

Bay Area Air Quality Management District
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APPROVED MINUTES

Summary of Board of Directors
Climate Protection Committee
4th Floor Conference Room
Wednesday, March 3, 2010, 9:30 a.m.

- Call to Order - Roll Call:** Chairperson Pamela Torliatt called the meeting to order at 9:30 a.m.
- Present:** Chairperson Pamela Torliatt, Vice Chairperson Jennifer Hosterman and Directors Susan Garner, John Gioia, Carole Groom, David Hudson, and Gayle B. Uilkema
- Absent:** Directors Dan Dunnigan and Shirlee Zane
- Public Comment Period:** None

Approval of Minutes of December 11, 2009

Board Action: Director Gioia made a motion to approve the minutes of December 11, 2009; seconded by Director Uilkema; carried unanimously without objection.

Transportation 2035 Climate Initiatives Grant Funding

Principal Environmental Planner, Abby Young, gave an update on the climate funding assigned in the Regional Transportation Plan (RTP) and said staff has worked with MTC on funding. The Transportation 2035 Plan contains \$400 million for climate funding in the RTP to cover public outreach, safe routes to schools programs, innovative grants and safe routes to transit programs. In the first round covers 2009-2011, MTC is allocating \$80 million.

Over the past several months, MTC has convened a couple of working groups to think through the structure and distribution of funding. A broad framework was presented, and as a result, \$36 million will be available to issue in competitive grants this year. MTC has continued to work with the District and JPC staff on a staff level basis to define details of the grant program, types of things funded and the structure of distribution of funds.

Ms. Young said a three-part competitive program will go to the Commission in early April; \$2 million for Safe Routes to Schools program in addition to \$15 million set-aside for Safe Routes to School through the broader funding program. The purpose is to push the envelope for innovation in established programs. She said \$3 million will be set aside for youth education grants which will be non-curriculum development and for education programs that target students and families to find alternatives to driving. And for the largest, the Innovative Grants Program, \$31 million will focus on a variety of transportation measures. MTC will issue one solicitation for the three separate programs, but each program will have their own evaluation and selection criteria and result in different funding mechanisms.

Ms. Young reviewed the objectives of the Innovative Climate Grants Program:

- Fund small number of high-impacted projects
- Focus on innovation
- Targeted program areas:
 - Parking management and pricing policies
 - Switch to cleaner, low-GHG vehicles
 - Transportation demand management strategies
 - Innovative strategies from Climate Action Plans
 - “Showcase Projects” that layer multiple strategies

In evaluating applications, staff will review the potential for reducing GHGs, the level of innovation, the potential for replication at large scale, and the strength of the proposal. There will be a two-part selection process to include a letter of interest from applicants, full proposal, and evaluation done by staff of 4 regional agencies.

Ms. Young said to date, the District has participated strongly in the collaborative process, participated in the higher level working group and more recently, worked at a more intense level with MTC staff to develop the structure and objectives for the grant program. Staff will continue to work with MTC and participate in the evaluation and selection process and in the longer term staff will participate in the evaluation of the actual funded projects and an aggregate of the overall program and she believes the program will reinforce and support existing District programs.

The three-part program is intended to draw from the success of the innovation grants given out as part of the Climate Protection Grant Program a couple of years ago. The program will complement many of the transportation control measures and some land use measures contained in the District’s Clean Air Plan and will push forward some of the larger Climate Action plans they have worked so hard with local governments to develop and implement.

She said next steps include MTC taking the item to their Programs and Allocations Committee in early April, anticipate issuing a call for projects on April 30th with a number of regional workshops in May, and letters of interest due in June, review and interviews of applicants will occur during the summer, and proposals will be due mid-summer, and MTC anticipates making the awards in September.

Ms. Roggenkamp added that because this is Congestion Management Air Quality (CMAQ) funding, it must focus on transportation-related aspects of reducing GHGs and criteria pollutants.

Committee Discussion/Comments:

Director Hudson questioned the reason for \$35 million identified in the staff report and \$36 million in the presentation. He discussed the possibility for funding a program in his region which has worked very well at reducing congestion at intersections through the use of buses. He noted that two cities currently spend about \$1 million a year and have reported very positive results.

Ms. Young noted the solicitation and more detail should be coming out for review very soon. She said there is \$36 million available in this program, but \$1 million is allocated for administrative costs.

Director Uilkema expressed concern with duplicating legislative efforts, stating that the Governor has a proposal about using transit money for highway improvements and de-funding transit. The substitute that is going to fund transit, which the District supports, is going to come from sales tax revenues on diesel in the future. In the meantime, the District is spending a lot of money getting rid of diesel, yet support transit because it accomplishes clean air goals. She said particularly as it

relates to diesel, it sounds logical in many ways to say revenues will be dedicated to transit but in the meantime, agencies are reducing diesel which will eliminate transit. She questioned whether to refer the issue to the Legislative Committee.

Chair Torliatt suggested review of the proposal by MTC and JPC. Director Groom reported that the San Mateo County Executive team went to Sacramento with elected officials on the proposal, and she noted it was also the whole flip-flop of the excise tax which is not dedicated to transportation versus the sales tax which is, and they were told that the Governor is pushing the proposal as the answer.

Ms. Roggenkamp agreed to talk to the Chair of the Legislative Committee.

Chair Torliatt questioned if staff would be recommending that the District spend some additional dollars on innovation programs for clean air programs. Ms. Roggenkamp said most likely, some projects could meet with a match, some will get funded through Caltrans and will need a match, and the District's TFCA dollars would be the match. Those going to MTC will be determined by them as to where matches come from, and the District is in conversations with MTC to see if some of the District's funding could help with matches. And, staff has not proposed to have another climate grant funding process at the District due to the budget.

Chair Torliatt confirmed that the match is about 11.5%.

Director Hudson referred to the VLF fee, and noted that at least two or three counties are joining in, and he questioned how much money from the fund would be prioritized toward the innovative program. Ms. Roggenkamp added that MTC has reached out to District staff to involve us, and in these discussions, they will also look at ways to blend or coordinate more closely other existing funding pots, as well.

Chair Torliatt asked for staff to return to the Committee after the first round of letters are seen, as the Committee may find something it wants to fund.

Committee Action: None; for information only.

Implementation of Greenhouse Gas Regulations for Stationary Sources

Senior Advanced Projects Advisor, Alex Ezersky, reported that the Board of Directors adopted a resolution and established the climate protection program in June 2005 which set the foundation for District programs, allowed development of a GHG inventory for stationary sources, reviewed opportunities to reduce GHGs from stationary sources and focused on feasibility and cost, and provided a ranking on categories and sources to achieve reductions.

Mr. Ezersky began integrating programs into existing programs for co-benefits and off-set a total of about 1,600 metric tons of GHGs. To address cost recovery, the District adopted a fee regulation for GHGs, provided extensive outreach and educational programs and implemented a District portal on the website which provides an avenue for agencies to post their best practices on line and share information. He noted the ConocoPhillips settlement provides for \$4 million for local improvements, and the District is also involved with State and regional collaborations.

Mr. Ezersky said in 2006, the Governor signed into law AB 32 and established the Scoping Plan which serves as a roadmap to implementation utilizing a combination of regulations, voluntary actions and incentives. There are 72 GHG reduction measures underway or to be initiated by CARB in the 2007-2012 timeframe and there is a collaborative effort with state, regional and local

entities. He noted local air districts identified implementation responsibility for 5 measures, but many others apply to stationary sources. The District efforts include planning, rule amendments, advisories, and may include enforcement actions.

A chart of the status of stationary source measures was presented outlining the various Scoping Plan measures or AB 32 action, their proposed adoption date, implementation responsibility and date, estimate of GHG reduction, and affected facilities. Directors questioned acronyms listed in the chart and requested District staff to include a legend or footnote identifying them.

Mr. Ezersky presented measures slated for adoption this year and said generally, there are very few for implementation by 2012. He noted that when the Scoping Plan was adopted, the CARB was directed to work via CAPCOA to work with local districts to achieve the 2020 goals.

At the State level, they are working on the cap and trade program and by far, this is the largest measure within AB 32, and it captures about 80% of the total GHG inventory. CARB is targeting taking cap and trade to their Board late 2010. Another measure is the mandatory reporting rule which requires larger facilities to quantify emissions and report to the State. He stated next year, a third party verifier will be required to verify emission reports. The third parties can be private individuals and District employees throughout the state that are also qualified and accredited. The State is currently working with CAPCOA to clarify 16 different conflict of interest issues in the regulation. Both cap and trade and mandatory reporting lead to the EPA tailoring rule. He noted that last year EPA did endangerment findings and it states that GHGs are pollutants and the Clean Air Act is the mechanism to regulate. The thresholds in the Act were very low, and tailoring is meant to come up with reasonable thresholds to impose Clean Air Act methodologies. The EPA believes it will double permit requirements and will subject larger facilities to Title V and PSD type of requirements which will have a big demand on the Permit Division.

He noted that staff is participating on the different work groups and the Engineering Division has commented on the EPA tailoring rule and continues to be engaged in this.

Committee Comments/Discussion:

Director Hudson said under the early actions, there is not anything about Port operations, and he thought electrification was a major project. Ms. Roggenkamp said a separate rule has been adopted by CARB for Ports and requiring shorepower at Ports. There are GHG benefits and criteria pollutant benefits from the rule, but it will take time to implement the rule. The timeframe for implementation goes into the future because it involves significant capital expenditures.

Director Gioia confirmed the District was collecting \$1.2 million per year in GHG fees. He questioned and confirmed with Mr. McKay that the fee is collected and used for the tracking of stationary source GHGs. It funds the cost of collecting and tracking data and efforts with CARB on development of rules.

Ms. Roggenkamp added that some of the rules might allow the District to charge fees to cover costs; however, this is unknown. She referred to the third party verifier conflict of interest issue, and said CARB believes that Air Districts may have a conflict of interest and should not be allowed to verify emission estimates for facilities because they regulate the facilities.

Director Garner referred to the presentation on the annual flare minimization plan, which she remembered to be very effective. She questioned and confirmed with Mr. McKay that additional success was being pursued and an update would be reported at a future Stationary Source Committee meeting. Mr. Ezersky added that the State has identified it as a potential reduction

measure and they are looking at the District and South Coast to serve as models because both air districts have been a leader in reducing emissions from flares.

Director Hosterman questioned the effect of the EPA tailoring rule if the EPA's authority to regulate will be removed by congressional action. Mr. Bateman agreed there is some tension and it is thought that regulating GHGs under the Clean Air Act will actually be more costly for industry and that the threat of it may encourage industry to encourage Congress to adopt a national program. If this happens, there will not be under the auspices of the Clean Air Act structure.

Director Hudson questioned timelines for completion of measures by local governments, and Ms. Roggenkamp noted that for transportation, CARB will set targets for each region and each region will develop a regional transportation plan to meet the target. In terms of green building, local governments have been and continue to work with state agency partners. Chair Torliatt discussed CEQA document requirements for LEED Silver certification and she believes local government have a variety of options to address green building.

Chair Torliatt questioned the District efforts with CARB's mandatory reporting requirements. Mr. McKay said staff is seeking to find simplicity and is continuing to work with CARB and with the software development group used to conduct reporting. He noted that South cost has attempted to develop its own software which ARB has not been entirely open to because of the need for consistency. Mr. Bateman noted that the District's inventory reporting is integrated with the inventory information collected for many years in terms of criteria pollutants and toxics, so there is not much additional information that companies need to provide the District to calculate GHGs from what already has been tracked. Staff does not see this as a great deal of duplication and staff is working on integrated software which will make it even more integrated.

Chair Torliatt questioned how the District is addressing the staffing level, given the fact that it may double the amount of Title V permits. Mr. McKay agreed that it could double resource requirements, but on the other hand, it is not set in stone. The District is not planning on how to fund it to date. In response to Chair Torliatt's question on the maximum annual increase on fees of 15%, Mr. McKay discussed the District's 50% cost recovery rate and the need to continue to increase fees, and Chair Torliatt recommended discussion of cost recovery be referred to the Budget and Finance Committee.

Director Uilkema questioned the impact of doubling of resources to the budget, and Mr. Bateman replied it would equate to the addition of 9 FTEs in the Title V program.

Chair Torliatt questioned what could be done regarding the Waxman-Markey bill, and Ms. Roggenkamp noted that air districts, CAPCOA, and states are talking to the EPA about the impacts of the potential rule and lawsuits. Mr. Bunger believed that the tailoring rule is certain to be challenged legally because it has significant implications.

Mr. Bateman noted that the final rule is expected to come out at the end of this month, and staff will have a much better idea on timeframe and resource requirements. He noted staff provided comments to EPA that the applicability dates for new facilities requiring Title V permits be staggered over a 5 year period so that the District is better able to absorb resource requirements, and primarily utilize existing staff. In the worst case scenario, there is an 18 month period for the District to evaluate Title V applications, and it may be the following fiscal year that it would really affect the District.

Ms. Roggenkamp pointed out that the concept is one of integrating GHGs into an existing permitting program and not making something wholly new. It signals to entities in California who

do federal permitting for air quality, it would not be CARB issuing permits for facilities that air districts already issue permits for.

Chair Torliatt questioned if the District really wants a national program as opposed to having it regulated through EPA through the Clean Air Act. Ms. Roggenkamp said if the EPA changes the rule to something practical, it might be okay but if not, it may be difficult for air districts and states across the nation to handle it. Mr. Bunger noted there is debate about whether Title V and PSD permits make sense when used in the GHG arena.

Committee members requested staff forward the matter to Legislative Committee once a decision is made.

Committee Members' Comments:

Director Hudson confirmed with Ms. Roggenkamp that the Legislative Committee will receive a presentation from Tom Addison on proposed bills for the Committee's consideration for recommendation to the Board, and AB 32 will be included.

Time and Place of Next Meeting: 9:30 a.m. – At the Call of the Chair
939 Ellis Street, San Francisco, CA 94109

Adjournment: The meeting was adjourned at 10:29 a.m.

/s/ Lisa Harper
Lisa Harper
Clerk of the Boards