

**MINUTES**  
LANE REGIONAL AIR PROTECTION AGENCY  
BOARD OF DIRECTORS MEETING  
THURSDAY–AUGUST 2, 2007  
LRAPA Meeting Room  
1010 Main Street, Springfield, Oregon

ATTENDANCE

Board: Faye Stewart, Chair–Lane County; Earl Koenig, Vice-Chair–Eugene; Bill Carpenter–At-Large, Springfield; Glenn Fortune–At-Large, General; David Monk–Eugene; Dave Ralston–Springfield; Betty Taylor–Eugene

(ABSENT: Drew Johnson–Eugene; Pat Patterson–Cottage Grove/Oakridge)

Staff: Merlyn Hough–Director; Merrie Dinteman; Sandra Lopez; Sally Markos; Kim Metzler; Nasser Mirhosseyni

Other: Joan Benson; George Beres; Maurie Denner–Vice-Chair, and Amy Peccia–LRAPA Advisory Committee; Landa Gillette–LRAPA Budget Committee

1. OPENING: Stewart called the meeting to order at 12:15 p.m.

2. PUBLIC PARTICIPATION:

A. Comments Regarding an Item on Today’s Agenda: None.

B. Comments Regarding an Item Not on Today’s Agenda:

- (1) George Beres, 1990 Dogwood, Eugene, Oregon, Representing “The Sane World,” Regarding Health and Subsidies (Field Burning). **Beres** said he and his family have been dealing with the health implications of the practice of field burning. He said he understands that only 20 percent of grass seed farmers still burn their fields, while 80 percent have changed to different types of environmentally safe methods. **Beres** said he understands further that those who choose to continue to burn their fields get by without the costs incurred by those who no longer burn. **Beres** asked if it would be realistic to consider proposing, to whatever body would rule on it, a temporary subsidy system to relieve the excessive financial pressure on those farmers who can demonstrate, to the satisfaction of the governing body, that the process of making the change away from burning would put them out of business or seriously impact their profits and their way of life. **Beres** said the way of life he is concerned with is the health of people, in general, but the financial impact on the farmers of changing to methods other than burning cannot be ignored. His suggestion is for a temporary subsidy to ease them through the transition. **Beres** acknowledged that there are many other sources of air pollution, such as exhaust from cars, trucks and planes, which contribute to health problems; however, field burning has a tremendous impact. He said it is unrealistic to just suddenly do away with the practice of burning, and he would like to see a discussion of some ways to do that without excessive harm to those who will have to make the adjustments.

Discussion. **Stewart** asked **Hough** if such a subsidy would come from the Oregon Legislature, and **Hough** replied that it would. He also noted that there has been a pollution control tax credit available for many years which has applied to field burning alternatives; however, that is being allowed to sunset because the last legislative session chose not to extend it. **Hough** said an alternative is being considered for the next legislation session, which would not be as broad but would be available for something that was clearly above and beyond normal environmental requirements.

Because **Monk** had worked with **Representative Holvey** regarding the field burning issue, **Stewart** asked **Monk** if **Representative Holvey** would be a good contact for Mr. **Beres** to discuss his suggestion of a subsidy. **Monk** said both **Representative Holvey** and **Representative Barnhardt** (who was the chair of revenue) would be good contacts. **Monk** said he had spoken with **Representative Barnhardt** about the tax credits sunseting, and **Monk** believes there is some support for a very specifically targeted tax credit.

- (2) **Joan Benson, 2795 Central Blvd., Eugene, Regarding Emissions from Gasoline-Powered Engines.** **Benson** said she feels that all sources of air pollution need to be considered completely, instead of concentrating on a few isolated sources. She said she doesn't believe people are doing that enough. **Benson** touched on several subject, including:

- Will there be an Inspection/Maintenance (I/M) program for all motor vehicles in 2009? She said there should be something specifically targeting motor vehicle emissions which could be brought on line sooner.
- What is a two-stroke engine used on motorcycles and on lawnmowers and chainsaws? She said the mixture of oil and gas is very bad for the environment, and it has not been addressed. **Benson** said these motorcycles should be limited or should have some kind of license to deal with it some way.
- Carpooling. **Benson** said there should be carpooling lanes to encourage more than one person per vehicle. She suggested there should also be some way to extend carpooling to longer trips, such as to Salem, by getting people who want to go to a certain location to ride together.
- Encourage people to use the train instead of private motor vehicles.
- Emissions from airplanes. **Benson** said planes are dropping emissions over Oregon—and the entire country—on a regular basis.
- Unpaved roads. **Benson** said her road is gravel, and it is in the middle of town. Traffic on the road stirs up a lot of dust that takes a long time to settle out of the air.

**Benson** said she mentioned all of those sources of air pollution because she had just come back from a stay at the Coast, and her lungs were clear. She said it takes about a week for her health to sink to the point where she has about half the use of her lungs that she would have if the air were cleaner. She said anything LRAPA can do to help would be appreciated.

Discussion. **Stewart** asked if **Hough** knew anything about the 2009 I/M program **Benson** had mentioned. **Hough** said he does not know of such a program; however, 2009 and future vehicle model years will need to meet both national standards and the California Low Emission Vehicle Standards (California, Oregon and Washington each now have similar standards).

**Taylor** asked if there are a lot of two-stroke engines operating in this area, and **Hough** said the engines are used on off-road motorcycles and ATVs. **Taylor** asked if LRAPA can do anything about any of the things mentioned by **Benson**.

**Hough** said those things would be affected mostly by national standard development. He said he knows they are being addressed at that level, but LRAPA has not been directly involved in that. He said if the board is interested, he can get a status report on where that effort is right now and what percentage reductions are expected from those programs, over time. **Hough** said LRAPA can, as part of its public education program, certainly encourage use of four-cycle engines, where

they are available, as well as electric alternatives, instead of two-cycle engines on lawnmowers. **Koenig** cautioned that using a four-cycle lawnmower engine requires attention, because priming it too many times can result in a big plume when it first starts.

3. CONSENT CALENDAR: There was some discussion regarding the minutes of the July 12 meeting, in response to an e-mail received by board members from **Drew Johnson**. **Johnson**'s comments regarding the minutes were:

"1) On page 4 - The first sentence of the fourth paragraph states '**Johnson** said he wanted to be clear that he did not think the legal opinion on this issue was well written.' I have no recollection of thinking or saying that. What I believe I said was that I wanted to be clear that I was not attributing motive to anyone. This was said in response to **Dave Ralston**'s comment that our conversation was 'attributing a motive'. Please make this correction to the minutes.

2) Regarding the discussion on MACT standards- At one point in the discussion, **Sandra Lopez** corrected my reference to 112-J (or 112-G) and I did not see the correction noted in the minutes. Please add that correction to the minutes to make ensure our discussion was accurate with respect to the MACT standard(s) being discussed. I believe we were discussing the 'MACT Hammer' provision."

**Taylor** MOVED approval of the consent calendar, with the corrections to the minutes requested by **Johnson**. **Fortune** SECONDED THE MOTION.

Discussion of Motion. **Carpenter** said he is uncomfortable with people sending e-mails without appearing in person. He said he did not remember the conversation in question, but **Dinteman** has the tape and the notes and, if that is what was said, he has a problem making an amendment to minutes from someone who is not in attendance. He said he would have to vote against the motion.

**Dinteman** said the portion of the tape where **Johnson** made the comment about Harrang/Long's letter to LRAPA is very unclear. In her notes she had written down that he said he did not think it was well-written. On the tape, it is hard to tell. She said she could change the wording if the board wanted to do that. **Carpenter** repeated that he has a general concern about people trying to attend a meeting via e-mail and expressing points of view without being at the meeting.

**Taylor** said she assumed that any time the board wants to make a correction to the minutes, **Dinteman** will check it. The minutes have to reflect whatever was said. She added that the Eugene City Council often corresponds via e-mail regarding corrections to the minutes, to avoid having to spend a lot of time at the meeting discussing it.

**Monk** said he did not recall precisely what **Johnson** said at that meeting. He said **Johnson** had brought this to his attention the previous day. **Monk** said he thought the statement could be attributed to himself, although he did not recall saying specifically those words. He noted that two paragraphs further down in the minutes, the same comment is attributed to him. **Dinteman** said she recalled **Johnson** and **Monk** agreeing with each other, and **Monk** agreed. **Monk** said that, with that in mind, **Johnson**'s statement could be stricken per his request, or the statement could just be attributed to **Monk**. He added that he had researched **Glenn Klein**'s legal opinion and found that **Klein**'s opinion was correct. **Monk** said he had mistaken rulemaking and contested case hearings and thought **Klein** had left something out; however, he (**Monk**) was wrong about that.

**Fortune** said he agreed with **Carpenter**, that these changes cannot be just be made in the approval of the minutes, and if **Johnson** wants to make changes he should do so at a future meeting.

**Stewart** suggested that the board approve the expense reports but leave approval of the minutes until the September meeting. Both **Taylor** and **Fortune** agreed to amend the original motion to approve only the expense reports and postpone action on the minutes until September.

**AMENDED MOTION (Taylor/Fortune) approval of the expense reports through June 30, 2007 and postponement of action of the minutes of the July 12, 2007 meeting until September.**

**THE AMENDED MOTION PASSED BY UNANIMOUS VOTE.**

**Koenig** noted that he was not at the July 12 meeting but that he had noticed, in reading the minutes, that two board members had commented on the asbestos open burning violations in the monthly enforcement report. **Koenig** said that at least 46 percent of the agency's violations now involve asbestos, and he believes the agency needs to be more proactive in getting more information out to lay-persons regarding identification and handling of asbestos-containing materials. **Koenig** suggested, as he has in the past, that LRAPA staff contact organizations like general contractors and remodeling contractors and present to them information about the importance of testing for asbestos before any removal or any burning is done.

4. DIRECTOR'S REPORT: Several items were discussed.

A. Follow-Up Activities on Public Participation Subjects at July 12 Meeting.

- (1) **Wallace Murphy**, Springfield, regarding pollutants from jet vapor trails impacting the area. Follow-up: **Hough** brought the board's attention to a letter from **Kim Metzler** (a copy of which was attached to the director's report), giving Mr. **Murphy** a factsheet about contrails and providing a contact number at the Oregon Department of Aviation.
- (2) **Melissa Baird**, Springfield, regarding an odor in her area which she thought was coming from either Dynea or Weyerhaeuser. Follow-up: **Hough** presented a complaint form for a complaint which Ms. **Baird** called to LRAPA the day of the last board meeting. He explained the follow-up process undertaken by the LRAPA inspector, **John Morrissey**. **Morrissey** studied the meteorological data for the day the complaint was called in and determined that the wind was from the wrong direction to have brought pollutants from either Dynea or Weyerhaeuser. Staff does not know what the source of the odor is but hopes to get a call at a time when it can be checked out while the odor is still present.

**Baird** had also commented regarding **Ralston's** comments in the newspaper regarding global warming. Follow-up: As directed by the board, **Hough** wrote an opinion piece (which was published in the *Eugene Register Guard*), clarifying some of the misconceptions created by the initial article on July 11. A copy of that piece was provided for the board's review and information.

- (3) **Day Owen**, Elmira, regarding aerial spraying of herbicides by timber industry helicopters. Follow-up: **Hough** had spoken with **Rick Rogers** of LRAPA's Advisory Committee, who is with the Oregon Dept. Of Forestry. **Rogers** referred him to the state's Pesticide Analytical and Response Center (PARC) which includes representatives of eight member agencies (Oregon Dept. of Agriculture, Oregon Dept. of Forestry, Oregon Dept. of Fish & Wildlife, Oregon Dept. of

Environmental Quality, Oregon Dept. of Human Services, Occupational Safety & Health Administration, the Oregon State Fire Marshall, and the Oregon Poison Center), as well as consultants from other groups such as Oregon State University. **Hough** said he had attended PARC's board meeting the day before this LRAPA board meeting. He distributed to board members information which included examples of how PARC tracks incidents when they receive complaints regarding herbicides/pesticides. **Hough** said he showed that group the draft minutes of the July 12 LRAPA board meeting, with the details of the complaint brought to the board. They were familiar with the case but had not been contacted directly by those involved in the situation. **County Commissioner Bill Fleenor** did meet with the PARC board, and they encouraged him to encourage the people who are being affected to contact PARC directly so that they can get the complaint situation into their tracking system and follow up on it. The board members told **Hough** they would coordinate a summary of complaints from the Elmira area, any investigations, and any enforcement actions that have been taken in recent years in that area. They said they would try to get the information to LRAPA in time to include in the packets for the LRAPA board's September meeting.

**Carpenter** asked if PARC has anything on its website to advise people to get their blood tested if they have been exposed to the chemicals, or if they suggest any first aide measures in that case. **Hough** said he did not have detailed answer to that question; however, the PARC board members said they preferred for people to contact PARC directly, especially if there is a health concern, and various of the board members said anyone who has been exposed should talk to their doctor immediately, or visit an emergency room, to be sure to receive immediate attention to whatever health impact they've experienced. The PARC board members also said that if the incidents reported in the Eugene Weekly article about the Elmira area pesticide spraying were factual, the hospital should have contacted PARC directly. They are very interested in whether the article is accurate with regard to those details and, if so, why the incidents were not reported to PARC.

**Monk** said he thought perhaps LRAPA should seek a position on the PARC board, although that might not be necessary. He asked if **Hough** had discussed with them whether LRAPA can be notified if these kinds of incidents are reported in Lane County, and whether there is any appropriate follow-up on LRAPA's part. **Hough** said he believes that contact will be made. They very much appreciated the fact that he had gone in person to their board meeting, and he gave them an overview of what LRAPA does. **Hough** added that he pointed out to them that LRAPA was in air quality control in Lane County under the old Oregon State Sanitary Authority, a part of the Health Division, even before DEQ was formed.

**Owen** also commented regarding **Ralston**'s comments in the newspaper regarding global warming. See follow-up under No. 2, above.

- (4) **Connie Jaqua**, Springfield, regarding **Ralston**'s comments in the newspaper regarding global warming. See follow-up under No. 2, above.

B. Enforcement.

- (1) Civil Penalty Fines and Default Amounts. **Carpenter** noted that the amounts sought from respondents seem to be different from case to case, when the person defaults on payment of the fine. He said his sense is that there should be a provision that if people default on a reduced fine, the default should be for the full value of the fine. They should lose any credit they would have had

on a reduction. **Hough** explained that that is the normal process. If a settlement amount is not paid promptly, it defaults to the original amount of the fine. **Carpenter** pointed to a case for which the original fine was \$10,300, of which only \$400 had been paid; however, the lien placed on the property was for only \$4,100. **Hough** explained that the original penalty was \$10,300. The respondent proposed the settlement, and staff agreed to \$4,590. The respondent requested that the amount be paid when the property sold. They expected it to sell very soon, and the amount of the lien had an inflation clause in it to increase by a percentage point each month until it was paid. The longer payment was delayed, the greater the penalty would end up being. The respondent argued economic need as the reason for getting the extra time to pay the penalty, and staff felt that the inflation clause would result in getting the same thing in today's dollars. That was an unusual case.

**Carpenter** asked how much it costs LRAPA to file a lien, and staff responded that the Lane County waives the fees. **Carpenter** asked if the paperwork is prepared by legal counsel or by staff and if it is on the computer and does not have to be created new each time. **Hough** said it is a standard format, and staff does that preparation. **Hough** added that legal counsel costs, as well as staff time to prepare those documents, are subtracted from the penalties that are forwarded to Lane County.

- (2) **Koenig** noted that some cases in the enforcement report do not include the reasons why they were closed. He asked about the details on a specific case, and **Hough** said he would get the details and report back to the board at the next meeting.
- (3) **Monk** noted that the last case in the report, Johnson Crushers, is now coming to LRAPA for an operating permit and asked if that was the result of their having received a violation because they had not been operating under a permit before. **Hough** said LRAPA was alerted to this situation through the facility's base emissions inventory reporting. When LRAPA saw the amounts that were being reported, it appeared to staff that the facility should require a permit from LRAPA and, in fact, a Title V permit. **Hough** said this will be a major item. In addition to getting the permit processing done, it will be a major issue to settle the enforcement case. He asked **Sandra Lopez** if there was anything to report to the board at this time regarding the base EI, or if more details will be coming up in the future. **Lopez** said it is a major issue for the facility to have operated without a Title V permit. She said staff is currently calculating back fees and that LRAPA will recover back fees and penalties, as well as economic benefit.

5. **ADVISORY COMMITTEE: Committee Chair Russ Ayers** was unable to attend this meeting. **Committee Vice-Chair Maurie Denner** presented the monthly report of the committee's activities. He announced that committee member **Bonnie Palmer** had resigned from the committee due to conflicts with her work schedule.

**Denner** reported that the committee had a lengthy discussion of the board's draft memo regarding the role of the advisory committee. He referred to the last paragraph of the meeting minutes, stating that the committee members would like to try to make the committee's agenda as collaborative as possible, with input—or even approval—from the board. However, committee members want to leave the doors open for staff to suggest items for the advisory committee to investigate before they come to the board, or whether or not they come to the board. **Denner** said that, because of the different areas of expertise among committee members, the committee members would like to be able to bring issues to the committee and then keep the board informed of the issues they're working on, taking direction from the board as the board sees fit. **Denner** commented that the board's letter was a fairly strongly worded statement as it came to the committee, and he said it is very close to what the board is describing and to what **Gery Vander Meer's** interpretation is.

**Ralston** said it was interpreted that the board would forbid the committee from doing anything without the board's permission, and it could take a month or more to bring a matter before the board and get permission to work on it. **Ralston** said he would never want to suggest that that is the way he thought it should be. If the committee were looking for some kind of clarification about how they are supposed to bring in topics on its own, there should be further discussion on that.

**Carpenter** said that, in his mind, there are a lot of wheels turning on the committee, but not a lot of progress is being made. **Carpenter** said he would like the LRAPA Advisory Committee to act in the same manner as a science advisory committee with EPA, whereby the committee has a task from the board, and the board wants to get a good majority opinion on that subject. He said he has not seen anything in the last six or seven months from the committee, and that attendance does not appear to be very high at the committee meetings. **Carpenter** added that he is reluctant to give the committee the freedom to work on anything that they want to work on, especially since the committee's operation requires a commitment of staff time. He said if the committee discusses a subject and brings it to the board, from the whole committee, with a request for authorization to take on that subject, that is fine; however, he does not want one or two or a small group of committee members to be able tie up committee and staff time if at least the majority of the committee is not in agreement regarding studying the topic. He added that he might be willing to allow more freedom in the future; however, he is not ready to do that now because he has not seen any progress in the last six months.

**Ralston** repeated that the board needs to decide whether or not to give the committee some leeway, and **Stewart** responded that he thought the board had come to a conclusion at its last goal-setting session, in its direction to the committee.

**Hough** reminded the board that this subject was discussed by the board, and **Markos** had put the board's direction into a draft memo to take to the committee for its discussion and comments. At the July board meeting, the board reviewed that draft letter and made some minor changes to it before it was taken to the committee at the end of July. **Hough** said the discussion of that draft letter was what **Denner** was relating to the board at this meeting. Referring to the second sentence in the draft, "The board decides which topics or issues will be assigned to the CAC," **Hough** said he thought **Denner** was suggesting that the board, staff, or the CAC could decide, or at least initiate, work on a topic. In another sentence, the existing draft reads, "The CAC may request board authorization to take on an issue they are interested in exploring." The committee suggested changing the word "authorization" to "concurrence."

6. REQUEST FOR AUTHORIZATION OF PUBLIC HEARING ON PROPOSED AMENDMENTS TO LRAPA TITLE 47, RULES FOR OPEN BURNING: **Hough** noted that there had been an article in today's *Eugene Register Guard* about the proposed rule changes, stating that he thought the article was probably in response to the reporter having received the board meeting packet and the information regarding the proposed rulemaking. **Hough** also called attention to an e-mail received from board member **Drew Johnson**. **Johnson** said in his e-mail that he thought the board should have more discussion regarding what the board wants to do with open burning. **Hough** said **Johnson** mentioned two main issues with the open burning rules: whether LRAPA should try to incorporate more disincentives to burning and more incentives to alternatives; and what he views as a conflict with a city of Eugene ordinance that bans open burning and would also prohibit backyard campfires unless they are used specifically for cooking food.

**Stewart** said he saw the board's action at this time as simply setting a public hearing date and starting the public process. He said it sounded to him like the LRAPA Advisory Committee has already made recommendations regarding the proposal, and he did not believe it was inappropriate for the board to authorize setting of a public hearing in October. That would begin the public process and would give the

board two months to review the proposal prior to public hearing in October. He added that another public hearing could be held later if public comments and board discussions and deliberations warranted it.

**Carpenter** asked if the board was being asked to approve the rules today for public hearing, or if it was still a draft open to further discussion. **Hough** said, ideally, the board would be comfortable with staff's proposal. He said there have been some preliminary discussions at board meetings regarding the proposed amendments, beginning with the need to add the Siuslaw Rural Fire Protection District (the area surrounding Florence) to the list of areas that would require letter permits from LRAPA for certain types of open burning. **Hough** said that action would complement what LRAPA has already started with a separate open burning advisory for Coastal Lane County which has been in place for a year. It would also complement the city of Florence ban on open burning within the city limits. The second thing staff intends to address with the amendments is recreational fires. Patio heaters have been widely sold for about a decade, and LRAPA's current rules do not address their use. Technically, they fall under the LRAPA definition of recreational fires which are not allowed under the current rules. The current rules require that any recreational fire outside of an established campground or other such facility must be used for cooking food for human consumption. The current rule deals with the cooking of food, rather than the fire itself. Staff has looked at examples of what other air pollution control agencies are doing, and the proposal is modeled after the Puget Sound Clean Air Agency's requirements. The devices are treated as fireplaces and could be used as long as the advisory for the day is "Green." There would be the additional requirement that only clean, dry, firewood could be used in them, and such fires would not be allowed to cause problems for neighbors. **Hough** said staff felt that having those additional constraints on use of wood-burning patio heating devices was a net positive and also would provide clarity when people ask whether they can be used and, if so, under what conditions. **Hough** said it would be entirely appropriate for the board to do any fine tuning during the two months between now and the public hearing.

**Hough** noted that the proposed changes to LRAPA Title 47 had already been through the advisory committee twice: once as a conceptual discussion regarding the issues the agency needs to address; and again in draft form after the rules had been revised according to prior discussion. **Hough** said the proposed draft revisions have also gone through the Lane Fire Defense Board, twice, as with the advisory committee. **Carpenter** asked whether the committee had ever voted on the proposed rules and approved them by majority. He pointed out that the committee's inability to agree on the field burning issue, and the board's letter to legislators, was what the board had objected to when **Vander Meer** brought his letter to the board. **Hough** responded that the committee chair, **Russ Ayers**, had handled this issue as more of a consensus. **Denner** added that he would describe almost all of the committee's process as one of consensus. They would look for common ground and, where there is disagreement on a topic, would give the board a minority report as well as the main document describing the consensus reached by the committee. The committee members had questions and comments regarding the draft rule amendments, and staff tweaked the draft where possible in response to the committee's comments. He said there was really no controversy of significance on those changes, and the committee generally agreed on the draft amendments. **Denner** said he recalled that the second draft the committee saw included substantive changes as a result of comments from both the LRAPA Advisory Committee and the Lane Fire Defense Board.

**Hough** said if the board is fundamentally uncomfortable with the direction staff has proposed to take the open burning rules, this would be the time to talk about that. He said he thought there had been enough prior discussion that the proposals to address patio heaters and to add the Siuslaw RFPD would not be a surprise to the board. Other than those two things, the proposed amendments are minor things, such as giving staff the authority to specify the time of day in the daily burning advisories a bit tighter than is currently the case.

Staff member **Dinteman** pointed out that, if the board authorized setting the public hearing, the draft which was presented at this meeting would be the one the public would see. **Stewart** reiterated his point that the amendments are proposed and not final, and that the board is not approving the rule—only authorizing public hearing in two months. He said it would be disingenuous to hold a public hearing if the board had already made up its mind what it wanted to adopt.

**Monk** said the major issues are not a surprise, but the board had only had a couple of days to review the proposal. He said his sense of how to do this would be for the board's suggested changes to be made, and then take to the public a proposal based on staff's work, as well as the considerations and conversations that the board has already had. He said he was not comfortable with the proposal as presented by staff. **Monk** said commercial open burning should not be allowed at all because contractors should not be polluting the air and throwing away valuable resources, while making money on the project. Bids for these jobs should include the costs of hauling wood waste to a recycling facility. He also said he agreed with **Johnson's** point regarding the agency dealing with recreational fires differently than the way the city of Eugene is dealing with them. **Monk** pointed out that people are taking issue with the smoke impact from grass seed field burning, and everyone is contributing to air pollution through motor vehicle emissions and other personal activities. The recreational fires can be a significant source of discomfort for neighbors and potentially exacerbate health problems; and **Monk** said he does not know how LRAPA can curtail their use other than to say they can only be used on a Green home wood heating day. **Monk** urged the board not to move forward with these rule amendments until the board has had ample time to discuss this in detail and give staff direction so that they can bring back a draft to which the board can agree.

**Stewart** asked if **Monk** would agree that setting the hearing for the October meeting would allow enough time for discussion at the September meeting, with staff bringing back a revised draft for the October hearing, or if **Monk** would like to have several months for board discussion and fine tuning prior to holding a public hearing. **Monk** said he would prefer not to send something to the public for their comments when he has significant issues with the proposal. **Monk** said there might be enough time in two months, but he did not think the process was proper.

**Ralston** said he thinks it is appropriate for the board to comment, and he thinks staff has done a done job of defining the recreational fires. He said the issue of recreational fires is something LRAPA needs to address. Regarding commercial burning, **Ralston** commented that it is already defined in the existing rules and is not allowed within the Eugene-Springfield Urban Growth Boundary. **Ralston** said the public hearing process is supposed to be about getting comments from the public and then making a decision later on. He said he thinks he has all the information he needs from staff, and he would like to hear from other people. **Ralston** said he had no problem authorizing a public hearing in October, but he also had no problem putting it off until November.

**Koenig** commented that the enforcement would be partially automatic, because there would be a complaint from a neighbor which would trigger a LRAPA response. He said his concern is that, if there were a lot of complaints about the recreational fires, it could be a big drain on staff time, and he wondered if LRAPA has the staff to handle that.

**Carpenter** noted that summertime is when the recreational fire devices are used most often and asked, since the rules would not go into effect until after the summer months are over, would there be any other urgency in adopting the rules in the next two months. **Hough** said staff had hoped to get the amendments adopted before the next open burning season which starts October 15. He explained that the summer months are a no-burn period for residential open burning, for fire safety reasons. The residential open burning season is

scheduled to begin October 15, unless dry conditions exist at that time and the fire districts request that no burning be allowed until later in the fall. **Stewart** asked if the season runs from October 15 to June 15, and **Hough** said it does, depending on the area. For instance, the city of Oakridge has an ordinance that bans open burning from November to February. If the general season opens October 15, Oakridge residents could only burn from October 15 to November 1 (and from the end of February to June 15). **Hough** added that, under the current rules, open burning is essentially banned from November 1 to the end of February, because ventilation is not usually ideal during that period, and that is the time of year when smoke from home wood heating creates a heavy load. Factoring in home wood heating, the residential open burning advisories do not often allow burning during that time.

**Ralston** noted that people wait all summer to burn certain things. If the rule amendments changed their ability to do that, they're stuck. He said he is not concerned on the immediate timing issue. He would like to give people a year to adjust their schedules or come up with another way to dispose of the things they planned to burn. He said he would never support a change that would suddenly force people to change their plans.

**Hough** acknowledged that **Ralston** had brought up a good concern. He said that, when there have been significant change in the past, there has been a year phase-in during which people are educated about the new rules and warned about violating them, rather than being given a citation.

**Monk** asked, if the hearing were held on the second Tuesday in October, would the rules go into effect this October 15. **Hough** said that would be the plan. **Monk** said he didn't see there being time to incorporate the public element and the board members' input in a way that does due diligence to this process. He said he does not see a pressing need to adopt these amendments in the next two months, adding that **Ralston's** concern about sudden changes is a good point. He acknowledged that there are probably people in Florence who are hoping that these amendments get adopted and go into effect as quickly as possible; however, he does not think the board should compromise and go for a public hearing in October. He thinks the time line is too tight.

**Stewart** recommended that this subject be placed on the board's next agenda so that the board members can review the proposal and begin its discussion. He said it sounded like there could be some considerable changes to the proposal, and the board needs to work through the process and acknowledge that the October 15 open burning season start is not going to drive the process for this rulemaking.

**Carpenter** asked what the lead time is for notice of the public hearing, and if the notice could still be published for an October meeting if all the issues were resolved in September. **Dinteman** responded that the notice time line is too long for that because the amendments would result in an amendment to the Oregon State Implementation Plan (SIP), and any hearing notice for a SIP change needs to be advertised in the *Oregon Bulletin*, published by the Secretary of State's office. The timing of the deadline for submittal of the notice for publication, and the timing of the actual hearing date in relation to the date of the notice publication, require a two-month lead time.

**Monk** asked if the Oregon Environmental Quality Commission also approves the rule. **Dinteman** said they EQC looks at the rule after the LRAPA board has adopted it. After the EQC approves the rule, it is forwarded to EPA Region 10 in Seattle as a change to Oregon's SIP. **Dinteman** added that both EPA and DEQ had already reviewed the draft, and DEQ determined that the LRAPA rule is at least as stringent as the state's rule. DEQ had also authorized LRAPA to serve as hearings officer for a joint EQC/LRAPA public

hearing. **Hough** said having LRAPA serve as hearings officer for EQC means that DEQ does not have to repeat the public process and can take the LRAPA-approved rule directly to EQC for approval.

The proposal to amend LRAPA Title 47 was placed on the agenda for the next meeting for further discussion.

7. DIRECTOR'S PERFORMANCE EVALUATION: **Stewart** stated that the process that was laid out was to go around the table and have each board member give recommendations regarding **Hough's** performance and have **Mirhosseyni** compile a composite evaluation from those recommendations. He asked if board members agreed to that process. Board members agreed to that process. The performance evaluation and the salary adjustment were handled separately.

#### Performance Evaluation

**Carpenter** said he sees things running very smoothly under **Hough's** directorship, and the agency has gotten through some controversial issues; however, some employees seem to have concerns about **Hough's** inability to deal with some morale issues in certain parts of the agency. **Carpenter** noted that those problems seem to have been inherited by **Hough**, but they have continued to exist. He said that, even though he has not seen those problems directly, and based on the contentious nature of the agency over the past few years, he probably would not give **Hough** the full superior rating, based on those comments. Based on a 1 to 5 rating, **Carpenter** said he would give **Hough** a rating of 4.75, because his performance has been superior except for the criticism on management style and some continuing dissension among certain departments within the agency.

**Taylor** said she would say **Hough** is mostly doing very well. She said criticism about the director not managing the staff and not being willing to be strong enough to take care of dissension among the staff has been received by prior directors. **Taylor** said it starts out with little hints, and then it grows until eventually staff members begin talking to board members about those concerns. She warned that this pattern is something that **Hough** needs to be aware of and to watch. **Taylor** said **Hough's** interaction with the public, and other things that the board can observe directly, are fairly limited, but she would say that those things are doing very well. She added that managing staff is a very important part of the job of agency director, and one that no one has really been able to do very effectively. She said she would give **Hough's** performance a rating of 4.

**Ralston** said he thinks **Hough** has done a good job. He quoted some of the positive comments from some of the evaluation forms received from staff and advisory committee members, indicating that **Hough** is extremely good working with people outside of LRAPA, that he is knowledgeable and reasonable, that he is a team player, that he makes decisions based on what he believes is best after considering all the input, that he is well organized and prepared, that he leads by example and is excellent at defusing tensions and keeping things positive. **Ralston** said he thinks that, based on where the agency has been and where it is going, those are all good things. A weakness in **Hough's** leadership, which was mentioned by a number of people, is that he tends to avoid conflict and needs to be more direct and assertive about certain things. **Ralston** said he does not think that **Hough** sticks to his guns to keep the agency from getting involved in things with which it should not be involved. **Ralston** said he believes that **Hough** needs to take a stronger hands-on approach to solve issues that are causing poor morale. He said he would give **Hough's** performance as director a rating of 4.

**Stewart** said he thinks **Hough** has done a great job and that it has been a pleasure to be the chair of this board this year and have **Hough** as the director. He said **Hough** has been very accessible for him and that he and **Hough** have instituted a pre-meeting before the board meetings, so they can go over the items for the agenda and be better prepared for the meetings. **Stewart** said he appreciates the effort **Hough** puts into coming up to speed on various issues, as well as his testifying on behalf of LRAPA before different committees. He also appreciates **Hough**'s involvement with the community and said he has witnessed **Hough**'s participation in neighborhood meetings around J. H. Baxter and other issues. He said **Hough** represents the agency well. He listens to people's concerns and responds to them. Regarding the complaints about not being forceful enough and not dealing with the human resources complaints that are taking place, **Stewart** said he believes that **Hough** is working on those issues. **Stewart** said there have been some personnel changes in the past year, and he will definitely monitor the situation to make sure than things get better. **Stewart** gave **Hough** a rating of 4.75, stating that he was holding back a perfect rating because of those staff morale problems.

**Koenig** said he thinks **Hough** has superb professionalism, has great technical knowledge, and does very well at interfacing with other agencies and government units. He said, overall, **Hough** has done a very good job since coming to the agency. **Koenig** is, however, getting second-hand comments that there is somewhat of an inertia dealing effectively and promptly with personnel problems. **Koenig** said the shifting of the bulk of human resource activities to **Mirhosseyni** should hopefully alleviate some of that problem. He suggested that **Hough** could have several sessions with an industrial psychologist or take a course in personnel management or interpersonal relations, if necessary, to help him in resolving the personnel issues. **Koenig** gave **Hough**'s performance a rating of 4.8.

**Fortune** agreed with everything that other board members had said, including the fact that the area **Hough** needs to improve is in dealing with personnel problems. **Fortune** gave **Hough**'s performance a rating of 4.7.

**Monk** said it sounded like the board members are pretty much all of like mind. He said he had been to a lot of public events where **Hough** has represented the agency very well. **Monk** said that in the all the ways that the board wants the director to be on top, **Hough** is representing the agency and coordinating with affiliated municipalities and other government agency very effectively. He said that aspect of **Hough**'s performance is A+ in his book. However, as the board has learned from staff comments, **Hough** has inherited a personnel dilemma which **Monk** understands has existed during the tenures of several directors. He said this is a problem that is inherent in many smaller organizations. **Monk** acknowledged that no one really likes to deal with conflict, and so he can completely understand trying to provide a position approach and leading by example to try to resolve internal conflicts. Given the fact that this seems to be an entrenched dilemma that no director has been able to resolve, **Monk** agreed with **Koenig**'s suggestion that someone from outside the agency be brought in to help ascertain whether there are some specific actions that can be taken to put on notice those who are being disrespectful to fellow-employees or who are creating difficulties. He suggested developing disincentives to deal with specific issues, such as withholding a pay raise for a person who is creating problems with fellow-employees. **Monk** mentioned the fact that **Doug Erwin**, a permit writer who was hired fairly recently and was first-rate from everything **Monk** had seen him do, left because of the interoffice conflict. **Monk** said he felt LRAPA was fortunate to have hired **Erwin**, and it was unfortunate that he decided to move on. **Monk** commented, further, that since permit writing is a large part of what LRAPA does, it is important to find competent people and to make sure that LRAPA retains competent and outstanding individuals when the agency is lucky enough to find them. **Monk** said he does not think the director can do the job as well as **Hough** is doing it and still be able to get a handle on the interoffice conflict in a timely fashion and address it so that everyone feels it is being done. **Monk** rated **Hough**'s job

performance at a 5 for the representation, technical knowledge, and strengths, and a 2 for the weaknesses, because the personnel issue is huge in this agency. His overall rating was 3.75.

**Taylor** said she was very strongly opposed to hiring a consultant.

**COMPOSITE RATING:** **Mirhosseyeni** reported that the composite rating given by the board for the director's performance was 4.384, rounded up to **4.4**.

#### Salary Adjustment

**Carpenter** asked for clarification of the percentage of salary increase that is available. **Dinteman** explained that there is a 2.5 percent increase for longevity, a 2.5 percent increase for merit, and another 2.5 percent possible for exceptional performance. She said the longevity increase is usually awarded in full, but the merit increase and the exceptional performance increase can be awarded in half-percent increments, up to the maximum possible salary increase of 7.5 percent.

**Carpenter** said that, but for the personnel issue, he would be in favor of giving **Hough** a 7.5 percent increase in pay. **Carpenter** acknowledged that the agency is potentially coming into a lean period of revenues, because of a number of possibilities. That made him tend toward a more conservative salary increase; however, he said it is still clear to him that **Hough's** performance merits the first 5 percent, plus some increment of the final 2.5 percent increment for exceptional performance. **Carpenter** said he would recommend giving **Hough** a total salary adjustment of **6.5 percent** (including 2.5 percent for longevity, 2.5 percent for merit, and 1.5 percent of the exceptional performance increment).

**Taylor** said she would give the automatic 2.5 percent for longevity and 2.5 percent for merit, but would not include any of the final increment for exceptional performance. Her total recommendation for salary adjustment would be **5 percent**.

**Ralston** said he would take the same position that he takes with anything that has to do with budget, and that tends he to be very conservative. He said he would never support the upper level of any kind of pay raise. **Ralston** said he thinks LRAPA has been excellent at maintaining reasonable expense increases over the years. He would give **Hough** the 2.5 longevity, plus 2 percent on merit because there are areas where he needs to improve. He would not be willing to give any part of the exceptional performance increment. **Ralston** said his recommendation for a merit increase would be **4.5 percent**. (*See discussion below, where **Ralston** changed his recommendation to 3.0 percent.*)

**Monk** asked if **Hough** received the cost-of-living increase that was in the budget for 2007/08, and **Mirhosseyeni** said that all staff received that 3 percent increase. **Monk** said that he would advocate for a **2.5 percent** increase, based on merit, but that would be the extent of the increase he would recommend, given that **Hough** already received 3 percent with the new budget.

**Fortune** recommended a **6.0 percent** salary increase.

**Koenig** commented that the director of this agency is expected to perform a number of function, and **Hough** has excelled at the bulk of those functions. He said the board should reward him for that and deduct something for the personnel issues, which could be alleviated by **Mirhosseyeni's** taking over part of that

function. He said **Hough** can improve that facet of his management skills. He said he would agree with the recommendation to have a consultant involved for a short period of time to enhance that capability. **Koenig** said he would recommend a salary increase of **6.0 percent**.

**Stewart** acknowledged the 3 percent cost-of-living increase that **Hough** had already received. He said he tends to be fiscally conservative and would agree with **Taylor's** recommendation if a **5 percent** increase.

**Ralston** said he had not understood that the 3 percent cost-of-living increase was part of this process. He said he would change his recommendation to no more than 3 percent, for a total increase of 6 percent. **Ralston** commented that 6 percent is a good pay raise, considering that most people in the private sector don't even come close to that.

**Dinteman** explained that the 3 percent cost-of-living increase which was given to all staff was not a part of this salary increase discussion for **Hough's** performance evaluation. It just happens that the director's performance evaluation takes place at the same time of year that the new budget and the COLA take effect.

**Mirhosseyeni** explained further that, in the past five years, the COLA has not been given every year. There have been COLAs in the last two years, 2 percent last year and 3 percent this year.

**Carpenter** asked **Mirhosseyeni** to review the percentages each person gave him, before averaging them for a composite recommended salary increase for **Hough**. **Mirhosseyeni** gave the following numbers: **Taylor**, 5 percent; **Carpenter**, 6.5 percent; **Ralston**, 3.0 percent; **Monk**, 2.5 percent; **Fortune** 6.0 percent, **Koenig**, 6.0 percent; **Stewart**, 5 percent. Board members agreed with those numbers. **Mirhosseyeni** reported that the average recommendation was 4.85 percent.

**ACTION: Koenig MOVED to grant Hough a salary increase of 4.85 percent for his performance over the past year. Monk SECONDED THE MOTION.**

Discussion of Motion. **Carpenter** said he would vote on the motion, but the amount proposed was not even in the "highly acceptable" qualification. He said he thinks that is much too low, and he does not think that employment issues should detract that heavily from **Hough's** performance.

**Monk** said he wanted to be clear that his 2.5 percent recommendation really has nothing to do with **Hough's** performance as the agency's director and more with **Monk's** own fiscal conservatism, the tight budget, and the 3 percent COLA **Hough** had already received. He said he does not want to get into the habit of awarding the highest possible amount every year and then have to reduce pay if the budget gets really tight.

**Fortune** asked what the budget includes for this increase, and **Mirhosseyeni** said it contained enough for at least a 5 percent increase. He said that is because the budget is meant to be as conservative as possible to make sure there is money for what the board decides to do.

**Stewart** said he hopes this action does not reflect that he does not think that **Hough** is doing a good job. He said he thinks **Hough** is doing a great job as director. **Stewart** said he is still concerned about the agency's financial future. He agreed with **Monk's** concerns about being financially conservative, stating that he has heard from citizens of Lane County that public agencies need to justify what employees are paid, just the same as the private sector must do.

**VOTE ON MOTION: The motion passed by UNANIMOUS vote.** [*There were six votes. Taylor had to leave the meeting prior to the vote.*]

**Hough** said he was grateful for the salary increase and for being able to continue as director of LRAPA.

8. NEW BUSINESS:

- A. Monitoring Equipment. **Carpenter** said **Monk** had called him and they had a short discussion about the possibility of citizens being able to borrow LRAPA equipment to do preliminary air quality health monitoring. He said he would like everyone to think about that and perhaps have a discussion at a future board meeting.

**Stewart** said he had received a letter from **Lisa Arkin** of Oregon Toxics Alliance, making that same request. He said that he discussed this with **Hough** and directed staff to allow them to use the MiniVols, provide the filters and do the filter analysis, at a reduced rental and analysis rate, to cover LRAPA's costs. He said he was not comfortable saying LRAPA would provide the equipment and do the analysis for free. **Stewart** commented that LRAPA has rented these units out to others at a reduced rate, so there is precedence for granting this request.

**Ralston** said he was concerned about what expertise people would have to monitor their own air and extract the data. He asked who would do that for them, and if they would ask LRAPA to do it for them. **Hough** explained that if a contractor wants to use the Minivol samplers, we would charge \$400 a month for the first month, and \$300 a month for each subsequent month. If they want LRAPA to analyze the filters, we charge them \$15 per sample, which provides a filter which has been weighed by LRAPA before it is sent to the contractor, and again after it has been exposed and sent back to LRAPA. With each filter that they send back, they provide the flow information, and LRAPA reports back to them the particulate matter concentration. If LRAPA does not do the post-exposure weighing, the new filters are weighed by LRAPA before being sent to the contractor, so that they can calculate the concentrations with the flow information that the instrument reports to them.

**Ralston** asked how LRAPA would determine that accurate monitoring samples are being taken. How would you know that they aren't putting the sampler behind the exhaust of a car and getting really high levels and bringing it back to have LRAPA analyze it and find very high concentrations. He said he is concerned that anyone could manipulate the data in any way they wanted.

**Carpenter** commented that there may not be any kind of verifiable information. If high levels were detected, they could come to LRAPA and ask for more accurate testing done by a person who is certified to do the sampling. They would bring in data, and then there would be a discussion of whether or not the data is valid.

**Hough** said a contractor would have the same issue, in that they would have to defend the veracity of the information. LRAPA would provide some equipment that they could use—properly or improperly. LRAPA would analyze the samples they provide. LRAPA would need to defend the parts of the process in which the agency was involved, and they would have to defend the parts of the process in which they were involved as well as the overall veracity of the project.

**Stewart** asked **Carpenter** if he wanted to have a broader discussion on this subject, and **Carpenter** said he did not think it was necessary to do that. **Stewart** said he was not comfortable saying that LRAPA would absorb the costs, in light of the agency's financial situation; however, if LRAPA charged enough to cover its costs, he did not think that was a problem.

- C. Clarity of Minutes. **Ralston** said he has a lot of information to read and, if he tries to read every word in the LRAPA minutes, it takes a long time. He requested that every time a name is mentioned, that it be highlighted in bold. **Dinteman** agreed to do that. She asked if he wanted other people's names, or just board members' names, highlighted in bold. **Ralston** said it could be anyone's name.
9. ADJOURNMENT: The meeting adjourned at 2:21 p.m. This was the last Thursday meeting, and the board will return to its second-Tuesday-of-the-month schedule in September. The next regular meeting of the LRAPA Board of Directors is scheduled for Tuesday, September 11, 2007. The meeting will be held in the LRAPA Meeting Room at 1010 Main Street, Springfield, Oregon. [*The September meeting was later cancelled.*]

Respectfully submitted,

Merrie Dinteman  
Recording Secretary