

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

939 ELLIS STREET – SAN FRANCISCO, CA 94109

Approved Minutes: Board of Directors' Regular Meeting – March 15, 2006

Call To Order

Opening Comments: Chair Gayle B. Uilkema called the meeting to order at 9:46 a.m.

Pledge of Allegiance: The Board of Directors recited the Pledge of Allegiance.

Roll Call: Present: Gayle B. Uilkema, Chair, Harold Brown, Roberta Cooper, Chris Daly, Erin Garner, Scott Haggerty, Jerry Hill, Liz Kniss (10:01 a.m.), Patrick Kwok, Nate Miley, Mark Ross, Michael Shimansky, John Silva, Tim Smith, Pam Torliatt (10:02 a.m.), Brad Wagenknecht.

Absent: Mark DeSaulnier, Dan Dunnigan, Jake McGoldrick.

Commendations/Proclamations: There were none.

Swearing in of New Board Members: The following Board members were sworn in: Vice Mayor Yoriko Kishimoto of the City of Palo Alto, representing Santa Clara County; Mayor Janet Lockhart of the City of Dublin, representing Alameda County; and Councilperson Carol Klatt of Daly City, representing San Mateo County

Public Comment Period: – The following individuals spoke on issues relating to the Pacific Steel Casting plant in Berkeley, California:

Ignacio De La Fuente
Glass, Molders, Int'l. Union AFL-CIO
Oakland, CA 94601

Willi Paul
Clean Air Coalition.net
Berkeley, CA

Brad Smith
City of Berkeley
Berkeley, CA 94702

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

Peter Guerrero
Berkeley, CA 94702

L A Wood
Berkeley, CA

Martin Borque
Ecology Center
Berkeley, CA 94703

Toni Stein, Ph.D.
West Berkeley Alliance
Menlo Park, CA

Linda Gallagher-Brown
Berkeley, CA 94703

Horst "Joe" Emmerichs
Pacific Steel Casting Co.

Bradley Angel
Greenaction for Health & Environmental
Justice
San Francisco, CA 94102

Director Liz Kniss arrived at 10:01 a.m. and Director Pamela Torliatt arrived at 10:02 a.m. (During Mr. Guerrero's presentation).

Jack Broadbent, Executive Officer/APCO briefly discussed the work being done at the plant, the settlement of the notices of violations, the health risk assessment being done, and the community meetings held to date. Pacific Steel Casting is also working on an Odor Management Plan. Installation of the control devices should be completed in October 2006.

Director Ross requested that the Board members be sent copies of the settlement agreement.

Chair Uilkema referred the matter to staff, with the direction that staff prepare a written brief or report for future Board meetings.

Consent Calendar (Items 1 – 5)

1. Minutes of February 15, 2006 Meeting
2. Communications. Correspondence addressed to the Board of Directors. For Information Only.
3. Monthly Activity Report – *Report of Division Activities for the month of February 2006.*
4. Report of District Personnel on Out of State Business Travel

In accordance with Section 5.4 (b) of the District's Administrative Code, Fiscal Policies and Procedures Section, the Board is hereby notified that the memoranda in the meeting packet lists District personnel who traveled on out-of-state business.

5. Set Public Hearing for April 5, 2006 to Consider Proposed Amendments to Regulation 12, Rule 12: Flares at Petroleum Refineries and Approval of the Filing of a California Environmental Quality Act (CEQA) Notice of Exemption

The proposed amendments to Regulation 12, Rule 12 would require a causal analysis of flaring at rates lower than the current 500,000 cubic feet per day of vent gas if emissions of sulfur dioxide exceed 500 pounds per day.

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

Committee Report and Recommendations

6. Report of the Executive Committee Meeting of February 16, 2006

Action(s): The Committee recommended noticing of proposed amendments to the Administrative Code Division 1, Sections 1 – 6; Operating Policies and Procedures of the Board of Directors, Section 7: Advisory Council and Section 8: Hearing Board.

Chair Uilkema presented the report and stated that the Committee met on Thursday, February 16, 2006 and received and filed the Reports of the Hearing Board and Advisory Council.

Legal Counsel provided an overview of AB 1234 (Salinas) compliance requirements with regard to governing board members of California special districts. The bill is effective as of January 1, 2006. The overview included the requirements for payment of compensation and reimbursement of expenses and ethics training.

The Committee discussed and considered possible revisions to several sections of the Administrative Code relating to the Board of Directors, Advisory Council, and Hearing Board. Direction was given to Staff on proposed changes to the Administrative Code and will be discussed today under agenda item 11.

Staff provided an update on implementation of internal business processes and controls that have taken place since April 2005. The Committee requested that in six months, the Budget and Finance Committee review the processes and controls implemented and make a recommendation to the Board, if necessary, on any issues or changes needed.

The next meeting of the Executive Committee will be at the Call of the Chair.

Board Action: Chair Uilkema moved that the Board of Directors approve the report of the Executive Committee; seconded by Director Miley; carried unanimously without objection.

7. Report of the Ad Hoc Climate Protection Meeting of February 23, 2006

Director Torliatt presented the report and stated that the Ad Hoc Committee on Climate Protection met on Thursday, February 23, 2006.

Staff gave a presentation on the initiatives of the Air District's Climate Protection Leadership Program. The Program initiatives include the following:

- A Climate Protection Summit.
- Green house gas (GHG) reductions from stationary sources.
- A Bay Area GHG emission inventory.
- Promotion of energy efficiency.
- In-house GHG emissions reductions.
- Green schools.

Various Board members' comments were expressed.

Staff provided a status report on preparations for the climate protection summit to be hosted by the Air District in mid-2006.

The next meeting of the Committee will be at the Call of the Chair.

Board Action: Director Torliatt moved that the Board of Directors approve the report of the Ad Hoc Committee on Climate Protection; seconded by Director Cooper; carried unanimously without objection.

8. Report of the Personnel Committee Meeting of February 28, 2006

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

- A) *Reassignment of Advisory Council member to the Transportation Category; and*
- B) *Appointment of candidates to fill eleven (11) expired terms of office on the Advisory Council effective March 15, 2006 – December 31, 2007.*

Director Kwok presented the report and stated that the Committee met on February 28, 2006 to conduct an interview of a candidate for reassignment to the transportation category on the Advisory Council and to conduct interviews of candidates to fill eleven categories that have expired terms of offices on the Advisory Council. The Committee recommends that the Board of Directors approve the following:

1. Reassign Louise Bedsworth to the Transportation Category to fill an unexpired term of office ending December 31, 2006.
2. Approve the following appointments to the Advisory Council in their respective category:

Janice Kim	Public Health Agency
Brian Zamora	Public Health Agency
Jeff Bramlett	Park and Recreation
Fred Glueck	General Contractor
William Hanna	Agriculture
Ken Blonski	Regional Park District
Edward Proctor	Organized Labor
Harold Brazil	Public Mass Transportation
Kraig Kurucz	Industry
Karen Farnkopf	Conservation Organization
Emily Drennen	Conservation Organization

The appointments are for a two-year term of office ending December 31, 2007.

The next meeting of the Committee will be at the Call of the Chair.

Board Action: Director Kwok moved that the Board of Directors approve the Committee recommendations for the reassignment of Louise Bedsworth to the Transportation category on the Advisory Council and appointment of the 11 candidates, as stated, in their respective categories on the Advisory Council; seconded by Director Kniss; carried unanimously without objection.

9. Report of the Budget and Finance Committee Meeting of March 1, 2006

Action(s): The Committee recommended that the Board of Directors approve the following:

- A) *Amend the Fiscal Year 2005/06 Budget by increasing the Penalties and Settlements General Fund Revenue by \$132,000, increase the Capital Outlay budget for Building Maintenance by \$132,000, and authorize the Executive Officer/APCO to issue a purchase order not to exceed \$82,000; and*
- B) *Amend the Fiscal Year 2005/06 Budget by increasing the Penalties and Settlements General Fund Revenue by \$120,000, as well as increase the Capital Outlay budget for the Building Maintenance Program by \$120,000.*

Director Daly presented the report and stated that the Committee met on Wednesday, March 1, 2006 and staff presented the second quarter financial report.

The Committee received an overview of the State and Federal budgets and their potential impacts on the Air District.

Staff presented reports on the ceiling replacement and asbestos abatement for the HVAC replacement; and on carpet and furniture acquisition. The Committee recommends that the Board of Directors approve an:

- o Amendment of the fiscal year 2005/2006 Budget by increasing the Penalties and Settlements General Fund Revenue by \$132,000 and correspondingly increase the Capital Outlay budget for Building Maintenance (Program 102) by \$132,000, and authorize the Executive Officer/APCO to issue a purchase order not to exceed \$82,000; and also
- o Amend the fiscal year 2005/2006 Budget by increasing the Penalties and Settlements General Fund Revenue by \$120,000 and correspondingly increasing the Capital Outlay budget for Building Maintenance (Program 102) by \$120,000.

The next meeting of the Committee is scheduled for 9:45 a.m., Wednesday, March 22, 2006.

Board Action: Director Daly moved that the Board of Directors approve the recommendations and report of the Budget and Finance Committee; seconded by Director Kniss; carried unanimously without objection.

10. Report of the Mobile Source Committee Meeting of March 13, 2006

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

- A) *Carl Moyer Program grant allocation of \$2,667,676 in Carl Moyer Program (CMP) funds for eligible projects listed Attachment 1-A to Committee agenda item 4;*
- B) *Allocation of up to \$13.2 million in Mobile Source Incentive Fund (MSIF) revenues fro eligible projects listed in Attachment 1-A to Committee agenda item 4;*
- C) *Authorization for the Executive Officer to enter into funding agreements with recipients of grants for the projects listed in Attachment 1-A to Committee agenda item 4; and*
- D) *Amendment to the Transportation Fund for Clean Air (TFCA) Marin County Program Manager expenditure program.*

Director Smith presented the report and stated that The Committee met on Monday, March 13, 2006. Staff presented a report on the Carl Moyer Program grant allocation and the Committee recommends Board of Director approval of the following:

1. Allocation of \$2,667,676 in Carl Moyer Program funds for projects listed in Attachment 1-A to Committee agenda item 4;
2. Approval of up to \$13.2 million in Mobile Source Incentive Fund revenues for projects listed in Attachment 1-A to Committee agenda item 4; and
3. Authorization for the Executive Officer/APCO to enter into funding agreements with grant recipients listed in Attachment 1-A to Committee agenda item 4.

Staff presented a report on the statewide methodology for allocating Carl Moyer Program funds to the Bay Area and other regions. The Committee provided direction to staff on suggested changes to the allocation formula for the Carl Moyer Program funds.

The Committee received a report on an amendment to the Transportation Fund for Clean Air (TFCA) Marin County Program Manager Expenditure Program for fiscal year 2005/06. The Committee recommends Board of Director approval of the following:

- An amendment to the Marin County Program Manager TFCA fiscal year 2005/06 expenditure program to award \$159,037 to the Town of Fairfax for the Safe Routes to Schools Pedestrian/Bicycle Bridge and Sidewalk Project.

Staff presented a report to the Committee on the biodiesel feasibility study and pilot project.

The next meeting of the Committee is scheduled for 9:30 a.m., Monday, April 10, 2006.

Board Action: Director Smith moved that the Board of Directors approve the recommendations and the report of the Mobile Source Committee; seconded by Director Torliatt; carried unanimously without objection.

Presentation

11. Assembly Bill 1234 Compliance Overview and Proposed Administrative Code Revisions

District Counsel provided an overview of AB 1234 compliance requirements and discussed the proposed Administrative Code revisions addressing AB 1234 as proposed by the Executive Committee.

Brian Bunger, Legal Counsel, presented the report and provided an overview of AB 1234 and stated there are two key aspects of the bill. The two key aspects of the bill are the requirements for payment of compensation and reimbursement of expenses; and ethics training. Those entities subject to the Brown Act are subject to AB 1234.

Mr. Bunger reviewed and discussed the following:

- Affected parties,
- Payment of compensation,
- Reimbursement for expenses,
- Specific restrictions on reimbursement,

- Recordkeeping, and
- Potential penalties for noncompliance.

Mr. Bungler also provided an overview of the required ethics training and discussed the content of the training, and the timing and deadlines. There was discussion on scheduling a training session for the Board of Directors, Advisory Council and Hearing Board members.

Mr. Bungler reviewed the suggested Administrative Code revisions under Section 6.10 – Committee Procedure, noting that the language regarding non-committee members has been deleted. After a discussion on alternates for the Standing Committees, Chair Uilkema requested staff prepare a proposal regarding the use alternate Committee members and that the proposal be presented at the next Board Executive Committee meeting.

Mr. Bungler reviewed Section 1.2 A – Compensation-Meeting Attendance and Section 1.2 B – Limits on Compensation for Meeting Attendance. Mr. Bungler stated that Board members are to provide a report of meetings they have attended at the Air District’s expense at the next regular Board meeting.

There was discussion from the Board regarding the last sentence under Section 1.2 B regarding Board members not receiving compensation for attendance at meetings of Committees to which they are not assigned.

In response to comments from Director Ross, Mr. Broadbent stated that the District will seek, through a city or county, an Attorney General’s opinion on the matter of participation of Board members in meetings of Committees to which they are not assigned.

Director Haggerty moved that the Board approve the suggested Administrative Code revisions with the deletion of the last sentence under Section 1.2 B. Limits on Compensation for Meeting Attendance; seconded by Director Torliatt. During discussion, Director Daly requested that the motion be bifurcated and that the issue of the deletion of the last sentence be a separate motion. Chair Uilkema so ordered.

Board Actions: Director Haggerty moved that the Board approve the deletion of the last sentence under Section 1.2 B. Limits on Compensation for Meeting Attendance; seconded by Director Wagenknecht. The motion passed on the following roll call vote:

AYES: Cooper, Garner, Haggerty, Hill, Kishimoto, Klatt, Kwok, Lockhart, Miley, Shimansky, Silva, Smith, Torliatt, Wagenknecht, Uilkema.

NOES: Daly, Ross.

ABSENT: Brown, DeSaulnier, Dunnigan, Kniss, McGoldrick.

Director Haggerty moved that the Board of Directors give notice of the suggested Administrative Code revisions for adoption at the next subsequent meeting; seconded by Director Wagenknecht; carried unanimously without objection.

Other Business

12. Report of the Executive Officer/APCO – Mr. Broadbent reported on the following:
 1. The Spare the Air Tonight program has ended and none were called in the District this year.
 2. The District is gearing up for the Summer time Spare the Air program and is working in conjunction with the Metropolitan Transportation Commission (MTC) on the program.
13. Report of the Chair - Chair Uilkema stated that she had no report.
14. Board Members' Comments – Director Haggerty reported on the Special District and Local Government Institute seminar he attended in February 2006. The seminar included a workshop on the Brown Act and conflict of interest where Director Haggerty was certified in the conflict of interest and ethics training.
15. Time and Place of Next Meeting – 9:45 a.m., Wednesday, April 5, 2006 – 939 Ellis Street, San Francisco, CA 94109
16. Adjournment – The meeting adjourned at 11:38 a.m.

/s/ Mary Romaidis

Mary Romaidis
Clerk of the Boards