

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

Approved Minutes: Board of Directors Regular Meeting – May 21, 2003

Call To Order

Opening Comments: Chairperson Haggerty called the meeting to order at 9:46 a.m.

Roll Call: Present: Scott Haggerty, Chair, Maria Ayerdi, Chris Daly (9:58 a.m.), Mark DeSaulnier, Jerry Hill, Liz Kniss (10:16 a.m.), Jake McGoldrick (9:52 a.m.), Nate Miley, Julia Miller, Dena Mossar, Mark Ross, John Silva, Marland Townsend, Gayle Uilkema, Brad Wagenknecht, Shelia Young.

Absent: Harold Brown, Roberta Cooper, Tim Smith, Pam Torliatt.

Pledge of Allegiance: Deputy Director Maria Ayerdi led the Board in the Pledge of Allegiance.

Commendation/Proclamations: There were none.

Public Comment Period: Speaker:

A. J. Napolis
CBE/EJAQC

Mr. Napolis thanked the District staff and Board for their participation in the Toxic Tour.

Consent Calendar (Items 1 - 6)

1. Minutes of May 7, 2003
2. Communications. *Correspondence addressed to the Board of Directors.*
3. Report of the Advisory Council.
4. Monthly Activity Report. *Division Activities for the month of April 2003*
5. Consideration and Approval of Purchase Orders in Excess of \$35,000.

Pursuant to the District's Administrative Code Division II, Section 4.3, Fiscal Policies and Procedures; the Board is hereby requested to authorize the Executive Officer/APCO to enter into the following contracts:

- *Purchase order not to exceed \$320,000 to J.D. Edwards for the purchase of the J.D. Edwards Enterprise Resource Planning (ERP) product with 40 concurrent user licenses. This application will replace the existing Mitchell Humphreys system.*
- *Purchase order not to exceed \$360,000 to AMX Inc. for the purchase of 2181 hours of J.D. Edwards Professional Services to cover the first phase of the implementation work, with further implementation services to follow. **This item was removed from the Consent Calendar.***
- *Purchase order not to exceed \$89,000 to Mythics, Inc., for the purchase of a two processor Oracle database license with 25 named users and twenty days of database administrator training.*
- *Purchase order not to exceed \$93,000 to IBM for the purchase of two p-series servers with associated racks and power conditioning. These servers will run the J.D. Edwards Application and the associated Oracle Database.*

6. Authorize the Executive Officer/APCO to continue participating in the Congestion Mitigation and Air Quality Improvement Program (CMAQ) including providing local matching funds and obligating the next round of funding by September 30, 2003.

The Board considered a resolution authorizing the Executive Officer/APCO to continue participation in the CMAQ program to include matching funds.

William C. Norton, Executive Officer/APCO, requested the purchase order for AMX Inc. in Item No. 5 on the Consent Calendar be removed. Jeff McKay, Director of Information Services, stated that the RFP and evaluation process has been completed for a new Administrative System. The Air District is now ready to begin the execution phase with the acquisition of the J.D. Edwards Enterprise Resource Planning (ERP) System. The recommended actions today are the authorization of a purchase order not to exceed \$320,000 to J.D. Edwards; the authorization of a purchase order not to exceed \$89,000 for acquisition of the Oracle Database; and the authorization of a purchase order not to exceed \$93,000 for the purchase of two IBM servers to run the J.D. Edwards application and its associated database. Mr. McKay stated that due to on-going negotiations, the authorization for the professional services work required to implement this system would be presented on June 4, 2003.

In response to questions from Director Uilkema, Mr. McKay stated that the administrative system is an ERP system that will take the place of the current Mitchell Humphrey system. Mr. McKay stated that a year ago there was a change of strategic direction and it was suggested that the ERP system would create an appropriate foundation for going forward with replacement of the IRIS systems for the District's production activities. Mr. Norton noted that the Executive Committee approved the process of going through the RFP.

Board Action: Director Townsend moved approval of the above Consent Calendar items one through six, with the change in item five, which removes the purchase order to AMX, Inc.; seconded by Director Miller.

During discussion, Director Hill requested that in the future, staff provide more detail on the RFP process for the purchase orders; such as the number of proposals that were submitted, the costs, and the evaluation criteria used for the selection. The motion carried unanimously without objection with the following Board members voting:

AYES: Ayerdi, DeSaulnier, Hill, McGoldrick, Miley, Miller, Mossar, Ross, Silva, Townsend, Uilkema, Wagenknecht, Young, Haggerty

NOES: None

ABSENT: H. Brown, Cooper, Daly, Kniss, Smith, Torliatt

Adopted Resolution No. 2003-01: A Resolution of the Bay Area Air Quality Management District Board of Directors Authorizing District Participation in the Congestion Mitigation and Air Quality Improvement Program (“CMAQ”) for the San Francisco Bay Area

Committee Reports and Recommendations

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

Action: The Committee recommended referral of the Fiscal Year 2003/2004 Proposed Budget to the June 4, 2003, meeting for the first of two public hearings. Final action will be taken at the conclusion of the second public hearing on this matter scheduled for June 18, 2003.

Director Miller presented the report and stated that the Committee met on Wednesday, May 7, 2003 and staff presented the Third Quarter Financial Report for Fiscal Year 2002/2003. Staff noted that the Capital Outlay was only 16% of the estimated expenditures because money that is allocated for the HVAC system and computer supplies has not yet been spent. Staff provided a report on the FY 1999/2000 Audit Report recommendation to tag assets.

The Committee had further discussions on the Fiscal Year 2003/2004 Proposed Budget. Staff noted that the two public hearings on the budget would be conducted on June 4, 2003 and June 18, 2003. Director Hill requested staff list, for comparison purposes, the figures for the current budget, what the Board approved, and any revisions or amendments to the budget. Staff is recommending that the Board go through the process of adopting the District’s budget and noted that the District would not spend certain monies until issues with the State budget have been resolved. The District staff would then come back to the Board for any amendments to the budget. The Committee accepted the budget and recommended that it be forwarded to the Board, with the changes requested by Director Hill.

The next meeting of the Committee will be at the Call of the Chair. The June 25th Committee meeting is cancelled.

Board Action: Director Miller moved the Board approve the report and recommendations of the Budget and Finance Committee; seconded by Director Townsend; carried unanimously without objection.

8. Public Hearing Regarding Proposed Amendments to Regulation 3: Fees

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 20-02, as reported by the California Department of Industrial Relations, Division of Labor Statistics and Research.

Mr. Norton stated that this public hearing was set to increase fees and that the second public hearing for Schedules L and Q is set for July 2, 2003. William de Boisblanc, Director of Permit Services, presented the report and stated that staff is recommending all general fees and all the fee schedules in Regulation 3 be increased by 1.6%. All of the proposed amendments may be approved, except for Schedule L: Asbestos Operations and Schedule Q: Excavation of Contaminated Soil and Removal of Underground Storage Tanks, which require a second public hearing after 30 days. Mr. de Boisblanc noted that the District sent out 7000 notices to all currently permits sources and to other interested parties on the District's mailing list. Except for Schedules L and Q, the recommended amendments become effective on July 1, 2003.

Chairperson Haggerty opened the Public Hearing at 10:04 a.m. There were no speakers. Director Young moved to close the Public Hearing at 10:05 a.m.; seconded by Director Hill; carried unanimously.

Board Action: Director Miller moved adoption of the proposed amendments to Regulation 3 Fees, and to continue the public hearing on Schedules L and Q to July 2, 2003; seconded by Director Wagenknecht; carried unanimously without objection.

9. Public Hearing on Proposed Regulation 12: Miscellaneous Standards of Performance; Rule 11: Flare Monitoring at Petroleum Refineries and approval of a Negative Declaration Pursuant to the California Environmental Quality Act.

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.

Mr. Norton stated that staff is requesting the Board take no action today on this item, but take testimony and then continue the hearing to June 4, 2003. The Air District has made some changes that require additional time to review. The staff presentation will be made today, comments from the public will be heard, and staff is requesting the Board continue the matter to the June 4, 2003 Board meeting.

Jim Karas, Air Quality Engineering Manager, presented the report and stated that the proposed Rule would implement Control Measure 15 and that the intent of the Rule is to collect data. Mr. Karas reported that a working group was established and informational meetings were held with members of the public. Mr. Karas stated that the proposed Rule addresses the data needs and issues raised during the process of developing the Rule.

Alex Ezersky, Air Quality Specialist, gave a presentation on the proposed rule which addressed the following items: 1) continuous flow monitoring; 2) analysis of the gases vented to the flare; 3) video monitoring of flares; and 4) reporting of flare operations. Mr. Ezersky stated that the staff recommends continuation of the hearing to June 4, 2003 for adoption of proposed Regulation 12, Rule 11 and approval of a Negative Declaration pursuant to the California Environmental Quality Act.

In response to Director Uilkema, Mr. Ezersky stated that some refineries already have the ultra sonic equipment and that staff has talked to the vendors of the equipment and the vendors have indicated they can commit to the time line in the Rule. There was discussion on the timeframe of implementation of the Rule being realistic and refineries having back-up equipment available. There was also discussion on issues related to web casting and use of video equipment, and what would be the liability on the stationary sources, such as the reliability of the video equipment and the issuance of violation notices. Staff indicated they would come back to the Board in 18 months after more research has been done on the web casting issues.

There was also discussion on the efficiency rate of the flares and Mr. Ezersky noted that this issue has been referred to the District's Advisory Council. Peter Hess, Deputy APCO, added that there are studies being conducted on this issue and the District staff is following them. Director Silva noted that he had submitted some questions to the District regarding this Rule and requested they be made part of the record.

The Public Hearing was opened at 10:38 a.m. and the following people came forward to speak:

Johnny White
Richmond, CA 94801

Kevin Buchan
WSPA

Dr. Henry Clark
West County Toxics Coalition
Richmond, CA 94801

Richard Drury
Adams & Broadwell
So. San Francisco, CA 94080

Philip Stern
ConocoPhillips
Rodeo, CA

Teresa Makarewicz
Shell Oil Products US
Martinez, CA

Peter McGaw
Contra Costa Council
Walnut Creek, CA 94596

Carla M. Pérez
CBE
Oakland, CA 94612

Julia May
CBE

Ethel Dotson
CBE
Richmond, CA 94804

Mary Peace Head
CBE
Richmond, CA 94806

Erik White
Air Resources Board
Sacramento, CA 95621

Richard Quiroz
ChevronTexaco
Richmond, CA 94802

Jeff Hartwig
Chevron
Richmond, CA 94802

Michael De Leon
Tesoro
Martinez, CA 94553

Eric Heugst
Valero
Benicia, CA 94510

Bob Chamberlin
Chevron
Richmond, CA 94598

Belen Ramirez Roche
Rodeo, CA 94572

Maria Brown
CBE

Dennis Bolt
WSPA
Concord, CA 94518

Randall J. Brown
FCI
San Marcos, CA

Alan Savage
Tesoro Petroleum
Martinez, CA

Alfred Middleton
Valero
Benicia, CA 94510

Tina Cosentino
CBE
Oakland, CA 94612

Board Action: Chairperson Haggerty noted the Board would continue the Public Hearing to June 4, 2003.

Director DeSaulnier requested staff respond, in writing, to all of the questions posed by the speakers. Mr. Hess announced that he would like to convene the Working Group immediately after the Board meeting.

Other Business

10. Report of the Executive Officer/APCO – Mr. Norton stated he had no report.
11. Chairperson’s Report - Chairperson Haggerty stated he had no report.

Closed Session (The Board adjourned to Closed Session at 11:43 a.m.)

12. Conference with Legal Counsel

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 case:

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

Communities for a Better Environment, and Our Children’s Earth Foundation v. Bay Area Air Quality Management District, Valero Refining Company-California, et al., San Francisco Superior Court, Case No. CPF03502678

Open Session (The Board reconvened to Open Session at 11:53 a.m.)

Mr. Bunger reported that the Board met in Closed Session to discuss the cases listed in Item 12 on the agenda. A status report was provided to the Board and general direction was given by the Board to Counsel.

13. Board Members' Comments: There were none.
14. Time and Place of Next Meeting - 9:45 a.m., Wednesday, June 4, 2003, 939 Ellis Street, San Francisco, California.
15. Adjournment: The meeting was adjourned at 11:54 a.m.

Mary Romaidis

Mary Romaidis
Clerk of the Boards

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