

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

Approved Minutes: Board of Directors Regular Meeting – June 4, 2003

**Call To Order**

Opening Comments: Chairperson Haggerty called the meeting to order at 9:52 a.m.

Roll Call: Present: Scott Haggerty, Chair, Harold Brown, Maria Ayerdi, Chris Daly (11:00 a.m.), Mark DeSaulnier, Jerry Hill, Liz Kniss (10:02 a.m.), Jake McGoldrick, Nate Miley, Julia Miller (9:59 a.m.), Dena Mossar, Mark Ross, John Silva, Tim Smith, Pam Torliatt, Marland Townsend, Gayle Uilkema.

Absent: Roberta Cooper, Brad Wagenknecht, Shelia Young.

Pledge of Allegiance: Director DeSaulnier led the Board in the Pledge of Allegiance.

Commendations/Proclamations: There were none.

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

**Consent Calendar (Items 1 - 7)**

1. Minutes of May 21, 2003
2. Communications. Correspondence addressed to the Board of Directors
3. Report of the Advisory Council. *There was no report*
4. Approval of Purchase Orders in Excess of \$35,000.

*Authorized a purchase order not to exceed \$360,000 to J.D. Edwards for the purchase of 2400 hours of Professional Services to cover the first phase of implementation work for the J.D. Edwards Enterprise Resource Planning System with further implementation services to follow.*

5. Report of District Personnel on Out of State Business Travel.
6. Notice of Proposed Amendments to Administrative Code Division III Section 7.3 Probation Period.

*Pursuant to Administrative Code Division I Operating Policies and Procedures Section 14: Amendments; notification is hereby given of the proposed attached amendments to the*

*Administrative Code Division III Section 7.3 Probation Period for employees appointed to management and confidential positions.*

7. Approval of Project-Specific Waiver of the Transportation Fund for Clean Air (TFCA) Heavy-Duty Vehicle Replacement Policy.

*Staff recommended Board of Director approval of a waiver of the TFCA Vehicle Scrappage policy to allow two (2) 1981 Gillig buses to be retrofitted with Cleaire particulate control devices and donated to San Felipe, Mexico rather than being scrapped.*

**Board Action:** Director Hill moved approval of the above Consent Calendar items; seconded by Director DeSaulnier.

Director Ross acknowledged two of the people that were instrumental in this project. The motion then passed unanimously without objection.

### **Committee Reports and Recommendations**

8. Report of the Stationary Source Committee Meeting of May 21, 2003

*Actions: The Committee recommended Board of Director approval of a Memorandum of Cooperation between the Environmental Protection Agency and the Air District to identify and offer to make available emergency response support, which can contribute toward the maintenance of homeland security.*

Director DeSaulnier presented the report and stated that the Committee met on Wednesday, May 21, 2003. The Committee considered and recommends that the Board approve a Memorandum of Cooperation between the U.S. Environmental Protection Agency (EPA) and the Air District to identify and make available emergency response support for Homeland Security. Director DeSaulnier noted that additional items on the agenda were postponed until the following meeting due to a lack of time. The next meeting of the Committee is scheduled for Wednesday, June 18, 2003 immediately following the Regular Board meeting.

**Board Action:** Director DeSaulnier moved that the Board approve the recommendations of the Stationary Source Committee; seconded by Director Townsend; carried unanimously without objection.

### **Public Hearing**

9. Continued Public Hearing to Consider Proposed New Regulation 12; Rule 11: Flare Monitoring at Petroleum Refineries and Approval of a Negative Declaration Pursuant to the California Environmental Quality Act.

*The 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.*

Alex Ezersky, Air Quality Specialist, presented the report and stated that the District recommended continuation of the May 21<sup>st</sup> hearing due to the changes made in the April 21, 2003 proposed draft of the Rule. The changes were a result of the numerous comments the District received. Staff is asking that the Board adopt the regulation with the recommendation that the video monitoring provision be referred to the Stationary Source Committee for review. Staff will report back to the Board in 18 months with any recommendation for any additional changes to the Rule.

The public hearing was then continued at 9:57 a.m. and the following people came forward to speak:

Peter McGaw  
Contra Costa Council  
Walnut Creek, CA 94596

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

Tina Cosentino  
Communities for a Better Environment  
Oakland, CA 94120

Julia May  
Communities for a Better Environment  
Oakland, CA 94120

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

Dennis Bolt  
Western States Petroleum Association  
Concord, CA 94518

**Board Action:** Director DeSaulnier moved to close the public hearing at 10:06 a.m. and that the Board approve the staff recommendation to adopt Regulation 12, Rule 11; including referral of the webcasting to the Stationary Source Committee; seconded by Director H. Brown.

In response to a request from Director Silva, William C. Norton, Executive Officer/APCO, stated that staff reviewed the installation time and found that only one refinery may have a problem with the timeframe. That refinery could apply for a variance from the Hearing Board and staff would support the variance request.

Director Kniss noted the use of video and webcasting at a quarry and stated it is an accurate way to determine what is going on at the facility. The motion then passed unanimously with the following Board members voting:

AYES: H. Brown, Ayerdi, DeSaulnier, Hill, Kniss, McGoldrick, Miley, Miller, Mossar, Ross, Silva, Smith, Torliatt, Townsend, Uilkema, Haggerty.

NOES: None.

ABSENT: Cooper, Daly, Wagenknecht, Young.

**Adopted Resolution No. 2003-02: A Resolution of the Board of Directors of the Bay Area Air Quality Management District Approving the Negative Declaration for Proposed Regulation 12: Miscellaneous Standards of Performance, Rule 11: Flare Monitoring at Petroleum Refineries**

**A Resolution of the Board of Directors of the Bay Area Air Quality Management District Adopting Regulation 12: Miscellaneous Standards of Performance, Rule 11: Flare Monitoring at Petroleum Refineries**

10. First of Two Required Public Hearings to Consider Proposed District Budget for FY 2003/2004

*Pursuant to Health and Safety Code Section 40131, William C. Norton, Executive Officer/APCO and Wayne Tanaka, Director of Administrative Services, will present the Fiscal Year 2003/2004 Proposed Budget to the Board of Directors for public review and comment only. Final action will be taken at the conclusion of the second public hearing on this matter scheduled for June 18, 2003.*

Mr. Tanaka presented the proposed budget for fiscal year 2003-2004 and reviewed the following:

- Budgeted and projected revenue
- Consolidated budget revenue
- Budget and proposed expenditures
- Consolidated budget expenditures
- A chart showing consolidated sources of revenue and available financing to fund current expenditures
- A chart showing consolidated expenditures
- Projected revenue and expenditures to Fiscal Year 2005-2006
- Consolidated detail of the projected revenue and projected expenditures
- Expenditures from the General Fund, TFCA Fund, and Subvention Fund

There was discussion on the following: 1) earthquake insurance and the possibility of adjusting certain liabilities; 2) the PERS cost incurred; 3) the District has done a risk analysis from the current insurance carrier as well as the former one; 4) Director Mossar suggested the Budget and Finance Committee revisit its prior decision on earthquake insurance; 5) if there will be any change in the property taxes the District receives from the counties; 6) staff is aware of the discussions taking place in Sacramento on the State budget.

In conclusion, Mr. Tanaka noted there are a couple of minor corrections that will be made before final adoption of the budget at the next meeting. In response to a question from Director Uilkema, Mr. Tanaka stated that the District could maintain its reserve balance of three months of operating expenditures.

The Public Hearing was then opened at 10:45 a.m. There were no speakers. The public hearing was continued to Wednesday, June 18, 2003.

11. Consideration of Approval of Funding to the Sonoma County Climate Protection Campaign.

*The Board of Directors at its meeting of May 7, 2003, directed staff to bring this item back to the Board for discussion and to review request for funding in the amount of \$25,000.*

Thomas Perardi, Director of Planning and Research, presented the report and stated that the concern is that too much fuel is being burned and too much CO2 is going into the atmosphere. Mr. Perardi noted that there are several efforts underway at all levels (international, national, state and local) to reduce emissions of greenhouse gases. The Sonoma County Climate Protection Campaign is a good example of a local effort. The Board requested this item come back to it for consideration. The Air District has criteria pollutant goals and objectives that produce added benefits in the realm of climate protection, the questions before the Board are: Is it appropriate for the Air District to apply resources and funding directly to climate protection activities, and if so, is the Sonoma County proposal a good use of these resources?

The report in the Board packet lists the Advisory Council and staff concerns with the original proposal. One concern was the absence of coordination with the California Climate Registry. The new proposal received on May 23, 2003, is more specific and ambitious, but still does not mention coordination with the state program. The Advisory Council has not reviewed the new proposal. If the Board decides to approve the Sonoma County request, staff recommends that the Executive Officer be authorized to negotiate a mutually acceptable scope of work compatible with Air District interests and to include coordination with the California Climate Registry.

In response to a question from Director Townsend, Mr. Perardi stated that the cash amount requested is \$25,000 and services would be a few person weeks of staff time. Mr. Perardi noted that the Advisory Council recommendation was to provide services in lieu of the amount of money.

**Speakers:**

Bill Hanna	Mike Sandler	Ann Hancock
Chairperson	Sonoma County Climate	Sonoma County Climate
Advisory Council	Protection Campaign	Protection Campaign

During discussion, clarification was made on what the Board is being asked to do, which is to give a grant to the Sonoma County Climate Protection Campaign in the amount of \$25,000, which will provide the Air District with some deliverables that address how greenhouse gases can be inventoried and how they can be reduced.

Other discussion included the following:

- Other counties might start coming forward with their own requests for funding and the Air District might be setting a precedent.
- This is an on-going effort to see how counties can account for greenhouse emissions and the Air District should be involved in this effort.
- Staff assistance is looked at differently than approval of the cash grant.
- There is the need for collaboration.
- The District should use the Advisory Council; the Air District should do this study, not a county.
- There is still a lot to be done on ozone precursors.
- There is merit in this proposal.

**Board Action:** Director Smith moved approval of the Sonoma County Climate Protection Campaign proposal for a grant in the amount of \$25,000 and the staff time necessary to provide administrative support, fiscal oversight, and technical review; seconded by Director Torliatt.; the motion carried on the following roll call:

AYES: Ayerdi, Daly, McGoldrick, Miley, Ross, Smith, Torliatt, Haggerty.

NOES: Hill, Kniss, Miller, Mossar, Silva, Townsend, Uilkema.

ABSENT: H. Brown, Cooper, DeSaulnier, Wagenknecht, Young.

### **Other Business**

12. Report of the Executive Officer/APCO. Mr. Norton reported on the following: 1) a list of Community Events for June at each Board member's place; and 2) Spare the Air started on Monday, June 2<sup>nd</sup> and there have been two locations in the Bay Area that have had readings over the federal 8-hour air quality standard.
13. Chairperson's Report. Chairperson Haggerty stated he had no report.

### **Closed Session** (The Board adjourned to Closed Session at 11:22 a.m.)

14. Conference with District's Labor Negotiator (Government Code § 54957.6(a))

*Agency Negotiators: IEDA*

*Un-represented Employees: Management and Confidential Staff Fringe Benefit and Cost of Living Adjustment*

15. 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 cases:*

- A) *Communities for a Better Environment and Transportation Defense and Education Fund 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) *Alvin J. Greenberg, Ph.D. v. Bay Area AQMD, et al., United States District Court, N.D. Cal., Case No. C 02 1501 VRW*

### **Open Session** (The Board reconvened to Open Session at 11:49 a.m.)

Brian Bunker, Counsel, stated that the Board met in Closed Session and on Item 14, the Board directed staff to bring the item back to an Open Session for consideration at the next Board meeting.

Mr. Bunger reported on Items 15 A and B and stated that the Board received a status report on the two pieces of litigation and provided general direction to Counsel.

16. Board Members' Comments: There were none.
17. Time and Place of Next Meeting - 9:45 a.m., Wednesday, June 18, 2003, 939 Ellis Street, San Francisco, California.
18. Adjournment: The meeting was adjourned at 11:50 a.m.

*Mary Romaidis*

Mary Romaidis  
Clerk of the Boards

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