

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

Board of Directors' Regular Meeting
April 7, 2010

APPROVED MINUTES

CALL TO ORDER: Chairperson Brad Wagenknecht called the meeting to order at 9:45 a.m.

Roll Call: Chairperson Brad Wagenknecht; Vice Chairperson Tom Bates; Directors Harold Brown, Chris Daly, Susan Garner, Carole Groom, David Hudson, Jennifer Hosterman, Liz Kniss, Eric Mar, Nate Miley, Mark Ross, Pamela Torliatt, Gayle B. Uilkema, Ken Yeager, and Shirlee Zane

Absent: Secretary John Gioia; Directors Scott Haggerty, Ash Kalra, Carol Klatt, and James Spring

PLEDGE OF ALLEGIANCE: Chairperson Wagenknecht led the Pledge of Allegiance.

Public Comments:

There were no public comments.

Board Member Comments:

There were no Board Member comments.

CONSENT CALENDAR (Items 1-5):

1. Minutes of March 17, 2010
2. Communications
3. District Personnel on Out-of-State Business Travel
4. Set a Public Hearing for May 5, 2010 and June 16, 2010 to Consider Testimony on Proposed Amendments to Air District Regulation 3: Fees
5. Set Public Hearings for May 5, 2010 and June 26, 2010 to Consider Testimony on the Proposed Air District Budget for Fiscal Year Ending 2011

Board Action: Director Torliatt made a motion to approve Consent Calendar Items 1 through 5; Director Brown seconded the motion; carried unanimously without opposition.

COMMITTEE REPORTS AND RECOMMENDATIONS:

6. **Report of the Budget and Finance Committee Meeting of March 24, 2010**
Chairperson Daly

The Budget and Finance Committee met on March 24, 2010 and approved the minutes of February 10, 2010.

The Committee reviewed and discussed the proposed Budget for Fiscal Year 2010/2011, discussed General Fund revenue sources and expenditures, financial challenges and the District's response to those challenges through a multi-faceted and multi-year approach. As a follow-up to the previous Committee meeting, information was presented regarding inspection statistics and the status of the San Mateo County investment pool.

The Committee then reviewed, by line item, consolidated revenue and transfers, general fund expenditures and consolidated expenditures, recognizing that the proposed budget is a balanced approach to fiscal challenges with the ability to support core functions and initiatives.

The Committee then received an update of the proposed fee amendments to Regulation 3: Fees, reviewed the District's cost recovery, noting that for FYE 2009 overall fee revenue covered 58% of costs.

The Committee reviewed District revenue sources, budget challenges and responses to budgeting, a breakdown of proposed fee increases, affected schedules, and other proposed fee amendments which would:

- Expand the definition of "small business";
- Create a new "green business" application fee discount;
- Create a new application fee discount for attendance at Industry Compliance Schools; and
- Move the temporary amnesty provision to Regulation 3 and extend the applicability to registrations.

The Committee discussed examples of fee increases on small businesses, permit fee comparisons, reviewed the public comment received verbally and in writing, and the Rule development schedule.

The next meeting of the Budget and Finance Committee is scheduled for April 28, 2010.

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

7. **Report of the Mobile Source Committee Meeting of March 25, 2010**

Vice Chairperson Groom

The Mobile Source Committee met on Thursday, March 25, 2010 and approved the minutes of the February 25, 2010 meeting.

The Committee was provided with a request to recommend acceptance of new funds available to the Lower-Emission School Bus Program from the California Goods Movement Bond. The Committee discussed the background of the Lower-Emission School Bus Program, installments of I-Bond funding for the program and budget considerations relating to timing and receipt of funds.

Based on that discussion the Committee recommends Board of Directors' acceptance of the 3rd and 4th installments of Lower Emission School Bus Program Bond funding from the California Goods Movement Bond in the amounts of \$2,462,351 and \$25,200 respectively.

The Committee then considered extension of contracts and additional allocation of Mobile Source Incentive Funds for the Vehicle Buy Back Program. The Committee reviewed program goals, the State Bureau of Automotive Repair (BAR) program, vehicle retirement trends and rates, and the emission reductions from the program.

Based on this review the Committee recommends that the Board of Directors authorize the Executive Officer/APCO to execute contract extensions for vehicle scrapping and direct mail services and recommends the allocation of an additional \$6.8 million in Mobile Source Incentive Funds; with \$1.2 million in MSIF funding to be included in this fiscal year's budget and \$5.6 million in FY 2010/11.

The Committee also received an informational report on the expenditure of incentive funds, current cycle funding, grants expenditures by equipment type, and emissions reductions benefits from projects executed in calendar year 2009. Additionally, staff updated the Committee on upcoming challenges for the 2010 calendar year.

The next meeting of the Mobile Source Committee is scheduled for Thursday, April 29, 2010 at 9:30 a.m.

Director Hudson questioned and confirmed that the use of LESB funding is restricted to school buses.

Board Action: Director Groom made a motion to approve the report and recommendations of the Mobile Source Committee; Director Hosterman seconded the motion; carried unanimously without objection.

8. **Report of the Public Outreach Committee Meeting of March 29, 2010**
Chairperson Ross

The Public Outreach Committee met on Monday, March 29, 2010 and approved the minutes of March 15, 2010.

The Committee considered contract extensions considered at the March 15, 2010 Committee meeting for advertising, media/public relations, public opinion research, and resource teams totaling \$2,275,000. The Committee reviewed contract funding sources, proposed reductions and increases to contract amounts, the functionality of resource teams, review of additional survey work, and evaluation processes.

The Committee recommends Board of Directors' approval of staff recommendations on contract extensions for the 2010/2011 Summer and Winter Spare the Air campaigns, the Smoking Vehicle Assistance Program, Grants and Incentives, and Resource Team Facilitation.

The next meeting of the Public Outreach Committee is at the Call of the Chair.

Board Action: Chairperson Ross made a motion to approve the report and recommendations of the Public Outreach Committee; Director Yeager seconded the motion; carried unanimously without objection.

9. **Report of the Legislative Committee Meeting of March 29, 2010**
Chairperson Garner

The Legislative Committee met on Monday, March 29, 2010 and approved the minutes of November 12, 2009 and January 21, 2010.

The Committee discussed new bills, and is recommending Board of Directors' approval of the positions listed in the table below, which was presented to Directors.

The Committee also recommends an "Oppose" position on any bill that would impose San Joaquin Valley AQMD's greenhouse gas thresholds of significance for CEQA statewide.

The next meeting of the Legislative Committee is at the call of the Chair.

BILL AND AUTHOR	SUBJECT	COMMITTEE RECOMMEND- ATION
AB 1672 Jeffries	Changes ARB Board from appointed to elected positions	Oppose
AB 1692 B. Berryhill	Puts penalty revenues collected by ARB (and other state environmental agencies) into the General Fund, instead of directly into ARB programs	Oppose
AB 1740 Jeffries	Eliminates the 500 vehicle cap on kit cars, and ends environmental and financial requirements for amnesty program for fraudulently registered kit cars	Oppose
AB 1863 Gaines	Extends current reduction in testing requirements for hospital's diesel backup generators	Support
AB 1949 Logue	Requires extensive new reports on environmental regulations 5 years after adoption or modification	Oppose
AB 2289 Eng	Allows major changes to smog check testing procedures	Support and seek amendments
AB 2311 Mendoza	Requires triennial review of ARB greenhouse gas fuel regulations, and delay to avoid impacts on fuel prices, small businesses, the economy etc.	Oppose
AB 2469 B. Berryhill	Establishes new dispute resolution process for businesses seeking relief from ARB's AB 32 regulations.	Oppose
AB 2565 Ammiano	Reduces CEQA paperwork for lead agencies by allowing increased internet use in CEQA process	Support
AB 2691 Hall	Prohibits AQMDs, cities, counties, or others from imposing GHG fees	Oppose

SB 942 Dutton	Requires repeal of regulations if analysis by State Auditor indicates costs outweigh benefits	Oppose
SB 960 Dutton	Requires ARB regulations to be analyzed by Office of Administrative Law for feasibility and costs	Oppose
SB 1114 Florez	Allows districts to create ERCs from marine and locomotive emission reduction projects that are partly public funded	Oppose
SB 1120 Dutton	Prohibits ARB from adopting AB 32 cap-and-trade program unless it is part of a required federal or regional program	Oppose
SB 1194 Hollingsworth	Prohibits air districts from banning installation of wood burning devices in new & existing residences	Oppose
SB 1263 Wyland	Eliminates AB 32	Oppose
SB 1299 Lowenthal	Requires DMV to assess feasibility of VMT fee	Support
SB 1340 Kehoe	Requires CEC to establish a program to reduce costs for in-home electric vehicle charging	Support and Seek Amendments
SB 1402 Dutton	Requires ARB to detail how each penalty amount was calculated, and takes penalty revenues away from ARB	Oppose
SB 1433 Leno	Ties air penalty ceilings to inflation	Co-Sponsor
AB 846 Torrico	Ties air penalty ceilings to inflation, requires calculation of economic advantage to violators	Oppose Unless Amended
SB 1445 DeSaulnier	Increases vehicle registration fees by \$1 to fund SB 375 implementation	Support and Seek Amendments
SBX8 57 Cox	Delays ARB on-road diesel regulation by 2 years	Oppose

Board Action: Director Garner made a motion to approve the report and recommendations of the Legislative Committee; Director Hosterman seconded the motion; carried unanimously without objection.

CLOSED SESSION:

The Board of Directors adjourned to Closed Session at 9:52 a.m.

10. **Conference with Legal Counsel - Significant Exposure to Litigation**

Pursuant to Government Code Section 54956.9(b), a need exists to meet in closed session to discuss two potential litigation matters against the District.

11. **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:

1. **Duraflame, Inc. v. Bay Area AQMD**, Contra Costa County Superior Court, Case No. N09-0102

OPEN SESSION:

The Board of Directors reconvened the Regular Board Meeting at 10:01 a.m. District Counsel Brian Bunger reported that there was a personnel-related settlement regarding Item 10, and there was no reportable action taken regarding Item 11.

OTHER BUSINESS:

12. **Report of the Executive Officer/APCO**

Executive Officer/APCO, Jack Broadbent, referred to two handouts before Directors and said staff is extensively involved in efforts relating to the proposed CEQA guidelines update. He stated that 10 workshops, plus 2 public workshops, are scheduled to be held through the end of April in the nine Bay Area counties where District staff will review and explain how guidelines work. The meetings are publicly noticed in English and in other languages.

In addition, the District is hosting three public workshops to present the Draft Clean Air Plan, the Draft PEIR, and the Draft Socio-Economic Analysis. Staff will answer questions and receive public input and suggestions. These workshops will be held in Petaluma on April 6, 2010, Santa Clara on April 7, 2010 and in Oakland on April 8, 2010. He said the workshops are receiving good response from local news agencies and staff will be providing briefings to the Stationary Source, Mobile Source and Executive Committees.

Director Daly noted his attendance at the Board of Supervisors meeting on March 30th and requested and received an update from Mr. Hilken on the meeting held in San Francisco. It was reported that good discussion and participation occurred regarding the proposals.

Director Torliatt commended District staff in their efforts at the Petaluma public workshop, held on Tuesday, April 6, 2010.

Director Kniss requested and received an explanation and update relating to Community Risk Reduction Plans (CRRPs), and their relationships with the New Source Rule (NSR), development in

CARE communities, mitigation measures, CEQA, and EIRs, and Mr. Broadbent noted that the Board will consider and discuss all options at a future Board meeting.

Mr. Broadbent reported that the District will be receiving two awards in April; one from Breathe California recognizing the District's Wood Smoke Program, and one from the Climate Action Reserve for the District's Climate Protection Program.

13. **Chairperson's Report**

Chairperson Wagenknecht gave the following report:

- The vacancy on the Stationary Source Committee has been filled by Director Hudson;
- He suggested Directors calendar upcoming CEQA Guidelines Update public workshops;
- The April 21, 2010 Board Meeting is canceled;
- The next facility for discussion by the Stationary Source Committee meeting will be Pacific Steel Casting on April 12, 2010

14. **Time and Place of Next Meeting: Regular Meeting** - Wednesday, May 5, 2010, 9:45 a.m., 939 Ellis Street, San Francisco, CA 94109.

15 **Adjournment:** The Board of Directors Meeting adjourned at 10:18 a.m.

/s/ Lisa Harper

Lisa Harper
Clerk of the Boards