



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

## PLANNING DEPARTMENT

300 Sixth Street

Teresa Whitney, Air Quality Specialist  
Air Quality Division  
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### MEMORANDUM

TO: Public Works Committee

FROM: Teresa Whitney, Air Quality Specialist

DATE: January 19, 2004

RE: Follow up on Air Quality Board Action for the Wellington Heights Construction Project

At the December 30, 2003 Public Works Committee meeting, the committee requested that the Air Quality Board meet with the homeowners near the Wellington Heights construction project as well as the contractors and developers involved in the construction project to review the ongoing complaints regarding fugitive dust.

One of the complainants and several parties involved in the construction activities at or near the Wellington Heights construction project attended the January 12, 2004 Air Quality Board meeting. The Board reviewed the information presented by various parties as well as the Air Quality Division staff and discussed the complaints related to the fugitive dust problems at the Wellington Heights construction project. The Board voted unanimously to take no action regarding the complaints associated with this site. The reasons the Board decided to take no action are as follows:

- The City and County Ordinances have emission limits and control measures for construction activities. The ordinance does not require zero emissions from a construction activity.
- When City staff conducted inspections at this site, the contractor or developer was either in compliance with the emissions limits and control measures or if they were not in compliance with a specific requirement, they were given the opportunity to correct the problem. In this case, the contractor or developer complied with staff's requests. The Board's enforcement policy is to give an offender the opportunity to correct a problem prior to pursuing formal enforcement action. If the offender refuses to correct a problem or ignores staff's requests, then staff will proceed with formal enforcement action.



EQUAL OPPORTUNITY EMPLOYER

The Board understands that this project got started on a Saturday under poor conditions when the Air Quality staff was not able to respond to the fugitive dust problems. Since that time, the contractors and developers have taken reasonable measures to control fugitive dust at this site to minimize the amount that goes off site. Even though some fugitive dust has gone off this site, the amount of dust has not been to the extent that there was a violation of the ordinance. A follow up letter has been sent to the concerned homeowners in the area regarding the Board's decision (see attached).

The Committee further directed the Air Quality Board to review whether amendments to the Air Quality Ordinance were needed. Although it would not have made a difference in the outcome of the ongoing complaints at the Wellington Heights construction project, the Board did decide to review potential changes to the ordinance to be consistent with the State regulations regarding exemptions to the opacity readings. The minutes of the January 12, 2004, Air Quality Board meeting have been attached for your information.



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

## PLANNING DEPARTMENT

300 Sixth Street

Rapid City Area Air Quality Board

Phone: 605-394-4120

Fax: 605-394-6636

January 19, 2004

Mrs. Lois Ward  
6524 Wellington Dr  
Rapid City, SD 57702

Dear Mrs. Ward,

Thank you for presenting your concerns regarding fugitive dust at the Wellington Heights construction project at the Rapid City Air Quality Board meeting on January 12, 2004. The Board discussed the complaints related to the fugitive dust problems at the Wellington Heights construction project. The Board voted unanimously to take no action regarding the complaints associated with this site. The reasons the Board decided to take no action are as follows:

- The City and County Ordinances have emission limits and control measures for construction activities. The ordinance does not require zero emissions from a construction activity.
- When City staff conducted inspections at this site, the contractor or developer was either in compliance with the emissions limits and control measures or if they were not in compliance with a specific requirement, they were given the opportunity to correct the problem. In this case, the contractor or developer complied with staff's requests. The Board's enforcement policy is to give an offender the opportunity to correct a problem prior to pursuing formal enforcement action. If the offender refuses to correct a problem or ignores staff's requests, then staff will proceed with formal enforcement action.

The Board understands that this project got started on a Saturday under poor conditions when the Air Quality staff was not able to respond to the fugitive dust problems. Since that time, the contractors and developers have taken reasonable measures to control fugitive dust at this site to minimize the amount that goes off site. Even though some fugitive dust has gone off this site, the amount of dust has not been to the extent that there was a violation of the ordinance.

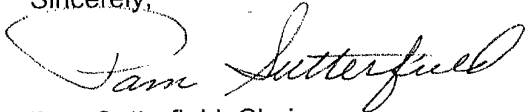


EQUAL OPPORTUNITY EMPLOYER

Mrs. Ward  
January 19, 2004  
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Thank you again for your interest in the air quality of Rapid City and we appreciate your appearance at the Board meeting. Please continue to work with the Air Quality Division staff if visible fugitive dust is going off this site.

Sincerely,

A handwritten signature in cursive script that reads "Pam Sutterfield". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Pam Sutterfield, Chairperson  
Rapid City Air Quality Board Chairperson

Cc: Rapid City Air Quality Board  
Mayor Jim Shaw  
Public Works Committee  
Rapid City Council



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

## PLANNING DEPARTMENT

300 Sixth Street

Rapid City Area Air Quality Board

Phone: 605-394-4120  
Fax: 605-394-6636

January 19, 2004

Mrs. Judy Harter  
6518 Wellington Dr  
Rapid City, SD 57702

Dear Mrs. Harter,

Thank you for expressing your concerns regarding fugitive dust at the Wellington Heights construction project. On January 12, 2004, the Rapid City Air Quality Board discussed the complaints related to the fugitive dust problems at the Wellington Heights construction project. The Board voted unanimously to take no action regarding the complaints associated with this site. The reasons the Board decided to take no action are as follows:

- The City and County Ordinances have emission limits and control measures for construction activities. The ordinance does not require zero emissions from a construction activity.
- When City staff conducted inspections at this site, the contractor or developer was either in compliance with the emissions limits and control measures or if they were not in compliance with a specific requirement, they were given the opportunity to correct the problem. In this case, the contractor or developer complied with staff's requests. The Board's enforcement policy is to give an offender the opportunity to correct a problem prior to pursuing formal enforcement action. If the offender refuses to correct a problem or ignores staff's requests, then staff will proceed with formal enforcement action.

The Board understands that this project got started on a Saturday under poor conditions when the Air Quality staff was not able to respond to the fugitive dust problems. Since that time, the contractors and developers have taken reasonable measures to control fugitive dust at this site to minimize the amount that goes off site. Even though some fugitive dust has gone off this site, the amount of dust has not been to the extent that there was a violation of the ordinance.



EQUAL OPPORTUNITY EMPLOYER

Mrs. Harter  
January 19, 2004  
Page 2

Thank you again for your interest in the air quality of Rapid City. Please continue to work with the Air Quality Division staff if visible fugitive dust is going off this site.

Sincerely,

A handwritten signature in cursive script that reads "Pam Sutterfield". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Pam Sutterfield, Chairperson  
Rapid City Air Quality Board Chairperson

Cc: Rapid City Air Quality Board  
Mayor Jim Shaw  
Public Works Committee  
Rapid City Council

Minutes of the January 12, 2004  
Meeting of the Rapid City Area Air Quality Board

1. Call to Order.

Pam Sutterfield called the meeting to order at 2:01 pm.

The following members were present: Joel Brannan, Jeni Leberknight, George Nelson, Bob Riggio, and Pam Sutterfield.

The following members were absent: Tim Rogers and Duane Sudman

Others Present: Teresa Whitney, Marcia Elkins, Brad Schultz, Jon Epp, Bill Waugh, Gene Nelson, Dave Lafrance, Patsy Horton, Gene Quinn, Doug Lind, Jan Gies, Kent Hagg, Del Voth and Lois Ward.

2. Approval of Minutes

**Brannan moved to approve the minutes of the November 10, 2003 meeting. Leberknight seconded the motion and it was approved unanimously.**

3. Approval of the Meeting Agenda

**Brannan moved to approve the meeting agenda. Nelson seconded the motion and it was approved unanimously.**

4. Special Item

A. Discussion on Wellington Heights Construction Project

Waugh clarified that the Board could make a recommendation on suggested revisions to the ordinance for consideration by the Public Works Committee and City Council.

Lois Ward reviewed the events at the Wellington Heights construction project that began in September 2003 and the dust problems experienced on her property since that time. Discussion followed on the dust that occurs when development is ongoing in an area. Ward discussed the zoning changes that have occurred after she purchased her home and moved into the area. In response to a question from Nelson, Ward indicated that she represented three family units living in the area north of the site.

In response to a question from Brannan, Whitney reviewed the conditions she observed at the site when responding to complaints.

Gene Quinn, the site developer, presented copies of a letter to the editor from another neighborhood resident that had been published in the newspaper.

Doug Lind with Lind Exco addressed the Board and reviewed the history of his company's efforts to maintain dust control on the site while excavating and removing soil from the site. He indicated that his company was on the site for only about two weeks.

Kent Hagg, developer of the area adjoining Wellington Heights and a neighborhood resident, noted that on the initial Saturday in September the site was very dusty. He reviewed the efforts that have been made since that time to address the fugitive dust, noting that since the initial day, the developer has made every effort to address the dust issues on the site. Discussion

followed on what additional efforts could be taken to mitigate the impacts of the fugitive dust from construction sites.

In response to a question from Nelson, Whitney indicated the contractors and developers had been willing to work with staff and her requests for dust control at the site.

Sutterfield reviewed an e-mail from Tim Rogers regarding the efforts to address the neighborhood complaints.

**Nelson moved to recommend that no action be taken on the complaint.** Discussion followed. Leberknight suggested that the Board consider ordinance amendments and that a written response be provided to Ward as she left before the discussion was completed. **The motion was seconded by Brannan.** Discussion followed. Riggio reviewed the trackout conditions that reoccurred over a two week period. Discussion followed on the actions taken to address the problems, whether staff should be more aggressive in issuing notices of violations and what alternative measures could be taken to address the fugitive dust issue. **The motion was approved unanimously.**

Discussion followed on whether a letter should be sent to Mrs. Ward and Mrs. Harter. **Nelson moved to direct staff to draft a courtesy letter for the chairperson's signature indicating the action of the Board.** Leberknight seconded the motion. A brief discussion followed. **The motion was approved unanimously.**

Discussion followed on possible ordinance amendments to make the language consistent with the State regulations. Brannan noted that the State language would not have resulted in any different outcome of the ongoing complaints at the Wellington Heights construction project. He reviewed the limitations of watering the surface and the dust resulting from soil being excavated on the site or when vehicles cross the site. Discussion followed on how aggressive the Board would like to be in enforcing the Air Quality regulations and additional efforts that could be taken to minimize the fugitive dust. Elkins reiterated whether the Board would like modifications to the City ordinance to reflect the same language as the State regulations.

**Leberknight moved to direct staff to draft revisions to the City Ordinance to reflect the State regulations and bring back to the next meeting.** Brannan seconded the motion. **The motion was approved unanimously.**

## 5. Reports from Staff and Committee

### A. Staff Reports

Whitney noted that the staff reports had been distributed to the Board. Schultz noted that the State has been dealing with a complaint from a resident in the Saint Patrick Street area regarding smoke from wood burning. Schultz indicated that a nearby monitor had not revealed a significant problem. He indicated that the item is noted for information purposes only.

## 6. Old Business

### A. Update on Air Quality Awards

Whitney indicated that the Clean Air Achievement Award application had been completed and was ready for distribution. Brannan indicated that the information looked good.



B. Review Ordinance Amendment to Exclude the Airport Annexation

Whitney reviewed the amendment that would exclude the airport annexation area from the Air Quality Control Zone. **Nelson moved to recommend approval of the amendment modifying the Air Quality Control Zone to exclude the airport annexation. Leberknight seconded the motion and it was approved unanimously.**

C. Update on Special Fund for Future Air Quality Education programs

Whitney noted that the Council had approved the Board's request to establish a special fund for future air quality education programs with the money collected from the Drew settlement.

7. New Business

A. Discussion on Changes in Air Quality Board By-laws

Whitney noted that a copy of the existing bylaws has been distributed so that the Board could consider Riggio's suggestion that amendments be made so that the Vice-Chairperson would become the Chairperson and a new Vice-Chairperson would be elected each year. Discussion followed on the advantages and disadvantages of including such provisions in the by-laws. Nelson suggested that additional language be included to provide for situations where the Vice-Chairperson could not serve out their term as the Chairperson.

**Riggio moved to direct staff to draft revisions to the by-laws for consideration at the next meeting. The motion was seconded by Brannan and it was approved unanimously.**

8. Items from Board Members

None

9. Items from the Floor

Riggio left the meeting at this time.

Schultz reviewed the high wind alert that occurred on December 17, 2003. He noted that although there were high concentrations of PM10 that an exceedance of the standard had not occurred.

Waugh noted that the Wellington Heights neighborhood issue will likely be back in front of the City Council.

10. Adjournment

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

The meeting was adjourned at 3:33 pm.