

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

APPROVED MINUTES

Board of Directors' Regular Meeting - May 21, 2008

Call To Order

Opening Comments: Chairperson Jerry Hill called the meeting to order at 9:45 a.m.

Roll Call: Present: Jerry Hill, Chair, Directors Tom Bates, Harold Brown, Chris Daly, Erin Garner, John Gioia, Scott Haggerty, Yoriko Kishimoto (9:48 a.m.), Carol Klatt, Jake McGoldrick (9:50 a.m.), Mark Ross, Michael Shimansky, Tim Smith, Pamela Torliatt (9:50 a.m.), Gayle B. Uilkema, Brad Wagenknecht.

Absent: Directors Dan Dunnigan, Liz Kniss, Janet Lockhart, Nate Miley, John Silva and Ken Yeager.

Pledge of Allegiance: The Board of Directors recited the Pledge of Allegiance.

Public Comment Period: – There were none.

Consent Calendar (Items 1 – 3)

1. Minutes of May 7, 2008
2. Communications
Information only.
3. Air District Personnel on Out-of-State Business Travel

Board Action: Director Shimansky moved approval of Consent Calendar; seconded by Director Wagenknecht; carried unanimously without opposition.

Committee Reports and Recommendations

4. Report of the Executive Committee Meeting of May 12, 2008

Chair Hill gave the report of the Executive Committee Meeting of May 12, 2008, stating the Committee recommends Board of Directors' approval of a professional services contract with Quetin Consulting Inc., to assist in the development and implementation of an internal audit, in an amount not to exceed \$175,000.

Board Action: Director Hill moved approval of a professional services contract with Quetin Consulting Inc., to assist in the development and implementation of an internal audit, in an

amount not to exceed \$175,000; seconded by Director Uilkema; carried unanimously without opposition.

5. Report of the Mobile Source Committee Meeting of May 14, 2008

Committee Member Smith gave the report of the Mobile Source Committee Meeting of May 14, 2008, stating the Committee recommends Board of Directors' approval of the following:

- A) Resolution authorizing the Executive Officer/APCO to execute all necessary agreements with the California Air Resources Board relating to the Air District's receipt of up to \$8.5 million dollars in Lower Emission School Bus Program funding;
- B) Allocate up to five percent to each Transportation Fund for Clean Air County Program Manager of its estimated fiscal year 2008/2009 revenues, for the purpose of administering the TFCA County Program Manager Fund and authorize the Executive Officer/APCO to execute contracts with the County Program Managers for this purpose; and
- C) Reserve up to \$5 Million in TFCA Funding to Match Goods Movement Bond Funds for Truck Retrofits at Ports and Inter-modal Railyards. Expenditure of reserved funds would be capped at \$5,000 per device.

Board Action: Director Smith moved adoption of a Resolution authorizing the Executive Officer/APCO to execute all necessary agreements with the California Air Resources Board relating to the Air District's receipt of up to \$8.5 million dollars in Lower Emission School Bus Program funding; Allocate of up to five percent to each Transportation Fund for Clean Air County Program Manager of its estimated fiscal year 2008/2009 revenues, for the purpose of administering the TFCA County Program Manager Fund and authorize the Executive Officer/APCO to execute contracts with the County Program Managers for this purpose; and Reserve up to \$5 Million in TFCA Funding to Match Goods Movement Bond Funds for Truck Retrofits at Ports and Inter-modal Railyards. Expenditure of reserved funds would be capped at \$5,000 per device; seconded by Director Kishimoto; carried unanimously without opposition.

6. Report of the Stationary Source Committee Meeting of May 19, 2008

Director Haggerty gave the report of the Stationary Source Committee Meeting of May 19, 2008.

Board Action: Director Haggerty moved that the Board of Directors approve the report of the Stationary Source Committee; seconded by Smith; carried unanimously without opposition.

PUBLIC HEARING

7. **Public Hearing to Consider Adoption of Proposed Amendments to District Regulation 3: Fees, and Approval of filing of a Notice of Exemption from the California Environmental Quality Act:** *At the Board of Directors' meeting on April 16, 2008, staff presented proposed amendments to Air District Regulation for the next fiscal year. No action was taken to adopt the fee amendments because under State law the adoption or revision of certain types of fees requires two public hearings separated by at least 30 days. This is the final public hearing.*

Jack Broadbent, Executive Officer/APCO, said the item deals with proposed fee regulation amendments and is the second of two public hearings, and the first hearing was held on April 16, 2008. He introduced Brian Bateman, who gave the presentation.

Brian Bateman, Director of Engineer, said at the April 16, 2008 Board meeting, he reviewed in detail the proposed amendments, and no changes have since been made. The fee proposal would address increasing regulatory program costs and would reduce the cost recovery gap. The Air District is moving in a direction of achieving cost recovery of its regulatory programs; its revenues fall very short and in the last fiscal year, covered only 58%, representing a gap of \$16.5 million. The revenue gap is filled by property tax revenues from counties and adoption of the fee will allow the Air District to use property tax revenue for programs that do not have a dedicated funding base.

Staff's proposal would increase overall fee revenue by 13.9% from fee revenue projected for the current fiscal year. Revenue from amendments to existing fee schedules is \$2.3 million and revenue from new GHG fees is \$1.1 million, for an overall increase in fee revenue of \$3.4 million. The proposed amendments would target the Fee Schedules with the most significant cost recovery gaps for the largest fee increases, and adjustments would range from no change up to an increase of 15%.

The new GHG Fee Schedule's intent is to recover costs of Climate Protection Program activities related to stationary sources. An emissions-based fee is proposed and is \$0.044 per metric ton Carbon Dioxide Equivalent emissions, excluding biogenic CO₂, and District staff will reassess GHG Fee Schedule at least on an annual basis. Staff's recommendation is for the Board of Directors to adopt the proposed amendments to District's Fee Regulation, with an effective date of July 1, 2008, and approve the filing of a CEQA Notice of Exemption.

Director Shimansky voiced concerns relating to the Air District and the California Air Resources Board (CARB) both implementing fees, but confirmed with Mr. Bungler that prior to AB 32's passage, the Air District had the authority to regulate greenhouse gases and after its adoption, it was explicitly reserved the authority to regulate and to adopt fees to support such regulatory programs.

Mr. Broadbent stated that the Board of Directors initiated a comprehensive program in 2005, heard testimony and reviewed evidence regarding the importance in addressing climate change and through direction of the Board, staff responded by developing a program and forming a Climate Protection Committee. This work predates AB 32 and the Air District continues to deal with climate change and its effects, it has inventoried greenhouse gases, looked at its own stationary sources for modification and the proposal today is a means to

cover the costs of the program. As CARB decides it needs to recover its costs, Air District staff will work closely with them to integrate its fee structure.

Director Uilkema believed the Air District was moving under the umbrella of AB 32 and this is a preliminary step in achieving that program; the Air District's efforts are designed to be complimentary and ideally, the federal government will step up and enact legislation that establishes a federal benchmark for greenhouse gases. She believed the program is part of a long-term goal with a short-term process for accomplishing it.

Chair Hill opened the public hearing.

Public Comments:

Charlie Peters, Clean Air Performance Professionals, said there has been scientific information and discussion that the use of corn ethanol may actually increase greenhouse gases. He believed the E-coli in beef would double because of sulfur compounds, suggested not taxing businesses and making a statement to consider a fee on corn ethanol which would lower the price of food and gasoline and make a significant impact on global warming.

Bill Quinn, CCEEB, said he recognizes the serious dangers with climate change and supports CARB in greenhouse gas reduction targets, but could not support the fee which he believes serves to fund the Air District's reduction program. He believed the program would interfere with CARB's efforts, questioned surplus dollars which would fund needed technology, voiced concerns with inconsistent emissions inventories, duplicate efforts, and believed that some of the funding would be paid for programs not tied to stationary sources, which is unfair to facilities.

Dennis Bolt, WSPA, requested the Board of Directors hold off on its consideration of the fee until the Air District and CARB can meet to structure a fee in line with AB 32. He believed the Air District lacks the authority to implement the fee, that it is a duplicative regulatory scheme with CARB, and is disconcerting to business and industry.

Shelly Sullivan, Executive Director of AB 32 Implementation Group, said the Group represents over 150 organizations, believes the proposal duplicates AB 32, puts local business at a competitive disadvantage, it places new and onerous regulations on local businesses, it is separate inventory and reporting system which is inconsistent with CARB's adoption in 2007, and she asked the Air District to allow CARB time to develop a plan of implementation.

Shankar Prasad, Coalition for Clean Air, supported the fee's adoption, said record heat has related in deaths, emergency room visits and illness from global warming, and believed the Air District should ask for its fair share as emissions are reduced and revenue shares are generated at the State level.

Linda Weiner, American Lung Association, voiced concerns of public health impacts, global warming, hospitalization, lung and heart disease and particulate pollution. She said the fee is modest, it would benefit reduction of pollutants and greenhouse gases, set a precedent for

businesses to address their impacts, improve public health, address the goals of AB 32, and also supported the Bay Area Health Collaborative's resolution.

Director McGoldrick questioned if the American Lung Association has ever used population increases as a metric factor in determining pollution, and Ms. Weiner said she would find out and report back to him.

Kris Hung, Contra Costa Taxpayers Association, believes the state and local governments are already burdened, opposed the fee and requested the Board's rejection. She believed the Air District was prohibited from implementing such a fee, the fee will interfere with CARB's inventory and duplicate their efforts, and there will be overlapping of programs and fees that result in confusion and governmental waste.

Linda Best, Contra Costa Council, said the Council is opposed to the fee, said the Air Board has been given the resources to implement a statewide program which includes reporting, establishment of limits and of programs, and the Air District's fee program will fragment control efforts on a statewide basis and could retard their program.

Chuck White, Waste Management and SWICS, said they have five landfills in the area affected, Air District staff has been very responsive to their concerns, he believed the Air District was doing a better job in calculating future emissions, and encouraged the Board to continue to establish a protocol for collecting future emissions and landfill gas. He briefly described the scientific measurement and said landfills are much lower emitters than the national average due to rules the Air District Board has adopted in the past.

Irwin Dawid, Sierra Club, believed the cost of the fee was minimal and if and when there are ethanol facilities, its emissions would also be taxed like petroleum facilities. He said if CARB passes a tax this fee would be integrated into it, he applauded the Air District's actions and asked for the fee's adoption.

Andy Katz, Breathe California, said the environmental and public health community are very excited about the fee given global warming, health effects, lung disease, and those living in disadvantaged communities that are impacted with pollution. He believed the Air District was taking a leadership role, suggested a full inventory of emissions be done in the Bay Area and identify opportunities the State is not able to recognize, and encouraged the fee's adoption.

Chair Hill closed the public hearing.

Mr. Broadbent voiced staff's strong support of the recommendation, stated that the climate change crisis requires efforts on all levels of government, the fee is a modest proposal designed to recover costs of the program, it will not be duplicative, and direction has been for staff to work closely with CARB as it develops its programs to define the rate and amount of emissions. He agreed with Mr. White that the landfills are better controlled, and said staff will continue working with them to determine rates from those facilities.

Directors said the Board had discussed the issue on a variety of occasions at committee levels, reiterated the Air District's mission, discussed campaign and education programs, did

not see the program as duplicative, the cost on business is extremely modest, supported a clear and transparent analysis of the Bay Area inventory, believed the fee is widely supported by the Air District's constituency and is a perfect example of thinking and acting globally.

Director Shimansky said he would not vote for the fee, believed that the economy is already taxed, and the program would not effectively lower pollution.

Board Action: Director Torliatt moved Adoption of Proposed Amendments to District Regulation 3: Fees, and Approval of filing of a Notice of Exemption from the California Environmental Quality Act; seconded by Director Brown; carried by the following vote: 15-1-6-0 (Ayes: 15; Noes: 1 (Shimansky); Absent: 6; Abstain: None).

OTHER BUSINESS

8. Report of the Executive Officer/APCO

Mr. Broadbent reported on the weather, stating it had been a very hot weekend with high winds and the Air District called for Spare the Air Days.

9. Chairperson's Report

Chair Hill announced that the next Board of Directors meeting will be held on June 4, 2008. The meeting of June 18th is canceled and rescheduled to July 9th, and the next meeting following July 9th will be held on September 3, 2008.

10. Board Members' Comments

Director Haggerty requested that the Board of Directors meeting for July 9, 2008 start at 11:30 a.m., and staff agreed to poll members as to their availability.

11. Time and Place of Next Meeting - 9:45 a.m., Wednesday, June 4, 2008- 939 Ellis Street, San Francisco, CA 94109

12. Adjournment - The meeting adjourned at 10:54 a.m.

Lisa Harper
Clerk of the Boards