

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

939 ELLIS STREET – SAN FRANCISCO, CA 94109

Approved Minutes: Board of Directors' Regular Meeting – December 5, 2007

## **Call To Order**

Opening Comments: Chair Mark Ross called the meeting to order at 9:56 a.m.

Roll Call: Present: Mark Ross, Chair, Harold Brown, Chris Daly, Dan Dunnigan, Erin Garner, John Gioia, Scott Haggerty, Jerry Hill, Carol Klatt, Liz Kniss (10:08 a.m.), Janet Lockhart, Nate Miley, Michael Shimansky, John Silva, Tim Smith, Pamela Torliatt, Gayle B. Uilkema, Brad Wagenknecht.

Absent: Tom Bates, Yoriko Kishimoto, Jake McGoldrick.

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

**Public Comment Period:** The Chair called for public comment and the following individuals spoke:

Minister Christopher Muhammad  
NOI/Community BV/HP

Jaron Browne  
POWER  
San Francisco, CA 94103

Francisco DaCosta  
Environmental Justice Advocacy  
San Francisco, CA 94124

Alicia Schwartz  
POWER

Espanola Jackson  
Bayview resident  
San Francisco, CA 94124

Octavio G. Soarzano  
Bayview Hunters Point resident  
San Francisco, CA 94124

Daniel Muhammad  
NOI/BVHP

Adela A Flores Bolanos  
San Francisco, CA 94124

Comments were made regarding the dust emissions from the work being done by Lennar in the Bayview-Hunters Point community; the health issues associated with exposure to the dust; and a request for an update on penalties to be imposed on Lennar.

Director Liz Kniss arrived during the Public Comment Period at 10:08 a.m.

Commendation/Proclamation: The Board of Directors recognized Mary Romaidis, Clerk of the Boards, for her 22 years of dedicated service to the Air District upon her retirement.

Chair Ross stated that a request had been made to remove Items 4 and 5 from the Consent Calendar and it was so ordered.

### **Consent Calendar (Items 1 – 3)**

1. Minutes of November 7, 2007
2. Communications – *Information only.*
3. Quarterly Report of Division Activities

**Board Action:** Director Shimansky moved approval of Consent Calendar Items 1 through 3; seconded by Director Brown; carried unanimously without objection

### **Consent Calendar (Items 4 – 5)**

4. Consider Adoption of Resolution Endorsing Local Air District's Role in AB 32 Implementation of Mandatory Reporting of Greenhouse Gases

*The Board of Directors considered adoption of a resolution endorsing a role for local Air Districts in implementation of mandatory reporting of greenhouse gases through action being taken by the California Air Resources Board.*

5. Consider Adoption of Resolution Endorsing Changes to the California Air Resources Board's (ARB) Regulations to Reduce Emissions from Diesel Auxiliary Engines on Ocean-Going Vessels while at Berth at a California Port

Item 5: Jack Broadbent, Executive Officer/APCO, stated that, within the last 48 hours, discussions have taken place with CARB regarding the shore side power clean diesel technology and that CARB has agreed that the technology can achieve the early emission reductions. Therefore, the proposed Resolution on item 5 is no longer necessary and was tabled indefinitely.

Item 4: Mr. Broadbent stated that the California Air Pollution Control Officers Association (CAPCOA) has been debating ARB's proposed Regulation for Mandatory Reporting of Greenhouse Gases required by AB 32. The Air District's position is for the facilities to report greenhouse gas (GHG) emissions to local air districts in an integrated manner with other emissions data and that the local air districts act as third party verifiers of the data. CAPCOA has determined, within the last 24 hours, to take a neutral position on the matter. The regulation would not preempt the Air District from moving forward with plans to reduce GHG emissions and prepare inventories. The South Coast AQMD has moved forward with their carbon plan.

Director Brown moved the staff recommendation; seconded by Director Kniss. After a brief discussion on the motion, Director Kniss declined to second the motion and Director Daly seconded the motion.

Mr. Broadbent stated that the staff recommendation would send a message to CARB to amend its mandatory reporting rule to include local air districts; CAPCOA has changed its position and is now taking a neutral position. There was discussion on

amending the last paragraph on the first page of the current resolution to read: NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Bay Area Air Quality Management District does hereby urge ARB, in the spirit of partnership, to amend its proposed regulation to provide for collection and verification of greenhouse gas emissions data by local and regional air districts.

**Board Action:** Director Haggerty amended his motion to include the amendment made to the resolution; seconded by Director Lockhart; carried unanimously with the following Board members voting:

AYES: Brown, Daly, Dunnigan, Garner, Gioia, Haggerty, Hill, Klatt, Kniss, Lockhart, Miley, Shimansky, Silva, Smith, Torliatt, Uilkema, Wagenknecht, Ross.

NOES: None

ABSENT: Bates, Kishimoto, McGoldrick.

**Adopted Resolution No. 2007-16: A Resolution of the Board of Directors of the Bay Area Air Quality Management District Urging that Local Air Districts Serve as Collectors and Verifiers of Global Warming Emissions Data Under AB 32 and that Pending ARB Regulations Reflect that Role**

### Committee Reports and Recommendations

6. Report of the Personnel Committee Meeting of November 14, 2007

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

- A) Appointment of (9) Advisory Council members effective January 1, 2008 ending December 31, 2009; and*
- B) Appointment of (2) Advisory Council members to a one-year term of office effective January 1, 2008 and ending December 31, 2008 due to 12-year term limits on the Advisory Council.*

Director Brown presented the report and stated that the Committee met on November 14, 2007 to conduct interviews of candidates to fill 11 positions on the Air District's Advisory Council. The Committee interviewed one non-incumbent candidate. A second candidate was scheduled to be interviewed, but did not show up.

The Committee recommends that the Board of Directors approve the following appointments to the Advisory Council in their respective category:

Ken Blonski	Regional Park District
Jeffrey Bramlett	Park & Recreation
Harold Brazil	Mass Public Transportation
Emily Drennen	Conservation Organization (5 <sup>th</sup> seated member in category where only 4 required.)
Fred Glueck	General Contractor
William Hanna	Agriculture

Janice Kim, M.D.	Public Health Agency
Kraig Kurucz	Industry
Karen Licavoli-Farnkopf	Conservation Organization
Ken Oku	Organized Labor
Brian Zamora	Public Health Agency

The appointments are for a two-year term of office ending December 31, 2009, except for William Hanna (agriculture) and Fred Glueck (general contractor), who will have reached their respective 12-year term limit as of December 31, 2008.

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

**Board Action:** Director Brown moved that the Board of Directors' approve the Committee recommendations for the appointment of the 11 candidates, as stated, in their respective categories on the Advisory Council; seconded by Director Wagenknecht; carried unanimously without objection.

7. Report of the Climate Protection Committee Meeting of November 15, 2007

Director Torliatt presented the report and stated that the Committee met on Thursday, November 15, 2007.

The Committee received a status report on implementation of AB 32. Staff provided an overview of the three early action measures adopted in June and the six additional early action measures adopted in October. CAPCOA is tracking implementation of AB 32 and is developing a White Paper. The White Paper will be a resource for lead agencies.

An update on the establishment of an Air District Foundation was provided to the Committee. The consensus of the Committee is to move forward with a Bay Area Clean Air Foundation. The Committee provided direction to staff.

Staff provided a report and options for adoption of a fee schedule for greenhouse gas emission reductions applicable to permitted stationary sources. Adoption of the proposed GHG fee schedule will be considered later this fiscal year. The consensus of the Committee was for staff to move forward on this item. Staff will provide updates to the Committee as work progresses.

The Committee received an overview of the climate protection curriculum pilot program. The curriculum is for 4<sup>th</sup> and 5<sup>th</sup> graders and is being piloted in 13 classrooms in 10 public schools throughout the Bay Area. The pilot program will end in June 2008 and, after assessment and appropriate changes to the program, will be available to more schools.

The next meeting of the Committee is scheduled for 9:30 a.m., Thursday, December 13, 2007.

**Board Action:** Director Torliatt moved that the Board of Directors approve the report of the Climate Protection Committee; seconded by Director Dunnigan; carried unanimously without objection.

8. Report of the Executive Committee Meeting of November 19, 2007

*Action(s): The Committee recommended Board of Directors' approval to initiate joint legislation with the Metropolitan Transportation Commission regarding a regional fee on gasoline.*

Chair Ross presented the report and stated that the Committee met on Monday, November 19, 2007 and received and filed the Reports of the Hearing Board and Advisory Council. Advisory Council Chair Fred Glueck provided a brief update on the work of each of the Council's standing committees and announced that the in-coming Council Chair is Dr. Louise Bedsworth.

The Committee received information regarding an increase in the size of the Board of Directors to 23 members next year and to 24 members in 2009. A series of options to the increase was presented to the Committee and staff was provided direction.

The Committee discussed possible joint legislative action with the Metropolitan Transportation Commission regarding a regional fee on gasoline. The Committee recommends that staff move forward with MTC on this project and the Committee seeks full Board of Directors support.

The Committee received a report on the Air District's financial assistance programs to small businesses. The Air District does not provide financial assistance to businesses to comply with its stationary source rules. The Committee received an overview of programs that are available to small businesses through agencies such as the California Small Business Loan Guarantee Program and the Pacific Gas & Electric Incentive Program.

The Committee received an update on the Carl Moyer Program Audits.

An update on the Joint Policy Committee was provided to the Committee.

The next meeting of the Committee is scheduled for 9:30 a.m., Monday, December 17, 2007.

**Board Action:** Chair Ross moved that the Board of Directors approve the recommendation and report of the Executive Committee; seconded by Director Wagenknecht; carried on the following roll call:

AYES: Daly, Dunnigan, Garner, Gioia, Haggerty, Hill, Klatt, Kniss, Lockhart, Miley, Smith, Torliatt, Wagenknecht, Ross.

NOES: Shimansky, Uilkema.

ABSENT: Bates, Brown, Kishimoto, McGoldrick, Silva.

9. Report of the Legislative Committee Meeting of November 26, 2007

Director Wagenknecht presented the report and stated that the Committee met on Monday, November 26, 2007.

The Committee received a summary of the recently-concluded legislative year in Sacramento and highlighted the outcome of measures on which the Air District adopted positions. One significant bill signed into law was AB 118 (Nunez). The bill will generate over \$213 million annually through 2016. The funds will come from an increase in vehicle fees and will fund three air quality programs; including:

- 1) an enhanced state vehicle scrappage program;
- 2) the Alternative and Renewable Fuel and Vehicle Program; and
- 3) the Air Quality Improvement Program.

The Committee discussed potential legislative proposals for the legislative agenda for 2008, including possible joint legislative action with the Metropolitan Transportation Commission regarding a regional gasoline fee. Another possible topic discussed was state-wide wood burning requirements or programs.

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

**Board Action:** Director Wagenknecht moved that the Board or Directors approve the report of the Legislative Committee; seconded by Director Smith; carried unanimously without objection.

10. Report of the Public Outreach Committee Meeting of November 26, 2007

Director Klatt presented the report and stated that the Public Outreach Committee met on Monday, November 26, 2007.

Staff provided a summary of the 2007/2008 Spare the Air Tonight outreach campaign. The campaign runs from November 13, 2007 through February 11, 2008. The outreach objectives and strategy were discussed. The Committee provided direction to staff regarding those cities and counties that have not as yet adopted the wood smoke ordinance. Suggestions were also made regarding the collateral material that was presented.

The Committee received an update on the development of the Cleaner Burning Technology Incentive Program. The Program would provide financial incentives for District residents to upgrade their conventional fireplaces and uncertified wood stoves to cleaner burning technologies. The Committee directed staff to move forward with a Cleaner Burning Technology Incentives Program and to explore working with the Hearth, Patio, Barbeque Association.

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

**Board Action:** Director Klatt moved that the Board of Directors approve the report of the Public Outreach Committee; seconded by Director Haggerty; carried unanimously without objection.

11. Report of the Stationary Source Committee Meeting of December 3, 2007

Director Haggerty presented the report and stated that the Committee met on Monday, December 3, 2007.

The Committee received a status report regarding proposed Regulation 6, Rule 2: Commercial Cooking Equipment. The report included the regulatory history and background on the proposed rule, health impacts and the proposals for chair-driven and under-fired charbroilers. Bay Area restaurant emissions and anticipated emission reductions were presented to the Committee. One member of the public spoke on this item. The public hearing on the proposed rule will be held today.

The Committee received a status report on the draft Regulation 6, Rule 3: Wood-burning Devices. The report provided background information on fine PM and health effects from exposure. The proposed rule would: A) prohibit burning on nights with a high PM forecast, B) limit smoke opacity from burning, C) require cleaner burning technology for Wood-Burning Device sales, D) require cleaner burning technology in new construction, E) prohibit burning garbage, and F) require seasoned wood sales and solid fuel labeling. Staff reviewed concerns expressed at seven public workshops on the proposed rule. The comment period for the proposed rule will close on December 10, 2007, additional workshops will be conducted in the first part of 2008, and a public hearing for the adoption of the rule could be held in mid-2008. The Committee provided direction to staff to increase the effectiveness of the public outreach and suggested improvements for the draft regulation.

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

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

12. Report of the Nominating Committee Meeting of December 5, 2007

Chair Ross presented the report and announced the following slate of officers for 2008: Chair, Director Jerry Hill; Vice-Chair, Director Pamela Torliatt; and Secretary, Director Brad Wagenknecht.

**Public Hearing**

13. Considered Adoption of 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

*The Board of Directors considered adoption of proposed Regulation 6: Rule 2: Commercial Cooking Equipment. 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.*

Mr. Broadbent provided a brief introduction to the item and stated that the proposed regulation was before the Board of Directors in May 2007. Suggested changes have been incorporated into the rule and the proposed regulation targets the highest emitters and is cost effective.

Virginia Lau, Senior Air Quality Specialist, presented a brief overview of the proposed rule.

Chair Ross opened the public hearing at 11:23 a.m. Chair Ross summarized written comments submitted by Jenny Bard of the American Lung Association. The following individuals then came forward and spoke on the item:

Thomas Rivard  
San Francisco Health Department  
San Francisco, CA

Lewis Chiltl  
Elaine Bell Catering  
Yountville, CA 94599

Patrick Kruk, Outback  
Steakhouse/Restaurant Assoc.  
Dublin, CA 94566

Johnnise Foster Downs  
California Restaurant Association  
Sacramento, CA 95829

Chair Ross closed the public hearing at 11:35 a.m.

**Board Action:** Director Haggerty moved Board of Directors' approval of the staff recommendations to:

- Adopt Regulation 6, Rule 2: Commercial Cooking Equipment;
- Adopt amendments to Regulation 6: Particulate Matter and Visible Emissions;
- Adopt fee change in Regulation 3: Fees, Schedule R; and
- Adopt California Environmental Quality Act (CEQA) Negative Declaration.

The motion was seconded by Director Wagenknecht and carried unanimously with the following Board members voting:

AYES: Daly, Dunnigan, Garner, Gioia, Haggerty, Hill, Klatt, Kniss, Lockhart, Miley, Smith, Torliatt, Wagenknecht, Ross.

NOES: None.

ABSENT: Bates, Brown, Kishimoto, McGoldrick, Shimansky, Silva, Uilkema.

**Adopted Resolution No. 2007-17: A Resolution of the Board of Directors of the Bay Area Air Quality Management District Adopting District Regulation 6, Rule 2: Commercial Cooking Equipment; Renaming and Re-number District Regulation 6: Particulate Matter and Visible Emissions; Amending Regulation 3: Fees; and Adopting a CEQA Negative Declaration for this Project**

### Other Business

14. Report of the Executive Officer/APCO – Mr. Broadbent reported on the following:

- A) The Spare the Air Tonight season has started and two advisories have been called.
- B) The Air District is moving forward on the wood burning rule.
- C) TV and radio ads have been produced regarding the Spare the Air Tonight campaign.
- D) An update on the recent oil spill was provided to the Board.
- E) The District's Green Business Report is at each Board members place.



15. Chairperson's Report – Chair Ross thanked staff for their work on the wood burning work shops and the charbroiler rule.
16. Board Members' Comments – Director Daly requested an update, in a Closed Session, on the penalties to be imposed on Lennar.
17. Time and Place of Next Meeting – 9:45 a.m., Wednesday, December 19, 2007 – 939 Ellis Street, San Francisco, CA 94109
18. Adjournment – The meeting adjourned at 11:45 a.m.

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