

**BYLAWS OF THE  
RAPID CITY AREA AIR QUALITY BOARD**

**Article I. Name of the Board**

The name of this organization shall be the Rapid City Area Air Quality Board, hereinafter referred to as "the Board."

**Article II. Authorization**

This Board is established pursuant to Pennington County Ordinance No. 12 Revised, "Air Quality Ordinance" and Rapid City Municipal Code Chapters 8.34 through 8.44.

**Article III. Purpose**

The purpose of the Board is to achieve and maintain compliance with the National Ambient Air Quality Standards in accordance with Pennington County Ordinance No. 12 Revised, Air Quality Ordinance and Rapid City Municipal Code Chapters 8.34 through 8.44. Further, the Board shall achieve and maintain the PM10 National Ambient Air Quality Standards by controlling fugitive emissions including street sanding, parking lots, continuous operations and construction as well as open burning and wood burning so as to protect the health and welfare of all the people who inhabit the county and the city; to limit environmental damage to plant and animal life within the county and the city; and to promote commercial and industrial development while limiting environmental degradation; and to educate the residents of the county and the city of air quality issues.

**Article IV. Responsibilities and Duties of the Board**

The duties of the Air Quality Board shall be to advise the Rapid City Air Quality Division, review and approve compliance plans, serve as an appeals board for contested permits and violations, and make recommendations to the Pennington County Commission and the Rapid City Council on policies relating to the air quality of Pennington County and Rapid City.

## ~~Article V. Membership~~

~~The Board shall consist of seven voting members and three non-voting ex-officio members. Six of the voting members of the Air Quality Board shall be appointed by the Mayor of Rapid City and confirmed by the Rapid City Council for a term of three (3) years on a staggered term basis. One of the voting members (the at large member) will be appointed by the Pennington County Commission for a term of three (3) years when this term is up for appointment or reappointment. The voting members will include:~~

- ~~1. Two members representing industry.~~
- ~~2. One member representing the engineering profession.~~
- ~~3. One member representing environmental interests.~~
- ~~4. One member representing homeowners.~~
- ~~5. One member representing the business community.~~
- ~~6. One member at large.~~

~~\_\_\_\_\_The three ex-officio members shall include:~~

- ~~1. One member representing State Government. (Secretary of the Department of Environment and Natural Resources or designee.)~~
- ~~2. One member representing the City of Rapid City, South Dakota. (Mayor of Rapid City or designee.)~~
- ~~3. One member representing the Pennington County Commission. (Chairman of Pennington County Commission or designee.)~~

~~The terms of all members shall begin September 1 and terminate on August 31 of the appropriate year. Members may be reappointed for a second three-year term. Appointments to fill vacancies shall be for only the unexpired portion of the term. No member shall serve more than two consecutive terms. However, exceptions to this provision may be approved to allow a one-year extension when it is in the best interest of the city and county by providing continuity of board membership.~~

~~Three (3) consecutive unexcused absences of a member of the Board from regularly scheduled meetings shall result in a recommendation to the Pennington County Commission or the Rapid City Council to replace that member. All absences shall be considered unexcused unless a majority of the Board votes to excuse an absence.~~

## Article ~~VI~~ V. Officers

Section 1. The officers of the Air Quality Board shall consist of a ~~Chairman~~ Chair and ~~Vice-Chairman~~ Chair-Elect.

Section 2. The ~~Chairman~~ Chair shall preside at all meetings and hearings of the Board and shall have duties normally conferred by parliamentary usage on such officers. The ~~Chairman~~ Chair shall designate a member to monitor the financial condition of the Air Quality Division.

Section 3. The ~~Vice-Chairman~~ Chair-Elect shall act for the ~~Chairman~~ Chair in his or her absence.

## Article ~~VII~~ VI. Election of Officers

Section 1. An annual organizational meeting shall be held at the regular meeting in September.

~~Section 2. Nominations may be made by a nominating committee which will be appointed by the Chairman at the regular meeting in September and/or from the floor at the organizational meeting. Election of officers specified in Section 1 of Article VI shall immediately follow the nominations.~~

Section 2. The Chair-Elect shall be considered the Chair at the September meeting and shall serve for one year or until his or her successor shall take office.

Section 3. At the September meeting, nominations shall be taken for the Chair-Elect.

Section 3 4. A candidate for Chair-Elect receiving a majority vote of the entire membership of the Board shall be declared elected and shall serve for one year or until his or her successor shall take office.

Section 4 5. Any officer can be removed from office by a 75% vote of all voting members at a regular Board meeting provided said officer is notified of the proposed removal 15 days before the meeting. In the event of the removal or resignation of the ~~Chairman~~ Chair, the ~~Vice-Chairman~~ Chair-Elect shall assume the ~~Chairman's~~ Chair's responsibilities for the remainder of the term. In the event the ~~Vice-Chairman's~~ Chair-Elect's position is vacated the office shall be filled at the next regular meeting by the regular election procedure and shall be for the remainder of the term.

## Article ~~VIII~~ VII. Meetings

Section 1. Six regularly scheduled meetings shall be held per year at a time and place determined by the Board. Public notice of the meetings, including proposed agendas, shall be provided at least twenty-four hours prior to any meeting. Public notice shall be made by posting copy of the notice, visible to the public, at the City of Rapid City Air Quality Division. For special or rescheduled meetings notice shall be delivered in person or by mail or by telephone to members of the local news media who have requested notice.

Section 2. A quorum shall consist of four (4) members of the Board. Voting shall be by oral question and answer.

Section 3. Special meetings may be called by the **Chairman Chair**. It shall be the duty of the **Chairman Chair** to call a special meeting when requested to do so by a majority of members of the Board. All members of the Board shall be notified not less than 24 hours in advance of such a special meeting.

Section 4. All meetings or portions of meetings at which official action is taken shall be open to the general public. However, the Board may meet in closed session to discuss personnel or legal matters in accordance with South Dakota law.

Section 5. Unless otherwise specified, Robert's Rules of Order shall govern the proceedings at the meetings of this Board.

**Article ~~IX~~ VIII. Order of Business**

The order of business at regular meetings shall be as follows:

1. Call to Order
2. Approval of Minutes
3. Approval of Meeting Agenda
4. Reports from Committees and Staff
5. Old Business
6. New Business
7. Items from Board Members
8. Items from the Floor
9. Adjournment

Minutes of the May 10, 2004  
Meeting of the Rapid City Area Air Quality Board

1. Call to Order.

Pam Sutterfield called the meeting to order at 2:03 pm.

The following members were present: Joel Brannan, Jeni Leberknight, Bob Riggio, Duane Sudman, Pam Sutterfield and Tim Rogers

The following members were absent: George Nelson

Others Present: Marcia Elkins, Gale Holbrook, Patsy Horton, Jon Epp, Bill Waugh, Kathryn Henning, Ted Vore and Risë Ficken

2. Approval of Minutes

Riggio and Rogers requested corrections to the January 12, 2004 meeting minutes.

**Riggio moved, Rogers seconded and unanimously carried to approve the minutes of the January 12, 2004 meeting as corrected.**

3. Approval of the Meeting Agenda

Epp requested that Air Monitoring Reports for the Credit Union Site be added to the agenda.

**Sudman moved to approve the meeting agenda as amended. Rogers seconded the motion and it was approved unanimously.**

4. Reports from Staff and Committee

Elkins reported that the staff and City Council members have continued to receive Air Quality complaints from the residents in Wellington Heights Subdivision noting that staff is now on the site 3-5 times per week. Elkins indicated that while staff has not observed any visible emissions from the site since the first time a complaint was received, one of the complainants still has concerns with property damage from dust. Elkins stated that she had asked the complainant to attend the Air Quality Board meeting to discuss his belief that the site should be monitored and the ordinance revised. Elkins advised that she had contacted the State of South Dakota Department of Environment and Natural Resources to discuss the possibility of installing a micro-site monitoring unit on the Wellington Heights property. She noted that concerns were expressed by the Department of Environment and Natural Resources staff regarding the expense

for this type of monitoring equipment and the science behind monitoring these larger particles.

Discussion followed concerning the possibility of using saturation monitors on the site, costs associated with availability, installing and monitoring the equipment, issues concerning the accuracy of the equipment and the need to recalibrate the equipment.

Leberknight suggested that this issue may need to be addressed by the City Council. Elkins advised that both Alderman French and Alderman Hanks have been contacted and Elkins added that Alderman French has visited the site with her in response to a complaint.

In response to a question from Waugh, Brannan explained that if the contractor continually watered the dirt piles on the site mud tracking issues would occur. Elkins stated that it is possible that home construction in the development could continue anywhere from 12-36 months. Elkins explained that the developer is building the first homes across the street from the existing homes to try to buffer the existing homes from the long term effects of the dust from the on-going development. Elkins stated that she would contact the Department of Environment and Natural Resources again concerning the possibility of using a saturation monitor on the site.

Elkins advised that the Department of Transportation staff contacted the Air Quality staff concerning a problem with dust from what appeared to be the 5<sup>th</sup> Street construction project north of Catron Boulevard. Elkins explained that because the dust coming from the site was so heavy that it was an obvious health and safety issue and staff issued a stop work order to the contractor. Elkins noted that it was later determined that the dirt work was part of a State Transportation project.

Discussion followed concerning the possibility for staff to meet with area contractors to develop a control strategy for those times when wind speed exceeds forty miles per hour. Brannan suggested that a letter be sent to the contractors reminding them of their responsibility to have a water truck on site to mitigate some of the fugitive emission problems that are continuing and advising that if these issues aren't voluntarily resolved further action will be taken.

Elkins stated that there does not appear to be any provisions in the Air Quality Ordinance that gives staff the authority to require that a water truck be kept on a particular site at all times. Rogers suggested that the requirement for a water truck to be kept on site could be included on the Air Quality permit. Discussion followed concerning the language in the ordinance. Elkins indicated that she would discuss the language in the ordinance with City Attorney Jason Green.

**Brannan moved to direct staff to draft a letter to area contractors stating that voluntary controls should be implemented during extreme weather conditions and that if voluntary measures are not taken to reduce emissions more stringent requirements may be implemented. Riggio seconded the motion and it carried unanimously.**

Elkins reported that a number of complaints have been received concerning a large graded area with minimal vegetation near an apartment complex in the Harmony Heights area. Elkins advised that the property owner has been contacted and has indicated that the area will be re-seeded. Discussion followed.

5A. Review of Amendments to the Air Quality Board By-Laws

Elkins advised that the changes as requested by City Attorney Jason Green and the Board at their last meeting are shown on the attached draft Amendments to the By-Laws. Elkins recommended approval of the By-Laws as amended.

In response to a question from Riggio, Elkins advised Attorney Green requested that Article V be removed as it is addressed in the ordinance and does not need to be restated in the By-Laws.

**Riggio moved to adopt the Air Quality Board By-Laws as amended. Sudman seconded the motion.**

Rogers expressed concern with the proposed procedure for election of Chair-Elect noting that the Chair may want to hold the office for more than one year. Discussion followed.

**The motion to adopt the Air Quality Board By-Laws as amended carried (4 to 1 with Rogers voting no).**

5B. Review of Ordinance Amendments to Include Alert Criteria Similar to State Regulations

John Epp advised that that Brad Shultz indicated that it is their opinion that the word "forecasted" should not be removed from 8.40.020 B and C. Epp emphasized that a contractor is exempt from those conditions only if an alert has been issued noting that the conditions would need to be measured individually if the word "forecasted" is removed. Discussion followed concerning enforcement issues, maintaining consistency with State regulations, calculating average wind speeds, and the potential for using anemometers on site.

Elkins suggested that action be taken on the ordinance amendments currently before the Board and then staff can begin to work with contractors to develop

additional amendments for consideration by the Board at a later date. Discussion continued concerning average hourly wind speeds and meeting with contractors to obtain input regarding additional amendments to the ordinance.

**Sudman moved to continue the review of Ordinance Amendments to include Alert Criteria Similar to State Regulations to the July 12, 2004 meeting to allow staff to clarify language contained in Section 8.40.20C regarding average hourly wind gusts. Leberknight seconded the motion and it carried unanimously.**

**Leberknight moved to direct staff to hold a meeting with contractors to develop an action plan for high wind events. Sudman seconded the motion.**

Elkins reminded the Board that Teresa Whitney would not be back until after the first of June. In response to a question from Rogers, Elkins stated that the Black Hills Homebuilders is a local association that could provide input. Brannan noted that many contractors are members of the Associated General Contractors. Rogers suggested that the contractor groups assist with the language. Elkins indicated that staff could contact these groups to begin the process. Discussion followed regarding scheduling meetings during the contractor's building season and the limited staff time available to address the issue at this time.

**Sutterfield called the question.**

**The motion to direct staff to hold a meeting with contractors to develop an action plan for high wind events failed.**

**Rogers moved to direct staff to initiate action to work with contractors to develop controls for high wind events and report to the Board at the July 12, 2004 meeting. Sudman seconded the motion and it carried 3 to 2 with Brannan and Riggio voting no)**

6A. Weekend Call-Out Procedures

Elkins advised that a process is in place requiring a contractor to call the City staff when they are working on the weekend and an inspector will go to the site to check the work. Elkins explained that the contractor failed to follow these procedures in the Wellington Heights issue. Elkins suggested that the process should remain in place unless there are additional problems that warrant further review of the procedures. Elkins stated that the Police Department would prefer not to become involved in addressing Air Quality complaints.

6B & 6C. Out of the Dust Program and Unpaved Streets and Alleys

Elkins indicated that the Public Works Department has prepared a report for the Out of the Dust Program as requested noting that Ted Vore was available to discuss the information. Elkins added that the Board had requested additional



information concerning the unpaved streets and alleys in the Air Quality Zone noting that the information was also provided. Riggio requested clarification concerning the status of the fugitive dust inventory noting that when the inventory is completed modeling can be done to determine the impact on air quality as a result of paving these roads. Elkins responded that no work has been done on the inventory since Teresa Whitney left on maternity leave. Elkins reviewed the staff priorities. Riggio requested that Teresa Whitney brief the Board on the status of the fugitive dust inventory at the next meeting.

6D. Covered Trucks

Elkins reported the City has an ordinance addressing covered trucks and noted that a copy of the ordinance was included in the packet.

6E. Complaint on Right-of-Way Burn

Elkins reviewed the concerns a citizen submitted via e-mail regarding a right-of-way burn that occurred as a part of the Police Department's neighborhood clean-up efforts for Operation Safe Path. Elkins stated that she had told the complainant that she would provide the information to the Board. Elkins noted that the complainant would like to see a more active approach taken to notify area residents prior to such a burn. Discussion followed.

7. Items from Board Members

Sutterfield advised that she will no longer be working at Estes Law Firm after the end of the month noting that she is going to work for John Thune.

Holbrook expressed concern that last Friday evening he and his wife were driving west on Omaha Street and noticed that there was a large amount of dust coming off the volleyball courts. Holbrook noted that the monitoring station at the library is downwind of the volleyball courts.

Riggio left the meeting at this time.

In response to a question, Elkins indicated that the park is not sprinkled. Waugh noted that the dust is not as noticeable during the day, but is noticeable at night when the lights are on.

Holbrook expressed concern regarding the discussion relating to having a water truck on each site. Holbrook suggested a paragraph should be included in the letter advising that the Board would like to discuss this issue and would like to have a representative at the next meeting. Elkins stated that she would send out a draft letter for review by the Board prior to mailing the letter to the contractors. Brannan requested that the draft letter be distributed via e-mail.

8. Items from the Floor

Epp distributed graphs containing the PM10 data from the Credit Union site for the first and second quarters for 2004. In response to a question from Waugh, Epp indicated that he could obtain data from last year for comparison purposes. Rogers asked if the Board could receive on-going plot of data for all of the sites in Rapid City. Epp stated that it is on the list of priorities, but there is no projected timeframe for completion or when those reports would be available.

**Sudman made a motion to adjourn the meeting. Leberknight seconded the motion and it was approved unanimously.**

The meeting was adjourned at 3:16 pm.