

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

Approved Minutes: Board of Directors Regular Meeting – June 18, 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, Roberta Cooper, Mark DeSaulnier, Jerry Hill, Liz Kniss (9:59 a.m.), Nate Miley, Julia Miller, Mark Ross, John Silva, Pam Torliatt, Marland Townsend, Gayle Uilkema, Shelia Young.

Absent: Chris Daly, Jake McGoldrick, Dena Mossar, Tim Smith, Brad Wagenknecht.

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

Commendations/Proclamations: The Board recognized Christine Schaufelberger, Acting Compliance and Enforcement Division Director, upon her retirement from the Air District after 35 years of service.

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

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

1. Minutes of June 4, 2003
2. Communications. Correspondence addressed to the Board of Directors
3. Report of the Advisory Council.
4. Monthly Activity Reports. *Division Activities for the month of May 2003*
5. Approval of Proposed Amendments to Administrative Code Division III Section 7.3 Probation Period.

*Approved proposed amendments to the District's Administrative Code Division III Section 7.3 Probation Period. The proposed amendments are for employees appointed to management and confidential positions, as noticed at the Board of Directors meeting of June 4, 2003.*

6. Approval of Inflation Factor Agreement with Marin County Redevelopment Agency.

*The retroactive agreement allows for annual increases in the base assessed value of taxable property in the redevelopment area. This will translate into annual savings of \$344 for fiscal year 2002 and \$372 for fiscal year 2003 in the contribution amount.*

7. Notification of Purchase Order in Excess of \$20,000

*The Public Information and Outreach Division notified the Board of purchase orders issued in excess of \$20,000. Purchase Order #41071 issued to Creative Express for the printing of 234 billboard sheets in the amount of \$21,443.78 for the smoking vehicle advertising campaign. Purchase order #41074 issued to Creative Express for placement with Next Media for gas station pump top ads at 43 stations for the smoking vehicle campaign in the amount of \$30,100.00.*

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Director Townsend requested information on Item 4 under the Information Systems Division Report with respect to Oracle’s action to buy out PeopleSoft, which is also taking over J.D. Edwards, and how this will impact the District’s database programs. William C. Norton, Executive Officer/APCO, stated that the District has looked into the acquisition of PeopleSoft/J.D. Edwards and are comfortable with that, but the District is a little apprehensive about Oracle and has some concerns about statements made about terminating PeopleSoft employees. If it is determined there are problems, the District would take the appropriate actions. Mr. Norton stated that the agreement has been signed and the District should move forward.

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

**Committee Reports and Recommendations**

8. Report of the Legislative Committee Meeting of June 9, 2003

*Action(s): The Committee recommended adoption of positions on the following bills:*

<b>Bill</b>	<b>Brief Description</b>	<b>Committee Recommendation</b>
<b>SB 288 (Sher)</b>	<i>New source review restoration act of 2003.</i>	<i>Oppose current language, but support intention and seek amendments</i>
<b>AB 170 (Reyes)</b>	<i>Mandates that, over time, local governments in the San Joaquin Valley adopt air quality elements in their general plans.</i>	<i>Watch</i>
<b>AB 1409 (Wolk)</b>	<i>Allows buses longer than 40 feet to have bike racks in front.</i>	<i>Support</i>

Director Torliatt presented the report and stated that the Committee met on Monday, June 9, 2003. 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 288 (Sher), AB 170 (Reyes), and AB 1409 (Wolk). The Committee recommends that the Board adopt positions on the bills as stated in the list provided.

Staff also reported that the three bills that would fund the Carl Moyer Program are dead. There was also discussion on property tax issues that could affect the Air District. There was discussion on setting up a legislative day in Sacramento. The next Legislative Committee meeting is tentatively scheduled for Monday, July 14, 2003. Director Torliatt recommended that Tom Addison, Advanced Projects Advisor, brief the Board on SB 288 (Sher).

Mr. Addison stated that the potential amendments to the bill were reviewed late yesterday and that the amendments are helpful in that they address the citizen suit provisions as well as not weakening California's existing New Source Review (NSR) program. Mr. Addison reiterated that the intent of the bill is good, but there could still be problems with the proposed amendments. Brian Bunger, Counsel, stated that the citizen suit provision of the bill has been changed so that public agencies are taken out of that provision. Mr. Bunger added that there is an existing Writ of Mandate process that provides a way to challenge agency decisions. Mr. Bunger also stated that until the language is amended, EPA could automatically find the Air District out of compliance with the new NSR program. The District is willing to work with the proponents of the bill on these issues and to move it forward.

Chairperson Haggerty requested a motion on AB 170 and AB 1409 before further discussion on SB 288 takes place.

**Board Action:** Director Torliatt moved that the Board adopt the recommendations of the Legislative Committee on AB 170 (Reyes) and AB 1409 (Wolk); seconded by Director Young; carried unanimously without objection.

The following people came forward to speak on SB 288 (Sher):

Richard Drury Adams & Broadwell So. San Francisco, CA 94080	Carl Zichella Sierra Club Sacramento, CA 95814	Azibuike Akaba Communities for a Better Environment Oakland, CA 94612
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There was discussion on the following:

- Several Board members have not had the opportunity to read the bill or the proposed amendments.
- The Board could consider tabling this bill until the amendments have been reviewed.
- Staff indicated it is not a good bill as written.
- The Board should take a position that is not just "support" or "oppose."

**Board Action:** Director Miller moved that the Board support SB 288 (Sher) and seek amendments to the bill; seconded by Director H. Brown.

There was discussion on the following:

- There is opposition to the language and if the Board “Supports” the bill, it means the Board supports the language in the bill.
- The bill is out of the Senate now and in the Assembly; and it is scheduled to be heard on July 7<sup>th</sup> in the Policy Committee.

Director Miller amended the motion to “support” and seek changes in the language and with the amendments; Director H. Brown accepted the amendment.

**Board Action:** Director Townsend offered a substitute motion that the Board “watch” SB 288 (Sher) and seek amendments; seconded by Director Silva. Chairperson Haggerty accepted the substitute motion. Director Kniss suggested that someone from Senator Sher’s office come to the next Board meeting to talk to the Board about the bill. The motion then passed on the following roll call:

AYES: Ayerdi, Cooper, Hill, Kniss, Miley, Silva, Torliatt, Townsend, Uilkema, Young, Haggerty.

NOES: H. Brown, DeSaulnier, Miller, Ross.

ABSENT: Daly, McGoldrick, Mossar, Smith, Wagenknecht.

9. Report of the Mobile Source Committee Meeting of June 12, 2003

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

- A) Allocation of \$800,000 in FY 2003/2004 Transportation Fund for Clean Air Regional Funds for the continuation of the District’s Vehicle Incentive Program;*
- B) Approval of proposed FY 2003/2004 policy revisions to the Vehicle Incentive Program;*
- C) Approval of Air District’s continued participation in implementing the California Air Resources Board’s (CARB) 2003 Carl Moyer program in the San Francisco Bay Area;*
- D) Authorize the Executive Officer/APCO to enter into necessary agreements and contracts with CARB and with approved applicants to implement the Carl Moyer program;*
- E) Approval of the Revised 2003 procedures for allocation of Carl Moyer program incentives;*
- F) Authorize the Air District’s continued participation in implementing the California Air Resources Board’s Lower Emission School Bus Program in the Bay Area; and*
- G) Approve proposed revision to the Lower Emissions School Bus Program to lower the maximum school district co-payment for a school bus purchase, expand the available options to reduce emissions for in-use diesel school buses, and require participating school districts to retrofit all eligible diesel school buses in their fleet.*

Director Young presented the report and stated that the Committee met on Thursday, June 12, 2003 and staff presented a report on the Vehicle Incentive Program (VIP) and reviewed the revisions to the Program for the FY 2003/04 cycle. The revisions would enhance the cost-effectiveness of the VIP Program. There were two speakers on this agenda item. The Committee recommends that the Board:

- Allocate \$800,000 in FY 2003/2004 of Transportation Fund for Clean Air Regional Funds for the continuation of the District's VIP; and
- Approve the VIP Program guidelines.

Staff summarized the District's Vehicle Buy Back Program and noted that the Program is governed by the Air Resources Board's (ARB) Voluntary Accelerated Light-duty Vehicle Retirement regulation. A total of 16,484 vehicles have been scrapped through the end of April 2003. The dismantler scrapping contracts were recently revised, adding a total of \$1,500,000 to the existing contracts. Staff noted that the State Vehicle Retirement Program has been suspended since December 2001. The Committee requested staff provide information on what counties the scrapped vehicles come from and information on the Bureau of Automotive Repair low-income program when vehicles fail a smog check.

Staff presented a report on the Carl Moyer Program, which provides grants to reduce emissions of NO<sub>x</sub> in the Bay Area. The Air District has received approximately \$3.2 million to distribute as incentives. Staff reviewed the proposed procedures for distribution of the funds and the proposed schedule. The Committee recommends that the Board:

- Approve the Air District's participation in implementing the ARB 2003 Carl Moyer Program in the San Francisco Bay Area;
- Authorize the Executive Officer/APCO to enter into all necessary agreements and contracts; and
- Approve the revised 2003 procedures for allocating the Carl Moyer Program incentives in the Bay Area, with a change to Procedure No. 7 that any old diesel engine must be destroyed, with the exception of public safety vehicles and school buses, which would have to have emission control equipment installed if they were to be sent outside the Bay Area.

It was noted that control equipment will be installed on the school buses that will be sent to San Felipe, Mexico.

The Committee received a report on the Lower Emission School Bus Program. The Air District has approximately \$3.4 million to distribute as incentives. Staff reviewed the requirements, the proposed policies for the program, and the schedule. The Committee recommends that the Board:

- Authorize the Air District implementation of CARB's Lower Emission School Bus Program in the Bay Area;
- Authorize the Executive Officer/APCO to enter into all necessary agreements and contracts; and
- Approve proposed revisions to the Lower Emissions School Bus Program to lower the maximum school district co-payment for a school bus purchase, expand the

available options to reduce emissions from in-use diesel school buses, and require participating school districts to retrofit all eligible diesel school buses in their fleet.

Staff was requested to provide information on what can be done with regard to idling garbage trucks. In addition, staff was requested to look into school districts' interest in providing bus service and to consider the Air District partnering with MTC to help coordinate or provide this. The next meeting of the Committee will be at the Call of the Chair.

**Board Action:** Director Young moved that the Board approve the recommendations of the Mobile Source Committee; seconded by Director Cooper; carried unanimously without objection.

10. Report of the Public Outreach Committee Meeting of June 16, 2003

Director Ross presented the report and stated that the Committee met on Monday, June 16, 2003 and staff presented a report on the Air District's summertime Spare the Air campaign, which began on June 2<sup>nd</sup> and runs through October 17<sup>th</sup>. Staff noted there was a press conference held in Livermore to announce free transit on the Livermore Amador Valley Transit Authority's (LAVTA) bus service on Spare the Air days. The cost for this program is \$85,000, with \$55,000 from the Air District and \$30,000 from LAVTA. Staff also reported that the Air District is working with school districts to sign up for Spare the Air notifications and with refineries to reduce their emissions voluntarily on Spare the Air days. The Committee requested staff provide them with a copy of the draft letter and check list that is being sent to WSPA asking that their association join the Spare the Air program.

Staff reported on the Lawn Mower Buyback Programs held in the Spring of 2003. The Air District sponsored six events and Alameda County did a seventh event. Staff is coordinating with the City of San Francisco to use some remaining funds for an event that is tentatively scheduled for September 2003. Staff noted that the District would need to find a source of funding for next year's program. Staff was also given direction to hold an event at the Home Depot in Livermore. The Committee requested that staff provide the modeling that would show the percent of time the wind is carrying pollution to the East Bay and Tri-Valley areas.

The Committee received an update on the activities of the Resource Teams. The Contra Costa EJ Resource Team is doing a project concentrating on doing a report card for the area focused on the Chevron Refinery and making information about Chevron more easily available and distributed to the community.

In San Francisco, the EJ Resource Team is working with Community Advocates on an air pollution mapping project. Maps of neighborhoods are being mailed out to community members and they will mark on the map where they think air pollution is coming from. The group will then compile the information and have the District look at it, and the information would then be disseminated to the community. There was discussion on mission statements for the teams and it was noted that the East Palo Alto team would be considering a formal mission statement at its next meeting. The East Palo Alto team is interested in getting information on air pollution in its area and is in the process of asking the ARB to install an air monitoring trailer in the East Palo Alto area.

Staff reviewed the referrals from the last meeting and the Committee directed staff to discontinue the Clean Air Calendar for at least one year and to use that money for part of the lawn mower buy back program. Staff provided a status report on the Air District's video contract and project. The next meeting of the Committee will be at the Call of the Chair.

**Board Action:** Director Ross moved that the Board approve the Public Outreach Committee Report; seconded by Director Cooper; carried unanimously without objection.

### **Public Hearing**

#### 11. Final Public Hearing and Adoption of Proposed District Budget for FY 2003/2004

*The District's Budget for FY 2003/2004 represents the input over the past several months from staff, Board members, and the public. The Budget and Finance Committee reviewed this item on April 23<sup>rd</sup> and May 7, 2003. The Board of Directors conducted a public hearing on June 4, 2003.*

There being no speakers, Director Townsend moved to close the public hearing at 10:42 a.m.; seconded by Director DeSaulnier; carried unanimously without objection.

**Board Action:** Director Cooper moved the Board adopt the Proposed District Budget for FY 2003/2004; seconded by Director Townsend; carried unanimously with the following Board members voting:

AYES: H. Brown, Ayerdi, Cooper, DeSaulnier, Hill, Kniss, Miley, Miller, Ross, Silva, Torliatt, Townsend, Uilkema, Young, Haggerty.

NOES: None.

ABSENT: Daly, McGoldrick, Mossar, Smith, Wagenknecht.

**Adopted Resolution No. 2003-03: A Resolution to Approve the Budget for the Fiscal Year Ending June 30, 2004 (FY 2003-2004) and Various Budget Related Actions**

### **Other Business**

#### 12. Approval of Fringe Benefit Adjustments for Management and Confidential Employees

*The labor contract approved by the Board on May 15, 2002, provided annual salary and benefits adjustments for union-represented employees. This recommendation is to approve a comparable salary and benefits adjustment for management and confidential employees for FY 2003-04.*

**Board Action:** Director Torliatt moved Board approval of the salary and fringe benefits adjustments for management and confidential employees; seconded by Director Cooper.

There was discussion on non-Board of Director appointed management employees receiving an additional \$50.00 per month Fringe Benefit Allowance. Director Townsend suggested a

friendly amendment to the motion that the Board approve the salary adjustments and fringe benefits, except the additional \$50.00 and Mr. Norton would negotiate the issue with the affected parties and bring that portion back to the Board for consideration at a later date. Directors Torliatt and Cooper accepted the amendment.

**Board Action:** Director Torliatt moved Board approval of the salary and fringe benefits adjustments for management and confidential employees, with the additional \$50.00 per month fringe benefit allowance for non-Board of Director appointed management employees to be brought back to the Board at a later date for further consideration; seconded by Director Cooper; carried unanimously without objection with the following Directors voting:

AYES: H. Brown, Ayerdi, Cooper, DeSaulnier, Hill, Kniss, Miley, Miller, Ross, Silva, Torliatt, Townsend, Uilkema, Young, Haggerty.

NOES: None.

ABSENT: Daly, McGoldrick, Mossar, Smith, Wagenknecht.

**Adopted Resolution No. 2003-04: A Resolution to Amend Non-Board of Director Appointed Management and Confidential Employee Salary and Fringe Benefits**

13. Report of the Executive Officer/APCO. Mr. Norton reported that there are no agenda items for August and recommended that the August Board meetings be cancelled. Chairperson Haggerty cancelled the Board meetings of August 6<sup>th</sup> and 20<sup>th</sup>, 2003.
14. Chairperson's Report. Chairperson Haggerty stated he had no report.

Director Kniss requested staff research the feasibility of Board members participating in a Board meeting via telephone.

**Closed Session** (The Board adjourned to Closed Session at 10:50 a.m.)

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:*

*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*

*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 10:57 a.m.)



Brian Bunger, Counsel, stated that the Board met in Closed Session and on the first case the Board authorized Counsel, if the decision is adverse to the District from the trial court, to appeal that decision. The vote was unanimous.

Mr. Bunger reported on the second case and stated that the Board provided direction to Counsel to resolve the remaining issues with the settlement and to move forward with the case.

16. Board Members' Comments: There were none.
17. Time and Place of Next Meeting - 9:45 a.m., Wednesday, July 2, 2003, 939 Ellis Street, San Francisco, California.
18. Adjournment: The meeting was adjourned at 10:59 a.m.

*Mary Romaidis*

Mary Romaidis  
Clerk of the Boards

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