

Bay Area Air Quality Management District
939 Ellis Street
San Francisco, California 94109
(415) 749-5000

APPROVED MINUTES

Summary of Board of Directors
Budget & Finance Committee Meeting
1:00 p.m., Wednesday, April 28, 2010

- Call to Order:** Chairperson Chris Daly called the meeting to order at 1:00 p.m.
- Roll Call:** Chairperson Chris Daly; Vice Chairperson Harold Brown; and Directors Carole Groom, Scott Haggerty, Ash Kalra, Eric Mar, Mark Ross and Gayle Uilkema
- Absent:** Director Susan Garner
- Public Comment Period:** There was no public comment.

Approval of Minutes of March 24, 2010: Deferred to later in the meeting due to an initial lack of a quorum.

Third Quarter Financial Report and Review of Financial Trends

Director of Administration, Jack Colbourn, presented the third quarter financial report and gave a PowerPoint presentation of the third quarter Financial Report, as follows:

GENERAL FUND: STATEMENT OF REVENUE Comparison of Budget to Actual Revenue

- County receipts totaled \$11,783,473 (59%) of budgeted revenue.
- Permit Fee receipts were \$19,418,865 (80%) of budgeted revenue.
- Title V Permit Fees were \$2,601,521 (81%) of budgeted revenue.
- Asbestos Fees were \$1,224,153 (57%) of budgeted revenue.
- Toxic Inventory Fees were \$607,814 (95%) of budgeted revenue.
- Penalties and Settlements were \$480,695 (19%) of budgeted revenue.
- Miscellaneous Revenue receipts were \$53,060 (11%) of budgeted revenue.
- Interest Revenue was (\$189,655) which totaled 27% of budgeted revenue.

Director Uilkema discussed reduced revenues from violations, and Mr. Bunker noted that staff indicated previously that facilities are not running at maximum capacities, there are not the number of violations, there are a number of larger settlements underway and staff expects to arrive at its budget of \$1.5 million.

GENERAL FUND BUDGET: STATEMENT OF EXPENDITURES Comparison of Budget to Actual Expenditures

- Salaries and Benefits were \$30,734,178 (70%) of budgeted expenditures.
- Operational Services and Supplies were \$9,961,576 (44%) of budgeted expenditures.
- Capital Outlay was \$3,519,150 (57%) of budgeted expenditures.

Regarding expenditures, Mr. Colbourn discussed the District's efforts in reducing expenditures by freezing 16 positions, spent 70% of its budget for a savings of about \$2 million, cut the budget by 10% in services and supplies and because they lag, staff expects to be at 90% at the end of the fiscal year. Policies put into place have been successful and are working.

Mr. Colbourn reported on investment balances in the County treasury and thereafter, fund balances, as follows:

Investment Balances

Cash and Investments in County Treasury:

General Fund	\$ 23,376,017
TFCA	\$ 49,538,317
MSIF	\$ 31,777,981
Carl Moyer	\$ 16,832,522
CA Goods Movement	\$ 15,049,248
	<u>\$136,574,085</u>

Investments Held as:

Fixed Income Investments	37% of total investment pool
Short Term Investments	63% of total investment pool

FUND BALANCES

	6/30/2008	6/30/2009	6/30/2010
	Audited	Audited	Projected
Imprest Cash	\$ 500	\$ 500	\$ -
Building and Facilities	1,731,690	1,731,690	4,731,690
PERS Funding	2,700,000	2,300,000	1,900,000
Radio Replacement	75,000	75,000	75,000
Production System	2,800,000	-	-
Capital Equipment	130,425	130,425	2,130,425
Contingencies	400,000	400,000	-
Post Employment Benefits	-	-	2,000,000
Worker's Compensation	1,000,000	1,000,000	1,000,000
Economic Uncertainties	8,755,437	9,277,570	1,727,570
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TOTAL SPECIAL RESERVES	\$ 17,593,052	\$ 14,915,185	\$ 13,564,685
UNDESIGNATED	6,358,308	411,797	411,797
TOTAL FUND BALANCES	<u>\$ 23,951,360</u>	<u>\$ 15,326,982</u>	<u>\$ 13,976,482</u>

Committee Comments/Questions:

Chairperson Daly questioned the projection for budget to actual expenditures for ending fiscal year, and Mr. McKay said staff cut the services and supplies back by 10% and the District expects to be at 90% at the end of the year. The 44% in services and supplies is due to a lag because encumbrances tie up funds. He noted capital should also come in at 90%.

Director Uilkema referred to total fund balances and called attention to the \$10 million decline. Mr. McKay noted that he would provide Director Uilkema with a slide from the previous meeting showing trends and projections. He reported on differences between the audited 2008 number and 2009 number as expenditures which staff intended and unintended to make from built-up reserves.

In response to Director Ross' question, intended fund balance items versus unintended were roughly split in half. Intended items include the production system of \$3 million and the OPEB payment of \$2 million. Unintended items include the Lehman Bros. loss of \$1.7 million, a decrease of \$800,000 where the District took in less interest than budgeted because of the aggressive drop in interest rates, and a reduction in permit fees of \$1 million compared to what was budgeted because of the slow down. He noted that PERS funding is budgeted.

In response to Director Uilkema regarding the Lehman Bros. failure, Mr. McKay stated that the estimate return on the bankruptcy is on a positive trend and currently estimated at 50%. Mr. Bunger cited current legislation dealing with refunds to local government that suffered losses and are included in the bankruptcy.

There was no public comment.

Committee Action: None; received and filed.

Quorum Established: Noted present were Vice Chair Brown and Directors Kalra. Director Haggerty arrived soon after.

Approval of Minutes of March 24, 2010:

Committee Action: Vice Chair Brown moved approval of the minutes of March 24, 2010; seconded by Director Uilkema; carried unanimously without objection.

Continued Discussion of Fiscal Year 2010/2011 Proposed Air District Budget and Consideration to Recommend Adoption

Deputy APCO, Jeffrey McKay, presented the proposed Budget, stating on March 24, 2010 staff presented the budget in great detail, the Committee did not request items to be returned, and today's recommendation is to recommend the budget to the full Board of Directors. He pointed out that the upcoming presentation will be regarding fees, and if in the upcoming presentation there is interest in one option which would reduce fee revenue by about \$150,000, this is about 1% of the District's services and supplies, and if staff recommendation is approved, he would direct each division director to fund their respective budgets by 1%.

Mr. McKay stated staff's recommendation is that the Committee recommend Board of Directors' adoption of the proposed FYE 2011 Budget.

Director Uilkema requested a discussion first be held on the proposed amendments to the fee schedule. Chair Daly requested staff defer the budget consideration and open up discussion on the Update on Proposed Fee Regulation Amendments.

Update on Proposed Amendments to Regulation 3: Fees

Director of Engineering, Brian Bateman, gave a presentation on proposed fee regulation amendments, stating staff would briefly review and discuss options identified for addressing comments received. He noted the proposal is for a 5% increase in all fees, except for Fee Schedule P, which is Major Facility review, or Title V permits. The reason for a more aggressive increase is due to the fact that existing fee revenue recovery is less than 50% of program activity costs, and he described significant work associated with the program. The effect on fee revenue is a 5.5% increase from what would otherwise result without a fee increase. It is somewhat less than this if compared to projections for the current fiscal year and reduced fee revenues as discussed earlier in the meeting.

There are currently 97 Title V facilities in the Bay Area, with varying sizes and complexities. The average increase would be 6.4%, the range of increases would be 5.3% to 8.0%, and five refineries would incur increases of 5.6% to 6.0%.

The District has not received new comments since the last meeting. He noted that comments previously submitted include two written comment letters; one from the California Council for Environmental & Economic Balance (CCEEB) whose main point is that the higher increase is not fair and they would favor an across-the-board, uniform 5% increase for all fee schedules. Western States Petroleum (WSPA) commented that they believe the District should work to continue containing its costs, and that increased fees should yield an increased level of service. Staff received two other comments at a workshop and one by telephone from smaller facilities, and they voiced concerns of increased fees and the economic downturn.

Mr. Bateman noted that in addressing comments, staff considered having a new cost recovery study prepared, noting that Stonefield Josephson, Inc. prepared an evaluation of the District's cost and revenues in 2005. He indicated that staff has been following the same methodology used by the consultant which is updated annually.

Mr. Bateman stated the District could request the consultant increase its emphasis on evaluating cost increases that could be implemented and review cost containment measures. He noted that the plans would be to conduct an RFP process, secure a firm to complete the study by the end of the calendar year so that results of the updated study could be used for developing the fee proposal for the next fiscal year. Staff also suggests the Committee consider CCEEB's recommendation for an across-the-board 5% increase for all fees. The impact would be a decrease in revenue which was originally presented of \$150,000, or an increase in fee revenue of \$1.45 million instead of \$1.6 million.

Chairperson Daly requested Mr. Bateman restate the case made last time for the 10% increase in Title V permits. Mr. Bateman replied that in looking at cost recovery, staff reviews the schedule on an overall basis as well as for individual fee schedules. They track staff time and efforts in preparing and enforcing Title V permits and has a solid estimate of the overall costs by comparing revenue to the cost, the gap of which he said is significant. For the last fiscal year, it was a 46% cost recovery. Other fee schedules which include the 46% on average were at 58%. He noted that if staff were to exclude Title V it would be much higher.

Mr. Bateman then discussed the remaining rule development schedule, as follows:

- April 28, 2010
 - Budget & Finance Committee briefing
- May 5, 2010
 - Public hearing to receive testimony
- June 16, 2010
 - Public hearing to consider adoption
- July 1, 2010
 - Proposed effective date of fee amendments

Committee Comments/Questions:

Director Kalra supported conducting the cost recovery study and implementing staff's recommendation. While he acknowledged comments to contain costs, he believed that the District was already very far behind in its cost recovery.

Chairperson Daly agreed with Director Kalra's comments and appreciates staff's attempt to accommodate CCEEB's request, but noted that the District has been on a path for many years to get closer to cost recovery and equalize things. He supported preparation of a cost recovery study, noting that the last study was completed in 2005.

Director Uilkema supported efforts for preparation of a cost recovery study, but wanted to ensure fees are justified so as not to develop adverse relationships. She reiterated her sensitivity to refineries, recognized staff demands, was not firm on recommending a 5% or 10% increase, and suggested the possibly to rebate Title V facilities if results of the study return and show something different.

Director Haggerty referred to the comment received on containing costs, and highlighted the fact that the District's recent negotiations and overall package to employees was reduced. He confirmed with Mr. Broadbent that salaries for those employees not represented by the Employees Association have not been increased and if frozen, would be brought before the Board of Directors.

Vice Chair Brown acknowledged the District's work to implement considerable cost containment measures. Mr. Broadbent stated that the largest savings are from the 16 frozen positions on top of the normal vacancy rate, and he briefly described additional measures which would be provided to the Board of Directors.

Director Groom questioned and confirmed with Mr. Bateman that on an overall basis, the District was recovering about 58% of its costs.

Public Comments:

Bill Quinn, CCEEB, stated they represent Title V facilities and labor and discussed what he feels has been an extremely difficult year. Their membership is supportive of an across-the-board 5% increase, supportive of implementing a cost recovery study and returning with results. He noted that CCEEB would support increases based on results of the study.

Motion: Director Kalra made a motion to approve staff recommendation to increase fees, as well as the proposal for an accounting firm to prepare an updated cost recovery study. He recognized Mr. Quinn's comments, but also noted that the District has not been recovering its costs and asked CCEEB to participate in the outreach; Director Mar seconded the motion.

Mr. Bunger noted the item was an informational item only, but staff requests direction from the Committee regarding the 5% increase to all fees and the 10% recommendation for Title V permit fees.

Vice Chair Brown confirmed that the difference between 5% and 10% was \$150,000 and could represent one employee or 1% of the services and supplies budget. Mr. Broadbent indicated that if the Committee recommended an across the board 5% increase, staff would plan to incorporate the \$150,000 reduction in services and supplies for next year's budget. Vice Chair Brown said CCEEB makes compelling arguments; however, he was unsure of the true economic temperature but did not want to further impact businesses.

Director Groom confirmed that the cost recovery study could be completed by December 2010. She suggested keeping cost increases at 5% across-the-board until the cost recovery study is completed, and thereafter revisit Title V permit fees.

Director Ross confirmed that the District was limited to increasing fees annual at 15% and pointed out that the District's cost recovery may therefore be further impacted next year.

Director Haggerty discussed impacts to business and voiced apprehension in moving forward with increases without results from a study.

Substitute Motion: Director Haggerty made a substitute motion to recommend a 5% across-the-board and conduct a mid-year adjustment once the cost recovery study has been completed; Vice Chair Brown seconded the motion.

Directors Kalra and Ross cited the District's fiduciary responsibility to cover its costs, suggested the study be conducted which should show that increases are necessary, and supported the original motion.

Directors confirmed with staff that fees are paid in the fall and depending upon results of the study and a mid-year budget adjustment, the District could bill Title V facilities the difference.

Straw votes were then taken on both the original and substitute motions individually, with a tie (4-4) vote on each motion.

Chair Daly requested that the matter be forwarded to the Board of Directors for consideration with an explanation of the Committee's deliberations.

Continued Discussion of Fiscal Year 2010/2011 Proposed Air District Budget and Consideration to Recommend Adoption (continued)

Mr. McKay resumed his presentation of the proposed Air District Budget, stating staff recommended taking all possible methods to address budget challenges proactively and over a period of a few years, which includes using reserves. Funds from property taxes are available for use for temporary budget gaps. The District has proactively been aggressive in:

- Keeping vacancies unfilled and projecting future vacancies to remain unfilled;
- Projecting that in future years a 10% reduction in service and supplies and capital will persist;

- Projecting no improvement in property tax; and
- Continuation of 5.5% fee increases, which is 5% less than what would be absolutely necessary to carry on business as usual.

Based upon a Reserve of 15% of the District's General Fund (\$9 million), staff is proposing an FYE 2011 Reserve of just under \$12 million and tapping into its Reserves by \$2 million. For FYE 2012 the District would tap into its reserve by \$0.9 million, and at FYE 2013, the District would begin to improve by +\$0.2 million.

Committee Comments/Discussion:

Director Uilkema questioned property tax assumptions and the basis for projections. Mr. McKay reviewed the District's conservative approach, noting that staff expects to come in \$1 million over projections in the current fiscal year. While the projected budget is flat for county revenues based on current year projected actual, there are considerable differences amongst counties and the overall average of all counties is flat.

Director Haggerty questioned the appropriateness of setting the reserve target on the General Fund, and suggested the Committee periodically review where to set the reserves. Mr. Broadbent agreed to agendaize the matter for a future Committee meeting.

Committee Action: Director Haggerty made a motion to recommend Board of Directors' approval of the proposed budget for Fiscal Year 2010/2011; Vice Chair Brown seconded the motion; which carried without opposition.

Authorization to Enter Into a Capital Lease Agreement

Directors commented that the report and request was straight-forward and voiced support of staff's recommendation.

Committee Action: Vice Chair Brown made a motion to recommend the Board of Directors authorize the Executive Officer/APCO to enter into a capital lease agreement for Server, Network, and Telephone systems for an annual sum of \$368,000 over a six year term as is currently detailed in the District Fiscal Year Ending (FYE) 2010 Information Systems budget and in the proposed budget for FYE 2011; Director Kalra seconded the motion; carried unanimously without objection.

Committee Member Comments: Chairperson Daly indicated that this would be his last year in chairing the Budget and Finance Committee, and suggested having the new Chair begin prior to the end of the calendar year.

Time and Place of Next Meeting: 9:30 a.m., Thursday, May 20, 2010, 939 Ellis Street, 4th Floor Conference Room, San Francisco, CA 94109

Adjournment: The meeting adjourned at 2:03 p.m.

Lisa Harper
Clerk of the Boards