

OLYMPIC REGION CLEAN AIR AGENCY
2940 Limited Lane NW
Olympia, Washington 98502

BOARD OF DIRECTORS MEETING

October 11, 2017

Members present: Jim Cooper, City of Olympia (Chair)
Cynthia Pratt, City of Lacey (Vice Chair)
Wes Cormier, Grays Harbor County
Mary Ellen Winborn, Clallam County
Terri Drexler, Mason County
Lisa Ayers, Pacific County,

Members absent: Kate Dean, Jefferson County
Joan Cathey, City of Tumwater
John Hutchings, Thurston County

Legal Counsel: Julie Carignan of Law, Lyman, Daniel, Kamerrer and Bogdanovich

Staff Present: Fran McNair, Executive Director; Robert Moody, Compliance Supervisor; Mark Goodin, Professional Engineer; Odelle Hadley, Senior Monitoring Technician; Dan Nelson, Public Information Officer; Lynn Harding, Administrative Services; and Debbie Moody, Office Manager/Recorder

Cooper called the meeting to order at 10:00 a.m.

Cooper asked for approval of the agenda. Drexler moved approval. The motion was seconded and carried unanimously.

CHAIR REPORT

Cooper reminded the Board in September he had suggested the Board work with staff on a strategic plan for the agency. Cooper noted he met with the management staff to discuss ideas. He will meet with McNair and Pratt after the November meeting and discuss the path forward and bring it back to the Board at a later meeting. Cooper did add that staff had let him know ORCAA has a strategic plan document from 2012. Cooper requested it be sent out to the Board.

PUBLIC COMMENT

There were no members of the public in attendance.

CONSENT AGENDA

Cooper asked for approval of the Consent Agenda. Cormier moved approval of the Consent Agenda. The motion was seconded and carried unanimously.

DIRECTOR'S REPORT

Compliance Program Update

R. Moody explained ORCAA has an agreement with EPA that our staff will inspect our larger sources on a regular basis, completing them all by the end of September of each year. R. Moody noted we have completed those inspections.

Cooper noted Ocean Protein seems to be taking up a lot of staff time. R. Moody stated they have recently completed a source test and we are currently waiting on the results. Ideally, the test will point to certain compounds that are causing the issues and with proper engineering they will be able to get rid of the odorous compound. Pratt asked if the complaints come from a few people or several people. R. Moody stated it is multiple people from many different areas around Hoquiam and Aberdeen. Cormier thanked staff for coming down and meet at Grays Harbor's public meeting.

Drexler, noting the marijuana complaints, asked if they are seasonal complaints. R. Moody stated they are not seasonal as the plants are in a continuous rotation of product. Once they are established, they will be budding regularly. Cooper asked about registering these sources. R. Moody noted they are being registered. Cooper asked if there is a next step. McNair explained PSCAA is the only agency requiring Notice of Construction (NOC) for these sources. We would only require an NOC if they have a generator or other equipment that falls under our rules. Cooper requested a look at PSCAA's NOC policy and would also like to know our staffs' guidance on where the appropriate touch points are within our authority and where we are spending money that isn't being recouped.

Engineering Program Update

Goodin noted we have been processing our permits and he didn't have any big noteworthy cases at the moment. We have all been spending a lot of time with Ocean Protein and Marijuana issues. Goodin explained the agencies have a statewide engineer meeting every quarter and the question was raised during the round table – what agencies are thinking about pursuing NOC for marijuana facilities. PSCAA was the only one currently requiring an NOC and the other agencies are waiting to see how it comes out in the long run. McNair noted there have been court cases with PSCAA, where the source appealed the need for an NOC. Cooper asked if it is smart to wait until it has all been hashed out. Carignan noted we currently have 2 appeals pending before the PCHB, regarding an agricultural exemption for a marijuana facility. Carignan feels we need more guidance from the PCHB.

Winborn, noting the permitting system in place for building businesses, etc. and wondered if ORCAA could be included in that process. McNair stated we do receive SEPA notices and we have one engineer that checks the SEPA on a weekly basis. Goodin explained a couple of years ago the agency decided that avoiding odors is largely dependent on siting we decided not to require a Notice of Construction, and we would just register them. We were getting odor complaints that were really a result of poor siting. Goodin noted he recently visited a site that we have been getting complaints on and have since sent them some potential recommendations they should investigate to avoid odors. McNair added we do have best management practices that we have shared with the cities and counties (planning entities) to assist these businesses in knowing what they can do to prevent odors.

Pratt asked, during the process, when a city/county is asking about a potential new business going in, does ORCAA get the opportunity to say the siting they have chosen is an issue? R. Moody stated, we do, in fact we did do that with Ocean Protein case. They originally had 2 sites in mind, their current site and a Westport site. We specifically told them we felt the Westport site was the better choice, several months later they sited in Hoquiam.

McNair reminded the Board that she and staff have been visiting the jurisdictions and talking to them about what we do and specifically this year, asbestos and marijuana. Cooper, with respect to marijuana facilities, felt the Board needed to see the story from beginning to end and look at the volume of work staff is dealing with. Cooper requested a presentation with regards to the process and what we are actually engaging in, sometime after the PCHB ruling.

Air Quality Program Updates

Hadley noted summer time is typically our clean air time, however that hasn't been the case. In September we had several days throughout our area where smoke caused our monitors to show unhealthy for sensitive groups or very unhealthy. Hadley did point out we lost a few days of data at Cheeka Peak due to instrument malfunction. We also had some issues at our Lacey site. It appeared we had a person who was using the monitoring building to sleep. In doing so, they turned off the instruments and other equipment. It happened that Nick Grant had been driving by and noticed the ladder outside the building and contacted Hadley to see if she was working. Grant did check the building and that is when it was noticed the instruments were all unplugged and/or turned off. There was no damage to any of the equipment or the building. Hadley noted we did contact the local police department who will be watching our site a bit closer. We also spoke with the school and they stated they had also been having break-in issues to their outbuildings. There haven't been any issues since.

Hadley continued with her report, noting on September 6 she had spent the entire day on the phone with people due to Ecology's website going down from too much traffic. We had a lot of ash falling in our area because the fires were much closer than previous ones and people were concerned. The air quality wasn't nearly as bad as it had been in August, however, people assumed it was due to ash fallout.

Ozone had gone over the standard in August, Hadley noted, but in September it wasn't nearly as bad. Just shows it is hard to tell how smoke effects the ozone.

Hadley stated she continues to work on the Ultrafine Report in between her other tasks. She noted Grant has been working on trying to get/make new data loggers for the next saturation study.

Education and Outreach

Nelson noted he and McNair continue their road tour of the cities/counties. Most recently was Clallam County and Port Angeles. We met with some staff at Grays Harbor, along with R. Moody, and attended the public meeting as well. Nelson stated the meetings are going well and we have made a point to request the jurisdictions let us know about new facilities as soon as they can. It is best to bring us into the process early so we can assist in siting, if necessary.

Nelson explained wildfire season is winding down and residential burn season is starting up. The counties are slowly lifting their bans and we are getting calls for burn permits daily. Nelson did note that he will be working on better coordination with the fire districts and DNR, as well as better communications. Thurston County residential permits are coming in and we have received approximately 600 since October 1. We are mapping it and we may be using the data to come up with additional outreach to help change behavior.

Winborn thanked staff for meeting with Clallam County and noted Commissioner Peach has now expressed interest in ORCAA and has chosen to be Winborn's alternate. Nelson added McNair was also invited to speak at the Rotary in Sequim. McNair noted they will be visiting Jefferson County and Port Townsend next week, then to Sequim.

Finance/Administrative Update

Harding stated the Finance Committee met and went over the 1st Quarter of Fiscal Year 2018. Harding gave a brief overview of the 1st quarter noting we have received 34% of our revenue and spent 24% of our expenditures. Our fund balance shows we started the fiscal year at \$1.5 million and we are currently at \$1.7 million. We currently hold just under \$600,000 in reserve leaving us an unreserved balance of about \$1.1 million.

Harding noted she recently learned of a new tool during the State Auditor's Forum. It is a local government resource tool that is available to each of our jurisdictions. The tool allows the jurisdictions to compare other local municipalities budgets and financials with your own.

Harding did note our warehouse space is available. We have showed it to a few potential tenants, including the Olympia Police Department. Harding explained she did call the OPD back to let them know we do have 2 additional interior office spaces available as well.

Pratt noted staff is looking for janitorial services as well.

Executive Director's Report

McNair stated the VW Trust was established October 2 and is worth \$113 million for Washington. The states now have 60 days to file for beneficiary, Ecology is the main beneficiary.

Regarding Federal and State Core money, McNair continued, we still don't know what our Federal Core funds will be and in talking to the EPA staff, it appears congress will not be reducing the 103 or 105 funds. EPA staff feel the cuts will really happen at staff level in the regional offices as well as the main office in the D.C. area. EPA has offered buyout packets for long-time employees, for retirement purposes. On the state side, McNair noted, we asked Ecology if we will be getting cuts and they responded they didn't think we would. McNair explained, because there is still no capital budget, we don't have the woodstove bounty grant program. We do hope the legislature will pass that come January and we'll have the funds for the program.

McNair wanted to explain we have spent a bit more on legal services due to legal issues we and time spent at PCHB.

Cooper asked for an Executive Session to get an update on the current legal issues. Carignan noted she could give a brief update. Carignan explained there were 2 appeals filed for violations that were issued by ORCAA for the marijuana production and processing operation in Grays Harbor County. The Notice of Violations (NOV) were for nuisance odors. The appellant was representing himself until about 2 weeks ago, and he has now hired an attorney. There were many motions filed, prior to him hiring an attorney, and it required a lot of responses-which may address the budget issue. It appears the appellant is looking to the PCHB to determine whether or not he qualifies for the agricultural exemption within the Clean Air Act; meaning ORCAA can't regulate the emissions. Within the statute there are some provisions as to when you qualify for the agricultural exemption; over 5 acres of agricultural land primarily devoted to production of an agricultural product, being one. The issues have been contemplated by the PCHB with regards to other operations. His operation is unique and wants the issue decided as to his operation. If the PCHB does decide he qualifies for the exemption he will likely win his appeal and we would not be able to enforce odors for that operation. McNair noted there are conditions with regards to odors under agricultural. If there are odor complaints on an agricultural process, we have to have a third party come in to determine if they are following good agricultural practices before we can enforce.

Cormier stated he thought, when they went through the process, it was determined that marijuana was not

an agricultural product. Carignan noted that is one of her arguments. McNair noted if it is determined marijuana is not agricultural, the 5-acre rule doesn't make any difference. Carignan also explained PSCAA had a case, regarding marijuana, where they owned over 8 acres and claimed they were growing hay. They were required to file a NOC with PSCAA; they didn't apply for the permit and received a violation which they then appealed. The plan was to have a marijuana production company on the same land. It was determined he did have to file the NOC and it was found he wasn't growing hay and didn't qualify for the exemption. There was also a case in Spokane where they tried for the agricultural exemption, however he was also living on the property. Because there were multiple uses and because they didn't prove they were using more than 5 acres for agricultural product, they didn't qualify.

Cooper thanked Carignan, noting there is no direction from the Board and legal should proceed.

EXECUTIVE SESSION

There were no items for Executive Session.

FOR THE GOOD OF THE ORDER

There was nothing for the Good of the Order.

ADJOURNMENT

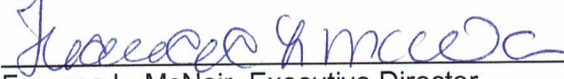
There was nothing further from the Board.

The meeting adjourned at 11:01 a.m.

CERTIFICATION

I hereby certify this is a true and correct copy of the minutes of the meeting of the ORCAA Board of Directors held on October 11, 2017, in Olympia, Washington.

ATTEST:


Francea L. McNair, Executive Director
Olympic Region Clean Air Agency


Jim Cooper, Chair
ORCAA Board of Directors

DATED: 11/8/2017