

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

Approved Minutes: Board of Directors’ Regular Meeting – April 5, 2006

Call To Order

Opening Comments: Chair Gayle B. Uilkema called the meeting to order at 9:50 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 (9:53 a.m.), Chris Daly (9:53 a.m.), Mark DeSaulnier, Dan Dunnigan, Erin Garner, Jerry Hill, Yoriko Kishimoto, Carl Klatt, Liz Kniss (10:30 a.m.), Patrick Kwok, Jake McGoldrick (10:00 a.m.), Mark Ross, Michael Shimansky, John Silva, Tim Smith, Pam Torliatt, Brad Wagenknecht.

Absent: Scott Haggerty, Janet Lockhart, Nate Miley.

Commendations/Proclamations: There were none.

Closed Session

Conference with Legal Counsel

Significant Exposure to Litigation:

Pursuant to Government Code Section 54956.9(b), a need existed to meet in Closed Session to discuss significant exposure to litigation regarding two matters.

The Board of Directors convened to Closed Session at 9:52 a.m.

Directors Chris Daly and Roberta Cooper arrived at 9:53 a.m. Director Jake McGoldrick arrived at 10:00a.m.

The Board of Directors reconvened to Open Session at 10:20 a.m.

Public Comment Period: – Director McGoldrick moved to limit speakers to two minutes each; seconded by Director Silva.

After discussion, Director McGoldrick withdrew the motion.

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

Bradley Angel

Toni Stein, Ph.D.

Greenaction for Health & Environmental Justice Menlo Park, CA

Janice Schroeder Paul Goettlich
West Berkeley Alliance for Clean Air & Safe Jobs Berkeley, CA 94707
Berkeley, CA 94702

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

Chris Kroll
West Berkeley Alliance for Clean Air & Safe Jobs
Berkeley, CA 94703

Jack Broadbent, Executive Officer/APCO briefly discussed the efforts the Air District is undertaking to address the concerns of the community. Mr. Broadbent noted that a Health Risk Assessment is being undertaken and it will be available at a later date.

Chair Uilkema noted that the Joint Policy Committee should be made aware of this situation as it relates to land use and generation of toxics.

Chair Uilkema requested that the Board of Directors be notified when community meetings are held regarding the facility. The Board members are also invited to tour the facility. Mr. Broadbent noted that staff is in the process of setting up a tour for the Board members.

Director Torliatt requested the following: 1) That the Odor Management Plan be provided to the public; 2) confirmation that the Health Risk Assessment is an independent study, that the Air District is taking the lead, and that there be specific recommendations; 3) that the public send a letter to the Board requesting specific information and that staff would then be able to provide the information; and 4) through the Community Air Risk Evaluation (CARE) Program, staff should identify all of the sources of emissions in the area.

Consent Calendar (Items 1 – 6)

1. Minutes of March 15, 2006 Meeting
2. Communications. Correspondence addressed to the Board of Directors. For Information Only.
3. Quarterly Report of the Clerk of the Boards.
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. Approval of Proposed Amendments to the Air District's Administrative Code Division I, Sections 1-6: Operating Policies and Procedures of the Board of Directors, Section 7: Advisory Council and Section 8: Hearing Board

The Board of Directors considered approval of proposed amendments to the Administrative Code Division I, Sections 1-6: Operating Policies and Procedures of the Board of Directors, Section 7: Advisory Council and Section 8: Hearing Board as noticed and discussed at the March 15, 2006 meeting.

6. Approval of Acceptance of Disclosure Costs for Optional Retirement Benefit as Required by Government Code Section 7507

The Board of Directors considered acceptance of the disclosure of costs resulting from implementation of an optional retirement benefit as required by Government Code Section 7507.

Board Action: Director Wagenknecht moved approval of the Consent Calendar; seconded by Director Hill. There was a brief discussion on Item 2, Board Communications. The motion then carried with the following Board members voting:

AYES: Brown, Cooper, Daly, DeSaulnier, Dunnigan, Garner, Hill, Kishimoto, Klatt, Kniss, Kwok, McGoldrick, Ross, Shimansky, Silva, Smith, Torliatt, Wagenknecht, Uilkema.

NOES: None.

ABSENT: Haggerty, Lockhart, Miley

Adopted Resolution 2006-04: A Resolution to Amend the Administrative Code to Specify the Types of Meetings for Which Members of the Board of Directors May Receive Compensation and to Make Other Minor Clarifying Changes

Brian Bunger, Legal Counsel, reported on the Closed Session and stated that the Board of Directors received a report on the two items and gave direction to Counsel.

Committee Report and Recommendations

7. Report of the Budget and Finance Committee Meeting of March 22, 2006

Action(s): The Committee recommended Board of Director approval of an amendment to the FY 2005/2006 Budget by increasing the Penalties and Settlements General Fund Revenue by \$100,000, and by correspondingly increasing the Professional Services & Contracts budget for Climate Protection (Program 608) by \$100,000, and authorize the Executive Officer/APCO to issue a purchase order not to exceed \$100,000 for a Greenhouse Gas Mitigation Study.

Director Daly presented the report and stated that the Committee met on Wednesday,

March 22, 2006.

Staff presented a report on and the Committee recommends that the Board of Directors amend the fiscal year 2005/2006 budget by increasing the Penalties and Settlements General Fund Revenue by \$100,000, and by correspondingly increasing the Professional Services and Contracts budget for Climate Protection (Program 608) by \$100,000, and authorize the Executive Officer/APCO to issue a purchase order not to exceed \$100,000 for a Greenhouse Gas Mitigation Study. The Committee provided direction to staff on certain elements to be included in the RFP.

The Committee received a draft report of a proposed five-year capital plan. Staff reviewed the Plan summary, project highlights for fiscal year 2006/07, and the Capital Plan highlights. The total draft five-year Capital Plan cost is \$7.3 million.

Staff presented an overview regarding civil penalty recovery and budgeting. The overview included a discussion on determining the appropriate civil penalty based on Health and Safety Code Section 42403; additional considerations for settlements, the 05/06 budget versus actual penalty collections, and penalty collection statistics.

The next meeting of the Committee is scheduled for 9:45 a.m., Wednesday, April 26, 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 Cooper.

In response to a question from Director Shimansky, Mr. Broadbent stated that the discussion on increase of fees will be before the Committee at its next meeting. The motion then carried unanimously without objection.

8. Report of the Stationary Source Committee Meeting of March 27, 2006

Director Silva presented the report and stated that the Committee met on Monday, March 27, 2006 and received a report on proposed amendments to Regulation 12, Rule 12: Flares at petroleum refineries. The report included background on the regulation since its adoption on July 20, 2005; the proposed amendments; and the process for adoption of the proposed amendments. The public hearing to consider adoption of the rule is scheduled for today.

Staff presented a timeline and control options for further amendments to Regulation 8, Rule 28: Episodic Releases from Pressure Relief Devices at Petroleum Refineries and Chemical Plants. The report included requirements on episodic releases, ongoing activities in the rule making process, potential control concepts, and the rule development timeline. The public hearing to consider adoption of the rule is projected to take place in the second quarter of 2007.

A report on the development of potential controls for commercial charbroilers was presented to the Committee. The report included information on conveyORIZED charbroilers and under-fired charbroilers; the amount of emissions from each; potential controls for each; and a rule

development schedule. It is projected that a public hearing to adopt a rule would be held in the 4th quarter of 2006.

Staff provided a report on SB 700 (Florez) requirements concerning permitting and control of large confined animal facilities and timelines for rule development. The public hearing and rule adoption is tentatively scheduled for June or July of this year.

The Committee provided general direction to staff with regard to the proposed regulatory amendments.

The next meeting of the Committee is scheduled for Monday, June 26, 2006.

Board Action: Director Silva moved that the Board of Directors approve the report of the Stationary Source Committee; seconded by Director Cooper; carried unanimously without objection.

Public Hearing

9. Public Hearing 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 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.

Alex Ezersky, Principal Air Quality Specialist, presented the report and reviewed the background of the regulation adopted on July 20, 2005. Mr. Ezersky noted that a key provision of the rule is causal analysis. Mr. Ezersky also discussed the following:

1. The proposed amendments to the regulation.
2. A sample of how modeling works to show the impacted area(s).
3. A list of flaring events in 2004 and 2005.
4. The rule development process.

Mr. Ezersky stated that the staff recommends the Board of Directors adopt the proposed amendments and approve the filing of a CEQA Notice of Exemption.

The Public Hearing was opened at 11:18 a.m. The following individuals spoke on this agenda item:

Greg Karras
Communities for a Better Environment
Oakland, CA 94612

Richard Drury
Pipe Trades Local 342 and IBEW 302
So. San Francisco, CA 94080

Julia May

Berkeley, CA 947051

The Public Hearing was closed at 11:23 a.m.

Board Actions: Director Kwok moved that the Board of Directors approve the staff recommendation; seconded by Director Kniss; carried with the following Board members voting:

AYES: Cooper, Daly, DeSaulnier, Dunnigan, Garner, Hill, Kishimoto, Klatt, Kniss, Kwok, Ross, Shimansky, Silva, Smith, Wagenknecht, Uilkema.

NOES: None.

ABSENT: Brown, Haggerty, Lockhart, McGoldrick, Miley, Torliatt.

Adopted Resolution 2006-05: A Resolution of the Board of Directors of the Bay Area Air Quality Management District Amending Regulation 12: Miscellaneous Standards of Performance, Rule 12: Flares at Petroleum Refineries

Other Business

10. Report of the Executive Officer/APCO – Mr. Broadbent reported on the following:
 1. The Summer Spare the Air program will start on June 1, 2006 and the Air District has established a program with the Metropolitan Transportation Commission (MTC) for three days of free transit during both the morning and evening commute.
 2. The District will be participating in a number of Earth Day events this year.
 3. The Lawn Mower buy-back program will start on April 8th in Napa.
 4. The Air District is a recipient of an award from the California Council for Economic and Environmental Balance (CCEEB) regarding the 2004 free transit program.
 5. The Environmental Protection Agency (EPA) has proposed new PM standards and the Air District may exceed these new standards. A briefing will be presented at the next Executive Committee meeting.
 6. The Air & Waste Management Association's annual conference is scheduled for June 20 through 23, 2006. If any Board member is interested in attending, the Executive Office should be contacted by April 21, 2006.

11. Report of the Chair - Chair Uilkema reported on the following:
 1. Announced that a tentative schedule for the ethics training required by AB 1234 would be set up.
 2. Discussed a tour of the Pacific Steel Casting facility.
 3. Thanked the Directors for attending their respective Committee meetings.
 4. Noted that Committee assignments are still being made and that a list of the current Standing Committee assignments is at each Board member's place.
12. Board Members' Comments – There were none.
13. Time and Place of Next Meeting – 9:45 a.m., Wednesday, April 19, 2006 – 939 Ellis Street, San Francisco, CA 94109
14. Adjournment – The meeting adjourned at 11:31 a.m.

/s/ Mary Romaidis
Mary Romaidis
Clerk of the Boards