

Bay Area Air Quality Management District
939 Ellis Street
San Francisco, California 94109
(415) 771-6000

APPROVED MINUTES

Summary of Board of Directors
Budget and Finance Committee Meeting
9:30 a.m., Wednesday, March 28, 2012

1. Call to Order – Roll Call

Chairperson Carole Groom called the meeting to order at 9:31 a.m.

Present: Chairperson Carole Groom; and Directors David Hudson, Eric Mar, Katie Rice, Mark Ross and Brad Wagenknecht.

Absent: Vice Chairperson Ash Kalra; and Directors Scott Haggerty and Shirlee Zane.

Also Present: None.

2. Public Comment Period: None.

3. Approval of Minutes of February 22, 2012

Committee Action: Director Hudson made a motion to approve the Minutes of February 22, 2012; Director Rice seconded; carried unanimously without objection.

4. Summary of Staff Fee Proposal for Fiscal Year Ending (FYE) 2013

Brian Bateman, Director of Compliance & Enforcement, gave the staff presentation Draft Fee Regulation Amendments, including the background; current Cost Recovery Policy adopted by the Board of Directors on March 7, 2012; details of draft fee amendments and proposed changes to fee schedules; examples of likely monetary impacts on various small business types and the five Bay Area petroleum refineries; a fee comparison with the South Coast Air Quality Management District (SCAQMD); a summary of public comments received; and the schedule proposing an adoption date of June 6, 2012, with an effective date of July 1, 2012.

Director Ross asked, regarding slide 3, Background, if full cost recovery is explicitly provided for in the policy. Mr. Bateman and Brian Bunker, District Counsel, respond in the affirmative and clarify that the only limit to recovery is that it not exceed costs.

Director Rice asked, regarding slide 7, Proposed Changes for Fee Schedules, how much each category represents in terms of total fee revenue. Mr. Bateman replied that it varies widely from one to the next and that overall it depends on the emissions of each schedule and the sources that are contained within. Director Rice asked for some idea of what amount of revenue is represented by the “Less than 70% of costs” category. Mr. Bateman said that the fourteen

categories included represent more than half of the total fee revenue. Director Hudson asked what “G5” is. Mr. Bateman said the numbers represent ever increasing sizes of sources within category “G” and referred to a detailed list available in the fee schedule. Director Hudson noted that in the absence of dollar figures it is difficult to determine what the percentages will mean for individuals and asked if anyone was shouldering a monumental increase. Mr. Bateman responded that the calculation of increases was made proportional to current cost recovery.

Mr. Bateman noted, regarding slide 11, Additional Proposed Fee Amendments, that the 7% increase in Regulation 2, Rule 9 Alternative Compliance Plan fees are primarily for those refineries that use interchangeable emission reduction credits and that the annual renewal fee of \$65 per registered small boiler device is designed to supplement the current application fee that does not, and is not intended to, cover the inspection costs.

Director Wagenknecht asked, regarding slide 11, Additional Proposed Fee Amendments, what the inspection of a small boiler entails, specifically whether an actual site visits occurs and how frequently. Mr. Bateman replied that the inspector must travel to the site, look at the device for compliance with concentration standards, review records for compliance with work practice standards, and sometimes do monitoring/source testing. Mr. Bateman added that the fee amendment is an effort to partially recoup the cost of an inspection every third year, effectively spreading the payment out over three years.

NOTED PRESENT: Director Mar was noted present at 9:45 a.m.

Mr. Bateman noted, regarding slide 11, Additional Proposed Fee Amendments, that the new inspection fee for sites with an Asbestos Dust Mitigation Plan is in response to a state rule that requires inspections of sites containing naturally occurring asbestos, for which the Air District currently has a plan review fee but nothing for ongoing inspection cost recovery.

Mr. Bateman added, regarding slide 12, Impacts on Small Businesses, that the comparatively higher increase shown for “Gas Station” stems from their higher regulatory costs. Mr. Bateman further explained that gasoline vapors are a significant source of ozone precursor emissions and can also be a concern due to local community exposures to benzene, that station emissions are highly dependent on the effectiveness of their fairly complex vapor recovery systems that are subject to significant wear-and-tear, and which suffer large increases in emissions with only very small decreases in control efficiencies. Mr. Bateman provided a brief history of the related technology and regulations.

Director Hudson asked, regarding slide 12, Impacts on Small Businesses, the current fee for the “Gas Station” whose fee increase is listed as “\$251.” Mr. Bateman approximated \$2,500. Director Wagenknecht suggested that staff work to educate the Board of Directors on this subject before the meeting so they are prepared for likely public comments in opposition to the proposed increase.

Director Mar expressed his concern about larger gas stations replacing the smaller and asked, relative to the inspection fees for asbestos dust mitigation plans, whether there have been more inspection requests relative to Bayview Hunters Point, noting the different characteristics between naturally occurring and industrial asbestos. Mr. Bateman replied that there is ongoing community concern and that naturally occurring asbestos can also result in fine asbestos fibers

but that the point of the rules is it can be controlled with the proper mitigation measures and that, yes, approximately ten requests per year are received from the San Francisco area. Mr. Bunger and Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO) clarify that the requests are not tied to the Bayview-Hunters Point area but are instead a function of development generally.

Director Hudson proposed the asbestos issue to be ongoing so far as demolition work is concerned and asked if the Air District is engaged at this level. Mr. Bateman replied in the affirmative, clarifying that it is under a different fee schedule, which is subject to a proposed 9% increase.

Chairperson Groom stated that the point of this line of questioning is evidence that the Board of Directors will require time with, and a detailed explanation of, the proposal. Mr. Broadbent noted that the Board of Directors will undoubtedly hear from members of the public regarding the increase for gas dispensing facilities as it is an area where the Air District has consistently failed to recover its costs and is playing catch up. Mr. Bunger suggested that the education process include information about the relationship between the large oil companies and the gas stations. Mr. Broadbent said that staff can explain the complexity of the inspection process to the Board of Directors.

Director Wagenknecht asked about imposing a bifurcated fee, with one fee for smaller, family stations and another for the larger, to which Mr. Bunger noted that gas dispensing facilities are the most common point of contact with toxics for members of the public and, furthermore, they utilize equipment operated by the public rather than specialists alone. Mr. Bateman responded that the fee amount is based on the number of nozzles at the station. Director Rice suggested it may be helpful if staff would include the current fees due along with an added facility description, such as “4 nozzle station,” in its fee information comparison.

Director Ross asked, in reference to slide 13, Impacts on Refineries, for information regarding the refineries’ average daily output and Director Hudson suggested the Chevron refinery produces approximately one million gallons a day. Mr. Broadbent said the Chevron refinery serves more than the Bay Area and offered to provide more information about its service area in follow up. Director Ross asked if the five refineries produce enough to meet Bay Area demand to which Mr. Broadbent replied that they serve a much broader area and have reported that demand is down so they have begun exporting. Director Groom asked for more information on the increase range of \$48,936 to \$111, 282. Mr. Bateman responded that despite the similarity in the appearance of refineries they have very different production capabilities and noted the presence of hydrogen plants at some refineries, both of which differences factor into the fee range, adding that the reason these percentages are lower than the average 6.4% increase is that refineries pay under 12 to 14 different schedules because of the varied sources and emissions-based and add-on fees that they are subject to. Director Wagenknecht asked, when taking into account the full gamut of inspections services for refineries, what is the total percentage of cost recovery. Mr. Bateman replied that it is hard to say because time is not accounted for on a facility basis as the Air District is organized by source category basis. Director Wagenknecht asked if it would be a legitimate use of refinery fee revenue increases to backfill the shortage in the gas dispensing facilities category in light of the inextricable product connection. Mr. Broadbent and Mr. Bunger

explain the limitations resulting from Proposition 26 in that fees must be explicitly tied to costs. Director Wagenknecht and Mr. Bunger discussed the tenuous, at best, connection between refineries and gas stations as they are currently organized under corporate law.

Director Wagenknecht asked, regarding slide 14, BAAQMD/SCAQMD Fee Comparisons – Small Facilities, whether the fees listed are pre- or post-fee increase, to which Mr. Bateman replied that they are pre-fee increase but that SCAQMD's fees are also increasing.

Director Rice noted, regarding slide 15, BAAQMD/SCAQMD Fee Comparisons – Medium Facilities, the huge disparities in some categories and asked why that is the case. Mr. Bateman answered that the fees have grown organically with varying reasons for the differences seen and exemplified the decreased emissions of printing presses due to technological advances, resulting in decreased fees under the Air District but no similar adjustment by the SCAQMD. Mr. Bunger clarified that some fees are flat in nature, others are emissions based, and the latter have been adjusted over time when appropriate. Mr. Bateman briefly explained the graduated fees schedule utilized by SCAQMD.

Mr. Bateman noted, regarding slide 17, Rule Development Schedule, that additional material requested today will be provided at the Board of Directors meeting on April 18, 2012.

Committee Comments:

Director Ross asked what the impact on the proposed budget would be if the Board of Directors makes a change in the proposed fee schedule amendments. Mr. Broadbent replied that the budget would have to be redone. Mr. Bateman added that if direction was received at the first of two Board of Directors meetings then staff would likely have enough time to make the necessary adjustments. Director Ross suggested that the interplay be highlighted when presented to the Board of Directors.

Chairperson Groom shared that it resonates that many government agencies are raising fees in light of the prolonged economic downturn and that small businesses are feeling the pinch.

Mr. Broadbent suggested, in keeping with Board of Directors Chairperson Gioia's standing request for field visits to regulated facilities, a field visit to a nearby gas dispensing facility by the Board of Directors after their regular meeting in May. Director Wagenknecht replied that it would likely help with Board education. Mr. Broadbent said he would make the necessary arrangements.

Public Comments: None.

Committee Action: None; informational only.

5. Discussion of Proposed Budget for FYE 2013

Jeffrey McKay, Deputy APCO, gave the staff presentation Proposed Fiscal Year End 2013 Budget, including a review of the status of the current fiscal year ending 2012, an overview of the revenue and expenditure forecast for fiscal year ending 2013, proposed responses to challenges for fiscal year ending 2013, a summary of personnel costs, and a detailed review of

revenue and expenditures, including trends in cost cutting. Mr. McKay noted that the proposed budget is a balanced budget without the use of reserves, and includes a reduction in contribution to Other Post-Employment Benefits (OPEB) and a reduction in funding for various programs.

Mr. McKay added, regarding slide 2, Outline, that for several years the Air District has been faced with challenges which have been addressed through a combination of spending cuts and the use of reserves, and that, although challenges still exist, there is no projected use of reserves for fiscal year ending 2013.

Mr. McKay noted, regarding slide 6, District Overview, Proposed Budget for FYE 2013, that the General Fund Budget in 2012 was \$61 million and 365 positions includes those which are, and will remain, vacant.

Mr. McKay added, in reference to slide 9, Responses to Challenges, that the projected fees revenue, assuming an overall decrease of 5%, is much more conservative than in previous years.

Mr. McKay noted, regarding slide 10, Personnel Costs, that the 35 vacancies budgeted does not include any assumptions about turnover resulting from retirements, commended the teamwork of management and labor in negotiating during this tough time, and urged for the reduction in OPEB contribution to be a short-term one.

Committee Comments:

Director Ross asked the amount of the current unfunded OPEB to which Mr. McKay replied \$40 million if you apply that which is in the bank. Mr. Broadbent asked what it was previously to which Mr. McKay replied that it grows over time and would have been approximately \$50 million today but is now approximately 20% funded. Directors Rice and Ross and Messrs. Broadbent, Bunker and McKay discussed various approaches to funding OPEB and how best to keep up with or pay against the unfunded liability. Mr. Broadbent noted that a number of agencies are grappling with the same issue, that there isn't much room for leverage in the budget and that staff has done a remarkable job in developing a balanced budget proposal.

Director Wagenknecht noted that the budgets for the last couple of years were partially balanced by cuts in services and supplies with 23% projected for next year, and asked the status before the cut. Mr. McKay answered, referring to slide 13, Trends in Cost Cutting, that for 2010 the Air District was at \$16.6 million Service & Supply and \$2.8 million in Capital, and the current proposed budget is \$13.6 million and \$1.6 million respectively. Director Wagenknecht asked what the total budget was for 2010. Mr. McKay said it was approximately \$64 million.

Director Wagenknecht inquired about what the reduction in technical assistance to cities and counties by 20% will look like in terms of community impact. Henry Hilken, Director of Planning, Rules & Research, responded that it will largely come from the Planning, Rules & Research Division in the form of scaled back help for climate protection and Community Air Risk Evaluation programs, including delays in greenhouse gas inventories and community risk reduction plans and this is the proposal because hard decisions were required. Director Hudson asked about the fate of Air District commitments to cities and counties in terms of public development authorities and risk reduction plans. Mr. Broadbent answered that staff are still trying to figure out how to proceed with the lawsuit brought by the California Building Industry

Association and the toxics threshold in the Air District's California Environmental Quality Act guidelines. Staff has assumed a tie-in between the toxics threshold and community risk reduction plans but discussions in the course of litigation have lead staff to reconsider that assumption going forward. Director Hudson asked that the Air District stay with the working group. Mr. Broadbent clarified that it is not abandoned, only being considered just as many government have.

Director Rice inquired about long-term projections and whether there is a systemic problem in light of fees increasing and revenue decreasing. Mr. Broadbent replied that the reduced economic activity does not appear to be temporary and the Air District is already working on ways to adjust in an appropriate way, noting that many changes are underway that cloud projections but should be instrumental in lowering expenditures while maintaining service levels.

Public Comments: None.

Committee Action: None.

6. Update on Production System Replacement of Databank

Mr. McKay gave the staff presentation Production System Replacement of Databank, including a review of the information systems budget; a project timeline from 2006 to the present; a summary of those facilities already, and anticipated to be, transferred to the Production System; and a detail of project expenditures from fiscal years ending 2007 through 2013.

Mr. McKay noted in opening that the project costs have changed from the initial proposal as staff opted for a phased deployment instead of a wholesale migration.

Mr. McKay added, regarding slides 5 and 6, Information Systems Budget, that the annual average for all Information Systems expenditures over the last five years is \$4 million and that although staff targeted an expenditure of only \$3 million in 2012, that it was inadequate.

Committee Comments: None.

Public Comments: None.

Committee Action: None; informational only.

7. Committee Member Comments/Other Business: None.

8. Time and Place of Next Meeting: Wednesday, April 25, 2012, at Bay Area Air Quality Management District Office, 939 Ellis Street, San Francisco, CA 94109 at 9:30 a.m.

9. Adjournment: The meeting adjourned at 10:53 a.m.

151 Sean Gallagher
Sean Gallagher
Clerk of the Boards