

Southwest Clean Air Agency

Board of Directors Minutes

May 6, 2010

The regular meeting of the Southwest Clean Air Agency Board of Directors was held in the Southwest Clean Air Agency office, Vancouver, Washington on May 6, 2010.

Those present were: Don Jensen, Chair, City of Longview
George Raiter, Vice Chair, Cowlitz County
Pat Campbell, Director, City of Vancouver
Bill Schulte, Director, Lewis County
David Goodroe, Director, City of Cathlamet
Blair Brady, Director, Wahkiakum County
Dan Henderson, Director, City of Centralia
Milton Cox, Director, Member at Large
Kelly Sills, Director, Clark County
Mary Ann Duncan-Cole, Director, City of Stevenson
Jamie Tolfree, Director, Skamania County

Excused: Not Applicable.

Also Present: Staff: Robert D. Elliott, Executive Director
Paul Mairose, Chief Engineer
Randy Peltier, Operations Manager
Traci Arnold, Office Administrator

Guests: None.

Call to Order

Mr. Jensen called the meeting to order. A quorum was confirmed to exist.

Board of Directors Minutes

Mr. Jensen asked for consideration of the April 1, 2010 minutes. Mr. Brady moved and Mr. Goodroe seconded that the minutes for the April 1, 2010 Board meeting be approved. Motion passed.

Changes to Agenda

Mr. Elliott indicated he would like to add one item to the agenda. He said he needs to provide the Board with an update on the Gorge Air Quality Strategy Report.

Public Comment

None.

Consent Agenda

Mr. Jensen asked for approval of the Consent Agenda including the April 2010 timesheets for Executive Director Robert Elliott, voucher numbers 601 through 650 and 652 through 656, in the amount of \$14,067.12, which have been approved for payment by the Executive Director, voucher numbers 651 and 657 through 662, in the amount of \$26,280.09 and March 2010 Financial Reports, March 2010 Monthly Activity Report, March 2010 Salaries in the amount of \$91,844.89 and March 2010 Benefits in the amount of \$32,075.14. Mr. Sills moved, and Mr. Brady seconded approval of the Consent Agenda. Motion passed.

Public Hearing

None.

Unfinished Business/New Business

Mr. Jensen opened discussion on adoption of the Proposed Fiscal Year 2010/2011 Budget and recognized Mr. Elliott. Mr. Elliott explained the Southwest Clean Air Agency (SWCAA) is required by the Washington Clean Air Act (RCW 70.94.092) to utilize a budget year of July 1st through June 30th. He said this statute also specifies that SWCAA must have its budget adopted by the Board of Directors by the fourth Monday in June of each year. He said the proposed Fiscal Year 2010/2011 budget of \$1,928,391 is a \$786,785 decrease (29%) from the Fiscal Year 2009/2010 budget amended in February 2010. Mr. Elliott said most of this net reduction in budget revenues is due to four issues: (1) a decrease of \$333,497 in use of state Diesel School Bus Retrofit Grant funds due to significant progress on work completion; (2) a decrease of \$296,926 from Air Operating Permit fees because legal fees budgeted at \$300,000 by a February 2010 amendment to the FY 2009/2010 budget for defending the TransAlta Centralia Generating Plant Title V Permit Renewal are not budgeted for FY 2010/2011; (3) a decrease of \$72,516 from civil penalties due mostly to the completion of payments for a large civil penalty associated with a Consent Order entered into with Chinook Ventures of Longview, Washington; and (4) a decrease of \$55,000 because depreciable equipment expenditures necessitated in FY 2009/2010 by a failed copier, reliability problems with the phone system and high vehicle fleet mileage are not expected to reoccur in FY 2010/2011. He said at the same time, an increase in revenues of \$31,629 occurred with the federal base grant due to the release of funds being held back by EPA. Mr. Elliott said on the expense side, the net decrease in revenues for FY 2010/2011 of \$786,785 (29%) was met with cost reductions in all expense categories where deemed possible in order to balance the budget without significantly affecting SWCAA's level of service. He said a net reduction of the staff salaries budget was achieved by reducing staff from 17 FTE to 16.49 FTE. Mr. Elliott said SWCAA's current lease expires on October 31, 2010 and a new seven-year lease has been negotiated with terms favorable to SWCAA. He said the agency's Depreciation Reserve, Liability Reserve, Vacation/Sick/Retirement Reserve, and Special Studies Reserve will remain fully funded. Mr. Elliott said in order to better serve SWCAA's current and future needs some changes

are being proposed to the names and use of certain agency reserves beginning with the new FY 2010/2011. He said the Special Studies Reserve was originally established in FY 2001/2002 with funds provided through an EPA compliance settlement with TransAlta Centralia Mining and although use of the funds was not restricted, the funds were set aside in anticipation of a special monitoring project to support a permit application. However, this matter was resolved by other means. Mr. Elliott said it is now proposed to use these funds for work on two important information technology (IT) projects that have been neglected for lack of funding: (1) web page improvements and (2) file scanning. He said accordingly, this reserve will be renamed the Web/Scan IT Reserve. Mr. Elliott said the other reserve being proposed for renaming is the Facilities Reserve. He said this reserve was established in 2006 to provide for higher lease costs when the original lease expires in October 2010, to fund improvements/upgrades at the current or new location, or to purchase a new facility. Mr. Elliott said the recent negotiation of a new seven-year lease at the current location with terms favorable to the agency resolves these concerns and provides an opportunity to strengthen the agency. He said it is now proposed that this reserve be renamed the Non-Title V Reserve and that these funds be used to ensure that all of the non-Title V programs remain adequately funded which will avoid the need for fee increases for an extended time into the future. Mr. Elliott said in summary, SWCAA is in good financial condition as the new fiscal year approaches.

Mrs. Tolfree asked for clarification on the Other Expense category. Mr. Elliott responded the Other Expenses include costs for janitorial, public notices, alarm system and the storage unit. Mrs. Duncan-Cole asked for clarification on the Audit Expenses. Mr. Elliott responded there is no money budgeted for an audit during Fiscal Year 2010/2011 because SWCAA is on a two year cycle. Mrs. Duncan-Cole asked where the educational program dollars will be focused in the upcoming year. Mr. Elliott responded the agency is currently evaluating what is the best method for educating the public. He said many of the traditional methods such as county fairs, teachers and neighborhood meetings have not been as effective as desired in the past few years. Mr. Elliott said there is a possibility of working more with county employees such as building inspectors to educate a broader range of people.

Mr. Jensen asked for a motion. Mr. Brady moved to adopt Resolution 2010-2 which establishes a Fiscal Year 2010/2011 Budget in the amount of \$1,928,391. Mr. Henderson seconded the motion. The motion passed unanimously.

Presentation

Mr. Jensen opened discussion on the voluntary group emission testing proposal for dry kilns versus individual testing as has been performed in previous years and recognized Mr. Elliott. Mr. Elliott introduced Paul Mairose, SWCAA Chief Engineer. Mr. Mairose explained that SWCAA had developed a proposal for lumber dry kiln companies to jointly prepare source emission tests required by their permits. He said there is only one lab available to test dry kiln emissions and the Oregon State University professor who conducts the testing has been on sabbatical for the past 12 months, so the testing that companies needed to get done in 2009 did not happen. Mr. Mairose said SWCAA was trying to organize a program to get several sources tested at once to save on costs for each facility. He said the testing would be more robust and could uncover the unknown emissions associated with dry kiln facilities. He said group testing can reduce costs, provide better consistency, the test method Fourier Transform Infrared spectroscopy is far superior and testing would not be

required again for 5 years (i.e., 2015). Mr. Mairose said none of the sources wanted to participate in the program. He said the testing method could identify unknown emissions which may or may not create additional requirements for dry kiln facilities and acknowledged any time you have unknown emissions becoming known emissions it can create anxiety for all facilities. Mr. Mairose said the cost of testing is also a factor; some of the sources are not due for testing and would prefer to put off the costs as long as possible.

Mrs. Tolfree asked why Wilkins, Kaiser & Olsen, Inc. does not have a testing requirement for their facility. Mr. Elliott responded that testing requirements were not part of the permit written to WKO many years ago. He said once a permit is issued it is a lifetime permit. Mr. Elliott said Wilkins, Kaiser & Olsen, Inc has not made any significant changes to the facility since issuing the original permit so SWCAA has not had an opportunity to issue a permit notification with this requirement. He said SWCAA inspects the facility on a routine basis and any modifications would be discovered if the facility did not report them.

Control Officer Report

1.) Mr. Elliott reported SWCAA's goal was to work with Oregon DEQ to present in July 2010 to the Gorge Commission an Air Quality Strategy Report for the Gorge. He said this would be a management plan for dealing with the regional haze issues in the Gorge. Mr. Elliott said SWCAA staff had a meeting with Oregon DEQ, the Forest Service and the Gorge Commission staff to finalize the Air Quality Strategy Report on May 5, 2010. He said at the meeting SWCAA learned that PGE has filed a petition with Oregon DEQ to overturn the Oregon DEQ decision from a year ago to have control equipment installed at the PGE Boardman Coal-Fired Power Plant. Mr. Elliott said PGE has requested Oregon DEQ change their decision and allow the power plant to continue operating uncontrolled until 2020 and then PGE would agree to shut down the plant. He said under Oregon DEQ rules they have 90 days to rule on the petition. Mr. Elliott said the control equipment decision from a year ago could be reversed and/or modified. He also said the current control equipment decision has been submitted to EPA for approval and that EPA is weeks away from ruling on the plan. Mr. Elliott said SWCAA is very concerned about going before the Gorge Commission with a plan that may or may not be the final draft since Oregon DEQ has 90 days to rule on the petition. He said the presentation will now likely be postponed until December 2010.

2.) Mr. Elliott reported the U.S. Court of Appeals for the 2nd Circuit reversed a lower court decision, holding that power companies can be sued for their power plant's carbon dioxide (CO₂) emissions. He said eight states, the City of New York and three environmental groups filed suit against American Electric Power, Cinergy, Southern Company, Xcel Energy and the Tennessee Valley Authority in 2004 claiming that carbon dioxide emissions from power plants owned by these companies contributed to a public nuisance because the plants were emitting 650 million tons per year of carbon dioxide, which was causing and would continue to cause serious harm affecting human health and natural resources. Mr. Elliott said the lower court dismissed the lawsuit, holding that the claims presented a nonjusticiable political question meaning that the claims would be better resolved by the legislature than the courts. However, the 2nd Circuit said that the U.S. Supreme Court set a high bar for nonjusticiability and since that decision was issued in 1962, a majority of the Court has found only two issues that presented political questions that the judicial system should not resolve. He said the court went on to rule that the claims

presented and remedy requested by the plaintiffs were not nonjusticiable political questions but rather of the kind that courts could address: whether the carbon dioxide emissions from these power plants cause a nuisance and thus a court should order the plants to abate the nuisance by reducing the emissions. Mr. Elliott said the Court also held that the plaintiffs had standing, that they stated a valid claim under federal common law of nuisance and that their claims were not displaced by the Clean Air Act or other legislation. He said the court did not decide on the merits of the claims; the case was remanded for proceedings consistent with the upper court's decision. Mr. Elliott said the plaintiffs include the states of California, Connecticut, Iowa, New Jersey, New York, Rhode Island, Vermont and Wisconsin and the City of New York.

3.) Mr. Elliott reported environmental groups petitioned EPA to set National Ambient Air Quality Health Standards (NAAQS) for greenhouse gas emissions. He said environmental groups have petitioned EPA to list seven greenhouse gases as "criteria air pollutants" under the Clean Air Act. Mr. Elliott said the desired outcome of the environmental groups is for EPA to set a national ambient air quality standard (NAAQS) for carbon dioxide (CO₂) at no greater than 350 parts per million (ppm). He said the groups list the following seven long-lived greenhouse gases as criteria air pollutants: (1) carbon dioxide, (2) methane, (3) nitrous oxide, (4) hydrofluorocarbons, (5) perfluorocarbons, (6) sulfur hexafluoride, and (7) nitrogen trifluoride. Mr. Elliott said the environmental groups claim that since EPA has now issued the greenhouse gas endangerment finding, the necessary test for listing greenhouse gases as criteria air pollutants has been met and that EPA must now promulgate air quality health standards for them. He said the carbon dioxide standard proposed by the environmental groups is 350 ppm however current concentrations stand at about 385 ppm. Mr. Elliott said for the other six greenhouse gases, the environmental groups do not recommend specific national ambient air quality health standards. He said the groups state that "the Clean Air Act already contains the comprehensive, science-based flexible, and immediately available tools necessary to address the climate crisis". Mr. Elliott said they further state that the State Implementation Plan (SIP) process used by EPA and state agencies is well-suited for greenhouse gases because, in part, state and local air authorities can address greenhouse gas emissions that cannot be regulated under a federal program such as through building codes and land use planning.

4.) Mr. Elliott reported EPA has articulated its thinking on 15 percent ethanol (E15) gasoline approval. He said under current law, ethanol in gasoline is limited to 10 percent. Mr. Elliott said EPA has responded to the Growth Energy organization on their petition for a waiver to allow the use of gasoline containing up to 15 percent. He said on the agency's evaluation, EPA stated that although all of the studies have not been completed, EPA's assessment to date indicates that the fuel, engine and emission control systems on new vehicles (i.e., 2001 and newer model years) will likely be able to accommodate higher ethanol blends, such as E15. Mr. Elliott said if tests continue to remain supportive, EPA may be in a position to approve E15 for 2001 and newer vehicles by mid-2010. He reported EPA said a working group is being pulled together to examine and address labeling issues to allow final labeling requirements to be put in place soon after a waiver decision is made. Mr. Elliott said Growth Energy members believe America needs a new ethanol approach. He said Growth Energy promotes reducing greenhouse gases, expanding the use of ethanol in gasoline, decreasing America's dependence on foreign oil, and creating American jobs at home.

5.) Mr. Elliott reported on a synthetic fuel concept to remove CO₂ from the atmosphere. He said Los Alamos National Laboratory has developed a low-risk, transformational concept called “Green Freedom” for large scale production of carbon neutral, sulfur free fuels and organic chemicals from air and water. Mr. Elliott said currently, the principal market for the “Green Freedom” production concept is fuel for motor vehicles and aircraft. He said at the heart of the technology is a new process for extracting carbon dioxide from the atmosphere and making it available for fuel production using a new form of electrochemical separation. Mr. Elliott said by integrating this electrochemical process with existing technology, researchers have developed a new, practical approach to producing fuels and organic chemicals that permits continued use of existing industrial and transportation infrastructure. He said fuel production is driven by carbon neutral power and unlike large scale biofuels concepts, the Green Freedom concept does not add pressure to agricultural capacity or use large tracts of land or farming resources for production. Mr. Elliott said the next phase of the research will be to demonstrate the new electrochemical process to prove the ability of the system to both capture carbon dioxide and pull it back out of solution. He said an industrial partnership consortium will be formed to commercialize the “Green Freedom” concept.

Board Policy Discussion Issues

None.

Issues for Next Meeting

A. Public Hearing.

1. None.

B. New Business/Unfinished Business.

1. As Necessary

C. Control Officer Report.

1. As Necessary.

D. Board Policy Discussion Issues.

1. As Necessary.

E. Meeting Date and Location

1. June 3, 2010 at 3:00 p.m., Southwest Clean Air Agency, 11815 NE 99th Street, Vancouver, Washington.

The next Board of Directors meeting will be held on June 3, 2010 at 3:00 p.m., Southwest Clean Air Agency, Vancouver, Washington.

Board Meeting Attendance:

JURISDICTION	J 2010	F 2010	M 2010	A 2010	M 2010	J 2009	J 2009	A 2009	S 2009	O 2009	N 2009	D 2009
Clark County	0	0	+	0	+	+	C	+	+	0	+	C
Cowlitz County	+	+	+	0	+	+	C	+	+	+	+	C
Lewis County	+	+	+	+	+	+	C	+	+	+	0	C
Skamania County	+	+	+	0	+	+	C	+	+	+	+	C
Wahkiakum County	+	+	+	+	+	+	C	+	+	+	+	C
Cathlamet	+	+	0	+	+	0	C	+	+	0	+	C
Centralia	+	+	A	+	+	+	C	+	0	+	+	C
Longview	+	+	+	+	+	+	C	+	+	+	0	C
Stevenson	+	+	+	0	+	+	C	+	+	+	+	C
Vancouver	0	0	+	+	+	+	C	0	+	+	0	C
Member-At-Large	+	+	+	+	+	+	C	+	+	+	+	C

+ = regular member present; 0 = unrepresented; A = alternate present; C = cancelled meeting

Mr. Jensen adjourned the meeting without objection 4:10 p.m.

Chair

Executive Director