



MINUTES
LANE REGIONAL AIR PROTECTION AGENCY
BOARD OF DIRECTORS MEETING
THURSDAY MARCH 09, 2023
MEETING VIA ZOOM / SPRINGFIELD CITY HALL

ATTENDANCE

Board: Bryan Cutchen - Chair; Howard Saxion - Vice Chair; Joe Pishioneri, Mike Fleck, Jeannine Parisi, Matt Keating.

Absent: David Loveall

Staff: Steve Dietrich, Travis Knudsen, Trinidad Cardenas, Colleen Wagstaff, Jonathan Wright, Katie Eagleson, Lance Giles, Max Hueftle, Robbye Robinson, Amanda Atkins, Aaron Speck, Susannah Sbragia, Derek Bowen, Chris Coulter, Cassandra Jackson, Beth Erickson, Kelly Conlon, Chantal Green.

Others: Jim Daniels

1. Call to Order

Chair Cutchen called the meeting of the Lane Regional Air Protection Agency (LRAPA) Board of Director's (BOD) to order at 12:58 PM. A quorum was established.

2. Adjustments to Agenda

Mr. Dietrich added a topic for discussion to agenda item nine, Oregon House Bill 3229. He omitted the Audit Report from agenda item number five because the report was incomplete.

3. Public Participation

A. Comments on an Item on Today's Agenda

No comments were made.

B. Comments on a Topic Not Included on Today's Agenda

No comments were made.

C. Comments from Board Members

Mr. Pishioneri stated that **Terry Fitzpatrick** had resigned from the LRAPA BOD due to health reasons.

ACTION ITEMS:

4. Consent Calendar

A. Approval of Minutes from February 8, 2023, Board of Director's Meeting

B. Approval of Expense Report February 2023

MOTION: Mr. Pishioneri moved, and **Mr. Fleck** seconded the approval of the Consent Calendar. The motion passed unanimously.

REPORTS:

5. Audit Report

The Audit Report was postponed.

6. Citizen's Advisory Committee (CAC)

Mr. Daniels said regarding how to streamline processes for the CAC Permit Holders Survey, and updating the LRAPA website forms, work was continuing.

Chair Cutchen asked the BOD if they had any comments or questions.

Ms. Parisi suggested that the CAC might consider a more cost-effective way to distribute the Home Wood Heating packets that were being sent out to new homeowners.

Mr. Daniels said that would be a worthy project if the BOD decided to move forward with that.

Mr. Knudsen said there is potential to distribute home wood heating information digitally and that there was value in hearing the CAC's ideas regarding this topic. He added that LRAPA receives the Homeowner's Sales list from Lane County, packets are printed and then sent in the mail. The cost for mailing was relatively high, and he agreed that process might need to be assessed.

There were no other comments or questions.

7. Director's Report, Agency Activities – February 2023

Mr. Dietrich asked the BOD if they had any questions about the Director's Report.

Ms. Parisi asked how the Environmental Protection Agency's (EPA) decision to change the regulations for State Implementation Plans (SIP) might impact LRAPA.

Mr. Dietrich stated regulation changes were primarily contained within Section 111(d) of the Clean Air Act. These changes focused on acquiring an increase in public participation and were aimed at portions of the Energy Sector that generate at least 25 megawatts of energy. He stated he did not think Lane County had any facilities generating that much energy. Therefore, regulation changes may not affect LRAPA. However, he could not confirm that at the time of this meeting.

There were no other comments or questions.

DISCUSSION:

8. Old Business

Status Update: Work Session Sub-committee

Mr. Dietrich stated that a sub-committee was formed during the February 2023 BOD meeting to begin work on creating the LRAPA bylaws. He asked sub-committee members to provide an update on their progress.

Mr. Fleck stated he did not have a chance to work on the bylaws and suggested that a poll be sent out to determine an official time and date for the sub-committee to meet and work. He added that a virtual meeting would be best.

Mr. Knudsen confirmed that an LRAPA staff member would coordinate a Doodle Poll for the sub-committee meeting. He added that because the sub-committee consists of more than two Board members, the meeting would need to be listed on the LRAPA website at least five days prior to the meeting date and it would be open to the public.

There were no other comments or questions.

9. New Business

House Bill 3229

Mr. Dietrich clarified that House Bill 3229 entailed a major Department of Environmental Quality (DEQ) fee increase on manufacturing facilities for the Title V air emissions program. The proposed fee increase would be 80 percent the first year and no more than three percent annually thereafter. Fee increases were designed to save 11 positions of DEQ regulators at the expense of manufacturing companies throughout the state. He added the increase of EPA mandated environmental standards had also increased the permitting workload, making it more difficult to maintain the self-funded Title V program for the DEQ. Next steps included discussions between the DEQ and stakeholders, to develop a sustainable fee structure, and a DEQ budget meeting, which was scheduled for March 27, 2023. **Mr. Dietrich** noted that the last major fee change occurred in 2011 and that House Bill 3229 would go into effect on January 1, 2025.

Mr. Fleck noted that it had also been challenging to complete Title V work within LRAPA. He asked if there was a national or state-level standard regarding full-time equivalent (FTE) versus Title V permit holders.

Mr. Dietrich noted that Title V permit fees are supposed to cover enforcement, inspections, monitoring, reporting, permit holder training, and small business assistance. He added that there was not a national or state-level standard regarding a designated number of Title V permit writers for a designated number of permit holders.

Vice-chair Saxion acknowledged that it was not only a huge amount of work for regulatory agencies who review applications, but for the applicants as well. He asked if there has been any discussion about making the whole process more efficient regarding the amount of time it takes to apply for, and process permits.

Mr. Dietrich pointed out that within the DEQ, the person writing permits was the same person performing the inspections, causing a backlog of permitting and inspections within their agency.

Additionally, there were less people qualified to write applications. Thus, it took more time for regulating agencies to help applicants prepare their applications so permits could be issued.

Mr. Pishioneri said he was concerned about asking LRAPA partners for an 83 percent increase, 80 percent the first year and three percent the second year. He questioned how the DEQ can call themselves a good governance if they've allowed themselves to get to this point. Regarding the 11 open positions within the DEQ, he questioned whether the positions were open because the budget could not support 11 more employees, or because there were no qualified applicants to fill the positions.

Regarding the reasoning behind having 11 unfilled positions within the DEQ, **Mr. Dietrich** speculated that it was probably a bit of both. He added that in Oregon, the cost per permit fee is tied to statute and there is not much flexibility to change DEQ fees from year to year. He noted that other states cost per fee was not tied to statute, giving them more flexibility to modify their budget as needed and keep up with rising program costs.

Mr. Pishioneri asked if the DEQ was unable to foresee cost increases over the past 20 years.

Mr. Dietrich replied that the DEQ was unable to change the base fee that's set in statute above the Consumer Price Index (CPI).

Mr. Pishioneri asked if **Mr. Dietrich** was implying that the DEQ has not been able to increase their rates since 2011 because of the laws in place.

Mr. Dietrich said he did not know the answer to that question.

Mr. Pishioneri stated that he could support House Bill 3229.

Ms. Parisi said the LRAPA Title V deficit had been ongoing for over a year and acknowledged it was a topic of interest for the BOD. She added that she was surprised to see that the addition of three new Title V sources turned a negative into a positive in the amount of \$7,000.00 within the FY2023 – FY2024 LRPA budget. She asked for clarification regarding how this bill would affect the LRAPA budget.

Mr. Dietrich replied that LRAPA's backlog in Title V versus the DEQ's backlog were entirely different. He stated the LRAPA had a backlog of about 40 percent at this time last year and now LRAPA only had two outstanding permits needing to be issued. He added that the EPA starts to take notice when a regulatory agency's backlog goes above 20 percent. LRAPA was able to get caught up because unlike the DEQ, LRAPA has a permitting team and a separate inspection team. COVID negatively impacted the DEQ's ability to perform inspections, but LRAPA was able to maintain their inspection frequency during COVID. He noted that while LRAPA maintained a healthy permitting frequency, they were still facing the same challenges regarding Title V funding.

Mr. Parisi said that since LRAPA only had two outstanding permits and three new sources pending, that meant the rest of the sources were in maintenance mode, which was the reason why the Title V program is balancing within the LRAPA budget. She added that 83 percent is a huge number to put on businesses and agreed with **Mr. Pishioneri** that the DEQ was not following a good governance strategy. She asked if LRAPA had to follow the DEQ's fee structure.

Mr. Dietrich stated that in practice, it made sense for Title V fees to be similar so that fees remained consistent statewide. He asked **Mr. Hueftle** to elaborate on why LRAPA fees should be consistent with the fee structure of the DEQ.

Mr. Hueftle said that LRAPA implements the Oregon Title V Operating Permit program by reference, and certain state statute limitations required LRAPA to follow what the DEQ and the Environmental Quality Commission (EQC) does each year. If LRAPA were to adopt a set of Title V fee rules specific to Lane County sources and fees were increased by the CPI each year, the increase would need to be approved by the BOD and the EQC, which was a lot of work for a small amount of added funds.

Ms. Parisi noted that as the last remaining local air agency in the state, LRAPA's value proposition should be that LRAPA does business better than the state. She added that passing along a fee increase that LRAPA can't reconcile in their own budget was not in line with that value proposition.

Mr. Dietrich reminded members of the Board that discussions between the DEQ and stakeholders were being conducted to determine a sustainable fee structure and explore different scenarios for the bill.

Mr. Pishioneri agreed with **Ms. Parisi** and could not foresee LRAPA standing behind House Bill 3229 if it passed as proposed.

Mr. Dietrich stated that LRAPA Title V funds were decreasing and therefore it would not be long before LRAPA was in the same situation as the DEQ.

Mr. Pishioneri said that was not a fair statement because LRAPA had three new sources pending that yielded a \$7,000.00 surplus in the Title V program.

Mr. Fleck said he supported adopting the rules by reference but proposed the possibility of giving rebates back to permit holders or charging them less up front. He added that LRAPA should determine what it would take to keep the revenue stable so if the bill passed, rebates or charging less up front could be initiated if possible.

Mr. Dietrich said regarding small business assistance, or helping applicants prepare their applications so a permit could be issued, that work was mostly being done by LRAPA staff.

Mr. Fleck said he wanted LRAPA to determine what the overhead costs were for the program. He acknowledged the need for more revenue but said if the fees are more than what LRAPA needs, a mechanism should be developed to refund the difference.

Mr. Keating said it was his understanding that **Representative Paul Holvey** was carrying the bill and asked if anyone had spoken to him about a potential amendment that underscores the autonomy of LRAPA and how the agency could avoid implementing an 80 percent increase.

Mr. Dietrich said he had not yet spoken to any of the Lane County Legislators regarding this topic, but the opportunity to talk with legislatures about LRAPA's needs would be possible in the future.

Mr. Parisi asked how the BOD could stay engaged with this topic going forward.

Mr. Dietrich said he had an upcoming call with **Aeron Teverbaugh** to learn what was being discussed between the DEQ and stakeholders. He added he would gather that information and determine if a representative from or for the BOD could participate in the discussions.

Mr. Pishioneri stated that after hearing from other Board members, he was not confident all were in favor of House Bill 3229. He added that he would not want anyone speaking to the DEQ on behalf of LRAPA to convey that LRAPA supported this bill.

Ms. Parisi suggested that **Mr. Dietrich** could provide the Board with a status update as new information about the bill unfolded and noted that the BOD would not meet again until after the DEQ budget meeting scheduled on March 27, 2023.

Mr. Dietrich said because the DEQ was a state agency, they were not permitted to talk with State Legislatures about House Bill 3229, but LRAPA could.

Chair Cutchen suggested that the BOD should remain neutral and monitor the situation until new information unfolded. He stated that the BOD's needed more information about House Bill 3229 before they could decide if they are for or against it.

Mr. Pishioneri made a motion to postpone deciding if the BOD was for or against House Bill 3229 until they had more information.

Mr. Dietrich said that pertinent information may not unfold in time for the next BOD meeting, and it may be difficult to have discussions with more than one Board member at a time in between meeting dates.

Mr. Pishioneri said it would be lawful for **Mr. Dietrich** to send out informational emails to the BOD for reading purposes only without the intention of receiving a response from the recipients.

Chair Cutchen stated that the BOD could call for a 24-hour special virtual session if discussions about House Bill 3229 were needed.

Ms. Parisi agreed with **Chair Cutchen's** suggestion to remain neutral and monitor the situation.

Mr. Keating noted that there was not a second for **Mr. Pishioneri's** motion and suggested that LRAPA should continue to monitor the situation. He added that LRAPA should find a pathway through the legislative process that underscores the autonomy of LRAPA and get to a place where LRAPA can continue to be a helpful partner. He stated that he agreed with **Chair Cutchen's** suggestion to remain neutral and looked forward to updates on how the legislation could be altered to best serve LRAPA's interests.

Mr. Saxion concurred with **Ms. Parisi** and **Mr. Keating** and said it was important for **Mr. Dietrich** to keep the BOD updated on the situation. He added that the Title V program is supposed to be self-funding and that it was unfortunate that so much time had passed since the last fee increase and that CPI increases were obviously not sufficient.

Mr. Pishioneri withdrew his motion and commented that LRAPA should remain silent while the legislation unfolds.

Mr. Keating asked how LRAPA would participate in the process if they remained silent and disagreed with **Mr. Pishioneri's** approach.

Ms. Parisi said a better way to phrase it was **Mr. Dietrich** should monitor the situation and LRAPA should remain neutral until the legislation develops.

Mr. Pishioneri agreed with **Ms. Parisi**.

Mr. Keating stated that he did not want the BOD to micro-manage or second guess the work of **Executive Director Dietrich**.

Mr. Fleck said it had been a valuable conversation and that he believed **Executive Director Dietrich** had clear direction from the BOD regarding the situation and their disposition on the matter. He suggested that LRAPA should inquire with their legal council about options if House Bill 3229 became law to see if a reduced rate or a rebate would be possible.

Mr. Pishioneri told **Mr. Keating** that he was not implicating to tie **Mr. Dietrich's** hands and prohibit his work. He added that he trusts **Mr. Dietrich** and wanted to make that clear. He noted that LRAPA had been taking care of its region and its partners on its own and that he had an obligation to take care of the business community's best interest as long as they are fulfilling LRAPA's Title V program requirements.

Chair Cutchen asked the BOD to be ready to have a discussion if a decision needed to be made quickly.

10. Adjournment

Chair Cutchen adjourned the meeting at 2:05 PM.

(Minutes recorded by Diana Pamir Tisdale)