

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
939 ELLIS STREET – SAN FRANCISCO, CA 94109

Approved Minutes: Board of Directors Regular Meeting – September 15, 2004

Call To Order

Opening Comments: Chairperson Scott Haggerty called the meeting to order at 9:58 a.m.

Roll Call: Present: Scott Haggerty, Chair, Harold Brown, Roberta Cooper, Chris Daly, Mark DeSaulnier, Erin Garner (10:01 a.m.), Jerry Hill, Erling Horn, Liz Kniss, Patrick Kwok, Julia Miller (10:03 a.m.), Pam Torliatt (10:00 a.m.), Marland Townsend, Gayle Uilkema, Brad Wagenknecht, Shelia Young.

 Absent: Jake McGoldrick, Nate Miley, Mark Ross, John Silva, Tim Smith.

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

Commendations/Proclamations: There were none.

Swearing in of New Board Member: Mayor Gavin Newsom of the City of San Francisco having been sworn in on August 26, 2004, his designated Deputy, Dan Dunnigan, was sworn in.

Director Pam Torliatt arrived at 10:00 a.m. and Director Erin Garner arrived at 10:01 a.m.

Public Comment Period: There were none.

Consent Calendar (Items 1 – 5)

1. Minutes of July 21, 2004
2. Communications. Correspondence addressed to the Board of Directors
3. Report of the Advisory Council.
4. Monthly Activity Report – Report of Division Activities for the months of July and August, 2004
5. District Personnel on Out-of-State Business Travel

Board Action: Director Wagenknecht moved approval of Consent Calendar Items 1 through 5; seconded by Director Daly; carried unanimously by acclamation.

Committee Reports and Recommendations

6. Report of the Budget and Finance Committee Meeting of August 4, 2004

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

- A) Notice of proposed amendments to Administrative Code Section 3.6(c), Division II, Administrative Policies and Purchasing Procedures to authorize the Executive Officer/APCO to approve refunds in excess of \$50,000. Each refund in excess of \$50,000 will be reported to the Board of Directors under the consent calendar; and*
- B) Proposed Amendments to Fiscal Year 2004/2005 General fund Budget to Property Tax Revenue and corresponding expenditure accounts in the amount of \$1,592,000.*

Director Daly presented the report and stated that the Committee met on Wednesday, August 4, 2004. Staff provided a status report on the cost recovery analysis on District fees and program activity costs. Staff reviewed the study objectives and noted the members of the Steering Committee that has been established to provide input on the process. The Committee requested staff seek to have a representative from Alameda County on the Steering Committee.

The Committee received a report on proposed amendments to Administrative Code Section 3.6(c), Division II, Administrative Policies and Purchasing Procedures. The amendment streamlines the process and allows the APCO to approved refunds in excess of \$50,000. The Committee recommended approval of the proposed amendments and requested that any action taken appear as a Consent Calendar item on the Board agenda.

The Committee considered and recommends Board approval to revise the District's fiscal year 2004/2005 General Fund Budget and for the Board to approve a transfer of \$295,800 from the Reserve for Furniture Replacement to Capital Expenditures. The amendments include the following:

- A \$363,000 reduction of Personnel Costs through deferred hiring.
- A \$308,800 reduction in Services and Supplies.
- A \$374,400 reduction in Capital Expenditures

In addition, the following augmentations are proposed:

- A \$250,000 increase in Penalties and Settlements Revenue.
- A \$295,800 transfer from the Reserve for Furniture Replacement to partially fund Capital Expenditures for the building.

Staff provided a status report on the resources devoted to community and Title V meetings.

Staff reported that as part of the state budget, the Governor signed SB1107, which re-authorizes the Carl Moyer Program. Statewide there will be \$69 million in the Program and the Air District should receive approximately \$9 million of the funds.

The August 25th meeting of the Committee was cancelled. The next meeting of the Committee is scheduled for 9:45 a.m., Thursday, September 30, 2004.

Director Miller arrived at 10:03 a.m.

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

7. Report of the Public Outreach Committee Meeting of September 13, 2004

Director Young presented the report and stated that the Public Outreach Committee met on Monday, September 13, 2004. Staff presented an update on the Spare the Air 2004 campaign and noted there have been four Spare the Air advisories to date. There have been no excesses of the federal one hour or eight hour ozone standards. There have been five excesses of the state standard. Staff reviewed the media coverage and the results of the telephone surveys that were conducted. On the two free BART days (September 7th and 8th), there were a total of 41,000 additional riders. In addition, there was an increase in rider ship on WHEELS. The transit promotion prevented 2.8 tons of VOC, NO_x and CO pollution and 310 tons of CO₂.

Courtney Newman of Allison and Partners reviewed her meetings with meteorologists during the summer in preparation for the Spare the Air Day season. Ms. Newman discussed her outreach efforts to the Hispanic community and noted that the largest Spanish speaking station (Channel 14) in the Bay Area promoted Spare the Air Days.

Frank Kappler and Kevin Plagman of Communications West updated the Committee on the youth outreach activities and reviewed the funding and sponsorships that have been secured and those that are pending. The teacher training for the Clean Air Challenge curriculum will start in November and the National Children's Theater performances will start in October. The Committee requested a chart be prepared showing when and where the theater performances will take place and that it be sent to the Board members. The Committee provided input on other areas of possible funding. A request was also made that copies of the asthma study report be forwarded to the Board members.

Staff presented ideas for a 50th Anniversary Celebration and reviewed the 50th anniversary goals, media strategies, a celebration event, a 1955-2005 calendar concept and the 2004 Annual Report. The Committee provided input and suggestions on the concepts that were presented. The next meeting of the Committee is scheduled for 9:45 a.m., Monday, November 8, 2004.

Board Action: Director Young moved that the Board approve the report of the Public Outreach Committee; seconded by Director Kniss; carried unanimously without objection.

Public Hearing

8. Public Hearing to Consider Approval of Proposed Amendments to District Regulation 8, Rule 8: Wastewater (Oil-Water Separators), and Proposed Amendment to Section 101 of Regulation 8, Rule 18: Equipment Leaks

The proposed amendments to Regulation 8, Rule 8: Wastewater (Oil-Water Separators) will reduce volatile organic compound (VOC) emissions from wastewater collection systems at refineries by requiring controls on process drains, manholes, junction boxes, sumps and lift

stations. The amendments will also require an inspection and maintenance program to maintain controls. An amendment to Section 101 of Regulation 8, Rule 18: Equipment Leaks would make this rule consistent with the requirements in Regulation 8, Rule 8.

Jack Broadbent, Executive Officer/APCO, stated that the proposed amendments to the regulation implements a key control measure. Mr. Broadbent noted that this is the fourth control measure related to refineries and the Air District is working on others.

Dan Belik, Rule Development Manager, presented the report and provided an overview of the refinery wastewater collection, separation and treatment systems. Mr. Belik reviewed the proposed amendments and emissions reductions. The cost effectiveness is \$1,900 to \$4,300 per Ton of volatile organic compounds (VOC) reduced. The rule development process included meetings of the Wastewater Technical Workgroup and two public hearings. Mr. Belik noted there are three issues that have been of concern -- the implementation date, inspection frequency and a semi-annual report. The implementation date and inspection frequency are discussed in the staff report and the semi-annual report was brought up recently.

Mr. Belik stated that the staff recommends the Board adopt the proposed amendments to Regulation 8, Rule 8: Wastewater (Oil-Water) Separators and Regulation 8, Rule 18: Equipment Leaks; and adopt the Negative Declaration.

Chairperson Haggerty opened the public hearing at 10:25 a.m. and the following individuals came forward to speak:

Steven Overman
Shell Oil Products US
Martinez, CA 94553

Terry Valen
CBE

Carla Perez
CBE

Marcus Cole
Tesoro Golden Eagle Refinery
Martinez, CA 94553

Ramona Martinez
CBE

Karen Salazar
CBE

Jennifer Ahlskog
Conoco Phillips
Rodeo, CA 94572

Concepcion Chavez
CBE

Marleen Quint
CBE

Stephanie Corcoran
Valero Refining Company-CA
Benicia, CA 94563

Wanna Wright
CBE

Dennis Bolt
Western States Petroleum Assoc.
Concord, CA 94518

Lucia Flores
Communities for a Better
Environment (CBE)

Etta Lundy
CBE

Bob Chamberlin
Chevron Texaco
Richmond, CA 94802

Director Townsend moved the public hearing be closed at 11:03 a.m.; seconded by Director Brown; carried unanimously without objection.

Board Action: Director Townsend moved to adopt the proposed amendments to Regulation 8, Rule 18: Wastewater (Oil-Water) Separators and Regulation 8, Rule 18: Equipment Leaks as written and approve the Negative Declaration; seconded by Director Hill.

During discussion, Mr. Broadbent stated that the staff will report back to the Stationary Source Committee within a year from the effective date of the rule and a determination will be made at that time if the rule will need to be tightened. Mr. Belik discussed the concerns expressed by the speakers and Board members. There was discussion on water coming into a facility that may be contaminated with organics and Mr. Broadbent noted that the Air District would look at this issue. The motion then carried unanimously without objection with the following Board members voting:

AYES: Brown, Cooper, Daly, DeSaulnier, Dunnigan, Garner, Hill, Horn, Kniss, Kwok, Miller, Torliatt, Townsend, Uilkema, Young, Haggerty.

NOES: None.

ABSENT: McGoldrick, Miley, Ross, Silva, Smith, Wagenknecht.

Adopted Resolution No. 2004-13: A Resolution of the Board of Directors of the Bay Area Air Quality Management District Approving the Negative Declaration for Proposed Amended Regulation 8: Organic Compounds, Rule 8: Wastewater (Oil-Water) Separators.

A Resolution of the Board of Directors of the Bay Area Air Quality Management District Amending Regulation 8: Organic Compounds, Rule 8: Wastewater (Oil-Water) Separators and Rule 18: Equipment Leaks

Presentation

9. Report on Air District's Enhanced Outreach for 2004 Ozone Strategy

This report was not presented. Chairperson Haggerty requested the report be sent to the Board members under separate cover.

Other Business

10. Report of the Executive Officer/APCO – There was no report.
11. Chairperson's Report – There was no report.

Closed Session (The Board adjourned to Closed Session at 11:23 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 cases:

1. Communities for a Better Environment v. Bay Area AQMD, Dow Chemical Company, Real Party in Interest, San Francisco County Superior Court, Case No. CPF-04-503883
2. New United Motors Manufacturing Inc. v. Bay Area AQMD, et al., Alameda County Superior Court, Case NO. RGO 04-140445
3. Our Children's Earth Foundation v. United States Environmental Protection Agency, et al., United States Court of Appeals for the Ninth Circuit, Case No. 04-73032
4. Communities for a Better Environment v. Bay Area AQMD, Mirant Potrero LLC, Real Party in Interest, San Francisco Superior Court, Case No. CPF-04-504516

Open Session (The Board reconvened to Open Session at 11:34 a.m.)

Brian Bunger, Legal Counsel, reported on item 1 of Agenda Item 12, and stated that the Board members present voted unanimously to accept the settlement with Communities for a Better Environment (CBE) in principle. Once it is documented in the Settlement Agreement, it will be made available to the public upon request.

Mr. Bunger reported that the Board provided general direction to Counsel on items 2 through 4 of Agenda Item 12.

13. Board Members' Comments – Director Hill reported that many of the counties within the Air District will have self-help transit tax measures on the November ballot, which could have significant health and air pollution benefits for the region. Director Hill requested that this issue be referred to the Legislative Committee for review and Chairperson Haggerty so ordered.

Director Young discussed an issue in her community regarding a crematorium and her concern that the community knew about the issues before she or any of the Alameda County representatives. Director Young requested the matter of a District policy to notify Board members in advance regarding volatile or controversial issues be referred to the Stationary Source Committee and Chairperson Haggerty so ordered.

14. Time and Place of Next Meeting - Chairperson Haggerty stated that the Wednesday, October 6, 2004 Board meeting was cancelled. The next Board meeting is scheduled for 9:45 a.m., Wednesday, October 20, 2004, 939 Ellis Street, San Francisco, California.
15. Adjournment: The meeting was adjourned at 11:37 a.m.

/s/ Mary Romaidis

Mary Romaidis
Clerk of the Boards