and IV-D-4-a) for operating a Gasoline Dispensing Operation (GDO) from August 1 through December 25, 2012 without the authority of a Minor Source Permit issued by the Clark County Department of Air Quality; for failing to install vapor recovery and product adaptors that prevent loosening or over tightening of fittings during normal delivery options; for failing to maintain all Phase I vapor recovery equipment to be leak free and vapor tight and in good working order; and for failing to conduct initial vapor recovery system testing required by the permit and failed to conduct vapor recovery testing for 2013, identified during a full compliance evaluation conducted on April 9 and 11, 2014 of the 24-Seven Gas and Food Mart GDO, located at 2424 East Russell Road in Clark County, Nevada. 24-Seven Gas and Food Mart, LLC appealed the Air Pollution Control Hearing Officer's Order.

Maurice Messih appeared on behalf of 24-Seven Gas and Food Mart. Vice-Chair Purves asked for the department's position on the appeal.

Mr. Miller reported that the violation was issued due to deficiencies identified in the source's operation by DAQ staff. He added that the source took action to correct those deficiencies. The matter went before the Hearing Officer and a penalty was assessed, which led to the appeal. He referred to the Settlement Agreement included in the board books (bates numbers 0051-0052), stating the parties worked together to reach a solution that will provide DAQ with the information needed to calculate the source's throughput over the next couple of years and determine whether or not the source needs a permit. The source's permit application listed its throughput at over 2 million gallons, but the actual has been must less than that. It is the department's policy to have three years of data to determine the throughput. The previous owner of the facility had much higher throughputs. He concluded that 24-Seven has agreed to comply with all of the requirements of its current operating permit and DAQ feels the agreement is fair and reasonable and recommends board approval.

Board Member Wishengrad felt the terms of the agreement were fair and moved to approve the Settlement Agreement, which was seconded by Board Member Kremer. Vice-Chair Purves noted a motion had been moved and seconded and inquired whether the appellant had any comments. Mr. Messih stated all of his staff has been properly trained on the documentation process and

feels they are on the right track. Vice-Chairman Purves asked if there were any further questions by board members. Being none, she called for a vote on the motion to approve the Settlement Agreement asking those in favor of approving the agreement to signify by saying aye. It was met by a chorus of ayes. There were no oppositions. The motion passed unanimously.

VIII. REPORT BY DAQ STAFF

DAQ Director Lewis Wallenmeyer welcomed the board members and thanked them for their voluntary service. He provided a brief background on the department for the new members. DAQ staff presented a Power Point of current activities in their respective divisions.

Regulatory Developments

DAQ Principal Air Quality Specialist Russell Roberts updated the board on the Regulation Improvement Project (RIP), which was initiated in 2005. A large focus of the project has been the permitting rules¹, found under Section 12. He provided a historical background, current status, and future steps on the RIP.

Historical highlights include: 16 revisions completed in November 2009, January 2010, and May 2010; revisions to Sections 0 and 12.2 incorporating Greenhouse Gas requirements completed in 2011. Current highlights include: in October 2012, EPA partially approved and disapproved the Section 12 rules, starting an 18 month sanction clock mandating the rules be fixed to avoid penalty provisions of the FCAA; in March 2014, DAQ submitted a revised rule package that consisted of 47 individual changes to Sections 0, 12.0-12.4; in October 2014, EPA acted to approve the Section 12 rules into the Nevada SIP. DAQ now has fully approved permitting rules. Future project highlights include revising Section 12.11 (General Permit rule), Section 18 (Fees), Section 25 (Upset/Breakdown), and Section 26 (Emission of Visible Air Contaminants) to include a test method; and incorporating various terms from Section 1 into Section 0.

Board Member Kremer inquired about other areas of nonattainment in Nevada. Mr. Roberts reported 15 of the 17 counties in Nevada are under the jurisdiction of Nevada Division of Environmental Protection, but he does not believe any of those 15 areas are under nonattainment. He believes Pahrump is near nonattainment for PM₁₀ and Washoe County either is or was in nonattainment for a number of National Ambient Air Quality Standard (NAAQS). He explained the implications of attainment/nonattainment on major sources, adding that Section 12.2 (attainment rule for major sources) is easier to comply with and less expensive than Section 12.3 (nonattainment rule for major rules). Section 12.3 is much more difficult and expensive and requires a source to offset their pollution increase so the net increase is zero and use the lowest achievable emission rate (LAER) instead of best available control technology (BACT), which 12.2 allows for. If we go back into nonattainment major sources would be subject to Section 12.3.

Board Member Wishengrad inquired about how to ensure we do not go back into nonattainment with new major sources. Mr. Roberts responded that stationary sources, both minor and major,

¹ Regulations and rules are used intermittently throughout these minutes. They are, in fact, one in the same— both are references to the Clark County Air Quality Regulations.

have not been the reason for air quality problems, and that most of those problems coming from dust-related issues. This could change with the new 2008 Ozone standard. Carbon monoxide problems come from cars and fuel and ozone problems come from transport from other problems

Planning Division

DAQ Planning Manager Mike Sword provided an overview of program responsibilities of the planning division.

- *Public Outreach* There was discussion about the types of events where public outreach efforts are made. DAQ is trying to expand its efforts to target the community at large by attending events beyond environmental-related causes, such as mall health events, seasonal events, and cultural events. The department is open to any suggestions for expanding its outreach efforts and audience.
- *Status of NAAQS.* The board was updated on Clark County's attainment/nonattainment status for the current NAAQS. Clark County is in attainment and maintenance status for the 1997 Ozone standard, PM₁₀, and Carbon Monoxide (CO). The County is attainment or unclassifiable for Sulfur Dioxide (SO₂), nitrogen dioxide (NO₂), P.M._{2.5}, Lead (Pb), and 2008 Ozone Standard (O₃). We are unclassifiable for O₃ because EPA has chosen not designated for that standard and a new standard is being released this year. DAQ has taken proactive steps by joining EPA's Ozone Advance program, a collaborative effort between the agencies to help participants stay in attainment. This program allows DAQ to identify how it will control some of the precursors that form ozone. It serves as a demonstrative and proactive effort to deal with potential nonattainment challenges and also acts as a shield against potential lawsuits.
- *Alternative Fuel Vehicles.* There was discussion about expanding the use of alternative fuel vehicles and electric car charging stations in the County. Board Member Wishengrad inquired about potential partnerships and funding opportunities with these types of car manufacturers to expand their presence here. Mr. Sword stated the department has explored various partnerships opportunities and had funding issues, adding that most of these types of efforts are done on a grander scale than that of a local agency. He added that the department would be meeting with a company to discuss a hydrogen refueling facility. Board Member Zeldin pointed out one or two strip casinos have installed electric charging stations. Mr. Sword referred to the Ozone Advance program discussed earlier that captures some of the efforts the department has made in its attempt to help the County stay in attainment. This document will be forwarded to board members.
- *New Ozone Standard.* Mr. Sword presented graphs showing an analysis of the New Ozone Standard based on 2013 and 2014 ozone data and explained how the classifications would change if the NAAQS ozone standards are lowered to 70, 69, 68, 67, 66, 65 parts per billion and the probability of the County moving into nonattainment. Although most of the ozone problems are not driven by stationary sources, if the standard is lowered to 65, those sources will have to put in controls that are expensive and labor intensive. Board Member Zeldin added the potential for exceeding ozone standards signifies the importance of gasoline and other facilities operating in compliance with the regulations because it could save the County from higher ozone levels and the costs of nonattainment. Mr. Sword concurred.

- *PM₁₀ Status.* Vice-Chair Purves inquired about the status of PM₁₀. Mr. Sword reported the County was currently in attainment and maintenance for PM₁₀ and should be able to maintain that status.
- *Stratospheric Ozone Study.* There was mention of a 2013 stratospheric intrusions ozone study. A copy of that document will be forwarded to board members.

Monitoring Activities

DAQ Monitoring Manager Phillip Wiker provided an overview of monitoring activities. The primary role of this division is to monitor ambient air quality for criteria pollutants and perform meteorological measurements. This information is used to aid the planning division in their exceptional event studies. The division also has a staff meteorologist who provides daily forecasts, alerts, and advisories to let staff and the public know of the potential for high-level pollutants. This information is available for public access on our website.

- *Monitoring Networks.* The department has monitoring stations throughout the valley. In the northern part of the valley, there are stations in Mesquite, Logandale, Apex, and Indian Springs; however, these sites are only monitored in the summer. The southern part of the valley has stations in Jean and Boulder City. The Las Vegas Valley has seven sites. The department is also looking at acquiring sites in Laughlin and Coyote Springs. The department is still working on a station in Henderson, but is unsure when that will be up and running. There is a potential for the Boulder City site to be moved in two years.
- *Near-Road Monitoring Sites.* Two near-road sites are being installed and will be used to monitor high traffic congestion spots in the valley. The EPA requires one near-road site in populations over 2.5 million and a second site if daily traffic counts exceed of 250,000. One site will be by the Palace Station and the other site is near City of Las Vegas Fire Station #1 near Third Street and the freeway. Both of these sites should be operating by May.
- *Enhanced Monitoring.* The division will begin monitoring at Spring Mountain Youth Camp and is fixing the Upper Air Equipment at North Las Vegas Airport, which will help the department measure the impacts of wildfire and ozone transport by providing a timing of when things occur.
- *Visibility Network.* Pictures from these cameras help identify the presence of smoke and dust plumes transporting into the valley. This information is also used to support studies and exceptional event packages. The department is working with the M Resort to install a camera at the top of the casino that will cover most of the valley; these photos will be available for public access and the camera should be up this summer.

Enforcement Activities

DAQ Compliance and Enforcement Manager Gary Miller provided an update on enforcement activities related to the stationary source and fugitive dust programs.

- *Stationary Source Program.* The compliance division is responsible for evaluating various sources, including major, minor, and synthetic minor, and gasoline dispensing operations (approximately 680). They oversee performance tests and are involved in continuous emission monitoring. This division also reviews emission inventory reports and quarterly/semi/annual reports to ensure the source is operating in compliance within our requirements.
- *Fugitive Dust Program.* The department saw an increase in the amount of dust control permits issued (from 1,677 to 1,931) and site inspections (from 5,377 to 6,978) in 2014 from 2013. The number of complaints reported increased from 956 to 1,073. There will be two implosions this year- the Clarion Hotel will be imploded next week and the Gramercy on Russell Road/215 will be imploded on February 15.
- *Natural Occurring Asbestos.* The board was updated on the Natural Occurring Asbestos (NOA) issue in Southern Nevada. The project has been divided into two phases. The Nevada Department of Transportation (NDOT) is responsible for Phase I portion, covering Railroad Pass to Silverline Road, and a contract is expected to be awarded this month. The Regional Transportation Commission (RTC) is responsible for Phase 2, which covers the stretch of I-II from Silverline Road up to the dam. Las Vegas Paving has been awarded the contract and has submitted an asbestos mitigation plan that is currently under review by the RTC. Construction is expected to begin in late April or early May. Mr. Miller explained the stringent specifications, work practices, project oversight, and monitoring activities that this project will entail. The department has developed new best management practices for this project, which will require the contractor to be aggressive in its mitigation efforts. Third party oversight will be conducted by RTC and NDOT and the project is estimated to take three years. Las Vegas Paving's bid came in at \$225 million, with 3-4 percent of those costs being used to monitor NOA.

IX. IDENTIFY EMERGING ISSUES TO BE DISCUSSED BY BOARD AT FUTURE MEETINGS

None identified.

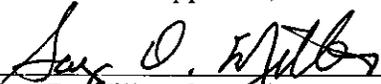
X. PUBLIC COMMENT

There were no public comments.

XI. ADJOURNMENT

Being no further business, Vice-Chair Purves adjourned the meeting at 3:58 p.m.

Submitted for approval,

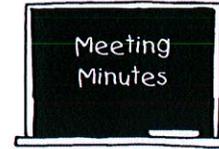


 Gary D. Miller, Compliance and Enforcement Manager
 Department of Air Quality

2/19/2015

 Date

Appendix A



Overview of Nevada Open Meeting Law

Relevant law and resources: You can find the chapter on Open Meeting Law in Nevada Revised Chapter 241. You can also find additional, relevant information in the Attorney General's website located at http://ag.nv.gov/About/Governmental_Affairs/OML/. Also, the Nevada Open Meeting Law Manual is an excellent resource. This is found at <http://www.lasvegasnevada.gov/files/OpenMeetingLaw.pdf>.

Intent: The most important section is found at NRS 241.010, which discusses intent. In enacting this chapter, the Legislature finds and declares that all public bodies exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

Applicable: OML is applicable whenever a quorum of a public body deliberates or takes action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

What is a quorum? A quorum means a simple majority of the constituent membership of a public body or another proportion established by law. Must be a quorum (50%), but avoid "walking quorum" where a series of meeting with a few people add up to a quorum.

What is a public body? This board is a public body, but the definition can be complicated. The definition is found at NRS 241.015(3).

What is a meeting? The gathering of members of a public body at which a quorum is present, whether in person or by means of electronic communication, to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power. Meetings can happen on accident or intentionally with the intent to circumvent the OML. Lectures and social functions are not covered, unless you talk business.

What is "deliberate"? To "deliberate" is to examine, weigh, and reflect upon the reasons for or against the choice . . . Deliberation thus connotes not only collective discussion, but also the collective acquisition or the exchange of facts preliminary to the ultimate decision.

What is an "action"? (a) a decision made by a majority of the members present during a meeting of a public body; (b) a commitment or promise made by a majority of the members present during a meeting of a public body; (c) if a public body may have a member who is not an elected official, an affirmative vote taken by a majority of the members present during a meeting of the public body; or (d) if all members of a public body must be elected officials, an affirmative vote taken by a majority of all the members of the public body. See NRS 241.015.

Agenda: NOT designed for members, but to inform the public so they will know and can decide whether to participate. Items must be "clear and complete." Would the average person know what the item is about? Also, stick to the agenda! Any rules limiting discussion must be reasonable time, place, and manner limits and be described on the agenda.

Public Comment: Must provide for public comment: 1) one comment period before any action items are heard by the public body and then another public comment period before adjournment; **or** 2) multiple period of public comment but only after discussion of each agenda action item and before the public body takes action on the item. Every opportunity is optimal if there is enough time. Agenda must be available to public before the meeting.

Closed meetings: Discussions of character, misconduct, competence or physical or mental health can be closed if there is special notice to the individual, who can require they be open. Cannot act or deliberate, only consider/receive info.

Emergency meetings: Emergency is defined as and, "unforeseen circumstance which requires immediate action." Not limited to fire, flood, earthquake or other natural causes—or any impairment of the health and safety of the public. This is very rare.

Record keeping: Minutes must be kept with date, time, place, members present, substance of matters proposed, discussed or decided, and if requested members votes and public remarks. Minutes must be kept for five years. Meetings must be taped or transcribed. Tapes and/or recordings as well as supporting documents must be kept for 1 year. Use a separate tape for closed portions.