

**SPOKANE REGIONAL CLEAN AIR AGENCY  
BOARD MEETING MINUTES**

**January 4, 2018 9:30 a.m.  
Spokane Clean Air's Conference Room  
at 3104 E. Augusta Ave.**

**BOARD MEMBERS:**

Al French, Commissioner (Chair)  
Vacant, City of Spokane  
Tom Brattebo, Member at Large (VC)  
Kevin Freeman, Mayor of Millwood,  
Small Cities & Towns  
Rod Higgins, Mayor, City of Spokane  
Valley (9:37 a.m.)

**STAFF MEMBERS PRESENT:**

Julie Oliver, Executive Director  
Amy Fanning, Finance & Human Resources Sect. Mgr.  
Stephanie May, Public Info. Specialist  
Lori Rodriguez, Compliance Section Manager  
April Westby, PE, Supervisory Engineer  
Mark Rowe, Monitoring Section Manager  
Mary Kataoka, Administrative Assistant

**OTHERS PRESENT:**

Michelle Fossum, Legal Counsel  
Ron Edgar, Advisory Council Member  
Deborah Bisenius, Advisory Council Member

**WORK SESSION:** There was no work session.

**BOARD MEETING:** The board meeting was called to order at 9:30 a.m. Let the record reflect that Mayor Freeman, Tom Brattebo and Al French are present and expect to be joined by Mayor Higgins.

**1. Advisory Council Report** – There was no December Advisory Council meeting.

**2. Executive Director's Report – Julie Oliver**

Amy Fanning has been going through training at an amazing rate and will be transitioning more of the functions from BIAS Software including payroll this month. The gutters were replaced and heat tape installed. We received two bids for the compensation study that had been deferred from last fiscal year. The last independent study was done back in 1998. The bids were very high so Amy and Julie are looking at options to reduce the cost and are

looking for additional companies to solicit bids from. Staff has been working on the billings for the annual registration program and invoices and registration forms will be going out mid-month.

### **3. Activity Reports:**

#### **Public Information/Education Update – Stephanie May**

An overview of the December community events/school programs/presentations; print/online materials; media (earned and paid); social media; compliance assistance program; and no-idle zone were given.

#### **Compliance Activity – Lori Rodriguez**

There were a few more wood stove complaints than last year. There were almost three times as many source inspections. Odor complaints were about double from the previous year; there were 19 total and 16 of those were marijuana with 13 from one facility.

#### **Permitting Activity – April Westby**

There were no new applications in December which allowed the engineers to get caught up on applications received in October and November. The engineering section is the main section that works on the annual registration forms that go out to the sources so they can report their usage from the previous year and the engineers use that to calculate their emissions; the annual registration invoices are also sent out at the same time as the annual registration forms.

*Commissioner French:* It is 9:37 a.m., let the record reflect that Mayor Higgins has joined the board.

#### **Air Monitoring Activity – Mark Rowe**

A brief summary of the November air quality was given. There were 12 days of moderate air quality and 18 days of good.

#### **Financial Status Report – Amy Fanning**

The cost allocation for the period of July through December will occur this month so next month's report will show a more accurate balance per fund based on the cost allocation. We're at 35 percent of our budget being spent to date and at 42 percent through the fiscal year; so we are right on track with the budget.

### **4. Consent Agenda – Action Item**

- a. Approval of the December, 2017 Board Minutes
- b. Approval of Vouchers for December, 2017, numbered 10482 thru 10488, 10490 thru 10507 and 10510 thru 10517 with claims totaling \$36,635.26 and payroll warrants numbered 10489, 10508, 10509 and EFTs with payroll totaling \$148,036.06 – for a Grand Total of \$184,671.32

Rod Higgins moved to approve the consent agenda and Kevin Freeman seconded it. Motion passed unanimously.

**5. Resolution No. 17-19 – Amending SRCAA Regulation I, Articles IV, V, VI & X to Require Registration by Marijuana Producers & Processors and Add Regulatory Standards Applicable to Marijuana Producers & Processors**

A brief summary of the December presentation was given. The summary included program purpose and intent; requirements of indoor producers, outdoor producers, and other producers; and requirements of indoor processors was given. Some discussion ensued on the odor complaints.

Kevin Freeman moved to approve Resolution No. 17-19 as presented and Tom Brattebo seconded it. Motion passed unanimously.

**6. Resolution No. 18-01 – Appointing Members to the SRCAA Advisory Council**

This resolution would reappoint the three members that held the public health, business community and chemistry positions previously.

Rod Higgins moved to approve Resolution No. 18-01 as presented and Kevin Freeman seconded it. Motion passed unanimously.

**7. Resolution No. 17-20 – Amending SRCAA Consolidated Fee Schedule Pursuant to Regulation I, Article X**

A presentation was given on amending SRCAA's Consolidated Fee Schedule Pursuant to Regulation I, Article X. The presentation consisted of agency funding sources; marijuana related expenses and funding; current registration program; proposed marijuana registration fees; comparisons; and comments. Some discussion ensued regarding the facility fee, emissions fee and emission point fees.

**January 4, 2018, Amending SRCAA Consolidated Fee Schedule Pursuant to Regulation I, Article X public hearing, in Spokane, Washington**

Spokane Regional Clean Air Agency Office  
3104 E. Augusta Ave.

Commissioner Al French, Chair of the Board of Directors

Transcribed by Mary Kataoka. Um's/ah's were not included in this transcription.

*Commissioner French:* So this is a public hearing and so it is 10:15 and I will open up the hearing for public comment. I would, as we start the hearing process, would ask that if you have a cell phone please turn it off and on vibrate, if you have to take a call, take it out into the foyer. Please don't engage in conversations while other people are testifying; we want to be able to not only hear the testimony but also make sure that there isn't other background noise and stuff that would interfere with the recording of the hearing. There will be no expressions of support or opposition in any form during this hearing. If you feel so motivated to make some kind of an expression, you're outside; and if you want to do it in here, then you will end up outside. Because I'm not going to tolerate that, this is a legislative process, this is a hearing format and I ask that you respect

that as such. At this point I have two people that are signed up to provide testimony. The item before us, I have one that's signed up specifically to testify on Resolution 17-20, which is the one that's for the hearing. I have two other people that have indicated that they want to testify, but haven't identified which item in the agenda they're gonna testify on, so I'll ask for clarification just so I make sure I don't miss anybody. Kim Hoff, you want the 17-20, do you mind if I put that on your sign-up sheet?

*Kim Hoff:* Please.

*Commissioner French:* Okay. And then I have, I think it's Audrey June.

*Aaron Juhl:* How about Aaron Juhl.

*Commissioner French:* Thank you, real close.

*Aaron Juhl:* Okay, 17-20 also. And I wasn't aware that I'd have an opportunity to speak today.

*Commissioner French:* Oh, sure, no, no problem and so you mind if I put that on your sheet?

*Aaron Juhl:* No.

*Commissioner French:* Kay. And then, Toni I'm assuming that you also want on 17-20.

*Toni Nersesian:* I don't know what you're talking about.

*Commissioner French:* On the fee structure.

*Toni Nersesian:* Yes.

*Commissioner French:* Okay, do you mind if I put that on your sheet.

*Toni Nersesian:* That's fine.

*Commissioner French:* Okay. I'm going to get to ya, but you were forth in line, I just wanted to clarify so I knew who was.

*Toni Nersesian:* Oh, I'll sit down for a minute.

*Commissioner French:* Good. So I'm gonna start out with Carl Cockrin. And then after Carl [Inaudible]

*Carl Caughran:* Thank you my name's Carl Caughran, it was close Al thanks. I live in the County, 3717 W. Washington Rd., Cheney Washington and I was a member of the MAC Advisory Committee so first off I want to thank each and every one of you for adopting 17-19, there's a lot of hard work

and discussion that went into those, those rules so I can appreciate that so thank you very much. We heard at the last hearing when we addressed this fee schedule, that the marijuana industry's not able to regulate itself, they had some players that don't want to be part of the process, you'll hear that there are habitual offenders, it's well document there's habitual offenders and currently the fee schedule with the taxes going to the west side of the state and not returning to the County, the Regional Clean Air's left holding the bag to police these efforts and get rid of these offenders. So I want to encourage you to adopt this new fee schedule, it will allow them to enforce 17-19 and to the industries liking, you should be able to get rid of these habitual offenders and legitimize their business and allow them to go on and, and make their, their money that they want without the, the odor complaints and the marijuana producers that are processors that are causing these problems, giving them a black eye. So this new fee will allow, allow Regional Clean Air to address these habitual offenders and the complaints should, should die down and be the, the best of both worlds, so thank you for considering that and your time in doing that.

*Commissioner French:* Thank you. So the other thing and Carl was under the time limit but I'll also be timing the speakers, each speaker will have three minutes for your testimony. When the, when the timer goes off if you're in the middle of a statement, wrap it up and stuff so, go ahead.

*Aaron Juhl:* Hi, my name's Aaron Juhl. And again, I want to apologize because I didn't have an opportunity to prepare something to speak with you people about today. But I am here today because I'm against these fees, I think, I don't think they're proportionate the way they're set up. If you have, I'm a tier one marijuana producer and I noticed that the tier two marijuana producers, I'm capped at 2,000 square feet of a farm and a tier two is 10,000 square feet. That's five times as much odor producing that's gonna be put out and I'm only being charged a couple hundred bucks less than someone in at that level. So I think the, I think the fee structure of this is completely unfair to the smallest farmers that really can't afford these fees. Not only that is I think a lot more of the producers/process, most of the people are producer/processors, they will be gettin double charged on this. Most of um, I think fall under the category of other producer, which is gonna put em into the highest fee schedules. I don't think that's right, especially if they're just using, puttin some plastic over they're plant or something like that would put em into that, would categorize them as the other producer. I, I, I have a real problem with the fact that so many people spoke out against this and we just adopted the resolution anyways, because a few people complained, we're gonna strangle hold an entire industry. I've got my entire life savings involved with this and if, the very fact that I'm growing a plant that's now legal and it puts off odors and to be able to fine these people every time that odor hits the property line is just, can seem completely unreasonable to me. You factor that in with the fact

that you guys are asking for people's harvesting schedules, it just, it's a far overreach, it's not fair. These fees they don't seem like much when you think about a business that's actually making money, but we're being so over taxed and over regulated we can't subtract these fees from our bottom line; we don't get to subtract regular business expenses so this hits us extra hard as it would any of the other businesses you regulated em. You know, I, I just find it, I just can't even wrap my head around the fact that so many people came forward against this and you guys still signed it in, it's just wrong. You know, I hope we can get, at least make these fees a little better. It, it, it's a strangle, it's gonna strangle my business. Honestly, if this, these rules would have been in place as we were going through the application process, I don't think I would have been able to do this, this is, it's too much.

*Commissioner French:* Kay, very good. Thank you sir. Next item I have or next person I have signed up is Kim.

*Kim Hoff:* Thank you for hearing me today. I'm sorry I didn't prepare this at the same time. So I have a couple things as I was going through here, I needed to make points. We need to find out exactly a clarification of a stack system. We're, we're growing, what exactly does that mean for us? I mean is that our heating systems, is that exactly, what exactly is a stack system? And I'm sorry if I'm talking kinda fast because I got a lot of things here. I'm also a producer/ processor with a processing license. When this first happened, the LCB had us say okay if you're a producer and you want to be a processor, that's fine, but you weren't able to process your own equipment, or your own product. Well since then they've changed their rules to be now that the, that you can just be a producer and process your own equipment or product as far as packaging. I still have a license, a processing license, I'm not using it, do I pay it, yes because at some point it may be a benefit to my business. You know and to tax me for something that I'm not even using at the most expensive thing is ridiculous. So if I, if I turn around am a tier two with a producer/processor, yes; but at the same time, I believe I would probably be taxed with an exempt at that point and still be paying more money than even to the beginning is from what I'm understanding by these numbers. So I'm supposed to be at a tier two, 10,000 square feet, paying the most, probably 37 898 according to these clarifications; when I'm not even using one of my licenses. It's just [Inaudible] there and I pay the LCB and people are collecting taxes off of me that I could just turn around and turn it back and you know, it's, it's ridiculous and especially with I, the current rate right now of bud in [Inaudible], I sent my son out to get me my cell phone cause I was gonna actually show you; there's people right now because of the system is so over [Inaudible] they're selling for 60 cents, between 35 and 60 cents a gram out there. How can you even expect, and it's not even selling. Most of these people here are just barely making ends meet because it's not selling; and with the increased fee schedule, it's just going to hamper us

even more. And so, I would like some clarification, I think that there needs to be clarification if you have a producer/processor license and you're not using your processing license, there has to be something or if I have to separate, maybe that's something that I need to do and I guess I need clarification from you is what about if I separate it from a location, if I have an outdoor facility, which I do have, you know and I'm just processing inside, what are the clarifications on getting the best deal I can at this point because you can't just combine them all together with a producer/processor when you're not using producer/processor because people that just have processing license are getting less than me.

*Commissioner French:* Kay, thank you. Do, April do you want to address the issue with the stack or is that Lori or who wants to deal with the stack question?

*April Westby:* So the current registration program deals with the stacks, but I don't think we have anything in the, in the current marijuana [Commissioner French: Right.] program that deals with any of the stacks.  
[Commissioner French: Right.]

*Kim Hoff:* It's listed right in here.

*April Westby:* That's for our existing one, for the 600 other facilities, that's how we,

*Commissioner French:* That's, that's for everybody else, that's not for the marijuana industry, that's for everybody else. Kay, my next person signed up is Toni.

*Toni Nersesian:* I have three things, but one; please clarify what you mean by process that if you're a producer/processor and Al you can speak to this the Washington State Building Code was redone two years ago and they agreed that if you are just packaging flowers, most of us do, they don't include that in processing. When you set the zoning codes, if we wanted to do anything more than package flower, we had to move into an industrial zone. At our farm we are not allowed to do anything more than package flower. I would like you to seriously look at that because people who are only growing and packaging flower, there is nothing to processing. People who are doing more than packaging flower are doing a lot, but many of us were exempt from the Washington State Building Code and from the Spokane County Zoning. So I would like you to take that into consideration because I do feel that's an extra fee we shouldn't have the fee if we're just packaging. I do agree that I would like to see a sliding fee that's a little less for tier ones because yes I am one and then up [Inaudible] because the dollars are totally different. I am an indoor grower. I have every concern in the world that you should not ask for the harvest schedules of the outdoor growers because you're putting everyone at huge risk. It's a business that is not as clear cut as we would like sometimes, it's not as safe as we would like and if people know when you are harvesting, they know when to hit your field. It, it, to, off by four weeks, it, they've got crap. But that harvest schedule is really

proprietary information that it would be awful if someone did get into your files and things do happen and someone obtain the outdoor harvest seasons. It would be bad. It would, it's a hard business, Julie it's just a hard business that's something I'd like to see you let go of for their sake. Other than that, Al I'm tired of meeting you at hearings.

*Commissioner French:* Amen. Of all the things I envisioned in my future, this was not one of them. So, thank you Toni. That completes the list of everybody that has signed up. Is there anybody else, I'll, I'll make three calls before closing the hearing, is, hello Crystal.

*Crystal Oliver:* Hello, so my name is Crystal Oliver and I own Washington's Finest Cannabis; we are a tier three producer/processor located north towards Deer Park. Unfortunately, I try to stay really informed and engaged in the rule making process but it escaped me that there were two separate hearings for the issues impacting us so unfortunately folks I have come here un as prepared as we normally would be, myself included. As far, I, I know we're not hearing testimony on the resolution that you adopted but I do think that it's really unfortunate that, that includes that provision for us to disclose our harvest schedule and I understand that there are rules that protect proprietary information, or I'm sorry, laws that protect proprietary information, but those have failed me personally on a number of occasions. My social security number has been disclosed via public records request and I myself have received records that should have been redacted. So I think it's unfortunate that's there and I think it should of been stricken. Okay and then as far as the fee schedule, I am glad to see that the annual registration fee won't be assessed until the following year, I think that's good it gives a little bit of breathing room there. I do think that the fees are high. I also didn't see in the presentation, it didn't seem that it addressed the scenario where a producer is an outdoor producer who's also doing some propagation indoors, such as sprouting seeds and taking clones. My reading of the rules said that in that scenario I would pay indoor registration fee as well as an outdoor registration fee. I find that provision to be excessive especially since a processor who purchases orals can get an exemption to, to not have to pay a registration fee because there aren't odors associated with that. When it comes to cloning and seed sprouting, there are not the odors associated with that, we're talking about vegetative plants that don't have flowers that aren't emitting monoterpenes. So I think that, that language really should be stricken from the rule, or from the fee part as far a like there's some language in there about propagation having to pay the indoor fee as well and I think that's too excessive. And ultimately, I think that in the future there will be books written about how over regulated and over taxed this industry was. When it comes to the fee schedule, keep in mind that those fees are actually 30 percent to 50 percent higher than what you have on paper because they will be taxed like income because of tax code 280E. So that's something I'd also like you to keep in mind that the fees on paper



are not just [Inaudible] we'll pay, we'll pay taxes on those fees at the federal level as well. But, ultimately it's a tough business we've signed up for a tough business; we just had no idea that the regulators and the legislatures were going to make it this hard for us. And that's really all I have to say.

*Commissioner French:* Good timing, you're getting good at this. Okay, so before I go on to, so the comment that she made with regard to the propagation and, and that side of it, could you speak to that real quickly.

*Lori Rodriguez:* Yeah, in the definitions in 6.18, producer includes propagate, grow, harvest and trim and processor includes too dry, cure, extract, compound, convert, package and label usable marijuana, marijuana concentrates and marijuana-infused products. So propagated is included as a producer activity.

*Commissioner French:* Okay. Producer activity and our definition or the definition for the state.

*Lori Rodriguez:* In our definition.

*Commissioner French:* In our definition. So since

*Lori Rodriguez:* And then in 6.18

*Commissioner French:* What I'm get

*Lori Rodriguez:* Requires all processing to be indoors

*Commissioner French:* Okay.

*Lori Rodriguez:* But not all production.

*Commissioner French:* So I guess what I'm trying to get to is if, if that's an activity that doesn't generate an odor then why would we be regulating it? And so, I'd like to be able to come back from, get a little bit more information about that as we go through this.

*Julie Oliver:* So as I recall, there's information we have that there, it's not as strong an odor but there is an odor. It would not be assessed fees as both indoor and outdoor, it would be just considered what is, what is, that's, the propagation really isn't looked at separately, as far as when we're determining; okay are you indoor or outdoor or other for the fees.

*Commissioner French:* Kay.

*Tom Brattebo:* So if you're starting plants indoors and then moving them outdoors, is that an indoor and outdoor or would that just be outdoors?

*Julie Oliver:* So I think we're down to kind of a length of time as far as for propagating, you know really, it's a short period of time and then you'd be outdoor.

*Tom Brattebo:* And you move it outdoors now you're an outdoor, you are an outdoor producer.

*Julie Oliver:* Yeah, outdoor producer.

*Commissioner French:* But you're not both.

*Julie Oliver:* No.

*Commissioner French:* Okay.

*Female:* [Inaudible female speaking from the audience, not at podium.]

*Commissioner French:* So, can we get clarification on that. So, though, we're having the hearing, we're not going to take action until next month, as I understand it. Is action scheduled for this, this

*Julie Oliver:* Board's choice.

*Commissioner French:* Board's choice, okay. I'd like to get clarification on that if we could. While doing some research there, anybody else in the audience like to provide any testimony on hearing item number 17-20. Second call for anybody wanting to provide testimony on hearing item 17-20. Third and final call, seeing nobody come forward, it is now 10:38 a.m. and I am going to close the public hearing, a portion of our deliberation or hearing and we will move into deliberation.

Discussion ensued on questions raised with regard to harmonizing the definitions from building codes, zoning codes and SRCAA Regulations; producers/processors but not using their processor license; and the requirement of the harvesting schedule.

The Board discussed adopting the fee schedule resolution as is, and then by a second motion to suspend the annual fees for the second and later years. This gives the Board time to revisit the annual fees prior to implementation the second year. This holds the Board accountable for revisiting the fee schedule at a later date, but before the second year. The fee schedule is open to evaluation by the Board at any time.

Rod Higgins moved to approve Resolution No. 17-20 as presented and Kevin Freeman seconded it. Motion passed unanimously.

Kevin Freeman made a second motion that at this time for Resolution No. 17-20 the Board suspends the annual registration portion of the resolution until further action of the Board and Rod Higgins seconded it. Motion passed unanimously.

**8. Board Concerns – Selection of a Chair and Vice Chair**

Rod Higgins made a motion to re-elect Commissioner French as chair of the board and Tom Brattebo seconded it. Motion passed with one nay.

Rod Higgins made a motion to re-elect Tom Brattebo as vice chair of the board and Kevin Freeman seconded it. Motion passed with one abstention.

**9. Public Forum – There were no public comments.**

The board meeting was adjourned at 10:57 a.m.

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COMMISSIONER AL FRENCH, CHAIR

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JULIE OLIVER, EXECUTIVE DIRECTOR