

Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109
(415) 749-5000

Board of Directors' Regular Meeting
February 4, 2009

APPROVED MINUTES

Call To Order: Chairperson Pamela Torliatt called the meeting to order at 9:50 a.m.

Roll Call: Chairperson Pamela Torliatt, Vice Chairperson Brad Wagenknecht, secretary Tom Bates, Harold Brown, Chris Daly, Sue Garner, John Gioia, Carole Groom, Scott Haggerty, Jennifer Hosterman, Yoriko Kishimoto, Carol Klatt, Liz Kniss, Nate Miley, Mark Ross, Michael Shimansky, Gayle Uilkema, Ken Yeager.

Absent: Dan Dunnigan, Jim Spring, Shirlee Zane.

Pledge of Allegiance: Jeffrey McKay led the Pledge of Allegiance.

Public Comments: None.

Proclamation/Commendation:

- Chairperson Torliatt recognized Wayne Nastri, Regional Administrator of the U.S. Environmental Protection Agency for his dedicated service to improving air quality and public health.
- Mr. Nastri thanked the Board; urged their continuance in enforcement, partnerships, communication and outreach.

Calendar Items:

Review Minutes of Board of Directors' meeting January 21, 2009.

Public Hearing on February 18, 2009 to consider proposed amendments:

- Regulation 11; Rule 16: Perchloroethylene and Synthetic Solvent Dry Cleaning Operations.
- Regulation 8, Rule 17: Petroleum Dry Cleaning Operations.
- Regulation 2, Rule 1: Permits, General Requirements.
- Deletion of Regulation 8, Rule 27: Synthetic Solvent Dry Cleaning Operations.
- Adoption of a Negative Declaration pursuant to the California Environmental Quality Act (CEQA).

In order to reduce the public's exposure to perchloroethylene (Perc) emissions from dry cleaning and water-repelling operations, the California Air Resources Board (ARB) has amended the Airborne Toxic Control Measure (ATCM) for Emissions of Perchloroethylene from Dry Cleaning Operations (Section 93109, Title 17, of the California Code of

Regulations). The Bay Area Air Quality Management District (Air District) is required under Health and Safety Code section 39666 to implement and enforce the amended ATCM.

Board Action: Director Brown moved to approve Consent Calendar Items; seconded by Vice Chairperson Wagenknecht; carried unanimously without opposition.

Committee Reports:

Report 4. Ad Hoc Committee on Port Emissions
January 22, 2009
Report given by Chairperson N. Miley

November 17, 2008 committee minutes approved.

Port of Oakland Actions:

- Port Commission met November 19, 2008.
- Postponed \$5 million funding committed to Air District for drayage truck clean up.
- Port Maritime Committee met November 20, 2008.
- Postponed consideration of Maritime Air Quality Improvement Plan (MAQIP), user fees for emission reduction projects, and infrastructure improvements.

Response:

- Executive Officer/APCO, Mr. Broadbent met with Mayor Dellums' staff.
- Board Chairperson Torliatt sent letter to Mayor Dellums.
- Port of Oakland requested return of \$2 million payment.
- Maritime Air Quality Improvement Plan (MAQIP) scheduled for Port Maritime Committee meeting January 29, 2009.
- Air District preparing enforcement of ARB rules applicable to Port operations.

Committee Follow-up:

- Pursue legislation for container fees.
- Meet with Board Members and Commissioners.
- Encourage adoption of Truck Management Plan.
- Support spending \$2 million on shore-side power.
- Move forward with retrofitting trucks and exploring public/private partnerships.

Committee discussed potential litigation in closed session.

Director Uilkema distributed article re Port of Los Angeles proposed fees.

Next Ad Hoc Committee meeting: at the call of the Chair.

Board Comments/Discussions:

Director Miley suggested Ad Hoc Committee report on Port of Oakland Emissions be amended to include a follow-up meeting with Port Commissioners, Port staff and Air District staff to better understand challenges Port is facing, determine short-term actions re air quality. Executive Officer/APCO Mr. Broadbent: meeting is scheduled for February 17, 2009 at 1:00 p.m. at Port of Oakland offices; staff identifying potential projects to utilize the \$2 million.

Board Action: Director Miley moved to approve the report of the Ad Hoc Committee on Port Emissions as amended; seconded by Director Gioia; carried unanimously without opposition.

Report 5. Mobile Source Committee

January 23, 2009

Report by Chairperson S. Haggerty

November 19, 2008 committee minutes approved.

Committee recommended:

- Board of Directors adopts resolution to allow Executive Officer/APCO, Mr. Broadbent to accept up to \$14.5 million in funding from Air Resources Board (ARB) for Year 11, Carl Moyer Program.
- Reserve \$2 million matching funds from District's Mobile Source Incentive Fund.
- Board of Directors' authorization for the Executive Officer/APCO, Mr. Broadbent to execute Grant Agreements for projects up to \$100,000.
- Enter into agreements to institute voucher component to the CMP.
- Execute grants on a "first-come first-served", year-round basis.

Committee received staff update regarding Air District's implementation of the California Goods Movement Bond Program.

Committee recommended Board of Directors' approval to:

- Reserve additional \$3.5 million in Mobile Source Incentive Funds to replace vehicles as part of the Lower Emissions School Bus Program.
- \$1 million Mobile Source Incentive Funds to start Agricultural Assistance Program.

Committee discussed need to re-evaluate Agricultural Assistance Program in June 2009; consider \$1 million funding increase.

Next Mobile Source Committee meeting: Thursday, February 26, 2009.

Board Action: Director Haggerty moved to approve the report and recommendations of the Mobile Source Committee; seconded by Director Gioia; carried unanimously without opposition.

Report 6. Legislative Committee Meeting

January 26, 2009

Report given by Chairperson T. Bates

January 8, 2009 committee minutes approved.

Committee Discussions/Considerations:

- Statewide bill requiring all container ports to file Air Quality Improvement Plan with their air district, giving air districts authority to review, approve, disapprove and regulate such plans.
- Committee discussed changes in the size of the Air District Board Directors. Chairperson Bates suggested deferring any recommendation.

Directors: discussed board structure and options; referred issue back to Legislative Committee. Director Kniss requested the Board also revisit this issue.

Board Action: Director Bates moved to direct staff to pursue legislation requiring all container ports to file an Air Quality Improvement Plan with Air Districts and for Air Districts to have authority to review, approve, disapprove and regulate such plans; Vice Chair Wagenknecht seconded the motion; carried unanimously without opposition.

Director Haggerty made a motion to move the item regarding Board size back to the Legislative Committee; Director Klatt seconded the motion; which carried by the following roll call vote: 12-5-4 (No Vote: Garner, Groom, Kniss, Shimansky, Uilkema; Absent: Daly, Dunnigan, Spring, Zane.

Report 7. Budget and Finance Committee Meeting

January 28, 2009

Report given by Chairperson C. Daly

October 22, 2008 committee minutes approved.

Committee reviewed/discussed:

- Fourth quarter financial report for Fiscal Year 2007-08.
- Air District's financial overview, revenue sources, expenses, challenges, and risk.
- Annual Valuation Report from CalPERS as of June 30, 2007, budget considerations and investment losses in the OPEB Trust Fund.
- Possible increase in employer contribution rates starting FY 2010-2011.

Committee Comments:

- Because EPA will likely designate Bay Area as non-attainment for the revised ozone standard, District staff applied for and received one time award of \$252,370 to develop Photochemical Assessment Monitoring Stations (PAMS) network plus annual award of \$122,500 to operate network. This will allow Air District to further evaluate ozone formation in Bay Area.

Committee Recommended:

- Board of Directors' authorize Executive Officer/APCO, Mr. Broadbent solicit bids and execute agreements for the Production System Project not to exceed \$2,800,000, and transfer corresponding designated reserves to the current year budget.
- Board of Directors' amend FY 2008/2009 budget by increasing Section 105 Environmental Protection Agency (EPA) Grant Revenue by \$374,870, and increase the professional services and capital equipment budget for Air Monitoring (Program 802) to recognize revenue from a U.S. Environmental Protection Agency grant.

Next Budget and Finance Committee meeting: Wednesday, February 25, 2009 at 1:30 p.m.

Board Action: Director Daly made a motion to approve the report and recommendations of the Budget and Finance Committee; Vice Chair Wagenknecht seconded the motion; carried unanimously without objection.

Public Hearing:

Proposed amendments to Regulation 8, Rule 33: Gasoline Bulk Terminals and Gasoline Delivery Vehicles and Regulation 8, Rule 39: Gasoline Bulk Plants and Gasoline Delivery Vehicles, and adoption of a CEQA Negative Declaration.

Senior Air Quality Engineer Guy Gimlen explained amendments:

- To reduce emissions from gasoline transfer at bulk terminals and bulk plants, including episodic emissions by requiring monitoring systems in bulk terminals and improving operating practices in terminals and plants.
- Chairperson Torliatt opened the public hearing at 10:51 a.m.

Public Comments:

Dennis Bolt discussed new leak standards that require shutdowns and disruption of supplies to local gas stations.

Board Action: Vice Chairperson Wagenknecht made a motion to continue the public hearing to March 4, 2009; Director Kniss seconded the motion; carried unanimously without opposition.

Closed Session:

Board of Directors adjourned to Closed Session at 10:54 a.m.

- **POTENTIAL LITIGATION (Government Code Sections 54956.9(b) and 54956.9(c))**
Pursuant to Government Code Sections 54956.9(b) and 54956.9(c), a need exists to meet in closed session to discuss potential litigation regarding two matters.
- **EXISTING LITIGATION (Government Code Section 54956.9(a))**
Pursuant to Government Code Section 54956.9(a), a need exists to meet in closed session with legal counsel to consider the following case(s):
 - A) Duraflame, Inc. v. Bay Area AQMD, Contra Costa County Superior Court, Case No. N09-0102.
 - B) Thomasina Mayfield v. Bay Area AQMD, Michael Rich, et al., San Francisco County Superior Court, Case No. CGC-09-484213.
- **PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957 and 54957.6).**

Pursuant to Government Code Section 54957 and 54957.6, the Committee will meet in closed session to conduct performance evaluations of the Executive Officer/APCO and the District Counsel.

Open Session:

Board of Directors reconvened at 11:54 a.m. Chairperson Torliatt stated that no reportable action was taken in Closed Session.

Other Business:

Executive Officer/APCO Report:

Winter 2008-2009 PM_{2.5} Season.

- 11 days of PM_{2.5} standard exceedances.
- 10 Wintertime Spare the Air Alerts.
- Staff plans a review of the entire program and report back to Committees.

Four (4) County Health Officers invited to speak on questions designed to highlight impacts of air quality and public health in CARE communities at Advisory Council meeting February 11, 2009.

Chairperson Torliatt's Report:

- February 18, 2009 Regular Board meeting cancelled.
- Climate Summit tentatively scheduled for May 4, 2009.

Board Comments:

Director Uilkema reported out on her trip the Air & Waste Management Association's conference in San Diego on Vapor Intrusion.

Time and Place of Next Meeting: 9:45 a.m., Wednesday, March 4, 2009
939 Ellis Street, San Francisco, CA 94109

Adjournment: Meeting adjourned at 12:03 p.m.

Lisa Harper
Clerk of the Boards

Edited by Kathleen Wilson