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Spokane, WA 99224

SpokaneCleanAir.org

SPOKANE REGIONAL CLEAN AIR AGENCY BOARD MEETING MINUTES

**February 3, 2022 9:30 a.m.
Spokane Clean Air Tele-Conference**

BOARD MEMBERS:

Al French, County Commissioner (Chair)
Jim Simon, City of Spokane Representative
Tom Brattebo, Member at Large
Kevin Freeman, Mayor of Millwood, Small
Cities & Towns Representative (VC)
Rod Higgins, City of Spokane Valley

STAFF MEMBERS PRESENT:

Scott Windsor, Executive Director
Michelle Zernick, Finance & HR Section Mgr.

OTHERS PRESENT:

Michelle Fossum, Legal Counsel
Ron Edgar, Advisory Council Member
Steve Johnson, Commissioner's Assistant

WORK SESSION: There was no work session.

BOARD MEETING: 9:30 a.m.

1. Advisory Council Report – Ron Edgar gave an overview of the continued discussion on the marijuana program. The Advisory Council did not have a lot of suggestions for staff, but the Council asked staff to look at ways to make it more equitable to all the growers. There are some inaccuracies in some of the way the licenses are issued by the LCB. Also, is there a way to get production rates to use instead of the size of the license and things like that; and what areas do we still need to do enforcement on, is the Registration Program working. The Council has the questions, but not many answers but we have and will continue to discuss them. The Council also talked about items that they would be discussing in future meetings like the role of natural gas, dust control, the carbon plan the Governor is working on. Discussion ensued. Al French asked if the Advisory Council would like to get together with the Board to talk about these different issues. The Executive Director and staff will work on having a special meeting in the early part of April in the afternoon sometime.

2. Executive Director's Report – The EPA has announced an extended deadline for Community Monitoring Grants until March 25th. We will be discussing internally how we should apply for enhancing our monitoring capability here in Spokane. The Executive Director and Staff continues to operate in accordance with the Governor's and SRHD COVID-19 guidelines. It has been a difficult month with staff on isolation protocols. Our source registration billing went out in January for the year. The Executive Director closed the office on January 6th due to road conditions. The Executive Director participated in the WAQMG January meeting as well as the NW Air Directors annual meeting covering EPA Region 10.

ACTION ITEMS/POTENTIAL ACTION ITEMS:

- 3. Consent Agenda – Action Item:**
- a. Approval of the January, 2022 Board Minutes

- b. Approval of Vouchers for January 2022, numbered 12620 thru 12637 and 12639 thru 12647 with Claims totaling \$58,403.07 and Payroll numbered 12618, 12619 and 12638 and EFTs totaling \$181,931.06 – for a Grand Total of \$240,334.13

Rod Higgins moved to approve the Consent Agenda as presented and Kevin Freeman seconded it. Motion passed unanimously.

4. **Executive Session(s)** – There was no executive session.

5. **Legal Update** – Michelle Fossum, Legal Counsel, gave updates on a couple of legal items to update the Board on. First, there is still no decision on the asbestos enforcement hearing that was in December. Second, on the Notice of Construction (NOC) Litigation, January 14th there was oral argument on the cross motions for summary judgment between the plaintiffs, which are a group of entities called 350 Seattle, 350 Wenatchee, and 350 East Side, and then all the Clean Air Agencies of the State. The issue is whether or not executive director issues, NOCs or whether the Board must issue NOCs. The Court first heard some preliminary matters relating to standing and justiciability. With standing, the Court found that the plaintiffs did not show that any of the entities paid taxes to confer on them taxpayer in standing. They had included a link to their tax return and the Court said that's not sufficient and the entities said, well we can supplement, and the Court said, no you were supposed to have this information to us before the hearing not after the hearing and so they did not allow them to supplement and found that there was no standing. Second, justiciability has to do with the Court avoiding giving an advisory opinion. There must be a true controversy in place so that our Courts are not giving advisory opinions. In this case, the plaintiffs alleged that they were impacted negatively by air pollution and climate change and if the Board is issuing NOCs, they believe that that would have a better impact or better outcome for them than if the Executive Director issues that. The Court found that that was too tenuous of a link. There was no way to know for sure that the decision would be any different if it was made by the Board versus the Executive Director or whether there would be a sufficient impact on the plaintiffs even if the Board did issue a different decision. So, there was no justiciability and so the case was dismissed, which meant we didn't get to the merit of who ought to be issuing the NOCs. The plaintiff has filed a motion for reconsideration of the Judge's decision, as it sits right now, that will be heard without oral argument on February 10th. If granted, I suspect that a Court will then have us all argue the merits of the matter, but if denied, I suspect that the plaintiffs will likely appeal to the Court of Appeals their dismissal of their case. Some discussion ensued between the Board and Michelle.

6. **Activity Reports** – December – Air quality was good through the month of December. Al French asked if Spokane Clean Air has a monitoring station at the State Line for CO₂. Spokane Clean Air does not monitor CO₂. Scott added that Spokane Clean Air has a monitoring station in the Spokane Valley on the Broadway Elementary School and it monitors PM₁₀ and PM_{2.5}.

7. **Public Forum** – There were no public forum speakers.

8. **Board Concerns** – There will be a quorum for the March 3, 2022, board meeting.
Next Board Meeting – 9:30 a.m., Thursday, March 3, 2022.

9. **Adjournment** – The board meeting was adjourned at 9:54 a.m.

COMMISSIONER AL FRENCH, CHAIR

SCOTT WINDSOR, EXECUTIVE DIRECTOR