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BOARD MEETING MINUTES

The Board of Directors of the Northwest Clean Air Agency met at 1:30 p.m. Thursday, February 10, 2022, via video conference.

MEMBERS PRESENT:

Skagit County	Mary Hudson
Island County	Janet St. Clair
Whatcom County	Todd Donovan Brian Heinrich

MEMBERS ABSENT:

Tara Hizon
Terry Nyman
Ron Wesen

ALSO PRESENT:

NWCAA staff members	Mark Buford, Alicia Huschka, Matt Holmquist, Robyn Jones, Toby Mahar, Agata McIntyre, Seth Preston, Lyn Tober, and Laurie Caskey-Schreiber
Legal counsel	Svend Brandt-Erichsen

CALL TO ORDER

Board of Directors Vice Chairman Brian Heinrich called the meeting to order at 1:34 p.m.

PRESENTATION

Fiscal Year 2022 second quarter financial report (July 1 – Dec. 31, 2021) – Alicia Huschka

NWCAA Chief Financial Officer Alicia Huschka reviewed actual financial results compared to the annual budget for fiscal year 2022 for the Operating Fund for the six-month period ended Dec. 31, 2021.

	Year-to-date	Annual Budget	% of Annual Budget
Revenues	\$3,539,491	\$4,899,682	72%
Expenses	\$2,156,336	\$5,159,233	42%

Huschka identified the following revenue and expense highlights:

- Air operating permit revenues are \$3,232,439 through December 31, 2021, which is 99 percent of the annual budgeted amount.
- Registration fees budgeted at \$663,000 will be invoiced in February 2022.
- The asbestos program continues to be busy and revenues so far are at \$52,525 or 50% of budgeted revenue for the year.
- Government grants are at \$105,730, which is 20% of what was budgeted.
- Per capita fees totaling \$155,393 were billed in January 2022.
- Penalty revenues are \$84,843, which is 100% of the budgeted amount of \$85,000. This amount does fluctuate from year to year, dependent on a variety of factors.
- Salaries & wages are close to where they should be at 50% of the budget spent.

Huschka stated that the fiscal year 2022 budget is on track, and the Agency is where it should be compared to the budget for the period ended Dec. 31, 2021.

Huschka reviewed the Agency’s consolidated balance sheet at Dec. 31, 2021:

	Operating Fund	Cumulative Reserve Fund	Capital Replacement Fund	Supplemental Environmental Fund	Personnel Costs Reserve Fund	Legal Reserve Fund	Total
Assets	\$2,830,044	\$791,690	\$192,442	\$478,949	\$278,917	\$154,721	\$4,726,763
Liabilities	304,990	0	0	6,089	0	0	311,079
Fund Balance	2,525,054	791,690	192,442	472,860	278,917	154,721	4,415,684
Liabilities and Fund Balance	\$2,830,044	\$791,690	\$192,442	\$478,949	\$278,917	\$154,721	\$4,726,763

Huschka gave a brief update on the Supplemental Environmental Fund, noting that there is approximately \$266,000 available for the solar panel project for the NWCAA office.

APPROVAL OF PRIOR BOARD MEETING MINUTES

On motion by Todd Donovan, seconded by Mary Hudson, the minutes for the Dec. 9, 2021, meeting were approved 4-0.

NEW BUSINESS

ELECTION OF BOARD OFFICERS

Heinrich opened the floor for the annual Board elections. Buford explained that traditionally the Vice Chair moves to Chair, and the three counties rotate to the Vice Chair position. Board members indicated their support for this direction.

Janet St. Clair made a motion to nominate the following slate of Board positions: Mary Hudson for Chair of the Board, Janet St. Clair for Vice Chair, and Terry Nyman for Secretary. Todd Donovan seconded the motion and it passed 4-0.

Chairman Hudson appointed the following Board members to the Finance Committee:

Finance Committee		
Chair	Todd Donovan	Whatcom County
Member	Ron Wesen	Skagit County
Member	Janet St. Clair	Island County
Employer/Employee Relations Committee	All positions are ex officio	
Chair	Mary Hudson	City of Mount Vernon
Member	Janet St. Clair	Island County
Member	Todd Donovan	Whatcom County

PENALTY POLICY

NWCAA Compliance Manager Toby Mahar reviewed the current penalty policy and the proposed revisions. New Penalty Policy proposal came about because the existing policy has not changed since it was developed in 2003 and 2004. NWCAA staff felt that it was time for an update. Mahar presented the revised document to the Advisory Council. They suggested some editorial changes, but also supported the document moving forward to the Board for their consideration.

Key issues that were considered in this effort to update the Penalty Policy:

- Assure the alignment of penalty policy with agency values.
- Inclusion of considerations for overburdened and disproportionately impacted communities.
- Provide a framework for fair and consistent assessment of penalties addressing a wide range of noncompliance issues with adjustment factors accommodating case-by-case determinations.
- Recognize the magnitude of emissions and impacts resulting from non-compliance.
- Uphold the importance of compliance to the regulatory program.
- Continue to calculate and assess economic benefit as part of penalty collections.

The new policy structure is a baseline gravity penalty for commonly cited and reasonably foreseeable violations, then applies considerations for the individual case to adjust in accordance with the context of the events.

Mahar added that staff have been using the proposed policy alongside the existing policies. The amount of the penalties calculates about the same but are attributed differently. The explanation of the penalty calculation is supported by the proposed policy.

The draft Penalty Policy will move forward and proposed for Board approval via a Resolution at the next Board meeting in March.

ACTION ITEMS

Strategic Plan Amendment

NWCAA Environmental Engineer Robyn Jones worked with a group of members from the Advisory Council to create an amendment to the Agency Strategic Plan to better reflect our commitment to Environmental Justice. The Group prosed the following statement be added to the Plan:

“Environmental Justice¹: We seek to address environmental justice issues in air quality within our community.

¹Defined as the fair treatment and meaningful involvement of all people regardless of race, color, culture, national origin, income, and educational levels with respect to the development, implementation, and enforcement of protective environmental laws, regulations, and policies, (United State Environmental Protection Agency, 2020, EJ 2020 Glossary). ”

Brian Heinrich made a motion to approve the revision to the Strategic Plan, and St. Clair seconded the motion. Board members approved the motion 4-0.

Resolution 595 – Portable Equipment and Miscellaneous Other Rule Changes

NWCAA Engineering Manager Agata McIntyre discussed the goals and timeline of the resolution before the Board for a vote. The key goal of this proposed rule change is to create a more uniform process, with clearer guidelines, and to create a more level playing field among portable sources operating in NWCAA’s jurisdiction. Other needed rule revisions (listed below) were also folded into the process.

Timeline:

- June 2021 – Introduction to Board
- July – August 2021 – Informal Stakeholder input & redraft based on comments
- September 2021 – EPA review
- October 2021- Board Update
- November 2021 – File proposal with WA Code reviser
- December 2021 – Board briefing, Hold 30-day Public Comment Period and Hearing
- February 2022 – To Board for adoption
- March 2022 – If approved, new rules go into effect

No comments were received during the December 2021 public comment period and no comments were received during the hearing. In addition, no testimony was submitted to the Board about this resolution during the February Board meeting.

The resolution incorporates the following rule changes:

- New rule language for rock crushers to level the playing field for all rock crushers operating in NWCAA’s jurisdiction. If passed, NWCAA will no longer issue case-by-case construction permits for rock crushers. Instead, rock crushers wishing to operate in NWCAA’s jurisdiction will be required to comply with the rule.
- Updating the adoption-by-reference date for externally referenced rules from EPA and Ecology so that NWCAA can implement the latest versions of these rules. This update is brought before the Board annually.

- Amending the program that regulates portable sources, including rock crushers, to make it easier for Agency staff to track where these sources operate. This helps level the playing field with respect to permitting, registration, and inspections.
- Updating emission inventory reporting requirements for all registered sources for clarity and to reflect current practices. This includes consolidating requirements into a single section.
- Clarifying annual fees for facilities with Air Operating Permits that operate Sewage Sludge Incinerators to maintain a level playing field and administer fair and appropriate fees that help support the Agency's financial stability.
- Clarifying the facility permanent shutdown concept in NWCAA's rules to make the requirements clearer and to help avoid misunderstandings.
- Rolling registration exemptions from Section 321 into Section 320 to make the rule clearer and more consistent.

Heinrich made a motion to approve Resolution 595, and Todd Donovan seconded the motion. Board members voted 4-0 to approve Resolution 595.

Bills and claims

Board members discussed the bills and claims reports for December 2021 (\$360,766.35) and for January 2022 (\$710,830.14). Donovan made a motion to approve the December 2021 and January 2022 bills and claims. Heinrich seconded the motion, and the Board approved the bills and claims 4-0.

STAFF REPORTS

Director's report – Mark Buford

Buford reported to the Board on the following matters:

- The Bellingham ambient air monitor was relocated to another side of the City-owned building on Pacific Street. The new location has better air flow for the monitor after recent nearby construction. This monitor has also been having reliability issues, so the Agency will soon be replacing it, which is expected to cost about \$22,000. The old monitor will be returned to the vendor for needed repairs and will serve as a back-up for future Agency needs.
- Buford briefed Board members about a recent stagnant air event. Our area had a high-pressure system in place mid-late January that resulted in calmer air and less atmospheric mixing, which resulted in poor air quality in some areas, including the Columbia Valley. An extended burn ban was called for that area and Agency staff performed surveillance in that community.
- Agency staff are currently working on the 2023 Fiscal Year Budget. The timeline for our budget process is as follows:
 - A draft budget will be presented to the Advisory Council in March,
 - Presented to the Finance Committee in April,
 - Presentation to the full Board in May, then

- Board votes on adopting the budget in June.
- Buford stated that meetings with Petrogas are progressing. Staff are still working with them on required/anticipated submittals to NWCAA.
- The Agency had to delay its January opening plans until April 1, 2022, due to the Omicron variant. We are hoping for an in-person Advisory Council meeting in March and the Agency will be following State guidelines for public meetings.
- The Washington State Department of Ecology and Industry organization (Western States Petroleum Association – WSPA) have asked NWCAA to assist Ecology in their task of developing a Reasonable Available Control Technology (RACT) rule for refineries. We have tentatively agreed and are working out the details and expectations.
- Buford has been tracking activities in the WA legislature, which is currently in session. Nothing of concern right now. Looking forward to clarifications of the Climate Commitment Act. Buford doesn't think there's a need to correct a flaw, but rather clarify the intent of the legislature and ensure the words of the Act reflect that intent.
- At the Federal level, EPA has been working on addressing the previous Administration's rollbacks for regulations pertaining to mobile sources (vehicles).

NWCAA doesn't directly regulate vehicles, however we do have influence, particularly through our work with the National Association of Clean Air Agencies (NACAA). Buford is serving this organization as a Co-Vice President this year.

The following issues are being addressed:

- In 2019, also under the previous administration, the Department of Transportation's National Highway Traffic Safety Administration (NHTSA) took action under the so-called "SAFE 1" rule to prohibit the light-duty vehicle GHG emission standards *and* Zero-Emission Vehicle (ZEV) standards adopted by California's under its Advanced Clean Cars program and by other states using their authority under Clean Air Act Section 177.
- NHTSA did this by declaring these standards preempted under the Energy Policy and Conservation Act.
- The U.S. Environmental Protection Agency (EPA), which joined NHTSA in issuing the "SAFE 1" rule, used that regulation as a vehicle to rescind the waiver of federal preemption for the Greenhouse Gas (GHG) and ZEV components of the Advanced Clean Car Program – a waiver it had granted to California in 2013.
- One of the first announcements made by President Biden when he took office in 2021 was of initiatives to rectify these actions.
- NWCAA supported these initiatives through our participation in the NACAA, which engaged closely in these initiatives, facilitated briefings for the membership by EPA and NHTSA, submitted comment letters, testified at public hearings, and met with the White House Office of Management and Budget (OMB).

- On December 29, 2021, NHTSA published a final rule repealing in full the “SAFE 1” preemption rule.
- On December 31, 2021, EPA published a final rule revising and making more stringent the GHG emission standards for model years 2023 through 2026. The updated standards will result in avoiding more than 3 billion tons of GHG emissions through 2050.
- EPA has yet to reinstate California’s waiver but is “working on it.” This is not an action that requires OMB review so when the agency has completed its work it can announce that the waiver is back in effect.

New source review and air operating permit update – Agata McIntyre

NWCAA Engineering Manager Agata McIntyre reported on the December 2021 and January 2022 construction permit (new source review) activity.

- During December, the Agency received one application for construction permits and issued five construction permits.
- In January, the Agency received one construction permit application and issued no new construction permits.
- One of the construction permit applications received in January was unusual for our area. Westland Distillery Rackhouse applied to construct and operate three new distillery rackhouses, each with a capacity for 4,700 53-gallon barrels for storage/maturation of their product.

Enforcement update – Toby Mahar

NWCAA Compliance Manager Toby Mahar reported on December 2021 and January 2022 enforcement and provided the following highlights of compliance activities.

- NWCAA issued three Notice of Violations (NOVs) in December. One of these was for Commercial Aircraft Interiors, for an illegal spray coating operation using strontium chromate-containing materials and construction of a spray coating booth without applying for and obtaining a permit from the NWCAA.
- Complaint load was normal for December.
- NWCAA issued nine NOVs in January. Three of these NOVs were for failing to pay 2021 registration fees, and five relate to gas station vapor-tightness testing. TKC Automotive was issued a violation related to the facility lagging in updating the spray coating facility filtration and exhaust as required by rule.
- NWCAA also issued three penalties in January 2022. Pacific Woodtech received a \$54,750 penalty for failing to comply with required monitoring, recordkeeping, and reporting, and delayed corrective measures for their process vents and air pollution control equipment. Mahar noted that this is the third enforcement action related to these types of failures at the facility.
- A \$38,128 penalty was issued to the Puget Sound Refinery for various flaring/excess emission events that occurred when the facility belonged to Shell.

- In early January, NWCAA experienced an uptick in odor complaints. Many of these complaints were related to cold-weather related problems at the March Point refineries. Investigations are underway.

BOARD MEETING SCHEDULE

The Board agreed to continue meeting on the second Thursday for each month in 2022, with the exception of January and July.

ADJOURNMENT

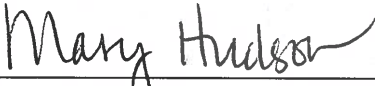
There being no further business to consider, the meeting adjourned at 3:08 p.m.

CERTIFICATION

I hereby certify this is a true and correct copy of the minutes of the meeting of the NWCAA Board of Directors held on February 10, 2022, in Mount Vernon, Washington.

ATTEST: 

Terry Nyman, Secretary
NWCAA Board of Directors



Mary Hudson, Chair
NWCAA Board of Directors

DATED: March 10, 2022