

MINUTES
LANE REGIONAL AIR PROTECTION AGENCY
BOARD OF DIRECTORS MEETING
MONDAY–OCTOBER 14, 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 (via telephone); 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; Sandra Lopez; Sally Markos; Nasser Mirhosseyni
- Other: Russ Ayers, Chair, Maurie Denner, Vice-Chair, and Amy Peccia–LRAPA Advisory Committee; Scott Freeburn–International Paper

1. OPENING: **Monk** called the meeting to order at 12:19 p.m.
2. PUBLIC PARTICIPATION: None.
3. CONSENT CALENDAR:

Minutes. Three corrections were made to the minutes of the September 9 meeting.

- **Hough** pointed out that, on page 9, second paragraph, just after the middle of the paragraph, there was an extra sentence that was intended to be deleted in editing. The line that reads, “If a new source wants to locate in that area, they are required to use Best Available Control Technology (BACT),” should be deleted because that is already explained earlier in that portion of the minutes.
- **Monk** noted that EPA was incorrectly written as “PEA” on page 9 in the second-to-last paragraph.
- **Carpenter** called attention to page 7, in the middle of the paragraph which described his comments, the last part of the sentence says, “... and the LRAPA board can have policy discussion about whether or it wants to adopt . . .,” and he said it should be “. . . whether or if it wants to adopt . . .”.

There were no corrections to the July 14 meeting minutes.

Expense Report. There were no comments or corrections regarding the expense reports through August 31, 2008.

ACTION: Fortune MOVED approval of the Consent Calendar, including the expense reports through August 31, 2008 as presented, and approval of the minutes of the July 14, 2008 board meeting, as presented, and the September 9, 2008 board meeting, as corrected. Patterson SECONDED THE MOTION, WHICH PASSED BY UNANIMOUS VOTE.

4. DIRECTOR'S REPORT: **Hough** highlighted several items from the written report.
 - A. Air Quality. Although air quality was generally good during this reporting period, there was some smoke in oakridge from nearby wildfires, which contributed to some higher particulate levels there than would have been expected this time of year.
 - B. Plywood MACT Update, Flakeboard.

Carpenter reminded staff that he had asked, at the July meeting, how much formaldehyde and any other toxic emissions would be emitted if Flakeboard were not in compliance. He said he did not see that information in the MACT update report. **Hough** said that was covered in the minutes of the July meeting, and **Lopez** estimated 10 tons of VOCs, 5 tons of formaldehyde, and 5 to 7 tons of methanol. She said she believes that would be over the three-month period between the October 1 compliance deadline and the December 31 date when Flakeboard plans to be in compliance. **Lopez** added that she had Flakeboard base those estimates on full production, versus the reduced production they anticipate during the shakedown period.

Carpenter asked if they could have reduced their line throughput to come into compliance but chose not to do that, and **Lopez** said the regulation does not allow for that because it requires the installation of the control system. **Carpenter** said he would see reduced production during this time as a mitigating factor on the civil penalty LRAPA might assess, if they could keep their emissions within the compliance limits through reduced production. **Lopez** said they had not talked about that or negotiated it; however staff has talked about that with another permit they're dealing with, and EPA will sometimes do that after offsets within the facility. She said staff assumed that it would not be possible, but they should have touched on that.

Carpenter said he has a problem with a 90-day period after the October 1 compliance date, and only a \$3,600 fine. He said that is essentially two or three hours of a hod carrier's wages, and it doesn't seem like something that would cause a facility to come into compliance any quicker than the 90 days. **Lopez** said she did not necessarily disagree with **Carpenter**; however, staff used LRAPA's civil penalty matrix and found that any facility that had done this in this amount of time was being charged that amount. She said when the board and staff look at revising the enforcement criteria, they will need to look at a way to be able to assess higher penalties if a facility is a major source and if it may be emitting toxics over a specified period of time. The best staff could do, for now, is \$250 per day. **Carpenter** asked why that would be the best staff could do, when EPA would allow the agency, federally, to fine someone \$25,000 to \$30,000 per day, now, for a violation. **Lopez** said she had never done one of those penalties, and she found it good to at least have a per-day penalty in the enforcement action. **Carpenter** agreed that the per-day penalty is very important. **Lopez** said staff had used DEQ systems and mirrored its action after DEQ. She said staff did not play hard ball in this case because they have not had a lot of experience with the higher penalties and need to look at those criteria and have some basis for doing that.

Hough added that LRAPA staff were comparing notes with what EPA was doing with another facility, and staff was also aware of what DEQ was negotiating with another plywood MACT-related facility. LRAPA's action with Flakeboard is not going to be identical to those other examples; however, staff did what it did in light of some of those other actions going on at the same time.

Carpenter asked if Flakeboard personnel are working overtime shifts and six days a week to get the installations completed and the equipment on line quicker; and **Lopez** said it was her understanding that they are not doing that. They have expedited their contractors and done some other things such as storing materials at different locations. She said she could check on that and report back to the board next month.

Carpenter asked **Lopez** to also check with Flakeboard to see if they would include in their next status report how much extra they're spending in order to speed the process up, from when they had their first extension. **Lopez** said she would ask them to do that.

Carpenter commented that, in hindsight, it seems like LRAPA, rather than giving anyone a year's extension, could have entered into an enforcement action a year ago and stayed any penalties, pending the facilities' coming into compliance on October 1, 2008. That way they would have been out of compliance as of October 1, 2007 and it would have given them more incentive to make sure they got into compliance by October 1, 2008. **Lopez** said she had not thought of that, but it would seem to be a legal option. **Carpenter** said that might be something staff will want to think about if these kinds of situations come up in the future.

Carpenter then commented that it appears that, in addition to the year's extension, plus three more months, Flakeboard will have an additional six months to prove compliance. **Lopez** said staff negotiated pretty hard on that because they were aware that the board wanted performance testing done as soon as possible. She explained that Flakeboard had said it would do its performance testing at the same time as the rest of the facilities in Lane County did theirs; however, with the shakedown, staff was concerned about having to go back and revise the compliance agreement. Flakeboard was discussing scheduling a source test person, and staff ended up figuring out, realistically, that it will be six months until compliance will be demonstrated. **Carpenter** asked if the violations go back to December 31, 2008 if compliance testing shows the facility to be out of compliance. **Lopez** said it would be nice to be able to do that, but they are not actually out of compliance until source testing shows that they are; and she did not know whether LRAPA's attorneys would support going back from the testing date to December 31, 2008. **Carpenter** argued that if the testing shows them to be in compliance, he could see assuming compliance as of December 31; however, if the testing shows them to be out of compliance, the opposite would be the case. **Lopez** said this is a special case because they have not operated before. Usually, there is a source test which shows a facility to be in compliance, and then they're tested later and found to be out of compliance. From a legal standpoint, LRAPA has to prove non-compliance. Then the facility has to prove they are in compliance again. **Carpenter** asked how much it would cost for LRAPA to do a source test, independent of the company having the source testing done, and **Lopez** said it has been a long time since she has been in the source test realm, but she would estimate somewhere between \$5,000 and \$15,000. **Carpenter** said it might be worthwhile for LRAPA to do a source test because there are 180 days with the possibility of a \$250/day fine for being out of compliance, which could mean a fine of \$30,000 to \$40,000. **Lopez** said that is something LRAPA may want to consider. She said staff anticipates that, during the shakedown, the facility will be going up and down, and the equipment will be going up and down, and they had not considered that perhaps it would start operating really well, and the facility would not have to go down frequently to fine-tune things.

Hough said his understanding of the SFO is that Flakeboard must have the installation completed by December 31, 2008, and they are required to shake down and operate the equipment, with 90 percent equivalent emissions reduction, within 90 days of completing the installation. Within 90 days after shakedown, they are required to source test and demonstrate compliance with the 90 percent reduction.

He said it is reasonable to go back to the time period when the shakedown was expected to be completed, because they are required to be operating at 90 percent emission reduction at that point. He said his understanding is that if they failed a source test a full 90 days after the installation date, enforcement could go back to the time they were required to provide the 90 percent control, rather than the date of the source test. Hough further explained that one reason for giving 90 days to perform source testing is because source testing is a specialized activity, and source testing companies are busy performing these test all over the country. It is necessary to make sure that the facility is operating under the proper conditions to assure that a representative source is conducted, and the scheduling of the test must take that into account.

Carpenter said his problem with the schedule is that he sees LRAPA charging them \$40 a day from October 1 to December 31, for a total of \$3,600. Then, from January 1 until March 31, the agency will not be able to charge them anything as long as they start work on the shakedown. If they don't do a source test until June 30 and are out of compliance, LRAPA could only fine them for the period between April 1 and June 30. **Johnson** agreed, stating that Flakeboard is out of compliance with federal law now, and that LRAPA is telling them that for \$3,600 they're good to go.

Stewart said he appreciated the conversation but was a little bit offended by the fact that a board member who is an attorney appears to be interrogating the staff about this. **Stewart** said he thinks the staff has done a great job in moving this process forward, and he can see by the pictures provided that Flakeboard is working hard to get their facility into compliance. He said if Flakeboard were doing nothing, he could understand the approach in the current board conversation; however, that is not what is happening. He said if the board is gathering information, he would like to know how many employees Flakeboard has and how much money the construction project is costing to bring Flakeboard into compliance. He said he'd also like to know how much property tax they pay and how, at a time when economic circumstances are at the point that they are right now, LRAPA can just ram this down their throats and make sure the company is put out of business so that a few more people in the community get laid off work.

Johnson said he did not wholly disagree with **Stewart**, that it is important to have a balance; however, there was no surprise in this situation. **Johnson** said it has been known for a decade that the plywood MACT standard was coming and that they would have to comply with it. **Johnson** said it seems like LRAPA is sending a message to industrial sources that they don't need to plan for compliance, that they can come right to the end of the compliance deadline and then come to LRAPA and receive a free pass. **Johnson** said \$3,600 is not meaningful enforcement action, given what other facilities have paid and the potential cost of pollution control, and that not having a meaningful penalty for non-compliance with a MACT standard hurts the agency's mission.

Carpenter pointed out to **Stewart** that he believes Flakeboard has been given a competitive advantage over SierraPine and Rosboro Lumber, both of which were able to get their facilities into compliance on time and are paying extra money now for pollution control. He said Flakeboard is avoiding those expenses, which is not fair in the marketplace. **Carpenter** said this is month 13 after the original compliance deadline of October 1, 2007, and LRAPA is now talking about giving Flakeboard an additional nine months, so that they will be 22 months beyond the original deadline. **Carpenter** said he also would like to know how many elementary schools are within 1000 feet of the Flakeboard facility, and what the enrollment of those schools is.

Stewart noted that the upgrades that are taking place at Flakeboard are substantially larger than what was done at the other facilities, judging by the pictures of the huge structures that are being installed to control emissions. He said you don't get permits to build these things overnight. Secondly, there was a court case which challenged whether the rule was even going to go into effect. If the facilities had been required to order the equipment and have plans done and permits in place prior to getting the court's ruling, they would have spent all that money for nothing. Both **Monk** and **Johnson** argued that other facilities did make those investments. **Stewart** said he did not believe anything should be required to be in place until the final judgement is made. He said if this is the approach the majority of the board wants to take, that's fine, but he doesn't think it is right. He said he thinks Flakeboard is working very hard to get into compliance, that they have spent a lot of money to do that, and he does not believe they are dragging the process out to save hundreds of thousands of dollars and create a competitive edge over their competitors. **Stewart** said if other board members can show him where those things are happening, he might be able to justify their approach, but he does not realistically believe that is taking place.

Monk responded that he believes that everyone waited for the court case to be finalized, and now they are all trying to use the same equipment vendors and source testers at the same time. He said it was poor planning on the part of the affected industrial facilities, and LRAPA is saying that is acceptable. **Monk** said he believes the civil penalty amount is wholly inadequate for this situation.

Ralston said he suspects that every board member, when they file their tax returns, takes every single deduction they can get, and a lot of them probably wait until the last minute to file. He said he has even asked for an extension before. And all of those things are legal to do. **Ralston** said Flakeboard is making progress toward compliance. He added that he will never penalize someone for waiting until the last minute; and he believes Flakeboard was legal in everything it did and that the job is going to get done.

Johnson said he thinks of this situation as risk. The company made a decision to take on the risk of waiting to see what the court would do. They could have avoided the risk by investing in the pollution control equipment at a certain time, but they took the risk. **Johnson** said now the public is bearing the health risks to pay for a risk-based business decision which the company made; and LRAPA is saying that is a good way to go about it. He said LRAPA is saying don't invest in pollution control in a proactive way. Wait until you're threatened with citizen suits, and then LRAPA will protect you from those \$35,000-a-day penalties with a \$40-a-day penalty. **Johnson** said if he were a business person, he would do what Flakeboard did, every time, dealing with LRAPA, from a risk management perspective. He said if you don't want to expose your dollars, wait, and it will pay dividends in the end to take this approach.

Patterson said LRAPA provides a service which is to make sure that businesses are working within federal, state and local rules and regulations as they go into free enterprise and stimulate the economy. He does not think it is in the agency's best interests to go after Flakeboard or any other business or industrial source beyond what staff has done.

Kirkpatrick said her sense is that LRAPA's job is to protect public health, and the agency has to enforce rules that will make companies come into compliance in order to protect public health. She said perhaps the board needs to have a discussion about what its role is and what it really wants to do.

Ortiz said the conversation was very stimulating because the division is very clear down the middle of the room; however, she would like to move on to other business that the board needs to get to, and she

did not see what more the board could do with this situation. She said board members had given their opinions about whether the fine is appropriate or not and what they believe the board's role is. She said the civil penalty amount had already been set, and there was nothing the board could do about that. **Ortiz** said some board members had articulated that they were not happy with the amount of the penalty, but she did not think anyone is trying to put anyone out of business—that board members just want to ensure the health of the community and make sure that people follow the rules.

Lopez said she is not wholly anticipating that Flakeboard may be in compliance by the December 31 date, because it is a very complicated piece of equipment and a very complicated operation that they are planning. It is in the millions of dollars, and they may have trouble bringing it on line at first. **Lopez** said she appreciated both sides of the board's comments, because the points brought out in this conversation will put staff in a good position to then negotiate a harder penalty down the road, if the emissions are more significant than anticipated. She said her experience is that it sometimes takes more than one enforcement action to resolve a particular issue, and the board's comments in this situation will be very helpful.

Fortune asked what Flakeboard is emitting and what is the agency's evidence that they are harming the public health. Both **Monk** and **Carpenter** responded that they are emitting known carcinogens. **Lopez** said EPA determined, prior to adopting the MACT standards, which pollutants would need to be controlled. After those emissions are controlled, EPA will do a risk analysis to look at the emissions that are left.

Fortune asked, if Flakeboard comes into compliance with the standard, would they still be emitting formaldehyde, and **Monk** responded that they would. **Fortune** then stated that LRAPA has a goal to protect public health, but somewhere along the line the agency has said it is okay to produce those emissions, which seems to be in conflict with the agency's own policy. **Monk** agreed that LRAPA is trading jobs and economic development for the risk of harm to public health, which is the reality of the world. **Lopez** said it is hard to say whether the risk in this case is significant or not.

Hough said he realizes that the decisions staff makes in permitting are not going to please every board member every time. He stressed that the board had discussed some of the information that went into this result, and that there is other information that has been touched on in the past but that was not discussed at this meeting. There is other information that went into this result that has not been specifically discussed by the board. He said he appreciated the board's discussion at this meeting, and the diverse views represented in that discussion; however, he is confident that—with all the work staff has put into this, comparing notes with EPA and DEQ, and negotiating with the company and with the different attorneys involved—staff has made a fair and just decision. **Hough** said he believes **Hueftle** and **Lopez** did an excellent job in coming to an agreement as quickly as they did, so that LRAPA can be sure that there is a schedule with some certainty and some stipulated penalties. The pressures are in place to help ensure that this work will get completed in a timely way.

C. Enforcement Report.

- (1) **Patterson** brought up the four new asbestos violations in the written report, stating that there seem to be more of these violations all the time. He asked if there are new people coming into the area to do asbestos abatement work, or if people are just trying to get away not complying with the rules.

Hough responded that the four that were mentioned in the current report were all a part of different apartment renovation projects happening in the Eugene area. **Hough** said these particular cases involved work being done by people who were not licensed asbestos abatement contractors, and **Patterson** asked if there isn't some kind of building inspector or someone who goes out and looks at permits when these remodeling projects are being done. **Monk** said he does not believe that is the case with asbestos abatement jobs, and **Carpenter** explained that building inspectors will come out after the remodeling is done to be sure that it has been done in compliance with building codes; however, the time to determine whether there is asbestos present is before the work is started, and building inspectors don't do that. **Hough** said that, in this particular case, there were other safety and building permit issues, and the city required the buildings to be vacated until some safety violations were corrected. The violations were not just related to the removal of the asbestos.

Lopez commented that they were well aware of asbestos violations, and that this project was pretty significant and had significant violations. She added that LRAPA would like to see all of the local and county planning departments at least refer to asbestos in their literature regarding remodeling and demolition. She said LRAPA visited all the planning departments several years ago, to try to get that cooperation, and were turned down by some departments. Staff plans to visit those departments again.

Hough added that this was covered by a Phase I site assessment where potential asbestos problems were identified, and it is clear on that site assessment that an asbestos survey should have been done before the remodeling began. He said this is one of the more clear-cut cases, where it should not have been a surprise to the people involved.

Ralston and Kirkpatrick both said they wondered about four separate notices, with different numbers, issued on the same date to Kincaid Street LLC. **Lopez** said they were for four different locations and said staff should have noted that in the report because they appear to be identical. She explained that there was a ceiling in the parking lot with asbestos in it, and it was being hit by an antenna and falling down. They have recurrent situations in different buildings, and there are multiple owners and limited partnerships, but the enforcement actions are all separate.

- (2) **Ralston** also asked about an enforcement action against AAM from Tigard, whether that company did work in Lane County or came to Lane County from Tigard to dispose of asbestos-containing materials. Staff member **Dinteman** said it is not unusual for an abatement company from another area of the state to do work in Lane County and to dispose of those materials in Lane County. **Lopez** said AAM is a licensed contractor who worked at the Brattain Elementary School in Springfield.
- (3) **Fortune** asked about the circumstances surrounding item number 15 in the enforcement action report, concerning friable asbestos-containing vinyl floor tiles in the open on property in Oakridge. **Hough** explained that LRAPA received a complaint that there was asbestos-containing material on that property, and the owner indicated that he was not financially able to take action soon to remedy the situation. There were already some liens on the property, or on other properties that the individual owns. In order to take care of this, to protect public health, LRAPA entered into a Stipulated Final Order with the property owner under which LRAPA hired a contractor to remove the material and paid that company for its work, then placed a lien on the property for the amount paid by LRAPA for the abatement.

Fortune asked specifically what piece of property was involved, and **Hough** said he would get that information for **Fortune**. **Fortune** said if it is the property he thinks it is, it used to be the Coast to Coast store and has been empty for ten years. He questioned why the agency would take enforcement action against the owner, based on a complaint, for something that has been there for ten years. **Hough** said LRAPA did receive a complaint and did confirm that there was asbestos-containing material there that should be cleaned up. LRAPA and the property owner agreed about what should be done and, because the property owner did not have the cash flow to make that happen right away, the two parties entered into the SFO. **Hough** said this is an unusual action for the agency to take; however, it was a relatively low-budget item, and the agency did it to make sure that the asbestos-containing materials got addressed quickly.

- D. Portland Air Toxics Solutions. **Hough** said DEQ is trying to finalize the list of air toxics they plan to focus on for the Portland Air Toxics Geographic Area, under the state's new air toxics rules. The proposed plan, attached to the director's report, described the kind of thing LRAPA would likely do in Lane County if the state's air toxics rules are adopted for Lane County by LRAPA's board.
- E. Oakridge PM2.5 Nonattainment Area Boundary. **Ralston** asked about the section of the written report that refers to EPA's proposal to include Westfir in the boundary for the Oakridge PM2.5 nonattainment area. **Hough** reminded the board that, after EPA adopted the new, more restrictive, standards for PM2.5, the state governors were required to submit to EPA areas of their states that would likely exceed the new standards. Last December Oregon's Governor **Kulongoski** submitted both Klamath Falls and Oakridge for the state of Oregon as PM2.5 nonattainment areas, giving the boundaries of what those nonattainment areas should be. For Oakridge, LRAPA's proposed that the boundary be the Oakridge Urban Growth Boundary, as it has been for the PM10 standards. EPA then had a year to respond to those recommendations, and EPA proposed, in the September *Federal Register*, new boundaries for both of the recommended Oregon nonattainment areas. For Oakridge, the EPA proposal is to include Westfir. **Hough** said staff has looked at EPA's analysis and argument for the larger boundary and found it to be weak. LRAPA worked with DEQ to provide justification and evidence for maintaining the Oakridge Urban Growth Boundary as the nonattainment area boundary. He said it has been an effective partnership and that the graphs show that, even those the PM levels are not all the way down to the new, more protective, standard, there has been improvement over the years. **Hough** said LRAPA also pointed out that there is a significant mountain ridge between Westfir and Oakridge, and the wind data LRAPA has collected illustrates that the wind does not come through that mountain ridge; thus, pollutants generated in Westfir do not contribute to the wintertime PM2.5 standard exceedances in Oakridge. In addition, LRAPA has pointed out to EPA that the wintertime problem is a subset, within the UGB of Oakridge, of smoke from residential wood heating in a particular area of Oakridge. The UGB is big enough to include the problem area and the probable sources contributing to it. The information sent to EPA was attached to the director's report, including three historical studies performed by LRAPA to map out concentrations in Oakridge for the PM10 control strategy, which has been very effective. The strategy has done everything it was intended to do, meeting the PM10 standards with room to spare, and also meeting the original PM2.5 standard with a margin of safety. The new, more restrictive, PM2.5 standard will require that the emissions be cut even further in order to comply with the standard.

Ralston asked if EPA will keep the boundary where it is, or if they might still change that. **Hough** responded that EPA is still reviewing LRAPA's testimony. He added that the U. S. Forest Service raised questions, as well, because some portions of forest lands would be included in EPA's proposed boundary. He said the Westfir City Council does not understand why the larger boundary should be included, but they have said that if their practices are determined to be part of the problem, they would

certainly be willing to do their part to attain the standards. **Hough** said the Westfir City Council has stated that everything they see, on a day-to-day basis, points to Westfir and Oakridge as having separate airsheds.

Referring to **Hough**'s earlier statement about mapping out concentrations in Oakridge, **Fortune** asked how anything can be mapped out when the monitoring is being done in one place. **Hough** said LRAPA performed three separate studies, in 1991, 1994 and 2002, using some of the AirMetrics MiniVols in addition to the reference sampler, which mapped out the areas where concentrations were highest. The first two studies were for PM10, and the third one was for PM2.5.

Johnson commented that it is people from EPA Region 10 who are writing these comments on the Governor's plan for the nonattainment areas, and he asked if any of them has ever been to Oakridge or Westfir. **Hough** said some people from EPA in Seattle have been to Oakridge, but he does not know whether they have been to Westfir. He said there is a certain amount of EPA's use of county-wide boundaries for these nonattainment areas that takes place at EPA Headquarters, to try to keep national consistency, which is to start with county-wide boundaries. He explained further that on the East Coast the counties are smaller, and they don't have the topographic features that are present here in Oregon. In addition, much of their fine particulate problems come from coal-fired power plants whose emissions of sulfur dioxides and nitrogen oxides can form sulphates and nitrates that contribute to fine particulate. The problem in Oakridge is due to air stagnation on cold winter days, and the concentrations are localized. Consequently, the national default approach does not fit in the Pacific Northwest. **Hough** said the EPA people in Seattle seem to recognize that, and they are hearing these same concerns from all of the Pacific Northwest states.

Johnson asked where the process is now, and **Hough** said EPA is scheduled for final action in December and are currently going through whatever comments they have received. He said staff is hoping to be consulted if EPA is inclined to consider something other than what LRAPA has recommended. **Johnson** asked if LRAPA and DEQ would be inclined to take EPA to court if their decision is not in line with what LRAPA and the state have recommended. **Hough** said the city of Oakridge, LRAPA and the state are still in the driver's seat as far as shaping the control strategy that ends up in the State Implementation Plan. If the boundaries change, that does not necessarily mean that the Oakridge control programs would immediately expand to the new boundaries. That will be a local decision, based on what needs to be done to meet the standards throughout the area on the time schedules required. **Hough** said if that means sticking to the current strategies and the current ordinances, it wouldn't really affect the overall direction.

Hough said if there were industrial development anticipated in that area, it could require Lowest Achievable Emission Rates on those industries rather than Best Available Control Technology, which at least has a layering of economic factors in it. However, Westfir city officials have said the only expansion they are anticipating is residential. **Fortune** added that Oakridge also does not expect to do any industrial development except in the industrial park which is already established and included within the nonattainment area boundary.

5. **ADVISORY COMMITTEE:** **Hough** reported that the committee did not meet in September but would meet in October. **Markos** said the committee will work on the annual customer survey report and will provide a report to the board in November.

6. PUBLIC HEARING–PROPOSED INDUSTRIAL PERMITTING RULES: **Hueftle** asked the board to vote on whether or not to adopt the permitting rule changes. He pointed out that he was proposing 11 changes in response to comments received from the public, EPA and others. The 11 changes were outlined in the staff report for this agenda item. **Hough** explained further that most of the proposed changes were based on EPA comments regarding changes they have made in their rules, and this is an opportunity to make LRAPA's rules as current as possible with EPA rules.

Proposed Changes to Draft Industrial Rules Package. **Hueftle** said the most significant change concerned the unassigned emissions. Originally, LRAPA's draft rules had proposed a five-year period of time to incorporate the elimination of unused or unassigned Plant Site Emission Limits and address those in the permits on the normal five-year permit issuance cycle. DEQ adopted these rules several years earlier, and their rules included a five-year cycle to do this. Their end date for this process was in 2007. In order to be responsive to comments received, LRAPA staff is proposing to change that five-year cycle to a two-year cycle. Staff believes it will be possible to complete the necessary permitting actions by July of 2010.

Hough commented that the rest of the proposed changes are clean-up changes.

Board Discussion

Ralston said he had read through the materials, including all the comments, and he believes staff has done a very good job of correcting clerical errors and making the rules conform to EPA. He said he was perfectly happy with the proposal.

MOTION: Fortune MOVED approval of the staff recommendation to adopt the amendments to LRAPA industrial permitting rules with suggested changes. Patterson SECONDED THE MOTION.

Discussion of Motion

Johnson said he had made no secret of his dissatisfaction with how the process for this rulemaking was conducted over the past year. He agreed that staff had worked very hard, and the advisory committee had put in a lot of work. He said he had asked a year ago if the board could look at the proposed rules in a title-by-title, section-by-section process, where board members could consider each of them on its own; and what came to the board was roughly 400 pages which no one on the board could possibly digest. He said the board should consider taking a few months to adopt the rules in bundles so that they can consider the package of titles that are being modified and get a little bit more detail on what those change are and how they affect air quality in Lane County. **Johnson** said he would vote against the motion for that reason. He added that, with regard to the unassigned emissions, the board wanted to talk about what they want to do with the baseline and what would be the proper time line. He said the rule came back to the board with a somewhat arbitrary time line, because it was first a 2013 date and now it is 2010. He said that three-year difference has the potential to have a huge impact on a lot of small businesses in this community that may think they have the opportunity to make changes in their facilities because they have a baseline, and now that baseline is disappearing in 2010. **Johnson** said that is not an insubstantial change. It is clearly a change that will affect a lot of businesses in Lane County, compared to businesses in the rest of Oregon which had about five years' notice before losing those baseline emissions. **Johnson** said he does not think they should be given that much time, but they should be engaged with this, and the change should be put out on public notice. He repeated that he would vote against the motion. **Johnson** also added that the board did not approve, for public

hearing, the general permits that are included in the rulemaking package. He said those were not included in the package that the board authorized for public hearing, so he did not think the board could legally adopt the general permits at this point.

Ortiz said she, too, would vote against the motion because it sounded to her like some people had given some thought to this and that perhaps bundling the titles in work sessions and addressing some of those issues would be the best way to go. She added that there were a couple of comments in the package from the Oregon Toxics Alliance which she thought made sense, and she could not support the motion to adopt the proposed rules.

Carpenter said the 5th of the proposed 11 changes is to update and incorporate the PM10 and ozone PSD increments. He asked how far out of date LRAPA's were, and when did EPA do theirs last. **Hueftle** said he was not sure of the exact date. LRAPA's rules had the .08 ppm ozone standard, and he changed that to the current federal eight-hour standard of .075. **Carpenter** asked if the revised PM2.5 standard had also been changed, and **Hueftle** said it had. **Hough** said EPA finalized the ozone standard in 2007.

Carpenter commented that it was interesting to hear **Johnson** say he would vote against something that was supported by the Oregon Toxics Alliance and the people in Portland. He said he was also surprised to see the expiration date for the unassigned emissions. **Carpenter** said he had been saying, all along, that this is a big package; but he also has said all along that the advisory committee has looked at it in detail, as have DEQ and LRAPA's own staff. He said there may need to be some tweaking in the next year or two, on specific sections; however, it is an unattainable goal for the board to take several more months tracking section-by-section review of these rules. He said he would vote for the motion to adopt the proposed rules, because he was pleased with the changes that he saw, including the opacity definition that **Johnson** was so adamant that LRAPA's was not following. **Carpenter** said that definition is now consistent with everybody else's opacity definitions, as best he can read. **Carpenter** said he thinks LRAPA needs to be alert for things about these rules that don't work as intended, and staff should feel free to bring those things back to the board. **Carpenter** pointed out that the intent of these rule changes was not to impose stricter control requirements on some industries or to strengthen or weaken any of the health standards or emissions limits—it was to change the rules so that permitting could be done more efficiently. **Carpenter** said he was willing to give it a try, with the caveat that he would like to hear, as soon as possible, from the Oregon Toxics Alliance, or industrial sources, if for some reason they think they're being short-changed one way or another, with the new implemented rules, compared to what was done in the past. The board can then address those things and, hopefully, come to a consensus regarding the best way to deal with them.

Stewart said he would first like to thank staff and the advisory committee, as well as all the members of the public who commented on this rulemaking package, for their work and input. He said it was his understanding that the reason LRAPA was making these changes was because the laws regarding industrial permitting had changed, and LRAPA's rules were being brought up to date. **Hough** confirmed that that was a part of the systematic changes. **Stewart** asked how long ago the laws changed, and **Hough** and **Hueftle** answered that the state's rules were originally adopted in 2001 and were updated in 2002. **Stewart** said he found it interesting that LRAPA had not updated its rules since 2001 and had probably allowed people to do things that were at different limits than what the new law says. He asked if LRAPA was being fined for not bringing its laws into compliance with federal and state laws, and **Hough** said LRAPA is not being fined. **Stewart** commented further that he thought it was interesting that LRAPA takes its time doing its work but expects other people to immediately react when other rules are implemented.

Kirkpatrick said her concern with the proposed industrial permitting rules is that they are not stringent enough to protect public health to the highest degree. She said there were a couple of areas that bothered her a bit, and she would like to see LRAPA require industries to use least toxic agents. She said it is known that there are non-toxic glues or adhesives available that could be used for manufacturing plywood. She believes that they should be required to use those sorts of adhesives, and not merely encouraged to use them. Another thing that bothered her was the fact that Best Available Control Technology is being required for new sources of pollution, but not necessarily for older plants, thus making it appear that those older facilities are given a pass in this respect. For those reason, **Kirkpatrick** said she would vote against the motion to adopt these proposed rules. **Kirkpatrick** added that, if the majority of the board voted against the motion, the board should decide definitively which areas they disagree about and therefore need further scrutiny, to avoid wasting a lot of time by taking the entire package on a section-by-section basis.

Johnson said his concerns were primarily about democratic process, and he does not think the board has done a service to the community in that regard on this rulemaking. He said he has concerns about how well the board has fulfilled its obligations to the community, because of the way this rulemaking has been conducted. **Johnson** said he raised a number of questions that **Carpenter** had thought were not timely, before the board authorized public hearing on these rules; and he also raised the question about the opacity definition which did not match the DEQ definition, when this package was presented to the board as being in “lock-step” with DEQ. He said he had also raised the concern that, in the proposed rules, the board is giving up a lot of authority to staff, where the DEQ rules clearly retain certain decisions to be made by the EQC. **Johnson** said there is a distinction in the DEQ rules between what the EQC does and what the DEQ staff does—what decisions they made. He said that, apparently, because the board is just codifying standard practice, they are giving up decision-making authority from this board to staff, to go ahead and make decisions that he thinks should remain decisions for the board to be making. He repeated that his concerns were about process, and he said he did not think the board has done a good job.

Ortiz said she did not want to give the impression that she does not appreciate all the work the volunteers and staff do, because she does appreciate that effort. She said her decision not to support the motion had nothing to do with the level of quality of work. She said she is concerned about rubber-stamping rules that the board has the power to oversee. She said she thought she was hearing board members saying that the rules should be more proactive instead of going back and telling people that they’ve been doing wrong for all this time. She said there is a sense of accountability within the businesses, themselves, that if they’re dealing with things that are potentially dangerous, she would think they would want to follow the rules and want to be aware of the latest trends and latest rules as they come along. She gave the example of her own work environment and the fact that they constantly check that they are up-to-date on the latest things and that they follow the rules to avoid being found to be in deficit by one of the oversight agencies that come in and check on them periodically. **Ortiz** said she believes that most people do not want to break the law and don’t want to do things that aren’t good for the environment and for public health. **Ortiz** said that, as a regulatory agency, LRAPA needs to enforce rules and remind people, but the industries and business LRAPA’s regulates really need to be accountable, too.

Patterson commented that when this rulemaking package was first introduced by staff, the board asked the advisory committee to go through the proposal and see if it was appropriate and what changes might need to be made. He asked if the committee had any public input at that time. **Ayers** responded that the committee’s meetings were all open, public meetings and that public comment by anyone who wishes to attend is always invited. **Patterson** responded to **Johnson**’s concern about there not being enough public

comment by stating that the board asked the advisory committee to review the proposal, and the committee held open meetings and invited public comment. If the board is going to micro-manage the advisory committee, then that body is not necessary. He believes that the committee is the board's right arm and that they do the heavy lifting for the board. **Patterson** said he supports the proposal the way it is, and he believes public input provisions have been observed in this process.

Monk said he agreed with **Johnson**, that the whole rulemaking process is inadequate. He said he believes the process needs to be reviewed and that he hopes the board will be able to do that soon. Referring to a statement in the staff report, concerning the public comments, which states that the rule changes proposed in the industrial rulemaking package are not intended to increase, reduce, or otherwise significantly change the stringency of any emission standard, **Monk** said he thinks that should be a big part of the consideration when the agency does rulemaking. He said there should be consideration of how the rule changes will impact air quality and that, in every case, the agency should be trying to improve and protect air quality. **Monk** said he was told by **Hough** that the most significant improvement for air quality in this rulemaking package is the tighter time line for unassigned emissions to go away; and he said he agrees with that and is very pleased with that tighter time line. **Monk** added that he thinks that is the one thing in the whole industrial rulemaking process that makes a lot of sense because he believes that Oregon is way behind the curve in getting rid of baseline and unassigned emissions.

Hough commented that, to put **Monk's** comments into perspective, the industrial permitting rules package was originally intended to improve efficiency in the permitting process in order to free up resources for other high-priority work of the agency. Staff has also tried, with this rulemaking, to synchronize LRAPA's rules with any changes in the state or federal requirements, to ensure that LRAPA has closer integration, where necessary, with some of those other rule systems. **Hough** went on to say that one of the specific things the LRAPA Advisory Committee looked at in its evaluation of the package was whether the changes would help or hurt air quality, and that the basic assessment was either neutral or better on each of the issues. He stressed that impact on air quality was not the driver on this rulemaking, that improved efficiency and use of resources was the main driver. **Hough** said it would be appropriate for the board to go through a rulemaking proposal package title-by-title, or section-by-section, if the intent of the rulemaking were to determine where and how additional air quality benefits could be achieved; however, this particular rulemaking package has, from the beginning, been intended to update and streamline existing rules and make the permitting processes easier and more efficient for staff and for the permitted sources. He said, had that not been the purpose of this rulemaking, he would fully agree that the rules should be studied and considered by the board in smaller pieces. He added that such an evaluation would be a significant process on its own for any one of the individual sections of the rules.

Monk responded that he hopes **Hough** is right, adding that some board members will hold him accountable to the hope that this increased efficiency will provide an opportunity for staff to pursue other priority work for which there is not currently time or resources. **Monk** said he thought that, in many cases, the streamlining causes the agency to forego some of its oversight. He likened it to the current world economic crisis, stating that that crisis is, to a large degree, the result of lack of regulation. **Monk** stated, again, that LRAPA's responsibilities are to regulate industries and to maintain and improve air quality within its jurisdiction; and grandfathering in old facilities is a bad policy. **Monk** also stressed that he hopes the efficiencies of going from the current permit structure to the general permits will offset the loss of revenue between the existing fee structure and the proposed new fee structure. **Monk** said he agreed with **Johnson's** perspective, adding that he thinks there will be opportunities in the future to go through some of the individual rules if it is found that

something is not working as anticipated, for those who are being regulated by them, and for the community, at large, who feels that those changes in rules are not serving them well. **Monk** said he has not thought this rulemaking was done properly, and he has not supported it.

Stewart thanked Hough for the recap of this rulemaking process which staff began a year and a half ago, and reminded board members that the board voted in June to move forward and authorize public hearing on the proposal. He noted that there was a public hearing in August and another in September, and that the hearing record was held open until the end of September, concluding that LRAPA has tried to reach out to the public and get the information to them. He said he would hope that board members have taken the opportunity to express their concerns to staff regarding this rulemaking package; however, he was gathering from comments at this meeting that some board members have not done that. He said he hopes that board members don't feel that they have to wait until formal board meetings to interject their thoughts, but would also feel free to contact Hough and staff on their own to provide comments and voice their concerns. **Stewart** stressed that he feels that he, and the public, have had ample multiple opportunities to comment on the proposal. Particularly in light on the staff's stated goal to update and streamline the rules to gain greater efficiencies and free up more resources for other work, **Stewart** said the idea of stopping this process at this point to look at the proposed changes, rule-by-rule, or section-by-section, did not seem prudent.

Johnson said it seems to him that, when there is critically important, mission-critical information, the staff should come and give that to the board in some detail, and the board should have a conversation about that. He said he cannot imagine how there would be this kind of a setup of a board who represent people, without making comments and having conversations at the board's public meetings, so that the public can hear how board members are thinking and what they think, in making decisions. He said that is right at the heart of his concern about this process, that the board has not articulated all the proposed changes to these rules, to the people of Lane County. As far as getting on to important business, **Johnson** said he cannot imagine anything more important for this board to do than setting air pollution rules and regulations. **Johnson** said he thinks the board is wasting its time, and the public's time and money, talking about the things they talk about every month instead of talking about rules and regulations and air quality standards, and how those should be implemented.

Hueftle commented that one thing that **George Davis** of DEQ brought up at an advisory committee meeting, early in the rulemaking process, was that DEQ implemented these rules as a package; and to take away one piece, since they are all related, would really kind of inhibit them from working as intended. These rules are meant to be a package, and that is how staff has tried to develop and bring along this proposal. **Hueftle** said that, in going through and making these changes, DEQ made several changes to their rules—or did not make changes in the case of PSD increments—so that there were some fixes in the DEQ's rules that are included in the 11 proposed revisions to the proposal. **Hueftle** said he wanted to bring this to the board's attention, because the option of breaking the package up and analyzing the rules piece-by-piece, and implementing them piece-by-piece, was a caveat brought up by DEQ early in LRAPA's rulemaking process.

Monk referred to a note from **Hueftle** in the minutes of the September meeting, regarding a statement made by **Monk** about Title V permittees being required to have Toxics Use Reduction Plans. He said **Hueftle's** note was incorrect because the Toxics Use Reduction Act of 1989 which he said he has referenced repeated requires Title V facilities, either small waste generators or large waste generators, to develop Toxics Use Reduction Plans. **Monk** said it is a requirement in ORS 465.015 and that DEQ did a survey and found that less than 50 percent of the respondents said that they had done the plan. He added that this requirement is

something that LRAPA has obviously not been a part of. **Monk** went on to reiterate his prior statement that the state of Massachusetts has passed the same law and has developed a phenomenal program which has encouraged innovation driven by regulation and has benefitted businesses and the public, alike.

VOTE ON MOTION: The MOTION PASSED by a vote of five (Carpenter/Fortune/Patterson/Ralston/Stewart) to four (Johnson/Kirkpatrick/Monk/Ortiz).

7. APPROVAL OF WORDING OF ADVERTISEMENT FOR APPLICANTS, FOR AT-LARGE, GENERAL, BOARD POSITION APPOINTMENT FOR 2009-2011: **Hough** noted that the draft advertisement was written to recruit for the at-large board position, as well as someone to represent agriculture on the LRAPA Advisory Committee. **Hough** reminded the board of their discussion in September and the issues surrounding the at-large board position, namely whether the person should represent rural Lane County, and whether the person should specifically not be from Eugene or Springfield.

Publication/Cost

Patterson suggested that the ad be placed in all newspapers in Lane County, in order to get applicants from the rural areas or the small towns in Lane County. **Patterson** said a lot of the people in the smaller communities do not read the Eugene *Register Guard* and would not see the ad if that were the only paper to publish it. He suggested looking into putting it on TV as a rider on their weather report, to get the word out that way.

Kirkpatrick, Monk, Ortiz and **Ralston** all agreed that the ad should go in the newspapers in the rural communities. **Carpenter** said it would depend upon the cost, because he would not want the agency to spend \$400 on ad publication in a paper with only a few subscribers.

Ortiz suggested a paper called the *Senior News* which goes out to the rural areas and stays around for a long time. **Monk** said the last time he had placed an ad in the *Senior News*, it cost \$415. **Stewart** agreed that that particular publication is expensive. **Monk** agreed but stated that it is a good resource which gets to a lot of people and does stay around for a long time. **Ortiz** commented that \$415 is too much money.

Stewart said he had recently run some ads in all the rural communities for his town halls, and he believes it is possible to run ads in all the little rural papers for what it would cost for one ad in the Eugene *Register Guard*.

Markos said the cost will depend on the size of the ads placed in each of the papers. She will need to redesign the ad for each different publication, and the cost can run anywhere from \$50 to run it in the Cottage Grove *Sentinel* to anywhere from \$285 to \$485 for the *Register Guard*. **Hough** said he did not expect the cost to be a problem with the smaller papers, based on **Stewart's** observations and comments.

Ad Content

Kirkpatrick suggested adding something to the effect that applicants would be invited to attend a board meeting. She said if she were to do it over again, she would like to have attended a board meeting or two before applying for appointment, and also to have had the opportunity to see some of the packets that the board receives monthly. **Dinteman** commented that what usually happens is that people who see the ads and

are interested will call the office to find out more about the position before applying. Staff tells them as much as possible about the position and answers questions for potential applicants. They are also told that the board meetings are open to the public, and they are welcome to attend if they wish to do so.

Ralston said he thought the wording of the proposed ad was good, and that he thinks the board should target rural Lane County.

Johnson said he thought there might be some confusion about the agricultural position. He said if you read it carefully, it should be clear that there are two separate positions; however, some people might not read it carefully enough. He suggested adding a few words to clarify that there are two positions and that applicants for the advisory committee must have agriculture as their primary occupation. **Ralston** suggested just putting a period after the board position and adding a second sentence to indicate there is also an advisory committee position open, representing agriculture.

Whether to Target Applicants from a Specific Area or Leave it Open to Anyone in Lane County

Carpenter said if the area of residence of potential applicants is to be limited, perhaps the urban growth boundary of Eugene/Springfield would be a more cognizant dividing line, rather than the city limits. **Ralston** disagreed, stating that some of the area within the Urban Growth Boundary is rural Lane County.

There was some discussion as to whether the wording “city limits” of Eugene and Springfield implied the Eugene/Springfield Urban Growth Boundary. Some board members felt it was implied and other felt it meant strictly within the city limits of either of those two cities.

Carpenter commented that it is an at-large position and that, rather than limiting who can apply, it should be open to anyone in Lane County who wants to apply. That way, if there are no good applications from rural Lane County, but there is an exception applicant from either Eugene or Springfield, the best applicant can be appointed. **Carpenter** also suggested that wording could be added to the ad such as, “historical preferences have been given to people outside the Eugene or Springfield city limits.” He suggested that the ad be kept as broad as possible on the applicants but also give the applicants warning that, in the past, the board has wanted to get a rural person.

Dinteman asked whether the board wanted staff to check with legal counsel about whether or not the applicants could come from Eugene or Springfield, because Eugene is currently at the statutory limit of representatives on the LRAPA board who can come from inside the Eugene city limits. **Carpenter** said that would be fine, but he also thinks the ad should tell people that this position has historically been filled by a resident of rural Lane County. **Monk** said he thought it was critical to have that legal check, because the last time this position was filled there were some applicants from Eugene and Springfield whose applications were automatically discounted, and he thought that was unfair and disrespectful to those individuals.

Stewart said he also thought it was a good idea to check with legal counsel since it has been so long since the board had the conversation about Eugene/Springfield representation, to avoid any problems that could result if people are excluded.

Johnson agreed with **Carpenter**, that the applicants should not be limited the way it was in the draft ad. He said it should say that the board would give preference to a particular area, but all applicants are welcome.

He also asked whether the question for legal counsel would be about statutory requirements for representation, or about whether or not the board can exclude people in the advertisement. He said he saw those as two different questions. **Monk** said his understanding would be the only opinion sought would be whether an additional Eugene or an additional Springfield resident could serve on the board. **Ralston** agreed, stating that it pretty clear in the statute how many members may represent Eugene and how many may represent Springfield; and if the board exceeds those numbers, it could cause some legal problems. **Johnson** worded the question as, "is the board allowed to appoint an at-large person when Eugene or Springfield have reached their statutory maximums?" **Ralston** agreed that is the proper question.

Hough said he expected to hear from legal counsel that it could be a person from Eugene or Springfield, and it is also within the board's prerogative to identify the area of the county to which they would give preference, because the board members are the ones who appoint the at-large members. He noted that when **Carpenter** was appointed, the board decided to recruit a Springfield resident for that at-large position, because the expectation was that Springfield would be the next entity that would trigger another seat on the board.

There was then some discussion of which attorney **Hough** would go to for legal opinions on this matter. **Johnson** said that LRAPA's legal counsel, Harrang/Long, issued an opinion several years ago which precipitated the seven-member vs. nine-member board issue. For that reason, and because Harrang/Long also represents the city of Eugene, **Johnson** asked whether **Hough** should seek an opinion from independent counsel on this matter. **Monk** stated that the attorney from Harrang/Long gave one opinion for LRAPA and a totally different opinion for the city of Eugene, regarding the same issue, within a two-year period, and he did not think LRAPA got good advice from that attorney. **Hough** said he planned to ask the agency's Harrang/Long legal counsel about this matter unless the board felt strongly that he should seek advice from someone else. **Carpenter** said he believes the Harrang/Long attorney would tell **Hough** if he believes his firm has a conflict of interest with this issue.

Monk made a judgement call that the board can make whatever preference it wants regarding the representation of the at-large member of the board. He added that he does not think the board wants to have another Eugene or Springfield member. **Ralston** agreed. There was more discussion of what would happen if the position were opened up to all applicants and applications were received from residents of Eugene and Springfield. **Carpenter** said that is why the wording should be put into the ad that historical preference has been given to residents of rural areas of the county, and **Ralston** disagreed with that.

Monk said he would leave it up to **Hough** to determine whether an applicant can be either a Eugene or Springfield resident, given that both cities have met their statutory maximums on the board. He stated that the majority of the board members would like to fill the at-large position with a resident of rural Lane County, outside of either Eugene or Springfield. No one disagreed with that statement.

8. LEGISLATIVE PRIORITIES: **Hough** recapped what he heard in earlier discussions by the board regarding legislative priorities. He said he put these items on today's agenda to try to carry those discussions to the next level; and he welcomed any other alternatives that board members would want staff to look into in greater detail.
 - A. Funding. One suggestion was that LRAPA team up with the local United Front counterpart, and **Hough** said he had made initial contacts with **Alex Cuyler** and **Brenda Wilson**. He said they both were very welcoming and stressed that it is in everyone's interests to share priorities.

Hough asked **Stewart** to update the board regarding Lane County's funding situation, in light of the recently passed federal bailout bill. **Stewart** reported that the bailout bill included a four-year extension of the county's Secure Rural Schools payments. He said the most recent information is that the county will receive 90% of last year's payment some time either in December or the first of part of January. The following year the county will receive a payment equivalent to 81 percent; and the next year the payment will be about 72 percent. In the fourth year, there will be a new formula, and the amount of the payment is less certain; but **Stewart** said the county is predicting that it will be about 40 percent. **Stewart** said he had asked to have the commissioners' October 22 agenda include a preliminary direction from the Board of Commissioners to the administrator and the budget staff, as to how to move forward and how to prepare for the next few years. He said he might go so far as to try to set a budget committee meeting. Other than that, **Stewart** said, he had no further information. He said the county's administrator has warned the commissioners that if the county just maintains the current level of spending and does not add anything back, the additional money received will keep the county's funding situation stable until the beginning of 2010. If they use the money in reserves to continue to stabilize the organization, it could take the county an additional four years out, to 2014. He added that he does not yet know if the commissioners will consider trying to add back some of the areas that have been cut from their budget.

- B. Size of LRAPA Board of Directors—Seven or Nine Members. **Hough** said another issue the board has discussed is whether the board ought to continue at the current nine members, or if it would be more appropriate to cut back to seven, or even five, members; and that could certainly be changed at the Legislative level.
- C. Number of County Members on LRAPA Board of Directors. Another point which has been touched on in board discussions is the fact that the county has only one member on the board, even though it is a major financial contributor. **Hough** pointed out that the county has traditionally paid almost the same amount as the city of Eugene, but the city of Eugene has four members on the board, to the county's one member. The original statute applied to three local air pollution authorities in the state, with one involving multiple counties around Portland, one with multiple counties around Salem, and LRAPA with a single County. **Hough** commented that it might be the single county nature of LRAPA that makes the distribution of the board seats seem more out of balance. He also pointed out that the multiple-county authorities disappeared after about a decade, but LRAPA is now in its 40th year. He warned that there might be some risks involved in asking for any changes to the statute or reconsiderations by the Legislature.

Ralston commented that, technically, three members on the board are from outside Eugene and Springfield and so represent the more rural areas of the county. **Monk** agreed

Board Discussion

Stewart said he would like the board to think about seeking some special grant funding to help with additional programs, such as more woodstove replacements or more monitoring, to help Oakridge and the rest of Lane County to comply with the tightened, more protective, federal standards for fine particulate.

Monk pointed out that it is now too late to initiate any Legislative proposals for additional funding. He said there are a lot of possibilities for funding that the board might discuss, some of which might require

Legislative action. Because of the timing, Monk said, the board will need to plan for the next session. He noted that the board has discussed the fact that the money collected from LRAPA's enforcement actions goes to Lane County's general fund and said he would like to see whether there is any opportunity to reallocate that money among the county and the participating cities. As an example of seeking funding through other than traditional realms, **Monk** cited the Department of Motor Vehicles' tacking on a little piece to license and registration fees for programs relevant to motor vehicles. He noted that **Hough** has said that staff is always looking for grant opportunities, and Monk said he hopes that there are several staff members working on this because grant writing and administration would be too much for **Mirhosseyni** to do it all. **Hough** said both **Lopez** and **Markos** have identified potential grant opportunities and taken the initiative to begin development of those applications. He stressed that any grant applications would be integrated with **Mirhosseyni** before being finalized and submitted.

Hough agreed that it is too late for LRAPA to go through the normal channels of DEQ or EQC or the Governor's office at this point, to initiate any funding proposals for the Legislative; however, there would be opportunity to approach Lane County's legislative delegation if there were something that was significant enough that the board wanted to take forward for immediate introduction.

9. NEW BUSINESS:

- A. November Meeting Date. **Dinteman** brought up the fact that the second Tuesday of November is the 11th, which is Veterans Day—a legal holiday. She said she had only heard from a new board members regarding what days they would be available in November to reschedule the November meeting, and asked board members to discuss it now and try to determine a date that would work for everyone.

Board members checked their calendars and discussed several options, determining that Friday, November 21, at the regular 12:15 meeting time, would be the best option. **Monk** asked that if anyone finds that the 21st would not work, after all, they contact **Dinteman** to let her know.

- B. SHINE Cancer Cluster Report. **Ortiz** announced that someone from the SHINE group would be presenting a report on November 19 or 20, and she would e-mail that to **Dinteman** when she gets it, so that **Dinteman** can send it out to the rest of the LRAPA board members.
- C. Asbestos Inspector for Questions from the Public. **Carpenter** said he thought it would be good for LRAPA to have an asbestos inspector available, at a charge, when people call in before they begin a demolition or remodeling job and wonder if there is asbestos present. **Dinteman** replied that there are a couple of people currently on staff who provide that information. She said they speak with people over the phone and tell them what to look for and where to look. The agency also has brochures that include a lot of information regarding asbestos. Staff does not tell people whether or not they have asbestos, because samples of the materials have to be tested to determine the presence of asbestos. Staff also can provide a current list of contractors who do asbestos abatement, as well as the number of a lab that will do the testing.
- D. Lowest Achievable Emission Standard (LAER) for Particulates. Noting that the Eugene/Springfield area is not far below the fine particulate standards, **Carpenter** suggested that board members think about discussing whether the board would like to have staff evaluate what kind of particulate reductions would

be achieved, if LRAPA were to apply LAER to particulate sources where they are currently subject only to Best Available Control Technology (BACT).

Johnson commented that LAER is required in nonattainment areas and that Eugene/Springfield is still officially a nonattainment area for particulate matter. **Hough** agreed and said that a new or modified source located in a nonattainment area is subject to LAER. **Johnson** stated that the LAER requirement has been in place for Eugene/Springfield since the area was declared nonattainment for PM10, and **Hough** agreed.

Carpenter said he thought LRAPA had submitted a request for redesignation to attainment for PM; and **Hough** replied that there is nothing finalized for that. Redesignation has been in a holding pattern because EPA's original proposal was to do away with the PM10 nonattainment areas when they implemented the PM2.5 standards. It turned out that EPA did not do that because of some legal issues, and Eugene/Springfield is still designated as nonattainment for PM10. **Carpenter** restated his question to, what impact would it have, if Eugene/Springfield were redesignated to attainment status, if LAER requirements were kept in place rather than going back to requiring the less restrictive BACT. **Hough** responded that if the area were redesignated, it would be up to the board to decide whether the area would go from LAER to BACT, or something else. **Carpenter** said perhaps it would not be worth discussing at this time, but waiting to see if it comes up in the future, at which time the board would need to decide on that. **Hough** said he believes that essentially LRAPA has a LAER-type situation in Eugene/Springfield, because the combination of still being a PM10 nonattainment area and being close to the new PM2.5 standard makes it beneficial to maintain LAER requirements. He said he did not think that would change before something would come before the board to change the status of the area. **Carpenter** asked **Hough** to get back to the board to confirm that.

Johnson said he was also curious to know which sources, if any, have applied LAER since the area has been in nonattainment for PM10. He said his sense is that the requirement has never been triggered.

10. ADJOURNMENT: The meeting adjourned at 2:32 p.m. The next regular meeting of the LRAPA Board of Directors is scheduled for Friday, November 21, 2008, 12:15 p.m., in the LRAPA Meeting Room at 1010 Main Street, Springfield, Oregon.

Respectfully submitted,

Merrie Dinteman
Recording Secretary