

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

APPROVED MINUTES: Board of Directors' Regular Meeting – May 2, 2007

Call To Order

Opening Comments: Chair Mark Ross called the meeting to order at 9:46 a.m.

Roll Call: Present: Mark Ross, Chair, Tom Bates (10:00 a.m.), Chris Daly, Erin Garner (10:02 a.m.), John Gioia, Scott Haggerty, Jerry Hill, Yoriko Kishimoto, Carol Klatt, Liz Kniss (9:50 a.m.), Patrick Kwok, Janet Lockhart, Nate Miley, Michael Shimansky, John Silva, Tim Smith, Pamela Torliatt (10:02 a.m.), Gayle B. Uilkema, Brad Wagenknecht.

Absent: Harold Brown, Dan Dunnigan, Jake McGoldrick.

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

Public Comment: There were none.

Commendations/Proclamation: There were none.

Director Liz Kniss arrived at 9:50 a.m.

Consent Calendar (Items 1 – 7)

1. Minutes of May 2, 2007

Director Tom Bates arrived at 10:00 a.m.

2. Communications. Correspondence addressed to the Board of Directors. For information only.

Directors Erin Garner and Director Torliatt both arrived at 10:02 a.m.

3. Quarterly Report of the Air Resources Board

4. Consider Approval of Side Letter of Agreement to the Memorandum of Understanding (MOU) between the Air District and the Employees' Association to Provide for Maintenance of Classification Specifications.

The Board of Directors' will consider approval of a Side Letter of Agreement to the MOU to provide for maintenance of the Air District's classification specifications.

5. Consider Approval of Amendments to the Memorandum of Understanding, Section 12.07: Paid Holidays Falling on an Un-Scheduled Work Day

The Board of Directors will consider approval of a side letter of agreement to the MOU to Section 12.07: Paid Holidays Falling on an Un-Scheduled Work Day.

6. Ratify Executive Officer/APCO Acceptance of Carl Moyer Program Funds for Fiscal Years 1998/1999 to 2004/2005

The Board of Directors will consider ratifying the Executive Officer/APCO acceptance of Carl Moyer Program Funds for FY 1998/1999 to 2004/2005.

7. Consider Approval of Resolution Allocating Interest Earned on Carl Moyer Program Funds to the Carl Moyer Program Fund and Interest Earned on Low Emission School Bus Funds to the Low Emission School Bus Program Fund

The Board of Directors will consider approval of a resolution allocating interest earned on Carl Moyer Program Funds.

Board Action: Director Silva moved approval of Consent Calendar Items 1 through 7; seconded by Director Kishimoto; carried unanimously with the following Board members voting:

AYES: Bates, Daly, Garner, Haggerty, Hill, Kishimoto, Klatt, Kniss, Kwok, Lockhart, Miley, Shimansky, Silva, Smith, Torliatt, Uilkema, Wagenknecht, Ross.

NOES: None.

ABSENT: Brown, Dunnigan, McGoldrick.

Adopted Resolution No. 2007-02: A Resolution to Approve a Side Letter of Agreement to the Memorandum of Understanding Between the Air District and the Employees' Association to Provide for the Maintenance of Classification Specifications

Adopted Resolution No. 2007-03: A Resolution to Approve an Amendment to Section 12.07 of the Memorandum of Understanding Regarding Paid Holidays Falling on an Un-Scheduled Work Day

Adopted Resolution No. 2007-04: A Resolution Ratifying Acceptance of Carl Moyer Program Funds From the California Air Resources Board

Adopted Resolution No. 2007-05: A Resolution Allocating Interest Earned from Carl Moyer Funds to the Carl Moyer Fund and Allocating Interest Earned from Low Emission School bus Funds to the Low Emission School Bus Fund Within the Air District's Account

Committee Reports and Recommendations

8. Report of the Stationary Source Committee Meeting of April 16, 2007

Director Haggerty presented the report and stated that the Committee met on Monday, April 16, 2007. Staff provided a status report and presentation on the Flare Minimization Plans required under Regulation 12, Rule 12: Flares at Petroleum Refineries. The Committee provided direction to staff during this presentation. The Committee will receive an update on the comments received from the FMP's Public Meeting at its next meeting. The discussion of proposed amendments to Regulation 9, Rule 6: Nitrogen Oxides from Natural Gas-Fired Water Heaters, and Regulation 9, Rule 7: Nitrogen Oxides and Carbon Monoxide Emissions from Industrial, Institutional and Commercial Boilers, Steam Generators and Process Heaters were deferred to the next meeting of the Committee.

The next meeting of the Committee is scheduled for 9:30 a.m., Friday, June 15, 2007.

Board Action: Director Haggerty moved that the Board of Directors' approve the recommendations and report of the Stationary Source Committee; seconded by Director Wagenknecht; carried unanimously without objection.

9. Report of the Legislative Committee Meeting of April 23, 2007

Director Wagenknecht presented the report and stated that the Committee met on Monday, April 23, 2007. AB 619 – Authored by Assembly member, Bill Emmerson, establishes an amnesty program for vehicles that have fraudulently reported the elements that determine a vehicles registration fees and sales taxes. The Committee recommended an Oppose position on this bill. SB 509 – Authored by Joe Simitian; addresses formaldehyde emissions from composite wood products. The Committee recommended a Support position on this bill. Staff also updated the Committee on the status of bills on which the Air District has taken positions.

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

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

10. Report of the Budget and Finance Committee Meeting of April 25, 2007

Director Daly presented the report and stated that the Committee met on Wednesday, April 25, 2007. The Committee received the Third Quarter Financial Report for Fiscal Year 2006/2007. The Committee continued discussions on the proposed Fiscal Year 2007/2008 budget.

The Committee recommends that the Board of Directors adopt the proposed Fiscal Year 2007/2008 budget upon completion of public hearings.

The next meeting of the Committee is scheduled for 9:30 a.m., Wednesday, June 27, 2007.

Board Action: Director Daly moved that the Board of Directors' approve the recommendations and the report of the Budget and Finance Committee; seconded by Director Wagenknecht.

11. Report of the Mobile Source Committee Meeting of April 25, 2007

Director Smith presented the report and stated that the Committee met on Wednesday, April 25, 2007. The Committee received a report from staff for a proposed Transportation Fund for Clean Air Grant to fund a Zero-Emission Bus Advanced Demonstration Project. The Committee provided direction to staff with regard to scrapping of buses and establishing criteria for advanced technology vehicle demonstration project funds.

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

- 1) Allocation of \$2,000,000 in TFCA Regional funds to the Zero-Emission Bus Advanced Technology Demonstration project, including: \$1,500,000 from general TFCA Regional funds and \$500,000 from the \$1,000,000 in TFCA Regional Fund previously set aside for clean air vehicle advanced technology demonstration projects;
- 2) Exceptions to fiscal year 2007/2008 TFCA Regional Fund policies #1, #2, and #10 necessary for such a grant award; and
- 3) Authorize the Executive Officer to enter into a funding agreement with the Metropolitan Transportation Commission for the Zero-Emission Bus Advanced Demonstration.

The Committee considered requests for the reallocation of Diesel Back-Up Generator Mitigation Funds to Fund Advanced Demonstration projects.

The Committee recommends Board of Directors' approval of the reallocation of Back-Up Generator funding to:

- 1) A Shore-Side Power project in the amount of \$250,000 to be implemented by Wittmar Engineering & Construction, Inc. at the Port of Oakland;
- 2) \$100,000 for a Hybrid-Electric Bus project to be implemented by the Napa Unified School District; and
- 3) Authorize the Executive Officer to enter into funding agreements with Wittmar Engineering & Construction, Inc. and the Napa Unified School District.

Lastly, the Committee received the Transportation Fund for Clean Air County Program Manager Audit Report.

Following the Committee meeting on Wednesday, April 25, 2007, the auditors Macias Gini & O'Connell contacted the Air District noting an error in the report regarding annual report submittal by the City/County Association of Governments of San Mateo.

The language in the staff report of agenda item 6 to the Mobile Source Committee included in your packets under item 11 and found in the Audit Summary Report is corrected as stated in the Erratum.

The Committee recommends Board of Directors' approval of the results of the Transportation Fund for Clean Air County Program Manager Audit Report.

The next meeting of the Committee is scheduled for 9:30 a.m., Thursday, May 24, 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 Hill.

Public Hearings

12. Public Hearing to Consider Proposed Amendments to District Regulation 3: Fees, and Approval of a Notice of Exemption from CEQA

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.

Mr. Bateman reviewed the details of the proposed fee amendments, presented examples of permit renewal fee increases, and summarized the rule development process. Mr. Bateman stated that these amendments would be effective July 1, 2006. Staff recommends that the Board adopt the proposed amendments to Regulation 3: Fees; and approve the filing of a California Environmental Quality Act (CEQA) Notice of Exemption.

Director Daly moved staff's recommendation, seconded by Director Kwok.

Director Shimansky questioned whether the Air District anticipated receiving less county revenue in the future? Mr. Bateman responded that it is hard to say definitively from one year to the next. The current fiscal year to the next year, we are projecting an increase in county revenue. Mr. Broadbent, Executive Officer/APCO noted that the counties are expecting that the upward trend will start to flatten out, but not go down.

Opening Public Hearing

There being no public speakers, Director Haggerty moved that the Board of Directors' close the public hearing; seconded by Director Hill.

Board Action: Director Daly moved the Board of Directors' continue the second public hearing on June 6, 2007, to consider any further testimony regarding proposed amendments; seconded by Director Hill.

Director Silva questioned the communication, and how is it disseminated with regard to the information reaching the planning departments and the cities and counties? Mr. Bateman responded by informing Director Silva, that the mailing list did include a rather extensive listing of city and county agencies. Also, there is outreach to the cities and counties, the planning departments, and building departments regarding the regulations so that they know, as this has been done in the past so that they know what the Air District's requirements are, and where a permit might be required.

Director Gioia commented on the complexity of the Air District's fee schedules, and directed staff to ensure that all the different planning entities around the Bay Area including cities and counties be advised to contact the Air District to find out any relevant fees relative to permits.

Mr. Broadbent will take as direction to staff that the Air District re-implement the effort to all the cities and counties and planning commissions in providing the continued outreach, which will start this summer.

Director Haggerty noted that the Chamber of Commerce should be placed on the list as well, so that they can also get the information out to businesses.

Board Action: Director Haggerty moved that the Board of Directors' approve the recommended action as outlined in the staff report; seconded by Director Torliatt.

Mr. Bunger clarified that there are four schedules in two sections of the proposed fee rule that require a second hearing under State law and those are Schedules L: Asbestos Operations, Schedule Q: Excavation of Contaminated Soil, Schedule R: the proposed charbroiler fee and Schedule S which is asbestos dust mitigation plans and then Sections 3-331 which provides for registration fee and 3-332, which covers naturally occurring asbestos fees. Those require a second public hearing at least 30 days after the first one, which will be held on June 6, 2007.

Director Haggerty restated his motion, seconded by Director Hill with no opposition to the motion, the motion passed and the public hearing was continued to the June 6, 2007 Board of Directors' Meeting. The motion then passed with the following Board members voting:

AYES: Bates, Daly, Garner, Haggerty, Hill, Kishimoto, Klatt, Kniss, Kwok, Lockhart, Miley, Shimansky, Silva, Smith, Torliatt, Uilkema, Wagenknecht, Ross.

NOES: None.

ABSENT: Brown, Dunnigan, McGoldrick.

Adopted Resolution No. 2007-06: A Resolution of the Board of Directors of the Bay Area Air Quality Management District Amending Regulation 3 – Fees

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

13. 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:

Patricia Howell v. Bay Area AQMD et al. (Superior Court of California, County of San Francisco No. CCC07-0461887)

Open Session – The Board reconvened to open session at 10:30 a.m.

Upon entering the Open Session, the Board of Directors' discussed the American Lung Association's (ALA) Report Card. Director Hill requested that copies be e-mailed to the Board of Directors. In addition, Director Uilkema has requested a copy of South Coast's report card.

Brian Bunger, Counsel, reported that the Board met in Closed Session on item 13 and received a report on the items. The Board provided general direction to staff on each item.

Other Business

14. Report of the Executive Officer/APCO – Mr. Broadbent reviewed the following:

Mr. Broadbent noted a calendar change to the Public Outreach Committee meeting. This meeting will be held Monday, May 7, 2007 at 9:30 a.m.; to provide the Committee with enough time to see information being developed for the 2007 Spare the Air Campaign.

Chair Ross requested a briefing on the success of the Flare Minimization hearings. Mr. Broadbent noted that 4 of the 5 public meetings on the Flare Minimization Plans required under Regulation 12: Rule 12 have been conducted. The Air District is in the process of seeking public input and community meetings have been scheduled for each of the refineries. The 1 remaining meeting is for the FMP on the Valero Refinery. The meetings have been successful and the Air District has been able to inform the public and receive input on what is contained in the plans. Mr. Broadbent noted that the meeting on the Chevron Refinery FMP, lasted about 2 ½ hours, there were over 100 attendees and there was some informative input.

Mr. Broadbent also noted that a good indication of success is that Chevron indeed hears a lot and that they are seeking to be able to upgrade or amend their FMP to potentially commit to some additional compressor capacity as part of their FMP. Mr. Broadbent included that staff will bring back to the Stationary Source Committee a review of all the comments that have been heard on the FMP's and some of the more technical information on each of the FMP's as well as the commitments being made by the refineries. This meeting will be scheduled after the close of the comment period, which is May 31, 2007. Lastly, the Air District has 45 days to review and decide whether to approve or disapprove the plans which should be around July 15, 2007.

15. Chairperson's Report – Chair Ross stated that he had no report.
16. Board Members' Comments – There were none.
17. Time and Place of Next Meeting –The next Regular Board meeting is scheduled for 9:45 a.m., Wednesday, May 16, 2007 – 939 Ellis Street, San Francisco, CA 94109
18. Adjournment – The meeting adjourned at 10:38 a.m.

/s/ Vanessa Johnson
Vanessa Johnson
Acting Clerk of the Boards

