

MINUTES
LANE REGIONAL AIR PROTECTION AGENCY
BOARD OF DIRECTORS MEETING
TUESDAY–JUNE 9, 2009
LRAPA MEETING ROOM
1010 MAIN STREET
SPRINGFIELD, OREGON

ATTENDANCE

Board: Bill Carpenter, Chair–At-Large, Springfield; Glenn fortune, Vice-Chair–Oakridge/Cottage Grove; Brian Forge–At-Large, General; Drew Johnson–Eugene; Kit Kirkpatrick–Eugene; David Monk–Eugene; Andrea Ortiz–Eugene; Dave Ralston–Springfield; Faye Stewart–Lane County (via phone)
(ABSENT: None)

Staff: Merlyn Hough–Director; Merrie Dinteman; Tom Freeman; Max Hueftle; Matthew Lee; Sandra Lopez; Nasser Mirhosseyni

Other: Russ Ayers, Chair, Chuck Gottfried, Earl Koenig and Amy Peccia–LRAPA Advisory Committee; Barbara Allen; Jim Daniels–Rosboro Lumber

1. OPENING: **Carpenter** called the meeting to order at 12:15 p.m.
2. PUBLIC PARTICIPATION: None.
3. CONSENT CALENDAR:

A. Approval of Minutes of May 14, 2009 Board Meeting.

ACTION: MSP(Ralston/Fortune)(7 in favor; 1 abstention [Ortiz] [Stewart was not yet in attendance by phone at this point in the meeting].

B. Approval of Expense Reports Through April 30, 2009.

MOTION: Ralston MOVED approval of the expense reports through April 30, 2009. Fortune SECONDED THE MOTION.

Discussion of Motion. There was significant discussion regarding the format of the expense reports and whether or not they give board members all the information they need to keep track of how the agency is spending its funds.

Carpenter said that it looked to him like Airmetrics was at \$9,500 profit at the time the last expense report was written; and that it is estimated to be \$17,000 in profit by the end of the fiscal year. He said it was projected to contribute \$45,000 to the General Fund but is not anticipated to make any cash contribution. Mirhosseyni said allocations are done on a monthly basis and that \$70,000 is designated from Airmetrics to the General Fund. Part of that is for personnel because about 1 FTE is charged to Airmetrics monthly, including part of his time and part of Hough's time and parts of other staff members' time. Part of the \$70,000 is operation expenditures which are transferred to the General Fund, also on a monthly basis. Carpenter asked where that would show up in the expense report, and Mirhosseyni said

it would be in general expenses. Carpenter asked if the -\$40,000 in the budget meant that Airmetrics was not going to transfer \$70,000 last year because staff didn't think they could do that. He commented that budgets do not usually have negative numbers in them. Mirhosseyini explained that the way LRAPA's budget works is that there are transfers in and transfers out. Funds are transferred out of Airmetrics and other project funds, into the General Fund. During the budget process, the amounts of those expenditures are not known. Then during the year, funds are allocated and, if the threshold is not reached, staff transfers the amount that was budgeted. Mirhosseyini pointed out that \$37,000 was budgeted and, to date, \$43,000 has been transferred, with three months left in the current fiscal year. Carpenter noted that, in the "transfer/purchases" category, the "Estimated To Date" figure is a portion of the budget percentage of the year, and the report shows that figure as zero. He asked if it would be more appropriate to have a figure there instead of zero. He said, in figuring out the numbers that would go forward, that would be a flag to show that maybe something from a prior year's budget had not accurately come to pass. Mirhosseyini said he could add a number in the "estimated" column, to indicate that, "as of today it should have been this much."

Carpenter noted that the report shows an increase in the fund balance of \$9,572, and because it will fall short of the \$70,000 it will be \$37,000 plus \$9,000. Mirhosseyini said you could assume that, based on this slice of time; however, Airmetrics has cash which can be transferred. The goal is to transfer at least \$70,000, and that can be done either with allocations of actual expenses or at the end of the year with a cash transfer. He said he accounts for what was actually transferred and then the difference between that and the \$70,000 is transferred at the end of the year.

Monk said he had talked quite a bit with Mirhosseyini about the expense reports, and he asked if he understood correctly that funds are allocated on a monthly basis, essentially to reimburse LRAPA for the staff time that is spent on behalf of Airmetrics and that the goal of the \$70,000 is to reimburse the agency for time and materials it commits to Airmetrics. Mirhosseyini said the goal is to have a balanced budget in the General Fund. Those resources are pooled from different sources, one of which is Airmetrics. The \$70,000 is allocated to come from Airmetrics, but that does not mean staff actually spends that much time on Airmetrics work. He said Airmetrics supports about 1 FTE. Monk said \$30,000 is not enough to cover 1 FTE, and Mirhosseyini responded that the 1 FTE is made of different staff members' time at different rates of pay.

Johnson referred to the travel category in the expense report and pointed out an apparent discrepancy of \$4,000 between the travel-related expenses in the approved budget and the travel category in the expense report. Mirhosseyini said travel costs have a number of components, including vehicles, air fare, lodging and training fees. Everything gets charged to the General Fund, and then allocated to different divisions.

Kirkpatrick said she thought Johnson's concern is that it is not completely transparent to board members, and Johnson said he does not see it at all. He does not understand how the budget document that the board is approving translates into numbers in the expense reports. Mirhosseyini said those details are available to the board if they want to have them, and Kirkpatrick said it seems like those details should be included in the expense reports.

Mirhosseyini said the format of the expense reports is what the board approved long ago, but if the current board wants to have a different format, staff can provide that. Johnson said his concern is not the format. It is that the numbers don't match.

VOTE: The MOTION FAILED, on a tie vote, with Carpenter, Forge, Fortune and Ralston voting IN FAVOR and Johnson, Kirkpatrick, Monk and Ortiz voting IN OPPOSITION. *[In order for a motion to pass, it must receive a majority of the available votes at the meeting at which the motion is made. There were eight available votes at the time the motion was made, and the motion did not receive the majority of those votes.]*

4. DIRECTOR'S REPORT: Several items from the written report were discussed briefly.
- A. Time Frame for Industrial Permitting. Board members have been interested in the permitting process for the co-generation facility proposed by Seneca. Hough said he had, the day before this meeting, e-mailed his response to Monk's questions regarding time frames for issuing permits. Hough explained that there are a lot of variables in permitting different sources. The time frame needs to be somewhat customized to each permit, depending, for instance, on whether New Source Review or Prevention of Significant Deterioration requirements are triggered by a particular permit application. In addition, requirements for Title V permits are different from Air Contaminant Discharge Permits.
- B. Format for Public Hearings (Permitting). Kirkpatrick asked when staff plans to hold the public hearing for the permit for Seneca's proposed co-generation plant, and Hough responded that the proposed permit was expected to be completed by June 19, and notice of a public hearing on the draft permit was expected to be published the following week. He said the notice must be published at least 30 days prior to the hearing date, and the publication date also starts the forty-day period to accept public comment on the proposal. Hough said staff plans to hold the record open for a total of 45 days, to allow interested persons to submit comments for a couple of weeks following the public hearing. Staff anticipates that the hearing will take place at the end of July, with the record held open until mid-August.

Kirkpatrick asked if staff plans to have more than one informational meeting regarding the Seneca permit, and Hough said there had already been one meeting in early April, and there will be an informational session on the hearing date, prior to opening the hearing and accepting testimony. Kirkpatrick asked if the informational portion of that meeting would lay out exactly what LRAPA can and cannot do with regard to the permitting of the proposed facility. Hough said that information would, hopefully, be clear, because there are aspects of the facility which do not involve LRAPA's mission or scope, and LRAPA cannot address those.

Ortiz said she likes the idea of having an informational meeting, first, with dialogue between LRAPA and members of the public, so that people can understand more about the facility and LRAPA's role in permitting and controlling it. She suggested that LRAPA get a third party to facilitate the informational portion of the meeting, to help organize it in a way that makes it clear why LRAPA is here. Ortiz said she attended the April meeting and was disappointed in the way it was handled and felt that people who attended were frustrated. She said she wants the meeting to provide a setting where people are on equal footing and feel that they can speak their minds and get answers to their questions.

Carpenter recommended that staff check into what a third-party facilitator would cost and bring that information back to the board for approval, before making any arrangements for that.

Kirkpatrick stressed that the public should know what comments are germane to LRAPA and what is not germane to LRAPA, in order to avoid taking up a lot of time with comments concerning what the Forest Service, or some other agency, is doing, when LRAPA has no control over those aspects of the proposed operation. Carpenter noted that it is not good to censor people when they want to comment.

He said the planning commissions that he has been on usually have a staff person read a statement at the beginning of the meeting, telling the audience the kinds of issues that can be addressed by the agency. He said that would not necessarily mean that people will restrict themselves to those issues, but it would at least direct them as to how to comment. Ortiz said she thinks the value of a third-party facilitator would be in keeping the dialogue going in the right direction. Carpenter said there is usually a three-minute time limit on each person's testimony, and Ortiz said the April session did not include a time limit. She said she would just like to see a bit more structure to the next informational meeting.

Monk said he has attended a dozen or more DEQ public hearings at which there is an information session at the beginning, and he thinks that is a good format. He said, however, that he has never heard an agency person lay out what the issues at hand are, for the agency, what the process is, and what the discretion of the agency is regarding those issues. Monk said LRAPA staff is fully capable of laying out that information; and that should be the first part of any kind of public hearing where staff is asking for public comment, so that people know immediately what the issues are and what information is germane to the subject of the hearing. He said that kind of format would help speakers to focus their comments and would also help staff to absorb comments that have value.

Monk said he assumed that Hough interpreted Carpenter's earlier request to bring back to the board information regarding the cost of a third-party facilitator for the public hearing as direction from the board to assess what that would cost. He suggested that Hough also bring back to the board a generic process for either staff or a third party to lay out the necessary information regarding the authority of the agency—what is discretionary and what is not—which would then become the policy of the agency at the beginning of any kind of public hearing. The information for each hearing should follow the same format but contain information specific to the subject of the particular hearing, in addition to the generic information regarding the agency's role, authority and process. Hough said staff would develop something to bring back to the board.

- B. Appeals Process for Industrial Permits. Hough explained that the appeals process for a permittee is outlined in LRAPA's rules and would go to a hearings officer and then to the board. It could be appealed to the courts if necessary. For a third-party appeal, the process would be to go directly to the courts. Hough commented that appeals of permits are rare in Oregon, and appeals by third parties are even more rare. He said he knew of only one such appeal of a permit in the Portland area, in recent years.

Ortiz asked for clarification regarding a third-party appeal, asking if that would be whatever group or individual in the community feels that the issued permit is important, and Hough said it could be an individual or group, such as an activist group, or it could be another permittee who felt that the issued permit was perhaps less stringent toward the permittee than the permit issued to the appealing permittee. There might be other possible third-parties which might feel the need to appeal a permit.

- C. Flakeboard Progress Report on Plywood MACT. The report of progress through the end of May 2009 was not available at the time the packets for this board meeting were delivered. The report was distributed to board members at this meeting. The facility is on schedule to reach compliance with federal plywood MACT. Carpenter asked if June 1 was the date by which they were to demonstrate compliance, and staff member Max Huefle responded that they have until the end of June and plan to do compliance testing of the equipment June 15.

D. Enforcement Report. Carpenter noted that some of the enforcement cases are over two years old, and he said he would like to have a monthly update on those cases, so that he can understand why they are not yet resolved. He called attention to an action against Johnson Crushers International, and Hough explained that EPA has been involved with that situation and has not yet completed its own investigation. LRAPA has been holding off on resolution of the case until EPA has completed its case. Carpenter said that is the kind of information he would like to have.

5. ADVISORY COMMITTEE: *[Stewart joined the meeting at this time, via phone.]*

Committee Chair Ayers reported that the committee's last meeting was their second discussion regarding the agency's enforcement rules and civil penalty matrices. The first discussion, the previous month, focused on LRAPA's version of the enforcement rules; and the focus at the last meeting was on DEQ's version of the rules. Ayers said DEQ has made some good progress in developing its enforcement rules, and there seems to be a lot more flexibility in the state's rules than in LRAPA's rules. DEQ has four civil penalty matrices, compared to LRAPA's two. Provisions such as describing the knowledge and mental state of the respondent, as aggravating/mitigating factors, add flexibility to the rules. Ayers said the committee's next discussion will be a study of penalty determinations and aggravating/mitigating factors. They will also discuss the way the enforcement rules are used. Ayers said, because DEQ is a much larger agency, they have enough staff members to have one person to do the inspections and gather all the information, and another person to make the enforcement decision and carry that action through, whereas LRAPA's enforcement staff perform both functions for each case.

Ayers also reported that nominations were made at the last meeting, for committee officers for the year; however, due to a smaller attendance at that meeting, the vote was postponed until the next meeting.

6. PUBLIC HEARING AND ADOPTION OF FY 2009/2010 BUDGET: Mirhosseyni presented a brief description of the budget process and stated that the LRAPA Budget Committee had approved the draft budget for public hearing and adoption by the board. He said the board could either adopt the budget as presented or make changes, so long as the changes were not more than \$5,000 or 5 percent of the budget, whichever is greater. He said staff was presenting the budget as approved by the committee, with the exception that word had been received that the federal base grant through EPA will be about \$25,000 more than what was in the original projections. He distributed replacement pages for the board members' copies of the budget document, which reflected that change. Mirhosseyni submitted into the hearing record the affidavit of publication of notice of today's hearing in the Eugene *Register-Guard*, on May 31.

Public Hearing

Carpenter opened the public hearing at 1:02 p.m. and asked if anyone present wished to speak either in support of or in opposition to the proposed budget. Hearing no response, he closed the public hearing at 1:04 p.m.

MOTION: Ralston MOVED to adopt LRAPA Resolution 09-02, adopting the proposed budget for FY 2009-10. Fortune SECONDED THE MOTION.

Discussion of Motion

Ortiz said she was not satisfied with the budget as proposed and that she had wanted to propose an alternative motion, to allow the agency to operate with month-to-month allocations rather than adopting the proposed

budget. She said she had e-mailed that information to staff ahead of the meeting and had received a response stating that Mirhosseyni had checked with the Internal Revenue Department and found that it would not be possible to do what she had intended to propose. Ortiz said she does not see in the proposed budget the transparency that she needs in order to be able to support it, and she would have preferred to allow the agency just enough to operate each month until the information is presented in a way that she can support. Ortiz said it seems to be too difficult for board members to get answers to their questions regarding the budget. She added that she wants to have a community dialogue about whether the agency is doing what is expected of it. To that end, she would like to see the board meet in different areas of the county each month, in order to encourage participation by residents throughout the county. Ortiz said she does not feel that she or the community have been given the opportunity to give input into the budgeting process for LRAPA, and she does not know what else to do to let the agency know her feelings.

Hough said he appreciated Ortiz letting him know ahead of the board meeting, what she wanted to do, to allow him time to prepare. He said he had gone back through the records to see how the priorities in the budget were identified. In January of 2008, the board completed the last piece of the strategic planning process, to prioritize new ideas considered by the board. He said the Boston Square analysis method was used to look at costs and benefits of the potential list of ideas that were supported by three or more board members, and there were two ideas that were obvious good additions: the multi-year budget projections, which have been done for the past two years; and the combined airshed analysis with DEQ, of which the GreenHouse Gas Reporting rules and the ozone precursors, Stage I vapor recover, are two examples. Hough said that since the strategic plan was adopted, staff has updated the board on priorities and reflected on previous successes. He said he had e-mailed to the board copies of the review documents presented to the board in July of 2008. He had extra copies of those documents with him at this meeting and distributed them to board members. Hough explained that the documents were intended to stimulate discussion with the board on whether the board still sees these priorities as being important, or if there are additional things which need to be added. Attachment A of the handouts categorized key activities during the previous year under the four major goals identified by the board. Attachment B looked ahead at many of the things that were specifically addressed during the strategic planning process, when the board reviewed some of the critical issues facing LRAPA. Hough said staff has tried to communicate frequently with the board regarding those issues. When the agency's management staff begins the budget process early each year, they work to match available resources to the priorities identified by the board, as well as to make sure the agency's mandated activities are addressed. Hough said if the board would like to review that information on a quarterly basis, throughout the year, staff would welcome that kind of dialogue.

Carpenter commented that the agency has progressed on most of the issues in Attachment B, although some have been delayed because of other issues that have arisen. Carpenter said he would support the motion; however, under New Business, he intended to propose that the board do a critique each year after the end of the budget year, to see how good the budget assumptions were, based on what actually happened during that year. He said he felt that kind of discussion would be helpful, rather than waiting until the following spring to revisit the budget, in preparation for the next year's budget.

Mirhosseyni suggested that the board have a discussion about six months into the fiscal year, to look at actual expenses and see how the projections are working. Mirhosseyni stressed that a budget is based on what the agency expects to spend, and it never happens exactly the way it is projected at the time the budget is developed.

Hough pointed out that Mirhosseyni had added, in the current budget year, a new column to the monthly expense reports to show not only what is budgeted for the current fiscal year but also what is projected at the

end of each month to be spent. He said that is one more comparison that is available in the April/May time period when the budget committee begins its deliberations, and he found it useful in preparing the new budget.

Monk said that he, like Ortiz, had serious reservations about the agency's budget. He said he has met with Mirhosseyeni and Hough more than once to attempt to gain a better understanding of the numbers. In some cases Mirhosseyeni has been able to answer his questions adequately, and in other cases his discussions with Mirhosseyeni have just led to more questions. Monk said he is not convinced that the agency has the appropriate software to adequately account for Airmetrics, stating that the inventory tree Mirhosseyeni uses does not seem adequate. He commented that perhaps Mirhosseyeni's background, coming from city government, did not give him adequate experience to be able to understand a government agency with a for-profit arm attached to it. He suggested that Mirhosseyeni might be struggling with Airmetrics.

Monk also referred to correspondence from the agency's auditor, stating that, "Our audit of the financial statements does not relieve you or management of your responsibilities." Monk said the board's responsibility, first and foremost, is to ensure that resources are allocated appropriately, according to rules and regulations of the state and, in the case of Title V, federal law. Monk said the board is not able to do that because of the way the budget is presented to them. He said he has been asking for clarification, and the information he has received has not been sufficient for him to be able to say that he understands how budget transfers work. He said he would challenge any one of the board members to come away from the earlier discussion of the expense reports understanding the Airmetrics budgeting process as well as Mirhosseyeni does.

Monk brought up a number of areas regarding the accounting for Airmetrics which he said he does not understand, because the accounting for Airmetrics is very convoluted and difficult. He said he understands that Airmetrics reimburses the agency for staff time and indirect costs used on behalf of Airmetrics. Monk said the board needs to have a really fundamental discussion about Airmetrics in order to ascertain whether it is beneficial to LRAPA. Monk said what he needs to see in order to support the budget is each and every program laid out with direct and indirect costs and the funding sources that pay for those costs. He wants to be able to see clearly that Title V monies are totally taking care of Title V costs and are not being used in any way than the EPA matrix says they can not be used.

Carpenter asked Monk what that matrix is, and Monk responded that Hough alluded to the EPA matrix for Title V money during the last budget conversation. It delineates very specifically how Title V fees can and cannot be spent. Hough confirmed that the matrix is used for certain categories, although it is more general when referring to agency administrative costs and air monitoring costs. Those two categories are significant and flexible. Hough said the agency's auditor and EPA had reviewed LRAPA's allocation methods and had concurred that LRAPA's allocation methods are reasonable. Monk agreed that LRAPA's accounting for Title V is very good, and he would like to see that same format applied to every program area.

Mirhosseyeni responded to Monk's comments, stating that he had worked for profit-making organizations in his career. He said there are some direct costs, such as rent, products and supplies, which are charged directly to Airmetrics and paid from the Airmetrics checking account. There are other costs which are allocated on a monthly basis, with a target of \$70,000 to be transferred from Airmetrics to LRAPA's General Fund over the course of a fiscal year. Both Airmetrics and Everybody Wins transfer funds to LRAPA to help to balance the General Fund.

Ralston said he had done city budgets for nine years, and LRAPA uses standard accounting practices. He said LRAPA's budget is perfectly clear and transparent to him, and anyone who has worked on a city budget knows that. He said it has been implied that the agency's mission may not be clear and that the agency is

misappropriating funds. He said he believes the agency's mission is very clear: the agency is a regulatory authority. It is not a "stop all pollution authority." Ralston said it is clear to him—and to other people who read LRAPA's board meeting minutes—that LRAPA is becoming a micro-managing agency that is overstepping its purview. He reminded the board that LRAPA came very close to ceasing to exist last year, and the discussions the board has had over the past six meetings illustrate how dysfunctional the board is. He said people are taking note of it, and the board is going to need to decide whether LRAPA is worth keeping around or not, and how much they want to change it. He warned that, once again, people are getting close to putting an end to the agency.

Ortiz said she, too, has done a lot of budgets, and she does not understand this one. She would like to see a budgetary connection to the mission, so that anyone can look at the budget and see what the agency does for a particular environmental subject and where the money comes from for that program. She said she wants to see the "bunny trail" for supplies, personnel, and everything connected to each program. She said the budget is somewhat clear but not as clear as it could be.

Carpenter asked Ortiz whether she believes the goals of the agency have progressed since she started on the board. Ortiz said they are progressing, and she thinks that when the board has a conversation about the budget, it does not mean she wants to see the end of the agency. Carpenter said Ortiz's e-mail prior to this meeting indicated that she would not vote for a budget unless it was the best of everything, and Ortiz said she is trying to push the envelope.

Johnson said this is a regulatory agency, and he has concerns about having a for-profit enterprise which significantly complicates what the agency is trying to do—having roughly half of the agency's budget attributable to either Everybody Wins or Airmetrics, which are non-regulatory functions. He said it troubles him, that whenever board members suggest something as a matter of policy, they can't independently look at the financial documents and see where the funding is coming from. He said he has been trying for three, or more, years, to look at the budget and see where there is money and where there is not money, and he can never do that. Johnson said the board cannot effectively run the agency from a policy perspective without knowing where the agency sits, financially. Johnson said his inability to see that is largely because of the non-regulatory activities, and that the remedy for that would be to look at a program for open burning, for instance, and say to the public that this program brings in \$6,000 in revenues and costs the agency \$110,000 to run, and then show exactly where that money comes from. He said he wants the budget to show, for each program, the revenue side, direct and indirect costs, what the agency does for the money, and how it is tied to the mission. He said he has been asking for those things, repeatedly, for months, and has not seen it. Johnson said, until he sees a budget where he can simply connect the dots on where there are surpluses that can be used to further the agency's missions, as a policy-making body, he cannot support the budget.

Mirhosseyni responded that the staffing plan clearly shows how staff time is allocated to each program and project, and that operating costs can be very easily calculated. He said he can provide more detailed information if that is what the board wants.

Kirkpatrick agreed that board members are asking for a different format for the budget, with greater transparency, and she would like to make a motion to change the format of the budget for greater transparency. Carpenter said she could do that later, but not while there was already a motion on the table. Kirkpatrick also commented that the minutes of the budget committee meetings seemed to her to be difficult to comprehend and needed to be spell check and grammar checked.

In response to Johnson's comment, Hough pointed out that the budget clearly shows, for instance, the asbestos program bringing in about \$110,000 to 125,000 per year, and the staffing plan shows about 1 FTE associated with that. So the asbestos fees pay for that person, as well as some contribution to overall agency expenses. The open burning program has about .6 FTE associated with it but brings in only a few thousand dollars per year. Consequently, the open burning program is paid for with General Fund dollars which come from local dues, state General Fund, and federal funds, in addition to the fees collected. Hough said the budget could be fine tuned a bit, but the answers board members are looking for can be pulled from the information in the budget document.

Forge said he likes the idea of the board visiting the budget more frequently during the year, because he felt that his questions were not being answered in a timely manner, or that the information was not available. He said it seems like staff needs to be more forthcoming with the information, and more frequent board discussions would help board members to get all the information they need to be able to approve the new budget each year. Forge said he supports Airmetrics and that it is a good thing for a non-profit to be able to bring in money from various places, both nationally and internationally; however, he would like to see more detail about where those funds come from and where they go. He said he is particularly interested in the inventory and the cash balance Airmetrics carries.

Fortune said he supports the budget as presented.

Stewart said he believes wholeheartedly that programs such as Airmetrics and Everybody Wins, as well as the Warm Homes/Clean Air program and changing out the exhaust systems on school buses, go toward LRAPA's mission to improve air quality. He said, as he listens to the board's conversations regarding the budget, he thinks the difficulty the board has with LRAPA is that it is an organization which operates under state statute, and has certain authority and responsibilities. The statutory nature of the agency also dictates its activities and its revenues. LRAPA has authority to charge fees in certain areas, but it does not have taxing authority to help fund its activities. Stewart said he thinks that some LRAPA board members believe that the agency has the power to do some things that it really can't, under the law by which it operates. There are things that board members would like to do to reduce air pollution, but there is no way to generate the revenue to do those things. Some board members want to be able to look through the budget and find money to pay for the things they'd like the agency to do, but that is not possible under state law.

Stewart said he thinks Airmetrics plays a big role in LRAPA because it helps to defer some of the agency's fixed costs and brings in profits to help defer other costs. Stewart said he would like the board to have some conversations about what kinds of programs or projects the agency could accomplish with the profit from Airmetrics if that money did not have to be used to help keep the basic programs going.

Stewart also said, if the agency can afford it, he would like to bring the auditor in for a discussion with the board, to answer the questions that board members are struggling with regarding the budget. He said he does not think Mirhosseyni is able to adequately communicate the answers to those questions, and it might be helpful to have Nielson's help with that since he is very familiar with LRAPA and with state budget law. Stewart said he is very comfortable with LRAPA's budget and understands it at least as well as he understands the county's budget. He said he thinks staff has done a great job with the budget.

Carpenter said one thing which he thinks is missing in financial documents is relationship of the numbers to associated FTE. He said Mirhosseyni could probably tell the board how many FTE were associated with each of the numbers, but it is difficult for the board to make those connections without having the information included in the documents. Carpenter said he does not know if LRAPA would incur any additional costs for

air monitoring if Airmetrics did not exist, and he would like to know if, for instance, there would be extra costs for third-party sampling or additional sampling equipment in order to accomplish the air monitoring portion of the agency's basic programs. Carpenter said he would support the budget, but he also would suggest, under New Business, that the board at least critique the old budget two or three months after the final numbers have come in, and possibly have quarterly discussions throughout the fiscal year about how the current budget is performing

Monk referred to statements in the auditor's correspondence to the board as part of the audit of the FY 2007/08 budget. He quoted one statement, that "The books are kept on another basis of accounting that is not consistent with Generally Accepted Accounting Principles," and another, that, "LRAPA's written responses to the advisory comments and significant deficiencies identified in our audit have not been subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on them."

Carpenter asked if the auditor had expressed any objection to any points he specifically raised in the audit, when he gave his oral presentation of the audit report to the board, and Monk said he did not.

Monk said he was just pointing out to the board what is in the correspondence that they all received earlier in the year. He added that the audit report which the board received was a draft and that the final version has not been received. Monk also pointed out a statement in the audit documents which read, "No new accounting policies were adopted, and the application of existing policies was not changed during the fiscal year 2008." Monk referred to the large adjustment in Airmetrics Materials & Services in the March expense reports and said that, when he asked Mirhosseyeni about that, Mirhosseyeni told him that the annual adjustment this year was not put into the books and presented to the auditor, as such adjustments have been in the past. He said Mirhosseyeni thought he should get the auditor's advice, first, this year. Carpenter commented that when the auditor came to speak to the board, he raised no red flags about the accounting principles LRAPA is using. He asked how Monk's comments relate to adopting this specific budget. Monk said he brought these things up to illustrate that the board does not have the information it needs, and because he thinks there was a different accounting policy adopted, that the annual adjustment reflecting materials that went into the MiniVols was done later, as it has never been done before.

Johnson said the board's options were to approve the budget or to suggest changes. He asked, if the board did not adopt the budget at this meeting, would it be possible for staff to bring back a budget which the board can approve before the end of June. Mirhosseyeni explained that, based on budget law, the board can make changes up to either \$5,000 or 10 percent of the line item. If the changes were larger, then the budget committee would have to meet again. In any case, the budget needs to be approved by July 1 in order for the agency to operate legally. Johnson asked Mirhosseyeni if he could address some of the formatting issues before July 1, and Carpenter suggested that Johnson wait until after the vote to see if that would be necessary.

VOTE: FIVE (Carpenter/Forge/Fortune/Ralston/Stewart) IN FAVOR and FOUR (Johnson/Kirkpatrick/Monk/Ortiz) IN OPPOSITION.

Carpenter stated that the budget had been adopted for this year, but clearly there are a lot of issues that need to be addressed before next year.

Monk suggested that the board could use a tutorial on budget law. He said he had spoken with Mr. Peterson of the IRS and had been told that it is not illegal for LRAPA to operate without an adopted budget, and that

it is not mandatory for the agency to adopt a budget prior to July 1. Ralston argued that it is illegal for the agency to spend money after July 1 without having adopted a budget; and Monk responded that month-to-month allocations would prevent the agency from operating illegally. Carpenter asked Monk if he knew of any public agency that had elected to do monthly allocations in lieu of an adopted budget, and Monk said it has never happened. Carpenter said it would seem not to be a rational plan to do monthly allocations if, in all the history of all the public agencies in Oregon, none of them has ever elected to use that method. Monk said he had not said monthly allocations would be rational, but it would be an option.

Ralston commented that an agency cannot operate effectively with a month-to-month allocation, because the resources do not come in evenly throughout the year. There will be a few months when there is a surplus of funding, but also several months when there are deficits. The only way to work on a monthly allocation basis would be if there were a huge reserve from which to draw resources.

Fortune said he thinks Monk and Johnson, as board members, want to micro-manage the agency and that they are out of line in doing that. He said he keeps hearing the word “transparency,” and he doubts whether the Eugene City Council is trying to break down the city’s budget, item-by-item, and saying that it is not transparent. Fortune said he knows that the City of Springfield does not operate that way, and neither does the City of Oakridge or any other public agency that adopts a budget. Monk argued that board members do have a fiduciary responsibility to do due diligence to the budget information, as provided.

[Stewart had to disconnect from the meeting at this time.]

7. CONTINUATION OF DISCUSSION–PRIORITIZATION AND ASSIGNMENT OF ISSUES FOR ADVISORY COMMITTEE REVIEW: Johnson said he had an item to introduce under New Business, for the board to discuss a memorandum which the board received from LRAPA’s legal counsel, regarding Airmetrics, and he believed it would take at least 15 minutes and would not allow enough time to discuss the advisory committee assignments at this meeting.

ACTION: Johnson MOVED to table the discussion of advisory committee assignments until the July meeting. Monk SECONDED THE MOTION. VOTE: FIVE [Forge/Johnson/Kirkpatrick/Monk/Ortiz] IN FAVOR; and THREE [Carpenter/Fortune/Ralston] IN OPPOSITION.

8. NEW BUSINESS:

- A. Confidential Memo from LRAPA Legal Counsel Concerning Airmetrics. Johnson said he would like the board to discuss the memo which was e-mailed to board members by Hough about three weeks before this board meeting. Monk said the memo contained responses to a list of about seven or eight questions which he had asked.

Carpenter said his sense was that, because it was a confidential memo, it should be discussed in executive session rather than in open session. He asked whether board members wanted to spend more board time on this subject.

Several board members were unfamiliar with the memo and said they would need to read it before deciding whether it warranted further board discussion.

ACTION: Ralston MOVED to table the discussion until the July board meeting. Carpenter SECONDED THE MOTION. VOTE: FIVE [Carpenter/Forge/Fortune/Ortiz/Ralston] IN FAVOR and THREE [Johnson/Kirkpatrick/Monk] IN OPPOSITION.

- B. Board Critique of Budget and Periodic Budget Review During Fiscal Year. Carpenter said he would like the board to discuss doing a critique of the budget after it is closed out at the end of the fiscal year, to determine how accurate the assumptions in the budget were, compared to actual revenues and expenditures. He said he would also like the board to do a quarterly review of progress on the budget, in addition to the review and approval of the monthly expense reports, in order to clarify the information in the budget which some board members have been struggling to understand.

Mirhosseyni said it takes at least a month, perhaps two, to get everything closed out at the end of the fiscal year. Carpenter suggested having the critique of the current budget at the September 2009 board meeting. Fortune requested that board members get any comments or suggestions regarding the format of that critique to Carpenter before September

- C. Possible Change of July Board Meeting Date. Ralston said the city of Springfield was trying to schedule some joint meetings around July 14, the date of the next scheduled LRAPA board meeting. Dinteman said she would check with city staff to find out when those meetings are to be scheduled and then poll LRAPA board members regarding an alternate date for the July board meeting. *[A subsequent call to the Springfield City Manager's office revealed that July 14 had been eliminated as a possibility for the city's joint meetings. Therefore, the LRAPA Board of Directors will hold its July meeting on the 14th, as scheduled.]*
- D. Changing the Format of the LRAPA Budget Document. Monk said he thinks there is enough interest among board members to warrant presenting the budget numbers in a simpler way, translating the staffing plan into each of the program areas and providing FTE numbers, as well as indirect costs, as a percentage of the overall costs, and demonstrating where the resources will come from to pay those costs. He said he would like to have a budget which clearly shows that the Title V resources are being allocated in a way that is appropriate; that Airmetrics resources and expenditures are being handled properly; and that Airmetrics is supporting LRAPA as staff says it is.
- E. Changing the Format of the Monthly Expense Reports. Monk said he would like to see the format of the expense reports changed to reflect program-by-program accounting, so that all board members feel comfortable with the expenditure of resources. He said his problem with the current format began a few months ago, when he saw the \$284,000 increase in the materials and services item under Airmetrics. He said he has met with Mirhosseyni a few times and still is not convinced that he understands the accounting well. Monk said Mirhosseyni was unable to tell him how far back the \$45,000 periodic adjustment went, and that says a lot to him about whether the last year's inventory number is legitimate. Monk said if a different expense report format had been provided three or four months ago, to give him clearer information that he could easily understand, he would probably not have come to this meeting opposing the proposed budget.

Carpenter agreed that the large adjustment to materials and services, in the March expense report, caused him some concern, because it was obvious that something had gotten out of adjustment; however, he said the board just needs to make sure that Mirhosseyni is comfortable with the way he handles those adjustments, and that they are done consistently.

Johnson said he would like to see a budget and monthly expense reports that look the same, so that the board can track expenses against the approved budget, over the course of the year, to see how it is performing. Johnson said the board needs to be able to track that information so that it would be obvious if current spending was going to cause a problem down the road, and the board could discuss those situations and vote on what to do to resolve them. Mirhosseyni explained that when the board approves a budget, they are not approving it, line item-by-line item. They appropriate large budget categories, so that if a line item gets out of adjustment it does not inhibit the agency's ability to operate. Mirhosseyni said that is how the budget process works throughout the United States. A line item can go out of balance, and it can be adjusted. He said he has not been sure if the board would want to have all the details of how the budget operates; however, the information is available and can be given to the board if that is what the board wants.

Carpenter said he thinks more detail might be of value; however, if it expands the reports too much the value becomes limited. Carpenter suggested that the board wait to see what Mirhosseyni will bring back, in the way of expense reporting. He commented that it has been done the same way for years, and it seems to come out well without anything being done incorrectly; however, having a little more detail might be helpful to some board members.

9. ADJOURNMENT: The meeting adjourned at 2:10 p.m. The next regular meeting of the LRAPA Board of Directors is scheduled for Tuesday, July 14, 2009, in the LRAPA meeting room at 1010 Main Street in Springfield, Oregon, at 12:15 p.m.

Respectfully submitted,

Merrie Dinteman
Recording Secretary