

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
939 ELLIS STREET – SAN FRANCISCO, CA 94109

Approved Minutes: Board of Directors' Regular Meeting – November 7, 2007

Call To Order

Opening Comments: Chair Mark Ross called the meeting to order at 9:50 a.m.

Roll Call: Present: Mark Ross, Chair, Tom Bates (10:03 a.m.), Harold Brown, Chris Daly, Erin Garner, Jerry Hill, Carol Klatt, Patrick Kwok, Janet Lockhart, Jake McGoldrick (9:52 a.m.), Nate Miley, Michael Shimansky, John Silva, Pamela Torliatt, Gayle B. Uilkema, Brad Wagenknecht.

Absent: Dan Dunnigan, John Gioia, Scott Haggerty, Yoriko Kishimoto, Liz Kniss, Tim Smith.

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

Chair Ross stated that this was Director Kwok's last day on the Board and thanked him for his service and participation on the Board of Directors.

Director Jake McGoldrick arrived at 9:52 a.m.

Commendation/Proclamation: The Board of Directors recognized Director Patrick Kwok for his outstanding service on the Board of Directors and presented him with a plaque.

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Chair Ross noted that there was one member of the public requesting to speak on Consent Calendar Item 7. The following individual then spoke on the item:

Jack Bean
Pleasant Hill, CA

Consent Calendar (Items 1 – 8)

1. Minutes of October 3, 2007
2. Communications – *Information only.*
3. Quarterly Report of Air Resources Board Representative
4. 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 is hereby notified that the memoranda in the meeting packet lists District personnel who traveled on out-of-state business.

5. Consider Approval of Resolution Authorizing the Use of an Optional Benefit with the California Public Employees' Retirement System Pursuant to Government Code Section 20903

The Board of Directors considered approval of resolution authorizing use of an optional benefit with the California Public Employees' Retirement System pursuant to Government Code Section 20903.

6. Set Public Hearing for December 5, 2007 to Consider Adoption of new District Regulation 6, Rule 2: Commercial Cooking Equipment, amendments to Regulation 3: Fees, amendments to Regulation 6: Particulate Matter and Visible Emissions, and Adoption of a CEQA Negative Declaration

Proposed Regulation 6, Rule 2 would regulate chain driven charbroilers at restaurants that purchase over 500 lbs of beef per week and large under-fired charbroilers at restaurants that purchase over 1000 lbs of beef per week. A proposed exemption is provided for those restaurants that do not charbroil at least 80% of the beef purchased. Equipment registration fees, adopted in June, 2007, are proposed to be lowered due to a reduction in expected program costs, and amendments to Regulation 6: Particulate Matter and Visible Emissions renumber and rename the rule.

7. Consider Adjusting the District's Maximum Contribution Declared to California Public Employees' Retirement System (CalPERS)

The Board of Directors considered approval of a resolution adjusting the District's Maximum Medical Contribution declared to CalPERS for management, confidential, represented, and miscellaneous employees and retirees.

8. Considered Approval of Request to Amend Signature Authorization

The Board of Directors considered approval of staff recommendation to grant Jeffrey M. McKay, Deputy Air Pollution Control Officer, authorization to sign orders drawn by the District.

Board Action: Director Hill moved approval of Consent Calendar items 1 through 8; seconded by Director Wagenknecht; carried unanimously with the following Board members voting:

AYES: Brown, Daly, Garner, Hill, Klatt, Kwok, Lockhart, McGoldrick, Miley, Shimansky, Silva, Torliatt, Uilkema, Wagenknecht, Ross.

NOES: None

ABSENT: Bates, Dunnigan, Gioia, Haggerty, Kishimoto, Kniss, Smith.

Adopted Resolution No. 2007-12: A Resolution of the Board of Directors of the Bay Area Air Quality Management District Granting Another Designated Period for Two Years of Additional Service Credit

Adopted Resolution No. 2007-13: Resolution Fixing the Employee's Contribution Under the Public Employees' Medical and Hospital Care Act

Adopted Resolution No. 2007-14: A Resolution Notifying the County Treasurer and County Controller of San Mateo County of a Change in Authorized Signatures

Committee Reports and Recommendations

9. Report of the Stationary Source Committee Meeting of October 29, 2007

Director Shimansky presented the report and stated that the Committee met on Monday, October 29, 2007.

One member of the public spoke under the Public Comment Period regarding air pollution in the Southeast section of San Francisco.

Director Tom Bates arrived at 10:03 a.m.

The Committee received a status report regarding the Lennar Bay View Hunters Point Parcel A redevelopment project. The presentation included information on naturally occurring asbestos, Lennar's Asbestos Dust Mitigation Plan, air monitoring at the site, potential health risks in the surrounding community, and inspection and enforcement actions at the site. Twenty-one members of the public spoke on this agenda item expressing concerns over naturally occurring asbestos dust emissions from the grading operations, past violations cited by the Air District, and general health concerns expressed by residents of the Bayview-Hunters Point area. Direction was given to staff to pursue penalties for Lennar's violations of Air District requirements; the Air District will be enhancing air monitoring and amending the Asbestos Dust Mitigation Plan.

A brief report on proposed amendments to Regulation 9, Rule 6: Nitrogen Oxides from Natural Gas-Fired Water Heaters was presented to the Committee. The public hearing for Board approval of the amendments will be held today.

The next meeting of the Committee is scheduled for 9:30 a.m., Monday, December 3, 2007.

Board Action: Director Shimansky moved that the Board of Directors' approve the report of the Stationary Source Committee; seconded by Director Daly; carried unanimously without objection.

Public Comment Period: Chair Ross noted that the public comment period had been overlooked earlier in the meeting. Chair Ross called for Public Comments and there were none.

10. Report of the Mobile Source Committee Meeting of October 31, 2007

Action(s): The Committee recommended Board of Directors' approval of the following:

- A) Fiscal Year 2007/2008 Transportation Fund for Clean Air (TFCA) Regional Fund grant awards listed in Attachment 1, totaling \$10,348,655; and*
- B) Reallocation of any funds remaining from the \$1,000,000 in FY 2007/2008 TFCA Regional Funds set aside for clean-air vehicle advanced technology demonstration projects back to the TFCA Regional Fund.*

Director McGoldrick presented the report and stated that the Committee met on Wednesday, October 31, 2007.

Staff presented a report on the Transportation Fund for Clean Air (TFCA) Regional Fund grant awards for fiscal year 2007/2008. Staff noted that they would be working with sponsors of projects that did not achieve the minimum point score and are not currently recommended for funding. Staff will report back to the Committee on any of these projects that would be eligible for funding in the future. The Committee recommends Board of Directors' approval of the following:

- A) Fiscal year 2007/2008 TFCA Regional Fund grant awards listed in Attachment 1 of the staff report, totaling \$10,348,655; and
- B) Reallocation of any funds remaining from \$1 million in fiscal year 2007/2008 TFCA Regional Funds set aside for clean-air vehicle advanced technology demonstration projects back to the TFCA Regional Fund.

The Committee received an update on the state-wide Goods Movement Emission Reduction Program. The update included information on the Program targets and themes, structure, and the timeline. Staff will provide additional updates at future meetings of the Committee.

The next meeting of the Committee is tentatively scheduled for Monday, December 10, 2007.

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

Chair Ross stated that a request had been made to hear agenda item 12 next and he so ordered.

Public Hearing

12. Public Hearing to Consider Adoption of Amendments to District Regulation 9, Rule 6: Nitrogen Oxides from Natural Gas-Fired Water Heaters, and Adoption of a CEQA Negative Declaration

Proposed amendments to Regulation 9, Rule 6 will expand the scope of the rule to regulate NOx emissions from larger water heaters and small boilers, include currently exempt mobile home water heaters and commercial spa and pool heaters and establish more stringent NOx emission limits for all affected equipment.

Guy Gimlen, Air Quality Engineer, presented the report reviewed the background of Regulation 9, Rule 6. Mr. Gimlen stated that the regulation is a “point of sale” type regulation requiring emission controls on new units. The current NOx emissions are approximately 3.3 tons per day from water heaters. The proposed amendments to the rule will fulfill the Air District’s commitment to reduce NOx emissions in the 2005 Ozone Strategy under Control Measure 13. Mr. Gimlen provided pictures of a 100,000 Btu/hr water heater and a 1,000,000 Btu/hr steam boiler, which are two of the large devices that are currently regulated.

The rule amendment proposals would reduce current residential water heater NOx limits from 40 ng/joule down to 10 ng/joule starting January 1, 2009 for new heaters. The NOx limits are written as “output” based standards. The amendments also include larger water heaters and small boilers up to 2MM Btu/hr. Mr. Gimlen reviewed the costs and emission reductions that will be achieved. Total NOx reductions would amount to 2.9 tons per day. The rule development process was reviewed.

Mr. Gimlen stated that staff recommends that the Board of Directors adopt the proposed amendments to Regulation 9, Rule 6: Nitrogen Oxides from Natural Gas-Fired Water Heaters and approve the CEQA Negative Declaration for the proposed amendments.

There was discussion on the January 2009 implementation date, the efficiency of the equipment, incentives, solar water heaters, and point-of-need water heaters.

Chair Ross opened the public hearing at 10:34 a.m. and the following individual came forward and spoke on the item:

Ed Nordstrom
Director, Technical & Regulatory Affairs
GAMA
Providence, RI 02903

Jack Broadbent, Executive Officer/APCO, addresses the concerns raised by Mr. Nordstrom and stated that the time frame in the regulation is sufficient to address products that are in the stream and for the manufacturers to gear up.

Chair Ross closed the public hearing at 10:44 a.m.

Board Action: Director Torliatt moved Board of Directors’ approval of the staff recommendation; seconded by Director Wagenknecht; carried unanimously with the following Board members voting:

AYES: Bates, Brown, Daly, Garner, Hill, Klatt, Kwok, Lockhart, McGoldrick, Miley, Shimansky, Silva, Torliatt, Uilkema, Wagenknecht, Ross.

NOES: None.

ABSENT: Dunnigan, Gioia, Haggerty, Kishimoto, Kniss, Smith.

Adopted Resolution No. 2007-15: A Resolution of the Board of Directors of the Bay Area Air Quality Management District Amending District Regulation 9, Rule 6: Nitrogen Oxides from Natural Gas-Fired Water Heaters and Small Boilers and Adopting a CEQA Negative Declaration for the Project

Presentation

11. Summary of 2007 Ozone Season and Overview of Upcoming Spare the Air Tonight Campaign

Staff provided a summary of the 2007 Ozone Season, background information on particulate matter for the upcoming winter season, and an overview of the upcoming Spare the Air Tonight campaign.

Gary Kendall, Director of Technical Services, presented the report and reviewed the 2007 ozone exceedances for the Bay Area and reviewed preliminary data through October 31, 2007 for the major California air basins. Mr. Kendall reviewed a chart entitled Bay Area Ozone and Maximum Temperature Trends which lists the number days greater than 99° F and the number of days exceeding the National Ozone Standard.

Mr. Kendall discussed the attainment status of the 8-hour national standard (85 ppb) at five monitoring stations and the attainment status of the 8-hour national standard forecast into the future. The Environmental Protection Agency (EPA) has proposed revising the ozone standard from 85 ppb to 70-75 ppb. Mr. Kendall stated that the 2005 Ozone Strategy has 38 Control Measures, 20 Further Study Measures, and there will be an update in 2008. Mr. Kendall reviewed the Bay Area VOC and NO_x emission trends in tons per day from 1980 through 2020.

Mr. Kendall presented a summary of the 2006/2007 winter PM_{2.5} season, Bay Area PM_{2.5} trends, and the composition of winter PM_{2.5}. In reviewing the facts about Bay Area PM_{2.5}, Mr. Kendall stated that the Bay Area does not meet the new PM_{2.5} standard, the PM_{2.5} standard is only exceeded during the winter, and wood smoke is the largest component of winter PM_{2.5}. An overview of PM control measures was provided to the Board.

There was discussion on the Air District's CARE Program and PM reductions at specific "hot spots" and how fires like those in Southern California affect the PM standards. Mr. Kendall stated that the Air District can request that EPA flag extraordinary events like the fires.

Mr. Broadbent added that the Air District is gearing up for the Spare the Air Tonight program and is conducting numerous workshops on the proposed wood smoke rule.

Closed Session (The Board adjourned to Closed Session at 11:04 a.m.)

13. Conference with Legal Counsel: *Existing litigation*

Pursuant to Government Code Section 54956.9(a), a need existed to meet in closed session with legal counsel to consider the following cases:

- A) **Hornblower Cruises and Events v. California Air Resources Board, Bay Area Air Quality Management District, David Burch, et al.**, Superior Court of the County of San Francisco, Case No., CGC-07-464286
- B) **San Francisco Chapter of the A. Philip Randolph Institute, et al. v. United States Environmental Protection Agency, Bay Area Air Quality Management District, Mark Ross**, United States District Court, Northern District of California, Case No. C 07 4936 JCS

Open Session (The Board reconvened to Open Session at 11:12 a.m.)

Brian Bunger, Legal Counsel, reported that the Board met with legal counsel in Closed Session on items 13 A and 13 B. A status report was provided on the items and the Board provided direction to counsel.

Other Business

- 14. Report of the Executive Officer/APCO – Jack Broadbent, Executive Officer/APCO reported on the following:
 - A) The public hearing on the Charbroiler rule will take place at the next Board meeting.
- 15. Chairperson’s Report – Chair Ross reported on the following:
 - A) The November 21st Board meeting is cancelled and the next Regular Board meeting is scheduled for December 5, 2007.
 - B) In early October, he attended the Air & Waste Management Association’s People to People Conference in China.
- 16. Board Members’ Comments – Director Garner reported that in early October, he also attended the AWMA’s People to People Conference in China.
- 17. Time and Place of Next Meeting – 9:45 a.m., Wednesday, December 5, 2007 – 939 Ellis Street, San Francisco, CA 94109
- 18. Adjournment – The meeting adjourned at 11:17 a.m.

/s/ Mary Romaidis
Mary Romaidis
Clerk of the Boards