

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

Approved Minutes: Board of Directors Regular Meeting – April 16, 2003

**Call To Order**

Opening Comments: Chairperson Haggerty called the meeting to order at 9:51 a.m.

Pledge of Allegiance: Director Tim Smith led the Board in the Pledge of Allegiance.

Roll Call: Present: Scott Haggerty, Chair, Harold Brown, Maria Ayerdi, Roberta Cooper (10:05 a.m.), Chris Daly, Mark DeSaulnier, Jerry Hill, Liz Kniss (10:01 a.m.), Jake McGoldrick, Nate Miley, Julia Miller, Dena Mossar, Mark Ross, John Silva, Tim Smith, Pam Torliatt, Marland Townsend, Gayle Uilkema, Brad Wagenknecht, Shelia Young.

Absent: None.

**Commendation/Proclamations:** There were none.

**Public Comment Period:** There were none.

**Consent Calendar (Items 1 - 10)**

1. Minutes of April 2, 2003
2. Communications. *Correspondence addressed to the Board of Directors.*
3. Report of the Advisory Council. *There was no report.*
4. Monthly Activity Report. *Division Activities for the month of March 2003.*
5. Report of District Personnel on Out of State Business Travel
6. Quarterly Report of the Clerk of the Boards.
7. Referral of Proposed District Budget for FY 2003/2004 to the Budget and Finance Committee.

*Pursuant to Administrative Code Division II, Section 3.2 Fiscal Policies and Procedures, and in compliance with Section 29064 of the Government Code, the Board referred the proposed budget for FY 2003/2004 to the Budget and Finance Committee for consideration.*

8. Authorization for Execution of Contracts 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 contract, not to exceed \$528,000, with Brady Air Conditioning, Inc. for Phase II upgrades to the District's HVAC system.*

9. Set Public Hearing May 21, 2003 for Proposed Regulation 12 Miscellaneous Standards of Performance; Rule 11: Flare Monitoring at Petroleum Refineries.

*This new rule would require refineries to monitor the volume and composition of gases burned in refinery flares, to determine the reasons for flaring, and to report all of this information to the District.*

10. Set Public Hearing May 21, 2003 regarding proposed amendments to District Regulation 3, Fees, and set a final Public Hearing for July 2, 2003 pursuant to California Health and Safety Code Section 41512.5 for final approval.

*The purpose of these amendments is to increase BAAQMD permit fees by 1.6%, equal to the increase in the Consumer Price Index (CPI) for the California Bay Area (San Francisco, Oakland, San Jose) for 2002, as reported by the California Department of Industrial Relations, Division of Labor Statistics and Research.*

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

### **Committee Reports and Recommendations**

11. Report of the Legislative Committee Meeting of April 9, 2003

*Action(s): The Committee recommended approval of the following:*

- A) *District Positions on attached legislation; and*
- B) *Termination of contract with outside lobbyist and recruit on an as-needed basis.*

Director Wagenknecht presented the report and stated that the Committee met on Wednesday, April 9, 2003 and staff presented a list of new legislation and recommended agency position on each bill. Staff highlighted, and there was discussion on, the following bills: SB 656 (Sher), AB 1500 (Diaz), SB 981 (Soto), AB 740 (Pavley), and three bills on the use of perchlorethylene (perc) – AB 998 (Lowenthal), AB 854 (Koretz) and AB 698 (Lieber). The Committee also discussed SB 916 (Perata), which calls for an election on a \$1 bridge toll surcharge for transit. The Committee determined the recommendation on the bill should be changed from “support in concept” to “support and seek amendments.” The Committee recommends the Board adopt positions on the bills as stated in the list provided.

The Committee also discussed the role of the District's contract lobbyist, and the Committee recommends the Board terminate the current contract. The Committee recommends hiring an outside lobbyist on an as-needed basis throughout the year. There was also discussion on

setting up a legislative day in Sacramento. The next meeting of the Committee will be at the Call of the Chair.

**Board Action:** Director Wagenknecht moved the Board accept the report and approve the recommendations of the Legislative Committee; seconded by Director Daly.

In response to a question from Director McGoldrick, Director Wagenknecht stated that the amendments being sought on SB 916 (Perata) dealt with congestion pricing. The motion then passed unanimously without objection.

12. Report of the Mobile Source Committee Meeting of April 10, 2003

*Action(s): The Committee recommended approval of the following:*

- A) Proposed revisions to TFCA Policy #1 and Evaluation Criterion #1 to increase the cost-effectiveness limit from \$50,000/ton to \$90,000/ton of emissions reduced;*
- B) Amendments to vehicle eligibility requirements and augment current Vehicle Buy Back contracts by a total of \$1.5 million from available FY 2002/2003 TFCA funds; and*
- C) Selection of two proposals, a biodiesel feasibility study by CytoCulture International, and a pilot project by Biodiesel Industries and authorize the Executive Officer/APCO to execute contract to implement the study and project in amounts not to exceed \$28,000 and \$40,000 respectively.*

Director Young presented the report and stated that the Committee met on Thursday, April 10, 2003 and Staff presented a report on the proposed revisions to the Transportation Fund for Clean Air (TFCA) Policy # 1 and Evaluation Criterion # 1 to increase the cost-effectiveness limit from \$50,000 per ton to \$90,000 per ton of emissions reduced. The Committee recommends the Board approve the revisions to the TFCA Policy # 1 and Evaluation Criterion # 1, with the understanding that the Committee revisit this issue within three months or at an appropriate time to establish an outreach effort for next year and to consider further amendments to the cost-effectiveness limits.

Staff presented the TFCA Annual Report for FY 2002/2003 prepared per requirements of California Health and Safety Code Section 44241.5. The Committee recommends the Board approve the TFCA report on FY 2002/2003 Allocations and Effectiveness.

Staff presented a report on amendments to the Voluntary Accelerated Light-Duty Vehicle Retirement Program (VAVR) regulations for the Air District's Vehicle Buy Back (VBB) Program. In order to comply with the amended VAVR regulations, staff proposed that the amended VAVR regulations, in its entirety, be incorporated into the District's VBB Program and that the amendments be incorporated into the current dismantler contracts. The Committee recommends:

1. Board approval of the amended Voluntary Accelerated Light-Duty Vehicle Retirement Program (VAVR) regulations for the Air District's Vehicle Buy Back (VBB) Program.

2. Board authorize the Executive Officer to amend current Air District contracts with vehicle dismantlers to incorporate the amended VAVR regulations.
3. Board authorize the Executive Officer to amend current contracts for an additional \$600,000 to Pick Your Part, an additional \$600,000 to Pick-N-Pull, and an additional \$300,000 to Environmental Engineering Studies to provide additional vehicle scrapping and related services for the Vehicle Buy Back Program through December 2003.

Staff presented results of its review and evaluation of the Requests for Proposals received to prepare a biodiesel feasibility study for the Bay Area and to conduct a biodiesel pilot project. CytoCulture International, Inc., had the most responsive and lowest cost (\$28,000) proposal for the preparation of the feasibility study; and Biodiesel Industries had a proposal that demonstrated the greatest technical expertise in regards to successfully operating a biodiesel pilot project in the Bay Area, at a cost of \$40,000. Staff recommended selection of these two contractors for the biodiesel feasibility study and pilot project, respectively. The Committee recommends:

1. Board approval of CytoCulture International, Inc., as the contractor to conduct the biodiesel feasibility study and authorize the Executive Officer to execute a contract for up to \$28,000 with CytoCulture to perform the study.
2. Board approval of Biodiesel Industries as the contractor to conduct a biodiesel pilot project and authorize the Executive Officer to execute a contract for up to \$40,000 with Biodiesel Industries to perform the project.

The next meeting of the Committee will be at the Call of the Chair.

**Board Action:** Director Young moved the Board approve the recommendations of the Mobile Source Committee; seconded by Director Torliatt.

In response to a question from Director Daly, Mr. Norton stated that the changes to the EMFAC model show that the emissions from vehicles are being reduced substantially, therefore, many of the projects that were submitted to the District in the past would not now qualify. In response to a question from Director Mossar, Mr. Norton stated that the District is looking at biodiesel projects that would be the most effective mix for each particular use and what is the best use for future fleets. The motion then passed unanimously without objection.

### **Public Hearing**

13. Final 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.*

Brian Bunker, Counsel, stated that this is the last public hearing on the proposed amendments to Regulation 2, Rule 6. Mr. Bunker reported that the District has not received any additional comments since the last meeting and that staff has incorporated responses to the comments received and recommends the Board approve the Regulation as amended.

Director Townsend moved the Public Hearing be closed at 10:05 a.m.; seconded by Director Hill; carried unanimously without objection.

**Board Action:** Director Townsend moved Board approval of the amendments to Regulation 2, Rule 6; seconded by Director Miller; carried unanimously without objection.

### **Other Business**

14. Consider Approval of Retroactive Fringe Benefit Allowance Request from Retirees. *The Board considered final approval and a resolution of retroactive fringe benefit allowances for retirees.*

William C. Norton, Executive Officer/APCO stated that in November 2002 the Board approved an increase for retirees and granted an increase retroactive to July 2002 of \$50 per month per retired employee. The retired employees have requested that this increase be retroactive to July 2000, an additional two years, for the same \$50 per month. The one-time only cost is \$15,187 that would come out of the reserves for contingencies.

**Board Action:** Director Townsend moved approval of the retroactive fringe benefit adjustments for retirees; seconded by Director Torliatt; carried on roll call:

AYES: H. Brown, Ayerdi, Cooper, Daly, DeSaulnier, Hill, McGoldrick, Miley, Miller, Ross, Silva, Smith, Torliatt, Townsend, Uilkema, Wagenknecht, Young, Haggerty.

NOES: Kniss, Mossar.

ABSENT: None.

15. Report of the Executive Officer/APCO – Mr. Norton reported on the following: 1) The outreach tour scheduled for April 26, 2003 has been cancelled. May 13<sup>th</sup> or May 17<sup>th</sup> have been suggested for rescheduling of the tour and Mr. Norton encouraged the Board members to sign up for one of the dates. 2) Dr. Saffet Tanrikulu, Research and Modeling Manager, was introduced.
16. Chairperson's Report - Chairperson Haggerty announced that Director McGoldrick has requested to be taken off the Budget and Finance Committee and that the vacancy may be filled by the new appointee from Santa Clara County.

**Closed Session** (The Board adjourned to Closed Session at 10:14 a.m.)

17. 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:

1. 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
2. Alvin J. Greenberg, Ph.D. v. Bay Area AQMD, et al., United States District Court, N.D. Cal., Case No. C 02 1501 VRW
3. 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)

B) Significant Exposure to Litigation

Pursuant to Government Code Section 54956.9(b), a need existed to meet in closed session to discuss two potential litigation matters against the District.

**Open Session** (The Board reconvened to Open Session at 10:32 a.m.)

Mr. Bunger reported on Item 17A and stated that a status report was provided to the Board on each of the three cases and general direction was given. Mr. Bunger reported on Item 17B and stated that the Board was informed of two matters of potential litigation and general direction was given.

18. Board Members' Comments: There were none.
19. Time and Place of Next Meeting - 9:45 a.m., Wednesday, May 7, 2003, 939 Ellis Street, San Francisco, California.
20. Adjournment: The meeting was adjourned at 10:33 a.m.

*Mary Romaidis*

Mary Romaidis  
Clerk of the Boards

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