

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

APPROVED MINUTES: Board of Directors' Regular Meeting– March 5, 2008

Call To Order

Opening Comments: Chairperson Jerry Hill called the meeting to order at 9:46 a.m.

Roll Call: Present: Jerry Hill, Chair, Tom Bates (10:00 a.m.), Harold Brown, Chris Daly, Erin Garner (10:05 a.m.), Carol Klatt, Liz Kniss (9:58 a.m.), Jake McGoldrick (9:58 a.m.), Mark Ross, Michael Shimansky, John Silva, Tim Smith, Pam Torliatt, Gayle B. Uilkema (9:50 a.m.), Brad Wagenknecht, Ken Yeager.

Absent: Dan Dunnigan, John Gioia, Scott Haggerty, Yoriko Kishimoto, Janet Lockhart, Nate Miley.

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

Public Comment Period: – The Chair called for public comment and the following individuals spoke:

Linda Weiner Bay Area Clean Air Task Force 72 Gates St. San Francisco, CA 94110	Bradley Angel Greenaction Bay Area Env. Health Collaborative
Gordon Mar Bay Area Env. Health Collaborative 1042 Grant Ave. San Francisco, CA 94133	Karen Cohn RAMP – Bay Area Env. Health Collaborative 1390 Market St., #230 San Francisco, CA 94602
Wafaa Aborashed BAEHC & Healthy SLC 3081 Tea Garden St. San Leandro, CA 94577	Francisco Da Costa Director, Environmental Justice Advocacy 4909 3 rd Street San Francisco, CA 94124
Andy Katz Breathe California	Amy Cohen Bay Area Env. Health Collaborative
Bobby Washington Huntermview 137 Middle Pt. Road San Francisco, CA 94124	Minister Christopher Muhammad BVHP
Marie Harrison Greenaction 1095 Market St.	Leaotis Martin Hunters View Tenant Assoc. 126 Middlepoint San Francisco, CA 94124
	Rudy Batarse Lloyd A. Wise Automobile 10550 International Blvd.

San Francisco, CA 94103

Oakland, CA 94603

Venitta Logan
143 Middle Point Rd.
San Francisco, CA 94124

Vanessa Logan
Hunter's View
143 Middle Point Rd.
San Francisco, CA 94132

Archbishop King
A.O.C.
1286 Fillmore
San Francisco, CA 94115

Daniel Salberg
St. Paulis Lutheran Church
950 McAllister
San Francisco, CA

The following Directors arrived during Public Comment. Directors McGoldrick and Director Kniss arrived at 9:58 a.m. Director Bates arrived at 10:00 a.m. Director Garner arrived at 10:05 a.m.

Comments were made regarding cumulative impacts in environmental justice areas, and the permitting of combustion turbines. A resolution was presented by the Bay Area Environmental Health Collaborative. to the Board of Directors for its consideration regarding cumulative impacts. Comments were also made regarding the dust from work being conducted by Lennar in the Bayview-Hunters Point community; the health issues associated with exposure to the dust; and a request for an update on penalties to be imposed on Lennar.

Mr. Bunker provided an overview of the issues with regard to Lennar and its NOVs. The Air District is currently involved in discussions with Lennar. Mr. Bunker state that the Air District is moving as expeditiously as possible as this is a two party situation.

Mr. Broadbent stated that the Air District is aggressively moving forward by targeting grant dollars in 6 specific communities which have been identified through the CARE program.

Director Bates asked if the Air District has the authority to regulate cumulative impacts? Mr. Broadbent responded that the community would like the Air District to step in and establish a regulatory policy relative to cumulative impacts. This item will be explored further and the CARE program is a great first step.

Chair Hill stated the cumulative impacts is taken seriously by the Air District and noted that staff should always follow the rule of going the extra mile with regard to lines of communication; to ensure that the Air District has gone above and beyond to make sure that there is good understanding between the Air District staff, Board of Directors and the community to make the right and the best decisions.

Chairperson Hill asked that the resolution that was submitted be referred to the Public Outreach Committee for consideration. Mr. Broadbent suggested that the item be referred to the Executive Committee.

The Board of Directors provided further direction to staff.

Consent Calendar (Items 1 – 5)

1. Minutes of February 20, 2008 Meeting
2. Communications. Information only.
3. 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 attached memoranda lists District personnel who traveled on out-of-state business.

5. Consideration of Hiring Recommendation at Step E of Salary Range 132 for the Clerk of the Board Position

The Board of Directors considered approval of hiring recommendation at Step E of Salary Range 132 for the Clerk of the Board position.

Board Action: Director Brown moved approval of Consent Calendar Items 1, 2, 3, and 5; seconded by Director Wagenknecht; carried unanimously without opposition. Consent Calendar Item 4, was pulled for further discussion.

4. Consideration of Request to Accept Approximately \$11 Million in Funding from the California Air Resources Board (ARB) for Carl Moyer Program Year 10

The Board of Directors considered accepting funding made available by ARB for this year's Carl Moyer program.

Board Action: Upon clarification of the item, Director Brown moved approval of Consent Calendar Item 4; seconded by Director Wagenknecht.

6. Report of the Legislative Committee Meeting of February 25, 2008

Director Wagenknecht presented the report and stated that the Legislative Committee met on Monday, February 25, 2008.

The Committee discussed two measures in detail: SB 375, authored by Darrell Steinberg, and AB 2655, authored by Mark DeSaulnier. The Committee recommends a 'support in concept' position on AB 2655, which would establish a comprehensive indoor air quality program in California. The Legislature's bill introduction deadline was Friday, February 22, 2008. The Committee briefly reviewed a number of other additional air quality measures, but deferred action on them until future meetings.

The Committee also discussed AB 2744, authored by Jared Huffman, which would allow a vote of the people on a regional gasoline fee in the Bay Area, with the proceeds used for projects to cut climate change.

The next meeting is scheduled for Monday, March 24, 2008.

Board Action: Director Wagenknecht moved that the Board of Directors approve the report of the Legislative Committee; seconded by Director McGoldrick; carried unanimously without opposition.

7. Report of the Budget and Finance Committee Meeting of February 27, 2008

Director Daly presented the report and stated that the Budget and Finance Committee met on Wednesday, February 27, 2008.

The Committee received a report from Caporicci & Larson on the Air District's Financial Audit for Fiscal Year 2006-2007. An unqualified audit report was issued; there were no findings or questioned costs in the internal control over financial reporting. Staff was provided direction from the Committee.

The Committee received the Second Quarter Financial Report for Fiscal Year 2007/2008.

Finally, the Committee received a presentation from staff on proposed amendments to Regulation 3: Fees, which included details on the proposed fee amendments and a new fee schedule that is intended to recover costs incurred by the Air District to implement the Climate Protection program; examples of Permit renewal fee increases were also provided. The Climate Protection Committee will review the proposed new fee schedule at its March 13, 2008 meeting. Public Hearings and Board of Director adoption consideration is set for April 16, 2008 and June 4, 2008. Staff was provided direction from the Committee to proceed with the proposal.

The next meeting is scheduled for Wednesday, March 26, 2008.

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

8. Report of the Public Outreach Committee Meeting of March 3, 2008

Director Ross presented the report and stated that the Public Outreach Committee met on Monday, March 3, 2008

The Committee received an update on the 2008 Spare the Air Campaign. As a follow-up to the February 14, 2008, Public Outreach Committee meeting, staff was requested to explore options for continuing to provide a free transit incentive component to the 2008 Spare the Air campaign. As has been discussed, the Air District has been notified that funding for the 2008 campaign will be the final funding commitment of the Congestion Mitigation and Air Quality program administered through the Metropolitan Transportation Commission. Staff's presentation included an overview of the history of the Spare the Air program, the link between air quality and climate protection, a summary of available funding for the 2008 campaign, and options for the upcoming season given the limited funding. After considerable discussion the Committee provided direction to staff.

The Committee recommended Board of Director's approval to provide:

- Free transit on the first 2 Spare the Air Days to include: free morning commutes on trains and ferries; and full day commutes on all other bus transit systems;
- Inclusion of other types of incentives and messaging beyond free transit to promote climate protection;
- A survey analysis to assess the effectiveness of the program; and
- Estimated cost for the 2008 program is \$6.7 million dollars.

The next meeting will be at the call of the chair.

Board Action: Director Ross moved that the Board of Directors approve the report of the Public Outreach Committee and noted that staff was directed to seek funding for a possible third Spare the Air Day; seconded by Director Wagenknecht; carried unanimously with out opposition.

Closed Session

9. Conference with Legal Counsel – Threatened Litigation

Pursuant to Government Code Section 54956.9(b) and 54956.95, a need exists to meet in closed session with legal counsel to consider the following liability claim:

Tort Claim of Peter Rogosin against the Bay Area Air Quality Management District (Originally Presented to the District on November 26, 2007, and Amended by Letter Presented on November 30, 2007)

10. Conference with Legal Counsel – Existing Litigation

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

Sharon L. Jackson v. Bay Area AQMD, San Francisco County Superior Court, Case No. CGC-06-458837

The Board convened to closed session at 11:08 a.m.

Open Session

The Board reconvened to open session at 11:10 a.m.

Brian Bunger, District Counsel, reported that the Board of Directors met in closed session on agenda items 9 and 10 on item 9 the Board voted unanimously to reject that claim and a notice of rejection will be sent to Mr. Rogosin. On item 10 the Board received a report on item and provided direction to staff.

Other Business

11. Report of the Executive Officer/APCO

Mr. Broadbent informed the Board of Directors that at the Public Outreach Committee meeting, staff was requested to provide an update on the Woodsmoke Incentives Program. The Air District has provided money for natural gas inserts and other types of wood burning devices that are clean, initially the Board of Directors set aside \$100,000 under Phase I; 87% of that money has now been distributed, the majority of the funding was used for natural gas inserts. The Air District worked in conjunction with the Hearth Patio and Barbecue Association. Procedures for distributing Phase II incentives in the amount of \$400,000 are currently being developed. Announcement of Phase II incentives will take place around April 1, 2008. Mr. Broadbent also stated that the Board of Directors narrowed how Phase II funds will be distributed. The proposed woodsmoke regulation update will go before the Stationary Source Committee at its upcoming meeting.

Mr. Broadbent commented that staff is moving forward with the 2008 Spare the Air Campaign. He expressed his appreciation for the direction provided by the Board of Directors on the Spare the Air Program. He anticipates the 2008 STA campaign to be announced on Earth Day, April 22, 2008.

Mr. Broadbent concluded his report.

11. Chairperson's Report – Chairperson Hill discussed the Carl Moyer Program funding allocation item to be addressed at the Air Resources Board meeting, on Thursday, February 28, 2008. Chairperson Hill stated that \$250 million is the proposed amount in I-Bond allocation to be approved. The Air District's allocation is set at about 14% during the first formula that was used and that was based on population, health risks, and the Air District's attainment status. South Coast came in at about 55%; San Joaquin was at 25%; San Diego 6%; and San Joaquin at 29%. Air District staff felt that the Bay Area should not lose any of its funding, due to the West Oakland and Port of Oakland and the health risk assessment (HRA) that is being conducted. The Air District was able to retain the allocation that was proposed by ARB staff.

Chairperson Hill concluded his report.

12. Board Members' Comments – Director Ross commented that he was able to watch the webcast of the meeting and noted that Chairperson Hill and Director Smith did very well.

Director Daly stated there should be some formal follow up from the Lennar NOV discussion late last year. In addition, Director Daly stated that he is aware that the legal process on the NOV's takes some time and that there is some perception in the community that the process is not moving as quickly as it could. Director Daly requested this item be agendaized for the next Budget and Finance Committee meeting with a Closed Session on the financial aspect of the item.

Director Daly also noted that since Mr. Broadbent's tenure at the Air District, there has been a concerted effort to have a better relationship and a more structured relationship through the CARE program with the Environmental Justice Community. Director Daly suggested that at a future Public Outreach Committee meeting there be an update on the CARE program and the Air District's relationship with the Environmental Justice Community. More specifically, it would make sense for the Air District to talk about the cumulative impact resolution. Director Daly suggested that he would support the language before him unless there is concern from staff.

12. **Time and Place of Next Meeting** – 9:45 a.m., Wednesday, March 19, 2008 – 939 Ellis Street, San Francisco, CA 94109
13. **Adjournment** – The meeting adjourned at 11:15 a.m.

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