

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

Approved Minutes: Board of Directors Regular Meeting – March 19, 2003

Call To Order

Opening Comments: Chairperson Haggerty called the meeting to order at 9:49 a.m.

Roll Call: Present: Scott Haggerty, Chair, Harold Brown, Maria Ayerdi, Mark DeSaulnier, Jerry Hill, Jake McGoldrick (9:56 a.m.), Nate Miley, Julia Miller, Dena Mossar, Mark Ross (9:55 a.m.), Pam Torliatt (10:02 a.m.), Marland Townsend, Gayle Uilkema, Brad Wagenknecht, Shelia Young.

Absent: Roberta Cooper, Chris Daly, Liz Kniss, John Silva, Tim Smith.

Pledge of Allegiance: Director Harold Brown led the Board in the Pledge of Allegiance.

Commendation/Proclamations:

The Board of Directors recognized employees who have completed the milestone levels of twenty-five (25), thirty (30) and thirty-five (35) years of service to the District and recognized Director Harold Brown who has served on the Board of Directors for 10 years.

The Board of Directors recognized the following employees who have completed 25 years of service with the District: Cynthia Forfang and Troung Van La. The Board of Directors recognized the following employees who have completed 30 years of service with the District: Bill deBoisblanc, Janet Glasgow, Jim Tomich, Nancy Yee, and John Joseph. The Board of Directors recognized the following employee who has completed 35 years of service: Christine Schaufelberger.

Chairperson Haggerty recognized Director Harold Brown for his ten years of service on the Bay Area Air Quality Management District Board of Directors.

Public Comment Period: There were none.

Consent Calendar (Items 1 - 5)

1. Minutes of March 5, 2003
2. Communications. *Correspondence addressed to the Board of Directors.*
3. Report of the Advisory Council. *There was no report.*

4. Report of Monthly Activities. *Division Activities for the month of February 2003.*
5. Authorization for Execution of Purchase Order in excess of \$35,000.

Pursuant to the District's Administrative Code Division II, Section 4.3 Fiscal Policies and Procedures, staff requested the Board authorize the Executive Officer/APCO to execute a purchase order for \$432,355 with San Francisco Toyota for the purchase of 20 Toyota Prius Hybrid vehicles as budgeted for in the FY 2002/2003 approved operating budget

Board Action: Director Townsend moved approval of the above Consent Calendar items, seconded by Director Wagenknecht; carried without objection.

Public Hearing

6. First of Two Public Hearings on Proposed Amendments to Regulation 2, Rule 6: Major Facility Review, Manual of Procedures (MOP), Volume II, Part 3, Major Facility Review Permit Requirements, and Approval of a Notice of Exemption pursuant to the California Environmental Quality Act.

The primary purpose of these amendments to BAAQMD rules and regulations is to address minor deficiencies in the Major Facility Review program that have been identified by the Environmental Protection Agency. The final public hearing on these proposed amendments is scheduled for April 2, 2003.

William C. Norton, Executive Officer/APCO, stated that this is the first of two public hearings on the proposed amendments and that no action is required by the Board at today's meeting. The second public hearing will be held on April 2, 2003 and, at that time, the Board will be asked to take action on the matter.

Steve Hill, Manager of the Permit Evaluation Section, presented the staff's proposal for modifications for the Title V permit rule. Mr. Hill reviewed the background information given at the last Board meeting and addressed the following:

1. Portable Engine Exemption and the clarifying language requested by the Environmental Protection Agency (EPA).
2. Administrative Amendments and the changes requested by EPA so the language is not open-ended.
3. Potential to Emit and the alternative language proposed by Golden Gate University, which clarifies the current practices of the District and staff recommends that this alternative language be adopted. Mr. Hill also discussed the language preferred by Golden Gate University.
4. Statement of Basis and the proposed language for Regulation 2-6-427. Mr. Hill reviewed the stronger language preferred by Golden Gate University.
5. Schedule of Compliance in Section 224 of the rule would refer to the federal regulation that is applicable.

In summary, Mr. Hill stated that the proposals: 1) do not change the District's practice; 2) commit the District to continue current practices; 3) clarify current practices; and 4) conform to EPA requirements.

Director Townsend moved to open the Public Hearing at 10:09 a.m. and that it be continued to April 2, 2003; seconded by Director Mossar.

There was discussion on "Potential to Emit" and Mr. Hill stated that there is nothing in the regulation that would allow a facility to exceed its threshold. The limitations on potential to emit are enforceable by the District through regulations or permit limits that are imposed on the facility. Brian Bunger, Counsel, stated that the threshold is set by federal statute and the Air District does not change that. Mr. Bunger explained that if the facility can emit more than the threshold, there is a potential to emit that exceeds that threshold. If the facility is willing to accept an enforceable limit, a major facility permit may not be required. The District does not change the threshold, but imposes conditions to keep the facility from exceeding it.

Speakers: The following people spoke on Agenda Item # 6:

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

Adrenne Bloch
Communities for a Better Environment
Oakland, CA 94612

Dennis Bolt
WSPA
Concord, CA 94518

In response to a question by Director Torliatt, Mr. Bunger stated that the reporting requirement that the speaker referred to applies to all Title V facilities. Mr. Bunger also pointed out that this particular amendment that required this signature was part of a June 2001 rule-making on Regulation 2, Rule 6 and was part of some amendments that the District needed to make to obtain EPA approval of the rule. Mr. Norton stated that this is a new issue and it is not part of what the staff is proposing, but staff will look into this issue and it will be brought up at a future Board meeting.

Board Action: None. The Public Hearing is continued to Wednesday, April 2, 2003.

Other Business

7. Report of the Executive Officer/APCO – Mr. Norton reported on the following: 1) The District is starting the 2004 Plan and that there will be an Ozone Working Group workshop on March 27, 2003 at the MetroCenter from 10 am to 12 noon. There will be six more public meetings in the communities. 2) The March 26, 2003 Outreach Tour has been cancelled. The Board is invited to sign up for the April 26, 2003 tour. The locations and times of the tours will be provided to the Board members. 3) The Flare Monitoring Rule will be brought to the Board in early May. The District is conducting meetings in the community in Contra Costa County in March and April and Board members are invited to attend. 4) The Stationary Source Committee meeting will be held immediately following

today's Board meeting. 5) The Canadian Senators are here today and will be meeting with Board members and staff in the fourth floor conference room for a briefing on the District's regulations and policies.

8. Chairperson's Report - Chairperson Haggerty had no report.

Closed Session (The Board adjourned to Closed Session at 10:28 a.m.)

9. 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:

Stonelight Tile, Inc. and David Anson v. Bay Area AQMD, United States District Court, N.D. Cal., San Jose Division, Case No. CV 98-21060 (JW) (PVT)

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) Initiating of Litigation

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

Open Session (The Board reconvened to Open Session at 10:45 a.m.)

Mr. Bunger reported on Item 9A, with respect to the Stonelight Tile case, and stated that the Board, by a unanimous decision, directed Counsel to file a Notice of Appeal in response to the Notice of Appeal filed by Plaintiffs in that case. Mr. Bunger stated that with respect to 9A, Communities for a Better Environment, a report was provided to the Board by Counsel and general direction was provided to Counsel. On Item 9B, Mr. Bunger stated that no decision was made regarding initiating litigation.

12. Board Members' Comments: Director McGoldrick moved that the Board return to Item 5 on the Consent Calendar; seconded by Director Wagenknecht; carried unanimously without objection.

Director McGoldrick noted that his staff had looked at this item and reported that the manufacturers suggested retail price is \$20,480, but the vehicles the District is purchasing cost \$21,618. In addition, Director McGoldrick inquired about the District receiving the \$2,000 federal tax break on these vehicles.

Mr. Norton stated that the price the District is paying for the 20 vehicles includes tax and licenses. Mr. Norton indicated that the District did piggyback on the City and County of San

Francisco's bid process and got the lowest bid. Regarding the \$2,000 federal credit, since the District does not pay income tax, it would not receive the \$2,000 credit.

Director Uilkema discussed the Safe Harbor lease provision that allows public agencies to purchase and sell back depreciation and a bond plan and requested that staff check into this option. Mr. Norton stated he would report back to the Board on this at a future meeting.

11. Time and Place of Next Meeting - 9:45 a.m., Wednesday, April 2, 2003, 939 Ellis Street, San Francisco, California.
12. Adjournment: The meeting was adjourned at 10:49 a.m.

Mary Romaidis

Mary Romaidis
Clerk of the Boards

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