

N.C. Oil and Gas Commission

Minutes of the Tuesday, 1 November 2022 Meeting*

The meeting of the Oil and Gas Commission took place at 1:00 P.M. on 1 November 2022 at the Ground Floor Training Room of the Green Square Bldg. at 217 W. Jones St. in Raleigh, hosted by the North Carolina Department of Environmental Quality (DEQ). The meeting was also available via WebEx videoconferencing service.

00:00:42 – **Chair James C. Lister** opened the meeting with a moment of silence and led the Pledge of Allegiance.

00:01:42 – Chair Lister read the Ethics Reminder from the Elections and Ethics Enforcement Act, then asked the members to identify any conflicts of interest. No conflicts were identified.

00:02:32 – Chair Lister conducted a roll-call attendance. In attendance: **Commissioner Rebecca Wyhof Salmon** (remote), **Commissioner Stanford D. Baird** (remote), **Commissioner John D. White II** (remote), **Commissioner Dr. William Vizuite** (in-person), Chair Lister (in-person), **Vice-Chair John Lucey** (remote), **Commissioner Womack** (remote), **Commissioner Karen A. Howard** (remote), and **Commissioner John Droz, Jr.** (remote). All nine members of the Commission were present, and a quorum was declared.

00:03:41 – Chair Lister asked if there were any additions or revisions to the meeting agenda. No agenda changes were voiced.

00:04:01 – Chair Lister acknowledged Commissioner Womack’s service to the Commission - from the previous Mining and Energy Commission through the current Oil and Gas Commission.

00:08:18 – Chair Lister asked for a motion to approve the minutes from the August 2022 meeting. Commissioner Womack made a motion to approve the minutes, seconded by Commissioner Droz. The minutes were approved by the Commission with a unanimous voice vote.

00:09:51 – Chair Lister moved the meeting to his presentation regarding the history of North Carolina’s Oil and Gas Conservation Act (created in 1945).

00:12:36 – Chair Lister moved the meeting to Commissioner Vizuite’s presentation concerning a public health baseline assessment proposal. Commissioner Vizuite identified two phases of his proposal. The first phase would involve exploring existing public health data for background information. Commissioner Vizuite identified the NC Detect and the Carolina Data Warehouse for Health databases for this effort. The second phase of the proposal would be to generate new public health data, Commissioner Vizuite said. The second phase would rely on health surveys administered to a random sample of residents in local communities, reported Commissioner Vizuite. Commissioner Vizuite identified the next steps as: continued discussions with the two data warehouses for detailed metadata information; completing a scope of work with detailed costs estimates for the two phases; and securing a source of funding. Vice-Chair Lucey inquired as to the reliability of the voluntary participation of surveys from the second phase of the proposal. Commissioner Vizuite responded that, when designed properly, these surveys have a proven track record. Commissioner Droz inquired as to

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whether this kind of public health initiative has been applied to other energy platforms (i.e., wind energy). Commissioner Vizuite responded that he does not know but added that the method has very rarely been applied where “fracking” (hydraulic fracturing) has been used. Commissioner Howard offered to connect Commissioner Vizuite with the local health officials in Chatham County, where a similar endeavor has been on-going locally. Commissioner Salmon asked if local (county) health departments have been surveyed for what questions they were asking for their own health surveys, and, secondly, Commissioner Salmon inquired as to the geographic extent of the suggested surveys. Commissioner Vizuite responded that as a first step the researchers would contact local and county officials to find out what sort of questions they have asked for their own public health surveys. As to the question regarding the surveys’ geographic extent, Commissioner Vizuite responded that the resolution may be at the county-level therefore the extent could be driven by the resolution of the individual datasets. Commissioner Womack made the Commission aware of a Duke University public health symposium from approximately 2012-13 where previous studies were presented. Commissioner Womack next asked Commissioner Vizuite if “trigger points” will be put in place to launch a second phase scenario. Commissioner Vizuite responded that completing a first phase analysis would automatically trigger a second phase in the study. Also, external triggers (such as potential drilling operations being initiated) could trigger a second phase, Commissioner Vizuite added. Chair Lister suggested that Commissioner Vizuite focus the potential study on the identified counties with oil or gas potential. Also, Chair Lister suggested that the potential study pre-identify other sources of potential pollutants before the study begins. Commissioner Vizuite responded that in a baseline study the potential other sources of pollutants would be accounted for when an observer sees spikes after a hydraulic fracturing operation began. Chair Lister asked that the Commission help consider sources of potential funding for this study. Commissioner Womack suggested adding a budget wedge to the DEQ annual budget request as a first phase, then estimate a phase two cost to be brought back to the General Assembly for a quicker source of funding to be implemented in the case of a short turn-around time due to potential drilling operations being implemented. Commissioner White suggested amending Commissioner Womack’s suggestion by adding a preliminary step to communicate with DEQ budget officials before communicating directly with the General Assembly. **Joy Hicks, DEQ Senior Director for Governmental Affairs and Policy** was identified as a potential contact point. Commissioner Vizuite stated that the study is ready to move forward as far as the researchers are concerned; all that is needed, he said, are “marching orders”.

00:55:15 – Commissioner Howard raised a motion for the Commission to endorse a public health baseline study, coordinated by Commissioner Vizuite in his professional capacity as a public health researcher. The motion was seconded by Commissioner Salmon. Vice-Chair Lucey clarified that the motion vote was an endorsement of the idea that the aforementioned public health baseline study should proceed. That clarification was acknowledged by Chair Lister. Chair Lister conducted a voice vote and the motion was unanimously voted in favor of by the Commission. Commissioner Vizuite reflected that his goal for the next meeting would be to have some information from Joy Hicks.

00:56:06 – Chair Lister moved the discussion to the results of the Rules Committee progress. Chair Lister guided a presentation highlighting where in the rules a url or email link was either broken, led to an unintended page, or was correctly directed. Chair Lister stated that the goal of this phase will be for the Committee to determine what action is to be taken on a case-by-case basis: correct the link; delete the link; or explain alternatively without a url link. **DOJ Assistant Attorney General, Sarah Zambon** instructed that under the Administrative Procedures Act the rules do have to provide a way for people to access information if it is to be incorporated into the rules (i.e., if there is a particular standard being

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adopted from an outside source to be put into the rules), however if the item is not binding, or required, but merely providing additional information, a url should not be required. Chair Lister asked for input for moving forward by the rest of the Commission, especially from the rest of the Rules Review Committee (Commissioners Droz, White, and Baird). Both Commissioners Droz and White support fixing urls where applicable (as opposed to writing alternative language avoiding using urls, presumably).

01:08:30 – Commissioner Droz made a motion to send the rules with questionable url links back to the Rules Review Committee to address the needed actions. The motion was seconded by Commissioner White. Chair Lister conducted a voice vote. The Commission voted unanimously to approve the motion.

01:09:04 – Chair Lister moved the discussion to the Butler #3 and Simpson #1 shut-in wells. Chair Lister reminded the Commission that these two wells are legacy wells that are not subject to the current rules as long as no changes are made to the wells. However, Chair Lister expressed his concern for the structural integrity of the two wells. Chair Lister asked **State Geologist and NC Geological Survey Section Chief, Dr. Kenneth B. Taylor** when the last time these two wells were last inspected. Dr. Taylor reported that they were inspected at the end of the year 2021. Dr. Taylor further reported that, when tested, the wells are subjected to a flow test where the internal pressure is monitored over time. Chair Lister asked the Commission if it would be appropriate to ask the DEQ to perform an annual inspection of the two wells. Commissioner Baird asked what basis the Commission has to ask the DEQ to do anything regarding the two legacy wells if they pre-date, and therefore are not subject to, the rules governing oil and gas. Chair Lister responded that the Commission has a stated responsibility to protect the public. Counselor Zambon offered that if there are any changes to the wells (including well status) the wells would become subject to the oil and gas rules. Counselor Zambon further advised that the Commission has the right to ask relevant parties to volunteer to allow wells to be inspected. Counselor Zambon advised that the Commission amend a potential motion to be generalized (rather than specific to only the Butler #3 and Simpson #1 wells) and that the motion would be a request to the DEQ for inspections.

01:25:44 – Vice-Chair Lucey made a motion to request that the DEQ inspect annually any oil or gas wells not subject to rule .1620, and that were “grandfathered-in” prior to 2015, in coordination with, and with the cooperation of, the well owner. Commissioner Howard seconded the motion. Chair Lister put the motion to a voice vote. The motion passed unanimously.

01:26:05 – Chair Lister moved the discussion to the documentation requirements for the three newest Commissioners (Howard, White, and Vizuite) to be reimbursed by the DEQ for meeting travel expenses. Dr. Taylor indicated that the DEQ would get the required documentation to Commissioners Howard, White, and Vizuite.

01:28:40 – Chair Lister moved the discussion to scheduling Commission meetings for 2023. Chair Lister proposed the following dates (all at 1:00 p.m.): Tuesday, 7 February; Tuesday, 2 May.; Tuesday, 1 August; and Wednesday, 1 November. Commissioner Vizuite made a motion to adopt the proposed dates for 2023 meeting times, seconded by Commissioner Salmon. Chair Lister put the motion to a voice vote and the motion was approved unanimously.

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01:30:54 – Chair Lister moved the discussion to the 2022 annual report to the Joint Legislative Commission on Energy Policy and Environmental Review Commission. Chair Lister informed the Commission that he plans to put together a summary of the Oil and Gas Commission’s meetings, with the coordination of the DEQ, then allow the Commissioners to edit the report before sending it to the General Assembly after the February Commission meeting.

01:32:40 – Chair Lister moved the discussion to the summary of inquiries to the NC Geological Survey regarding oil and gas activity during the previous quarter. **NC Geological Survey Senior Geologist, Jim Chapman** reported that there had not been any inquiries.

01:33:30 – Chair Lister opened the floor to public comments.

Public Comments:

No public comments were offered.

01:33:41 – Chair Lister opened the meeting for Commissioners’ concluding remarks.

Commissioners’ Concluding Remarks:

01:33:55 – Commissioner Womack offered his thanks to the rest of the Commissioners and expressed a hope that the Commission will take a closer look at local emergency services in future meetings.

01:36:10 – Chair Lister reminded the Commission of the next Commission meeting on Tuesday, 7 February 2023 at 1:00 p.m.

01:36:27 – Chair Lister adjourned the meeting.

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