



Missoula City-County Air Pollution Control Board
March 19, 2009

Board Members Present: Dr. Garon Smith (Chair), Jean Curtiss, Renee Mitchell, and Eileen Sansom

Board Members Excused: Dr. Sandy Kuntz (Vice Chair), Dr. Alan Gabster, and Ross Miller

Staff Members Present: Health Administration: Ellen Leahy and Julie Mohr

Legal Counsel Present: Marnie McClain

Others Present: John Garberson, Elize Kettenring-Cline, and Ron Scholl

MEETING CALLED TO ORDER

Dr. Smith called the March meeting to order.

ITEM 1 APPROVE JANUARY 15, 2009 AND FEBRUARY 19, 2009 MINUTES

- **Attachment A**, “20081021 Official Response to Questions & Comments at Admin Hearing (T & T Permit)”

The February minutes were approved with the following corrections:

- Pg. 3, last paragraph, 3rd line: change it to read “said it looked like...”
- Pg. 5, 1st non-bulleted paragraph, 3rd line: change it to “MWHHA would like to see...”
- Pg. 7, 4th paragraph, 3rd line: change it to “..Mr. Carlson said that...”

Director Leahy asked to pose a question in order to seek clarification regarding the discussion that took place at the February 19, 2009 meeting during board and staff comments on items not on the agenda. (See Item 6 on pages 13 and 14 of those minutes.) She told the board the homeowners associations who petitioned the department and then the board for—and were granted—hearings regarding the air quality permit issued to T & T Contracting Inc. are appealing to District Court. She shared this information first because—prior to learning of the appeal—she and Ms. Mohr reviewed the February tape: it was not clear whether the board was having a round table discussion during Item 6 or if specific follow-up activities were being assigned to staff. She asked the board to look at the minutes and provide clarification.

Additionally, Director Leahy suggested that if the board did in fact intend for staff to do something else related to monitoring or to bring information back to the board, generally when a formal appeal goes to the next step—as this has—the department and board do not get involved further while that process is underway. She noted that Ms. McClain might disagree and, if so, would advise otherwise. Dr. Smith indicated that the board had in mind that the windblown dust

that comes off of the site's property boundary may be a nuisance for the neighborhood. Rather than action being taken specifically related to the permit for the gravel crusher, the board wanted to have staff look into the possibility of the dust from the whole site being a public nuisance. Director Leahy commented this would potentially be an enforcement action. Dr. Smith said there has been no violation of the air quality permit but homeowners talked about clouds of dust.

Director Leahy said conversations will be held with staff and legal counsel because there are opacity issues and different things that have to be examined before a situation can be declared a nuisance, if in fact there is fugitive dust. Dr. Smith said comments were made about "tornados of dust" that are clearly not associated with T & T Contracting Inc.'s permit. The board did not have any problem with the permit being issued. The complaints had nothing to do with the gravel crusher. Director Leahy confirmed she understood what the board was requesting and reiterated that she would take it back to staff and legal counsel. Dr. Smith added that he tried to call Sean Scally after the meeting because he left before that discussion took place. He made four attempts in order to tell Mr. Scally that the board was going to follow up on windblown dust but got a fax machine tone or no answer each time. Director Leahy noted that Mr. Scally is part of the group now making the formal appeal to District Court. She said the department has been on the site many times in the past with the purpose in mind of documenting fugitive dust.

Ms. Sansom said that inclusion of **Attachment A** again as part of this month's board packet provided a helpful reminder of answers the department previously provided in response to various questions. Director Leahy asked if it was acceptable to document the board's clarification of Item 6 in the February 19, 2009 minutes, rather than adjust the February minutes further. Dr. Smith indicated it was acceptable to do so. He asked if it is possible that board members may be called into the case in District Court. Ms. McClain confirmed that they may be. Director Leahy said that department staff and the board should now defer all related questions or comments from other parties to Ms. McClain—other than requests for minutes or other documents in the public record which will be provided upon request, as usual.

Follow-up: *Notice will be given to board members not present regarding the appeal and the need to direct calls and inquiries to Ms. McClain.*

The January 15, 2009 minutes were approved as submitted.

ITEM 2 AIR QUALITY ADVISORY COUNCIL UPDATE

John Garberson, council chair, reported on discussion of an article that says many economists agree the costs of failing to take action related to climate changes will greatly exceed the cost of mitigating action. Information was received about a demonstration project Home Resources, a non-profit building resource center, is proposing in order to use alternative paving for parking at its new location. Benefits include use of recycled glass, less heat island effect, and improved storm water infiltration. Public comments were heard about the efficiency of masonry heaters and new models of outdoor wood burning boilers. Department staff told the council that total emissions from new boilers still exceed those from regular wood burning stoves. In response to a question from Ms. Sansom, Mr. Garberson and Dr. Smith commented on the cost of the proposed paving. Dr. Smith described the proposed paving process. Ben Schmidt from the

department's Environmental Health division will advocate for approval of the demonstration project when it is presented to the County.

ITEM 3 TRANSPORTATION POLICY COORDINATING COMMITTEE (TPCC) UPDATE

Dr. Smith reported the committee reviewed how federal stimulus package money will be spent. Money awarded to Missoula is less than expected: the state chose to make allocations based on highway miles. TPCC put forward a resolution asking the state to allocate funds on a different basis. Dr. Smith listed several local shovel-ready projects. Also, the state is being asked to do a speed study on Reserve Street because of concerns about improving safety at the pedestrian crossing by C. S. Porter Middle School.

ITEM 4 PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

No comments were given.

ITEM 5 BOARD AND STAFF COMMENTS ON ITEMS NOT ON THE AGENDA

No comments were given.

ADJOURNMENT: Dr. Smith declared the meeting adjourned.

Respectfully submitted,

Ellen Leahy
Health Officer

Garon Smith
Chair