

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
939 ELLIS STREET - SAN FRANCISCO, CALIFORNIA 94109

Approved Minutes: Board of Directors Regular Meeting – January 21, 2004

Call To Order

Opening Comments: Chairperson Haggerty called the meeting to order at 9:49 a.m.

Roll Call: Present: Scott Haggerty, Chair, Harold Brown, Chris Daly, Mark DeSaulnier, Jerry Hill, Liz Kniss (10:06 a.m.), Patrick Kwok, Jake McGoldrick (10:02 a.m.), Nate Miley, Julia Miller (9:54 a.m.), Dena Mossar, Mark Ross, Marland Townsend, Gayle Uilkema, Brad Wagenknecht.

Absent: Willie Brown, Roberta Cooper, John Silva, Tim Smith, Pam Torliatt, Shelia Young.

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

Commendations/Proclamations: There were none.

Chairperson Haggerty made the following announcements: 1) Based on the results received from a survey of the Board members, the Standing Committee assignments will remain the same for 2004, with the exception of the Personnel Committee. Director Hal Brown has been appointed Chair of the Personnel Committee, Director Kwok has been appointed Vice-Chair, and Director Ross has been added to the Committee. 2) Director Mossar's term ends on March 6, 2004 and she has elected not to seek re-appointment to the Air District Board. An item will be put on the March 3, 2004 agenda in honor of Director Mossar's service to the District. 3) The Santa Clara County City Selection Committee has appointed Mayor Erin Garner to the Air District's Board to replace Director Mossar and he will be sworn in at the March 17, 2004 Board meeting. 4) Deputy Director Maria Ayerdi has resigned from the Board as of January 16, 2004. A plaque will be sent to Ms. Ayerdi for her service to the District.

Public Comment Period: There were none.

Consent Calendar (Items 1 - 7)

1. Minutes of January 7, 2004
2. Communications. Correspondence addressed to the Board of Directors
3. Report of the Advisory Council. *There was no report.*
4. Monthly Activity Report – *Activities for the month of December 2003.*
5. Quarterly Report of Air Resources Board Representative Director Mark DeSaulnier

6. Quarterly Report of the Clerk of the Boards
7. Approval of Proposed Amendment to Administrative Code Division I, Section: 2.1: Officers of the Board

Considered approval of proposed amendment to Administrative Code Division I, Section 2.1: Officers of the Board as noticed at the January 7, 2004 meeting. The proposed amendment clarifies the reference to term limits in the same Board office.

Board Action: Director Townsend moved approval of the above Consent Calendar items, seconded by Director Wagenknecht; carried unanimously by acclamation.

Committee Reports and Recommendations

8. Report of the Mobile Source Committee Meeting of January 8, 2004

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

- A) Modification to the Transportation Fund for Clean Air (TFCA) Policies and Evaluation Criteria for the FY 2004/2005 funding cycle, as proposed by staff, and an additional modification, to delete the work "diesel" from the second line of paragraph (c) of proposed Policy Number 33;*
- B) Approved selection of Macias, Gini & Company as the auditor to conduct fiscal audits of 54 TFCA Program Manager projects;*
- C) Approved selection of Environmental Engineering Studies, Pick-N-Pull, and Pick Your Part as contractors for the FY '03/04 Vehicle Buy Back Program and authorized the Executive Officer/APCO to execute contracts up to \$900,000 with Environmental Engineering Studies; \$1,300,000 with Pick-N-Pull; and \$1,300,000 with Pick Your Part to provide vehicle scrapping and related services; and*
- D) Approved allocation of \$60,000 in TFCA funds as an amendment to the FY '03/04 Santa Clara County Program Manager TFCA expenditure program for Santa Clara County Transportation Authority's Downtown Area Shuttle (DASH) Retrofits.*

Director Hill presented the report and stated that the Committee met on Thursday, January 8, 2004 and staff presented a report on the Transportation Fund for Clean Air (TFCA) Policies and Evaluation Criteria for FY 2004/05. Staff reviewed proposed policy revisions for Policy # 27 (Clean Air Vehicle Weights), Policy # 32 (Heavy-Duty Vehicle Replacement), and Policy # 33 (Reducing Emissions from Existing Heavy-Duty Diesel Engines). Staff reviewed the proposed New Policy # 39 (Ridesharing). After considering comments received on Policy #39, staff proposes to delete the new ridesharing policy in order to allow for additional analysis and discussion. There were five public speakers on this agenda item. Staff will prepare guidelines and report back to the Board should issues develop.

There was discussion on a list of alternative fuels to diesel and which would qualify under the California Air Resources Board (CARB) criteria. Once the fuels are verified by CARB,

they can be included in the list. Staff agreed to delete the word “diesel” in the first sentence of TFCA Policy #33, c).

Staff presented a report on the selection of an auditor for the Transportation Fund for Clean Air County Program Manager Fund Projects. The Committee recommends the Board approve the selection of Macias, Gini & Company as the auditor to conduct fiscal audits of 54 TFCA Program Manager Projects.

Staff presented a report on the contractor selection for the Vehicle Buy Back Program vehicle dismantlers. The Committee recommends the Board 1) approve Environmental Engineering Studies, Pick-N-Pull, and Pick Your Part as the contractors for the FY 03-04 Vehicle Buy Back Program, and 2) authorize the Executive Officer/APCO to execute contracts up to \$900,000 with Environmental Engineering Studies; \$1,300,000 with Pick-N-Pull; and \$1,300,000 with Pick Your Part to provide vehicle scrapping and related services.

Staff presented a report on an Amendment to the Santa Clara County Program Manager Expenditure Program to add the Santa Clara Valley Transportation Authority (VTA) Downtown Area Shuttle (DASH) Retrofits project. The project will retrofit four buses with Cleaire Longview particulate filters. The Committee recommends the Board approve the allocation of \$60,000 in TFCA funds as an amendment to the FY 2003/04 Santa Clara County Program Manager TFCA expenditure program for VTA’s DASH retrofits.

It was noted that the follow-up item for staff from the November 13, 2003 meeting will be presented to the Committee in February. The next meeting of the Committee is scheduled for 9:30 a.m., Thursday, February 26th.

Board Action: Director Hill moved the Board approve the recommendations of the Mobile Source Committee; seconded by Director Mossar; carried unanimously without objection.

9. Report of the Legislative Committee Meeting of January 14, 2004

Action: The Committee recommended approval of co-sponsoring legislation to improve the Smog Check program

Director Wagenknecht presented the report and stated that the Committee met on Wednesday, January 14, 2004 and staff presented a summary of the Governor’s Proposed Budget, and emphasized that the impact of California’s Fiscal Year 2004-05 budget on the District is unclear. This is both because the impact of the Governor’s proposal on the District is ambiguous, and because the Governor’s proposal is not the final, adopted budget. Some of the major points in the budget timeline were presented:

- The \$15 billion bond measure will be on the March 2nd ballot, and its fate will dramatically affect the final budget.
- About May 14th the Governor will release a revised version of his budget proposal.
- From May to June, the Senate and Assembly will finalize their budgets, which are consolidated in Conference Committee.
- June 15th is the deadline for the Legislature to enact the Budget bill.
- Recent budgets have actually been enacted in July, August, and September.

Staff noted that the Governor's proposal keeps subvention at the same level as the previous two years. The District's share would be \$1.8 million, which is down from \$2.6 million in fiscal year 01-02. The Governor does not propose an increase in fees that stationary sources pay to the Air Resources Board.

Most significantly, staff reported that the Governor's proposal would shift \$1.3 billion of property taxes from local governments to the State. The Governor's proposal does not specify that the District is included in this shift, and if the District is, how much property tax would be taken. Property tax revenues of \$15.5 million are 37% of the Air District's current operating budget. Staff also noted that there is little support in the Legislature for any additional Educational Reimbursement Augmentation Fund (ERAF) shifts.

Staff presented a proposal that the Air District co-sponsor a bill to end the rolling 30-year exemption for Smog Check. The measure would simply require that all vehicles currently in the Smog Check program remain in the Smog Check program in the future. The Planning and Conservation League and the California Council for Economic and Environmental Balance would like to join the District in sponsoring such a bill. The Committee recommends the Board approve the staff recommendation. The next meeting of the Legislative Committee will be at the Call of the Chair.

Board Action: Director Wagenknecht moved the Board approve the recommendation of the Legislative Committee and accept the report; seconded by Director Daly.

Director Townsend noted that it is important to understand the \$15 billion bond will be on the March ballot as Proposition 57 with the companion piece as Proposition 58 and that if either one of them fails, the other also fails. The motion then passed without objection.

Public Hearings

10. Public Hearing to Consider Approval of Proposed Amendments to District Regulation 8, Rule 10: Process Vessel Depressurization.

The proposed amendments to Regulation 8, Rule 10: Process Vessel Depressurization implement Control Measure SS-17 from the 2001 San Francisco Bay Area Ozone Attainment Plan by prohibiting venting to the atmosphere unless the total organic compounds are reduced to a concentration of less than 10,000 parts per million (ppm), expressed as methane (C₁).

Alex Ezersky, Air Quality Specialist, presented the report and stated that this proposed amended regulation is necessary to fulfill the Air District's obligation to adopt Control Measures SS-17 as specified in the Bay Area 2001 Ozone Attainment Plan.

Mr. Ezersky stated that this regulation is intended to control the emissions of organic compounds from process vessel depressurization during major turnarounds (major maintenance activities). Mr. Ezersky compared the existing rule with the proposed amendments and reviewed the emission reductions and costs associated with the amended rule. Mr. Ezersky noted that during the rule development process, the Air District conducted community informational meetings, developed a technical workgroup and held a public workshop at the end of October. The amended rule will prevent the potential

emissions of approximately one ton per day and the added monitoring requirements will allow the collection of emission data that will be useful for future planning. This is one of the last two rules that would complete the stationary source control measures discussed in the 2001 Ozone Attainment Plan.

Staff recommended that the Board adopt the proposed amendments to Regulation 8, Rule 10 and approve the California Environmental Quality Act (CEQA) Negative Declaration.

Director Townsend moved to open the Public Hearing at 10:06 a.m. There were no speakers. At 10:18 a.m., Director Mossar moved to close the Public Hearing for Agenda Item 10; seconded by Director Townsend; carried unanimously without objection.

Board Action: Director Townsend moved adoption of the proposed amendments to Regulation 8, Rule 10: Process Vessel Depressurization and approve the California Environmental Quality Act Negative Declaration; seconded by Director H. Brown; carried with the following Board members voting:

AYES: H. Brown, Daly, DeSaulnier, Hill, Kniss, Kwok, McGoldrick, Miley, Miller, Mossar, Ross, Townsend, Uilkema, Wagenknecht, Haggerty.

NOES: None.

ABSENT: W. Brown, Cooper, Silva, Smith, Torliatt, Young.

Adopted Resolution No. 2004-01: 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 10: Process Vessel Depressurization

A Resolution of the Board of Directors of the Bay Area Air Quality Management District Amending Regulation 8: Organic Compounds, Rule 10: Process Vessel Depressurization

11. Public Hearing to Consider Approval of Proposed Amendments to District Regulation 8, Rule 18: Equipment Leaks

The proposed amendments to Regulation 8, Rule 18: Equipment Leaks implement SS-16 (low-Emission Refinery Valves) from the 2001 San Francisco Bay Area Ozone Attainment Plan and will clarify specific provisions of the rule to ensure consistency.

Victor Douglas, Air Quality Specialist, presented the report and reviewed the sources and possible causes of fugitive emissions; and noted that each refinery has thousands of valves and connections, hundreds of pumps and compressors, and numerous other components. Mr. Douglas reviewed the proposed amendments, the emission reductions, and the costs.

Mr. Douglas noted this rule-making process was initiated by a commitment in the District's 2001 Ozone Attainment Plan to include Best Available Control Technology (BACT) replacement for valves. During the rule development process, the Air District conducted community informational meetings, developed a technical workgroup, and held a public

workshop. This is the final measure to fulfill the District's 2001 Ozone Attainment Plan commitments. Adoption of these amendments implements Control Measure SS-16 and would reduce organic emissions by 0.2 tons per day.

Staff recommended the Board adopt the proposed amendments to Regulation 8, Rule 18: Equipment Leaks as proposed and approve the CEQA Negative Declaration.

Board Action: Director H. Brown moved the Board adopt the proposed amendments to Regulation 8, Rule 18: Equipment Leaks and approve the CEQA Negative Declaration; seconded by Director Townsend.

In reply to a question from Director H. Brown, Jack Broadbent, Executive Officer/APCO, stated that the District is at a point where there are not many reductions that can come from stationary sources. The amendments to these two regulations, although they may be expensive with respect to cost-effectiveness, are the last commitments as part of the Ozone Attainment Plan.

Chairperson Haggerty opened the Public Hearing at 10:17 a.m. There being no speakers, Director H. Brown moved to close the Public Hearing at 10:18 a.m.; seconded by Director Townsend; carried. The motion to adopt the staff recommendation on the proposed amendments to Regulation 8, Rule 18 carried with the following Board members voting:

AYES: H. Brown, Daly, DeSaulnier, Hill, Kniss, Kwok, McGoldrick, Miley, Miller, Mossar, Ross, Townsend, Uilkema, Wagenknecht, Haggerty.

NOES: None.

ABSENT: W. Brown, Cooper, Silva, Smith, Torliatt, Young.

Adopted Resolution No. 2004-02: 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 18: Equipment Leaks at Petroleum Refineries, Chemical Plants, Bulk Plants and Bulk Terminals

A Resolution of the Board of Directors of the Bay Area Air Quality Management District Amending Regulation 8: Organic Compounds, Rule 18: Equipment Leaks at Petroleum Refineries, Chemical Plants, Bulk Plants and Bulk Terminals

The Public Hearing on Agenda Item 10 was also closed at 10:18 a.m.

Presentation

12. Summary of Environmental Community Tour

Staff provided a summary of the Environmental Community tour and the Air District's response to questions raised during the tour.

Mr. Broadbent updated the Board on issues raised at the January 7, 2004 Environmental Community tour and briefly summarized how the Air District is addressing the concerns. The issues included the following:

1. Title V Permits.
2. Interchangeable emission credits (IERCs).
3. Toxic risk at gasoline stations/communicating in multiple languages.
4. Local air quality monitoring.
5. Cumulative risk assessment.
6. Dioxin emissions from a local steel drum facility.
7. Diesel truck emissions.

The following members of the public spoke on this item:

Terrence Valen
Communities for a Better Environment
Oakland, CA 94612

Marie Harrison
Greenaction
San Francisco, CA 94109

Joshua Abraham
Literacy for Environmental Justice
San Francisco, CA 94587

William Deloatch
PUEBLO

Bradley Angel
Greenaction
San Francisco, CA 94102

There was discussion on what steps the Air District could take to facilitate the closure of the Pacific Gas & Electric Plant.

Chairperson Haggerty stated that the District staff would work with the community groups to set up an Environmental Community tour in Oakland as soon as possible.

Board Action: None. This report provided for information only.

Other Business

13. Report of the CEO/Executive Secretary - Mr. Broadbent reported on the new security badges at each Board members' place and noted they are part of the new upgrade to the security of the building.
14. Chairperson's Report – Chairperson Haggerty stated he had no additional report to make.

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Director Kniss introduced Aaron Starr, her new land-use policy aide.

Closed Session (The Board adjourned to Closed Session at 10:49 a.m.)

15. 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:

- A. **Alvin J. Greenberg, Ph.D. v. Bay Area AQMD**, United States District Court, N.D. Cal., Case No. C 02 1501 VRW
- B. **Communities for a Better Environment, and Our Children's Earth Foundation v. Bay Area Air Quality Management District, Valero Refining Company-California, et al.**, San Francisco Superior Court, Case No. CPF03502678
- C. **Communities for a Better Environment v. Bay Area AQMD, Dow Chemical, Real Party in Interest**, San Francisco County Superior Court, Case No. _____ (New Case)

Open Session (The Board reconvened to Open Session at 11:12 a.m.)

Brian Bunger, Counsel, reported that the Board met in Closed Session on agenda Items 15A, B and C and stated that the Board heard a status report from Counsel on each of the cases and provided general direction to Counsel on each of the items.

- 16. Board Members' Comments: Director Daly stated that the City and County of San Francisco is looking at hydrogen fuel cell vehicles and requested if staff could do a comparison of the alternative technologies for vehicles that would help in the City's decision making. Mr. Broadbent noted that the District has already done some work on this issue and that the state has approached the Air District to be a part of the California Fuel Cell Partnership. Staff will provide a report to Director Daly.
- 17. Time and Place of Next Meeting - 9:30 a.m., Wednesday, February 4, 2004, 939 Ellis Street, San Francisco, California.
- 18. Adjournment: The meeting was adjourned at 11:14 a.m.

Mary Romaidis

Mary Romaidis
Clerk of the Boards

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