



SPOKANE COUNTY
AIR POLLUTION
CONTROL AUTHORITY

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SPOKANE COUNTY AIR POLLUTION CONTROL AUTHORITY SPECIAL BOARD MEETING MINUTES

June 23, 2006 2:00 p.m.
Spokane County Public Works Building
1026 W. Broadway, Room 2B, Second Floor

BOARD MEMBERS PRESENT:

Matthew Pederson
Commissioner Harris
Commissioner Mielke
Michele Pope
Jeff Corkill

Staff Present:

William Dameworth, Director
Michelle Wolkey, Legal Counsel
Mary McDermott, Secretary

The Special Board Meeting was called to order on June 23, 2006 at 2:09 p.m. in the Spokane County Public Works Building, Room 2B on the second floor. Also present was Jonathan Brunt of the Spokesman-Review.

1. Selection of Director – Matthew Pederson stated that as the Board is aware there has been communication between Mr. Dameworth and himself offering him the position of Director of SCAPCA. A copy of the salary and benefits offered to Mr. Dameworth will be included with the minutes.

Michele Pope moved to appoint and hire Mr. William Dameworth, III to the position of Spokane County Air Pollution Control Authority Executive Director and Commissioner Mielke seconded it.

For further discussion, Commissioner Mielke had a couple items of concern. First, it is important to note there has been a lot of speculation about what the proper process is for hiring staff. While many people have opinions on this, if you look at the legal cases it is not as clear as it could be. There are existing cases where the Courts have ruled that employment matters are not necessarily subject to the open meetings act. The issue is that in politics and in law, there are two sides and different opinions. It is more important for the Board to move forward and address the issues that SCAPCA needs to address and rather than dig in on one side or the other trying to determine which legal interpretation is the correct one. It is more important that we uphold a level of public trust with regard to how the Board conducts business. The issue is that the Board loses nothing by making this decision in public; therefore, they should cover their bases by

defaulting on the side of higher expectations of public trust and confidence in the Board's actions.

Commissioner Mielke touched on the qualifications of Mr. Dameworth. He stated this before but it may have been overshadowed by the other issues. Today's editorials make no reference and say the opposite; it infers that there was no discussion as to the Board's selection of the candidate and he did make remarks. He was not part of the selection committee and knows the selection committee advertised for the position, reviewed the applications that were received and narrowed it down to the top three that the committee felt were best qualified out of the group and then brought it back to the Board for further review and discussion. The first thing he found about Mr. Dameworth was that it is critical the director of this agency understand federal regulations with regard to air quality. Mr. Dameworth has experience through the South Coast Air Quality Management District during a time period where the federal government acknowledged that this was one of the most challenged areas in the nation to get up to air quality standards. Two of the top three candidates reviewed come from that same agency and really have similar backgrounds with regards to trying to push a large area into compliance and come up with programs to get them there. Second, it is important that people not only have experience about establishing rules and procedures and enforcement measures consistent with State and Federal law, but they also understand what's technologically feasible to get to those goals. He thinks people who have experienced both on the regulatory side as well as the side of those being regulated can see the many paths to reach the destination. A couple of the candidates had similar experience both from the regulatory perspective as well as from the side of those trying to comply and how to research and engage the technologies to do that. Mr. Dameworth's experience was a little more substantial. His decision was based on the fact that in this position the candidate will be overseeing staff and in administering a program where not only do you have the technical aspects of the program but you have the personnel aspects as well. Another area where Mr. Dameworth did rise above the competition was with regard to oversight and understanding that in building a team it's important that the team be cohesive, be able to work together, understand their mission and that you really do create a work environment for success. Commissioner Mielke was impressed with all three of the finalists but when he compared everything, Mr. Dameworth had the most to offer.

Jeff Corkill stated one thing he found somewhat disturbing is how this process has worked out. It should be remembered that Michele and he are citizen members of this Board, they don't get paid for it, it's not part of their job description, etc. and three of the Board are elected officials and he felt they should have known and maybe he should have found out as well about the open meetings. They have access to a lawyer that could have found out because it's rather rude having egg on SCAPCA's face having to have these extra meetings when the Board should have known in the first place that these meetings have to be open. To him it is a little bit symptomatic of what goes on in Spokane. Spokane has this history of people thinking that the rules don't quite apply to them, shaving the law a little bit. Jeff wants to make sure that today when William Dameworth gets selected, we'll all be keeping an eye on him to make sure that there is no shaving of the rules and regulations of what goes on at SCAPCA.

Commissioner Mielke responded that with all due respect, he was not part of the selection committee and Jeff was and he had the ability to ask questions of staff in defining this

process the same as anyone else in the selection committee. As a college professor, Jeff should know more than anyone, when in doubt ask questions and it is not right for him to point at other Board Members and say it was their fault not to ask questions, we're all in this together and had equal opportunity to do so. Jeff Corkill stated he was talking about the public meetings decisions and when they should have been or not. He admitted if he's on a Board like this he should have found out more about the meetings act, but he didn't and he apologized for not doing that. Matthew Pederson then brought the meeting back to order for the motion on the floor in offering the position to Mr. Dameworth and this discussion can be covered under board concerns if the Board cares to do so after the vote. There were no further comments regarding Mr. Dameworth taking the position of SCAPCA's Director.

Matthew Pederson stated there has been a motion by Michele Pope, seconded by Commissioner Mielke, those in favor were Matthew Pederson, Commissioner Harris, Michele Pope, Commissioner Mielke and Jeff Corkill was opposed.

2. Salary for the Director – Matthew Pederson asked Michelle Wolkey if the salary and benefits were inclusive in the vote that was just taken or should the Board take separate action on those items. Michelle Wolkey stated that she thinks it would be appropriate to take a separate vote on those items and point out that the salary and benefits are effective as of the date Mr. Dameworth started work so that SCAPCA is clear on that for the Auditor's, for payroll. Matthew Pederson read into the record the salary for Mr. Dameworth of \$6,250 monthly.

Commissioner Harris moved to approve the salary for Mr. Dameworth and Michele Pope seconded it. There was not further discussion from the Board. Those in favor were Matthew Pederson, Commissioner Harris, Michele Pope, Commissioner Mielke and Jeff Corkill abstained. Commissioner Mielke asked to seek clarification regarding when the Board is allowed to abstain and when they are not. He understands abstaining when there is a conflict of interest but unless Jeff has a conflict of interest isn't there a protocol in which you have to justify abstention. Michelle Wolkey replied ordinarily there is a reason stated for the record as to why you want to abstain. Jeff Corkill stated he was abstaining because he voted against item number one. Matthew Pederson made a second motion that all salary and benefits offered to Mr. Dameworth be effective June 20, 2006 and Commissioner Mielke seconded it. Those in favor were Matthew Pederson, Commissioner Harris, Michele Pope, Commissioner Mielke and Jeff Corkill abstained for the same reason stated previously.

3. Benefits package for Director – Matthew Pederson then read into the record the proposed benefits package offered to Mr. Dameworth. The majority of the benefits offered to Mr. Dameworth are reflective of the SCAPCA Personnel Policies with two exceptions.

- Annual Leave – The SCAPCA Policy Manual has a detailed breakdown beginning with one day a month, following six months of continuous service, advancing to two days a month with the completion of 20 years of service. In addition, the Board may grant a vacation schedule other than those listed in the policy manual. Accrual is limited to 300 hours or 40 days.

- Sick leave is accrued one day a month with unlimited accrual.
- Holidays – Ten paid holidays and on personal holiday.
- SCAPCA does not belong to Social Security; however, we are required by law to pay into Medicare.
- 457 Retirement Plan – Employee portion that would normally be paid into Social Security (Currently 6.2%) is required to go into a 457 Retirement Plan. Employee may contribute up to the legal limit each year.
- 401 Retirement Plan – Employer portion that would normally be paid into Social Security (Currently 6.2%) is paid into a 401A retirement plan. This is instead of Social Security.
- State Retirement – SCAPCA belongs to Washington State Retirement system. Currently there are two options available PERS II and PERS III.
- Medical, dental, basic long term disability and basic life insurance is provided through Washington State Health Care Authority and the Public Employees Benefits Board. Employees may add their dependants; SCAPCA pays the total premium for the employee and a large portion of the dependent premium.
- As per request, a previously planned vacation in December 2006 will be granted.
- There will be a one year probationary period, with reviews after six and twelve months.

Commissioner Mielke stated there are three items specific to Mr. Dameworth in this list and those are the reimbursement for relocation, the planned vacation in December of 2006 and the probationary period. Other than that the benefits that have been described are intended to be consistent with all employees of SCAPCA and the language that was specifically read into the record may or may not fully reflect all the detail. It should say that it is intended that those benefits for the other SCAPCA employees are similar in nature. Michelle Wolkey, legal council to SCAPCA, replied that would be correct. Matthew Pederson stated for the record that the agency will reimburse Mr. Dameworth up to \$3,000 for relocation to the Spokane Region as part of this agreement and is subject to reimbursement through an itemized request from Mr. Dameworth.

Commissioner Mielke made a motion that the benefits package for Mr. Dameworth consist of those described as read into the record and Michele Pope seconded it. Those in favor were Matthew Pederson, Commissioner Harris, Michele Pope, Commissioner Mielke and Jeff Corkill abstained for the same reason stated previously.

4. Board Concerns – Matthew Pederson asked if there was any member who would like to speak under board concerns. Seeing none, Matthew wanted to note that regarding the process that got the committee to this point, he was fully confident in it and he is confident that

they did the right thing. He feels they adhered to Case Law and the State RCW governing the Open Meetings Act and there's been some question on the final stage of this process and in retrospect, he feels that today's meeting to finalize with a vote has made sure that they touched all bases. There have been numerous articles in the local paper with speculation on whether or not the Board may have run afoul of any public meeting laws. He does not feel that's the case. He hopes that the public and other interested parties will accept this action as a final action and will allow the agency and Mr. Dameworth, along with the Board, to continue to do their jobs. As the Chairman through this process, any action or missed action he would take full responsibility for. The Public Meetings Act in regards to employment of a public employee clearly states that all action must be done in public, which it clearly was. There is no mention of a public vote as there is with the appointment of a public elected or appointed official. The two processes are similar but different and I think some people are confusing and trying to draw comparison to the recent election of the County Sheriff. He would like to be clear that to him the processes are very different and that this Board has conformed to the Open Meetings Act. Matthew then offered public comments to Jonathan Brunt of the Spokesman-Review. Jonathan Brunt had no comments.

Commissioner Harris stated it's regretful that all of this controversy had to happen. He feels bad that Jeff feels that the process wasn't correct. He assured Jeff that he fights hard to make sure every meeting is right by the "open meetings laws". He would walk out of a meeting if he didn't think that it complied. The reason Mr. Dameworth was offered the job by consensus is because you have to offer the person the position to know if he is going to accept it, you can't take a vote to hire the person if the person hasn't accepted the job. Therefore, that's why the Court, in another case, found that once a person has accepted the job, then you go to a public meeting and take a vote. Commissioner Harris stated that he thought and everybody else did that at the next regularly scheduled board meeting they would take a vote. However, in retrospect, they probably should have come back at that open meeting and taken a vote. It wasn't intended to circumvent any kind of law and he feels bad that Jeff feels that they did because Jeff was a very valuable member of the committee because he presents a different aspect than others.

Michelle Wolkey, legal counsel, wanted to offer the opportunity to the new Board Members that if they ever have any questions about process and if they want resources about open public meetings ahead of time to familiarize themselves, she absolutely is willing to help them out. There are a lot of resources out there to educate people on the board about Open Public Meetings Act and all sorts of things. If she can be of any help in getting the Board those parameters or answering questions at any time, don't hesitate to raise them.

Commissioner Harris stated that one thing should be pointed out and that is that there were seven people on the committee and they came from every walk of life. He wasn't at the last meeting when the list was cut down to three, but there was a process there to keep it open and make it reasonable. What has happened happened we're not able to take it back so let's move on, work together and try to have the finest SCAPCA organization in the State.

Jeff Corkill added that if a committee is needed again, it should be made clear that the confidentiality on the search committee requires it not to release information, because in this case that information did get out and it affected the process. Commissioner Harris stated he

agrees with Jeff, he was amazed when he started reading in the paper who was being interviewed and who might get the job. Normally you don't do that because we may be interviewing somebody that worked for another company and as soon as that company found out that they applied for a job, they'd fire them and we could get sued. He doesn't know where it came from, but everyone on the committee was shocked that it got out. But the newspaper guy did his job by trying to find out and he found out. Jeff added that Jonathan Brunt sort of kept the Board from having any future problems by having this open meeting. Matthew Pederson stated he appreciates that and he does make mistakes. Whether a mistake was made in this case, he doesn't know, but he is appreciative of others who when they start to stray, are vocal to bring to their attention that there are expectations of the Board and they do answer directly to the people of Spokane County. Sometimes in a long process like this, you're trying to accomplish a goal and the goal here was to hire a new director of SCAPCA which in no way benefits any of the Board personally, but it is a huge benefit to the citizens of Spokane County and the Board feels they hired the best and most qualified applicant with Mr. Dameworth.

There was no further discussion and the meeting was adjourned at 2:44 p.m.

MATTHEW PEDERSON, CHAIR

WILLIAM DAMEWORTH, SECRETARY