FRIDAY, SEPTEMBER 10, 2010

Notice having been duly given, the regular meeting of the South Coast Air Quality Management District Board was held at District Headquarters, 21865 Copley Drive, Diamond Bar, California. Members present:

William A. Burke, Ed.D., Chairman Speaker of the Assembly Appointee

Mayor Dennis R. Yates, Vice Chairman Cities of San Bernardino County

Supervisor Michael D. Antonovich (arrived at 9:30 a.m.) County of Los Angeles

Supervisor John J. Benoit County of Riverside

Councilmember Michael A. Cacciotti Cities of Los Angeles County – Eastern Region

Ms. Jane W. Carney Senate Rules Committee Appointee

Supervisor Josie Gonzales County of San Bernardino

Mayor Ronald O. Loveridge Cities of Riverside County

Dr. Joseph K. Lyou Governor's Appointee

Councilmember Judith Mitchell Cities of Los Angeles County – Western Region

Councilmember Jan Perry (arrived at 9:15 a.m.) City of Los Angeles

Mayor Miguel A. Pulido (arrived at 10:10 a.m.) Cities of Orange County

Members Absent:

Supervisor Bill Campbell County of Orange

CALL TO ORDER: Chairman Burke called the meeting to order at 9:05 a.m.

- Pledge of Allegiance: Led by Mayor Loveridge.
- Opening Comments

 $\underline{\text{Dr. Lyou}}$. Asked staff to provide a report on the amnesty program for permitting that recently expired. He also mentioned that at the last Refinery Committee meeting he offered the refineries the opportunity for him to witness what is going on at their facility in relation to the SO_x shave proposal, and as a result, he set up a tour of BP on October 7, 2010. He extended an invitation to the other Board Members to join him.

<u>Councilwoman Mitchell.</u> Announced that she, along with Councilwoman Perry, attended the inaugural Women in Green conference in Pasadena, which focused on women that are involved in green enterprises across the United States.

<u>Supervisor Gonzales.</u> Detailed her recent attendance, along with other Board Members and staff, at a CAPCOA conference on climate change, where they had an opportunity to discuss many of the issues the District faces on a daily basis, in addition to participating in productive discussions regarding AB 32 and SB 375.

Mayor Loveridge. Explained that he was also in attendance at the CAPCOA event, and expressed his opinion that the air control districts play an essential role with regard to SB 375 and especially AB 32.

Swearing In of Newly Appointed Board Member John J. Benoit

After offering his congratulations, Dr. Burke administered the oath of office to Supervisor Benoit, who was appointed by the Board of Supervisors as Riverside County's representative to the Board, for a term ending January 15, 2014.

(Councilwoman Perry arrived at 9:15 a.m.)

Mayor Loveridge acknowledged the appointment of Supervisor Benoit who was an extremely effective representative for the Cities of Riverside County as an Assemblyman and State Senator, and will be a great addition to the Board.

Supervisor Benoit expressed his enthusiasm for the opportunity to serve on a Board that has been instrumental in improving air quality.

CONSENT CALENDAR

1. Minutes of July 9, 2010 Board Meeting

Budget/Fiscal Impact

- 2. Issue RFP for Consulting Services on Transportation and Goods Movement Strategies
- Execute Contract for Media and Public Relations Services
- Adopt Resolution and Recognize Funds from CARB, Transfer Funds and Appropriate Funds to Execute New Contract, and Amend Existing Contract for Demonstration of Aftertreatment Technology for Locomotives
- 5. Execute Contract to Administer Hybrid Truck and Bus Voucher Incentive Project and Appropriate Funds from Undesignated Fund Balance
- 6. Appropriate Funds to 2010 Lawnmower Exchange Program for Events Scheduled in FY 2010-11
- 7. Appropriate Funds and Execute Contracts for LNG Infrastructure under Department of Energy American Recovery and Reinvestment Act and Clean Cities Programs
- 8. Transfer Funds from Clean Fuels Program Fund, Carl Moyer Program Fund AB 923 Account, and Proposition 1B Program Fund for Administrative Support and Related Activities
- 9. Recognize Funds and Execute Contracts for Natural Gas Fueling Stations under California Energy Commission AB 118 Program
- 10. This item withdrawn by staff.
- 11. Amend Contracts to Provide Short- and Long-Term Systems Development, Maintenance and Support Services
- Authorize Purchase of Network Servers

- 13. Authorize Funds for Coatings and Solvents Acquisition
- 14. Approve Transfer of Monies from Health Effects Research Fund to Brain & Lung Tumor and Air Pollution Foundation
- 15. Approve Contract Award under On-Road Vehicles Program as part of FY 2009-10 AB 2766 Discretionary Fund Work Program

Information Only/Receive and File

- 16. Legislative & Public Affairs Report
- 17. Hearing Board Report
- 18. Civil Filings and Civil Penalties Report
- 19. Rule and Control Measure Forecast
- 20. Lead Agency Projects and Environmental Documents Received by AQMD
- 21. Annual Report on AB 2766 Funds from Motor Vehicle Registration Fees for FY 2008-09
- 22. Enter Into Mitigation Agreement with City of Newport Beach Regarding Use of Emission Credits for CEQA Mitigation

An errata sheet containing an addition to the text in the Mitigation Agreement was provided to the Board Members and copies made available to the public.

- 23. Report on Board's Direction Regarding Adoption of Amendments to Rule 1193
- 24. FY 2009-10 Contract Activity
- 25. Summary of Changes to FY 2009-10 Approved Budget
- 26. Report of RFPs and RFQs Scheduled for Release in September

27. Status Report on Major Projects for Information Management Scheduled to Start During First Six Months of FY 2010-11

Ms. Carney announced her abstention on Item No. 1, as she was not in attendance at the July 9, 2010 Board Meeting. Supervisor Benoit announced his abstention on Item No. 4 due to a campaign contribution from Caterpillar. Dr. Lyou announced his abstention on Item No. 7 due to a financial interest in Clean Energy and UPS and Item No. 9 due to a financial interest in Clean Energy.

MOVED BY CACCIOTTI, SECONDED BY YATES, AGENDA ITEMS 1 THROUGH 27 APPROVED AS RECOMMENDED, ADOPTING RESOLUTION NO. 10-24, RECOGNIZING FUNDS AND ACCEPTING THE TERMS AND CONDITIONS OF CARB'S AB 118 AQIP ADVANCED TECHNOLOGY DEMONSTRATION PROJECT REQUIREMENTS, WITH MODIFICATION OF ITEM NO. 22 AS SET FORTH IN THE ERRATA SHEET AND LISTED BELOW, BY THE FOLLOWING VOTE:

AYES: Benoit (except Item #4), Burke,

Cacciotti, Carney (except Item #1), Gonzales, Loveridge, Lyou (except Items #7 and #9), Mitchell, Perry and

Yates.

NOES: None.

ABSTAIN: Benoit (Item #4 only), Carney (Item #1

only), and Lyou (Items #7 and #9 only),

ABSENT: Antonovich, Campbell and Pulido.

Agenda Item No. 22 City of Newport Beach Mitigation Agreement revised to add the following text:

"WHEREAS, the City of Newport Beach will make a good faith effort to either generate the necessary Mobile Source Emission Reduction Credits onsite or obtain them from a source within onehalf mile of the project site; and"

28. Items Deferred from Consent Calendar – none.

BOARD CALENDAR

- 29. Administrative Committee
- 30. Mobile Source Committee
- 31. Stationary Source Committee
- 32. Technology Committee
- 33. Year 2030 Air Quality & Energy Ad Hoc Committee
- 34. Mobile Source Air Pollution Reduction Review Committee
- 35. California Air Resources Board Monthly Report
- 36. California Fuel Cell Partnership Steering Team Meeting Summary and Quarterly Update

MOVED BY LYOU, SECONDED BY GONZALES, THE BOARD APPROVED RECEIPT/FILING OF AGENDA ITEMS 29 THROUGH 36 AS RECOMMENDED, BY THE FOLLOWING VOTE:

AYES: Benoit, Burke, Cacciotti, Carney,

Gonzales, Loveridge, Lyou, Mitchell,

Perry, and Yates.

NOES: None.

ABSENT: Antonovich, Campbell and Pulido.

37. Consider Options for Janitorial Services at Diamond Bar Headquarters and Extend Current Janitorial Services Contract

Bill Johnson, Assistant DEO of Administrative and Human Resources, gave the staff presentation on Item No. 37. Staff recommended approving the issuance of an RFP to solicit proposals for janitorial services for Diamond Bar Headquarters, as well as approving an extension of the current janitorial services contract, on a month-to-month basis, not to exceed six months.

Ms. Carney commented that the addition of incentive points for companies that offer medical coverage to employees did not have the desired effect when the last RFP was issued; and that is why she feels so strongly that positions should be created so that the janitorial staff can be employees of AQMD, earn a living wage, be provided medical coverage and retirement benefits, as well as the benefit of being surrounded by many different opportunities. She asked staff what the next step would be to move forward with creating employee positions in order to hire a janitorial staff.

Dr. Wallerstein responded that staff would need to come back to the Board with position descriptions and to set the appropriate pay scales.

MS. CARNEY MADE A MOTION DIRECTING STAFF TO RETURN TO THE BOARD WITH THE POSITION DESCRIPTIONS AND PAY SCALES FOR THE JANITORIAL POSITIONS THAT WOULD BE CREATED IN ORDER TO BRING JANITORIAL SERVICES IN-HOUSE. THE MOTION WAS SECONDED BY COUNCILWOMAN PERRY.

Dr. Wallerstein clarified that the analysis completed on this matter involved determining how many hours are spent by the current contractor in maintaining the facility, as well as the number of staff in the cleaning crew, in order to calculate the equivalent costs when compared to local cities and counties that hire their janitors as employees. He raised the concern that the Board has been hesitant in recent years to add any positions to the agency, and if the decision is made to add 10 or 11 janitorial positions, it will cause hesitancy in being able to add other positions that may be critical to the agency.

In response to Supervisor Benoit's inquiry into the quality of service currently received, Mr. Johnson replied that the current janitorial services are of an excellent quality.

Supervisor Benoit responded that since there is not a problem with the current service, and creating positions for in-house employees would potentially double the cost of janitorial services, he supports issuing the RFP in order to continue to contract the services out at a reasonable cost.

Councilwoman Mitchell commented that it can be valuable to contract these services out in order to help support the small businesses in this field during the current economic environment. She supports staff's recommendation because it is mindful of the budget constraints that are currently in effect.

(Supervisor Antonovich arrived at 9:30 a.m.)

Dr. Lyou expressed his surprise at the low wage rate that the current contractor's janitorial staff is receiving and his hope that there is a middle ground between paying twice as much for a contract that provides the staff with an adequate wage and benefits, and having the contracted janitors being paid such a low wage, and not being offered any benefits. He noted that retirement savings for employees contribute to the high costs of creating in-house positions, and suggested the RFP could also award incentive points for those businesses that offer some kind of retirement match program. He proposed that in addition to approving staff's proposal, that the RFP include the language drafted by staff regarding additional incentive points for employers that provide retirement benefits (copies of errata sheet distributed to Board Members and made available to the public).

DR. LYOU MADE A SUBSTITUTE MOTION TO APPROVE STAFF'S RECOMMENDATION REGARDING ISSUING RFP, ΑN **INCLUDING** INCORPORATING THE LANGUAGE ON THE SHEET REGARDING **ADDITIONAL** ERRATA **INCENTIVES** FOR RETIREMENT ACCOUNT CONTRIBUTIONS ON BEHALF OF JANITORIAL EMPLOYEES AND EXTENSION OF THE CURRENT CONTRACT. THE MOTION DIED FOR A LACK OF A SECOND.

Mayor Yates raised the issue that the current healthcare reform initiatives at the Federal level may require these contractors to carry health insurance on their employees in the future. He expressed support for staff's recommendation which is especially prudent in light of current economic times. He added that those employed in low-wage-earning janitorial positions would hopefully be motivated to move up either through obtaining further education or experience.

Ms. Carney responded to Dr. Lyou's proposal for adding incentive points for employers offering retirement contributions, by noting that when extra points were added for offering medical benefits to employees, in effect it did not turn out to be extra points if the proponent was already a small business because they had already received the maximum additional points, so the additional points do not provide the desired effect as they are not a significant incentive to the employer. While she understands the importance of spending public funds responsibly, she feels it is imperative for public agencies to treat all of their employees well.

Supervisor Gonzales acknowledged the need that those in these positions possess, but as an elected official she has been entrusted by the public to make sound fiscal decisions and is, therefore, very careful when it comes to authorizing expenditures. She suggested that the Board could revisit this matter at a later date, but it would not be prudent to proceed with a costly change in the face of an uncertain economic future.

Dr. Lyou suggested that the maximum Additional Points awarded during the RFP process could be higher so that those offering benefits would receive a more favorable rating; and that rather than entering into a three-year contract as proposed, the length of the contract could be shortened to two years.

Dr. Burke commented that the Board is charged with the fiscal responsibility of public funds, which makes it difficult to take a social stand on a fiscal issue, especially when it involves doubling the cost of maintenance in the building.

Dr. Wallerstein suggested that the RFP could be modified to require that potential contractors offer a proposal that would include the prices with and without the health coverage for employees that is defined in the RFP for the extra 10 points. Staff and the Board could then weigh the financial impact of having the contractor provide benefits and the final decision could be made on that basis. In the event the response to that requirement was not favorable, the RFP could be re-issued as originally set forth.

Mayor Yates noted that by either hiring employees for these positions or forcing the contractors to provide benefits, the District is going to pay a high price.

Ms. Carney raised the concern that what was proposed by contractors in the past, was that the employees would pay for the health insurance coverage if the employer offered it, which resulted in a detrimental reduction in their takehome pay. That issue coupled with the low response rate of companies willing to offer benefits, is the motivation behind wanting to bring the janitorial jobs inhouse rather than contract out for another term.

Councilwoman Mitchell proposed that the Board adopt the staff recommendation with the condition that staff take another look at the incentives and increase the maximum additional points rating so there is actual weight given to those contractors offering healthcare benefit packages; and amend the contract term to two-years, which would give adequate time to see what may result from the impending federal government healthcare legislation.

In response to Councilwoman Mitchell's inquiry as to whether or not it would be possible to expand the maximum incentive points to 20, Dr. Wallerstein confirmed that could be done in this case.

COUNCILWOMAN MITCHELL MADE A SUBSTITUTE MOTION TO APPROVE AGENDA ITEM 37 AS RECOMMENDED BY STAFF, TO:

- 1) APPROVE ISSUANCE OF RFP #P2011-02 TO SOLICIT PROPOSALS FOR JANITORIAL SERVICES FOR DIAMOND BAR HEADQUARTERS; AND
- 2) APPROVE AN EXTENSION OF THE CURRENT JANITORIAL SERVICES CONTRACT, ON A MONTH-TO-MONTH BASIS, NOT TO EXCEED SIX MONTHS AT A RATE OF \$29,363 PER MONTH,

WITH THE FOLLOWING MODIFICATIONS TO THE RFP:

- 1) Increase the maximum Additional Points from 15 to 20
- 2) Contract for a two-year, instead of three-year, period

THE MOTION WAS SECONDED BY DR. LYOU AND APPROVED BY THE FOLLOWING VOTE:

AYES: Antonovich, Benoit, Burke, Cacciotti,

Gonzales, Loveridge, Lyou, and

Mitchell.

NOES: Carney, Perry and Yates.

ABSENT: Campbell and Pulido.

PUBLIC HEARINGS

38. Adopt Proposed Rule 1420.1 - Emissions Standard for Lead From Large Lead-acid Battery Recycling Facilities

Staff recommended that the public hearing on this item be continued to the October 1, 2010 Board Meeting.

Ms. Carney announced her abstention on Agenda Item No. 38 because of U.S. Battery being a source of income to her.

MOVED BY YATES, SECONDED BY LYOU, THE PUBLIC HEARING ON RULE 1420.1 WAS CONTINUED BY THE BOARD TO THE OCTOBER 1, 2010 BOARD MEETING, AS RECOMMENDED BY STAFF, BY THE FOLLOWING VOTE:

AYES: Antonovich, Benoit, Burke, Cacciotti,

Gonzales, Loveridge, Lyou, and

Mitchell, Perry and Yates.

NOES: None.

ABSTAIN: Carney.

ABSENT: Campbell and Pulido.

39. Amend Rule 1401 - New Source Review of Toxic Air Contaminants and Preliminary Impact Assessment for Facilities Subject to Rule 1402 - Control of Toxic Air Contaminants From Existing Sources

Staff waived the oral presentation on Item No. 39.

The public hearing was opened and, there being no requests from the public to comment on this item, the public hearing was closed.

MOVED BY CACCIOTTI, SECONDED CARNEY, AND UNANIMOUSLY CARRIED (Absent: Campbell and Pulido). AGENDA ITEM APPROVED. ADOPTING RESOLUTION NO. 10-25 CERTIFYING THE FINAL ENVIRONMENTAL ASSESSMENT AND AMENDING RULE 1401, AS RECOMMENDED BY STAFF.

40. Amend Rule 1150.1 - Control of Gaseous Emissions from Municipal Solid Waste Landfills

Dr. Wallerstein explained that staff is taking this item off calendar at this time, pending CARB's finalization of State requirements that need to be incorporated into the District's local rule.

OTHER BUSINESS

41. Execute Contract for Expert Technical Consulting Services in Building Services, Add and Delete Positions, and Revise Salary Resolution

Dr. Wallerstein explained that this item seeks to reverse some changes that the Board made at its April 2, 2010 meeting, including adding back a position that was deleted, in response to staffing changes that have occurred in the past month. He added that there is no net increase to the total positions in the FY 2010-11 Budget.

Bill Johnson, Assistant DEO Administrative and Human Resources, gave the staff presentation.

In response to Supervisor Gonzales' inquiry, Dr. Wallerstein clarified that the District is not re-employing the former Building Manager, Gary Heiss; the contract with Mr. Heiss is just in case an emergent issue arose in regards to the building during the transitional period of hiring someone to fill the reinstated Building Maintenance Manager position.

MOVED BY YATES, SECONDED BY CACCIOTTI, AND UNANIMOUSLY CARRIED (Absent: Campbell and Pulido), AGENDA ITEM 41 APPROVED, AS RECOMMENDED BY STAFF:

- 1) ADOPTING THE CLASSIFICATION RECOMMENDATIONS, ADDING A BUILDING MAINTENANCE MANAGER POSITION AND DELETING A SENIOR OFFICE ASSISTANT POSITION:
- 2) ADOPTING RESOLUTION NO. 10-26, AMENDING THE SALARY RESOLUTION TO REVISE THE ANNUAL SALARY RANGE FOR BUILDING SUPERVISOR, FROM \$61,654.82 \$76,386.20 TO \$56,049.76 \$69,442.36;
- 3) AUTHORIZING THE EXECUTIVE OFFICER TO ENTER INTO A CONTRACT WITH GARY HEISS, FOR A TOTAL AMOUNT NOT TO EXCEED \$20,000, TO PROVIDE EXPERT TECHNICAL CONSULTING SERVICES RELATED TO MAINTAINING **EFFICIENT FUNCTIONING** OPERATIONS AND OF AQMD'S DIAMOND BAR FACILITY AND AIR MONITORING STATIONS: AND

4) APPROVING THE FINDINGS PERTAINING TO THE CONTRACT WITH GARY HEISS.

(Mayor Pulido arrived at 10:10 a.m.)

42. Proposed Regional Greenhouse Gas Emission Reduction Targets

Dr. Elaine Chang, DEO of Planning, Rule Development and Area Sources, gave the staff presentation.

Supervisor Benoit expressed concern with the lack of a complete economic analysis on the impact these changes will have on the State as a whole, and on the South Coast region, while California is already facing a significant, negative impact on the ability to create jobs and attract employers to keep Californians employed. He expressed disappointment that some critical questions have been left out by the State, and as such he does not support the current proposal.

Mayor Loveridge acknowledged the considerable cooperation and collaboration involved in setting the initial RTAC targets; acknowledged that these targets will not be met unless there are significant State and Federal incentives provided; and expressed support for sending the letter to CARB in order to address the issues currently facing the South Coast District in this regard.

Supervisor Gonzales commented that even though she has taken part in extensive discussions with the California Fuel Cell Partnership Planning Committee, she does not believe that automobile manufacturers have enough incentive to move forward with the hydrogen fuel cell project; and unless CARB provides a clear directive that identifies funding, the South Coast will not be able to meet the zero emissions deadline. She expressed her support for providing more compelling, detailed information in the letter to CARB in order to convey the severity of the difficulties the South Coast region is faced with.

Councilwoman Mitchell expressed satisfaction with the ambitious goals that are being set; and supported being emphatic in regards to the necessity for CARB to assist with ensuring that proper funding will be provided.

Councilman Cacciotti agreed that the language in the second paragraph on the second page regarding financial resources could be strengthened in order to further emphasize the importance of receiving such assistance.

Supervisor Gonzales responded that the letter should clearly state that the District will not be able to meet the mandated deadlines unless funds are provided to support the hydrogen fuel cell projects and other initiatives that will lead to the zero emissions attainment goal.

Dr. Lyou added that he was aware that Dr. Wallerstein advocated for measures other than the targets during the RTAC process, including the best management practices, which would provide more helpful, measurable information. He questioned whether CARB could be convinced to include best management practices in large part and not just focus solely on the targets. Dr. Wallerstein responded that he did not believe that was possible, but added that the letter could be strengthened in that regard if that is the Board's desire.

MOVED BY LYOU, SECONDED BY CACCIOTTI, AGENDA ITEM 42 APPROVED RECOMMENDED BY STAFF, APPROVING AQMD COMMENTS THE TO CARB ON PROPOSED REGIONAL GREENHOUSE **GAS EMISSION** REDUCTION TARGETS. WITH DIRECTION TO STRENGTHEN THE LANGUAGE IN DRAFT LETTER CONCERNING BEST MANAGEMENT PRACTICES AND THE NEED FOR FUNDING, BY THE FOLLOWING VOTE:

AYES: Burke, Cacciotti, Carney, Gonzales,

Loveridge, Lyou, Mitchell, Perry, Pulido

and Yates.

NOES: Benoit.

ABSENT: Antonovich and Campbell.

<u>PUBLIC COMMENT PERIOD</u> – (Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3)

There was no public comment on non-agenda items.

CLOSED SESSION

The Board recessed to closed session at 10:25 a.m., pursuant to Government Code section 54956.9(a) to confer with its counsel regarding pending litigation which has been initiated formally and to which the District is a party, as follows:

- NRDC, et al. v. SCAQMD, et al., U.S. District Court Case No. CV08-05403 GW (PLAx) and U.S. Court of Appeals, 9th Circuit, Case No. 09-57064;
- <u>CCAT, et al. v. State of California; SCAQMD, et al.</u>, Los Angeles Superior Court Case No. BS124264 and California Court of Appeal, Second District, Case No. B226692;
- Communities for a Better Environment v. South Coast Air Quality Management District, et al., Los Angeles Superior Court Case No. BS091275, and Carlos Valdez, et al. v. South Coast Air Quality Management District, et al., Los Angeles Superior Court Case No. BS091276, Court of Appeal of the State of California Case No. B193500, and Supreme Court of California Case No. S161190;

In addition, the Board also recessed to closed session pursuant to Government Code section 54956.8 to confer regarding real property negotiations regarding:

Property: 21825 Copley Drive, Diamond Bar, California 91765

Agency Negotiator: Barry Wallerstein

Negotiating Party: City of Diamond Bar

Under Negotiation: Price and terms of lease.

Following closed session, General Counsel Kurt Wiese announced that there were no reportable actions taken in closed session.

ADJOURNMENT

There being no further business, the meeting was adjourned by General Counsel Kurt Wiese at 11:10 a.m.

The foregoing is a true statement of the proceedings held by the South Coast Air Quality Management District Board on September 10, 2010.

Denise Pupo
Senior Deputy Clerk

Date Minutes Approved:

Dr. William A. Burke, Chairman

ACRONYMS

CAPCOA = California Air Pollution Control Officers Association

CARB = California Air Resources Board

CEQA = California Environmental Quality Act

CNG = Compressed Natural Gas

CO₂ = Carbon Dioxide

FY = Fiscal Year

GHG = Greenhouse Gas

LNG = Liquefied Natural Gas

MSRC = Mobile Source (Air Pollution Reduction) Review Committee

 $NO_X = Oxides of Nitrogen$

PAMS = Photochemical Assessment Monitoring Stations

PAR = Proposed Amended Rule

RFP = Request for Proposals

RFQ = Request for Quotations

RTAC = Regional Targets Advisory Committee

 $SO_x = Oxides of Sulfur$

U.S. EPA = United States Environmental Protection Agency