

Rocky Flats Coalition of Local Governments Board Meeting Minutes
Monday, November 1, 2004
8:30 – 11:00 a.m.
Mt. Evans Room in the Terminal Building
Jefferson County Airport, Broomfield

Board members in attendance: Gary Brosz (Director, Broomfield), Lori Cox (Alternate, Broomfield), Lorraine Anderson (Director, Arvada), Clark Johnson (Alternate, Arvada), Jo Ann Price (Alternate, Westminster), Nanette Neelan (Alternate, Jefferson County), Karen Imbierowicz (Director, Superior), Devin Granbery (Alternate, Superior), Shaun McGrath (Director, City of Boulder), Alice Guthrie (Alternative, City of Boulder), Jane Uitti (Boulder County), Hank Stovall (*ex-officio*).

Coalition staff members and consultants in attendance: David Abelson (Executive Director), Kimberly Lohr (Assistant Director), Rik Getty (Technical Program Manager), Barb Vander Wall (Seter & Vander Wall, P.C.), Jennifer Bohn (Accounts Manager).

Members of the Public: John Corsi (Kaiser-Hill), Joe Legare (DOE), Karen Lutz (DOE), Frazer Lockhart (DOE), Laurie Shannon (USFWS), Mark Sattelberg (USFWS), Mark Aguilar (EPA), Rob Henneke (EPA), Steve Gunderson (CDPHE), Edgar Ethington (CDPHE), Shirley Garcia (Broomfield), Al Nelson (Westminster), Bob Nelson (Golden), Patricia Rice (RFCAB), Roman Kohler (Rocky Flats Homesteaders), Ron DiGiorgio (USWA Local 8031), Dan Chesshir (RFSOIU #1), Erin Hamby (RMPJC), Andrew Tirman (RMPJC).

Convene/Agenda Review

Chairwoman Karen Imbierowicz convened the meeting at 8:36 a.m.

Business Items

1) Motion to Approve Consent Agenda – Lorraine Anderson motioned to approve the consent agenda. Jo Ann Price seconded the motion. The motion passed 6-0 (Jefferson County was not yet present).

2) Executive Director's Report - David Abelson reported on the following items.

- The annual defense authorization bill was approved by Congress and sent to the President for signature, including language which transfers a problematic portion of the Energy Employees Act from DOE to the Department of Labor.
- Also included in the bill is language authorizing Local Stakeholder Organizations (LSO). During negotiations the House removed the provision which initially said the LSO would not be subject to the Federal Advisory Committee Act (FACA). David explained that the implications would be minimal if the LSO is still a unit of local government since the Colorado Sunshine Act serves the same purpose. He noted FACA could also have an

onerous impact since DOE would have greater control over meetings and could actually prevent them.

- David and Kimberly Lohr, along with Victor Holm and Ken Korkia from the CAB, met with Senator Allard's staff and Dave Cherrington, Senate Armed Services Committee staff, to discuss the LSO. It was a productive meeting and clarified that the LSO came about to help transition the three closure site Community Reuse Organizations. The Coalition will begin discussions shortly with the Rocky Flats Project Office on how to transition from a CRO to an LSO, including DOE's expectations.
- USFWS distributed findings from the deer tissue samples taken two years ago, recently tested for actinide uptake. The contamination levels were extremely low, which is consistent with what CSU scientists have found in past years.
- Letters requesting local government annual contribution are to go out the following day - the amount for FY05 will be reduced to \$1200 from \$1900.
- Rik Getty provided an overview of progress made in demolition of Building 771, which is nearly complete.

Public Comment

Laurie Shannon said USFWS anticipates the release of the final Comprehensive Conservation Plan (CCP) by the end of November with their Record of Decision following 30 days after. The final stand-alone CCP, after being separated from the final Environmental Impact Statement, should be fully complete by February 2005. Shaun McGrath raised the issue of the Memorandum of Understanding (MOU) still being delayed and how it would tie into the CCP. After further discussion of jurisdictional boundaries, mineral rights, and which document contains what, the Board agreed to wait until after elections to press the issue.

Erin Hamby disagreed with David Abelson's comments regarding FACA, and stated that FACA was set up to help include the public in the federal advisory committees and makes public access more effective. She said a strong committee could counter DOE control. Erin also said that as a member of the public and the Rocky Mountain Peace and Justice Center she insists on being included at the very beginning of the discussion on forming an LSO, and will not accept token participation at the end of the process. David advised Erin he was still waiting to hear back from her after asking for substantive input on the LSO at the last Board meeting. Erin said the scope and mission should not be determined prior to determining public involvement, and it is not up to the Coalition to decide how the public should be involved. She added that the public should be invited to meetings where they have a voice and are allowed to be a real player at the table.

Continuation of Independent Review Conversation

David Abelson said Coalition staff is in the process of drafting the Request for Qualifications (RFQ) for a MARSSIM consultant to follow the ORISE evaluation of Site surface soils. Frazer Lockhart has agreed that DOE will provide approximately \$25,000 to work through this process. Regarding the RFQ, Coalition staff and the subcommittee are working to define the scope of

work and the evaluation criteria, including MARSSIM experience relating to soils, Superfund experience, a flexible schedule, and no preconceived bias on the outcome. There is no pre-vetting of the experts receiving the RFQ. The draft will be sent to the Board for review once completed.

Shaun McGrath said the RFQ reads very well but is focused solely on soil sampling. He said the independent review discussions have gone beyond soil sampling, and he believes the contract may need to be expanded. He provided the example of developing a road map of known or suspected contamination that will remain post-closure. Lorraine Anderson said that an inventory of post-closure contamination should be the responsibility of CDPHE. Shaun said it should be independently verified. David explained that is where long-term stewardship comes in and whether the systems established are correct. Shaun said he still believed the RFQ should not be limited. Karen Imbierowicz suggested working with the subcommittee to develop wording to incorporate Shaun's idea of a potentially expanded scope of work.

David then discussed public participation for the ORISE review. He noted that although the Coalition subcommittee has been the catalyst for moving the question of independent review forward, it is not the only entity interested. He said DOE is hiring ORISE and he does not want the Coalition to be in the position of becoming the mechanism for public participation of the ORISE review. David said he had discussed this issue with Ken Korkia and the CAB is interested in a public participation model which has worked previously, namely having a kick-off meeting, updates, and a wrap-up meeting, all at night. The more technical meetings would be held in the afternoon, and the Coalition consultant would also attend meetings. Joe Legare added that ORISE will be provide direct information to the Coalition consultant and the CAB, and the meetings will be coordinated so that everyone can attend the same meetings and engage in an efficient and collaborative dialogue. The Board agreed to this process.

FY05 Budget - Initial Review

Barb Vander Wall advised the Board that as a State unit of local government the Coalition is obligated to comply with Colorado budget laws and must adopt a budget by the end of the year. Public notice will be given, announcing the public budget hearing next month.

David Abelson walked through the budget, explaining that FY05 will be a difficult year to predict, primarily from September forward, since the Coalition is controlled to a degree by Site activities and will also be transitioning into a new organization. The main assumption is that the Coalition will be leaving its offices on August 31st, when the three-year lease is up, and Kimberly Lohr's employment is expected to end then as well. The budget reflects her salary for eight months as well as her contract employment incentive. The biggest uncertainty is office expenses, but the budget reflects the office lease for an entire year, including an adjustment to the lease effective September 1st. These numbers are the maximum expected, but if the office closes in August there will be a reduction in costs. David advised he left in the line-item of \$25,000 for consulting services because, even though it was not largely used in 2004, it makes sense that it may be needed in 2005.

Gary Brosz confirmed that the FY05 budget is \$41,000 less than FY04. He then asked if the carryover balance to FY05 is positive or negative. David said he provides the accounting balance in each quarterly report, and then explained that there is carryover but does not yet know how much will be from federal dollars. The two principal sources are the initial money from RFLII, and the other is a corporate contribution received upon startup from Kaiser-Hill. He stated that over the past years DOE has provided the Coalition funding for less than the annual expenditures, pushing for diversity of funding. David emphasized that part of the difficulty of the budgeting process is that it is subject to factors beyond their control, such as whether or not DOE will provide funding. The Coalition is still not assured funding for FY05, but will still be able to stay afloat for awhile. Gary asked the current account balance, and David responded it is approximately \$400,000.

Jo Ann Price asked if the consulting money is separate from the money DOE will be providing for the MARSSIM consultant. David affirmed that it is not the same money, it just happens that the numbers match up. Alice Guthrie asked if the DOE funds should be reflected here, and David replied that it will start out being an FY04 item, and it is still not clear how the distribution of funds will work. Barb said if it is Coalition funds then they could reflect additional funding coming in and amend the FY05 budget if necessary. If it is DOE funds it would not be reflected in the Coalition budget. David noted it would also be captured in the annual audit.

FY05 Strategic Plan - Initial Review

David Abelson said this strategic plan reflects the changes expected to occur in the final year of cleanup, and refocuses on closing out the majority of the cleanup projects and transitioning the organization. The two major changes are the new section added to capture LSO planning and development, and changes to the Future Use section. David also explained how planning had originally been couched in terms of a “five-year plan”, then changed to the “2007 plan” once closure was in sight. The LSO is described in terms of a “2010 plan” because this is an area they can see well into, but eventually the entire plan will be an LSO plan. David said the rest of the changes are standard updates. He added that the entire plan reflects a high level of discussion and is not exceedingly specific in order to allow for success.

Jane Uitti said the comment on page three regarding evaluating and commenting on the MOU should be clearer and stronger. David said DOE has agreed that it would be beneficial to issue a white paper summarizing what is in the MOU in the event it is not issued shortly, so he will clarify that language. Shaun McGrath stated DOE is under obligation to issue the MOU, thus the language “if it remains unavailable” seems odd. David said Congress is not holding the agencies accountable thus far, and agreed to craft language pushing for issuance of the MOU. Clark Johnson suggested creating two separate items, one for getting the MOU, and another for getting information about the MOU. Hank said it may be time for the issue to be brought to the attention of the congressional delegation. David said Senator Allard and Reps. Udall and Beauprez have been working to resolve the issue. Jane also suggested changing LSO “purpose” to “mission” or “vision” on page four.

Shaun asked if the statement on page one about the Coalition being in line to become the LSO is accurate. David said he believes it to be the case even more so after meeting with Senator Allard's staff last week. Shaun asked about the statement on page two about "advancing policies aimed at minimizing or eliminating certain post-closure long-term stewardship needs". David explained that if the Site can do more cleanup in a discreet area it means less long-term stewardship will be required, minimizing post-closure needs. Shaun then asked if the Future Use section focuses exclusively on the Buffer Zone and not DOE-retained lands. David said the Long-Term Stewardship and LSO sections cover the entire site. Shaun asked that that be clarified. He also suggested adding a sub-bullet to the second bullet on page five, "identifying known and possible contaminants remaining post-closure".

Lorraine Anderson said she had no specific changes, but she is concerned about DOE budget issues and responsibility for workers being shifted around. She said it is important to continue being an advocate for the workers. David agreed and pointed out the plans under the Rocky Flats Workforce section to continue following developments in the Energy Employee Act and track worker issues. Alice Guthrie suggested stronger language, such as "advocate for" instead of just "following".

Gary Brosz asked why the Present Landfill had been deleted from page two. David said the cleanup decisions had already been made, and Gary asked if cleanup would be done before 2005. David said he could add language showing the Coalition will continue to track progress of remediating the landfill and make sure it agrees with all applicable laws. Gary said along the same lines, only the B-series ponds are listed and not A or C. David said the Site does not plan to do any work on the A or C-series ponds. Gary said Westminster has issues with plans for the C-series ponds and he would like all ponds to be included in the strategic plan. Lastly, Gary asked if something could be added about defining jurisdictional boundaries between DOE and USFWS. David said it could go under either Long-Term Stewardship or the MOU, and he will add the appropriate language.

Appointment of *Ex-Officio* members for 2005

David Abelson described the background on the Coalition's policy regarding *ex-officio* members, and how the position was created in order to encompass governments who had been part of RFLII but not the Coalition. There had not been a need to bring in an *ex-officio* member until last year, when the organization underwent a major transition with newly elected officials in Broomfield and the City of Boulder. The Board agreed in December of 2003 to appoint Hank Stovall and Lisa Morzell as *ex-officio* members in order to provide continuity and help with the transition. On the whole, the transition was reasonably positive and worked well.

David stated that looking forward to the next year, Jefferson County and Boulder County will both be losing Board directors to term limits. However, neither Michelle Lawrence nor Paul Danish have any interest in remaining on the Board. At the same time, Hank and Lisa have expressed interest in staying in their capacity. David explained that last December the Board decided to make their appointment annual, reserving the right to revisit it anytime during the

year, with no prohibition on another appointment although the reappointment would not be automatic.

David reported that Board members had discussed this reappointment with him and he had heard that: 1) the transition had worked well, but now the Board should focus forward on getting the LSO up and running; and, 2) members leaving the Board do not feel it appropriate to engage on issues of the future Board. He stated that if the Board takes no action then the *ex-officio* appointments will lapse, while reappointment would take an affirmative action. David also urged the need for unanimity of thought, as a 5-2 split could create a fracture amongst the Board.

Karen Imbierowicz agreed with David's summation of the issue and thanked Hank for transitioning Gary Brosz into his position. Gary said it had been very productive to have Hank's assistance, and stated that if Hank continued in this capacity he believed it would continue to be productive. He added that although there were minor disadvantages the advantages far outweighed them and it was his preference to keep the arrangement as it is, although he agreed the entire Board should be in agreement. Jo Ann Price said she does not see the current arrangement hurting the Coalition. Lorraine Anderson said it had been a pleasure working with Hank and Lisa, but now Gary, Lori Cox, and Shaun McGrath are doing well on their own. She added that Boulder and Jefferson counties both have fine staff that can help transition in the new directors. Shaun said he continues to draw on Hank and Lisa's knowledge, and he would continue to work with Lisa no matter her relationship with the Coalition. He agreed the decision should be unanimous, and added that Boulder and Broomfield may benefit from the arrangement disproportionately. Hank said he had enjoyed working on Rocky Flats issues for the past 30 years, and would continue to be involved whether as an *ex-officio* member or otherwise.

As the Board took no action the *ex-officio* appointments will end December 2004.

Public Comment

There was no further public comment.

Updates/Big Picture Review

Executive Director - David Abelson reported that the Executive Committee and David had met with Western Governors Association communications director, Karen Deike, to begin developing ideas for a Coalition communication strategy. He said they determined the Coalition must define what it hopes to accomplish, lay out the process, and work through how to communicate on key issues and be more proactive as the Site nears closure. Proactive work could include issuing press releases, utilizing the internet, and creating fact sheets in order to ensure the public and press understand where the Coalition is coming and that the governments have been paying intense attention to these issues over a long period of time. David suggested the Coalition hire Karen as a consultant so as to not take advantage of her generosity. He expects to discuss the topic further at the January meeting.

Alice Guthrie said working with a communication specialist had been very instructional for her, and she suggested all the governments have their communication personnel attend a staff meeting prior to the January Board meeting. David noted that when the press contacts local governments they contact involved staff and not the communication departments. He said they need to make sure their communications are appropriately informative. Nanette Neelan asked to see Karen's resume, and noted that Michelle Lawrence wants staff to be involved and be the trigger mechanism. David said communication personnel involvement would be more educational. Karen Imbierowicz and Shaun McGrath both voiced enthusiasm for the project and working with Karen Deike.

Arvada - Lorraine Anderson said she and David had attended an ECA meeting in Chicago on risk-based end states, and she found it interesting that a speaker from California talked about the dirty cleanup of Rocky Flats. She wondered where their information had come from, since it did not stem with the involved local governments. She will also be attending an Environmental Management Advisory Board meeting in Washington, D.C. later in the month and will relay any comments from the Coalition. David added they will also be attending an interagency meeting in Washington, D.C. in December.

City of Boulder - Shaun McGrath noted frustration from the CAB and the Rocky Mountain Peace and Justice Center over participating in LSO discussions, and he suggested the Board meet with them. The Board discussed the idea further, including the issue of special interest groups versus mainstream opinions. David said if there is some way to smooth things over he would look at it.

Broomfield - Gary Brosz asked who would chair the independent subcommittee with Hank no longer being a Coalition member, and asked if it would be appropriate for David to chair. Barb Vander Wall said the Coalition allows a lot of flexibility so it would be fine. Gary Brosz motioned to approve David Abelson as the Coalition Independent Review Subcommittee Chair. Shaun McGrath seconded the motion. The motion passed 7-0.

Big Picture - The Board reviewed the Big Picture. The December meeting will include approval of the 2005 strategic plan and FY05 budget, as well as a briefing on the final Refuge Comprehensive Conservation Plan and the Groundwater Interim Measure/Interim Remedial Action.

Potential topics for the January agenda include discussions of the LSO and Coalition communication plans.

The meeting was adjourned by Karen Imbierowicz at 11:05 a.m.

Respectfully submitted by Kimberly Lohr, Assistant Director