

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

Board of Directors Regular Meeting
October 6, 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 Harold Brown, Chris Daly, Susan Garner, Carole Groom, Scott Haggerty, David Hudson, Jennifer Hosterman, Ash Kalra, Carol Klatt, Liz Kniss, Eric Mar, Nate Miley, Mark Ross, Pamela Torliatt, and Gayle B. Uilkema

Absent: Directors Dan Dunnigan, James Spering, Ken Yeager, and Shirlee Zane

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

PUBLIC COMMENTS:

Evan Reeves, Center for Creative Land Recycling & Nonprofit Housing Association of Northern California, requested adding an agenda item to the October 20, 2010 Board meeting regarding CEQA risks and hazards threshold of significance for receptor projects for the following reasons: 1) future affordable housing sites fail initial screen at rates near 70%; 2) current screening model excessively conservative and out of date; and 3) development of CRRPs remain major challenge.

In response to questions of Directors and of the speaker, Mr. Broadbent replied that the Executive Committee would be discussing this item at the October 20, 2010 Committee meeting.

Kathy Bossley, San Lorenzo for Community Action, questioned Grissom's crematory permit process and reported that the Alameda County Supervisors will discuss the matter on November 9, 2010.

Bradley Angel, GreenAction and Environmental Justice Air Quality Coalition, opposed operation of Grissom's crematory and views it as an illegal facility.

Mr. Broadbent reported that the Stationary Source Committee received a briefing on September 27, 2010, and the Committee Report will be heard as Item 6 on the agenda.

Mr. Bateman provided an historical account of the matter, and said the District issued a permit for the facility in June 2009 which is based upon an evaluation of whether or not the facility meets air quality requirements and a health risk screening analysis. Modifications were necessary to obtain a permit.

In October 2009, Alameda County staff became aware of a County ordinance that prohibits crematories within 300 feet of a residence. Facilities are required to secure permits from a number of facilities in addition to the District. Once the County became aware that the facility was not in accordance with its ordinance, they informed representatives at the facility that they could not construct. The County is now in the process of considering amendments to the ordinance, and public meetings are being held. He said the District's permit is still valid because it is based on air quality considerations.

Mr. Broadbent added that the matter was discussed as part of public comments and staff followed up with Alameda County, per the Board's direction.

BOARD MEMBER COMMENTS:

Directors Torliatt and Hosterman reported on Walk N' Roll to School Day events in their respective communities.

CONSENT CALENDAR (Items 1-4):

- 1. Minutes of September 15, 2010 Regular Meeting;**
- 2. Communications**
- 3. District Personnel on Out-of-State Business Travel**
- 4. Quarterly Report of Air Resources Board Representative – Honorable Ken Yeager**

Board Action: Director Brown made a motion to approve Consent Calendar Items 1, 2, 3 and 4; Director Haggerty seconded the motion; unanimously approved without objection.

COMMITTEE REPORTS AND RECOMMENDATIONS

- 5. Report of the Mobile Source Committee Meeting of September 23, 2010**
Chair: S. Haggerty

The Mobile Source Committee met on Thursday, September 23, 2010 and approved the minutes of June 30, 2010.

The Committee discussed and considered recommending Board of Director's approval of the Carl Moyer Program 2009/2010 and Transportation Fund for Clean Air (TFCA) FY 2009/2010 projects with proposed grant awards over \$100,000. The recommended projects replace three off-road loaders and four agricultural tractors, repower nine stationary agricultural engines, and convert one diesel truck to a fully electric engine. Based on its review, the Committee recommends the Board of Directors authorize the Executive Officer/APCO to enter into these agreements.

The Committee then discussed the Goods Movement Bond Truck program. Staff updated the Committee on the results of the Port Truck Program, the program costs, ongoing efforts with on-road trucks and newly available Goods Movement Bond Funds.

The Committee recommends the Board of Directors approve a resolution allowing the Executive Officer/APCO to execute all necessary contracts with the California Air Resources Board (CARB) to accept up to an additional \$700,000 in reallocated I-Bond funding for On-Road Truck projects.

The Committee also discussed and received an update on the Bicycle Share Program. Based on this discussion, the Committee is requesting the Board of Directors approve the allocation of \$1.4 million in TFCA Regional Funds from FY 2009/2010 to support a pilot Bicycle Share Program.

The next meeting of the Mobile Source Committee will be Thursday, October 28, 2010 at 9:30 a.m.

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

Adopted Resolution No. 2010-10: A Resolution of the Board of Directors of the Bay Area Air Quality Management Accepting Goods Movement Emission Reduction Program Funds From the California Air Resources Board. Vote: 18-0-4 (Dunnigan, Spring, Yeager and Zane absent).

6. Report of the Stationary Source Committee Meeting of September 27, 2010
Chair: G. Uilkema

The Committee met on Monday, September 27, 2010 and approved the minutes of July 23, 2009.

The Committee received a report on recent crematory activities, crematory locations throughout the Bay Area, crematory emissions and air quality requirements, and specifically, Grissom's Chapel and Mortuary's permit application. The Committee also discussed potential ordinance amendments and a proposed use permit process by the County of Alameda.

The Committee then received a presentation on a proposed new Regulation 11, Rule 17; Limited Use Stationary Compression Ignition (Diesel) Engines used in agriculture. The proposed regulation would provide certain low use diesel agricultural engines subject to state regulations by December 31, 2010, the option of an Alternative Compliance Plan, and would provide an exemption for extremely low use engines. The proposed rule would allow more time for compliance in exchange for replacement of applicable low use diesel agricultural engines with substantially cleaner engines. Committee members asked that staff return to the Committee in December with information regarding unregistered engines by county and requested outreach to all counties.

The Committee then received an update on proposed amendments to Regulation 9, Rule 10; NO_x and CO from Boilers, Steam Generators and Process Heaters in Petroleum Refineries. The Committee reviewed current and proposed NO_x limits, NO_x reductions, procedures refineries use in monitoring and verifying compliance, and the rule development process whereby workshops have been held with each refinery and stakeholders. Next steps include review and consideration of comments received, preparation of a Final Draft Rule, CEQA review, socio-economic analyses, and public hearings scheduled to be held in late 2010.

The next meeting of the Committee is scheduled for Monday, December 13, 2010 at 9:30 a.m.

Directors discussed Grissom's Mortuary, which has been in operation since 1969, noting that the crematory has not been installed at the facility. Director Miley cited due process, said the matter will go before Alameda County Board of Supervisors, assured public speakers that District staff has been tracking the project, and said he is pleased with what has been done to date.

Public Comment:

Bradley Angel, GreenAction and Environmental Justice Air Quality Coalition, voiced concerns regarding Grissom Mortuary's permitting process and the District's policy, and questioned the District's position on Alameda County's ordinance.

Director Miley voiced concern that Mr. Angel was mischaracterizing the issue. Mr. Broadbent provided further clarification on the District's role in analyzing air quality emissions and applying regulations. He noted that land use authority is at the discretion of the city or county and such issues should be referred to those agencies. Director Uilkema concurred and briefly outlined the Committee's review of the matter.

Board Action: Director Uilkema made a motion to approve the report and recommendation of the Stationary Source Committee; Secretary Gioia seconded the motion; carried unanimously without opposition.

7. Report of the Maritime Sources & Ports Committee Meeting of September 29, 2010
Chair: N. Miley

The Maritime Sources & Ports Committee met on Wednesday, September 29, 2010 and approved the minutes of October 26, 2009.

The Committee received an update on the inventory of emissions from the Ports of Benicia, Redwood City, Richmond and San Francisco, which will be used to:

- Track progress and estimate benefits;
- Develop strategies through Community Risk Reduction Plans (CRRP's);
- Assist with compliance and enforcement; and
- Target grants and seek outside funding

The Committee then received an update on shore power at Bay Area ports and discussed CARB's regulation for electrification of 50% of vessels calling at the Ports of Oakland and San Francisco by January 1, 2014. The Port of San Francisco's \$5.2 million project at Pier 27 is in operation today. Shore power at the Port of Oakland is estimated to cost \$90 million. District, Port, and CARB staff is meeting to discuss the schedule to electrify berths and pursue grant funding. This issue will be brought back to future Committee meetings.

The Committee then received an update on mobile source enforcement at the Port of Oakland, other Bay Area ports, and in Community Air Risk Evaluation (CARE) areas. Staff gave an overview and discussed inspections, violations issued and compliance rates, and presented examples of affected equipment.

The Committee received a summary of the West Oakland Truck Survey which has helped to refine the Health Risk Assessment input and findings, obtain better information for on-road trucks, and design and prioritize mitigations. Key findings include:

- Trucks are still the major source of diesel-related health risk in West Oakland;
- There are fewer trucks on surface streets than previously estimated;

- The fraction of trucks related to the Port was greater (29%) than the HRA estimated (16%); and
- The total potential cancer risk was still much higher than the Bay Area average.

The Committee received an overview of the West Oakland Monitoring Study. The study provides a measurement-based benchmark of air quality, identifies variations of toxic air contaminants at many locations, and estimates diesel PM contribution to total PM. Major findings include:

- Overall concentrations of toxic air contaminants in West Oakland are similar to measurements collected in other major Bay Area cities;
- Pollutant concentrations are 2 to 5 times higher along major roads used by diesel trucks;
- Diesel PM is a significant fraction of total PM in West Oakland; and
- PM concentrations estimated from 2009/10 measurements were about half of the HRA modeled 2005 concentrations.

Next steps include using information gathered to help design and implement emission reduction measures through grants and incentives and enforcement of diesel regulations; advising local land use decisions through CEQA guidelines and Community Risk Reduction Plans (CRRP's), tracking progress, and continuing community partnerships.

The next meeting of the Maritime Sources & Ports Committee is at the call of the Chair.

Board Action: Chairperson Miley made a motion to approve the report of the Maritime Sources & Ports Committee; Director Torliatt seconded the motion; carried unanimously without opposition.

8. Report of the Strategic Facilities Planning Ad Hoc Committee Meeting of October 1, 2010

Chair: B. Wagenknecht

The Strategic Facilities Planning Ad Hoc Committee met on Friday, October 1, 2010.

The Committee discussed the roles, responsibilities and structure of the Committee and the background and motivations that led the Air District, the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) to explore alternative headquarters solutions. The Committee reviewed individual space needs, location preferences, the importance of good public transit access, and economic and political effects of moving public agencies out of their respective cities.

The Committee also discussed the composition of the Committee and considered removing Executive Directors from its structure. The Committee unanimously voted to remove Executive Directors, approve restructuring of the Committee's composition to include an additional Board Member from each agency. The Committee further discussed their preferences for an ABAG representative from San Francisco County, an MTC representative from Santa Clara County, and an Air District representative from Contra Costa County. Chair Wagenknecht selected Board Member Gioia to serve as the Air District representative from Contra Costa County.

The Committee then received a report from CB Richard Ellis (CBRE) on the background and key findings of the Strategic Facilities Project-Phase II. CBRE gave a presentation on renovation and

temporary relocation costs, sale values, lease rates, annual gross rental income for various scenarios, key planning drivers and assumptions, cost comparisons, and commute times for each agency. CBRE agreed to present the study findings to respective agencies for consideration upon request.

The Committee then unanimously elected Chairperson Wagenknecht as Committee Chair.

The next meeting of the Strategic Facilities Planning Ad Hoc Committee is at the call of the Chair.

Board Action: Chairperson Wagenknecht made a motion to approve the report and recommendations of the Strategic Facilities Planning Ad Hoc Committee; Director Kniss seconded the motion; carried unanimously without opposition.

In response to Board Member inquiry, Chairperson Wagenknecht clarified that ABAG, MTC and the District agreed to select one additional representative each from their respective Boards to serve on the Ad Hoc Committee. He and Vice Chairperson Bates already serve as Chair and Vice Chair, and he had selected Secretary Gioia as the District's third representative.

9. Report of the Legislative Committee Meeting of October 4, 2010

Chair: S. Garner

The Legislative Committee met on Monday, October 4, 2010 and approved the minutes of March 29, 2010.

The Committee received a briefing on the 2010 legislative year and bills with District-adopted positions. While many problematic bills were introduced that would have increased air pollution or ended important regulatory programs, no bill the District opposed became law. Some of these ideas may still materialize in budget trailer bills, however.

On the other hand, fewer bills were introduced to improve air quality. The most significant bill the District supported that became law was AB 2289 (Eng), which should cut motor vehicle emissions statewide by 70 tons per day by reforming smog check. SB 435 (Pavley) also became law, and this will cut emissions from motorcycle emissions control tampering. Unfortunately, the bill the District co-sponsored (SB 1433-Leno) was vetoed by the Governor. This would have tied air penalty ceilings to inflation.

The Committee received a briefing on the current status of the State's Fiscal Year 2010/2011 budget. A vote on the budget deal reached by Legislative leadership and the Governor is expected later this week. While general details about the deal have been discussed in the press, any specific impacts to the District are not yet known.

The Committee then unanimously recommended that the Board of Directors take an "oppose" position on Proposition 23. This matter is on today's Board agenda as Item #10.

The next meeting of the Legislative Committee is scheduled for December 6, 2010 at 9:45 a.m.

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

RESOLUTION

10. Resolution to take an “oppose” position on Proposition 23.

Board Action: Director Hosterman made a motion that the Board of Directors adopted a Resolution of the Board of Directors of the Bay Area Air Quality Management District Opposing Proposition 23; Director Brown seconded the motion; which carried unanimously without opposition.

Adopted Resolution No. 2010-11: Opposing Proposition 23. Vote: 18-0-4 (Dunnigan, Spering, Yeager and Zane absent).

PRESENTATION

11. Summary of 2010 Ozone Season

Eric Stevenson, Director of Technical Services, presented the Ozone Seasons Summary for 2009 and 2010 for the National 8-hour, State 1-hour and State 8-hour. He presented 2010 major air basin exceedances for San Diego, Ventura, Sacramento, San Joaquin and the South Coast, and noted that varying temperatures, winds, and a fire on the back of Mt. Diablo contributed to some exceedances in the Bay Area.

Mr. Stevenson reviewed ozone and maximum temperature trends and discussed how the Environmental Protection Agency (EPA) designates the District as attainment versus non-attainment. He said the EPA’s ozone standard is due to be published in late October/early November and likely to range between 60-70 ppb. At that time, staff will update the Board on its affects to the District.

CLOSED SESSION

The Board of Directors adjourned to Closed Session at 10:45 a.m.

12. 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:

Duraflame, Inc. v. Bay Area AQMD, California Court of Appeal, Case No. A128062

OPEN SESSION

The Board of Directors reconvened in Open Session at 10:48 a.m. District Counsel Brian Bunger announced that the Board of Directors met in Closed Session and no reportable action was taken.

OTHER BUSINESS

- 13. Report of the Executive Officer/APCO:** On behalf of the Executive Officer/APCO, Deputy APCO Jean Roggenkamp reported that the 2010/11 Winter Spare the Air Season will begin November 1, 2010.
- 14. Chairperson's Report:** Chairperson Wagenknecht gave the following report:
 - Mayor Newsom re-appointed Director Dan Dunnigan to a new two-year term on the Board of Directors;
 - The Nominating Committee will meet next month. Directors were asked to advise him of interest in serving in an Officer capacity;
 - The Board meeting of October 20, 2010 is canceled, and an Executive Committee meeting will take its place, to be held in the 4th Floor Conference Room.
- 15. Time and Place of Next Meeting:** Regular Meeting - Wednesday, November 3, 2010, 9:45 a.m., Board Room, 939 Ellis Street, San Francisco, CA 94109
- 16. Adjournment:** The Board of Directors meeting adjourned at 10:50 a.m.

/s/ Lisa Harper
Lisa Harper
Clerk of the Boards