

SACRAMENTO METROPOLITAN AIR QUALITY MANAGEMENT DISTRICT

For Agenda of October 28, 2004

To: Board of Directors
From: Larry Greene
Air Pollution Control Officer
Subject: Composition of SMAQMD Board of Directors

Recommendation That the Board direct staff to work with the County of Sacramento and the seven incorporated cities to re-constitute the SMAQMD Board of Directors to provide representation for the cities of Citrus Heights, Elk Grove and Rancho Cordova.

Background At its September 23, 2004 meeting, the Board heard options for expanding the current Board to reflect cities that have incorporated since the Hauser bill added city representatives to the SMAQMD Board in 1994. The Board indicated its preference for a composition mirroring that of the Sacramento Transportation Authority Board. This would include:

- Five members of the Sacramento County Board of Supervisors
- Four members of the Sacramento City Council*
- One member from Citrus Heights
- One member from Elk Grove
- One member from Rancho Cordova
- One member from Folsom
- One member representing Galt and Isleton

* If the City of Sacramento desires to add an additional member. Depending on their decision this would result either in a 14-member Board, requiring eight members for a quorum, or a 13-member Board, requiring seven members for a quorum.

Status The Air Pollution Control Officer (APCO) is awaiting a response from Mayor Fargo regarding whether the City of Sacramento would like to appoint a fourth council member to the SMAQMD Board. The APCO is scheduled to meet with the mayors of the following cities to discuss the proposal:

<u>City</u>	<u>Mayor</u>	<u>Meeting Date</u>
Citrus Heights	James Shelby	November 1
Elk Grove	Sophia Scherman	October 22
Galt	Darryl Clare	October 29
Rancho Cordova	Linda Budge	October 14

Meetings with the other mayors will be scheduled as necessary and as the election season allows. The initial response from each of the cities has been positive.

Process

The Health and Safety Code (§ 40980) allows the County and Cities to determine the composition of the SMAQMD Board, with the minimum requirement that at least one member must be a county supervisor and at least one member must be a mayor or city council member. However, the composition of the SMAQMD must be approved by the County and a majority of the cities containing a majority of the incorporated population. In effect, with seven incorporated cities, any changes to the Board composition would have to be approved by:

- County Board of Supervisors
- Sacramento City Council
- Any three of the other incorporated cities (Citrus Heights, Elk Grove, Folsom, Galt, Isleton and Rancho Cordova)

Staff has developed the attached draft Resolution outlining the desired Board composition, and will work with all of the cities and the County Board of Supervisors to present the resolution for approval at the earliest possible meeting of each respective jurisdiction. The City Selection Committee will have to confirm the Board member who will represent the Cities of Galt and Isleton.

Tie vote

The Board has asked whether the Chair could be authorized to cast a second vote in the event of a tie vote by the full Board. District Counsel has recommended that we seek a statutory amendment that authorizes the second vote. As the Board is aware, the Sacramento County Regional Sanitation District's Board of Directors currently has a provision for breaking tie votes. Health & Safety Code §4730.1 (c), states that "If those members of the governing body of the sanitation district constitute an even number, the Chairperson of the Sacramento County Board of Supervisors shall have an additional vote on the Board of Directors of the Sanitation District." Regional Sanitation District staff has opined that the extra vote may only be used when a full Board, with an even number of directors, has reached a tie vote. Providing the SMAQMD Board with this option will require that state legislation be introduced in January 2005 and ultimately signed by the Governor.

The above provision would allow the Board to address the breaking of tie votes with an even number of Board members. Whether the Board of Directors ends up with 13 or 14 members through this current effort, future incorporations within Sacramento County may result in an even number of board members in the future.

Quorum vote

The Board also asked whether it could change its definition of a quorum. General law statutes define a quorum as a majority of the Board, but allow specific statutes to adopt a different definition. (Civ. Code, section 12, Code of Civil Procedure, section 15). The Health and Safety Code is silent on the issue. Consequently, Counsel also recommends that we seek an amendment to the Health and Safety Code to redefine “quorum” if we decide to go that route. We would also need to amend our by-laws, which define quorum as a majority of the Board, and also require actions to be approved by a majority vote of the Board (not a majority vote of the quorum).

Alternatively, we could amend the by-laws to allow actions to be approved by a majority vote of a quorum. While this would not make it easier to establish a quorum, it would make it easier for the Board to act once a quorum is established.

Respectfully submitted,

Larry Greene
Air Pollution Control Officer

Approved as to Form:

Kathrine Pittard
District Counsel

(NAME OF JURISDICTION)

(Sample) Resolution No. _____

Whereas, the Sacramento Metropolitan Air Quality Management District is part of the Sacramento Federal Nonattainment Area, which is classified as a “serious” nonattainment area for the federal eight-hour ozone standard with an attainment deadline of 2013; and

Whereas, the (Name of Jurisdiction) recognizes that it has an important role in helping the nonattainment area improve air quality to protect the public health; and

Whereas, the Hauser Bill (AB 75, 1994) mandated that after July 1, 1994, incorporated cities be provided representation on the Board of Directors of local air districts; and

Whereas, the SMAQMD Board of Directors is currently composed of the following members:

- All five members of the Sacramento County Board of Supervisors
- Three members of the Sacramento City Council
- One member representing Folsom, Isleton and Galt; and

Whereas, since the SMAQMD Board of Directors expanded in 1994 to accommodate all of the incorporated cities in existence at that time, three additional cities have incorporated:

- Citrus Heights, incorporated January 1, 1997
- Elk Grove, incorporated July 1, 2000
- Rancho Cordova, incorporated July 1, 2003; and

Whereas, (Name of Jurisdiction) agrees that the composition of the SMAQMD Board of Directors should be expanded to accommodate the additional cities and shall be comprised of a 14-member Board that reflects, to the extent feasible and practicable, the geographic diversity of the SMAQMD and the variation in population of the incorporated cities and the unincorporated portion of Sacramento County; and

Whereas, the 14-member Board shall be comprised of:

- Five members of the Sacramento County Board of Supervisors
- Four (or three) members of the Sacramento City Council
- One member of the Citrus Heights City Council
- One member of the Elk Grove City Council
- One member of the Folsom City Council
- One member of the Rancho Cordova City Council
- One council member representing the Cities of Galt and Isleton; and

Whereas, Health & Safety Code §40980(e)(2) requires that subsequent appointments to represent a single city with the district on the SMAQMD Board shall be made by the city council of that city at a regularly scheduled city council meeting, consistent with state notice requirements; and

Whereas, Health & Safety Code §40980(e)(3) states that the City Selection Committee shall be convened only if there is to be a change in the Board members designated to represent more than one city.

Now, Therefore, be it Resolved that the (Name of Jurisdiction) approves, as required by Health and Safety Code §40980(c) (2), the number and composition of the re-constituted SMAQMD Board of Directors; and

Be it Further Resolved that the (Name of Jurisdiction) appointment(s) to the SMAQMD Board of Directors shall be: (Name of Board Member); and

Be it Further Resolved that the (Name of Jurisdiction) requests that the City Selection Committee, comprised of the mayors of the seven incorporated cities within Sacramento County, be convened at its earliest convenience to confirm the appointment of the council member that will represent the Cities of Galt and Isleton.

On a Motion by (Name of Council Member or Supervisor), seconded by (Name of Council Member or Supervisor), the foregoing resolution was adopted by (City Council/Board of Supervisors) of the (Name of Jurisdiction), this (__No.__) day of (Month), 2004, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Mayor or Chairperson
(Name of Jurisdiction)

ATTEST: _____
Clerk of the Board/City Council