

**MINUTES**  
LANE REGIONAL AIR PROTECTION AGENCY  
BOARD OF DIRECTORS MEETING  
MONDAY–FEBRUARY 28, 2011  
LRAPA MEETING ROOM  
1010 MAIN STREET  
SPRINGFIELD, OREGON

ATTENDANCE

Board: David Monk, Chair–Eugene; Brian Forge–At-Large (General); Drew Johnson–Eugene; Scott Lucas–Eugene; Andrea Ortiz–Eugene;  
(ABSENT: Bill Brommelsiek, Vice-Chair–At-Large (Springfield Area); Mike Fleck--Cottage Grove/Oakridge; Dave Ralston–Springfield; Faye Stewart–Lane County)

Staff: Merlyn Hough–Director; Merrie Dinteman; Lance Giles; Max Hueftle; Matthew Lee; Sandra Lopez; Sally Markos; Nasser Mirhosseyn

Other: Earl Koenig, Chair, Amy Peccia, Vice-Chair, and Russ Ayers–LRAPA Advisory Committee; Landa Gillette–LRAPA Budget Committee; Jim Daniels–Kingsford; Gary Iskra and James Piper–Isler CPA; Jan Nelson

1. **OPENING:** Board Chair **Monk** called the meeting to order at 12:24 p.m.
2. **ADJUSTMENTS TO AGENDA:** Hough explained that staff had rearranged the structure of the agenda for this month’s meeting, in response to board members’ interest at the January meeting. He said staff worked with the chair and vice-chair to develop different sections of the agenda that could facilitate more free-flowing discussion. The agenda had four parts, including: **action items** at the beginning; then **general reports**, including the auditors’ report of the FY 2009/2010 financial audit; then a **work session** section including discussion items and New Business; and then a **wrap-up** section including a recap of what was decided at this meeting and what the next steps should be for each item, and adjournment.
3. **PUBLIC PARTICIPATION:** None.
4. **REAPPOINTMENT OF BRIAN FORGE TO AT-LARGE, GENERAL, POSITION ON BOARD:**

Only five board members were present at this meeting, and at-large members cannot vote for appointments to at-large positions. Because a motion must receive five positive votes in order to become an official action of the board, it was not possible to officially reappoint Forge at this meeting. Hough added that Forge was appointed to his first two-year term in mid-February of 2009, meaning that his term expired mid-February 2011; and Hough did not know whether his first term was still in force for this meeting. Hough suggested that the board members present at this meeting take action, and then those actions can be placed on the March agenda under the Consent Calendar, for action by the full board.

**ACTION: MSP (Otiz/Lucas)(Unanimous) reappointment of Brian Forge for a second two-year term on the board as an at-large member representing rural areas of the county.**

Hough pointed out that LRAPA’s at-large positions, which are appointed by the other board members, are two-year appointments; whereas appointments made by the governing body of one of the participating partners, such as the Eugene City Council, are three-year appointments.

**5. CONSENT CALENDAR:**

- A. Approval of Minutes of January 24, 2010 Board of Directors Meeting. There were no corrections to the minutes.

**ACTION: MSP (Ortiz/Forge)(Unanimous) approval of the minutes as presented.**

Ortiz commented that she had heard a number of comments from people in the community, that the minutes of the January meeting indicated that the board had a good discussion that showed evidence that board members are working to make this a more cohesive board. Ortiz said the Eugene City Council has gone to a different format, because councilors get only three minutes at each meeting to talk briefly about what is happening with their assignments to committees and boards. She said they will now have the opportunity, once each quarter, to speak 45 minutes so that they can report in greater detail. Ortiz said she had spoken to the council last month about LRAPA and distributed copies of the State of the Air Report, and she will probably be reporting twice a year, in greater detail, about LRAPA activities and issues.

- B. Approval of Expense Reports Through January 31, 2011. There were no specific questions about the expense reports.

**ACTION: MSP (Forge/Ortiz)(Unanimous) approval of the expense reports as presented.**

Monk had some questions and comments about Everybody Wins and the status of the loan restructuring efforts with Oregon Department of Energy, but he would hold those until the budget-related discussions under the work session section of the meeting.

6. APPOINTMENT OF BUDGET OFFICER FOR FY 2011-2012: Hough recommended that the board appoint Mirhosseyni as Budget Officer, as has been done for the past few years, because Mirhosseyni is the agency's finance manager and the person most skilled at putting the numbers together for the budget.

**ACTION: MSP (Ortiz/Lucas)(Unanimous) appointment of Nasser Mirhosseyni a budget officer for the FY 2011-2012.**

- 7 **CONTINUATION OF PUBLIC HEARING—PROPOSED AMENDMENTS TO RULES FOR PM<sub>2.5</sub> AND OTHER PERMITTING REQUIREMENTS:** The public hearing was opened at the January 24 board meeting and held open for this meeting. Monk asked if staff had further information to provide. Staff member Max Hueftle said there was really nothing new to report; but he would be happy to answer any questions board members might have. Hueftle said staff's plan was still to request that the board vote on adoption of the proposed amendments in April, and that the board could close the public hearing today or hold it open until the March meeting.

Hueftle said LRAPA had received only one formal written comment, as compared to 65 received by DEQ from 23 different commenters. He said LRAPA will have the benefit of the comments received by DEQ and DEQ's written responses, if they wish to continue discussion of the proposal in March. Hough commented that the hearing dates in January and February had been noticed, but further public hearing dates had not. If the board decided to continue to hold the hearing open, that date would need to be published to inform the public. Hough said if there were a lot of comment at today's meeting, there would be reason to continue to

hold the hearing open. Since there did not appear to be that interest in commenting, he recommended closing the hearing today.

Ortiz was curious about why DEQ received so many more comments than LRAPA did on essentially the same rulemaking proposal, and asked if it were because DEQ's rules affect sources statewide and so have a larger audience. She also asked if the comments received by DEQ also apply to the LRAPA proposal. Hueftle said a lot of the industry groups and environmental groups been focusing on the DEQ's statewide rules, where they may have felt they could have the most impact. He added that LRAPA's rules must be at least as stringent as the state's rules, and comments received by DEQ would also apply to LRAPA's proposal.

Forge referred to the section on page 3, item 4, greenhouse gas reporting fees for ACDP sources, and asked for clarification that all point sources would be subject to the 15 percent of the ACDP fees with a cap of \$4,500 per source, as stated in the draft rules. Hueftle responded that currently ACDP sources are charged on annual permitting fee each calendar year. They would, under the proposed rules, be charged 15 percent of those annual fees for greenhouse gas reporting. He added that they would not reach the maximum \$4,500, because the ACDP fees are not high enough for that; and the highest an ACDP source would pay would be about \$1,200 per year. Forge asked if that would be enough to cover the costs of the greenhouse gas reporting program, and Hueftle said it should be.

Hough said DEQ added the fee to its Title V rules, on the recommendation of its advisory committee, and that LRAPA has been a member of that advisory committee. He said LRAPA adopted DEQ's Title V rules by reference and so has been able to collect those fees from the 19 Title V sources in Lane county. While all Title V sources must pay the fee, the only ACDP sources that are required to report are the ones which are significant greenhouse gas emitters. LRAPA has its own ACDP rules and so must adopt its own rules affecting ACDP sources before those fees can be charged. The \$4,500 cap does not apply to ACDP sources. Hueftle explained, further, that the original rules adopted by DEQ for Title V sources had a cap of \$6,000, which is now being reduced to \$4,500, adding that DEQ is currently giving credits for \$1,500 to those sources that paid in excess of \$4,500 that first year.

Johnson asked how many of LRAPA's sources would hit the \$4,500 cap, and Hueftle responded that nine Title V sources triggered the reporting rule, and six of those would be above the \$4,500 cap. Of the 200 ACDP sources in permitted by LRAPA, about 13 would trigger the reporting rule. Johnson asked how much revenue the fee is generating, and Hueftle said Title V sources paid \$36,000 last year and, if LRAPA had been able to charge ACDP sources the reporting fees it would generated about \$13,000. Johnson noted that that total amount would pay for about 0.5 FTE, and he asked if that is enough to cover the workload. Mirhosseyni said it would be. Johnson asked if 0.5 FTE would be enough manpower to cover the workload, and Hough said staff believes it would. He said there is a need to recover funds for some of the time LRAPA spent on the front-end, participating in the advisory committee and sorting through different reporting plan options; but, on an ongoing basis, the fees should be sufficient to pay for the reporting program.

Johnson said he had heard that the U.S. House of Representatives wants to take away EPA's authority to regulate greenhouse gases, and Hough said he had not heard that. Johnson asked if such action would have any impact on what is happening in Oregon's rules, since a lot of the state/local rules are consistent with EPA's rules. Hough responded that, while that has not yet been sorted out, he would not expect it to cause Oregon to go backward on programs that are already in place, although it might prevent programs from going further. Hueftle added that it would not really affect the mandatory part of the greenhouse gas portion of the rules, but it would affect the NSR/PSD portion, which would require major sources of greenhouse gases to implement BACT (Best Available Control Technology).

Johnson asked, if the U. S. Congress said EPA cannot require BACT for greenhouse gas emissions, could Oregon and Lane County still require BACT for those emissions. Hueftle responded that Oregon and LRAPA can be more stringent than EPA, although that would potentially open the agencies up to some sort of legal challenge, if it were determined that greenhouse gases are not a regulated pollutant.

#### Close of Public Hearing

Monk asked if anyone present wished to provide comments regarding the proposed rules. No one responded. Monk then closed the public hearing at 12:45 p.m.

Monk said he would like to see LRAPA provide comments to the DEQ on their rule proposal. He asked if it is common for LRAPA to comment on DEQ rules, and Hueftle said it is, and that it would be appropriate to comment on these rules; however, any comments sent to them now would be outside their public comment period, which closed on January 14. Hough added that there are ongoing conversations into which LRAPA staff are integrated; and when LRAPA sees any conflicts or problems with a DEQ proposal, there is opportunity to communicate those even earlier in the rulemaking process than the public comment period.

Monk said he is still not clear regarding the baseline considerations, specifically the differences between what DEQ and LRAPA are recommending vs. what EPA has in its rules. Monk asked if staff could provide for the March meeting an analysis of the kinds of circumstances for which the EPA process would be more effective and the kinds of circumstances for which DEQ's and LRAPA's would be more effective.

Hueftle said DEQ's formal response to comments will help make this clearer for the LRAPA board because they received a lot of comments in that regard. He said he probably would not need to do a separate analysis, once the board sees the DEQ comment/response document. Monk said the LRAPA board can decide for itself, after reviewing the DEQ document, whether it makes sense for LRAPA to do anything different from what DEQ is proposing.

8. FINANCIAL AUDIT REPORT, FY 2009-2010: Mirhosseyni introduced Gary Iskra and James Piper from Isler CPA, the firm that performs LRAPA's financial audit.

Iskra explained, generally, how the audit is performed and the communications from the auditor to the board which are required by law. Iskra reported that the auditors had no significant findings but did have one finding relating to payroll in terms of time sheets and how that information ended up in the ledger.

Iskra said the auditors had provided a "clean" opinion on both the financial statements and federal award compliance. He displayed a series of graphs depicting revenues and expenditures, over time, and showing that the two are in parity most of the time and that there has not been a particular effort to try to accumulate a large fund balance; however, there needs to be a certain minimum fund balance in order to operate between infusions of revenues. Iskra shows a graph which indicated how low the fund balance (General Fund and Title V) got in 2005/06 and how it has been rebuilding since that time.

QUESTION: Monk said he would estimate that the General Fund balance has grown by about 15 percent over the past five years and asked if that is due to the higher contribution in recent years from the State General Fund, or if there is something specific which has provided that opportunity.

RESPONSE: Mirhosseyni said it is a combination of factors. Prior to 2006, the State General Fund contribution had decreased over a number of years to \$45,000 per year, but Hough was successful in getting

that amount increased to over \$200,000. While that amount has been reduced for the past couple of years due to state budget constraints, it is still more than it was prior to 2006. In addition, LRAPA had 22 FTEs in 2005 but has reduced that staff complement to 19.2 FTEs.

Iskra spoke in more detail about fund balance, stating that it represents your worth after counting up all expenses and revenues, and is a cumulative number. It is important because insufficient fund balance at the end of a fiscal year creates cash flow problems at the beginning of the next fiscal year. Iskra said there is no “right amount” of reserves to have in a fund balance, but the right amount for any organization is the amount that provides sustained operations and accomplishes the long-term goals of the organization. He added that many factors contribute to the necessary balance, such as capital improvements, planned expansion of operations, timing of cash flows. If a fund balance is too low, that is an indication that the organization might have to borrow funds or cut programs or personnel, or take other defensive measures in order to continue to operate. Iskra said he thinks the growth in LRAPA’s fund balance in recent years is a good trend.

QUESTION: Monk noted that he recalled Paul Neilson, who presented the LRAPA financial audit in the past few years, advocating a higher fund balance, and Hough confirmed that Neilson had advocated a balance adequate for three-to-six-months’ operation.

RESPONSE: Iskra said there are new accounting standards, which will be effective for LRAPA next year, that address fund balance in particular. One of the suggestions is kind of a best practice, rather than a requirement, that the governing body decide on a minimum fund balance. Iskra suggested that Mirhosseyni or Hough could lead the board through an exercise to identify the financial reserve goal for the agency. That minimum fund balance policy could be included in the footnotes in next year’s audit, which could help people have a better understanding of how that information relates to LRAPA’s operating plans and strategies.

Regarding the agency’s enterprise funds, Iskra said enterprise funds are there to at least break even, including all operating costs, depreciation and interest if money is borrowed. A small profit is expected over time. The fund balance for an enterprise fund is called “net assets,” and the auditors look at that figure the same way they do the government fund balances, to be sure it is healthy. The Everybody Wins enterprise fund spiked in 2005/06 when the funds borrowed by LRAPA from the Oregon Department of Energy were loaned to owners of tractor/trailers to fund purchase of Auxiliary Power Units. That fund is now tapering off to a much smaller scale. Iskra said the auditors looked at this fund and at payroll transactions in great detail and found that some of the time, when time sheets indicated an employee was splitting time between programs, the time distribution did not get recorded accurately in the General Ledger. He explained further that an employee records his time on the time sheet, but another employee then inputs the time into the system, computes the payroll and posts that to the ledger. Mirhosseyni explained that there was a problem with the time sheet, because there were almost thirty different categories into which time could be recorded, and they did not correspond precisely with the accounting program. When data got entered into the program, it sometimes defaulted to another setting, resulting in the time accounting being inaccurate in some instances. The time sheet program has been modified so that the two systems now correlate better. Mirhosseyni said the total amount which was recorded in error was about \$6,000, and that has been corrected. Hough added that LRAPA may eventually have software integration to allow all of that to be automated so that there won’t be opportunities for data entry errors.

Following the formal presentation by Iskra, there were general question and answers.

QUESTION: Monk said Brommelsiek had voiced concern about the way the Title V fund balance has been spent down over the past few years. Monk said it appeared, from the graphs presented at this meeting, that the fund has only about \$140,000 left in it, and he asked if staff anticipates spending that down to a very small amount.

RESPONSE: Mirhosseyeni said the balance has been decreasing because of efforts to catch up with some Title V permits which needed to be updated, including hiring some outside contractors to help with that effort. He added that the five-year projections to be discussed later on this agenda would show that those efforts are evening out.

Hough added that he had e-mailed some information to Brommelsiek, in response to his concerns about Title V reserves, showing why LRAPA has spent more in some years than what the revenues were for that year, but that the net result is that Title V revenues have exceeded total expenditures.

QUESTION: Johnson asked about the relationship between budgeting and accounting. He said he did not remember the conversation about the Title V surplus being spent down being a part of the budget discussion during previous budget committee meetings. Johnson asked if the governing body should be specifically budgeting for how those surpluses are expended.

RESPONSE: Iskra said the budget is the agency's plan, and whether a fund balance is spent down or built up is part of that plan. He said there is nothing wrong with cutting into a healthy fund balance a little bit. Mirhosseyeni said that, during the budget process, staff reports to the board and budget committee what the sources of funds and uses of those funds are proposed to be. He said it is based on allocations of staff time, to accomplish what the agency needs to accomplish, either from General Fund or Title V or enterprise funds.

Hough said there are two ways to view Johnson's question. One is in each annual budget the ending balance for each fund is discussed, regarding how much revenue will be coming in that year and how much will be spent. The result is the projected new ending balance at the end of the fiscal year. The five-year projections are a helpful tool to show where ending balances are going down, whether it's General Fund or Title V, under our stable scenario or worst-case scenario. Hough said the budget is very clear, from year to year, regarding what LRAPA expects to get in revenues, and how those revenues are expected to be spent to accomplish the agency's program goals. As an example, Hough reminded board members that the budget included a vacant permit writer position for a while, during which time a couple of retired permit writers from DEQ were hired to help clear up the backlog in Title V permitting. Another year there was a cost involved in hiring a person to work on emissions inventory. So some years there were vacancies causing LRAPA to spend less than revenues coming in; and in other years there were temporary employees or contractors to help keep up with the workload and causing the agency to spend more than it took in over the course of the year. Overall, Hough said, LRAPA's expenditures have been within the total revenues from Title V.

QUESTION: Monk asked Hough when Oregon DEQ will be going back to the Legislature for another Title V fee increase, and Hough said there is no regular schedule. That happens when the need for additional funds arises. There is an annual CPI adjustment to those fees. Hough said new federal programs tend to complicate things and create the need for additional fees. When that happens, DEQ goes to the Legislature to request authorization to charge appropriate fees. For example, the federal greenhouse gas reporting program created the need for a special surcharge on permitting fees. Hough said there is a group of DEQ and affected industry representatives, and in which LRAPA participates, which works in between legislative sessions to sort through information and make sure the fee structure is fair. There are usually multiple

legislative sessions in between any legislative action on DEQ fee increases being required, above the normal CPI adjustments.

**9. OLD BUSINESS:**

- A. LRAPA Board Information Binders. In response to prior board discussions, staff had prepared two binders for the board to review at this time. The first binder was a set of the agency's Rules & Regulations, including the rules and the same information in electronic form on a disk. Hough said the best way to be sure a person is looking at the most recent LRAPA rules is to access them on the agency's website. The second binder was a reference guide containing a compilation of documents which staff thought would be helpful for board members. Hough described the contents of the guide and distributed copies of the Table of Contents (a part of these minutes, by reference). He asked board members to review it and, if there are things they have found helpful or that they know of, which are not included in the binder, to let him and Dinteman know about those items. Hough also noted that the elected officials on the board have access to a lot of training on topics that are important for elected officials to know and understand. He said that, if there are things that they have seen that are not included in the guide, that they found to be particularly helpful, staff would welcome that kind of information as supplemental to what is included in the guide.

Johnson referred to strategic planning which was done in 1999/2000 and asked if any of that information was included in the reference guide. Hough responded that the Personnel Policy Review Committee had touched on part of that; however he would hesitate to put that in the guide because the current board has never gone systematically through that information. Hough added that it would probably be worth taking a block of time to do that, but staff started the reference guide with information that was critical to this board in the current strategic planning process, back in 2006 and 2007. He added that, while the information from 1999/2000 might be meaningful to Johnson, because he was employed at LRAPA at that time, it might not be as meaningful to the current board members.

Johnson said the person who facilitated the 1999/2000 strategic planning effort had a lot of experience in performance management, and helped to develop ways to measure performance in connection with realization of the goals developed as part of the strategic planning effort. Johnson said it would be a way to connect performance to dollars and measure whether the desired results are being achieved. Hough said that might have been a good exercise to have started with in strategic planning in 2006/07, because as the planning went on, priorities were identified, and a lead person and staff team members were identified for those priorities. Johnson said he felt that a lot of the disagreements over budgeting and other facets of the agency's activities could be put into more objective measures using that performance management approach. He agreed with Hough that that would have been a helpful component to the 2006/07 planning efforts. Hough stressed, again, that he would be hesitant to put that earlier information into a reference guide without the current board's having had the opportunity to review it and determine its relevance to current planning and agency operations.

Johnson asked that a note be put into the guide, to encourage future boards which might embark on strategic planning exercises, to include that performance-based approach. He stressed that the 2006/07 effort identified goals and vision but did not get into how performance was to be measured to determine whether the goals are being accomplished.

Johnson also said it would be helpful if the reference guide could include a summary of places where board members who are not elected officials can get training on topics like ethics or the budgeting

process—the same kinds of training elected officials receive. Hough asked that the elected officials on the board let staff know of any training they have received which they found to be particularly helpful.

Monk said the board should have a full discussion of the findings of the 1999/2000 strategic planning effort, in addition to the fact that the Personnel Policy Review Committee will be looking at the performance management piece. He added that he sees this as an “organic” document which will be updated over time.

It was decided that, if board members want to see something added to the guide, they should get that information to Hough and Dinteman, who will bring it to the next board meeting so that the full board can determine whether it should be included. Monk said it is still unclear to him what staff’s discretion is in the permitting process; and he would like the guide to include an explanation of that.

Several board members indicated a desire to have a copy of the reference guide, and it was decided that board members would like to receive the guide on CDs and/or flash drives. Lucas also said he would like to have a hard copy of the guide available at board meetings, so that board members can check it, if necessary.

- B. Organizational Dynamics and Collaborative Approaches—Interviews With Facilitators. Hough reported that staff had received the full report on the two-day December retreat, which he had forwarded to board members. He said he’d had a few requests for hard copies, which staff would prepare and get to those individuals who want them. Hough said he was still in the process of trying to digest the full report, but he thought it would be good to continue to have this topic on the agenda, on a regular basis, to talk about specific steps the board would like to take to fully benefit from the collaborative approach.

Ortiz asked about getting the report from the one-day retreat for staff which was attended by some board members, and Hough said that, after the packets for this board meeting were sent out, he had received a report from the facilitator. He said when he has had a chance to review it, he will sent it out to all participants. Ortiz said that, if there are key issues that Hough would like the board to be working on or responding to, she would like to see those as regular items on the board’s meeting agendas. She stressed, however, that she did not want to see the subject put on the agenda if there is nothing specific to discuss. Hough agreed and requested that board members let him know if they see something that they would like to discuss further. He said if the report indicates that there was common ground regarding a particular issue, he would like board members to bring those forward to discuss how to make progress on that issue. Hough added that, while he will be doing additional work with the facilitators and staff members regarding the February retreat, the part that most integrally involves board members is the two-day retreat in December.

Monk noted that Johnson is well-versed in organizational dynamics and collaborative approaches, and asked if Johnson would help the group to stay focused on the issues discussed at the retreats. If he were to see the group veering off topic, he could help steer them back, leading to a successful outcome. Johnson responded that the report sets forth both the board’s desire to be an effective governing body and the full group’s (board members, committee members and staff members) hopes and dreams to be more effective as an agency. Monk said board members need to stay focused on their ability to utilize the skills learned, to have frank, informative conversations about the various aspects of the agency’s operations and be able to reach some consensus as a group and make good decisions. Johnson said any one of the board members could help keep the group focused as desired.

- Decision as to whether or not to write op-ed piece about results of retreat. Hough called attention to the fact that the board was to decide at this meeting whether or not to write an op-ed piece about the results of the retreat, adding that the board was supportive at the February meeting of having David Monk and Dave Ralston co-author that document.

Ortiz said it would be a very positive action, particularly after Markos's op-ed piece and the resulting editorial regarding the State of the Air Report. She said the agency needs positive press, to remind people that LRAPA is a valued organization.

Monk said he had spoken with Ralston and that Ralston seemed supportive of the idea. Monk added that it seems appropriate for the two of them to co-author the piece, because they represent the two extremes in political differences on the LRAPA board. Monk said what he wanted to do was to draft something and send it to Ralston for his input, and that the piece should not pretend that the political differences do not exist. It should show board members' desire to work together, not abandoning their individual points of view, but being willing to compromise to arrive at solutions which will work for all. Ortiz said if Monk and Ralston are willing to write the piece, with the support of other board members, she believes they will do a good job of representing the board's hard work and commitment to LRAPA. Johnson said he also supports Monk and Ralston co-authoring the piece and suggested using some of the language out of the report from the facilitators.

Johnson noted that the report is a public document and suggested that it be put on the agency's website so that the public can access it. Lucas was reluctant to do that, given the nature of the early portions of the retreat when people were just throwing out ideas which are included in the report in addition to the condensed version put together by the facilitators later in the report. Lucas gave some examples of some of the statements included which, taken out of context, could create the wrong impression. Lucas stressed that at the end of the retreat the group had some really good collective statements, but some of the earlier statements might be confusing for someone reading it without the proper perspective.

Ortiz noted the absence of four board members at this meeting and said, if the board intended to discuss this subject further, they should wait until all board members can participate. Lucas agreed. Ortiz said this is a good conversation to have; however, she did not consider this suggestion to be direction to staff from the board.

Johnson withdrew his suggestion that the report be put on the agency's website.

- C. Air Toxics Program Development Committee. Hough said there would be a meeting of the Portland Air Toxics Solutions Advisory Committee two days after this board meeting, and he invited anyone who wanted to attend to ride to Portland with him. He said he would leave the LRAPA parking lot at 5:30 a.m. and expected not to get back until 5:30 or 6:00 p.m. Hough commented that observing the Portland group has been very interesting and should prove to be very helpful when LRAPA begins developing a program for Lane County. He noted specifically that observing the committee dynamics will help LRAPA's committee to keep things on a constructive path and avoid getting stalled in some of the committee dynamics that are likely to occur. He also said having board members, advisory committee members, and staff members travel to the Portland meetings together has been very beneficial to provide opportunities for informal communication.

In looking at the notes from the last LRAPA committee meeting, Monk asked about the discussion of possible alternatives to reduce costs for future air toxics monitoring (using BTEX in lieu of the VOC method; monitoring directly for formaldehyde instead of the Aldehyde Ketone method; using PM<sub>2.5</sub> as a surrogate for SVOCs or monitoring for Levoglucosan as a wood smoke tracer). Hough said the committee did some brainstorming, and that the alternatives listed in the notes were probably more staff-offered than committee-generated. He gave a brief explanation of how the alternatives would work. Hough stressed that LRAPA currently has some extra funding from EPA which it hopes to stretch through June, so that the agency will have data from two sites for a little more than a year. He said staff has been exploring that with EPA and is still hoping to secure funding to continue the monitoring. The brainstorming by the committee was to try to determine if there are sources of additional funding and, if not, what would be the highest priority for air toxics monitoring.

- D. Personnel Policy Review Committee. Monk asked about the ethics piece that is included in the draft personnel policy manual. He said it speaks to board member ethics, and asked if that information is compatible with the Legal Framework documents prepared by legal counsel in 2009. Hough responded that what legal counsel prepared was much more general in nature; whereas the piece in the draft personnel policy manual was prepared by LRAPA's current legal counsel in an effort to be as comprehensive as the original Oregon Government Ethics Commission laws or guidance which apply to public officials. Hough said those requirements apply to staff members and board members. Hough said it is based on the "except for" premise, so that if a person does something which they would not be able to do "except for" the facts that they are a board member or a city councilor, they must be careful that their actions do not conflict with those guidelines.

Ortiz said that, in a lot of intergovernmental bodies and various city committees to which residents of Eugene are appointed, she has heard that there are uncertainties about what is expected of the appointees. She said she has been pursuing having the City of Eugene provide a sort of "boot camp" for city residents whom the council appoints to various committees and boards, so that those individuals will know what is expected of them. She said her vision of the program is that all of the appointees will be required to attend the training. Ortiz added that she has encouraged staff at Lane County and the City of Springfield to participate in this kind of training as well, perhaps as an intergovernmental effort. She said she sees something like a four-hour overview by legal counsel, and then each government entity could take whatever time they need to be sure their appointees are aware of their specific requirements. Lucas said Ortiz's plan would be a tremendous resource for appointees. Hough asked whom he could contact regarding the program, and Ortiz said the city manager would probably be the right contact; however, the city is currently finishing its work on Envision Eugene and some other issues, before pursuing any kind of training program.

Monk reported that the committee did not take the time at its last meeting to review the draft document, and they are still in the process of working on that to get recommendations to the full board. He said Hough had walked the committee through an overview of the employee compensation package basics and the importance of a fair and competitive compensation package. They had also heard from Norman Levinrad of Summit Benefits & Actuarial Services, Inc. Monk asked Hough to explain his recommendations to the committee.

Hough stressed that these were his recommendations to the committee and were not intended to be the committee's recommendations to the full board. He said he had not understood the differences between the defined contribution plan which LRAPA has, compared with a defined benefit plan such as PERS,

but he now has a better understanding. In comparing LRAPA's overall compensation package with those of LRAPA's local government partners and with local air pollution control agencies in Washington state, it is apparent that LRAPA has not kept pace with cost-of-living adjustments (COLAs) provided by local partners, and the pay structure has fallen behind those of the Washington local agencies. Hough said, even before the four percent cap on agency retirement contributions was imposed last year, LRAPA's retirement plan did not come close to meeting the same targets that Washington locals or Oregon DEQ have for their retirement programs. Public sector, vs. private sector comparisons were made, and Hough pointed out that these environmental agencies in the public sector lose more employees to private sector than the other way around. So LRAPA's key competition for good employees is other public sector agencies like LRAPA. Hough said he had made some recommendations, after going through all the information with the committee. His immediate recommendation was to restore the agency contribution to retirement to what it was before June 30, 2010, adding that doing so would not achieve the fifty percent retirement income after thirty years of service that LRAPA's competitor agencies have. He said the current budget does have sufficient funding to reinstate the retirement program and make it retroactive to July 1, 2010. Hough said his second recommendation was that the cost-of-living-adjustments (COLAs) be indexed each year to the average of what the local intergovernmental partners provide for their employees. Doing that would not narrow the gap between LRAPA and the local government partners but would keep it from widening. A long-term recommendation would be to look at options for modifying the retirement plan to be competitive with LRAPA's competitor agencies, and also look at ways to narrow the gap between LRAPA's salaries and those of the competitor agencies.

Hough said the committee was not prepared to make those recommendations to the board but they did recommend that staff review this same information with the full budget committee at the March meeting, discussing the retroactive part of the recommendations, as well as recognizing that whatever is done retroactively would go into the future, as well.

Ortiz said she wondered if the two staff members who have been at the committee meetings had any comments on this discussion. Both Giles and Markos said Hough had presented the information well and they had nothing to add.

Monk said the committee planned to attempt to meet prior to the March board meeting so that they may have a recommendation for the budget committee at that time.

Ortiz commented that she appreciated Hough's bringing the information back to the board. She said board members had heard from staff during the retreats that cutting the agency's contribution to employees' retirement was a substantial issue for them, and it is not her intention to cause people grief. She said she appreciated being educated regarding LRAPA's retirement program and now understands the issues better. She said she is more than willing to revisit that decision and, if the budget committee accepts Hough's recommendations, it would probably a good thing to take that action. Ortiz did caution, however, that people's expectations about retirement are changing because of the way the world is today, and people will no longer be able to expect the large retirement payments promised by PERS programs which have been offered by states for the past few decades.

Monk agreed, stating that he had learned a lot from the presentation and discussion at the committee meeting. He said the committee should try to determine whether more than a five percent return on retirement investment is a realistic goal and then look for ways to try to increase that amount. They

could then bring that back to the full board and to the budget committee. Monk added that it is difficult for the agency to guarantee a 50 percent return if employees are allowed to invest their funds any way they think is appropriate.

Hough announced that, because the board meetings are now being held on the fourth Monday of the month, holding the budget hearing on June 27 would be much to close to the June 30 deadline for government agencies to adopt their budgets. Consequently, the budget schedule has been moved up, and the budget committee meetings will take place March 28 and April 25, with the public hearing on the budget taking place in May. *[The fourth Monday in May falls on the 23<sup>rd</sup>, and there are some scheduling conflicts with that date. The date for the May meeting will be announced as soon as it has been set.]*

*[Lucas had to leave the meeting at this time.]*

Dinteman asked Monk how the board would prefer to structure the joint board and budget committee meetings in March, this year. It was decided that, because some of the action items from today's meeting need to be confirmed by the full board, the board meeting would begin at 11:00 to take care of those items; the budget meeting would begin around noon; and the board meeting would reconvene following the budget committee meeting.

#### 10. DIRECTOR'S REPORT:

- A. State of the Air Report. Hough reported that there were some follow-ups to issuance of the State of the Air Report. In early February, LRAPA was invited to do a guest opinion in the *Register Guard*, which Markos did. The paper did a very positive editorial in the same issue, and Hough had included copies of the guest opinion and the editorial in the board meeting agenda packets.
- B. Air & Waste Management Association. Hough reported that he had attended his first business meetings with the A&WMA since becoming president-elect. The work load is not very heavy at present but will become more so in 2012 when he assumes responsibility for the office of president. Hough said he will use the first half of this year to figure out how much time and effort will be required for next year, and will put together a plan for next year to discuss with the board in the fall. He said he is getting a better idea of what will be involved by working with the current president.

Monk asked whether the budget needs to contain provisions for Hough's plan to provide leadership when he is out of the area on A&WMA business next year, and Hough said that is what he is sorting through right now. He added that whatever his plan is, it will have to be within LRAPA's budget constraints.

Hough said that one of the president-elect's responsibilities is to guide the strategic planning for the organization. He provided a copy of the strategic plan update that the group did on one of the days during the business meeting he had attended. Hough commented that the strategic planning experience will be helpful for him and useful to his efforts at LRAPA.

- C. J. H. Baxter Permit. Hough reported that LRAPA had received a challenge to the permit it issued, from Oregon Toxics Alliance and the Rogue Group Sierra Club. The challenge was very similar to that for another permit issued last year and is based on similar legal questions. Staff worked with legal counsel,

who said the same legal responses apply to this current challenge. Hough said he had attached to the director's report his response to the OTA and RGSC, stating that it would probably look familiar to board members because the legal arguments are virtually identical to what the board decided when they met with legal counsel last year regarding the Seneca Sustainable Energy permit.

Monk said he had not seen the OTA/RGSC letter prior to getting the agenda packet, and the concern that he shares with the challengers' claim that the generic PSEs violate the Clean Air Act. Monk said it seems to him that the streamlining rules approved by the board provide the opportunity for staff to put PSEs into a facility permit that are many-fold above their historical emissions and their current emissions. He said the challengers have a valid point, and he would like the board to discuss the issue that PSEs don't have any validity in the generic way they're being used in some of these permits. Hough said the board certainly could discuss that subject. He pointed out that the responses collected during the public hearing process, and the agency's responses, are a part of the review report and have been posted on the agency's website. Hueftle confirmed that and said all of that will get revisited when LRAPA publishes the formal response to comments that DEQ has prepared in its current rulemaking, including LRAPA's PSD rules for PM<sub>2.5</sub>. Hough explained further that the general response was there in the rulemaking process but also, on the Baxter permit in particular, those comments were raised during the permit process and addressed in the review report. Monk said he would look at that review report.

- D. EPA Boiler/Incinerator Rules. Hough said the day after he put a paragraph in the director's report about these rules, he received an update from EPA, which he sent to board members in a separate e-mail. He said staff has been reading through the materials and trying to sort it out and make sense of it. Hueftle has also spent some time looking at how the proposal has changed in the various iterations, over time.

Ortiz noted that school district buildings have boilers and asked if the rules will affect them. Hueftle said the rules will affect any boiler of 10 million BTUs or larger. To provide a frame of reference for Ortiz, Johnson explained that a really big furnace would be considerably greater than 10 million BTUs per hour, and a typical elementary school boiler would probably be right around 10 million BTUs per hour.

Monk stated that some of the rules, even for a small boiler, are simply work practices, and Hough said rules for smaller boilers would involve basically just work practices such as maintenance and periodic servicing of the units. Hough said there will be a lot of sorting out to do as staff goes through the EPA rules in the coming weeks, and staff will keep the board informed about them. Hough added that EPA has decided to re-propose some of the incinerator part of these rules and get additional feedback, in anticipation of probable legal challenges to some of these issues.

11. **ADVISORY COMMITTEE:** Committee Chairman Earl Koenig reported that John Tamulonis was to have presented his annual report of the results of the service comment cards submitted to the agency; however, he had a conflict and was unable to do that. He will likely present the report for discussion by the committee in March and will present it to the board in the next few months.

Koenig said he was at both of the Consensus Associates retreats and wanted to comment about that. He said he, too, was part-way through digesting the information in the report, and it seemed to him that, throughout the report, there are problems identified regarding blurred lines between the functions of the board and the functions of staff and, to a lesser degree, functions of the advisory committee. Koenig suggested that the

board consider commissioning the advisory committee to study this and develop definitions so that the existing fuzzy line is focused into something that will enable the different groups to work together in harmony. He said the committee is open to researching that and developing a report for the board. Monk said that was a good idea, depending on what staff might have in mind for the committee's agenda over the next several months. Monk agreed that the distinction between the functions and responsibilities of the three groups is not clear, and having that clarity would be beneficial. Koenig suggested that it could be included in the reference manual for board members, and Monk agreed.

Johnson said he likes the idea of focusing on where the bright line should be between board function and role and staff role, and the relationship between board and staff. He said his immediate reaction would be to have another meeting with Consensus Associates, with board, advisory committee and staff members, to focus just on that question and come up with the collaborative clarification. Koenig commented that having the advisory committee work on that would save the board time, and Johnson agreed that it would. Monk said he liked Koenig's suggestion.

Hough said staff has explored with the advisory committee the first steps on a limited maintenance plan to get the Eugene-Springfield area re-designated attainment for PM<sub>10</sub>. He said he wanted to be sure the board is aware of that and supports the committee working through that process. Staff plans to give the committee a draft of the limited maintenance plan at its next meeting, probably in late March. Koenig confirmed March 29. Because there were not enough board members present to pass a motion, the board could not take action today to give its support to the committee working on the limited maintenance plan.

Monk commented on a section of the notes from the last committee meeting, in which Gery Vander Meer brought up the issue of who directs the activities of the advisory committee. Monk said it seems pretty straightforward that bringing something to the board, as Koenig had just done, was the proper way to put something on the committee's agenda. Committee members or staff members can bring up subjects the committee might want to work on, but it is clearly the board that gives guidance on where they would like the committee to spend its time and energy. Koenig agreed that the priority of the committee is to do what the board wants them to do. He added that the committee may go off on some subjects that they would like to develop and, at the board's pleasure, would expand on those. Monk said that makes sense.

Forge commented that, having been on the advisory committee, he thinks it is a good idea to have some direction from the board, because there were times when the committee did not have anything in particular to work on. It's much better to have clear direction regarding what would be valuable to the board. Johnson commented that staff also directs the committee as to projects it wants them to work on, and Hough reminded the board that there is an agreement between the board and advisory committee which came out of some contention over this issue a few years ago. He said it is based on two-way communication between the board and the committee. If the board has something they want the committee to work on, they assume that will happen. If the committee comes up with other things they would like to work on, the agreement is that they will include it in their report to the board and get board concurrence before going any further with it.

Monk suggested that the agency stick with the agreement if board members agree with that. No one objected.

*[Johnson had to leave the meeting at this time.]*

12. SIX-MONTH BUDGET REVIEW: Mirhosseyeni presented the six-month budget review report which actually included the month of January as well. As of the end of January, the budget was at approximately

58 percent of target for the current fiscal year. Mirhosseyeni explained the revenue and expenditure figures, pointing out that the ethanol project and Warm Home Project are where they were projected to be, because the agency has not yet done much on those two projects.

#### Questions and Answers

Monk asked for more details on the allocations and expenditures on the ethanol project, and Mirhosseyeni said the ethanol project actually expired as of December, and LRAPA requested an extension and was given an extension through September of 2011. He said the project will be active during the next few months, and he is sure all the funds will be expended by the end of the extension.

Monk referred to the actual vs. budget comparisons for Airmetrics in the audit report, comparing it to the six-month budget review report. He asked if the \$203,000 is the fund balance at the end of FY 2009/10, and Mirhosseyeni confirmed that, adding that it includes inventory and accounts receivable, as well as cash.

Monk said he is still concerned about the large inventory adjustment that was made in 2009 and asked what is being done with the obsolete inventory that has no value for the upgraded sampling equipment. Mirhosseyeni said enough of that inventory is kept on hand to support customer service for people who own the older sampling equipment.

Monk noted that, when he looked at the expense report, it looked like Airmetrics was pretty much on target with what was anticipated for this year, and Mirhosseyeni said it is. He said there is a profit margin right now because Airmetrics is doing slightly better than anticipated. He reminded Monk that he had explained to him, and the rest of the board, the reason for the large inventory adjustment which was made in 2009, and reiterated that the computer system and the inventory for the new samplers have been reconciled. Hough reminded Monk that when the budget for Airmetrics is developed, the budget is based on potential sales which, in turn, is based on past sales. The budgeted amount is high enough to allow for growth in sales so that staff does not have to create a higher budget amount to accommodate sales and have to take the revised budget through the budget committee and adoption process again. Hough pointed out that, what the auditors were showing in their report is that the revenues and expenditures for Airmetrics do track for the amount of sales that is actually realized. He said the report shows a bigger margin because it also factors in the transfer of cash Airmetrics makes to LRAPA's General Fund. Those transfer are considered expenditures. There is a benefit to the agency, even when the expenditures look like they're slightly exceeding revenues.

Monk then asked about the Everybody Wins program, stating that it is discomfoting to him, for an agency like LRAPA to have an enterprise fund which is potentially going to cost the agency money. Mirhosseyeni explained that the Everybody Wins program started in 2005 and will continue until the last payment is received from loan recipients in 2012. The agency has benefitted from this program; however, any given year will perhaps not look as favorable as another year, due to the economic slump and the fact that the default rate and the number of bankruptcies have been greater than what was originally anticipated. Some of the contracts have been extended, with current payments suspended until a later date; and some have been extended so that the amount of the individual payments can be reduced. Some loans will be repaid if the economy improves, and some will still not be paid in full. Mirhosseyeni said, when he looks at the program, overall, the agency will still benefit by the time the program is completed.

Monk asked about the status of LRAPA's negotiations with the Oregon Department of Energy to restructure the Everybody Wins loans to LRAPA, and Mirhosseyeni said there are two sources of funding for that

program. One is an EPA grant, which are supposed to be used only for loan payments. EPA is going to provide a “deviation” so that the grant can be used. EPA is currently holding about \$40,000 which can be used once they provide the deviation. The other issue is that LRAPA has asked Oregon Department of Energy to restructure the loans to LRAPA to accommodate the deferment of payments from some truckers, and Mirhosseyni said ODOE had seemed open to that request. Monk asked if LRAPA will know the results of those negotiations in time for the budget cycle for FY 2011/12, and Mirhosseyni said he hoped so.

13. FIVE-YEAR BUDGET PROJECTIONS: Mirhosseyni presented budget projects for the period beginning in February of 2011 and extending through 2015. The report included basic cash flows for the core operations of the agency (General Fund and Title V) and showed what cash flow will be each year if revenues and expenditures materialize as planned, including what the ending fund balance would be each year. Mirhosseyni noted that the mortgage on LRAPA’s office building will be paid off at the end of the current year. That has been about \$40,000 per year since the building was purchased. Once it is paid off, there will still need to be some funding included in the budget for upkeep and repairs. Mirhosseyni added that LRAPA received a \$3,000 grant from CIS which will be used to help pay to extend the fence along the Main Street side of the building, due to some graffiti problems and some instances of people attempting to steal metals out of the HVAC equipment on that side of the building.

The five-year projections include a small steady COLA each year, as suggested by one of the budget committee members last year. The number used in the projections, two percent, is mid-range of what local governments have been giving their own employees over the past few years, which will help to keep the gap between LRAPA and the local governments from widening and also help avoid LRAPA’s having to ask for larger COLAs periodically. The projections also include about five percent per year increase in cafeteria costs, to cover the increases in health insurance costs. Mirhosseyni said if that increase in costs is different in a given year, staff will build the difference into the budget for that year. Few people will receive merit increases, because many staff members are at the top of their ranges and no longer get raises beyond whatever COLA is included in the budget. The projections include merit increases, as scheduled, for those who are still eligible.

LRAPA’s staff complement has decreased over the past few years from 22.0 to 19.2. At present, staff’s plan is to maintain the current number of employees; however, if revenues do not materialize as expected, the number will be further decreased.

Monk noted that the auditor’s report had shown that the current reserve fund is sufficient to operate for 86 days. He asked if that will continue to be built, and Mirhosseyni said the projections will maintain the three-month level of reserves and hopefully continue to build it further. Monk asked if staff feels that is sufficient. He said it would make sense for the board to determine what the level of that fund should be, based on what staff believes is a good amount to have on hand; however, there is no reason to add to it if staff is comfortable with the current level. Hough responded that staff’s goal is still that there should be three to six months of funding available in that fund balance. Hough said the current reserve is in place with the 19.2 FTE staffing level; however, if there are additional retirements in the next year, staff will be trying to reduce the FTE level a little more by reassessing workload and reorganizing work assignments. That could create some additional savings that could help to build the fund balance a little more.

Hough pointed out, in the graph of revenues and expenditures over the projected five-year period, that the end balance is in effect as of June 30, and the following month, July, will be a little lower each year than it

was the year before. What that shows is that, even under the stable case funding scenario, the ending fund balance, currently enough for 86 days, will shrink over time. Hough said that is why staff will be looking for further efficiencies as people either retire or resign, in order to save a little bit more and keep that ending balance at 86 days or better, with the ultimate goal of building it to 90 to 180 days.

Mirhosseyini noted that some agencies do require a mandated fund balance, which means that they may have to lay some employees off, or otherwise curtail programs, because their projected cash inflows are not adequate to sustain the mandated fund balance. He reiterated earlier statements that the ending balance must be in place in order to pay the bills and keep the agency operating until anticipated revenues come in during the first part of a new fiscal year. He said LRAPA could impose a mandated fund balance; however, the agency would run the risk of losing staff in order to maintain the ending balance. Losing additional staff would be an issue with regard to completing mandated work and maintaining the agency's programs. Monk stated that a mandated fund balance could result in staff implementing the contingency cost reduction strategies it has developed over the past few years, and Mirhosseyini agreed that would be the case.

Mirhosseyini presented the anticipated revenues to the General Fund from federal, state and local governments, permit fees, and miscellaneous sources. He then showed a graph which anticipates a worst-case scenario for funding and would reduce the fund balance eventually to \$50,000 to \$60,000 and require reducing the staff complement by 1.0 FTE and eventually to 17.2 FTE or even lower. Mirhosseyini stressed that staff has been making efficiency improvements over the years in order to continue the agency's programs with lower levels of funding.

#### **14. NEW BUSINESS:**

Making Additional Time for Discussions. Monk said he likes the idea of the new format for the meetings; however, a lot of time was used for discussions under Old Business. He said he would like to see people give their status reports in as short a time as possible, so that there will be more time for discussion of the items in the work session portion of the meeting.

Hough also suggested having routine items (like appointing the budget officer and reappointing an at-large board member who has indicated a desire to continue to serve) on the consent calendar instead of having them as separate agenda items. Monk said that made sense to him and asked Hough to suggest things that he would like to see on the consent calendar and present those to the chair and vice-chair at the agenda-setting meetings. If the chair and vice-chair are okay with them, those items can be put on the consent calendar. Hough agreed to try that and see how it works, recognizing that if a board member has a problem with an item on the consent calendar, it can be pulled and handled separately.

#### **13 ADJOURNMENT:** The meeting adjourned at 3:15 p.m. The next regular meeting of the LRAPA Board of Directors is scheduled for Monday, March 28, 2011, 11:00 p.m., in the Library Meeting Room of Springfield City Hall, 225 5<sup>th</sup> Street in Springfield, Oregon.

Respectfully submitted,

**Merrie Dinteman**  
Recording Secretary