

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

FINAL MINUTES

Board of Directors' Regular Meeting-- July 9, 2008

Call To Order

Opening Comments: Chairperson Jerry Hill called the meeting to order at 11:00 a.m.

Roll Call: Present: Jerry Hill, Chair, Directors Tom Bates (11:13), Harold Brown, Chris Daly, Dan Dunnigan, Scott Haggerty (11:39), Yoriko Kishimoto, Carol Klatt, Jake McGoldrick, Nate Miley, Mark Ross, Michael Shimansky, Tim Smith, Pamela Torliatt, Brad Wagenknecht, Ken Yeager (11:05)

Absent: Erin Garner, John Gioia, Liz Kniss, John Silva, Gayle Uilkema

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

Public Comment Period:

Paul D. Spiegel suggested the Air District improve its emissions monitoring methods and use roving monitors.

PROCLAMATIONS/COMMENDATIONS

The Board of Directors recognized the following employees who have completed milestones of thirty (30) and thirty-five (35) years of service with the Air District during this first half of the calendar year: Janet Simon, 30 years; Nancy Balberan, 35 years; Michael Basso, 35 years; Naomi Bernardo, 35 years; Howard Lancer, 35 years; Clifford Sennello 35 years.

Consent Calendar (Items 1 – 5)

1. Minutes of June 4, 2008 Regular Meeting
2. Communications
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 is hereby notified that the attached memoranda lists District personnel who traveled on out-of-state business.
4. Consideration of Recommendation for Salary Range Increase to the Air Quality Instrument Specialist Classification Series
The Board of Directors' considered approval of a recommendation for a salary range increase to the Air Quality Instrument Specialist classification series.

5. Consideration and Approval of Contractor to Assist with the West Oakland Measurement Study
The Board of Directors considered approval of a contract with Desert Research Institute to assist with the West Oakland Measurement Study for the purpose of gathering data on the sources of particulate matter and its chemical speciation to guide in the selection of effective mitigation plan for reducing emissions in West Oakland and other impacted communities, in an amount not to exceed \$243,611.

6. Set Public Hearing Set Public Hearing for July 30, 2008 to Consider Adoption of Proposed Amendments to Regulation 9, Rule 7: Nitrogen Oxides and Carbon Monoxide from Industrial, Institutional and Commercial Boilers, Steam Generators and Process Heaters; Amendments to the Manual of Procedures, Volume I, Chapter 5: Boiler, Steam Generator and Process Heater Tuning Procedure; Amendments to Regulation 3: Fees, Schedule R: Equipment Registration Fees; and Adoption of a CEQA Negative Declaration
Proposed amendments to Regulation 9; Rule 7: Nitrogen Oxides and Carbon Monoxide from Industrial, Institutional and Commercial Boilers, Steam Generators and Process Heaters will extend the applicability of the rule to smaller devices and reduce emissions of NOx, CO, secondary particulate matter and greenhouse gases from all devices subject to the rule.

Board Action: Director Daly moved approval of Consent Calendar; seconded by Director Wagenknecht; carried unanimously without opposition.

COMMITTEE REPORTS AND RECOMMENDATIONS

7. Report of the Executive Committee Meeting of June 11, 2008

Committee Chair Hill gave the report of the Executive Committee, stating that the Committee met on Wednesday, June 11, 2008 and approved the Minutes of May 12, 2008. The Committee received an update on the Air District's efforts to work with the Bay Area Environmental Health Collaborative to further refine a draft resolution to continue reducing air contaminants in impacted communities. Next steps will be to meet with industry representatives and thereafter, consideration of the final draft resolution.

The Committee considered establishing a Community Grant Program and after considerable discussion, requested further refinement to the proposed program, an increased budget, and for the matter to return in the fall for reconsideration. The Committee also considered a report to establish a nonprofit Air District Foundation to support Air District programs and recommended that the Board of Directors approve moving forward to establish an Air District Foundation. The Committee considered a recommendation for the selection of a Master Service Agreement for audit services and recommended that the Board of Directors approve Maze and Associates as the Air District's auditor for fiscal years ended June 30, 2008 through June 30, 2010.

The Committee received a recommendation from staff to establish a self-insured dental plan for the Air District and recommended that the Board of Directors approve the establishment

of a self-insured dental plan. He said the Committee then adjourned to Closed Session to discuss employee negotiations; however, due to time considerations, a Closed Session discussion will be agendaized for the July 30th Board meeting. The next meeting of the Committee is at the call of the Chair.

Board Action: Chair Hill moved approval of the report and recommendations of the Executive Committee; seconded by Director Smith; carried unanimously without opposition.

8. **Report of the Climate Protection Committee Meeting of June 12, 2008**

Committee Chair Torliatt gave a report of the Climate Protection Committee meeting of June 12, 2008, stating the Committee met on Thursday, June 12, 2008 and approved the minutes of March 13, 2008. The Committee received a status report from staff regarding Air District climate protection activities and discussed the future direction of the program. The report included Greenhouse Gas Technology Phase 2 Study, youth education, local government assistance and AB32 implementation. Staff also discussed the development of a multi-year Strategic Work Plan for Climate Protection activities at the Air District.

The Committee provided direction to staff. The Committee received a status report on the Air District's CEQA Guidelines and Greenhouse Gases, including greenhouse gas impacts and mitigation. A discussion of proposed revisions to the Air District CEQA Guidelines was discussed. This update will revise background information, significance thresholds, emission factors, analytical methodologies and mitigation measures with the most current and "state of the art" practices and methodologies. The Committee provided direction to staff.

The Committee also received a status report from staff on climate protection activities underway by the four regional agencies; in particular, transportation related activities that MTC is undertaking in relation to the Regional Transportation Plan; the T2035 update. The next meeting of the Committee is scheduled for Thursday, September 18, 2008.

Board Action: Chair Torliatt moved the approval of the report of the Climate Protection Committee; seconded by Director Dunnigan; carried unanimously without opposition.

9. **Report of the Ad Hoc Committee on Port Emissions Meeting of July 2, 2008**

Chair Miley gave the report of the Ad Hoc Committee on Port Emissions meeting, stating the Ad Hoc Committee met on Wednesday, July 2, 2008 and approved the minutes of December 6, 2007. The Committee received an update on emission inventories being prepared for the ports of Benicia, Redwood City, Richmond, and San Francisco under a Memorandum of Agreement signed between the Air District, the Bay Planning Coalition, and the Ports. To date, more than 50% of emissions inventory work has been completed and it is anticipated that by late summer/early fall, the inventory will be complete.

The Committee discussed and received an update on the Goods Movement Bond program. \$5,000 has been set aside for the Port of Oakland for the retrofit of trucks, which is a significant step toward air quality improvement. Shorter haul trucks will require replacement retrofits which will be addressed in the second year of funding. Six workshops are scheduled to be held to discuss I-Bond and TFCA programs, 20 meetings have been held with truck

owners, and the Air District is partnering with community groups, providing advertising and outreach and assisting in the application process.

Chair Miley further reported that Richard Sinkoff, Director, Port Environmental Planning and Permitting, provided the Committee with a status report on the Port of Oakland's Maritime Air Quality Improvement Plan. He discussed the Port's multi-stakeholder process which provides the framework by which they can define their role and also help move the projects toward implementation. He discussed the Port's outreach efforts to establish a policy basis and identified elements of the Comprehensive Truck Management Program and the Committee and staff were then provided with a tour of the Port of Oakland's facilities. The next meeting of the Committee is at the call of the Chair.

Board Action: Chair Miley moved approval of the report of the Ad Hoc Committee on Port Emissions; seconded by Director Brown; carried unanimously without opposition.

RESOLUTION(S)

10. **Consideration to Adopt Resolution in Support of High Speed Rail in California**
The Board of Directors considered adoption of a resolution in support of high speed rail in California.

Chair Hill requested that Item 10 be considered for discussion at the conclusion of the meeting.

11. **Consideration to Adopt Resolution in Support of Applications for Metropolitan Transportation Commission T2035 Funding**
The Board of Directors will consider adopting a resolution to encourage the Metropolitan Transportation Commission (MTC) to fund two applications that Air District staff submitted for funding in the "Transportation 2035" Regional Transportation Plan: 1) a five-year Transportation Climate Action Campaign, and 2) a project to reduce emissions from trucks in key goods movement corridors in the Bay Area.

Board Action: Vice Chair Torliatt moved to Adopt Resolution in Support of Applications for Metropolitan Transportation Commission T2035 Funding; seconded by Director Brown; carried unanimously without opposition.

PUBLIC HEARING

12. **Public Hearing to Consider Adoption of Proposed Regulation 6, Rule 3: Wood-Burning Devices, Adoption of Proposed Amendments to Regulation 1: General Provisions and Definitions, and Regulation 5: Opening Burning, and Certification of CEQA Environmental Impact Report**
The Board of Directors considered adoption of proposed Regulation 6; Rule 3: Wood-Burning Devices to reduce emissions of particulate matter and visible emissions from fireplaces, wood stoves, pellet stoves, fire pits and other wood-burning devices.

Director of Compliance and Enforcement Kelly Wee gave an overview of the proposed Regulation 6, Rule 3: Wood-burning Devices, stating he would discuss fine particulate matter as a public health issue, the proposed Regulation, the Rule's development process and public outreach efforts and then take public comment, receive and answer questions and provide staff's recommendations.

Proposed requirements will prohibit burning on nights with high PM forecast; limit visible emissions from wood burning devices; require cleaner burning technology for sale of new and used devices; require cleaner burning technology in new construction and remodels; prohibit burning garbage in WBDs; and will require seasoned wood sales and solid fuel labeling.

Mr. Wee discussed the Air District's extensive public outreach, stating 7 public workshops were held to introduce the proposed draft Rule, with a 30-day public comment period, as well as 9 informational meetings held around the Bay Area. He said staff modified the draft Rule in response to workshop comments, the Regulation was subject to CEQA and a Full EIR with a 45-day public comment period, and the final proposed Regulation also had a 30-day public comment period.

Comments/responses received were identified as follows:

- Allow EPA certified devices to burn during curtailment / Unhealthy air necessitates no solid fuel burning.
- Allow masonry heaters in new construction and remodels/Clean burning masonry heaters can be allowed.
- Use smaller curtailment zones / Fine PM acts like a regional air pollutant
- Wood versus natural gas for climate change / Firewood is not sustainably harvested.
- Labeling requirement is too costly / Labeling requirement modified for wider distribution options.
- Manufactured/compressed logs burn cleaner than wood / More information on Bay Area consumer's use wood versus manufactured logs is needed.

Mr. Wee said Air District staff worked extensively with industry on revising labeling, which provides a toll-free number and website address for information and listed below:

"Use of this and other solid fuels may be restricted at times by law. Please check (Toll-Free Number) or (Web Address) before burning."

Mr. Wee said staff recommendation is that the Board of Directors certify the CEQA Final Environmental Impact Report; adopt proposed Amendments to Regulation 1: General Provisions and Definitions; adopt proposed Amendments to Regulation 5: Open Burning; and Adopt Proposed New Regulation 6, Rule 3: Wood-burning Devices.

Public Comments:

John Balmes, M.D., Professor of Medicine at UCSF and the American Lung Association spoke of his personal and professional experience with family members and patients affected

by smoke, its link to pneumonia, bronchitis, asthma, and other health problems and said he supported the proposed Regulation.

Barbara Lee, Northern Sonoma County Air Pollution Control District, said she and her staff have also worked for many years to better understand and achieve reductions in wood smoke, and she commended the Air District staff for bringing forward the proposed Regulation.

Robert Poindexter spoke on the burning of firewood versus fossil fuels, believed the conclusion in the EIR that the Rule would not affect global warming was false, urged the Board to reject the EIR and direct investigators to conduct a fair assessment.

Dion Aroner, Duraflame, said Durflame supports the Air District's intent to comply with new EPA standards and curtailment days, described their partnership with the Air District on an outreach program to encourage cleaner burning alternatives, but expressed strong opposition to a health warning label, believing it should be initiated by a federal or State agency.

Linda Weiner, Advisory Council Public Health Committee, discussed the extensive research done on the public health dangers of wood smoke, health-related problems, spoke of curtailment days and cleaner burning alternatives, and voiced support for the proposed Regulation.

Linda Regan, American Lung Association, thanked the Board and staff for their leadership on development of the proposed Regulation, noting that 300,000 people in the Bay area suffer from lung disease.

Tom Foley said he has developed lung problems and asthma and voiced support for adoption of the proposed Regulation.

Brian Zamora, Public Health Director for the San Mateo County, Chair of the Advisory Council Public Health Committee, strongly supported the proposed Regulation, cited extensive research to date, and said it will greatly benefit those suffering from respiratory problems.

Petria MacDonnell said she lives in the Berkeley Hills just east of a chronic burner and voiced support for adoption of the proposed Regulation.

Miriam Spross believed the proposed Regulation would improve the quality of life, spoke of other pollutants which are not tolerated and supported the Regulation's adoption.

Anthony Gerben, M.D., California Thoracic Society, voiced strong support of the proposed Regulation, labeling originally included in the Regulation and an education component and discussed his experiences with asthma patients.

Linda Ferzoko said she quit smoking in 1972, developed asthma which is exacerbated by air quality in the peninsula, and she supported the proposed Regulation.

Amy Ryan, Hearth, Patio and BBQ Association, applauded the efforts of Air District staff; however, by the Air District not exempting EPA and pellet stoves, she believed there will be

a limited number of people who will retrofit their older units and urged the Board to exempt them from the Regulation.

Steve Pulone, Hearth, Patio and BBQ Association, believed the proposed Regulation is not strong enough to affect the goals of the Air District, echoed the previous speaker's comments, and asked the Board to make everyday a Burn It Clean Day, which he believed would stimulate the economy and give consumers a choice in how they heat their homes.

Randy Brooks, National Chimney Sweep Guild, said they have several dozen member companies that service the District who identify and recommend replacement of devices and believed it is remiss to exclude products from non-attainment days. He asked the Board to either defer their vote or exempt clean-burning devices.

John Couch, Hearth, Patio and BBQ Association, while he agrees there are many good things about the Regulation; he requested the Board exempt certified stoves similar to what Puget Sound did. He discussed what out of state suppliers would be required to do for packaging and shipping to California and urged the Board to defer the item until more work can be done with exemptions and labeling provisions.

Karen Magliano, California Air Resources Board, spoke in support of the proposed Regulation and agreed particulate matter is a significant health impact and PM mortality even greater than original thought. She said the PM_{2.5} standard is often exceeded, cited the need for strong regulations and a mandatory curtailment program and spoke of San Joaquin Valley and Sacramento Air District's successes.

Susan Goldsborough, Families for Clean Air, said their organization educates the public about the hazards of wood smoke, commended the Air District for their work at workshops, acknowledged the public's support of the proposed Regulation, and spoke of a news release from the National Science Foundation which links PM pollution as a major cause of global warming.

Beryl Shaw, R.N., supported the proposed Regulation, believed there is a public health crisis and work must be done to improve lung health, citing asthma rates as high as 30% among children and adults who were dying from lung disease.

Don Fickes, Hearth, Patio and BBQ Association, believed that a lot of information was tilted, said most problems were from burning green wood, questioned what benefit would be seen after the Regulation was passed, and believed EPA certified and wood pellet stoves burn very clean.

Susan White, Program Director, Solano Asthma Coalition, said their organization has advocated for ordinances relating to wood-burning and Solano County and the City of Berkeley have both passed ordinances. She spoke of personal health impacts relating to respiratory problems and urged the proposed Regulation's adoption.

Helen Chung, Solano County Health and Social Services Department and the Asthma Coalition, said Solano County has the highest asthma rate in the state, discussed the county's

diverse population and disparities in health care, and applauded the work of the Air District to approve the proposed Regulation.

Madeline Landau, UCB, said she previously directed the Program on Community Change and Public Policy, cited the extraordinary rates of asthma and said she had developed it herself. She thanked the Board for moving forward, requested the strongest approach be adopted to address localized neighborhood impacts, and discussed a person who constantly burned wood and debris in her neighborhood which required neighbors to stay indoors for several days.

Karen Cilman said she has mild asthma, has witnessed a neighborhood group attempting to curtail smoke from a chronic burner and someone who is smoking meat and leaves it on unattended. She applauded the efforts of the Air District on their work and suggested more publicity occur on the issue.

Sarah Kidd said she believed it would be irresponsible if the Air District had the capability of passing a regulation that would require all wildfires burn by EPA technology, felt there is a lack of research on the issue, believed that monitors were strategically placed, and suggested the Regulation be further reviewed and not adopted.

Jeff Golden spoke of a family member with asthma and the need to seal off his house and described a situation where a Superior Court Judge tried to have the burning of construction debris enforced in Mill Valley, which was unsuccessful. He commended the Air District and believed the regulation would make a big difference in the quality of his family's lives.

Frank Nieman said his brother died of lung cancer and was not a smoker, said he is on three medications, fireplace smoke has destroyed his quality of life, and thanked the Board for supporting the proposed Regulation.

Lineau Wahamaki said her son and husband are both asthmatics, they cannot open the windows of their home because of fireplace smoke and firmly support the wood smoke ban.

Ron Christy, Warming Trends, Walnut Creek, said there are stoves that reduce emissions by 80-90% and people were now being treated as if they were burning in an open fire pit after they spent the money to do the right thing. He asked the Board to propose something more responsible and exempt EPA certified devices and pellet stoves.

Guy Fasanaro asked that EPA certified devices and pellet stoves be exempt, asked that people follow the Spare the Air Every Night in the Winter, believed the proposed Regulation would provide a disincentive for people to change out their old stoves and would create more burning and said many believe wood burning is banned completely.

Eric Miller said he was happy with EPA certified stoves, noted there were many people who burn and pollute the air everyday and cleaner burning appliances should be exempted from the proposed Regulation.

Tom Swartz said he lives in Lafayette and came home one day thinking his apartment was on fire, but said an adjacent apartment was burning wood. He spoke of how smoke clings inside his apartment throughout the night and supported the proposed Regulation.

Andy Katz, Breathe California, asked the Board to support the proposed Regulation, believed the monitors were under-estimating pollutant levels, and said wood smoke is a serious trigger for asthma. He thanked the Air District for their outreach, workshops and for the ability to comment on the matter.

Suzanne Calmels said in June of 2007 she unknowingly bought a house in a wood-burning neighborhood and said she now has no where to go inside her home to breath well. She now must use an asthma inhaler where she formerly had no history of asthma and recently learned that several people in the neighborhood are dying of cancer, asthma, emphysema, and she supported the proposed Regulation.

Susan McCormick spoke of her neighbors burning garbage, plastic, wood, said black smoke pumps from their fireplace and she has tried to resolve the matter with the Marin County's code enforcement to no avail.

Boardmembers voiced their support for the proposed Regulation and received responses from staff regarding product labeling, EPA certified devices and exemptions, enforcement, outreach efforts and the Board suggested annual review of the Regulation by the Stationary Source or Executive Committee, given its implementation and technological advances.

Boardmember Daly made a motion for approval, and Boardmember Brown seconded the motion.

Board Action: Boardmember Daly moved the adoption of Proposed Regulation 6, Rule 3: Wood-burning Devices, Adoption of Proposed Amendments to Regulation 1: General Provisions and Definitions, and Regulation 5: Opening Burning, and Certification of CEQA Environmental Impact Report; seconded by Director Brown; carried by the following Roll Call Vote: (16-0-0-6) Ayes: Bates, Brown, Daly, Dunnigan, Haggerty, Kishimoto, Klatt, Lockhart, Miley, Ross, Shimansky, Smith, Torliatt, Wagenknecht Yeager and Hill. Noes: None. Abstain: None. Absent: Garner, Gioia, Kniss, McGoldrick, Silva, Uilkema.

RESOLUTION(S)

- 10. Consideration to Adopt Resolution in Support of High Speed Rail in California**
The Board of Directors considered adoption of a resolution in support of high speed rail in California.

Chair Hill requested minor amendments to the Resolution as follows:

First Whereas clause: "WHEREAS, the California High-Speed Rail Authority (Authority), established pursuant to Public Utilities Code Section 185000 et seq., has developed a proposal to finance and construct a statewide high speed rail system for voter consideration on the November, 2008 statewide ballot, known as Proposition 1; and

Second Whereas clause: “WHEREAS, the Authority has released a Final Environmental Impact Statement/Report for potential high speed rail service into the Bay Area, and has adopted and the Final Environmental Impact Statement/Report at its July 9, 2008 meeting unanimously with an 8-0 vote; and

Sixth Whereas clause: “WHEREAS, the Authority’s proposal (Proposition 1) that voters will consider in November....”

Seventh paragraph: “NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Bay Area Air Quality Management District supports the efforts by the Authority to develop a High Speed Rail system in California and support Proposition 1; and

Delete the next paragraph, which begins “BE IT FURTHER RESOLVED...”

Board Action: Chair Hill moved to adopt a Resolution of the Board of Directors of the Bay Area Air Quality Management District supporting the development of a high speed rail system in California, as amended; seconded by Boardmember Daily; carried by the following vote: (14-2-0-6) Ayes: Bates, Brown, Daly, Dunnigan, Kishimoto, Klatt, Lockhart, Miley, Ross, Smith, Torliatt, Wagenknecht, Yeager, Hill; Noes: Haggerty and Shimansky; Abstain: None; Absent: Garner, Gioia, Kniss, McGoldrick, Silva, Uilkema.

OTHER BUSINESS

13. Report of the Executive Officer/APCO

Mr. Broadbent reported that ozone exceedances occurred on June 20, 22, 24 and 27 and July 7 and 8, 2008; the national ozone standard has been revised from 85 ppb to 76 ppb as of May 27, 2008; and there have been 8 PM health advisors on 7 days exceeding the 24-hr. PM_{2.5} standard due to the summer wildfires.

14. Chairperson’s Report – None

15. Board Members’ Comments

Boardmembers provided brief reports on their attendance to various meetings and conferences since the last Board meeting.

16. Time and Place of Next Meeting – 9:45 a.m., Wednesday, July 30, 2008 - 939 Ellis Street, San Francisco, CA 94109

17. Adjournment - The meeting adjourned at 1:13 p.m.

/s/ Lisa Harper
Clerk of the Boards