

MINUTES

LANE REGIONAL AIR PROTECTION AGENCY
BOARD OF DIRECTORS MEETING
TUESDAY–AUGUST 8, 2006
LRAPA Meeting Room
1010 Main Street, Springfield, Oregon

ATTENDANCE

Board: Dave Ralston, Chair–Springfield; Glenn Fortune–Cottage Grove/ Oakridge; Drew Johnson–Eugene; Earl Koenig–Eugene; David Monk–Eugene; Carol Tannenbaum–At-Large, General; Betty Taylor–Eugene (ABSENT: Bill Carpenter–At-Large, Springfield; Faye Stewart, Vice-Chair–Lane County)

Staff: Merlyn Hough–Director; Merrie Dinteman; Tom Freeman; Max Hueftle; Sandra Lopez; Sally Markos; Kim Metzler; John Morrissey

Other: Russ Ayers, Chair–LRAPA Advisory Committee; Jock Beall–U.S. Fish & Wildlife Service; John Byers–Oregon Dept. Of Agriculture; Jason Giles–Rexius; Sarah Mideri–City of Eugene; Jason Nuckols–The Nature Conservancy; Amy Peccia–SierraPine; Becky Riley–Lower River Road Neighborhood Association; Erik Wold–City of Eugene

1. OPENING: Ralston called the meeting to order at 12:15 p.m.
2. PUBLIC PARTICIPATION: None
3. CONSENT CALENDAR:

ACTION: MSP(Fortune/Koenig)(unanimous) approval of the minutes of the July 11, 2006 board meeting and the expense reports through June 30, 2006, as presented.

4. DIRECTOR'S REPORT: Discussion included several items.
 - A. Air Monitoring Information. Hough pointed out that this summer's high ozone reading occurred at the Amazon Park monitoring site during a period of very warm weather. Last year's peak concentration was recorded at the Saginaw site, which is more typical because that site is downwind of the Eugene-Springfield metropolitan area, and ozone tends to form downwind of urban areas. Hough added that the fact that the Coburg monitoring site also has recorded ozone peaks is an indication that ozone is a Willamette Valley issue rather than just a Eugene-Springfield metro issue. In fact, ozone is more of a regional issue, and LRAPA will probably want to talk about whether there are things the agency should co-opt with DEQ and others on a more regional basis, in order to maintain ozone standards.

Hough said an item which was not included in the report is the issue of benzene discussed at a previous board meeting. He said Diane Dietz had read the minutes of that meeting and had done a couple of stories for the *Register Guard* regarding benzene being one of the air toxics of most concern for human health impacts. The *Register Guard's* editorial board then wrote an editorial on the subject, supporting the concerns that LRAPA and other Northwest air agencies have provided to EPA urging that agency to do as much as it can to reduce benzene in gasoline produced by Northwest refineries. Hough said LRAPA provided specific data from local benzene monitoring at the Amazon Park location and stated that reducing benzene in gasoline is key to reducing ambient benzene concentrations. Hough added that LRAPA received a number of e-mails and letters thanking the agency for providing testimony on that issue. Hough said staff would provide copies of all the articles and correspondence to board members, either at the next board meeting or in the interim between now and then.

- B. Diesel Emissions, Locomotives. Koenig noted mention in the field activity paragraph of the written report about odor of diesel from idling diesel engines at a rail yard in West Eugene. He asked if diesel locomotives are candidates for APUs. Hough said they are and, in fact, APUs have been installed on railroad engines in a few instances. He added that, with fuel prices as high as they are, adding an APU is a cost/effective measure to take; however, it requires a significant commitment on the part of the railroad. Koenig asked if the railroad company would have to commit to putting APUs on all locomotives in their entire system. Hough said there have been negotiations in California to do so on a large scale, if not systemwide, as part of their overall strategies to control ozone in California which has the highest ozone levels in the country.

Taylor commented that, before ozone levels get really high in Lane County, LRAPA should do whatever it can to reduce ozone levels and keep them as low as possible. She asked if Hough had any suggestions of what LRAPA can do to limit benzene and ozone, besides making people aware of those pollutants. Hough responded that fuel and vehicle emissions are primarily federal issues, although Oregon recently took action at the state level by opting into the California/Washington vehicle emissions standards. He said one item that has been discussed locally is control of gasoline vapor during service station deliveries. That would be part of a Willamette Valley-type approach, and he said LRAPA hopes to have a meeting in the near future with DEQ and the Oregon Petroleum Association to talk about an industry-driven program under which the industry would commit to a voluntary program to take the extra time during truck deliveries to use the control equipment that is largely in place already. That approach would avoid diverting LRAPA's staff resources to a new, manpower-intensive program, when there are already a lot of important things that LRAPA is doing.

Taylor asked specifically about whether there is anything that LRAPA can do to reduce ozone levels. Hough said Lane County ozone levels show up pretty favorably in national reporting for ozone. Reducing the vapors from gasoline stations would be one of the more useful things that could be done to maintain ozone levels or reduce them further. Hough explained that the federal Maximum Achievable Control Technology (MACT) standard is intended to address air toxics and ozone precursor-related pollutants. MACT is required by industry sectors to reduce air toxics, but it also reduces ozone precursors, which will be helpful. The coach manufacturing industry has a number of new MACT standards which will apply to their industry in the next couple of years. The wood products industry also has some new MACT standards which will be applying to their operations in the near future. Those standards will be helpful, and they are already in effect and are driven by the air toxics requirements of the Clean Air Act. In addition, everything LRAPA has been doing on the diesel front to reduce NOx emissions from diesels, and what Cascade Sierra Solutions will be doing for the entire West Coast to reduce diesel emissions, will also help with ozone precursors. Hough said significant things are already being done; however, as LRAPA talks about strategic planning, ozone precursors will certainly need to be discussed as at least a medium priority for action in the next few years.

- C. Home Wood Heating. Ralston asked about three violations in the compliance report for smoke from home wood heating. He said it sounds sort of suspicious, because of the warm weather. Metzler said those calls this time of year usually involve people burning garbage in their woodstoves or fireplaces. Ralston asked if they are contacted, and Metzler said they are. If it is a first offense, which all three of these particular ones were, she sends information to them, including a copy of the ordinance that applies to areas within the cities of Eugene or Springfield, or within the Urban Growth Boundary around the two cities. The ordinances all have provisions now which prohibit the burning of garbage in a home wood heating device.
- D. Complaints vs Civil Penalty Assessments. Koenig said he noticed in the annual report for 2005 that the civil penalties went down even though the number of complaints went up, which he said he was not expecting to see. Hough explained that staff tries to follow up as completely as possible on complaints, which takes a good deal of staff time away from other activities such as routine inspections and other

compliance assurance activities. Occasionally, complaint investigations also result in enforcement actions, but not in most cases. Hough said this is a fundamental issue that he has been battling with—how much staff time can be taken away from other compliance assurance activities to devote to complaint response and follow-up.

5. **ADVISORY COMMITTEE:** The minutes of the last committee meeting, describing the committee’s recent activities, were included in the board’s agenda packet. Board members had no questions regarding committee activities.
6. **INFORMATION ITEM—WETLANDS OPEN BURNING IN WEST EUGENE:** This item was placed on the board’s agenda in response to some controversy following the Eugene City Council’s approval of a new five-year burning plan for the wetlands. Hough explained that the agenda packet included background information on this agenda item, including comments received from several people in recent months, both in support of and in opposition to the burning. He noted that representatives from some of the various groups involved in the wetlands conversion burning in West Eugene were in attendance at this meeting to explain why the burning is done and the process by which it is accomplished. He introduced Jason Nuckols from The Nature Conservancy.

Nuckols said he is the Willamette Valley Preserves Manager for The Nature Conservancy. He said the West Eugene Wetlands Partnership includes a number of partners, among which are The Nature Conservancy, the U. S. Army Corps of Engineers, the City of Eugene, Lane County Parks, the U.S. Fish and Wildlife Service, the U.S. Bureau of Land Management, and the U.S. Department of Forestry. Nuckols introduced Jock Beall from the U.S. Fish and Wildlife Service (supervising biologist for the Willamette Valley National Wildlife Refuge Complex), who manages all of the prescribed fire on the Willamette Valley’s wildlife refuges; Sarah Medary, the natural resource manager for the city of Eugene; and Erik Wold, the wetlands manager for the city of Eugene. Also in attendance was John Byers, the coordinator of the smoke management program for grass seed field burning, at the Oregon Department of Agriculture.

Nuckols said the West Eugene Wetlands Partnership was formed in the early 1990s with the intent of managing and restoring the West Eugene Wetlands prairies which consist of different types of prairie lands. He explained that in the early 1800s the Willamette Valley was made up of approximately a million acres of wet prairie, upland prairie and oak savanna. It was an open environment, formed thousands of years before, and then maintained by aboriginal burning. The land use changes that have taken place since the early 1800s have resulted in only about one percent of the original prairie being left now. Of that one percent, there is even less really high quality remnant prairie left, and some of the very best is in the West Eugene Wetlands.

Prescribed burning in wetlands accomplishes three major objectives.

- A. Most of the native plants respond to the fire with larger plants, more flowering, and more seed. One negative impact is on *nastansium hospatosa* which is a very aggressive tufted hairgrass that takes over and chokes out the native species. The fire can set back that plant which helps the Wetlands Partnership put forbs into the area.
- B. Prairies are disturbance-driven system which were historically maintained by fire. Fire sets back the woody species (trees and shrubs which can encroach into the wetlands very quickly if not controlled), opening up space for native plants in those areas.
- C. Four federally listed species are native to the West Eugene Wetlands, including Kincaid’s Lupine (the host plant for the listed Fender’s blue butterfly), the Willamette daisy, and Bradshaw’s lomatium. Fire is the tool used to manage all four of these species. A lot of effort and money go into managing and trying to restore and bring populations up for all four of these species. Fire results in more flowers for the Bradshaw’s lomatium and for the Kincaid’s lupine, which results in more Fender’s blue butterflies.

With the Willamette daisy, the fire has an indirect benefit of providing more space for the plant and less competition after the woody fuels have been burned.

Nuckols said the West Eugene Wetlands complex is about 3,000 to 3,500 acres altogether. The West Eugene Wetlands Partnership has been burning less than 200 acres annually for the last 19 years. The largest number of acres, to date, was 167 in 2005. The goal is to burn each area every three to five years, and the small amount of burning that actual gets accomplished each year does not accomplish that goal. He said only 1,033 acres have been burned in the entire 19-year history of wetlands burning in West Eugene. With such a small number of acres being burned each year, the group also employs other management methods, such as mowing and mechanical removal of the woody vegetation, hand weeding to remove the vegetation, girdling trees so that they die in spot and don't have to be removed, covering unwanted weedy patches with large plastic sheeting, and limited use of herbicides on some properties. However, none of the other alternatives has all the benefits of fire.

Nuckols said the Partnership installed a BLM-owned Remote Access Weather (RAW) station in 2005 to provide up-to-the-hour data for a lot of the parameters the group uses when the burning is done. It provides the people planning a burn access to NOAA's weather service, gives them the data for the specific area where burning is take place, and gets the weather forecast for the next few hours or days for that specific area. Before any burning is done, a weather balloon is sent up to show which way the wind is blowing at different altitudes, what the lifting is, and what the mixing is. That information is combined with information regarding fuel moisture and humidity, to determine whether or not to burn. When the burning is done, smoke monitors are located outside and inside the burn area, and those individuals communicate with the people doing the burning and with the burn boss in charge of the particular burn. There are also traffic caution signs posted on the streets to direct traffic and warn motorists when they are moving toward a burn. Nuckols said the burn units are very small, and the fires are of short duration, many taking less than one hour, and the vast majority taking under two hours. Immediately following the burn, there is a very aggressive mop-up process to detect any hot spots, or "smokers," and make sure they are all fully extinguished. All smokers must be out by dark. The site is then visited again the next day, to look for any additional smokers which might have come up during the night. With regard to impact on air quality from these wetlands burns, Nuckols said the difference between these burns and a typical grass seed field burn is that a prairie burn has less fuels associated with it and consequently produces far less smoke.

Fire planning takes place among the partnership year-round, and the group prioritizes the units and decides which sites will be burned in any given year. Each site has response and management plans. The response plans indicate where people and equipment need to be when the burning is done for each unit. The management plans tell what the benefits of burning are on a given unit, including when and how fire should be used. Prior to burning a unit, the partnership sends out media and citizen advisories. Both the Bureau of Land Management and The Nature Conservancy do these notices. The Nature Conservancy goes door-to-door to each of the neighbors in the area of the unit to be burned, to inform them of the intended burning and hand out information fliers regarding the burning. The Partnership is aware that people want to know that this kind of burning is being done in a responsible and safe manner. The wetlands burns always involve a lot of people in yellow shirts to identify them as being connected with the burning, and with red fire engines to make sure people in the area know that the fire is being controlled. Nuckols showed a picture of a burn done off of West 18th last year, which showed 13 people working on the site. He said the partnership only uses professionally trained firefighters and burn bosses on these wetlands burns. Erik Wold pointed out that the picture demonstrated the care taken with the wetlands burning, to avoid allowing smoke to cross roadways and create a traffic hazard. The picture showed the smoke going mostly straight up and slightly south.

Nuckols closed his presentation by stating that the West Eugene Wetlands is a nationally recognized and highly awarded biological gem. He said it is an amazing place, and the partnership takes great care in managing it. He said wetlands burning is happening all around the country and that The Nature Conservancy, alone, burned over 100,000 acres of its prairies and woodlands last year. With its partners, another 160,000

acres were burned across the nation. He said prairie management is a challenging and expensive task, and fire is a much-needed tool which is taken very, very seriously. He said the partnership appreciates the support LRAPA has given for the wetlands conversion burning in the past and that they also appreciated the opportunity to address the LRAPA Board of Directors today.

Questions and Answers

Monk asked why the partnership is not burning more wetlands if that is what they want to do. Nuckols said the main reason is the restrictions they have placed on themselves, for safety and air quality impact reasons. The wind speed and direction, the lift, the humidity and the fuels have to be just right to allow the burning within the parameters the group has established. In an average year, there are usually anywhere between zero and ten days with the right conditions to allow the burning. Nuckols said 2005 provided two weeks of good conditions, and that was one of the best burn windows in the history of the program. He added that there have been no good windows, yet, this year. Monk pointed out that the partnership has applied to burn less than it would like to burn this year. If a good window occurs, the group will be limited by the amount of acreage in the permit. He wondered why the group would choose to limit itself in this way. Wold said the group would like to burn more if they had the resources to do so, and if the acreage weren't within the city limits of Eugene. He said the group would like to be able to burn between 400 and 1,000 acres every year to get all areas on the three-to-five year rotation for burning; however, it is very expensive and difficult to accomplish that. Nuckols added that resources and the lack of burn days are not the only limiting factors. Another factor is the availability of staff to implement the burns. Often the firefighters who would normally help with the wetlands burning are called into service to fight wildfires during the summer months.

Taylor commented that a lot of people are concerned about having to breathe the smoke from the wetlands burning but, also, are concerned about safety issues. She asked how the people doing this burning can be certain that it won't get out of control and burn other properties. She pointed out that there have been times when grass seed field burning has gotten out of control, even though that burning was done with the same information regarding meteorological conditions at the time of the burning. Wold responded that he would guess that the average number of people on hand for the typical grass seed field burn is fewer than the personnel attending wetlands burning. He said wetlands burning always has a large number of people, as well as a large number of fire engines in attendance; and that does not include engines and personnel from the Eugene Fire Department, who could be called if anything happened that was beyond what the firefighters on hand could control. Taylor asked what would happen if the wind shifted and took the fire in a different direction than was planned. Nuckols said the first thing that is done for each of these burns is to mow, wet down, and then black line a perimeter around the area to be burned. When the fire starts, it is in a contained area. With a wind shift, even if they are burning against the wind one way and it shifts back the other way, the fire runs into the black-lined area where the fuels are gone, and stops.

Taylor asked if the fact that only a small amount is burned at a time is why there is not too much smoke from wetlands burns, and Nuckols said the smoke is controlled by all of the preparations and controls they use—from the small area to the right fuel conditions, to the fast duration of the fires, to the time of year that the burning takes place. Taylor asked what Nuckols' answer would be to comments by Mark Wilson from OSU, who objected to the wetlands burning. Jock Beall from Fish & Wildlife said Mark Wilson was referring to a plant called Nelson's chuckermellow which was in an area that needed to be burned on a refuge. Wilson has been studying this plant since 2000 and noted that he felt there was some high mortality in a population of these plants that he has been monitoring, due to burning. Beall said that plant, which is found in Benton County, is not found in the wetlands in West Eugene. Beall said he thinks that there might have been a heavy fuel load at the time on the site that was burned, where Wilson said he observed high mortality of this plant, because Nelson's chuckermellow has adapted well to fire and been on the prairies. Going back to the fire safety issue, Beall stated that, whereas a grass seed field burn could use three people and one engine, a wetlands burn will use 20 people and four engines. He said their philosophy is, "escape is not an option," and they take every precaution to prevent the fire from escaping the boundary of the intended burn area. He

added that the plans for these burns are running about 40 pages, and there must be a contingency plan and, also, additional engines on call, in the event that something were to happen. Those engines must be able to be at the site and fully staffed within 15 minutes. He said sometimes when the wind shifts, he has seen the crew just dump water on the fire and put it out, to avoid having it get out of control. Taylor asked if there is ever an attitude that the burning needs to get finished, regardless of a wind shift. Beall said that does not happen with wetlands burning, because there is no pressure to try get a target number of acres burned, as there is with grass seed field burning. He said there have been some years when conditions have been such that almost no burning has been accomplished.

Taylor asked if there is a way to protect animal life when the burning is done. Beall said the main animals that are affected are invertebrates that can't move and are killed by the fire. He said there are always areas that are left unburned, and the invertebrates will repopulate the areas that are burned. Birds can leave; and small animals go underground so that the fire goes over the top of them, and there really is no mortality from the fire.

Tannenbaum observed that the wetlands under discussion are located on the western side of Eugene, and the burning is done under winds that move the smoke to the southwest, out of the city and the urban growth boundary of Eugene. She asked what happens to all of the people who aren't Eugene residents and didn't have a say regarding the council's decision to allow the burning. She asked if the county, or LRAPA, should be looking out for the interests of those people. Hough responded that there are a couple of things happening, one of which is to use other alternatives, where feasible. The other is to minimize the impacts. If, in order to avoid a densely populated area, the burning is done under conditions which cause the smoke to hit areas with less population, there will be some fairness issues for the lower-density population area. The goal is to minimize impact. If the smoke would go up and out and not impact anyone, that would be perfect; however, as a practical matter, there is a certain amount of ground-level smoke that will be present, even under good atmospheric mixing conditions. Ralston commented that, from what he has seen, it appears that the burning is done so quickly, and the smoke is so much lighter than what can occur with open field burning, that the event is over before most people would notice it. Hough said a couple of people who provided comments supporting the wetlands burning made a point of saying that they live downwind of some of the burning that occurs but recognize the necessity of it and believe it is managed well. Nuckols added that Hynix is immediately adjacent to one of the areas that is burned. They have a need for one of the cleanest air intake facilities in the city, and the partnership has had a good neighbor relationship with them and received no complaints from them. Tannenbaum added that she would think Hynix would be very concerned about keeping the air inside their facility clear. Hough said Doug Brooke, an employee of Hynix, is on the LRAPA Advisory Committee and that he spoke, at the committee's last meeting, in support of the burning, stating that the burning is very well managed and reinforcing what Nuckols said about having a good neighbor relationship with the Wetlands Partnership. Monk commented that it sounded like Hynix might be the partnership's first good neighbor and asked if Hynix has more clout in the partnership's decision making regarding the direction under which the burning occurs than other neighbors do, in order to keep the smoke from blowing into that facility. Nuckols said the burn window under which this burning occurs generally pushes the smoke southwest, southeast, and due south, so that the smoke could potentially push toward Hynix. Any smoke from the south would push the smoke away from Hynix.

Johnson noted that one of the people who had submitted comments mentioned that burning has been banned in California. He asked if The Nature Conservancy or BLM do this type of burning in California. Nuckols said the person must have been referring to field burning. He said there is more prairie management, oak management burning in California than there is in Oregon. Fire is a major tool used in California, by all of the agencies who manage wetlands.

Johnson then asked if anyone in the federal government or The Nature Conservancy, or any of the partner agencies who do wetlands conversion burning, has ever attempted to quantify or measure the impacts of smoke from these burns on sensitive human populations, relative to the ambient air standards. Wold said there

is a major publication, put out by the USDA somewhere between 2002 and 2005, which addresses air quality effects from wild fires. He said this is a growing area of research because of human health concerns; however, he is not aware of anything which specifically addresses smoke from the kind of burning that the Wetlands Partnership is doing.

Board members thanked the representatives of the West Eugene Wetlands Partnership for attending this board meeting and providing the information about West Eugene wetlands open burning so that the board has a better understanding of the reasons for it and the process followed.

7. INFORMATION ITEM—EXPLANATION OF LRAPA’S ENFORCEMENT AND CIVIL PENALTY ASSESSMENT PROCEDURES: Hough said he had asked staff members Sandy Lopez and John Morrissey to assist him with this discussion. He explained that the background materials in the agenda packet for this subject included a document that explains the specifics of each of the four cases which were flagged by the board from a recent enforcement activity report to the board. The document also goes step-by-step to describe how staff arrives at the amount of the civil penalty which is to be assessed, including reference to specific sections of LRAPA’s enforcement rules in Title 15, which was also included in the packet.

The first three examples were fairly similar and were all complaint-driven. They all were open burning problems in some combination of burning prohibited materials or burning demolition waste without a required letter permit. They were all relatively similar in magnitude. The civil penalties assessed were \$500 for the first case, \$650 for the second, and \$700 for the third. The differences in the fines represent differences in the materials burned and differences in the mitigating and aggravating factors that take into account issues such as whether the person was cooperative in immediately stopping the problem, if they had a prior history of problems, etc. Hough said while there is some subjectivity, if you use the individual factors to decide whether the activity was negligent or more intentional. If it is not possible to determine that, the agency uses the option that is most defensible if the case were to be contested. Overall, however, staff uses the enforcement rules and the calculations to try to apply an objective matrix to something that will have an unavoidable element of subjectivity. Hough said he thought walking through the first three cases and seeing the small differences between them helps to explain the differences in the fines which were assessed. The fourth case was more complicated and more egregious than the others. It was also complaint-driven. In addition to LRAPA staff, several fire agencies responded to this incident, which happened on two separate occasions. The case involved burning of prohibited materials, burning demolition waste without a letter permit, failure to attend the fire, and failure to extinguish the fire. There was also a more severe application of aggravating factors. In the first three cases, the respondents requested a reduction in the penalty and provided supporting information of some combination of admitting to the violation, outlining what they were doing to prevent a recurrence, and requesting the reduced penalty. In those cases, LRAPA generally will reduce the penalty by approximately 50 percent, because that reduces the number of cases that are contested. Contested cases are not in the financial interests of either LRAPA or the respondent. Taylor stated that she wonders whether reducing the fines to reduce the number of contested cases might be more to the advantage of businesses than individuals, because an individual home owner might not be able to afford to contest a civil penalty, whereas people who can afford, or threaten to contest a case, may count on getting the fine reduced by the mere threat of contesting it. Hough responded that there are times when, even knowing that a fine could be reduced by providing information and requesting a reduction, a respondent will choose to contest the case, anyway. He referred to case where a home owner contested a fairly small civil penalty, and the hearings official upheld LRAPA’s case, with a very minor reduction in the amount of the penalty.

The respondent in the fourth case did not provide supporting information and did not offer to pay the penalty or pay a reduced penalty. They ignored the Civil Penalty Assessment. What happens in those cases is that a lien is placed on the respondent’s property in the amount of the civil penalty. The amount in this particular case was \$3,700. Hough said he thought those were good cases for the board to flag, because they do give a good sense of why there are minor differences between some cases which appear to be very similar, and why there can be a major difference.

Monk commented that cases which he had flagged in the past in the enforcement activity report were in the \$50 to \$100 range. He speculated that those amounts might have been after the penalty had been reduced at the request of the respondents. He said his concern was that there were cases with \$50 to \$100 fines which involved burning plastics and all kinds of materials that probably shouldn't be burned, regardless of whether they had a permit. Hough pointed out that three of the cases in the staff report were ones that Monk had flagged for Hough's attention. Monk said he is concerned that the amount of some of the fines end up being less than the cost of taking the materials to the dump instead of illegally burning them. Hough asked Morrissey if he could think of an example of a case that might end up with a \$50 permit fee.

Morrissey said there are some people who have presented information regarding economic hardship or physical hardship, and the penalty has been reduced to the minimum amount of \$50. In one case, there was a \$50 charge which was not a fine but, rather, the amount which would have been charged for the letter permit which was required for the burning. He said the case he was thinking of involved a person who had burned demolition debris without the letter permit and also had some prohibited materials in the pile. There was evidence that he had made an effort to remove the prohibited materials from the demolition debris, but there were a few pieces of insulation or asphalt roofing materials remaining in the pile that was burned. That might also have been a consideration for not proceeding with a civil penalty for burning prohibited materials. Monk said economic hardship is legitimate, and he was pleased to hear that it comes into consideration. However, he still has a problem with open burning under any circumstances because he does not think it is a legitimate activity, even though the rules allow it.

Lopez asked if Monk's concern is that, going down to the \$50 or \$100 range may not be a deterrent to illegal open burning activity. She asked if Monk would consider a fine of \$250 for residential open burning, reduced by 50 percent to be a reasonable deterrent. Monk said he would consider it reasonable for the person to pay \$250 to \$300. He added that it seems reasonable to also consider good-faith efforts to remove prohibited materials, as well as economic hardship; but it seems that Oregonians, in general, have the feeling that they have a right to burn. He said he does not believe the message is getting out there because staff is spending a good deal of time on open burning complaints and violations. He asked how LRAPA could get that message out to the public in a more effective manner. Lopez said it is her understanding that LRAPA has done public education in the past and that people are pretty well aware of not being able to burn. She said she also understands that residential open burning has become less of an issue than it was in the past. She said the only thing that would be more of a deterrent is to have more inspectors in the field; however, the problem that staff has is that the complaints and open burning inspections are taking away from some mandated programs that LRAPA is supposed to do for toxics and large facilities.

Metzler said she has been working with a group of Northwest communicators in Canada, Washington, Idaho and Oregon to develop a TV ad about open burning. LRAPA helped pay for the production of that, and the ad will start running this fall. In addition, a radio spot is being made now with the same group, and she is in the process of contracting for time to run that, as well. Metzler said these ads are regional and do not address what you can burn here and what you can't burn here. The focus is more a question of, even though you may have the right to burn, should you be doing it. It's trying to dissuade people from using open burning as a way to dispose of solid waste. Lopez suggested some full-page ads in the newspapers, and Metzler said it would cost about \$2,500 for a full-page ad. Lopez suggested asking the papers to volunteer to run the ads, and Metzler said the ad campaign has some newspaper ads that go along with it.

Morrissey said LRAPA supplies all of the Lane County fire departments with the agency's open burning pamphlet, both for the Valley and for the Coastal area of the county, and the supplies are constantly replenished. Lopez added that staff is currently working on revisions to the open burning regulations, and that process will provide a lot of information to the public as the information is put on the agency's website and public comment and participation is solicited during the revision process.

Hough added that one of the good things that has happened during the past year, regarding open burning, is that the city of Florence has banned open burning within the city limits. He said he had spoken earlier in the day with a county waste management person who told him that the ban on burning has appeared to make a significant difference in the amount of yard debris which is being transported to woodwaste processing units. He said it might make a difference if LRAPA were able to enlarge the area where the ban occurs because, currently, the requirements are slightly different from Eugene to Springfield to the UGB and beyond. Taylor asked if there is a chance that Springfield might ban burning completely, as Eugene has done. Currently, open burning is allowed on lots of a half acre or larger within the city limits of Springfield, during the burning season. Hough said staff is getting information from the city regarding how many lots remain in the city which are a half acre or greater in size.

Johnson said he thinks LRAPA needs to do more to deter open burning, and the best thing for deterrence is looking at banning certain types of burning activity. He said one that he thinks is particularly bad is the demolition and land clearing burning, because that is where he thinks LRAPA is probably seeing more of the hazardous materials being burned. He noted that there are large amount of money involved in clearing land to build new structures, and he thinks recycling or disposing of solid waste as solid waste, rather than burning, is how it should be approached. Johnson said he thinks construction/demolition burning is very resource-intensive for LRAPA to manage, and it should just be banned, outright.

Tannenbaum asked if the cities have to adopt the burning bans or if LRAPA can just adopt a rule which bans all open burning in Lane County. Lopez said LRAPA could certainly propose that. It would have to be put out for workshop and stakeholder input, and then the board would have to vote on it. She cautioned, however, that during the stakeholder and workshop input phase, LRAPA would have to answer whether there is an alternative available to areas of the county that don't have pickup services like the major cities do, where it is more difficult to dispose of yard debris by means other than burning. She stressed that the final decision would be up to the board. Ralston asked if the cities wouldn't have to agree to the ban. Lopez responded that the city would get its input at the board level. Where there is a city ordinance, LRAPA could enforce that. Where there are no city ordinances, in terms of where LRAPA has air quality authority, it would be the whole county. The cities would have input into what the LRAPA board wants to do but, ultimately, it boils down to the board making the decision.

Johnson added that he thinks, culturally, it is an uphill battle to just do an outright ban on all open burning. But if LRAPA approaches it by ranking different kinds of outdoor burning activities from those that make the least amount of sense and have the greatest negative impacts on air quality and on LRAPA time and resources, and takes it one piece at a time, perhaps it can be accomplished. Ralston said he doesn't think LRAPA would have much of a chance of getting a total ban on open burning throughout the county. Johnson agreed but suggested working on it in terms of priorities.

Lopez stated that Morrissey has been working with Ralph Johnston to make proposed revisions to the agency's open burning rules. They have met with fire departments in different areas to get their input, and there are many other factors that must be considered when putting a rule together, before it even comes to the board.

Monk stated that this issue is before the LRAPA Advisory Committee, and there is some potential. He said he concurs with Johnson's comments, that if the board looks at this as varying levels of issues, including access to recycling opportunities and other issues, he thinks something could probably be crafted which would be tenable for the majority of the cities and the county. He acknowledged that there will be individual stakeholders who will have issues, especially rural land developers, but he thinks there is enough interest in this issue and the impacts of open burning on Lane County that LRAPA should just be doing something about it. He suggested that the advisory committee could perhaps help the board flesh out some of those opportunities first. He said there is a timing issue, and with staff writing rules for other aspects of its program, it needs to be done soon or it will be a couple of years down the road before any changes are made.

Lopez and Hough indicated that staff's schedule is to bring the rule proposal to the board by the end of this year. Monk said he would personally like to see that happen. He said he'd like to see a review of the open burning rules and have the advisory committee make some recommendations to the board and perhaps have a stakeholder meeting to hear what people in the community have to say about it. He said Johnson made a good point regarding construction/demolition open burning. Monk said he doesn't think there is a place, any more, for burning demolition materials when it costs \$2.00 to dump ten yards at Lane Forest Products, where it can be chipped up and re-utilized rather than impacting the air quality. Monk added that when a developer or land owner knocks down a structure and burns the debris, it is just a convenience for the land owner rather than recycling as much of the material as possible, and the neighbors have to live with the smoke from the burning. Lopez said that subject will be covered with the staff report that goes with the open burning rule change proposal.

Monk said he would also like to see the fine amounts in the matrix changed to reflect inflationary pressures. He also spoke briefly about recovery of LRAPA's legal costs. He noted that LRAPA has the ability to recover part of its legal costs by withholding the amount of legal costs in a contested case from the money paid by that respondent, before the money is forwarded to Lane County. However, Monk said he sees LRAPA being put in a bind by trying to avoid going to contested case and having to spend more money on legal fees. He said it puts LRAPA staff in a bad situation, and he wonders whether LRAPA could recover those legal costs from the party who contests the case. Other board members agreed that contested cases not only cost extra money for legal fees, but also cost the agency in more staff time necessary to deal with the contested case. Hough said he can explore that option with LRAPA's legal counsel, to see if it is possible under state rules.

8. OLD BUSINESS:

- A. J.H. Baxter Odor Complaints Situation. Hough presented an updated graph, comparing the number of complaints being received this year with the number of complaints received during the same months in previous years. He pointed out that the number of complaints continues to be much lower than in previous years. He said staff will be meeting with J. H. Baxter representatives and attorneys for both LRAPA and J. H. Baxter, later in August. He said he anticipates having a draft agreement to discuss with the board at the next board meeting.

Taylor commented that she doesn't take too much comfort from the reduction in complaints, because some people are tired of making the effort to complain and others have moved away from the area. She added that, if there are new people in the area, they may not be aware that they can call LRAPA to complain about the odor from the Baxter plant. She said she would not rely on the reduction in complaints as an indication that the odor situation has improved. Hough responded that staff does not rely solely on that. John Morrissey spends more time in the neighborhoods around the Baxter plant than any other LRAPA staff, and he is convinced that odors have been significantly diminished. Taylor asked if Hough had asked Morrissey to sleep in that area, and Banks noted that another LRAPA staff member does live in the area around Baxter. Fortune said he has been around the Baxter facility, on all sides, and has not detected any odor, whereas he has driven by other facilities and has detected odors from those facilities immediately. He suggested that, with what has been done by Baxter so far, perhaps the odors really have been reduced, and that's why people are not calling in as many complaints.

Johnson asked if everyone had received an e-mail from Becky Riley, with the Lower River Road Neighborhood Association, concerning the difference in costs of hood installation between what J. H. Baxter is considering and the equipment that McFarland Cascade has installed. He said he had received her e-mail just as he was leaving home for this meeting.

Hough noted that Koenig had pointed that out at the July meeting, and it was discussed briefly at that time. Johnson said he did not recall talking about the difference in costs, and Taylor said that was not

discussed in July. Johnson referred to Riley's e-mail, noting that McFarland Cascade installed hoods at a cost of \$40,000, whereas the hoods in Alternative I in the Baxter engineering report were estimated to cost \$150,000 to \$250,000 to install. Koenig and Tannenbaum responded that the difference in costs reflects a difference in technology.

Operations Manager Lopez noted that staff had requested that Baxter go back and re-examine their hood proposal and refine the costs associated with that, and that information had not yet been received by LRAPA. Hough explained that the McFarland proposal was not going through the carbon filter that was part of the Baxter cost estimate on Alternative I. They are two different approaches. Monk asked if Baxter doesn't already have a carbon filter system, and Hough said they do; however, they may require additional capacity, or it may not be possible to pipe that particular system through the existing carbon filter, because of the volume of air to be moved. Monk asked if that issue will be explained in greater detail in the next proposal, and Lopez said it will.

Johnson asked if staff has yet determined whether or not the misting system would just mask the odor or actually remove pollutants from the air. Hough said staff has had meetings with the EcoSorb representatives, and that Paul Engelking from LRAPA's Advisory Committee has participated in those discussions. He said that issue is not yet clear, and staff will need to meet again in preparation for the next meeting with Baxter representatives, to sort out the information we have gotten, to date. He noted that Becky Riley has raised concerns, and staff has gotten additional information since that time. There is still some work to do, to determine whether use of EcoSorb would result in a net benefit.

- B. Rexius Odor Complaints Situation. Hough noted that Rexius employee Jason Giles was at this meeting to give a brief overview of what Rexius is and what they do, and to respond to questions from the board. He also referred to a handout that was distributed at this meeting, showing the monthly complaints received by LRAPA.

Giles explained that Rexius is a landscape construction company that does composting and produces mulch. He said the complaints that Rexius is dealing with are directly a result of the compost operations and the mulch operations operated on Bailey Hill Road in Eugene. He gave an overview of the company's history at this location, stating that the facility has been operating on the Bailey Hill property for over 50 years and was purposely located quite a way from residential areas to avoid this kind of odor problem. He showed pictures of how the area looked when they first started—with no other structures around them. As time passed, the area changed, and residential subdivisions as well as commercial businesses built up around the facility. Giles said Rexius takes in virtually 100 percent of the curbside yard debris that is collected around the city of Eugene—around 30,000 to 35,000 cubic yards of material annually. In addition to that, another 45,000 to 50,000 cubic yards of materials are brought to the facility by homeowners and landscape contractors.

He said Rexius has, probably, the most sophisticated compost system in the state of Oregon and is one of the only facilities that is on asphalt. It uses a negative-air aeration system. The material comes to the lot and is stockpiled and is ground on an approximately weekly basis. In an effort to be sensitive to the impact of their processes on neighboring properties, Rexius recently installed a weather station on site so that they can time their operations, depending on which direction the wind is blowing. After the material is ground, it is windrowed, and outside air is drawn down through the windrows through a manifold system, and put through a biofilter. That process is an effort to contain the odors and scrub the odor-causing bacteria as the air is being exhausted. Giles said Rexius has also instituted a cover practice on each of the windrows so that they are covered with a sawdust-type material, preferable cedar. They are trying to apply the best cover practices they can. The material is moved onto a secondary pile so that it can be stirred and mixed. It is homogeneous and goes through this process to further reduce pathogens. Giles said that is how they ensure that all the detrimental microorganisms, such as fecal coliform and e-coli, are baked out of it. He explained that compost needs to be generally at 135 to 145

degrees for about ten days to be sure that all the harmful organisms and/or all the weed seeds and pathogens there may be are killed. Following that step, the compost goes into a curing pile. Giles said they keep a very close eye on what the weather is doing, to try to minimize odor impacts on neighbors.

Giles commented that the composting done by Rexius fits in well with the board's previous discussion regarding open burning, because composting brings the materials back into the urban environment in a very beneficial form. He said compost improves soil quality, improves water infiltration, and enhances water quality. Giles said he would argue that composting, by enhancing vegetation, also enhances air quality. It is a closed-loop system that, unfortunately, has some odor associated with it; however, it is the best process and the highest use of that material that people have devised. Giles said that, in his mind, it is vitally important that these processes be understood and that they be utilized to the maximum because they really divert that material into the best possible use of it. He asked if board members had any questions for him.

Koenig asked how the negative pressure is accomplished at the point where the odors are emitted. Giles said it uses a fan system. There is a set of air lances that are approximately 20-foot-long PVC pipes with holes in them. About a foot of compost is laid out on an asphalt pad, and the air lances are connected to a main manifold that is kind of a permanent fixture. They are plumbed up together in one system, and there is a big fan system, and they are able to control the amount of air that is sucked in through the air lances. It creates suction and then as it passes through the fan there is another set of lances that exhaust the air into a stack of wood chips that are kept wet with a sprinkler system. That optimizes the conditions for the beneficial bacteria which will consume those odor-causing agents in the pile of chips. There is little or no odor in the air that has been collected to that point, and it off gasses from the pile.

Monk asked if the property on Bailey Hill is large enough for the operation, or if Rexius foresees needing additional land. Giles said he would like to think that they will eventually collect more yard debris and need more space. Monk noted that Rexius tried to locate "out in the country" 50 years ago, but that is no longer the case. Giles said Rexius purchased property several years ago with the intent to move out off of Awbrey Lane. Unfortunately, that did not happen. He said there is no sunset on the current location, and they are trying to be the best neighbor they can possibly be. Monk said he brought up the subject of location because of the long process that Baxter has had to go through. He said he thought that, rather than having to go into a great detailed process of looking at Rexius's negative pressure system and how their biofilter works, and whether there are alternative systems, it might be easier for the company to find a different location. Giles said the biggest challenge with moving the operation is that composting is an outright permitted use on I-3 (heavy industrial) land. If the process were to move to an I-2 property, there would need to be a conditional use permit. A piece of land that is zoned properly and has a large enough footprint for their use is just not available. The largest piece of property they could find was the one on Awbrey Lane, and that was recently sold because they could not use it after all. Giles added that even that piece of property would have required a conditional use permit because it is zoned I-2.

Johnson said he assumed that this discussion was taking place because of the increase in the number of complaints LRAPA has received in recent months about the odor from the Rexius facility. He asked if Rexius has been doing something different in recent months to account for the increased complaints. Giles said the only change is that Rexius has done more recently to mitigate any odors coming from its operations. He said he understands that the complaints are coming primarily from two sources. One of those sources is the Hampton Inn which is an extremely close neighbor to the north of Rexius. When the wind directions is from the south, slightly southwest, the Hampton Inn receives the brunt of the air passing over the Rexius site. Giles said Rexius recently installed a misting system that incorporates a deodorizing agent. It is coordinated with a weather station so that it operates 24/7, whenever the wind swings within set parameters that would impact the Hampton Inn. Hough asked if the system uses the EcoSorb product, and Giles said he believes that is correct. Hough asked Giles what his sense is, as to

the effectiveness of that product. Giles responded that he personally feels that, while EcoSorb is not a “magic bullet” that will keep everyone happy all the time, it is having a noticeable effect to reduce the odors. Monk asked if the misting system was set up in response to the complaints, and Giles said the system was integrated directly into conversations between Rexius and the Hampton Inn.

Monk stated that odor complaints resulting from the interface of urban and industrial facilities will be a recurring issue for LRAPA, and it seems that LRAPA should have some voice in land use decisions at the city and county levels. He said LRAPA should be involved, to tell city and county planning staffs that before they allow a permit for use of land that is incompatible with existing uses in the immediate area, they should make sure that the new resident is going to understand that they are siting beside a facility that has an odor. There will also be instances where an existing business is asked to change their practices to accommodate a newer tenant, Monk said, and it will happen again and again. He said the area is growing very quickly, and things that were done 50 years ago are no longer adequate; and that is true all around the city. Ralston agreed, stating that the planning commissions should be more careful of development and incompatible uses. He cited the Monaco Coach facility in Coburg as an example of faulty planning by allowing a residential area to be established next to an existing industrial facility. Hough commented that LRAPA has provided input to planning departments in the past regarding locating residential subdivisions near industrial facilities, and the potential resulting land use conflict. Taylor asked if complaints from the Hampton Inn are considered more important than complaints from individuals on the other side of the Rexius facility. Giles the said south side of the Rexius property is abutted by several acres of wetlands that act as a buffer. Rexius has also constructed a 12-foot-high berm on that side so that when the north winds blow there is more mixing time and more residence time for any air that is flowing over the neighbors to the south, because of the way the operation is laid out on the property. Giles said the composting operations are on the northwest side of the property, and the Hampton Inn is extremely close to that with very little buffer. There is not enough time for the air to really dissipate or have any mixing between the composting operation and the Hampton Inn. That is why Rexius has taken steps to mitigate the odor in that part of the property. Taylor asked if Giles was saying that the complaints from individual residential neighbors are not legitimate, that they are not being physically harmed by the emissions from Rexius. Giles said that was not what he was saying, because he does not know what is going on with those complainants. He said he could not comment to what they are experiencing, but he does not believe that there have been any complaints from the residents who are directly south of the Rexius facility. Hough commented that the person who complains the most often lives at 18th and Bailey Hill, to the south of the facility. Giles commented that that location is significantly farther away from Rexius than residences directly next to the Rexius property.

Giles said that the question he has heard, and conversations staff have had internally, involve, for example, arsenic. He said Rexius cannot state, definitively, that that is not an issue; however, the firmest data they can look at is water quality testing data done for the DEQ. The runoff water from the Rexius facility has arsenic levels below EPA’s drinking water standards. Consequently, Giles said he would think that arsenic coming from the forest materials being processed and ground and composted would tend to be a lot more water soluble than it would be airborne, and would show up in the water quality testing done by the facility. He also said he would expect a history of Rexius workers having health problems if arsenic were, in fact, an issue at the facility. He said Rexius workers would be exposed to arsenic in much greater concentrations than residents of neighboring properties, but those workers are not experiencing any health effects.

Taylor asked if Giles thinks that the people who complain are imagining that they can’t breathe. Giles said he thinks, perhaps, there are other potential sources. He said there are numerous paint booths directly adjacent to the Rexius property. There are also cabinet manufacturers and a whole host of other industrial sources that have emissions which have the potential to cause someone health issues.

Taylor said she has a concern about EPA or DEQ suggesting that someone ask for a grant to track down the source, and it seems to her that it would be up to the government agencies, rather than an individual home owner, to apply for a grant. Hough said he thought that was brought up by DEQ because there has been a project in northwest Portland where that had been done. It was a much more wide-spread situation, and the type of air quality monitoring required is sophisticated and expensive. Banks asked if the funding source was Environmental Justice Action Group (EJAG). Monk said the monitoring was done around a foundry in northwest Portland, and he thought EJAG probably was the source of the grant funds. Banks explained that that particular solicitation is for community groups, and agencies are not eligible to apply. She speculated that that was what the DEQ was thinking of when they made the suggestion to which Taylor was referring.

Taylor asked that staff urge DEQ to find ways to get money to try to find out whether these severe complaints are legitimate. She said she does not know the people involved, but she thinks it is obvious that someone is either suffering a great deal or thinks he or she is suffering a great deal; and she thinks it is worth trying to track it down.

Johnson said he found the discussion of burning and composting and odors interesting, and he sees a real opportunity for a partnership going forward with Rexius and LRAPA, with regard to burning. He said he hopes that Rexius and LRAPA staff will continue to work together to look for creative solutions to this problem. It said it would be nice to have rural composting centers where materials collected could be composted to a lower odor state and then brought into town. Giles agreed, adding that Rexius has curtailed its composting operation at the Bailey Hill site to some degree. They no longer compost manure at that facility. He said Rexius is currently in talks with several local farmers to compost manure feedstocks on the farm. That would minimize odors in town, at the Bailey Hill facility. It would also potentially reduce some cost to the farmer, although there are some setup costs that have to be factored into the decisions about whether to move forward with the plan. It also provides a source for some of the more rural waste materials, because a bulking agent is needed to provide carbon to go with all the nitrogen that comes from a farm setting. Giles said Rexius has made a strategic decision to try to do as many of this type of partnerships as possible because everyone benefits from this type of partnership. He cautioned, though, that wherever there is composting, there will be some odors. Giles said there are numerous things that Rexius is looking at to try to mitigate and minimize odors, but there is a cost that comes with each and every one of them.

Tannenbaum asked if there are zoning considerations attached to the proposed rural composting partnerships. Giles said DEQ has a different set of rules and regulations for those types of processes. It is actually done under a permit from the Department of Agriculture, and there is a cap on the amount of material that can be composted, because the material must be either coming from agricultural use or going to agricultural use. Giles said it can be done on farm property, although because of the cap on the volume of material, and the infrastructure that you need to put in, you can't get the turnover that you need to drive the cost down on a per-yard or per-ton basis. Until the financial issues are resolved, it will not be known whether or not it will work on a large-scale, ongoing basis.

- C. LRAPA's Legal Representation. At the last board meeting, Monk brought up the question of whether LRAPA should continue to retain Harrang/Long as its legal counsel. Monk cited conflicts of interest as his main reason for questioning use of that particular firm, since it also provides legal counsel to the city of Eugene.

As a starting place for discussion of this issue, board members had asked staff to furnish information regarding LRAPA's legal expenses over the past five to ten years. In response to that request, Hough distributed a graph showing LRAPA's legal costs, by year, for the last ten years. He noted that the last five years have been unusual for a number of reasons and, if the board were interested, staff could break that down into categories, according to costs for specific issues. He listed some of the unusual issues

that had bumped legal costs above normal in the past five years, including: the Monaco Coach, Coburg, odor issue; the J. H. Baxter odor issue; personnel issues in the past two years; and an asbestos rule violation case which went through contested case to appeal to the board and then on to the state's Court of Appeals.

Hough also provided a copy of a December 29, 1998 letter from Harrang/Long detailing an increase in the fees the firm would charge for various attorneys in the firm, for their services to LRAPA, noting that that was the last time the firm raised its rates to LRAPA (other than inflation adjustments). Hough explained that the unusual circumstances over the past few years have caused staff to call on Harrang/Long more and more frequently for legal assistance. He added that it is his initial sense that LRAPA would have a difficult time finding equivalent legal advice for the wide variety of issues faced by the agency, such as governmental issues, environmental issues, personnel issues, and trademarking issues (for Airmetrics or Everybody Wins). He said he was prepared to explore this subject further; however, he would not go into it lightly because it would take a substantial amount of time to thoroughly assess options, if a change were to be considered.

Fortune commented that he thought the agency should feel blessed to have a firm which has not had a rate increase in eight years. Monk noted that the narrative of the December 1998 letter indicated an annual formulary rate increase of 2.75 percent, which seems reasonable. Monk added that his initial concern was conflicts of interest where neither the city nor LRAPA was getting the best legal counsel. He said he thought one of the things Hough might provide for the board was an assessment of how often such conflicts of interest arise. He suggested that it might be so infrequent as to be irrelevant. It might also be possible just to get another attorney in those instances where there is a conflict.

Hough said a conflict has come up once in the past year, while he has been acting as director. It was not a clear conflict. Harrang/Long was secondary counsel for another organization with which LRAPA had a legal issue. Harrang/Long went on record with the conflict and got waivers from both sides, just so that it would not become an issue. Monk said that seemed fairly infrequent to him. If there were dozens of cases in a given year, it would be worth pursuing the option of going to another firm; however, because it appears to happen very infrequently, he would not press the issue. He reiterated, however, his concern that LRAPA's legal counsel clearly changed his opinion in representing LRAPA in the matter of the city of Eugene appointing a fourth member to the LRAPA board and whether or not the board needed to go to nine members instead of seven because of that appointment. He said he was surprised because the minutes of a board meeting a year or so before that time indicated that, when the at-large position came up for reappointment, the city of Eugene should be able to appoint its fourth member in place of the at-large member. Monk said the issue seemed to have become one of cost for some board members, and that was not his focus in bringing up the subject.

10. NEW BUSINESS:

- A. September Board Meeting. Hough asked the board for permission to cancel the September board meeting because he planned to participate in Cycle Oregon which would take place during the time when the September meeting is scheduled. Board members had no objections to that request.
- B. Egge Sand & Gravel Contested Case, Appeal to Board. Hough said he had received a letter from the attorney for Egge Sand & Gravel, appealing the hearings official's opinion in Egge's contested case hearing. Hough said the hearings official's decision was in favor of LRAPA. The letter from Egge's attorney also requested that oral argument be allowed before the board. Hough explained that, according to LRAPA's rules, the decision as to whether or not to allow oral argument resides with the board chair. He said that, if oral argument is allowed, there is a danger that new issues will be introduced that were not brought before the hearings official. On the positive side, oral argument could

answer questions for the board if there were any confusion regarding the facts of the case in the written record.

Ralston said he knows that the written record in such a case can be quite lengthy and hard to get through. It can leave questions in the minds of board members. In addition, legal counsel would be at the appeal hearing to keep new information from being introduced. For those reasons, Ralston said he would like to give the respondent the opportunity for oral argument.

Hough said all of the written material was being collected by staff to be copied and sent to board members as soon as possible, so that they will have adequate time to read through the record before the appeal hearing, which was scheduled for the October 10, 2006 board meeting.

11. ADJOURNMENT: The meeting adjourned at 2:11 p.m. The next regular meeting of the LRAPA Board of Directors is scheduled for Tuesday, October 10, 2006, 12:15 p.m. in the LRAPA meeting room, 1010 Main Street, in Springfield, Oregon.

Respectfully submitted,

Merrie Dinteman
Recording Secretary