

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

939 ELLIS STREET – SAN FRANCISCO, CA 94109

Approved Minutes: Board of Directors’ Regular Meeting – December 6, 2006

## **Call To Order**

Opening Comments: Chair Gayle B. Uilkema called the meeting to order at 9:33 a.m.

Roll Call: Present: Gayle B. Uilkema, Chair, Tom Bates, Harold Brown (9:53 a.m.), Chris Daly (9:46 a.m.), Erin Garner, Scott Haggerty (9:40 a.m.), Jerry Hill, Yoriko Kishimoto, Carol Klatt, Liz Kniss (9:59 a.m.), Patrick Kwok, Janet Lockhart (9:40 a.m.), Jake McGoldrick (9:46 a.m.), Nate Miley (9:41 a.m.), Mark Ross, Michael Shimansky, John Silva, Tim Smith, Pamela Torliatt (9:39 a.m.), Brad Wagenknecht.

Absent: Dan Dunnigan.

Pledge of Allegiance: The Board of Directors recited the Pledge of Allegiance.

Swearing in of new Board Member: The following Board member was sworn in: Supervisor John Gioia of the City of El Cerrito, representing Contra Costa County.

Director Pamela Torliatt arrived at 9:39 a.m.

**Public Comment Period:** The following individuals came forward and spoke about air quality issues in their communities, the Air District’s Community Air Risk Evaluation (CARE) Program, cumulative impact and risk, environmental justice, and land use:

Dr. Henry Clark  
West County Toxics Coalition  
Richmond, CA 94801

Andy Katz  
Breathe California/BAEHC)  
Berkeley, CA 94704

Johnny White  
Environmental Justice Group  
San Pablo, CA 94806

Teresa Almager  
PODER  
San Francisco, CA 94103

Lee Jones, Bay Area Environmental Health  
Collaborative (BAEHC)  
Richmond, CA 94801

Gordon Mar  
Chinese Progressive Association  
San Francisco, CA

Duane Goodson  
BAEHC  
San Francisco, CA 94124

Bradley Angel  
Greenaction

Karen Cohn  
BAEHC  
San Francisco, CA 94102

Marie Harrison  
Greenaction  
San Francisco, CA 94102

Ken Kloc  
BAEHC  
San Francisco, CA 94105

Fernanda Bueno  
PODER  
San Francisco, CA 94103

Amy Cohen  
BAEHC  
San Francisco, CA 94107

Ana Jasso  
PODER  
San Francisco, CA 94103

In addition to the speakers, Chair Uilkema announced that an email communication had been received from Joel Ervice, Associate Director, Regional Asthma Management & Prevention Initiative (RAMP).

The following Board members arrived during the Public Comment Period: Directors Scott Haggerty and Janet Lockhart arrived at 9:40 a.m. Director Nate Miley arrived at 9:41 a.m. Directors Chris Daly and Jake McGoldrick arrived at 9:46 a.m. Director Hal Brown arrived at 9:53 a.m. Director Liz Kniss arrived at 9:59 a.m.

Chair Uilkema requested that the Air District staff meet with the organizations represented and report back to the Board on a recommended course of action.

**Proclamation/Commendation:** *The Board of Directors' recognized the Honorable Mark DeSaulnier for his dedicated leadership, and service to air quality in the Bay Area.*

*A Resolution from the City Council of the City of El Cerrito was presented endorsing the California Greenhouse Gas Emission Reduction Targets at the Air District's Climate Protection Summit, November 10, 2006.*

**Consent Calendar (Items 1 – 6)**

1. Minutes of November 1, 2006
2. Communications. Correspondence addressed to the Board of Directors. For information only.
3. District Personnel on Out-of-State Business Travel

*In accordance with Section 5.4 (b) of the District's Administrative Code, Fiscal Policies and Procedures Section, the Board was notified by memoranda the list of District personnel who traveled on out-of-state business.*

4. Notice of Proposed Amendments to Air District's Administrative Code, Division I Operating Policies and Procedures of the Board of Directors, Section 6: Board of Directors: Committees – Establishing a Climate Protection Committee

*Air District notice of proposed amendments to the Administrative Code Division I, Section 6.2: Standing Committees (h), (i), (j), and Sections 6.9-6.14 for approval at the Board of Directors' next regularly scheduled meeting, to establish a Climate Protection Committee.*

5. Consider Establishing a New Classification of Senior Air Quality Technician at Salary Set Range 130

*The Board of Directors considered approval of establishing a new classification of Senior Air Quality Technician at salary set Range 130 effective as of the date of Board approval.*

6. Consideration of Proposed 2007 Regulatory Calendar

*State law requires each Air District to publish a list of potential regulatory measures for the upcoming year. No regulatory measures can be brought before the Board that is not on the list, with specified exceptions. Consequently, the list contains all measures that may come before the Board in 2007.*

Director Ross requested that Item 6 be removed from the Consent Calendar and Chair Uilkema so ordered.

**Board Action:** Director Torliatt moved approval of Consent Calendar Items 1 through 5; seconded by Director Daly; carried unanimously without objection.

Director Ross inquired about rules being promulgated in the coming year with regard to greenhouse gas (GHG) emissions. Jack Broadbent, Executive Officer/APCO, stated that state law requires the Air District to publish a list of potential regulatory measures for the upcoming year. If the Air District is going to move forward on regulatory initiatives on climate change, it might not be until the following year. Brian Bunger, Counsel, added that there are a series of findings that the Air District could make to add items to the list, including GHG emissions.

**Board Action:** Director Ross moved approval of Consent Calendar Item 6; seconded by Director Brown; carried unanimously without objection.

### **Committee Reports and Recommendations**

7. Report of the Mobile Source Committee Meeting of November 20, 2006

*Action(s): The Committee recommended Board of Directors' approval of staff recommendations for fiscal year (FY) 2006/2007 Transportation Fund for Clean Air (TFCA) Regional Fund grant awards listed in Attachment 1 in the Committee packet, totaling \$12,350,489.*

Director Smith presented the report and stated that the Committee met on Monday, November 20, 2006.

Staff presented a report on the Transportation Fund for Clean Air (TFCA) Regional Fund grant awards for fiscal year 2006/2007. The Committee recommends that the Board of

Directors' approve \$12,350,489 for the fiscal year 2006/2007 TFCA Regional Fund grant awards listed in Attachment 1 to the Committee agenda item 4.

There was considerable discussion on the issue of compressed natural gas (CNG) and clean diesel. The Committee provided direction to staff to report back to the Committee at a future meeting on these items.

The next Committee meeting will be at the Call of the Chair.

**Board Action:** Director Smith moved that the Board of Directors' approve the recommendations and report of the Mobile Source Committee; seconded by Director Kniss; carried unanimously without objection.

8. Report of the Nominating Committee Meeting of November 21, 2006

*Action(s): The Committee recommended appointment of Board Officers for the 2007 term of office.*

Chair Uilkema presented the report and stated that the Committee met on Tuesday, November 21, 2006. The Committee discussed at length the nominations for the Board Officers. The Committee, on a unanimous vote, recommends the Board of Directors approve the following slate of Board Officers for the 2007 term of office:

Mark Ross, Chairperson  
Jerry Hill, Vice-Chairperson  
Pamela Torliatt, Secretary

**Board Action:** Director Uilkema moved that the Board of Directors approve the recommendations of the Nominating Committee; seconded by Director Haggerty; carried unanimously without objection.

9. Report of the Stationary Source Committee Meeting of November 28, 2006

Director Silva presented the report and stated that the Committee met on Tuesday, November 28, 2007.

The Committee received reports on the following four informational items:

1. Proposed amendments to Regulation 9, Rule 9: Nitrogen Oxides from Stationary Gas Turbines. The report included background information, the rule development process, the proposed amendments, and the next steps to be taken. The public hearing to consider the amendments to the regulation is scheduled for today.
2. Proposed new Regulation 6, Rule 2: Commercial Cooking Equipment. The report included background information on development of the rule, an overview of the proposed regulation, the type of equipment that would be regulated, information on Bay Area restaurant emissions, a review of the comments received during the public workshops, and the next steps in the rule development process. The public hearing to consider the proposed new rule will be scheduled for early 2007.
3. Proposed amendments to Regulation 9, Rule 8: Nitrogen Oxides and Carbon Monoxide from Stationary Internal Combustion Engines. The report included a

description of the affected facilities and equipment, background information of the regulatory requirements affecting internal combustion engines, proposed regulatory concepts, and the next steps in the rule development process. The public hearing to consider the proposed amendments to the regulation will be conducted in the second quarter of 2007.

4. An overview of the Compliance Program's activities for Fiscal Year 2005-2006.

The Committee provided direction to staff on items discussed during each presentation.

The next meeting of the Committee will be at the Call of the Chair.

**Board Action:** Director Silva moved that the Board of Directors approve the report of the Stationary Source Committee; seconded by Director Kwok; carried unanimously without objection.

10. Report of the Personnel Committee Meeting of December 4, 2006

*Action(s): The Committee may recommend Board of Directors' approval of appointment of candidates to fill nine (9) positions on the Advisory Council effective December 31, 2006 – December 31, 2008*

Chair Uilkema stated that she had not had an opportunity to review this report and requested that the report be deferred.

**Board Action:** Director Kwok moved to defer the Report of the Personnel Committee Meeting of December 4, 2006 to a later Board meeting; seconded by Director Garner; carried unanimously without objection.

### **Public Hearing**

11. Public Hearing to Consider Proposed Amendments to Regulation 9, Rule 9: Nitrogen Oxides from Stationary Gas Turbines and Adoption of a California Environmental Quality Act (CEQA) Negative Declaration

*The proposed amendments to Regulation 9, Rule 9 will reduce emissions of nitrogen oxides (NOx) from stationary gas turbines.*

Guy Gimlen, Air Quality Engineer, presented the report and stated that this rule sets limits on Nitrogen Oxides from stationary gas turbines. Mr. Gimlen provided a description of gas turbines and noted that the Bay Area has 155 permitted gas turbines that currently emit 6.5 tons/day of NOx. The technology used to reduce NOx and turbine efficiency was discussed.

Mr. Gimlen reviewed the proposed amendments to the rule for the largest turbines, large turbines, mid-sized turbines, and small turbines. Turbines smaller than 5 MM Btu/hr are exempt from the rule. Other proposed amendments include new categories for turbines as defined by heat input, alternative "output based" emission limits, limited use turbines, and minor inspection and maintenance exemption. An overview of the rule development process was presented and a comparison of the Air District's proposal with other air districts' gas turbine rules was also reviewed.

Total NOx reductions from the proposed amendments will be 0.43 tons per day. An additional 0.23 tons per day of NOx is reduced by three gas turbines that have shut down in 2006. Staff recommended that the Board of Directors adopt the proposed amendments to Regulation 9, Rule 9: Nitrogen Oxides from stationary gas turbines; and adopt a CEQA Negative Declaration for the proposed amendments.

There was discussion on a cost benefit analysis requirement, the availability of the technology, the market for retrofit technology, cost benefit, and future technology. It was noted that the rule has a “future” effective compliance date.

The public hearing was opened at 11:22 a.m. and the following individuals spoke on the matter:

Dennis Bolt  
WSPA  
Concord, CA 94518

Brian Walker  
Foster Wheeler Martinez, Inc.  
Martinez, CA 94553

The public hearing was closed at 11:28 a.m.

During the public hearing, Mr. Bolt requested that a sentence be inserted to Section 404.2 that states “The APCO shall conduct a cost-effectiveness analysis prior to making a final determination.”

**Board Action:** Director Hill moved the staff recommendation, including the additional language as stated above; seconded by Director Haggerty.

There was discussion regarding inclusion of GHG emission reductions analysis in the rule. Mr. Broadbent noted that this is included in the alternative control process in the rule and added that the rule does take steps towards recognizing climate change. The motion then passed unanimously with the following Board members voting:

AYES: Bates, Garner, Haggerty, Hill, Kishimoto, Klatt, Kniss, Kwok, Lockhart, McGoldrick, Miley, Ross, Shimansky, Silva, Smith, Torliatt, Wagenknecht, Uilkema.

NOES: None.

ABSENT: Brown, Daly, Dunnigan, Gioia.

**Adopted Resolution No. 2006-17: A Resolution of the Board of Directors of the Bay Area Air Quality Management District Amending District Regulation 9, Rule 9: Nitrogen Oxides from Stationary Gas Turbines and Adopting a CEQA Negative Declaration for the Project**

Chair Uilkema announced that the December 20, 2006 Regular Board meeting is cancelled.

**Closed Session** The Board convened to Closed Session at 11:35 a.m.

12. Conference with Legal Counsel

**A) Threat of Litigation Government Code Section 54956.9(b)**

*Tort Claim of Hornblower Cruises & Events against the California Air Resources Board, Bay Area Air Quality Management District and David Burch (received October 27, 2006)*

**Open Session:** The Board reconvened to open session at 11:40 a.m.

Brian Bunger, Legal Counsel, reported that the Board met in closed session with counsel on agenda item 12A and considered the Tort claim of Hornblower Cruises & Events against the District and voted unanimously to reject the claim in its entirety.

**Other Business**

14. Chairperson's Report – Chair Uilkema announced that the next Regular Board meeting will be on Wednesday, January 3, 2007 and will start at 9:45 a.m.
13. Report of the Executive Officer/APCO – Mr. Broadbent reviewed the following:
- A) The Air District's Climate Summit was a success.
  - B) The ideas that came out of the Summit will be reviewed by the new Climate Protection Standing Committee and the Board Executive Committee.
  - C) Reviewed the exceedances of the PM2.5 standard from November 20, 2006 through December 5, 2006.
15. Board Members' Comments – There were none.
16. Time and Place of Next Meeting – 9:45 a.m., Wednesday, January 3, 2007 – 939 Ellis Street, San Francisco, CA 94109
17. Adjournment – The meeting adjourned at 11:44 a.m.

*/s/ Mary Romaidis*  
Mary Romaidis  
Clerk of the Boards