

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

Board of Directors Regular Meeting
September 15, 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; Secretary John Gioia; and Directors Chris Daly, Dan Dunnigan, Susan Garner, Carole Groom, Scott Haggerty, David Hudson, Jennifer Hosterman, Ash Kalra, Carol Klatt, Liz Kniss, Eric Mar, Nate Miley, Mark Ross, James Spering, Pamela Torliatt, Ken Yeager, and Shirlee Zane

Absent: Directors Harold Brown and Gayle B. Uilkema

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

PUBLIC COMMENTS: None

BOARD MEMBER COMMENTS: None

PROCLAMATION(S)/AWARDS

The Board of Directors recognized Henry Gardner for his service as the Executive Director of the Association of Bay Area Governments.

CONSENT CALENDAR (Items 1-2):

- 1. Minutes of September 1, 2010 Regular Meeting;**
- 2. Communications**

Board Action: Director Ross made a motion to approve Consent Calendar Items 1 and 2; Secretary Gioia seconded the motion; unanimously approved without objection.

PUBLIC HEARING(S)

- 3. Public Hearing to Consider Adoption of the 2010 Clean Air Plan (CAP) and Certification of a Final Environmental Impact Report (FEIR) on the CAP**

Executive Officer/APCO Jack Broadbent stated that the Board received presentations on the Clean Air Plan (CAP) on September 1, 2010 and August 4, 2010, and that the Board is being asked to adopt the Plan today. He said the CAP is a blueprint for the Bay Area in guiding the District's efforts moving forward. It includes a comprehensive list of strategies, and is a multi-pollutant plan seeking to address

regional smog as well as local air toxic contaminants and greenhouse gases. He introduced David Burch who will provide a presentation and highlight changes made since the Board's initial review.

Principal Planner, David Burch, said the 2010 CAP serves as an update to the 2005 Ozone Strategy and, in fulfilling Health and Safety Code requirements, the CAP includes all feasible control measures to reduce ozone and ozone precursors, reduce transport to neighboring air basins, and continue progress in attaining applicable State and Federal ozone standards. He said the District redefined its approach to air quality planning and the plan being brought forward embodies a comprehensive review, is multi-pollutant in scope, and key outcomes of the plan protect public health and the climate.

Mr. Burch described the plan's robust public outreach effort, rigorous control measure evaluation process, and said key milestones include release of the Draft CAP Control Strategy in August 2009, release of the Draft CAP and Draft EIR in March 2010, and release of the Draft Socio-Economic Analysis in April 2010. Workshops were held, comments were solicited, and comments and revisions have been incorporated in the CAP as presented today.

Mr. Burch discussed public comments received which have been generally positive and are included as part of the record. Specific revisions were made to certain measures to strengthen and clarify control measures to focus on the need to reduce population exposure and engage with impacted communities in moving forward to implement the plan.

Staff performed a Health Impacts Analysis which was discussed in the August and September Board meetings, and he highlighted some key findings of the analysis. The overall conclusion was that due to improvements over the last several decades, health impacts have been greatly reduced and improvements have helped to increase average life expectancy in the region. Another conclusion is that improvements provide tangible economic benefits to the region. Air pollution still has negative health impacts, and the District will need to focus future efforts in reducing PM 2.5 emissions from all sources.

In response to questions raised by Director Haggerty regarding asthma emergency room data, Mr. Burch confirmed that data provided by the Statewide Health Planning and Development office does include asthma emergency room visits at the Valley Care Medical Center. The CAP protects public health by focusing on reducing population exposure through inclusion of stationary source control measures and mobile source measures to reduce fine particulate matter and air toxics, and through new Land Use and Local Impacts Measures (LUMs) to protect the most impacted communities.

Climate protection is also a key element of the plan. Mr. Burch explained that a narrative is provided in the plan to explain how climate and air quality interact. Each of the greenhouse reductions and their benefits for each control measures has been estimated. Staff maximized the greenhouse gas co-benefits from measures and included a new stationary source measure to promote energy efficiency and a new category of control measures called Energy and Climate Measures.

Mr. Burch provided a brief overview of the 55 control measures in five categories and said the CAP also includes 18 Further Study Measures (FSMs) and a leadership platform. A socio-economic analysis of the plan was completed and he briefly reviewed key findings. He said a more detailed analysis will be done through the rule development process and CAP measures will not impose significant costs or unfunded mandates on local government.

An environmental review was also prepared, which is attached as Exhibit E to the staff report. Significant impacts after feasible mitigation included a potential for localized CO emissions relating to urban development, as well as potential water demand related to add-on control equipment for Stationary Source Measures (SSM) 6, 8 and 9. Overall, the CAP will provide a major benefit to the environment and to public health in the region.

Mr. Burch summarized CAP achievements, and said the recommended action by the Board is to certify the Final EIR on the 2010 CAP, and adopt the Bay Area 2010 Clean Air Plan. Next steps include moving forward with implementation of the CAP Control Strategy, development of proposed rules, and further analysis of FSMs.

Director Comments/Questions:

Director Hosterman requested an explanation of how the CAP aligns with local Climate Action Plans. Mr. Burch said the control strategy does not stand alone and there will be many local, state and federal activities which will help to improve air quality and protect the climate. He said local Climate Action Plans will address greenhouse gas reductions, benefits will be derived from the California Air Resources Board's (CARB's) program to reduce emissions from heavy duty diesel engines, as well as reductions from the Pavley Rule for fuel economy, light duty vehicles, and the low carbon fuel standard. The District has provided support through grant programs, technical assistance to local cities, and on-going partnerships and dialogue between the District and local agencies will continue.

In response to Director Hosterman regarding added water demands, Mr. Hilken said staff took an extremely conservative approach under CEQA and expects the plan to have significant environmental benefits to the region. Certain SSMs may use water in scrubbers for air pollution control which would be reviewed in more detail during rule development.

Mr. Burch recognized Dr. David Farley, the District's statistician, who created the multi-pollutant evaluation method and performed the health impacts analysis, which are two of the most innovative aspects of the plan, and Directors, staff and audience members provided applause.

Director Ross referred to Figure 2.7 showing reactive organic gases and trends as of 2006, and the reduction in on-road motor vehicles. He said diesel regulations come into effect in 2014, but there is not much of a dip after that, and he questioned the reason for this. Deputy APCO, Jean Roggenkamp replied, stating the heavy duty diesel regulations will mostly reduce particulate matter and not so much reactive organic gases.

Director Zane questioned impacts of Proposition 23 on the CAP, and Mr. Broadbent indicated that if it passes, staff would look at how it affects what the District currently has on-going with regard to the greenhouse gas program. He noted there are a number of CARB regulatory efforts put into place that would not be affected by Proposition 23, namely Pavley regulations and clean fuel standards. It would; however, impact the Cap and Trade program for stationary sources and the District would identify what its role would be if Proposition 23 passes.

Director Haggerty said he could not locate the asthma map in the report, and requested staff provide him with a copy of it.

The public hearing was opened.

Public Comments:

Bill Quinn, Vice President, California Council for Environmental and Economic Balance (CCEEB), reported CCEEB worked with District staff for some time on the development of the CAP and opposed the FSM which would add a GHG carbon tax. He cited reasons for CCEEB's opposition of the added measure and requested that the Board adopt the CAP without its inclusion.

David Schonbrunn, President of TransDef, requested the Board consider adding to the Statement of Findings, Overriding Considerations and Mitigation Monitoring Program (page 20) the following: "BAAQMD in its role as a member of the Joint Policy Committee, shall encourage MTC to accomplish the maximum possible reductions in future VMT" because the measure identifies that emissions of PM would increase between 2006 and 2035 primarily due to VMT associated with regional population and employment growth. He said this would close the loop and place the District in a strong position of advocacy at the Joint Policy Committee. He also suggested additional rewording (page 19) of the same section to read, "The following mitigation measures are adopted ~~recommended~~ to address the overall cumulative increase in particulate matter emissions." He also noted that Clean Air Plans are due every three years and suggested the District consider starting the process sooner.

Guy Bjerke, Western States Petroleum Association (WSPA) commended the District on its work in development of the CAP, believes the District would be better aimed at working cooperatively with CARB in their adoption of AB32, and said some members support Proposition 23 but WSPA is not taking a position or active role in the campaign. He voiced WSPA's concerns regarding the District's use of the multi-pollutant evaluation methodology and expansion of the methodology into rule-making and other District endeavors, and asked for adoption of the CAP, to remove FSM 18, and to work with their association and other stakeholders should the multi-pollutant evaluation methodology be used in the future.

Rosina Roibal, Bay Area Environmental Health Collaborative (BAEHC), voiced support of the CAP's direction, said they submitted a comment letter in April and asked the Board to direct staff to prioritize making real pollution reductions through enforceable measures during implementation of the CAP. She requested District oversight throughout the CAP implementation for timely rule development, progress reports, language assistance during community outreach, expansion of public comment in hearings, and making information accessible on website and other means.

Azibuike Akaba, Regional Asthma Management Prevention (RAMP), supported the CAP, requested the ability to work with staff to implement additional control measures, believes the PM 2.5 section is not ambitious enough, questioned where the CAP's process integrates with SB 375 in terms of performance measures that address PM 2.5, and he asked that the Indirect Source Rule (ISR) and the Magnet Source Rule, an FSM, be prioritized.

Stacy Gaskins, Green Action, asked that stationary source information on the District's website be updated.

Ken Kloc, BAEHC, said he believes planning goals for PM are too mild, requested a stronger reduction goal, and said he is happy with revised regulations regarding PM emissions and limitations on emissions. He asked that two priority measures be moved forward: PM limitations of Stationary

Source Measure 6 which relates to the generic particulate matter regulation of the District; and, update of the New Source Review Rule, which would fold in considerations of particulate matter.

Marie Harrison, BAEHC, Green Action, and Bayview Hunters Point, thanked the District for their work on the CAP, voiced concerns over the issuance of 240 permits for pollutants in Community Air Risk Evaluation (CARE) communities, and requested the District continue outreach and communication.

Patti Weisselberg, Families for Clean Air, voiced concerns with wood smoke and asked the Board to place a higher priority on reducing wood smoke emissions.

Mr. Broadbent responded to comments, as follows:

1. FSM 18: The District is the first in the country to begin to assess a fee on GHGs and included FSM 18 to separate it out from other measures contained in the CAP. Staff would move forward methodically, as the FSM is only exploratory at this time. He said it makes sense for the Legislative and/or Executive Committees to look at this because there are authority issues that need to be explored. The District would look at collection of a fee that would incentivize reduction of GHGs and provide a revenue stream for control strategies that could be implemented.
2. Multi-Pollutant Evaluation Methodology: The District supports this evaluation methodology to be deployed on a plan level. It helps the District prioritize and set forth the regulatory agenda and it may not make sense to use it on a rule-by-rule basis.
3. Feasibility and Cost Effectiveness must be used in regulating stationary sources: These are very important considerations as part of rule-making and the District follows them closely.
4. Comments from the environmental community regarding prioritizing PM measures: Measures will be brought to the Board of Directors in the first year after the plan is adopted. The District believes that particulate matter is more important than some of the other pollutants in terms of driving the regulatory agenda. Staff will be updating outdated air toxics information regarding stationary sources on the website as part of the new production system roll-out.
5. Community Risk Reduction Plans (CRRPs): Staff is in the process of developing CRRP guidance with the CARE Task Force. Much of the work will be completed at the end of this calendar year or the beginning of next year.
6. How the CAP relates to SB 375: District staff and affected agency boards will work to ensure the CAP and SB 375 measures are complimentary. The Sustainable Communities Strategy (SCS) required under SB 375 will be incorporated into the Regional Transportation Plan (RTP). One performance measure Metropolitan Transportation Commission (MTC) staff presented for discussion was not only a PM reduction target but also the inclusion of a measure for reducing PM impacts in “hot spots” or impacted areas.

Mr. Broadbent said staff is supportive of Mr. Schonbrunn’s amendments, and District Counsel Brian Bunger confirmed as to the legality. District staff and the Board briefly discussed using definitive language and potential risk, and Mr. Broadbent urged the Board’s adoption of the CAP.

Director Torliatt recognized staff for their work on the plan, as well as the public. She suggested that the current and incoming Board Chairpersons begin work on prioritization of some of the measures and rule-making. She also suggested the Executive Committee discuss prioritizing SSM 6 and update of the New Source Rule for PM, voiced the need to be diligent in CARE areas, and supported amendments by TransDef.

Director Torliatt said she was prepared to make the motion to adopt the CAP.

Director Haggerty cited the amount of work to come, the lack of the District's ability to take on the federal government, and the need to address this issue. Mr. Broadbent agreed and said staff has not been aggressive on the federal sources due mainly to pre-emption issues. He suggested consideration of an FSM and confirmed with the Board that the issue can be reviewed by the Mobile Source and Legislative Committees.

Director Hudson suggested synchronizing the CAP's 3 year cycle with other regional plans to arrive at a standard cycle. He agreed with proposed rewording by TransDef, but voiced opposition to items listed on page 414 of the CAP which propose such things as unbundling of parking and leases, pricing and tax policy, mileage-based vehicle and/or registration and/or license fees, gas tax fees, and pay-as-you-drive insurance. He also voiced opposition to language changes proposed by TransDef. Mr. Broadbent noted such efforts in and around the Bay Area will help in terms of the air quality agenda. Their inclusion serves to identify actions which the District can consider for support.

Director Haggerty requested a call be placed to Steve Heminger of MTC to discuss the proposed language amendments recommended by TransDef. Ms. Roggenkamp stepped out of the meeting to contact Mr. Heminger.

Director Ross thanked the District for the work in development of the plan. He stated on-road vehicles are one of the largest sources of particulate matter, and the nexus of the document shows how important particulate matter is to the health of the Bay Area. He emphasized that the plan is novel and one of the most innovative the country has seen. The CAP is also an important economic document because health care costs can be dramatically reduced.

MOTION: Director Torliatt moved to adopt the CAP and to include language amendments proposed by TransDef; Director Ross seconded the motion.

DISCUSSION: Director Spering referred to compliance costs and related burdens on businesses, requested an explanation of FSMs, and asked to ensure that the plan is vetted with stakeholders. Mr. Broadbent explained that FSMs are identified and incorporated for exploration. A working group will be formed to discuss larger issues that can also discuss the District's legislative authority. He noted that working group members will be identified and the matter will be brought to the entire Board. He said a special Committee of the Board can also be developed, as needed.

Vice Chairperson Bates thanked staff for their excellent work. He cited the level of public outreach and community dialogue, and noted the plan is virtually without opposition. He said there are a number of factors that will take time and legislative action, noted that Proposition 26 is also on the ballot which would require a 2/3 vote for certain fees, and believes it is prudent to move forward. As the incoming Chairperson, he requested staff arrive at a work plan and a rule adoption schedule.

Director Torliatt questioned and clarified with Mr. Bunger that the Board could take separate motions on the FEIR and CAP.

REVISED MOTION: Director Torliatt made a motion to adopt the 2010 Clean Air Plan, as revised, to include FSM 18; Director Ross seconded the motion.

DISCUSSION: Director Zane referred to the language in the CRRP which is contained in the land use section. She asked for the language to be spelled out in terms of how the District would work with counties and cities to make risk assessments, and asked that this be included in the plan. Mr. Broadbent explained that staff is continuing to work on CRRPs and did not yet want this process

prescribed in the CAP. Director Zane added her support of the CARE Task Force, but requested universal application of CRRPs and their objectives.

Ms. Roggenkamp returned to the meeting and announced that she was able to speak with Mr. Heminger, and could read the suggested changes into the record when appropriate.

Director Mar voiced support of the motion to add FSM 18, supported many comments of community speakers, and likes the fact that data shows that the District is saving years of life in cleaning the air. He asked staff to continue to work with community groups in developing the CRRPs, hoped for strong community participation, and thanked staff for their work.

BOARD ACTION: Director Torliatt moved to adopt the 2010 Clean Air Plan, as revised, to include FSM 18; Director Ross seconded the motion; which carried by the following roll call vote (19-0-2-1): Ayes: Bates, Daly, Dunnigan, Garner, Gioia, Groom, Haggerty, Hosterman, Kalra, Klatt, Kniss, Mar, Miley, Ross, Spering, Torliatt, Yeager, Zane and Wagenknecht. Noes: None. Absent: Brown and Uilkema; Abstain: Hudson.

Ms. Roggenkamp read the following minor language amendments to page 20 as requested by MTC Executive Director, Steve Heminger:

“BAAQMD, in its role as a member of the Joint Policy Committee, shall encourage MTC to accomplish the maximum feasible possible reductions in future VMT per capita, within the context of an overall air quality strategy.”

She noted that Mr. Heminger did not comment on the second set of language changes on page 19, as they do not necessarily pertain to MTC.

MOTION: Director Torliatt made a motion to adopt Resolution No. 2010-09 certifying the Final EIR for the 2010 Clean Air Plan with the following additions: 1) that the following feasible mitigation measure for cumulative particulate matter emissions be added to page 20 of the Statement of Findings, Overriding Considerations and Mitigation Monitoring Program: “BAAQMD, in its role as a member of the Joint Policy Committee, shall encourage MTC to accomplish the maximum feasible possible reductions in future VMT per capita, within the context of an overall air quality strategy”; and 2) to modify language to page 19 of the Statement of Findings, Overriding Considerations and Mitigation Monitoring Program to state, “The following mitigation measures are adopted recommended to address the overall cumulative increase in particulate matter emissions.” Director Hosterman seconded the motion.

DISCUSSION: Director Haggerty clarified with Mr. Bunger that the Clean Air Act requires that the mitigation measures be adopted by the Board, which makes this consistent.

BOARD ACTION: Director Torliatt moved to adopt Resolution No. 2010-09 certifying the Final EIR for the 2010 Clean Air Plan, with the following amendments: 1) that the following feasible mitigation measure for cumulative particulate matter emissions be added to page 20 of the Statement of Findings, Overriding Considerations and Mitigation Monitoring Program: “BAAQMD, in its role as a member of the Joint Policy Committee, shall encourage MTC to accomplish the maximum feasible possible reductions in future VMT per capita, within the context of an overall air quality strategy”; and 2) to modify language to page 19 of the Statement of Findings, Overriding Considerations and Mitigation Monitoring Program be modified to read, “The following mitigation measures are adopted recommended to address the overall cumulative increase in particulate matter emissions.” Director Hosterman seconded the motion, which carried by the following roll call vote

(19-0-3-1): Ayes: Bates, Daly, Garner, Gioia, Groom, Haggerty, Hosterman, Hudson, Kalra, Klatt, Kniss, Mar, Miley, Ross, Spering, Torliatt, Yeager, Zane, Wagenknecht; Noes: None; Absent: Brown, Dunnigan, and Uilkema.

Adopted (as amended) Resolution No. 2010-09: A Resolution of the Board of Directors of the Bay Area Air Quality Management District Certifying the Environmental Impact Report for the Proposed Bay Area 2010 Clean Air Plan and to Adopt the Bay Area 2010 Clean Air Plan.

Director Haggerty reiterated the need for the District to review the federal program and asked that it be scheduled for discussion at a future Mobile Source Committee meeting

Chairperson Wagenknecht requested a regular progress report be scheduled. On behalf of the Board, he thanked staff, community members, and specifically, former Chairperson Torliatt for her work on the CAP.

Mr. Broadbent recognized specific staff members who worked tirelessly on the Clean Air Plan: David Burch, David Farley, David Vintz, Abby Young, Allison Kirk, Dan Belik, Bill Guy, Todd Gonsalves, Michael Murphy, Henry Hilken, and Jean Roggenkamp.

OTHER BUSINESS

4. Report of the Executive Officer/APCO: Mr. Broadbent gave a summary of the Ozone Season, stating that the District is coming to a close on its smog season and will soon be starting its PM season. He reported the following exceedances:

- a. 2009 Exceedances: 8 National 8-Hour; 11 State 1-Hour; 13 State 8-hour
- b. 2010 Exceedances: 4 National 8-Hour; 3 State 1-Hour; 13 State 5-hour

Mr. Broadbent presented a photograph of the District's new air monitoring station in Cupertino. Director of Technical Services, Eric Stevenson, gave the following report:

- The station is located on Voss and Foothill at Monte Vista Park;
- It is 2.5 miles away from a cement facility;
- Staff began collecting data on September 1, 2010;
- The station is scheduled to operate a minimum of one year and operates in conjunction with two additional stations in Cupertino at Stevens Creek Elementary School and on Stevens Creek Boulevard which collect data on metals and particulate matter

Mr. Stevenson discussed monitoring, and sample collections for analysis of 28 metals, information on total atmospheric mercury, 26 toxic gases, and PM 10. Staff provided information to the Cupertino community through assistance with the City, and information is posted on their City website.

Director Garner thanked the District for the Cupertino station and confirmed with Mr. Stevenson that some of the data is continuous and some is collected on a set schedule in order to conduct laboratory analysis on the 26 toxic gases and metals. She asked that the collection of data and the schedule be forwarded to Directors. Director Torliatt reiterated the need to keep the monitoring schedule confidential.

In conclusion, Mr. Broadbent said Mr. Wee will report on the San Bruno incident, noting that District staff often provides support to first responders.

Director of Compliance and Enforcement, Kelly Wee, reported that San Bruno suffered a massive explosion of a natural gas rupture on September 9, 2010. District staff responded, and observed the plume heading towards the east and down the peninsula, and recommended misting of areas to keep ash from getting airborne and creating air pollution. He said staff is working with CARB staff on air monitoring, and with recovery planners concerns about asbestos debris. He noted that asbestos notification fees and the 10-day prior requirement are being waived to assist homeowners in their recovery process. The District will also be staffing the Community Services Center set up in the area.

5. **Chairperson's Report:** Chairperson Wagenknecht thanked staff and Directors for their time and work with the Clean Air Plan, and said he looks forward to a progress report.
6. **Time and Place of Next Meeting:** Regular Meeting - Wednesday, October 6, 2010, 9:45 a.m., Board Room, 939 Ellis Street, San Francisco, CA 94109
7. **Adjournment:** The Board of Directors meeting adjourned at 11:47 a.m.

/s/ Lisa Harper

Lisa Harper
Clerk of the Boards