

MINUTES
LANE REGIONAL AIR PROTECTION AGENCY
BOARD OF DIRECTORS MEETING
THURSDAY–APRIL 5, 2007
Library Meeting Room
Springfield City Hall
225 5th Street, Springfield, Oregon

ATTENDANCE

Board: Faye Stewart, Chair–Lane County; Earl Koenig, Vice-Chair–Eugene; Bill Carpenter–At-Large, Springfield; Glenn Fortune–At-Large, General; Drew Johnson–Eugene; David Monk–Eugene; Pat Patterson–Cottage Grove/ Oakridge; Dave Ralston–Springfield; Betty Taylor–Eugene (present only for the public participation portion of the meeting)

(ABSENT: None)

Staff: Merlyn Hough–Director; Merrie Dinteman; Doug Erwin; Max Hueftle; Sally Markos; Kim Metzler; Nasser Mirhosseyni

Other: Russ Ayers–LRAPA Advisory Committee; Kevin Matthews–LRAPA Budget Committee and Friends of Eugene; Terry Connolly–Eugene Chamber of Commerce

1. OPENING: Ralston called the meeting to order at 1:00 p.m.

2. PUBLIC PARTICIPATION:

A. Comments Regarding An Item on Today’s Agenda. None.

(1) Kevin Matthews, PO Box 1588, Eugene, OR 97405, Representing Friends of Eugene. Matthews brought up the issue of carbon dioxide (CO₂) and its contribution to global warming, as he had during the budget committee meeting just prior to this board meeting. Matthews stated his view that greenhouse gases, and CO₂ in particular, have created a global climate crisis, a slow-moving process that is already well underway and will kill literally millions of people and cost the economy trillions of dollars. He said the U. S. contributes a quarter of the world’s impact with far less than a quarter of the world’s population, and has been hiding from the problem of global warming while most of the rest of the world is trying to make progress with this issue. Matthews said the U. S. has a huge responsibility and a huge opportunity and that every organization needs to be thinking about how to help resolve this problem. He said the crisis is an incredible entrepreneurial opportunity, and that LRAPA has lot of very intelligent technical people and management people who deal with issues related to global warming, in one way or another, every day. Matthews said LRAPA has a great history of being creative and entrepreneurial in addressing special challenges, and he would like the board to start the process of figuring out what special contribution LRAPA will make to address the crisis. He said he wants to know what LRAPA’s proactive relationship is to CO₂ emissions and climate change, from the perspective of not just what the agency is required to do, but what innovative things it can do, above and beyond the requirements. He said he would like to see the board allocate whatever funding is necessary and establish policy to address the issue of global warming.

B. Comments Regarding An Issue Not on Today’s Agenda. None.

3. CONSENT CALENDAR:

ACTION: MSP(Ralston/Koenig)(unanimous) adoption of minutes of the March 8, 2007 board meeting and the expense reports through February 28, 2007, as presented.

4. DIRECTOR'S REPORT: Discussion included several items.

- A. Hynix Permit and Hydrogen Fluoride (HF). Carpenter asked if hydrogen fluoride is considered a Hazardous Air Pollutant, and Hough said it is on the EPA list of 188 federally recognized HAPs. Carpenter asked if there is a de minimis level and whether Hynix is below that de minimis level. Hough responded that a source is not considered to be a major source unless it emits ten tons or more per year of any one HAP or an aggregate of 25 tons, or more, of more than one HAP. Hough explained further that the primary thrust of the air toxics program has been requiring consistent technology for identified industries. A major source is required to use whatever Maximum Achievable Control Technology (MACT) is required for that industry. He said there is MACT for the semi-conductor industry, but it does not apply to Hynix because that facility does not emit more than 10 tons of HAPs. He added that it is his understanding that, even though MACT does not apply to Hynix, the facility would meet MACT standards for the industry.

Patterson commented that the original permit for the Hynix facility required that they let LRAPA know if they made any changes in any of the materials they were using, so that LRAPA could adjust the permit and keep it current with the facility's operations. Hough said the facility is required to submit a report to LRAPA each year detailing the materials being used and if any changes have been made since the last report. Every five years, the permit must be renewed, and appropriate adjustments to the permit and emissions limits for the source are reconsidered at that time. During the current renewal process, Hynix has asked for an increase in the allowable emissions of HF. LRAPA permit writer Doug Erwin commented further that LRAPA's regulations require that if a proposed change in a source's operations or processes would affect the emissions limits in the current permit, they must apply for a permit revision.

Monk referred to a neighborhood meeting at Churchill, where Hynix personnel were present. He said his understanding was that a Hynix representative stated at that time that Hynix is unsure that they need to increase the allowable hydrogen fluoride in the permit. He asked Erwin if there had been any recent discussions about that or about stepping back their request to go to five tons. Erwin responded that there have been numerous discussions regarding what their request should be. The request lies in two areas: first they have been making slight changes in production over time, and the product has changed over time; and second, the methods for determining the emissions of that pollutant have changed as well. The company is unsure how those changes will play out in the next five years. Having the higher limit in the permit would give the facility flexibility to accommodate that outcome. Monk said that made sense to him.

- B. Fugitive Dust Complaints. Koenig asked about a statement in the written report indicating that staff is updating information regarding the fugitive dust complaints from the sand and gravel operations in the Beltline/Delta Highway area of Eugene. Hough said staff is preparing a follow-up report. He said he does not know, yet, whether there will need to be a "dust period" this year in order to make the report comprehensive; however, Erwin has prepared a map showing the complainants' addresses, the locations of the different gravel operations in that area, as well as agricultural lands in the same area. At certain times of the year, agricultural tilling can be a part of the overall dust problem. Hough said LRAPA has not had a concentration of complaints from residents in that area; and there are multiple sources of dust, besides the gravel operations, that contribute to the dust problem there. He said he and Erwin had found that, several years ago, LRAPA did some air monitoring around Eugene Sand & Gravel, with both upwind and downwind monitors. At that time the monitoring was for PM₁₀ rather than the PM_{2.5} which

is of concern now. He stressed that dust does not have much $PM_{2.5}$ in it. $PM_{2.5}$ comes from smoke. The result of the earlier study was that the facility did not make a significant contribution to PM_{10} concentrations. He said he could make copies of that report for board members if they are interested in looking at it. He said the point he wanted to make is that, in addition to periodic compliance inspections performed by LRAPA personnel, there has been at least this one study to determine if the facility was in compliance and whether it was making a significant contribution to dust in the air.

Johnson asked whether there was a difference between the upwind and downwind concentrations in the study done at Eugene Sand and Gravel. Hough said there was a difference, but it wasn't a significant part of the contribution to the PM_{10} standards. He added that, if the same study were to be done for $PM_{2.5}$, it would be a really negligible contribution, because the sand particles are not in the same small size range. Johnson said, with the complaints that have come in, it is almost like a nuisance condition caused by the gravel companies. He asked, if LRAPA sees a difference between upwind and downwind concentrations, would that support a determination that perhaps the sand and gravel operations are contributing to a localized nuisance. Hough said the agency's nuisance rule has about seven major criteria, one of which is how many people are affected by it. Another is how significant is the impact, and another is how appropriate is the technology that is being employed to prevent the nuisance. He said if you work through those criteria, this situation does not lead you on a path to conclude that it would be a nuisance under LRAPA's rules.

Koenig said he is having trouble understanding, if one person has to hose off his patio every day, why wouldn't other people have to do the same thing. Hough said that was a good question. He said LRAPA is not getting clusters of complaints, and the dust in that area is probably a combination of not just one aggregate plant, but several of them, along with agricultural tilling and other sources. Johnson asked if the Airmetrics MiniVol could be used to monitor upwind and downwind in the neighborhood. Hough said that was what was used in the previous study in the mid-90s. Johnson asked if LRAPA could do that again, in response to Mr. Eldridge's complaint. Hough said that could be done; however, it would cost several thousand dollars to do, and something else would have to absorb that loss if resources were devoted to such a study. Hough added that his highest priority for air monitoring is to get adequate resources to continue the air toxics monitoring at the Amazon site and, beyond that, he would like to have a second air toxics site that could be rotated to get information in other areas. Hough said a study with the Minivols would be much less costly than the air toxics monitoring; however, diverting sufficient funds for a MiniVol study would still slow the progress of the air toxics monitoring effort.

- C. Koenig asked about the SHINE report that was due in April. Hough said there was a SHINE report in an internal draft stage which SHINE plans to put out for public comment sometime in May. SHINE must follow a standardized federal-level process for evaluating that type of data. Koenig noted that the number of complaints regarding odor from the Baxter facility was down to three during the last reporting period, and Hough said complaints have been relatively low in recent months. While the SHINE report looks at the air monitoring situation and compares that to their standard methods for evaluating health risk, a report from OSCAR is due out soon, regarding their evaluation of cancer incidence numbers in the area around the Baxter plant. That group is re-doing a study done several years ago, at a zip code level, which did not show any anomalies. The current report is being done at a census tract level.
- D. Open Burning Campaign Information. During the earlier budget committee meeting, Patterson mentioned a recent ad in an insert in local newspapers, regarding open burning. He said the message was not very positive, and it looked almost like a scare tactic. He had had negative comments from people

about it. He said it had LRAPA's name on it, and he didn't know anything about it. Patterson said he did not like being blind-sided by something like this ad. Metzler responded to Patterson's comments, stating that the ad was part of larger campaign that was developed for the whole Pacific Northwest. She said LRAPA's Operations staff is spending a lot of time on open burning and is concerned at the amount of open burning that is going on in Lane County, and they had asked Public Information staff to send out a flier to discourage people from disposing of refuse through open burning. Patterson said he has no objection to that at all, but he was concerned about the way the information was presented. Metzler said staff had sent out 20,000 of the fliers and had received only one negative response from a Creswell resident who does like to burn.

Ralston now brought the issue up in the board meeting, stating that he would like the board to see copies of that type of thing when they are sent out, just so that they are informed and can be better able to answer any questions they gets from residents of their jurisdictions.

- E. Enforcement Report. Carpenter said he was a little concerned the number of enforcement actions that have been pending for over six months. He said he was curious if that is typical or if that delay is more unique. He gave two specific examples of cases in the current report. Hough said there is not "a reason" for the delays. Each case has a unique set of circumstances. He said one of the cases in question had been held up because staff was having some difficulty in getting a response from the respondent. He accepted responsibility for holding up a couple of cases because he had not had a chance to get the point of finally signing off on those. He gave another example of a case where staff has been ready to settle on an amount for the civil penalty, based on information provided by the respondent; however, the respondent has been in the hospital, and staff has not been able to get concurrence from him in order to finalize the case.

Carpenter asked if the rules include specific time lines when things are due, and Hough said there is an initial response time of 21 days when the respondent needs to tell LRAPA whether they want to pay the fine, request a reduced penalty, or contest the case and request a hearing. In one case, Hough said, the respondent and his attorney requested a contested case hearing, but the request came in after the 21-day period. On the advice of LRAPA's legal counsel, that request was denied; however, the respondent was invited to come to the office and make their case, which they did. They promised follow-up documentation, and that is due in any time. That process has taken a couple of months so far, which is another example of what can cause delays in closure of a case. Carpenter said it would be good to get these cases worked through the system and get the fines collected, even though that money goes to Lane County's General Fund and not to LRAPA. He said it looks like some of the cases are dragging a bit.

5. **ADVISORY COMMITTEE:** Committee Chair Russ Ayers reported that board chair Stewart attended the last committee meeting, and the committee had a good discussion based on current planning activities. Ayers noted that a current committee roster is being prepared by staff and will be sent to board members when it is available. He said the roster will show that there are currently 14 members on the committee, and that the agriculture spot is still open. He said he believes there are plans to advertise that position soon. Ayers also pointed out that the roster will show that each of the required areas of representation is currently filled, with the exception of the agriculture position. Ayers commented that, with approximately half of the committee members representing the general public, the agency can take advantage of the expertise of members representing the statutory areas of interest, but also has the opportunity to balance things out with a cross-section of the public as well. He thanked Stewart for attending the committee meeting.

6. OLD BUSINESS: None.

7. NEW BUSINESS:

- A. Field Burning. Hough said House Bill 3000 had been submitted by Representative Paul Holvey, and that a public hearing on that bill was scheduled for March 9. He said Representative Holvey's office had asked him to provide testimony on behalf of LRAPA at that hearing, and he wanted to bring that to the board to get direction from them as to whether they support that request. Hough said his testimony would be based on the points in the letter sent to local legislators by the LRAPA board, such as LRAPA's perspective, the number of complaints LRAPA receives each year, as well as the fact that LRAPA receives reports from sensitive individuals and their physicians regarding the impact the field burning smoke has on the patients' health.

MOTION: Monk said he would very much like to see Hough testify on behalf of HB 3000. He MOVED to support Hough's testimony on HB 3000, on behalf of LRAPA. Carpenter SECONDED the motion.

Discussion of Motion

Hough said if there had been more lead time, he would have drafted some specific testimony for the board to review; however, there was no time to do that. Stewart said it seems only appropriate that Hough attend the hearing to talk about the air issues here in Lane County and answer questions. Carpenter said Hough would not be giving testimony in order to give a specific opinion. His testimony would merely give the facts regarding how the agency has been informed of issues regarding field burning.

Ralston said he did not support Hough's providing testimony because he thinks there are legitimate reasons for burning. He said there is a lot of open burning that is legal, and he does not think it is within LRAPA's purview to actually regulate burning that takes place outside of Lane County. He said he knows that it does affect Lane County citizens, and Hough would be stating facts, but he was opposed to Hough's testifying on behalf of LRAPA.

VOTE: THE MOTION PASSED by a vote of six (Carpenter/Fortune/Johnson/Koenig/Monk/Stewart) in favor and two (Patterson/Ralston) opposed.

- B. Setting Appointment for Board Members to Meet with Stan Biles Regarding Strategic Planning. Hough told the board members that Stan Biles needed to set up individual appointments with board members to discuss the strategic planning and get each board member's views. Biles had two, two-day periods which he suggested to schedule those appointments: May 2 and 3 and May 15 and 16. He would like to have about a hour with each person and leave about a half hour in between appointments for travel time. Before Taylor had to leave the meeting, she had indicated that she would not be available May 2 and 3. Several other board members agreed that the May 15 and 16 dates would be better for them as well. There was considerable discussion regarding people's availability during those two days, and several board members set specific times on specific days, and whether they would come to the LRAPA office for the meetings or meet Biles elsewhere. Stewart asked Dinteman to start an e-mail correspondence among board members to finalize the dates, times, and locations.

- C. Carbon Dioxide (CO₂) Emissions/Budget Considerations. Stewart brought up Kevin Matthews' request under the public participation portion of this meeting and asked staff to look through the budget to see if there is any way to allocate \$5,000 or \$10,000 to research in support of that request. Hough said the request would take part of his time, as well as parts of other staff members' time. He said he thinks staff can devote some time to it, but that it is up to the board to determine how high a priority to give that effort. Stewart suggested that that might shake out during the goal-setting portion of strategic planning. Carpenter said if it is not determined during the goal setting, the subject should be placed on a future agenda to see what position the board would like to take regarding CO₂ and global warming. Hough said he and Markos are both giving some time to it through involvement with a Eugene community work group regarding CO₂. He said, from LRAPA's standpoint, CO₂ is a minor thing, because the higher priorities are the more direct health-related pollutants; and other people should be taking the lead on the CO₂ issue. Monk noted that Matthews had indicated there is a lot of grant money available for work on this issue. He said he would agree with Hough's assessment that CO₂ is not a priority for LRAPA, per se'; however, given that staff is already doing some of the work in conjunction with partners, staff might be able to write LRAPA into a grant to fund some of the work that LRAPA is already doing.
8. ADJOURNMENT: The meeting adjourned at 1:22 p.m. The next regular meeting of the LRAPA Board of Directors is scheduled for Thursday, May 3, 2007. A meeting of the LRAPA Budget Committee will begin at 11:00 a.m., followed by the Board of Directors Meeting, which is scheduled to run until approximately 3:00 p.m. Because the LRAPA Meeting Room is not large enough to comfortably accommodate the entire LRAPA Budget Committee, the meeting will be held in the Library Meeting Room at the Springfield City Hall, 225 5th Street, Springfield, Oregon.

Respectfully submitted,

Merrie Dinteman
Recording Secretary