



# **Yakima Regional Clean Air Agency**

*Yakima Regional Clean Air Agency  
Agencia Regional de Aire Limpio de Yakima*

## **Meeting of the Board of Directors February 2025**

Reunión de la Junta Directiva  
Febrero 2025

February 13, 2025

13 de Febrero de 2025

### **Notice of Language Services**

The Yakima Regional Clean Air Agency (YRCAA) offers free interpretation of public meetings and translation of board documents. To request interpretation of this Board of Directors' Meeting, to obtain a translation of this document, or to provide public comment at this meeting in a language other than English, please call 509-834-2050 extension 100 or send electronic mail to [admin@yrcaa.org](mailto:admin@yrcaa.org) at least 72 hours in advance of the meeting.

### **Notice of Non-Discrimination**

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### **Public Comments**

Members of the public may submit comments to the Board by: a) speaking in person or remotely (see below) during the public comment period of any meeting; b) mailing them to 186 Iron Horse Ct. Ste. 101, Yakima, WA 98901; or c) sending them via electronic mail to [admin@yrcaa.org](mailto:admin@yrcaa.org).

### **Remote Access**

Meetings are broadcast and rebroadcast on the Yakima Public Access Channel (Y-PAC). Visit [www.yakimawa.gov/services/yctv](http://www.yakimawa.gov/services/yctv). Public comment may be offered remotely via Zoom video or telephone conference call. See the agenda for the URL, meeting ID, and phone numbers (long-distance charges may apply). Please raise your virtual hand (\*9 on a phone) to be recognized.

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### **Aviso de Servicios Lingüísticos**

La agencia Regional de Aire Limpio de Yakima (YRCAA) ofrece interpretación gratuita de reuniones públicas y traducción de documentos de la junta. Para solicitar la interpretación de esta reunión de la Junta Directiva, obtener una traducción de este documento o proporcionar comentarios públicos en esta reunión en un idioma que no sea inglés, llame al 509-834-2050 extensión 100 o envíe un correo electrónico a [admin@yrcaa.org](mailto:admin@yrcaa.org) al menos 72 horas antes de la reunión.

### **Notificación de No Discriminación**

La Agencia Regional de Aire Limpio de Yakima (YRCAA) no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades. La YRCAA no intimida ni toma represalias contra ningún individuo o grupo por haber ejercido sus derechos de participar u oponerse a acciones protegidas por 40 C.F.R. las Partes 5 y 7 o con el propósito de interferir con tales derechos en violación del Título VI de la Ley de Derechos Civiles de 1964; Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, todas modificadas.

### **Comentarios Públicos**

Los miembros del público pueden enviar comentarios a la Junta por: a) hablando en persona o de forma remota (ver a continuación) durante el período de comentarios públicos de cualquier reunión; b) enviándolos por correo a 186 Iron Horse Ct. Ste. 101, Yakima, WA 98901; o c) enviándolos por correo electrónico a [admin@yrcaa.org](mailto:admin@yrcaa.org).

### **Acceso remoto**

Las reuniones se transmiten y retransmiten en el Canal de Acceso Público de Yakima (Y-PAC). Para ver un cronograma actual, visite [www.yakimawa.gov/services/yctv](http://www.yakimawa.gov/services/yctv). Los comentarios públicos se pueden ofrecer de forma remota a través de Zoom video o conferencia telefónica. Consulte la agenda para obtener la URL, el ID de la reunión y los números de teléfono (es posible que se apliquen cargos de larga distancia). Levante su mano virtual (\*9 en un teléfono) para ser reconocido.

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**Regular Meeting of the Board of Directors**

**February 13, 2025 – 2:00 P.M.**

Yakima City Hall; 129 N Second Street; Yakima, Wash.

Duration – 30 mins (estimated)

**AGENDA**

- 1. Call to Order**
- 2. Roll Call**
- 3. Changes to the Agenda**
- 4. Public Comments**  
The public may address any matter relevant to the business of the Board at this time. Please state your name and the item you wish to address. Comments are limited to three (3) minutes per person.
- 5. Board Officer Election**
- 6. Board Meeting Minutes for January 9, 2025**
- 7. Vouchers and Payroll Authorization Transfer for October 2024**
- 8. Vouchers and Payroll Authorization Transfer for November 2024**
- 9. Vouchers and Payroll Authorization Transfer for December 2024**
- 10. Executive Director's Report**
- 11. Other Business**
- 12. Adjournment**

Zoom information

URL: <https://us06web.zoom.us/j/6058007569>

Meeting ID: 605 800 7569

Phone number: 253-215-8782 or 253-205-0468

If you wish to attend the YRCAA board meeting and require an accommodation due to a disability or need interpretation or translation services, call 509-834-2050 ext. 100 or send an email to [admin@yrcaa.org](mailto:admin@yrcaa.org).

## **Reunión Ordinaria de la Junta Directiva**

**13 de Febrero de 2025 – 2:00 P.M.**

Ayuntamiento de Yakima; 129 N Second Street; Yakima, Wash.

Duración – 30 minutos (estimativo)

### **ORDEN DEL DIA**

- 1. Llamado a Orden**
- 2. Pase de Lista**
- 3. Cambios al Orden del Día**
- 4. Comentarios del Públicos**  
El público puede abordar cualquier asunto relacionado con los asuntos de la Junta en este momento. Indique su nombre y el artículo que desea abordar. Los comentarios están limitados a tres (3) minutos por persona.
- 5. Elección de Officials de la Junta Directiva**
- 6. Acta de la Reunión de la Junta del 9 de Enero de 2025**
- 7. Autorización de Vales y Transferencia de Nómina para Octubre de 2024**
- 8. Autorización de Vales y Transferencia de Nómina para Noviembre de 2024**
- 9. Autorización de Vales y Transferencia de Nómina para Diciembre de 2024**
- 10. Informe del Director Ejecutivo**
- 11. Otros Asuntos**
- 12. Conclusión**

Zoom información

URL: <https://us06web.zoom.us/j/6058007569>

ID de reunión: 605 800 7569

Número de teléfono: 253-215-8782 or 253-205-0468

Si desea asistir a la reunión de la junta de YRCAA y requiere una adaptación debido a una discapacidad o necesita servicios de interpretación o traducción, llame al 509-834-2050 ext. 100 o envíe un correo electrónico [admin@yrcaa.org](mailto:admin@yrcaa.org).

**1. Call to Order**

Chairperson DeVaney called the meeting to order at 2:01 p.m. in the council chambers, Yakima City Hall; 129 N Second St.; Yakima, Washington.

**2. Roll Call**

Meza conducted roll call and declared a quorum present.

Board members: Amanda McKinney, County Representative, Absent  
Steven Jones, Ph.D., County Representative, Present  
Janice Deccio, Large City Representative, Present (via video-conference)  
Jose Trevino, Small City Representative, Absent  
Jon DeVaney, Member-at-Large, Present

Staff present: Marc Thornsbury, Executive Director  
Jacqueline Meza, Clerk of the Board

**3. Changes to the Agenda**

DeVaney asked if there were any changes to the agenda. Jones motioned to move the election of chairperson and vice chairperson of the board to the February meeting agenda. Deccio seconded. Motion passed 2-0.

Jones requested the matter of quarterly reports by staff be added to the agenda for the February meeting.

**4. Public Comment**

DeVaney inquired if there were any public comments.

Jean Mendoza of White Swan stated the board chair and/or the Agency's executive director likely violated Administrative Code Part A, Section 2, by failing to include the discussion of a potential violation of the Open Public Meetings Act on the agenda for this meeting. She added the board chair likely violated Administrative Code Part A, Section 3.1, at the December meeting when he voted to recommend Jones for reappointment to board position number three.

Mendoza stated board member number four (McKinney) likely violated Administrative Code Part A, Section 5.2, by engaging in discussion regarding the recommendation to reappoint Jones to the board and subsequently recusing herself from voting. She added the Agency is likely in violation of Administrative Code Part A, Sections 2.1 and 3.1, by not including the selection of a board chairperson on the agenda for this meeting and may have violated Administrative Code Part A, Section 2.11, by not preparing an executive director's report concerning the December meeting.

Mendoza stated the Agency Executive Director may have exceeded his authority by submitting a legal analysis concerning the selection process for board position number two, adding the analysis of Washington laws he provided amounts to a legal argument and imitates language used by the judiciary when rendering opinions. She noted the Director is neither an attorney nor a judge and suggested he may have engaged in the practice of law without a license.

Mendoza stated the Agency may have been out of compliance with Washington Administrative Code (WAC) 173-400-220 during 2024 because only two board members are elected officials (presumed to represent with the public interest) and the provisions of the WAC require a majority of the board members represent the public. She added board member number 3 (Jones) has repeatedly voted on issues that involve an industry from which he receives significant income and this is contrary to Administrative Code Part A, Section 5.2, and the Washington Clean Air Act.

Nancy Lust, Friends of Rocky Top (FoRT), asked whether the actual cost of an air operating permit includes the cost of enforcement. Lust noted the Monthly Activity Report showed no air operating permit inspections in 2024 and suggested without inspections, enforcement is dependent upon the public who must alert them to problems. Lust stated water and air pollution seem to be interconnected and the methods used to control air pollution may harm the water.

Sandy Braden, Friends of Toppenish Creek (FoTC), stated two persons had expressed interest in serving in the position to which Jones was appointed and inquired as to whether they had been given an opportunity to interview for the position. DeVaney noted the appointment was a County process and, as such, the Board was not able to answer the question. Braden asked if she would need to approach the County Commission and DeVaney advised her to direct any questions to them concerning Jones' appointment. Braden inquired if Jones was interviewed for the process. Jones stated he had not been interviewed, adding the County Commission had record of his work from the board meetings.

#### 5. **Board Meeting Minutes for December 12, 2024**

Deccio moved to approve the December 2024 minutes. Jones seconded. Motioned passed 2-0.

#### 6. **City Representative Appointment**

Thornsbury stated the Agency went through the statutory language that applies to the appointment of members of the board, as managed by the Agency. He noted the County Commission appoints two persons to the board through a process managed by county and when there is an even number of board members, those members select one additional member. He noted the fifth board member is not elected by the four active board members. Thornsbury noted the Agency is involved only in managing the process for the two appointees of the city selection committee, which is comprised of the mayors of the cities within the Agency's boundaries.

Thornsbury explained there has been some confusion in the past due to the language used in the statute and noted the appointment process can vary depending on whether it is for a single-county or multi-county agency. He stated the Agency is a single-county agency along with the other Eastern Washington local clean air agencies (LCAAs). Thornsbury added all of the LCAAs in Western Washington are multi-county agencies and explained there are different methods of selection depending on the size or population of the county.

He expressed his opinion that over the years the Agency had some confusion regarding the selection method to which the Agency was subject and that, in turn, resulted in some discrepancies in the process over time. Thornsbury explained that, knowing the position would soon be open, staff embarked on a thorough review of the process and discovered errors in the documentation and past differences in how the process was executed. He expressed his belief the Staff Report accurately reflects the proper process moving forward.

Jones stated in the past the small city mayors or representatives formed the committee and took applications from that group or city officials. Thornsby explained all of the mayors comprise the city selection committee, there is no small city representative in the statute, and the language only requires one of the positions selected by the city selection committee to represent the largest city. Jones asked if the mayor of Yakima, as the largest city, would be part of the committee. Thornsby affirmed that to be correct and noted if Yakima had a population over 400,000, the composition of the city selection committee would be slightly different. Jones inquired if they receive any applications.

Jones inquired if the committee accepted applications from persons wishing to serve. Thornsby explained the first step is a nomination process followed by a ballot comprised of the nominees, and concluding with a vote selecting one of the nominees. Jones asked if there was a limit on the number of people that could be nominated and if a person could make more than one nomination. Thornsby stated there is no statutory language specifying the details of the nomination process beyond the general statement there must be a nomination process. He added any member of the city selection committee could, in theory, nominate multiple people.

Jones asked if, once the nomination process is complete, the committee also selects the member. Thornsby confirmed, adding he would assume the committee members would individually nominate persons while the committee, collectively, would vote to appoint a nominee.

DeVaney inquired whether Thornsby needed any guidance from the board to initiate the process with March approaching. Thornsby stated it would likely be unnecessary as it is a statutory obligation of the Agency. DeVaney encouraged Thornsby to proceed expeditiously. Jones noted in the past the process has taken much longer than expected.

## 7. **Executive Director's Report**

Thornsby explained he wished to describe some of the work being done so the Board does not mistake a lack of information for the absence of activity should be interpreted as lack of progress for the board.

Thornsby first addressed a public comment regarding air operating permit inspections and clarified an air operating permit is a specific, unique permit issued to large operations under Title V of the Federal Clean Air Act. He noted there are only three entities in Yakima County with this type of permits. Thornsby explained an air operating permit is not a general term for an order of approval issued by the Agency to most permittees, with the exception of the three Title V facilities. He expressed concern there may be some confusion and reiterated orders of approval are issued to entities that fall below the threshold for an air operating permit, adding there are nearly 400 registered sources in Yakima County and only three having an air operating permit.

Thornsby explained staff has been working on improving the process for collecting information for statistical analysis and reporting and noted the work requires considerable effort that is largely invisible until the finished product. He noted the Agency is making progress, though more slowly than desired due to frequent interruption, and the Board will see the benefits when complete despite the fact they are not apparent at this stage.

Thornsby stated the situation is similar with respect to internal processes and documentation, adding the lack of both created vulnerabilities with the departure of staff that take their knowledge

with them. He noted the work, once complete, would allow the Agency to be more efficient and responsive even when staff members are on vacation, out sick, or leave the Agency. Thornsbury added the benefits of these improvements may not be immediately visible and assured the board there will be noticeable change and improvement once the work is complete.

Thornsbury stated there would be some reassignment of duties within the Agency as he evaluates how resources can be better allocated to maximize benefits, particularly in public-facing areas. He added he would provide the board with additional information in the coming months. Thornsbury remarked the Board had requested he review the permit process in Fall 2024 and explained he had not forgotten the request despite having inadequate time to begin work on it. He stated he will be working on matter as time allows and expects the Board to see results within the next six months. Thornsbury emphasized the absence of discussion on certain topics should not be taken as evidence work has not been ongoing.

#### 8. **Adjournment**

Jones moved to adjourn. Deccio seconded. Motion passed 2-0. DeVaney adjourned the meeting at 2:27 p.m.

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Jon DeVaney, Chairperson

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Jacqueline Meza, Clerk of the Board



## STAFF REPORT

**Date:** February 6, 2025  
**To:** YRCAA Board of Directors  
**From:** Sherrie Springer, Staff Accountant  
**Subject:** Fiscal Program Report

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**Issue:** Fiscal Reports

**Analysis:** Accounts Payable (AP) for the month of October and Payroll Authorizations for the month of September are enclosed for your approval. The Supplemental Income document is included as an informational item.

**Recommendation:** Accept and approve by minute action the October 2024 AP Fiscal Vouchers, totaling \$37,888.80 and the September 2024 Payroll Authorization, totaling \$63,163.71.

10/11/2024

**Accounts Payable**

YRCAA Fund: 614-6140  
Enterprise Fund: 614-1410

<u>Name</u>	<u>Warrant No.</u>	<u>GL No.</u>	<u>Amount</u>	<u>Date</u>
509 Ductless*	36052	4105	22,723.99	10/14/2024
Abadan Reprographics	36053	3101	77.46	10/14/2024
Charter Communications	36054	4201	381.27	10/14/2024
Jay Clemens*	36055	4105	2,300.00	10/14/2024
Coleman Oil Company	36056	3201	274.87	10/14/2024
Intermountain Cleaning Service, Inc.	36057	4802	425.00	10/14/2024
Invisible Ink	36058	4201	126.25	10/14/2024
Iron Horse Real Estate & Property Mgt	36059	4501	4,956.53	10/14/2024
Law, Lyman, Daniel	36060	4101	649.00	10/14/2024
NTH Degree Environmental Engineering Sol	36061	4101	800.00	10/14/2024
Steve Reihls*	36062	4105	350.00	10/14/2024
StorageMax**	36063	4506	75.00	10/14/2024
Terrace Heights Sewer District	36064	4701	122.00	10/14/2024
Yakima County Public Services-Utility Di	36065	4701	23.68	10/14/2024
Yakima Herald Republic	36066	4401	132.60	10/14/2024

**Total**

**\$33,417.65**

\* Grant Reimbursement

\*\* NOC/Enterprise

I hereby certify the invoices and warrants described above for the Yakima Regional Clean Air Agency have been examined, audited, and approved for payment.

\_\_\_\_\_  
Jocelyn Roberson (DATE)  
Primary Auditing Officer

\_\_\_\_\_  
Marc Thornsbury (DATE)  
Secondary Auditing Officer

\_\_\_\_\_  
Jon DeVaney (DATE)  
Board Chairperson

10/29/2024

**Accounts Payable**

YRCAA Fund: 614-6140  
Enterprise Fund: 614-1410

<u>Name</u>	<u>Warrant No.</u>	<u>GL No.</u>	<u>Amount</u>	<u>Issue Date</u>
Alliant Communications	36082	4201	420.12	10/31/2024
Cascade Natural Gas Corporation	36083	4701	16.86	10/31/2024
Charter Communications	36084	4201	381.27	10/31/2024
KeyBank**	36085	Various	3,417.70	10/31/2024
Pacific Power	36086	4701	235.20	10/31/2024

**Total** **\$4,471.15**

\* Grant Reimbursement

\*\* NOC/Enterprise

I hereby certify the invoices and warrants described above for the Yakima Regional Clean Air Agency have been examined, audited, and approved for payment.

\_\_\_\_\_  
Marc Thornsby (DATE)  
Secondary Auditing Officer

\_\_\_\_\_  
Jon DeVaney (DATE)  
Board Chairperson



**Payroll Reimbursement  
September**

<b>Gross Wages</b>		<b>\$</b>	<b>48,257.13</b>
ER Taxes Paid	\$	686.06	
ER Medical Paid		8,917.37	
Pers 1 ER Paid		-	
Pers 2 ER Paid		2,819.20	
Pers 3 ER Paid		1,256.37	
SUTA		75.43	
L & I		1,152.15	
<b>Benefits</b>		<b>\$</b>	<b>14,906.58</b>
Bank Charges			
Other		-	
<b>Miscellaneous</b>		<b>\$</b>	<b>-</b>
<b>Total Payroll</b>		<b>\$</b>	<b>63,163.71</b>

\_\_\_\_\_  
Sherrie Springer (DATE)  
Primary Auditing Officer

\_\_\_\_\_  
Marc Thornsbury (DATE)  
Secondary Auditing Officer

\_\_\_\_\_  
Jon DeVaney (DATE)  
Board Chairperson

**YAKIMA REGIONAL CLEAN AIR AGENCY**  
**SUPPLEMENTAL INCOME STATUS for CY 2024 on November 01, 2024**  
**CY 2024 \$.48 PER CAPITA (Rounded Amounts)**

City/Town	Past Due	Assessment Amount	Total Amt Due	Date Received	Amount Received	Balance Due	Responses
<b>Grandview</b>	\$ -	\$ 5,290	\$ 5,290	2/20/2024, 05/22/2024, 07/15/2024, 09/30/2024	\$ 5,290	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Granger</b>	\$ -	\$ 1,795	\$ 1,795	2/28/2024, 06/15/2024, 07/15/2024, 10/07/2024	\$ 1,795	\$ 0	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Harrah</b>	\$ -	\$ 278	\$ 278	2/21/2024	\$ 278	\$ -	Paid in full
<b>Mabton</b>	\$ -	\$ 948	\$ 948	2/21/2024, 05/13/2024, 07/22/2024, 09/30/2024	\$ 948	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Moxee</b>	\$ -	\$ 2,239	\$ 2,239	2/14/2024, 05/14/2024, 07/15/2024, 09/16/2024	\$ 2,239	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Naches</b>	\$ -	\$ 540	\$ 540	2/21/2024, 05/20/2024, 07/22/2024, 10/14/2024	\$ 540	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Selah</b>	\$ -	\$ 4,015	\$ 4,015	2/21/2024, 05/28/2024, 07/31/2024, 09/30/2024	\$ 4,015	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Sunnyside</b>	\$ -	\$ 7,920	\$ 7,920	2/27/2024, 05/13/2024, 07/20/2024, 09/30/2024	\$ 7,920	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Tieton</b>	\$ -	\$ 722	\$ 722	2/20/2024, 05/20/2024, 07/15/2024, 09/30/2024	\$ 722	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Toppenish</b>	\$ -	\$ 4,258	\$ 4,258	2/20/2024, 06/28/2024, 07/15/2024, 09/30/2024	\$ 4,258	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Union Gap</b>	\$ -	\$ 3,187	\$ 3,187	4/15/2024, 07/15/2024, 10/14/2024	\$ 2,390	\$ 797	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter
<b>Wapato</b>	\$ 1,011	\$ 2,215	\$ 2,215			\$ 2,215	
<b>City of Yakima</b>	\$ -	\$ 47,136	\$ 47,136	2/22/2024, 05/06/2024, 07/03/2024, 10/15/2024	\$ 47,136	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Zillah</b>	\$ -	\$ 1,534	\$ 1,534	2/22/2024, 05/13/2024, 07/05/2024, 09/20/2024	\$ 1,534	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Yakima Co.</b>	\$ -	\$ 42,698	\$ 42,698	2/21/2024, 05/20/2024, 07/18/2024, 10/07/2024	\$ 42,698	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Totals:</b>	<b>\$ 1,011</b>	<b>\$ 124,775</b>	<b>\$ 124,775</b>		<b>\$ 121,763</b>	<b>\$ 3,013</b>	

## STAFF REPORT

**Date:** February 6, 2025  
**To:** YRCAA Board of Directors  
**From:** Sherrie Springer, Staff Accountant  
**Subject:** Fiscal Program Report

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**Issue:** Fiscal Reports

**Analysis:** Accounts Payable (AP) for the month of November and Payroll Authorizations for the month of October are enclosed for your approval. The Supplemental Income document is included as an informational item.

**Recommendation:** Accept and approve by minute action the November 2024 AP Fiscal Vouchers, totaling \$77,539.82 and the October 2024 Payroll Authorization, totaling \$60,100.81.

11/22/2024

**Accounts Payable**

YRCAA Fund: 614-6140  
Enterprise Fund: 614-1410

<u>Name</u>	<u>Warrant No.</u>	<u>GL No.</u>	<u>Amount</u>	<u>Date</u>
509 Ductless	36087	4105	11,998.80	11/25/2024
Alliant Communications	36088	4201	754.94	11/25/2024
Amazon Capital Services	36089	3101	102.01	11/25/2024
Armstrong's Stove & Spa Yakima	36090	4105	13,959.57	11/25/2024
Cascade Natural Gas Corporation	36091	4701	88.01	11/25/2024
Charter Communication	36092	4201	381.27	11/25/2024
James Crabtree	36093	4105	2,100.00	11/25/2024
FP Mailing Solutions	36094	4202	237.44	11/25/2024
Fosseen's Home Hearth	36095	4105	5,381.46	11/25/2024
Michael Garcia	36096	4105	1,050.00	11/25/2024
Susan Gates	36097	4105	1,550.00	11/25/2024
Duane and Vicki Heine	36098	4105	2,100.00	11/25/2024
Jonathan Hood	36099	4105	1,550.00	11/25/2024
Intermountain Cleaning Service, Inc.	36100	4802	425.00	11/25/2024
Iron Horse Real Estate & Property Mgt.	36101	4501	4,956.53	11/25/2024
Gerald & Jeanne Kallenberger	36102	4105	1,550.00	11/25/2024
Law, Lyman, Daniel	36103	4101	395.00	11/25/2024
Northwest Community Action Center	36104	4105	100.00	11/25/2024
OIC	36105	4105	300.00	11/25/2024
Larry Osburn	36106	6405	1,600.00	11/25/2024
Pacific Power	36107	4701	427.96	11/25/2024
Greg Pendergrass	36108	4105	1,800.00	11/25/2024
Cristian Petrini	36109	4105	3,800.00	11/25/2024
Quality Comfort Htg & A/C	36110	4105	12,000.00	11/25/2024
Jennifer & Jose Sanchez	36111	4105	1,600.00	11/25/2024
Dana Smalley	36112	4105	450.00	11/25/2024
James Stanton	36113	4105	350.00	11/25/2024
StorageMax	36114	4506	75.00	11/25/2024
Mark Strutner	36115	4105	350.00	11/25/2024
Teresa D Johnson CPA Inc	36116	4101	3,449.62	11/25/2024
Rhonda Terrill	36117	4105	1,050.00	11/25/2024
Yakima Chimney Guys LLC	36118	4105	1,583.10	11/25/2024
Yakima County Public Service-Utility Di	36119	4701	24.11	11/25/2024

**Total**

**\$77,539.82**

\* Grant Reimbursement

YRCAA Accounts Payable  
\*\* NOC/Enterprise

11/22/2024

I hereby certify the invoices and warrants described above for the Yakima Regional Clean Air Agency have been examined, audited, and approved for payment.

\_\_\_\_\_  
Sherrie Springer (DATE)  
Primary Auditing Officer

\_\_\_\_\_  
Marc Thornsby (DATE)  
Secondary Auditing Officer

\_\_\_\_\_  
Jon DeVaney (DATE)  
Board Chairperson





**Payroll Reimbursement  
October**

<b>Gross Wages</b>		<b>\$</b>	<b>46,058.05</b>
ER Taxes Paid	\$	654.18	
ER Medical Paid		7,830.52	
Pers 1 ER Paid		-	
Pers 2 ER Paid		2,788.08	
Pers 3 ER Paid		1,256.37	
SUTA		75.43	
L & I		1,438.18	
<b>Benefits</b>		<b>\$</b>	<b>14,042.76</b>
Bank Charges			
Other		-	
<b>Miscellaneous</b>		<b>\$</b>	<b>-</b>
<b>Total Payroll</b>		<b>\$</b>	<b>60,100.81</b>

\_\_\_\_\_  
Sherrie Springer (DATE)  
Primary Auditing Officer

\_\_\_\_\_  
Marc Thornsbury (DATE)  
Secondary Auditing Officer

\_\_\_\_\_  
Jon DeVaney (DATE)  
Board Chairperson



## **STAFF REPORT**

**Date:** February 6, 2025  
**To:** YRCAA Board of Directors  
**From:** Sherrie Springer, Staff Accountant  
**Subject:** Fiscal Program Report

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**Issue:** Fiscal Reports

**Analysis:** Accounts Payable (AP) for the month of December and Payroll Authorizations for the month of November are enclosed for your approval. The Supplemental Income document is included as an informational item.

**Recommendation:** Accept and approve by minute action the December 2024 AP Fiscal Vouchers, totaling \$54,384.33 and the November 2024 Payroll Authorization, totaling \$67,676.09.



12/20/2024

**Accounts Payable**

YRCAA Fund: 614-6140  
Enterprise Fund: 614-1410

<u>Name</u>	<u>Warrant No.</u>	<u>GL No.</u>	<u>Amount</u>	<u>Date</u>
509 Ductless	36120	4105	11,998.80	12/24/2024
Alliant Communication	36121	4201	922.33	12/24/2024
Amazon Capital Services	36122	3101	75.74	12/24/2024
Cascade Natural Gas Corporation	36123	4701	274.14	12/24/2024
Coleman Oil Company	36124	3201	335.08	12/24/2024
Fosseen's Home & Hearth	36125	4105	16,531.52	12/24/2024
Daniel Haisch	36126	4105	700.00	12/24/2024
Intermountain Cleaning Service, Inc.	36127	4802	425.00	12/24/2024
Iron Horse Real Estate & Property Mgt	36128	4501	4,956.53	12/24/2024
KeyBank	36129	Various	1,259.14	12/24/2024
Law, Lyman, Daniel	36130	4101	5,690.30	12/24/2024
NTH Degree Environmental Engineering Sol	36131	4101	1,400.00	12/24/2024
Justin Otto	36132	4105	450.00	12/24/2024
R H Welch, Inc.	36133	4901	600.00	12/24/2024
Rowdy Construction	36134	4105	2,974.05	12/24/2024
StorageMax	36135	4506	75.00	12/24/2024
Terrace Height Sewer District	36136	4701	122.00	12/24/2024
Thurston County Fair Complex	36137	4506	400.00	12/24/2024
Valley Publishing Co.	36138	4401	57.50	12/24/2024
Lola Whalon	36139	4105	700.00	12/24/2024
Paul Wilson	36140	4105	2,300.00	12/24/2024
Yakima Area Arboretum & Botanical Garden	36141	4501	400.00	12/24/2024
Yakima Chimney Guys LLC	36142	4105	1,363.65	12/24/2024
Yakima County Public Services – Utility Di	36143	4701	23.55	12/24/2024
Gregory Young	36144	4105	350.00	12/24/2024

**Total**

**\$54,384.33**

\* Grant Reimbursement

\*\* NOC/Enterprise

I hereby certify the invoices and warrants described above for the Yakima Regional Clean Air Agency have been examined, audited, and approved for payment.

\_\_\_\_\_  
Sherrie Springer  
Primary Auditing Officer

(DATE)

\_\_\_\_\_  
Marc Thornsbury  
Secondary Auditing Officer

(DATE)



**Payroll Reimbursement  
November**

<b>Gross Wages</b>		<b>\$ 54,141.30</b>
ER Taxes Paid	\$ 771.39	
ER Medical Paid	6,835.70	
Pers 1 ER Paid	-	
Pers 2 ER Paid	3,566.91	
Pers 3 ER Paid	1,256.37	
SUTA	69.91	
L & I	1,034.51	
<b>Benefits</b>	<u>                    </u>	<b>\$ 13,534.79</b>
Bank Charges		
Other	-	
<b>Miscellaneous</b>	<u>                    </u>	<b>\$ -</b>
<b>Total Payroll</b>		<b><u><u>\$ 67,676.09</u></u></b>

\_\_\_\_\_  
Sherrie Springer (DATE)  
Primary Auditing Officer

\_\_\_\_\_  
Marc Thornsbury (DATE)  
Secondary Auditing Officer

\_\_\_\_\_  
Jon DeVaney (DATE)  
Board Chairperson

**YAKIMA REGIONAL CLEAN AIR AGENCY**  
**SUPPLEMENTAL INCOME STATUS for CY 2024 on January 1, 2025**  
**CY 2024 \$.48 PER CAPITA (Rounded Amounts)**

City/Town	Past Due	Assessment Amount	Total Amt Due	Date Received	Amount Received	Balance Due	Responses
<b>Grandview</b>	\$ -	\$ 5,290	\$ 5,290	2/20/2024, 05/22/2024, 07/15/2024, 09/30/2024	\$ 5,290	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Granger</b>	\$ -	\$ 1,795	\$ 1,795	2/28/2024, 06/15/2024, 07/15/2024, 10/07/2024	\$ 1,795	\$ 0	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Harrah</b>	\$ -	\$ 278	\$ 278	2/21/2024	\$ 278	\$ -	Paid in full
<b>Mabton</b>	\$ -	\$ 948	\$ 948	2/21/2024, 05/13/2024, 07/22/2024, 09/30/2024	\$ 948	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Moxee</b>	\$ -	\$ 2,239	\$ 2,239	2/14/2024, 05/14/2024, 07/15/2024, 09/16/2024	\$ 2,239	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Naches</b>	\$ -	\$ 540	\$ 540	2/21/2024, 05/20/2024, 07/22/2024, 10/14/2024	\$ 540	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Selah</b>	\$ -	\$ 4,015	\$ 4,015	2/21/2024, 05/28/2024, 07/31/2024, 09/30/2024	\$ 4,015	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Sunnyside</b>	\$ -	\$ 7,920	\$ 7,920	2/27/2024, 05/13/2024, 07/20/2024, 09/30/2024	\$ 7,920	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Tieton</b>	\$ -	\$ 722	\$ 722	2/20/2024, 05/20/2024, 07/15/2024, 09/30/2024	\$ 722	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Toppenish</b>	\$ -	\$ 4,258	\$ 4,258	2/20/2024, 06/28/2024, 07/15/2024, 09/30/2024	\$ 4,258	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Union Gap</b>	\$ -	\$ 3,187	\$ 3,187	4/15/2024, 07/15/2024, 10/14/2024	\$ 2,390	\$ 797	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter
<b>Wapato</b>	\$ 1,011	\$ 2,215	\$ 2,215			\$ 2,215	
<b>City of Yakima</b>	\$ -	\$ 47,136	\$ 47,136	2/22/2024, 05/06/2024, 07/03/2024, 10/15/2024	\$ 47,136	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Zillah</b>	\$ -	\$ 1,534	\$ 1,534	2/22/2024, 05/13/2024, 07/05/2024, 09/20/2024	\$ 1,534	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Yakima Co.</b>	\$ -	\$ 42,698	\$ 42,698	2/21/2024, 05/20/2024, 07/18/2024, 10/07/2024	\$ 42,698	\$ -	Paid 1st Quarter, Paid 2nd Quarter, Paid 3rd Quarter, Paid 4th Quarter
<b>Totals:</b>	<b>\$ 1,011</b>	<b>\$ 124,775</b>	<b>\$ 124,775</b>		<b>\$ 121,763</b>	<b>\$ 3,013</b>	



# Yakima Regional Clean Air Agency

186 Iron Horse Court, Suite 101  
Yakima, WA 98901-1468  
509-834-2050  
[www.yakimacleanair.org](http://www.yakimacleanair.org)

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January 2, 2025

## Registered Source:

In accordance with the provisions of the Washington Clean Air Act (Revised Code of Washington [RCW] Section 70A.15.2200), the General Regulations for Air Pollution Sources (Washington Administrative Code [WAC] Section 173-400-099), and the Yakima Regional Clean Air Agency (YRCAA) Registration Program (Regulation 1 Section 4.01), your facility is required to register with the YRCAA and pay an annual registration fee. The information you provide is used by the Agency to prepare an air emissions inventory and to properly classify your facility.

Enclosed are your 2025 annual registration form(s) for reporting activity that occurred during calendar year 2024. These must be **completed and returned, along with your payment, to the Yakima Regional Clean Air Agency no later than the close of business on March 1, 2025**. Failure to provide the required information and payment by the date due may result in civil penalties pursuant to RCW 70A.15.3160 and YRCAA Regulation 1 Section 5.02 and Section 5.03. If the enclosed forms are lost, damaged, or destroyed, please contact the Agency promptly so a new set of forms can be sent to you.

If any form contains information concerning processes or production details unique to your business operation, the disclosure of which would be reasonably expected to adversely affect its competitive position, you may complete and submit the enclosed Certification of Confidential Business Information. You must provide a **detailed and specific description** of the information you certify to be confidential. Forms containing broad or general statements (e.g. "All information provided") are **invalid**.

The YRCAA funds its operations, in part, from the registration fees it collects. This is consistent with its statutory obligations under RCW 70A.15.1005 which states, in part, "the costs of protecting the air resource and operating state and local air pollution control programs shall be shared as equitably as possible among all sources whose emissions cause air pollution."

In 2023 and 2024, a new source classification system was implemented and substantial adjustments were made to registration fees to bring them into line with other air pollution control authorities in Washington State and current economic conditions. An internal audit was completed in the fall of 2024 to review the classifications previously assigned and ensure they were accurate and fairly applied. As a result six percent (6%) of all registrants were reclassified while the remaining ninety-four percent (94%) will see no change in 2025.

Furthermore, due to the addition of several new registrants in 2024, careful budgeting, the limited number of reclassifications noted above, and other factors, no increase in the fee for each classification is necessary in 2025 and, **except for a small number of reclassified registrants, the amount due in 2025 will remain the same as in 2024**.

This highlights an important point: When all organizations subject to the registration program participate in it, the resulting information concerning air quality in our communities is more accurate and the cost to other participants is reduced. That is why we look for, and encourage others to contact us concerning, entities that are not registered, but should be. It is not about "informing" on a neighboring business, it is about ensuring regulatory costs are shared equally. It is often (and incorrectly) assumed new registrants

only serve to fill the Agency's bank account. In truth, they help us limit the annual increase in fees or, as occurred this year, avoid it altogether. It is worth remembering all registrants end up paying more to cover for those that don't register or pay at all (and we believe that is unfair).

Despite having no increase in 2025, the Agency will continue to assess and potentially adjust registration fees annually to avoid large, unexpected increases (as occurred in 2023 and 2024) and allow registrants to more effectively plan for and accommodate future adjustments.

We appreciate your cooperation and encourage you to **send your payment and your completed paperwork** by the deadline noted above. Please remember to make a copy of the forms you submit for your own records. On behalf of the board of directors and staff of the Yakima Regional Clean Air Agency, we hope your holidays were pleasant and we wish you a successful and prosperous new year.

Regards,



Marc Thornsbury  
Executive Director

Enclosures:

Invoice

Registration Form(s)

Certification of Confidential Business Information

## STAFF REPORT

**Date:** January 13, 2025  
**To:** YRCAA Board of Directors  
**From:** Marc Thornsbury, Executive Director  
**Subject:** Investigation of Mendoza Claims

### Summary

In public comments submitted to the Board and made at the January 9, 2025, board meeting, Ms. Mendoza charged the Agency, certain members of the board, and certain staff members with a number of violations involving the Open Public Meetings Act, parliamentary procedure, the eligibility of a city representative member, and the unlawful practice of law in addition to demanding a review by the Agency Director. In response, the claims were investigated—at the cost of delays to other work—and found to be without merit. Issues with the Administrative Code discovered during this review have prompted staff to schedule a review of the Code with a report to be provided at a future meeting.

### Recommendation

None.

### Background

In a letter dated January 5, 2025 (see attached), Ms. Jean Mendoza demanded an investigation of her claims set forth in the same pursuant to that portion of the YRCAA Administrative Code Part A Section 2 that reads, “Any Board Member or person who suspects the Board has violated the Open Public Meeting Law is requested to advise the Chair in writing within thirty (30) days of the time that the alleged violation occurred. The Chair, upon receiving such notice, will direct the Executive Director to review the issue and provide recommendations as may be appropriate to the Board at the next available meeting of the Board which will assure the Agency maintains substantial compliance with the Open Public Meeting Law.”

The Agency has no desire to embarrass any member of the public and, to that end, would not have addressed the issues herein were it not for the public insistence of Ms. Mendoza that her claims be investigated.

### Analysis

Though Ms. Mendoza refers to that portion of the YRCAA Administrative Code pertaining to the Open Public Meetings Act (OPMA), she does not provide any applicable reference to a provision of Chapter 42.30 RCW (which contains the OPMA), the violation of which would trigger a review under Part A Section 2 of the Code.

RCW 42.30.077(1) states, “Public agencies with governing bodies must make the agenda of each regular meeting of the governing body available online no later than 24 hours in advance of the published start time of the meeting.... **Nothing in this section prohibits subsequent**



**modifications to agendas nor invalidates any otherwise legal action taken at a meeting where the agenda was not posted in accordance with this section [emphasis supplied].”**

While there are limits concerning changes to the agenda for special meetings, they do not apply to regular meetings and the Board is not bound by the published agenda.

RCW 42.30.240(1) states, “...the governing body of a public agency shall provide an opportunity at or before every regular meeting at which final action is taken for public comment.”

In its “OPMA – Developing and Modifying Agendas” document ([mrsc.org/getmedia/9418eea3-b1a0-4ad2-857b-3205d5773305/OPMA-Agendas-Practice-Tips.pdf](http://mrsc.org/getmedia/9418eea3-b1a0-4ad2-857b-3205d5773305/OPMA-Agendas-Practice-Tips.pdf)), the Municipal Research and Services Center (MRSC) states an agenda may be modified, “Before the meeting, as provided for by rule of the governing body” as well as “during the meeting, upon a motion and majority vote of the governing body or by consensus if that is the agency practice.” It adds, “Often, the vote to modify the agenda will occur at the outset of the meeting when the final agenda is being approved, although it can happen at any point during the meeting, unless otherwise limited by local rule.”

Because the meeting in question was held at its regularly scheduled time and location, the Board properly amended its agenda before inviting public comment, and subsequently allowed said comment, no violation of the OPMA occurred and the review demanded by Ms. Mendoza was without cause.

#### Regulation/Rule

Ms. Mendoza treats the various provisions of the YRCAA Administrative Code as regulations or rules with which the Agency is legally obligated to comply—hence her claims the Agency has “violated” a provision of the Code. However, the “Purpose” section of the introduction to Part A of the Code states, in part, “**Agency policies and procedures are subject to change and exception without prior notice at the discretion of the Board of Directors**” [emphasis supplied]. Likewise, the introduction to Part B of the Code states, in part, “**Our policies and procedures are subject to change and exception without prior notice at our discretion**” [emphasis supplied].”

Furthermore, an administrative “rule” is defined under RCW 34.05.010(16) as “any agency order, directive, or regulation of general applicability (a) the violation of which subjects a person to a penalty or administrative sanction; (b) which establishes, alters, or revokes any procedure, practice, or requirement relating to agency hearings; (c) which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law; (d) which establishes, alters, or revokes any qualifications or standards for the issuance, suspension, or revocation of licenses to pursue any commercial activity, trade, or profession; or (e) which establishes, alters, or revokes any mandatory standards for any product or material which must be met before distribution or sale. The term...**does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public...** [emphasis supplied].”

Finally, where the Code and an applicable statute or regulation are in disagreement, the latter prevails as set forth in the “Content” section of the introduction to Part A of the Code which states, in part, “The requirements of the Washington Administrative Code and Revised Code of Washington applicable to public agencies, and all amendments thereto, whether now or hereinafter adopted, are incorporated herein by reference and made part of this code. **In the event of an inconsistency, unless otherwise specified, the provisions of the aforementioned codes [WAC and RCW] shall govern** [emphasis supplied].”

Based on the above, YRCAA Regulation 1 comprises the “rules and regulations” of the Agency subject to Chapter 34.05 RCW, *not* the Administrative Code. Although Ms. Mendoza may be accurate when noting a deviation from a provision of the Code, such deviations are permitted by the Code itself (as noted above) and do not constitute a “violation”.

#### Board Chairperson Voting

With respect to voting by the Board Chairperson, under the commonly accepted Robert’s Rules of Order:

“If the president is a member of the voting body, he or she has exactly the same rights and privileges as all other members have, including the right to make motions, to speak in debate, and to vote on all questions. So, in meetings of a small board (where there are not more than about a dozen board members present), and in meetings of a committee, the presiding officer may exercise these rights and privileges as fully as any other member. However, the impartiality required of the presiding officer of any other type of assembly (especially a large one) precludes exercising the rights to make motions or speak in debate while presiding, and also requires refraining from voting except (i) when the vote is by ballot, or (ii) whenever his or her vote will affect the result.

...On a vote that is not by ballot, if a majority vote is required and there is a tie, he or she may vote in the affirmative to cause the motion to prevail. If there is one more in the affirmative than in the negative, the chair can create a tie by voting in the negative to cause the motion to fail. Similarly, if a two-thirds vote is required, he or she may vote either to cause, or to block, attainment of the necessary two thirds.”

Under the circumstances, two of the five board members present abstained from voting. If a majority vote were defined as a majority of the votes cast, the vote of the chairperson would have been unnecessary (though not improper under Robert’s Rules of Order given the board has less than a dozen members). Neither the Code nor Chapter 42.30 RCW defines what constitutes a majority vote, but the former does make reference to “the consent of a majority of the Board members present” in Section 2.11.7 and RCW 42.30.020(3) describes “an actual vote by a majority of the members of a governing body when sitting as a body or entity....”

If a majority vote is a vote of the majority of the members present as suggested by the above, in the case in question, the vote of the chairperson was required in order to achieve a majority. Were the chairperson prohibited from voting with two other members abstaining, a motion would never be approved as the two voting members could never constitute a majority. This would have required one of the abstaining members to vote. However, had that occurred, it

would have simply prompted a complaint a member involved in the matter being considered had failed to recuse themselves and abstain from voting.

The provision of the Code highlighted by Ms. Mendoza addresses the prospect of a tie, but does not contemplate the situation wherein participation by the chairperson would be needed to allow for a majority vote. As a result, no basis exists for a finding the Chairperson acted improperly.

#### Conflict of Interest/Abstentions

Regarding the participation of McKinney in discussion and her subsequent abstention from voting, board members are allowed to engage in discussion regarding matters before the Board unless a conflict of interest arises (and may do so even then if announced and the board does not vote to force recusal). However, no such conflict of interest exists under the circumstance in question as McKinney did not have a contractual or remote interest in, would receive no special privilege or exemption through, did not obtain any compensation, gift, or gratuity to secure, and does not receive significant income from any party that would benefit from, the appointment of Jones as set forth in Chapter 42.23 RCW.

Furthermore, there is no prohibition against a board member voluntarily abstaining from a vote (or, in the opposite, no requirement a member vote on any or all matters). Robert's Rules of Order lists several (non-exclusive) reasons a member might choose to abstain: (a) The presence or appearance of a conflict of interest; (b) A desire to avoid a lone or minority vote; (c) A desire to avoid disagreement within the Board; (d) An internal (to the member) conflict regarding the matter that cannot be resolved; and (e) An inability to come to a firm decision regarding the matter due to insufficient information. In addition, a member might choose to abstain if voting might create difficulty in otherwise discharging their duties or create a conflict of interest in another forum.

An abstention from voting, even when done due to concern over a potential conflict of interest, does not, in and of itself, establish the presence of a conflict of interest (and such is the case here). As a result, there is no basis for finding the participation of McKinney in the discussion to have been improper.

#### City Representative Appointment

Ms. Mendoza opines the January 2, 2025, staff report concerning board appointments for city representatives "unnecessarily muddies the waters." However, Section 1.3 to which she points as "provid[ing] clarification" includes the statement "RCW 70.94.110 creates a city selection committee consisting of the mayors of each incorporated city and town, *excluding the mayor of the city with the most population* [emphasis supplied]." This statement is in error and conflicts with the actual language used in RCW 70.94.110 (now RCW 70A.15.2020).

That provision states, in part, "The membership of [the city selection] committee shall consist of the mayor of each incorporated city and town within such county, except that the mayors of the cities, with the most population in a county, having already designated appointees to the board of an air pollution control authority comprised of a single county shall not be members of the committee." As noted in the staff report, the mayors of the cities (plural) with the most population in a county, *having already designated appointees to the board*...shall not be

members....” Because mayors do not appoint members to the board of an air pollution control authority within a single county where the population is less than 400,000, the exclusion does not apply.

This error, in tandem with other suspected inaccuracies, calls into question the veracity of the Code sections concerning appointments by the city selection committee—substantially undermining its ability to deliver the “clarification” to which Ms. Mendoza points and prompting an assessment of the matter and subsequent staff report.

As to Mr. Trevino’s service, RCW 70A.15.2000(4) states, “The terms of office of board members shall be four years” and Part A Section 1.2 of the Code states, “...the term of office for a member of the Board shall be four years from initial appointment.” Yet Ms. Mendoza—having previously argued the staff report “muddies the waters” while the Code provides sufficient “clarification”—argues the staff report is correct and the Code is in error such that Mr. Trevino should have been removed from the board when his elected service concluded despite the fact it occurred before four years had elapsed from his initial appointment (as stated in the Code).

WAC 173-400-220 (to which Ms. Mendoza points) states, “A majority of the members of any ecology or authority board shall represent the public interest [and] a majority of the members of such boards, shall not derive any significant portion of their income from persons subject to enforcement orders pursuant to the state and federal clean air acts.” It adds, “An elected public official and the board shall be presumed to represent the public interest.”

Mr. Trevino is employed by the State of Washington and does not “derive any significant portion of [his] income from persons subject to enforcement orders....” Furthermore, while WAC 173-400-220 presumes an elected public official represents the public interest, it does not state *only* an elected official can represent the public interest. As a result, his continued membership on the Board did not constitute a violation of this regulation.

Nevertheless, the Agency concurs with Ms. Mendoza that the two city representatives appointed to the board should be elected public officials, but this conclusion was reached based on the statutory language in Chapter 70A.15 RCW, not WAC 173-400-220, and the assessment ultimately conducted and upon which said concurrence is based had not yet occurred—and was not available—at the time Mr. Trevino left office.

#### Unlawful Practice of Law

In public comments made at the regular board meeting held January 9, 2025, Ms. Mendoza suggested the Agency Director had practiced law without a license in providing an analysis of the statutory requirements concerning the appointment of board members by the city selection committee.

Rules concerning the unlawful practice of law are grounded in consumer fraud protection with the objective of preventing persons from being harmed by others who misrepresent their ability to properly act, draft/file documents, and/or appear in court, on their behalf in exchange for a fee. As Washington courts have pointed out, the “victims of [the] unlicensed practice of law have faced deportation; had money misappropriated; and...have been arrested and jailed” (e.g. State v.

Janda, 298 P.3d 751, 174 Wash. App. 229 [2012]; Tegman v. Accident & Med. Investigations, Inc., 150 Wash. 2d 102, 75 P.3d 497 [2003]).

They do not make the words and phrases used in the statutes enacted by the legislature, regulations adopted by various agencies, or opinions rendered by the judiciary a special language that can be understood and used only by a select few (as suggested by Ms. Mendoza's remarks).

The term "practice of law" is defined in Washington Court General Rule (GR) 24 ([www.courts.wa.gov/court\\_rules/pdf/GR/GA\\_GR\\_24\\_00\\_00.pdf](http://www.courts.wa.gov/court_rules/pdf/GR/GA_GR_24_00_00.pdf)) adopted in 2001 and most recently amended in 2023. This rule reads as follows:

- (a) General Definition: The practice of law is the application of legal principles and judgment with regard to the circumstances or objectives of another entity or person(s) which require the knowledge and skill of a person trained in the law. This includes but is not limited to:
  - (1) Giving advice or counsel to others as to their legal rights or the legal rights or responsibilities of others for fees or other consideration.
  - (2) Selection, drafting, or completion of legal documents or agreements which affect the legal rights of an entity or person(s).
  - (3) Representation of another entity or person(s) in a court, or in a formal administrative adjudicative proceeding or other formal dispute resolution process or in an administrative adjudicative proceeding in which legal pleadings are filed or a record is established as the basis for judicial review.
  - (4) Negotiation of legal rights or responsibilities on behalf of another entity or person(s).
- (b) Exceptions and Exclusions: Whether or not they constitute the practice of law, the following are permitted:
  - (1) Practicing law authorized by a limited license to practice pursuant to Admission and Practice Rules 3(g) (pro bono admission), 8 (limited admissions for: a particular action or proceeding; indigent representation; house counsel), 9 (licensed legal interns), 12 (limited practice officers), 14 (foreign law consultants), or 28 (limited license legal technicians).
  - (2) Serving as a courthouse facilitator pursuant to court rule.
  - (3) Acting as a lay representative authorized by administrative agencies or tribunals.
  - (4) Serving in a neutral capacity as a mediator, arbitrator, conciliator, or facilitator.
  - (5) Participation in labor negotiations, arbitrations or conciliations arising under collective bargaining rights or agreements.
  - (6) Providing assistance to another to complete a form provided by a court for protection under RCW chapters 10.14 (harassment) or 26.50 (domestic violence prevention) when no fee is charged to do so.
  - (7) Acting as a legislative lobbyist.
  - (8) Sale of legal forms in any format.
  - (9) Activities which are preempted by Federal law.
  - (10) Serving in a neutral capacity as a clerk or court employee providing information to the public pursuant to Supreme Court Order.

- (11) Such other activities that the Supreme Court has determined by published opinion do not constitute the unlicensed or unauthorized practice of law or that have been permitted under a regulatory system established by the Supreme Court.
- (c) Nonlawyer Assistants: Nothing in this rule shall affect the ability of nonlawyer assistants to act under the supervision of a lawyer in compliance with Rule 5.3 of the Rules of Professional Conduct.
- (d) General Information: Nothing in this rule shall affect the ability of a person or entity to provide information of a general nature about the law and legal procedures to members of the public.
- (e) Governmental agencies: Nothing in this rule shall affect the ability of a governmental agency to carry out responsibilities provided by law.
- (f) Professional Standards: Nothing in this rule shall be taken to define or affect standards for civil liability or professional responsibility.

*Prima facie*, the actions of the Director do not fall within the general definition set forth in GR 24 because the Director did not:

1. Give advice or counsel to others as to their rights or responsibilities for fees or other consideration;
2. Draft a legal document that affects the legal rights of an entity or person(s);
3. Represent another entity or person(s) in a court, an adjudicative proceeding, or a dispute resolution process; or
4. Negotiate on behalf of another entity or person(s);

The above notwithstanding, the work of the Agency Director is covered under the “Governmental Agencies” exemption, set forth in GR 24, that states, “Nothing in this rule shall affect the ability of a governmental agency to carry out responsibilities provided by law.” In the circumstance in question, the Director was acting for the Agency which is obligated to conduct itself in compliance with Chapter 70A.15 RCW and is responsible for convening the city selection committee under its auspices as well as managing the appointment process (e.g. notification, nominations, balloting) pursuant to RCW 70A.15.2020.

Finally, an independent review by legal counsel for the Agency found no conflict with GR 24.

### Impact

Responding to claims—no matter how well intentioned—such as those put forth by Ms. Mendoza consumes resources that would otherwise have been used to pursue the mission and objectives of the Agency. Time, in particular, is an irreplaceable commodity that cannot be recovered once spent and work that would have been performed during that time can only be accomplished by pushing it into the future. For example, the time expended on this review was to have been used to assess where technology could be employed to improve inspection quality, frequency, and documentation. Given other obligations and deadlines, it is unknown when that work will now occur.

There are approximately 230,000 persons within the service area of the Agency and it has an obligation to respond to complaints having merit. However, responding to spurious complaints

denies the resources thus consumed to others with equal claim to them who also have an expectation the Agency will act for their benefit.

Ironically, while Ms. Mendoza (along with others) has argued for additional work by Agency staff to provide more information, produce additional educational materials, increase inspections, expand registration, increase the number of bilingual materials, etc. (all in addition to the existing programs, administrative work, public records requests, etc.), her actions serve to hamper, delay, or prevent the very work sought.

#### Administrative Code Review

During this review, a number of problems in the Administrative Code were discovered (a couple of which are noted above). This has prompted staff to schedule a review of the Code with a report to be provided at a future meeting including one or more recommendations as to how the Board should address the findings.