

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
939 ELLIS STREET – SAN FRANCISCO, CA 94109

Approved Minutes: Board of Directors' Regular Meeting – July 20, 2005

Call To Order

Opening Comments: Chairperson Marland Townsend called the meeting to order at 9:45 a.m.

Roll Call: Present: Marland Townsend, Chair, Harold Brown, Roberta Cooper (9:49 a.m.), Chris Daly, Mark DeSaulnier, Erin Garner, Jerry Hill, Patrick Kwok, Jake McGoldrick (9:59 a.m.), Julia Miller, Mark Ross, Michael Shimansky, John Silva, Pam Torliatt (9:58 a.m.), Gayle B. Uilkema, Shelia Young (9:51 a.m.).

 Absent: Dan Dunnigan, Scott Haggerty, Liz Kniss, Nate Miley, Tim Smith, Brad Wagenknecht.

Pledge of Allegiance: Director Garner led the Board in the Pledge of Allegiance.

Commendations/Proclamation: There were none.

Public Comment Period: The following individuals came forward to speak:

David Schroeder
West Berkeley Alliance for
Clean Air & Safe Jobs
Berkeley, CA 94702

Janice Schroeder
West Berkeley Alliance for
Clean Air & Safe Jobs
Berkeley, CA 94702

Director Roberta Cooper arrived at 9:49 a.m.

The speakers discussed issues relating to Pacific Steel Casting in Berkeley.

Director Shelia Young arrived at 9:51 a.m.

Consent Calendar (Items 1 – 6)

1. Minutes of June 15, 2005 Meeting
2. Communications. Correspondence addressed to the Board of Directors
3. Report of the Advisory Council. There was no report.
4. Monthly Activity Report – Report of Division Activities for the month of June 2005.

5. Quarterly Report of the Clerk of the Boards
6. Quarterly Report of Air Resources Board Representative

Board Action: Director Miller moved approval of the Consent Calendar; seconded by Director Kwok; carried unanimously without objection.

Committee Reports and Recommendations

7. Report of the Mobile Source Committee Meeting of July 14, 2005

Action(s): The Committee recommended Board of Director approval of the following:

- A) *A one-year contract extension for the Vehicle Buy Back Program Direct Mail campaign;*
- B) *Transportation Fund for Clean Air (TFCA) County Program Manager expenditure plans for fiscal year 2005/2006 as summarized in Tables 1 and 2 of the attached staff report; and*
- C) *The Vehicle Incentive Program (VIP) for fiscal year 2005/2006, including: 1) allocation of \$500,000 in TFCA funds for the fiscal year 2005/2006 VIP funding cycle; and 2) approval of the VIP guidelines.*

Director Miller presented the report and stated that the Committee met on Thursday, July 14, 2005.

Staff provided an overview of the Vehicle Buy Back Program annual report for fiscal year 2004/2005. Staff reported that changes implemented by the Board in October 2004 have doubled the monthly scrapping rates, and that the Program is one of the most cost-effective Transportation Fund for Clean Air (TFCA)-funded programs.

The Committee received reports on and recommends Board of Director approval of the following items:

- A) A one-year contract extension with Ad Mail for the Vehicle Buy Back Program Direct Mail campaign in the amount of up to \$90,000;
- B) TFCA County Program Manager expenditure plans for fiscal year 2005/2006 as listed in Tables 1 and 2 of the staff report; and
- C) Approval of the Vehicle Incentive Program (VIP) for fiscal year 2005/2006, including 1) allocation of \$500,000 in TFCA Regional funds for the fiscal year VIP cycle, and 2) approval of the VIP guidelines and procedures.

The August 11, 2005 Committee meeting is cancelled. The next meeting of the Committee is scheduled for 9:30 a.m., Thursday, September 8, 2005.

Board Action: Director Miller moved that the Board approve the Board approve the report and recommendations of the Mobile Source Committee as stated in items A through C; seconded by Director Uilkema; carried unanimously without objection.

8. Report of the Public Outreach Committee Meeting of July 18, 2005

Action(s): The Committee recommended Board of Director approval of Allison and Partners as the contractor to assist with the Employer Spare the Air program, and authorized the Executive Officer/APCO to execute a contract in the amount of \$98,600.

Director Young presented the report and stated that the Public Outreach Committee met on Monday, July 18, 2005.

Staff updated the Committee on the Spare the Air season including the status of air quality excesses, meteorological conditions in the Bay Area to date, and media and advertising activities. The Spare the Air season began on June 1, 2005 and will continue through October 14, 2005. Jim Smith, of Community Focus, presented details on the “Great Race for Clean Air” events in Alameda County specifically.

Staff presented details on the evaluation and interview process used for screening contractors to assist in the Spare the Air Employer program. The Committee recommends that the Board of Directors approve 1) Allison and Partners as the contractor to assist with the Employer Spare the Air program, and 2) Authorize the Executive Officer/APCO to execute a contract in the amount of \$98,600 for a seven month period, from July 27, 2005 to February 28, 2006, with the possibility of extending the contract for an additional one year period. The Committee also provided direction to staff with regard to that contract.

Staff reviewed the Air District’s involvement in Walk to School Day events scheduled for October 5, 2005. Jim Smith, Community Focus, reported on the details of the various Resource Teams’ involvement in the program throughout the Bay Area.

The next meeting of the Committee initially scheduled for 9:30 a.m., Monday, September 12, 2005 will be rescheduled to Monday, October 24, 2005.

Board Action: Director Young moved that the Board approve the report and the following recommendations:

- (1) Approve Allison and Partners as the contractor to assist with the Air District’s Employer Program with the inclusion of an expanded outreach effort, as suggested by the Committee; and
- (2) Authorize the Executive Officer/APCO to execute a contract with Allison and Partners in the amount of \$98,600. The motion was seconded by Director Miller and the motion carried unanimously without objection.

Director Pamela Torliatt arrived at 9:58 a.m. and Director Jake McGoldrick arrived at 9:59 a.m.

Public Hearing

9. Public Hearing to Consider Proposed Adoption of new Regulation 12, Rule 12: Flares at Petroleum Refineries; Adoption of an Amendment to Regulation 8, Rule 2: Miscellaneous Standards of Operation; and Certification of a CEQA Final Environmental Impact Report

The proposed rule will reduce emission from flares at petroleum refineries by requiring refiners to develop and implement plans to reduce the frequency and magnitude of flaring.

Jack Broadbent, Executive Officer/APCO, stated that this rule will reduce the frequency of flaring in the Bay Area. Mr. Broadbent noted that there was a long public process in the development of the rule. Mr. Broadbent stated that this represents the first of its kind regulation and is an opportunity for the Air District to establish its leadership position in the Bay Area. Mr. Broadbent recognized staff members Alex Ezersky, Dan Belik and Kathleen Walsh for the work that they have done on the development of this rule.

Alex Ezersky, Principal Air Quality Specialist, presented the report and stated that the purpose of the rule is to reduce emissions from flares at petroleum refineries by minimizing the frequency and magnitude of flaring. Mr. Ezersky discussed and provided information on the following:

- The background of the rule development process.
- The continuous improvement process.
- An overview of the rule including Flare Minimization Plan elements and process.
- The refineries ongoing obligations and the provisions in the rule for Root Cause Analysis.
- Opportunities for public input on the Flare Minimization Plans.

Mr. Ezersky reported that the District staff has addressed and responded to comments received on the rule. Staff recommends adoption of Regulation 12: Miscellaneous Standards of Performance, Rule 12: Flares at Petroleum Refineries; amendment to Regulation 8: Organic Compounds, Rule 2: Miscellaneous Operations; and certification of the final Environmental Impact Report.

Chairperson Townsend opened the public hearing at 10:16 a.m. and the following individuals spoke:

Richard Drury
Plumbers & Steamfitters Local
342, Electrical Workers 302
So. San Francisco, CA 94080

Bill Bosnar
Tesoro Golden Eagle
Martinez, CA

Tre Vasquez
CBE
Oakland, CA 94612

Kevin Golden
Plumbers & Steamfitters Local
342, Electrical Workers 302
So. San Francisco, CA 94080

Dr. Henry Clark
West County Toxic Coal.
Richmond, CA 94801

Wanna Wright
Richmond, CA

Julia May
Plumbers & Steamfitters Local
342, IBEW 302

Linda Weiner
Bay Area Clean Air Task
Force
Daly City, CA 94014

Belan Ramirez
Rodeo, CA

Rick Rothman
Bingham McCutchen
Los Angeles, CA

Denny Larson
National Refinery Reform
San Francisco, CA 94110

Lucia Flores
CBE
Rodeo, CA

Dean Simeroff
Air Resources Board

Adrienne Bloch
CBE

Jorge Ayende
Richmond, CA

Sacramento, CA 95214

Oakland, CA 94612

Dr. Wendel Brunner
Contra Costa Health Services
Martinez, CA 94553

Greg Karras
CBE
Oakland, CA 94612

Carla Perez
CBE
Oakland, CA

Mike Kenney
ConocoPhillips
Rodeo, CA 94572

Marleen Quint
CBE (Patient Advocate)
El Cerrito, CA

Celia Davis
Data Center
Oakland, CA 94612

Joe Sparano
Western States Petroleum Assn.
Sacramento, CA 95814

Angelina Martinez
Richmond, CA

LaToya Funchess
NRDC
San Francisco, CA

Wafaa Aborashed
Environmental Justice for Clean
Air Coalition
Alameda, CA 94577

Lupe Garcia
Richmond, CA

Chairperson Townsend closed the Public Hearing at 11:20 a.m.

There was extensive discussion on several issues, including making minor amendments to the rule, a 160 ppm sulfur limit, the threshold for root cause analysis, and preparation of a CEQA document.

Director McGoldrick moved that the Board adopt the staff recommendation and that the staff further explore the 160 ppm sulfur limit and prepare a CEQA report; seconded by Director Cooper. Director DeSaulnier offered a substitute motion.

Board Action: Director DeSaulnier moved that, in addition to the staff's recommendation, the Board adopt the following:

BE IT FURTHER RESOLVED that the Board of Directors directs staff to examine issues related to the trigger point for the most formal level of causal analysis required by the flare control rule, and to report back to the Stationary Source Committee in September of 2005, and thereafter as directed by the committee, with recommendations for modifying the rule if appropriate based on the results of that examination.

BE IT FURTHER RESOLVED that the Board of Directors directs staff to examine issues related to the inclusion in the flare rule of a sulfur limit for any gases sent to a flare, including a limit of 160 ppm hydrogen sulfide, and to report back to the Stationary Source Committee in September of 2005 with recommendations for modifying the rule if appropriate based on the results of that examination.

BE IT FURTHER RESOLVED that the Board encourages the Executive Officer to hold a public meeting in coordination with the Health Department of the county where the flare is located during the public review period for a Flare Minimization Plan if requested by the public.

The motion was seconded by Director Torliatt. Director McGoldrick withdrew his motion.

During discussion, Chairperson Townsend clarified that in addition to the language suggested by Director DeSaulnier, the motion includes the following:

1. That the Board adopt the proposed new rule, Regulation 12: Miscellaneous Standards of Performance, Rule 12: Flares at Petroleum Refineries.
2. That the Board adopt a proposed amendment to Regulation 8: Organic Compounds, Rule 2: Miscellaneous Operations; and certify the CEQA Final Environmental Impact Report.

The motion then passed on the following roll call vote:

AYES: Brown, Cooper, DeSaulnier, Garner, Hill, Kwok, McGoldrick, Miller, Ross, Shimansky, Silva, Torliatt, Uilkema, Young Townsend.

NOES: Daly.

ABSENT: Dunnigan, Haggerty, Kniss, Miley, Smith, Wagenknecht.

It was noted that Directors Daly's no vote is solely based on the CEQA issue.

Adopted Resolution No. 2005-11 – A Resolution of the Board of Directors of the Bay Area Air Quality Management District Approving the Environmental Impact Report for the Proposed Adoption of Regulation 12: Miscellaneous Standards of Performance, Rule 12: Flares at Petroleum Refineries and Amendment to Regulation 8: Organic Compounds, Rule 2: Miscellaneous Operations

A Resolution of the Board of Directors of the Bay Area Air Quality Management District to Adopt Regulation 12: Miscellaneous Standards of Performance, Rule 12: Flares at Petroleum Refineries and to Amend Regulation 8: Organic Compounds, Rule 2: Miscellaneous Operations

Closed Session (The Board adjourned to Closed Session at 11:41 a.m.)

10. Conference with Legal Counsel

Existing Litigation:

Pursuant to Government Code Section 54956.9(a), a need existed to meet in Closed Session with legal counsel to consider the following cases:

1. **Arbitration Between Paul Mauriello, Grievant, and Bay Area AQMD**, American Arbitration Association NO. 74-300-600-04 LYMC
2. **Our Children's Earth Foundation v. United States Environmental Protection Agency, et al.**, United States Court of Appeals for the Ninth Circuit, Case No. 04-7303

Open Session (The Board reconvened to Open Session at 11:58 a.m.)

Brian Bunger, Counsel, reported that the Board met in Closed Session with Counsel and necessary personnel on items 1 and 2 under agenda number 10. The Board received a report from Counsel and provided general direction.

Other Business

11. Report of the Executive Officer/APCO – There was no report.
12. Chairperson’s Report: There was no report.
13. Board Members’ Comments – There were none.
14. Time and Place of Next Meeting – Chairperson Townsend announced the cancellation of the August 3rd, August 17th and September 7th Regular Board meetings. The next Regular Board meeting is scheduled for 9:45 a.m., Wednesday, September 21, 2005 - 939 Ellis Street, San Francisco, CA 94109.
15. Adjournment – The meeting adjourned at 11:59 a.m.

/s/ Mary Romaidis
Mary Romaidis
Clerk of the Boards