

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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SUMMARY
PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
October 18, 2012
Burbank, California

I. PUBLIC MEETING**A. CALL TO ORDER AND INTRODUCTIONS**

Chairman John MacLeod called the Public Meeting of the Occupational Safety and Health Standards Board (Board) to order at 10:04 a.m., October 18, 2012, in the Council Chambers of the Burbank City Hall, Burbank, California.

ATTENDANCE**Board Members Present**

John MacLeod
Hank McDermott
Bill Jackson
Laura Stock
David Harrison
Dave Thomas

Board Members Absent

Barbara Smisko

Board Staff

Marley Hart, Executive Officer
Mike Manieri,
Principal Safety Engineer
David Beales, Legal Counsel
David Kernazitskas,
Associate Safety Engineer
Sarah Money, Executive Assistant

Division of Occupational Safety and Health

Peter Riley, DOSH Regional Manager

Others present

Michael Musser, California Teachers
Association
Jay Weir, AT&T
Dan Leacox, Greenberg Traurig
Coil Dunn, SCE
Blakely Smith, Tech Spec, SCE
Steve Johnson, Safety Director, Assoc.
Roofing Contractors
Richard M. Warner, Mercer/ORC Networks
Larry Pena, Southern California Edison
Company

Elizabeth Treanor, PRR
Shradha Patel, CPIL
Bruce Wick, CALPASC
Mark Stone, Epic Ins. Brokers
Najma Bashar, Tech Spec, SCE
Tom Butler, Calif. Government Affairs
Committee ASSE
Kate Smiley, AGC of CA.
Kevin D. Bland, Esq., Ogletree, Deakins,
Nash, Smoak & Stewart, P.C.

B. OPENING COMMENTS

Mr. MacLeod indicated that this portion of the Board's meeting is open to any person who is interested in addressing the Board on any matter concerning occupational safety and health or to propose new or revised standards or the repeal of standards as permitted by Labor Code Section 142.2.

Michael Musser, California Teacher's Association, stated that he had two resolutions to discuss with the Board regarding the November election: Propositions 30 and 32. Mr. MacLeod informed Mr. Musser that the Board does not get involved with issues such as this that are political in nature.

Haskell Wexler, 12 On 12 Off, asked the Board to address the issue of long working hours and sleep deprivation in the entertainment industry and to look at it as a health issue. He believes that the long hours and fatigue that the workers are subjected to has degraded the quality of their lives. He also believes that sleep deprivation makes the workers a danger to themselves and to others.

Mr. MacLeod pointed out that the Board has an item on today's Business Meeting agenda regarding correspondence that has been received from him. Mr. MacLeod got the Board's permission to move the item up to the Public Hearing, Mr. Wexler was allowed to give a summary of his points, and the Board was allowed to ask him questions.

Mr. Wexler stated that when entertainment workers are subjected to long hours of work and do not get enough rest, he feels that all of the safeguards that OSHA has put into place to protect the workers are eradicated. He also stated that there are many documented cases that demonstrate how this fatigue impairs individuals in many ways.

Ms. Hart pointed out that all of the information that Mr. Wexler submitted to the Board was given to all of the Board Members except for Mr. Wexler's film titled "Who Needs Sleep?". She advised the Board that if any of them wish to view the film, she had a copy with her that they could view.

Mr. Jackson asked Mr. Wexler what his intent was for addressing the Board today. Mr. Wexler stated that he did not know. Mr. Jackson then stated that the only action that the Board can take on this issue is to write a regulation addressing the issue and that Mr. Wexler has to say what he wants done.

Mr. Thomas stated that he is not sure if there is anything that the Board can do. He asked if a notice can be sent out to employers regarding this issue. Ms. Hart stated that the Division has issued hazard notices in the past to employers notifying them of dangerous issues, but not for something like this.

Ms. Stock stated that the main problem seems to be the requirement to work long hours and asked who regulates working hours and wages. Mr. MacLeod stated that there is a Wage Board within DIR that regulates the kinds of issues Mr. Wexler is talking about. Mr. Wexler stated

that OSHA advised him to speak with the Department of Labor, employers, and employee unions about this issue.

Mr. McDermott stated that fatigue and long working hours are an issue, but the Board's job is to write regulations that apply to everyone, such as firefighters and EMT's.

Mr. Harrison stated that he is a labor representative who deals with these kinds of issues. He asked Mr. Wexler if he has contacted any labor representatives in the industry about this issue. Mr. Wexler stated that he has, but labor does not have very much power. He cited a case where a film worker died after working excessive hours. He stated that the labor representatives backed off from the issue because they felt that it hurt their ability to negotiate.

Mr. MacLeod suggested to Mr. Wexler contact the Wage Board to address this issue further.

C. ADJOURNMENT

Mr. MacLeod adjourned the public meeting at 10:35 a.m.

II. PUBLIC HEARING

A. PUBLIC HEARING ITEM

Mr. MacLeod called the Public Hearing of the Board to order at 10:36 a.m., October 18, 2012, in the Council Chambers of the Burbank City Hall, Burbank, California.

Mr. MacLeod opened the Public Hearing and introduced the item noticed for public hearing.

1. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
 Division 1, Chapter 4, Subchapter 7
 Article 2, Section 3210 and Article 35, Section 3900
 Elevated Locations - Guardrail Exception for Portable Amusement Rides

Mr. Manieri summarized the history and purpose of the proposal and indicated that the proposal is ready for the Board's consideration and the public's comment.

There were no public or Board comments on this proposal.

B. ADJOURNMENT

Mr. MacLeod adjourned the Public Hearing at 10:41 a.m.

III. BUSINESS MEETING

Mr. MacLeod called the Business Meeting of the Board to order at 10:42 a.m., October 18, 2012, in the Council Chambers of the Burbank City Hall, Burbank, California.

A. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. Consent Calendar

Mr. Beales asked the Board to adopt the proposed decisions in all of the matters listed on the consent calendar, all of which grant variances.

MOTION

A motion was made by Mr. Thomas and seconded by Mr. Jackson to adopt the consent calendar as modified.

A roll call was taken, and all members present voted “aye.” The motion passed.

B. OTHER

1. Legislative Update

Mr. Beales stated that there was nothing to add to the update in the Board packet.

2. Division Update: Follow-up Report on Possible Rulemakings (Hospital Patient Lifting and Other Matters; status of prospective DOSH Form 9’s for submittal to the Board)

Mr. Riley read an update report written by Deborah Gold, Deputy Chief for Health and Engineering Services. Please see the copy of the written report for more information.

3. Executive Officer’s Report

Ms. Hart stated that a memorandum dated September 18, 2012 was sent to Ellen Widess, DOSH Chief, and cc’d to Deborah Gold asking them to submit a list of their 2013 proposed rulemakings and form 9’s requesting regulatory changes to the Board staff by November 1. This information will help the Board staff to create and submit their 2013 work plan to the Office of Administrative Law as required. Ms. Hart received a response from Ms. Gold indicating that they will need an extension until November 9. The extension was granted. Ms. Hart stated that this information should be received, and the 2013 work plan should be created in time to be presented at the December Board Meeting.

4. Future Agenda Items

Mr. McDermott stated that he would like to address a problem with the advisory committee process regarding situations where someone has a product to sell and files a petition with the Board in an attempt to advertise or sell that product. He brought this issue up at the September Board Meeting. Ms. Hart stated that she was out of the office for a few weeks after the September meeting, but while she was gone, the Board staff reviewed past petitions that promoted manufacturer’s devices. She stated that next month the Board will be provided with a

list of those petitions and information as to how the Board acted on each of them, information regarding the outcome of the advisory committee for each, and information as to which proposals moved forward.

Ms. Hart also stated that next month there will be an update on the Diesel Engine Shutoff Devices rulemaking which was also requested in September, along with a copy of the letter from API.

C. ADJOURNMENT

Mr. MacLeod adjourned the Business Meeting at 10:52 a.m.