

BOARD MEETING MINUTES

November 3, 2005 9:00 a.m.
SPOKANE COUNTY PUBLIC WORKS BUILDING
LOWER LEVEL HEARING ROOM

PRESENT WERE:

Matthew Pederson
Michele Pope
Commissioner Harris
Commissioner Mielke

STAFF:

Matt Holmquist, Compliance Administrator
Lisa Woodard, Public Information Officer
Barbara Nelson, Finance & Personnel Administrator
Michelle Wolkey, General Counsel
Mary McDermott, Secretary II

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

1. Review of Enforcement Policies – Matt Holmquist (Continues from last month)

Matt Holmquist asked if there were any questions or recommendations from the Board on SCAPCA's compliance and enforcement program. Commissioner Mielke inquired about how SCAPCA sets its fees for different permits, etc. and what does SCAPCA do internally to make sure that it is being consistent with information that is given to people. One topic is the issue of the Alternative Means of Compliance for Asbestos Projects, when somebody puts together a proposal to utilize the alternative means, is there no fee associated with making that application and SCAPCA's review time? Matt replied that when the application for the Alternative Means of Compliance for Asbestos is submitted, it is submitted in conjunction with the Notice of Intent (NOI) for an asbestos project and/or demolition. There is a flat fee associated with a NOI and when it is submitted with an Alternative Means of Compliance, that fee is double.

Commissioner Mielke asked if somebody provides SCAPCA with a timeline for rectifying a situation, SCAPCA does not allow that person to finish early? Matt replied, for asbestos projects there is an asbestos start and end date on the NOI. The start date typically has to meet a 10 day minimum waiting period under SCAPCA's rules. If they want to postpone the start date or change the end date, they file an amendment to the NOI with a \$50 filing fee. This is in SCAPCA's regulation. If they want to change any work schedules between the start and end dates, they can submit a Work Schedule Fax by 9:00 a.m. that day and there is no fee.

Commissioner Mielke asked if the ten day waiting period could be waived if SCAPCA believes that the situation needs more imminent attention. Matt replied, there is an Emergency Notification

provision in the regulation, which allows the advance notification period to be waived if the asbestos project or demolition must be conducted immediately because of any of the following:

- a. There was a sudden, unexpected event that resulted in a public health or safety hazard; or
- b. The project must proceed immediately to protect equipment, ensure continuous vital utilities, or minimize property damage; or
- c. Asbestos-containing materials were encountered that were not identified during the asbestos survey; or
- d. The project must proceed to avoid imposing an unreasonable financial burden.

Commissioner Mielke stated he understands filing an Amendment and paying the fee to change the end date to a later date, but if a person gets the project cleaned up or taken care of earlier, they shouldn't be penalized for finishing before the end date on the NOI because that means that the job was accomplished with greater efficiency and more effective than originally set and they did not drag their feet just to meet the end date. We need to look at our programs and see if they are targeted, efficient and effective and if they are not, we need to improve them. He would like the Board to review the language in the Regulations regarding Amendments of end dates and see if there is anything that they would want to do differently, because he would rather encourage people to expedite cleanups. Matt Holmquist replied that on the average SCAPCA receives about 50 to 60 amendments a year. Most of those are for the asbestos abatement portion of the job and the other is the demolition portion once the asbestos is removed. There is only a start date listed for the demolition portion of the project and the NOI is good for 12 months from the earliest start date on record.

BOARD MEETING: The board meeting was called to order at 9:49 a.m.

ACTION ITEMS

Minutes of the September 26, 2005 Special Board Meeting and October 6, 2005 Board Meeting

Michele Pope moved to approve the September 26th and October 6th, 2005, board meeting minutes, Commissioner Mielke seconded it. Motion passed unanimously.

Public Information/Education Update

Lisa Woodard gave an overview of the October community, youth outreach activities and events. SCAPCA participated in the Car Care/Lights on Fair with the Automotive Service Association where the public can get their vehicles checked to make sure they are working properly. We partner with the Department of Natural Resources at The Valleyford Chipping & Composting Event to get the word out about other options to burning and the Master Composters are there as well. Air quality displays were at the Home Idea Show, Fall Festival at The Green Zone and the Fall Leaf Festival at Finch Arboretum. Air quality presentation were made to the 8th graders at North Pines Middle School and "Welcome to the Neighborhood" air quality mailers were distributed to 69 new homeowners during the month of September. Air quality pages on the website to reflect the fall/winter season were updated. SCAPCA continues coordination and materials preparation for November and December compliance assistance workshops for owner, managers and employees of gasoline stations and dry cleaners. Special projects consisted of development of the fall/winter materials including media events and promotions. We finalized scripting and production of two new air quality television and radio PSAs on wood heating and

vehicle idling along with worksite toolkits for major worksites. SCAPCA and other agency partners helped promote Walk to School Day and the Walking School Bus program at area schools. We solicited retailer partners to host air quality and wood heating displays and materials in their stores and to partner in co-op advertising/promotions and submitted articles on wood heating to neighborhood newsletters. Planning continues for the Spokane Youth Environmental Conference in May 2006, for middle and high school students from throughout Spokane County and private contributions come in to offset the conference expenses. Media interviews were conducted on outdoor burning/alternatives, car maintenance/event and wood heating season.

Commissioner Mielke asked if SCAPCA monitored the sales of wood heating devices in Spokane County and do we anticipate changing the public information efforts to offset the amount of sales of woodstoves. Lisa replied that's done through the state. Each woodstove retailer in the state is assessed a fee and that fee goes to the state and is dispersed throughout the state to help with enforcement education. SCAPCA maintains a consistent wood heating education program.

Activity Report for September 2005

There was no report review.

Voucher Approval for September \$156,330.63

Commissioner Harris wanted to know what Voucher number 1054, Banner Commercial Fuel was for and what the cost was per gallon because most card locks are higher than anybody else and possibly SCAPCA could connect with the County Road Department. Barbara Nelson replied it is the fuel bill for agency vehicles and when SCAPCA belonged to the County Revolving Fund, it purchased fuel through the County System, but the County released SCAPCA from the pool and directed SCAPCA to get its own account. Commissioner Harris stated he would check with County Roads about getting SCAPCA back in. Barb stated she is willing to do that and to look into some other gas company cards.

Commissioner Harris had a question on Voucher number 1071, Puget Sound Clean Air open burning ad campaign. Is it a local advertising campaign or is it some kind of contribution. Lisa Woodard stated that in SCAPCA's budgeting for this fiscal year, it budgeted \$12,000 to put in the region wide research pool to come up with creative outdoor burning advertising. Puget Sound is the agency handling the contract and it is a one-time contribution.

Commissioner Harris also had a question on Voucher number 1076, Spokane Neighborhood Action, VERP and VAVR programs and didn't know it was buying cars for people. Barbara stated that this program has been going for several years and is one of the Supplemental Environmental Projects (SEP). This buys a bus pass while the individual saves their money to buy a car and this program pays a certain amount that has been set by the VERP and VAVR program. The money used for this program was from the Kaiser Settlement with DOE (\$125,000.00) and SCAPCA has custodial care of this money and it was set up to meet the requirements of that settlement with Kaiser and DOE. Additional money was added to this money from Avista for a settlement for them using their northeast turbines.

Commissioner Harris asked if Voucher number 1082, Wolkey McKinley Attorneys August legal bill was a monthly bill, what is the hourly rate and there was a policy that unless we felt something was coming before the Board that we would need our attorney, we did not have the attorney present.

Barbara replied it is a monthly bill, the hourly rate is \$150 and there is an item on the Agenda that requires Michelle's presence. Commissioner Harris added that the attorney should be given an approximate time of when she will be needed so that she is not here for an unnecessary amount of time.

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

Income/Expense Statement for September 2005

There were no questions.

Resolution 05-24 – Authorization to Surplus and Sell 1994 Chevrolet Utility Truck

Barbara Nelson stated that SCAPCA's plan is to advertise the sale of the vehicle to the general public. There will be a minimum price set on the vehicle and high blue book is around \$8,000. This vehicle has been replaced with a Ford Escape which is gas/electric.

Commissioner Mielke made a motion to approve Resolution 05-24 and Commissioner Harris seconded it. Motion passed unanimously.

Establish Salary for Interim Director

Michele Pope stated that she would like to maintain the current salary of the Interim Director and thinks it is a duty that is assumed for the time being. Commissioner Mielke asked how the salary was set for the director's position. Michelle Wolkey stated that it was a set salary by the Board that was for Eric as Director and accumulated through the years with COLAs and longevity. Also, the Auditor's Office would view going back to the time that Ron was appointed Interim Director as a violation. Commissioner Harris understands what Michele Pope is saying in respect to when the Director is absent do to vacation, sick leave, etc., the number two person fills that spot. He feels that they should give Ron an increase in salary for handling both his duties as the Chief of Technical Services and the duties of an Interim Director. He then asked if Ron was salaried or a wage earner, regardless of the number of hours he works there's no overtime pay. Barbara Nelson replied he is salaried but there is comp-time. Commissioner Mielke stated that Ron will have to continue fulfilling the responsibilities of his position and assume additional responsibilities as Interim Director for at least two to three months and perhaps longer. He advocates for adjusting Ron's salary up \$1,000, do to the fact that Ron has been with this organization for 28 years and there is some value to his historical perspective, during the time that he serves in both positions. Michele Pope added that Ron does receive longevity pay, so he is being reimbursed for his time that he has been with the organization. Matthew Pederson added that the increase was at his request. Initially he thought that they had a salary range to work with and that the Interim Director would come in at the low end of the range, but with Mr. Edgar's longevity and knowledge of the inner workings of SCAPCA his self, he would agree with Mr. Mielke.

Commissioner Mielke made a motion that the Board set the Interim Director's salary at \$7,070, an increase of \$1,000 per month and any longevity would be considered in addition to that and Matthew Pederson seconded it. Commissioner Mielke, Matthew Pederson and Commissioner Harris were in favor of the motion and Michele Pope was opposed. Motion passes.

Commissioner Harris made a suggestion to go outside the agenda and put the Executive Session at the end of the Agenda so people in the audience would not have to go outside the hearing room and wait to come back in after the Executive Session. All of the Board Members agreed.

Report on the Executive Director Search Committee

Matthew Pederson gave a brief overview of the search committee's status. The committee met last week with Commissioner Harris, Michele Pope and Matthew Pederson in attendance. They discussed positions on that Board for the interview committee; salary range for the new director's position; named Jeffrey Corkill for the Advisory Council Member position and Beth Fifield-Hodgson of Spring Environmental for the air agency with technical information and experience position; and there is still the CEO of another jurisdiction and the senior health care professional positions to be filled. After these two positions have been filled the committee will meet for interviews.

Public Concerns

Doug Gore of Northwest Renovators passed out documents to the Board Members. He noted that the building on Sprague is down and gone. He briefly went over things that happened after the fact. He stated that the rules and regulations are not necessarily SCAPCA's problem, it is the inner workings of SCAPCA and in his opinion it didn't stop with Eric Skelton. It was said earlier in the meeting that there was a fee for reviewing the Alternative Means of Compliance, but if you look at the Asbestos Program Notice Request for Written Comment that SCAPCA put out, on page 2, paragraph 1, title to subparagraph 1, it says that there is no charge for SCAPCA's review of an Alternative Survey Methodology. He called SCAPCA after removing all the asbestos and asked what he needed to do and he was told by Matt Holmquist that he had to file an amendment with a \$50 fee. He went to SCAPCA to do this and was approached by Deirdre Fitzgerald, who is very unfriendly and does not want to acknowledge you. She made a comment to him that they could not be done because what if they lifted the slab and there was a boiler underneath. He understands her intention, there could have been some piping or something under there, but the mentality at SCAPCA is very negative. There were issues over the alternative means of compliance which was submitted to and approved by SCAPCA. The inner workings between the two doesn't seem like there is any communication going on there. I hope the Board comes back at a later date and time to take some action as far as the inner workings are concerned because the general public is starting to get tired of this. I would like to acknowledge Mary and Debbie at the front desks of SCAPCA. Every time we have called or been in there, they are great regardless of the situation or circumstances going on. They are not taking anything personal towards them or otherwise and being very straight forward and professional regardless of the unprofessionalism that is going on around them. The letters provided to the Board with the names removed, do to recourse from SCAPCA, show the inner workings of SCAPCA not being professional and being combative the first time you contact them.

For them personally, they met with Seneca Cluck and Mr. Holmquist and they said everything is going to be okay and we will work this out, everything is good. But then as soon as the door closes behind you, it's completely different, so what's being done face-to-face is not what is happening. He thanked the Board for hearing their complaints and problems with SCAPCA during the Sprague work.

Mike Lee, with Northwest Renovators, stated that it has been a difficult process from start to finish. They budgeted five days to do the project and got the asbestos done in a full day and then

demolition was done before the five days and we thought it was awesome. Then we found out we had to pay \$50 because we finished early. We went to file a complaint and Doug had an altercation. We would like to put the past behind us, we had some problems but lets move forward, but it seems like we have never gotten that far where we could put it behind us. His recommendation or suggestion is that when you are looking at the new director, it would be helpful to the business community, contractors and people that SCAPCA works with, to do a survey on where has SCAPCA been, where do you see SCAPCA in the future, how do they help and where do they need to improve and have it done with a third party source and get that data together so that the new director will have a good understanding of where the positives and negatives are to move forward with SCAPCA. That would be beneficial for the clients or customers of SCAPCA to be able to comment on SCAPCA for both the good and the bad comments and this would be beneficial for things to run smoother and more efficiently at SCAPCA with the new director.

Board Concerns

Michele Pope had an item for the Boards consideration that had to do with the woman who got up from EWU and spoke at a board meeting and received a letter from Eric Skelton. That particular situation was never really dealt with and maybe there should be an apology letter written and sent to her and her supervisors because we don't know what the ramifications were or what happened with her. Michelle Wolkey added that there has been an investigation commenced, not as a result of that particularly, but as a result of other complaints that were received by third parties. Doug Gore stated that it was based from that letter. Michelle Wolkey continued that we recently had a conversation as part of that investigation, there is interviewing of people going on and she just wanted the Board to be aware that that is a pending matter and she doesn't know when or what conclusion they will come to. Matthew Pederson asked who was doing the investigation. Michelle Wolkey replied that it was by Eastern and the representation was by the comments from the audience, the representation to me was that there were other complaints that had been separate and apart from that letter and I don't know what they are. Commissioner Mielke stated that we don't do a back ground analysis before anybody testifies before this organization. We are a governmental entity, state law dictates that we follow the open procedures act, which means we will conduct the majority of our business other than that specifically exempted in executive session, we will conduct our business in a public setting, the public will have an opportunity to observe it and they will have the opportunity to comment on it. We don't question whether the person was appropriately before us. His concern is that the way the letter was worded to him as it came out from SCAPCA as an organization that it cut against the open meetings act by questioning whether somebody was appropriately in attendance and implying that they should not have attended a public meeting or stood up and said anything. He believes that they do owe a follow-up letter because the letter that was sent earlier was confusing and pushing the point of adhering to the open meetings act. Commissioner Harris agreed with Commissioner Mielke and Michele Pope. He believes that the Chair of SCAPCA should write a letter to the individual stating it is a policy of the SCAPCA Board to comply with the open meetings act and we on the SCAPCA Board welcome citizen input at any time where public concerns are scheduled. Michele Pope stated that it needs to go to her supervisor also because a copy went to the supervisor and we don't know if that letter had negative ramifications for her at her workplace. Matthew Pederson agrees with this and was disappointed when the letter was presented to the Board. He felt that the previous director was out of line sending that letter because in his opinion that individual testified not as an employee of EWU but as an individual and it is the Boards responsibility to allow all members of the public, regardless of background or their position on whatever issue on hand, to have input and to open the Board to questions and comments from the public to help in

decision making with this Board. That letter may have ramifications not only in that situation but on a broader scope which may discourage future public comment and without public comment, he doesn't believe the Board can properly do their jobs. He would be disappointed if in the future public comment was not given based on previous actions that there may be some sort of negative or adverse reaction from the Board or Staff. He will draw up a letter and run it by the Board for their approval and send it to the individual and supervisors at EWU. Commissioner Mielke stated that this is important because in the same meeting in which this individual spoke, other individuals provided input and did not receive a similar letter.

Executive Session to Hear Update on Pending Litigation

Matthew Pederson moved the meeting into executive session for approximately 10 minutes at 10:23 a.m. Matthew called the meeting back to order from the executive session at 10:48 a.m. There will be no action taken from the executive session.

Commissioner Mielke added to the Board Concerns section of the meeting to the issue of its importance that the SCAPCA Board have a process that is predictable (i.e., what type of comment do we accept during what part of the meeting and when is it appropriate). He suggested that with the Public Concerns portion of the meeting, do we want a two or three minute limit and that the Board have some sort of disclaimer that says this is an opportunity for the public to spend two or three minutes expressing any item not listed separately on today's agenda. The idea is that if they come across an item on the agenda that they expect public testimony and is part of the public record, people then can come and testify on that item. Once you move on to the next item, they think that item is done and some of them will leave and if you don't specify and somebody comes up at the end in the public comment period and adds additional comments, then there is the question of fairness in the fairness doctrine. For clarification purposes we should look at the disclaimer statement that the City of Spokane uses in its council exercise. This would be for public hearing items; the public could come up and testify after they have heard the presentation and debate on that item. Commissioner Harris stated that the County, during public comment (public forum), lets the public know that they cannot discuss anything that has been discussed prior in the meeting or anything that is coming before them for decision.

Matthew Pederson adjourned the November 3, 2005 SCAPCA Board meeting at 10:59 a.m.

The next Board Meeting will be December 1, 2005 at 9:00 a.m. in the lower level of the Public Works Building.

MATTHEW PEDERSON, CHAIR

RONALD J. EDGAR, SECRETARY