

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

## **APPROVED MINUTES**

Summary of Board of Directors  
Legislative Committee Meeting  
Thursday, January 21, 2010  
9:30 a.m.

- Call to Order:** Chairperson Susan Garner called the meeting to order at 9:38 a.m.
- Roll Call: Chairperson Susan Garner, Scott Haggerty and Brad Wagenknecht.
- Absent: Tom Bates, Jennifer Hosterman, David Hudson, Ash Kalra, Vice-President Carol Klatt, Eric Mar and Nate Miley.
- Public Comments:** There were no public comments.
- Approval of Minutes:** Minutes were not approved, due to lack of quorum.

### **Potential Legislative Proposals for 2010** – *Senior Advanced Projects Advisor Tom Addison*

Mr. Addison reported that at its previous meeting, the Legislative Committee discussed looking ahead to 2010. Since the discussion in November, Mr. Addison informed the Committee that the State's financial picture has worsened. Mr. Addison continued that the current estimate deficit for 2010/2011 is \$20 billion dollars. Mr. Addison continued, stating the Governor has released his budget proposal which calls for many cuts and money from the Federal government, and it is unclear how much of that may materialize.

Mr. Addison indicated that the poor fiscal climate will have a big effect on legislative actions next year. As discussed in November, Mr. Addison stated that there will probably be multiple efforts to cut, weaken or reduce air quality regulations this year, and to some extent, this has already begun. Mr. Addison noted the Committee has an oppose position on AB 118 (Logue), which would essentially halt both state and local efforts to cut greenhouse gas emissions. This bill was heard in the Assembly Natural Resources Committee several weeks ago. Supporters of the bill were from business organizations, who complained not about AB 32, but rather about the California Air Resources Board's (CARB) On-Road Diesel rule, as well as the Off-Road Diesel rule. The District testified in opposition, and the bill was defeated in Committee.

Mr. Addison stated that Mr. Kevin Jeffries, from Riverside, has introduced a bill that would reform CARB. It would essentially make CARB an elected body by the voters of the State, as opposed to appointed by the Governor.

Mr. Addison informed the Committee that staff explored two proposals for bills for the Committee's consideration. One is related to smog check reforms, the other dealt with

improving the statutes dealing with penalties for violations of air pollution laws, primarily by stationary sources. There are a lot of problems with the smog check program; studies indicate how badly it is underperforming. However, it is going to be a tough year for big changes to the status quo and this bill does not have much chance of passage. Staff did not recommend sponsoring a bill on smog check, but others will likely introduce bills on smog check. Assembly Member Warren Furutani from Long Beach is interested in trying move a smog check bill, but staff is not recommending that the District sponsor this as its primary legislative focus.

Director Wagenknecht asked if Mr. Furuitani's version of the bill is a positive bill. Mr. Addison responded that Mr. Furuitani's version is to try and improve the program and is seeking assistance in ways to achieve this goal and how to structure the bill. Chairperson Garner asked if the District could provide support and Mr. Addison responded that we can and will. Mr. Addison continued that the Committee also requested that staff explore the issue of penalties for stationary source violations. Mr. Addison stated that the penalties for stationary source violations have been flat since 2000 and some since 1982. In 2000, a bill was passed that raised some penalties. Mr. Addison also informed the Committee that Breathe California was interested in co-sponsoring a penalties bill with the District. Mr. Addison commented that it would make sense to tie the penalty ceiling to a cost of living adjustment.

Mr. Addison continued that the deterrent effect of penalty ceilings has eroded over the last decade due to inflation, and will continue to erode in the future. Simply tying those ceilings to inflation starting in 2011 would probably have some opposition but might be feasible. Working on this issue with an environmental organization and getting diverse support for it, potentially from business organizations, is something that District staff thinks would be a positive step forward for air quality. Staff is proposing the District sponsor this bill. Mr. Addison noted interest by potential authors.

#### Committee Discussion/Comments:

Director Wagenknecht supported pursuing a bill, tying the penalties to the Consumer Price Index (CPI). Director Haggerty also agreed and requested Mr. Broadbent provide input. Mr. Broadbent stated that it would be a good idea to increase penalties by CPI, but questioned how far would it actually go this year since the Legislature will continue their focus on the State's financial situation.

Chair Garner questioned if the District would be able to impose a retroactive increase from 2000. Mr. Addison responded that would be quite difficult, and does not recommend the Committee do so. Mr. Addison noted that members of the Capitol and various environmental organizations see that the District is an agency that is trying to cut air pollution by taking positive steps forward. There should be support for this bill not only from the environmental community, but from a variety of other interest groups. Mr. Addison continued, saying that this is a modest proposal that addresses a problem with the codes.

Director Haggerty stated that this bill would help the legislature. Director Haggerty further commented that the legislature needs to deal with its fiscal situation before carrying numerous bills. He also stated that the District should show restraint in what bills it produces. Chair Garner asked whether the District should refrain from advocating any legislation this year; Director Haggerty suggested that the District be judicious in what is sent to the legislature and find a balance. The Committee had a brief discussion on the smog check bill. Chair Garner

mentioned the Committee also discussed adding motorcycles to the smog program in the future and if this would be a good time to do so. Mr. Addison responded to Chair Garner that the Chair of the Senate Transportation Committee is interested in doing something on motorcycles, but his staff would not view it as a motorcycle emissions issue, but instead as a noise issue or a quality of life issue. Mr. Addison stated that staff is not recommending the Air District sponsor a smog check bill at this time. Chair Garner stated that in the future it would make sense for the District to take on motorcycles based on the information provided to the Committee and the pollution they contribute.

**Committee Action:** Chair Garner stated that the Committee supports penalties legislation with the members that are present, and recommend Board of Directors' approval.

Mr. Addison also noted that the Committee discussed an additional item at its last meeting about whether the Air District should take positions on initiatives that occur in 2010. Some of these issues include redistricting, dealing with the State Constitution and voting on budget thresholds, issues that are not directly related to air quality. The Committee asked if the District could take positions on initiatives unrelated to air quality and if the District has done so in the past. Mr. Addison responded that legally the District can take positions on initiatives as an organization and the District has done so in the past, on an initiative which was sponsored by the Planning and Conservation League that raised money specifically to clean up emissions of dirty diesel engines. Mr. Addison also stated that the recommendation from staff is that the District only takes position on initiatives that directly affect air quality. Mr. Addison stated that to weigh in on some of the initiatives, potentially dealing with the State Constitution, will diminish how closely people listen to the District's voice at the Capitol.

Mr. Addison concluded by stating that the District should only take position on initiatives that are directly about air quality and or that are specifically tied to air quality.

Committee Discussion/Comments:

Directors Wagenknecht, Garner, and Haggerty agreed that the District not get involved in initiatives.

**Next Meeting:** At the Call of the Chair

**Adjournment:** Meeting adjourned at 10:15 a.m.

*/s/ Vanessa Johnson*  
Vanessa Johnson  
Executive Secretary