

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

Board of Directors' Regular Meeting
June 3, 2009

DRAFT 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 and Directors Harold Brown, Chris Daly, Susan Garner, John Gioia, Carole Groom, Scott Haggerty, Jennifer Hosterman, Yoriko Kishimoto, Carol Klatt, Eric Mar, Mark Ross, Michael Shimansky, James Spring, Gayle Uilkema, and Ken Yeager

Absent: Directors Dan Dunnigan, Liz Kniss, Nate Miley and Shirlee Zane

PLEDGE OF ALLEGIANCE: Judith Barish led the Pledge of Allegiance.

Public Comments:

Judith Barish, Healthy Air Coalition, voiced concern regarding Pacific Steel Casting's concentrations of toxins exceeding exposure levels and urged the Board to tighten its standards and regulations for existing and new facilities.

Joseph Guth, Legal Director, Science & Environmental Health Network, asked the District to update its risk levels and requested more stringent air quality regulations be adopted.

Pear Michaels, Healthy Air Coalition and Co-Founder of Mothers and Others, voiced concern regarding her child's hospitalization, monitoring of Pacific Steel Casting data, the complaint process, and inadequate regulations.

Sasha Barish spoke of Pacific Steel Casting's knowledge of when testing is done, requested that the District set better standards, and cited Berkeley's cancer rates.

Justin Garland, Global Community Monitor, spoke of air quality concerns and Pacific Steel Casting, requested the District make risk levels more stringent to 10 parts per million and hold workshops leading to development of more stringent regulations.

Carol Marsovic, Healthy Air Coalition, urged the Board to consider the health of the community, work with technical experts and asked for modifications to the District's inspection techniques and the complaint process.

Shirley Dean requested differentiating the pollution from freeways and Pacific Steel Casting, spoke of risk indexes of 12 other districts, requested having the highest possible standards, discussed PSC's modified use permit and asked for regular inspections to ensure compliance.

Mark Zoidis, voiced concerns regarding the USA Today article, Berkeley's air quality, weak environmental regulations and urged the Board to provide top stringency on the health risk index.

Chris Kroll, West Berkeley Alliance, referred to correspondence dated May 29 and questioned the District's response to the USA Today's article.

Josh Gutwill requested the District to make clean air a priority by lowering risk levels and voiced concern with Pacific Steel Casting's emissions.

Richard Sinkoff, Port of Oakland, provided the following update:

- Near term actions undertaken by the Port - short sea shipping, additional air quality monitoring, cold air ironing and joint initiatives relating to I-Bond funding;
- Port staff preparing comments for the West Oakland Truck study;
- Commissioners met and deliberated on the Comprehensive Truck Management Plan (CTMP). An amendment was proposed to ban all CARB non-compliance trucks which did not pass. Port Commissioners requested attorney analysis and return of the Plan on June 16, 2009;
- Trucker outreach for retrofit project is going well;
- Funding agreement has been executed and Port working on encumbering additional funds prior to the end of the fiscal year.

Chairperson Torliatt requested further update be provided at the next Port Ad Hoc Committee meeting. In addressing public comments regarding Pacific Steel Casting (PSC), Chairperson Torliatt reported the District's work in updating CEQA guidelines, review of cumulative impacts and how the District analyzes new and existing sources which impact neighborhoods. She acknowledged the work of community groups and their assertion that other air districts have more stringent policies and said the District will require support in order to move this work forward.

Executive Officer/APCO Jack Broadbent further clarified that several years ago the CARE program was initiated which highlighted communities having concentrations of stationary and mobile sources polluting neighborhoods. The work to date has brought the District to the point where it needs to bring forward mitigation strategies and development of a regulatory approach relative to existing facilities to address cumulative impacts and to lower risk thresholds. He briefly discussed threshold limits of other air districts, discussed those having industry-wide exceptions, said an update will be provided to the Stationary Source Committee in July, and the District will bring changes to existing rules and permitting requirements to the Board at the end of 2009.

Director Bates requested an update be provided to address the issue of nickel and manganese at Pacific Steel Casting and clarified that a response had been provided in response to USA Today's article. He discussed Pacific Steel Casting's odor plan as being the first in the nation, spoke of the facility's expenditure of \$2 million for monitoring equipment, upgrades and improvements, and said community members and groups refuse to accept the data.

Mr. Broadbent agreed to return to the Stationary Source Committee with the District's complaint process, specific issues of, and the District response to, the USA Today article and the epidemiology

study. Directors also confirmed that the Health Officer recruitment will close on June 30th with an expectation for the position to be filled by the end of the summer.

CONSENT CALENDAR (Items 1-4):

1. Approval of Minutes of May 20, 2009 Regular Meeting and Budget Hearing;
2. Communications;
3. District Personnel on Out-of-State Business Travel;

Board Action: Director Brown made a motion to approve Consent Calendar Items 1, 2 and 3; Vice Chairperson Wagenknecht seconded the motion; carried unanimously without opposition.

COMMITTEE REPORTS AND RECOMMENDATIONS:

Report 4. Personnel Committee Meeting
May 27, 2009
Report given by Chairperson H. Brown

Discussion/Actions:

The Personnel Committee met without an established quorum of the Committee. The Committee conducted interviews of candidates to fill the Regular and Alternate Attorney Member Categories on the Air District's Hearing Board. It was the unanimous consensus of the Committee to recommend Board of Directors' approval to re-appoint Rolf Lindenhayn, Esq., and Valerie Armento, Esq., to the Attorney Regular and Alternate Member category, respectively, for a three-year term of office, effective June 4, 2009 through June 3, 2012.

Board Action: Director Brown made a motion to approve the report and recommendation of the Personnel Committee; Vice Chairperson Wagenknecht seconded the motion; carried unanimously without opposition.

Report 5. Mobile Source Committee Meeting
May 28, 2009
Report given by Chairperson S. Haggerty

April 30, 2009 Committee minutes approved.

Discussion/Actions:

The Committee then considered Carl Moyer Program Year 11 projects with proposed grant awards of over \$100,000 and discussed cost effectiveness of projects. At the Committee's request, a breakdown of all projects and their funding categories by type, dollar amounts and by county, is at your places for informational purposes.

The Committee recommends Board of Directors' approval of Carl Moyer Program Year 11 projects with proposed grant awards over \$100,000, and authorizing the Executive Officer/APCO to enter into agreements for the recommended Carl Moyer Program Year 11 projects.

The Committee then considered approval for Air District participation in the 2009 California Air Resources Board (ARB) Lower Emission School Bus Retrofit Program (LESBP) funded by the State Diesel Emission Reduction Act (DERA). The Committee discussed financial incentives provided by the Lower Emission School Bus Retrofit Program, Proposition 1B funds allocated to date, the receipt

of \$11 million in eligible project applications, and the expected receipt of \$1.2 million. The Committee recommends Board of Directors' adoption of a resolution to authorize Air District participation in the 2009 California Air Resources Board (ARB) Lower Emission School Bus Retrofit Program, and authorizing the Executive Officer/APCO to execute the necessary agreements with ARB relating to the Air District's receipt of the 2009 Lower Emission School Bus Program Retrofit Funds.

Board Action: Director Haggerty made a motion to approve the report and recommendations of the Committee; Director Shimansky seconded the motion; unanimously approved without objection.

Report 6. Climate Protection Committee Meeting
May 28, 2009
Report given by Chairperson Y. Kishimoto

April 17, 2009 Committee minutes approved.

Discussion/Actions:

The Committee received a debriefing of the 2009 Climate Action Leadership Summit held on May 4, 2009, noting that over 75 local governments were represented with over 430 attendees. The Committee reviewed goals of the Summit, direct action and tangible outcomes achieved and next steps which include launching a best practices website, development of an ISR, follow-up with individual facilitators, speakers and attendees and collaboration on SB 375 with ABAG and MTC.

The Committee then received an update on development of the ConocoPhillips GHG Mitigation Program. The District is expected to receive \$4,443,025 by June 1, 2009. Funding will be available to eligible non-profit, private and public entities achieving verifiable, quantifiable reductions in GHG emissions in areas nearest to the ConocoPhillips refinery. Project categories include energy efficiency measures in existing buildings, "cool roofs" on existing buildings and/or "cool pavement", and new and renewable energy generation. The draft RFP will be presented to the Attorney General in July, the District will conduct and issue calls for projects by August 2009, and settlement funds must be expended by May 30, 2011.

Board Action: Director Kishimoto made a motion that the Board of Directors approve the report of the Climate Protection Committee; seconded by Director Shimansky; unanimously approved without objection.

Report 7. Budget and Finance Committee Meeting
June 1, 2009
Report given by Chairperson C. Daly

May 6, 2009 Committee minutes approved.

Discussion/Actions:

The Committee received the financial report for the third quarter for Fiscal Year 2008/2009 and a review of financial trends, challenges and risks over the next three years, and investment and fund balances.

The Committee considered adoption of San Mateo County's Pooled Fund Investment Policy, reviewed investment goals and exploration of potentially moving its treasury to the custody of another county within the Air District's jurisdiction.

The Committee recommends that the Board of Directors, by Board resolution, adopt the County of San Mateo's Pooled Fund Investment Policy, including all subsequent policy revisions, and directed staff to return to a subsequent Budget and Finance Committee meeting with a recommended strategy for potentially moving its treasury to the custody of another county within the Air District's jurisdiction.

The Committee then considered a recommendation to transmit \$2,000,000 to CalPERS for Other-Than-Pension-Post-Benefits (OPEB) upon Board of Directors' approval of the FYE 2010 Budget.

The Committee recommends that upon Board of Directors' approval of the FYE 2010 Budget, \$2,000,000 in OPEB funds be transmitted to Cal PERS before the close of the current fiscal year.

Board Action: Director Daly made a motion that the Board of Directors approve the report and recommendations of the Budget and Finance Committee; seconded by Director Shinansky; unanimously approved without objection.

Director Yeager confirmed with Mr. McKay that the District will base its criteria in potentially moving its treasury to the custody of another county within the Air District's jurisdiction based upon the ability to do electronic transfers, familiarity of the County in dealing with funds the size of the District's, and the overall availability of the County to the Air District.

PUBLIC HEARING:

Final Public Hearing to Consider Adoption of the Air District's Proposed Budget for Fiscal Year Ending 2010 – Jeffrey McKay, Deputy APCO

FYE: 2010 Budget Highlights and Overall Direction

- The FYE 2010 Budget is balanced with fee increases between 0% - 15%
- County property tax revenue is decreased by 3%
- Fee increases offset:
 - Decrease in County Revenue
 - COLA of 3.3%
- No FTE increases

Continuing Initiatives

- The Budget continues to support core programs and initiatives:
 - CARE and Related Programs
 - Spare the Air Summer/Winter Programs
 - Woodsmoke Program
 - Climate Protection Program
 - Clean Air Communities Initiative

Process

- Second of two public hearings required for budget adoption
- Recommendation that the Board adopt the proposed Budget
- In-depth review is available

Director Comments/Questions:

Shimansky: Questioned the projected 3% decrease in property tax. Mr. McKay noted that the Budget did not address potential State take-a-ways and confirmed that staff contacted each county's jurisdiction to project property tax reductions, which averaged out to be an overall decrease of 3%.

Bates: Requested continual monitoring of the Budget and a two-year budget, stating that \$20 million in property tax and subvention of \$1.9 million could be taken by the State. Mr. McKay responded that the two-year budget option had been discussed in the Budget & Finance Committee meeting and was not supported, and confirmed that staff would continue to monitor the Budget.

Chairperson Torliatt opened the public hearing. There were no public comments, and the public hearing was closed.

Board Action: Director Bates made a motion to adopt the Resolution approving the Budget for the Fiscal Year Ending June 30, 2010 (FY 2009-2010) and Various Budget Related Actions; Director Daly seconded the motion; carried unanimously without opposition.

CLOSED SESSION:

The Board of Directors adjourned to Closed Session at 10:58 a.m.

Potential Litigation (Government Code Section 54956(b) and 54956.9(c)) - Pursuant to Government Code Section 54956.(b) and 54956.9(c), the Board of Directors met in closed session to discuss potential litigation.

OPEN SESSION

The Board of Directors reconvened in Open Session at 11:45 p.m.; there was no reportable action taken in Closed Session.

OTHER BUSINESS:

Report of Executive Officer/APCO:

- 2009 Ozone Exceedances through June 2, 2009:
 - 3 occurred - National 8-hour (75 ppb), State 8-hour (70 ppb) and State 1-hour (95 ppb).
- Presented Air District's Annual Report
- Scheduled public hearing on Architectural Coating Rule – July 1, 2009

Chairperson's Report: Chairperson Torliatt canceled the June 17th Board meeting; next meeting to be held on July 1, 2009.

Board Member Comments: Director Bates announced the cancellation of the June 11, 2009 Climate Protection Committee and Legislative Committee meetings.

Time and Place of Next Meeting: Regular Meeting - Wednesday, July 1, 2009 - 939 Ellis Street, San Francisco, CA 94109

Adjournment: Meeting adjourned at 11:48 p.m.

Lisa Harper
Clerk of the Boards