

**The Minutes of the
Air Improvement Resources Executive/Advisory Committees Meeting
Alamo Area Council of Governments
8700 Tesoro Drive, Suite 100, San Antonio, Texas
Wednesday, June 22, 2005, 9:00 a.m.**

Executive Committee Members

Chairman Jay Millikin, Comal Co. Commissioner
Councilman Chip Haass, City of San Antonio
Mayor Patrick Heath, City of Boerne
Judge Donald Schraub, Guadalupe County
Judge Marvin Quinney, Wilson County
Mayor Raymond Ramirez, City of Floresville

Advisory Committee Members

Rebecca Gray, American Lung Association
Forrest Mims, Guadalupe Co.
Dean Word, Word Construction Co.
Rod Smith, New Braunfels Chamber of Commerce
Mike Riley, City of Seguin
Pete Donahoe, Holt Co.
Billy Gibbs, Alamo Cement Company

Technical Committee Members

Renee Green, Bexar County, Chair
Liza Meyer, COSA

Guests

Terri Landan, Guadalupe Co. Citizen
David Newman, City of San Antonio
Russel E. Smith, Texas Renewable Energy
Debra Engler, SAWS
Sid Martinez, SA-BC MPO
Kristen Lagon, SAMHD
Bob Dugas, Goodwill
Nick Page, SA-BC MPO

AACOG Staff

Al Notzon, Executive Director
Dean Danos, Deputy Director
Peter Bella, Director Natural Resources
Steve Smeltzer, Environmental Manager
Brenda Williams, Program Manager
Isabel Chacon, Clean Cities Specialist
Berti Vaughan, Administrative Assistant

I. Roll Call Commissioner 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 Forrest Mims signed up to speak later in the agenda. (During Agenda Item #7a)

III. Approval of Minutes Chairman Millikin asked the Committee for consideration of the April 27, 2005 minutes. Mayor Heath moved for approval of the minutes. Councilman Haass seconded the motion. Chairman Millikin called for the vote. The minutes were approved.

IV. AIR Public Education Committee Report In Alison Young's absence, Brenda Williams presented a compiled report on all the outreach events from April 28 through June 22, 2005. She referred the committee to the written report in their packets and specifically pointed to information on planning for the 2006 Air Quality Health Fair. She explained that the Air Public Education Committee was looking into the Seguin Outdoor Learning Center for a scheduled event in May or June of 2006 and for the San Antonio event, discussing possibilities with CPS Energy about combining the Air Quality Health Fair with the Green Living Fest.

Clean Air Partners Program Brenda Williams gave an update on the Clean Air Partners Program. She informed the committee that the Greater San Antonio Chamber of Commerce adopted a policy statement on May 26 in support of the Alamo Clean Air Partnership. Mrs. Williams said that one of the objectives of the Clean Air Partnership is identifying progress made towards reducing emissions and recognizing the companies

that have contributed to that effort. She presented slides which listed companies and agencies in the region that applied for or had been awarded Texas Emissions Reduction Program funding to reduce emissions in our area. And while the listed companies were not yet "Partners" she commended their efforts to reduce emissions. Mrs. Williams announced that HEB had become their first Clean Air Partner. She said they would be awarding a commendation to HEB for being the first ACAP partner however because HEB representative, Susan Ghertner was unable to be present today, the presentation would be made during the August AIR Executive Committee meeting.

Clean Cities Program Isabel Chacon, Clean Cities Coordinator informed the committee on the re-designation of the Clean Cities Program. She explained that in 1999, the stakeholders of the Clean Cities Program enacted into a memorandum of understanding the goals and initiatives they would enforce as part of the program. She pointed out that re-designation was due to the Department of Energy in 2005 and she had begun contacting several stakeholders to begin the process of updating new goals for promoting alternative fuels, new technologies and any other initiative to replace petroleum. She was planning to have ready, a draft of the memorandum to give the stakeholders an opportunity to look over the application by the end of July. Ms. Chacon targeted the fall of 2005 to host a re-designation event with DOE representatives, stakeholders, and federal, state, and local officials.

Chairman Millikin remarked that he was greatly concerned that public education efforts were not making the grade with the public, the news media, and others. As a result, he feared that in 2007 if they were not to succeed in meeting federal clean air standards there would be a public outcry of "we didn't know". Chairman Millikin called their attention to an editorial in Friday's San Antonio Express News. It was entitled Mayor's Challenge; How City Will Grow. Mentioned in the editorial were about a dozen areas that needed Mayor Hardberger's attention. Chairman Millikin pointed out that missing in the editorial was anything about Air Quality. The Chairman said that he had expressed his concern to Councilman Haass during lunch a couple of months ago "that this committee made decisions on our early action compact, on our control strategies without any input from City Council at that time. It is their MSA, it isn't Comal County's MSA or Boerne's MSA. It is the City of San Antonio's MSA." He asked Councilman Haass to see if he could schedule an appointment with the new Mayor to make certain that the Mayor understands the importance of the Air Quality issue. He reported to the committee that he had written a letter to the editor which read: "I hasten to add one of the most importance challenges which needs Mayor Hardberger's attention so that he can increase the focus of efforts necessary for San Antonio to lead the charge in insuring that our region meets federal clean air standards not later than 2007. Many of the other challenges that were cited in this editorial will become increasingly more important if not impossible should our region be declared in violation of these federal standards. This vital public health issue demands active leadership from the City's new Mayor. "

Mayor Heath asked if after they met with Mayor Hardberger if they shouldn't seek another meeting with the editorial board of the Express News. He reminded the committee that they had met with them twice previously. He recommended they meet again to see if they could make any more headway with the editorial board. Mayor Heath suggested that Councilman Haass, Mayor Hardberger, and Chairman Millikin meet with them.

Chairman Millikin said it was a good idea. He said that when they were going through the development of the Early Action Compact and the control strategies, there was a

reporter present at every meeting. He pointed out that presently there was not much media attention and that meant they didn't have the public's attention and their attention was needed on the air quality issue.

Renee Green said it was important that the emphasis be on this being the first year that the readings would count against the region towards the attainment date of 2007. She reminded them that the readings during 2005, 2006, and 2007 will determine whether or not the EAC was successful therefore it was very important to bring to the forefront the requirements or the steps that individual citizens can take during the Air Quality Health Alert Days.

Councilman Haass noted Chairman Millikin's leadership and passion on the issue as unprecedented by any elected official or leader in the community. He said that since they had that preliminary discussion he had thought of the best way to attack the issue and that he had come to the conclusion that the leadership change within the City of San Antonio would be a very key opportunity to seize some momentum. He said he had met with Mayor Hardberger and his wife and Councilman Haass assured the committee that Air Quality was at the top of the Mayor's goals for the region. He said the Mayor was very much up to speed as to what non-attainment would mean if it was designated for this region and thereby affecting the City of San Antonio. He added that the Mayor's wife was extremely passionate about the issue. Councilman Haass said he thought it was going to be a real driving force in bringing the issue forward and would second the recommendation of Mayor Heath in going to see the editorial board. However he commented that in his two years in office, "he had learned very quickly that the San Antonio media is not real interested in printing things that help the city. He said they are interested in finding the dirty story and it will not be a story until we fall out of attainment. Then it will be the hottest story in the world and they will want to find all sorts of people who are guilty." Councilman Haass posed the questions; "What are the steps we need to take to Mayor Hardberger in order to get him to push this thing to the forefront. Is it enough to simply get attention for this issue?"

Chairman Millikin agreed with Councilman Haass' comments. Chairman Millikin remarked, "It doesn't grab anybody until you tell them they've got to get their vehicles tested every year and then we'll find out how important air quality really is. I want their attention long before we ever get to that bridge." He reiterated that if the major newspaper does not include clean air as one of the major challenges for the new mayor then "we are missing the beat somewhere in this process. He acknowledged Ms. Green's comments about the next three years being critical and that message needing to be in the forefront.

V. Ozone and Particulate Matter Report Peter Bella directed their attention to the Ozone report in their handouts. Specifically to the table at the top of the page entitled "Four Highest Eight-Hour Ozone Concentrations in 2005 as of June 21, 2005. He explained that the fourth highest eight-hour ozone values were the values referenced during ozone season. It would be the fourth highest value for this year that would be averaged into the fourth highest value for the 2006 and 2007 ozone seasons. Then, the three-year average of the four highest values will be averaged and looked at by TCEQ and EPA to determine the region's attainment or non-attainment status in 2008. Mr. Bella noted the regulatory monitoring sites, which were operated by TCEQ showed updated values averaging within the seventies. He referred the committee to the table on the bottom of the page that contained three-year averages from 2000-2005 at the regulatory monitoring sites. He noted that the 2003-2005 data at the San Antonio

Northwest CAMS 23 monitoring site averaged a three-year average at 81.3 parts per billion (ppb) and the Camp Bullis CAMS 58 monitoring site averaged a three-year average at 82.7 ppb. He noted several exceedences reported eight-hour values 85 or greater on that table including the June 21 date (yesterday) showing an eight-hour value of 86 ppb at CAMS23 and 86 ppb for CAMS58. He asked the committee to review the historical trends graph indicating total ozone occurrences during ozone seasons from 1995-2005. In conclusion, Mr. Bella referred the committee to the last table at the bottom of the fifth page, which displayed the Air Quality Health Alert Days thus far declared in 2005.

Particulate Matter Report: Mr. Bella reported that particulate matter both PM 10 and PM 2.5 remained well under the federal standards.

VI. Reports from the Air Technical Committee

a. Energy Policy Act of the 109th Congress: Synopsis Background & Review

Renee Green, Chair of the AIR Technical Committee reported that as requested by the AIR Executive Committee they had met to evaluate and possibly come up with a position paper on the Energy Policy Act that is currently through the House and in the Senate and to also come up with some information regarding the Cap and Trade issue. Mrs. Green said that during the last two meetings, certain agencies are going to take a look individually at sections in the Energy Policy Act. Last month they had CPS report on the two sections that affect them. One of them had to deal with the cleaner burning coal plants and the other had to deal with the electricity. The good news is that CPS compared some of the requirements in the Energy Policy Act with what they are currently doing with their new plant. It would qualify within a few ppb emissions as a clean burning coal plant. She anticipated having a report for the committee in the fall because the large size of the bill. It was going to take them time to look through all sections of it to see what is or isn't pertinent to the region.

b. Cap & Trade under the Clean Air Interstate Rule: Position Paper Background & Review On the Cap and Trade Agreement Mrs. Green reported that they were continuing to receive feedback from both TCEQ and EPA on how the CAIR rule cap and trade policy is going to affect the region. They had yet to receive anything definitive but referred to Mr. Bella for further information on that. Mr. Bella explained that they had invited TCEQ to come to the next AIR Technical Meeting to make a presentation on CAIR, the Clean Air Mercury Rule, and on Transport Issues. Mrs. Green concluded that it was hoped that after they heard from these individuals and did some more analysis that the AIR Technical Committee could come back to the AIR Executive Committee with a white paper or position paper regarding the committee's assessment on these two issues and how they impact the region.

Mayor Heath reported that in the Senate, the McCain/Lieberman amendment to the Energy Bill being considered failed. The amendment was to impose mandatory green house gas caps; instead the senate favored voluntary green house gas caps.

VII. Clean Air Plan Update

a. Action Item: Proposed for Approval: 5th Semi-Annual Report, due June 30; EAC Deliverable

Chairman Millikin acknowledged Mr. Mims's desire to address the committee under Citizens to be Heard before addressing the action item.

Citizens to be Heard: Mr. Mims gave a visual presentation and interpreted the causes of the ozone events in May 27th, and June 21, 2005. Using Naval Research Laboratory

images, Mr. Mims explained that sulfate air pollution over the Eastern United States that mixes with the VOCs from the heavily forested regions had resulted “in giving us a bad air quality problem on the 27th of May when we had our first violation.” He also asked the committee to notice considerable smoke in the lower right image that came down over San Antonio and much of the Mississippi Valley, which was also contributing, to the ozone problem. He pointed out that the previous day (June 21), “we had a similar situation but we didn’t have quite as much smoke but notice that the sulfate solution which is an indicator for the ozone pollution that we had is completely over Texas. Yesterday, Dallas, Houston, San Antonio, Austin all had very high ozone levels. My point is that these are regional levels and we can do all these little local things we want but it is not going to solve the problem unless we address that problem there.” Mr. Mims referred the committee to an EPA website where they could track the air. Mr. Mims said they could watch dynamic movies and ozone synthesis all across the United States through www.epa.gov/air. Mr. Mims pointed to the event of May the 27th showing pollution over Houston as well as the Eastern United States. He pointed to the event of June 20th and said it was a very similar situation and “until we can control the air pollution coming from the power plants, the Tennessee Valley Authority and the Ohio Valley we will continue to have these problems and we might not be able to meet our Early Action Compact standards.” Mr. Mims presented another image from June 21. He said that the day began with a moderately hazy sky and the images taken were ten minutes apart for the entire day. As the day wears on the air pollution from the east continues to stack in over Seguin moving toward San Antonio and by the end of the day there is a horrible air pollution layer over the area. He commented that “San Antonio had nothing to do with that and I think it is important that the committee be well aware of that and that the committee do whatever it can to see that the federal government follow through with the CAIR program to reduce coal powered emissions in the eastern united states.”

Chairman Millikin thanked Mr. Mims for the presentation. However he did not agree that San Antonio did not having any impact upon that ozone. He remarked that he had driven his car the previous day and knew he had some impact on the air.

Chairman Millikin asked Donna Hessong to address the 5th Semi-Annual Report. Ms. Hessong presented a synopsis on the EAC Milestone progress of 2005. The presentation included Emissions Inventory Milestones, Modeling Milestones, Control Strategy Development Milestones, Texas Emission Reduction Plan Report, Alamo Clean Air Partners Program updates, Air Quality Outreach Efforts, Media Involvement, and Federal Compliance Milestones. Renee Green emphasized that the Semi-Annual Report was a requirement of the Early Action Compact. Mayor Heath moved to approve the 5th Semi-Annual Report with the amendment to include HEB listed as the first Clean Air Partner. Councilman Harass seconded the motion. The motion was unanimously approved.

b. 1st Review: Trend Analysis for the San Antonio Early Action Compact Region, due Sept. 30; EAC Deliverable Renee Green explained that the document was being given to the Committee for their review. She reported that the Technical Committee reviewed the first draft of the report with plans to look at it again in July and August. She encouraged them to read the document and to contact either Peter or her if they had any questions.

c. Review: Response from EPA regarding April 27 Transport letter Peter referred the committee to an EPA letter received on the tenth of the month. On the

other side of the handout was a copy of the April 27 letter originated by the AIR Executive committee and signed by the Chair and Vice-Chair asking for information on transport. The letter from EPA responded with a request for more time to answer the questions that were asked by the committee in the letter. EPA would respond at a later date when they had the answers.

d. Action Item: Discussion of and consideration of any action regarding the New York State Department of Environmental Conservation opposition to all Early Action Compact State Implementation Plans Renee Green advised the committee that since this item had only come up the day before it had not been reviewed by the AIR Technical Committee. Chairman Milliken responded that although there was a question as to whether the item would be on the agenda it was decided it was a critical issue since the concept of the Early Action Compacts was being challenged. Mr. Notzon explained that from a policy standpoint the committee needed to consider what steps if any to take on the issue. He was concerned that the EPA had yet to take a position in defense of their actions concerning the EACs. He said it was important that the committee take a stand on the region's good faith commitment to the EAC, the amount of time and effort being exerted in their efforts and the community's efforts to meet all the requirements in the EAC and that they expect the EPA to support the EAC concept. Mayor Heath made the following recommendations for consideration by the AIR Technical Committee: 1) Precisely to Mr. Notzon's point in communication with EPA and with TCEQ, what can we expect them to do on our behalf, 2) What resources are available to us if any to understand not necessarily to defend but to understand the legal issues because it seems that the challenge is made on a legal issue . . . a reading of legislative intent, a reading of the fine points of the law, 3) To explore whether there's any presently existing or any possible network opportunity with the other EAC areas to see how collectively even with a joint meeting physical meeting we might plan a joint strategy with them. Renee Green asked Mayor Heath for clarification on the point relating to legal issue. Mayor Heath replied he wanted to find out the precise legal issues that New York State was pursuing when they say that EPA did not have the authority to not designate or defer designation of non-attainment. He said there were layers of complexity involved and wanted to find out from EPA what their attorneys say in response to these kinds of challenges. Renee Green asked if she could add a fourth item to his list. She thought it prudent to contact other environmental agencies or organizations to find out if they are in support of this letter. She was yet to see a list by name, which made reference to them.

Mr. Bella presented initial background information related to the discussion. He referred to a handout in their packets and drew their attention to the bottom paragraph of the letter from the New York Department of Environmental Conservation. He reiterated they were opposed to approval of this and all other Early Action Compacts SIP revisions because should the EAC area experience a violation it provides for a deferment of non-attainment and relieves the area of obligation under Title I, Subpart D of the Clean Air Act which goes to what the requirements are for action when declared in non-attainment. Mr. Bella discussed his conversations with EPA Region 6 and noted the following:

- The NY Department in company with several environmental groups had filed notice of intent to sue with the EPA. EPA met with the groups and presented their arguments in support of the EAC agreements. The opposing group noted they would review the EAC SIP submittals.

- Since that time, the NY Department has submitted this same public comment to each proposed approval of EAC rulemaking during the public comment period (with the exception of the Denver EAC Area)
- EPA said they fully expect to see this comment submitted to the San Antonio and Austin proposed approval dockets prior to the end of the public comment period, June 22, 2005.
- Between now and September 30, 2005, the EPA will publish separate final rules for each eligible EAC area regarding acceptance of the various SIPs.
- Between now and September 30, 2005 EPA will publish a final rule which will formally defer the effective date of non-attainment for 14 eligible EAC areas from September 30, 2005 until December 31, 2006.
- If EPA were sued, the EPA would likely remand the deferral notice and determining whether or not they have any legal recourse. If EPA is prohibited from deferring the dates of the 14 EAC areas, the deferral of non-attainment will lapse with the expiration of the current deferral date of September 30, 2005.
- The Effective date of non-attainment for San Antonio would then become September 30, 2005. The area would have one year to create a new attainment demonstration and SIP; three years from the effective date of non-attainment.

Mr. Bella explained that if the suit were filed again it would not be the same thing as a notice of intent however; it would be a clear pre-cursor action. Mr. Bella said that what the EPA said they will do at this point would be to remand the deferral notice for the next go round of deferrals so when September arrived, the current effective date deferral would expire and the next day San Antonio would be in non-attainment. This was a possibility.

Renee Green agreed that was a possibility but she didn't want to make that the reality because there were many unanswered questions such as what is the New York State Department of Environmental Conservation doing suing the EPA over EACs that don't impact them? She said that perhaps their intent to file was in pursuit of something they wanted from EPA and they were using the intent to sue to get it. She said that it was a mistake to raise red flags that after September 30, 2005 it was possible that on October 1st the area would be declared in non-attainment. She said it was the worst-case scenario and that she did not believe just the intention to sue would create that.

Mayor Heath stated that Mrs. Green sounded as though she'd been in litigation before and that was the very point to which he was referring . . . the complication and layers of meaning of implications that are there. Therefore, it would be helpful to get the technical committee as soon as is feasible to lay out a point by point sequence from this date forward as to what the possibilities might be.

Mrs. Green replied the Air Technical Committee would do that and in doing so they would present the worst-case scenario because in dealing with regulatory agencies they always gave you the worst-case scenario because they were required to. However, it didn't mean that was the likely scenario, so they would try to present it in such a way to represent all the possibilities. She reminded them that the issue did not only affect this region. There were 300 other EACs affected across the country. She found it unlikely that this type of bold action would be taken just because one state conservation agency filed a letter to put in the SIP dockets with intent to sue. She felt certain that there is something going on between New York and EPA with results that probably had nothing to do with San Antonio.

Dean Word pointed to the second page of the New York State letterhead at the bottom. He said it gave insight to what their beef was. It appeared as though they felt that the EPA denied them a participatory role.

Mrs. Green said they probably asked for a deferral date and were denied a deferral date and now "it was how can you give these individuals a deferral date and not give us a deferral date".

Chairman Millikin agreed that there were probably some underlying issues there and said they would not take action on the item as a vote other than the extensive discussion. He referred to the technical committee to look into the matter.

Mr. Notzon said that the reason he had posed this, as an action item was that he thought it was an appropriate time to ask both TCEQ and EPA to defend the Early Action Compact and remind them "we intend to live up to our obligation and clearly expect them to do the same." He said they had to go on record saying "that the Early Action Compact was not entered into lightly by this area and that we assume that the same case was true by both TCEQ and EPA." He asked that they follow up on Mayor Heath's suggestion that they get the letters out to them in effect asking for their support and asking that they defend the EAC.

Mr. Notzon said that he and Mayor Heath would be attending the National Association of Regional Councils in California the following week where many of the persons in EACs would be in attendance. He would make it a point to get their readings and enlist their support on the issue. He said it would be helpful if "they went on record to authorize us to pursue this further and authorize the chairman to send a letter".

Chairman Millikin asked Mr. Bella to find out from all the regions in Texas if they would be willing to submit an immediate response that said they believed in the Early Action Compact and asked EPA and TCEQ for their support insuring that the EAC concept stays alive. Chairman Millikin proposed that later perhaps the regions could prepare a more detailed response on an individual basis.

Judge Quinney asked if they were going ahead to authorize the initial letter.

Chairman Millikin replied yes and withdrew his point to pass on the matter and asked for a motion to authorize the writing of an initial letter to the federal and state environmental agencies with a follow up on a detailed plan after the Air Tech Committee studied the matter.

Judge Quinney made the motion. Councilman Haass seconded the motion.

Chairman Millikin repeated the motion and asked for a vote. The motion unanimously passed.

Mr. Bella asked if staff or Air Tech Committee members would be allowed to contact the New York State Agency. The answer was no. It was felt that contacting the agency would not produce positive results.

VIII. AACOG Staff Updates

a. Action Item: Proposal to allow AACOG Executive Director to bring VOC Analysis RFP candidate before AACOG Board for finalization and approval.

Mr. Bella explained that the Volatile Organic Compound Analyses Project was intended to run during the summer in conjunction with Texas Air Quality study number two which would provide valuable information on the VOC levels during the days of high ozone. To begin the analyses project it needed to be up and running in the middle of August and because the AIR Executive Committee did not meet until late August he proposed that the committee allow the Executive Director to propose the selection of the contractor chosen from the RFQ to the AACOG Board during the July 27th Board Meeting. Members of the Air Tech would be making recommendations during the selection process, which would then be presented to the board for their approval.

Mayor Heath made the motion to approve the request. Judge Quinney seconded the motion. Chairman Millikin asked for a vote. The motion passed unanimously.

b. Clean Air Partners Program Item was presented earlier by Mrs. Williams.

c. Meteorological Profiler Project Mr. Bella reported that the Profiler is to be established at the New Braunfels Airport. He had visited the Airport site and reported that the caliche base pads had been installed, the barbed wire fence was put up, a power pole existed within the barbed wire fence, the site has electricity and he expected to see the trailer and the profiler installed early next week. Mr. Bella explained that the Profiler would provide a number of meteorological data that is very useful for the development of the next photochemical model. Mr. Bella said that the partnership between AACOG and TCEQ extended the use of the Profiler through the following ozone season.

d. Emissions Inventory activities Mr. Smeltzer reported that they were currently working on the 2005 emissions inventory which was to be applied into the photochemical model. As part of the emissions inventory they would be surveying residential lawn mowers, specifically two cycle engines that are said to be cleaner than other type of engines. As a result they would be requesting an RFQ for a lawn and garden survey for implementation in August.

IX. Other Issues There were none.

X. Adjourn

Mayor Heath motioned for adjournment. Judge Quinney seconded the motion. The meeting was adjourned.