

Bay Area Air Quality Management District
939 Ellis Street
San Francisco, California 94109

APPROVED MINUTES

Advisory Council Executive Committee Meeting
9:00 a.m., Wednesday, March 9, 2005

1. **Call to Order – Roll Call.** 9:10 a.m. Present: Brian Zamora, Chairperson, Fred Glueck, Stan Hayes, John Holtzclaw, Ph.D., Kraig Kurucz, Victor Torreano. Absent: Elinor Blake.
2. **Public Comment Period.** There were none.
3. **Approval of Minutes of November 10, 2004.** Mr. Kurucz moved approval of the minutes as submitted; seconded by Mr. Glueck; carried, with Mr. Hayes abstaining.
4. **Update of Advisory Council By-Laws.** The following edits were proposed by Committee members to the By-Laws in addition to those identified in the packet. Chairperson Zamora directed that they be incorporated via track changes and presented in the next agenda packet:
 - (a) re-order the months on page one to begin with January, rather than with September.
 - (b) under Article V on page two, replace “At each biennium, when the Advisory Council is reappointed pursuant to Health and Safety Code Section 40263,” with “Annually” and in the clause immediately following replace “next preceding” with “of that year”.
 - (c) in line two of Article VIII, on page two, insert “such” before “committee”
 - (d) in line one of Article XIII, on page three, insert “law establishing the Advisory Council of the” before “Bay”.
5. **Review of Advisory Council Budget.** Chairperson Zamora reviewed the FY 2005-06 Advisory Council budget and noted that the primary allocation is for the participation of six Council members in the Air & Waste Management Association Annual Exhibition & Meeting. If Council members have suggestions on alternative allocations they should inform the Chair.
6. **Discussion of Conflict-of-Interest.** Chairperson Zamora noted that at the January 2005 Retreat discussion was held regarding establishing a Code of Conduct for Advisory Council members. He indicated he had invited District Counsel Brian Bunger to today’s meeting to provide comment on legal aspects of “conflict of interest” as a starting point in this discussion.

Mr. Bunger stated that in California there are a number of laws that govern the activities of state, county and local agencies, and special districts. The Fair Political Practices Commission (FPPC) regulates financial disclosure for candidates, elected officials, appointees and government employees and requires an annual filing of a “Form 700” conflict-of-interest statement for disclosure of real estate holdings, business investments, spousal income, financial and campaign gifts and commissions from speeches. However, the District’s Advisory Council does not fall into the category of government officials or bodies required to make such disclosures.

At the state level, specific criteria govern who is required to make such disclosures. The FPPC has approved for special districts three criteria governing the disclosure requirement. Disclosure is required of members of the commission or board that make a final governmental decision (such as promulgating a regulation or issuing a permit), or that can compel or veto a governmental decision. Disclosure is also required of a board or commission that makes substantive recommendations that over an extended period of time have been regularly approved without significant amendment by another government agency or official. While the Advisory Council does make recommendations to the Board and staff, its recommendations have been variously presented and received and, therefore, it does not fit into the foregoing criteria. Consequently, Advisory Council members are not required to fill out Form 700 disclosure forms.

Mr. Glueck opined that Council members need protocols or guidance on responding to e-mails from members of the public even though they are not designated as spokespersons for the Council. Chairperson Zamora replied that the law on conflict-of-interest will be today's focus, with the Committee branching out into other aspects of Code of Conduct as the year progresses. Mr. Hayes added that the very thing that exempts the Council members from having to fill out Form 700's suggests guidelines for member conduct. Mr. Bunger agreed, noting that the law nevertheless goes only so far and requires disclosure only of those invested with authority to make a decision that has a financial impact, and the Advisory Council is not thus imbued. The Council is nevertheless entirely free, however, to adopt guidelines for the conduct of its own members that it deems appropriate, and these may derive from conflict-of-interest principles.

Mr. Torreano noted that Council members' e-mail addresses are posted on the District website. Mr. Bunger suggested that it might be preferable to list general e-mail address for the Council, rather than members' e-mail addresses. Chairperson Zamora stated that the Code of Conduct guidelines should indicate how members should refer public inquiries. Dr. Holtzclaw suggested that an appropriate caveat be placed on the Council's page on the District's website indicating that the Council is advisory to the staff and has no authority to speak on behalf of the District.

- 7. Workplan Review with Committee Chairs.** Chairperson Zamora stated that the Executive Committee will not review each Standing Committee report at each meeting, but instead will strategize and coordinate. Technical Committee Chair Hayes and Air Quality Planning Committee (AQPC) Chair Holtzclaw indicated that the joint meeting of their Committees scheduled for April 13 would be postponed. However, the Technical Committee will meet on that day to further review the Community Air Risk Evaluation (CARE) program and greenhouse gas emissions. The AQPC will meet on April 4 to receive a presentation from California Environmental Protection Agency staff on the Governor's Hydrogen Highway Blueprint.
- 8. Committee Member Comments/Other Business.** There were none.
- 9. Time and Place of Next Meeting.** 9:00 a.m., Wednesday, May 11, 2005, 939 Ellis Street, San Francisco, CA 94109.
- 10. Adjournment.** 9:51 a.m.

James N. Corazza
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Deputy Clerk of the Boards