

January 5, 2025

Dear Executive Director Thornsbury,

According to YRCAA Administrative Code Part A, Section 2.13, I have missed the deadline for submitting written comments for the YRCAA Board of Directors meeting on Thursday. I can still submit these comments in writing at the meeting. But I do not want to ambush the board, so I am sending my comments to you ahead of time for distribution to the board at your discretion.

Thank you.

Jean Mendoza

Comments:

1. Chairman Devaney may have violated YRCAA Administrative Code Part A last month when he voted to recommend Dr. Jones for Board Position 3. The minutes for the December 2024 YRCAA Board Meeting state:

Deccio moved to recommend Jones provided he consents to serve. DeVaney seconded the motion. McKinney and Jones abstained from voting. Motion passed 3-0.

YRCAA Administrative Code Part A states:

**Section 3      Officers and Duties**

3.1 Chairperson

The presiding officer of the Agency Board is the Chairperson (Chair) of the Board. The Chair shall be elected by the Directors at the first meeting in January of each year, or as soon as is practical thereafter, and will assume office at that time. The Chair shall preserve order and decorum at regular and special meetings of the Board. The Chair shall only vote on any question if the vote by other Board members results in a tie.

Revised 7/10/17

Page 7 of 10

2. The election of the YRCAA Board Chair is supposed to take place in January of each year. I do not see this item on the January 2025 agenda. This creates a minor problem since the YRCAA Board of Directors cannot take action that is not on the agenda.

#### 2.11.6 Action Items

Action items are items that require Board action such as approval for payment of accounts payable and payroll, or adoption of resolutions implementing Agency budget, regulations, policy and other official Agency actions.

#### 2.11.7 Other Items

Other items may be introduced by any Board member and discussed with the consent of a majority of the Board members present. However, unless the item is an emergency as set out in Section 2.6 herein, no action may be taken.

3. The YRCAA Board of Directors may have acted improperly last month when the board voted to recommend Dr. Jones for Board Position 3. According to the December minutes:

#### 3. Changes to the Agenda

DeVaney asked if there were any changes to the agenda. Thornsby stated the need to add discussion regarding an appointee for the county. DeVaney suggested the item be placed under "Other Business" and adopted as an amendment to the agenda. McKinney moved to approve amending the agenda as stated. Deccio seconded. Motion passed 4-0.

According to YRCAA Administrative Code Part A:

#### 2.11.2 Additions or Deletions to the Agenda

The Chair will ask the Director if there are any additions or deletions to the agenda. The Director may add or delete any item from the agenda. However, added items may only be for discussion and may not be acted upon by the Board.

And

#### Section 5 Voting

This section provides guidance to Board members for voting on an issue which requires Board action. The Board shall not vote to approve any action or to adopt any ordinance, resolution, rule, regulation, order, or directive, except in a meeting open to the public, and then only at a meeting for which notice has been given according to the provisions of this policy. Any Board action failing to comply with the provisions of this policy shall be null and void. The Board shall not vote by secret ballot. Any vote taken in violation of this subsection shall be null and void.

4. I notified Chair Devaney of this problem by email on December 14, 2024. Mr. Devaney has not responded to my email. Here is the relevant section of YRCAA Administrative Code Part A:

## Section 2 Board Meetings

This section declares Board policy for, describes the requirements of, and provides guidance for the conduct of, meetings of the Board. Agency Board meetings are subject to the requirements of RCW 42.30, the Open Public Meetings Act. It is the policy of the Board that their actions shall be taken openly and that their deliberations shall be conducted openly.

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.

I do not see that the Executive Director has reviewed the issue, or prepared recommendations, or placed the item on the agenda for the January 2025 board meeting.

5. I suggest that the “Analysis” provided for selection of the Board Position 2 unnecessarily muddies the waters. Pursuant to YRCAA Administrative Code Part A, Section 1.1.2 (i) the YRCAA Board of Directors has the power to “adopt and amend its rules and regulations.”

The YRCAA Board of Directors has provided clarification in part 1.3 that says:

### 1.3 Board Composition and Selection

Pursuant to RCW 70.94.100, the Board shall be comprised of two appointees of the city selection committee, at least one of whom shall represent the city with the largest population in the county, and two representatives to be designated by the board of county commissioners. If then, the Board consists of an even number; the seated members shall elect an additional member who shall be either a member of one of the governing bodies of the towns or cities, or a private citizen residing in the authority.

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. Agency Board members are selected as follows:

#### 1.3.1 City Selection Committee Position No. 1

This position shall be appointed by the city selection committee and must represent the city having the most population in the county. Generally, the mayor or a city councilperson fills this position, representing the city of Yakima.

#### 1.3.2 City Selection Committee Position No. 2

This position is appointed by the city selection committee, according to the process required in RCW 70.94.120, and may be either a member of the governing body of one of the cities and towns, or a private citizen. Detailed procedures for selection of this position are available from the Clerk of the Board. Generally, this position represents the smaller cities and is filled by a member of the governing body of one of the smaller cities.

In addition,

In addition, WAC 173-400-220 requires that a majority of the YRCAA Board Members represent the public. An elected official is presumed to represent the public. The YRCAA Board has likely been out of compliance since the most recent elections when Mr. Trevino ceased to be Mayor of Granger.

## **WAC 173-400-220**

### **Requirements for board members.**

(1) **Public interest.** A majority of the members of any ecology or authority board shall represent the public interest. 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. An elected public official and the board shall be presumed to represent the public interest. In the event that a member derives a significant portion of his/her income from persons subject to enforcement orders, he/she shall delegate sole responsibility for administration of any part of the program which involves these persons to an assistant.

(2) **Disclosure.** Each member of any ecology or authority board shall adequately disclose any potential conflict of interest in any matter prior to any action or consideration thereon, and the member shall remove themselves from participation as a board member in any action or voting on such matter.

(3) **Define significant income.** For the purposes of this section, "significant portion of income" shall mean twenty percent of gross personal income for a calendar year. In the case of a retired person, "significant portion of income" shall mean fifty percent of income in the form of pension or retirement benefits from a single source other than Social Security. Income derived from employment with local or state government shall not be considered in the determination of "significant portion of income."