PLACER COUNTY AIR POLLUTION CONTROL DISTRICT BOARD OF DIRECTORS

Thursday, June 10, 2010 2:30 PM

Special Meeting Minutes; Preliminary Budget and the Regularly Scheduled Board of Directors' Meeting Minutes

The Board of Directors of the Placer County Air Pollution Control District met in session at 2:30 PM, Thursday, June 10, 2010, at the Placer County Board of Supervisors' Chambers, 175 Fulweiler Avenue, Auburn, California. Representing the District were: Tom Christofk, Air Pollution Control Officer; Todd Nishikawa, Deputy Air Pollution Control Officer; Yu-Shuo Chang, Planning and Monitoring Manager; and Jane Bailey, Administrative Services Manager.

The meeting was called to order by Chairman Ucovich and the Flag Salute was led by Yu-Shuo Chang. Roll call was taken by the Board Clerk with the following members in attendance: Mike Holmes, Donna Barkle, Kent Nakata, Miguel Ucovich, Jim Holmes, Jennifer Montgomery, Peter Hill and John Allard. Robert Weygandt was absent. A quorum was established.

Preliminary Budget Special Meeting Minutes:

Chairman Ucovich opened the Public Hearing for the Proposed Preliminary FY 2010-11 Budget.

Ms. Jane Bailey, Administrative Services Manager for the District, presented the Proposed Preliminary Budget for Fiscal Year 2010-11. She said the purpose of the Public Hearing was to give the public an opportunity to comment on the proposed budget and to give the Board an opportunity to provide direction to Staff for the final proposed budget which will be presented at the August 12, 2010, meeting. Holding a public hearing for this purpose is a requirement of the California Health and Safety Code.

Ms. Bailey began by describing the three funds which make up the District's budget. Two of these funds are restricted use funds; the DMV Fund and the Mitigation Fund. The Operations Fund is primarily the "general fund" for the District and is more discretionary in its use.

Ms. Bailey went on to explain that the beginning fund balances for the preliminary budget must be projected since the current fiscal year has not ended. The current comparison of the projected final FY2009-10 revenues and expenditures to the revised FY2009-10 budget shows a 6.7 percent decrease in the total revenues and the expenditures are projected to be 20 percent less than shown. This results in a 5.24

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decrease in the total funds available and in the total funds usage. The projected combined funds carry over from FY2009-10 to FY2010-11 is \$1,093,632 which is the projected beginning fund balance for FY2010-11's budget.

The FY2010-11 Proposed Preliminary Budget shows a 9.91 percent decrease in anticipated total revenue compared with the revised FY2009-10 Budget and a 5.24 percent reduction in expenses. Projected fund usage for FY2010-11includes \$2,192,422 for salaries and benefits, \$987,718 for supplies and services, and \$1,194,136 for the Clean Air Grant Program and other incentive programs.

Ms. Bailey then pointed out several of the line items in the budget for programs, projects and District enhancements. She concluded by stating that the next steps are to finalize the District's fiscal position at the close of FY2009-10 and be able to use actual ending balances for the proposed final budget for FY2010-11. The proposed final budget will be presented at the August 12, 2010 Board Meeting.

Chairman Ucovich asked for a motion to adjourn the special meeting for the Proposed Preliminary Budget.

Motion to adjourn: M. Holmes/Nakata/Unanimous

Regularly Scheduled Meeting Minutes:

Chairman Ucovich called the regular meeting to order at 3:00 PM. As the flag salute and roll call had already been accomplished at the special meeting, the regular meeting began with item 4, approval of the minutes.

The Minutes for the April 8, 2010, meeting were approved unanimously. The Agenda for the June 10, 2010, meeting was also approved unanimously.

Chairman Ucovich asked for public comment and Director Mike Holmes gave a short report on his trip to Washington D.C. (Cap-to-Cap) which the District had partially sponsored. He said that the Air Pollution Committee encouraged the EPA to act on the "Reasonable Exceptional Event" issue. This issue is in regard to being able to meet federal standards when there is an "exceptional" event such as a wild fire in a non-attainment area. There were several other subjects/meetings which Director Holmes participated in while he was in Washington D.C. which could be a benefit to the air quality in Placer County. The District also sponsored Director Allard who said that he was on the air committee and several others as well and that he had and met with several congressmen and discussed many issues including air quality during his time in D. C.

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Consent Calendar Item 8

Consulting Contract with Spatial Informatics: (Consent/Action)

The Board approved Resolution #10-03 thereby authorizing the APCO to enter into a consulting contract with Spatial Informatics Group, LLC, in order to assist with the development and implementation of procedures to quantify air pollutant emissions and other ecosystem service benefits of forest management projects including fuel treatments and biomass for energy. This contract is not to exceed \$20,000 in FY20010-11.

Motion to approve the consent calendar: Allard/J. Holmes/Unanimous

Discussion/Information Item 9

Request from the City of Roseville regarding the District's Recommended CEQA Thresholds for Cumulative Impacts: (Discussion/Action)

Chairman Ucovich invited City of Roseville (City) to present their concerns since it was a request by the City to place this item on the agenda. Director Hill suggested that District Staff present the background of the issue first and allow the City to respond afterward. Chairman Ucovich agreed and asked that Staff proceed.

Mr. Christofk introduced this item which was in response to a request from representatives of the City to the District to add this subject as an agenda item for this meeting. The subject of the request concerns questions that center around the District's responsibility as a commenting agency on the City's land use projects and the manner in which cumulative impacts of air pollutants from these projects are calculated. Between the time that the board packet was published and this meeting there was more correspondence on this subject between the City and the District. Copies of this correspondence were made available to the board and to the public at this meeting.

Ms. Christiana Darlington, Legal Counsel for the District, presented an overview of the District's CEQA (California Environmental Quality Act) Review Program. She stated that she would be going over some basic information about CEQA, how it works and how the District plays a role under CEQA. She also said that she would be going over several pieces of correspondence that the City has sent to the District regarding the interpretation of the CEQA laws, specifically the foundation for the 10 pounds per day cumulative threshold as well as how it is used, the costs associated with the threshold, and how it is used by other air districts within the state.

Ms. Darlington then explained the role the District plays as a commenting agency for land use projects within the County and the difference between a lead agency and a commenting agency. She said that the District's job is to comment on the air quality

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impacts of land use projects and to recommend mitigation strategies when appropriate. This is a service provided by the District in order to provide local jurisdictions a more legally defensible position should there be a legal challenge to a land use decision. The lead agency is not bound to follow the recommendation provided by a commenting agency.

Ms. Darlington went on to explain that there is no difference in determining the cumulative impacts of a source of pollution whether it is a factory or a land use development. Criteria pollutants and the health impacts from them are the same no matter where they originate from (i.e. smokestack vs. tailpipe). CEQA requires that lead agencies adopt significant thresholds and that programs are put in place to mitigate the impacts.

Because of Placer County's status as severe non-attainment of federal air quality standards, the District is required to reduce air pollution by over 20 percent to meet federal air quality standards. The requirements to reduce ozone emissions will become even more stringent as early as this coming August.

In a letter dated June 9, 2010, Mr. Mike Shellito, Roseville City Manager, wrote to Mr. Christofk that the City Planning Department had three issues with the District's cumulative impact threshold: 1. the threshold is too severe, 2. it should be accompanied by a justification analysis and, 3. it should be Board adopted. Ms. Darlington explained the District's threshold for cumulative impacts has been the same for many years and is based on its mandated reduction goals and the development patterns in Placer County. The District recommends that mobile sources (i.e. vehicle miles traveled to, from and within a land use project) be reduced at the same thresholds applicable to stationary sources. The District has explained the basis of the threshold; however, the lead agency is responsible for the final decisions and is free to do its own analysis. Finally, CEQA does not require that a commenting agency have its thresholds legislatively approved (adopted by the board).

Ms. Darlington cited state case law and recent CEQA guideline amendments that recognize offsite mitigation measures as feasible. The District has a voluntary Offsite Mitigation Program which was approved by this Board in 2001 and provides alternatives to lead agencies and developers to offset emissions from a land use project. Developers may either implement an offsite emission reduction project or pay in-lieu-of fees into the District's Offsite Mitigation Fund if they choose to participate in the program. Doing this creates a more defensible environmental document should the project be brought to litigation. Participation in this program can also help avert the need for an EIR which could be more costly than a mitigated negative declaration and be much more time consuming. The money from the Mitigation Fund is put into the Clean Air Grant Program which essentially provides the funds back into the community in order to help attain a

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cleaner air environment near the land use project it was collected from.

In conclusion, Ms. Darlington said that if the District were to relax its cumulative threshold, the project level threshold of 82 pounds per day would need to become more restrictive if program integrity is to be maintained. CEQA requires the project's cumulative impacts be analyzed and mitigated to the maximum extent feasible if it is cumulatively considerable. District Staff feel that it is more effective for money to be spent on mitigation efforts than on EIR documents which would be required if lower project level thresholds were in place.

Chairman Ucovich asked if there were any questions from the Board. Director Allard had some questions on the statistics presented in Ms. Darlington's PowerPoint Presentation which Ms. Darlington responded to. Chairman Ucovich then called Mr. Paul Richardson, Planning and Redevelopment Director for the City of Roseville, to the podium in order to get the City's perspective on this issue.

Mr. Richardson thanked District Staff for bringing this item to the Board for discussion. He also said that Ms. Darlington had fairly represented the City's concerns in her presentation. He said that the City and District Staff have been working to come up with a list of standard mitigation measures to include in the City's environmental documents. This effort has been successful in creating a list of measures used to mitigate air quality impacts. The benefit is that these measures will apply to all jurisdictions in the County which levels the playing field. The 10 pounds per day cumulative impact threshold is the one remaining sticking point.

Mr. Richardson said that he still had questions regarding some of the examples Ms. Darlington used regarding other air districts, their thresholds and how they assess mitigation fees. He also said that the District still did not have a Board adopted policy regarding the 10 pounds per day threshold. He believes that 10 pounds per day is an onerous requirement and is not balanced against what other air districts require in the Sacramento Region and that these thresholds put Placer County at an economic disadvantage when it comes to attracting developers.

Another fundamental issue that the City has is that when a comment letter is received from the District it becomes part of the administrative record for CEQA. Even though the lead agency is responsible for the final decisions on a project the comments cannot be removed from the administrative record. Mr. Richardson said that a cumulative standard should be adopted by the Board with an analysis of why the standard is being adopted and that stakeholders should have a chance to "weigh in" on the standards.

Chairman Ucovich asked if the Board had any questions and Director Mike Holmes asked Mr. Richardson to state very specifically what it was the City wanted from the Board. Mr. Richardson replied that the City does not want comment letters that are based

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on the 10 pound per day threshold which would become part of the administrative record for CEQA. He said that the City understands that there needs to be a standard, but that it should be Board adopted, use "real science", be equitable to what other air districts are using, and involve the stakeholders who are affected by that standard.

Director Barkle said she believes the jurisdictions should be involved with developing standards, but that it would not be appropriate to involve all stakeholders. Director Jim Holmes asked Mr. Richardson to define how the current standards placed the City at an economic disadvantage. Mr. Richardson said that any extra fees assessed on a project could become an issue when a jurisdiction is competing for new construction. He said that air district fees are higher in Placer County and that it is more costly to do business here than in Sacramento.

Director Montgomery asked about the Galleria Mall expansion mitigation costs compared to the amount of air quality mitigation fees that were assessed. Ms. Darlington said that the total project cost was 787 million dollars (the mitigation was based on 270 million dollars from the expansion only) and that the air quality mitigation fees amounted to .05 percent of that cost. Ms. Montgomery said that amount did not seem "onerous" to her and that the idea that Placer County has to match the lowest competitor in the area in order to be competitive takes the District down a "very slippery slope" in terms of everything else this Board and the Board of Supervisors is trying to do within the county. Mr. Richardson said that the City's point is that the PCAPCD Board has not adopted the threshold and that is their fundamental concern. Ms. Montgomery reiterated that the Board is not required to adopt the threshold and is a commenting, not lead, agency and in that role, it is District Staff's responsibility to comment on land use projects. Ms. Montgomery stated that the City is conflating the role of the District and the City in making land use decisions and that the role of the APCD is very clear and that is to address and comment on the air pollution control issues identified in the land use documents whether the City chooses to act on them or not. She also stated that if this board were to act on the City's suggestion she and the rest of the Board would be abrogating their responsibilities.

Director Hill asked why the City focused only on the 10 pounds per day cumulative threshold and not the 82 pounds per day project level threshold. Mr. Richardson said that the City was happy with the 82 pounds per day threshold. Director Hill made the point that the 82 pounds per day threshold had not been adopted by the Board either.

Mr. Dennis Rogers, of the North State Building Association, stated that as a stakeholder in the building industry, he and his organization are very concerned about air quality because they want to be good corporate citizens and be able to build their product while adhering to state and federal standards. He said that he represents public and private businesses, many of which have been in Placer County for generations. His association is concerned with air quality and economic development because the lack of development

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has had a dramatic effect on all of the agencies (jurisdictions) the members of this Board of Directors represent.

Mr. Rogers also said that the issue isn't about stationary sources, it is about mobile sources and that developers have no control over what kind of vehicles people drive or what type of fuels are used within developments, but that is what the mitigation fees are paying for. He said that as developers and builders, his organization wants to do the right thing and that as the regulated community; his association would like to be a part of the process for looking at SB 375, greenhouse gasses and the thresholds which the District is committed to review in the next few years.

Mr. Terry Davis, representing the Sierra Club, said that all the residents of the county have to breathe the air and that aside from fees and economic development this issue is about people's health. He also said that this District had a lot to be proud of, and that the Offsite Mitigation Program was one of those things. He said it was the "gold standard" for the other districts at the time and many other districts emulated it. It is responsible for taking 200 tons of pollutants out of the air since 2001. He said that as a citizen and a parent, he wants to see the air quality improve and it will not improve if we retreat and lower the thresholds. He asked that the Board maintain the 10 pounds per day threshold for cumulative impacts.

Ms. Kori Titus, CEO of Breathe Sacramento-Emigrant Trails, spoke on behalf of her organization. She made the statement that if the issue was mitigation fees, it would not be cheaper to build in Sacramento because of their "Measure A" taxes on commercial developments. Sacramento Metropolitan AQMD has kept their fees low so that in combination with Measure A, the fees are not "over the top". She also said that the region has dire issues with air quality; people's health is suffering, the region is classified as severe non-attainment and there are more restrictive standards on the way. She said that the last thing the region needs is lower standards and she should be suggesting that the District reduce the 82 pounds per day, but that she was here to urge the Board to keep the 10 pounds per day threshold in place.

Director Allard said that this is a contentious issue which is why it has taken so long to be addressed. He then asked where the 82 and 10 pounds per day came from. Ms. Darlington replied that it is derived from state and federal laws pertaining to stationary sources and Mr. Christofk added that the District's Rule 502 (New Source Review) was also a source for the thresholds. The District believes that pollution is pollution no matter what the source; therefore Staff mirrors the thresholds for stationary sources to mobile sources. Mr. Allard asked if there were any studies as to what the appropriate standards are for this particular region. Mr. Christofk responded that there was a study done in 2001 on project level recommendations.

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Director Allard said that he believed that this body (PCAPCD Board of Directors) is a policy setting body and that Staff carries out the policies set by the body. He believes that standards should be reviewed, fully vetted and voted on by the Board. He said that as an elected official appointed to this Board by the Roseville City Council, it is his responsibility to set policy for this District. He said that he would agree that District and City Staff work together to review and come up with thresholds and bring them to the Board for approval.

Chairman Ucovich asked if Staff had anything more to add. Mr. Christofk said that Staff are looking for Board direction on this issue but that the recommendation is that the 10 pounds per day for cumulative threshold and 82 pounds per day for project level thresholds be retained until such time as work on greenhouse gas thresholds, related SB 375 and the Indirect Source Rule (ISR) can be concluded.

Mr. Christofk said that the ISR is a SIP commitment and its adoption will be an opportunity for the public to comment since all rules go through a public hearing and Board adoption. The deadline for adoption is in 2014.

Director Allard said that there has not been a willingness between District Staff and the City to work this out and so it has come to the Board to hammer it out. He suggested that both sides try to find a solution to this that goes through the proper vetting process so that there is not this kind of argument at Board meetings. Chairman Ucovich asked when the 10 and 82 pound per day threshold went into effect. Mr. Christofk said it was in 1996. Chairman Ucovich said he thought it had been in effect for some time even though there was no formal adoption of the policy. He said he doesn't understand why it is being presented as a brand new problem.

Ms. Montgomery said that if there was no more Board discussion or public input she would like to make a formal motion.

Motion: As a policy, the Board will support the continued use of the 10 pounds per day cumulative impact threshold until such time as it may be replaced by the ISR and thresholds developed in concert with green house gas and related SB375 work products.

Motion: Montgomery/M. Holmes; passed 7 to 1 with Director Allard being the dissenting vote.

Air Pollution Control Officer's Report Item 10

Facilities Update: Mr. Christofk said that the District took the opportunity to take a look at cost savings with respect to the facility lease. The current lease at the Community Development Resource Center (CDRC) is up in July of 2011 and this is the time to do

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comparisons and investigate other options. Staff had prepared a PowerPoint presentation showing charts and graphs comparing the current lease situation to the two other options that were researched.

He said that front end research into staying in the CDRC indicates that it would save the District a substantial amount of money to relocate to either a leased or purchased facility. Mr. Christofk has already approached County Facilities Director, Jim Durfee, to try and negotiate for a lower rate on the lease since it is much higher per square foot than other office space in the area. This is compounded by the annual CPI adjustment which has added up to 10 percent over the original rate per square foot since 2006. Mr. Durfee declined to negotiate on the rate, which is one of the reasons Staff decided to look at other options.

The results of this research are as follows: It appears that the onetime costs of moving and getting things such as computer systems and communications systems in place, doing tenant improvements and purchasing furniture would be approximately \$131,000. The projected savings for the low-end lease rate is \$400,640 over 5 years (45 percent savings over CDRC lease) and the high end rate is \$177,656 over 5 years (20 percent savings over CDRC lease rate). Purchasing a 10,000 square foot building at \$1.5 million in capital costs shows a 5 year savings of \$416,644 (50 percent less than CDRC lease) with relocation costs recovered in 14 months and the purchase cost recovered in 14 years 6 months.

Mr. Christofk said that the cost comparisons look pretty attractive for relocating and that he would be remiss in his duties if he did not bring this item to the Board's attention. He showed a time line for preparation starting with this last May when Staff began the research. He proposed that the Board make a decision in December 2010 in order to have time to find a building, do the improvements and to provide 60 days notice to the County.

Director Nakata asked about services such as IT, payroll etc. Mr. Christofk said that the District intends to stay on the County network at this time. Currently the District spends over \$75,000 a year for IT services and he included the set up costs for this in the "onetime relocation costs" figure in the PowerPoint.

Director Mike Holmes said that he believes the District should move ahead with this item and that the City of Auburn would be installing broadband at the Auburn Airport Industrial Park within the next year (this is one of the areas under consideration).

Director Montgomery asked Ms. Darlington if there would be any conflict with the three County Board of Supervisors who reside on this board weighing in on this discussion. Ms. Darlington said it would need to be looked at when the time came for formal action. As a County Supervisor, Ms. Montgomery encouraged Mr. Christofk to continue to try

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and negotiate with the County regarding the lease rate at the CDRC building. Mr. Christofk agreed to try again.

Director Allard said that he would encourage the District to look at other areas of the county as well, not just Auburn. Mr. Christofk said that comparisons were made and generally speaking, the prices increased the farther west you go, but, if there was a good deal to be had in another jurisdiction, the District would be willing to consider it.

There was more back and forth discussion regarding real estate values and the current market and where the District would best be located. Mr. Christofk listened to all suggestions and said there were many things to consider and he would bring back some options to the Board before the end of the year.

Fiscal Update: Mr. Christofk said that as of the end of May 2010 the District is under running on expenditures to budget 37.6 percent, but that it should soon be showing closer to 20% once the Clean Air Grants are encumbered. The District is also under running on revenues compared to budget and that the end of year projection in the preliminary budget is most likely how this fiscal year will end.

Adjournment Item 11

Motion to adjourn: Nakata/Barkle/Unanimous

Margie Koltun, Clerk to the Board