

MINUTES
LANE REGIONAL AIR PROTECTION AGENCY
BOARD OF DIRECTORS MEETING
TUESDAY–DECEMBER 11, 2007
LRAPA Meeting Room
1010 Main Street, Springfield, Oregon

ATTENDANCE

Board: Faye Stewart, Chair–Lane County; Bill Carpenter–At-Large, Springfield; Glenn Fortune–At-Large, General; Drew Johnson–Eugene; Kit Kirkpatrick–Eugene; David Monk–Eugene; Pat Patterson–Cottage Grove/Oakridge; Dave Ralston–Springfield; Betty Taylor–Eugene
(ABSENT: None)

Staff: Merlyn Hough–Director; Merrie Dinteman; Max Hueftle; Sally Markos; Kim Metzler; Nasser Mirhosseyni

Other: Russ Ayers, Chair, Amy Peccia and Gery Vander Meer–LRAPA Advisory Committee; Becky Riley

1. OPENING: Faye Stewart called the meeting to order at 12:15 p.m.
2. PUBLIC PARTICIPATION:

Gery Vander Meer, 2604 J. Street, Springfield, Oregon, 97477. Vander Meer said, first, that he was encouraged to see the number of people applying for positions on the LRAPA Advisory Committee, and that the committee looked forward to reviewing those applications and providing input to the board as to which applicants they felt would integrate well and provide additional expertise on the committee.

Vander Meer then asked the board for two favors. First, he said he had appeared before the board at its November 6 meeting because he was concerned that the city of Springfield had not been offered an opportunity to provide input regarding selection of the at-large board member from Springfield, whereas the mayor of Eugene had been able to appoint several people to the board. He said his comments were made because he did not fully understand, at the time, how the different appointments are made. He had since gained additional knowledge regarding the different methods that are used to appoint different categories of members of the LRAPA Board of Directors, and he apologized to anyone who might have been offended by his comments at the November board meeting.

Vander Meer's second request was that members of the LRAPA Board of Directors keep in their prayers this Holiday Season the forty families whose bread winners lost their good, family living wage jobs, and the benefits associated with those jobs. He said those employees of the J. H. Baxter facility in Eugene had been workers with a long-established union that worked closely with the management of the company; however, extensive economic and political pressures resulted in these workers' being dismissed.

3. CONSENT CALENDAR: Stewart asked if board members had any comments or corrections regarding the minutes of the November 6 board meeting or the expense reports through October 31. He noted that the board had received an e-mail from Becky Riley regarding her comments to the board at the November 6 meeting. Riley's e-mail requested that the minutes be changed to reflect that she had spoken to the board for herself, as a River Road resident, and not on behalf of the association of residents of the River Road neighborhood in which she lives.

ACTION: MSP(FORTUNE/PATTERSON)(Unanimous) to approve the minutes of the November 6, 2007 board meeting, with the change requested by Becky Riley, and to approve the expense reports through October 31, 2007, as presented.

4. DIRECTOR'S REPORT: Hough said he had three things to highlight from the written report.
- A. Air Quality. Hough pointed out that the written report provides air quality levels through the middle of November; however, the attached graphs run through the end of November and include some higher levels than the written report. He said that is due to the combination of the more stagnant air patterns, the colder temperatures, and the fact that the home wood heating season has begun, resulting in some higher PM readings.

Carpenter noted that the line marking the PM2.5 standard is not included on the Eugene-Springfield graph as it is on the Oakridge graph. He said it looks like Eugene-Springfield might have exceeded that standard and wondered why the line is not on the graph to indicate that. Hough said he believes the reason for that is because, while LRAPA monitors only particulate matter in Oakridge, the Eugene-Springfield graph may include ozone and/or carbon monoxide as well as PM. He added that it may still be appropriate to include the line indicating the standard, since most of the year it is still compared to that PM2.5 standard.. Hough added that there will be an alignment of the graphs with the Air Quality Index being revised to indicate the new PM2.5 standard. EPA is still working on the new AQI cut-off numbers which will mean that the dotted line would become 100 on that new scale. It will not change the standard but will change the index.

- B. MACT. Hough said he has added a section to the report regarding plywood MACT compliance extensions. He said Lopez has gathered the information from the individual reports the agency has received into a single-page document for the board's information. Hough said the three facilities that have been granted extensions are proceeding on schedule.

Stewart commented that the extension agreement for Flakeboard America included a December 10 deadline and asked if that deadline had been met. Hough said he did not know the answer to that question but did know that there had been a teleconference, prior to this board meeting, with EPA and its contractor to determine if including the proposed process change, rather than installing additional controls, would be an option.

Max Hueftle said that decision deadline had been extended to the end of this week, pending that teleconference. Hueftle said EPA provided some clarification during the teleconference that the process change the company is proposing does not count, technically, as an add-on control device; however, they can use the process change in conjunction with the wet scrubber they already have on that point. He said it looks like they can use that option, and they plan to use a biofilter on the press, which could potentially allow them to meet the MACT.

Johnson brought up the verbal approval for Rosboro's progress reports on the plywood MACT compliance extension. He said his recollection of the permitting rules was that construction approval had to be in writing, so there should be documentation of the verbal construction approval for Rosboro.

Monk asked if there needs to be some kind of clarification of whether a biofilter is accepted by EPA for MACT compliance before SierraPine and Flakeboard proceed with that. Hueftle said the biofilter is one of the control devices that is specified in the rule as an approved control device. He explained, further, that the list of options for add-on control devices is the same, regardless of what control device is used. The requirement is that whatever control system is used must achieve a 90 percent reduction for specific pollutants.

- C. Follow-Up to November 6 Board Meeting. Hough called attention to a copy of an e-mail he sent to LRAPA Advisory Committee member Gery Vander Meer, responding to his comments to the board regarding appointments of the various members of the board. Hough pointed out that the e-mail also included a copy of the state statute governing LRAPA and its board.
- D. Enforcement. Stewart brought up an enforcement case against Whitsell Manufacturing in Cottage Grove, in which the company had commenced construction of a new source without first notifying LRAPA, asking whether the company had put on some sort of dust collection system. He said he lives in Cottage Grove and had not heard of Whitsell Manufacturing. Hough said he would get further details on that case and get the information to Stewart either between meetings or at the next meeting. Stewart said he wondered if there could be a tie with city government, so that when someone like this comes in to get a building permit, there should be a requirement that they contact LRAPA as part of the city's permit approval process.

Kirkpatrick asked how people know what the LRAPA rules are regarding their specific activities, such as building trades or companies which might emit gases. She asked if there is a way that LRAPA can disseminate more information so that everyone is aware of the rules and what actions are illegal. Hough noted that the two categories which most frequently receive enforcement attention are open burning and asbestos abatement. He asked Metzler to describe the information she distributes regarding those activities. Metzler said staff visits the building departments to encourage them to include information regarding LRAPA rules on their permit applications. She said the county has done it already. The city of Eugene has refused to include the information, and she is not certain what the status is with the city of Springfield. Metzler said she also receives monthly reports from the cities and county regarding people moving into new houses throughout the jurisdictions. LRAPA sends information to each of those addresses, regarding open burning restrictions and home wood heating requirements, and city or county ordinance requirements for those activities.

Kirkpatrick asked about LRAPA's contact with the construction contractors' board. Hough said that is one of the easier groups to contact, and they are more familiar with these requirements than most people are. Hough said with any of the different segments of the population, in some cases they don't know the requirements, and in some cases they know what the requirements are but they either are not able to comply because of some special problems or they are just unwilling to comply.

Patterson said he does not know how the other jurisdictions work; but, because they have run into some individuals who have caused problems, the city of Cottage Grove building department encourages people to contact LRAPA if there is anything about what they're planning to do that would involve LRAPA rules.

Carpenter asked Hough if, at the end of the year, staff tabulates how much money has been assessed in the original fines and compares that figure to the settled fines. Hough said staff has not done that. The amounts reported are actual amounts. Carpenter said it appears to him that anyone who asks can have their original fine reduced by 50 percent. Hough said that is not atypical. He likened it to an individual who receives a speeding ticket and gets it reduced by admitting guilt and being willing to settle the case. The court has the same kind of concern as LRAPA does, in that debate does increase the time and cost for everyone involved. Carpenter said his concern is that some of the fines LRAPA assesses are in the \$10,000 range and are reduced to \$5,000, whereas speeding tickets might be in the \$175 range. He said he would like to see what the original proposed fine is, on an annual basis, compared to how much is actually taken in.

Hough explained, further, that there are three responses a respondent can make when they receive a civil penalty: they can pay it, which settles it; they can contest it and ask for a hearing before a hearing officer; or they can offer to settle. Hough said there are some concessions which LRAPA gets as part of settling, besides closing the issue. It usually involves the respondent admitting guilt and accepting responsibility, as well as what they will do to prevent recurrence of the violation. Monk asked if accepting responsibility goes on the record so that a more severe fine will be assessed if there is a recurrence of the same violation. Hough responded that the fact of a prior violation and enforcement action would increase the amount of the penalty if there were a recurrence, whether it is settled or they pay the full fine. Monk asked if the respondent's accepting responsibility provides some benefit to LRAPA, and Hough said he did not believe there is a benefit, as far as the calculation of the penalty. He added that the fact that a respondent admits guilt is a major step forward when you are working with someone who has violated the rules. It is a significant part of preventing the violation from happening again.

Monk noted that there were 142 complaints reported for the last reporting period, of which 72 were for open burning. He said that number seemed high, and he asked if it was unusual. Staff responded that it was not an unusual number of complaints for this time of year. Monk said he found that number to be indicative of a lot of concern with the public about open burning, and Hough said a lot of the enforcement cases related to open burning are from complaint response.

Monk had more comments regarding some of the special letter permits which LRAPA had written for open burning, particularly those issued to public agencies. He said he is concerned about that practice, especially burning of branches and debris that might otherwise be recycled and reused. He suggested that LRAPA might want to talk with government agencies and jurisdictions about the use of chippers to recycle that kind of debris, rather than burning it. Stewart said he thought a lot of it has to do with the cost or recycling because it is a lot more labor intensive to chip those materials and take them to a recycling facility.

Patterson pointed out that there is often difficulty at some of the sites where the burning occurs, because of the accessibility of getting equipment in to get the job done. Kirkpatrick agreed that accessibility is definitely a problem at Elijah Bristow. Monk said he'd be less concerned about that reason for burning and that he assumes that in a request to do that burning there would be a requirement to demonstrate that this is the most feasible alternative. Hough confirmed that the permit application requires the applicant to provide information regarding alternatives considered. Monk said he would take some time to look at the permit applications to satisfy his curiosity.

Monk said the board has talked before about assigning evaluation of the enforcement rules and civil penalty matrix to the advisory committee. He said it sounds like the committee is currently busy with rulemaking reviews, and he would like to see the agency advance the fine matrix because it seems to be quite old, and staff seems to have to justify it to the board at nearly every meeting. He gave an example of the \$700 fine to Pacific Recycling for burning plastic, rubber, hydraulic fluid, and then Rexius received a much higher fine for allowing some particulate matter to get away from them in their chipping operations, stating that this a perfect example of why the fine matrix needs updating soon.

Johnson said he is curious about the \$9,000 fine to Ken Marquardt for asbestos violations which was reduced to \$3,500. He wondered if the \$3,500 is less than it would have cost him to follow the regulations in the first place. He said he is worried that the ultimate fine just becomes a business decision, to take their chances with LRAPA fines rather than spending the money to comply with the

regulations. He suggested that the matrix include a provision that the fine not go below what it would have cost to comply with the rules. Hough responded that economic benefit is a separate penalty category intended to address that concern and make sure there is no financial advantage to circumventing the rules. He added that it would be difficult for someone who is caught in violation of LRAPA's rules, and cited for that, to argue to themselves that they had saved money by violating the rules.

Patterson commented that, in all the years that he has been serving on LRAPA's board, asbestos has been the biggest problem, even though staff has put a lot of energy and resources into getting information out into the community about the proper handling of asbestos-containing material and LRAPA's rules. He said he made sure that the Cottage Grove building department goes through the proper procedure if there is even the slightest chance that there will be asbestos involved with a remodel or demolition permit, and he does not know how these projects fall through the cracks in Lane County.

Taylor noted that this subject has taken place at quite a few meetings. She reminded board members that they had decided at a previous meeting to have a discussion about the civil penalty matrix at a future meeting. She said board members all need to understand the enforcement and civil penalty assessment process and then discuss it and decide whether changes should be made and what specific changes might be appropriate. Hough noted that this topic is one which the board has assigned to the advisory committee for its discussion and recommendations, and Taylor responded that she thought the board was to have its own discussion before the committee worked on it. Hough suggested that it might be helpful to the board if the committee were to look at the rules and the penalty matrix and compare LRAPA's rule to its counterpart in the DEQ rules and then provide some feedback in preparation for the board's discussion. Taylor agreed that that would be helpful.

Kirkpatrick asked for more information from staff about the cost of asbestos abatement. She said she has always heard that it is very expensive and that, without an accurate summary of abatement costs, it would be difficult to set a fine for violation of the asbestos rules.

Monk had a final request, that staff be directed not to cut James Mast any more slack because he seems to have been blatantly disrespectful of air quality and has scheduled and rescheduled contested case hearings. Monk said he would like to see a significant fine in that particular case. Hough explained that respondents frequently contest the violation and ask for a hearing before a hearings officer. LRAPA's attorney and the respondent's attorney, in preparation for the hearing, will sometimes come to a proposed agreement, rather than taking it totally through the contested case process. In a case like that, staff must choose between the options of holding fast to the full penalty and going through the full contested case process or accepting the settlement proposed by the agency's attorney. Monk responded that he would hope that some of the legal costs involved in the negotiation process with the respondent could be recovered by, perhaps, reducing the fine by a lesser amount so that more is actually collected from the respondent.

Carpenter suggested that LRAPA's legal counsel who litigates contested case hearings be present when the board has its civil penalty matrix discussion to provide any insights they might have that could enlighten the board on this subject.

5. **ADVISORY COMMITTEE:** Committee Chair **Russ Ayers** reported on committee activities.

Committee Activities

- A. Committee Appointments. Ayers said the committee did not discuss the new committee appointments which were on today's agenda for board action. He pointed out that when he was first appointed to the committee several years ago, the committee had decided it needed to split the industrial representation category so that it would have members representing small industrial sources (ACDP) and larger industrial sources (Title V). He was appointed to represent the Title V sources. Currently, the committee has three members representing Title V sources. The only representative of ACDP sources, Doug Brooke, resigned from the committee, and that slot has not yet been filled. He said the board might wish to consider filling that vacancy. Ayers said that, even though the committee did not discuss the applications, he, personally, would recommend either Diana Bollenbaugh or Michael Friese to fill that vacancy.

Carpenter noted that Gery Vander Meer had said, in his comments to the board earlier in the meeting, that the committee wanted to review the applications for appointments to the committee; and Carpenter wondered why the committee had not discussed the applications at its November meeting. He said it was his intention to take action on committee appointments at today's meeting, and he hoped he did not offend anyone in doing so. Carpenter said his position is that the committee knew the board would be discussing this at today's meeting; the committee had a meeting prior to this meeting at which the subject was not addressed. He figured it was the committee's choice not to give the board any input on these applications, other than what Ayers had mentioned personally.

Ayers commented that the committee did discuss at a previous meeting whether or not they should review the applications and decided not to do that; however, they were not aware at that time that committee appointments would be on today's board agenda.

Hough reminded the board that all of the applications, except for Earl Koenig's, were from earlier in the year, at which time they were all reviewed by the advisory committee, as well as the board. For that reason, staff did not propose this as a discussion item for the committee. Carpenter said he just did not want this item to result in contention between the board and the committee.

- B. Proposed Amendments to Permitting Rules. Ayers said the committee is taking on review and discussion of the permitting rule change package. Without any definitive, detailed expectations from the board, the committee made them up on their own. Ayers said the expectations they decided on are straightforward, but it is important for the committee to have clear expectations from the board, going into this process. He then gave the board the rule changes work plan, with expectations, outcomes, deliverables, and schedule.
- (1) Expectations. Three subcommittees have been formed to discuss industrial, New Source Review, and Prevention of Significant Deterioration. A subcommittee for new industrial rules and one for air toxics will be formed to meet with staff and outside experts, and the focus will be on reviewing the differences between LRAPA's proposed streamline change and DEQ's adopted rules. The subcommittees will begin meeting in December, with the first meetings the week following this board meeting. Brief meeting notes will be taken by each subcommittee, and the members will decide who takes the notes. Each meeting will conclude with a reading from the notes of key

points, actions, or conclusions. The meetings are public, and others attending may participate in the discussion but will not have a vote.

- (2) Outcomes. The sub-committee recommendations will be brought to the full committee for discussion, and the full committee will make final recommendations to the board. Possible recommendations include: adopting the rules by reference, or verbatim, with no changes; agreement with the proposed rules, except for certain sections; or adopting the rules now, as an interim step, and customizing them later, after further study.
- (3) Deliverables. The committee will submit a written report to the board that includes recommendations, with majority and minority views.
- (4) Schedule. The committee will present its recommendations to the board by March 2008, which is only a little over three months away. A meeting is scheduled for Monday, December 17, to combine the NSR and PSD categories and other industrial rules. George Davis of DEQ will be present at that meeting. On Wednesday, December 19, the air toxics subcommittee will meet, with Sarah Armitage of DEQ present.

Ayers said that is the process the committee plans to follow, unless the board wants something else. Monk said he assumed staff members would be at the subcommittee meetings, and Ayers confirmed that they would. Monk asked if staff would tape those meetings, and Markos said the meetings will be taped.

Carpenter said he had some concern about one of the outcome options—adopting the rule now as an interim step and customizing it later after further study. He said he would like the committee to provide the board with its rationale if it chooses to recommend that option. Ayers agreed to do that.

Carpenter brought up another concern regarding the differences between LRAPA and DEQ. He said LRAPA is a separate jurisdiction for air quality. He said his sense is that DEQ has political pressures at times which cause that agency to do things that LRAPA may not elect to follow. He said, if the committee decides to recommend adoption by reference, he would be interested in getting the rationale DEQ used in deciding to change their rule from what it had before. Ayers said there are substantial changes in this rulemaking package, and what Carpenter was asking would be a lot of work. He didn't know, for sure, if Carpenter was asking that staff provide DEQ's rationale for every change DEQ made to its rules. Hough said there were background materials being provided to the advisory committee by the DEQ staff who will be attending the first two sub-committee meetings. That material includes the issues raised during DEQ's consideration of those changes, and the DEQ's responses to those issues. The committee will have the benefit of those materials, and Hough said it sounded like some of that information might be of interest to Carpenter, as well. Carpenter said he would like to see that information.

Carpenter also asked about emission banking for HAPs, as related to the permitting rules. He said he did not understand how anyone could ever do emissions banking to allow them to be out of compliance with HAPs at some time in the future. He said he is concerned about when the source cashes in the bank and wants to pollute more in the future. He said if such a provision is in the proposed rule revisions, he would need a really good explanation before he would be willing to consider such a change. Hueftle commented that banking for criteria pollutants is for removal or permanent source shut-down of emission units. Hough said that the rule encourages voluntary emissions reductions, and Ayers added that it is long-term, ten-year, banking. Hueftle explained further that the new rules would not add anything new

with regard to banking. It would just clarify reductions for which sources can receive credit. Ayers pointed out that the source would still need to meet the air quality standards.

Taylor said she thought the time for the discussion of these details is when the board receives the report from the advisory committee, and she had no problem with the committee's outline of what they plan to do. She also commented that the committee does not adopt the rules. The board does.

Stewart noted that Carpenter had a lot of interest in the permitting rules and suggested that Carpenter attend the sub-committee meetings as a liaison for the board. Monk asked if the sub-committee meetings will be announced so that board members will know when they are to be held and can attend if they wish to do so. Ayers responded that the Monday, December 15, and the Wednesday, December 17, meetings would be at 10:00 a.m. in the LRAPA meeting room.

Johnson asked if the committee would be looking only at whether LRAPA should have the same rules as DEQ, or if they would also be looking at whether there might some areas where LRAPA's rules should be different from the state's. He said he was thinking specifically of resources, stating that LRAPA does not have the kind of resources that DEQ has to do all the things that agency does. DEQ has people specialized in all kind of areas, and LRAPA's structure is unique and very different from DEQ's. He said he thinks LRAPA's rules should reflect those differences, and LRAPA's economics. Johnson said he wondered whether the committee will come up with proposals of different rules, as well as where LRAPA's rules should be the same as DEQ's. Ayers responded that it is wide open at this point, but several people had mentioned that concept. Johnson stated further that he would like the committee to come up with new proposals, if it does not make sense to adopt DEQ's rules. He said that, with air toxics in particular, as he understands it, the DEQ's rules would not go into effect in Lane County for some ten years; and he thinks a local air toxics rule would make sense.

Patterson pointed out that LRAPA is in a constant state of flux with federal rules and with the DEQ's changing rules. LRAPA has a responsibility not only to keep up with what those changes are, but to inform affected sources within Lane County of how those changes might affect them. He said one advantage of the local agency is that LRAPA has local control and a rapport with the industrial facilities operating within Lane County. Ayers commented that LRAPA held an open meeting the week before this board meeting, to introduce these proposed rules to local sources. He said it was very well attended and that LRAPA is working to keep people informed about these proposed changes.

Monk noted a map Hough had which showed where LRAPA's monitoring network is located throughout the county, and commented that he had not seen that. Hough said it was created by Markos for the advisory committee meeting. Carpenter asked that the map be provided in next month's packet, so that everyone can see it.

- C. Civil Penalty Matrix. Ayers noted that at today's meeting, once again, there was significant discussion regarding the agency's civil penalty matrix. He agreed with Taylor's comments regarding having it on a future agenda for discussion by the board. He said it is also on the committee's list for future discussion but that the committee will not be able to do anything with that subject until they get through the permitting rulemaking package. Ayers added that he once received a civil penalty from LRAPA, and John Morrissey went through the penalty matrix with him at that time. Ayers said he had not understood the fine or how it was set but, when he sat down with Morrissey and went through the matrix, he found that it really is defined in the rules and is not subjective. He said the committee will go through the same

process, to identify the concerns that the board has about the matrix. Ayers said it would be helpful to have some expectations from the board.

6. ELECTION OF CHAIR AND VICE-CHAIR FOR 2008: Stewart explained that the reason this action was on the December meeting agenda was because the board was operating without a vice-chair since Earl Koenig left the board. He said he and Hough had decided to do the elections of officers for 2008 a month early. He said he would finish today's meeting, and the new chair would take over beginning in January.

Chair

Ralston pointed out that it has been about 11 years since someone outside of Eugene or Springfield has been the chair of this board. The fact that Cottage Grove and Oakridge representatives rotate their positions every two years, does not give them much opportunity to serve as officers, especially if the traditional rotation is followed, with the vice-chair moving to the office of chair in the second year. Ralston NOMINATED Pat Patterson to serve as chair in 2008.

Carpenter NOMINATED David Monk to serve as chair in 2008. Johnson SECONDED THE NOMINATION.

There were no further nominations for the office of chair.

Patterson commented that there is a large population in Lane County living outside of the Eugene-Springfield metropolitan area, and he often gets complaints from residents asking about who is representing them on the LRAPA board. He stressed that the LRAPA board represents all of Lane County and not just the metropolitan area. He said he would like give some of the small cities, such as Coburg, Junction City, and some of the outlying areas, an opportunity to participate in LRAPA, on the advisory committee or in some other way.

Monk said there are three members of the current board who essentially represent rural Lane County—at least the areas outside of the Eugene-Springfield metropolitan area. He agreed with Patterson that the board needs to keep in mind the fact that LRAPA serves all of Lane County.

VOTE:

Stewart asked for a show of hands for those who supported election of Pat Patterson to the office of chair for 2008. There were four votes, including Fortune, Patterson, Ralston and Stewart.

Stewart then asked for a show of hands for those who supported election of David Monk to the office of chair for 2008. There were five votes, including Carpenter, Johnson, Kirkpatrick, Monk and Taylor.

DAVID MONK WAS ELECTED TO THE OFFICE OF CHAIR FOR 2008 BY A VOTE OF FIVE TO FOUR.

Vice-Chair

Referring to Ralston's earlier comments about the officer rotation among the board member positions, Monk said he also looked at the rotation of officers and that Carol Tannenbaum, the general at-large member, served as chair seven years ago. He also pointed out that Ralston had served two consecutive years as chair. Monk

said those members who want to serve as officers should get in line in order to avoid missing the opportunity. Based on that, he NOMINATED Bill Carpenter to serve as vice-chair.

Carpenter NOMINATED Pat Patterson to serve as vice-chair. Ralston SECONDED THE NOMINATION. He commented that the rotation has been broken the past few years because the vice-chair has not been around when it came time to take the position of chair. He said he would like to get the rotation system going again. Fortune pointed out that Patterson has just one year left on his current term on the LRAPA board and would not be able to rotate into the position of chair in 2009. Ralston pointed out that Fortune was appointed to the general at-large position in order to keep both Oakridge and Cottage Grove on the board at the same time. When the shared position reverts to Oakridge in 2009, perhaps the at-large position could be filled by Cottage Grove so that both cities retain their representation on the board. Ralston added that switching the two positions and retaining representatives of both cities on the board would maintain consistency. The board wouldn't have a new person beginning the learning curve every two years. Fortune commented that continuing to have both cities on the board at the same time is not assured, because the board might decide to appoint someone else to the general at-large position.

Carpenter then NOMINATED Glen Fortune to serve as vice-chair for 2008. Fortune said he had no desire to move into the position of chair.

Stewart said there were two nominations for the office of vice-chair: Carpenter and Patterson. He asked if there were any further discussion before voting.

Monk asked Patterson what his thoughts were on his serving as vice-chair, reiterating the previous comments that the shared seat would revert to Oakridge before Patterson could serve as chair, and that no one knows what the plans of the mayor of Cottage Grove are, with respect to which councilor will be assigned to the LRAPA board in the next rotation. Monk said it seems inefficient to him to have Patterson serve as vice-chair because he will definitely be leaving the LRAPA board after 2008. Ralston reminded Monk that there is the possibility of the board's appointing Patterson to the general at-large position when Fortune takes over the shared seat in 2009.

Taylor pointed out that the board had just elected a member who has not served as vice-chair to be the 2008 chair. She said she personally does not think that someone should become chair without first having served as vice-chair; however, it has been done before.

VOTE:

Stewart asked for a show of hands for those in favor of having Bill Carpenter serve as vice-chair for 2008. All but Ralston and Taylor raised their hands. Both Ralston and Taylor said they would vote in favor of electing Carpenter, to make the vote unanimous.

BILL CARPENTER WAS ELECTED TO THE OFFICE OF VICE-CHAIR FOR 2008, BY UNANIMOUS VOTE.

Vote Explanation: Stewart said he is confident that Monk will do a fine job as chair of the LRAPA board. He said he voted for Patterson because Patterson had been chair before, and Stewart figured that he could fill in that piece, and then he was going to support Monk as vice-chair and move him into succession for the

position of chair. He said he did not make those comments ahead of time, but that was why he voted as he did. He repeated that he is confident that Monk will do a fine job, as will Carpenter as vice-chair.

7. MULTI-YEAR, MULTIPLE SCENARIOS BUDGET FORECAST: Hough explained that the multi-year, multiple scenarios budget forecast is a concept which came out of the board's strategic planning discussions of the past year. He said he and Mirhosseyni had prepared a presentation as a beginning point for board discussion and refinement. Hough said he had found that putting this information together has been beneficial to staff.

Effect of Everybody Wins Program on Agency Budget

One of the first things staff realized in developing this document was that the cash-on-hand reported to the board in the monthly expense reports needs to show the funds with which the cash-on-hand is associated. Hough explained that there is a large piece of the cash-on-hand that has to do with the Everybody Wins program. Because Everybody Wins is a multiple-year program, and the rest of the agency's budget is on an annual basis, it is difficult to adequately show the differences between Everybody Wins and everything else.

What appears to be a lot of money in the Everybody Wins fund is actually substantially committed in the next four or five years to finishing out that program. Only a relatively small amount of that cash will be available to LRAPA's reserve fund. Hough pointed to the \$600,000 in the ending balance, which is about what the auditors have been recommending for several years that LRAPA have as an ending balance going into the next fiscal year. The fact that that money is on the chart seems to suggest that the reserve goal has been met; but most of that money is just a temporary cash balance which will be drawn down over the remaining years of the Everybody Wins program.

Hough explained further that the tall bars on the graph in the first few years of the Everybody Wins program represented the loans from the Department of Energy, and the tallest bar on the graph represents the pass-through tax credits received through the Department of Energy. The shorter bars, over time, represent the payments from the truckers who have had the equipment installed on their vehicles. If you look at the whole program, over the full seven years, it is about a \$6.5-million program which includes the loans from ODOE, the EPA grant which offsets some of the interest expense, the pass-through tax credits, the payments from the truckers, the set-aside to cover the cost of defaults, and the interest earnings on the money that is in the bank. The flip-side of that is what the money gets spent on over those years. Hough explained that in the first few years, the money primarily went to getting the equipment installed onto the trucks. As time goes by, the biggest expense is getting the loans paid back to ODOE. Over the life of the program, expenses will also be about \$6.5-million. This was all based on the original projections; however, it turned out that LRAPA did not have to borrow quite as much money and also did not get as much tax credit as originally projected. Consequently, those figures need to be adjusted for actuals.

Hough pointed out that the revenues and expenditures lines on the multi-year graph both reduce to close to zero at the end of the seven years; however, on a different scale, that end net figure is actually around \$100,000, which would be put into the reserve fund toward the goal recommended by the auditors. Hough explained that the ending net figure is subject to change, depending on the default rate over the life of the program. The rate included in the projections was 10%; but if the actual default rate is lower, the ending balance could be up to \$200,000. Hough stressed that the primary purposes of the Everybody Wins program were to improve air quality and reduce fuel consumption and costs to the trucking industry. He added that

2007 was when the program peaked, with enough money in the bank to cover the costs of the program and make everything balance over the next several years.

Hough said he wanted to be sure that board members understand the dynamics of the Everybody Wins program and its effects on the agency's budget before talking about the multi-year budget projections. He said he and Mirhosseyni are proposing to remove the Everybody Wins program financial figures from the monthly report given to the board and report that separately on a regular basis such as annually or quarterly, comparing it to something like the graph presented today, to give the board more of a status report on that multi-year part of the budget.

The other parts of the agency's budget are more closely related to the work the board and budget committee do each year to adopt the operating budget. Hough distributed to the board members budget scenarios for stable funding and for worst case.

Stable Case

- Federal funds would stay the same, with no adjustment for inflation.
- State funds would receive some inflation adjustment, similar to the CPI, each biennium.
- Local dues would receive a CPI inflation adjustment each year.
- Title V fees CPI index adjustment is required by law.
- ACDP fees continue a four percent increase each year to adjust for inflation.
- Airmetrics funds at a mid-range level each year—something similar to what the agency is experiencing in the current year.
- Special projects—none forecast because they are dependent on grant availability. Grants are basically pass-through, with the agency keeping a small amount for staff costs. They do not make a big difference in the core budget, and they are difficult to forecast.

Worst Case

- Federal funds would be reduced by 15 percent.
- State funds would remain level with no inflation adjustment.
- Local dues would be reduced by \$100,000.
- Title V would keep the CPI increase because it is required.
- ACDP fees would decrease by about 10 percent due to adoption of state's permit streamlining rules and fee schedule. The fee schedule would, however, still be adjusted by 4 percent each year under provision contained in LRAPA's rules.
- Airmetrics would be break-even where the production and sales pay salaries of the two FTEs supporting that program but leave nothing to contribute to salaries of other staff involved with the program or cash to the General Fund.
- Special projects—none forecast.

Hough added that expenditures would include a COLA approximating the CPI, approximately 5 percent increase annually in medical/dental and other insurance expenses, merit increases for employees not already topped out in their range, and general inflationary increases in operational costs.

Hough added a qualifier about the Title V fees. The Legislature approved a 24 percent increase, in increments of about 8 percent over three years, plus the CPI each year, which affects the first three years of the five-year budget scenarios. During the last two years, the Title V fees will increase by only the CPI each year.

Hough said the proposed multi-year budget document includes each of the funds in a separate color and shows five years on one page. This first draft of the multi-year budget projection includes two of the major funds. Airmetrics will be added, but Everybody Wins will not be because of its multi-year nature, as opposed to the annual nature of the other funds.

Need to Reduce Staff

Hough explained the seasonal nature of much of LRAPA's revenues. Revenues do not come in on a consistent, month-to-month basis. The bulk of the permit fees, as well as local, state and federal funds come in during the first few months of the fiscal year and must be stretched over the whole fiscal year. It is important for LRAPA to have a beginning balance each fiscal year so that it can continue to operate until the bulk of the funds come in during the July/August/September time frame.

Even in the projected stable case scenario, LRAPA would need to reduce staff over the next five years from the 22 FTEs in the current budget. In order to have a balanced budget for the full five-year period, staff would need to be reduced by one for next year, and then another one two years later.

Hough said there are several ways to make the budget balance under the worst-case scenario. In order to be sure that the budget did not go negative in the next five years, staff could be reduced from its current 22 to 17 during this fiscal year. Another way to do it would be to phase it down each year, but the agency would have fewer than 17 at the end of the fifth year if staffing level were maintained closer to the current level of 22 over the next few years.

Patterson asked if Hough is considering the population growth in the area in suggesting staff reductions in the next five years. He asked if population growth, and additional businesses and industries, wouldn't cause a need for additional staff in order to serve everyone. Hough responded that there will be pressures to improve efficiency of operations in order to continue to offer the same services with fewer staff members. He said increased population would likely result in more complaints, more businesses, more permitting needs and more compliance inspections, and that is part of the challenge with the budget, even with the stable case.

Johnson asked when the office building is due to be paid off, and Mirhosseyni estimated three to four years from now. He added that the payoff of the building, which currently costs about \$40,000 annually, is figured into the last year of the five-year budget scenarios.

Board Questions

Carpenter said he recalled that the state funding for LRAPA went up by a factor of five for the current fiscal year, and Hough confirmed that the state general funds for LRAPA went from \$45,000 in the last biennium to \$213,000 in the current biennium. Carpenter asked if Hough expects the Legislature to hold those funds, continually, or if he expects those funds to erode as happened in the past. Hough said there was a gradual erosion over time. The starting base for each year is what was awarded the previous year. He said LRAPA has been assured that the amount received this biennium should be considered the new base from which to

start in the next biennium. The worst-case assumes that state funds would remain at the current level and not be adjusted for inflation.

Hough asked Mirhosseyni to explain the contractual services included in the budget. Mirhosseyni explained that this category includes such things as phone service, and professional services for legal counsel and financial auditing. Monk asked if any of the Airmetrics staff costs are contractual, and Mirhosseyni said they are not.

Patterson asked how many employees might be retiring during the next five years, and Hough said one person retired in November, and there are two or three more who could retire during the next five years if they choose to do so. Hough added that, if there are more retirements, he will be looking to see if duties can be shifted among existing staff and operating at a lower staffing level, rather than filling the vacancies. Ralston commented that when people retire they are at a higher pay rate than the replacement would be. That would also help the budget situation.

Kirkpatrick asked if the cash in the reserve fund will be invested in short-term CDs that would give the agency a higher rate of interest. Mirhosseyni said the agency already does that, although most of the cash is invested with the State Treasury at an interest rate of 5%. At the same time it is earning interest, it is still available to the agency if there is a need. He said it is a good practice which not only safeguards the cash but earns interest to increase the reserve at the same time.

Johnson commented that it is imperative that Mirhosseyni and Hough participate in the review of the DEQ streamlining rules and possible adoption by LRAPA. He said he does not think LRAPA should follow DEQ if it results in a reduction in the agency's resources. Johnson added that he thinks the agency needs to maintain, or even increase, the revenues from ACDP permitting. Mirhosseyni said initial projections indicate that going to the permit streamlining will be revenue neutral, but staff will be looking at that in more detail to determine exactly what the impact would be. Hough commented that the overall concept of the streamlining is to make it more efficient for LRAPA, and for the industries affected, to operate. LRAPA should be able to operate the ACDP program with some fractional savings of FTE. Johnson responded that there is a problem with permitting 100 or 200 sources and trying to create all of your revenue from those sources, as opposed to a registration system or some other low-cost system spread out among a much larger number of sources. He said he hopes that those other approaches will be evaluated as part of the permit streamlining rule review.

Hough said this initial set of documents, and today's discussion, were meant to kick off a discussion of this multi-year concept and see what kind of information might be useful for developing it for future discussions. One of the key things that staff has tried to factor into this is making steady progress toward the reserve goal of three- to six-months' budget that the auditors have recommended consistently, over the last few years.

Further discussion of the multi-year, multiple scenarios budget forecasts will be on future agendas.

8. DUES REQUESTS (PER CAPITAL DECISION) TO INTERGOVERNMENTAL PARTNERS: Stewart said it appeared that Hough had set some rates for local dues and was looking for recognition for increases. Hough agreed, stating that the proposed increase is 3%, based on the current CPI of 3.5%. Mirhosseyni added that the population figures used are from the latest estimated populations for the local participating jurisdictions.

MOTION: Fortune MOVED to approve the staff recommendation regarding the increase in dues from local jurisdictions. Patterson SECONDED THE MOTION.

Discussion of Motion

Carpenter asked why staff did not use the actual CPI number of 3.5% rather than dropping it to 3%. Hough said staff used the most recently available data in preparation for this meeting. Because the number can be a little fuzzy, depending on the date that you calculate the last twelve months, he and Mirhosseyni thought the agency should demonstrate conservatism by rounding down to the nearest whole number. He said it did cross his mind to use the whole CPI number. Carpenter asked if the agency has ever rounded it up instead of down, and Hough said the agency has never rounded the number up. In the past the agency has sent its dues requests to the cities and the county in the early part of the year; however, in more recent years, LRAPA has sent its dues requests earlier in order to coincide better with the time frame when the cities and the county develop their own budgets.

Carpenter said he would like to hold to the full 3.5%, in light of the somewhat grim five-year outlook which staff just presented to the board.

Kirkpatrick noted that it is stated as a request and not a demand. She asked if anyone has ever denied the request. Taylor said Eugene cut LRAPA from its budget altogether, one year. When she saw it in a draft budget document, she managed to get the allocation restored.

Stewart said that Lane County's position on LRAPA's budget is that the money comes from the Roads Department, and they are optimistic that they will get the federal funding. The money has not yet been awarded, however, and, if the county does not get it, the Roads Department could get reduced by 50 percent, and the LRAPA funding would be cut. Monk asked whether Stewart thought the extra half percent in LRAPA's request would make a difference to the Board of Commissioners, and Stewart said he didn't think so. Monk speculated that whatever the CPI is in a given year is what city- and county-funded agencies are accustomed to, as far as raising their rates.

Ralston said 3% is pretty standard at the city Springfield, because that is the limit by which they can raise their tax revenues each year. Taylor agreed and said she thought LRAPA request should stay at 3%. Patterson also agreed.

VOTE: THE MOTION PASSED WITH 8 IN FAVOR AND 1 (CARPENTER) OPPOSED, FOR THE REASONS EXPRESSED EARLIER.

9. LRAPA ADVISORY COMMITTEE APPOINTMENTS: Stewart stated that the appointment of Earl Koenig had been discussed by the advisory committee and that staff was recommending appointing Koenig to the committee at this time.

Ralston said he thought Koenig is extremely well qualified, and he MOVED to appoint Earl Koenig to the advisory committee. Patterson SECONDED THE MOTION.

Discussion

Stewart noted that all the applications were nearly a year old, and if the board did not feel that Koenig was an appropriate appointment, he would recommend that the openings on the committee be posted to get new applications. He said he would support Koenig, with his past history on the board, adding that Koenig would be a positive addition to the committee. He also announced that one of the previous applicants, Douglas Moser, had passed away earlier in the year.

Carpenter said that, while there seemed to be a lot of very good applicants, he would lean toward Koenig because Koenig, with his experience on the board, would facilitate better dialogue between the committee and the board.

Monk asked if any of the other applicants had been contacted to see if they are still interested in serving. Hough said they had not been contacted because he wanted to bring Koenig's application to the board, first, and see if there was an interest on the board to appoint Koenig. He said he did not want to raise expectations, again, after the application process early this year, without having some direction from the board. Monk said that made sense. He also said he thought Carpenter's point was well taken, and that better dialogue between the board and the committee would be excellent.

Taylor said that, as a principle, she does not think appointments should be made without first advertising the position; however, she said she would support Koenig's appointment. Stewart said that he, too, thought it would be appropriate to do a posting for future openings. He also suggested an interview panel of board members and advisory committee members.

Carpenter suggested that, if not advertising the position is an issue with board members, Koenig could be appointed to fill out the remainder of Bonnie Palmer's term. New applications could be considered at the time the term expires. Kirkpatrick added that Koenig could reapply at that time. She asked how long the unexpired term would be, and Ayers said he did not remember, exactly, but thought it would be about a year.

Stewart agreed with Carpenter and said he preferred that Koenig fill out the remainder of Palmer's term. Monk asked if the maker and second of the motion would agree to that. Both Ralston and Patterson said they would agree.

AMENDED MOTION: To appoint Earl Koenig to the LRAPA Advisory Committee, to serve out the remainder of the term vacated by Bonnie Palmer, representing the general public.

VOTE: THE MOTION PASSED BY UNANIMOUS VOTE.

10. NEW BUSINESS:

- A. Board Meeting Schedule for 2008. Copies of the meeting schedule for 2008 were distributed to board members so that they could protect those dates and times on their calendars. Hough asked that board members let staff know if there are conflicts with any of the dates. He also mentioned a conflict with the April board meeting date. He said the EPA and National Association of Clean Air Agencies (NACAA) have scheduled a major air quality conference in Portland on April 7 to 9. The regular LRAPA board meeting date falls on the April 8. Hough said there are staff members, and could be board or advisory committee members, who might want to attend all or part of that conference since it is

nearby. He asked board members to flag that date for now, if the board would be open to possibly rescheduling that meeting.

Taylor suggested that, since this is an important meeting and the board knows about it in advance, the board meeting should be rescheduled to the third Tuesday, April 15. **Board members agreed to move the April meeting from the 8th to the 15th.**

- B. Name Recognition for LRAPA. Kirkpatrick said that she had been telling friends that she had been appointed to the LRAPA board, and a lot of them did not know what LRAPA is. She said one place where LRAPA is very public is with the local weather scene. Kirkpatrick said she had spoken with a person at the Eugene *Register Guard* and had asked him if there is a way to add a little note that the Lane Regional Air Protection Agency had something to do with the information provided. He said they might be able to do that, depending on the space allotment. Kirkpatrick asked the board what they thought of that idea, and several board members indicated they thought it was a good idea. Kirkpatrick said she would talk to him again and report next month on what he tells her.
- C. Civil Penalty Matrix. Monk said he did not think anything would be done about the fine matrix unless the board does it. The advisory committee won't be done with its review of the industrial permitting rules until at least March. He asked Ayers if the committee could start the review of the fine matrix in April or May, and Ayers said they could start on it as soon as the permitting rules review is done. He added that it would be good to have some direction from the board as to the issues the board wants the committee to address.

Stewart said it would be good to have that subject on the board's February agenda, to come up with some parameters and define what the board wants the advisory committee to do. Ayers suggested that the board go through a half-hour session with staff on the matrix before having the broader conversation about what the committee should do. Monk agreed.

- D. Appreciation. Carpenter thanked Stewart for being the board chair this year, and Stewart thanked the board for the opportunity.
10. **ADJOURNMENT:** The meeting adjourned at 2:13 p.m. The next regular meeting of the LRAPA Board of Directors is scheduled for Tuesday, January 8, 2008, in the LRAPA Meeting Room at 1010 Main Street, Springfield, Oregon.

Respectfully submitted,

Merrie Dinteman
Recording Secretary