

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

Approved Minutes: Board of Directors Regular Meeting – January 15, 2003

**Call To Order**

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

Roll Call: Present: Scott Haggerty, Chair, Harold Brown (9:46 a.m.), Roberta Cooper, Chris Daly, Mark DeSaulnier, Jerry Hill, Liz Kniss (9:55 a.m.), Nate Miley, Julia Miller, Mark Ross, Tim Smith, Pam Torliatt, Marland Townsend, Gayle Uilkema, Brad Wagenknecht, Shelia Young.

Absent: Dena Mossar, John Silva.

Pledge of Allegiance: William C. Norton, Executive Officer/APCO, led the Board in the Pledge of Allegiance.

Commendation/Proclamations: There were none.

**Public Comment Period:** There were none.

**Consent Calendar (Items 1 - 10)**

1. Minutes of December 4, 2002
2. Communications. *Correspondence addressed to the Board of Directors.*
3. Report of the Advisory Council. *There was no report.*
4. Monthly Activity Reports. *Division Activities for the months of November and December 2002*
5. Quarterly Report of the Clerk of the Boards.
6. Comparison Report of District Energy Use. *Report of District energy use beginning January 2000 through December 2002*
7. 2003 Regulatory Calendar. *Health & Safety Code Section 40923 requires the District to publish a list of regulatory measures that may be considered during the next calendar year.*
8. Establishment of Policy for Personnel Committee Meetings to be Held Only as Needed. *Staff recommended establishment of a policy to hold Personnel Committee meetings on an as-needed basis.*

9. Notice of Consideration of Establishment of a Stationary Source Committee. *Staff recommended and the Board considered establishment of a Stationary Source Committee at its next regular meeting.*

10. Authorization for Execution of Contract in Excess of \$35,000.

*Pursuant to the District's Administrative Code Division II, Section 4.3 Fiscal Policies and Procedures, staff requested the Board authorize the Executive Officer/APCO to execute a Contract with Ambassador Private Security Services in an amount not to exceed \$38,000, for security services to be provided at the District office.*

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

### **Committee Reports and Recommendations**

11. Report of the Public Outreach Committee Meeting of December 9, 2002

Director Miller presented the report and stated that the Public Outreach Committee met on Monday, December 9, 2002 and staff presented a report on the responses received to the RFQ for a Traveling Air Quality Education Program for youth. The Committee recommends Communications West be the contractor for the Program and that the issue be referred to the Budget and Finance Committee for further consideration.

Staff presented an update on the District's woodsmoke outreach and stated that the wintertime air pollution is being predicted on the new stricter standard of PM2.5. The first wintertime Spare-the-Air day was on Saturday, December 7<sup>th</sup>. With respect to the woodsmoke ordinance, the County of Marin has concluded their public community meetings on the ordinance, but it will not come before their Board until later this year. The Mayor of Sebastopol has introduced the ordinance, which includes a component involving changeovers when a house is sold. The cities of Oakland and El Cerrito have been contacted and sent materials on the ordinance.

On December 4<sup>th</sup> several District staff members attended a meeting of the Santa Clara County Planners Group and made presentations on Urban Heat Island, green vehicles, CO2 emissions, and woodsmoke. A representative from Swirl discussed the four areas identified for community outreach because of their high incidents of woodburning. The areas are Santa Rosa, San Jose, the Tri-Valley area (Livermore, Pleasanton and Dublin); and Concord.

Community Focus updated the Committee on recent activities of the resource teams that include: 1) Working on the complaint procedures; 2) Meetings are starting in East Palo Alto; 3) Advising the public about the emissions from Chevron; 4) Working on youth-oriented projects; 5) and a publication, *Commuter Choice Tax Benefits*. The Committee determined the contract for Community Focus should be continued for one more year, but would go out to bid next year and it would be a 3-year contract.

Staff provided information on preparing personalized versions of *Air Currents*, which included the staff time and a budget to prepare the personalized versions. The next meeting of the Public Outreach Committee will be at 10:00 a.m., Monday, February 10, 2003.

**Board Action:** Director Miller moved Board approval of the Public Outreach Committee report; seconded by Director Townsend; carried unanimously by acclamation.

12. Report of the Budget and Finance Committee Meeting of December 11, 2002.

*Action(s): The Committee recommends that the Board approve the following:*

- A) Request to increase the FY 2002/2003 budget by \$135,000 in the Technical Services Division; and*
- B) Transfer \$300,000 from the unencumbered General Fund Reserve to Program 603, professional services budget, in the Planning Division for photochemical (ozone) modeling.*

Director Brown presented the report and stated that the Committee met on Wednesday, December 11, 2002 and staff presented the First Quarter Financial Report for Fiscal Year 2003 and noted that the bulk of the Miscellaneous Revenue receipts of \$441,054 were from a United Airlines settlement.

Staff presented a status report on the state of the California State budget. It is projected there may be additional cuts in the subvention funds that the District receives in the amount of \$531,760; which would bring the total to about \$1,325,890. The Committee considered approval of and recommends the Board:

1. Increase the FY 2002/2003 budget by \$135,000 in the Technical Services Division. This money was received from the City of San Pablo Redevelopment Agency as compensation to assist in the cost associated with District vacating the property where the San Pablo air monitoring station and storage area was located.
2. Transfer \$300,000 from the unencumbered General Fund Reserve to Program 603, professional services budget, in the Planning Division for photochemical (ozone) modeling.

The Committee received a report on the Sonoma County Climate Protection Campaign request for \$25,000 in funding to support its work with the local jurisdictions of Sonoma County. The Advisory Council is also reviewing this item and the Council will make a recommendation to the Executive Committee of the Board. The next meeting of the Budget and Finance Committee is scheduled for 9:30 a.m., January 22, 2003.

**Board Action:** Director Brown moved the Board approve the recommendations of the Budget and Finance Committee; seconded by Director Townsend; carried unanimously by acclamation.

13. Reports of the Mobile Source Committee Meetings of December 12, 2002 and January 9, 2003

*Action(s): The Committee recommends approval of the following items (12/12/02):*

- A) Approve a project for a Liquefied Natural Gas Refueling station in Oakland with Waste Management of Alameda County. Funding up to \$250,000 will be available from the California Energy Commission's Carl Moyer Alternative Fuel Infrastructure Program.*
- B) Approve staff recommendation to use up to \$75,000 of Diesel Back-Up Generator Mitigation Funds received from the California Air Resources Board to study the use of biodiesel and to develop a pilot project regarding biodiesel*

Director Young stated that the Committee met on Thursday, December 12, 2002 and received reports on and considered and approved the following items:

1. Board approval of a project for a Liquefied Natural Gas Refueling station in Oakland with Waste Management of Alameda County. Funding up to \$250,000 will be available from the California Energy Commission's Carl Moyer Alternative Fuel Infrastructure Program.
2. Board approval of staff recommendation to use up to \$75,000 of Diesel Back-Up Generator Mitigation Funds received from the California Air Resources Board to study the use of biodiesel and to develop a pilot project regarding biodiesel.

The Committee received a report on the status of shuttles in the Bay Area and an ongoing Bay Area Clean Air Partnership (BayCAP) project to coordinate shuttle programs. In addition, Gordon Galvin from the City of San Leandro provided information on the success of the San Leandro Links shuttle.

Staff presented a report on the eligibility of abandoned vehicles for the District's Vehicle Buy Back (VBB) Program. These vehicles do not meet the functional or registration requirements of the VBB program. In addition, charities typically do not take any vehicle older than 1986, therefore, donated vehicles are also not eligible for the program.

Staff presented a report on a proposal to have no fare transit on the Livermore Amador Valley bus system to reduce vehicle emissions on Spare the Air days. The pilot project would be carried out on eight Spare the Air days and it is anticipated that Congestion Mitigation Air Quality (CMAQ) funds will fund the project.

**Board Action:** Director Young moved that the Board approve the recommendations of the Mobile Source Committee meeting of December 12, 2002; seconded by Director Townsend; carried unanimously by acclamation.

Director Young reported on the January 9, 2003 meeting and stated that the Committee discussed a report on Transportation Fund for Clean Air (TFCA) proposed policy revisions. There were five public speakers on this item, most regarding Policy 27 (Reducing Emissions from Existing Heavy-Duty Diesel Engines). There was concern that new Policy #27 may limit the continuing TFCA support of alternative fuel projects if a significant amount of the funding goes to diesel-to-diesel re-powers. It was suggested that only up to 20% of the funding be available for diesel-to-diesel re-powers and 80% of the funding be available for

alternative fuel projects. There was discussion on Policy #29 and the concern that without Policy #27, there may be a potential loss of TFCA funding that would affect shuttles. Staff indicated that in the first year, diesel-to-diesel re-powers would only account for about 10-15% of the funding and that it would not be a major impact on other projects, such as CNG vehicles or shuttles. The Committee recommends the following:

- Board approval of the proposed FY 2003/04 Transportation Fund for Clean Air Program Policies and Evaluation Criteria and that the issue will be reviewed again by the Committee in one year.

The Committee received a report on the results of the TFCA Audit Report #5, including the auditor's findings and recommendations for actions to address financial and administrative issues. The Committee discussed the staff report on the contractor selection for the Vehicle Buy Back (VBB) Program direct mail service and recommends the following:

- Board approval of Mail Stream Corporation as the contractor for the FY 02/03 Vehicle Buy Back Program direct mail service provider and that the Board authorize the Executive Officer to execute a contract for up to \$110,000 with Mail Stream Corporation to provide direct mail service.

The Committee requested staff provide the new TFCA Policies to cities and counties as soon as possible. The next meeting of the Committee is scheduled for 9:30 a.m., Thursday, February 13, 2003.

The following people came forward to speak on Agenda Item 13 D:

Renee Dowlin  
Port of Oakland/Oakland Int'l Airport  
Oakland, CA 94612

Linda Weiner  
American Lung Association  
Daly City, CA 94014

Chris Ferrara  
East Bay Clean Cities and PG&E  
Pleasant Hill, CA 94523

Doug Cameron  
ENRG  
San Francisco, CA 94131

Kevin Shanahan  
Cummins West, Inc.  
San Leandro, CA 94577

Sam Altshuler  
PG&E  
San Ramon, CA 94526

William H. Zeller  
Pacific Gas & Electric  
San Rafael, CA 94901

Bruce Riordan  
BayCAP  
Berkeley, CA 94705

**Board Action:** Director Smith moved that the Board approve the proposed FY 2003/04 Transportation Fund for Clean Air Program Policies and Evaluation Criteria and that Policy # 27 be amended so that 80% of the funding be available for alternative fuel projects and 20% of the funding be available for diesel-to-diesel re-powers; seconded by Director Miller.

Chairperson Haggerty requested the motion be amended to include Agenda Item 13 C and the motion was so amended.

During discussion, it was clarified that the 80/20 split is a “cap.” There was discussion on diesel trucks coming into the Port of Oakland and how they affect the neighborhood; that there is no other funding for diesel, in part because the Carl Moyer funds were taken out of the budget; and staff anticipates there will be very few diesel engines that qualify. The motion then passed on the following roll call:

AYES: Brown, Cooper, DeSaulnier, Miley, Miller, Ross, Smith, Uilkema, Wagenknecht, Young, Haggerty.

NOES: Daly, Hill, Kniss, Torliatt, Townsend.

ABSENT: Mossar, Silva.

14. Report of the Regional Agency Coordinating Committee Meeting of December 20, 2002.

Director DeSaulnier presented the report stating that the Committee met on December 20, 2002 and that staff from MTC and the Air District presented a report on the status of the future study measures contained in the 2001 Ozone Attainment Plan including MTC’s six future study measures for transportation sources and the Air District’s five future study measures for stationary sources.

The development of the technical assessment documents for the stationary sources measures is progressing on schedule. It appears that there may be potential emission reductions from the implementation of the measures, which will assist the region in attaining the federal ozone air quality standard. Staff from both agencies are working to finalize the background documents and to proceed to rule making or implementation where appropriate. The rules that the Air District staff will be preparing will be brought before the Board for consideration in this calendar year. Comments from the representatives of environmental groups in attendance supported an aggressive program.

It was reported that the rule adoption efforts of the Air District Board during 2002 fulfilled the District’s obligations in the Plan. The Air District Board adopted four rules and achieved greater emission reductions than anticipated.

Staff was directed to continue working with both the affected industries and environmental groups to ensure that the best product is brought back before the respective agencies for their consideration. The next meeting will be at the Call of the Chair.

**Board Action:** Director DeSaulnier moved that the Board accept the report of the Regional Agency Coordinating Committee; seconded by Director Townsend; carried unanimously by acclamation.

### **Presentation**

15. Status of Rule Development Activities and Further Study Measures Implementing the Bay Area 2001 Ozone Attainment Plan. *District and MTC staff provided reports on the status of Rule Development Activities and Further Study Measures Implementing the Bay Area 2001 Ozone Attainment Plan.*

Peter Hess, Deputy APCO, provided a general overview of the following: 1) 2001 Ozone Attainment Plan; 2) Emission Reductions from 2001 Plan Adopted Measures; 3) Measures to be completed; 4) Enhanced Smog Check; and 5) Further Study Measure 7 – Parking Cash Out Pilot Program.

Jim Karas, Air Quality Engineering Manager, provided an overview of the following: 1) Refinery Further Study Measure Process Overview; 2) Refinery Further Study Measure VOC Emission Estimates; 3) Pressure Relief Devices; 4) Blowdown Systems; 5) Flares; 6) Wastewater Systems; 7) Storage Tanks; 8) Marine Loading Operations; and 9) The next steps to be taken.

Chris Brittle, Manager, MTC Planning, presented information on the following: 1) Further Study Measures in the 2001 Ozone Attainment Plan; 2) HOV Plan Update [FSM 2]; 3) High Speed Travel on Freeways [FSM 3]; 4) Municipal Parking Charges [FSM 4]; 5) Transit Access to Stations and Increase HIP funding to \$15M per year [FSM 5]; 6) Possible Episodic Measures for Spare the Air Days; and 7) Urban Bus Particulate Traps [FSM 1].

The following people came forward to speak on Agenda Item 15:

Dean C. Simenoth  
California ARB  
Sacramento, CA 95812

Carla M. Perez  
CBE  
Oakland, CA 94611

Ethel Dotson  
Richmond, CA 94804

Julia May  
CBE  
Oakland, CA 94611

Maria Brown  
CBE  
Rodeo, CA 94572

Edgar Ary  
Oakland, CA 94608

Mary Peace Head  
CBE

Belen Rochce  
CBE  
Rodeo, CA 94572

Walt Gill  
Chevron  
Richmond, CA 94802

Richmond, CA 94806

Tom Baca  
Boilermakers  
Martinez, CA 94553

Louise Perryman  
West County Toxics Coalition  
Richmond, CA 94807

Kate Poole  
Building Trades Unions  
So. S.F., CA 940870

Mary Jen Beach  
ConocoPhillips  
Rodeo, CA 94512

Dr. Henry Clark  
West County Toxics Coalition  
Richmond, CA 94807

Teresa Malccrewicz  
Shell Oil Products US  
Martinez, CA 94553

Jennifer Ahlsskog  
ConocoPhillips  
Rodeo, CA 94583

Bob Chamberlin  
Chevron  
Richmond, CA 94802

Alan Savage  
Tesoro Petroleum  
Martinez, CA 94553

Dennis Bolt  
WSPA

Alex Stiem  
Chevron  
Richmond, CA 94802

Greg Feere  
Contra Costa Bldg. Trades  
Martinez, CA 94552

Sacramento, CA 95814

**Board Action:** Director DeSaulnier moved that the Board accept the staff report and direct staff to work through the newly formed Stationary Source Committee on the rule making process and implementation; seconded by Director Townsend.

In response to Director Daly's question regarding a timeframe on the rule development, Mr. Norton stated that workshops should start within the next couple of weeks and that a rule could be before the Board by this Spring. Mr. Norton stated that information and report updates would go to the Stationary Source Committee for review. After discussion the motion passed unanimously by acclamation.

### **Other Business**

16. Report of the Executive Officer/APCO – Mr. Norton reported on the State Budget stating that there is concern about the impact the State budget will have on the California Air Resources Board. The ARB may want to use stationary source fees to make up for their anticipated lost revenue and this is also the source of the Air District's revenue. Mr. Norton also pointed out the monitors at each Board members' place have been lowered.
17. Chairperson's Report - Chairperson Haggerty stated he would like an item on the next Executive Committee agenda, for discussion purposes only, regarding merging the Executive and Legislative Committees.

### **Closed Session** (The Board adjourned to Closed Session at 11:53 a.m.)

18. 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:*

*Stonelight Tile, Inc. and David Anson v. Bay Area AQMD, United States District Court, N.D. Cal., San Jose Division, Case No. CV 98-21060 (JW)(PVT)*

*Communities for a Better Environment and Transportation Defense and Education v. Bay Area AQMD, Metropolitan Transportation Commission, Association of Bay Area Governments, and California Air Resources Board, San Francisco Superior Court, Case No. 323849*

*San Joaquin Valley Unified Air Pollution Control District v. State of California Air Resources Board, Sacramento County Superior Court, Case No. 02CS00270*

*Transportation Solutions Defense and Education Fund, Our Children's Earth Foundation, and Communities for a Better Environment v. United States Environmental Protection Agency, United States Court of Appeals for the Ninth Circuit, Case No. 02-70443*

*People of the State of California by and through Bay Area AQMD v. Read-Rite Corporation, Alameda County Superior Court, Case No. 2001024690*



City of Morgan Hill, Santa Teresa Citizen Action Group, Inc., Demand Clean Air, Inc. and Californians for Renewable Energy, Inc. v Hearing Board of the Bay Area Air Quality Management District and the Air Pollution Control Officer, San Francisco County Superior Court, Case No. CPF-02-501624

**Open Session** (The Board reconvened to Open Session at 12:10 p.m.)

Mr. Bunger reported that the Board met in Closed Session on the six cases under Agenda Item No. 18 and the Board received a status report on each of them. The Board provided general direction to legal counsel on each of the six items.

19. Board Members' Comments: There were none.
20. Time and Place of Next Meeting - 9:45 a.m., Wednesday, February 5, 2003, 939 Ellis Street, San Francisco, California.
21. Adjournment: The meeting was adjourned at 12:11 p.m.

Respectfully submitted by:

*Mary Romaidis*

Mary Romaidis  
Clerk of the Boards

mr