

Environmental Quality Council
March 22, 2017 Minutes

Chairman Bagley called the meeting to order at 9:05 a.m. The meeting was held in room 1699 of the Herschler building 1st floor west, 122 west 25th St. Cheyenne WY. Present from the Council were Meghan Lally, Megan Degenfelder, and Deb Baumer. Present on the phone was Tim Flitner. Nick Agopian and Rich Fairservis were absent. Also present were Jim Ruby, Executive Officer, Joe Girardin, Paralegal and Ryan Schellaus from the Attorney General Office.

Councilmember Lally moved to approve the minutes from the January 19, 2017 meeting.

Councilmember Degenfelder seconded the motion. All members present voted aye.

Councilmembers Agopian and Fairservis were absent.

Councilmember Degenfelder moved to approve the Administrative Order on Consent in Docket 17-5901. Councilmember Lally seconded the motion. All members present voted aye.

Councilmembers Agopian and Fairservis were absent.

Councilmember Degenfelder moved to approve the Administrative Order on Consent in Docket 17-590. Councilmember Lally seconded the motion. All members present voted aye.

Councilmembers Flitner, Agopian and Fairservis were absent.

At 9:08 a.m., Chairman Bagley convened the hearing on Motions to Dismiss in Docket 17-4802 (consolidated 17-4803 and 17-4804). The parties were given the opportunity to argue the various motions to dismiss filed by Brook Mine LLC, and the Department of Environmental Quality against the three petitioners, Powder River Basin Resource Council, Big Horn Coal and Mary Brezik-Fisher and David Fisher. At the conclusion of all the arguments and questioning by the Council, Councilmember Baumer moved to go into executive session for legal advice at 10:11 a.m... Councilmember Lally seconded the motion. Voting aye was Degenfelder, Lally, Baumer, Flitner, and Bagley. Absent were Councilmembers Agopian and Fairservis.

Councilmember Degenfelder moved to leave the executive session at 10:48 a.m. Councilmember Lally seconded the motion. All members present voted aye. Absent were Councilmembers Agopian and Fairservis.

Upon exiting the executive session, Chairman Bagley closed the hearing on the motions to dismiss. Councilmember Baumer moved to grant the Brook motion to dismiss as to the Fishers. Councilmember Degenfelder seconded the motion. No member voted aye. Voting nay were Flitner, Degenfelder, Lally, Baumer and Bagley. Councilmembers Agopian and Fairservis were absent. The motion failed and the Motion to Dismiss was denied.

Councilmember Baumer moved to grant the Brook motion to dismiss as to the Powder River Basin Resource Council. Councilmember Degenfelder seconded the motion. No member voted aye. Voting nay were Flitner, Degenfelder, Lally, Baumer and Bagley. Councilmembers Agopian and Fairservis were absent. The motion failed and the Motion to Dismiss was denied.

Councilmember Baumer moved to grant the Brook motion to dismiss as to Big Horn Coal. Councilmember Degenfelder seconded the motion. No member voted aye. Voting nay were Flitner, Degenfelder, Lally, Baumer and Bagley. Councilmembers Agopian and Fairservis were absent. The motion failed and the Motion to Dismiss was denied.

Councilmember Baumer moved to grant the Department of Environmental Quality's motion to dismiss as to the Powder River Basin Resource Councils specific relief for an Order remanding the matter back to the Department of Environmental Quality for an informal conference. Councilmember Degenfelder seconded the motion. Flitner, Degenfelder, Lally, Baumer and Bagley voted aye. None of the members voted nay. Councilmembers Agopian and Fairservis were absent. The motion succeeded and the Motion to Dismiss as to the Powder River Basin Resource Councils specific relief for an Order remanding the matter back to the Department of Environmental Quality for an informal conference was granted.

Upon conclusion of the votes, Chairman Bagley turned the gavel over to Hearing Officer Lally for further action on Docket 16-1101. Alan Edwards and Elizabeth Morisseau appeared on behalf of the Department of Environmental Quality to present the amendments to the rule package involved in Docket 16-1101. The Council held a discussion with the representatives. After discussion, Chairman Bagley moved to approve chapters 1-9 as filed by DEQ on March 2, 2017. The motion was second by Councilmember Degenfelder. Voting aye were Flitner, Degenfelder, Bagley, Baumer and Lally. No one voted nay and Fairservis and Agopian were absent.

After further discussion regarding Chapter 2 section one of the rule package Councilmember Degenfelder moved to amend Chapter 2. Section one by striking the words ~~uniform contested case rules~~ and then inserting Chapter 2 Rules for Contested Case Practice and Procedure before the Office of Administrative Hearings (OAH Rules). Bagley seconded the motion. Voting aye were Degenfelder, Bagley, Flitner, Baumer and Lally. No one voted nay and Fairservis and Agopian were absent.

Councilmember Degenfelder than moved to adopt the rule package and statement of principal reasons as amended. Chairman Bagley seconded the motion. Voting aye were Bagley, Lally, Degenfelder, Baumer and Flitner. No member voted nay and Councilmembers Agopian and Fairservis were absent.

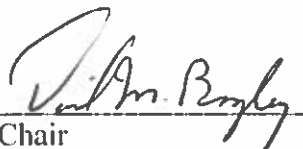
Hearing officer Lally than returned the gavel to Chairman Bagley.

The Council did not vote on new officer but directed staff to set up a telephonic meeting in the near future to elect new officers.

There being no further business before the Council Councilmember Lally moved to adjourn. Councilmember Baumer seconded the motion. All members present voted aye. Members Agopian and Fairservis were absent.

The Council adjourned at 11:48 a.m.

These minutes were approved on the 29 day of May, 2017.


Chair


Secretary