

W-10.a,  
Ord. 13-03

**AGENDA COVER MEMO**

**AGENDA DATE:** September 10, 2003 - First Reading & Set Second Reading/Public Hearing  
September 24, 2003 – Second Reading/Public Hearing/Possible Action

**TO:** LANE COUNTY BOARD OF COMMISSIONERS

**DEPT:** LANE COUNTY OFFICE OF LEGAL COUNSEL

**PRESENTED BY:** Stephen L.  Vornley, Assistant County Counsel

**AGENDA ITEM TITLE:** IN THE MATTER OF AMENDING CHAPTER 9 OF LANE CODE  
TO MODIFY PROHIBITIONS PERTAINING TO USE OF SOLID  
FUEL SPACE HEATING DEVICES (LC 9.125 through 9.135)

**I. MOTION**

**September 10, 2003** – Move approval of the first reading and set the second reading/public hearing on Ordinance No. 13-03 for September 24, 2003 at 1:30 p.m. in the Conference Room of the Board of County Commissioners.

**September 24, 2003** – Following the public hearing, move approval of the Ordinance No. 13-03 which modifies prohibitions pertaining to use of solid fuel space heating devices.

**II. ISSUE OR PROBLEM**

At the request of Lane Regional Air Pollution Authority (LRAPA) and direction of the Board, a proposed revision to Lane Code 9.125 through 9.130 Restriction on Use of Solid Fuel Space Heating Devices has been prepared to update and strengthen the existing woodstove ordinance applicable to the Eugene and Springfield urban growth areas. The proposed revisions are presented for Board consideration.

**III. DISCUSSION**

**A. Background**

On February 5, 2003, Brian Jennison, LRAPA director, gave a presentation to the Board of County Commissioners detailing the need to update the county woodstove ordinance to add authorization for LRAPA to regulate fine particulates from woodstoves to comply with new federal Clean Air Act ambient air quality standards for fine particulate matter (PM2.5 – particulate matter with an aerodynamic diameter less than or equal to 2.5 micrometers). At the same time, LRAPA requested that the ordinance be strengthened to prohibit burning of garbage in residential wood-heating units and

include an opacity limit on smoke from residential chimneys. Following the presentation, the Board directed staff to prepare draft code revisions for consideration, public hearing and possible adoption.

**B. Analysis**

The requested code revisions set additional new standards for certain types of particulate matter. The draft code revisions also limit the opacity of smoke and prohibit burning of garbage or materials which emit dense smoke, noxious odors or hazardous air contaminants. The cities of Eugene and Springfield have amended current ordinances to address these issues. Adoption of the proposed revisions would make regulations in the Eugene and Springfield urban growth areas consistent with the regulations applicable inside the respective city limits.

**C. Alternatives/Options**

1. Approve the requested code amendments;
2. Decline to proceed with the requested code amendments; or
3. Offer other direction to staff.

**D. Recommendations**

Staff recommends Option 1.

**E. Timing**

If the Board decides to proceed with the revision of the code, LRAPA has requested that this work be completed by October 2003. The code revisions would be effective on the 30<sup>th</sup> day following enactment of the ordinance.

**IV. IMPLEMENTATION/FOLLOW-UP**

Upon approval, the code revisions will be included in the published Lane Code.

**V. ATTACHMENTS**

Ordinance No. 13-03  
Minutes of Eugene and Springfield council meetings (portions)

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. 13-03

IN THE MATTER OF AMENDING CHAPTER 9 OF  
LANE CODE TO MODIFY PROHIBITIONS  
PERTAINING TO USE OF SOLID FUEL SPACE  
HEATING DEVICES (LC 9.125 through 9.135 )

The Board of County Commissioners of Lane County ordains as follows:

Chapter 9 of Lane Code is hereby amended by removing, substituting and adding new sections as follows:

**REMOVE THESE SECTIONS**

9.125 through 9.135  
located on pages 9-7 through 9-8  
(a total of 2 pages)

**INSERT THESE SECTIONS**

9.125 through 9.135  
located on page 9-7 through 9-9  
(a total of 3 pages)

Said sections are attached hereto and incorporated herein by reference. The purpose of these substitutions and additions is to modify prohibitions pertaining to use of solid fuel space heating devices. (LC 9.125 through 9.135 )

ENACTED this \_\_\_\_\_ day of \_\_\_\_\_ 2003.

\_\_\_\_\_  
Peter Sorenson, Chair  
Lane County Board of Commissioners

\_\_\_\_\_  
Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date August 21, 2003 Lane County

  
\_\_\_\_\_  
OFFICE OF LEGAL COUNSEL

(2) In addition to the requirements listed above, by July 1, 1992 and thereafter, any person or company providing collection of refuse for a fee (or exchange of value) within the area between city limits and the urban growth boundary of cities with a population of 10,000 or greater in Lane County must charge residential refuse collection service rates that encourage waste reduction, reuse and recycling. The rate schedule must:

- (a) Include at least one rate for a container that is 21 gallons or smaller.
- (b) Be structured such that the rate per pound of waste disposed does not decrease with increasing size of containers.
- (c) Be structured such that the rate per container does not decrease if more than one container is collected.

(3) Beginning January 1, 1993 and thereafter, any person or company providing collection of refuse for a fee (or exchange of value) within the area between the city limits and the urban growth boundary of cities with a population of 10,000 or greater in Lane County must, upon request from Lane County, provide Lane County a copy of the residential refuse collection service rate schedule.

(4) Failure to comply with any of the above provisions is a Class 1 failure to comply. *(Revised by Ordinance No. 5-92, Effective 6.3.92; 1-00, 4.12.00)*

#### **9.117 Failure to Comply.**

Failure to comply with any of the requirements of LC 9.030 through 9.115 may be subject to administrative enforcement as provided by LC Chapter 5. Failure to comply with a license or other discretionary permit approval issued pursuant to the requirements of any of the sections of this chapter is also subject to administrative enforcement pursuant to LC Chapter 5. *(Revised by Ordinance No. 1-93, Effective 4.16.93; 1-00, 4.12.00)*

### **RESTRICTION ON USE OF SOLID FUEL SPACE HEATING DEVICES**

#### **9.120 Purpose and Findings.**

(1) The health, safety and welfare of the citizens of Lane County are adversely affected by the degradation of air quality. Violations of federal ambient air quality standards, as measured by the Lane Regional Air Pollution Authority (LRAPA), occur periodically in Lane County.

(2) Wood and other solid fuel combustion for space heating produces particulate matter and other emissions which are physically harmful and aesthetically unpleasant, and which contribute to the degradation of air quality and the violation of federal ambient air quality standards.

(3) Periodic restriction of the use of solid fuel space heating devices will improve air quality. LRAPA has the expertise to determine when such air quality is at such a level that such restriction is necessary to preserve the health, safety and welfare of the citizens of Lane County.

(4) It is the intent of Lane County that the penalty section of this ordinance not take effect until November 1, 1991. *(Revised by Ordinance No. 9-90, Effective 1.18.91)*

#### **9.125 Definitions.**

As used herein, the following words and phrases shall mean:

**Green Advisory.** A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be less than 100 micrograms per cubic meter and PM2.5 levels are forecast to be less than 41 micrograms per cubic meter, within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Lane Regional Air Pollution Authority. A regional air quality control authority established under the provisions of and with the authority and powers derived from ORS 468.500 et seq.

Opacity. The degree to which an emission reduces transmission of light or obscures the view of an object in the background.

Pellet Stove. An enclosed solid fuel space heating device designed and operated to burn manufactured solid fuel and having an air-to-fuel ratio greater than 35-to-1 as determined by the federal test method described in 40 CFR Part 60.534

Person. Any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character.

Person in Charge of Property. An agent, occupant, lessee, tenant, contract purchaser, or other person having possession or control of property.

PM2.5. Solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to 2.5 micrometers.

PM10. Solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to 10 micrometers.

Sole Source of Heat. A solid fuel space heating device which constitutes the only source of heating in a private residence. A solid fuel space heating device shall not be considered to be the sole source of heat if the private residence is equipped with any permanently-installed furnace or heating system utilizing oil, natural gas, electricity or propane.

Solid Fuel Space Heating Device. Any device designed or operated to burn solid fuel for the heating of the interior of a building, including, but not limited to, solid fuel burning stoves, fireplaces or wood stoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel, and solid fuel burning cooking stoves. "Solid fuel space heating device" does not include natural gas-fired artificial fireplaces.

Stage I Red Advisory. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 125 micrograms per cubic meter but less than 150 micrograms per cubic meter, or when PM2.5 levels are forecast by LRAPA to be greater than or equal to 55 micrograms per cubic meter but less than 65 micrograms per cubic meter, within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Stage II Red Advisory. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 150 micrograms per cubic meter, or when PM2.5 levels are forecast by LRAPA to be greater than or equal to 65 micrograms per cubic meter, within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Visible Emissions. The reduction in transmission light or the obscuring of the view of an object in the background caused by the air pollutants emitted by the heating device. This does not include the visual distortion caused by the heated air emitted by the heating device. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00)*

Yellow Advisory. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 100 micrograms per cubic meter but less than 125 micrograms per cubic meter, or when PM2.5 levels are forecast to be greater than or equal to 41 micrograms per cubic meter but less than 55 micrograms per cubic meter, within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

**9.130 Area of Applicability.**

The Metropolitan Area General Plan Urban Growth Boundary adopted in 1982 as amended through June 2003, excluding the area within the city limits of Eugene and Springfield. *(Revised by Ordinance No. 9-90, Effective 1.18.91)*

**9.135 Prohibitions.**

(1) Stage I Red Advisory. No person in charge of property during a Stage I Red Advisory shall operate or allow to be operated a solid fuel space heating device which emits visible emissions into the air outside of the building housing the device unless the person in charge of the property has been granted an exemption to use the device by LRAPA.

(2) Stage II Red Advisory. No person in charge of property during a Stage II Red Advisory shall operate or allow to be operated a solid fuel space heating device unless the person in charge of the property has been granted an exemption to use the device by LRAPA or unless the person is operating a pellet stove which emits no visible emissions into the air outside of the building housing the device. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00)*

(3) Green or Yellow Advisory. No person in charge of property during a green or yellow advisory shall operate or allow to be operated a solid fuel space heating device which discharges emissions that are of an opacity greater than forty (40) percent. This provision does not apply to the emissions during the building of a new fire, for a period or periods aggregating no more than ten (10) minutes in any four (4) hour period.

(4) Prohibited Materials. No person in charge of property shall at any time allow to be initiated or maintained in a solid fuel space heating device the burning of any plastics, wire insulation, petroleum by-products (with the exception of natural-gas-fueled log lighters), petroleum treated materials, rubber products, animal remains, or animal or vegetable matter resulting from the handling, preparation, cooking, or service of food, or of any other material which normally emits dense smoke, noxious odors, or hazardous air contaminants.

||At right margin indicates changes  
**Bold** indicates material being added  
~~Strikethrough~~ indicates material being deleted  
~~9.1179.135~~ Lane Code

LEGISLATIVE  
FORMAT  
9.125-9.135

(2) In addition to the requirements listed above, by July 1, 1992 and thereafter, any person or company providing collection of refuse for a fee (or exchange of value) within the area between city limits and the urban growth boundary of cities with a population of 10,000 or greater in Lane County must charge residential refuse collection service rates that encourage waste reduction, reuse and recycling. The rate schedule must:

- (a) Include at least one rate for a container that is 21 gallons or smaller.
- (b) Be structured such that the rate per pound of waste disposed does not decrease with increasing size of containers.
- (c) Be structured such that the rate per container does not decrease if more than one container is collected.

(3) Beginning January 1, 1993 and thereafter, any person or company providing collection of refuse for a fee (or exchange of value) within the area between the city limits and the urban growth boundary of cities with a population of 10,000 or greater in Lane County must, upon request from Lane County, provide Lane County a copy of the residential refuse collection service rate schedule.

(4) Failure to comply with any of the above provisions is a Class 1 failure to comply. (*Revised by Ordinance No. 5-92, Effective 6.3.92; 1-00, 4.12.00*)

#### **9.117 Failure to Comply.**

Failure to comply with any of the requirements of LC 9.030 through 9.115 may be subject to administrative enforcement as provided by LC Chapter 5. Failure to comply with a license or other discretionary permit approval issued pursuant to the requirements of any of the sections of this chapter is also subject to administrative enforcement pursuant to LC Chapter 5. (*Revised by Ordinance No. 1-93, Effective 4.16.93; 1-00, 4.12.00*)

### **RESTRICTION ON USE OF SOLID FUEL SPACE HEATING DEVICES**

#### **9.120 Purpose and Findings.**

(1) The health, safety and welfare of the citizens of Lane County are adversely affected by the degradation of air quality. Violations of federal ambient air quality standards, as measured by the Lane Regional Air Pollution Authority (LRAPA), occur periodically in Lane County.

(2) Wood and other solid fuel combustion for space heating produces particulate matter and other emissions which are physically harmful and aesthetically unpleasant, and which contribute to the degradation of air quality and the violation of federal ambient air quality standards.

(3) Periodic restriction of the use of solid fuel space heating devices will improve air quality. LRAPA has the expertise to determine when such air quality is at such a level that such restriction is necessary to preserve the health, safety and welfare of the citizens of Lane County.

(4) It is the intent of Lane County that the penalty section of this ordinance not take effect until November 1, 1991. (*Revised by Ordinance No. 9-90, Effective 1.18.91*)

#### **9.125 Definitions.**

As used herein, the following words and phrases shall mean:

**Green Advisory.** A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be less than 100 micrograms per cubic meter and PM2.5 levels are forecast to be less than 41 micrograms per cubic meter, within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Lane Regional Air Pollution Authority. A regional air quality control authority established under the provisions of and with the authority and powers derived from ORS 468.500 et seq.

**Opacity. The degree to which an emission reduces transmission of light or obscures the view of an object in the background.**

Pellet Stove. An enclosed solid fuel space heating device designed and operated to burn manufactured solid fuel and having an air-to-fuel ratio greater than 35-to-1 as determined by the federal test method described in 40 CFR Part 60.534

Person. Any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character.

Person in Charge of Property. An agent, occupant, lessee, tenant, contract purchaser, or other person having possession or control of property.

**PM2.5. Solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to 2.5 micrometers.**

PM-10. Solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to 10 micrometers.

Sole Source of Heat. A solid fuel space heating device which constitutes the only source of heating in a private residence. A solid fuel space heating device shall not be considered to be the sole source of heat if the private residence is equipped with any permanently-installed furnace or heating system utilizing oil, natural gas, electricity or propane.

Solid Fuel Space Heating Device. Any device designed or operated to burn solid fuel for the heating of the interior of a building, including, but not limited to, solid fuel burning stoves, fireplaces or wood stoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel, and solid fuel burning cooking stoves. "Solid fuel space heating device" does not include natural gas-fired artificial fireplaces.

Stage I Red Advisory. A 24-hour period beginning at 4:00 p.m. when PM-10 levels are forecast by LRAPA to be greater than or equal to 125 micrograms per cubic meter but less than 150 micrograms per cubic meter, **or when PM2.5 levels are forecast by LRAPA to be greater than or equal to 55 micrograms per cubic meter but less than 65 micrograms per cubic meter**, within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Stage II Red Advisory. A 24-hour period beginning at 4:00 p.m. when PM-10 levels are forecast by LRAPA to be greater than or equal to 150 micrograms per cubic meter, **or when PM2.5 levels are forecast by LRAPA to be greater than or equal to 65 micrograms per cubic meter**, within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Visible Emissions. The reduction in transmission light or the obscuring of the view of an object in the background caused by the air pollutants emitted by the heating device. This does not include the visual distortion caused by the heated air emitted by the heating device. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00)*

Yellow Advisory. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 100 micrograms per cubic meter but less than 125 micrograms per cubic meter, **or when PM2.5 levels are forecast to be greater than or equal to 41 micrograms per cubic meter but less than 55 micrograms per cubic meter**, within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.



||At right margin indicates changes  
**Bold** indicates material being added  
~~Strikethrough~~ indicates material being deleted  
9.1309.135 Lane Code

LEGISLATIVE  
FORMAT  
9.135-9.135

### 9.130 Area of Applicability.

The Metropolitan Area General Plan Urban Growth Boundary adopted in 1982 as amended through June ~~1990~~ 2003, excluding the area within the city limits of Eugene and Springfield. *(Revised by Ordinance No. 9-90, Effective 1.18.91)*

### 9.135 Prohibitions.

(1) Stage I Red Advisory. No person in charge of property during a Stage I Red Advisory shall operate or allow to be operated a solid fuel space heating device which emits visible emissions into the air outside of the building housing the device unless the person in charge of the property has been granted an exemption to use the device by LRAPA.

(2) Stage II Red Advisory. No person in charge of property during a Stage II Red Advisory shall operate or allow to be operated a solid fuel space heating device unless the person in charge of the property has been granted an exemption to use the device by LRAPA or unless the person is operating a pellet stove which emits no visible emissions into the air outside of the building housing the device. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00)*

(3) Green or Yellow Advisory. No person in charge of property during a green or yellow advisory shall operate or allow to be operated a solid fuel space heating device which discharges emissions that are of an opacity greater than forty (40) percent. This provision does not apply to the emissions during the building of a new fire, for a period or periods aggregating no more than ten (10) minutes in any four (4) hour period.

(4) Prohibited Materials. No person in charge of property shall at any time allow to be initiated or maintained in a solid fuel space heating device the burning of any plastics, wire insulation, petroleum by-products (with the exception of natural-gas-fueled log lighters), petroleum treated materials, rubber products, animal remains, or animal or vegetable matter resulting from the handling, preparation, cooking, or service of food, or of any other material which normally emits dense smoke, noxious odors, or hazardous air contaminants.

City of Springfield  
Regular Meeting

MINUTES OF THE REGULAR MEETING OF  
THE SPRINGFIELD CITY COUNCIL HELD  
MONDAY, DECEMBER 2, 2002

The city of Springfield council met in regular session in the Council Meeting Room, 225 Fifth Street, Springfield, Oregon, on Monday, December 2, 2002, at 7:04 p.m., with Mayor Leiken presiding.

ATTENDANCE

Present were Mayor Leiken, Councilors Ballew, Fitch, Hatfield, Lundberg, Ralston and Simmons. Also present were City Manager Michael Kelly, Assistant City Manager Gino Grimaldi, City Attorneys Tim Harold and Meg Kieran, Office Assistant Amy Sowa and members of the staff.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Leiken.

Mayor Leiken asked for a moment of silence for the three firefighters who lost their lives last week in the Coos Bay fire.

SPRINGFIELD UPBEAT

1. City Manager Mike Kelly recognized Cynthia Pappas, Development Services Department, for 15 Years of Service to the City of Springfield.

CONSENT CALENDAR

**IT WAS MOVED BY COUNCILOR HATFIELD WITH A SECOND BY COUNCILOR FITCH TO APPROVE THE CONSENT CALENDAR. THE MOTION PASSED WITH A VOTE OF 6 FOR AND 0 AGAINST.**

1. Claims.
2. Minutes.
  - a. October 21, 2002 – Work Session.
  - b. October 21, 2002 – Regular Session.
  - c. October 28, 2002 – Work Session.
  - d. November 4, 2002 – Joint Work Session – Chamber of Commerce.
  - e. November 4, 2002 – Regular Session.
  - f. November 18, 2002 – Work Session.
  - g. November 18, 2002 – Regular Session.
3. Resolutions.

- a. RESOLUTION NO. 02-54 – A RESOLUTION TO ACCEPT PERMIT PROJECT P30280: STORM SEWER NEAR 59<sup>TH</sup> STREET AND ASTER STREET.
  - b. RESOLUTION NO. 02-55 – A RESOLUTION AUTHORIZING THE CITY MANAGER TO AWARD COMPETITIVE BIDS AMOUNTING TO MORE THAN \$15,000 DURING THE PERIOD OF DECEMBER 10, 2002, TO JANUARY 5, 2003, WHILE THE CITY COUNCIL IS IN RECESS.
4. Ordinances.
- a. ORDINANCE NO. 6026 – AN ORDINANCE REGARDING AIR POLLUTION AND AMENDING CHAPTER 4, SETION 4.500 “LANE REGIONAL AIR POLLUTION AUTHORITY,” AMENDING SECTION 4.506 “DEFINITIONS,” AND AMENDING SECTION 4.508 “PROHIBITIONS” OF THE SPRINGFIELD MUNICIPAL CODE.
5. Other Routine Matters.
- a. Grant a permit to Oregon Department of Transportation (ODOT) to allow repair and construction improvements outside the hours permitted by the city noise ordinance, Municipal Code sections 5.220(1)(c) and (d), with the following conditions: 1) the night time construction is done between June 15 to September 19, 2003; 2) any lighting used during the night work will be directed away from residences; 3) the permit for night time work will be revocable by staff based on the number and severity of complaints received.

ITEMS REMOVED FROM THE CONSENT CALENDAR

PUBLIC HEARINGS

1. Public Hearing on Annexation of Territory to the City of Springfield (Peace Health) Springfield Journal Number 2002-09-311.

RESOLUTION NO. 02-56 – A RESOLUTION INITIATING ANNEXATION OF CERTAIN TERRITORIES TO THE CITY OF SPRINGFIELD AND REQUESTING THAT THE LANE COUNTY LOCAL GOVERNMENT BOUNDARY COMMISSION APPROVE THE ANNEXATION BY EXPEDITED PROCESS.

City Planner Colin Stephens introduced this item. The City Council held a public hearing on the annexation of this property on November 4, 2002 and voted unanimously to approve a resolution recommending that the Boundary Commission approve the annexation. Mr. Stephens pointed out the property on the map. The resolution adopted on November 4 contained the verified signatures of the registered voters living on the property at the date of application submittal, September 23, 2002. Prior to the public hearing, these individuals moved from the property and a caretaker took up residence on the site. This caretaker registered to vote on October 21, 2002, hence on the date of the previous Council public hearing, November 4, 2002, the registered voter petition was invalid. The council is asked to open the public hearing and to adopt a corrected resolution for annexation.

The City Council is authorized by ORS 199.490(2)(a)(B) to initiate annexation upon receiving consent in writing from a majority of the electors registered in the territory and written consent from owners of more than half the land in the territory proposed to be annexed. Consent from the owner of the land has been obtained. The applicant has provided evidence that the registered voter living on the property consents to

Mr. Kelly agreed that the City needed to be as efficient as possible and be able to prove that to the public. He said that it was his understanding that large preservation projects were already contracted to the private sector. Mr. Corey concurred. He indicated that there were no personnel costs included in the projections, but there was about \$300,000 included for the costs of collection and administration. He anticipated that private companies would do the majority of the work, and City crews would do small maintenance overlay projects.

Returning to her previously expressed concern, Ms. Nathanson asked Mr. Carlson to give thought to how the City could change the way it does business in Lane County so that it was usual and typical rather than extraordinary to have City ordinances that could be applied in the urbanizing area routinely adopted by both the council and the Lane Board of County Commissioners.

Ms. Nathanson cautioned staff about structuring an allocation proportionally instead of structurally. She pointed out that the County had many miles of roads, but they did not have many vehicles traveling over them. She hoped it was based on impact, need, or backlog.

Ms. Bettman emphasized the importance of answering the question of how the City could build new roads if it could not maintain the ones it had.

Ms. Taylor thought there should be a vote before the council adopted a TSMF.

### **C. WORK SESSION: Report from Lane Regional Air Pollution Authority and Discussion of Request to Revise Eugene Code, Section 6.250**

Ms. Taylor introduced Brian Jennisen and Kim Metzler of the Lane Regional Air Pollution Authority (LRAPA). Mary Walston of the City Manager's Office was also present for the item. Mr. Jennisen emphasized the importance of good roads to good air quality. Mr. Jennisen provided a short history of LRAPA, noting it was the last such agency in the state. The Department of Environmental Quality (DEQ) was responsible for air quality in the remainder of Oregon, but State statutes allowed local governments to form their own body responsible for local air quality.

Mr. Jennisen corrected the list of board representatives as outlined in the council agenda summary,

noting four were elected officials and three were at-large members.

Mr. Jennisen referred the council to proposed amendments to the Eugene Code being proposed by LRAPA, which regarded the use of wood stoves and limits on their use. LRAPA was asking the council to amend its ordinances to reflect the addition of PM5 particulate levels by the federal government. LRAPA was also asking the council to preclude the burning of garbage in wood stoves and fire places. He said that would give LRAPA a tool to address citizen complaints. LRAPA was also requesting an opacity regulation.

Mr. Kelly, seconded by Mr. Papé, moved to direct the City Manager to initiate the process to revise Section 6.250 of the Eugene Code.

Mr. Kelly said that the proposed amendments seemed acceptable.

Mr. Meisner asked for information regarding the total of the City's contributions to LRAPA. He asked what other cities received from the DEQ in terms of air quality enforcement. He wanted to know what the community was getting from having its own agency rather than relying on the State service like other communities did.

Responding to a question from Ms. Bettman, Mr. Jennisen said that work regarding diesel emissions was occurring at a national level because no local ordinance could address the problem effectively. Winter wood smoke was a problem that could be addressed locally.

Ms. Nathanson hoped the information provided indicated whether the State contributed to the cost of LRAPA. She asked if there was evidence of the degree to which people voluntarily comply on yellow days and stop using wood stoves. Mr. Jennisen said that LRAPA had some evidence of effectiveness through its surveying. He said that there was evidence that there was 50 percent voluntary compliance.

Mr. Papé agreed another work session was needed. He suggested that the problem was compounded by EWEB rate increases, and wondered if the council should consider the issue more comprehensively. He asked if wood stoves were becoming more efficient. Mr. Jennisen said yes. He noted Oregon's pioneering work in certifying stoves.

Mr. Rayer determined from Mr. Jennisen that cities had local ordinances related to wood stoves because

there were no statewide ordinances.

The motion passed unanimously, 7:0.

The meeting adjourned at 1:28 p.m.

Respectfully submitted,

James R. Carlson

City Manager pro tem

(Recorded by Kimberly Young)

appreciation for the work of the task team. He said that on occasion, when the council was considering amendments to the City's criminal ordinances, it asked the judge for input. He wanted to do so as a matter of policy and practice in the future. He asked that staff follow-up in ensuring that occurred.

Mr. Prozanski credited Municipal Court staff for the work it did in helping the task team complete the evaluation. He said it made the task team's job much easier.

Speaking to Ms. Nathanson's remarks regarding the road crew, Mr. Prozanski said that in his experience as a prosecutor for Florence the Road Crew was in high demand, and Lane County was the only agency offering that service. He suggested that the City might consider operating its own crews, over which it would have control.

#### **D. WORK SESSION: Request from the Lane Regional Air Pollution Authority (LRAPA) to Revise Eugene Code Section 6.250**

The council was joined by Brian Jennison of the Lane Regional Air Pollution Authority (LRAPA), who asked the council to amend the City Code related to new standards for certain types of particulate matter.

Mr. Kelly asked the source of the proposed standards, and how often staff envisioned the conditions that the standards were intended to address occurring. Mr. Jennison said that the source of the standard was the federal health-based standard for fine particulates, PM 2.5, and LRAPA wished to avoid violating that regulation; if it could preclude emissions when the community reached a reading of 55, it could avoid violating the federal standard. He said that a Stage 1 advisory had never been called, and the agency had been using PM 2.5 all year; it had called more yellow advisories than in the past.

Mr. Kelly referred to new subsection 4 of the proposed ordinance and said that while red was defined, "green" and "yellow" were never defined. He suggested legal counsel check into that. He asked if "opacity" was easy to measure in the field. He also asked what the likely impact would be of a green/yellow advisory: no more wood stove use? Mr. Jennison said those who use wood stoves properly will have no problem with the opacity limitation. It was an enforcement tool to help inspectors in the field determine whether a particular wood stove was a neighborhood nuisance.

Mr. Papé asked how the ordinance would be enforced. Mr. Jennison said that the City Manager had,

through administrative order, delegated the enforcement of the rule to LRAPA. LRAPA had been enforcing the ordinance for some time. If the agency had to call a red, it would send out field staff. Inspectors would knock on the doors of offenders and ask them to stop burning. If they refused, they could be cited and fined.

Mr. Papé determined from Mr. Jennison that Section 6.250(3) was a list of what constituted garbage and could cause dense smoke if burned. Mr. Papé determined that the ordinance applied to fireplaces, and asked about fireplaces and stoves that were ignited by propane or gas. Mr. Jennison was not aware of a fireplace which was ignited by gas and burned wood. If a fireplace was designed to be started with a gas fuel, the ordinance would not apply. He said that the focus of the ordinance was on items thrown into a fire after it was started. Mr. Papé was aware of such fireplaces, and was concerned about the specificity in Section 6.250(3), particularly the mention of petroleum byproducts. Mr. Jennison said that the reference to petroleum by-products was a reference to waste oil and rags, for example. He emphasized that the focus was on solid-fuel space heating devices, which did not include gas heated fireplaces.

Mr. Papé determined from Mr. Jennison that LRAPA's enforcement officers could decide whether the ordinance was being violated by evaluating degrees of opacity.

Mr. Farr thanked Mr. Jennison for the work that LRAPA did. He determined from Mr. Jennison that barbeques and the cooking of food for human consumption were exempt from the ordinance. He asked how arbitrary enforcement could be avoided. Mr. Jennison said that he was also concerned about arbitrary enforcement and wanted to ensure that enforcement was consistent. LRAPA's inspectors were trained professionals who were also concerned about not being arbitrary. The ordinance gave LRAPA an opportunity to talk to people and educate them on how to burn their stoves more cleanly. That was LRAPA's preferred approach.

Ms. Bettman supported the changes being proposed. She appreciated that LRAPA emphasized citizen education, which kept polluting materials out of wood stoves. She hoped the agency did actual outreach, particularly during holiday times when people considered burning paper. She noted that increased particulates in the air and the hazard of asthma. Mr. Jennison said that Public Information Director Kim Metzger did public outreach year-round, and LRAPA did considerable public outreach around the holidays. He agreed about the importance of that outreach.

Mr. Meisner indicated support for forwarding the item to a public hearing. He expressed appreciation for the materials provided with the agenda item. He noted that LRAPA was unique to Lane County and that troubled him. He wanted to balance local needs and protections with what others were doing. He said that his sentiments were not a reflection on LRAPA's work, but he thought the community should look at why it needed to be unique in the state with its own bureaucracy, rather than relying on a State bureaucracy that apparently satisfactorily served other communities.



Ms. Taylor said LRAPA focused on education rather than penalizing people.

Mr. Kelly said he liked the specificity in the ordinance and suggested a line be included that stated petroleum products used to ignite a fireplace were not to be included in the prohibition against petroleum.

Mr. Papé referred to page 63 of the agenda packet and said it appeared there could be up to a \$500 fine levied in a process outside the court system. Mr. Kelly noted that fines were appealable. Mr. Jennison said that referred to the administrative penalty. He said that if LRAPA got to the point where it had to request a penalty, there would be legal recourse available to those cited.

Ms. Taylor said that the fines were appealable, negotiable, and fair.

Mr. Jennison said that the fine could be appealed to a Hearings Officer, to the LRAPA Board, and then to the courts.

Mr. Kelly, seconded by Mr. Papé, moved to direct the City Manager to hold a public hearing on June 24, 2002, on an ordinance to revise Section 6.250 of the Eugene Code. The motion passed unanimously, 8:0.

#### **E. WORK SESSION: City Manager Recruitment**

Human Resource and Risk Services Director Lauren Chouinard joined the council for the item. He referred the council to the agenda item summary, which outlined the options for proceeding with the city manager recruitment process. Option A would begin the next phase of the recruitment process in July 2002; Option 2 would begin the next phase of the process in late September 2002. Mr. Chouinard requested council direction on the timing of the process.

Mayor Torrey solicited a first round of council comments.

Councilor Farr said that one of the reasons the council was pressed for time was because of discussions like this. He said that the City benefitted from LCOG and had a good working relationship with LCOG. He saw no reason to delay action, and did not object to a work session, although he thought one-on-one conversations with LCOG staff more appropriate.

Councilor Bettman wanted to be able to support the resolution but did not feel comfortable doing so now as "there were some questions out there."

Councilor Bettman, seconded by Councilor Taylor, moved to postpone the item until a work session could be scheduled within 90 days.

Councilor Papé suggested that the City would be acting illegally if it continued to contribute to the organization in the meantime.

Mayor Torrey indicated he would vote to support the motion in the event of a tie.

Councilor Papé reiterated his concern that the City was not a member. Mr. Lidz said that the City and LCOG were operating under the assumption that the City was a member; he suggested that it could be argued that assumption was undermined by the City's failure to adopt the resolution.

Roll call vote; the vote on the motion was a 4:4 tie, councilors Kelly, Taylor, Bettman, and Rayor voting yes; councilors Nathanson, Farr, Meisner, and Papé voting no; Mayor Torrey cast a vote in support of the motion and the motion passed on a final vote of 5:4.

#### **4. PUBLIC HEARING: An Ordinance Concerning Solid Fuel Space Heating Devices and Amending Sections 6.250 and 6.255 of the Eugene Code, 1971**

City Manager Carlson reminded the council that it held two work sessions on the topic. Brian Jennisen, Lane Regional Air Pollution Authority (LRAPA) Director, was present to answer questions.

Mayor Torrey opened the public hearing. There being no requests from the public to speak, Mayor Torrey closed the public hearing.

Councilor Kelly asked if a "green" and "yellow" advisory needed to be defined to support enforcement

actions. Mr. Jennisen reported that LRAPA had provided definitions of green and yellow advisory to City staff. He said that an exemption for natural gas log lighters was also included to address the concerns previously raised by Councilor Papé.

Mayor Torrey indicated action on the item was scheduled for July 22, 2002.

**5. ACTION: Approval of Minutes, Findings, and Recommendations from the Hearings Official and Adoption of an Ordinance Levying Assessments for Paving, Curbs, and Gutters, Sidewalks, and Storm Sewers on Ayres Road from Delta Highway to Gilham Road and on Gilham Road from Ayres Road to Honeywood Street; and Providing an Effective Date (CONTRACT 2001-26) (JOB #3367)**

Mayor Torrey recused himself from the item because of his residence near Ayres Road. Council President Kelly assumed the chair.

Councilor Papé, seconded by Councilor Nathanson, moved to approve the minutes, findings, and recommendations of the Hearings Official of July 1, 2002.

Councilor Papé, seconded by Councilor Farr, moved to continue the item to September 223, 2002.

Councilor Papé said that because the item was contentious and he believed that the issues involved could be resolved, he proposed delaying action. He understood from neighbors that the road was not built as designed and there was considerable puddling on the roadway.

Councilor Bettman said that the agenda item summary indicated staff wished to move forward with the project because the interest on the project would accrue to the property owners. She asked if postponement would affect the interest, and if the property owners would expect the City to pay the interest if the council postponed the project. Paul Klope of the Public Works Engineering Division said that interest for the project funding was accruing at the rate of approximately \$2,000 monthly, and that was allocated to the City and involved property owners on a pro rated basis. The property owners would pay a quarter of the interest costs based on the proportion of the assessment costs of approximately \$236,000 to the City for the project of about \$1 million during the delay, unless the City assumed that cost. He said that to this point, the interest had accrued on the straight ratio he mentioned earlier; if the council chose to delay the project and a decision was made to accrue the interest to the property owners,

**V. ACTION: An Ordinance Concerning Solid Fuel Space Heating Devices and Amending Sections 6.250 and 6.255 of the Eugene Code, 1971**

City Manager Carlson asked the council to consider Council Bill 4798, an ordinance concerning solid fuel space heating devices and amending Sections 6.250 and 6.255 of the Eugene Code, 1971.

Councilor Kelly, seconded by Councilor Papé, moved that the bill, with unanimous consent of the council, be read a second time by council bill number only, and that enactment be considered at that time. Roll call vote; the motion passed unanimously, 7:0.

City Manager Carlson asked the council to consider Council Bill 4798 by number only.

Councilor Kelly, seconded by Councilor Papé, moved that the bill be approved and given final passage. Roll call vote; the motion passed unanimously, 7:0, and became Ordinance No. 20261.

The meeting adjourned at 10:45 p.m.

Respectfully submitted,

James R. Carlson

City Manager pro tem

(Recorded by Joe Sams)