

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

Approved Minutes: Board of Directors Regular Meeting – September 17, 2003

Call To Order

Opening Comments: Chairperson Haggerty called the meeting to order at 9:54 a.m.

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

Roll Call: Present: Scott Haggerty, Chair, Harold Brown, Maria Ayerdi, Roberta Cooper (10:03 a.m.), Chris Daly, Mark DeSaulnier (10:25 a.m.), Jerry Hill, Liz Kniss (10:25 a.m.), Patrick Kwok, Nate Miley, Dena Mossar (9:56 a.m.), Mark Ross, John Silva, Pam Torliatt, Marland Townsend, Gayle Uilkema (10:25 a.m.), Brad Wagenknecht, Shelia Young.

Absent: Jake McGoldrick, Julia Miller, Tim Smith.

Commendations/Proclamations: There were none.

Public Comment Period: There were none.

Consent Calendar (Items 1 – 9)

1. Minutes of September 3, 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 August 2003.*
5. Report of District Personnel on Out of State Business Travel
6. Adoption of Health Reimbursement Arrangement Plan
Considered adoption of a Health Reimbursement Arrangement Plan.
7. Consider Approval of the following Personnel Actions
 - A) *Retitle the Existing Classification of Director of Permit Services to Director of Engineering;*
 - B) *Modify Existing Classification of Air Quality Program Manager to include Compliance and Enforcement Division or the Planning and Research Division; and*

C) *Establish a New Classification of Air Quality Engineering Intern with an Hourly Pay Rate Equivalent to the "A" Step of the Air Quality Permit Technician I (currently \$23.25).*

8. Resolution in Support of Proposals for State and Federal Contributions to the Mobile Source Control Plan

Considered a resolution in support of proposals for more stringent control of sources under the jurisdiction of the California Air Resources Board and the United States Environmental Protection Agency.

9. Notice of October 1, 2003 Consideration of Proposed Amendments to the Administrative Code Division I, Operating Policies and Procedures, Section 6.2 Standing Committees

Proposed amendments to the Administrative Code clarified committee procedure and protocol.

Board Action: Director Townsend moved approval of Consent Calendar Items 1 through 9; seconded by Director H. Brown; carried without objection with the following Board members voting:

AYES: H. Brown, Ayerdi, Daly, Hill, Kwok, Miley, Mossar, Ross, Silva, Torliatt, Townsend, Wagenknecht, Haggerty.

NOES: None.

ABSENT: Cooper, DeSaulnier, Kniss, McGoldrick, Miller, Smith, Uilkema, Young.

Adopted Resolution No. 2003-08: A Resolution Supporting South Coast Air Quality Management District Proposals for State and Federal Contributions to the Mobile Source Control Plan

Committee Reports and Recommendations

10. Report of the Public Outreach Committee Meeting of September 8, 2003

Director Ross presented the report and stated that the Committee, lacking a quorum, met on Monday, September 8, 2003 and that Staff presented an update on the Air District's summertime Spare the Air program. Staff reviewed the significant activities and noted that the Spare the Air summertime program will end on October 17, 2003. The Committee requested staff conduct research to see if there are any additional incentives being offered by employers on Spare the Air days.

Staff and the consultant, Communications West, updated the Committee on outreach to schoolchildren including the National Children's Theater, the curriculum-based science and ongoing partnerships with museums. The Committee viewed a portion of a video showing the National Children's Theater in action. Staff noted that the Air District funded 30 performances this year. The consultant provided information on corporate and public sponsors. The Committee discussed ways to expand the program and the possibility of

earmarking some Supplemental Environmental Projects (SEP) monies for this education program. There was brief discussion on a Clean Air Foundation to approach refineries and other businesses to contribute funds to support this type of activity.

Staff received input from the Committee on the following: 1) The process of re-bidding contracts and selecting contractors to assist with public outreach activities. The consensus of the Committee is to have one-year contracts, with the possibility of two annual extensions, for a total not to exceed three years. 2) The Committee concurred with the staff recommendation that RIDES for Bay Area Commuters be a sole source contract. 3) The Committee also agreed with the staff recommendation that the Air District reserve \$150,000 to continue the youth programs. 4) The role the Committee should play in the selection of contractors.

Staff reviewed the referrals from the last meeting. The next meeting of the Committee is scheduled for 9:45 a.m., Monday, November 3, 2003.

Board Action: Director Ross moved the Board accept the report; seconded by Director Townsend; carried without objection.

11. Report of the Mobile Source Committee Meeting of September 11, 2003

Action(s): The Committee may recommend Board of Director approval of the following:

- A) Proposed Revisions to the Vehicle Incentive Program Guidelines for FY 2003/04 to provide eligibility for used vehicles;*
- B) Additional allocation of \$200,000 in FY 2003/04 Transportation Fund for Clean Air Regional Funds to ensure sufficient funds are available for both new and used vehicles incentives;*
- C) Transportation Fund for Clean Air Regional Fund grant awards for FY 2003/04, including \$8.2 million to 40 public agency projects, \$1 million to the Regional Rideshare Program, and an increase of \$1 million to the District's Vehicle Buy Back Program.*

Director Hill presented the report and stated that the Committee met on Thursday, September 11, 2003 and Staff presented a report on the audit of projects funded by the Transportation Fund for Clean Air (TFCA) Regional Fund, which included the auditor's findings and staff's recommendations for Air District actions to address four minor administrative issues. The four auditor recommendations are listed in the Board packet. Staff recommends that all but one of the auditor suggestions be implemented. Because of the amount of paperwork involved, staff recommended that the fourth auditor suggestion be modified so that project sponsors of third party shuttle operations submit a certification of compliance letter to the Air District instead of a copy of the third party agreement. This letter would identify all third party contractors and the date and duration of their contracts. The Committee recommends Board acceptance of the results of TFCA Audit Report #6, including the auditor's findings and staff's recommendations for Air District actions to address four minor administrative issues.

Staff presented a report on incentives for used vehicles for the Vehicle Incentive Program for FY 2003/04. Two requirements proposed by staff are:

- Incentives should be provided only for used vehicles that have not received any previous funding via the Air District's TFCA and VIP programs, and
- The used vehicle must have been registered outside the boundaries of the Air District for at least the last 180 days.

Incentives for used vehicles would be prorated based on the model year of the vehicle. To ensure that sufficient funds are available for both new and used vehicles, staff recommended an allocation of an additional \$200,000 in TFCA Regional Funds for the FY 2003/04 VIP program. The Committee recommends Board approval of the following:

1. Revisions to TFCA Policy #23 to provide eligibility for used vehicles to receive incentives;
2. Allocation of an additional \$200,000 in TFCA Regional Funds for the FY 2003/04 VIP program to ensure that sufficient funds are available for both new and used vehicle incentives; and
3. Staff is requested to come back with a proposal that this would also apply to private individuals.

Staff presented its recommendations for FY 2003/04 TFCA Regional Fund grant awards. Staff reviewed those projects that were not eligible and those that were not recommended for funding. Staff noted that Project #03R54 should be listed in the first table on Attachment 1. Staff requested that CARB's NO2 slip standard be waived to allow projects 03R51 and 03R55 requesting funds for retrofit filters to proceed. No filters meet the CARB standard at this time and staff explained that the benefit of PM reductions from the filters outweighs the modest potential risks associated with an increase in NO2. Staff explained the new proposal for funding the Regional Rideshare Program (RRP). MTC and the Air District will enter into a multi-year contract and the Air District will fund the RRP with up to \$1 million off the top of the Regional Fund as long as the project meets annual goals. The Committee recommends the Board approve the following:

1. Staff recommendations for FY 2003/04 TFCA Regional Fund grant awards listed on Attachment 1, with the exception of 03R14 Shuttle Bus Service-Dumbarton Bridge. This project will be re-evaluated for eligibility and brought to the Committee at a future meeting.
2. Allowing an extension to further clarify and evaluate the City of Berkeley's Dynamic Ridesharing Program and City of Sunnyvale's Battery Back-up System. These projects will be presented to the Committee at a future meeting.
3. Allocation of \$1 million to the Regional Rideshare Program.
4. Allocation of \$1 million in additional TFCA Regional Funds for the Vehicle Buy Back (VBB) Program. This would increase the FY 2003/04 funds allocated for the scrapping of old vehicles from \$2.5 million to \$3.5 million.
5. Reconsideration of the Alameda County Project #03R26 regarding Class 2 bicycle lanes on Tesla Road.
6. Requested staff look at a change in the criteria that would be favorable toward funding bicycle and pedestrian bridges in the future.

Director Mossar commented on the lack of signage when taking BART to the San Francisco Airport. The next meeting of the Committee is scheduled for 9:30 a.m., Thursday, October 9, 2003.

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

12. Report of the Inter-Regional Coordinating Committee Meeting of September 5, 2003.

William C. Norton, Executive Officer/APCO presented the report and stated that on September 5, 2003, elected officials and staff of the Air Resource Board, Sacramento AQMD, San Joaquin AQMD and the Bay Area Air District met for the second time to discuss matters surrounding the possible designation of the Bay Area as attainment of the eight-hour federal ozone ambient air quality standard. The paramount issue addressed by this group revolves around the mitigation of the transport of ozone from the Bay Area to the downwind regions. Work that is being done by the ARB and our staff to quantify the relative contribution of the transport will bring a scientific focus to this political issue. As reported to the Executive Committee at their last meeting, the ozone modeling results will start to unfurl later in the year.

In the mean time, the various agencies staff has been reviewing the stringency of rules, enforcement practices and transportation control measures in order to ascertain the possible emission reduction potential in each region. Concurrently, the staff is exploring the mechanisms for the downwind regions to obtain credit from EPA for emission reductions that may occur in the Bay Area.

Soon to be addressed is the problem in the downwind areas of unbridled growth, the lack of mass transit and the role of downwind districts in the management of its own congestion as the cause of its ozone problem. The next meeting of the group is scheduled for November 6, 2003.

Board Action: None. This report provided for information only.

Other Business

13. Report of the Executive Officer/APCO. Mr. Norton reported on the following items: 1) there was a Spare the Air day last Thursday and Friday and there were no federal or state exceedances; and 2) the Ozone Plan Update community meetings and encouraged the Board members to attend. Mr. Norton noted that Director Young attended the September 16th meeting in Oakland.
14. Chairperson's Report. Chairperson Haggerty stated that on September 10, 2003, he, along with Terry Lee and Peter Hess met with Jennifer Barton aide to Congressperson Tauscher and Kath Hoffman aide to Congressman Miller. Each meeting lasted about one hour and focused on issues affecting the Air District.

During the meetings, positive developments at the District were stressed, such as: the clean air, how TFCA grants are funding projects in their areas, new refinery rules, increased community involvement and greater penalties.

Both aides were very interested as to why the Sacramento and San Joaquin Valley's are blaming the Bay Area for its poor air quality. It was stressed that the Valley's lack of mass transit, exemption of agriculture from regulations (which comprise 25% of their emissions), poor land use planning and over reliance on motor vehicles are the real issues.

They were asked for their support in:

- Getting EPA's approval to make the Bay Area an attainment area. Congressman Cardoza and others in the valley are opposing this designation. Based on the science and air quality, the Bay Area deserves to become an attainment area;
- Continuing the flow of Congestion Mitigation Air Quality (CMAQ) funding into the Bay Area; and
- An increase in Federal Highway or other transportation funding to reduce emissions from motor vehicles and improve mobility.

The aide to Congressman Miller offered to work with the District to organize a letter from the Bay Area congressional delegation to EPA urging their action to designate the Bay Area as attainment of the eight-hour federal ozone standard. Meetings are being arranged with other Congressional delegate offices.

Closed Session (The Board adjourned to Closed Session at 10:08 a.m.)

15. Consider Recommendation and Appointment of Candidate for Executive Officer/Air Pollution Control Officer Position

The Board considered candidate for appointment to Executive Officer/Air Pollution Control Officer position as recommended by the Executive Recruitment Ad Hoc Committee.

16. 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 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

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 11:09 a.m.)

17. Report of the Executive Recruitment Ad Hoc Committee – Consideration of Terms and Conditions of Employment for the Executive Officer/Air Pollution Control Officer Position

The Board considered approval of the Executive Recruitment Ad Hoc Committee recommendation for an employment agreement for the Executive Officer/Air Pollution Control Officer.

Mr. Norton stated that the Board, in Closed Session, voted to approve making an offer to Jack Broadbent as Chief Executive Officer for the District. The terms and conditions are in the agreement. In addition to that, the Board agreed to pursue reciprocity for the retirement

systems between PERS and the San Bernardino retirement system and contribute up to a maximum of \$20,000 on a 50/50 sharing basis.

Brian Bungler, Counsel, reported on Item 16 and stated that the Board met in Closed Session with Counsel and the Board received a status report on the litigation and gave direction for continuing.

Mr. Broadbent expressed his appreciation for the offer.

18. Board Members' Comments: There were none.
19. Time and Place of Next Meeting - 9:45 a.m., Wednesday, October 1, 2003, 939 Ellis Street, San Francisco, California.
20. Adjournment: The meeting was adjourned at 11:12 a.m.

Mary Romaidis

Mary Romaidis
Clerk of the Boards

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