

MINUTES
LANE REGIONAL AIR PROTECTION AGENCY
BOARD OF DIRECTORS MEETING
TUESDAY–JANUARY 12, 2010
LRAPA MEETING ROOM
1010 MAIN STREET
SPRINGFIELD, OREGON

ATTENDANCE

- Board: Bill Carpenter, Chair–At-Large, Springfield; Glenn Fortune, Vice-Chair–Oakridge/Cottage Grove; David Monk–Eugene; Andrea Ortiz–Eugene; Dave Ralston–Springfield; Faye Stewart–Lane County (ABSENT: Brian Forge–At-Large, General; Drew Johnson–Eugene; one of the Eugene citizen appointments was vacant at this time, after Kit Kirkpatrick left in November 2009)
- Staff: Merlyn Hough–Director; Merrie Dinteman; Tom Freeman; Max Hueftle; Matthew Lee; Sandra Lopez; Sally Markos; Nasser Mirhosseyni
- Other: Earl Koenig, Chair, Amy Peccia, Vice-Chair, and Russ Ayers–LRAPA Advisory Committee; Landa Gillette–LRAPA Budget Committee; Pete Shepherd–LRAPA Legal Counsel; and numerous others

1. OPENING: **Carpenter** called the meeting to order at 12:15 p.m.
 - A. **ACTION: MSP(Ralston/Stewart)(Unanimous) to adjust the agenda to accommodate Stewart’s need to leave early, so that he could participate in the action items at the end of the agenda. Specifically, items 3, 6 and 7 were moved down, after items 8 and 9.**
 - B. Prior to this meeting, word was received that **Faye Stewart** was to be replaced on the LRAPA board by another Lane County Commissioner. Staff had gotten a plaque and prepared an accompanying letter to present to **Stewart** at this time. In the interim, the situation had changed, and it was not certain whether **Stewart** would remain on the board. Because the plaque and letter were ready, **Carpenter** presented them to **Stewart**, thanking him for his service to LRAPA as a board member, serving as vice-chair in 2006 and chair in 2007.

Stewart thanked the board and staff for the recognition and stated that it was not yet certain whether he would remain on the board. He said that decision was to be made later in the month.
 - C. The Eugene City Council was in the process of appointing a third citizen member to the LRAPA board, following **Kit Kirkpatrick**’s departure in November 2009. There was some confusion at this meeting regarding whether or not that appointment had yet taken place. One of the applicants, **Scott Lucas**, was present to observe this meeting. Board members believed he had been appointed by the council and should take a place at the table. **Ortiz** contacted city staff and reported to the board that the appointment would take place on January 25. **Lucas** remained at the meeting but did not join the board at the table.
2. PUBLIC PARTICIPATION: None.

3. CONSENT CALENDAR:

A. Approval of Minutes of December 8, 2009 Board Meeting.

ACTION: MSP(Monk/Fortune)(unanimous) approval of the minutes of the December 8, 2009 board meeting, as submitted.

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

ACTION: MSP(Fortune.Ralston)(5 in favor and Monk abstaining) approval of the expense reports through November 3, 2009, as presented.

4. AT-LARGE (SPRINGFIELD) BOARD POSITION, INTERVIEWS/APPOINTMENT:

Process and Interview Questions

Each of the three applicants was given a copy of LRAPA's mission statement and goals to review prior to the interviews. There were eight questions on the interview forms prepared by staff, and board members reached consensus to trim the number to five, so that each board members participating in the interviews would ask one question of each applicant. Each applicant was given approximately two minutes at the beginning of the interviews, to introduce themselves and provide a brief opening statement. The questions asked were:

- A. Is there anything that you think LRAPA should be doing that it has not been doing? (**Fortune**)
- B. How do you think LRAPA could improve its involvement with the community and get its message out there? (**Monk**)
- C. Which of the agency's stated goals is most important to you? (**Stewart**)
- D. How can the issues of air quality and economic development be balanced; and do you have any specific types of industries or other businesses that you think would be appropriate to encourage, from an air quality standpoint? (**Ralston**)
- E. Compare and contrast the differences between air quality issues in the rural and urban areas of Lane County. (**Ortiz**)

Each Applicant was then given three-to-five minutes for a closing statement.

Interviews

- A. **Barbara Allen.** **Allen** has lived in Springfield for 30 years and has worked for the school district for 25 years as a speech pathologist. For the past ten years she has had a consultation business, working directly with IBM on methods to use computers to improve the practice of speech and language pathology. **Allen** is concerned about the harmful effects of environmental toxins on childhood development, after observing a rising number of children with special needs.

Regarding things LRAPA should be doing that it is not currently doing, **Allen** said she would like to see, for Lane County, a pro-active, collaborative effort to evaluate and obtain alternative renewable energy resources that will meet our needs in the years to come. She said we must determine the cleanest, most reliable, least expensive energy resources that are best for Lane County, and plan for the necessary

infrastructure. The environmental impact of new sources of power should definitely be part of the decision as to what type of power production and/or site should be used. **Allen** said that, by being proactive and educating the public on the pros and cons of different types of energy sources, Lane County could be among the best in the nation for clean air and sufficient power to meet personal and economic needs.

Allen said she is concerned about point sources in Lane County but recognizes that mobile sources are a huge problem. She said two ways that people can personally control emissions from vehicles is to increase miles per gallon and to make sure tire pressure is correct for the vehicle. She said electronic road signs are a good way to get people to slow down, when they see how fast they are traveling. It is an effective, common sense way to reduce speed, without a patrolman or a fine. **Allen** said we need to leverage the results of using the equipment, comparing different sites and days with pollution reduction and money saved, educate, inform the public, and repeat it. LRAPA could collaborate with others who consider speeding to be adverse to public health and safety. Regarding tire pressure, **Allen** said teenagers often have car washes to raise money. Why not have tire pressure checks and air fill-ups, as well. The kids learn, car owners save time and money, and their tires last longer. She suggested that there could be competitions between schools for the most tires checked in a certain period of time, and LRAPA could publish the results in terms of money saved and pollution decreased. **Allen** said these are examples of soft strategies to combat a huge problem, and it is time for LRAPA to consider these and more. Lane County citizens need to know that they can make changes that result in a difference that benefits their pocketbook, their health, and the world around them. It is time that LRAPA looks for common goals and implements them in long-term planning, in a collaborative fashion with other local agencies and government organization such as Lane County and cities of Eugene and Springfield.

Allen added that, while new strategies might be viewed as additional work during a time when resources are few and declining, but she thinks it is quite possible to find “green” dollars at this time, and to perhaps provide some “green” jobs for those that are now unemployed.

Regarding getting LRAPA’s word out to the public, **Allen** said it goes back to collaboration. She said you need to work with people who are already seen in the community as leaders and who are respected and have good communication skills and ties to the community.

Allen said partnerships would be the most important of LRAPA’s goals, to her. As with most important issues, there is an incredible degree of interrelationship. Collaboration is an incredibly effective way of making changes that would meet the vision of LRAPA

Regarding balancing air quality and economic development, **Allen** said it is incredibly difficult to balance the two, and it takes a lot of effort on the parts of both the polluter and the breather of the air. As far as attracting businesses to the area, **Allen** said one of the best way to do that is to show that Lane County does have collaboration and that its citizens are planning for the future, in terms of energy needs. She said it may be possible for a new business or an expanding business to look at alternative sources of energy and use it in a way that is effective and as non-polluting as possible. She said it has not been her focus to figure out how to bring businesses into the area and to help them be effective and work everything out; but it goes back to personal relationships as one of the best way to make it happen.

Comparing the differences in air quality in urban and rural areas of Lane County, **Allen** said one of the greatest contrasts is the ongoing problem in Oakridge, in terms of air pollution, simply because of the way the earth is shaped around the city. She said they have a greater need to find alternative ways of

heating their homes that are less expensive because of their current high rate of unemployment. **Allen** said Springfield has a particular problem in terms of established industries that have a good deal of pollution. The problems in the two areas are different and require different solutions. It is up to LRAPA to be responsive, to listen and to work collaboratively and use as much of its resources as are available to keep air quality as good as possible.

In closing, **Allen** said she has served on the board of the Oregon Toxics Alliance and has appreciated many of that organization's activities that have lead to better health for Lane County's citizens. However, there have been times when she has also disagreed with OTA's focus and strategies. Because environmental toxics are far too pervasive in our environment and impact children's development, **Allen** said she hesitates to appear opposed to any action on OTA's part; however, she is also very concerned about the impact of climate change on the future of life on Earth. **Allen** said it is, and will continue to be, a tenuous balancing act to build alternative energy sources for Lane County. **Allen** said, if she were to be appointed to the board, she would find the time to be part of the process of collaboratively implementing new strategies for meeting air quality goals by 2020, in addition to filling the ongoing responsibilities of the board.

- B. **William Brommelsiek.** **Brommelsiek** spent 25 years working for a major international oil and gas company, primarily in California, and most of that time was spent on environmental issues, primarily air, along with water and waste. He lived and worked primarily in Bakersfield at the southern end of the San Joaquin Valley, which is probably one of the areas with the worst air quality in the nation. He was involved in working cooperatively with various agencies and other organizations that had an interest in air quality, to develop rules and regulations to bring the Valley back into attainment with federal and state air quality standards. He and his wife moved to Lane County after they both retired, and he would like to continue to utilize his knowledge of air quality issues to support further growth and development in Lane County, along with improved air quality.

Regarding whether LRAPA should be doing things that it is not currently doing, **Brommelsiek** said from what he has observed in the two years he has been in this area, it appears that LRAPA is working on the air quality issues of which he is aware. He said LRAPA has programs underway in Oakridge to help the city attain compliance with fine particulate standards. The Title V industrial permitting programs seems to be working well. **Brommelsiek** said he had been following the Seneca Sustainable Energy permitting process. He said in general he thinks LRAPA has been supplying the people of Lane County with the support they need, along with providing the control and regulation of those entities that contribute to air pollution.

Regarding how LRAPA can get its word out to the public, **Brommelsiek** said his experience has been that the best way to move forward is to get entities that have issues to sit down with other stakeholders in those issues and talk about them. He acknowledged the public participation segment of the board's monthly meetings, but said sometimes you need to go out and identify specific issues and invite people to come together to discuss them. **Brommelsiek** said the agency's new website design should help get the agency's message out. He said efforts through the school system will also help, because it is amazing how influential children are in bringing information home to their parents and creating an interest in the parents, as opposed to an agency such as LRAPA trying to talk to the parents.

Brommelsiek said he believes the most important of LRAPA's stated goals is air quality, in terms of human health and the environment. He said not many people fully understand the impacts of various emissions in the atmosphere, and LRAPA can help educate the public regarding how their actions

contribute to air pollution and, in many cases, help them to eliminate or change their actions to improve air quality.

Regarding balancing the issues of air quality and economic development, **Brommelsiek** said he knows there are efforts underway to control agricultural burning. He said that was a huge issue in the San Joaquin Valley, and the agricultural industry had many reasons to oppose controls. Ultimately, regulations were passed, and agricultural burning pretty much ended. He said he knows agricultural burning is a bigger issue than just LRAPA; but encouraging individuals who have the right to burn to look for alternate ways to dispose of those materials, particularly on the agricultural side, would be one of the things he would advocate. As to what types of businesses or industries he would think would be appropriate for Lane County, from an air quality standpoint, **Brommelsiek** said, in light of EPA's considering new ozone standards, there may be some other sources, particularly related to vehicle fueling, that need to be looked at.

To compare and contrast air quality issues between rural and urban areas of Lane County, **Brommelsiek** said most of the issues seem to be related to small sources. The major issues, as far as the federal standards, are related to industrial sources and motor vehicles. The Oakridge particulate situation is related to non-industrial sources, primarily home wood heating. The urban parts of the county are tied to industrial source problems, whereas the rural areas are tied to individual sources and agricultural activities.

In closing, **Brommelsiek** thanked the board for the opportunity to interview for the at-large position representing Springfield. He said he would like to continue to use his experience and assist Lane County in improving air quality and promoting development and growth. He said he thinks the things he worked on the San Joaquin Valley might be useful here, down the road; and he might be able to assist the board in cooperative studies, with other agencies and stakeholders.

- C. **William Carpenter.** (**Carpenter** has served two, two-year terms as the at-large board member from the Springfield area.) **Carpenter** said the major policy issue the board has to grapple with is that air quality is not bad enough in Lane County to put the area under many mandatory restrictions for industrial operations or how LRAPA needs to operate. With that in mind, the board needs to decide how to value the current air quality and how much it can be allowed to degrade. He said that is what the agency has to balance every time a new business comes into the area and wants to operate. LRAPA does not have a lot of discretion when EPA or Congress place mandates on air quality control, and LRAPA has a very narrow avenue to decide how to implement good air quality policy in one direction or another.

Regarding what LRAPA should be doing that it is not currently doing, **Carpenter** said he is very interested in the air toxics assessment, to see where that goes in the next couple of years. He said after sitting on this board for four years, he does not have any new ideas (not already experienced in his board member capacity) of what the agency could be doing right now.

Regarding LRAPA getting its message out better, **Carpenter** said, unfortunately, LRAPA seems only to become important when there are problems. He said most residents of Lane County probably do not really become associated with LRAPA and how much it affects their lives. He said the new webpage design should help to get LRAPA's message out to the community. He also said he had heard some of the radio spots on backyard burning and thinks they are very effective and should continue to be utilized as resources allow.

Carpenter said he believes the most important of LRAPA's stated goals is partnerships, because

partnerships keep LRAPA involved with other entities, which helps when it comes to trying to leverage additional funding for projects.

Regarding balancing the issues of air quality and economic development, **Carpenter** said he had given that information in his introductory statement. As to industries or businesses he would encourage, he said LRAPA has somewhat arbitrary levels set for levels of Hazardous Air Pollutants. The ten-ton limit to trigger a major source permit is a good thing because it is to the industry's advantage to stay under that 10 tons per year in order to have a less expensive, less complicated permit and less oversight. It also benefits the public because there are not as many HAPs emitted into the ambient air. **Carpenter** said, if LRAPA can continue to work with those sources to try to keep HAP emissions as low as possible, he thinks that is where the edge is now in air pollution control. He added that the benzene in gasoline regulations are coming into place, which will help. **Carpenter** also expressed concerns about asbestos issues, because he thinks that is where the general public is most likely to come into contact with a Hazardous Air Pollutant, when there is an inadequate asbestos abatement project. He said it seems that some of the small contractors, and property owners, tend to fall through the cracks on education regarding asbestos and the importance of handling it properly.

In comparing and contrasting rural and urban air quality issues in Lane County, **Carpenter** noted that the board had previously discussed whether Cottage Grove really is an urban area or a rural area. He said while that city may have rural thoughts, they may actually have some urban air pollution issues that are not rural. **Carpenter** said that, even in urban areas of the county, since the air is clean enough from a health standard, people are less likely to see the need when LRAPA tries to impose restrictions on polluting activities, such as outdoor burning. He added, however, that people living in the urban areas tend to know that there are some health concerns from air quality; however, people living in rural areas tend not to believe those same concerns would affect them. That will take continued educational efforts.

In closing, **Carpenter** said there have been times, in the last four years, when he has voted against something that was more dear to another board member's heart than to his, and he hopes he has expressed a good reason at those times for why he voted as he did.

Discussion

The applicants were welcomed to stay in the room during the discussion and possible appointment for this position on the board. Board members decided to do a round table discussion regarding the qualifications of the three applicants before taking any action. It was noted that it would take five votes to make an appointment. With one voting member not present, one vacant position (Eugene), and **Carpenter** being unable to vote because he was an applicant, there were only five members who could vote; therefore, any action would require a unanimous vote.

Ralston said there were two really excellent candidates and that **Brommelsiek** could assume a position on the board without missing a beat. He also said he has no problems with **Carpenter** and that he cannot, in good conscience, kick someone off when he is highly qualified. He said he was leaning toward reappointing **Carpenter**.

Stewart said he felt that all three candidates were very good and that the board would be well served by any one of them. He said as he looked at where the agency is and some of the difficult decisions the board will need to make regarding such things as revenue and partnerships, he is impressed with **Carpenter**. **Stewart** noted that, during his four years on the board, **Carpenter** has not hesitated to provide extra service such as

going to Salem to lobby on behalf of funding for LRAPA. **Carpenter**'s background in environmental law has added some good comments to the board's discussions, and **Carpenter** would be a good person to retain on the board. **Stewart** said **Brommelsiek**'s experience in California could offer some fresh perspective and ideas to the agency's struggle to bring Oakridge into attainment with particulate standards. **Stewart** also pointed to **Allen**'s passion and commitment to finding out what is causing developmental problems with the area's youth, as an asset for the agency. He also agreed with her position on collaboration, stating that collaboration will be important for the agency's future survival, whether it's financially or trying to impose regulations mandated by state and federal laws. **Stewart** said at this point he could support any of the three candidates.

Ortiz agreed with a lot of what **Stewart** had said. She said she has appreciated serving with **Carpenter**, especially his humorous comments that lend a little levity to sometimes tense conversations. **Ortiz** said the other two candidates also made statements that really resonated with her because both collaboration and commitment to the community are important to her. **Ortiz** agreed that **Brommelsiek**'s background could serve LRAPA well. She said one of the reasons she left southern California was because of the environment when she was very young. She did not see that anything was going to be done to change the way business was done in the area, but those changes have been made over time; and **Ortiz** said she is grateful to them for being more aware of how to take care of their environment. She said **Brommelsiek**'s history of working with the people that he had to deal with in southern California would be an asset in Lane County as well. **Ortiz** agreed that any of the candidates would serve the agency well.

Monk agreed that there were three fine candidates. He noted **Brommelsiek**'s concern with agricultural burning, noting that he (**Monk**) has also voiced that concern because he believes it is a huge issue, and it has been one of his hopes that alternatives ways can be found to dispose of those materials rather than burning them. **Monk** added that he thinks LRAPA is getting closer all the time, financially, to being able to set up a program where that might actually take place. **Monk** agreed with **Carpenter**'s statement that rural and urban residents often have very different views of air quality and the need for control; and it is a huge dilemma for an agency like LRAPA to try to address well and have the support of residents who are impacted by those various forms of air pollution. **Monk** praised **Carpenter**'s service as board chair for 2009, stating that he knows how difficult that task can be, having served as chair the previous year. He also said he appreciated **Carpenter**'s last statement, because there have been times when he thought that he and **Carpenter** had the same view on a subject but had voted in opposition to each other. He said he appreciated the fact that **Carpenter** has often explained his reasons for voting a particular way. **Monk** said he has consistently voiced his opinion that the agency needs fundamental changes to address the upcoming challenges that it will face, and he sees a lot of opportunities, both locally and at the state and federal levels, for expanding the agency's role and getting involved more actively in collaborative efforts. **Monk** said he sees statements in the agency's written materials about wanting to work with partners on various aspects, but he does not necessarily see that in practice. There could be a lot of reasons for that, such as funding and staffing constraints. He said he knows it is not a simple thing to do, but that is a lot of the reason why he applied to be appointed to this board. He sees great opportunities for a locally based air quality regulatory authority. **Monk** said he would support appointing **Barbara Allen** to the board because he thinks she is the one candidate that recognizes the need for a much broader and proactive approach to improving Lane County's air quality.

Fortune said that he has enjoyed serving on this board with **Carpenter** and has gained respect for **Carpenter** over the years they have served together. He agreed that all three candidates are good. He was particularly interested in **Brommelsiek**'s application because he has been in Bakersfield a number of times and understands the challenges they face in that area. **Fortune** said he would be inclined to reappoint **Carpenter** because **Carpenter** has served LRAPA well in his four years on the board. He added that LRAPA has an

advisory committee that could use additional people with the knowledge these candidates could bring to it.

MOTION NUMBER ONE: Ralston MOVED to reappoint William Carpenter to the board. Stewart SECONDED THE MOTION.

Discussion of Motion Number One. **Ortiz** said her basic philosophy is to involve people who have not previously been involved. She said she would not support reappointment of **Carpenter** because she thinks the board should encourage other people to get involved. She said she understands that people feel there is a continuity that happens with board and commissions, and that is not a bad thing; however, she believes the board needs to be “growing” people by allowing them to participate, and that should happen on a regular basis.

VOTE ON MOTION NUMBER ONE: THREE (Fortune/Ralston/Stewart) IN FAVOR and TWO (Monk/Ortiz) OPPOSED. THE MOTION FAILED.

Ralston stated that he saw a problem with making this appointment at this meeting, because he would not vote for anyone but **Carpenter**. He added that, if another activist is appointed to the board, the agency will not be here at the end of the year.

MOTION NUMBER TWO: Ortiz MOVED to appoint William Brommelsiek to the LRAPA board. Stewart SECONDED THE MOTION.

VOTE ON MOTION NUMBER TWO: THREE (Fortune/Ortiz/Stewart) IN FAVOR and TWO (Monk/Ralston) OPPOSED. THE MOTION FAILED.

Following the vote, **Ralston** said he believed **Brommelsiek** would make a good board member, and he would not have a problem supporting the motion; however, LRAPA has financial problems and a lot issues about the budget and what is available to do things that are part of the agency’s mission. **Carpenter** has that knowledge, and **Ralston** said he feels that this is not a good time to have to bring a new board member up to speed with all the issues facing the agency.

MOTION NUMBER THREE: Stewart said it was unlikely that the board would be able to get the necessary five votes to make this appointment at this time. **He MOVED to roll this agenda item to the February meeting because both Johnson and the new Eugene appointee would likely be at that meeting to participate in the process.** He told the three applicants that they could all do a great job, and he apologized to them for what had taken place at this meeting. **Ortiz SECONDED THE MOTION** and also apologized to the applicants.

VOTE ON MOTION NUMBER THREE: THE MOTION PASSED BY UNANIMOUS VOTE.

5. PRESENTATION OF FINANCIAL AUDIT REPORT FOR FY 2008/2009: **Paul Nielson**, of Isler CPA, presented the audit report, beginning with the required SAS-114 letter to the board, as the governing body of LRAPA. **Nielson** said the audit was performed in accordance with Generally Accepted Auditing Standards and was done in accordance with the plan and the scope and timing of the audit. There were no significant audit findings, and no difficulties were encountered during the audit. The letter included a few items under “corrected and uncorrected mis-statements,” none of which was major. There were no disagreements with management; and, as far as Isler CPA knows, management did not consult with other auditors.

Nielson called attention to the “days in fund” balance, which was up to 40 days at the end of the 2008/09 fiscal year. He said this is still lower than the three to six months that he would recommend, but it is much better than it has been over the past five years.

Nielson briefly explained the accounting differences between the two enterprise funds (Airmetrics and Everybody Wins) and the rest of LRAPA’s funds. He said this was the first year that Airmetrics has operated at a loss, which does not necessarily mean that there was a net loss, overall, but that operating expenses exceeded operating income. He added that there was probably some additional income that was not included which would offset that loss.

Regarding Everybody Wins, **Nielson** said he was concerned about the status of this fund in 2007 because the liabilities exceeded the assets of the program. For the past fiscal year, however, the assets exceeded the liabilities. **Nielson** said the loans to the state will eventually need to be paid off and, because that program is down to just collecting on the leases, the only thing that can be used to pay off that debt is the assets currently owned. **Carpenter** asked if the leases have devalued with the turn-down in the economy, or if they are kept at face value. **Nielson** said that, for the audit, the leases are devalued. for present value. In addition to taking the present value, the auditors use an allowance, estimated by management, for bad debt.

Carpenter asked, if someone were to want to buy one of the leases today, would it be cheaper because of the economy being down. If so, do the auditors take that into account in determining the true value, besides just the depreciation term of this lease on the books. **Nielson** said the lease receivable, itself, would be the present value factor the auditor use. They do not take into account fluctuations in the leasing market.

Nielson said there was a significant deficiency comment in last year’s SAS-112 letter, reflecting the fact that for many years the accounting for the enterprise funds has followed neither full accrual nor modified accrual, but a sort of combination which was very confusing. He said the auditors worked with **Mirhosseyni** on that, and the issue was corrected by the time this audit was completed. The only comment the auditors have this year is that **Mirhosseyni** uses an Excel spreadsheet to calculate depreciation. **Nielson** said the auditors have not found any significant errors, perhaps only a few minor ones; however, use of Excel exposes the records to errors. He said he could put the information into Excel and probably make errors. Therefore, the auditors recommend that LRAPA buy a fixed asset software program that would do all the calculations and eliminate some of the errors that happen when the information is put into Excel. He said his firm has a program called “Asset Keeper,” which is easy to learn and use. He said he had spoken with **Mirhosseyni** about this, and **Mirhosseyni** asked if he could include that purchase in the 2010/2011 budget. **Nielson** said he does not have a problem with that.

Nielson said his firm appreciates working with **Mirhosseyni** and **Hough** and enjoys coming to LRAPA. He asked if there were any further questions.

Monk said he had some questions which were due, in large measure, to his inability to understand “audit speak,” and he asked **Nielson** to answer in plain language so that he could understand better. One page 2 of the three-page letter, regarding corrected and uncorrected mis-statements, there is a sentence which reads, “None of the above mis-statements detected as a result of audit procedures, and corrected by management, were material.” The next paragraph says, “The following material mis-statements were detected.” He asked **Nielson** to define, “material mis-statements,” and explain whether these are material mis-statements individually or in aggregate. **Nielson** said the only one included in this audit report is the inventory restatement, because there was an error in the account last year. He said “materiality” is a calculation of numbers. In the audit world, there is “quantitative materiality” and “qualitative materiality.” As an example

of quantitative materiality, **Nielson** said if you have bond covenants you're supposed to maintain a certain ratio. If, as an auditor, he says \$10 is immaterial, but it changes that ratio so you're in violation of your covenant, then it doesn't matter that it's only \$10. It's going to be material.

Monk referred, then, specifically to the adjustment that was made to the Airmetrics inventory in March of 2009, which adjusted the information from the previous fiscal year. **Monk** said the adjustment in March was larger than any he had seen in the history of the agency, and he did not understand it. He met with **Mirhosseyeni** who explained that some of the amount was write-down for an unspecified period. He asked if the material mis-statement reported by the auditors was that the large inventory adjustment was incorrect. **Nielson** said the audit for FY 2007/08 closed on June 30, 2008. There was \$156,000-worth of costs that should have been in that fiscal year's records, from an audit perspective. A prior period adjustment was made by taking it out of the opening equity for Airmetrics, for FY 2008/09, instead of putting it into expenses for FY 2007/08.

Hough commented that this information is fully consistent with the board's discussions about this matter, and that was what **Mirhosseyeni**'s cover note in the agenda packet for this meeting was meant to convey. **Monk** said he did not think he had read that cover note. **Hough** directed **Monk**'s attention to paragraph 2, on page 2 of the letter, where the auditor made necessary corrections, including inventory adjustments for Airmetrics. He said this is consistent with the discussions at the LRAPA board meetings, and is not a new adjustment.

Mirhosseyeni explained that, when the auditors finish their audit, they provide adjusting entries to LRAPA's books. Those adjusting entries change the balances. That is why, in March of 2009, the expense reports showed a significant difference, because those adjustments were made in March of 2009, effective June 30 of 2008. **Mirhosseyeni** explained further that inventory is an asset; but, once you sell it, it becomes an expense which gives you your net profit. The inventory was adjusted, which created expense which was reported in March 2009.

Monk said it was his understanding that **Mirhosseyeni** realized there was going to need to be a significant inventory adjustment. In all the previous years of the agency, that was done prior to the audit. When **Mirhosseyeni** approached the auditor with this need, the auditor suggested that he wait until the audit was completed to make the adjustment. That was why the adjustment was made in March of 2009. **Nielson** said that was correct. **Monk** said he was still a little confused by the order of the events and said he would sit down with **Mirhosseyeni** and see if he can understand it. **Nielson** said **Monk** should contact him if he has further questions.

Monk stated that the inventory adjustment is a reflection that more of the inventory parts were sold than **Mirhosseyeni**'s inventory was telling him, and **Mirhosseyeni** said that was correct. **Mirhosseyeni** added that the system for operating and accounting for Airmetrics has changed over the years. There used to be a larger staff to do the majority of the assemblies internally; however that assembly work was turned over to outsiders. However, the inventory was set, based on Airmetrics employees doing the assemblies. Then what happened was that, when an assembled item came it, it was under-valued, which caused the inventory adjustment.

6. DIRECTOR'S REPORT: **Hough** reviewed a few of the items in the written report.

A. Air Toxics Monitoring in West Eugene. **Hough** said the process is on schedule. LRAPA has an

agreement with the city of Eugene to locate the station in Petersen Park, and EWEB is in the process of installing power to the site. **Hough** said there would need to be a final city inspection before that gets connected, and there was some final quality assurance work on the canisters to be completed ahead of time by the DEQ laboratory. He said staff was still optimistic that the site can begin operating by the end of January.

Hough also pointed out some charts summarizing air toxics data. He especially noted the benzene levels, stating that those levels are why LRAPA has talked so much about benzene in recent years and why reducing benzene in gasoline is a key part of reducing air toxics. **Hough** also noted that the area source NESHAP rules which the board adopted at this meeting would further reduce the benzene and other air toxics levels.

Monk noted that the Amazon monitoring data showed exceedances of DEQ benchmarks for acetaldehyde, arsenic and benzene. He said, there is this data that demonstrates for many years exceedances of levels that are considered protective of public health, but LRAPA does not seem to have a program for addressing that. He asked **Hough** if, when he sees this kind of data of exceeding the benchmarks, he, as the director of this agency, has any plan for the agency to do anything about that. **Hough** responded that this monitoring data was a key part of the information used in the strategic planning process for LRAPA. That was why benzene was flagged as a high priority in that process and why, when EPA was proposing revisiting benzene in gasoline rules, LRAPA made that a key focus and ended up partnering with other Northwest air agencies and with US Senators from Oregon and Washington to make a significant change in EPA's proposed rules that will benefit benzene levels in the Pacific Northwest. As people work toward the 2012 deadline for the reduced benzene formulation, we will probably see continued progress on the charted trend line for benzene. **Hough** added that this is a trend across the country and that benzene is probably the air toxics driver. **Hough** said the benchmarks for air toxics have been adopted by EQC after being developed by the DEQ's air toxics science advisory committee. That committee revisits this information periodically, and **Hough** said they will be meeting sometime this month. The benchmarks are targets, unlike the federal standards adopted by EPA for criteria pollutants. These targets influence our priorities and the partnerships LRAPA participates in with others in order to get those levels down. Some of these things are not in LRAPA's control, such as arsenic which is naturally occurring. There is not much that can be done to bring those levels down. But some can be affected by means such as the area source air toxics rules for gasoline dispensing facilities. **Hough** said that was why staff considered the area source NESHAP rules a priority issue for the board to address.

- B. Tightened Ozone Standard. **Hough** said that, in 2008, EPA tightened the ozone standard from 84 ppb (parts per billion) to 75 ppb. EPA is now in the process of further tightening that standard and is proposing a range of 60 to 70 ppb, which is consistent with the recommendations a few years ago by the Clean Air Scientific Advisory Committee. **Hough** said the ozone levels in Eugene/Springfield have been in the low 60s for the past few years. If the new EPA standard gets set at 70, Lane County will be in attainment. If it gets set at 65, Lane County would probably still be in compliance. However, if EPA sets the standard at 60, Lane County would probably not be in compliance, at least initially. LRAPA will have to look at the levels and see if they would improve by the time the new standard would take effect.

Ralston asked what would need to be done to attain the standard, if Lane County were out of

compliance. **Hough** responded that if the area were identified as a non-attainment area, LRAPA would have three years to assess the situation and develop a strategy to reach attainment. With the legislation to reduce benzene in gasoline sold in the Pacific Northwest, and with the amendments to the area source NESHAP rules, **Hough** said it may be that the area will meet standards without doing anything beyond what is already in the works. If it is necessary to make further reductions, **Hough** said, the strategy would be to reduce the precursors to ozone, which would be either Volatile Organic Compounds or oxides of nitrogen, or both. **Hough** explained that about half of both VOC and NOx emissions come from mobile sources. For VOC, the remainder would be from coatings, house painting, cabinet coating, etc.; and NOx emissions would come from basically any combustion source. He added that, because ozone is a summertime problem, the combustion sources would be industrial, rather than home wood heating. Home wood heating is a wintertime source.

Hough said EPA is forecasting that Lane County would meet even a 60 standard by 2020. If a 60 standard is adopted, it would take effect in 2015; and the critical thing would be where in that 2015 to 2020 time period Lane County could expect to meet the new standard, and would it be necessary to do anything beyond what is already planned in order to do so.

- C. Oregon Toxics Alliance Request for Contested Case Hearing. **Hough** reminded the board that OTA had requested a contested case hearing regarding the permit that was issued to Seneca Sustainable Energy, noting that the board's agenda packets included copies of OTA's request and a related submittal by **Tom Wood** on behalf of Seneca..
- D. How To Handle Allowing Media Representatives to View Documents In Executive Sessions. **Hough** said **Shepherd** had provided legal advice regarding how to allow media representatives to see documents in executive sessions without compromising the confidentiality of the documents. **Shepherd**'s advice was to allow media representatives to view the documents, but attach to the front of such documents a separate sheet stating that the document is to be viewed during the executive session, with the understanding that the document would be returned at the end of the executive session. **Ralston** commented that media representatives cannot report on the contents of such documents, and **Shepherd** agreed.

Ralston asked **Shepherd** what would be the consequence if a confidential document were shared with a media representative during executive session, and the reporter then reported on the contents of the document. **Shepherd** responded that the irony of that provision of the public meetings law is that there really is no effective remedy for the public body. It is self-enforcing because it is important and useful for public bodies to expose their processes as much as they can, consistent with the privileges that they're entitled to claim. **Shepherd** said there may be cases in which a reporter did report on such documents, but he was not aware of any. **Monk** asked if it would be possible for the public body to bar a media representative from subsequent executive session if that person had reported on confidential documents, and **Shepherd** said that, under the existing statutes, the public body could not do that.

- 7. ADVISORY COMMITTEE: Committee Chair **Earl Koenig** reported briefly on the committee's activities over the previous month. The committee met on January 5 and was due to meet again on January 26. Additional changes to LRAPA Title 15, Enforcement Rules, were discussed and will continue to be on the committee's agenda for a while. At the January 5 meeting, the committee discussed expedited enforcement, which **Koenig** said would be a win/win because the violator can admit the violation without contesting it and

pay 40 percent of the penalty, and LRAPA can receive the penalty and close the case without having to spend additional time and funding to pursue the case.

8. PUBLIC HEARING ON PROPOSED CHANGES TO LRAPA'S INDUSTRIAL PERMITTING RULES: Prior to opening the public hearing, **Carpenter** asked staff to provide a brief description of the proposal. **Hough** said the proposal is a series of primarily housekeeping changes to the industrial rules that the board adopted in October of 2008. At that time, the board directed staff to work with the new rules for a year and then return to the board with any suggested changes. This proposal was in response to that direction.

Max Hueftle then explained the specific changes proposed. He said most of the changes are to correct typographical errors. More substantive changes include a correction to allow LRAPA to continue to permit some smaller sources that were on permit prior to the rule changes in October of 2008, but which are not allowed under the current rules. **Hueftle** said the proposal also includes addition of a couple of definitions which were left out of the original October 2008 rulemaking. **Hueftle** said no comments were received from anyone during the public comment period, and **Hough** said the public comment period would close at the end of the hearing.

Public Hearing

Carpenter opened the public hearing at 1:29 p.m. **Hough** entered into the hearing record affidavits of publication of hearing notice in the December 1, 2009 edition of the *Oregon Bulletin* published by the Secretary of State's office, the December 11 edition of the *Eugene Register Guard*, the December 16 edition of the *Cottage Grove Sentinel*, and the December 24 edition of the *Oakridge Dead Mountain Echo*. **Carpenter** asked if anyone present wished to comment on the proposed rule amendments. Hearing no response, **Carpenter** closed the public hearing at 1:30 p.m.

Questions/Answers

Stewart referred to Part A, stating that it was unclear to him how, for instance, the amount of coffee roasted in a year, applies to a permit issued by LRAPA. **Hueftle** explained that coffee roasters that roast less than 30 tons of coffee per year and are covered in Part A, and they qualify for a "basic" permit which is the agency's least expensive, least complicated permit. Coffee roasters which roast more than 30 tons per year are covered in Part B and are required to get a "General" or a "Simple" or a "Standard" Air Contaminant Discharge Permit.

Stewart referred to the category of mill work and/or wood furniture and fixtures, asking if a person who has a hobby shop, and may sell at local farmers' markets, would be required to get the permit. **Hueftle** responded that they would not. Part of the agency's permitting rules involved the Title 12 definitions, and one of those definitions is for a "de minimus activity" or "de minimus emissions." Staff has set quantified limits, or thresholds, for which those activities kick in, and they are typically a ton of emissions per year. Anyone whose activities produce less than a ton of emissions per year would not be expected to get a permit. **Stewart** asked what the emissions would include, and **Hueftle** said the emissions would be the VOC content of different materials used in manufacture, such as finish sprays, which would volatilize or evaporate into the ambient air.

Monk noted that the definition of opacity in the proposed rules seems much more straightforward, and he wondered why that change took place. **Hueftle** responded that LRAPA has changed its opacity definition

as it relates to crematories, to maintain a higher level of stringency for those facilities. He said the DEQ rules allows crematories to emit 20 percent opacity for one six-minute period per hour. In order to maintain the level of opacity that LRAPA has been able to get those sources down to, the proposed rule is more stringent than the state's rule.

Carpenter referred to the statement in the rules, "sources not elsewhere classified with actual emissions of more than one ton a year," and asked if all of the large emitters of HAPs are elsewhere classified. **Hueftle** said they are. He said the large emitting sources of HAPs are typically captured under Part B sources, or under Part C sources which have the potential to emit above 10 tons of any HAP. Part C sources are required to meet the standard so, even if they do not actually emit above 10 tons, if they have that potential they have to get LRAPA's most expensive and complicated permit. **Hueftle** added that the phrase "not elsewhere classified" tends to be a kind of "catch-all" to capture any intended permitted source which may fall through the cracks in the rules.

ACTION: MSP(Fortune/Monk)(Unanimous) adoption of amendments to LRAPA's industrial permitting rules, as proposed.

9. PUBLIC HEARING ON PROPOSED CHANGES TO LRAPA'S AREA SOURCE NESHAP RULES (TITLE 44): Before opening the public hearing on the proposed rule amendments, **Carpenter** asked staff to provide a brief description of the proposal. **Hough** said the proposed rule amendments would affect area source of air toxics. The category with the largest number of sources is gasoline dispensing facilities, and that has been the major focus of discussions on the proposed amendments. The proposal would also adopt, by reference, a series of other federal requirements.

Sandra Lopez said the public notice for this hearing was done at the same time as the notice for the industrial permitting rules, and no comments were received during the comment period.

Questions/Answers

Monk said he believes any gasoline dispensing facilities under 480,000 gallons per year throughput who have Stage I vapor recovery equipment should be required to use it. He said he had not realized, until he read through the proposed rule amendments, that these rules would include that requirement. He said he very much appreciated seeing that provision in this proposal. **Monk** said he did not realize that the DEQ rules include that requirement. **Lopez** said she was not sure whether DEQ's rules include that provision, or not, but LRAPA staff put that provision into the best practices requirements in the proposed amendments. That requirement would take effect upon adoption of the amendments.

Monk called attention to the Policy/Purpose section of Title 44, the sixth line, where he believed the word, "quantify" should be "quantity." **Monk** went on to say that he believes this section of the rule really speaks to what he thinks LRAPA should be doing, and he particularly appreciated the last piece of that section, that, as technology advances, those new technologies will be required when it is feasible for the owners of the facilities to do so.

Public Hearing

Carpenter opened the public hearing at 1:40 p.m. **Hough** placed into the hearing record the affidavits of

publication in the December 1 edition of the *Oregon Bulletin*, the December 11 edition of the *Eugene Register Guard*, the December 16 edition of the *Cottage Grove Sentinel* and the December 24 edition of the *Oakridge Dead Mountain Echo*. **Carpenter** asked if anyone present wished to comment regarding the proposed amendments to LRAPA Title 44. Hearing no response, he closed the public hearing at 1:41 p.m.

ACTION: MSP(Ralston/Stewart)(Unanimous) adoption of amendments to LRAPA's NESHAP rules, Title 44, as proposed.

10. NEW BUSINESS:

- A. Listening Circle to Encourage Better Cooperation Among Board Members. **Ortiz** said this board is not working as well together as it should. She didn't know if anyone else wanted to do better, but she suggested that the board use a process the city of Eugene has used to bring board members together in an informal setting, without an audience, to talk about what the issues are and what the best and worst outcomes would be. **Ortiz** said she would like to do this in the next two to three months, because she feels like people become inflexible about some issues and keep the group from doing what it should be doing. She said she wants to do the best she can for the community, and she does not feel that the board is always working together toward that goal. **Ortiz** said she would take a straw poll by e-mail to determine whether there is enough interest among board members to pursue her idea. She said she would be sending some follow-up information to **Hough** and to board members.
- B. Air Toxics. **Monk** brought up the DEQ air toxics program in the Portland area and staff's efforts to try to determine how to import that program into Lane County. He said he is concerned about the long delay by DEQ in implementing their program for the Portland area. He suggested that LRAPA move forward with a program for Lane County. **Monk** noted that the data show that people are being exposed to a number of air toxics in the Amazon Park area, and now LRAPA will begin monitoring in Petersen Park and may or may not find that people in that area are also being exposed to levels of air toxics that are harmful to human health. **Monk** also said there are many people who take issue with the benchmarks set by DEQ, and that the industry representatives on the advisory committee that established those benchmarks might have had an agenda in determining what those benchmarks should be. He said they are higher than the benchmarks established in California or by EPA. **Monk** said LRAPA should move forward because the agency is not addressing what is already known to be dangerous. He said he wants to bring in the stakeholders and LRAPA's governmental partners, to state what the issues are and what can be done about them. He wants to start that process as soon as possible.

Hough said LRAPA has a general air toxics rule patterned after the statewide approach which is being implemented and tested in the Portland area. He said he was invited to be an ex-officio member of the Portland Air Toxics Solutions (PATS) group associated with that program. LRAPA has been watching DEQ's progress in Portland, to get a sense of whether LRAPA has the resources to do a good job of implementing such a program in Lane County in a timely way. **Hough** said he does not want to adopt something and then have a big gap of time before it can be implemented. He said the PATS group has not been meeting, and it is not clear whether that is due to technical, political, philosophical, or budgetary reasons. He will have more information to share with the board after the PATS group's next meeting. **Hough** stressed that this process has been a budgetary problem in Portland, even though DEQ is a much larger agency with a much larger budget than LRAPA has. **Hough** said he does not want to bring something to the board for adoption until he knows what problems there might in implementing it and

whether LRAPA can overcome those problems.

Hough added that he shares a lot of **Monk's** frustrations. He took a break from air quality between 1994 and 2005 and, when he left air quality in 1994, he expected Stage I vapor recovery to be a slam-dunk shortly thereafter because of its combined air toxics reductions and ozone precursor reductions. Ten years later, that still had not been pushed, even though there was a joint effort with a lot of players, to start out with at least a voluntary program. Meanwhile, EPA finally got to the point of considering national standards for vapor recovery at gasoline dispensing facilities, and LRAPA's input into that process helped them determine that they should do something better than what they originally proposed, which they did end up doing. Then Oregon DEQ and LRAPA took it down to a lower threshold, but it took five or six years to get to that point, with January 2011 being the implementation date. **Hough** said that, even though it has taken some time, some cooperation was generated through the voluntary program, and now a mandatory program is set to take effect in January of 2011. The area source NESHAP rules adopted by the board at this meeting also represent another significant step forward in this effort.

11. ADJOURNMENT OF OPEN SESSION: The meeting adjourned at 2:40 p.m., and the board went into Executive Session. The next regular meeting is scheduled for Tuesday, February 9, 2010, 12:15 p.m. in the meeting room at the LRAPA offices, 1010 Main Street, Springfield, Oregon.
12. EXECUTIVE SESSION (UNDER ORS 192.660(2)(F) TO CONSIDER RECORDS THAT ARE EXEMPT BY LAW FROM PUBLIC INSPECTION: The board went into executive session at 2:40 p.m. The open session was not reconvened following the executive session.

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Respectfully submitted,

Merrie Dinteman
Recording Secretary