

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

Board of Directors' Regular Meeting
October 7, 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; and Directors Chris Daly, Dan Dunnigan, Susan Garner, John Gioia, Carole Groom, Scott Haggerty, Yoriko Kishimoto, Carol Klatt, Liz Kniss, Eric Mar, Nate Miley, James Spering, Gayle B. Uilkema and Shirlee Zane

Absent: Directors Harold Brown, Jennifer Hosterman, Mark Ross and Ken Yeager

PLEDGE OF ALLEGIANCE: Chair Torliatt led the Pledge of Allegiance.

Public Comments: None

Board Member Comments:

Director Uilkema commended Directors and staff for their presence at former Director Michael Shimansky's Memorial Service.

CONSENT CALENDAR (Items 1-5):

- 1. Approval of Minutes of September 16, 2009 Regular Meeting;**
- 2. Communications;**
- 3. District Personnel on Out-of-State Business Travel;**
- 4. Approval of Proposed Amendments to the Air District's Administrative Code Division I, Operating Policies and Procedures, Section 7: Advisory Council**
- 5. Consideration of Recommendation to Establish a Job Classification Description of Director of Strategic Incentives with a Salary Range set at Range 156M**

Chairperson Torliatt requested minor clarifications to pages 1 and 2 of the September 16, 2009 Minutes.

Board Action: Vice Chairperson Wagenknecht made a motion to approve Consent Calendar Items 1, as amended, and Items 2, 3, 4 and 5; Director Uilkema seconded the motion; carried unanimously without opposition.

COMMITTEE REPORTS AND RECOMMENDATIONS:

- 6. Executive Committee Meeting**
September 24, 2009
Report given by Chairperson P. Torliatt

The Committee met on Thursday, September 24, 2009 and approved the minutes of July 29, 2009.

The Committee received an update on the Indirect Source Rule, reviewed ISR objectives, the application process, planning and land use development and mitigation measures. Committee members voiced the desire for additional information to be integrated into the ISR for use by policy makers when reviewing and approving applications.

The Committee received an update on the Air District's CEQA Guidelines, which was released on September 4, 2009. The Committee reviewed guideline objectives, discussed emissions levels to be achieved from development in order to meet AB 32 goals, discussed local community risks and hazards and significance thresholds. District staff is continuing to provide assistance to city and county agencies, has scheduled an additional workshop, extended the public comment period to October 9, 2009, posted the draft guidelines on the District's website and expects to bring significance thresholds to the Board of Directors in fall 2009. Committee members suggested the use of GIS mapping systems which they believed might assist in identifying and mapping areas of concern, and requested that a broader discussion be held at the November JPC meeting.

The Committee then continued discussions to consider amending the Administrative Code Division I, Section 2.1 to re-establish a two-year term of office for Board Officers. The Committee was unanimous in its preference to forward the matter onto the Board of Directors for full consideration and to relay Committee discussion. Discussion for favoring the amendment included the importance of continuity, the practice of other regional agencies' regarding terms, the length of time it takes to start and complete projects, and an alternative suggestion to amend only the term of the Chairperson versus all Board Officers.

Concerns of the Committee included the potential inability for Directors to be able share in the leadership of the organization given their city/county terms, monopolization of jurisdictional representation, polarization of the Board, and the irrelevance of practices of other regional agencies. After lengthy discussion, the Committee, by a vote of 4-2, recommended that the Board of Directors establish a two-year term for the Chairperson, commencing with the Vice Chairperson's term in 2010.

The Committee then considered procedures for notifying Board Members regarding California Resources Board vacancies, and recommends the Board of Directors adopt a procedure for notifying the Board of Directors when the BAAQMD position on the California Air Resources Board becomes vacant.

The Committee deferred the update of survey results relative to potential relocation of the Air District headquarters to the next meeting. The next meeting of the Committee is at the call of the Chair.

Chairperson Torliatt asked to bifurcate the Committee's recommended action by approving the report and bringing back consideration of the Chairperson's term to the next meeting, citing the absence of nine Directors at this Board meeting.

Director Haggerty suggested a vote be taken on the Chairperson's term, and cited his position that Council-appointees have more difficulty in achieving the position of Chairperson.

Board Action: Chairperson Torliatt made a motion to approve the report of the Executive Committee and continue the vote for the term of the Chairperson to the next meeting; Director Uilkema seconded the motion; which carried unanimously.

7. Mobile Source Finance Committee Meeting

October 5, 2009

Report given by Chairperson S. Haggerty

The Mobile Source Committee met on Monday, October 5, 2009 and approved the Minutes of the June 25, 2009 meeting.

The Committee considered proposed Carl Moyer Program Year 11 Projects with grant awards over \$100,000 and allocation of an additional \$8 million in Mobile Source Incentive Funds for this year's program. The Committee recommends the Board of Directors 1) approve Carl Moyer Program Year 11, projects with proposed grant awards over \$100,000; 2) authorize the Executive Officer/ APCO to enter into agreements for the recommended Carl Moyer Program Year 11 projects; and 3) reserve \$8 million in Mobile Source Incentive Funding for Carl Moyer Program eligible projects.

The Committee then considered proposed FY 2009/10 Transportation Fund for Clean Air (TFCA) Regional Funds for Shuttle, Ridesharing and Vanpool projects. The Committee reviewed the District's solicitation and outreach, evaluation criteria, project funding status, and recommends that the Board of Directors approve the allocation of \$3,847,372 in fiscal year (FY) 2009/2010 TFCA Regional Funds for the ten (10) projects listed in Attachment 1; and authorize the Executive Officer/APCO to enter into funding agreements with recipients of grant awards for the projects listed in Attachment 1.

The Committee received an update and considered a proposal to increase the TFCA cost effectiveness threshold for the Drayage Truck Retrofit Program at the Port of Oakland. The Committee discussed the successes and benefits of the program. The Committee also discussed the difficulties in administering the program due to four sets of administrative guidelines, cited the number of starts and stops to the program rollout which affects funding, the number of executed contracts on hold and the number of trucks retrofitted/replaced.

The Committee recommends the Board of Directors increase the Transportation Fund for Clean Air (TFCA) cost effectiveness threshold to \$500,000 per ton of emissions reduced for the Port Truck Retrofit Program in order to facilitate the maximum number of truck retrofits at the Port of Oakland (Port).

The next meeting of the Mobile Source Committee is at the call of the Chair.

Board Action: Director Haggerty made a motion to approve the report and recommendations of the Mobile Source Committee; Director Sperring seconded the motion; which carried unanimously.

8. Summary of Ozone Season

Mr. Gary Kendall, Director of Technical Services, provided a summary of the 2009 Summer Ozone Season, discussed how the Bay Area compares to other major air districts, presented Bay Area ozone and maximum temperature trends and calculation of standards. He said it is unlikely the Bay Area will attain the standard in 2010; however, the EPA is reconsidering the national ozone standard. Final standards are expected to be finalized by March 2010 at which time the Air District will know whether it needs to prepare a non-attainment plan.

Mr. Kendall discussed fluctuations that occur year to year because of changes in weather, stating that there has been a gradual improvement to reduce the average. Staff estimates that it will currently take 5-10 years to reach attainment status, and if the EPA increases the standard it will take 10-20 years for the Bay Area to reach attainment status.

Ozone precursors will continue to be reduced significantly and Mr. Kendall displayed future projections for VOC and NOx emissions. By 2020, VOC will be reduced by another 50 tons and NOx by 135 tons per day. Added reductions will occur based on rules and regulations adopted and further actions imposed by the Board of Directors. He said staff had previously provided a summary of the District's 2009 Clean Air Plan, which is expected to be ready for adoption in the first quarter of 2010, and he noted that the Climate Protection Committee will receive an update of the plan at its October 8, 2009 meeting.

Director Comments:

Director Uilkema thanked staff for the report on VOC and NOx, said the District continues to allocate millions of dollars for projects toward attainment, and she requested a speaking point document to ensure there is a consistent message. Director Zane concurred, suggested that the document include compiled statistics of averages and percentages over a 20-year period, and that such information relay what improvements mean in terms of effects on those with asthma, chronic bronchitis or other breathing disorders. She also requested information on what the resultant or expected impacts or effects would be if measures were lifted from, for example, an industrial use.

Chairperson Torliatt questioned and confirmed that actual tonnage includes mobile sources, the calculations of which are derived from ARB computer models that calculate mobile source emissions each year, as well as statistics on permitted facilities which are derived from actual monitoring throughput information.

Secretary Bates commented on progress made, believed that trends are encouraging and congratulated staff.

Board Action: None; informational only.

9. Advisory Council Report and Recommendations from the May 13, 2009 Meeting on California's 2050 GHG Emission Reduction Target – Transportation Sector

Advisory Council Member, Stan Hayes, presented the Advisory Council Report and Recommendations from its May 13, 2009 meeting on California's 2050 GHG Emission Reduction Target for the Transportation Sector. He noted that the Advisory Council's role is to look forward toward emerging issues, learn about those issues from experts, consider them and report back to the Board of Directors.

Mr. Hayes described the symposium presentations given in May by speaker and topic and said discussion meetings were held in July and September for the Council to arrive at their Final Report. Key points include the transportation as being the largest, growing sector of GHG emissions.

Director Haggerty questioned whether there was a way to break down components of the 39% transportation sector as it was the largest GHG emission reduction target, and Mr. Hayes said he could provide this information from the inventory. Director Gioia asked that this information be emailed to all Directors. Director Gioia also clarified that electric power includes power plants and that industrial would include refinery and chemical plants or other fossil fuel burning sources.

Mr. Hayes said widespread and major reductions are required to reduce GHG levels from the current “business as usual” to AB 32 requirements and he plotted out trends from 2000 to 2006 of GHG emissions in California from each sector. While not obvious, the growth in transportation sector emissions from this time period is, by itself, somewhat greater than all emissions from the commercial sector. He said AB 32 says that by 2020, GHG emissions must be reduced to those of 1990. Measures adopted by the ARB will result in reductions and the 2050 reduction target is an 80% reduction, which is the problem needing to be addressed.

Mr. Hayes said that MTC’s T-2035 Plan looks at aggressive land use policies and pricing incentive policies to determine what could be accomplished. This leaves a GHG gap which is the difference in what we can do and what we will need to do by 2035. Major issues include major funding shortfalls, aging infrastructure, more people, more jobs and more freight. He said vehicles will need to be far more efficient, powered by electric drive, and fuel efficiency gains must be converted to fuel economy gains. Fuels must shift from near total dependence on oil, with a broad mix of lower carbon fuels, and a market based policy is believed to be the best way of doing this. Most important is reducing vehicle miles traveled through addressing current land use policies and urban sprawl. He said SB 375 required regional targets to be set, which will be a major tool and expanded traveler choice, commuting, and public transportation, incentive pricing will need to be examined.

Mr. Hayes said the preamble to their recommendations is for the Bay Area to reach California’s 2050 GHG reduction target and the Air District, MTC, and other responsible agencies will need to significantly expand multi-agency efforts to accomplish reductions in regional VMT. Success will require major technology breakthroughs such as additional, strong and innovative policy tools; significantly expanded funding; major changes in public attitudes and behavior; use of a broad range of expanded policy measures (e.g., significant expansion of high-occupancy networks, innovative pricing and toll incentives, and major expansion in and increase in the diversity of public transit and related options).

Mr. Hayes presented the Advisory Council recommendations, as follows:

1. Commend District for and recommend continued efforts to provide assistance and guidance
 - a. GHG emission inventories
 - b. Climate action plans for cities and counties, including model provisions
 - c. Climate protection provision in CEQA guidance
 - d. Model climate protection element for general plans
 - e. Educational material regarding climate protection, sustainable communities, personal actions to reduce GHG
 - f. Establishment of climate-related Spare-the-Air-Everyday outreach program
2. Recommend integrated multi-pollutant planning strategy that considers criteria pollutant, air toxics, and GHGs in air quality plans
3. Recommend District play major role in SB375 implementation, including:
 - a. Working closely with ARB in setting Bay Area reduction targets
 - b. Supporting ambitious Bay Area targets through Joint Policy Committee
 - c. Identifying and describing key air quality and climate interactions
 - d. Providing technical support in apportionment of GHG targets among cities
 - e. Identifying and comparing alternative GHG mitigation strategies and measures
 - f. Exploring and developing policies and programs to reduce employer-related VMT

- g. Creating evaluation or accountability standards once GHG targets adopted
- 4. Recommend District continue its focus on differential impacts on vulnerable populations and communities when addressing GHGs
- 5. Recommend support for additional funding measures to achieve GHG, criteria pollutant, and air toxics reduction goals, possibly including such measures as pay as you go insurance or establishment of VMT fee or gasoline tax
- 6. Recommend continuation of efforts to integrate air quality and climate protection into evaluation and funding of grant applications, and support for statewide merging of funding pools for air quality and climate protection grants
- 7. Recommend that District continue to work closely and actively with other agencies in development of climate protection programs
- 8. Recommend District encourage development by Joint Policy Committee and MTC of certain specific HOT lane policies
- 9. Recommend District prepare biennial report of Bay Area cities and counties regarding such GHG progress criteria as:
 - a. Improvements in residential and commercial per capita GHG emissions
 - b. Enactment and implementation of GHG reduction policies and measures

Chairperson Torliatt thanked Mr. Hayes and the Advisory Council for their work in developing the Final Report and believed the nine recommendations could be implemented.

CLOSED SESSION

The Board of Directors adjourned to Closed Session at 10:33 p.m.

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(s):

1. **Duraflame, Inc. v. Bay Area AQMD**, Contra Costa County Superior Court, Case No. N09-0102
2. **Richard M. Peekema v. Bay Area AQMD**, United States District Court, N.D. Cal., Case No. C09 03283 RS
3. **Pacific Steel Casting Company v. Bay Area AQMD**, San Francisco County Superior Court, Case No. CGC-08-482228
4. **Healthy Air Coalition v. Bay Area AQMD**, San Francisco County Superior Court, Case No. CGC-09-486990

OPEN SESSION

The Board of Directors reconvened in Open Session at 10:46 p.m. District Counsel Brian Bunger stated that there was no reportable action taken in Closed Session.

OTHER BUSINESS:

11. Report of Executive Officer/APCO:

Mr. Broadbent reported the Air District was going through review of a Title V Permit Renewal for Lehigh Cement Plant. Staff has held meetings in the Santa Clara area, there have been numerous comments on the facility, and the District will likely extend the comment period to December.

Mr. Broadbent announced that the District received a Green Business Award from Sacramento County as a result of a project funded to address locomotive emissions. The project involved the remanufacturing of a locomotive and installation of 9 anti-idling devices on the Caltrans Amtrak fleet which travels on the Capitol Corridor from San Jose to Auburn. The Sacramento County Board of Supervisors has also presented the Board with a resolution as a Sacramento County Sustainable Business of the Year Award Recipient, which acknowledges the District's work in cleaning up some of the locomotive emissions associated with the Bay Area, Sacramento and the Yolo-Solano areas.

Mr. Broadbent said the District continues to spend a lot of time and effort to clean up the Port of Oakland trucks and 1,300 trucks need to be addressed at the Port. To date, 700 retrofit contracts have been issued, 277 replacement trucks are scheduled for inspection, and staff is confident that between the retrofits and replacements, they will come close to the goal. In total, \$22 million has been dedicated toward the project.

Mr. Broadbent also reported that the Port Board of Commissioners voted to institute a ban on trucks. Starting January 1, 2010, the Port will prohibit non-compliant trucks from entering the Port, with the provision for a one-time pass for those who may not have been informed of the provision. Mr. Broadbent recognized Mr. Kelly Wee in representing the District at the Port Board of Commissioners meeting.

Chairperson Torliatt requested the District recognize and thank the Port of Oakland for taking this action, and suggested a communication be sent.

Director Kishimoto confirmed with Mr. Broadbent that the \$22 million dedicated to the Port comprised of \$10 million from I-Bond monies, \$2 million from stimulus funds, and \$5 million each from the Port of Oakland and the Air District.

Director Kishimoto questioned the comment period for Lehigh Cement Plant. Mr. McKay clarified that due to the large volume of comments the comment period was extended and closed on October 1, 2009. Mr. Broadbent clarified that the decision on the renewal permit will occur in December.

Director Kishimoto questioned the Board's next steps with the Advisory Council recommendations. Chairperson Torliatt suggested they be brought to the Climate Protection Committee at an upcoming meeting.

12. Chairperson's Report:

Chairperson Torliatt reported that on Wednesday, September 30, 2009, she and Vice Chairperson Wagenknecht were joined by Mr. Broadbent and District staff in Modesto where they met with neighboring air districts. Board Members and staff from other air districts also attended and the purpose of the meeting was to identify opportunities, share resources, ideas and programs to improve

regional air quality in a cost effective manner, to communicate at political and staff levels to further understand regional and air district specific issues and establish a familiar forum in which future issues can be addressed at additional meetings. Topics of the agenda included multi-district collaboration on emission reduction projects, funding for administering grant programs and general funding programs, exchanged ideas about *Spare the Air* program and ways to improve fireplace rules, coordination and modeling. The meeting was productive and staff is working to identify the next meeting date and location.

Mr. Broadbent thanked Director Spering for his attendance and representation of the District on the locomotive project previously mentioned.

13. Time and Place of Next Meeting: Regular Meeting - Wednesday, November 4, 2009 - 939 Ellis Street, San Francisco, CA 94109

14. Adjournment: The Board of Directors Meeting adjourned at 10:58 a.m.

/s/ Lisa Harper
Clerk of the Boards