

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

Approved Minutes: Board of Directors' Regular Meeting – April 4, 2007

**Call To Order**

Opening Comments: Chair Mark Ross called the meeting to order at 9:51 a.m.

Roll Call: Present: Mark Ross, Chair, Harold Brown, Erin Garner, John Gioia, Scott Haggerty (9:53 a.m.), Jerry Hill, Yoriko Kishimoto, Carol Klatt, Liz Kniss (9:56 a.m.), Janet Lockhart (9:53 a.m.), Jake McGoldrick (9:53 a.m.), Nate Miley (9:53 a.m.), Michael Shimansky, John Silva, Tim Smith, Pamela Torliatt, Brad Wagenknecht.

Absent: Tom Bates, Chris Daly, Dan Dunnigan, Patrick Kwok, Gayle B. Uilkema.

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

Commendations/Proclamation: There were none.

Directors Janet Lockhart, Jake McGoldrick, Scott Haggerty, and Nate Miley arrived at 9:53 a.m.

**Public Comment Period:** The following individual spoke:

Mark Pheatt  
Elverta, CA 95626

Regarding residential asbestos removal.

Director Liz Kniss arrived at 9:56 a.m.

**Consent Calendar (Items 1 – 5)**

1. Minutes of March 21, 2007
2. Communications. Correspondence addressed to the Board of Directors. For information only.
3. Quarterly Report of the Clerk of the Board
4. Set Public Hearing for May 2, 2007 to consider New District Regulation 6: Rule 2: Commercial Cooking Equipment, and Adopt CEQA Negative Declaration

*Proposed New Regulation 6: Rule 2 would regulate PM10 (particulate matter of 10 microns in diameter or less) and organic compound emissions from charbroilers used in commercial restaurant operations. The proposed rule will fulfill the District's commitment to control restaurant emissions under its SB 656 Particulate Matter Implementation Schedule and to study potential controls on commercial charbroiler as proposed in further study measure FS-3 in the Bay Area 2005 Ozone Strategy.*

5. Set Public Hearing for May 2, 2007 to Consider Proposed Amendments to District Regulation 3: Fees, and Approval of a Notice of Exemption from CEQA and Set a Final Public Hearing for June 6, 2007 to Consider Additional Testimony on Regulation 3: Schedules L, Q, R, and S pursuant to California Health and Safety Code Section 41512.5.

*Proposed amendments to District Regulation 3: Fees, will help the Air District recover a greater share of the costs incurred to implement and enforce regulatory programs for stationary sources. A second public hearing on June 6, 2007, is required under California Health and Safety Code 41512.5 to consider any further testimony regarding proposed amendments to Regulation 3: Schedule L: Asbestos Operations and Schedule Q: Excavation and Contaminated Soil and Removal of Underground Storage Tanks, and proposed adoption of Schedule R: Commercial Cooking Operations and Schedule S: Naturally Occurring Asbestos Operations.*

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

### **Committee Reports and Recommendations**

6. Report of the Budget and Finance Committee Meeting of March 26, 2007

Director Shimansky presented the report and stated that the Committee met on Monday, March 26, 2007.

Staff provided a status report on the Cost Recovery Study which included background information, the methodology used for the Study, the Study results, and the process for completion of the Study.

A review of the proposed amendments to District Regulation 3: Fees was provided to the Committee. Staff provided details of the proposed amendments, examples of permit renewal fee increases, and the rule development schedule. Public hearings for the Board of Directors' consideration for adoption of the amendments are scheduled for May 2 and June 6, 2007. The Committee provided direction to proceed with the proposed amendments to the District's fee regulation. One member of the public spoke on this item.

Staff presented and the Committee reviewed the draft budget for fiscal year 2007/2008. The Committee provided direction to staff.

The Committee convened to Closed Session and received a report from staff. The Committee provided general direction to staff on the Closed Session items.

The next meeting of the Committee is scheduled for 9:30 a.m., Wednesday, April 25, 2007.

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

7. Report of the Executive Committee Meeting of March 26, 2007

Chair Ross presented the report and stated that the Committee met on Monday, March 26, 2007.

Dr. Rachel Morello-Frosch of Brown University made a presentation regarding a report she co-authored entitled "*Still Toxic After All These Years – Air Quality and Environmental Justice in the San Francisco Bay Area.*" The Committee discussed several aspects of the report. Three members of the public spoke on this item.

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

**Board Action:** Chair Ross moved that the Board of Directors' approve the report of the Executive Committee; seconded by Director Hill; carried unanimously without objection.

8. Report of the Mobile Source Committee Meeting of March 29, 2007

*Action(s): The Committee recommended Board of Directors' approval of the following:*

- A) *A Bicycle Facility Program for Fiscal Year 2007/2008, including the allocation of \$600,000 in Transportation Fund for Clean Air (TFCA) Regional Funds, along with the proposed Bicycle Facility Program Guidelines;*
- B) *Proposed Fiscal Year 2007/2008 TFCA Regional Fund Policies and Evaluation Criteria;*
- C) *Allocation of \$1,000,000 in TFCA Regional Funds to Clean Air Regional Funds to Clean-Air Vehicle Advanced Technology Demonstration Projects that meet the FY 2007/2008 TFCA Regional Fund Policies;*
- D) *Allocation of \$21,761,710 in Carl Moyer Program (CMP) Year 8 and Year 9 Funding Cycle Funds for the Eligible Projects;*
- E) *Allocation of \$4,103,646 in Mobile Source Incentive Fund (MSIF) revenues for the eligible projects listed;*
- F) *Funding for the projects listed as contingency projects to be funded with either CMP or MSIF dollars if funds become available due to current or prior year grant award cancellations or completion of projects under budget;*
- G) *Authorization for the Executive Officer to enter into funding agreements with recipients of grant awards for the projects; and*
- H) *Approval of the Transportation Fund for Clean Air Report on FY 2006/2007 Allocations and Effectiveness.*

Director Smith presented the report and stated that the Committee met on Thursday, March 29, 2007.

Staff presented proposed revisions to Transportation Fund for Clean Air (TFCA) Regional Fund policies and evaluation criteria for fiscal year 2007/2008 and the establishment of a

Bicycle Facility Program for fiscal year 2007/2008. The Committee recommends Board of Directors' approval of the following:

- A) A Bicycle Facility Program for fiscal year 2007/2008, including the allocation of \$600,000 in TFCA Regional Funds, and the proposed Bicycle Facility Program Guidelines;
- B) Proposed fiscal year 2007/2008 TFCA Regional Fund Policies and Evaluation Criteria; and
- C) Allocation of \$1,000,000 in TFCA Regional Funds to clean-air vehicle advanced technology demonstration projects that meet the fiscal year 2007/2008 TFCA Regional Fund Policies.

Staff provided a report on year 8 and year 9 funding cycles for the Carl Moyer Program and Mobile Source Incentive Fund grant allocations. The Committee recommends Board of Directors' approval of the following:

- D) Allocation of \$21,761,710 in Moyer Year 8 and Year 9 funding cycle funds for the eligible projects listed in Attachment 1 of the staff report;
- E) Allocation of \$4,103,646 in Mobile Source Incentive Fund revenues for the eligible projects listed in Attachment 1 of the staff report;
- F) Funding for the projects listed in Attachment 2 of the staff report as contingency projects to be funded with either Moyer or Mobile Source Incentive Fund dollars if funds become available due to current or prior year grant award cancellations or completion of projects under budget; and
- G) Authorization for the Executive Officer to enter into funding agreements with recipients of grant awards for the projects listed in Attachments 1 and 2 of the staff report.

Staff reviewed the TFCA annual report. The Committee recommends:

- H) Board of Directors' approval of the *Transportation Fund for Clean Air Report on FY 2006/2007 Allocations and Effectiveness*.

The Committee also provided direction to staff regarding periodic updates on the bike program and to work on items in the Moyer program including more outreach to the wine industry, and designing a matrix that projects impacted communities.

The next meeting of the Committee is scheduled for 9:30 a.m., Thursday, April 26, 2007.

**Board Action:** Director Smith moved that the Board of Directors' approve the recommendations and the report of the Mobile Source Committee; seconded by Director Kniss.

In response to questions from Director Torliatt, Juan Ortellado, Grant Programs Manager, stated that additional language could be added to the Bicycle Facility Guidelines that states local agencies and cities are able to apply for funding for bike/pedestrian projects, as well as those bike/pedestrian projects approved in county-wide bicycle plans.

There was discussion regarding whether an applicant seeking Carl Moyer funding has been in litigation with public agencies within the last five years. A request was made to incorporate this type of information into the application process. Director Hill requested staff review the issue and report back to the Committee or the Board before any policy

decision is made. Jack Broadbent, Executive Officer/APCO, noted that the Committee had discussed this issue, along with others, and that staff will look into the issues brought up and bring them back for next year's funding cycle.

Chair Ross restated the amendment to the motion regarding cities being able to apply for bike projects as well as those projects approved in county-wide bicycle plans. Directors Smith and Kniss accepted the amendment to the motion. The motion then carried unanimously without objection.

**Closed Session** – The Board convened to Closed Session at 10:20 a.m.

9. Conference with Legal Counsel-

**Existing Litigation Government Code Section 54956.9(a)**

*Pursuant to Government Code Section 54956.9(a) a need existed to meet in closed session with legal counsel to consider the following case:*

**Paul Mauriello v. Bay Area AQMD** (*Public Employment Relations Board, Unfair Practice Charge No. SF-CE-336-M*)

10. Conference with Air District's Labor Negotiator-

*Pursuant to Government Code Section 54957.6, a need existed to meet in closed session to discuss collective bargaining matters*

<b><i>Air District Representative:</i></b>	<i>Jack P. Broadbent, Executive Officer/APCO</i>
<b><i>Employee Organization:</i></b>	<i>Bay Area Air Quality Management District Employees' Association</i>

**Open Session** – The Board reconvened to open session at 10:37 a.m.

Brian Bunger, Counsel, reported that the Board met in Closed Session on items 9 and 10 and received a report on the items. The Board provided general direction to staff on each item.

**Other Business**

11. Report of the Executive Officer/APCO – Mr. Broadbent reviewed the following:
- A) Announced that the Public Hearing regarding Regulation 6: Rule 2 under agenda item 4 is now scheduled for the May 16, 2007 Regular Board meeting. This will allow staff to conduct additional outreach.
  - B) The Air District is a sponsor of the KCBS Health etc event on April 14, 2007. Bill Clinton is the keynote speaker. If Board members would like tickets, they should contact the Executive Office before April 11<sup>th</sup>.
  - C) Each Board member has the registration booklet at their place for the Air & Waste Management Association's annual conference. The conference is June 26-28 and will be held in Pittsburgh, PA. Board members who would like to attend the conference should contact Mary Ann Goodley prior to April 20<sup>th</sup>.

- D) The current Events Calendar is at each Board members place.
- E) Announced the Superior Court ruling indicating that the EPA does have the authority to regulate CO<sub>2</sub>. Staff will keep the Climate Protection Committee informed of any actions.

Chair Ross requested that information on the April 14, 2007 KCBS Health etc event be emailed to the Board members.

- 12. Chairperson's Report – Chair Ross stated that he had no report.
- 13. Board Members' Comments – There were none.
- 14. Time and Place of Next Meeting – Chair Ross announced that the April 18, 2007 Regular Board meeting is cancelled. The next Regular Board meeting is scheduled for 9:45 a.m., Wednesday, May 2, 2007 – 939 Ellis Street, San Francisco, CA 94109
- 15. Adjournment – The meeting adjourned at 10:41 a.m.

*/s/ Mary Romaidis*  
Mary Romaidis  
Clerk of the Boards