

SPECIAL BOARD MEETING MINUTES

September 26, 2005 10:00 a.m.
SPOKANE COUNTY PUBLIC HEALTH BUILDING
THIRD FLOOR IN ROOMS 320 AND 321

PRESENT WERE:

Michele Pope
Commissioner Harris
Matthew Pederson
Commissioner Mielke
Mike Brewer

STAFF:

Michelle Wolkey, General Counsel
Ron Edgar, Chief of Technical Services

SPECIAL BOARD MEETING: The special board meeting was brought to order at 10:00 a.m.

Interim Executive Director:

Matthew Pederson stated with the Boards approval, he would like to name Mr. Ron Edgar as the Interim Director of SCAPCA. Mike Brewer added that Ron has been with SCAPCA a long time. Mike moved that Ron Edgar named the Interim Director for SCAPCA and Michele Pope seconded it. Motion passes unanimously without Commissioner Mielke in attendance at this point.

Search Committee:

Mike Brewer made a motion to appoint Matthew Pederson, Michele Pope and Phil Harris to the search committee for a full-time Director of SCAPCA and Michele Pope seconded it.

Karen Lindholdt interrupted the motion to ask that the Board take public input before this goes to a vote. There are several people who would like to speak on the future of SCAPCA, the search committee and those who would be appropriately on that search study. Commissioner Harris stated that this meeting was not advertised for public input. If we do that, somebody will come back and say I would have been there if there was public comments on the SCAPCA Agenda. Michelle Wolkey added that if this Board were to take public input, it would have to be at a time that it was advertised for the public so that everyone who wanted to have input would know that that was an opportunity.

Karen Lindholdt responded that no vote should be taken unless the public was participating. We could hold a press conference outside explaining their concerns and the Board knows what they are as well as they do and she asked that a vote be put off until a time that the public can participate because the

public's got a lot to say about this. Commissioner Harris asked who we means. Karen Lindholdt stated she is here on behalf of Save Our Summers, Safe Air for Everyone and many people in this community who have been impacted by air pollution in the past. They have a right to be protected from air pollution based upon the Federal Clean Air Act and the State Clean Air Act and they have the right to have the SCAPCA Board follow its Mission Statement, which means having Board Members who understand what the Clean Air Acts require and who don't have conflicts of interest, which means having a search committee that will include people who have the qualifications that understand exactly what the Clean Air Act requires. Having people on a search committee decide who the full-time Director should be who know nothing about the Clean Air Act and the mandates thereof really is not a good idea. Commissioner Harris stated he appreciated Mrs. Lindholdt saying that because we all have a concern for clean air. He then asked if she would like to say who she feels is not qualified of the three. Karen Lindholdt started with Commissioner Harris. Based on the public comments he has made in the past about who he believes his customers are it is clear to her that he believes he is here to balance interest of the industry, asbestos removers and the polluters (i.e., Chud Wendle), with the interest of those who breathe this air. She added that he is wrong, this is not an economic board or a planning board, this is Spokane County Air Pollution Control Authority and your mission is to protect air. She pointed out to Commissioner Harris and Mielke that the Revised Code of Washington 70.94.100, talks about the appointment of Board Members of SCAPCA and it states "Where ever a member of a board has a potential conflict of interest in an action before the Board the member shall declare to the Board the nature of the potential conflict prior to participating in the action review. The Board shall, if the potential conflict of interest in a judgment of a majority of the Board may prevent the member from a fair and objective review of the case, remove the member from participation in the action". Her question was how many received money in their campaign from Inland Asphalt, a contributor to Inland Asphalt, a member of Inland Asphalt or Wendle Ford who had been here in front of you complaining about Mr. Skelton and the SCAPCA Board. If so that should have been disclosed and brought forward.

Commissioner Harris responded he didn't want to get into a debate with Mrs. Lindholdt, but that she was not doing anything good for her groups that she is representing, which he's sure she's being paid for so she is receiving money for their agenda. He added that she was turning the whole thing around. He didn't know about Inland Asphalt, but yes he received donations from Mr. Wendle and from 1,200 different people. In order to do what is right for the people, he had to get into office, but we're not here to debate that. Commissioner Harris then added that she is twisting things around to make her argument valued; he probably has as much knowledge of the Act as she does and thinks that everything has to be balanced. Some things are taken out of context, like he didn't agree with the Clean Air Standards Bill for California; the reason he didn't is because Spokane County is a border county and cannot control the thousands of SUVs coming into the County every day from Idaho. Somebody extrapolated that to mean that he was totally against adopting the act, that wasn't correct, but he would not set here and defend his self against her, but would be happy to do it in a court room. Karen Lindholdt replied she's considering that, but wanted to get back to the other conflicts that she sees that exist. Karen Lindholdt stated that Ms. Pope was recently appointed to the Planning Commission and she is unsure why Ms. Pope would continue to serve on the SCAPCA Board, which represents clean air and she apparently has other interests. At the last board meeting, Ms. Pope mentioned there was a need to make sure that we're not interfering with development. That is an issue to be dealt with on the Planning Commission and she would suggest that Ms. Pope resign from this Board and continue with the Planning Commission. Karen Lindholdt asked what expertise did Mr. Pederson, Ms. Pope and Mr. Harris have. Why do we not have someone on this search committee like Dr. Jeff Corkill who is a full professor in chemistry at EWU and has studied air pollution in this region and the impact, Dr. Kim Thorburn the public health officer of this

community or talk to Dr. Michael McCarthy, who's a pediatric pulmonologist who treats children with cystic-fibrosis. Get Grant Pfeiffer from Washington State DOE or Stu Clark who is the air quality manager.

Commissioner Harris replied we're going to solicit other people to be on that committee. You're just hearing the three people that are on this committee from this board and you're not allowing the process to get started, you come in and start making accusations against people and qualifications. Karen Lindholdt told Commissioner Harris he should call Eric Skelton and ask that he reconsidered his resignation. Commissioner Harris replied that's one of the things he was thinking about but there's no need to carry this dialogue on anymore, we need to get on to what we came here to do, thank you very much.

Don Barbieri stated that he thinks the Board is making a mistake by not taking public input. We who come out of free enterprise who have spent the last couple of decades trying to create the "Near Nature, Near Perfect" signature for Spokane based upon environment and quality of life to attract people here did that as civic leaders, chamber leaders and county coalition leaders with Kootenai County and Spokane County. The symbol you're giving forward here is that you're rushing through something and it's a big mistake. Commissioner Harris agreed with Mr. Barbieri on the public input, but this meeting was not advertised for public input. Don suggested putting this off a week and advertise for public input because the process is important on something like this. Commissioner Harris replied yes and Eric's done a great job, but we can't let a vacancy stay, we've got to appoint an Interim Director. Don asked the Board to ask Eric to serve through this process; the community would respect them as leaders if they did this. The perception is there are special interests driving this decision and we can't let that happen. We've got to reverse that and come out of the shoot with a fair and open dialogue. Commissioner Harris thanked Don for his input.

Commissioner Mielke asked Ms. Lindholdt to provide the list of names she suggested to participate in this process. He would like to come back next week at the regularly scheduled board meeting with a formal plan of what this might look like in the way of a search. He noted that comments both here this morning and comments that have come out in the media have implied that special interest is driving this decision. We try to operate under the open meetings act and it calls for different things in different circumstances. Whenever we have reviewed the performance, evaluated, considered discipline or release of an employee, that has been done in an executive session. The law does allow that employee to request it be done in public. Out of consideration whenever there has been a complaint leveraged against an employee, we have gone into executive session and tried to work through that. When it has been a complaint against the organization, as it was in August, with no specific employee mention, the issue is where it is most appropriate for that complaint to be heard. Last spring we received a number of specific complaints regarding the Director endorsing legislation and the question that we got was did the Board take an official position as an organization. We did have an executive session to say what happened, why our name is appearing on literature in Olympia, unbeknownst to the Board. We found out there really was no policy in place. There was no disciplinary action taken even though the complaint was against a specific employee. Instead we decided we needed to adopt a policy and the policy is no different than any other board in any other organization, which is the only time you take an official position, is when the Board takes that official position. Our concern was that the language was overly specific. We already compete with the mega car dealership of Dave Smith in Kellogg Idaho and didn't want to see more sales leave the area because we do pay for these programs through the tax moneys that we collect. We were concerned and we took a neutral position on that legislative bill. In

August there were some general complaints leveraged against SCAPCA with no specific employee mentioned. The August meeting was comprised mostly of us hearing people air their complaints. It was a public meeting against the agency, there was accusation that documents were doctored, which is a very serious accusation and as a Board we have to do due diligence and make sure that either the complaints are without merit or with merit. Complaints are an opportunity to make sure the right policies and procedures are in place and followed. We've got to be able to review complaints and determine whether there's merit or not. Direction was given to Mrs. Wolkey about taking some time with staff to review the accusations that have been made, determine if there is anything that seems peculiar, report back at the next meeting and go from there. I'm amazed at what happened between the August meeting and the September meeting. Testimony was received at the August meeting from a private citizen that called for us as a Board to consider a number of things and we sat and didn't respond, but there were a number of things all the way from a performance evaluation on the light end and the most extreme end was dismantle SCAPCA and hold the Director accountable and if that means getting rid of the Director than so be it. That was testimony offered by the audience, not the Board. But the article that came out between that August meeting and September meeting said, the SCAPCA Board is listening to recent calls by local businesses for Skelton to be fired and the County Clean Air Agency to be abolished. The reporter wasn't at the August meeting and the Board never made any of those comments. Those citizens that attended the September meeting but not the August meeting came with the understanding that that was true. The process, with regard to the documents that were supposedly altered, wasn't perfect but it's the only process he's ever seen where you collected signatures first and then fill in the data second. He doesn't think there was anything to the claims, they were serious claims but he doesn't think they are with merit. The second thing accomplished at the September meeting is that staff had a chance to review our processes and the biggest concern was did we have people giving conflicting information to somebody trying to comply with our rules. Staff came back and said we've reviewed our process and we think there are ways we can make some adjustments so it is less confusing, people can comply and get these areas cleaned up. The third thing accomplished was a structure that had been listed as a public health hazard for four years had a clean up plan that was adopted and can move forward. His concern is that people are assuming that the Board has continually taken disciplinary action when it hasn't. Another issue is a woman that attended the public meeting in August, presented testimony during the public comment period and was sent a letter by SCAPCA telling her that it was inappropriate for her to attend that public meeting and comment. That was a complaint filed against a specific individual. We've got to figure out whether we're going to review that letter, was it appropriate and do we owe that person a response. It is important to understand what has come before us as a Board, it isn't anything that falls outside what most Boards get faced with. Karen Lindholdt asked to respond. She stated that there's not a balanced approach being given to complaints. She added that there is a fraud that she understands has been committed that the Board ought to think about investigating and maybe sending it to the Prosecutor's Office. Ms. Anne Bailey who came to the meeting in August as an Eastern employee and had no business there because the letter sent out involved removing asbestos from burned out structures. That letter went to Ms. Bailey's husband, who works for an asbestos removal company and would benefit from SCAPCA taking a nose dive and its ability to regulate. So Ms. Bailey, this information is going to those in power at EWU, came in and acted as a representative as Eastern even though it didn't involve her and it was only going to help her husbands business and she made some complaints that weren't relevant. All of a sudden Ms. Bailey becomes this person of character we need to listen to. Karen Lindholdt then added does the Board know that Ms. Bailey use to work for Benton County Clean Air Authority and was either terminated or resigned and charged with embezzling money and was convicted with third degree theft. This person who Ms. Pope and Mr. Pederson are asking for a meeting with Mr. Skelton to reprimand because of information she has given. Matthew Pederson

interjected that the meeting requested from Mr. Skelton, which has gone unanswered, did not exactly have to do with that topic. We have asked to meet with Mr. Skelton and have asked Mr. Skelton to be here this morning, he has not responded to any request. The communication breakdown that you are placing at the Board is not a breakdown from the Board but from Mr. Skelton.

Karen Lindholdt asked why the investigation is one-sided. Why is it that the investigations that you all have conducted since the spring were on behalf of those people who pollute? She then stated that the Board provides advice and some policy. She recommended that the Board not micro-manage and listen to an attorney who knows the law and let the agency do its business. Commissioner Mielke responded it's not about whether Ms. Bailey works for Eastern or not, any member of the public, regardless of who they are, is welcome to attend a public meeting of this agency. He doesn't believe that Ms. Bailey said she was speaking on behalf of Eastern. She said, I am a facilities director at EWU and she is concerned about and then stated her concerns. When your husband got up to speak, he said I'm a professor at EWU and then went on to share his comments and concerns. We did not interpret that as him speaking on behalf of EWU. So the fact that people say here's how you associate me doesn't mean that that's who they are representing at the time. We've received no correspondence from EWU saying that they are concerned or not concerned about Ms. Bailey's comments. We had a lot of people testify, name their profession and unless they said I'm here speaking on behalf of, we assumed that that's their profession. Karen Lindholdt interrupted and stated, Ms. Bailey did and there was correspondence that is being reviewed with EWU and the letter Mr. Skelton sent was to EWU, so it did become a professional issue. Karen added that her point is to get to a point where everyone gets a fair exchange here. Commissioner Mielke stated that he understands and his point is we're a public agency and cannot cross that line of attempting to block people from attending our meetings. The letter has the tone that we were trying to block Ms. Bailey from attending a public meeting.

Michele Pope stated that she appreciated Ms. Lindholdt's input, but she has to understand that the mission as the Board is to support clean air, that is why we are here. It's an issue that's very important to us. We have worked with Eric and the staff here for many years and have had a very good relationship with both he and the staff and respect Eric's input and the hard work that he's done and he has done an excellent job. Every year when we gave Eric his evaluations, we've said so and put that out. We would really like to be able to address this, but this whole thing has gotten a life of its own that is superseding our control. We would just appreciate being able to work through the process based on what our attorney says. Michele also stated that the comments that Ms. Lindholdt is making are skewing the facts and making it difficult for the Board to be able to speak with Eric or anybody else on a rational level. When other issues have come up in the past, as far as a business complaint, we were always able to call Eric and say this is what we're hearing, what do you think and hand it off to him and he usually dealt with it. We had heard from Northwest Renovators and asked Eric what should we do about this and he was willing to look at it. We have been able to be open and above board and work very well together and all of these other compounding factors from people and organizations are making it difficult for us to do our job in a rational way.

Tina Flint, an occupational health nurse, voiced concerns for her and a large medical facility about Eric Skelton and the damage to the Board. She recommended showing some credibility by taking recommendations and getting people who are credible to join in on the search for a new Director for SCAPCA. She asked the Board to read RCW 4.24.500, on good faith communication to government agencies by the public. Commissioner Harris stated he appreciated her input, she did it in such a manner that it didn't bash anybody and she was stating the facts. He wanted to assure her and everyone else that

no matter who the director of SCAPCA is standards are not going to be lowered. We're going to continue to meet the standards and by law we can't do less than that. We still have a very professional staff in SCAPCA right now and they will continue to do a good job and enforce the clean air standards.

Julian Powers, Environmentalist, stated that SCAPCA's lawyer look at what Mrs. Lindholdt has given in terms of what the law is relative to conflict of interest. This is a public agency, devoted to the public good. On behalf of the public, until you give the public the perception that everything is being done correctly, legally and morally, there'll be a dark cloud over this agency.

Clare Sosso voiced her concern for people with allergies and that we need to have experts on this Board that represent the people.

Mike Brewer clarified that when he made the motion that they start a search committee, he named three people who are all capable and this Board has to appoint a committee. It was his intention that that committee would consult with these different agencies, find what we need, then go out and advertise, search the nation, interview people and bring them back just like we did when Eric came in 1991. Matthew Pederson added that the search begins with a committee and that committee will make their recommendation based on the course of their search, which will include consulting with area experts and staff to search out for the highest qualified director possible.

Mr. Higgin stated that the paper signified that we didn't have to use oxygenated fuels anymore this winter because of the high air quality of the Spokane area, do to the goal of Eric Skelton. We need to take a new look at who sits on the Board of SCAPCA. We don't have to have County Commissioners on the Board of SCAPCA; it's not in the statute. You could have your representative and it seems to him that would do a great deal toward avoiding conflict of interest issues and so forth and add credibility to the situation.

Commissioner Mielke stated for clarification that it is the intent that these three individuals from the Board oversee the search, have a more formal plan to present back at the October board meeting and that will include how to incorporate other advisors to help with the process. Mike Brewer added that he thinks they should have somebody from the Advisory Council and two others. This committee of our three we have to have to put it together and the three would go ahead and get that and go from there. We'll include it as a friendly amendment to my motion. Karen Lindholdt interrupted Mike Brewer's motion amendment with that's what she would just ask that it be an equal vote . . . , Mike Brewer asked her please, we are already into the motion. Matthew Pederson stated to Mrs. Lindholdt, he's sorry but she has very much intended to make this meeting a circus and he feels her constant interruption of this Board is very intimidating and out of line. So he asked her to sit down at this time, while the Board has their discussion. Karen Lindholdt objected to having been trying to make a circus out of this board meeting.

Commissioner Harris added we have a committee made up of educated people that understand the issues and when they do interviews they need to remember that the person also has a public relations task. They would submit back to the Board the top three people and then the Board would pick one of the three. We're going to have to have a citizens committee advising who we should interview or who they should interview or they can all be part of the interview. We haven't nailed down the mechanics of it. Michele Pope stated that we do need to make a formal plan and make a proposal at our next meeting as far as how we'll handle this search committee. Matthew Pederson asked that this committee meet later

on this week and come up with a draft presentation to the Board on what the process should be who should be consulted and how the process should begin and present that at the October 6th meeting for board approval and then implementation.

Mike Brewer made a motion to appoint Commissioner Harris, Michele Pope and Matthew Pederson to form the search committee with the stipulation that they meet and come back to the board on October 6th with a proposal and Michele Pope seconded it. Motion passes unanimously.

Board Concerns

Matthew Pederson was presented with a packet from Barbara Nelson for payroll. In Mr. Skelton's departure there is a balance on his unused vacation in which, by SCAPCA policy, he is due in the amount of 300 hours. Michelle Wolkey felt it inappropriate that Mr. Skelton sign for that payroll and under Board Policies it is under the authority for the Chairman to sign for these payrolls. The Board gave authority to sign and carry out the payroll to Matthew Pederson. Michelle Wolkey stated the policy is upon termination, resignation or layoff unused/accrued vacation is paid out.

The September 26th, 2005 SCAPCA Special Board Meeting came to a close at 11:03 a.m.

The next Board Meeting will be October 6, 2005 at 9:00 a.m. in the lower level of the Public Works Building.

MATTHEW PEDERSON, CHAIR

RON EDGAR, SECRETARY