

Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109
(415) 749-5000

Board of Directors' Regular Meeting
January 6, 2010

APPROVED MINUTES

CALL TO ORDER: Chairperson Pamela Torliatt called the meeting to order at 9:45 a.m.

Roll Call: Chairperson Pamela Torliatt; Vice Chairperson Brad Wagenknecht; Secretary Tom Bates; Directors Harold Brown, Chris Daly, Dan Dunnigan, Susan Garner, John Gioia, Carole Groom, Scott Haggerty, David Hudson, Jennifer Hosterman, Ash Kalra, Carol Klatt, Liz Kniss, Eric Mar, Nate Miley, Mark Ross, James Spring, Gayle B. Uilkema, Ken Yeager and Shirlee Zane

Absent: None

OATH OF OFFICE/SWEARING-IN NEW BOARD MEMBERS:

Chairperson Torliatt introduced new Directors David Hudson, City of San Ramon Councilmember, and Ash Kalra, City of San Jose Councilmember. Both Directors were given the Oath of Office and sworn into Office.

PLEDGE OF ALLEGIANCE: Chairperson Torliatt led the Pledge of Allegiance.

Public Comments:

Francisco Da Costa spoke of the need to continue air quality improvements and to spend Lennar settlement funds to benefit the health of children and the elderly in the most impacted areas.

Board Member Comments:

In response to Chairperson Torliatt's request for an update, Mr. Broadbent provided an update on the use of Lennar settlement funds.

Director Zane provided an update on Sonoma County's Energy and Dependence Program, reporting that the County approved \$40 million in loans for energy-efficient residential projects and that a Congressional Brown Bag will be held in Washington next week to discuss the program.

CONSENT CALENDAR (Items 1-5):

1. Minutes of December 16, 2009;
2. Communications;
3. District Personnel Out-of-State Business Travel;

4. Adoption of Proposed Amendments to the Air District's Administrative Code, Division III Personnel Policies and Procedures - Section 11 Leave and Holidays: 11.5 Military Leave and 11.7: Family Care and Medical Leave;
5. Notice of Proposed Amendments to the Air District's Administrative Code Division I - Operating Policies and Procedures - Section 11 adding new subsections 11.1 through 11.4 concerned with management, retention, and destruction of public records.

Board Action: Vice Chairperson Wagenknecht made a motion to approve Consent Calendar Items 1, 2, 3, 4, and 5; Director Brown seconded the motion; carried unanimously without opposition.

RESOLUTION:

6. Consideration and Adoption of Proposed Bay Area Healthy Communities Resolution

Chairperson Torliatt announced that District staff and the Board of Directors has heard concerns on both sides of the issue and is requesting additional time to meet with both interest groups. She asked speakers to defer comments until after the item is heard due to potential amendments to the resolution.

Director Haggerty requested that prior to the resolution returning to the Board, staff be directed to agendaize it for Committee review.

Director Daly requested that Mr. Broadbent review an alternative path that both sides could voice interest in, and one which would also address air quality improvements in impacted communities.

Mr. Broadbent explained that environmental representatives believe that the resolution does not go far enough. Staff believes it appropriately expresses the Board's concerns. Reflected changes would call for the District to reduce risk further while addressing infill and economic development in these communities. He stated more time is needed to further meet and discuss concerns with all stakeholders and a Board Committee, at which time the resolution can return to the Board of Directors.

Chairperson Torliatt prefaced public comment by noting some speakers have requested to speak on Items 6, 7 and 8; although the Board was currently discussing Item 6.

Public Comments:

Janice Schroeder, West Berkeley Alliance for Clean Air and Safe Jobs, spoke of pollution from Pacific Steel Casting and requested BAEHC's recommended protocols be adopted.

George Smith, GBR Smith Group, Walnut Creek, voiced opposition to the tiered standard, citing economic consequences, reduction of revenues in cities, and asked for focused development in priority communities.

Bill Quinn, CCEEB, supported the recommendation to refer the Resolution to the CARE Task Force.

Michael Redemer, CEO, Hydrogen Solutions International, Danville, voiced opposition to the tiered approach and referred to *Freakonomics*, a book about economic policies and unintended consequences. He noted the disconnect between California public policy relating to expenditures of resources to protect public health and suggested better uses of resources by providing cancer screening in impacted communities.

Ella Marie Kallios, Roberts Companies, Concord, stated that construction and the economy is at standstill, she suggested allowing builders and developers to conduct due diligence on projects where they want to build and let people choose where they buy.

Dennis Bolt, WSPA, likened the “no net increase” language to a tiered standard and voiced opposition.

Director Uilkema asked Mr. Bolt to elaborate on his point in writing when the resolution is discussed at the Committee level, on how the “no net increase” interpretation might occur.

David Schonbrunn, TransDef, felt there is nothing about the resolution that is counter to economic development, but rather that it speaks to non-toxic development. He commended staff and the Board for its diligence formulating the resolution.

Anne Lamb, Director of Regional Asthma Management and Prevention (RAMP) and BAEHC, urged the Board to move forward with CEQA and NSR adoption, requested that the District allocate resources to address impacts, requested no new permits be granted in CARE communities, and suggested an exemption for projects that provide essential public services be limited to health care facilities, schools and child care facilities, low income housing and grocery stores.

Francisco Da Costa, Director, Environmental Justice Advocacy, stated that 95% of the Hunter’s Point Shipyard is landfill and is very toxic, and the resolution provides guidelines only. He cited the existence of thousands of foreclosed and vacant homes and urged the Board to strengthen the resolution and support the health of elders and children.

Bradley Angel, Green Action, felt that testimony from industry representatives mirrored environmental racism. He supported green jobs, economic development, healthy communities, commended staff and the Board for their work, and asked that no new permits be allowed in CARE communities.

Christopher Kroll, West Berkeley Alliance for Clean Air and Safe Jobs, BAEHC, said he lives in a CARE community, supported continuance and strengthening of the resolution, and said at issue was not job creation but protection of people impacted every day by pollution.

Matt Regan, Bay Area Council, said the Bay Area Council has not yet taken an official position on any agenda items but have grave concerns about impacts relating to urban and infill development. He asked not to further hamper developers’ abilities to build in urban areas.

Chairperson Torliatt announced conclusion of public comment and noted that the proposed Bay Area Healthy Communities Resolution will be reviewed by a Board Committee and continued to a future meeting.

PUBLIC HEARING(S):

7. Consideration and Adoption of California Environmental Quality Act (CEQA) Thresholds of Significance

Chairperson Torliatt indicated that in November the Board of Directors had agreed to hold off adoption during the month of December to allow time for additional outreach. The Board continued the matter to the January 6, 2010 meeting, and she recommended moving forward with the item today.

Director Haggerty said he was not prepared to vote on the matter today. He thanked staff for meeting on December 22nd and suggested continuance so that staff can provide active outreach, education and engage city/county staff from all nine Bay Area regions.

Director Hosterman supported Director Haggerty's suggestion to delay adoption of CEQA thresholds until the District provides additional guidance to local governments.

Director Daly asserted that at two previous hearings, timing was discussed and he was prepared to vote on the matter. He did not believe a path could be created that everybody will be pleased with and acknowledged the hesitancy with pushing out adoption of the New Source Review (NSR). However, he did believe CEQA guidelines are needed to address climate change, impacted communities, and environmental justice issues.

Director Uilkema pointed out that many people have been very preoccupied with their financial survival. She voiced concern that very little attention has been paid to the subject. She suggested District staff give short presentations to each County Mayors' Conference and for the matter to be reviewed by the Public Outreach Committee and referred back to the Board.

Director Zane supported postponement and said the process for public input is often inadequate and does not provide the public with sufficient opportunity for input. She also did not feel there has been enough discussion by the Board regarding constituent concerns on the matter.

Director Kalra echoed comments regarding the need for outreach to jurisdictions and reported that the City of San Jose has very aggressive plans in terms of creating a higher density transit corridor in its downtown. He supported more discussion and outreach, believes many agency staff are not aware of guidelines, and also suggested shortening the 90-day implementation period.

Director Ross argued that no regulation or guideline has clean edges. He supported additional education for jurisdictions. He thinks that market conditions and zoning have more to do with the issue, and that CEQA has never stopped California's economic engine from growing. While he supported a vote today, he was also supportive of delay, believing that the guidelines should stand the test of scrutiny. He perceives that risk reduction plans will allow for a holistic view of problems in local communities, and supported District resources to help guide city and county staff through the process.

Director Gioia felt the debate was healthy; the guidelines address both locating industrial facilities and new housing in communities, and he requested distinction be made between the two. He cited the need for further refinement, work on risk reduction plans, and more time.

Director Kniss acknowledged the desire to move the forward, discussed her own outreach to community constituents and said she was dismayed to learn that they have not had the chance to do much. She suggested District staff engage with cities, provide opportunities for discussion and supported implementing guidelines within a 90-day period.

Director Daly spoke of environmental justice referencing low income communities of color suffering from disproportionate amounts of pollution. He thinks its magnitude calls for bold action and leadership by the District. And while the NSR may have the power to hinder projects, he did not see CEQA guidelines having that same power.

Chairperson Torliatt said setting measurements to focus on cumulative impacts is critically important and currently this is not required. CEQA guidelines will provide assistance for local government to make decisions and avoid litigation by creating GHG thresholds which do not currently exist, and she briefly discussed the positive response in Sonoma County as a result of outreach and meetings.

Secretary Bates complimented staff for their work over the last five years, believes CEQA guidelines are helpful, and echoed concerns for more information-sharing.

MOTION: Secretary Bates made a motion to continue consideration of CEQA Guidelines to the March 1, 2010 Board meeting and asked that the Board consider shortening the effective date to 60 days; Director Brown seconded the motion.

Secretary Bates questioned the Board as to whether there was support to approve Item 8; New Source Review of Toxic Air Contaminants, and no motion was made.

AMENDED MOTION: Director Haggerty voiced support for a 60-day effective date, but recommended the guidelines not be hurried. He suggested an amendment to continue the item to April 7, 2010 with a 60-day effective date. Secretary Bates and Director Brown agreed to the amendment.

Director Haggerty requested that District staff visit each of the nine Bay Area counties, with the onus being on Directors to coordinate with their represented agency staff.

Director Spering supported the substitute motion and additional outreach and education. He cautioned the Board of the potential negative economic impacts, cited the lack of investment and existence of social, economic, and visual blight in communities, and discussed a city in his jurisdiction that adopted a climate action plan which has negatively impacted it. He also appreciates the discussion and hopes that the added time will address the diversity of issues.

Director Gioia suggested additional work focus on the risk reduction plans, as well.

Director Dunnigan agreed with comments and said he will work with fellow Directors, community members and San Francisco City/County staff to meet and further strengthen outreach and understanding.

Director Kalra supported the amendment, agreed to work with jurisdictions and staff, and echoed comments relating to economic impacts, as well as affordable housing needs.

Secretary Bates suggested his preference for an even shorter period of time; a 30-day effective date.

Director Mar said that while he is sensitive to the needs of jurisdictions, he voiced frustration with the process. Staff has worked long and hard, three hearings have been held, and he feels the process is screeching to a halt. He heard testimony from CARE communities requesting no delay, along with

concerns of potential economic impacts, and thinks the Board should have adopted the guidelines in December.

Executive Officer/APCO Jack Broadbent expressed appreciation for the discussion and dialogue and said staff has attempted to develop and bring forward the best proposal for cities and counties. He agreed it is an extremely important step to ask cities to quantify the impacts of their decisions, he acknowledged the need for staff and Directors to provide additional outreach to all nine counties, and said policy thresholds can return in April.

Regarding the community risk reduction plans, Mr. Broadbent said staff has reviewed resources for their development and can allocate funds to assist cities/counties. He recommended that the timing of implementation be discussed once workshops have been held.

AMENDED MOTION: Secretary Bates and Director Brown amended the motion to indicate a maximum 60-day effective date.

Director Garner requested Air District staff notify Board Members of workshop dates and locations.

AMENDED MOTION: Director Haggerty requested an additional amendment to the amended motion that there be a minimum effective date of 30 days and a maximum of 60 days. Secretary Bates and Director Brown agreed to the amendment.

An audience member requested public comment be opened. Mr. Bunger clarified with the Board of Directors that debate was closed on the previous version of the item, and public comment could be taken on the current, final version.

Chairperson Torliatt opened the public hearing.

Public Comments:

Barbara Lee, Northern Sonoma AQMD, voiced support for adoption of the motion, asked that continuance not cause delay in implementation, reported that all air districts are working on a new set of guidelines and regulations, agreed that cities and counties are not well-versed on implementation processes, and supported additional outreach.

Bill Quinn, CCEEB, supported adoption of CEQA guidelines and emphasized the importance of balance, believing jobs could be created while still protecting the environment.

Debbie Woodward, Criterion Catalysts, voiced opposition to the tiered approach which she said could ultimately drive refineries out of California and said it made no scientific sense to have thresholds because risk is the same.

Dr. Henry Clark, West County Toxics Coalition, asked for a “no project” option in CEQA guidelines, agreed that delay would promote better regulations, and cited human rights and environmental justice violations.

Dennis Bolt, WSPA, applauded the deliberation by the Board, supported continuance, and believed all stakeholders’ principles and goals were the same.

Linda Best, Contra Costa Council, voiced the Council's primary concerns of unintended consequences and impacts to economic and infill development, and supported continuance to gain a better understanding.

David Schonbrunn, TransDef, likened the proposal to a context of panic among planners and level of change coming for the climate. He supported thresholds of significance and asked the District to keep the focus on air quality.

Francisco Da Costa said he believed what is missing are the new baselines from the Copenhagen Summit and tools to quantify and collect sound empirical data.

Linda Weiner, American Lung Association, commended the Air District for their its leadership, voiced concerns regarding disproportionate disparities in CARE communities, and supported approval of CEQA guidelines with health protective measures and without further delay.

Director Uilkema asked that the American Lung Association and other organizations participate in the review and outreach process.

Janill Richards, Attorney General's Office, Department of Justice, supported GHG threshold recommendations, additional time for review, and adequate training for cities and counties. She believed the need to quantify is separate and apart from the Air District recommendations because the California Air Resources Board has issued guidelines that say reductions are possible. She also cited programmatic approaches which are also separate and apart from what the Air District is doing, as law already requires a process for streamlining and tiering.

Eric Smith, San Francisco Bay Railroad (SFBR), Bayview Hunter's Point, spoke of SFBR's use, and the District's assistance with, biodiesel technologies. He supported additional time for outreach to communities and asked that the Board take action in April.

Gillian Hayes, City of Santa Rosa Environmental Coordinator and Planner, cited the extensive outreach already provided and workshops held in Santa Rosa, Petaluma and San Francisco. She believed local government will get the training they need, urged the Board to move forward with adoption in April, and commended the staff for their outreach efforts.

Andy Katz, Breathe California, said climate change will dramatically affect the way people breathe. He urged the Board to adopt the CEQA guidelines as soon as possible and to utilize the 30 to 60 day implementation period to educate planners.

Olinda Orillana, (Spanish translation provided by Blanca Diaz, San Francisco Organizing Project), spoke of an unpermitted spray paint booth operation and contamination in her neighborhood, nearby schools and apartments, and respiratory and neurological illnesses caused from the operation. She requested the District require a condition for installation of a taller chimney if the permit application is approved.

Nile Malloy voiced support of the District's work to improve health, believed that climate change affects mostly the poor and people of color, and he supported a community-wide approach versus a project approach.

Wafaa Aborashed, Bay Area Healthy 880 Communities, said she supports additional outreach, especially to those most negative impacted, and thinks CEQA guidelines are essential.

Tessie Ester, Hunter's View Mother's Committee, spoke of unhealthy odors in her community, questioned what residents should do until April, and cited children's absences from school as a result of health impacts.

Joyce Eden, West Valley Citizens Air Watch, stated that GHG reductions under AB 32 as proposed for stationary sources would do nothing for the 1.6 million metric tons of CO2 emitted from the Lehigh Cement Plant and she asked that cumulative impacts be taken into account.

Carole Marasovic, Healthy Air Coalition, voiced concern over industry representatives' comments, commended the Board and District for work to update CEQA guidelines and working with communities, and she hoped that the additional time will not reduce the strength of regulations.

Board Action: Secretary Bates made a motion to continue consideration and adoption of California Environmental Quality Act (CEQA) thresholds of significance to April 7, 2010 and for the thresholds of significance to take effect between 30-60 days after adoption; Director Brown seconded the motion, which carried by the following roll call vote: 20 ayes; 1 no (Daly) 1 absent (Kniss).

8. Public Hearing to Consider Proposed Amendments to Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants, and Adoption of a CEQA Negative Declaration

Director of Engineering, Brian Bateman, provided an overview of the District's Air Toxics NSR program which sets thresholds for toxic air contaminants for new stationary source projects. Exposure varies by location relative to the project. He displayed an example of staff modeling work which estimates air toxic emissions of a given project and presented existing standards of Best Available Control Technology for Toxics (T-BACT) and project risk limits for cancer and non-cancer risks. He reviewed public outreach performed by District staff, stating that in March, staff issued a regulatory concept. A public workshop was held on July 30, 2009. Outreach was provided to the CARE Task Force, the Cumulative Impacts Working Group, business and environmental groups, and 8 sets of written comments were received during the process.

Mr. Bateman discussed differences between the District's initial proposal and the current proposal, which involve the use of new and old OEHHA risk assessment methods and said staff revised the proposal which keeps the risk standards the same but uses new OEHHA methods. In the current proposal, staff also included tracking both mobile and stationary source emissions.

Regarding effects of the proposal, Mr. Bateman reported that a high percentage of proposed projects would be permitted if state-of-the-art controls are used. In some cases, project size and/or location would need to be changed. The current proposal, plus differential standards, would not be cost-effective and not technologically feasible for many projects and would result in adverse impacts for smaller businesses. In addition, priority communities comprise of approximately one-third of District permits, and impacts would be fairly widespread.

He described real examples of toxics NSR permitted sources' impacts and use of controls, which included a gas station with increased throughput, a fire station with a small backup generator limited

to 12 hours/year for engine testing, and a larger diesel generator at a hospital which would need to be equipped with diesel particulate filters and be 380 feet from a residential receptor.

Director Uilkema questioned the expense of installing diesel particulate filters and examples of not passing standards. She noted that a denial would require local land use agencies to adopt a Statement of Overriding Consideration when CEQA review is involved.

Mr. Bateman stated that the proposal allows for small, incremental increases in risk which do not add significantly to cumulative impacts, and it recognizes land use issues as within scope for CEQA and lead agencies.

He displayed information on trends in Bay Area ambient air monitoring data for carcinogenic toxic air contaminants previously presented at the Stationary Source Committee, showing how risk has improved and how toxics NSR is working. The vast majority toxics come from diesel fuel mobile sources, the regulations of which are not yet fully implemented. He added that staff is encouraged that trends for reduction will continue.

Mr. Bateman concluded by recommending that the Board of Directors adopt the proposed amendments and adopt the CEQA Negative Declaration.

Director Ross supported staff's proposal, asked for focus on priority communities, and questioned the affect of added regulations. Mr. Bateman replied that staff will use age sensitivity factors. The exposure assessment is still a work in progress and its timing will be ready sometime this year. The package is structured such that when OEHHA finalizes its guidelines, staff will start to implement it and it need not return to the Board.

Public Comment:

Gordon Mar, BAEHC, requested adding back differential thresholds as an option for approval and supported update of the NSR and more stringent methodology for the region. He requested the District start tracking cumulative pollution increases and address disproportionate burdens and impacts of CARE communities.

Yuen Mei Wong said she lives in the Excelsior District near two gas stations close to elementary schools and is suffering from cancer, along with four other neighbors. She asked that the District stop permitting businesses in overburdened communities when neighbors request and petition not be re-permitted.

Andy Katz, Breathe California, voiced support for a tiered approach, cited health disparities of two to four times cancer and asthma rates, spoke of refinery operations' maximizing of permits, and recommended more stringent protections at the permitting level.

Anna Lee, CBE/BAEHC, asked that projects be halted in impacted communities and requested exemption for health care facilities, schools, low income and healthy housing, and small grocery stores in local communities.

Bill Quinn, CCEEB, expressed support for the staff proposal without a tiered approach. He believed it is unfair for hospital generators to be impacted and voiced his support of the District's work in addressing mobile sources.

Matt Regan, Bay Area Council, said while the Council has taken no official position, he cautioned the Board to move carefully because of unintended consequences, and supported the solution as recommended by staff.

Curtis Stubbings, Praxair, Inc., said they employ 100 people in the Bay Area, thanked staff for citing reasons against a tiered approach and believes mobile sources are most polluting.

Linda Best, Contra Costa Council, urged the Board not to adopt the tiered approach and said while advocates feel it may improve health, it would discourage economic development, add to job loss, poverty, and decreased health.

Dennis Bolt, WSPA, requested staff study the impacts a tiered approach would have on permitting, and he voiced concerns with drawing lines around communities.

Joyce Eden, West Valley Citizens Air Watch, said the Air District's rules and regulations are a failure and do not protect people.

Joseph Partansky, Maritime/Ocean Source Reduction Advocate, acknowledged differences between industrial and residential standards, felt risk reduction plans should not stop at the planning level, and suggested additional monitoring around ports.

Chairperson Torliatt closed the public hearing.

Director Uilkema questioned what the most fundamental differences are if the Board adopts regulations with and without a tiered approach. Mr. Broadbent noted staff's proposal and recommendation incorporates OEHHA methods and adds a cumulative tracking protocol in CARE communities. If the Board wants staff to further investigate differential standards in CARE communities, staff could undertake this under the CEQA guidelines update in the future. Although today, the Board does not have the opportunity to adopt a tiered approach with the staff proposal before them.

Regarding recommendations from BAEHC on "no new net increase", Mr. Broadbent said this puts the Air District into choosing land uses, and staff does not support this proposal.

Director Uilkema referred to mandates for regional housing; and said often times, reuse of certain land is questionable. She cited complaints from people who live downwind from a facility, yet jurisdictions have the land use controls. She confirmed with Mr. Broadbent that the recommended proposal does not impact local land use jurisdiction but will result in additional risk reduction measures for the entire Bay Area. Additional technologies will need to be applied to existing and new sources and mitigation of impacts will need to occur to improve air quality.

Director Uilkema referred to examples of gas stations, hospitals and fire stations not being able to be permitted and voiced concern that adoption will impede growth, development and services that cities and counties need. Mr. Broadbent agreed that if a differential standard is adopted, development will be

impacted; however, staff is not recommending this. If this is something the Board would like to consider, it could be adopted separately in the future. Ms. Roggenkamp reiterated that the examples presented would, in fact, be able to move forward, given staff's recommendations.

Director Daly said he thought that at the December 2nd Board meeting, he specifically requested the Board be given the opportunity to support more stringent standards for CARE communities. He spoke about environmental justice and reiterated his concern for the more impacted communities.

Mr. Broadbent noted that in terms of having the more stringent alternative, this is what staff included under the CEQA guidelines, and the Board has not held a public hearing on the NSR issue in the past. The Board wanted to be sure that a tiered approach be included on CEQA guidelines with and without a tiered approach. Staff did not believe this fell into the NSR and will return with differential standards for CEQA in April.

Director Mar said he appreciates staff's recommendation but shared some of Director Daly's sentiments along with the many individuals who testified. He believed the Board should look at tiered approaches for the most polluted areas, stating that Ms. Wong gave a perfect example of a gas station where the District approved a permit and where schools, children and families are impacted. He urged the District to reject the permit, voiced support for exemptions for hospitals, fire stations, and neighborhood grocery stores, and requested consideration for a tiered approach and a differential standard. He also referred to the auto painting shop operating illegally and thinks this is why a differential standard is needed.

Director Haggerty confirmed with Mr. Bateman that no other air districts have proposed to use the new OEHHA methodology, but that this may happen over time.

Director Gioia clarified that the new methodology implemented will make cancer risk much more sensitive. He discussed the effective results new rules and partnerships have on industry and believed members and the public should also recognize successes of measures implemented to date.

Director Zane voiced support for a more stringent cancer threshold, differential standards, a tiered approach, and logical exemptions for generators, grocery stores, schools, hospitals and health care clinics

Director Ross confirmed with Mr. Bateman that roughly 1,000 projects throughout the entire region may be affected. He cited improvements and work already underway to reduce emissions in West Oakland and the Port of Oakland.

Director Garner voiced concerns regarding gas stations and differential standards, which she believed would impact residents by having to drive further to fill their tanks, thereby adding emissions, as well. She questioned the incremental cost and impact to facilities from increased risk modeling and treatments required under the current proposal.

Mr. Bateman replied that a consultant conducted a socio-economic impact study on both requirements and estimated that about 15 gas station projects and 2 crematories would incur impact, and 30 cases of backup generators would require installation of filters.

Secretary Bates said he represents a CARE community and cited problems with a District-wide standard. He said emissions come from all over and the cumulative effect is significant. Mr. Broadbent stated that staff is confident that the best approach to comprehensively deal with the risk is to have the District develop community risk reduction plans for cities and counties. The stationary source rules will play a role in reductions and staff needs to differentiate which play a larger and lesser role. Secretary Bates said he does not see any controversy with the proposal and shared concerns of Directors Mar, Zane, and Daly regarding people's health and the need to move forward.

MOTION: Secretary Bates made a motion to approve the staff recommendation to adopt the resolution to amend the New Source Review of Toxic Contaminants; Director Zane seconded the motion.

Director Hosterman supported comments from Directors Mar and Zane, supported exemptions for needed facilities in a neighborhood and more stringent guidelines in the future. She requested an update return in the next six months to a year as to the effect the NSR's adoption has had.

Director Zane echoed concerns by Secretary Bates relating to health impacts in neighborhoods and requested a timeline of when differential standards would return. Director Gioia requested that a timeline also be prepared regarding risk reduction plans. Mr. Broadbent responded that staff will return with a timeline at the Board's February Retreat.

Board Action: Secretary Bates made a motion to adopt proposed amendments to Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants; and Adopt a Negative Declaration pursuant to the California Environmental Quality Act (CEQA) for this rule-making activity; Director Zane seconded the motion; carried unanimously (Absent: Yeager, Dunnigan, Kniss, Brown).

Adoption of Resolution: The Board of Directors adopted Resolution No 2010-14; A Resolution of the Board of Directors of the Bay Area Air Quality Management District Adopting Amendments to District Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants; and Adopting a CEQA Negative Declaration for the Project.

CLOSED SESSION:

The Board of Directors adjourned to Closed Session at 1:31 p.m.

9. Conference with Legal Counsel – Existing Litigation

Pursuant to Government Code Section 54956.9(a), a need exists to meet in closed session with Legal Counsel to consider the following case(s):

1. **Patricia Howell v. Bay Area AQMD**, San Francisco County Superior Court, Case no. CGC-07-461887
2. **Duraflame, Inc. v. Bay Area AQMD**, Contra Costa County Superior Court, Case No. N09-0102
3. **Pacific Steel Casting Company v. Bay Area AQMD**, San Francisco County Superior Court, Case No. CGC-08-482228
4. **Healthy Air Coalition v. Bay Area AQMD**, San Francisco County Superior Court, Case No. CGC-09-486990

OPEN SESSION:

The Board of Directors reconvened the Regular Board Meeting at 1:37 p.m. District Counsel Brian Bunger stated there was no reportable action taken in Closed Session.

PROCLAMATION/COMMENDATIONS:

10. Recognition of Outgoing Chairperson, Pamela Torliatt

Vice Chairperson Brad Wagenknecht, on behalf of the Board of Directors, recognized outgoing Chairperson Pamela Torliatt for her dedicated leadership and service to air quality in the Bay Area. He presented her with a gavel and plaque highlighting her service and discussed her accomplishments during 2009. Mr. Broadbent then presented Chairperson Torliatt with a framed photograph representing the Sonoma County portion of the Air District.

Outgoing Chairperson Torliatt thanked fellow Directors and staff for their work during 2009, stated that her role was both challenging and rewarding, and then turned over the gavel to incoming Chairperson Brad Wagenknecht.

Recognition of Incoming Chairperson, Brad Wagenknecht

The Board of Directors welcomed incoming Chairperson, Brad Wagenknecht.

Chairperson Wagenknecht acknowledged the Board and District staff's hard work to ensure clean air, education and grant opportunities for its nine Bay Area regions. He announced that the Board Retreat and Regular Meeting will be held on February 3, 2010 at the Sheraton Sonoma County - Petaluma, said he looks forward to positive working relations in 2010 and announced that Board Committee assignments will be emailed to Directors.

OTHER BUSINESS:

11. Report of Executive Officer/APCO

Mr. Broadbent deferred the Report, stating it will be included in his Weekly Report.

12. Chairperson's Report - None

13. Time and Place of Next Meeting: Retreat Meeting - Wednesday, February 3, 2010 – The Sheraton Sonoma County - Petaluma, 745 Baywood Road, Petaluma, CA 94954.

14 Adjournment: The Board of Directors Meeting adjourned at 1:49 p.m.

Lisa Harper
Clerk of the Boards