

**SPECIAL SESSION I
April 18, 2007**

The Board of Supervisors of Maricopa County, Phoenix, Arizona, convened in Special Session at 10:35 a.m., April 18, 2007, in the Supervisors' Conference Room, 301 W. Jefferson, Phoenix, Arizona, with the following members present: Fulton Brock, Chairman, District 1; Andrew Kunasek, Vice Chairman, District 3; Don Stapley, District 2 and Max W. Wilson, District 4. Absent: Mary Rose Wilcox, District 5. Also present: Fran McCarroll, Clerk of the Board; Shirley Million, Minutes Coordinator; David Smith, County Manager; and Victoria Mangiapane, Deputy County Attorney. Votes of the Members will be recorded as follows: aye-no-absent-abstain.

MARICOPA COUNTY AIR QUALITY UPDATE

Presentation and update on current air quality issues pertaining to legislation and the Maricopa Association of Governments (MAG) 5% Plan. (C8507025M00)

Joy Rich, Assistant County Manager
John Hauskins, Maricopa County Transportation Director
Robert Kard, Air Quality Director
Jo Crumbaker, Air Quality, Planning & Analysis Division Manager
Lucinda Swann, Air Quality, Dust Compliance Division Manager

Joy Rich said that air quality is an important issue to the Valley and presenters would provide an overview of the MAG 5% Plan, SB 1552 – current legislation being considered – and some current public works projects that address the air quality issues. She added that Colleen McKaughan, Assistant Director of the Air Division of Region 9 will give EPA's perspective on current County air quality problems.

Robert Kard said that particulate matter levels and stagnation events are a primary concern for the region. Areas such as the monitors at 43rd Avenue and Broadway are hotspots but the problems are evident in a number of jurisdictions. He showed several tables of statistics to illustrate how widespread particulate and stagnation issues have become. He said 24 sites are being studied and there are 19 monitors in place throughout the Valley.

Mr. Kard explained that the MAG process for developing the 5% plan is a cumbersome one prone to delays. Additionally, MAG seems to be placing too much responsibility on the County and not enough on city and town enforcement efforts. Discussion ensued on the reluctance of cities to participate in the air quality issue or to take a share of the responsibility for it.

Mr. Kard said that if the MAG plan designates the County with almost total responsibility for clean-up, a plan would have to be devised to make it feasible and to cover the huge expense. He felt it would be too huge of a burden on the County and he doubted EPA standards could be met in the designated time period.

The Board welcomed State Senator John Huppenthal to the meeting and thanked him for giving his time to meet with them on this important issue.

Senator Huppenthal said he had determined that the clean air question was one of the three most important issues facing the legislature during this session and had offered to work with Senator Allen in her quest to solve the problem. He is co-sponsoring a senate bill related to air quality issues. He added that the more involved he becomes the more his thinking has started to shift. He said it has become a two-fold issue to him: 1) to pass necessary legislation, and 2) to keep from further violations that would bring additional sanctions onto the State. He acknowledged that the second issue is assuming greater importance the more he learns. He said that County staff attends the meetings and have convinced him that they well understand how imperative it is to take stringent decisive action. He advised concerted

focus on the three main problem areas at Durango, 43rd Avenue and the Higley site to avoid violations this year. He felt the avoidance of further violations was much more important than the “plan” and this should become the main focus of all. He commented on the perceived lack of teamwork and pledged to give his efforts in facilitating the necessary communication between entities.

Chairman Brock asked Senator Huppenthal if he foresaw any changes in mining laws since the mining industry is very vocal in feeling they are being over-monitored because of the dust produced in their operations. Senator Huppenthal replied that he felt the mining operations feel they are being fined for the dust they produce while a juvenile on an ATV could produce nearly as much dust with no consequences and the industry saw it as unfair. He added that they don’t seem to realize that the federal sanctions hurt everyone. He said that everybody must start complying whether they want to or not.

Chairman Brock addressed the attitudes expressed by cities – that it is the County’s problem, not theirs – and asked for the State’s advice. Senator Huppenthal replied that at first the Legislature hadn’t wanted the cities involved in inspections at all and he felt this might have to be revisited by the Legislature. He said, “But we have to do whatever it takes to cut pollution, especially in the three key sites.”

Supervisor Kunasek asked what authority the Sheriff has in stopping people who run their ATVs along the dry river beds cause dust pollution. Lucinda Swann said it is usually a trespass issue and owner cooperation is needed. She said that any signs that are posted by owners, or in some cases by the County, are usually gone within a few weeks or months. The Sheriff’s Office say they need a statute passed before they can act because trespass issues are difficult to enforce. Usually the property owner is unknown when any complaint is called in to the Sheriff and they have no grounds on which to take legal action.

Colleen McKaughan said she has been reviewing the “tortured history” of air quality issues in Maricopa County and continues to be worried about what she sees happening. She said the old plan is still in place and the new 5% plan will be in addition to that. She explained that it would absolutely be necessary to determine why the old plan didn’t work and correct those issues because the County is going to have to do even more to avoid further sanctions. She expressed concern about the way the MAG process works and said she had never before seen a process where the public is allowed to give input and vote on air quality restrictive measures. She said, “This job is huge and unless you get some help from cities and other entities I don’t know how you are going to get it done.” MAG has asked them for a letter and she will communicate the major concerns of the EPA. She assured the Board that the various Tribes are all adopting their own pollution control plans and this should help the over-all effort in the County. She stated that commitments have been given by the cities to do certain things but these are “spotty” and it is difficult to know exactly what they have committed to, or to see what they have actually accomplished. Ms. McKaughan said that without accountability on what they will do and with no reports on what has actually been done, any actual reductions achieved can’t be tracked. She warned that the County is still growing and the new growth has to be factored into the plan. She expressed hope that a plan will be devised that will work without any entity being “unduly burdened.”

Supervisor Stapley thanked her and said her comments would be very helpful to him when he goes to the next MAG meeting. He said it would be difficult but very necessary to educate the other entities to realize that it will take everyone working together to solve this problem. He assured Ms. McKaughan that the County is working very hard towards compliance and in helping to devise a plan of action that will work.

David Smith said that his reading of the proposed MAG plan is for it to work until compliance is barely achieved, that they only want to work, or sacrifice, to a minimum degree. He felt that would not work and

that a margin of error had to be written into the plan. Ms. McKaughan agreed that a cushion is needed and to "barely" attain compliance isn't workable as it is too unforgiving when anything goes wrong.

Supervisor Wilson asked if measures taken by other county jurisdictions that have worked for them could be available to MAG to use. Ms. McKaughan said she thought MAG was already looking at other plans and agreed this would be helpful and probably necessary.

Discussion ensued on the number of additional employees that would be needed; possible revision of the County's current rules; enforcement/action when violations are found, cited and penalties assigned and people ignore them; education methods for the public. Mr. Kard said the County's fine is \$10,000 a day but if a case is turned over to the EPA their fine is \$37,500 a day. He said they are considering an increase in the County's penalty to help attain compliance.

John Hauskins, MCDOT, explained that from FY2000 to FY2006, MCDOT spent \$27 million paving 65 miles of dirt roads and said it will take an estimated \$42 million to pave all remaining roads having a 50 or more count of vehicular travel per day. He also explained the planned Southwest Valley shoulder paving project of paving 5.4 miles of shoulders (equivalent to 18.7 lane miles) in the targeted highest pollution areas in the County. This should be completed within the next six months. The targeted areas include Broadway, 43rd Avenue, Weir Avenue, Southern Avenue and some neighborhood streets. The total cost for this target area project is estimated at \$2.7 million. He said that MCDOT wants to be part of the solution by taking a proactive stance. He explained that they hope for some funding relief from the State and Federal Governments and they are looking into various ways to do this.

Supervisor Stapley said that private industry has been asking how they can help and suggested MCDOT contact these sources for additional funding. He added that this should have been done in the past and it needs to be done as quickly as possible. This will be placed on the first available agenda for action.

MEETING ADJOURNED

There being no further business to come before the Board, the meeting was adjourned.

Fulton Brock, Chairman of the Board

ATTEST:

Fran McCarroll, Clerk of the Board