

MINUTES
REGULAR SCHEDULED MEETING
SOLID WASTE MANAGEMENT ADVISORY COUNCIL
9:00 A.M., July 13, 2000
Grove Community Building
104 West 3rd Street
Grove, Oklahoma

These Minutes are a summary of the meeting held July 13, 2000, as required by the Open Meeting Act. The meeting was recorded and the tapes are available for inspection and copying at the Waste Management Division Office located in Oklahoma City, Oklahoma, 405-702-5213.

This meeting was convened in accordance with the notice of regularly scheduled council meetings on file at the Office of the Secretary of State as required by the Open Meeting Act, Section 311 of Title 25 of the Oklahoma Statutes. This notice was filed with the Secretary of State by December 15, 1999. The agenda for this meeting was posted on the entrance door of the Oklahoma Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma and the Grove Community Building, 104 West 3rd Street, Grove, Oklahoma, 24 hours prior to the meeting in accordance with Section 311 of the Open Meeting Act.

Agenda Items 1 and 2.

Chairman Ken Purdy called the meeting to order at approximately 9:00 am. Roll call was taken and the following council members were present: Steve Mason, Tom Canfield, Ken Purdy, Steve Landers, Bill Torneten, and Casey Elliott. David Griesel, Ralph Triplett, Jr., and Jay Stout were absent. A quorum was declared present.

Mr. Purdy welcomed members of the public and Mr. Jerry Johnston of the Environmental Quality Board.

Agenda Item 3. APPROVAL OF THE MINUTES OF THE APRIL 13, 2000 REGULAR MEETING

Motion was made by Steve Mason and seconded by Casey Elliott to approve the minutes of the April 13, 2000 meeting. A roll call vote was taken and the motion passed unanimously.

Agenda Item 4. PUBLIC FORUM

Mr. Purdy then opened discussion for public forum. No comments were made.

Agenda Item 5. SOLID WASTE PROGRAM STATUS REPORT

Fenton Rood gave an update of recent legislative actions and the bills signed by the Governor after this past legislative session. Handouts of the Solid Waste Management Act, with changes approved by the Governor annotated, were also provided. Significant to Solid Waste was a new statute prohibiting the siting of a municipal solid waste landfill in an area with karst topography.

Agenda Item 6. PUBLIC HEARING AND DISCUSSION OF PROPOSED CHANGES TO OAC 252:510 AND 252:520

Jon Roberts stated that the DEQ has been undergoing a rewrite/dewrong process to review the rules, delete outdated rules and/or unused rules, and to create rules that are more user friendly. At the last council meeting, proposed changes to OAC 252:510 and 252:520 were passed. Subsequent to that council meeting, the DEQ held meetings with the state auditor concerning the recent audit of the waste tire program. Based on those meetings, a few minor changes to the tire rules were needed to address the additional issues raised by the auditors.

Because of the changes needed to the waste tire rules, the decision was made not to send the 252:510 and 252:520 rules to the Board for their last meeting. Rather the DEQ felt the better method was to make the additional changes to the tire rules as recommended by the auditor, then present both sets of rules to the council

again today. Once approved today, both sets would be forwarded to the Board for their meeting August 29, 2000. A summary of the changes proposed in the 252:510 and 252:520 was provided.

The council was asked to adopt the revisions to OAC 252:510 and 252:520 as permanent, and the tire rules in Subchapter 21 of OAC 252:520 by emergency. The DEQ asked for the emergency provision so that the tire rules could be implemented as quickly as possible to address issues of compensation for the use of waste tires in river bank stabilization and other conservation projects.

The most significant comments were received from a representative of one of the waste tire processors in Oklahoma concerning the use of the waste tire tracking manifest and signature of the generator on the manifest when the land owner is not available. These issues were clarified. Other discussions followed with questions from the public and council, and were clarified by staff.

Mr. Torneton asked waste tire processor representative if their facility could operate without the Waste Tire Indemnity Fund. The Council was advised of numerous problems the State of Texas is having dealing with waste tires because they no longer have a state waste tire program. He commented that Oklahoma probably has one of the best waste tire management programs in the country, and that our program provides incentives to process waste tires.

Motion to approve OAC 252:510 as permanent was made by Steve Mason and seconded by Bill Torneten. A roll call vote was taken and the motion passed unanimously.

Motion was made by Steve Landers to adopt OAC 252:520 as permanent and seconded by Tom Canfield. A roll call vote was taken and the motion passed unanimously.

Motion to approve Subchapter 21 of OAC 252:520 by emergency was made by Steve Landers and seconded by Bill Torneten. A roll call vote was taken and the motion passed unanimously.

Agenda Item 7. DISCUSSION OF STATUS OF PROJECT ON IN-DEPTH REVIEW AND REVISION OF CURRENT SOLID WASTE RULES

Mr. Jon Roberts stated that the DEQ implemented a project to perform a thorough review of current rules due to requests from the regulated community. Monthly meetings are held to discuss certain aspects of the rules with those who are interested in participating in this project. To date, three meetings have been held. The first meeting was to discuss how we would conduct the entire project; the order in which to review rules and what the final product of the rules would be.

The second meeting discussed the final product and determined that the final product would be a single set of rules, which combined the 510s and 520s. Also discussed were the results of the Financial Assurance study by Steve Mason, President of Cardinal Engineering, Inc., the engineering firm contracted by DEQ to review cost estimates.

The third meeting began the discussion of specific rules. The first set of rules the regulated community wanted to look at was groundwater monitoring requirements and subsurface evaluations. From this meeting, we are now working to develop language for the rules, and address the comments and questions from the regulated community. The next scheduled meeting is July 26th in Tulsa, to discuss the proposed modifications to the groundwater rules, and possibly move forward to the next part of the rule rewrite process--permitting. For this topic, we will address permit application and permitting requirements. Mr. Roberts stated that everyone is cooperating well regarding both sides of the issues, and the meetings have been successful.

Mr. Bill Torneten asked how the council would be kept informed of the status of these meetings. Mr. Roberts stated that at each council meeting, we will have a section on the agenda to discuss the status of the project, and noted that most council members are on the e-mail list for the meeting summaries. In addition, the information is

on the DEQ web site.

Mr. Roberts further added that based on the requirements of the Office of Administrative Rules, we could not do anymore rule making actions until those passed today have been formally approved. The rules proposed today will go to the next Board meeting. The emergency rules, if the Governor signs them, would become effective on the date they are signed by the Governor. The permanent rules will go to the next legislative session, and would not become effective until next summer or late spring.

It was the consensus of the council that a separate report for general discussion and advisement purposes was to be submitted to council members at the end of each session, identifying areas of discussion and progress made.

Agenda Item 8. PRESENTATION OF THE SOLID WASTE FINANCIAL ASSURANCE PROGRAM REPORT

Mr. Steve Mason of Cardinal Engineering, Inc., presented this Report. Cardinal Engineering was retained 15 months ago by DEQ to examine the cost of closure and post closure for solid waste management facilities, both solid waste landfills and C&D type landfills. During this process, other state and federal programs were examined; the tasks involved in closing a facility were reviewed, unit costs were evaluated, and finally a procedure was developed for calculating what it should cost for closing a facility.

The purpose of the study was to determine what the costs of closure and post closure were, so that they would be accurate. Historically, the Department has been criticized that maybe the unit costs used were arbitrary.

One objective of the study was to develop a document outlining unit costs that both the DEQ and the owners/operators would feel comfortable with. Another objective was to make sure that adequate closure funds were available to close these facilities, should one of these facilities become defunct. State statutes require that facilities provide financial assurance and also determine the cost to the Department should it be required to close a landfill.

In Oklahoma, financial assurance was first required in 1991. It continues today in both the 510 and 520 rules. The first guidance document was created in 1992. In 1994, the DEQ developed the current unit costs that are utilized in examining closure costs.

Cardinal, Inc. looked at what other states were doing by polling approximately 15 other states, all the states that touch Oklahoma and also Minnesota, which has made an extensive effort to close abandoned sites.

A 95% response rate was received from these other states, and all require financial assurance and annual updates of costs. For Oklahoma landfills, the response rate was not quite as favorable. Of the 50 landfills in the state that were queried, only 14 responses were received, resulting in a 28% response rate.

Finally, copies of Chapter 5 were supplied by Mr. Mason, which outlined the procedure used for calculating final closure and post closure costs. The procedures outlined presented concise explanations for each identified task and service along with the associated unit cost. The intent of the information in Chapter 5 is to provide a reliable guidance document for owners and operators to calculate the costs of financial assurance.

Further discussion followed by council and members of the public pertaining to specific areas of the calculations in Chapter 5.

Mr. Mason asked for clarification as to whether chapter 5 is to be a guidance document or a rule. No definitive consensus was reached.

Chairman Purdy made the recommendation that the various issues discussed be directed to the ad hoc committee for further discussion and then present before the council. The request from the chair received consensus from the council.

Agenda Item 9. DISCUSSION OF SOLID WASTE PROGRAM FEES/EXPENDITURES

Fenton Rood stated the Statutory obligation of the council in the fall is to review revenue from solid waste fees and the way the Department has used the revenue. Presented today is a preliminary report based on fiscal year 2000, which closed June 30. Attention was directed to the second column on the budget sheet labeled OCCHD/TCCHD. For the past 3 years the legislature has directed DEQ to use a million dollars of solid waste fee money to pay for the functions that DEQ inherited from the Tulsa Health Department and the Oklahoma City Health Department. Mr. Rood stated that at the next meeting he will be able to present final figures for fiscal year 2000 and also present the budget. This will be an action item for the council to make recommendations to the leadership of the legislature.

Chairman Purdy requested that the Department give further thought to budget disposition and encouraged the council to consider language regarding appropriate use of these fees.

Agenda Item 10. NEW BUSINESS

No comments were made.

Agenda Item 11. PUBLIC FORUM ISSUES (continued)

No comments were made.

Agenda Item 12. ADJOURNMENT

Hearing no further comments or objections, Chairman Purdy declared the meeting adjourned at 11:55 am.