

**MINUTES**  
LANE REGIONAL AIR PROTECTION AGENCY  
BOARD OF DIRECTORS MEETING  
TUESDAY–JANUARY 8, 2008  
LRAPA Meeting Room  
1010 Main Street, Springfield, Oregon

ATTENDANCE

- Board: David Monk, Chair–Eugene; Bill Carpenter, Vice-Chair–At-Large, Springfield; Glenn Fortune–At-Large, General; Drew Johnson–Eugene; Kit Kirkpatrick–Eugene; Andrea Ortiz–Eugene; Pat Patterson–Cottage Grove/Oakridge; Dave Ralston–Springfield; Faye Stewart–Lane County  
(ABSENT: None)
- Staff: Merlyn Hough–Director; Merrie Dinteman; Max Hueftle; Sally Markos; Kim Metzler; Nasser Mirhosseyni
- Other: Russ Ayers, Chair, and Amy Peccia–LRAPA Advisory Committee; Terry Connolly–Eugene Chamber of Commerce; Doug Moore–Douglas International (Consultants); Becky Riley; Rick Smith–SierraPine; Betty Taylor–Eugene City Council; and Alex Vlaicu–Grace Manor

1. OPENING: Chair **Monk** called the meeting to order at 12:16 p.m.

Appreciation. Eugene City Councilor **Betty Taylor** served on LRAPA’s Board of Directors from January of 1997 through December 2007, and the Eugene mayor reassigned Taylor to other commitments and assigned Eugene City Council **Andrea Ortiz** to serve on the LRAPA Board of Directors. This was **Ortiz**’s first meeting.

**Taylor** attended this meeting at the board and staff’s request, and **Monk** presented her with a plaque expressing the agency’s appreciation for her 11 years of service. Those years were distinguished not only by **Taylor**’s regular attendance and active participation in board meetings, but also her willingness to serve two consecutive terms as the board’s chair in 2000 and 2001. She also devoted many ours of extra time, particularly during three processes to hire a new director. She participated in the agency’s first-ever strategic planning process, and the knowledge she gained during her years of service has been invaluable during the current strategic planning effort. In addition, **Taylor**’s attention and quick action kept LRAPA from being written out of Eugene’s budget a few years ago.

**Taylor** commented that when she was first appointed to the LRAPA Board of Directors she was a newly elected city councilor. She attended her first LRAPA board meeting before she had even attended her first city council meeting, and knew little about the agency at that time. But she learned. **Taylor** said she had wanted to continue on the LRAPA board and had not asked to be reassigned and that she would miss her involvement with the agency. She added that she might attend a board meeting, from time to time, particularly is there is something controversial happening, and Chair **Monk** encouraged her to do so.

2. PUBLIC PARTICIPATION: None.

Prior to acting on the consent calendar. **Monk** introduced **Andrea Ortiz**, the new Eugene City Council representative on the LRAPA Board. **Ortiz** said she is the city councilor for Ward 7 and lives in the Trainsong Neighborhood. She said she was sorry that Councilor **Taylor** would no longer be setting on this board, but air quality is of particular interest to **Ortiz** and she is happy to join the LRAPA board. **Ortiz** commented further that the J. H. Baxter facility and the rail yard, as well as a lot of other businesses, are in her area of Eugene, adding that she has spoken with both the current and past LRAPA directors about the odor problems from Baxter and the rail yard, in particular. **Monk** welcomed **Ortiz** to the LRAPA Board of Directors.

The other board members introduced themselves to **Ortiz** and told her which LRAPA partner or area of Lane County each of them represents on the LRAPA board.

3. CONSENT CALENDAR:

**ACTION: MSP(Stewart/Ralston)(Unanimous) adoption of the minutes of the December 11, 2007 board meeting and approval of the expense reports through November 30, 2007.**

4. DIRECTOR'S REPORT: Hough highlighted a few items from the written report, and board members had some questions about the written report.

A. Plywood MACT. **Hough** pointed out that the progress report on local facilities' compliance with the federal plywood MACT is the same as it has been in previous months; however, the Flakeboard facility process has been changed. They will still put a biofilter on the press vent, as reported previously. There was some question as to whether their proposed process change could be legally approved by EPA. Prior to this board meeting, LRAPA and Flakeboard had a series of e-mails and teleconferences with EPA, during which it was concluded that their proposal to use a process change on the dryer in conjunction with the wet scrubber they already have on that point, as well as the biofilter on the press, is acceptable to EPA. **Hough** said Flakeboard is committed to the same schedule as before. The benefit of this plan is that there wouldn't be the combustion emissions that there would be with an afterburner. There would not be the oxides of nitrogen that can contribute to ozone formation.

B. Home Wood Heating. **Hough** noted that changing the local ordinances to be consistent with the new, more protective, particulate matter standard is key to this program. He reported that the city of Oakridge adopted changes to the city's ordinance in September, and the changes have been in effect through the current home wood heating season. The city of Eugene adopted their ordinance in late November, and it took effect in December. The city of Springfield has placed it on their work session in late January, for February consideration. He said he did not yet know the details of Lane County's code change. **Stewart** said he did not yet have a date, but the county is working on that change.

**Carpenter** said he noticed that the Oakridge home wood heating ordinance refers to photos of smoking chimneys. He wondered if it is possible to take photos during nighttime hours. **Hough** responded that if the advisory is for a stage that allows no burning, and there is any visible smoke, that can be documented, even during nighttime hours, as long as there is a nearby light source. Because this is the first season with the tighter standards, **Hough** speculated that the city may have more of a warning-oriented approach, anyway.

**Carpenter** expressed concern about Oakridge violating the PM standards if there is burning during Red advisory days. **Hough** said the PM standard is a three-year standard which does allow a certain number of excursions above the standard during that period. He also commented that the Governor's letter to EPA recognizing Klamath Falls and Oakridge as the two areas of Oregon not meeting the new standards, which was based on 2004-2006 data, lists Oakridge as non-attainment and that it is desirable to get the most improvement possible, as quickly as possible.

**Carpenter** asked if **Hough** is comfortable that the Oakridge home wood heating ordinance will meet the requirements of the new standards. **Hough** said Oakridge has an excellent ordinance that has really changed the cut-points for the daily advisories to be consistent with the new standards and the resulting

new Air Quality Index. **Hough** said what Oakridge is doing is fully consistent with their previous commitment to their part of the State Implementation Plan.

- C. Air Quality. **Fortune** had a couple of questions regarding the air quality reporting charts which accompanied the written director's report. He asked for the location of the monitor represented on the Eugene-Springfield air quality chart. **Hough** called attention to another attachment, a map of the locations of the agency's air monitoring network. He explained that the monitor located at Amazon Park typically registers the highest particulate levels, and that most of the yellow squares on the chart which represent particulate matter will be from Amazon. However, the square for a given day will represent whatever monitor recorded the highest level for that day, so it could be from any of the locations where the agency monitors for particulate matter.

In the case of ozone, represented on the chart by blue triangles, **Hough** said those levels will typically be from the monitor at Saginaw. That is because ozone tends to form on hot summer afternoons, downwind of urban areas. The Saginaw site is located downwind of the Eugene-Springfield Metropolitan Area. There are some occasions, however, when the highest ozone level is recorded at Amazon.

In the case of carbon monoxide, represented by green diamonds, the highest levels are likely to come from the downtown Eugene site located at the LCC building near West 11<sup>th</sup>. That is because carbon monoxide levels are associated mainly with vehicular traffic, and that monitor is located at a site of very heavy traffic where there are numerous buildings which cause a "canyon" effect, trapping and concentrating the pollutants. **Hough** added that it is rare to have a day when CO is the pollutant with the highest level, because CO levels are typically low most days of the year.

In response to questions from **Kirkpatrick**, **Hough** explained that ozone is more of a regional pollutant, whereas CO is a "hot spot" problem. That is why the CO monitor at 11<sup>th</sup> & Willamette in Eugene generally records the highest levels. **Kirkpatrick** asked where the monitors record the lowest levels of pollutants. **Hough** responded that the agency does not have much information on the clean air areas. He explained that the concept is that, since you can only monitor in a limited number of locations, you monitor where it is possible to have the highest levels so that, if you meet health standards there, you can confidently say you meet them everywhere. He added that areas where population is the most dense would typically have higher concentrations of both particulate matter and carbon monoxide, whereas the lower pollution levels would be in areas where there are fewer people.

**Ralston** noted that the Amazon location measures the highest levels of particulate matter from smoke and commented that there are areas just outside the urban growth boundaries where people are not regulated and sometimes produce a lot of smoke from open burning. He asked if some of that smoke could be adding to the PM levels at the Amazon site. **Hough** said the Amazon site is surrounded by residential areas, and the smoke that impacts that monitor are more likely to be from the homes in that immediate area, rather than from burning done outside the urban growth boundary to the south. He said PM is not as much of a transport issue as ozone is, which is the other extreme where the higher levels are caused by upwind urban areas.

**Monk** asked how many exceedances **Hough** expected to see in Eugene-Springfield, based on the new PM<sub>2.5</sub> standards. **Hough** called attention to the air quality charts in this month's packet, stating that staff had included this month a dash line on the Eugene-Springfield chart at the 100 mark. He said that mark is what the Air Quality Index is always intended to have. **Hough** said there has been some

temporary confusion during the transition to the new standard, and staff has put the 100 line on both the Eugene-Springfield and Oakridge charts. **Hough** explained, further, that during the transition that line was at 89 on this scale. To compare data over time, the 100 line can be used from now on; however, looking at past charts, such as last winter, the comparison line would be at about 89. For last winter, you could draw a line at about 89 and count the number of symbols for PM that are above that line to see how many times either area would have violated the new standard. He also cautioned that each monitoring site is evaluated separately and reminded board members that the PM exceedances are on the 98<sup>th</sup> percentile, meaning that about 2 percent—or 7 days a year—could be over the standard without violating the standard and being out of compliance.

**Hough** said the Eugene-Springfield area is currently just within the standard in the low 30s of micrograms per cubic meter (32 to 35) compared to the standard of 35 micrograms. The overall trend has been slightly downward or level; so it is not like LRAPA is dealing with a worsening trend which could change things dramatically.

**Fortune** asked, since Eugene and Springfield are two distinct, different bodies, why they are lumped together for air quality reporting. **Hough** responded that the reason is because the areas are contiguous, and the urban density goes from one directly into the other. They are considered part of the same urban area as far as EPA's criteria for identifying what the urban area is experiencing and whether the concentrations put the area in compliance or out of compliance.

**Fortune** then reiterated his opinion that, because the Oakridge monitor is located in an area that represents about a quarter of the city and a quarter of the population of the city, the whole city is being condemned because of the levels in that one area. He said if he were in Springfield, and Springfield was labeled out of compliance because of a monitoring site in Eugene, he would be angry about that.

**Ralston** said that led to another question. There are five metropolitan monitoring stations, four of which are in Eugene and only one in Springfield. He noted that it appears there have been four or five times when an AQI was over the 100 line during the past year. He asked if all of the exceedances could have been from the same monitoring stations and, if so, if it is averaged somehow. He asked how that is calculated. **Hough** explained that the Amazon site consistently has the high level for PM, and he would say that most, if not all, of those four or five excursions were measured at the Amazon site. He repeated that for last winter, the number for comparison with the standard is 89. He said staff could have gone back and recalculated the AQIs for those days using the current synchronized system, and re-plotting the points on the charts. They chose not to do that to avoid confusing things by giving the board a new set of data, calculated a different way. **Hough** said it would require an exhaustive effort to show, more thoroughly, that everywhere else is within the standards. He pointed out that, in this case, even the worst site is within standards, and there really is no compelling reason to do an exhaustive effort like that.

**Carpenter** commented that he thinks the airsheds were designated by federal standards in the early '70s, after an exhaustive review by EPA of the meteorology, to determine what makes an airshed. He said to get that revised would require presentation of that kind of exhaustive information again, which is not an easy thing to do.

**Hough** said there is very specific guidance from EPA for particulate matter. The area is defined not just where the problem concentrations are, but must also include the sources that contribute to those concentrations; and the smallest areas identified in Oregon as airsheds are urban growth boundaries. In some areas it goes beyond those boundaries, to include a margin of safety, and that is permissible but

not required. **Hough** added that there is a sub-set of Eugene downtown that is identified and designated as the boundary for carbon monoxide, but that is very different from identifying a boundary for particulate matter or ozone.

**Ralston** commented that, looking at the Oakridge numbers from March through January, it appears that there is only one point which exceeds the standard; however, going back to February shows seven or eight exceedances. He asked **Hough** if it would be a fair statement to say the February 2008 numbers will have to come in before it can be determined whether or not there has been any improvement over last winter. **Hough** said that was a fair statement because the whole home wood heating season must be included in looking at possible exceedances. He added that, over a three-year period, there can be significant differences in ventilation patterns which can result in different numbers of exceedances from year to year.

**Kirkpatrick** said she is interested in seeing the air quality trends. She said she is particularly interested to see what effect the woodstove change-out program in Oakridge will have on Oakridge and in the Eugene-Springfield area. She said it should really make some headway because the charts show the particulate matter levels going down in the spring and summer and then spiking back up in the winter.

**Fortune** once again commented that he believes the monitoring in Oakridge is being done in the wrong place. The days when Oakridge has been out of compliance have been days when the temperatures have dropped and there has been a temperature inversion. **Fortune** said the PM compliance in Oakridge is really driven by the weather in that area. The smoke settles in the area where the monitor is located. He said he expects to see improvement because quite a few of the old woodstoves in that area have been swapped out under LRAPA's Warm Homes/Clean Air Program. **Patterson** agreed with **Fortune** regarding the location of the monitoring station in Oakridge, because of the weather patterns affecting Oakridge. He suggested that maybe LRAPA should take another look at the location of the monitor.

- D. PM2.5 Non-Attainment Designations. **Hough** noted that the packet this month includes a copy of the letter from **Governor Kulongoski**, to EPA, indicating that Klamath Falls and Oakridge are the two areas of Oregon which are expected to be non-attainment for the new PM2.5 standards. **Hough** pointed out that the letter includes the fact that much is already being done in both areas to address the PM2.5 levels.

**Carpenter** said the state has implemented a smoke management program for slash burning in the forest surrounding Klamath Falls. He wondered why the same has not been done for the area around Oakridge. **Hough** responded that Oakridge is one of the areas designated by the ODF smoke management plan for protection during slash burns. **Carpenter** asked if it is already in place; and **Hough** said it is, because of the city's PM non-attainment status in the past. Both Oakridge and Eugene-Springfield are critical for ODF to consider when doing slash burning. **Patterson** commented that ODF is no longer doing as much slash burning in that area as they used to do. **Ralston** agreed that they aren't logging the area, so there is no need for slash burning.

**Kirkpatrick** asked if LRAPA has any control over the forestry slash burning practice of burning the plastic used to cover the piles. **Ralston** commented that the plastic is there to keep the piles dry so that when they do burn it, it burns hot. He said they remove the plastic before starting the fires, and **Kirkpatrick** and **Monk** both said they do not always remove the plastic before burning the piles. **Hough** explained that LRAPA has been involved in helping to shape revisions to the forestry's Smoke Management Plan in the past decade or so. Overall, the group that participated, including LRAPA, felt that the improvements were more protective of air quality. The use of the plastic has been controversial.

LRAPA specifically prohibits burning of any type of plastic; however there are reasons why forestry uses the plastic. It has to do with keeping the pile dry, and the type of plastic they use has less emissions problems than some of the other plastic choices. **Stewart** said what is taking place today is that most people put a piece of plastic about 4' x 4' on the pile, just to keep one area dry so that it can be ignited to get the fire started. He said less and less people are covering the whole pile, and most remove the plastic before burning. He said, however, that he could not say that everybody does remove the plastic.

- E. Follow-Up from Last Meeting. **Hough** called attention to a copy of information regarding Bio-Economy & Sustainable Technologies Center (BEST) which was mentioned at the December meeting by **Sally Markos**. At least one board member indicated at that time a desire to see some information on the center.
  
- F. Getting Information About LRAPA Rules and Requirements Out to People. **Fortune** said the board has talked about notifying the public regarding the agency's rules and regulations and such, and a comment made by **Kim Metzler** at the December meeting slipped by him at the time; but, after reading the minutes, he wondered why the city of Eugene's building department is refusing to help disseminate this information on the city's permit forms. **Monk** said he wondered the same thing after reading the minutes. **Hough** said he had asked **Metzler** for clarification about that, and she had shown him the most recent e-mail correspondence she had received on that subject. **Hough** said **Metzler** was not able to attend today's meeting but he thought she could provide that information to the board. **Kirkpatrick** asked that the e-mail be forwarded to her so that she could forward it to **Susan Muir**, the head of the city's planning department. **Hough** asked **Sally Markos** to make sure that happens.

**Hough** said he thinks the reason the building department has not wanted to include LRAPA's information on the city's permit forms is because they get many requests from other agencies to help get information out to the public. He added that he would welcome any change that could be made in that regard.

**Ortiz** commented that there is a lot of very diverse information at the kiosk in the planning department, and that LRAPA's information could be included there. **Hough** responded that LRAPA brochures are displayed there. The rules require an asbestos survey on any building (excluding houses built after 1987) that is to be renovated or demolished.. The action that LRAPA would like to see is to have wording included on the city's building permit document so that people are aware that there could be asbestos issues associated with renovation or demolition of a building. If a notice were on the building permit document, the person would know immediately that they need to be sure there is no asbestos in the building so that they could avoid possibly exposing themselves and/or others to asbestos, and also avoid the possibility of having LRAPA issue an enforcement action against them for violating LRAPA's asbestos rules. **Ortiz** asked if there are examples of what other cities, such as Springfield, have done about this. **Hough** responded that **Metzler** would probably know the answer to that, but he did not have that information. **Stewart** explained a bit further with the example of the county building department issuing a permit to demolish a building. He said the county does not have its own information regarding asbestos, but he believes the permit issuance process does now include LRAPA requirements regarding asbestos. **Stewart** stressed that if people don't know about the asbestos survey requirement, they can potentially get involved with LRAPA's enforcement process, and the fines can be quite high. The information is pretty critical to get to people who are doing this kind of work.

**Monk** commented that he thought every one of the board members would advocate that the city of Eugene include this information. LRAPA is trying to find the most efficient way to get the information to the public, and people who get building permits are the ones who need it most.

5. **ADVISORY COMMITTEE:** Committee Chair **Russ Ayers** first gave a brief overview of the committee and its role, for the benefit of new board members. He then reported on committee activities over the past month.

Rulemaking Package for Industry Permitting and Air Toxics. **Ayers** said the sub-committees for this process have begun to meet, and notes from those meetings were provided to the board members at today's meeting. The sub-committees will determine the differences between the DEQ rules and the proposed LRAPA rules and report to the board. The basis for evaluating the rules and for making recommendations to the board is very similar to what DEQ did when that agency adopted its rules. **Ayers** told board members that the criteria for the rules evaluation are in the notes from the committee's December meeting, under Item B, "Proposed Amendments to Permitting Rules," if board members would like to comment on them. The committee will also be looking at neutral impact as far as the fees for permits. For the air toxics rules, the committee will look at how the rules will be implemented once they are in place.

**Monk** said he wants to look beyond what staff has proposed. He also said he wants to get information beforehand and will also share research that he has done regarding air toxics. **Monk** said the rules need to protect people living in the most impacted areas. He said there are other models besides what DEQ used that are very effective. He added that he wants to open up what the advisory committee is reviewing as to what the options are. **Monk** also noted that California's air toxics program has a provision for "hot spot" problems. **Ayers** responded that the DEQ rules development process looked at what other states are doing with their rules and that the proposed LRAPA rules have a hot spot section.

**Johnson** said DEQ organized the Portland neighborhoods and did a Portland air toxics assessment (PATA) which includes some assumptions about what is happening in Lane County. He said they have only assessed monitoring data, and the Trainsong area might be a hot spot. **Johnson** said simply adopting DEQ's rules as they are will not do anything for Lane County, and he wants to see rules that will specifically help Lane County. **Ayers** commented that the proposed rules do not keep LRAPA from doing that.

**Ralston** asked about moving the existing air toxics monitor to another location, and **Hough** said that could be done; however, LRAPA would not have the historical data it keeps from the Amazon site. He added that, because air toxics monitoring is not required, there is no federal funding available to help pay for that.

**Monk** commented that the advisory committee has set a pretty tight time line, to get the information to the board by March. He said he would like to see a much more intense evaluation of the rules and situations in Lane County. He would also like to see fee increases to enhance ability to fund an air toxics monitor. He said the evaluation process should be slowed down a bit so that the advisory committee and subcommittees don't feel like they are not getting direction from the board. **Johnson** agreed that the process is going a little bit fast. He said the agency has a three-legged-style permitting system with monitoring to tell what is happening, and emissions inventory which can be used to calibrate to see how good the monitoring information is. **Johnson** said he would like to see the industrial permitting rules and air toxics rules working in conjunction, for agency efficiency. He said he sees an opportunity for the rules to generate revenues to support the other things the board wants to be able to do.

**Ralston** said he is confident that the advisory committee is doing what the board is asking them to do and that meeting the DEQ rules is all he expects. **Patterson** agreed, stating that if DEQ wants to change the rules for

the whole state, that would be okay; but he does not want LRAPA's rules to exceed the state's rules. He does not want this agency to penalize sources operating in Lane County by requiring more of them than is required elsewhere in the state.

**Carpenter** said he would agree with **Patterson** on the industrial permitting rules; however, the DEQ air toxics program is a 2001/02 program. He said he sees nothing wrong with LRAPA looking to find the best program for the current time frame. LRAPA has no current air toxics rules, and the agency should take the time to see what other states or municipalities have done instead of just accepting the DEQ rules as the best. **Carpenter** said he would like to see if there is a way to develop rules with additional flexibility that don't penalize local sources but which may work to clean things up faster than the DEQ rules will do.

**Stewart** commented that the fees are set by the state, and LRAPA may not have flexibility in that regard. He said he does not want to implement rules on people unless LRAPA can prove there is a problem. **Johnson** said LRAPA needs to get more information about what is actually in the air, because lack of information causes the agency to be less efficient in the way it writes permits and enforces the rules. He said he would like to see LRAPA regulate with the goal of finding out what is in the air.

**Monk** said the board members have fundamental differences in the way they view this subject, and there needs to be a better discussion. He said this will be on the February agenda. **Monk** added that DEQ is failing its mission and, if LRAPA wants to be effective with its rules, the local rules must be different from the state rules.

**Ortiz** said she lives "down the funnel" from J. H. Baxter and that it would be good if the neighbors knew what they are being subjected to. She commented further that LRAPA should be concerned about this because there are low-income homes in the area, and the people cannot afford to move away. **Ortiz** said the people at J. H. Baxter were not willing to talk to the community for a long time, and the more information LRAPA can gather and share with the community, the better the community is going to feel. She said there is a difference between "nuisance" and "health risk"; but it is difficult to believe the emissions from the Baxter facility are not a health risk when you are exposed to them 24 hours a day.

**Ayers** suggested that it would be interesting for the advisory committee sub-group to look at the Baxter history and determine how the air toxics rules could have been used in that situation if they had been in place at that time. He said the group could talk to permit writer **Max Hueftle** about that, and it could be an educational process on the rule, itself. He invited any interested board members to attend the sub-committee meetings and said that the Air Toxics Subcommittee would meet January 14, 10:00 a.m. in the LRAPA meeting room; and the Industrial Rules Subcommittee would meet January 30, 10:00 a.m., in the LRAPA meeting room.

**Johnson** asked if there were any chance that those meetings could be scheduled in the evening, or if a work session could be scheduled in March so that an hour could be dedicated to a more in-depth discussion among the group about what is being proposed. **Ayers** suggested that a better way to present the information to the board is to have a work session on it once the committee has some recommendations ready for the board. As for the sub-committee meetings, **Ayers** said **Sally Markos** coordinates those meetings, and any interested board members should work through her on that.

**Ralston** commented that he does not have any evenings open for that and, in fact, he already has a difficult time fitting in everything that he does. He said he has at least two meetings every day, at noon and in the evening, and there are certain days when he will not do any meetings.

**Carpenter** asked that a two-page executive summary, of how the Oregon air toxics rules would work and how they would be implemented, be prepared for the next board meeting. He said he had read the air toxics rule, but it would make it much easier for the whole board if a summary were provided. **Ayers** offered as an alternative a DEQ presentation on the rules that walks through the whole set of rules. He suggested that the presentation could be e-mailed out to board members for them to review and see if that meets their needs. **Carpenter** said he would try to draft a summary for the board to review and critique, after which perhaps **Hueftle** could polish it as necessary. **Ayers** agreed it would be a good idea to work with **Hueftle** on that.

6. SETTLEMENT OF NOTICE OF VIOLATION WITH CIVIL PENALTY ASSESSMENT, ENFORCEMENT CASE NO. 07-2943, GRACE MANOR, ASBESTOS VIOLATIONS: **Hough** explained that when the agency issues a civil penalty, the respondent is given three choices as to how to respond. The respondent may pay the fine, contest the violation and request a contested case hearing, or acknowledge the violation and outline their side of the issue and request a reduction in the civil penalty. The respondent in the case chose to request a reduction in the amount of the civil penalty. The director can handle most of these requests directly; however, for a Class I, Major violation such as this one, the penalty is calculated from the \$10,000 matrix and must have board approval for any reduction in the amount.

The violation in this case was for performing asbestos abatement work with unlicensed persons and without proper notification to LRAPA. Specifically, asbestos-containing textured ceiling material was removed from apartments at Grace Manor. LRAPA inspector **Tom Freeman** initially issued a Notice of Non-Compliance and, following a thorough investigation, issued a Notice of Violation with Civil Penalty Assessment.

**Hough** explained how the penalty was calculated. The original base penalty was for \$6,000. **Hough** went through the mitigating and aggravating factors to show how the base penalty was changed. For instance, it was determined that this was an intentional act which added to the base penalty. The respondent was cooperative and made reasonable efforts to correct the violation, which reduced the base penalty. After calculating in all mitigating and aggravating factors, the base penalty was raised to \$8,400. At the time **Vlaicu** submitted his request for penalty reduction, he had already spent \$5,880 for the cleanup by a certified asbestos abatement worker and anticipated an additional \$6,000 to \$8,000 to prevent future problems of this nature. Considering those costs, and the acknowledgment of the violation by Mr. **Vlaicu**, and the outline of what he is doing to prevent recurrences in the future, staff recommended suspending half of the \$8,400 penalty for three years. That would mean that the remaining \$4,200 would be due and payable now, and the suspended portion would be suspended for three years during which time there could be no further violations. If there were another violation during that three-year period, the suspended \$4,200 would be immediately due and payable, and there would be another civil penalty assessed for the new violation. The penalty for a future violation would be higher, because the current case constitutes past history and would add an aggravating factor to any future penalty.

**Carpenter** asked about the scale for calculating the aggravating and mitigating factors to determine the amount of the civil penalty. **Freeman** explained that different factors carry different values. For instance, if the avoidability factor were determined to be flagrant, that would be a ten. The cooperativeness factor has a value of 2. If they are cooperative, the value is minus 2. If they are not cooperative, the value would plus 2. If there were no information, it would be a zero. **Hough** reminded the board that the subject of the agency's enforcement rules, including the civil penalty matrices, will be on the February meeting agenda, and the information regarding the calculation factors will be explained in detail at that time.

**Hough** recommended that board members direct any questions they had to **Vlaicu** or to **Doug Moore** of Douglas International, the asbestos abatement contractor consulting with **Vlaicu** on the cleanup at Grace Manor.

**Fortune MOVED that the board approve the staff recommendation in this case. Patterson SECONDED THE MOTION.**

Discussion

**Kirkpatrick** commented that she appreciated the fact that **Vlaicu** did what he needed to do as soon as he realized that what was being done was against the rules. However, she asked if any of the employees or clients of Grace Manor were exposed to asbestos and, if so, what the long-term implications would be.

**Vlaicu** asked that questions for him be directed to **Doug Moore**. **Hough** also asked **Tom Freeman** to come forward to help answer the board's questions. **Kirkpatrick's** question was not answered.

**Monk** asked if there is a written agreement with **Vlaicu** with regard to the future survey and testing which would be required with future work on the building. **Hough** explained that if the board were to approve the settlement agreement, staff would formalize that in a Stipulated Final Order that would outline future expectations. **Freeman** said the respondent will be required to comply with LRAPA's rules with any future maintenance or renovation activities. He said **Vlaicu** has had **Moore** do awareness training for his employees, and a survey of the building has been done. **Moore** confirmed that.

**Carpenter** stated that this was a demolition, and it has been cleaned up to standards. He said he understands that there is no ongoing monitoring on site. **Hough** said that is right. **Hough** added that he believes a survey of potential asbestos sources has been done throughout the facility. **Moore** confirmed that. **Moore** said he has put into place a program that parallels the AHERA and/or ASHARA requirements for asbestos in commercial buildings. The program designates a responsible person to administer the program and puts into place a number of different plans that are utilized. An Operation and Maintenance Plan applies to all maintenance and/or routine activities. A Work Order and Checking System applies to all outside vendors or anyone operating inside the facility. **Vlaicu** has made sure that people who work at the facility know where there is suspected asbestos. Before any activity takes place it must go through the proper channels and be approved in order to be done. In addition, **Moore** said **Vlaicu** has enlisted his help to monitor and/or maintain the activities that take place at the facility. **Moore** said he went through the building and established a list of homogeneous materials that are suspected to contain asbestos. The additional \$6,000 to \$8,000 listed in the staff report for this agenda item are associated with additional sampling and survey work based on future needs. If there is any expectancy to do any maintenance and/or if any of the building materials that are on that suspect list are to be disturbed, then they'll follow through that testing scenario and go through the appropriate remedial action, if there is any that needs to be done. **Moore** said that, given the age and the circa of construction of the building, it is likely that there would be a need to repair, renovate, or improve the facility, over time. It is a senior health care facility, and **Vlaicu** is committed to following these rules but also maintains an adequate environment for his clients to reside in.

To clarify, **Carpenter** asked if the additional \$12,000-\$14,000 which the staff report indicates is expected to be incurred by **Vlaicu** would be expended for **Vlaicu** to continue to comply in the event that he does further remodeling/demolition work. **Moore** said that is the case. **Carpenter** said he thought he was hearing that the \$12,000-\$14,000, based on **Moore's** asbestos survey of the facility, is the amount **Vlaicu** will have

to spend in the future, in order to do further remodeling jobs properly. **Carpenter** said he understood that **Vlaicu** would not have to spend that money if he decides not to do any further remodeling work on the building. He would only incur those costs if he does further remodeling work in the future. **Moore** said it could be viewed like that, but he was more inclined to view it as these costs will become necessary because, over time, even with routine building maintenance, **Vlaicu** will need to identify specific components of the building and whether or not they contain asbestos. **Moore** said the figures in the report do not take into account abatement costs. They are based only on gathering of information so that he will know what to do correctly. **Carpenter** said his point was that any other business owner following these rules would incur these same costs in a similar situation, and **Moore** agreed that is true. **Carpenter** concluded that those costs are not necessarily costs specific to this facility, but are in fact merely compliance costs that anyone would incur if they are following LRAPA's rules. **Moore** agreed.

**Hough** informed the board that the \$5,880 in the report was the expenses estimated by **Vlaicu** as of October 12. The more recent number is \$6,100 for the cost of the things he has already done.

**Kirkpatrick** noted that people who are buying buildings need to know about the building and asked if there is a way that LRAPA can get information out so that every time someone buys a building that might have asbestos in it, they would receive a warning about that and a notice to call LRAPA. **Freeman** said he does asbestos awareness program, as does **Moore**. He said he has included, as part of a Stipulated Final Order, that a respondent in an asbestos rule violation case must require that all employees receive asbestos awareness training. In this particular case, **Freeman** said, OSHA is also involved and has asbestos training requirements for different levels of employees of a facility. He added that **Moore** is a licensed trainer for those OSHA-type courses. **Freeman** said the programs he does deal with LRAPA rules, health effects of asbestos exposure, types of materials that one might run into, and when you should be getting red flags on things. When someone buys a building, particularly a commercial building that is financed, they generally do site assessments. A Level I assessment looks at a lot of things but does not look at asbestos issues. There might be a statement in the report such as, "considering the age of the building, asbestos may be present." They do not take samples or verify. A Level II Site Assessment might actually take samples and verify that there is asbestos or that there is not asbestos. LRAPA's rules require a survey prior to any renovation or demolition of any facility, with a few exceptions, one of which is residential buildings constructed after 1987. **Freeman** commented that he does not like that exception because he has found asbestos-containing materials installed as late as 1993. The exception implies that if the building was constructed after 1987 you don't need to worry; but that is not always the case. **Freeman** said the ideal place to have the notice about asbestos and the need to contact LRAPA would be in the building departments where people go to get the permits to do renovation or demolition projects. He suggested that a box could be put on the permit application with a few words such as, "Is asbestos present?"

**Freeman** said LRAPA has a brochure titled, "Asbestos In the Home," which gives good general information on asbestos, where you might find it in a home, and how to handle certain types of materials. There is, however, no "hammer" through the building permit process that tells people getting permits for remodeling or demolition that they need to have an asbestos survey prior to doing the work. **Freeman** said building departments are charged with assuring compliance with the Uniform Building Codes and are not in the business of enforcing LRAPA or DEQ rules. He speculated that they might be afraid of bearing the burden of enforcing rules for other agencies without receiving any funding for that.

**Monk** told **Freeman** that the fact that LRAPA can't get this information out to the public in an effective way is an issue for the board. **Ortiz** commented that the rail yard emissions in the Trainsong neighborhood came to light years ago when a man bought a house and, in signing the papers, found a release that said he could not sue the railroad for cancer. She said she can't imagine that this is the only community going through these kinds of issues, and this kind of exposure issue is something that should be statewide.

**Ralston** noted that, while this could be an interesting discussion on a broader scale, there was a motion on the table which needed action.

**Hough** informed the board that OSHA is doing a parallel enforcement with Grace Manor, with a pending penalty of \$7,100 for a series of violations that OSHA cited. He said it does not have any bearing on the LRAPA enforcement action, but he wanted the board to know about it.

**Monk** restated **Fortune's** motion, which was seconded by **Patterson**: to accept staff's recommendation, which was: based on the \$6,100 already spent by **Vlaicu**, and up to \$8,000 additional if there is any maintenance work done during which they encounter asbestos materials that need to be addressed, to suspend \$4,200 of the \$8,400 civil penalty for a period of three years. If there are further asbestos violations during that time, the suspended \$4,200 would be immediately due and payable, in addition to any civil penalty assessed for the new violation.

**VOTE ON MOTION: THE MOTION PASSED BY UNANIMOUS VOTE.**

7. NEW IDEAS OPTIONS (STRATEGIC PLANNING): **Hough** drew the board's attention to a one-page "Boston Square Analysis" which he had prepared based on three tiers of issues which have been identified during prior discussions. The three tiers include particulate matter, air toxics, and agency administration. Board members had brainstormed a list of 21 possible new ideas for the agency to tackle, with the goal of narrowing the list down to three or four issues about which staff would then gather information about costs and benefits for further board discussion. **Hough** had asked board members to vote on the three or four issues they would most like to explore further and, during the month prior to this board meeting, **Hough** and several key staff members (with a total of over 100 years of air quality control experience) had looked at those issues that received three or more votes from board members, to determine relative costs and benefits. Costs included not just dollars spent, but staff resource costs. The result of that is the "Boston Square Analysis."

**Kirkpatrick** asked if **Hough's** definition of "risk" is always connected to financial costs, and **Hough** said staff also considered whether action on an issue might not only be expensive financially, but also have strong negative reactions from the public. **Kirkpatrick** asked specifically about Option 8, an inspection/maintenance program for motor vehicles, such as the Portland area has. **Hough** said that option was viewed just on dollar costs, because staff factored in 300,000 motor vehicles at \$20 every other year. That would end up being about equal to LRAPA's current budget in just that one program, making that option the highest financial cost of all the 21 options listed.

**Hough** explained that the green box on the analysis sheet included options with relatively low cost and high benefits; and the red box is the opposite, with high costs and low benefit. The black box includes options with not much cost but also not much return. And the yellow box includes options which might be worth considering, but which have generally higher costs and higher benefits involved. **Hough** explained that the

analysis was meant to provide helpful feedback to the board in order to narrow down the options that the board wants staff to pursue further, to bring back more details to the board.

#### Discussion

**Ralston** commented that the analysis chart was extremely helpful to him and made things clearer for him than anything else the board has done to identify priorities for what options can be done effectively. He said the options in the black box are “feel good” options which might not cost too much, and it might not do any harm to pursue those; however, **Ralston** said, the options in the green box and in the yellow box are the ones that should be pursued further. **Ralston** also pointed out that two of the three people who originally voted for Option 8 in the red box were no longer on the board.

**Monk** said he is particularly eager to address open burning issues and that, to him, options 10 and 11 are essentially the same. He pointed out that those options got a lot of support from a good cross-section of the board. **Monk** said he thinks the board needs to look at a market-based approach to encourage people not to burn. He said he had called both Rexius and Lane Forest Products and that both companies are eager to discuss with LRAPA what it would take for them to offer a chipper on a schedule that would allow people in Veneta, Junction city and elsewhere in the county to use that disposal method, right at their properties, instead of those individuals having to load their yard debris up and take it to Lane Forest Products or Rexius. Currently, **Monk** pointed out, there is no incentive to take the debris to one of those facilities, because it’s much cheaper to burn it instead. **Monk** said he disagreed that the analysis chart clearly identifies all of the agency’s priorities; however he thinks it does help identify areas where the agency should be moving quickly and those areas for which more analysis is needed to determine whether they should be included in LRAPA’s long-range planning.

**Fortune** described the city of Oakridge’s program for chipping of yard disposal. He prunes his fruit trees every year and piles the debris in back of his house, on county property. When they city workers get the chance they come by and pick up the debris, chip it, and take it away. Consequently, **Fortune** said, he does no open burning any more.

**Johnson** repeated Ralston’s point from earlier in the meeting, stating that said he, too, sees big piles of yard debris just outside of the Eugene-Springfield Urban Growth Boundary, within a mile of the Amazon monitor which records the highest particulate levels in the area. People burn that debris, just outside the city limits, and **Johnson** said he thinks this is an important issue.

**Kirkpatrick** suggested that some of the “higher-risk” opportunities on the analysis chart could be accomplished in different ways so they would not be as expensive or high-risk. For instance, she asked if there is a way to get the city police and county sheriff to notify people that are putting out excessive emissions from their motor vehicles that they need to have their vehicles inspected and fixed to reduce those emissions. **Carpenter** commented that the police already have that authority, and **Hough** explained that there is a state statute on excessive smoke from vehicles. LRAPA staff gathered information on this subject a little over a year ago for the board. **Hough** said he would give **Kirkpatrick** a copy of that report, which includes how many times that statute has been used by mobile police. **Hough** said it is useful to have the police departments do this for the most egregious cases.

Decision

**Monk** asked where the board would like to go with the new ideas options. **Ralston** said he was ready to move forward on some of these options.

**MOTION: Stewart MOVED to approve staff's recommendation to bring back to the board more detailed information on items 2, 4, 10, and 11.**

There was brief conversation about whether additional items needed to be added, and **Stewart** said he would add 17 to 1, 4, 10, and 11.

**Ralston said he thought all the items in the green and yellow boxes should be explored further. Stewart agreed to that.**

**Ralston SECONDED THE MOTION.**

**VOTE: THE MOTION PASSED BY UNANIMOUS VOTE.** *The new ideas approved for further action included: (GREEN) 1-multi-year budget perspective on current programs and funding sources; 2-managing for results (connect allocation of money to results to determine whether funds are being spent in the best way); 10-use incentives rather than always using regulation to achieve compliance-develop positive strategies (e.g., incentives, technical assistance, public information); 17-partner with state (DEQ) and governments on regional air emissions issues (Willamette Valley; e.g., ozone); (YELLOW) 4-air quality information in schools; and 11-yard waste disposal alternatives (increase open burning permit fees and use money to partner with forest products recycling industry to subsidize or incentivize other means of disposal of yard waste).*

10. NEW BUSINESS:

- A. Change Board Meeting Day. **Ortiz** explained that she had to leave early today because she had to be back at work at 2:30. She asked board members to consider meeting on another day besides Tuesday, because she works every Tuesday; and it would be hardship for her to give up another eight hours of her job for a two-hour meeting, because she would lose her benefits. She asked that this be a topic of discussion on the next agenda.
- B. Times for Public Hearings. **Monk** stated that it does not work to have public hearings at a noon-time meeting on a weekday, because people are not able to attend. He suggested that public hearings be set for evening meetings, stating that board members who do not wish to attend would not have to do so. He said staff can consolidate comments such that the board is aware of what was said.
- C. Financial Analysis of What Open Burning Program Costs. **Monk** asked staff to do a financial analysis of what the open burning program costs the agency to administer. He said he is continually amazed at the response LRAPA staff gives to complaints, driving all over the county responding to hundreds of complaints. He said he understands that many of them are the result of neighborhood problems, and people are using the opportunity to report someone for possibly violating LRAPA's rules. **Monk** said the board might wish to discuss, as part of the open burning rulemaking, looking at charging fees to burn and trying to use a market-based approach to discourage burning by virtue of that.

- D. Dividing LRAPA Board Meetings Into One Work Session and One Action Meeting. **Johnson** said he would like the board to discuss the possibility of splitting the monthly board meetings into separate sessions. He suggested a one-hour work session to have informal discussions without having to adhere to Roberts Rules of Order. **Johnson** said there might be more lively discussions and perhaps more interaction with the advisory committee and with staff. The business meeting where decisions are officially made could be accomplished at a separate meeting, in a shorter period of time.

**Fortune** said he had no desire to go to committee meetings. He said there are experts on the committee, and he likes to take the information coming from the committee and make a decision based on that. He suggested that **Johnson** attend the committee meetings if he wanted to do that. He said he is not in favor of splitting the monthly board meetings into two sessions.

**Ralston** said he is not in favor of splitting the meetings, either.

**Johnson** said board members who are too busy for two meetings a month could take a look at the work session agenda and not participate if they didn't think it was necessary. **Ralston** said that did not work for him because those who did have extra time for two meetings would control everything.

**Monk** commented that, other boards that he is on oftentimes get great deal of information from staff for consideration, and virtually everything that is on the agenda is an action item. He said he would hope that the LRAPA board is more efficient with its time when it does meet. He said as he works with **Carpenter** and **Hough**, he will advocate to have a more action-oriented agenda and hope that the information is provided by staff. **Monk** said board members can ask questions as **Hough** goes through his reports; however, the board is here to make decisions.

**Patterson** said he thinks the board needs to get away from micro-management. He stated that the advisory committee was established to broaden the base of knowledge and provide information that the board needs to make decisions. The board has taken care to appoint the best people it can to the positions on the advisory committee, to relieve some of the burden on the board. Because of that, the board is not just some elected officials or appointees coming together and reading reports but not knowing what it is about. **Patterson** agreed that the board and the committee need to get together once in a while to get to know each other and have some general discussion; however, he does not see the need to make joint meetings an ongoing event. He said he does not think board members or committee members have the time to be able to do that all the time. He stressed that this is a volunteer board and a volunteer advisory committee, and most members have to work in addition to all their other activities. **Patterson** said that, in order to maintain the integrity of LRAPA as a local control agency, the time element must work in order to keep those board and committee members.

**Fortune** asked **Monk** what his preference is, as the current board chair, as far as putting a motion and second on the floor and then having discussion, or having discussion first and then having the motion and second. **Monk** said he prefers to have the discussion first, because he thinks that would influence the motion in many cases; however, he stated that the discussion at this meeting was adequate, even though the motion and second came before the discussion. **Fortune** said **Monk's** preference is fine with him. He just wants to do what **Monk** wants. **Ralston** commented that lots of meetings have the motion and second first and then the discussion, but it is appropriate either way.

- E. LRAPA Credit Printed in *Register Guard* Section on Air Quality Information. **Kirkpatrick** reminded the board she had brought up at the December board meeting the possibility of have the Eugene *Register Guard* print something with the air quality index and burning advisory information to credit LRAPA with having generated and provided the information. She said she had spoken with someone at the paper who said there might be room to do that. She asked if board members wanted her to move forward with that, and board members indicated they did want her to do that. **Monk** suggested that **Kirkpatrick** contact **Hough** to be sure the correct information is provided to the newspaper. **Hough** said he or **Sally Markos** or **Kim Metzler** would be the proper contacts for that.
- F. Lane County Funding for LRAPA. **Stewart** said he wanted everyone to be aware that Lane County has not received reauthorization of their federal funding, to date. He said the commissioners are meeting on January 30 and February 5 to give direction on preparing the budget; and he is not very optimistic that the county will receive that federal funding, in which case Lane County's partnership in LRAPA will be in jeopardy. **Stewart** said he would like the board and staff to be thinking about how LRAPA might move ahead without \$120,000 from the county. He said he would also like the board to think about whether or not the county will remain a partner in LRAPA if it is unable to pay the annual dues, and how that might shift the burden to the other member bodies.

**Stewart** said the county is down to two options for getting Secure Rural School funding by next July. One is a bill that may move in February. When this request was in the energy bill, there were offsets from oil companies' revenues, to pay for the county's bill. Now that the county is no longer in the energy bill, they are looking for another revenue source to pay for the bill. The second vehicle is the emergency Supplemental Bill that will pay for the IRAQ war, and right now it appears that may come before Congress sometime in late April or early May; but it will be politically charged, potentially.

**Monk** said he would think that all LRAPA board members would want the county to remain a partner in the agency and sit at the table, regardless of the county's ability to pay dues. He commented further that the loss of county dues would not be the worst-case scenario budget but would certainly move in that direction. **Monk** pointed out that, according to the two budget scenarios laid out by **Hough** and **Mirhosseyni** at the last board meeting, there will be staffing decreases unless new revenue sources are found. That means there will be no new program work unless acceptable funding is secured.

**Carpenter** noted that the county's contribution to LRAPA comes from the Roads Fund. He said the Roads Fund has very little to do with what LRAPA does; that LRAPA's work is more health oriented. He wondered if some of the money from the Public Health fund could be redistributed for part of the LRAPA contribution. **Stewart** responded that there is only \$4-million from the General Fund going into Public Health, and the remainder of the money comes from state and federal grants. He said that he will look into that possibility; however, the funding for Public Health is already pretty tight and relies heavily on the General Fund. **Patterson** commented that there are a lot of funds that people think are a big pot of money; however, they have so many ties to them that, no matter how justified your reasoning might be, you can't touch those funds. Air quality is a health issue, but those funds are for specific health programs. **Ralston** added that Human Services has already been cut to the quick, and they are looking for additional funding, too.

10. ADJOURNMENT: The meeting adjourned at 2:25 p.m. The next regular meeting of the LRAPA Board of Directors is scheduled for Tuesday, February 12, 2008, in the LRAPA Meeting Room at 1010 Main Street, Springfield, Oregon.

Respectfully submitted,

Merrie Dinteman  
Recording Secretary