



SPOKANE COUNTY AIR POLLUTION CONTROL AUTHORITY
BOARD MEETING MINUTES

September 7, 2006 9:30 a.m.
SPOKANE COUNTY PUBLIC WORKS BUILDING
LOWER LEVEL HEARING ROOM

BOARD MEMBERS PRESENT:

Matthew Pederson
Michele Pope
Commissioner Mielke

STAFF MEMBERS PRESENT:

Ron Edgar, Chief of Technical Services
Matt Holmquist, Compliance Administrator
Joe Southwell, Engineer I
April Westby, Engineer II
Mary McDermott, Secretary II

WORK SESSION: The work session of the board meeting was called to order at 9:36 a.m.

1. Registration Fee Update – Matt Holmquist

Matt Holmquist briefly summarized where SCAPCA is in the process of achieving full-cost recovery on the registration program. At the July 13th board meeting a proposal was presented for achieving full-cost recovery in the first year of implementation with annual reviews and adjustments thereafter as necessary to maintain full-cost recovery. With the Board's input at the July meeting, the fee schedule was revised to show that 93% of the projected revenue would come from the first three fee categories. Those fees are a \$165 flat facility fee, \$45 per ton emissions fee and a \$50 per stack fee and the remaining 7% of projected revenue will come from the remaining three fee categories. This fee schedule was posted on SCAPCA's web site from July 14th through August 18th and no additional public comments were received during that time. With the Board's concurrence, SCAPCA will initiate the formal rule making tomorrow which will include a third public comment period followed by a public hearing at the November 2nd board meeting. Immediately following the public hearing in November, the Board may adopt the proposed fee amendments which would become affective in December. Would the Board like SCAPCA to proceed forward with this?

Michele Pope stated that it sounds good but in regards to the public comments, has SCAPCA gone out and solicited comments from any of the stakeholders? Michele just wants to make sure that the stakeholders don't get a surprise because they didn't look in the paper or on the web site, because businesses have so much to deal with as it is. Matt replied that with the first round of public comments a hard copy mailing was done to over 800 facility contacts; the second comment period was posted on the web site to save money; and as part of the formal rule making process, the Code Reviser's Office publishes something in their state register and SCAPCA puts a notice in the newspaper regarding a

Determination of Non-Significance (DNS) in regard to rule making. Ron Edgar asked if Michele would like to see another hard mailing in the form of a post card. Michele replied yes, a post card would be great and Matthew Pederson agreed with that.

2. Coffee Roaster Rule Update – Joe Southwell

Joe Southwell gave an update on the coffee roaster rule. At the August 2 board meeting, the Board's decision was to choose the option where SCAPCA's regulations are amended to continue to register small coffee roasters but exempt them from SCAPCA's permitting and control technology requirements. The amended regulation in Section 5.02, would exempt coffee roasters with a ten pound or less maximum batch capacity from the NOC requirements unless air pollution controls are required because of documented nuisance odors or emissions. Section 4.02 was also amended to clarify that while there is an exemption from the SCAPCA permitting, the small roasters are still required to register. SCAPCA drafted a proposed policy for how SCAPCA would determine whether additional control measures would be required on small roasters consists of the following: 1) SCAPCA receives a complaint; 2) investigates the complaint and verifies off-site odors and determines if the roasting equipment was operating normally; 3) informs the coffee roaster of 1 and 2 above and asks the owner/operator to address the problem (short of installing controls); and 4) if 1 through 3 occurs twice within a 12-month period, the coffee roaster will be required to file a complete permit application for installation of an afterburner (or equivalent) within 30 days of being notified of the second occurrence. SCAPCA is looking for direction from the Board to move forward with this rule making.

Commissioner Mielke asked how the 10 pound level was arrived at. Joe replied it was based on a survey of other local agencies. Small roasters can roast 10 pounds of beans at one time and multiple batches per day.

BOARD MEETING: The board meeting was called to order at 9:50 a.m.

1. Director's Report

Ron Edgar stated that SCAPCA has replied to EPA on some comments they have on SCAPCA's Title V AOP Program. Most of the comments were good and will be implemented. SCAPCA has also met with Baker Commodities regarding problems with recordkeeping. They are also thinking of changing their scrubbing medium from sodium hypochlorite (household bleach) to chlorine dioxide, which is a much more powerful oxidizer. SCAPCA is also looking into what other rendering plants are doing elsewhere to minimize odors. SCAPCA is reviewing its penalty policy as the current set of formulas generates penalties that are not consistent with the severity of the violation. The asbestos regulation is being reviewed for consistency with other local air agencies in Washington.

2. Advisory Council Report – John Hjaltalin

John Hjaltalin gave a brief overview of the August Council meeting. There were no controversial discussions. There was a presentation of a video of public information that is going to be aired on "Open Burning". It was well received by the Advisory Council. Ron Edgar spoke about the visibility and PM issues related to the forest fires in the area. There was a discussion on the Baker Commodities issue. SCAPCA staff is working on a plan to be pro-active with that and Joe Southwell

is doing some research on that to make sure that Spokane is being treated the same as other areas with rendering plants. SCAPCA staff does recognize that the service the rendering plant provides is a necessary part of society and will continue to work with the company. Odor issues from coffee roasters or rendering plants is hard to define and the regulations are unscientific about how they are analyzed.

3. Public Information/Education Update – Lisa Woodard

Lisa Woodard gave an overview of the informational and educational projects for the month of August. SCAPCA has been out to seven area gas stations for the summer “ozone” outreach program; had booths at Kids Day, Unity in the Community and Valley Hospital Health and Safety Fair; wrote and submitted a grant to EPA for funding earmarked for wood stove replacement projects; the outdoor burning of residential yard and garden debris phase out in UGAs statewide is January 1, 2007 and mailings will be sent to the cities and towns that will be affected by the phase out; the Chipping and Composting Day in Valleyford is on Saturday, October 7, 2006; Car Care month is October 7; and there have been seven television and radio interviews related to the smoke, haze and dust air quality. SCAPCA has also pooled its resources along with other agencies to develop a television campaign with other agencies on outdoor burning and its health effects. It is a \$30,000 campaign and SCAPCA’s contribution was \$6,000.

Commissioner Mielke asked if due to the dry conditions this year and to help people get rid of the dry fuel around their yards, maybe at some point the Board would like to increase the number of chipping and composting sessions. Lisa stated that the events run approximately \$1,200 per event. Michele Pope added that the transfer stations still collect clean green for a low price. The first 140 pounds are no charge during extended hours and during regular hours it is a \$5 minimum charge. Michele stated that she would rather have money available for people to just use the programs that are already in place at a lesser cost.

4. Activity Report for July 2006 – Ron Edgar

Ron Edgar gave a quick summary of the activity report. There has been some impact from the forest fires around the area and the A to Z Rental Storage fire in town. Dust complaints are up due to the dry conditions and winds. Other than those items, there was nothing really out of the ordinary.

5. Approval of Minutes of the August 3, 2006 Board Meeting

Commissioner Mielke moved to continue the approval of the August minutes until the next board meeting due to the fact he was not present at the last meeting. Michele Pope seconded it. Motion passed unanimously.

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

Ron Edgar stated that this is the first month of the current fiscal year and every thing is pretty much in line.

7. Voucher Approval for August 2006 – \$155,550.78

Commissioner Mielke moved to approve the August 2006, vouchers and Michele Pope seconded it. Motion passed unanimously.

8. Resolution 06-15 – Interagency Agreement for School Bus Retrofits

Ron Edgar stated that this is a continuation of a special project SCAPCA has been working on. Last month the Board approved to extend the contract with the contractor. This is to extend the agreement with the Department of Ecology to accept the funding to pay the contractor.

Michele Pope moved to approve Resolution 06-15 and Commissioner Mielke seconded it. Motion passed unanimously.

9. Resolution 06-16 – Amend Title V Air Operating Permit Fees – Public Hearing

The Public Hearing was opened at 10:17 a.m.

April Westby gave an overview of the information given during the work session portion of the June board meeting.

Commissioner Mielke suggested changing the “Shortfall Fee” in any statements or invoices that might be sent out to a “Federally Mandated Fee Recovery”.

Roger Mola of Fiber Tech located at 3808 N. Sullivan Road, Building 31, in the Spokane Industrial Park spoke regarding the proposed fees. Fiber Tech is an AOP holder and he would like some other information on SCAPCA’s efforts towards efficiency. The one concern he has about this structure is that it is open ended and so the fees can go anywhere and it is an open checkbook from the company. From what he knows of SCAPCA now, he doesn’t anticipate any problems in the short-term but the way this is structured, there is no provision added to protect the AOP holder’s cost.

April stated that another option some agencies do is based on a budget every year. They anticipate what the work load is going to be and then they change their fees and it has to go through rule making yearly. Sometimes they have to collect more money because it is hard to anticipate during the year what is going to happen (i.e. how many NOCs will be submitted, enforcement action, etc.). This program is mandated to be full-cost recovery and SCAPCA doesn’t have an idea on how to deal with the year-to-year fluctuations, time and activities. Ron Edgar added that the sources may look at the time accounting sheets for every activity performed for them and if there is a disagreement, they can bring it to the Director of SCAPCA or to the Board. Commissioner Mielke asked if technical assistance was included in the base fee or is it based on the time spent. April replied no. How it works is SCAPCA assesses the base fee and the emissions fee for all of the sources, total that up and get a number and then compare that to the program costs. Last year a SCAPCA time fee would not have been assessed because the base fee and emissions fee covered all of the costs for the program. What this fee is meant to be is if SCAPCA doesn’t know from year-to-year what the emissions are going to be so if the base fee and emissions fee do not equal the program costs, then the remainder would then be apportioned to the sources depending on how many hours were spent on the source. It is not an hourly fee. One of the reasons why the AOP program costs have been so consistent is that SCAPCA has limited resources that are spent on this program and she is the main person that writes the permits,

does technical assistance, does report reviews and she is an 80% employee. There are no additional people working on the program and she spends 75% to 80% of her time on this program. An inspector spends approximately 30% to 40% on this program. On paper it may be open ended, but from a practical standpoint, unless SCAPCA hires additional people, there really is no time or personnel that could do more work on this program.

Commissioner Mielke asked if the NOC fee was rolled into the base fee. April stated that the NOC would be added as the number of hours that are spent. That would be captured in the SCAPCA time fee. Commissioner Mielke stated that if you have the base fee and the emissions fee and you have a permit holder that is not doing any construction and doesn't need technical assistance and has had no complaints or compliance issues, and is reducing emissions but fees trend over time that maybe they're apportioned. April stated that if SCAPCA doesn't spend any time doing NOCs or complaints on a source, they're not going to have a lot of hours that could be apportioned and they will pay a small percentage of that SCAPCA time fee. Commissioner Mielke stated that in some cases where you have more staff available than the billable hours that are being requested, how does SCAPCA make up for that? It can either put SCAPCA in a situation where it is out of compliance again because it is not fully recovering the cost of the program or we have staff with more time budgeted to the program than what they're actually utilizing in billable part. April stated that last year there were no permits that came up for renewal, there were very few NOC permits and last year the base fee and emissions fee covered all of the costs so there would not have been a SCAPCA time fee. The Title V program is not all that she does, she is a professional engineer for SCAPCA and she does all of those reviews and assists when she can on the minor new source reviews. If SCAPCA's program costs for whatever reason were high, SCAPCA would not charge a billable hour, it would take that extra program cost and distribute it to the sources based on the percentage of hours that was spent on that source. Commissioner Mielke stated that in the future, SCAPCA may need to be sensitive to whether April's time is being spent on this program because there is an adequate work load or if there are slow years; SCAPCA needs to be sensitive that more of her time be billed to a different program. Ron stated that the time spent on the program is the only time that is billed to the program. If it is not spent on that program, it comes out of general funds.

April stated that another option talked about is increasing the emissions fee portion to be a larger amount of the fee collected. SCAPCA elected to keep it the same because it should be a part of the fee that is representative of the time that is spent on the source because some of the smaller sources do not operate a lot and their annual fees are low because their emissions fees are low. A lot of time can be spent on a source or enforcement actions with these sources and without a SCAPCA time component the other sources are absorbing these costs and that's not fair. Michele Pope asked if some of these sources have reduced their emissions which would cause some of SCAPCA's shortfall. So doing is what SCAPCA wants them to do and still the costs are being redistributed back to them again. So really they are not gaining on that one. April stated that Huntwood Industries and Fairchild Air Force Base have left the program because they have put on emission controls that took them out of this program. Michele stated so then the burden of the cost is then put on to the existing permit holders. April replied that some sources leave and some join the program. Michele Pope added that SCAPCA does deserve a lot of credit because they have been keeping their staffing levels at a minimum and it can't be guaranteed that it will stay there but that has been consistently what SCAPCA has done and are pretty streamlined in what they do. Commissioner Mielke stated that this proposed fee structure is quite a bit different than what has been done in the past. The Board is sensitive to the notion of when you have permit holders that are at a static work level or a reduced work level, it is up to the Board to

go back and review or audit the program and the costs that are being passed onto the sources in this program and define why over the last three or four years the amounts have gone up and their emissions have gone down, then it is up to the Board to find out what is driving this. We will keep tabs on the program and get experience with this fee structure and then see if further modifications are going to be necessary. We want to make avoid any reverse incentives that SCAPCA has because the objective is to increase the quality of the air in Spokane and if people are doing the things to improve air quality at their business, the Board wants to make sure that it is not creating reverse incentives through its fee structure.

Damon Taam of the Spokane Regional Solid Waste Systems (SRSWS) Waste-to-Energy Plant stated that they are one of the largest AOP holders. SRSWS supports these revisions and the reason why there is concern is that in other cost recovery programs in other agencies, he's not saying this is SCAPCA and in fact SCAPCA has proven that it is not, but in specifically superfund type programs with EPA and others, we've seen a lot of abuses of this kind of program. We've seen them bring staff people over, fly them over, feed them meals, training programs and you see these costs balloon up and you have no option or appeal. The suggestion would be to specify exactly what those charges could be as well as an appeal in case there is a problem or an opportunity to review. Those things I don't really see happening in this program, but those are concerns from businesses that have been burned before. We support this and think SCAPCA is doing a good job with this program.

The Public Hearing portion of this Resolution closed at 10:51 a.m.

Commissioner Mielke moved to approve Resolution 06-16 and Michele Pope seconded it. Motion passed unanimously.

10. Resolution 06-17 – Approval of Signature Change for Travel Checking Account

Michele Pope moved to approve Resolution 06-17 and Commissioner Mielke seconded it. Motion passed unanimously.

11. SCAPCA General Counsel Negotiation

Ron Edgar stated that when the Request for Proposal closing date ended on August 28, Michelle Wolkey's bid was the only one received. SCAPCA is recommending that the Board authorize the Director to enter into negotiations with Michelle Wolkey to continue retaining her as the agency's general counsel, subject to successful agreement on the fee schedule and any other items the Board wishes to pursue.

Commissioner Mielke believes that there should be one legal counsel for general legal matters for the organization and another specialized counsel retained for personnel or employment law matters. Two reasons for this are because personnel or employment matters are a specialized area of law and requires expertise specific to that area. Also, general counsel has a working relationship with the staff and overtime people develop working relationships with each other and if there is ever a question relating to employment issues such as a disciplinary action, contract negotiation, etc. it would be difficult for SCAPCA's general legal counsel to be unbiased because of it's relationships that can be built over time. He believes that this should be discussed more at the October board meeting when the full board may be present. Matthew Pederson agreed that it may be wise to have a specialized

individual for the personnel or employment matters on a retainer. Commissioner Mielke stated that SCAPCA is a small agency and this is all speculation on what may or may never happen, but if SCAPCA was to ever have an accusation of harassment in the workforce or anything like that, our general legal counsel may have had working relationships with the individuals involved in the claim, it would make it hard for general legal counsel to remain unbiased. He understands having general government legal counsel as an agency and because of the type of agency SCAPCA is, it having some specialized background in environmental law. He just thinks that when it comes to the employment law issues, maybe there should be some sort of separate arrangement and he would put that forth as discussion to with the other Board Members and the Director for consideration. Michele Pope stated the she thinks that they need to discuss this more. She is not supporting the idea of accepting this proposal at all from Michelle Wolkey. She also thinks that SCAPCA needs to look at re-advertising because the summer is down months for the legal profession and she thinks this needs to be looked at more carefully as far as reposting this and then determining what SCAPCA needs as far as a general counsel and they can hand it over to somebody else if it is a personnel issue. She thinks there needs to be more thought and preparation for this at this time and she would like to have the rest of the Board Members present. Matthew Pederson agreed that this should be continued to the October board meeting.

Commissioner Mielke moved to continue this item until the October 5, 2006 SCAPCA board meeting when the rest of the Board Members are present and Michele Pope seconded it. Motion passed unanimously.

12. Board Concerns: There were no board concerns at this time.

13. Public Forum: Ron Edgar introduced Karen Wood the new air manager for Ecology's Eastern Regional Office. Karen Wood added that she was the unit manager for the agriculture and outdoor burning program since 1999. She looks forward to working more in the whole realm of air quality. She grew up in Colorado and was a Park Ranger and Park Manager for years. She has always had a resource management background and came to Ecology in 1998 from the State Parks. She has been in the Spokane area since 1992.

The meeting adjourned at 11:10 a.m.

The next Board Meeting will be October 5, 2006 at 9:30 a.m. in the lower level of the Public Works Building.

MATTHEW PEDERSON, CHAIR

WILLIAM DAMEWORTH, SECRETARY