

**The Minutes of the
Air Improvement Resources Executive/Advisory Committee Meeting
Alamo Area Council of Governments
8700 Tesoro Drive, Suite 100, San Antonio, Texas
Wednesday, January 28, 2004, 8:30 a.m.**

Executive Members

Com. Jay Millikin, Comal Co, Chairman
Judge Nelson Wolff, Bexar Co., Vice-Chairman
Mayor Patrick Heath, Mayor of Boerne
Mayor Adam Cork, City of New Braunfels
Judge Marvin Quinney, Wilson County
Mayor Raymond Ramirez, City of Floresville
Councilman Ernest Hernandez, City of Seguin
Judge Donald Schraub, Guadalupe County
Mayor Marcy Meffert, Greater Bexar County
Council of Cities

Guests

Kate Williams, TCEQ
Megan Goode, TCEQ
LeeAne Lutz, COSA
David Newman, COSA
Teresa Haan, Randolph AFB
Debra Engler, SAWS
Edward Hrne, Ft. Sam Houston
Chris Chase, Gazette-Enterprise (Seguin)
Bryan Lambeth, TCEQ
Steve Spaw, TCEQ
David Manis, TCEQ
Richard Garcia, TCEQ
Michael Morton, EPA Region 6
Dave Sullivan, TCEQ
Rick Hite, TCEQ
Sean Dunlap, TCEQ
Cindy Morphew, Texas Oil & Gas Association

Air Technical Committee Members

Renee Green, Co-Chair, Bexar County
Ana Sandoval, Co-Chair, VIA Metro Transit
Ken Zigrang, TxDOT-SA
Tom Hornseth, Comal County
David Newman, City of San Antonio

Advisory Members

Julie Klumpyan, Valero
Dan Titerle, SAWS
Kevin Fareri, USAA
Rebecca Gray, American Lung Association
Mike Riley, City of Seguin
Dean Word, Word Construction Company
Gary D. Ross Jr., Toyota
Stanley A. Dabney II, Alamo Cement Company
Bill England, Harmony Hills Neighborhood.
Association
Forrest Mims, Guadalupe County
Susan Ghertner, H.E.B.
Charissa Barnes, TSIA
Ken Bercaw, New Braunfels Chamber
Aleisha Knochenhauer, Martin Marietta Materials

Citizens to be Heard

Mayor Charles Ruppert, City of Cibolo
Mark Langford, San Antonio
Terri Landan, New Berlin, Guadalupe County
Jack Finger, San Antonio
Forrest Mims, Guadalupe County
Nancy Strack
Mike Riley, Guadalupe County

AACOG Staff

Al Notzon, AACOG Executive Director
Dean Danos, AACOG Deputy Director
Peter Bella , Director Natural Resources
Steven Smeltzer, Environmental Manager
Dorothy Birch, Public Education Coordinator
Berti Vaughan, Administrative Assistant
Brenda Williams, Environmental Modeler
John Quebe, Clean Cities
Isabel Chacon, Transportation Specialist

I. Roll Call

Chairman Millikin called the meeting to order and asked that the roll be called. Dean Danos called the roll and declared a quorum.

Chairman Millikin introduced and welcomed Mayor Marcy Meffert as the new representative of the Greater Bexar County Council of Cities.

II. Approval of Minutes

Chairman Millikin asked the Committee for consideration of the December 22nd, 2003 minutes. Mayor Cork made the motion to adopt the minutes. Bill England seconded the motion. Chairman Millikin called for the vote. The motion unanimously passed.

III. Citizens to be Heard

Chairman Millikin asked Mr. Danos for the list of Citizens To Be Heard signed up to speak.

Mr. Danos called Terri Landan to the podium.

Citizen #1: Terri Landan read a prepared statement which she submitted and which has been included at the end of these minutes.

Chairman Millikin called Nancy Strack to the podium.

Citizen #2: Nancy Strack read a prepared statement which she submitted and which has been included at the end of these minutes.

Chairman Millikin called Jack Finger to the podium.

Citizen #3: Jack Finger's comments were recorded, and a verbatim transcription of those remarks is included at the end of these minutes.

Chairman Millikin called Mark Langford to the podium.

Citizen #4: Mark Langford's comments were recorded, and a verbatim transcription of those remarks is included at the end of these minutes.

Chairman Millikin said that concluded the general comments. He said there would be more citizen comments by action items later in the agenda.

Chairman Millikin deferred the particulate matter report and the public education report later in the agenda in order to accommodate the action items. Chairman Millikin proceeded to Item number seven and asked if there was anyone who wanted to speak to the action item. Mayor Ruppert replied he would use one minute of his allotted three minutes to speak to Item number seven.

Citizen #5: Mayor Charles Ruppert's read a prepared statement which he submitted and which has been included at the end of these minutes.(He separately addressed items #7, #6B2, #6B3, and #6B4, with his allotted three minutes.)

Mr. Langford asked to speak on item number seven. Chairman Millikin reminded him that he had already spoken previously under citizens to be heard and could only speak once under the by-laws.

Item # VII. Consider Recommendations From the Air Technical Committee:

A. CAMS 23 Data

Chairman Millikin turned the discussion over to Renee Green Chairman of the Air Technical Committee. Ms. Green reported that on January 26th the Technical Committee considered four motions. They are listed as Items a, b, c, and d . The first motion made on item a was that they appeal CAMS 23 data for the years 2000 through 2002 to the EPA. The motion was made by Mr. Forrest Mims. There was a significant amount of discussion on this particular item. She drew their attention to a handout containing information from several meetings during which the issue was addressed in 2002. She explained that through the discussion it was determined that they had addressed the issue of CAMS 23 on several occasions. And each time there was a subsequent response by TCEQ. The next communication occurred September 13th 2002. Again response was back to AACOG from TCEQ September 18th. In October 4th 2002, a letter was sent to Chairman Houston regarding the CAMS 23 data and again we received a response back from Chairman Houston. On July 23rd 2003 we again sent another letter and again we had a response back on October 28th. Therefore, it was the consensus of the committee through the discussion that this particular issue of the liability of the CAMS 23 data had been asked and answered several times. And that the TCEQ and the EPA were not willing to throw out or discount the data from that particular monitor. Therefore as noted on the handout the motion did not pass on a seven to two vote disapproving the motion.

B. CAMS 23 site location request

Ms. Green explained the next item as a motion to appeal or reject the data from CAMS 23 based on the site location information. She said there was significant discussion regarding this particular agenda item. One of the things discussed earlier, when the CAMS 7 monitoring equipment was moved to Camp Bullis from Pilgrim Park because of the trees, was that the move did not negate or invalidate the data that had been previously received from the Pilgrim Park monitor. The data recording began again at the Camp Bullis monitor. The motion failed seven to two. However, an alternative motion was presented by Tom Hornseth. A modification of the original motion, the new motion asked TCEQ and EPA to review the site location of CAMS 23 to insure that it meets the current guidelines. Ms. Green remarked that as a result one of the action items was approval from the executive advisory committee to go forward and send a letter as drafted.

C. Transport Issues

Ms. Green remarked that there was also significant discussion on this item. The full technical committee was in agreement that the transport issues needed to be addressed and they unanimously approved a motion to draft a letter requesting that TCEQ immediately develop an action plan addressing transport issues. She added that transport issues were also of a significant interest to the Dallas and Houston area as well. She felt there would be statewide support in going forward on this.

D. Data Used in Photochemical Model

Ms. Green said that the motion was made that the Air Executive Committee advise the EPA that "we wish to use a realistic optical depth number and not their optical depth number for the San Antonio region". There was significant debate on what the word "realistic" meant and there was no alternative to that particular definition offered. The vote originally was four to four with one abstention and at the end the abstention turned to a no so the motion did not pass.

On behalf of the Air Technical Committee Ms. Green asked Chairman Millikin that as requested through agenda item number seven, the AIR Executive Advisory Committee approve the drafting of a letter to the TCEQ and EPA. The letter would be drafted to ask that

they review the siting location for CAMS 23. In addition, a second letter would be drafted to ask the TCEQ to develop an immediate action plan on transport issues affecting our state.

Judge Schraub asked Ms. Green for clarification on the letters sent to TCEQ and EPA. He asked if they had sent letters that CAMS 23 data was flawed and they turned deaf ears. Ms. Green said they had replied that the data was within their criteria for acceptable data. He stated that if flawed data was acceptable they left themselves opened for litigation and left much to question. Chairman Millikin recalled a substantial amount of dialogue with TCEQ and they recognized the fact that there was difficulty with the CAMS 23 readings in 2002 but if they had adjusted it they would have had to adjust 2001 and 2000 and the total numbers would have been higher than they were. Ms. Green mentioned that Steve Spaw and Dr. Sullivan were present and perhaps could address the questions.

Chairman Millikin welcomed Mr. Spaw and thanked him for his presence.

Steve Spaw: Commissioner Millikin other members of the committee, my name is Steve Spaw and I am the director of monitoring operations. I would like to make a few points about the CAMS 23 data. First of all I would like to say that the TCEQ and its monitoring efforts takes great pains to collect as accurate data as possible. We believe in our monitoring network. When you consider that we have over a hundred different monitoring stations scattered throughout the state and over six hundred instruments, it is one of the best in the country. The normal precision in our measurements with regard to ozone is plus or minus 5% which is as good or better than any monitoring network in the country. (Chairman Millikin asked for a repeat on the measurement.) We did detect a bias in the data from CAMS 23 in the year 2000. Actually we detected in the year 2001 but we determined that the bias also there in 2000. This was a low bias. I do want to make a point because it has been stated that there's been some sort of cover up. As soon as we detected that bias and verified it we notified San Antonio officials. At that time we notified them that although the data looked good for attainment for San Antonio because of this bias the possibility of San Antonio remaining in attainment was probably low. We took expeditious measures to determine the cause of the bias and we corrected that as soon as practical. In 2002 as a result we gave special attention in looking at the CAMS 23 data and comparing it to other data in the area. And we detected in 2002 that there was a positive bias in the data. Again as soon as we verified that the San Antonio officials were notified of that fact. Again we took as expeditious as possible measures to correct that bias at CAMS 23 and as of today we do not see any bias in the CAMS 23 data. These biases were detected because of our diligence in trying to quality assure our data. If it had not been for the diligence of the staff these biases would have never detected—never been known. As a result of these biases of course questions about the data for 2000, 2001, and 2003 have been raised and Commissioner Millikin said is in fact the case that if we went back and statistically corrected the 2002 data we would have to do the same for 2000 and 2001 and the design value for CAMS 23 would then be a little higher than it is. EPA and its experts and our experts have scrutinized the CAMS 23 data thoroughly. Our experts and EPA's have come to the conclusion that the variation due to the bias in the samples and the fact that there is a offsetting low bias would not justify throwing that data out. EPA has the final say if whether or not the data is acceptable. They have made a ruling that the data is acceptable and so, even if we disagree with them, which we do not, we would not be in a position to change that ruling.

Finally I would like to point out to the Committee that the data... between CAMS 23, even with the bias, and CAMS 58 which is a nearby monitor, shows that there is only a two parts

per billion difference in the design value between the two for the years 2001 through 2003 the design value for CAMS 23 is 89 parts per billion, for CAMS 58 it 87 parts per billion. Two parts per billion cannot even be noticed within the accuracy of any kind of control strategy so to worry about the accuracy in the problems with CAMS really doesn't mean anything because you are in the same situation with or without CAMS 23. So with that I'll answer any questions that you might have. I might mention/address the fact that we are aware of the possible site problems with CAMS 23 with regards to a nearby tree and we are as a staff investigating that currently. So, your letter will support us in that investigation.

Chairman Millikin thanked Mr. Spaw and asked if there were any questions. Mr. Riley responded.

Mr. Riley asked Mr. Spaw if he was a part of the site selection committee for CAMS 23. Mr. Spaw replied no. Mr. Riley said "but you said that you were aware of a possible corruption at that site". Mr. Spaw said that he had been made aware of a tree near the station that had grown over the years and is now encroaching upon the circumference from which EPA site criteria would call that into question. Mr. Spaw explained that staff was investigating the site. Mr. Riley asked if the criteria that EPA established for site placement was established to eliminate the possibility of corruption of data. Mr. Spaw replied that it was to eliminate the possibility of siting too close to an obstruction that would alter the normal wind patterns at that particular station thereby influence the data. Mr. Riley asked him if he was aware of discussion about the plume from City Public Service possibly causing corruption of data. Mr. Spaw replied that he was not familiar with that. However Doctor Sullivan was present and he could respond.

Chairman Millikin asked that questions and answers be as concise as possible because of the number of action items on the agenda.

Dr. Sullivan: Well specifically about the corruption issue. A plume would not corrupt the data. The plume from the power plant is twenty miles away so by the time the plume impacts that site it is part of the ambient air. When we measure ambient air we want to get the air that is typical within a region so when the plume impacts CAMS 23 it is also impacted a large area all around it. It is not something which is only source oriented.

Mr. Riley asked Dr. Sullivan if he was concerned about where CAMS 23 is placed. Dr. Sullivan responded that he was not concerned about where CAMS 23 is placed.

Dr. Sullivan: The tree was on the predominantly downwind side of the site. We analyzed just on a cursory analyses of the wind direction patterns at that site over time. And there is no perceptible change in those wind direction patterns and we analyzed the data during the summer afternoons when the winds are predominantly from the southeast, so there is no evidence in examining the weather data and I would be happy to share that with you and maybe have Mr. Riley and Mr. Langford look at it that would indicate that the tree is affecting the wind flow pattern around the site on summer afternoons. So we really have no evidence that the tree is causing an obstruction and that is the test. The test isn't that a tree is too close, the test is that the tree is too close and is an obstruction so then the question is how do you test for an obstruction and you do that by analyzing the wind data. I can show you clear examples of where obstructions exist. We have a site in downtown El Paso where around 2000 a building was built across the street from it and it radically changed the wind distribution and it no longer met our siting criteria and it was clearly evident from the wind

data. Just recently we shut that site down because it is no longer as representative as it had been.

Chairman Millikin thanked Dr. Sullivan for his comments.

He called on Mr. Mims and said they needed to move on.

Mr. Mims stated that this was a critical issue because it determined whether or not the design value could be lowered. Mr. Mims proceeded to ask if in the year 2000-2001 they were unaffected by the problem in 2002? He said that according to Bryan Lambeth the latest problem at CAMS 23 would not have occurred in 2002, "if we were not adjusting the data for the calibrations." Dr. Sullivan concurred. Mr. Mims asked if the "error that occurred in 2002 is more artificial than the error that may have occurred in 2000 and 2001." Dr. Sullivan replied that he wouldn't say it was artificial but it is of a different nature. Mr. Mims argued that it was created by human beings manipulating the method by which the data was analyzed. Dr. Sullivan said that the difference is the 2002 problem was created by a computer, the 2001 problem was created by the plumbing for the instrument. Mr. Mims pointed out that computers didn't make errors, people did and that was the problem for the 2002 and said that was why TCEQ had decided to change that procedure. Dr. Sullivan asked if he could say that plumbing doesn't make errors only plumbers make errors. Mr. Mims insisted that the tree was a problem in September 2002 because that was the day that recorded the worse ozone violations in many years and the wind was coming from the direction of the tree. He said that Mr. Spaw had discussed the openness of the process and although AACOG knew of the problem he was never informed about CAMS 23. Mr. Mims insisted the local scientists could provide them with answers if they were asked and kept informed. Mr. Mims pointed to an e-mail that Dr. Sullivan had written staff about possible options they could take in regards to CAMS 23. The first option was to throw out all the data from CAMS23 since 1/1/2000. Mr. Mims felt that was the choice they should make because the data was inappropriate. He said that when he measured the ozone layer he had to be within 1%. The problem was that TCEQ measured between 10 and 20%. Mr. Mims remarked that the silver lining to the problem was a bill that would be introduced in the congress by Congressman Ron Paul to correct "this aberration" where the EPA can allow measurements of science to be plus or minus 20%.

Dr. Sullivan objected to his comments being taken out of context because Mr. Mims knew that he did propose two other alternatives.

Chairman Millikin commented that those of the committee involved for the past four and a half years understood the discord with CAMS23 but it did not negate the fact that CAMS 58 is also indicative of the fact that "we have exceeded federal air quality standards."

Chairman Millikin asked Renee Green, chairperson of the Air Technical Committee to recap action items number 7b and 7c. Renee Green said the Technical Committee was asking for the Executive Advisory Committee's approval to send or to draft a letter and bring back for the Executive Committee's review asking the TCEQ and EPA to review the site location of CAMS 23. And they were also asking for the Executive and Advisory Committee's approval to draft a letter to TCEQ to develop an action plan that deals with transport issues.

Adam Cork moved that both letters be drafted as recommended by the Air Technical Committee. Bill England seconded the motion. Chairman Millikin asked if there was any further discussion. The motion passed unanimously.

Chairman Millikin considered item # 6b next. Mr. Mims was signed up to address the committee. Mr. Mims gave an overview through a power point presentation. The presentation was entitled a "Practical Clean Air Plan for AACOG." Mayor Ruppert, Mike Riley and Mr. Mims had been well received by the TCEQ Commissioners and staff and were invited back during their testimony in Austin on January. He said that after four years of careful study two emissions testing proposals were soundly rejected by the Air Technical Committee on January 26 and that lastly by following the presentation by Travis County in favor and Guadalupe County against the San Marcus City County voted four to two to delete its I&M from its EAC. Mr. Mims remarked that "they did the right thing by rejecting the bad science. Emissions testing was bad public policy and obsolete science soundly criticized by the national academy of science, the cost of emissions testing may be ten times the cost of testing when a car fails a test because of the repair bill, emissions testing programs penalize and inconvenience the poorest members of our society and LIRAP payments do not help the poor."

Chairman Millikin reminded Mr. Mims that Inspection and Maintenance was not under active consideration by the Committee.

Mr. Mims continued. He said testing newer vehicles was counterproductive because the vast majority pass the test and emissions testing would only save four tenths of a part per billion and Mr. Spaw had said that two or three parts per billion was essentially trivial in the grand scheme of things. He showed visual graphs over Austin which indicated that week-end ozone violations occurred because there were fewer cars on the road to scavenge the ozone. He said this was because car exhaust destroys ozone. It does not create ozone. He pointed to the support resource as the general bureau of waste management, July 2003 and quoted the editor as saying that this was a classic example of the interaction between science and policy. Mr. Mims pointed to the key problem being transported air coming into our area which originated from Louisiana or from points East. He pointed specifically to a September high ozone event in 2002 when the air from Louisiana was over the region. He said the event had been reviewed by TCEQ staff and staff scientists were taking a new look at this. He had received an e-mail that they had proved that event had occurred and may result that the event be declared an exceptional event by EPA. If that occurs, San Antonio would not be in violation of the EPA standard. He finalized his presentation by saying that AACOG had two choices; to endorse bad science and bad policy that would hurt the poor, elderly, students, and others or reject bad science. He suggested that AACOG reject bad science.

Chairman Millikin commented that he understood the San Marcus decision but he also understood that the Hays County Commissioners Court unanimously approved vehicle emissions testing even though they were not in non-attainment.

Mayor Ruppert asked the Chairman if he was going to address each action item separately. Chairman Millikin replied yes. Mayor Ruppert proceeded to ask if he could present part of a prepared document using one minute of his allocated time to Item #6B3 and use the remaining two minutes to address item #6B4. Chairman Millikin replied yes. *Mr. Ruppert's prepared statement was submitted and can be found at the end of these minutes.*

Before beginning discussion on the next item, Vice Chair, Judge Nelson Wolff explained to the Committee that he had a Commissioner's Court meeting at ten and would most probably miss the vote. He wanted them to know that all of the items for consideration had his support because they were the logical thing to do and that it made sense to support them.

Commissioner Millikin deferred Item VI.a.i and VI.b.i for later on the agenda

VI.b. Clean Air Plan

VI.bii. Action Item: Approve Clean Air Strategies List Recommended by the AIR Technical Committee for the State Implementation Plan

VI.biii. Action Item: Approve Draft State Implementation Plan

VI.biv. Action Item: Approve Resolution Template for Local Governments

Peter Bella proceeded to explain the three action items before them. The first action item was approval of the Clean Air Strategies List recommended by the Air Technical Committee for the State Implementation Plan. The second was approval of the Draft State Implementation Plan and the third was approval of a resolution template for use by local governments. Chairman Millikin asked for a motion to approve the Clean Air Strategies List. Mayor Wolff motioned for approval. Mayor Adam Cork seconded the motion. Chairman Millikin asked if there was any discussion. Charissa Barnes said that during the last two technical meetings she had requested the cost per ton for the ultimate consumer on items A1 through A3 on the Clean Air Strategies List. She said that she had not received the information. She cautioned the technical committee that these items were as controversial as Inspection and Maintenance because there were no cost factors being provided. Chairman Millikin responded that there was a timeline to meet and asked Mr. Bella to respond. Mr. Bella explained that according to industry representatives the cost was estimated at one cent production cost. Unfortunately, they could not make estimates on the cost to the consumer so they referred to the industry for the cost factor. Mr. Mims said this was the only strategy he had not voted on. Ms. Greene said it was a regional cost and included Austin. Ms. Klumpyan with Valero said the cost was competitive. Ms. Green still recommended the strategy. Tom Hornseth, Comal County Engineer said that there was ample opportunity to discuss the rules through the state's rule making process.

Kate Williams representing TCEQ asked to make the following comment as requested by Executive Director Margaret Hoffman: "I have a message I wanted to share with you all from our Executive Director Margaret Hoffman. She had some concerns about moving forward with rule making on our part for any of the control measures that you are considering that would require state rule making until all opportunities for locally implementable programs were both taken fully advantage of and that you folks take appropriate and full credit for those control measures as well. For example the TERP program and energy efficiency type programs I think will be very important to her to see that those are being fully implemented before she feels comfortable moving forward with state rule making. And one of our Commissioners Ralph Marquez has been working with Clean Air Act Action Committee and I know Peter is working with that as well to try and work with EPA to make sure that you folks can get full credit for those measures. In addition its also going to be important to her when considering doing rule making for control measures again, the ones that would require state rule making it is going very important to us that all stake holders who are impacted have been consulted and that they are supportive of those control measures and of that rule making that it is it going to be something everyone needs to consider very strongly. I just wanted to make sure that you knew that."

Charissa Barnes asked that Cindy Morfew be allowed to speak on RVP gas. The following are Ms. Morfew's comments. " Good morning thank you for the opportunity to be here. We sent a note to Peter to let you know that the Texas Oil and Gas Association representing most of the refiners in the state that we had a position opposing a continued boutique fuel

approach. Kind of like you're looking at a regional strategy being state wide, we look at a regional strategy of fuels being nation wide. In fact at the beginning of this year we began distributing gasoline to your area. We think the benefits of this will play themselves out greater than the modeling initially was sought in EPA. So what we are saying is we recognize that these oil companies that we represent have done a really good job of volunteering. In fact in 99 we volunteer 7.8 RVP and these measures are taken way down as a benefit per cost. At this point going to 7.2 and the uncertainties of it and the benefits of the cost for us we would strongly advise against it. We would have to be opposing going up the line of getting this kind of approval because we believe we are doing something not only state wide but nationally to bring the levels down in the emissions that come from gasoline with the cars that are designed to burn that. I am very accessible and I've been fielding a lot of calls this last week since I got that letter a couple of weeks ago from Peter. I happened to put my cell phone number on it for some unknown reason. And you guys stay up way too late. Given that I would be happy to answer any questions. I don't want to appear with an attitude of we don't want to work with you we do. We'd like to make aware of what we are already doing now."

Mike Riley asked if they were already doing the boutique fuel approach. Ms. Morfew answered yes but they were trying to go to an approach where they blanket everybody.

Mayor Cork remarked "that it was said that the real cost of doing it is less than a penny and it sounds that most of the discussion was that the challenge is in the seasonal effort and the fact that it is a boutique fuel and you turn it on and off and some regions get it and some regions don't. If it is less than a penny and it has an effect on health and we have a transport issue with air anyway then I'm having a real difficulty with why we are not saying ok, EPA why don't we make it national and why don't we force the issue for everybody. Let's say it's a penny but it is consistent for everybody, is that greater than the public health issue? Maybe that's the question we ought to be asking ourselves. I don't think it's that big a deal and if that starts by us saying we want it locally then maybe that's where it starts."

Chairman Millikin concurred. He believed that was the direction to go. He asked for a vote. All of the control strategies were approved unanimously by the committee.

Chairman Millikin presented the second item which was to approve the draft state implementation plan. He called Mayor Ruppert to the podium.

Mayor Ruppert presented a prepared statement which can be found at the end of these minutes.

Chairman Millikin asked for a floor motion to accept the Draft State Implementation Plan Item number 6b3. Councilman Ernest Hernandez made the motion for approval of the Draft State Implementation Plan. Mayor Heath seconded the motion. Chairman Millikin asked if there were any questions. He called on Mr. Mims.

Mr. Mims wanted to make one point which was to endorse Mayor Rupperts comments. He said the design value based on CAMS 23 is bad science and that it must be based on CAMS 58. Other than that he had no objections to the plan.

Chairman Millikin thanked Mr. Mims and called for the vote. Item number 6b3 the Draft State Implementation Plan was approved by the committee. There was one vote

against the approval of the Draft State Implementation Plan by Judge Donald Schraub from Guadalupe County.

Chairman Millikin proceeded to Action Item number 6b4, to approve the resolution template for local governments. Chairperson of the Air Technical Committee, Renee Green explained that the Technical Committee had approved the template as a guide to the local governments when they went forward to approve the items in session. She pointed to the sixth whereas on the template which listed the three strategies that the committee had just approved and, at the bottom, the "now therefore be it resolved" which basically asked to incorporate the strategies as described above and also petitions the TCEQ to do the necessary rule making which allows us to implement these strategies within our area.

Chairman Millikin called on Mayor Ruppert to make his comments.

Mayor Ruppert presented a prepared statement, which is included at the end of these minutes.

Renee Green asked to address the issue on the second whereas. She explained that basically it was a statement of what we have to date and that was EPA's response back to Governor Perry which states that in the absence of any additional technical information it will be the four county area. She did know that the state is preparing a response and Kate might be able to address that but until April 15th there will be no more communication as to whether or not that particular item has changed. She reiterated that it meant the letter from EPA back to Governor Perry says it's the four county area and you won't know any different until April 15th when the final designations come out. She pointed out that "whereas modeling of ozone formation in the four county region has shown that clean air strategies are necessary to reduce ozone formation", we did not say "necessary to achieve attainment."

Mr. Mims stated that he had specifically asked of the TCEQ Commissioners and the Chairman of TCEQ about Guadalupe County and they specifically assured us exactly what Mayor Ruppert said. He said "I understand where Renee was coming from but I have every confidence that the TCEQ will back keeping the rural MSA counties from being declared in nonattainment."

Chairman Millikin said that those of them who had worked through the Early Action process understand that "there isn't any commitment by all those four counties and city councils that they all march down the same row with the same control strategies and this is part of the original game plan. One of the strong arguing points that we had in favor of the Early Action Compact is we don't need to do the same thing in Bexar than we do in Wilson that we do in Guadalupe County or that we do in Comal County." Renee Green added that if any of the "whereas" phrases in the resolution caused problems for any particular local governmental entity they can take them out. She reminded them that the resolution template was not a verbatim resolution it is simply a template. The two items that needed to be on the resolution were the two she had previously pointed out.

Mayor Heath moved approval of the adoption of the template and its distribution to the eight concerned local governments with the understanding that each local government at its own discretion will revise the text. Judge Quinney seconded the motion to approve 6b4. Chairman Millikin called for the vote. The motion passed unanimously.

VI.b.i. Review and Discussion: Penalties of Nonattainment for 8-hour Ozone

Mr. Hornseth commented that there had been a great deal of discussion about good science and bad science and that unfortunately he didn't think the area was in a position to choose one of the two because of existing regulations. He pointed out that the time for good science or bad science was when the EPA adopted all these regulations. He said Mr. Mims was on the right track. They needed to go back to the EPA and try to get the Clean Air Act changed if they wanted to insert different levels of science.

Mr. Hornseth presented a short presentation to address the complexity of the situation that could be used in discussions with local governments. He presented the following information:

What happens if the Early Action Compact and Proposed Control Strategies are not endorsed by cities and counties?

The Early Action Compact is cancelled. The EPA identifies Bexar, Comal, Guadalupe, and Wilson to non-attainment on April 15th, 2004.

Mr. Hornseth remarked that the adoption of this Compact and Resolutions has to pre-date this April 15th decision. He said that cities and local governments could add a whereas to the resolution saying "whereas if EPA decides that Guadalupe County is in attainment as of April 15th then it's a moot point."

Chairman Millikin pointed out that the Governor of Texas had a letter from EPA saying that it is a four county issue which is what we have been working for four and a half years believing that is what the EPA defines as a regional issue.

Mr. Hornseth continued. Assuming that the Compact goes away, the EPA and TCEQ at their discretion or order would probably include vehicle testing an issue that gets everyone going. It is not a guarantee that vehicle testing will happen but it is one of the strategies that they have on their list. The EPA/TCEQ will continue to dictate control strategies until attainment is achieved.

What happens if the Early Action Compact and Proposed Control Strategies are endorsed by cities and counties?

The Compact remains. The EPA will still identify these areas we project but the enforcement of the non-attainment measures at that level will be deferred. The Cities and Counties will select control strategies as recommended today. And the current strategy plan which again was recommended today would not include vehicle testing. Cities and Counties will then continue to decide control strategies until attainment is achieved.

Renee Green remarked that she monthly attends a meeting at the state level called the Texas Clean Air Working Group which is made up of elected officials from Austin, Houston, Dallas/Ft. Worth area. She commented that these people would "trade their right arm to be in our position right now to control our own destiny." She said she had often heard it said during committee meetings that if there is a better argument for getting the EPA off your back out of your neighborhood and away from your local government it is the Early Action Compact. She explained that the Compact gives "the ability to control our own destiny, it gives us the ability to made our own local and rational decisions and so that why it is critical

to move on with this process because she has seen and heard first hand what these other areas go through and it is not pretty.” Ms. Green continued. “In Houston they are looking at not only a construction ban but restrictions on the commercial landscape businesses. They can’t operate certain hours of the day. You are talking about restricting and impeding people’s way of life in the Houston and Dallas area. How they make a living and that is a level far beyond what we are experiencing down here especially with those three strategies we are approving today.”

Chairman Millikin supported her comments.

Mr. Riley commented that “he would hate for public officials to get on the band wagon approach and get on the wagon and not know where they were going. He did think that once it went back to the counties and cities it was the rightful place it should go, that way citizens could have input to their elected officials and their elected officials should vote accordingly. The fact that EPA is breathing down our necks shouldn’t force us to do something that is untenable. We don’t want to be put in a position that we go ahead and accept that and later say we were only following orders.”

Ms. Barnes clarified that in their research during the proposed rule making of this eight hour implementation we’ve seen nothing that says that I/M or any kind of emissions testing is going to be required during the new proposal of the eight hour standard.

Mr. Notzon addressed the Chairman and the members of the Executive Committee, Advisory Committee, and Technical Committee. He said that the actions taken today represented a benchmark in the five-year process. He thanked everyone and reminded them that there had been a number of public hearings, workshops, and public participation and citizens taking a lot of their time to provide data as well as the members of the Technical Committee and others. He wanted to applaud their efforts. He gave a chronology of events leading to the day’s actions. He pointed out that in today’s actions the final decision was still in local government’s hands. Local governments still have an option as promised by both TCEQ and EPA. “ That is we could voluntarily and until we adopted the Clean Air Strategies and submitted them through the State Implementation Plan, we had the option of withdrawing and local governments still have that choice. You can stay in fact with the EAC or you can choose the nonattainment status that likely will occur.” He said he did not necessarily see this as a threat. He saw that as a result, local governments have the ability to make that choice. He was very proud of the fact that each of them played a role in providing that opportunity for local governments. He thanked the committee for the opportunity to present his thoughts.

Judge Quinney appreciated the comments Mr. Notzon provided. Since he had taken office his pledge to his constituents of Wilson County was to try to ensure the best quality of life with the lowest cost in taxes as possible. He particularly liked the presentation from Tom Hornseth, Engineer from Comal County because of its simplicity. He also commented on Mr. Mims input and its impact in the process. He pointed out that he hadn’t always been in agreement with the method of implementation. He mentioned that he had approached Peter Bella on Mr. Mims' concerns on inspection and maintenance and that Mr. Bella had replied that Mr. Mims could very well be right and that they had to look at I/M on the overall program to determine that it is right and show that it had been looked at. Judge Quinney said he appreciated Mr. Bella's response. He believed in quality air and the people needed it and at the lowest price they could possibly get it. Basically, he concluded that they weren’t all so far apart but sometimes the communication was not there.

Chairman Millikin disagreed with Mr. Notzon's comments that nonattainment was not a threat. Chairman Millikin said he considered nonattainment a threat as far as he was concerned. He pointed out that anyone who was in the Chamber business, or in business for themselves, a declaration of nonattainment was something they didn't want to go through. And he was committed to do everything that he could to preclude that from happening.

Chairman Millikin called on Dean Word. Mr. Word said that they would be most likely designated nonattainment on April 15th by the EPA and with that comes their whole plate full of control strategies which will not provide the area with any choices. He said the answer was the Early Action Compact which provided the citizens and residents of the four county area the tools to address the air quality concerns of the region.

Mr. Mims thanked Judge Quinney, Commissioner Millikin, and Mr. Notzon for their courtesy in responding to his questions. He encouraged the committee to develop a better working relationship between the counties, and to encourage the executive committee to appoint Citizens Organized for Good Science to the Advisory Committee. He pointed to Mark Langford as a real expert on the issues and someone who could help the committee not hurt them. He concluded that as they went forward he would be hopeful that the various committees would allow those in the rural counties to have more of a voice and more participation so they could work together as a region and not constantly have the battles that they faced within the Air Technical Committee.

Charissa Barnes asked if a city or county entity did not approve going forward with the EAC recommendations what would happen to the Compact. Chairman Millikin said it was up to the EPA and perhaps the TCEQ to determine whether the Early Action Compact lives or dies. Renee Green responded that the information they had received was that if a particular city or county does not approve going forward then the EPA and the TCEQ would examine that county and how that county's role is played in the Early Action Compact. The decision would be based on how necessary that county's role was for the EAC to succeed. If in fact the county votes out or does not approve it could void the entire Compact for all the other three counties that may have voted yes.

Chairman Millikin said it was speculation.

Mr. Riley agreed that Rene's speculation was closer to the truth. He wanted to see more contact with the Governor's office and a stronger presence there. Because when at TCEQ the other day the issue of transport was discussed and Commissioner Marquez said he has briefly had a conversation with a person from Mexico and they weren't interested. He concluded by saying that the transport issues were going to be a part of whether the region exceeded or remained in attainment.

Mr. Notzon said that Michael Morton from the Environmental Protection Agency was present and that he might want to make comment on the issue of what happens on the EAC if all the signatories did not sign.

Chairman Millikin replied that he did not want to speculate on what happened if they started to pull apart. Mr. Morton replied that he would not speculate on that either.

Michael Morton presented the following verbatim comments:

"My name is Michael Morton I'm with the EPA Region Six. I work in the Air Planning Office and I have been following this very closely for a number of years. I was involved in the development of the Early Action Compact along with TCEQ, with Kate and others. We've been following this very very closely. As you know our former regional administrator was very involved in this and took this very close to heart and I can tell that the current administrator, Mayor Greene is following the Early Action Compact very very closely and he is strongly in favor of the work that is being done. We're very pleased with the progress that you all have made here. It's been said already here today, but I would like to say it again. This is a ground-breaking program. As far as I know there has been no program on a Clean Air Act that has not been a top down approach to addressing nonattainment. It has always been top down. This is a bottom up. This is the local area getting the opportunity to solve their problems. We are strongly in favor of working with you and trying to answer any questions you have. We are strongly also in favor of everyone sticking together and working to resolve air quality issues in your area."

Chairman Millikin thanked Mr. Morton for his comments and went back into the agenda.

IV. Particulate Matter Report

Mr. Bella referred the committee to a handout, which indicated that the area remained well in attainment.

V. Public Education Committee Report

Dorothy Birch pointed out that their packets contained a summary of the air quality outreach efforts for 2003. Mrs. Birch reported on the following highlights. There were 34 television pieces, 37 radio pieces, 70 print news pieces, made 34 presentations to civic or business groups, hosted 27 events and/or public meetings and had 20 school related education events to approximately 5000 students were reached and 50 news items were issued. Each of the numbers reflect an increase over the 2002 outreach efforts. She went over the outreach goals for the 2004 season. She announced the four messages selected by the Committee for voluntary measures during ozone season and announced that the Ozone Season Kick-Off 2004 was scheduled for Saturday, March 27 and is going to take place from 12 to 4 p.m. in the Crossroads Mall Park and Ride in San Antonio and encouraged their presence. She pointed to a flyer that contained the schedule of events for that day.

Mike Riley asked if she was going to continue sending out e-mail on health alert days. She replied yes and that they were getting new add-ons every day.

Charissa Barnes praised the public education committee and staff on a job well. Done.

Chairman Millikin concurred. He thanked everyone for attending the meeting.

Peter reminded the committee of the March 31st timeline and the need to schedule their city council and/or commissioner's court presentations for approval before then. He requested that staff be informed when they scheduled the resolutions on their agendas for consideration.

Renee Green informed the committee that SECO was putting on a fuel cell demonstration seminar on April the 16th in Austin at the downtown Marriott. Rebecca Gray reported that St. Phillips College was sponsoring a Fuel Cells Literacy Conference & Expo March 10-12.

VIII. Adjournment

With no further business to conduct the meeting was adjourned.

Attachments: Verbatim Transcription of Comments/Statements Made by Citizens to be Heard:

Citizen #1: Terri Landan

My name is Terri Landan, and I live in New Berlin, Texas in Guadalupe County. On Monday night, this past January 26, 2004, I attended a Clean Air Workshop on Control Strategies in San Marcos, and I also attended the San Marcos city council meeting immediately afterwards.

I can honestly say it was a major victory for the average citizen that such Clean Air Control Strategies would ultimately effect. The city council, after listening to Forrest Mims of Guadalupe County, Mayor Charles Ruppert of Cibolo, Mike Riley of Seguin, Texas, staffers from the Texas Commission on Environmental Quality, Dr Allen of the University of Texas, and further citizen input, deliberated over tail pipe testing (otherwise known as Inspection and Maintenance or simply I/M) and other strategies.

After in-depth deliberation, tail pipe testing was removed from San Marcos's list of Control Strategies by a 4 to 2 vote by the city council.

It was a triumph for ethical science over junk science, as well as the council of reason and prudence triumphing over repeated attempts by TCEQ at explanations in many different ways that , to me was an obviously punitive policy of 90 per cent of the local vehicle owners paying the price for 10 per cent of the offending vehicles being brought in-line through a misguided policy of I/M (also known as tail pipe testing), and how this was the most effective way to reduce ozone levels even though they knew and said that such testing would produce under a fraction under 1 ppb (parts per billion) reduction at great costs to the public. Also, there was discussed repeatedly that there might be unknown dire consequences of punishment by the dark and ominous Environmental Protection Agency.

Fortunately, the City Council of San Marcos did not cave-in. It would appear that I/M—tail pipe testing—is deservedly under the microscope by many people, city councils, county commissioner's courts, elected officials, and the people who elect these officials. It harms citizens by depriving them of their rights, vehicles, mobility, and freedom in a still free country known as the United States of America. Thank you, Terri Landan

Citizen #2: Nancy Stark:

Good morning. It's nice to see you today.

The good news just keeps coming. The TCEQ has said that we have no ozone problem. It was said with little fanfare and seemed too good to be true until the modeling results were in and AACOG confirmed it. Both have said that when we get readings of 84 parts per billion of ozone, it should show that we generated only 17 ppb because both have said that we actually generate only 20-25%. If the EPA wants to hold us responsible for the ozone we generate, with readings of only 17 ppb would you agree that we have don't have an ozone "problem"? Think about it. We are being threatened for having 17 parts per billion. Our only problem we have is what to do about the remaining 67 ppb that come from sources outside San Antonio. Out of 84 ppb the remaining 67 ppb will not and cannot be affected by any of our control strategies.

So, if we can't control it, what do we do about it? Forrest has said repeatedly over the past year that we must insist that our legislators take action to keep us from being punished for the smoky events that again, we can't control and that make up 80% of what we're getting blamed for. Our system of government will work if we use it but we have to ask our legislators for their help. It doesn't come automatically. Support of HR 1891 is needed. Again, we're talking about a whopping 67 ppb out of the 84. That is a significant amount and action must be taken to protect us from something this major. We must get our legislators to take the appropriate action, not just for us but for all cities across the nation.

What must you do today? You must make sure that the SIP and the Resolution include legislative protection from the events that make up the outrageous 80% of our ozone that we can't control. Also, make certain that the bad data from CAMS 23 that was criminally covered up be thrown out. The "flavor" that the TCEQ referred to is

a bitter one and too difficult to swallow. It all starts with you doing the right thing for the citizens who are counting on you. Don't punish them for having a clean city. Thanks. Nancy Strack

Citizen #3: Jack M. Finger

Mr. Chairman and members of the committee my name is Jack M. Finger and I am a citizen of San Antonio. First of all I see at least some representatives from the County here. County Judge Nelson Wolff, I'm glad to see he's here. Can anyone tell me if there are there any other representatives of Bexar County here? I'm relatively new to your scene here beside the judge. Any from the City of San Antonio. Not here today well that's par for the course. Anyway this house keeping thing I noticed you were going to take action on item number seven that I noticed that there was no sign up sheet for item number seven back there. You may want to put something back there for those who did want to address that specifically and soon. Yes, well anyway, I am basically here to talk about a couple or some of the bone headed items that you are planning on voting on today. I was thankful that judge Wolff a few weeks ago said that the originally idea of tail pipe testing was just didn't make any sense. I'm glad that the good judge has good sense about that and I'm thankful for that. I do give credit where credit is due Judge just so you know. Now, I understand you are planning on doing another bone head one called the Reid Vapor 7.2 project. Which I understand only amounts to a helpful addition of about maybe point one percent reduction in the pollution problems we have around here. For how many pennies per gallon of gas, well I'm calling it that if it's even one penny would be way too much before this crazy idea that you all have. My guess is that you all are just trying to throw out all kinds of these little products hoping that one of them will stick with our elected representatives. You're thinking that somebody has to hold on to one of these things eventually. I have a better idea for you maybe just maybe the elected bodies will want to just if too many things happen you'll make the eliminated entirely by the bodies maybe you won't be re-appointed maybe you might be fired. Just for your information I heard on KTSA yesterday comments made by Mr. Mims that the people are becoming more educated about where our pollution is coming from including the fact that if nobody lives here in town that the pollution would be reduced by only 25 percent. I think you get where I am coming from. Stop this Reid Vapor 7.2 project OK? Thank you.

Citizen # 4: Mark Langford

Good Morning Everyone, Mark Langford with Citizens Organized for Good Science. If my voice breaks up as I explained to the technical committee a few days ago its because the high cedar pollen which gives me asthma and causes lots of problems. Citizens Organized for Good Science would like to see our leaders take an active role in changing EPA policies through efforts like HR 1891 which deals with pollution transportation. We need to change EPA policies that also allow for inaccurate monitors to be used in determining a city's attainment or non-attainment. We need to change policies that allow ozone studies that do not contain or address allergy or pollen data when determining whether high ozone levels harm asthmatics like myself. Finally, we need to change policies that penalize cities for being located in the far southern parts of our country or near heavily forested areas where natural VOCs are causing even small towns to be deemed non-attainment. Don't forget last year even Seguin forty-five miles to our east and not affected by air pollution went over 85 parts per billion on one day last year and will probably do it in the future.

Citizen # 5: Mayor Charles Ruppert Comments on Agenda Item # 6B2, #6B3, #6B4, and #7

I shall address all four action items. On Monday, January 26th, the Air Technical Committee rejected vehicle emissions testing from the recommended Clean Air strategies list. Also that evening, forty miles to our north, I watched as the City Council of San Marcos deleted vehicle emissions testing from the proposed Austin MSA Clean Air Plan. I salute their political courage. I hope today, on Agenda **Item 6B2**, this committee will also keep Vehicle emissions testing out of the State Implementation Plan.

For Agenda **Item 6B3**, the most serious deficiency in the Draft State Implementation Plan is its reliance on CAMS 23 data. This committee is well aware of how faulty CAMS 23 data has been over the years, especially when readings in 2002 were an average 10.4 parts per billion too high. Even TCEQ's Brian Lambeth, when asked about CAMS 23 via teleconference, more than once responded with "data comes in flavors of quality." Granted, Mr. Lambeth has a Master of Science degree in engineering while I have only a Bachelor of Science degree, but even I was embarrassed by his response. To be intellectually honest and more scientifically credible, data collected from Camp Bullis' CAMS 58 should be used instead of CAMS 23.

For Agenda **Item 6B4**, the second "Whereas" line states all four counties face a pending nonattainment designation. That is more speculation than fact. In the EPA letter to Governor Rick Perry, dated December 3rd, on page 2 it reads "At his time we recommend, based on EPA's guidance, that all four counties in the San Antonio MSA be the nonattainment boundary." Mr. Forrest Mims, Mr. Mike Riley, and I attended the TCEQ workshop in Austin on January 16th. The TCEQ Commissioners assured us they were finalizing a response to the EPA which addressed the 11 technical factors for boundary determination. They also said the letter would be

completed for Governor Perry signature by February 6. The third "Whereas" line states "...modeling of ozone formation in the four county region has shown that lean Air Strategies are necessary to reduce ozone formation, ...". Actually, modeling has shown the MSA would achieve just under 85 parts per billion if no strategies were implemented. Therefore, the adoption of Clean Air Strategies is not required, but would improve our margin of safety.

Item #7 This committee is well aware of how faulty CAMS 23 data has been over the years especially when readings in 2002 were an average of 10.4 parts per billion too high. In addition to faulty data collected by CAMS 23, its site location does not meet EPA requirements. The tree is too close to the monitor. The transport issue will not go away on its own. We need both the TCEQ and the EPA to start doing its job as authorized by the Clean Air Act. Otherwise, implementation of any approved strategies will be futile. The photochemical model used an optical depth based on a clear, sunny day. The results are much higher values than if a more realistic optical depth number was used. Good science requires realistic parameters. And hopefully the committee will take my comments to heart. Thank you.