

SPOKANE COUNTY AIR POLLUTION CONTROL AUTHORITY
BOARD MEETING MINUTES

May 3, 2007 9:00 a.m.

SPOKANE COUNTY PUBLIC WORKS BUILDING
LOWER LEVEL HEARING ROOM

BOARD MEMBERS PRESENT:

Commissioner Bonnie Mager
Chair Jeff Corkill
Councilmember Mike DeVleming
Mayor Matthew Pederson
Councilmember Mike DeVleming
Board Member Melissa Ahern – 9:13 a.m.

STAFF MEMBERS PRESENT:

Bill Dameworth, Director
Barbara Nelson, Finance & Personnel Admin.
Matt Holmquist, Compliance Administrator
Deirdre Fitzgerald, Air Quality Specialist II
Lisa Woodard, Public Information Officer
Ron Edgar, Chief of Technical Services
Michelle Wolkey, Legal Council
Mary McDermott, Secretary II

WORK SESSION: The work session began at 9:03 a.m.

1. Rulemaking Updates for Program Fees – Matt Holmquist

We have initiated formal rule making to phase in the cost recovery Notice of Construction (NOC) fees over the two-year period of time, per the Board's instruction at the last meeting and should have a resolution to bring back to the Board in June. In regards to asbestos and operating permit fees, like the registration and NOC regulations, we want to make those fee rates and schedules so that the periodic fee adjustments are less cumbersome and plan to bring a resolution back to the Board in June.

2. Asbestos Rulemaking Update – Deirdre Fitzgerald

Asbestos is a carcinogen. During the comment period, SCAPCA received written comments from IRS Environmental and Kyron Environmental. IRS's two primary concerns were building inspectors properly identifying friable roofing and asbestos survey requirements for general contractors on Owner-Occupied, Single-Family Residence (OOSFR) projects. What we did in the regulation was add a section defining analysis so AHERA building inspectors have to sample each layer of roofing. SCAPCA had proposed if you hire a contractor in your own home, he doesn't have to be an AHERA Building Inspector, he can take some samples and supply those to the homeowner; but it would be more confusing if we do that because it will be different than the L&I requirements and other Washington Air Agencies. So SCAPCA revised the language in Section 9.03, Survey Requirements, to maintain asbestos survey requirements for contractors performing work on/in OOSFR. Non-friable roofing will no longer be subject to a 10-day disposal to get it to a

landfill and record keeping requirements would go away. IRS and Kyron Environmental wanted a definition of contiguous property. Contiguous property is a multiple asbestos project, such as a whole block being demolished and you file one NOI for the whole block. If there is an alley between two homes being demolished, it will still be considered contiguous property. Kyron was also concerned that SCAPCA was redefining non-friable. SCAPCA didn't redefine non-friable, but if we want roofing out of the regulation as it is now, we had to take it out of being an asbestos material as defined for a waste.

Chair Corkill asked the Board Members if they feel that the comments from the companies have been adequately addressed. Councilmember DeVleming stated yes and SCACPA should move forward with the rule making process. Chair Corkill stated that with consensus of the Board, they would like SCAPCA to proceed with the rule making.

3. FY 2008 Draft Budget – Barbara Nelson

These are the changes requested by the Board from the last meeting: First is to move forward with the NOC permitting fee increases and that additional revenue has been added. Second is a 2.6 percent COLA added into the budget with a 2.5 percent future COLA based on information off the internet from the US Reporting. The third was discussion on the large amount of money budgeted for repairs and maintenance. There was repair and upgrade for the Sodar equipment on the roof of the Health District Building which is used for forecasting. Looking at the criteria for expenditure from the special project account, the Sodar equipment fits this criteria and it was removed from the core program expenditure and put in as a special project expenditure, thereby reducing the core program expenses overall. The overall result of these three changes that were made is approximately \$50 more expenditure for the year coming from the reduction of moving the Sodar equipment costs to the special project and increasing the COLA from 2 percent to 2.6 percent. We still show a 20 percent fund balance which is SCAPCA's targeted range at the end of the five year projection. We are expecting to be into the full-cost recovery most likely by FY-09 and in that budgeting process we should be able to look at possible reductions in the local assessment. Chair Corkill stated that Barbara has done a good job handling what the Board requested.

BOARD MEETING: The board meeting was called to order at 9:23 a.m.

1. Advisory Council Report – John Livingston

The Advisory Council heard from staff on the approval of the wood stove bill in the Washington House and Senate which would allow SCAPCA to set new wood stove curtailment limits. Ron presented information he collected over the past years on how the project will move forward. The trigger value that will be proposed is 20 micrograms per cubic meter to try and make sure that the 35 micrograms per cubic meter standard is not exceeded. There was discussion on monitoring and additional monitoring to make this program better, doing this with existing resources and the outreach aspect when the program is going to be implemented this fall. Barbara gave a presentation on the FY-08 budget. The general tenor from the Advisory Council is that they support the cost recovery aspects. There was a name change update and an update on the air toxics grant that Ron has been pursuing with Washington State University.

2. Director's Report – Bill Dameworth

• Letter Requesting EPA Funding Sent to Legislators

A letter to senior elected officials in Washington D.C., asking for increased funding for air agencies, was signed by Jeff Corkill and Bill Dameworth. A copy is attached for the record as requested by the Board at the April meeting. Bill thinks that for the next performance partnership agreement with EPA, SCAPCA would say failure to give us all the money promised, will cause us to come back to the drawing board on the performance partnership agreement. Chair Corkill asked what the EPA expects or requires SCAPCA to do. Bill replied there's a bunch of cooperation with them on emissions inventories, enforcement, permitting and air monitoring things. Air monitoring is one of our primary purposes in life but to jump through all of the hoops they want us to do, we probably won't do that. Other air agencies are having the same issues and have similar responses. A copy of the letter to senior elected officials is attached for the record.

We sent out two requests for proposals to two firms to review SCAPCA's employee policy and procedure manual and assist in revising it to ensure it meets all current requirements. We received one response for approximately \$3,000 and have entered into a contract with that firm. We will be on a conference call with them starting May 4, 2007, to rewrite the whole document. Our manual was designed for a much larger office and there are also things missing in it. Chair Corkill asked about a grievance policy. Bill stated that they will address that issue with the firm. They are also going to come up with an employee evaluation procedure so that the employees and managers are all on the same page as to what is expected, what constitutes good performance and everyone will sign off on the evaluation that they understand it. Mayor Pederson had some concerns about SCAPCA entering into a contract without Board approval. Bill stated that Barbara informed him that if it was under a certain dollar figure, it is okay to enter into a contract.

Mayor Pederson asked if the cost of the contract that Bill signed the agreement on was a budgeted item. Bill replied yes it is in the budget to cover professional services like this. Mayor Pederson asked legal counsel, Michelle Wolkey, if it is the duty of the Board to approve the terms of the contract. Michelle replied it makes good government sense for the Board and legal counsel to see the contract that's being entered into. Another concern she has not researched yet is regarding requests for qualifications to just two entities without the bid being open to anybody in the community that might want to submit a bid for that type of service to SCAPCA. Usually when you're getting a request for qualifications, it goes out to the public at-large for anybody that might want to submit a bid to do that work. She is not sure how SCAPCA identified two particular entities. Mayor Pederson asked if this work went out to a public bid. Bill replied no it didn't. His understanding was that they weren't required to because of the size of the contract and that they haven't in the past. For instance the people doing the logo and jingle didn't go out for bid on those. Michelle stated that the difference she raises is that it did go out for bid, but only to limited people on this particular contract. Bill replied that his thought was that if they didn't at least go out for two bids, then you wouldn't know if you got a fair bid. The second party that was asked to bid on it still has not responded and considering the price we received by letter, it seemed reasonable to go forward with it for \$3,000. Having somebody redo your entire employee procedures manual for that price seemed like a reasonable deal.

Commissioner Mager asked if the reason SCAPCA choose this was because SCAPCA is familiar with the work from prior jobs. Bill stated that both companies specialize in this area and both seemed quite capable of doing the job. Chair Corkill asked what the feeling of the Board was. Mayor Pederson stated that he is very concerned about the process. Not having put it out for bid and not having the Board's approval, raises a lot of concern with him. Councilmember DeVleming asked Barbara Nelson if in the budget is there a line item specifically for this project or was it just a general service. Barbara replied that there is a line item for professional services which is what this would come out of. It was not specifically identified, but when she does the budget she lists so much money for items she knows about. There is a procurement policy that has been in place for a number of years which has a limit of \$5,000 for publishing RFPs for services or products. It is very common for SCAPCA to make purchases or small contracts if we know someone that we've worked with and the dollar figure is under the \$5,000 limit and we have telephoned or e-mailed two or three people that is how it has been done. That procedure is in writing, it hasn't been approved by the Board, but it has gone through several audits so it meets the audit requirements. That is why we felt that this was an acceptable action. Commissioner Mager stated that this seems reasonable to her. This is small and she doesn't believe the Board wants to micromanage it because the selected firm works in the industry and it is under \$5,000 and certainly the Director should have that discretion.

Mayor Pederson added that it is not the price that concerns him, it is the process and what exactly have we agreed to, the Board has agreed to nothing but within a contract, there's always terms and conditions which are binding to the Board and the agency itself. So without Board approval, what has the agency agreed to on the Board's behalf? Chair Corkill stated that all they're doing is preparing a document that would eventually have to be approved by the Board. To him it is more important that they get it done rather than quibble over the amount. He believes that since it is a smaller amount and it is in the policy, and since the product of this will be brought to the Board for approval, then there are some checks and balances. Councilmember DeVleming stated that he would agree to that to a certain extent also because we have to pick a point and \$5,000 seems like a reasonable amount. However, something like this is going to have far reaching impacts, he would like legal council to see it before it is signed. Board Member Ahern stated that she would agree with all of the comments made. SCAPCA's attorney can look at something like this quickly. Bill added that he would send it to Michelle Wolkey to look at and Chair Corkill is right in that this will produce a document that will be voted on by the Board. The Board will have a chance to look at it, make comments on it and have it revised as necessary. Chair Corkill requested that Michelle have a look at it and then come back to the Board on it in June. Mayor Pederson added that the question is what are we going to come back with, we are going to come back with a contract that's already signed. Chair Corkill stated that they are bound by the fact that the contract has already been signed, but in the future, anything that is affecting personnel rather than just less than \$5,000 to buy equipment and things like that should be approved by the Board and legal council. It probably should have come to the Board first but the fact that it is done, we should move on and see what the end product is.

Bill moved onto the house and senate having approved the HB 2261 and SB5745 for the burn ban criteria and it has been forwarded to the Governor to sign. We are continuing to pursue legal remedies to prevent the sale of non-complying wood fired boilers in Spokane County. The DOE is preparing a letter to all of the manufacturers and distributors advising them of state

regulations. We are expecting all the local air agencies to sign onto this letter so there won't be multiple letters from different agencies being mailed. This will be discussed at the May 8th local air director's meeting. Michelle Wolkey and Bill met to discuss revised contract language for her legal services contract with SCAPCA.

3. Public Information/Education Update – Lisa Woodard

This is the third year for the north Spokane County chipping and composting event. We teamed up with Department of Natural Resources (DNR), Fire District #4 and Spokane Regional Solid Waste System (SRSWS) for this event. Some people made four and five trips to the event which provided a lot more debris than anticipated to haul off. Atlas Tree Service provides the chipper and truck service to this event and had to go back on Monday to haul the rest of the debris because where they take the debris is only open until 5 p.m. on Saturdays. There were approximately 130 cubic yards of material collected based on the estimates provided by Atlas Tree Service. Of the people who used this event, 30% indicated that this is material they would have burned. The emissions factor was based on those people and it saved approximately 1,277 pounds of pollutants from being emitted into the air; also five burn barrels were turned in.

SCAPCA is pleased with the event and there is discussion of possibly having this event in other areas. The Fire District brought up possibly having this event in the City of Deer Park. One concern of SCAPCA's is that the primary purpose for having this event is to teach people what the options are to burning, but mostly to reduce the amount of burning that is occurring in the areas where people can burn. May 5th there is a chipping event in the southeast part of the County and SRSWS is who made this event happen and SCAPCA is contributing \$700 towards the chipping services of this event.

4. Activity Report for March 2007 – Ron Edgar

The air quality has been good in March and April. Under new source review you will see a lot of rock crusher permits being received and issued. We have received the final results of the 2005 air toxics study that was completed. We are trying to identify the new monitoring sites that the Goodrich settlement monies will be used on to in-large the air monitoring network. We are looking at sites in the Spokane Valley, Airway Heights and Deer Park. We have applied for an additional community air toxics assessment grant from EPA of \$195,000. If it is received, it will be conducted in 2008 and there is no matching requirement on this grant. We would also be working in cooperation with WSU and DOE. We would monitor at one location instead of four and the main goal would be to calibrate and improve the modeling capabilities for the State of Washington. Board Member Ahern asked if there was summary information available about this grant proposal. Ron replied yes, he would get it to her.

5. Approval of Minutes of the April 5, 2007 Board Meeting

Chair Corkill stated that on page 7, number 9, it should read (cadmium, lead, mercury, HCo and D/F) . . . D/F should be spelled out dioxins and furans.

Councilmember DeVleming moved to approve the April 5, 2007 minutes, as modified and Commissioner Mager seconded it. Motion passed unanimously.

6. Approval of Minutes of the April 18, 2007 Board Retreat

Councilmember DeVleming moved to approve the April 18, 2007 board retreat minutes and Board Member Ahern seconded it. Motion passed unanimously.

7. Income/Expense Statement for March 2007

Barbara Nelson gave a brief overview of the income and expense statement. SCAPCA is on track for income and expense. We are 67% through the year and our expenses are at 59%. Revenue is coming in as expected, although we have been told that we won't be receiving the full amount of budgeted federal grant money which is in relation to what Bill referred to earlier. We do have a signed grant agreement, but we've been informed that we won't be receiving the full amount of federal money that was identified on that.

8. Voucher Approval for April 2007 - \$138,784.76

Councilmember DeVleming moved to approve the April 2007 vouchers and Commissioner Mager seconded it. Motion passed unanimously.

9. Public Hearing – Resolution 07-14, Revision of Civil Penalty Worksheet Policy – Matt Holmquist

Matt gave some general background information on civil penalty worksheets. After reviewing penalty worksheets used by other local clean air agencies in Washington and the DOE, we concluded that the 2002 worksheet could be improved to better account for the days of violation, size of the business and type of violations. We have developed a revised General Civil Penalty Worksheet, a new Asbestos Civil Penalty Worksheet and for major polluters, a new AOP/Title V Civil Penalty Worksheet. We worked with Beth Hodgson of Spring Environmental, Inc., to address her comments on the civil penalty worksheets. In response to Beth's comments, a new AOP penalty worksheet was developed. The worksheet was also sent to EPA for comments and those comments were incorporated into the documents. The EPA can do an over-filing which is when EPA considers that SCAPCA didn't take appropriate enforcement action or the penalty was too small to them for SCAPCA's synthetic minor and AOP sources.

There were no public comments. Board Member Ahern moved to approve Resolution 07-14 and Commissioner Mager seconded it. Motion passed unanimously.

10. Public Hearing – Resolution 07-15 – Amending Regulation I, SCAPCA Name Change – Ron Edgar

This resolution changes the name of Spokane County Air Pollution Control Authority to Spokane Regional Clean Air Agency and updates the federal regulation reference date and WAC. Chair Corkill added that the word "FURTHER" in the last paragraph is misspelled.

There were no public comments. Mayor Pederson moved to approve Resolution 07-15 and Councilmember DeVleming seconded it. Motion passed unanimously.

11. Resolution 07-16 – Approval of Legal Counsel Contract – Bill Dameworth

Bill and Michelle Wolkey met to discuss her contract with SCAPCA. One issue is the hourly rate which needs to be written on the Resolution when the amount is decided. There is also some discussion that we may want to have an annual performance review and an annual review of what other public agencies are paying for contract of legal services. Does the Board want that in the contract or just discuss it on a periodic basis with the performance review?

Chair Corkill stated that the Board could do a performance review in April and the rates review in May. Michelle Wolkey stated that with the Board's approval, she would ordinarily put in some language unless otherwise directed by the Board just in case we have something going on in April that we don't get to it, or does the Board want to be completely bound to April and May or have some flexibility to move it at the Board's discretion. Councilmember DeVleming asked Barbara how it affects her budgeting. Barbara replied if an adjusted rate was agreed upon in April or May, it could be included in the budget for that year and be effective July 1, that would be the easiest way to manage that for budgeting purposes. Councilmember DeVleming asked who would be responsible for a review of the rates and the performance review. Bill replied that he or Barbara could look into what other agencies are paying and provide that to the Board. Mayor Pederson stated that he thinks the Director of SCAPCA should be responsible for the review of legal counsel and then the Board could give comments to the Director. Chair Corkill stated that Michelle and Bill can work on Section 6 of the contract and bring it back at the next meeting. Michelle Wolkey went over the rates agreed on in 2003 and the rate at that time was \$140 per hour. The only revision that has been made is that she has agreed to attend these board meetings at a reduced rate. When the contract was sent out for bid last summer, she submitted a bid at \$165 and she understands that that was the low bid at that time. She checked on rates with other firms and the rates appear to range from \$150 to \$300. The Board agreed that they would accept Michelle's rate of \$165 per hour.

Mayor Pederson made a motion to table Resolution 07-16 until the June 7th board meeting and Councilmember DeVleming seconded it. Motion passed unanimously.

12. Resolution 07-17 – Revise Salary Scale to Incorporate 2005 Flat Rate Cola – Bill Dameworth

At the board retreat we talked about the one time flat rate adjustment that was made for all employees and how we could incorporate that into the pay scale for less difficulty. Bill asked Barbara to take the dollar amounts and apply them to the step 8 for everybody and convert that into a percentage since most of the people were on step 8 at the time. This would move the lower pay scales up a higher percentage than the higher pay scales which were the wishes of the Board at the time and there are four people who are not at the step 8 and we would manually adjust those until they get to step 8. This would make all of the pay ranges reflective so that it isn't just a onetime thing for one person; it's an adjustment for the entire pay range. That would incorporate the wishes

of the Board and make it easier to administer. Chair Corkill stated that this came about because of the across the board flat rate COLA given in 2005 instead of a percentage COLA.

Councilmember DeVleming moved to approve Resolution 07-17 and Mayor Pederson seconded it. Motion passed unanimously.

13. Cost of Living Follow-up – Barbara Nelson

At the retreat there was discussion about the COLA and one of the issues was to possibly set up a standard process that SCAPCA and the Board could use in the future for determining the COLA that we would present. After some research, she found that most of the Cities and a good part of the County are union and the COLA is negotiated in their contracts each year. They do use the CPI-U, index for West Urban, and they look at the Seattle CPI. In conclusion there is no standard process, the administrative staff in the budgeting process refer to a number of CPIs, look at what others in the area are doing and then their own financial security. Those in the area are receiving anywhere from a 2% to 3% COLA. The most recent CPI-U index for West Urban is 2.9%. Checking the CPI-U index for West Urban and calling other entities seems to be a reasonable method. Board Member Ahern asked what the County is currently using. Barbara replied the County is getting a 2% COLA for 2007. Board Member Ahern added that 75% of 2.9 is 2.175 and that's what you're saying, 75 to 80 percent of the CPI-U. She questions arriving at a COLA of 2.6 and needs some further clarification on this. Barbara replied that she added that statement because she talked to several budget people in these different districts and one of the comments that she received is that they will use a combination of those CPIs. When they look at the Seattle CPIs, often times they will reduce it by 75 to 80% and plug that in. She would like clear direction from the Board on where they would like SCAPCA to be at. Councilmember DeVleming recommended that the Board establish a process and pick one of the ways that is more scientifically based than what the County is doing. Board Member Ahern added that alternatively if they could make the case that 80% of that figure would be more consistent with the so called lower Spokane costs, we would still be indexing from the West Urban CPA index. Commissioner Mager asked if Barbara knew how the County determines its COLA. Barbara replied that a lot of it is negotiated with the Unions but the non-represented people are getting the 2% and the others she couldn't find out. Board Member Ahern stated that the issue is having a little bit more understanding about the difference between the Spokane cost-of-living and the Seattle cost-of-living and adjusting the West Urban CPI accordingly. Michelle Wolkey stated that at the Board's pleasure, Councilman Rob Crow would like to address the Board.

Councilman Rob Crow stated that the cost-of-living is different between Seattle and Spokane but not necessarily the rate of increase, which presumably could be identical. What you are looking at here may not necessarily be adjusted for the difference; already the base is lower so that rate of growth might be changed. Board Member Ahern stated that she doesn't think that makes good sense. Chair Corkill added that everybody knows it is more expensive to live in Seattle but the slope of the increase is the same probably. He thinks that going with the CPI-U West Urban would make sense. Councilmember DeVleming agreed. His recommendation is to give it back to staff so they can fine tune this so Barbara can get this in a timely fashion for budgeting. Also, based on what the consumer or our employees are experiencing; he believes the price of gas is more expensive here in Spokane than it is in Seattle. He believes their electrical rates are comparable or a

little under because they have a couple of larger BPA utilities over there. He doesn't know about a gallon of milk here or there and he doesn't know if they really need to quibble with percentages of this or that, he is fine with picking either one of them; rather it is the West Urban or the Seattle one and going with that. Mayor Pederson made a suggestion to work with the West Urban formula and base their assumptions off of that and Board Member Ahern agreed.

Councilmember DeVleming made a motion to give this to the staff to review the last few months of Seattle versus the CPI-U West Urban and bring it to the next board meeting for final approval and Commissioner Mager seconded it. Motion passed unanimously.

Barbara reiterated the Board's wishes for clarification. She will come back with a procedure and policy that will follow and include some history for both of the CPIs for several months. She would also like to include a particular month that they will be using for their target month which she would suggest to be either February or March ending so she can get it included in the budget and then it would be effective on July 1st each year with the budgeting process. The Board agreed on this clarification from Barbara.

14. Office Space Options in the Future – Bill Dameworth

The possibility of moving the SCAPCA office from the Health District Building was discussed at the retreat. This resolution would authorize Bill to take a look at what SCAPCA's options are for renting, leasing or purchasing office space different than what we have now and how that cost might compare with what we're currently paying.

Commissioner Mager made a motion to authorize Bill Dameworth to move forward on the office space options and Councilmember DeVleming seconded it. Mayor Pederson added that what will be looked at is space requirements with projected future staffing requirements over a 20 or 30 year period and if we want space for the board meetings, etc. in the same building. Commissioner Mager added that Bill should contact Ron Oscarson, County Facilities Director, who may have some ideas. Motion passed unanimously.

15. Selection of Sub-Committee to Draft Agency By-Laws

Mayor Pederson made a motion for the Board to approve a sub-committee comprised of Councilmember DeVleming and Board Member Ahern to address the draft agency by-laws for the soon to be Spokane Regional Clean Air Agency and Commissioner Mager seconded it. Motion passed unanimously.

Chair Corkill added that if any of the Board Members have comments, they can make copies and send them to the sub-committee to incorporate into the document. Councilmember DeVleming stated that he can give a report at the next meeting of what the sub-committee's first meeting consisted of and what their schedule will be. Commissioner Mager asked if things come up where you can't get you comments to these individuals in time, does it violate the Open Meetings Act to have a discussion over the e-mail about your comments. Michelle Wolkey stated that the law is very specific and whether you do it by e-mail, phone, etc., if the Board is communicating, that is a meeting. Councilmember DeVleming stated that they are not violating a meeting if Commissioner

Mager wants to send a copy to Board Member Ahern or him that says don't forget to add something about an alternate. The discussion over the e-mail is what makes it a violation. The Board agreed for the rest of the members to send input for the by-laws to Michelle or Bill, and they will get copies of the comments to both Board Member Ahern and Councilmember DeVleming.

Councilmember DeVleming stated that they will start with the simple version that Michelle gave them and keep copies of the other ones so they can cut and paste what somebody might mention that is in the other ones. What ever is started with will end up being added to.

16. Board Concerns

Mayor Pederson stated that typically the Board takes the month of July off because of the Fourth of July Holiday, he is not in favor of doing that but he would like to move the meeting date to the following Thursday, July 12, because going two months without a meeting has been problematic and difficult for staff and there is a lot going on with SCAPCA right now. Barbara stated that she will do a public notice of where the meeting will be held.

Barbara Nelson asked the Board if just the agenda could be e-mailed and if the Board Members want a specific item off of the agenda right a way, it could be e-mailed to them. The rest of the board packet would be mailed. The Board agreed on just receiving the agenda by e-mail.

17. Public Forum: There were no public concerns.

The meeting adjourned at 11:06 a.m.

The next Board Meeting will be June 7, 2007 at 9:00 a.m. in the lower level of the Public Works Building.

JEFFREY CORKILL, CHAIR

WILLIAM DAMEWORTH, SECRETARY