



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS
LEGISLATIVE COMMITTEE MEETING

COMMITTEE MEMBERS

SUE GARNER – CHAIRPERSON
TOM BATES
JENNIFER HOSTERMAN
ASH KALRA
NATE MILEY

CAROL KLATT–VICE CHAIRPERSON
SCOTT HAGGERTY
DAVID HUDSON
ERIC MAR

**THURSDAY
JANUARY 21, 2010
9:30 A.M.**

**4TH FLOOR CONFERENCE ROOM
939 ELLIS STREET
SAN FRANCISCO, CA 94109**

AGENDA

1. **CALL TO ORDER - ROLL CALL**

2. **PUBLIC COMMENT PERIOD**

(Public Comment on Non-Agenda Items Pursuant to Government Code § 54954.3) Members of the public are afforded the opportunity to speak on any agenda item. All agendas for regular meetings are posted at District headquarters, 939 Ellis Street, San Francisco, CA, at least 72 hours in advance of a regular meeting. At the beginning of the regular meeting agenda, an opportunity is also provided for the public to speak on any subject within the Committee's subject matter jurisdiction. Speakers will be limited to five (5) minutes each.

3. **APPROVAL OF MINUTES OF NOVEMBER 12, 2009**

4. **POTENTIAL LEGISLATIVE PROPOSALS FOR 2010**

T.Addison/5109

taddison@baaqmd.gov

The Committee will continue its discussion of legislative priorities and proposals for 2010.

5. **COMMITTEE MEMBERS' COMMENTS**

Any member of the Committee, or its staff, on his or her own initiative or in response to questions posed by the public, may; ask a question for clarification, make a brief announcement or report on his or her own activities, provide a reference to staff regarding factual information, request staff to report back at a subsequent meeting concerning any matter or take action to direct staff to place a matter of business on a future agenda. (Gov't Code § 54954.2)

6. **TIME AND PLACE OF NEXT MEETING –At the call of the Chair**

7. **ADJOURNMENT**

**CONTACT EXECUTIVE OFFICE - 939 ELLIS STREET
SAN FRANCISCO, CA 94109**

**(415) 749-5130
FAX: (415) 928-8560
BAAQMD homepage:
www.baaqmd.gov**

- To submit written comments on an agenda item in advance of the meeting.
- To request, in advance of the meeting, to be placed on the list to testify on an agenda item.
- To request special accommodations for those persons with disabilities (notification to the Executive Office should be given at least three working days prior to the date of the meeting so that arrangements can be made accordingly).
- Any writing relating to an open session item on this Agenda that is distributed to all, or a majority of all members of the body to which this Agenda relates shall be made available at the District's offices at 939 Ellis Street, San Francisco, CA 94941, at the time such writing is made available to all, or a majority of all members of that body. Such writing may also be posted on the District's website (www.baaqmd.gov) at that time.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
939 ELLIS STREET, SAN FRANCISCO, CALIFORNIA 94109
(415) 771-6000

EXECUTIVE OFFICE:
MONTHLY CALENDAR OF DISTRICT MEETINGS

JANUARY 2010

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	6	9:45 a.m.	Board Room
Board of Directors Public Outreach Committee <i>(Meets 1st Thursday each Month)</i> - CANCELLED	Thursday	7	9:30 a.m.	4 th Floor Conf. Room
Advisory Council Retreat and Regular Meeting	Wednesday	13	9:00 a.m.	Board Room
Board of Directors Climate Protection Committee <i>(Meets 2nd Thursday each Month)</i> - CANCELLED	Thursday	14	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Legislative Committee <i>(Meets 2nd Thursday each Month)</i>	Thursday	14	9:30 a.m.	4 th Floor Conf. Room
Joint Policy Committee <i>(Meets 3rd Friday Every Other Month)</i>	Friday	15	10:00 a.m.	MTC Auditorium 101 8 th Street Oakland, CA 94607
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i> - CANCELLED	Wednesday	20	9:45 a.m.	Board Room
Board of Directors Mobile Source Committee <i>(Meets 4th Thursday each Month)</i>	Thursday	28	9:30 a.m.	4 th Floor Conf. Room

LH – 1/7/10 (11:15 a.m.)
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BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Garner and Members
of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: January 15, 2010

Re: Legislative Committee Draft Meeting Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Legislative Committee meeting of November 12, 2009.

DISCUSSION

Attached for your review and approval are the draft minutes of the November 12, 2009 Legislative Committee meeting.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared By: Lisa Harper
Reviewed by: Jennifer Chicconi

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

DRAFT MINUTES

Summary of Board of Directors
Legislative Committee Meeting
Thursday, November 12, 2009

- Call to Order:** Chairperson Tom Bates called the meeting to order at 9:34 a.m. without a quorum
- Roll Call:** Chairperson Tom Bates, Vice Chairperson Brad Wagenknecht, Jennifer Hosterman, Carol Klatt, Nate Miley (arrived late)
- Absent:** Dan Dunnigan, Susan Garner, Scott Haggerty and Mark Ross
- Public Comments:** There were no public comments.

Summary of 2009 Legislative Year

Senior Advanced Projects Advisor, Tom Addison, gave the staff presentation, stating that 2009 was not a significant air quality year, primarily because of the State's financial problems. All policy bills that had primary or secondary impacts on State costs did not move far, and many bills which would improve air quality were introduced but did not move far.

He stated there were many efforts to weaken air quality programs and many bills would have imposed new restrictions or regulations on air quality programs. No bill that the District opposed was signed into law, and most of the bills with significant air quality harm or damage failed to make it out of their first policy committee. However, air quality programs were weakened as part of the budget process. The ARB off-road diesel rule was delayed, and agricultural equipment compliance can now be paid for with Carl Moyer program funds. Historically, incentive programs have not been used to pay for compliance, but instead have incentivized projects that go beyond compliance.

Vice Chairperson Wagenknecht questioned and confirmed with Mr. Addison that the action does not force the Air District to provide grant funding to agricultural projects. Rather, applicants would still need to apply and compete for funds.

Mr. Addison noted that the three most significant bills included AB 1431 (Hill) which requires the Port of Oakland to have an emissions reduction program of comparable stringency to those in Southern California. The bill did not move out of its first policy committee. A hearing was held regarding the Port of Oakland which resulted in positive action, and Directors commented that while AB 1431 did not move forward, it was successful because it has influenced the Port.

Mr. Addison stated that the second significant bill dealt with Enhanced Vapor Recovery (EVR), a new CARB regulation on operators and owners of gas stations. This issue was controversial and the District was close to having a variety of measures passed that would have removed the requirement. This was an example of efforts by business to use the poor economy as an excuse to try to get regulatory rollback.

Director Hosterman confirmed with Mr. Bungler that Bay Area gas stations have an 80% to 90% compliance rate.

Mr. Addison reported that the third bill is SB 406 (DeSaulnier), which allows an increase of \$1 to \$2 in vehicle registration fees to implement SB 375. This passed the legislature but was vetoed by the Governor. There were a number of other bills that the Air District supported that were also vetoed, and Chairperson Bates suggested Mr. Addison briefly highlight them, which he did as follows:

- Senator DeSaulnier authored a bill that deals with a loophole that lets people operate very high polluting kit cars or hot rods. The Governor vetoed it.
- The District supported allowing a combination of grant funds to go towards a single project (AB 1527-Lieu), and the Governor vetoed it.
- SB 728 (Lowenthal) was signed into law which deals with a small set (3%) of employers of cities and counties. Mr. Addison noted that the Air District is in compliance with the law and he briefly provided an explanation of it.

Potential Legislative Proposals for 2010

Mr. Addison suggested that the most important thing the District can do in 2010 is to try not to go backwards, play good defense, and not lose existing programs and authorities. This will be challenging given the State's ongoing financial problems. There will be dramatic pressure to roll back a variety of programs and regulations as part of the budget process.

Director Hosterman suggested not particularly advancing policy, but to plant seeds for future years, and Chairperson Bates believed this could be done in the form of education. He voiced the need to garner support from business and believed it is important to go on the record supporting the majority vote budget without a tax provision being in place, which is before the Secretary of the State as an Initiative. He also suggested strong support for the Constitutional Amendment proposed by Senator Hancock.

Mr. Addison referred to violators of air pollution laws and the sanctions or penalties they face, stating that the last change in air penalties law was in 2000, which was co-sponsored by the Air District. Mr. Addison said that in looking forward to 2010, the District could co-sponsor legislation working on improving air penalties and addressing shortcomings in their structure. There are several environmental organizations interested in doing this and one idea could be for the District to co-sponsor a bill to improve and reform the historic air penalties, for example by increasing the penalty ceilings with inflation over time.

Mr. Addison said another idea has to do with the smog check program, which is dramatically underperforming given emission reductions. This is mostly due to the fact that cars tend to be clean for a day and a month later, they may be a gross polluter. He cited the existence of fraud, repairs not being durable and other reasons for the dysfunctional program. To improve smog

check there was a Senate Bill the District had supported but did not sponsor, that failed to advance which included motorcycles in the program. He stated that motorcycles are 52 times more polluting per mile driven than cars. In addition, many motorcycles are illegally modified by the time they leave the dealership.

Mr. Addison stated that a broader proposal would be fundamental reform of the smog check process, and he suggested an 'on-board diagnostics' (OBD) system, briefly explained its use and its financial advantage to consumers. Directors requested and confirmed with Mr. Addison that no one was legislating on the issue and that information on OBD be presented at the next Legislative Committee meeting.

Mr. Broadbent suggested the Committee also talk about efforts to undertake to get federal monies directed to the Air District. He suggested working with the Port of Oakland, returning to Washington, D.C. to lobby for some of the DERA money, TIGER grants, Federal stimulus funding, DOE money, and other federal funds, and Directors agreed with this direction.

Mr. Addison confirmed that direction is for staff to pursue three (3) bills: smog check reform, air pollution law penalties and COLA, and inclusion of motorcycles in smog check, and to bring information back at the next meeting.

Chairperson Bates also asked that the Air District pursue support for a majority vote budget by Senator Hancock and explore a legislative package with the Port of Oakland and work in strengthening ties in Washington, D.C.

Approval of Minutes: Director Hosterman moved to approve the minutes of April 15, 2009; seconded by Director Miley; carried unanimously without objection.

Committee Members' Comments

Director Miley referred to Alameda County's work with agencies in taking positions on ballot measures and questioned whether the District could do the same. Mr. Bunger agreed to follow-up with the request.

Time and Place of Next Meeting: Thursday, January 14, 2009 immediately following the Climate Protection Committee Meeting.

Adjournment: Meeting adjourned at 10:41 a.m.

Lisa Harper
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Garner and
Members of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: January 7, 2010

Re: POTENTIAL LEGISLATIVE PROPOSALS FOR 2010

RECOMMENDED ACTION: Continue discussion from the last Committee meeting on a potential legislative proposal for the upcoming year.

BACKGROUND

At its last meeting, the Legislative Committee discussed priorities for the upcoming year. Given the dire state of California's finances, and its continuing economic problems, the Committee indicated that the District's highest legislative priority should be trying to prevent efforts to weaken existing air quality regulations or programs, either through changes in policy or funding. Additionally, the Committee directed staff to explore sponsoring an air quality bill, either reforming California's smog check program, or improving the penalties for those who violate air quality laws.

DISCUSSION

2010 is the second year of the current California legislative session, the final year in office for the current Governor, and an election year. However, the State's continuing fiscal problems will likely dwarf these and all other issues in 2010. Despite the unprecedented magnitude of the cuts made in the budget for the current fiscal year, current estimates are that this year's budget gap has mushroomed to \$6.6 billion. Additionally, it appears that California will face a deficit of over \$13 billion for the 2010-2011 fiscal year. Given that a number of the tactics employed last year cannot be replicated this year, 2010 will be a very difficult year financially.

Staff has had numerous meetings with Capitol staffers since the Committee last met, and explored a number of issues. Unfortunately, it appears that there will be strong pressure to relax environmental requirements this year, particularly regulations adopted by the Air Resources Board to cut diesel emissions. Staff expects to see bills introduced to accomplish this, as well as pressure in the budget process. The fiscal crisis will have a dramatic effect on virtually all legislative activity in 2010. Bills with costs to the State will be very difficult to adopt, and the policy atmosphere will be one of caution.

More specifically, staff explored the possible bill topic of reforms to the smog check program with a variety of Sacramento staff and interest groups. The general consensus was that it would be very difficult to attempt major programmatic changes in 2010. On the other hand, a recently-released report from the Inspection and Maintenance Review Committee (“A Comparison of Roadside Tests to Previous Smog Checks”) highlights major problems with the program. After discussion with the Transportation Committees in both houses, it appears likely that the Committees may hold hearings on Smog Check in 2010, and attempt to use those hearings as the basis for reforms in 2011.

Staff also explored with diverse interests the idea of sponsoring legislation on penalties in 2010. Here, the consensus seems to be that the tough economic climate will enable businesses to likely block major strengthening of the air penalty statutes. On the other hand, a more modest proposal, such as increasing penalty ceilings with inflation over time, might be possible. Breathe California are interested in co-sponsoring such a measure with the District, and staff recommend the Committee endorse our doing this.

The Committee also discussed at its last meeting whether the District should hire a contract lobbyist to assist the District in pursuing issues in Washington, D.C. Staff will discuss this further with the Committee at this meeting.

Finally, the Committee discussed whether the District could legally or should take positions on some of the initiatives that will be on the ballot in 2010 that would change the State constitution. Legally, there is nothing to prevent the District from adopting formal positions on ballot measures. In its history, the District has only once adopted a position on an initiative. We took a ‘support’ position on an unsuccessful ballot measure that would have funded retrofitting and replacing old dirty diesel engines. Staff strongly recommends the District not weigh in on any ballot measures that are not directly and primarily about improving air quality. Staff believes that to do so would harm our reputation at the Capitol as a non-partisan public health agency, and would diminish the effectiveness of our advocacy efforts. Additionally, staff believes that the District’s support or opposition on these non-air quality issues will have little influence on the electorate. In short, staff believes the organization has far more to lose than to gain by weighing in on these issues.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Thomas Addison