

MINUTES
LANE REGIONAL AIR PROTECTION AGENCY
BOARD OF DIRECTORS MEETING
TUESDAY–OCTOBER 10, 2006
LRAPA Meeting Room
1010 Main Street, Springfield, Oregon

ATTENDANCE

- Board: Dave Ralston, Chair–Springfield; Faye Stewart, Vice-Chair–Lane County; Bill Carpenter–At-Large, Springfield; Glenn Fortune–Cottage Grove/ Oakridge; Drew Johnson–Eugene; Earl Koenig–Eugene; David Monk–Eugene; Betty Taylor–Eugene
(ABSENT: Carol Tannenbaum–At-Large, General)
- Staff: Merlyn Hough–Director; Sharon Banks; Merrie Dinteman; Doug Erwin; Max Hueftle; Sally Markos; Kim Metzler; John Morrissey
- Other: Russ Ayers, Chair–LRAPA Advisory Committee; Mike Bucci–Kingsford; Diane Dietz–Eugene Register Guard; Gary Hunt, Anita Ragan and RueAnn Thomas–J. H. Baxter; Amy Peccia–SierraPine; Becky Riley–Lower River Road Neighborhood Association

1. OPENING: Ralston called the meeting to order at 12:16 p.m.
2. PUBLIC PARTICIPATION:
 - A. Gary Hunt, General Manager, J. H. Baxter Co., Eugene. Hunt reported that Baxter representatives had been working diligently with LRAPA staff on the amendments to the Best Work Practices Agreement and that they were looking forward to its implementation. Carpenter asked if Baxter’s profit and loss statement is public information, and Hunt replied that it is not. Carpenter asked if Baxter has ever disclosed its annual profit to LRAPA, and Hunt said he was not aware that that information had been shared with LRAPA staff. He added that LRAPA staff had not asked about that.
 - B. Becky Riley, 202 Hawthorne Ave., Eugene, Lower River Road Neighborhood Association. Riley had sent comments to board members via e-mail just before leaving home for this board meeting. Johnson had brought his copy along with him and had staff make copies of it for the board members. At this time, Riley provided those comments orally to the board. She thanked LRAPA staff for its work in negotiating the amendments to the Best Work Practices Agreement with Baxter, to require additional measures to reduce emissions and odors from the plant. Riley said that the odors seem to be back in the Bethel neighborhoods nearest to the plant, although people had reported lower odors during the summer. She said she also understood from LRAPA staff that creosote use was down at the plant this summer and that yard storage seems to have been reduced. She speculated that those factors may have been reasons why the odors seemed to be reduced over the summer months. Riley added, however, that she still believes that there were fewer complaints over the summer because people just fail to report the odors because they are tired of calling. Riley said she thinks that residents would support most of the measures outlined in the Best Work Practices Agreement and anything else that would actually reduce the emissions and odors at the plant; however, she said, there is still disagreement with, and some opposition to, the proposed odor misting system. Riley said she is not yet convinced that the odor misting is the right approach, noting that the company’s own materials suggested that this is not an emission control method—that they differentiated between odor control and emission control. She said many of the neighbors are concerned about the constituents in the emissions and that, although they dislike the odors, they recognize that the odors are a signal to alert people of exposure to the constituents of the emissions from the plant. She said they want to see the whole emission source controlled, not just the odorous part of it.

Riley said she knows that LRAPA has, in the past, correlated odor complaints with specific steps in Baxter's production activities and noted that she has not seen that done recently. She said she is just not certain, any more, whether the odors are coming from the steaming or the opening of the retorts, or just what part of the process. She said she would like to see the correlation done again, just to be sure that there are not some steps in the process correlating with these odors that have not yet been addressed.

Riley said the residents of the neighborhoods surrounding the plant support the limits on the amount of treated stock in the yard and any kind of covering or enclosures. She said everything she has read suggests that off-gassing from the yard is likely to be the biggest source of fugitive emissions that are still out there, and that reduction in the amount of yard storage over the summer may well have contributed to the reduction in the number of odor complaints received by LRAPA.

Another point Riley brought up was Baxter's use of "cleaner creosote." She said she knows the company already does this but sometimes they can't get it. She said she thinks it makes a difference in what neighbors are smelling and that she noticed that "mothball" odor in her neighborhood.

Riley said she thinks that capture hoods would be a better idea than a misting system, even though they may not be efficient, stating that she thinks Baxter could "noodle that out." She said McFarland is doing this, and she thinks Baxter could, too. She said she and many of her neighbors would prefer to see the captures hoods rather than the misting system.

Stewart referred to a wall of vegetation, of blackberries and a hedge, mentioned in her written comments, which she said had been removed. He asked when that material was removed. Riley said she did not know that, for sure, because she is not the one who lives at that location. She said a woman who lives right across the street from the plant has brought this subject up repeatedly and is convinced that the vegetative material provided a natural buffer between the plant and its nearest residential neighbors, helping to keep the odors lower. Riley said she believes the material was removed in '03 or '04, and that the woman claims it was right before the odors went up in her neighborhood. She said she just wanted to point it out because it has been brought up by those close neighbors many times and does not seem to have been addressed. Ralston commented that perhaps a fence or some other kind of barrier could help alleviate the problem for that area and asked if anyone had checked on that.

Hunt responded that Baxter had planted a hundred Leland Cypresses along one edge of its property and that it was more of a visual barrier. He said he didn't know what blackberries and hedge Riley was referring to, and Riley said she believes it was something the city removed. Hunt said there is a very large, dense hedge across the street from the plant, running along part of the bike path.

3. CONSENT CALENDAR: Monk had a few questions regarding the minutes. He noted that at the bottom of the first page, reference was made to a number of e-mails regarding benzene that staff was going to forward to the board. He asked if those were the documents which were included with the director's report in the agenda packet for this meeting, and Hough confirmed that they were. On the second page, also regarding benzene, Monk noted that Hough had referenced a planned meeting in the near future with DEQ and others. He asked if that meeting had taken place, yet, and Hough said that it had not.

ACTION: MSP(Taylor/Koenig)(seven in favor and one abstention–Carpenter) approval of the minutes of the August, 2006 board meeting and the expense reports through August 31, 2006, as presented.

4. DIRECTOR'S REPORT: Discussion included several items.

- A. Staffing. Hough reported that he had hired a new Finance/Human Resources Manager. He referred the board to a letter from the mayor of Louisville, Kentucky, recommending Nasser Mirhosseyni very highly for the position. Hough said Mirhosseyni would begin at LRAPA on October 23. He added that filling this position is a key part of the transition plan as Sharon Banks leaves LRAPA for Cascade Sierra Solutions (CSS). Hough said he hopes to be able to have Banks here for the November and December board meetings and that he will probably introduce Mirhosseyni to the board at the December meeting.

Hough said he is working out a cooperative agreement with CSS, so that if there is an LRAPA project that requires CSS staff assistance, there can be some kind of reimbursement, and vice-versa. Banks added that there will still be a lot of overlap between LRAPA and CSS projects, and the intent is to continue to have local and regional projects.

- B. Air Quality, Particulate Standards. Hough mentioned that the Oakridge air quality graph included with the director's report had a notation that EPA had proposed a new PM2.5 standard in December of 2005 and that it was scheduled for adoption in September 2006. He said action was taken as expected and that the standard was finalized at the anticipated 35 micrograms per cubic meter. Hough said he believes the new standard takes effect about 60 days after its adoption and that there will be a number of changes required in order to implement that. It will change the local Air Quality Index reporting system. Staff does not yet know exactly what those changes will be. EPA is expected to put out guidance on the AQI changes in February of 2007. It will also change the Home Wood Heating advisories, and staff will be making those changes sooner since the home wood heating season begins November 1.

Monk pointed out that the air quality graph for Oakridge indicates that the levels over the last reporting period would have been over the new standard twelve times. He asked if the entire county would be considered out of compliance if Oakridge fails to meet the new standard. Hough explained that the American Lung Association, in its annual State of the Air Report, bases its numbers on EPA data for statistical areas which are county boundaries, as well as census data and other processes. Lane County numbers in those reports would be based on a combination of Oakridge monitoring and Eugene's monitoring, which is awkward because Lane County actually includes distinct airsheds within a relatively large geographic area. The way ALA reports the figures ends up not being descriptive of Oakridge, or Eugene-Springfield, or the Florence area.

Hough went on to say that attainment status is based on a three-year period and that, looking at the last three years of data, Eugene-Springfield would be just within the protective standards, and Oakridge would be above. He said one change EPA ended up making in its proposed standard was that they kept the PM10 standard, which may have implications for LRAPA. He explained that LRAPA had put on hold its efforts to request redesignation of the Eugene-Springfield and Oakridge areas as attainment, expecting that the PM10 standard would disappear. Because that standard has been retained, LRAPA now needs to look at whether to propose at least Eugene-Springfield for attainment with the PM10 standard.

Carpenter asked if the EPA science advisory group had proposed a lower standard, and Hough said that is one of the strongest criticisms that the state and local air agencies has to EPA, that they did not follow the full recommendation of the Clean Air Scientific Advisory Committee (CASAC). He explained that CASAC argued that if the standard were 35 micrograms per cubic meter, the annual average could be tightened up; or the 35 microgram number could be tightened, and the annual average could be retained.

EPA did not take either of what people viewed as the straightforward recommendations of CASAC, and that was a criticism. Hough said, in the final action, EPA Administrator Steve Johnson said he recognized some differences but disagreed with the CASAC recommendations on those particulars.

Hough said the most interesting number in the last couple of months was the 95 ozone on July 11, adding that radio ads this summer have been targeting ozone levels by emphasizing the Stop! Don't Top and engine idling reduction campaigns. He said campaigns will begin now for the fall months, to emphasize reducing or avoiding open burning.

- C. Everybody Wins. Hough reported that all 350 Auxiliary Power Units in Phases I and II of Everybody Wins have now been committed and should be installed by the end of October or early in November. He said there is a waiting list for about 30 more which will be picked up by Cascade Sierra Solutions.
- D. Cascade Sierra Solutions. Banks reported that CSS has been very fortunate to get a location right in the middle of the truck stop parking lot at Coburg. She said Graham Trucking decided to move its business to Brownsville, and CSS was able to purchase the double-wide manufactured home structure they had been using. It has a large showcase area in the center, and CSS was able to purchase the building, with telephone system and security system, as well as all the furniture, for \$15,000. The purchase was made out of an EPA grant. Banks said the area where the office is located fills up with trucks every night and so is a perfect location for CSS. She said the building is in the process of being remodeled and should be ready to open as a showroom by January, where technology and financing will be available. Banks said she has not only the Everybody Wins financing, but another round of funding which will be available November 1. In addition, the Small Business Administration has worked with CSS, and CSS will be able to issue Small Business Assistance loans through the center. The Coburg CSS center will be a small business technical assistance center for truckers, and there will be more than 40 different technologies available from which to choose. Banks added that Les Schwab has been signed to be one of the installers for the new single-wide tires. Banks said she is looking forward to the opening of the Coburg showroom and hopes the board members will be able to attend the open house.

In California, the Air Resources Board is putting together a special program for CSS to be able to issue California grants right out of the centers. Banks said that will be very beneficial because CSS will be reaching the customers that are really hard for CARB to reach. CSS has received a \$200,000 grant from Sacramento to pay for a facility there, and CSS is working with the Sacramento Air Quality District to develop a plan for the 49er Truck Stop in Sacramento. Carpenter asked if there is an opening date for the Sacramento center, and Banks said the original plan was to open the center in July of 2007; however, she said they might be able to open it by April or May, depending on how quickly they can get everything in place to operate the facility. She said they are considering using a used modular facility there, because the truck stop facility is scheduled to move in the next three years. Banks said the truck stop owner has committed to putting the CSS center in the master plan for the new truck stop and is planning to build a "green" truck stop. She said they will hopefully be able to put in some solar technologies and some renewable fuels.

CSS is working to try to raise funds to be able to afford to use a location in Seattle, and Banks said she is hoping plans for that center will go through. Fortune asked where that center would be, and Banks said one potential site would be across from the Flying J Truck Stop at the Fife exit near the Port of Seattle.

- E. Warm Home/Clean Air Project, Oakridge. Hough reminded the board that Banks was instrumental in getting the program started in Oakridge, and that Sally Marcos and Kim Metzler have been implementing it. He said LRAPA has been successful in getting a \$125,000 federal grant for the project which has been augmented by a Supplemental Environmental Project. Metzler said that 49 of the woodstove replacement appliances have been committed. Hough added that most of those existing woodstoves have been replaced with pellet stoves, and a few others have made different choices. The pellet stoves will burn 90 percent cleaner than the older, uncertified woodstoves, and Hough said it looks like there will be enough funding to help replace about ten more stoves in Oakridge. He said LRAPA is hoping that this replacement program will make another significant step toward meeting the tightened PM2.5 standard in Oakridge. He said St. Vincent DePaul has been successful in getting an expanded grant of multiple hundreds of thousands of dollars which he believes is targeted toward that same area of the county, adding that that has been another benefit of the partnership effort in Oakridge between LRAPA and the other project partner agencies.
- F. Clean School Bus USA. Hough reported that the grant writing workshop which Banks and other staff put on for school districts has had great success in school districts getting grant funding for school bus replacement, retrofits, and fuel subsidies. Banks said Lane County school districts were able to get three out of the three grants for which applications were submitted. Bethel schools are going to benefit, along with the Laidlaw public/private partnership. Cottage Grove School District took the lead on a school bus replacement grant which will provide \$20,000 to replace each of nine buses and help pay for some cleaner fuels. In addition, the 4-J School District got another grant, and there are five or six school districts that got payback from that. In addition, Banks said she had found out that Springfield School District came up on the list to receive some of the money from the Toyota grant from last year. She said she persuaded all of Lane County's schools to apply for the Toyota Supplemental Environmental Project, to put diesel particulate filters on the school buses. When the awards were announced, Springfield was listed as number 75 on the waiting list, and it was believed that no money would come Lane County schools. Apparently, however, some big school district did not get funded, and the grant is now able to fund more than they thought they could. Springfield has already been upgraded on diesel oxydation catalysts, which is a low-level and cheaper technology, but they are now going to get diesel particulate filters which is the best technology currently available for that use. Springfield has agreed to give the other pollution control devices to other schools, which will allow schools which did not receive funding before to get some help with diesel particulate reduction technology.
- G. Ethanol Grant. Banks explained that she has been working with the same group that was part of the Lane Clean Diesel project, to try to make E-85 available along the I-5 Corridor. The group has been key in getting biodiesel to Lane county to get E-85. The grant for this project will put in what is called a "wholesale rack." E-85 would be brought in by rail, and the wholesale rack would provide the infrastructure to provide storage and hoses to fill tanker trucks very quickly. Banks said a private partner has agreed to put over a half million dollars into the project, and the Department of Energy has provided over \$600,000 to help with it, as well. Banks said the project will include 15 retail locations on the I-5 Corridor, from Bellingham to Medford, and that Eugene will have two of the locations and Portland will have four. She said eight of the sites are already committed, and seven are still available. Banks said all the different fuel providers are working, along with Clean Cities and some of the air quality agencies, to try to identify additional partners for the project. The retail points are converting mid-grade gasoline tanks for E-85, rather than putting in brand new tanks. Banks said the retail points are required by the grant to carry E-85 for three years, to track and report their sales, and she will be helping with that effort and will continue to do so after she leaves LRAPA to go to CSS.

Questions Regarding the Director's Report. Referring to a Supplemental Environmental Project which Weyerhaeuser is going to fund in Oakridge, Carpenter noted that, typically, on a federal level, the work must be done in the same watershed if it's a pollution permit. Because Lane County has distinguishable airsheds, Carpenter said, it might be worthwhile discussing whether SEPs should actually stay in the airshed where the environmental offsets are taking place. Hough explained that the initial EPA program required using the SEP for the same pollutant in the same geographic area where the violation occurred. Under the state and local laws, there is more flexibility and, in this case, the highest priority PM location was Oakridge; and there was an existing project that would dovetail with the civil penalty. If the SEP had been required to take place in the Eugene/Springfield area, it would have required setting up a new program and would probably have prevented it from being feasible to accomplish. Carpenter responded that there must be low-income people in the Eugene-Springfield area that have high wood-burning stoves and who are excluded from taking advantage of the Oakridge woodstove replacement program. He said he does not have a problem with doing this in this manner this time; but he thinks the board might want to look at a discussion to make sure in the future to keep funds close to where the violation occurs, to offset the pollution problem that caused the violation, even though the current SEP process may have been an allowable thing under LRAPA regulations.

Carpenter asked Hough to explain the HAP emissions rolling limit mentioned in the Forrest Paint violation in the enforcement report for the mid-August to mid-September reporting period. Hough explained that in order to stay out of the Title V category, a source must not emit more than 10 tons per year of any single HAP, and not more than an aggregate of 25 tons in aggregate. He asked staff member Max Hueftle to explain this particular violation. Hueftle explained the permit for Forrest Paint has a 9-ton Plant Site Emission Limit for a single HAP, and that they emitted just over 18,000 pounds of one of those pollutants, putting them just over the 9-ton limit. It was not enough to put them over the 10-ton Title V threshold, but it was enough to exceed the emission limit in the permit. In response to further questions from Monk, Hueftle said the exceedance was discovered as part of the company's semi-annual self-reporting which is required by the permit. Hueftle explained further that the company had recently had some increased demand from a customer to have more toluene in their products, so it was an increase in the amount of toluene. Johnson asked whether the increased demand for toluene is likely to put the company over the threshold limit for Title V, and Hueftle said he does not know, for sure. The Notice of Non-Compliance allows them to reassess and make more detailed calculations if there are any corrections in inventory that can be done to possibly address that. That status will be figured out in further discussions between LRAPA and Forrest Paint. With reference to the "rolling average," Hueftle explained that it is a rolling twelve months, rather than a calendar twelve months, and that they are basically updating the report every month to show compliance for the previous twelve-month period. Carpenter commented that this method of reporting is slightly more restrictive than a calendar twelve-month period would be.

Koenig requested that there be additional information in the enforcement report, to explain the circumstances and terms under which a case is closed. He said it can be just a sentence rather than a lengthy explanation.

Ralston asked about an enforcement action taken against ODOT for allowing particulate matter to become airborne while sweeping the shoulder of I-5. He said he could not figure out how it is possible to sweep a street without causing dust. Hough said it is a combination of the equipment they use and the amount of water they use in their process. There can be tremendous differences. In this particular case, which he said he believed was generated by complaints, the dust was visible from quite a distance away. Ralston asked if they weren't using water or were not capturing the dust, or what the problem was. Hough said LRAPA's standard is that they not create excessive dust. He said he did not know the details of this particular case. He asked John Morrissey if he knew the information, but Morrissey had not handled the case and did not have the details. He did say that ODOT sometimes uses barrel-type sweepers which do not use water, and that

LRAPA has warned them in the past about using that particular method. Hough said staff could get the details for Ralston, and Ralston said the details really were not that important. He said he just has a problem thinking about sweeping dirt off the streets without creating a dust problem. He said he doesn't understand how you set a threshold on that when the dust settles out quickly after it has been disturbed. Hough said there are probably pictures which show the extent of the problem. He said this was not a close call, and the case is pretty strong. He added that street sweeping goes on all year long without causing problems such as this one.

Monk commented that he is impressed with the job LRAPA is doing at being out there and responding to complaints of open burning. He said he assumes that most of the enforcement actions regarding open burning are complaint driven. He noted an action included in the last report because a person had open storage of asbestos-containing materials beside her driveway. He said he assumed that one of her neighbors knew about and called it in to LRAPA, and he wondered how a person would know to do that. He added that he is impressed that LRAPA seems to be on top of this kind of situation. Ralston said he has also noticed a lot of asbestos violations and wondered how LRAPA can find all of those violations, because sometimes experts don't even know what material might contain asbestos.

Monk said he hopes that there will be discussion during strategic planning about all the various issues that the board wants to look at. He brought up an enforcement case where the respondent requested a hearing, and the hearings official, for whatever reason, reduced the fine from \$240 to \$220. He said when he looks at all the open burning cases LRAPA processes, it seems to him that LRAPA is not deterring the activity. He speculated that either the fines are not significant enough or LRAPA is not educating people sufficiently. Monk said he assumes that when someone appeals a case to a hearings official, LRAPA is paying for the hearings official and for its own legal representation. He said he would like to look at recovering LRAPA's costs in some way. He added that he thinks there are some opportunities to do a better job of deterring this activity.

With regard to asbestos, Johnson said he thinks LRAPA staff has done a very good job of educating contractors and different members of the public, and that there are quite a few people in the community who recognize demolition projects and the different types of materials that are likely to contain asbestos. He speculated that some of those individuals call in tips to LRAPA to check out a particular project. Hough explained that certain types of work require a survey, beforehand, to determine if there is asbestos present.

With regard to LRAPA expenses in contested cases, Hough said he did talk to LRAPA's legal counsel about whether it would be possible to recoup some of LRAPA's legal costs in some of the contested cases, particularly where it appears to be frivolous action. He said the impression he received from counsel is that no other agency similar to LRAPA has a provision for trying to recoup those contested case costs. If the respondent is prepared to contest the case, they absorb their legal costs. LRAPA has to absorb its legal costs as well; however, Hough said, this issue probably has more of an effect on Lane County's General Fund than it does on LRAPA's budget, because LRAPA is able to withhold its legal costs in a contested case from the amount ultimately received from the respondent, before the money goes to the county.

Carpenter asked if staff could prepare a monthly summary sheet for enforcement actions, which would give several categories of cases, such as asbestos, open burning, industry, etc., and simply tally the number of actions in each category, with the average value, per category of violation. Ralston added that the fines could be totaled and, perhaps, staff could include the cost to LRAPA for those cases. Hough said staff can explore that.

5. **ADVISORY COMMITTEE:** Metzler reported that the committee has been helping staff a lot in the last couple of months. They went over the Supplemental Environmental Project (SEP) information and the outreach program staff wants to develop for that. The committee's input has been used to finalize the outreach program, and it is now with the website design company and will be put up on the website as soon as it is completed. Metzler said staff and the committee have also been working on specific wording to the violator so that they know that they have a fourth option, to do a Supplemental Environmental Project, instead of making a cash civil penalty payment. Committee Chairperson Russ Ayers added that the committee wants to make it easier for people who get civil penalties to use SEPs because, otherwise, the money goes into the county's general fund and does not get used to benefit the environment. He said SEPs have rarely been used in the past.

The committee has also reviewed the agency's open burning rules and discussed possible revisions. They have also discussed the strategic planning process and reviewed the proposal submitted by LCOG, which is on the agenda for today's board meeting, and made some suggestions of other people who might be considered as facilitators for that process.

Carpenter noted that there were only three members of the committee at one of the meetings, and Metzler responded that two of the three people who were present represented public planning and fire suppression and provided a lot of very good input for staff. Hough said the main discussion for that meeting was open burning rules, and the members in attendance really were the right people for generating a lot of discussion on that particular issue.

6. **INFORMATION ITEM—J.H. BAXTER, PROPOSED AMENDMENT TO BEST WORK PRACTICES AGREEMENT:** Hough reported that there is now a draft agreement which has been reviewed by legal counsel for both J. H. Baxter and LRAPA. Hough said he believes the agreement contains the right next steps to further reduce missions and odors from the Baxter facility, recognizing that following this agreement will be the permit renewal process, during which there will be opportunity for further discussion and public input. He said that, unless the board had strong opinions otherwise, he was prepared to agree to these next steps, then evaluate the effects of those steps and see if the issues are fully resolved.

Taylor said she has doubts stimulated by citizen comments and by Becky Riley's comments earlier in this meeting, particularly about the odor masking. She said she had doubts about the odor masking even before she heard from Riley. She said she wanted to know how much time will be allowed to elapse before staff determines whether these steps will resolve the problem or other steps will be needed. Hough explained that three steps are being proposed in the agreement, along with pilot testing of the EcoSorb odor misting system as a fourth step. He said that, from the date the agreement is signed, it will take about eight weeks for the design, then an anticipated one to two weeks for LRAPA to review and approve the design. Then there will be twelve weeks for the necessary construction. The overall projected time frame is about 24 weeks.

Taylor asked if Baxter will be required to institute some of the other options at that time, and Hough said there needs to be time to evaluate how well those things are working, which would probably take the process through next summer/fall. Hough said the expiration for the new permit would probably be December 31, 2008, after which it could be revised again, if necessary. Taylor stressed that that is a very long time, for people who have already been suffering for years, before further measures could be taken. Hough replied that this has been an iterative process, that between 2003 and 2005 a number of process changes were made. In the summer of 2005 the carbon filter was put on. It is now a little over a year later, and an agreement has been developed for the next steps which would take five to six months to become fully operational. He said

that that same length of time after that installation is completed, it will be about the same distance of time as it is now from the carbon filter installation in 2005.

Taylor argued that the problem is not being solved, and Hough said he believes that what happened last summer was significant. He said LRAPA's observations of odor are that the odor is now more difficult to find. Usually it is present on Roosevelt, right in front of the plantsite, and is difficult to detect even doing a full circumference of the facility. Hough said this information is heavily dependent on John Morrissey because he is LRAPA's field person who has been involved with this facility for many years, and the odors are more difficult for him to locate. Hough said he believes that the next steps will be effective in making further reductions in the odors detected.

Taylor asked if Hough thought the reduction in odor was because they were storing less material on site during the summer, and Hough said he did not. He said staff has looked at enough of the production information to know that it has not been a dramatic change. He added that he has high confidence in John Morrissey's observations.

Taylor asked if Hough is considering Option Number 7, to construct a treated wood storage building. Hough said that is one of the most expensive options. Baxter is committed to doing revised inventory practices in order to reduce the amount of treated material that is kept in the storage on the site, using an existing building for storing some of the more odorous products, in order to help reduce odors getting to the neighborhood.

Taylor repeated that she has significant doubts about relying on the number of complaints—unless there are none—because, as she has said at previous meetings, some of the people who were most deeply affected have moved away, there are many people who would never complain, and there are others who just get tired of complaining year after year.

Carpenter asked Taylor what she would consider a valid parameter to measure a degree of success, if not by neighborhood complaints. He said he does not know of another way to determine how successful something is, other than monitoring neighborhood complaints. Taylor said she would accept receipt of zero complaints as proof, but she wouldn't judge it by the number of complaints. She said there are some people in the neighborhoods who have been watching the situation and complaining for years, and she would trust their opinion as a reliable measure of success.

Ralston said he is convinced that the odors have been reduced, and that the board has to have some kind of faith and allow reasonable time to determine whether the new measures are going to make a difference or not. The board can't just expect these steps to fail without giving them a chance. He said if, by the end of December of 2008, it is determined that further action should be taken, then LRAPA will look at other options. Ralston added that it could be that the odors have actually been reduced, and that is why LRAPA is not getting as many complaints.

Fortune said he would like to know if the ultimate goal is an odorless facility, and if it is not measured on complaints, what the measurement should be. Hough said there are seven criteria in the nuisance rule, and he would look at those in combination. The number of complaints would be an indicator of the number of people affected, and that is one of the seven categories. Another factor would be the level of control employed by J. H. Baxter. A combination of the seven factors would determine whether there was, in fact, a public nuisance. LRAPA has tried to look at the appropriateness of the technology and how it compares to similar facilities. LRAPA believes that the calculated emissions reductions are real emissions reduction that the carbon filter is collecting and removing from the atmosphere. That is one criterion. The number of

complaints received is considered an indicator. LRAPA has a skilled staff person who has been with the agency for a long enough period of time that Hough said he has high confidence in his documentation. Morrissey has been responsive to people, trying to assess whether these are confirmed complaints, suspected, or whether they are probably from another source. Hough added that he has seen evidence recently that there are some other sources that are producing odors which are being attributed to Baxter, causing some confusion. There are some complaints that are reported at a time when the wind direction is contrary to the direction that would come from the direction of Baxter; and LRAPA believes those are probably from some other source. Since the odors have dropped down, that is more of a possibility than ever. Hough said that whether he's looking at the seven criteria in the nuisance rule, or at the things that he just mentioned, he has now concluded that the actions taken, to date, have been effective in reducing the odors by approximately 40 percent.

Fortune said one of the challenges he has had with the J. H. Baxter odor complaint situation is that, while the number of complaints has come down significantly, he does not know how "nuisance" is being defined. He said one board member is advocating for zero complaints, but he does not see that as a valid indicator, either. He said it has been reported that there are 35,000 to 40,000 people in the area, and ten complaints out of 40,000 people is not a significant number. He asked if a situation should be determined to be a nuisance when a certain number out of each thousand residents calls in complaints.

Johnson agreed, stating that it is hard to know at what point it can be decided that Baxter has done enough to resolve the odor problem. He said LRAPA needs to look at what is the state-of-the-art technology for this type of facility. He referred to Becky Riley's suggestion that perhaps fewer and larger retorts might be better technology if the odor problem is coming from opening of the retort doors, adding that capture hoods would be considered better technology for capturing and controlling vapors. Johnson said LRAPA should look at the industry standards and the best available technology to control odors from this type of activity. He added that staff should work with people in the community who are active and engaged, to find the best balance and find the answer to the question of what is enough.

Hough commented that Becky Riley has had an influence on this process, over time, and he believes that part of where the process is today is a tribute to what Riley has invested. He said Riley has been an invaluable resource throughout this process, and he very much appreciates the feedback she has provided. He said Riley may not always agree with staff about various aspects of the process to resolve the odor issue; however, she has been very thorough in helping LRAPA to research the possibilities and has pointed staff to other information that has been helpful.

Hough said LRAPA staff has looked into the option of putting hoods over the retort openings; and the practice Baxter has employed over recent years, cracking the door and pulling cooling air over the material for an extended period of time and then collecting the emissions in the carbon filter, is more effective than even well-designed hoods would be if the material were immediately removed from the retorts instead of allowing for cooling prior to removal. Hough said it would be very challenging to design a hood that would be as effective as the cooling process, in capturing as much of the emissions and reducing the odors as the material passes under the hood.

Johnson had a question regarding the wording in the proposed amendment to the Best Work Practices Agreement. There is a statement that, "... if the technical memorandum recommends implementing EcoSorb, and LRAPA approves the recommendation, Baxter will implement the EcoSorb system." Then it goes on to

say, "If the memorandum recommends to not implement EcoSorb, Baxter will submit a refined cost estimate." Johnson asked what happens if the memorandum recommends implementing, but LRAPA does not approve that recommendation. He suggested that the document should have language to spell out what happens in the event of disagreement over this point. Hough said he has also been thinking about that and believes that LRAPA would have to provide for that in the permit process, itself. He said he would like to see the obvious things started as soon as possible, rather than delaying everything until details about one of the options are defined. He said if Baxter recommended using EcoSorb and LRAPA disagreed, the agreement would stick to just the remaining three items which Baxter has committed to doing.

Monk suggested that, in that context, it should be the LRAPA Board of Directors that approves, so that there is still a chance to revisit this once the time lines are set, and all the responsibility is not placed on the director. Once the memorandum is done, Hough could advise the board as to what he would recommend, but the board would make that decision as to whether they are satisfied with the technical memorandum and the use of the EcoSorb. Hough said that it is his understanding, from legal counsel, that this is something that is within the director's jurisdiction to do. Because this has been an issue before the board, Hough said he wanted to bring the amendment to the Best Work Practices Agreement back to the board to make sure the board is fully informed, before signing off on it. Hough said he would be uncomfortable delegating back that responsibility to the board. He would rather have the understanding of this kind of discussion, that he is committed to continue this dialogue with the board, rather than re-split where responsibilities lie. Monk said, just to finish this point, he understood that a member of LRAPA's Advisory Committee has expressed some concern with the fact that EcoSorb will remove naphthalene, which seems to be the most significant issue with, not only the odor, but with the emissions coming from Baxter's creosote process. Monk said he wanted to go on record as saying that he hopes Hough and staff will really look at LRAPA's rules closely, with regard to masking; and if staff's intent with the misting system is not to mask but actually minimize emissions, then so be it. He said he hopes that staff will look closely at the technical memorandum to make the determination, because the LRAPA rules are quite clear that masking—especially with naphthalene—is not permitted.

Hough responded that staff has had those kinds of discussions with EcoSorb and Baxter, and with Paul Engelking from LRAPA's Advisory Committee. The technical appendix which was part of the engineering report submitted by Baxter showed that EcoSorb is more effective on some things and less effective on others. What Engelking pointed out is that, while EcoSorb would be relatively ineffective on something like naphthalene, it would be more effective on some of the more odorous compounds. That is where the EcoSorb would have the potential to be a useful addition to the other three engineering options being applied at the Baxter facility under the amendment to the Best Work Practices Agreement.

Carpenter asked why the permit renewal date would be extended out to December 31, 2008 rather than 2007. Hough said the permit is on a cycle, and it actually has been due to be renewed during the time the Best Work Practices Agreement has been negotiated. The permit would be continued on the existing five-year cycle, even though it is automatically renewed while negotiations are underway. As long as they submitted their application in a timely manner, LRAPA would still keep to that five-year schedule. Some of the fees are established by the five-year cycle, and part of the reason to keep the cycle is for fee equity. Hough said the 18 months following the completion of the agreement seemed, to staff, to be about the shortest period staff would be comfortable with, based on the length of time it has taken to go from installation of the carbon filter to now. Carpenter asked when the last permit expired, and Max Hueftle responded that, based on the five-year schedule, it would probably have expired at the end of 2003. Carpenter said this is a very unique circumstance, and he does not think that the five-year cycle necessarily needs to be maintained in this kind of

situation. He pointed out that new technologies and solutions are being developed, and staff may want to impose those onto the next permit. Staff may want to shorten the permit cycle to provide greater flexibility to evaluate how options are working and if something else might need to be done.

Ralston commented that LRAPA could impose those additional requirements at any time, and Hough confirmed that. Ralston stated that he is sure there will be an annual review of this permit for as long as it takes, until the situation is resolved. Hough said staff can initiate another Best Work Practices Agreement if there is cause, and impose additional requirements. Another option would be to propose a permit revision, separate from the normal renewal cycle. Carpenter said he understands that but wonders why LRAPA would extend the permit out five years to start with, if there is any question as to whether the permit will be adequate.

Ralston reminded the board that this was a discussion item, and staff had recommended signing the draft agreement this week. He noted that, from today's discussion, it seems clear that the board does not support using a masking agent; however, he said he would like to see staff move forward with it and get the agreement in place as soon as possible.

Stewart disagreed, from the standpoint that the staff has done a lot of work on the EcoSorb option, and it sounds like EcoSorb would be more effective on some things than on others. He said it might still be a good option to have in place, and he would just as soon take the recommendation after the pilot program is done and more is known about whether or not it is working efficiently. Ralston agreed, stating that that actually was the recommendation from staff.

Hough pointed out that LRAPA's rule is essentially the same as DEQ's rule, and DEQ worked with a facility in The Dalles to employ an EcoSorb misting system. DEQ has determined at their level that this is not in conflict with the masking rule. LRAPA staff has discussed the option, and Hough said he has concluded that it is not masking the odor. There is evidence that it is effective in reducing some constituents of what is being emitted. Johnson asked if there has been any testing of the runoff, to see if what is being knocked out with the misting system are constituents of the vapors from the process. He wondered if the liquid that concentrates on the drip pad has been tested to see if there are treating chemicals in the liquid. Hough said testing has not been done on what is collected on the drip pad. He said it would be hard to separate what is being added by the misting system from what is coming from the processing of the wood; that the purpose of the drip pad is to ensure that the material dripping off the treated wood is collected safely.

Ralston asked if Hough had the direction he needed from the board, and Hough said he did.

Taylor commented that the staff report for this agenda item stated that Hough plans to sign the agreement unless the board provided other direction. She said that indicated to her that this discussion was intended to be more than just informational. Hough responded that, if the majority of the board members agreed that this was a wrong direction, he would certainly weigh that heavily in deciding whether or not to sign the agreement as it is.

Monk said he thought board members were all in agreement that this should move forward as quickly as possible, and Ralston said that was what he thought. Monk said the only issue for him, really, is the misting system. He noted that Hough had said he believes the misting system is within the requirements of LRAPA's rules and that it will address the more odorous compounds. He said it is not necessarily pollution prevention.

It is trying to contend with the odors which are part of the complaint-driven issue. He said it can't be forgotten that odor often represents toxic constituents that come along with it and, to him, that is the more important component of the issue. It is important that people are able to live in and enjoy their homes, and that is what the nuisance rule is for. At the same time, if these odors are precursors for toxic constituents, that must be part of the consideration of what is being done to reduce the odor situation.

Stewart asked Hough about a statement in the SHINE report that was recently received by LRAPA, that they could not detect that there were any health issues related to Baxter. He said he is having a problem in that there is a lot being done to try to control odors because it's the right thing to do; however, if there were a clear health issue, he is sure LRAPA would be closing doors and dealing with it. Hough agreed and said the previous meeting did touch on the SHINE cancer report. He said that staff has added the SHINE report to the agency's website. He said the report said that they were not able to detect any anomalies in cancer incidences from the general data in these particular census districts around the Baxter plant site. He pointed out that, as far as coming out with a statement that there are no health effects related to the site, that would be a separate issue. Hough said SHINE has promised a further work on their overall health assessment, but they have not yet done that. The recent cancer-related report was a step that they had agreed to do, along the way, in response to neighborhood requests. They teamed with the Oregon State Cancer Registry group (OSCaR) to analyze this data and came out with a report which is actually a draft which is out for public comment until October 15. He said he believes SHINE has received some comments from people asking questions about the report or questioning the conclusions of the report.

7. INFORMATION ITEM—EFFORTS TO PERSUADE EPA TO REQUIRE LESS BENZENE IN GASOLINE FROM NORTHWEST REFINERIES—EQUITY WITH OTHER REGIONS OF THE U.S.: Discussions of previous agenda items had put the board behind schedule for this meeting. Staff had provided printed materials regarding benzene in gasoline for board information and review. In the interest of time, Hough suggested moving on to the next agenda item, unless board members had questions. There were no questions.
- 8 DISCUSSION ITEM—SETTLEMENT IN EGGE SAND & GRAVEL CONTESTED CASE: Hough explained that this case was to have been on the board's agenda as an appeal to the board of the hearings official's decision in a contested case. He said the case had been settled just prior to this board meeting, which had been the subject of a flurry of e-mails between himself and board members. He said he and staff share some of the frustration which was expressed by Monk and Koenig; however, he still believes that the settlement is the best option at this point in the process.

Ralston said it seems to him that there are a lot of notices of violation for dust from trucks or other sources. He said it is costing more to issue the citations and do the investigations and then have contested cases than LRAPA is receiving from the civil penalties. He suggested that perhaps there should be some discussion of changing the agency's rules. Ralston also said if a civil penalty is issued for \$1,000 and we offer to reduce it to \$500, at least the agency gets something from it. He said it does not seem like a respondent should be allowed to settle for a lesser amount if the original opportunity is turned down and they then contest the case. He said if they choose to fight it and then lose the case, they should be required to pay the full amount.

Carpenter said a simple solution would be to raise the amount of the fines for violations to at least cover the agency's costs. He also pointed out that Hough had indicated that, had the case not been settled, both parties would have had to pay more money to have legal representation to hear oral arguments before the board. Carpenter said the US EPA has rules regarding how local air agencies and state agencies have to perform their

procedures and that a violator must be given a chance to appeal the case. He said the Lane County Circuit Courts require mandatory mediation in cases under something like \$50,000. If the person decides to appeal the mandatory mediation, the other side will get their attorney fees reimbursed if the decision remains the same after the appeal. Carpenter said there may be a way to add a provision to LRAPA's rules that if the appellant loses an appeal of a hearings officer's decision, they would have to pay the district attorney fees. He suggested that Hough consult legal counsel regarding that option. Carpenter also commented that someone contesting a \$250 fine is not going to have the same kind of attorney work done as somebody contesting a \$10,000 fine, and LRAPA should not be paying for the same kind of attorney work to prosecute a \$250 contested case as they would for a \$10,000 contested case. He suggested that staff could appear on behalf of the agency in really small contested cases. He asked if staff currently does that, and Hough said staff does not do that. Kathryn Brotherton of Harrang/Long represents LRAPA in contested cases. Hough said staff is willing to discuss options with the respondents, but once it gets into the contested case process, they usually have legal counsel available to them, and LRAPA has legal counsel also. He explained that the choices that are given in the Notice of Civil Penalty Assessment that goes out are: pay the fine; make their case and request a reduction in the fine; or contest the case. Staff will discuss those options with them, to be sure they understand them, if they want to do that.

Carpenter asked whether there are cases where the fine is only \$250, and the litigant brings the agency all the way through a contested case, costing the agency \$6,000 to collect \$250. Hough said that does happen. He said the amount of the fine to Egge Sand & Gravel was certainly not the reason for their taking it through the entire process, and it is unusual for someone to take it that far. Hough said people usually realize that the process would not be cost-effective for them. More commonly, if someone wants to get through the process at the lowest cost, they will offer a settlement early on by making their case and requesting a reduction in the amount of the penalty.

Johnson said this discussion regarding diminishing returns on enforcement is a nice segue into the later discussion regarding strategic planning. He said he would like to have a discussion during the planning process regarding how to make LRAPA's standards clearer to the public and what procedural options the agency has. He said he thinks there can be improvements on reducing the diminishing returns on enforcement.

Stewart suggested that the board go through the appeals process at a later date, perhaps as part of the strategic planning thinking process, to see if there are some policy issues that the board should be dealing with. He said as he read through the case record for the Egge Sand & Gravel appeal, he had a lot of questions that may lead to some policy decisions that could improve the process. Stewart speculated that Egge Sand & Gravel probably spent more than the amount of the penalty (\$1,100) on the first couple of pages of that record. He said he believes that, for the board to think that LRAPA's agreeing to suspend \$550 of the penalty let the respondent off the hook, would be a mistake because they probably spent tens of thousands of dollars on legal fees, so far, because there may be a policy issue or a fairness issue that needs to be flushed out of it. He said it might be to the board's advantage to just walk through this appeal and work together to see if there are some policy issues that the board should address. He added that Egge should have just paid the \$1,100 penalty and been done with it long ago. Ralston agreed, stating that this is happening often enough to indicate that there must be some underlying issue that would make sense to the respondent to carry it this far. Stewart said the greatest fiscal impact of this is to the county's general fund, because LRAPA is able to recover its legal costs from the penalties that are collected. He said maybe there are some policy issues, maybe the fines are not high enough, and there need to be some answers to those questions.

Monk said he agreed with Stewart and thinks the board should have that discussion. He said that, in fairness to Egge, he thinks there are some “squishy” parts to LRAPA’s rules. Egge was out there for three hours with a water truck, and that was not sufficient. Monk said he thinks the rules should state that a sweeper truck should be a part of that. He said LRAPA’s rules should be clear enough so that companies such as Egge Sand & Gravel can have the equipment on hand, can use the water truck and follow it up with a sweeper, and have the problem solved in two hours, rather than having to go through this enforcement and contested case process. He said he thought Egge had a legitimate issue.

9. DISCUSSION ITEM—PROPOSED RESOLUTION REGARDING FIELD BURNING: In response to discussions at previous board meetings, board member Drew Johnson had e-mailed to board members a proposed resolution regarding field burning and asked to have it placed on today’s agenda. Johnson commented that he had been following the news about this subject and assumed that all of the board members are aware of public sentiment that field burning is a problem and adversely impacts air quality of the residents of Lane County. He said he had spent some time putting together some justification and a resolution that the board say to the Oregon Legislature that LRAPA would like to see this practice brought to an end. Johnson said he was hoping to get some feedback from board members regarding the tone and language but had received none. He put it out for discussion, and possible action, at this time.

Stewart said that, as East Lane Commissioner, he gets a lot of telephone calls about the impact of field burning. He said it seems that, when the conditions for burning are right for Eugene and Springfield, the smoke goes toward Marcola. If you live south of the metro area, the smoke goes to Cottage Grove or out Lorane Highway. He said his biggest concern with the proposed resolution is what alternatives will farmers use if burning is banned. He is concerned that there will be more use of pesticides and herbicides or poisons, and he just wants to be sure that in making this kind of recommendation, LRAPA would not be encouraging other bad practices which might be even more detrimental to people’s health than the smoke from burning.

Koenig said he assumed that this is completely separate from the wetlands burning and wondered if the grass seed growers would feel they are being discriminated against if LRAPA continues to allow wetlands burning. Johnson said that he and Hough had discussed that, and his response to Hough was that you have to look at each burning scenario, whether it is demolition burning, slash burning, wetland burning—or other kinds of burning—on its own merits and on the impacts, the frequency, how the burning is accomplished, and what the alternatives are. Johnson said he asked himself those same questions, and when he looked at what happens other places, there are indications that there are alternative to burning. He said the state of Washington banned the practice of grass seed field burning in 1998, and Oregon has reduced its quota from 300,000 acres at one time down to 40,000 acres. Johnson said his intent in drafting the resolution was to initiate that conversation at the Legislature, because the current situation is that when the Department of Agriculture sends up pilot balloons to find out what the wind speeds and directions are at different altitudes, if the wind would blow smoke from burning to Portland they don’t burn. If smoke would blow to Eugene, they don’t burn. But if the wind would blow the smoke to Mohawk Valley or other outlying areas around Eugene/Springfield, the burning is done. He said he sees this inequity as an environmental or social justice issue.

Taylor said there are days when the smoke does intrude into Eugene, and people call her to say they are really ill from it. She said there are people out there who are seriously ill from the effects of the smoke from field burning; and wherever the smoke goes, it is important even if it hits an area with relatively few people. Taylor said the farmers who have quit burning must be doing something else in place of the burning, such as baling the straw and selling it. Ralston said removing the straw depletes the nutrients in the soil, and they have to

do other things such as applying fertilizers and other things which might have other adverse effects. Taylor said she is sure that conversation would come up, but she sees no harm in urging the Legislature to ban field burning. If they take up this issue, it would start a larger discussion because there would be people who are opposed to a ban and others who would support it.

Monk noted that when the legislation was passed in the early '90s to gradually reduce the number of acres allowed to be burned each year, there was a tax credit provided to farmers to build barns to collect the straw and try to sell it. The tax credit also covered buying equipment to plow more deeply, and that is what some of the growers do. Monk said he does not know what all the alternatives to burning are, but he liked what Johnson said, that by the board, as representatives of LRAPA trying to protect and maintain air quality in Lane County, encouraging our legislative delegation and the Oregon Legislature to revisit this issue, the issue would be put out on the table, asking them to please address it again. Monk said perhaps processes have changed, and perhaps Washington and Idaho farmers have come up with something else. He added that he believes the tax credit in Oregon's law sunsets this coming year, and perhaps it could be extended. He suggested that there may be some opportunities for grass seed farmers to do something that's had success in Washington state. Monk said he thinks it would be a good thing for the LRAPA board to go on record about this, because the board has discussed this a few times and some board members are frustrated that LRAPA does not have jurisdiction over field burning. He stressed that it wouldn't affect only Lane County growers, but also growers in neighboring counties, adding that Linn County has the majority of the grass seed farms in the state. Monk said that if board members think this is good idea, he thinks there should be a motion to pass the resolution.

Koenig asked if Johnson believes the Legislature is able to analyze whether there would viable alternatives available in the aftermath of a ban on grass seed field burning. Johnson said he was thinking of a legislative process of hearings and of the Legislature bringing in representatives from the Department of Agriculture and the Department of Environmental Quality to inform their thinking by providing information on what has happened in the past, what the current state is, and what happens in other jurisdictions where burning has been banned.

Carpenter suggested that the wording of the resolution should be narrowed to the Willamette Valley, rather than the entire state of Oregon. He said the main public health issue is with field burning done in the Willamette Valley, and trying to move this through the Legislature might have more success if it were limited to the Valley. He said he would support the concept of further restricting field burning in the Willamette Valley, but he would suggest that the resolution be re-written before the board takes action on it.

Johnson said he would support any kind of revisions that make it more grammatically and legally and technically accurate, and even feasibly accurate. He said he thinks that when there is intentional burning and certain populations are impacted while another population is intentionally not impacted, that seems to be a basic environmental justice issue; and that is why he wrote this resolution to include the state of Oregon, because everybody should have reasonably the same opportunities to enjoy clean air throughout the state.

Stewart said he could not support the resolution as it is written. He said if the board is go move forward with this, he would like to have Hough rewrite it to incorporate the comments from this discussion and to include information regarding the number of complaints received by LRAPA to show the impact on Lane County residents. He also questioned the accuracy of some of the statement in the draft resolution and asked Hough

to verify the information to be sure that the information in the resolution is absolutely factual and true. Johnson said he would welcome that.

MOTION: Taylor moved that Hough and staff bring back to the board a redrafted resolution, considering the board's discussion today, for action at the next board meeting. Monk seconded the motion.

Discussion. Ralston said he would not support this action in any way, because it is strictly the Department of Agriculture's job to determine what is and is not feasible for farmers to do. He added that there are currently representatives working on legislation and that it is entirely up to the Legislature to pass it or not pass it. Ralston said he does not believe LRAPA's recommending that they pass it will have any effect because the growers have businesses and a very powerful lobby. Ralston said there may be procedures in the future to allow growers to achieve the desired results without burning, and once it has been decided that there are no side effects to other alternative methods, he is sure that those alternatives will be used, because everyone understands that breathing smoke is not a good thing. Ralston agreed with Carpenter's concern about making a ban statewide, because Eastern Oregon is entirely different from the Willamette Valley. Farmers burn for a reason and are willing to put up with the smoke for economic reasons. There are far fewer people living in the eastern part of the state, and it is more wide open space. He added that it could be that wetlands burning or forest slash burning or other types of burning will be deemed to be appropriate.

Monk noted that this resolution speaks specifically to grass seed field burning, as opposed to other kinds of open burning and other kinds of agricultural burning. He said this issue is about as fundamental to the things LRAPA does as any issue. He noted that LRAPA has written a letter to EPA about their benzene proposal, and LRAPA has no influence on that issue other than encouragement. But benzene levels in our county are fundamental to the air quality. So smoke that impacts Lane County from Linn County or Lane County grass seed field burning is an important part of LRAPA's jurisdictional mandate. For that reason, Monk said he disagreed with Ralston about the effect strong encouragement from LRAPA to revisit this issue would have on the Legislature. Monk said he concurs with Taylor and thinks if all board members would support something that was more technically sound, it should be passed, and he would encourage the board to discuss this again at the next meeting.

Carpenter noted that he does not think field burning is banned in Washington, but he believes the Spokane Air District and some citizen groups there went through some real negotiations during this last spring and summer on curtailing field burning around the Spokane area. He asked Hough to check on that and report back to the board regarding what that state is doing in Eastern Washington with regard to field burning. Hough said he would look into that and provide an update. He said his understanding is that there is still burning of some type going on in Eastern Washington because there are studies involved with assessing the impacts. He did not know whether that involved burning of grass seed fields or wheat fields or some other type of agricultural burning. Carpenter said that, if Hough provides the requested information and revises the resolution, he would support Taylor's motion.

VOTE: Six (Carpenter/Johnson/Koenig/Monk/Stewart/Taylor) in favor; and two (Fortune/Ralston) opposed.

10. DISCUSSION AND POSSIBLE ACTION ITEM—STRATEGIC PLANNING—PROPOSAL FROM LCOG AND DISCUSSION OF PROCESS TO BE FOLLOWED: Hough reported that staff met a few months ago

with LCOG staff and described the process that was followed for the previous strategic planning effort. LCOG representatives outlined a proposal that would follow that pattern but also indicated that they would be prepared to customize it to something different for LRAPA. Hough said staff had a subsequent discussion with LCOG the week prior to this board meeting to discuss alternatives. In order to have a starting place, LCOG's proposal follows LRAPA's previous process, for which LCOG would charge between \$30- and \$40,000, depending on the use of focus groups or random sample surveys to augment the process. Hough said he hoped to get some direction as to whether the board would support something of this magnitude. He added that it will probably be necessary to amend the agency's budget for whatever process is used. Hough said it appears that LRAPA would need to go out for formal bids for something in this cost range. Even if it were scoped down, new model rules for public contracting adopted by the state would require RFPs unless it were a contracting agency, which LCOG is. According to LRAPA's own contracting rules, the agency could contract with LCOG if the amount were less than \$25,000. Hough said he spoke with LCOG about this, and it appears that even if LRAPA could contract with LCOG without an RFP, there is probably enough reason to go through the RFP process to gather information and additional ideas and probably come up with a better process by going through the RFP process. Hough said he has also spoken with some other groups that could provide this service for LRAPA, but he wanted to give the board LCOG's proposal and get a sense of the board's initial thoughts about this.

Ralston said he wondered why LRAPA would even consider LCOG's proposal, because it seems like strategic planning is something that could be done in house. He said looking at the initial planning that was done last year, it seems to be a very good document showing goals, objectives and tasks for the agency.

Taylor agreed with Ralston and asked if the agency spent money on the prior strategic planning process. Staff responded that a part-time employee, Laura Wipper, provided the staffing for the previous effort. Wipper was experienced at the process, having done it for ODOT in the past. She did not get paid what the LCOG contract would pay, even though the process took several months. Ralston and Taylor agreed that the preliminary planning that was done last year looks good and is almost done. Ralston said he could see the group spending a couple of hours to go through the existing goals and objective to see if any changes are necessary.

Johnson said he both agrees and disagrees with Ralston and Taylor. He agrees that LRAPA does not necessarily need to pay LCOG to facilitate the process, but he thinks the scope of the planning that needs to be done is far too broad at this juncture. He said he would like to see the board and the agency's key stakeholders, such as the advisory committee and whatever other individuals the board would like to be involved, have discussions on a smaller series of meetings to talk about enforcement policies, particular rules which the board thinks need some attention, and particular strategies that everyone wants to see implemented. Johnson said, however, that he thinks there needs to be a facilitator. He thinks it would be a much more productive process if there were a professional, neutral person there to lead the discussions and to report back about those discussions. Johnson agreed that it shouldn't be necessary to pay \$40,000 for strategic planning; however, he stressed that the process will cost some money and, in order to have a good process, the agency shouldn't short-change itself.

Koenig stated that, if the purpose of the process is to prioritize what has already been done and flesh out those priorities, it should be something that can be done, in house, with perhaps a facilitator as Johnson mentioned.

Monk agreed with that but said, it should be the board of directors, with key staff members, and other stakeholders that the board determines should be at the table, who have this discussion. He said there are issues such as enforcement and civil penalties and cost recovery, to rules that aren't as well defined as the board thinks they should be and that open the agency up to legal challenges, that should be discussed in the strategic planning process. He thinks that hiring a facilitator is the right way to start and, then if it seems to require something more the board could have that discussion later. He suggested that board members check their calendars for the near future and schedule some meetings longer than the two hours that the board meetings usually last. He said perhaps there could be a retreat on a weekend day, to really get serious about this and do the work that needs to be done for LRAPA.

Taylor said she thinks the process could start with what has already been done a compilation of the questions that people have been asking, such as questions about the enforcement process, into a list. She said she does not think there needs to be a facilitator because, in her experience, facilitators cost a lot of money and don't do that much good. There just needs to be someone to chair the meetings, and it should not be the board chair, because that person would want to participate equally. She said there must be someone on staff who could do that. Taylor said the Eugene City Council has what they call "process sessions," of about two hours, during which they discuss how things are being done and what should be changed. Taylor said she does not believe the LRAPA board needs an all-day session for strategic planning.

Carpenter said he thought that what was presented by LCOG might be required in some instances; however, LRAPA does not need it, and it would not be a wise investment, given the agency's financial condition. He did say, however, that he thinks a facilitator would be valuable, perhaps up a maximum cap of \$1,000, just because you would be getting a neutral person to keep the process going. Facilitators need to push the group at times to get things done, and anyone from staff who tried to lead the process might find it difficult to push board members. He also agreed that the planning process is already well underway with the goals and objectives that have already been identified.

There was brief discussion regarding how much a facilitator might charge, and Johnson suggested that Hough be directed to refine the scope down to a series of a couple of meetings over a few months, where we put out an RFP and let people come back to us with proposed processes and costs within a range of \$3- to \$5,000. Ralston said a cap of \$1,000 should be more than sufficient, and he didn't know if he could even support that.

Carpenter suggested that Jim Johnson might be a possibility to facilitate the process for LRAPA, having been intimately involved with the agency. Ralston said it would be worthwhile to collect a list of people who are known facilitators and perhaps take the best bargain out of those that get the job done. He suggested Chris Prior as another possibility.

Johnson said he was not thinking about cost just in terms of paying a facilitator, but the cost to the agency and staff in time to coordinate everyone's schedules. If the agency could pay a little bit extra to have a professional coordinate the process and keep it on track, it would relieve staff of the extra burden of the work involved in the process.

Ralston said he would agree to ask Hough to go out and get a list of facilitators and find out what they would charge, then estimate four to six hours and come back to the board at the next meeting with some options, short of spending \$3,000. He asked if that sounded reasonable to everyone. Stewart asked if Ralston would

want the facilitator to summarize the meetings, as well. Ralston said he would like Hough to get the information from facilitators, and if they would also provide the summaries that wouldn't be a bad thing.

Johnson said he thinks there should be a little leeway to hear from the experts regarding if they have worked with a group like LRAPA before and what has been successful. Taylor responded that experts are in the business of making money by doing this sort of thing, and they will say it will take many hours and a many dollars to do it.

Fortune noted that Stewart has touch on the point that if LRAPA is looking at a facilitator, we need to know what will be required of that person. If Hough is going to ask these questions, he needs to know if the board expects the person to do a summary, because that adds to the time it will take to get LRAPA what it wants.

Hough noted that LCOG had suggested going out for Request For Information even prior to going out for a Request For Proposals. He said that would be similar to what the board is asking him to do, to actually help them shape, within certain guidelines, a process that LRAPA can use. Monk suggested that, within the context of the direction the board is giving Hough, he should look at potential facilitators, without limiting the agency. If they all come in at \$5,000, and the board agrees that is too much, then the board will know where to go from there. He said he would like to just explore opportunities, without limiting ourselves on precisely what will be discussed. Monk pointed out that everyone is concerned about how these dollars are being spent and what the deliverables are. He said an important part of the planning process will be to see how LRAPA is viewed as an agency, whether it is accomplishing its primary goals and, if not, how to restructure the agency to do that.

11. OLD BUSINESS:

- . Rexius Odor Complaints Situation. Hough reported that staff met, a couple of weeks prior to this board meeting, with Rexius and the Hampton Inn. The meeting focused on Hampton Inn because LRAPA has received a cluster of complaints from them recently. Also invited to the meeting were a representative of Eugene land use management department and from DEQ since they have the composting permit issued to Rexius. The outcome of that meeting was that it appears that Hampton Inn and Rexius are going to employ the services of the Community Mediation Services and see if there is something that can be worked out. It appears that the root of the problem is conflicting land use. Rexius has been operating at that site for many years. The Hampton Inn went in fairly recently, and guests at that facility are now complaining to the hotel about the odor.

Ralston said many resulting problems with odor and such are conflicting land use situations and inappropriate zoning. Then LRAPA or someone else gets the problem of trying to clean it up. LRAPA should have an influence on these situations and should at least be allowed to weight in on those decisions at the time they're being made.

Fortune agreed, stating that there are city governments and planning commissions that oversee existing businesses or industrial sources and allow something to take place that shouldn't. Then it becomes someone else's problem to try to clean it up. He said at some point, it needs to be put back on the cities for them to deal with the problem.

12. NEW BUSINESS: None.

13. ADJOURNMENT: The meeting adjourned at 2:45 p.m. The next regular meeting of the LRAPA Board of Directors is scheduled for Tuesday, November 14, 2006, 12:15 p.m. in the LRAPA meeting room, 1010 Main Street, in Springfield, Oregon.

Respectfully submitted,

Merrie Dinteman
Recording Secretary