

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

Approved Minutes: Board of Directors Regular Meeting – July 2, 2003

**Call To Order**

Opening Comments: Vice-Chairperson Townsend called the meeting to order at 9:56 a.m.

Swearing in of Board Member: Cupertino Council Member Patrick Kwok, representing Santa Clara County, was sworn in as a Board Member.

Roll Call: Present: Marland Townsend, Vice-Chair, Maria Ayerdi, Roberta Cooper, Chris Daly, Mark DeSaulnier, Jerry Hill, Liz Kniss (via teleconference at 10:23 a.m.), Patrick Kwok, Nate Miley, Jake McGoldrick, Julia Miller, Dena Mossar, Mark Ross, Pam Torliatt (10:02 a.m.), Gayle Uilkema, Brad Wagenknecht, Shelia Young.

Absent: Harold Brown, Scott Haggerty, John Silva, Tim Smith.

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

Commendations/Proclamations: There were none.

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

**Consent Calendar (Items 1 – 7)**

1. Minutes of June 18, 2003
2. Communications. Correspondence addressed to the Board of Directors
3. Report of the Advisory Council.
4. Notification of Execution of Purchase Orders in Excess of \$20,000

*Notification was given of the execution of a contract totaling \$34,850 for 114 billboards and 20 bus shelters for the second phase of the smoking vehicle program's advertising campaign to run mid-July to mid-August 2003.*

5. Authorize Executive Officer/APCO to execute grant agreement to receive funds from the California Air Resources Board (CARB) Fleet Zero Emission Vehicle Incentive Program (Fleet ZIP)

*Authorized Executive Officer/APCO to receive Fleet ZIP grant from the CARB for two Nissan Altra Electric Vehicles leased by the District.*

6. Approve Establishment of New Classification Entitled High School Intern

*The Board considered establishing a new classification entitled High School Intern.*

7. Approve Resolution Adjusting the District's Maximum Medical Contribution Declared to the California Public Employees' Retirement System (CalPERS) – *This Item was removed from the Consent Calendar at the request of Director Uilkema.*

**Board Action:** Director Cooper moved approval of Consent Calendar Items 1 through 6; seconded by Director Young; carried on the following roll call:

AYES: Ayerdi, Cooper, Daly, DeSaulnier, Hill, Kwok, McGoldrick, Miley, Miller, Mossar, Ross, Townsend, Uilkema, Wagenknecht, Young.

NOES: None.

ABSENT: H. Brown, Kniss, Silva, Smith, Torliatt, Haggerty.

7. Approve Resolution Adjusting the District's Maximum Medical Contribution Declared to the California Public Employees' Retirement System (CalPERS)

*The Board of Directors considered approval of resolution adjusting the District's maximum medical contribution declared to CalPERS for management, confidential, represented employees, and retirees.*

In response to a question from Director Uilkema, William C. Norton, Executive Officer/APCO, stated that the increase is about \$50, which would bring the maximum amount to \$673.95 per month. Mr. Norton noted this is in the Memorandum of Understanding (MOU) that was previously approved.

**Board Action:** Director Uilkema moved approval of Consent Calendar Item 7; seconded by Director Wagenknecht; carried on the following roll call:

AYES: Ayerdi, Cooper, Daly, DeSaulnier, Hill, Kwok, McGoldrick, Miley, Miller, Mossar, Ross, Torliatt, Townsend, Uilkema, Wagenknecht, Young.

NOES: None.

ABSENT: H. Brown, Kniss, Silva, Smith, Haggerty.

**Adopted Resolution No. 2003-05: A Resolution to fix the District's Contribution Under the Public Employees' Medical and Hospital Care Act**

## Committee Reports and Recommendations

### 8. Report of the Stationary Source Committee Meeting of June 18, 2003

*Action: Referred to Board of Directors approval of Environmental Audit, Inc. as the contractor to conduct the California Environmental quality Act (CEQA) processes and prepare CEQA documents for the Air District's proposed plans and rules and authorize the Executive Officer/APCO to execute a contract not to exceed \$200,000 with Environmental Audit, Inc.*

Director Hill presented the report and stated that the Committee, lacking a quorum, referred its Agenda Item 4, Environmental Review of Plans and Rules-Contractor Selection, to the full Board without a recommendation.

Staff presented a status report on the development of Further Study Measure 11: Marine Loading Operations and reviewed:

- The background of the regulation
- Types of cargos.
- The inventory from September 2000 to August 2001.
- The District's process for developing a regulation on marine loading operations.
- Concepts.
- The next steps.

There was one speaker on this item.

Staff presented an overview of the Air District's Title V Operating Permit Program and noted there are 105 facilities within the District that are subject to Title V and there are 35 facilities with Synthetic Minor permits. Staff also reviewed:

- The NOx emissions from Title V facilities.
- The potential to emit.
- Title V program elements.
- Title V permit review time.
- Public participation.
- EPA review.
- Title V permit administrative record, maintenance, compliance, modification, reopening, and renewal.

The next meeting of the Committee is at the Call of the Chair.

**Board Action:** Director Hill moved the Board approve the report of the Stationary Source Committee; seconded by Director Miller; carried on the following roll call:

AYES: Ayerdi, Cooper, Daly, DeSaulnier, Hill, Kwok, McGoldrick, Miley, Miller, Mossar, Ross, Torliatt, Townsend, Uilkema, Wagenknecht, Young.

NOES: None.

ABSENT: H. Brown, Kniss, Silva, Smith, Haggerty.

## **Public Hearing**

9. Final Public Hearing to Adopt Amendments to Schedule L: Asbestos Operations and Schedule Q: Excavation of Contaminated Soil and Removal of Underground Storage Tanks and Approval of CEQA Notice of Exemption.

*At the May 21, 2003 Regular Meeting of the Board, the Board of Directors approved a 1.6% increase in permit fees. The Board of Directors will consider the same 1.6% increase for fees for non-permitted activities, such as Asbestos Operations, Excavation of Contaminated Soil and Removal of underground Storage Tanks to adjust those fees by the 1.6% increase in the CPI. Approval of California Environmental Quality Act (CEQA) notice of exemption was also requested.*

Director Miller moved to open the Public Hearing at 10:09 a.m.; seconded by Director Wagenknecht; carried unanimously without objection. There were no speakers.

**Board Action:** Director Mossar moved to close the Public Hearing at 10:10 a.m. and that the Board adopt the proposed amendments to Regulation 3: Fees and incorporate into the District's Fiscal year 2003/2004 Budget as approved at the June 18, 2003 Board of Directors meeting and approve CEQA notice of exemption; seconded by Director Young; carried on the following roll call:

AYES: Ayerdi, Cooper, Daly, DeSaulnier, Hill, Kwok, McGoldrick, Miley, Miller, Mossar, Ross, Torliatt, Townsend, Uilkema, Wagenknecht, Young.

NOES: None.

ABSENT: H. Brown, Kniss, Silva, Smith, Haggerty.

**Adopted Resolution No. 2003-06: A Resolution of the Board of Directors of the Bay Area Air Quality Management District Approving the CEQA Notice of Exemption for Amendments to Regulation 3 – Fees**

**A Resolution of the Board of Directors of the Bay Area Air Quality Management District Amending Regulation 3 - Fees**

## **Other Business**

11. Report of the Executive Officer/APCO. Mr. Norton reported on the following items: 1) Smog Check II started in the Bay Area as of July 1, 2003. Information can be provided to any Board member that has questions on the program. 2) There were three Spare the Air days last week. Charts showing the Exceedances of the National 1-Hour Ozone Standard; the Exceedances of the national 8-Hour Ozone Standard, and Exceedances of the California 1-Hour Ozone Standard for 2003 are at each Board member's place. 3) Directors Haggerty and Townsend and Messrs. Hess and Norton attended a meeting in Modesto with other air districts to discuss the 8-Hour attainment designation for the Bay Area and pollution transport from the Bay Area to the downwind districts. There were also discussions on land use. Director DeSaulnier was also at the meeting representing the Air Resources Board (ARB). The next meeting is scheduled for September 5, 2003.

12. Chairperson's Report. Vice-Chairperson Townsend stated he had no report.
10. Status Report on SB 288 New Source Review Restoration Act of 2003

*Staff gave the Board of Directors a briefing on SB 288 and staff received direction on the Air District's position.*

Director Kniss joined the meeting by teleconference at 10:23 a.m.

Mr. Norton stated that at the last Board meeting, the Board considered SB 288 (Sher), which proposes language changes in state law to NSR reform. The language that was proposed was of concern to District staff. Originally, staff recommended a "support but seek amendments" position; the Legislative Committee modified that recommendation and brought it back to the Board. The Board requested staff to look at changes/amendments that might be acceptable.

The bill has been amended in the Assembly and staff has reviewed the amendments, but feel more amendments still need to be made. The Environmental Protection Agency (EPA) has indicated that if the bill is approved in its current form, there will be a Notice of Deficiency given to every air district in California and sanctions would be imposed. Mr. Norton reported that a meeting is scheduled for July 3, 2003 in Davis between the author of the bill, Tom Adams, and members of the California Air Pollution Control Officers Association (CAPCOA). The District would like to see what changes come out of those negotiations before recommending a "support" position on the bill.

Tom Addison, Advanced Projects Advisor, stated that the Board, at its last meeting, took a position of "watch and seek amendments" on the April 10<sup>th</sup> version of the bill. On June 30<sup>th</sup> a new version of the bill came out and is in print. This new version of the bill tries to address some of the concerns the air districts have. The fundamental legal concerns that District staff and Counsel have with the April 10<sup>th</sup> version of the bill remain with this newest version of the bill. The July 3<sup>rd</sup> meeting will give staff an opportunity to discuss their concerns with the authors of the bill and present some proposed amendments.

Brian Bunger, Counsel, presented the background on NSR and NSR reform. Mr. Bunger stated that California has led the way in strong NSR programs and the bill seeks to freeze these programs where they are. The NSR program is a federally mandated program. EPA promulgated new regulations that changes the structure of the NSR program and these new elements must be in every approvable NSR program. If the elements are not in the Air District's program, it will be found deficient.

SB 288 would not allow the District to implement some of those program elements. The Notice of Deficiency leads to sanctions of increased offset ratios and cutting off of highway funds. The District may be placed in a position where it cannot have the program elements that it needs in its regulation in order to obtain approval.

The following people came forward to speak on this agenda item:

Richard Drury  
Adams & Broadwell

Carl Zichella  
Sierra Club

Azibuike Akaba  
Communities for a Better

So. San Francisco, CA  
94080

Sacramento, CA 05814

Environment  
Oakland, CA 94612

Michael Schmitz  
CLEEN  
Oakland, CA 94602

Rico Mastrondonato  
California League of  
Conservation Voters  
Oakland, CA 94612

Ann Noffhoff  
Natural Resources Defense  
Council  
San Francisco, CA 94105

**Board Action:** Director Hill moved that the Board take a position on SB 288 of “support in principle and seek amendments;” seconded by Director Mossar.

There was discussion on some of the inconsistencies in the current language and that the District would like to have a more stringent program than it has today. Director Wagenknecht noted that the Legislative Committee is scheduled to meet on July 14<sup>th</sup> so if the amendments were satisfactory to District staff after the July 3<sup>rd</sup> meeting, the Committee could recommend a “support” position. The motion then carried on the following roll call:

AYES: Ayerdi, Cooper, Daly, DeSaulnier, Hill, Kniss, Kwok, McGoldrick, Miley, Miller, Mossar, Ross, Torliatt, Townsend, Uilkema, Wagenknecht, Young.

NOES: None.

ABSENT: H. Brown, Silva, Smith, Haggerty.

**Closed Session** (The Board adjourned to Closed Session at 11:18 a.m.)

13. 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 case:*

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

**Open Session** (The Board reconvened to Open Session at 11:24 a.m.)

Mr. Bunger stated that the Board met in Closed Session and received a report on Item 13. The Board received a status report and provided general direction to Counsel.

14. Board Members' Comments: There were none.

15. Time and Place of Next Meeting - 9:45 a.m., Wednesday, July 16, 2003, 939 Ellis Street, San Francisco, California.

16. Adjournment: The meeting was adjourned at 11:25 a.m.

*Mary Romaidis*

Mary Romaidis  
Clerk of the Boards

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