

**The Minutes of the  
Air Improvement Resources Executive/Advisory Committee Meeting  
Alamo Area Council of Governments  
Wednesday, December 14, 2005, 1:30 p.m.  
In conjunction with the AACOG Semi-Annual Meeting  
Crowne Plaza Hotel-Riverwalk; Fiesta Pavilion  
111 Pecan Street East, San Antonio, TX 78205**

**Executive Committee Members**

Chairman Jay Millikin, Comal Co. Commissioner  
Commissioner Tommy Adkisson for Mayor Wolff  
Mayor Raymond Ramirez, City of Floresville  
Mayor Bruce Boyer, City of New Braunfels  
Mayor Patrick Heath, City of Boerne  
Judge Marvin Quinney, Wilson County  
Mayor Jim Parma, Greater Bexar County  
Council of Cities

**Advisory Committee Members**

Kevin Butt, Toyota  
Susan Ghertner, HEB  
Rebecca Gray, American Lung Assoc.  
Forrest Mims, Guadalupe County

**Technical Committee Members**

Renee Green, Bexar County, Chair

**Guests**

David Newman, COSA  
Sally Farris, COSA, Office of the City Attorney  
Kyle Cunningham, COSA, S.A. Metro Health  
Richard Garcia, TCEQ Region 13  
Rick Hite, TCEQ Region 13  
Nicolas Page, S.A. BCMPO  
Thomas Marks, City Council District 9

**AACOG Staff**

Al Notzon, Executive Director  
Dean Danos, Deputy Director  
Peter Bella, Director, Natural Resources  
Steve Smeltzer, Environmental Manager  
Berti Vaughan, Administrative Assistant

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**I. Roll Call** Chairman Millikin called the meeting to order. He asked that the roll be called. Dean Danos called the roll and declared a quorum.

**II. Citizens to be Heard** There were none signed up to speak.

**III. Approval of Minutes** Chairman Millikin asked for a motion to approve the minutes for October 26, 2005. Mayor Heath motioned for approval of the minutes. Judge Quinney seconded the motion. The motion passed.

**IV. Ozone and Particulate Matter Report** Peter Bella reported that the values remained the same in the ozone readings with no new exceedences. Concerning particulate matter, Mr. Bella said the readings remain well below the national average.

**i. Reconsideration of the final Clean Air Interstate Rule** Mr. Bella pointed to a single page handout that explained the Clean Air Interstate Rule. Mr. Bella explained that the federal rule included most of the eastern 28 states in the United States including Texas. The rule called for reductions in sulfur dioxide emissions and from nitrogen oxide emissions in those states. The rule included Texas because according to the modeling, the particulate matter found in Texas was also found in Illinois. Mr. Bella said that the rule had been opened up for public comment and pointed to the statements made by TCEQ stating "that it does not appear that any of these items will be relevant to Texas at this time". Mr. Bella said that the AIR Technical Committee reviewed the item and would continue to monitor the state implementation of this rule.

## V. Clean Air Plan Update

**a. Challenges to the Early Action Compact** Mr. Bella reminded the committee that this was a continuing item having started when they received a letter in the EPA docket in June from the New York State Department of Environmental Conservation regarding Early Action Compacts. He reported that there has been no further action on New York's part since that letter and that the timeline had expired for further action. However, on November 7<sup>th</sup> AACOG received a Petition for Judicial Review filed in October on the same rule. EPA and Earth Justice consolidated the petition for judicial review with earlier petitions challenging the EAC program and to continue to hold all petitions in abeyance. He told the committee that he had included in their packets a copy of the motion to consolidate as well as the hold in abeyance that they had filed. He explained that the abeyance filed by both parties was now under consideration in court. Mr. Bella said they would continue to keep the committee informed if there were any further developments. He said that the petitioners did not file the statement of issues. The statement of issues was required filing by November 30<sup>th</sup> in their petition.

Mayor Heath asked what it was exactly that was to be reviewed. Mrs. Green explained that they would have found the answer to that question if they had filed the statement of issues. Mrs. Green stated: "It appears that this is a strategic move to preserve the right of some of the environmental groups to move forward aggressively if they see an early action compact not adhering to a requirement. Basically the only statement in what they filed challenged the right of the EPA to defer non attainment dates." Mrs. Green said the technical committee did not anticipate that there would be a judicial review. In a worse case scenario they determined if there was a judicial review and the EAC rule would come out, there would still be a period of negotiations which could very possibly take the EAC all the way to 2007.

Mayor Heath asked if the court had ruled on the motion to hold in abeyance. Mr. Bella responded that to his knowledge only the judicial review had been filed

Mr. Notzon concurred with the technical committee. He pointed out that failure to meet a deadline to file the issues left no issues for a Judge to review.

**b. Action Item: Final approval of Sixth Semi-annual Report:** The Early Action Compact for the San Antonio Region Mr. Bella explained that the EAC document has been reviewed twice by the Technical Committee most recently on Monday. It was an EAC deliverable due to TCEQ and EPA by the end of the month under the terms of the EAC. Mr. Bella directed the committee's attention to the last four pages of the EAC document reflecting the control measures table and summarizing the implementation of all the rules involved. Mr. Bella said that all the rules had been implemented and that he was working with TCEQ on educating the entities who would be affected by the rules. Chairman Millikin remarked that if the control strategies had been implemented in the MSA it was the world's greatest secret. Ms. Green replied that one of the things they were doing was holding conversations with Rick Hite on how to go about tracking the rule implementation. They were looking into some sort of performance measures for vapor recovery as well as public education on degreasing requirements. Chairman Millikin asked who was responsible for educating the public. Mr. Bella replied that they were state rules. However they were trying to leverage working with TCEQ, and SAMHD to see about a comprehensive program.

Chairman Millikin expressed his concern that they only had three years to prove compliance and the first year had not gone well. In addition there were two control strategies whose methods they had determined will improve the air quality in the Greater San Antonio

area and they needed to make very sure that those two control strategies are going to have maximum affect in this three county region. He said that efforts were needed to inform the public on this first year status and they needed to request help from industry, business, and the public to maintain compliance through the two remaining years in the EAC.

Chairman Millikin asked for a motion to approve the Sixth Semi Annual EAC Report. Mayor Heath motioned for approval of the The Early Action Compact. Kevin Butt seconded the motion. The motion unanimously passed.

**c. Action Item: Comments to TCEQ Nov. 30, 2005 revision proposal for Texas Low Emission Diesel rule** Mrs. Green pointed to a letter drafted to TCEQ by the AIR Technical committee. The letter informed TCEQ of the committee's opposition to the proposed rule allowing oil manufacturers to take credit for distributing cleaner burning fuels they previously supplied areas in lieu of providing TxLED in January 06. Mrs. Green explained that the proposed rule says that if for some reason oil manufacturers don't want to provide cleaner fuel in 06, they can count fuel provided in advance of the proposed rule. Mrs. Green said that the proposed rule would compromise the photochemical model credits because they did not include that rule in the modeling. She added that the proposed rule was in the comment phase of the public process which gave the committee the perfect opportunity to submit their opposition and their rationale.

Mayor Heath moved to approve the transmittal of the letter. Mayor Ramirez seconded the motion. The motion was unanimously approved.

Chairman Millikin asked the committee to reconsider the motion on item number 5b. He believed that the second on the motion had not been made by an elected official and the by-laws required it. Mayor Ramirez provided the second to the motion. Chairman Millikin asked for a vote on the item again. The motion unanimously passed.

**b. Action Item: Letter requested by SA/BC MPO regarding Transport**

Mr. Notzon clarified that the request for the letter had come from Commissioner Lyle Larson as part of the SA/BC MPO meeting itself after Mr. Notzon reported on the uniqueness of the October 17th exceedance during the 2005 ozone season. During the meeting, Mr. Notzon explained that the event was unique for several reasons; 1) in tracking the event there was considerable transport coming out of Houston that came into the San Antonio area, picked up all the precursors in the region, moved north of the region, stalled, and as the front moved, washed it back into the area. 2) the event occurred very late in the season and 3) the temperature was very low (in the 80's). Mr. Notzon said that under the current law as written the Clean Air Act does not provide that such readings be excused. The question was asked by Commissioner Larson as to whether the region's Congressional leaders shouldn't be informed that events such as this existed and were not being addressed through the Clean Air Act. The idea being that when there was a Congressional review of the policy development of the Clean Air Act they could introduce policy revisions on the issue. Mr. Notzon noted that the unique event had provided the region with the fourth and final event of the ozone season and could very well be used to determine attainment. Mr. Notzon said that was why the issue was before them and asked if the issue was something they wanted to agree or not agree to or provide draft language that met with what Commissioner Larson was recommending.

Renee Green said that the problem was that the draft letter did not reflect Mr. Notzon's or Commissioner Larson's intentions. She had spoken with Commissioner Larson and informed him about what they were voting on today and he said that was not what he

wanted. He is looking for something more aggressive and said that the MPO was taking a stab at drafting a letter. She clarified with Commissioner Larson that the letter did not have to come through the AIR committee. The Commissioner said that if the committee felt strongly enough about it, they would send it on its own. They would come up with the adjectives, he just wanted to make sure that the nouns are correct.

Commissioner Millikin recommended that they table the letter. He commented that from his personal point of view, "if this area is corresponding with elected leadership above the committee, state or federal government, he thought it ought to come out of the AIR committee, not staff, not one governmental entity, etc. It should be coming out of this organization which is responsible in the San Antonio MSA for air quality policy and issues."

Mr. Notzon said he had no problem with bringing it back. "We have the time to take to do it right. I think it does have to come back to AIRCO. I think this body is playing the role on behalf of local government."

Mayor Heath motioned to table Action Item # 5. Chairman Millikin seconded the motion.

Mr. Notzon asked if the issue would be presented at the next AIRCO meeting.

Mayor Heath replied that if the motion passed, he was going to request that at least two items to come back to the March 1<sup>st</sup> meeting. "One would be a draft letter that is appropriate to the concerns expressed today and any other concerns addressed by the AIR Technical Committee. And the second relates to an earlier discussion and that would be, a printed status report/printed matrix which shows all the points on which we have a relationship with TCEQ and the state as various actions or requests we've made today, including the issues, like implementation of the degreasing rule, and stage 1 recovery."

Chairman Millikin agreed and thought it would be particularly beneficial to Mayor Parma and Mayor Boyer as well.

Chairman Millikin brought the item up for a vote. The motion unanimously passed.

## **VI. ACOG Staff Updates**

a. Joint Meeting of the AIR Executive/Advisory Committee and the Greater San Antonio Chamber of Commerce Peter Bella reported that they were planning a joint meeting with the San Antonio Greater Chamber of Commerce to discuss voluntary measures that businesses could implement through the Clean Air Partners program. He invited the committee to attend the session scheduled for February 1<sup>st</sup>.

## **VII. Other Issues**

### **a. Action Item:** Approval of 2006 Meeting Schedule

Chairman Millikin presented the meeting schedule and asked if there were any questions or discussion on the item. There being none, the Chairman asked for a motion to approve the schedule. Mayor Ramirez made the motion for approval. Mayor Heath seconded the motion. The motion passed unanimously.

## **VIII. Adjourn**

Chairman Millikin wished everyone a very merry Christmas with very clean air for 2006. The meeting was adjourned.