

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

Board of Directors' Regular Meeting
May 6, 2009

APPROVED MINUTES

CALL TO ORDER: Chairperson Pamela Torliatt called the meeting to order at 9:58 a.m.

Roll Call: Chairperson Pamela Torliatt, Vice Chairperson Brad Wagenknecht, Secretary Tom Bates and Directors Harold Brown, Chris Daly, Dan Dunnigan, Susan Garner, John Gioia, Carole Groom, Scott Haggerty, Jennifer Hosterman, Yoriko Kishimoto, Liz Kniss, Eric Mar, Nate Miley, Mark Ross, Michael Shimansky, James Spering, Gayle Uilkema, Ken Yeager and Shirlee Zane

Absent: Director Carol Klatt

PLEDGE OF ALLEGIANCE: Lisa Fasano led the Pledge of Allegiance.

Public Comments: Maggie Liftik, Healthy Air Coalition, Mothers & Others for Measuring Metals in the Air, voiced concerns regarding Pacific Steel Casting (PSC), risk levels used in the HRA, and requested odor complaint process improvements and additional air monitoring.

Solomon Barish, Berkeley, requested that PSC be tested every day.

Sasha Barish, Berkeley, age 10, asked to be able to breathe clean air every day.

Judith Barish, Health Air Coalition, asked that the District adopt a toxics use reduction strategy and increase air monitoring of PSC.

Ros Ruiz, GreenAction, reported dangerous levels of manganese and other toxins from PSC and asked for more stringent regulations.

Bradley Angel, Director of Green Action for Health and Environmental Justice, requested additional enforcement and regulation of PSC and asked that the Air District address cumulative impacts.

Christopher Kroll, West Berkeley Alliance for Clean Air and Safe Jobs, referred to an email sent from Janice Schroeder regarding recommendations of the District's Advisory Council and requested new procedures for the District's complaint and NOV process.

Patrick Stelmach, West Berkeley, expressed anger over known toxin levels at PSC, said PSC lowers its production capacity on days air monitoring equipment is operating, requested the District make PSC's operation schedule known to local schools and residents, improve its complaint and NOV processes, and install air monitors at schools.

Executive Officer/APCO Jack Broadbent acknowledged concerns of speakers regarding PSC, said cumulative risk policies are being developed through the CARE Program and an update will be provided at the upcoming Stationary Source Committee meeting.

CONSENT CALENDAR (Items 1-5):

1. Approval of Minutes of April 15, 2009;
2. Communications;
3. District Personnel on Out-of-State Business Travel
4. Consider Establishing New Job Classifications of Health Officer with a Salary Set at Pay Range 148M and Manager, Executive Operations with a Salary Set at Pay Range 148M.
5. Consideration and Approval of a Contractor to Replace the Air District's Meteorological Model

Director Yeager requested removal of Item 4.

Board Action: Director Brown moved to approve Consent Calendar Items 1, 2, 3, and 5; seconded by Director Dunnigan; carried unanimously without opposition.

4. Consider Establishing New Job Classifications of Health Officer with a Salary Set at Pay Range 148M and Manager, Executive Operations with a Salary Set at Pay Range 148M.

Directors requested and received clarification regarding the Manager, Executive Operations position.

Board Action: Director Yeager moved approval of Item 4; seconded by Director Wagenknecht; unanimously approved without objection.

COMMITTEE REPORTS AND RECOMMENDATIONS:

Report 6. **Legislative Committee Meeting**
April 15, 2009
Report given by Chairperson T. Bates

March 23, 2009 Committee minutes approved.

Discussion/Actions:

The Committee discussed the most recent poll taken of four Options on Board Size and Composition. A total of nine (9) responses were received. Consensus at the Committee meeting was reached on Option B; however, at the Board meeting Directors agreed that the matter required further discussion and recommended future discussions focus on efficiency of the Board, fairness, distribution of seats, representation based not only on population but one that also considers areas with major transit, jobs, airports, major trade corridors; where pollution is being generated and where District efforts would be most effective.

The Committee also discussed and considered new bills of air quality significance and corresponding agency positions, and recommends Board of Directors' approval of the nine (9) positions listed in the Board packets. The next meeting of the Legislative Committee is at the Call of the Chair.

Board Action: Director Bates moved that the Board of Directors approve the report and recommendations of the Legislative Committee Meeting and to refer Board Size and Composition back to the Committee; seconded by Director Wagenknecht; unanimously approved without objection.

Report 7. Climate Protection Committee Meeting
April 17, 2009
Report given by Chairperson Y. Kishimoto

March 23, 2009 Committee minutes approved.

Discussion/Actions:

The Committee received an update on the 2009 Climate Action Leadership Summit, scheduled for Monday, May 4, 2009 at the Fox Oakland Theater and discussed the event's agenda, key logistics, morning and afternoon workshops and sponsors. The Committee then received a Climate Protection Grant Program update, which included a discussion of program objectives to reduce GHG emissions, expansion of existing best practices, fostering innovation, co-benefit achievements and engagement of impacted communities. Grants were divided into three categories; Youth Outreach, Planning and Regional Strategies. The Committee discussed successes of these grants which resulted in job creation, 122 public meetings, and participation and involvement from more than 6,400 youth.

The Committee then received a presentation from JPC Climate Consultant, Bruce Riordan on the Joint Policy Committee's Regional Agency Climate Priorities for 2009/2010. Three broad concepts where the four agencies could work together on climate protection activities had been presented to the JPC in March that included:

1. A coordinated approach for the region playing that role;
2. Looking at specific projects the four agencies would take on to get direct GHG emission reductions; and
3. Looking at advocacy and how to build more of a movement.

The four agencies would then focus on six (6) direct projects or programs which would:

1. Begin developing the Sustainable Community Strategy (SB 375)—with ABAG and MTC as the lead agencies;
2. Design and adopt an Indirect Source Rule-with the Air District as the lead agency;
3. Develop and advance climate-friendly regional parking policies-with MTC as the lead agency;
4. Provide support for a coordinated public/private regional plan for electric vehicles—with the Air District and MTC as the lead agencies;
5. Design and implement a regional solar installation/energy efficiency financing program for existing residential/commercial buildings-with ABAG as the lead agency; and
6. Coordinate a regional/local approach to climate adaptation-with BCDC and ABAG as the lead agencies.

The Committee will receive an update on the proposals at a future Committee meeting. The next meeting of the Climate Protection Committee is scheduled for Thursday, May 28, 2009 immediately following the Mobile Source Committee meeting.

Board Action: Director Kishimoto moved that the Board of Directors approve the report of the Climate Protection Committee Meeting; seconded by Director Bates; unanimously approved without objection.

Board Discussion:

Directors requested an update be provided on pricing proposals and examples of model ordinances if regulation is approved.

Report 8. Stationary Source Committee Meeting

April 20, 2009

Report given by Chairperson J. Gioia

January 12, 2009 Committee minutes approved.

Discussion/Actions:

The Committee received an overview of the 2008/2009 Woodsmoke Reduction Program and discussed extensive outreach efforts which have resulted in the doubling of email *AirAlert* sign-ups, 12,000 phone alert signups, 500,000 calls to the 1-877-4NO-BURN hotline, four TV news feature segments, 80 print articles, 6 opinion/editorial articles, and a rebate program for gas-stoves and gas-inserts. Bay Area survey results revealed that 77% supported the no-burn regulation, 74% are aware of "Check Before You Burn", 69% understand that there are negative health effects of woodsmoke, and there was a 50% reduction in the number of people burning on previous nights from the last season. For the 2009/2010 strategy, Air District staff will declare *AirAlerts* using the prior day's afternoon forecast, with curtailment running midnight to midnight for the entire day, or until lifted.

The Committee then received a status report on the Flare Minimization Plan First Annual Update under Regulation 12, Rule 12: Flares at Petroleum Refineries. The annual update process requires that each refinery develop a Flare Minimization Plan to make permanent flare reduction achievements. Over 50 new prevention measures were identified between June 2006 and May 2008 and one public comment was received during the 30-day period requesting that the District make information in the plans more understandable and user-friendly. The plans were further updated, evaluated, and approved on April 17, 2009.

The Committee received a status report on the California Air Resources Board Enhanced Vapor Recovery (EVR) April 1, 2009 deadline, which requires all gasoline dispensing facilities with underground tanks to upgrade to new hanging hardware and new tank pressure management systems. The Air District is providing reasonable and measured enforcement for a total of 2,059 gas stations. The next ARB compliance deadline is September 1, 2009 for In-Station Diagnostics (ISD) Monitoring Instrumentation, and Air District staff does not anticipate this deadline being as much of a problem due to stations already upgrading equipment to coincide with April 1st deadline. The next meeting of the Committee is scheduled for Monday, July 20, 2009 at 9:30 a.m.

Board Action: Director Gioia moved that the Board of Directors approve the report of the Stationary Source Committee Meeting; seconded by Director Garner; unanimously approved without objection.

Report 9. Budget and Finance Committee Meeting

April 29, 2009 and May 6, 2009

Report given by Chairperson C. Daly

March 30, 2009 and April 29, 2009 Committee minutes approved.

Discussion/Actions:

The Budget and Finance Committee met on Wednesday, April 29, 2009 at 9:30 a.m. and today, May 6, 2009 prior to the Board of Directors meeting. The Committee approved the minutes of March 30, 2009 and April 29, 2009. At the April 29th meeting, the Committee received the financial report for the second quarter for Fiscal Year 2008/2009 and a review of financial trends, challenges and risks over the next three years, and suggested further discussion on Reserves be held during the Budget discussion.

The Committee also received responses to questions raised at its last meeting regarding the Fiscal Year 2009/2010 proposed Air District Budget regarding itemization of countywide property tax reductions, breakdown of the In-State Travel budget, and consideration to purchase air monitoring and laboratory equipment. The Committee discussed options regarding grant funding, dedicating funds for climate protection, the OPEB liability, and the status of the Climate Foundation and gave direction to return with recommendations on the Climate Protection Foundation and recommendations for Appendix C – Fund Balances. The Committee recommends Board of Directors’ approval of the FYE 2010 Budget, with the exception of Appendix C - Fund Balances.

The Committee discussed the Air District’s budgeting system which is outdated and requires excessive staff support, cost and risk. The Committee recommends Board of Directors’ approval to authorize the Executive Officer/APCO to solicit bids and execute agreements for a Budgeting System Standardization not to exceed \$175,000 from the Air District’s FY 2008/09 Professional Services budget. The Committee also received an overview of the Air District’s main Datacenter and Computer Network. Upgrades to these systems will substantially improve the power efficiencies and reliability of the systems. The Committee recommends Board of Directors’ approval to authorize the Executive Officer/APCO to solicit bids and execute agreements for Datacenter improvements in an amount not to exceed \$525,000 and Computer Networking improvements in an amount not to exceed \$225,000.

The Committee then discussed the District’s deferred maintenance and facility planning strategy, annual facilities costs and the Request for Proposal process. The process was initiated for a strategic facilities planning analysis as a prerequisite to any decision on major capital expenditures related to the Air District headquarters. The RFP will analyze existing and future space needs and costs for options to remodel, renovate, demolish and rebuild, or purchase or lease new space. The Committee discussed options, and recommends Board of Directors’ approval in assigning facilities responsibilities to the Budget and Finance Committee.

At the Budget and Finance Committee meeting held prior to the Board meeting today, the Committee reviewed Appendix C- Fund Balances and recommends Board of Directors’ approval of the proposed budget for Fiscal Year 2009/2010, as amended, which allocates the following: \$3 million for Building and Facilities; \$2 million for Capital Equipment; \$1 million for Climate Protection; and \$4 million for OPEB (Reserve for economic uncertainties) upon completion of the public hearing process. The next meeting of the Budget and Finance Committee is at the call of the Chair.

Board Action: Director Daly moved that the Board of Directors approve the report and recommendations of the Budget and Finance Committee Meetings; seconded by Director Uilkema; unanimously approved without objection.

Report 10. Mobile Source Committee Meeting
April 30, 2009
Report given by Chairperson S. Haggerty

March 26, 2009 Committee minutes approved.

Discussion/Actions:

The Committee received a status report of the Air District's application to the United States EPA for Diesel Emissions Reduction Act (DERA) funding and the U.S. Department of Energy under the Clean Cities Transportation Sector Petroleum Reduction Technologies Program. The Committee then considered proposed Supplemental Transportation Fund for Clean Air Regional Fund Policies and Evaluation Criteria for Fiscal Year 209/2010 and proposed allocations for specific projects, and recommends Board of Directors' approval of:

1. The proposed FY 2009/2010 TFCA Regional Fund Policies and Evaluation Criteria presented in Attachment B of Agenda Item 4 of the staff report; and
2. Up to \$5 Million for alternative-fuel vehicle and infrastructure projects (Policies # 21-25) to be reserved to match the Air District's application to the Department of Energy (DOE) under Clean Cities FY09 Petroleum Reduction Technologies Projects for the Transportation Sector, Area Interest #4.

The Committee considered revisions to three Fiscal Year 2008/2009 Transportation Fund for Clean Air Regional Fund Projects and recommends Board of Directors' approval of:

- Project #08R53 with Yandell Truckaway, Inc. for an allocation of \$362,436 for retrofit of 20 heavy duty trucks;
- Project #08R59 with Pacific Water Trucks for an allocation of \$115,118 for repower and retrofit of 3 heavy duty vehicles; and
- Project #08R76 with Solano County Transportation Authority for an allocation of \$400,000 for a Safe Routes to School project.

The Committee then considered the Transportation Fund for Clean Air (TFCA) County Program Manager Expenditure Plans for Fiscal Year (FY) 2009/2010 and an Amendment to the FY 2008/2009 Napa County Program Manager TFCA Expenditure Plan and recommends the Board of Directors:

1. Approve funding allocations for FY 2009/2010 TFCA County Program Manager listed on Table 1 of Agenda Item 5 of the staff report;
2. Approve the amended allocation of \$153,586 to the FY 2008/2009 Napa County TFCA Program Manager expenditure plan;
3. Amend FY 2009/2010 TFCA Program Manger Policies to allow County Program Managers the option to use Board approved Policies # 21-25 from the TFCA Regional Fund Policies and Evaluation Criteria for 2009/2010.
4. Authorize the Executive Officer/APC to enter into funding agreements with the County Program Managers for FY 2009/2010 allocations and to amend the Napa County Program Manger's FY 2008/2009 Expenditure Plan, consistent with Board-adopted TFCA Program Manager Policies.

The next meeting of the Mobile Source Committee is scheduled for Thursday, May 28, 2009.

Board Action: Director Haggerty moved that the Board of Directors approve the report and recommendations of the Budget and Finance Committee Meetings; seconded by Director Wagenknecht; unanimously approved without objection.

PRESENTATION:

Overview of “The American Clean Energy and Security Act of 2009” – Overview by Deputy APCO, Jean Roggenkamp

Overview - American Clean Energy & Security Act of 2009:

- Introduced by Congressmen Henry Waxman and Ed Markey;
- Discussion draft document under review by House Energy and Commerce Committee;
- 600-page bill; four titled sections addressing Clean Energy, Energy Efficiency, Reducing Global Warming Pollution, Transitioning to a Clean Energy Economy

Title I: Clean Energy

Renewable energy standard; clean transportation; electricity transmission planning; smart grid development; state energy and environment development funds; federal purchases of renewable electricity; and carbon capture and sequestration.

Title II: Energy Efficiency

Building energy efficiency programs; appliance and lighting efficiency programs; industrial and utility energy efficiency programs; efficiency standards for vessels; locomotives, off-road vehicles, and aircraft; harmonizes vehicle standards: DOT, EPA, California; requires states and MPOs to reduce transportation emissions.

Title III: Global Warming

Establishes cap-and-trade program for large industrial sources and utilities; allows banking of allowance for use in future years; allows offsets to increase emissions over allowances; and percentage of allowances to be auctioned not defined yet.

Title IV: Clean Energy Economy

Elements include Green jobs and worker transition; ensures domestic competitiveness; exports clean technology; and adapting to climate change.

Ms. Roggenkamp said the draft discussion bill is being considered by one Committee and would allow the California Low Carbon Fuel Standard to stand. The California tailpipe standard would need to be harmonized with new federal standards. California would not be allowed to implement a separate cap-and-trade program at least through 2017 and SB 375 requirements would complement federal requirements for states and MPOs.

Director Comments/Discussion:

Directors discussed implementation of a carbon fee, the cap-and-trade program and harmonizing of federal standards. Mr. Broadbent said the bill strives to achieve a broad trading system internationally, there is significant concern that work done to date will be swept into this with California not being able to move forward as aggressively, and he said staff would be commenting on the legislation.

Directors received an update on the Conoco Phillips settlement agreement program funds; staff is working with groups to develop specific community projects and an RFP will be developed and discussed at the upcoming Climate Protection Committee.

CLOSED SESSION:

The Board of Directors adjourned to Closed Session at 10:55 a.m.

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(s):

Healthy Air Coalition v. Bay Area AQMD, San Francisco Superior Court, Case No. CGC-09-486990

OPEN SESSION

The Board of Directors reconvened in Open Session at 11:01 p.m.; there was no reportable action taken in Closed Session.

OTHER BUSINESS:

Report of Executive Officer/APCO:

- Climate Summit: Mr. Broadbent expressed appreciation to those who attended and helped to organize the Climate Summit. Many local leaders complimented the Air District for their efforts. A summary of the event will be provided at the next Climate Protection Committee meeting.
- Port of Oakland: Mr. Broadbent reported that the Port adopted their MAQIP and Air District staff continues to voice concerns that the plan does not include assurances for air quality improvements. AB 1431 (Hill) was pulled from the Assembly Transportation Committee last Monday. The Bill would have required the Port to adopt the same measures undertaken by Long Beach and Los Angeles Ports and was re-written to require the Port implement its MAQIP commitment, which also did not receive support. The Select Committee in the Assembly on Ports will hold a special hearing in Sacramento on May 27, 2009 at 1:30 p.m. to review the Port of Oakland and its emissions. Mr. Broadbent said Air District staff will be present, communications continue and specific projects and grant applications are moving forward.

Director Discussion/Comments:

Director Miley thanked staff for their continued efforts and believed the Port has put together a plan to move forward. He voiced concern that AB 1431 would impede its competitiveness, did not support such legislation, noted that the Port believes they are making efforts and moving forward, and suggested the Air District allow them the opportunity to implement the MAQIP.

Director Bates agreed that the Port should not be put at a competitive disadvantage but also recognized significant health problems. He suggested timetables be put into place to hold the Port accountable in terms of achieving their goals. Director Miley noted that the Port was returning with a timeline for measurements. Chair Torliatt agreed there was consensus of the Board to continue in its monitoring of the situation and steps be taken to implement the Port's MAQIP.

EVR April 1, 2009 Deadline: Mr. Broadbent reported on the April 1st EVR Phase II deadline for gas station upgrades, stating that 2/3 of gas stations are currently in compliance and District staff is working with remaining stations to enter into compliance agreements.

Mr. Addison then discussed legislative bills dealing with Enhanced Vapor Recovery (EVR). A bill authored by Assembly member Ruskin would provide funding to help small stations install equipment. However, additional legislation supported by CIOMA would remove Air District authority. AB 453 (Garrick), while significantly amended, passed out of the Assembly Natural Resources Committee on Monday and dramatically limits the amount of penalties and affects time periods air districts can charge stations that are not in compliance with ARB's regulation. Mr. Addison agreed to continue to update the Board on the matter, and Chairperson Torliatt requested that a letter be drafted for her signature regarding the issue.

Chairperson's Report: Chairperson Torliatt commended staff and Directors for their work on the Climate Summit. She reported that the A&WMA Conference will be held June 16-19 in Detroit, confirmed that five Boardmembers would be attending, and that she would be hosting a dinner on Wednesday, June 17th.

Board Member Comments: Director Bates reported that the District has paid a significant amount of attention on Pacific Steel Casting, cited pollution from nearby freeways, and said air monitoring was being done regularly.

Director Garner reported that Director Yeager, herself, Mr. Bunger, Mr. Broadbent and an EPA representative toured the Lehigh Cement Facility on April 27, 2009 in response to complaints received at a past Mobile Source Committee meeting. The tour was productive and representatives are addressing dust control measures.

Time and Place of Next Meeting: 9:45 a.m., Wednesday, May 20, 2009, Board Room, 939 Ellis Street, San Francisco, CA 94109

Adjournment: Meeting adjourned at 11:25 a.m.

Lisa Harper
Clerk of the Boards