



SPOKANE COUNTY AIR POLLUTION CONTROL AUTHORITY
BOARD MEETING MINUTES

December 7, 2006 9:00 a.m.
SPOKANE COUNTY PUBLIC WORKS BUILDING
LOWER LEVEL HEARING ROOM

BOARD MEMBERS PRESENT:

Mike DeVleming
Jeff Corkill
Michele Pope
Matthew Pederson

STAFF MEMBERS PRESENT:

Bill Dameworth, Director
Brenda Smits, Air Quality Specialist II
Matt Holmquist, Compliance Administrator
Lisa Woodard, Public Information Officer
Ron Edgar, Chief of Technical Services
Barbara Nelson, Finance & Personnel Admin.
Joe Southwell, Engineer I
Albert LePage, Air Quality Specialist II
Mary McDermott, Secretary II

WORK SESSION: The work session of the board meeting was called to order at 9:03 a.m.

1. Residential Yard & Garden No Burn Area – Brenda Smits

Brenda gave an overview of the 2006 Reasonable Alternatives Determination. This is a Washington State law (Chapter 173-425 WAC) requiring that in 2000 and at least every third year after that, SCAPCA and local air authorities across the state, including the Department of Ecology (DOE), need to determine if there are reasonable alternatives to yard and garden burning.

SCAPCA's residential yard & garden debris burning program is for eight days only in the spring for people that reside outside of the no-burn area, and the urban growth areas (UGAs) starting January 1, 2007. You can have one three foot by two foot fire at a time, between the hours of 9:00 a.m. and 5:00 p.m. Only dry, natural vegetation from the improved area of the yard may be burned, and material may not be hauled from another site. SCAPCA has Fire District Delegation Agreements with Fire Districts 2, 5, 11 and 12; where the Fire Districts can issue permits to people that live in their jurisdiction for burning outside of those eight days.

Areas that were looked at were based on increasing population density, topography and proximity to transfer stations and some of the areas that SCAPCA sees more complaints in during the yard and garden burning season. Those areas are Hangman Hills, Newman Lake and North of Colbert Road between Highway 395 and Highway 2 areas. Bill Dameworth and Brenda have met with a number of Fire Districts to see if they support changes to the no-burn areas

within their jurisdictions and to talk about delegation agreements. Deputy Chief Blystone of Fire District 8 supported a change to the no-burn area because of the population density and the topography. Deputy Chief Blystone wanted to include an area around Browne Mountain because of the impacts he has seen in proximity to populated areas. There is a small portion of that area that is in Fire District 1 jurisdiction and they supported having this area included in the no-burn area.

With the Board's direction, SCAPCA can come back with a Resolution to include these areas in the no-burn area. Jeff Corkill asked what some of the exemptions the Fire Districts with agreements can give. Brenda replied that with the change in those delegated areas they are not limited to just the eight days in the spring to burn. The people do have to get a permit from their Fire District and they have to contact the Fire District to make sure that burning is allowed that day. SCAPCA is still available for enforcement if the Fire Districts want to forward something. Matthew Pederson stated that the county wide standards are very inconsistent from jurisdiction to jurisdiction whether it is DNR, Fire Districts or SCAPCA and many of the people in the outlying areas are unaware of which governing body they fall under. What can we do better to educate the public on what the standards are and who their governing agency is? Brenda replied that often people fall under several jurisdictions. If you live on a piece of property that is outside of the no-burn area and the UGA, you can burn during the eight yard and garden days in the spring and if you pay fire hazard assessment/forest tax assessment to the Department of Natural Resources (DNR) you can burn for fire hazard abatement under their program. SCAPCA's inspectors talk to people who are burning about what program they are burning under and make sure they have an understanding of what program it is. We do a lot of one-on-one talking with people, send out a lot of educational brochures and it is an on going communication effort. Matthew stated that he received a lot of comments from the small cities, especially in southeast Spokane County, that are struggling with the changes and he thinks it is an educational process that SCAPCA will have to go through with them. The permitted system will help them more than the designated days, so what can we do to reach out to them further for educational purposes and get their buy-in to this program. Brenda stated that earlier this year a letter was sent out to all of the small cities and towns that were being brought into the UGA and asked if they wanted to have a mailing sent to people who resided within their jurisdiction. Only one city had that done. Lisa Woodard added that everyone did receive a direct mail and SCAPCA was at the Rockford Fair talking to the public. Also, eight months prior to SCAPCA's fall mailing, letters were sent out to all the mayors stating that SCAPCA would like to work with them to help their citizens get the message. SCAPCA is always available to talk at meetings, etc. if the small cities and towns want SCAPCA to. Matthew asked if as far as a county wide standard goes, how far off are the different regulations from DNR to SCAPCA to the Fire Districts? Are there varying differences between the programs or are they similar? Brenda replied that they are different and SCAPCA's are eight days only in the spring, unless you live in a delegated district where you need to get a permit from your Fire District and not from SCAPCA. With DNR, you have to pay fire hazard assessment on your taxes and they have a rule burn program where you can burn natural vegetation that is in a pile four feet or smaller in diameter without a permit or you can get a permit for larger sized piles. Primarily all of DNR's burning has to do with fire hazard abatement and SCAPCA's program does not. DNR's burning is for silvicultural debris and SCAPCA's burning is for yard and garden waste. Bill Dameworth added that what SCAPCA is trying to do is get as many delegation agreements as possible so that the Fire Districts are the first people contacted for the primary source of information on burning. SCAPCA's eight days

are not always the best days for burning and these agreements would give them more flexibility to deal with fires in their jurisdiction and makes it less confusing for the public if the Fire Districts are the first persons for contact. Matthew asked what the difference is between SCAPCA and DNR debris. Brenda replied that SCAPCA's area is the improved area around your home where you mow and water and DNR's area is the forested area of your property. Matthew would like to see some kind of coordinated mutual agreement between the three entities to make it easier for the public. Brenda stated that SCAPCA does have a mutual agreement. Matthew would like to see a consistent program between the three different jurisdictions. Jeff Corkill asked if DNR issues a permit, do the people have to call about the air quality before they burn. Brenda replied yes. Jeff asked when SCAPCA decided on the Hangman Hills area, why was Baltimore Road and the Old Palouse Highway picked rather than going all the way up to Coral Ridge. Brenda replied that SCAPCA is doing what is supported by the Fire Districts and also to make the lines clean so they are easy to follow. Jeff Corkill added that maybe there should be a flow chart on the web so that they could answer yes or no to some questions and know who they need to talk to for their specific burning needs. Matt Holmquist stated that SCAPCA, DNR and the Fire Districts could work together to develop something on that.

2. NOC Fees – Matt Holmquist

Matt briefly went over the changes to the proposed revisions to Regulation I, Article X, Sections 10.07 and 10.08. Prior to the establishment of a new air contaminant source or modification of an existing source, the owner or operator is required to obtain an air quality permit which is either a Notice of Intent (NOI) or a Notice of Construction (NOC). Temporary and portable sources need NOIs and other sources need NOCs. Each year staff reviews about 25 NOIs and 50 NOCs. Because the fees adopted 15 years ago have resulted in program revenue shortfalls of over \$95,000 per year, SCAPCA is proposing fee amendments on this program that will achieve full-cost recovery. The proposed fee structure consists of base fees and other fees. The base fees would be comprised of four classes: all of the NOI applications would be considered Class I permits; Simple permits are Class II and would be for gas stations, surface coating, etc (note: 96% of NOCs reviewed each year fall within Class II); Class III would be Standard permits such as chrome plating and crematories; and Class IV would be Complex permits which are asphalt, composting and rendering plants. Other fees would be added to the base fee when applicable and for example, the SEPA review fee or the toxics review fee would be two of the most common additional fees for applicants. Matt would like the Board's concurrence to move forward, get stakeholders comments and then after getting comments on the initial proposal, bring that back to the Board along with a summary of stakeholder comments prior to initiating formal rulemaking.

BOARD MEETING: The board meeting was called to order at 9:34 a.m.

1. Director's Report – Bill Dameworth

Bill stated that SCAPCA has spent a good deal of time on issues dealing with the Waste-to-Energy (WTE) plant last month. Stack test results were showing at least one test being non-compliant and when averaged with the other two tests it showed the facility to be in-compliance. There was a lapse of time between the first non-compliant stack test and the other two and if the first tests were continued, there is a distant possibility there would have been a violation of the

non-methane hydrocarbon limit. SCAPCA was going to pursue a NOV on this issue but the WTE plant offered in exchange for not issuing the NOV, a series of more complete enhanced stack tests, over and above what's in their permit. The agency is working on a regulation to specify for stack tests how they are conducted and when they can start and stop them, etc. Part of this agreement would be for WTE to agree to those proposed conditions up until the time the Board approves a regulation so that they would be the first facility that this would apply to. SCAPCA felt this was a better public policy than just collecting a small fine so we went ahead and proceeded with it. SCAPCA's lawyer is now reviewing the final language and we expect to sign the agreement in the next week.

The second issue is the pink/purple haze that came from the facility. This was eventually traced back to a special waste the facility accepted. There is nothing hazardous, illegal or improper about the waste itself, but when they burnt it in the boiler, it generated iodine gas which the air pollution control equipment is not designed to remove and creates a fairly strong color. SCAPCA asked the WTE plant to do some air quality modeling to determine if this had any sort of a negative impact on public health and it was well below any public health concern levels. SCAPCA staff reviewed the modeling report and concurred with the findings. SCAPCA has asked the WTE plant to submit a waste management plan that would show how they are going to screen any special wastes so this doesn't occur in the future; WTE is working on that now.

The third issue is dealing with what to do in case of a power outage and SCAPCA is asking for some information back from them on that.

Margee Chambers will be splitting her time on January 1, 2007, from the full-time public education program to 40% in the compliance program for small business assistance and pollution prevention and 60% still in the public education program. She will be able to help small businesses understand SCAPCA regulations. SCAPCA is continuing work on revisions to the asbestos regulation and expects to make a presentation to the Board in January. SCAPCA also joined the Spokane Valley Chamber of Commerce. Final comments were sent to the State Auditor's office regarding their audit findings. SCAPCA still was not able to come to agreement on all the language but they did soften up some of the things they were saying. We are still not happy with what they came up with and went on record as saying so. Bill stated that if the Board did not get copies (they did not), he would make sure they get copies.

Jeff Corkill asked who is going to decide what the additional tests are. Bill replied that it is in the agreement and it is for total hydrocarbon, non-methane hydrocarbon and methane. They will be doing a continuous emission analyzer for those following the standard protocol for those tests and they will be doing them in every quarter for the next year. Jeff asked how often WTE would normally be doing this. Bill replied once a year. Jeff asked how does this loop get completed, they do the four additional tests and they're okay, then if they aren't okay, do you go back to issue an NOV. Bill replied that is correct and they are agreeing to that, they are saying on the stack testing that they won't be doing stoppage of the tests and once the monitor has been found to be okay, they will continue and if it shows a violation, that they're going to have to continue the testing and SCAPCA would be issuing them a citation for that. If these four tests go okay, then SCAPCA will let it go. We are just trying to get to the bottom of why this one test was so high. One of the other problems is that the way that they have been doing the methane

test; they collect a sample and mail it off. You can lose a lot of your sample when you do that, whereas when you do these four tests they'll be having on site real-time data. Jeff stated that what the compound ended up being was about four to five hundred pounds of iodine put into the incinerator and looking at the pictures, he thought that the incinerator violated the opacity standard so why wasn't there an NOV for that. Bill stated that SCAPCA could have issued them one, but for all regular industry permits or businesses, if it is something that's unavoidable and it's beyond their control, SCAPCA can elect not to pursue a NOV. It's not like it was something they did purposely or was the result of poor maintenance or anything like that and SCAPCA looked at the MSDS for this material and it didn't really talk about the iodine coming off, it listed a compound and usually the MSDS will say this is what happens to something when you burn it. That is why SCAPCA is asking WTE to come up with a screening procedure so that they will take a harder look at these things and look at what will happen as far as decomposition products. Jeff asked how often these special wastes are accepted by this facility. Bill replied that he can't answer that. Jeff stated that there should be more than just the WTE people looking after the facility, there should be some external reporting if they get this special waste, that's something SCAPCA should know about before hand. Jeff stated that it is still a release of 500 pounds of a relatively toxic compound into the air, especially for the people living by there. His concern is that the WTE people put a lot of pressure on SCAPCA to back off and he thinks that SCAPCA needs to be more proactive in how the facility is operated. Jeff really encourages SCAPCA to not get pushed around by the WTE people but to make sure that any special waste gets reported to SCAPCA and it's investigated. If WTE gets some special waste that is colorless, SCAPCA would never know. Bill replied this is why SCAPCA has asked them to develop this plan that talks about who is going to be approving these and what kind of criteria are they going to be looking at. Bill is not sure that SCAPCA wants to get into the business of approving every special waste that they have but if the Board thinks SCAPCA should, SCAPCA can certainly try to work up some sort of an agreement with them. Over the years, SCAPCA has had an acrimonious relationship with WTE, that's why there is an agreement right now that was brokered by DOE where SCAPCA has to do all of this communication. On this issue, SCAPCA received very little push back from WTE and that is why they have been asked to screen this stuff better. Jeff added that there is a history of so called special waste, they burnt tires, one time they burnt plastic bottles which contained pesticides imported from Canada, those are the ones we know about and he believes WTE should report what they are doing. Bill added that one of the issues in Washington is that once you issue somebody a registration or permit, the agency cannot change it unless the permitted facility requests the change in it. That is a failing in state law that frankly allows oversights like this to not be addressed. Jeff encourages SCAPCA to press forward and get WTE to let SCAPCA know what their special wastes are. If it's special, then it's not that often and it's not going to be that much work on their behalf because they probably do some research of what the special wastes are. Looking at MSDS data is just going to tell you what happens if you breathe or take in the actual solution, which was pretty diluted and MSDS data doesn't tell you what happens when you burn it. Bill added that it should and most of the data sheets that he's seen will tell you the products of decomposition when you burn it or what happens when it's reacted with certain other compounds. Screening is supposed to cover that but this one didn't. He thinks it was poorly run review and that is why SCAPCA is asking them to beef up their screening and to tell us what they are going to be doing. SCAPCA can request that they notify us of these things and we can review them ourselves; he is not sure how much work that is going to involve but he will certainly pursue that.

Mike DeVleming stated that he is comfortable with the procedure that Bill has taken and how he has reacted and thinks we've accomplished a better series of tests. He is fine with the way things have happened with WTE. Michele Pope stated that she would concur with Mike on this subject. Matthew Pederson stated that he is also comfortable and thinks that Bill is doing the right thing but he does share Jeff's concerns with future incidents. We do have a list of prohibited items to be burned in the plant, could SCAPCA maybe look towards creating a list of items that require special circumstances in the disposal of, such as this product? Bill replied that the special waste is how this material got there in the first place, because it is not a standard municipal waste and he thinks there are prohibitions on a number of things and this one wasn't on the list and we need to develop a screening procedure with them that basically says what kind of hoops they are going to jump through before they approve one of these things, not just a glance at the data sheet and sign off on it. WTE has suffered a lot of bad press and pain over this thing but SCAPCA is not through with them as far as the procedure is concerned. He has e-mailed and sent a hard copy letter explaining what SCAPCA would like to see with this special waste management plan. Matthew asked if all the guidelines were set by EPA followed for this process. Bill replied that he does not know if there is any specific guideline. This was a non-hazardous material and this was not a good situation but it wasn't a terrible situation, but it is something that SCAPCA needs to do a better job of addressing in the future. Matthew added that the purple haze did cause a bit of alarm and he agrees with Jeff, had it not emitted the color with the smoke, we would have never known this situation occurred. Bill replied that is true. Matthew added that he is cautious that in the future if a product is disposed of in that manner that does not emit a cloud that is tinted, how are we to know and how is the general public to know that the air that we breathe is safe. Bill stated again that a screening procedure is being worked up and he will pursue the idea of WTE letting SCAPCA know what the special wastes are. He wants to find out more about how often this happens and if they need to keep us in the loop on the approval process. Bill wants to have procedures in place to prevent this from reoccurring.

2. Advisory Council Report – John Livingston

John stated that at the Advisory Council meeting they discussed the candidates for the at large position on the SCAPCA Board. Out of the four candidates, the Advisory Council Members would like to recommend Michele Pope, Darryl Potyk or Melissa Ahern for the position because of their qualifications. They had an open discussion for sites on air monitoring and Mr. Dameworth and Mr. Edgar shared the new requirements that are coming in as far as lowering the ozone standards and monitoring other pollutants. This will be discussed more in the future when the standards are lowered.

3. Public Information/Education Update – Lisa Woodard

Do to time constraints, the Board chose to skip the public information/education update presentation.

4. Activity Report for September 2006 – Ron Edgar

Do to time constraints, the Board chose to skip the activity report for September 2006 presentation.

5. Approval of Minutes of the November 2, 2006 Board Meeting

Michele Pope moved to approve the November 2006 minutes and Mike DeVleming seconded it. Motion passed with Matthew Pederson abstaining.

6. Income/Expense Statement for October 2006 – Barbara Nelson

Do to time constraints, the Board chose to skip the income/expense statement for October 2006 presentation.

7. Voucher Approval for November 2006 – \$148,760.55

Mike DeVleming moved to approve the November 2006, vouchers and Michele Pope seconded it. Motion passed unanimously.

8. Resolution 06-18 – MOA for Bio Diesel Fuel Infrastructure with Medical Lake School District – Ron Edgar

Ron stated that SCAPCA has been trying to work out with some of the school districts the ability to put bio-diesel into their buses. Central Valley was the first one tried and due to the expense of putting in tanks over the aquifer and insuring them, they have decided that it would not be any economic benefit to them and they will continue to use city services Valcon for their bio-diesel. Medical Lake continues to be interested. They've got some things going on where obtaining ultra-low sulfur diesel would be difficult for them in the future if they cannot get their own supply tanks, so it has been adventitious to them to continue to pursue it. The agreement is to put in an above-ground fuel tank that will contain ultra-low sulfur diesel and bio-diesel that will be mixed and put into the school buses depending on whatever the warranty on that bus requires. The cost will be \$175,000 that SCAPCA would pay from a fund of pass-through money that is from the state for diesel retro-fit and fuel infrastructures for school buses. The school district will still have to go out for final bids.

Jeff Corkill moved to approve Resolution 06-18 and Michele Pope seconded it. Motion passed unanimously.

9. PUBLIC HEARING – Regulation Amendment – Resolution 06-19 – Registration Fees – Matt Holmquist

This is the Annual Registration Fees that have been being discussed for the past several months now. Because fees adopted up to 15 years ago have resulted in registration program revenue shortfalls of over \$100,000 per year, we are proposing fee amendments that will also achieve full-cost recovery. The proposed fee structure consists of the following: 93% of projected revenue will come from the first three fee categories which are a flat facility fee of \$165, an emissions fee of \$45 per ton and an emission point fee of \$50 per stack; the remaining 7% of the projected revenue will come from the remaining three fee categories and the fee schedule will be reviewed annually and adjusted as necessary via resolution, following a public notice and comment period. A three page summary of the proposed fee schedule was directly mailed to over 800 people and posted on the web site in May. Comments were received from

Safeway which were addressed in the June 19th staff report. A revised summary was posted on the web site in July and no comments were received. Another direct mailing was made to over 800 people and posted on the web site in September. Articles were placed in SCAPCA's Compliance Assistance news letter which is sent to the registered sources. Comments were requested by November 9th. No comments were received.

Jeff Corkill moved to approve Resolution 06-19 and Michele Pope seconded it. Motion passed unanimously.

10. PUBLIC HEARING – Regulation Amendment – Resolution 06-20 – Registration for Coffee Roasters – Joe Southwell

Joe stated that per direction from the SCAPCA Board, the revisions to the regulation will continue to register all coffee roasters, but exempt coffee roasters with 10 pound or less batch maximum capacity from SCAPCA's NOC and control technology requirements. The proposed revisions involve amending Regulation I, Section 5.02 to exempt coffee roasters with batch capacities of 10 pounds or less from the NOC requirements, unless air pollution controls are required because of documented nuisance odors or emissions. We will also amend Regulation I, Section 4.02 to clarify that listed sources that are exempt from NOC requirements are not exempt from registration.

Mike DeVleming moved to approve Resolution 06-20 and Jeff Corkill seconded it. Motion passed unanimously.

11. PUBLIC HEARING – Resolution 06-21 – Civil Penalty Schedule – Matt Holmquist

Matt stated that each year SCAPCA responds to about 1,000 Complaints, performs 300 facility inspections and 100 renovation and demolition inspections. Inspectors routinely observe a range of compliance issues which typically result in a warning that NOVs are issued when appropriate. SCAPCA has issued 55 NOVs this year. A civil penalty is assessed 31 days after receipt of a NOV. The penalty worksheet that we currently use, which was developed in 2002, could be improved to better account for the duration of the violation and to differentiate between smaller businesses like a family operated coffee roaster and larger AOP sources like WTE and to better account for commercial dust and odor violations. Rather than reinventing the wheel, we reviewed penalty worksheets and schedules used by local clean air agencies in Washington and the DOE. There are a variety of work sheets being used but SCAPCA concluded a general penalty worksheet and an asbestos penalty worksheet should be adequate. For general penalties, we will assign ratings of 0 to 3 to seven questions using a ratings guidance sheet. We would then take the total of them to see what the base penalty should be, if an economic benefit was clearly gained from non-compliance, the financial benefit would also be added to the base value which would give the total recommended fine. An asbestos penalty would be calculated in a similar fashion.

Jeff Corkill asked about a past discussion about how long the people have to pay after they've been issued the penalty. Matt replied that when the NOV is issued, they have 30 days from receipt of the NOV to provide any additional information they wish to before the penalty is assessed. On day 31 or after receipt of the initial NOV, the civil penalty is assessed and then

they have 30 days to either pay the penalty, request mitigation of the penalty or appeal the penalty. Jeff asked if there was a final appeal to a state board. Matt replied if someone wishes, they can appeal to the Pollution Control Hearings Board (PCHB) out of Lacey Washington. Over the years, we've had appeals but very few of those ever end up going to hearing at the PCHB, in the last five years there have probably been two or three and mostly with one contractor. The vast majority of issues are settled through the mitigation process.

PUBLIC COMMENTS:

Beth Hodgson: I'm with Spring Environmental and I work with SCAPCA in negotiating violations both for some that are a little bit more contentious as well as some that are more amicable. I'm actually surprised and a little concerned that this whole rule making has taken an entire month and we've gone through other stuff that's taken six months. So, I apologize to Matt that I have not submitted written comments on this. A couple of comments I do have is item one refers to emissions increase; I'm here as far as the penalty worksheet. It doesn't say that they're un-permitted emissions or that they're an emission increase and to me that is a concern on the way this format has been changed. On item two it says did the violator know about the requirements. So essentially if the facility knew nothing about the regulatory requirements, at a minimum they get a \$200 penalty just for not knowing about it and that's doesn't include all the other items on this list. I'm seeing that as a concern for many of the small businesses that are not or do not have relationships with SCAPCA. Item four in here is regarding the O&M plan and one of the criteria on here is whether or not the O&M plan is adequate and I recognize that several of the people who work at SCAPCA have experience with some of these industries. I know I don't have experience with every single one of these industries and having SCAPCA make a determination on whether an O&M plan is adequate is disconcerting to me and that a penalty will be issued based on SCAPCA's determination of adequacy. Item five on here is did the violator have a history. The column that says possibly references that they may have violated a standard and there's nothing in here that says how SCAPCA's going to make a determination that someone may have violated a standard. I may have gone 71 mph in a 70 mile an hour zone but how are you making a citation on that. So that column of possibly that will incur a penalty of \$200 to \$700 for SCAPCA saying possibly is of concern to me. On here there's a question that asks did the violation occur for an extended period of time. I actually happen to like this change generally it gets us away from the penalty per day. I'm surprised that we've gotten away from that, but that was a comment. The Class assignments that are on here at the bottom of the table where we deal with the a, b and c categories; under Class A, Items 2 and 3 I think should have been combined. If someone in the public doesn't think they were regulated, they would have thought they would fall under Item 2 even though SCAPCA's making a determination that they are regulated, so either a facility is minor and small with less than 10 employees or there not, for suggestion. Class C has changed significantly from the old regulations and again this concerns me that this is all being managed in one month. The Title V Sources are going from having a 25% penalty, so that they had a mark up in the past NOV worksheet of 25% can now bill in-between 250 and 433 percent markup just because they're Title V facilities. That doesn't sound reasonable to me. In the benefit components, the facilities that have a benefits in the past where it's actually \$50 penalty if there was maybe a benefit and then they have

components that was a specific value of their economic benefit. Now those facilities, if there's a defined economic benefit, will be assessed that but they'll also be assessed between \$200 and \$500 just because they had an economic benefit on top of the value of the economic benefit and I think this worksheet is really compounding and I recognize the intention is to prevent violations, I don't think this NOV worksheet does that. I'm concerned that we are reinventing the wheel; this is significantly different than the old worksheet. I recognize that I printed this out and breezed through it I've not had a chance for a thorough review in the few days that I've seen it. I have worked with other regulatory agencies and I've seen this worksheet or a similar worksheet in the past. But I think this is reinventing the wheels of Spokane County and I think that it's assessed some significant changes and the way it's been managed, specifically the impact on the small businesses are significant. Violations for lack of knowledge are as much a reflection on SCAPCA's communication and dissemination of information and accessibility to the public as it is a reflection on the small businesses. Ten years ago my company didn't do any work in Spokane County and today I do quite a bit and I think that's a reflection on a change in having smaller businesses being cited, because that's the type of businesses I work with. I understand that one of the comments today was about having Margee doing more with compliance assistance; I think that's wonderful, I think a technical person should be available to the public. We've had comments in the past and I have discussed with some of the engineers that OSHA has a compliance assistance program, now somebody's going to call Margee and ask questions, that doesn't mean that they are not in violation, it doesn't mean that SCAPCA's not going to issue an NOV. Companies are still going to be concerned about working with SCAPCA and asking the questions unless there's a means to do that and get real resources and the small businesses need that. When we go and get a planning permit and more often than not we hear questions of well we did our planning permit, nothing came up, we did our SEPA check list, nothing came up and those companies don't know how to deal with that and I don't think they should have to pay me to do this either. I mean there needs to be generally available information for them to run their businesses. I would recommend that there be more focus in this check list similar to the way it was in the past, but it's focusing on the impact to the public. The public health is the primary reason that this business exists, that SCAPCA exists. Knowledge, the responsiveness of the company, the economic benefit I think are all important parts of this but I think there are some aspects to this check list that are not drivers for public health and I'm encouraged hearing things you were talking about like the involvement in the Chamber and about trying to be accessible to the public and I would encourage that to be done more so because these penalties are not; in and of themselves they won't protect the public. The companies complying with the regulations and knowing the regulations will. Any questions on my comments?

Jeff Corkill: You seem to imply that companies wouldn't know that they aren't allowed to emit chemicals and other particulate matter because you said that somewhere in the beginning they would have had to get one of these NOIs or NOV's. So the fact that they wouldn't know that they were expected to comply with air quality seems a bit naïve. One of the other comments you had about #5, it doesn't say may or shall or possibly as you've seem to have read it. It says have a history, it either has a history or doesn't have a history, right?

Beth Hodgson: The explanation on the back of the page where it says how to assess what possibly means. The copy I got off the internet says “if a similar violation may have occurred before but has not been previously cited”. Your first one was that it is naïve that a company would not know that they had to comply with a permit. Companies can get cited for not having a permit for their emission sources. There are companies that don’t know, I mean we had these issues about coffee roasters. You know, somebody wants to do some little business in the corner, they get a business license and they’ve got a business. There are companies that have no idea of the entire depth of the regulations of a change that they do. I get called all the time “Well Beth, what if I do this and this and this, does it trigger?” A lot of people have called me to ask questions because I can ask the regulator without the regulator knowing which facility it is. And yes it happens because engineering is not all black and white. Changes in process are not all black and white.

Jeff Corkill: So you’re asking us to believe that people who have a pipe going out of the side of the building would not ever think that they may be regulated?

Beth Hodgson: Let me ask you this question.

Jeff Corkill: You answer my question first.

Beth Hodgson: Yes, it’s not that they’re not regulated; it’s that a change that they make in the process would have an impact on their permit.

Jeff Corkill: So why wouldn’t they say that they would not have an impact.

Beth Hodgson: Do you want to go back to Wheelabrator which you discussed today. Wheelabrator is covered under hazardous waste regulation and they complied with the hazardous waste regulations. Did they know that iodine would be one of the decomposition products? Well, not everybody there is a chemist so maybe they didn’t. So yes there are people out there that do not know that every little change in the process will have an impact on air quality.

Michele Pope: Beth, I really appreciate your comments and they seem to be extremely helpful and pertinent and you’ve made some good points and so I guess I would like to see some of this information taken into account and maybe not act on this particular Resolution at this time and for further development and evaluation.

Matthew Pederson: I agree that there needs to be some additional conversations held regarding the questions raised today and I think there are questions on both sides. I would agree that possibly tabling this to a later meeting so that we give time to answer said questions and look at the overall scope of the changes that were made.

Mike DeVleming: Are your comments in writing? Do you have written copies of those comments? It would be nice to line up these comments with the documents.

Beth Hodgson: I have a photo copy machine. No, I have not submitted them in writing yet. I didn't make the November 30th deadline which is why I'm speaking today. I would imagine if I e-mail it to Mary and/or Matt, they can get it to Board Members.

Michele Pope: We just appreciate having an actual business come and tell us because that is so critical. It's easy for agencies to develop these things from their perspective, but we need to have the user's perspective in here and considered as well. So thank you.

Bill Dameworth: I might add, one of the driving factors here was the penalty negotiation phase we've been going through. We've had with our current policy one violation that was an 80 or 800 thousand dollar possible penalty using our current matrix, which you seem to endorse and I don't think that's appropriate. We've actually reduced most of these things because the current penalty matrix results in propose assessed penalties that are far higher than I think is appropriate. On very few occasions, the penalty matrix we have now makes them look probably to low to be effective. So the whole goal here was to make this such that the initial proposed penalty would fit the crime, basically.

Beth Hodgson: I recognize that, like I said, I just say this a few days ago and didn't even, I mean this came out at the beginning of the month and my first pass for the first couple that I ran through raised some flags. So it's not that, I agree that there need to be changes in the old one but I was concerned with several of the changes in the new one.

Karen Lindholdt: As someone who has represented folks who are impacted by air quality, deals with asthma, cystic fibrosis, emphysema, I feel compelled given the statement Ms. Pope just made that it is good to hear from the users, those who get permits in this community. I again want to remind the Board there are other entities in this community and for example I think it is important, I would just encourage this Board to always consider the other users that are contemplated under the Clean Air Act and that is those who are impacted by the emissions that are produced. I fully agree as a small business owner myself I understand its incumbent upon me to understand what the laws are and get all the permits necessary and it's not always easy. I have been fined myself for not actually submitting certain fees and permits when I was supposed to, but the fact is this Board is created pursuant to the Clean Air Act and the Clean Air Act discusses the protection of air quality. So in talking about the users and consumers and I note that that was something that Commissioner Harris stated when he was on this Board, is we need to understand how we impact our customer. Well, I remind you that the customers are not just the people who are producing the air pollution but is also the people down wind. I am raising two children three miles down wind of that Waste-to-Energy plant. I must say even if that iodine is mildly toxic, I have a great concern for it and I would just encourage you, you don't often hear from people who come to assert their positions; part of it is because this meeting is held at 9:30 in the morning when people aren't available to come. Having worked with people and scientists, people are very concerned about air quality and impact, so there are two sides to this story and I would just ask that you consider that in making these deliberations. Thank you.

Mike DeVleming made a motion to table this item until the January 4th board meeting and Michele Pope seconded it. Motion passed with Jeff Corkill opposed.

12. Resolution 06-23 – Fire Delegation Agreement with Fire District 2 – Albert LePage

Albert stated that this delegation has Fire District 2's signature approving the delegation agreement as updated and written and it just needs Board approval.

Mike DeVleming moved to approve Resolution 06-23 and Michele Pope seconded it. Motion passed unanimously.

13. Resolution 06-24 – Fire Delegation Agreement with Fire District 11 – Albert LePage

Albert stated that this delegation has Fire District 11's signature approving the delegation agreement as updated and written and it just needs Board approval.

Mike DeVleming moved to approve Resolution 06-24 and Jeff Corkill seconded it. Motion passed unanimously.

14. Contract for Legal Services – Bill Dameworth

Bill stated that this was erroneously listed as an executive session but this is a carry over item from the last board meeting where the Board is reviewing the proposed bid from Michelle Wolkey for legal services. We had advertised for bids for our legal services contract which is about three years old; Michelle's was the only bid we received and he thinks this has been discussed at a prior board meeting and was supposed to be discussed at the last one but there wasn't a full board so this is just a continuation of that discussion. Mike DeVleming asked when Michelle's contract ends. Bill replied it doesn't. It can be terminated upon proper notice by either party. Mike asked if there have been any recent changes recommended by her to the contract. Bill replied the proposal Michelle gave SCAPCA when it re-advertised the position is that she is proposing to increase the rates that she is charging. There was some discussion at one point if we wanted to continue on with our current legal consultant that we would negotiate those rates from her proposal or the Board may want SCAPCA to re-advertise. Bill is looking for direction from the Board. Jeff Corkill asked if we advertised. Bill stated yes, once, and Michelle's is the only response we received. Should SCAPCA re-advertise and put the ad in someplace besides the Spokesman Review? There are other additional places we can go for advertising. Looking through web sites and yellow pages, it doesn't look like there are a lot of people who do municipal government work that don't already work for a municipal government and we can't use any of those folks and we don't know where to look if the Board wants to entertain any other bids. Michele Pope stated that first we need to determine whether we want to replace Ms. Wolkey because that has not been determined. If we do want to do something and receive different counsel, then we can go ahead and proceed with a plan. Bill stated that Michelle's proposal basically said that she would be the lead and the other person that is new in her firm would be assisting. Bill cautioned the Board that if they decide to terminate SCAPCA's agreement with Michelle before we find another lawyer, SCAPCA will not be in a good place then.

Matthew Pederson stated that he is going to speak up and be frank and honest. He has not hidden the fact that he is very dissatisfied with the legal counsel that he has received from

Ms. Wolkey over the last year. Today is yet another example of a lack of communication between legal council and the Board itself. We did have an audit finding, we wished to submit comments to that finding and when I read the auditor's report, there was absolutely no comment from the agency itself. I did bring up the issue and from what I understand by today's conversation, that comments were placed in there after my objection to not having comments in there regarding our stance on the situation and any comments that were sent out by Ms. Wolkey, I have not seen those comments. I do not know what defensive stance she has taken, if any, and I'm just very displeased that I do not feel I have adequate legal counsel in this position and I feel that for the last year, that I have had to seek out legal advice on my own outside of this agency when it comes to matters regarding this agency. I have shared that with Mr. Dameworth and in private with many of the Board Members with my concerns and I just cannot see continuing to operate a business in this manner. Mike DeVleming asked Matthew what he would like to do.

Matthew replied that his proposal is to seek outside of Spokane County for legal council. If there are no firms within Spokane County that are interested in the job, he thinks we must look elsewhere for adequate legal advice, especially when it comes to the pertinent technical environmental issues that Ms. Wolkey has been handling. There has been concerns from other small cities which he represents that possibly SCACPA does not have the highest quality environmental attorney that is available to us and he believes in the general governmental area in which Ms. Wolkey represents the Board, he doesn't feel she has an adequate grasp on the laws and codes of the State of Washington that govern the municipal and governmental actions of the Board. Jeff Corkill added that he would back up what Matt said especially over the open meetings rule this past summer and what we could do is give her a certain number of days notice and then in the meantime, try to find some alternatives. Mike DeVleming stated that he would recommend just broadening the search first and then take additional steps when you know what you've got. Michele Pope asked if there has been any communication directly with Ms. Wolkey regarding the Board's concerns. Bill Dameworth replied that she certainly read the board minutes and he has mentioned to her that the Board does have concerns. She certainly is aware of the issue. Michele Pope stated that she is just wondering if there would be any benefit to sit down with her and define exactly what it is that the Board is thinking that they are not getting from her and see if she is aware of all of that and if her firm can take care of it in another way. Matthew stated that he did have a conversation with Ms. Wolkey back in June following the actions in which the Board was challenged and he voiced his concerns with the advice that he had been given and he was unhappy with her response. In the subsequent meeting that followed, after he voiced his concerns, communication was not sent back to him and a number of phone calls were left unreturned. It was at that point that he gave up and lost all confidence in legal representation. Michele Pope stated that she would support what Mr. DeVleming stated.

Matthew Pederson made a motion for SCAPCA to broaden the search for legal council outside of Spokane County and to invite Ms. Wolkey to sit down with a minority of the Board and discuss the issues raised here today and over the last couple of months, to address those issues and continue to move forward with this. Jeff Corkill amended the motion to form a subcommittee of Matthew Pederson and Mike DeVleming to meet with Ms. Wolkey and Michele Pope seconded it. Motion passed unanimously.

15. Resolution 06-22 – Appointment of the Member at Large Position – Bill Dameworth

Bill stated that SCAPCA advertised for the open position on the board and received four applicants. They were reviewed by the Advisory Council and one of the applicant's resumes did not indicate the necessary qualifications that are required by state law. The Advisory Council had a lively discussion at the meeting on the qualifications of the applicants and they all had support from some part of the Council and now it is up to the Board what they would like to do.

Matthew Pederson stated that he would like to invite the applicants in to speak to the Board and have an opportunity to introduce themselves and allow the Board to ask questions of the three candidates. Mike DeVleming asked if the bylaws allow them to have an open seat on the Board since Michele Pope's term ends December 31st. Unless there's something that prohibits the Board from leaving that position open until they can appoint it at the first meeting in January, he would defer this discussion until the Board can schedule the candidates to sit down with them on January 4th. Bill Dameworth replied that he thinks the Board can do whatever they please and if the Board wants to continue Michele's appointment for another month until they have resolved this, it is up to the Board. The only thing the law says is that there will be a five member board and what the qualifications of each member are.

Mike DeVleming moved to extend the Member-at-Large position for a month to the 31st of January provided Michele Pope accepts and then schedule this decision on the 4th of January and Matthew Pederson seconded it. Jeff Corkill stated that it would be a good thing to have the other two candidates here. Matthew added that it is not uncommon to have a board vacancy, what he would like to see done is that the first item of business be a work session with the applicant interviews and the first order under board meeting be an action item for the appointment and as soon as that appointment is made, that person is eligible to take their seat on the board. Michele Pope added that she wants to make sure that the Board has a quorum so that it won't cause a delay of the board meeting.

The Chair stated that Mike DeVleming made a motion and it was seconded by Matthew Pederson. Motion passed unanimously.

16. Selection of 2007 Board Chair and Vice Chair

Jeff Corkill made a motion for the present Chair and Vice Chair to continue until January 31, 2007 and then this can be on January's agenda and Michele Pope seconded it. Motion passed unanimously.

17. Board Concerns

Jeff Corkill stated that in light of the EPA change in the PM_{2.5} regulations, Ron will testify that the State's ability to call a burning ban has been compromised and it would behoove SCAPCA or affect SCAPCA considerably that whether Bill could talk to maybe Lisa Brown or Alex Wood about getting a motion in the upcoming legislature to consider a change in the level where the statewide burning ban could be implemented. Bill Dameworth replied that this is something that the Washington Air Directors and the Department of Ecology are working on. As you know, the current burning ban is established by state law and the local jurisdiction cannot

change it. It is set at 35 micrograms per cubic meter, which is about half of what the old standard was but it is right on the button for the current standard and so right now SCAPCA is working on a voluntary program. We have gotten a lot of support from the local media on advertising this but it is still a voluntary program and he can talk to the legislative delegation but he would like to first have all the agencies come up with what they think is a reasonable change to the current law and then proceed from there.

18. Public Forum

Karen Lindholdt: Commenting on behalf of the Member-at-Large position on the SCAPCA Board. As you are all unquestionably aware, a cloud has been hanging over the SCAPCA Board since Mr. Skelton left in the spring. As a result of Mr. Skelton's departure, Senator Lisa Brown sponsored a bill which was passed changing the composition of the SCAPCA Board. I know you may be at a loss, maybe you don't have legal counsel, but I'm here to remind you and to encourage you to look at the law that was passed, specifically the requirements of the at-large person. This bill states that the member-at-large when a single county air authority is comprised of four members, which this group is, the Board may choose a fifth person and that person must demonstrate "significant, professional experience in public health, air quality or meteorology" and that is mandatory language. There must be a demonstration in the individual's application that they have significant, professional, not volunteer experience, professional experience in medical health, in public health, meteorology and air quality. That law was passed for a reason, to ensure that our County had representation on this Board. You have a physician, Dr. Darryl Potyk, who treats people on a regular basis who come into Deaconess, low income folks. He supervises the residents. I would submit he is a highly qualified candidate. You have Melissa Ahern who is a Ph.D. in public health, significant, professional experience. I have not seen the record, the applications; I would ask that you make them available to the public at the next meeting so they also can look at the same record that you have looked at in making this decision. The Administrative Procedures Act will apply, you will be held to an arbitrary, you're actions must not be arbitrary and capricious. Again, you have a mandatory obligation to appoint someone who has this demonstrated significant, professional experience. I believe you have the candidates that will enable you to do that. Moreover, I think this community deserves that. Again, as I said before and Mr. Pederson I'd be happy to sit down and talk to you, I've studied the Clean Air Act a lot, I know a lot about the Washington Clean Air Act and there is a mandate protecting the most sensitive individuals and again, I wonder how often I've heard comments from Dr. Corkill who is a scientist and a chemist and I know who does have an understanding, but I submit to you and before the community and for community's faith in the SCAPCA Board, you need to get someone on here who treats people, a physician, who regularly treats people who are impacted by air quality who can give you the necessary input. Because at this point you don't have that and that creates a problem as far as credibility. I imagine you've followed what's happening with Dr. Thorburn, the public is angry about that. This would give you all the opportunity to start fresh. Again, we can't undo what's been done with Mr. Skelton, but at least you can start in a fresh direction by having somebody on here who is a medical professional, who is a physician, who has an MD, who treats people, who's gone to medical school. I've already raised my issue with respect to who are the customers, who are the users. Again

under the Clean Air Act the goal is to protect those of us who live and go about our daily lives in Spokane and our community and again who would be best, who will be best qualified to address it. Again a physician and I know you have that person on the Board. I have one more comment. Again, as a member of the public, I know you all have a lot of things on your plate but it is frustrating to read the agenda, to know that you're making a very, very important decision, this is a four year term, this is not something that occurs very often, it's a very important decision to our community. We come, the applicants haven't, a couple maybe have been interviewed, a couple haven't, they weren't notified of the meeting, I would just ask, I'd encourage you to try and tighten the process because I guarantee there are many people, many customers in the public who are watching this very closely because it is very important to us. I know Dr. Darryl Potyk had letters of support from two physicians, two leading pulmonologists in the community wrote letters of support on his behalf. These are the people who can best discuss how air quality, adverse air quality impacts our community.

Bart Hagen: I would just like to reinforce Karen's statements and I think that it is really important with this juncture with all the big construction in the county regulatory agencies over this last year to be sure that every possible avenue is explored to do the best possible job of replacing or putting somebody in to a position on the SCAPCA Board. Certainly it's a very important board and it's a part of a series of events that really require you to be a certain respect as possible, so I also am, I'm not aware of the Dr. that Karen mentioned but I am a very close friend of Melissa Ahern and I think that she would do an excellent job as well and certainly has some qualification that would, I think, suit this Board very, very well. So I hope you'll give it every consideration and this is obviously a very important decision for you to make and a very important juncture in this situation involving Spokane County at this time. Thank you.

Matthew Pederson read a letter from a citizen, Dale Smith, into the record. The topic is Fires: Legal, Illegal, (Garbage): Why – No number to call after hours Sat., Sun., Holidays? People burn when they can get by with it. Why – The law to burn should be equal to all (SCAPCA – DNR)? Why – SCAPCA, DNR, Local Fire Stations, Law Enforcement should all work together as on and the same to protect all of us from smoke, particles in the air, etc.? If we all work together we can make a difference.

The meeting adjourned at 11:11 a.m.

The next Board Meeting will be January 4, 2007 at 9:00 a.m. in the lower level of the Public Works Building.

MATTHEW PEDERSON, CHAIR

WILLIAM DAMEWORTH, SECRETARY