

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
939 ELLIS STREET - SAN FRANCISCO, CALIFORNIA 94109

Approved Minutes: Board of Directors Regular Meeting – March 5, 2003

Call To Order

Opening Comments: Chairperson Haggerty called the meeting to order at 9:48 a.m.

Roll Call: Present: Scott Haggerty, Chair, Roberta Cooper (10:07 a.m.), Chris Daly (10:15 a.m.), Mark DeSaulnier, Jerry Hill, Liz Kniss, Jake McGoldrick, Nate Miley, Julia Miller, Dena Mossar, Mark Ross, Pam Torliatt (9:59 a.m.), Marland Townsend, Gayle Uilkema, Brad Wagenknecht, Shelia Young.

Absent: Harold Brown, Willie Brown, Jr., John Silva, Tim Smith.

Pledge of Allegiance: Director Marland Townsend led the Board in the Pledge of Allegiance.

Commendation/Proclamations: There were none.

Public Comment Period: There were none.

Consent Calendar (Items 1 - 5)

1. Minutes of February 19, 2003
2. Communications. *Correspondence addressed to the Board of Directors.*
3. Report of the Advisory Council. *There was no report.*
4. Energy Report.
5. Authorize Approval of Contract in Excess of \$35,000.

Approved a purchase order in the amount of \$78,437.99 to CIBER, Inc. for Cisco enterprise network switching and routing equipment and software.

Board Action: Director Wagenknecht moved approval of the above Consent Calendar items, seconded by Director Miller.

During discussion, Director Townsend requested information on Consent Calendar Item 3 with respect to the process for follow-up on the recommendations from the Advisory Council. William Norton, Executive Officer/APCO stated that the District staff reviews the recommendations from the Advisory Council and that the information that has been

provided by the Advisory Council on the Intermittent Ozone Control Strategies will be used to develop recommendations and a work plan that will be presented to the Board. The motion then carried without objection.

Chairperson Haggerty requested the Energy Report be discontinued.

Committee Reports and Recommendations

6. Report of the Regional Agency Coordinating Committee (RACC) Meeting of February 21, 2003.

Director DeSaulnier presented the report and stated that the Committee met on Friday February 21, 2003 at the MetroCenter in Oakland. Air District staff presented the schedule for updating the 2001 Ozone Attainment Plan. The planning process has already begun. Metropolitan Transportation Commission (MTC) staff presented the future schedule for developing the 2004 Regional Transportation Plan. The Committee requested that the staff present a proposal for coordinating outreach on the two plans at the next RACC meeting.

Staff from the Bureau of Automotive Repair (BAR) presented information about implementing the Enhanced Smog Check program in the Bay Area. By July 1, 2003 Smog Check stations in the Bay Area must upgrade their Smog Check analyzers to BAR-97 equipment. By October 1, 2003 Smog Check stations must have installed dynamometers to conduct loaded mode testing rather than the current 2-speed idle test. Discussion included the difference in repair cost, test cost and failure rate between Basic Smog Check and Enhanced Smog Check.

Staff from the University of California PATH program gave a presentation on innovative technologies for mobility and access to transit.

The Committee discussed incorporating the Smart Growth Steering Committee's oversight role for the Regional Smart Growth Strategy/Livability Footprint into the RACC. After supportive input from the other agencies and from representatives of the Bay Area Alliance for Sustainable Communities, the Committee agreed to assume the policy oversight role for the Smart Growth Project. Representatives of the other regional agencies and of the Alliance will participate with RACC for Smart Growth Project agenda items. The next meeting is scheduled for Friday, April 18, 2003 at 1:30 p.m.

During discussion, Director Mossar inquired if there has been any dialogue on the loss of transportation dollars in the Bay Area. Mr. Norton stated that the staff has discussed ways to alleviate the situation and there will be a report to the RACC regarding the problem. Mr. Norton stated that the Air District and MTC have been discussing the issue and a report will be provided to the Board at a future date. Mr. Norton recommended that the Mobile Source Committee review the issue first.

Board Action: None. This report provided for information only.

7. Report of the Budget and Finance Committee Meeting of February 26, 2003.

- Action(s):*
- A) Approved increase to fiscal year 2002/2003 Budget in the amount of \$2,010,000;*
 - B) Approved Participation on the Regional Goods Movement Oversight Executive Committee and funding in the amount of \$50,000 from Professional Services Program 104;*
 - C) Approved funding of feasibility study for Traveling Air Quality Education Program for Youth in the amount of \$19,500 transferred from the Reserves for Contingency; and*
 - D) The Committee took no formal action on the funding for personalized versions of Air Currents.*

Director Miller presented the report and stated that the Committee met on Wednesday, February 26, 2003 and Director Miller thanked Mr. Haggerty for appointing her Chair of the Committee and welcomed Director Daly as its Vice-Chair. Teresa Lee, Director of Public Information, was thanked for her support on the Public Outreach Committee and Director Miller congratulated Director Ross for taking over as Chairperson of that Committee.

Staff presented the Second Quarter Financial Report for Fiscal Year 02/03. The Committee considered and recommends that the Board approve the following:

1. Increase the District's fiscal-year 2002/2003 Penalties and Settlements Revenue Budget by \$1,020,000 and the County Revenue Budget by \$990,000 (Totaling \$2,010,000) and allocate \$554,645 to the Technical Services Division Capital Account, \$495,000 to the Information Systems Services Capital Account, \$432,355 to the Administrative Services Division Capital Account (to purchase 20 Hybrid vehicles) and \$528,000 for additional HVAC upgrade work.
2. Approve Air District Participation on the Regional Goods Movement Oversight Executive Committee and funding in the amount of \$50,000 transferred from Professional Services in Program 104.
3. Approve funding of feasibility study for Traveling Air Quality Education Program for Youth in the amount of \$19,500 transferred from the Reserves for Contingency.

The Committee received a report on the financial feasibility for District staff to prepare personalized versions of *Air Currents* and a determination was made that the Committee recommends to the Board that the Air District not incur this expense (approximately \$66,000) at this time.

The Committee requested staff to provide a report on the District's lease program for vehicles versus purchasing vehicles. The Committee also requested that staff research the insurance statistics of the Hybrid vehicles with respect to how safe they are and what happens when they are in a head-on collision. The next meeting of the Budget and Finance Committee is scheduled for 9:30 a.m., Wednesday, March 26, 2003.

Board Action: Director Miller moved the Board approve the recommendations of the Budget and Finance Committee; seconded by Director Townsend.

In response to a question from Director McGoldrick, Mr. Norton clarified that Program 104 is in the Executive Division budget. The motion then carried without objection.

Presentation

8. Proposed Amendments to Regulation 2, Rule 6: Major Facility Review

Staff gave a presentation regarding proposed amendments to District Regulation 2, Rule 6 to address minor deficiencies in the Major Facility Review program that have been identified by EPA. These amendments will be the subject of a Public Hearing commencing at the March 19, 2003, regular meeting of the Board of Directors. Other minor amendments will be addressed at that time.

Mr. Norton stated that no action is required today on this item. An additional hearing is scheduled for the next Board meeting and the hearing will be continued to the first meeting in April. At that time, the Board will be asked to take an action on the item.

Steve Hill, Manager of the Permit Evaluation Section, presented the report and provided background on the Environmental Protection Agency's (EPA's) approval of the District's Title V program and the subsequent lawsuit by several citizens' groups. Mr. Hill stated there are five issues. Two of the issues raised by the citizens' groups, EPA believes have some merit and may require amendments; there are two issues raised by the citizens' groups that EPA does not think require changes, but EPA has informally asked staff to consider the proposals; and there is one issue Air District staff has raised.

The issues that the citizens' groups and EPA believe require revisions are: 1) A change in the language defining portable engines and 2) A change in how the District does administrative amendments in Title V permits. The Air District has agreed to make the changes requested by EPA on both of these issues.

The issues raised by community groups which EPA does not believe require revisions are: 1) The Air District is proposing clarifying language to the definition of "potential to emit" to clarify that conditions the District imposes to limit emissions from facilities must be practically enforceable. 2) The District is also adding a requirement that the District issue, in conjunction with Title V permits, a "statement of basis" that is a supporting document. Mr. Hill stated that the District currently does all of the things that the Rule is proposing.

The fifth issue has to do with the fact that under federal law Title V permits are required to be issued to facilities that are out of compliance, provided that they can be brought into compliance under a schedule of compliance. Mr. Hill stated that under current District rules, the Hearing Board must approve a schedule of compliance. This is not a federal requirement and the requirement is in the District's rule because of a past interpretation of state law. Staff has reviewed state law and now believes that there is not a requirement in state law requiring Hearing Board action on schedules of compliance. The proposal is to amend the regulations to allow the Air Pollution Control Officer to insert a schedule of compliance into a Title V permit at the time of issuance. This will make it easier for the District to issue permits in a timely fashion and it will increase the public's ability to review and affect the schedule of compliance.

Mr. Hill addressed the Administrative Amendments and stated that the District has proposed to treat state-only requirements as administrative amendments allowing the District to

change those as needed. Mr. Hill stated that some commenters have requested that state-only requirements be subject to the Title V public review process, but it is not required by Title V and may be against state law. In conclusion, Mr. Hill stated that this presentation was made at EPA's request.

Speakers: The following people spoke on Agenda Item #8

Sara Pasquinelli
Environmental Law & Justice Clinic
San Francisco, CA 94105

William Rostov
Communities for a Better Environment
San Francisco, CA 94122

Dennis Bolt
WSPA
Sacramento, CA 95814

Amy Cohen
Environmental Law & Justice Clinic, OCE
San Francisco, CA 94105

Gerardo Rios
EPA Region IX

Board Action: None. This report provided for information only.

Other Business

9. Report of the Executive Officer/APCO – Mr. Norton reported on the following: 1) The District is looking for people to be nominated to be Clean Air Champions and a brochure is at each Board member's place. 2) Board members have been asked to sign up for "Outreach Tours."
17. Chairperson's Report - Chairperson Haggerty stated that towards the end of March, an Ad Hoc Committee will be appointed to look at the Executive Officer/APCO position. If any Board member would like to be on the Committee, they should let the Chairperson know.

Director Kniss introduced Council Member Breene Kerr from Los Altos Hills. Mr. Kerr is a potential appointment to the Air District's Board from Santa Clara County. Mr. Kerr briefly described his background and interest in the Air Board.

Closed Session (The Board adjourned to Closed Session at 10:34 a.m.)

11. Conference with Legal Counsel

A) Existing Litigation

Pursuant to Government Code Section 54956.9(a), a need existed to meet in closed session with legal counsel to consider the following cases:

Communities for a Better Environment and Transportation Defense and Education v. Bay Area AQMD, Metropolitan Transportation Commission, Association of Bay Area Governments, and California Air Resources Board, San Francisco Superior Court, Case No. 323849

B) Significant Exposure to Litigation

Pursuant to Government Code Section 54956.9(b), a need existed to meet in closed session to discuss a threat of litigation.

Open Session (The Board reconvened to Open Session at 10:50 a.m.)

Mr. Bunger reported that the Board met in Closed Session to discuss Items 11 A and B on the agenda. The Board was provided a status report and general direction was given to counsel on those items.

12. Board Members' Comments: There were none.
13. Time and Place of Next Meeting - 9:45 a.m., Wednesday, March 19, 2003, 939 Ellis Street, San Francisco, California.
14. Adjournment: The meeting was adjourned at 10:51 a.m.

Respectfully submitted by:

Mary Romaidis

Mary Romaidis
Clerk of the Boards

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