



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS
BUDGET AND FINANCE COMMITTEE MEETING

COMMITTEE MEMBERS

CAROLE GROOM – CHAIRPERSON
SCOTT HAGGERTY
ERIC MAR
BRAD WAGENKNECHT

ASH KALRA – VICE CHAIRPERSON
DAVE HUDSON
MARK ROSS
SHIRLEE ZANE

WEDNESDAY
FEBRUARY 22, 2012
9:30 A.M.

4th FLOOR CONFERENCE ROOM
939 ELLIS STREET
SAN FRANCISCO, CA 94109

AGENDA

1. **CALL TO ORDER - ROLL CALL**
2. **PUBLIC COMMENT PERIOD** (*Public Comment on Non-Agenda Items Pursuant to Government Code § 54954.3*) Members of the public are afforded the opportunity to speak on any agenda item. All agendas for regular meetings are posted at Air District headquarters, 939 Ellis Street, San Francisco, CA, and on the Air District's website www.baaqmd.gov at least 72 hours in advance of a regular meeting. At the beginning of the regular meeting agenda, an opportunity is also provided for the public to speak on any subject within the Board's authority. Speakers will be limited to three (3) minutes each.
3. **APPROVAL OF MINUTES OF DECEMBER 14, 2011 AND JANUARY 25, 2012**
4. **AIR DISTRICT FINANCIAL AUDIT REPORT FOR FISCAL YEAR ENDING 2011** J. McKay/4629
jmckay@baaqmd.gov

The Committee will receive a report of the Fiscal Year Ending 2011 Audit.
5. **DEVELOPMENT OF A COST RECOVERY POLICY** J. McKay/4629
jmckay@baaqmd.gov

The Committee will consider recommending that the Board of Directors adopt staff's proposed Cost Recovery Policy.
6. **COMMITTEE MEMBER COMMENTS/ OTHER BUSINESS**
Any member of the Board, or its staff, on his or her own initiative or in response to questions posed by the public, may: ask a question for clarification, make a brief announcement or report on his or her own activities, provide a reference to staff regarding factual information, request staff to report back at a subsequent meeting concerning any matter or take action to direct staff to place a matter of business on a future agenda. (Gov't Code § 54954.2).
7. **TIME AND PLACE OF NEXT MEETING** – Wednesday, March 28, 2012, Bay Area Air Quality Management District Office, 939 Ellis Street, San Francisco, California 94109 at 9:30 a.m.
8. **ADJOURNMENT**

- To submit written comments on an agenda item in advance of the meeting.
- To request, in advance of the meeting, to be placed on the list to testify on an agenda item.
- To request special accommodations for those persons with disabilities notification to the Clerk's Office should be given at least 3 working days prior to the date of the meeting, so that arrangements can be made accordingly.
- Any writing relating to an open session item on this Agenda that is distributed to all, or a majority of all, members of the body to which this Agenda relates shall be made available at the District's offices at 939 Ellis Street, San Francisco, CA 94109, at the time such writing is made available to all, or a majority of all, members of that body. Such writing(s) may also be posted on the Air District's website (www.baaqmd.gov) at that time.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
939 ELLIS STREET, SAN FRANCISCO, CALIFORNIA 94109
(415) 771-6000

EXECUTIVE OFFICE:
MONTHLY CALENDAR OF DISTRICT MEETINGS

FEBRUARY 2012

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Special Meeting as the Sole Member of the Bay Area Clean Air Foundation – CANCELLED AND RESCHEDULED TO WEDNESDAY, MARCH 7, 2012	Wednesday	15	9:30 a.m.	Board Room
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i> - CANCELLED	Wednesday	15	9:45 a.m.	Board Room
Board of Directors Executive Committee <i>(Meets 3rd Monday Every Month)</i>	Wednesday	15	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Public Outreach Committee	Thursday	16	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Executive Committee <i>(Meets 3rd Monday Every Month)</i> - CANCELLED and RESCHEDULED TO FEBRUARY 15, 2012 AT 9:30 A.M.	Wednesday	20	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Stationary Source Committee <i>(Meet 3rd Monday Every Other Month) – CANCELLED</i>	Monday	20	10:30 a.m.	4 th Floor Conf. Room
Board of Directors Budget & Finance Committee <i>(Meets the 4th Wednesday Each Month)</i>	Wednesday	22	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Mobile Source Committee <i>(Meets 4th Thursday each Month)</i>	Thursday	23	9:30 a.m.	4 th Floor Conf. Room

MARCH 2012

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Special Meeting as the Sole Member of the Bay Area Clean Air Foundation	Wednesday	7	9:30 a.m.	Board Room
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	7	9:45 a.m.	Board Room
Advisory Council Regular Meeting <i>(Meets 2nd Wednesday each Month)</i>	Wednesday	14	9:00 a.m.	Board Room
Board of Directors Public Outreach Committee	Thursday	15	9:30 a.m.	4 th Floor Conf. Room

MARCH 2012

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Executive Committee <i>(Meets 3rd Monday of each Month)</i>	Monday	19	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Stationary Source Committee <i>(Meets 3rd Monday Every Other Month)</i>	Monday	19	10:30 a.m.	4 th Floor Conf. Room
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	21	9:45 a.m.	Board Room
Board of Directors Mobile Source Committee <i>(Meets 4th Thursday each Month)</i>	Thursday	22	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Budget & Finance Committee <i>(Meets the 4th Wednesday Each Month)</i>	Wednesday	28	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Personnel Committee <i>(At the Call of the Chair)</i>	Wednesday	28	11:00 a.m.	4 th Floor Conf. Room

APRIL 2012

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	4	9:45 a.m.	Board Room
Advisory Council Regular Meeting <i>(Meets 2nd Wednesday each Month)</i>	Wednesday	11	9:00 a.m.	Board Room
Board of Directors Executive Committee <i>(Meets 3rd Monday of each Month)</i>	Monday	16	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	18	9:45 a.m.	Board Room
Board of Directors Budget & Finance Committee <i>(Meets the 4th Wednesday Each Month)</i>	Wednesday	25	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Mobile Source Committee <i>(Meets 4th Thursday each Month)</i>	Thursday	26	9:30 a.m.	4 th Floor Conf. Room

HL – 2/8/12 (3:25 p.m.)

P/Library/Forms/Calendar/Calendar/Moncal

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Groom and Members of the
Budget and Finance Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: February 15, 2012

Re: Budget and Finance Committee Draft Meeting Minutes

RECOMMENDED ACTION

Approve attached draft minutes of the Budget and Finance Committee meetings of December 14, 2011 and January 25, 2012.

DISCUSSION

Attached for your review and approval are the draft minutes of the December 14, 2011 and January 25, 2012 Budget and Finance Committee meetings.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Maricela Martinez and Sean Gallagher
Reviewed by: Jennifer C. Cooper

Attachments

Bay Area Air Quality Management District
939 Ellis Street
San Francisco, California 94109

DRAFT MINUTES

Summary of Board of Directors
Budget and Finance Committee Meeting
Wednesday, December 14, 2011

1) Call to Order/Roll call: Chairperson Carole Groom called the meeting to order at 9:38 a.m.

Present: Chairperson Carole Groom, Directors Gayle Uilkema, and Brad Wagenknecht. Vice Chairperson Ash Kalra, Directors Mark Ross, and Eric Mar arrived after the roll call.

Also Present: Director John Gioia

Absent: Directors Scott Haggerty and Shirlee Zane.

2) Public Comment Period: There were no public comments.

3) Approval of Minutes of October 19, 2011: Deferred to later in the meeting.

4) First Quarter Financial Report Fiscal Year 2011-12

David Glasser, Finance Manager, provided a presentation to the Committee which summarized the first quarter financial report for fiscal year 2011 – 2012. The presentation covered general fund revenues, general fund expenses, investments, fund balances, and vendor payments in excess of \$70,000 for Fiscal Year Ending (FYE) 2012.

Director Uilkema commented about the 1% of budgeted revenue for County receipts versus the 82% of budgeted revenue for Title V permits. Director Uilkema asked about the percentage difference attributed to the timing of the revenue cycles when the Air District receives these revenues.

Mr. Glasser responded that County receipts are due and payable on December 12 so these revenues should be received from the County in late December. Title V revenues are received in the early part of the fiscal year.

Brian Bunger, District Counsel, stated that the larger Title V facilities get billed for permit renewals in the first quarter.

Director Uilkema commented about penalties and settlements versus miscellaneous revenues percentages.

Mr. Bunger stated that penalties and settlements do not come in regularly. A marker is placed in the budget but the Air District does not expect this revenue to come in a regularly organized way.

Public Comments: None

Committee Member Comments: None.

Committee Action: None, informational only.

5) Air District Financial Overview

Jeff McKay, Deputy Air Pollution Control Officer, provided a presentation to the Committee which summarized and compared FYE 2011 budget and current fiscal year projections. During the winter of fiscal year 2011, the committee was informed that the Air District was projecting a \$1 million revenue shortfall. Indeed this projection proved to be accurate. In subsequent meetings, several responses were brought forward. These responses included reducing expenditures and vacancy rate increases. The responses to the challenge slightly exceeded the amount of challenge.

Mr. McKay continued with the presentation showing the fund balances. Two factors affect the unaudited fund balances as of July 1, 2011. The Board authorized an early encumbrance from FYE 2012 budget of \$700,000 for the production system. The General reserves have been showing \$500,000 for the Lennar settlement. These funds should really be held separately. These funds are not general accessible funds for general use so these funds are being set aside out of the general fund audited reserves.

As of November 29, 2011, total permit fee revenue is projected to be approximately \$2.5 million less than budgeted for FYE 2012. Renewals are also dropping off but property taxes are projected to be on target. A continuing downward trajectory has been noted in the Bay Area activity that generates fees. Description of responses to these challenges will be brought to the Committee at a future meeting.

A part of the responses has been and will continue to be using vacancies. The District is a little over 10% in vacancy rate which is distributed throughout various divisions. In summary, a drop in Bay Area permit activity continues, response to challenges will be brought to the Committee in early 2012, past responses and other factors may continue to help out.

Public Comments: None

Committee Member Comments:

Director Wagenknecht asked how much is budgeted for the production system in current fiscal year.

Mr. McKay responded in current fiscal year the entire information services budget is \$3.1 million. If the production system does not go live and continue to spend in this coming year then there will be an overage in expenditures for the production system.

Director Ross asked about budgeted expenses for the legal division.

Mr. Bunger responded that the Air District is much higher than normal for outside legal expenditures. The Air District is experiencing a greater burn rate of legal fees for outside counsel than in the past 10 years.

Committee Action: None, informational only.

6) Update on Development of a Cost Recovery Policy

Brian Bateman, Director of Engineering, presented the staff report which introduced a draft cost recovery policy that would guide the development of future amendments to the District's fee regulation.

Mr. Bateman explained that the Air District has the authority under state law to collect fees to recover the District's regulatory program activity costs up to 100% full cost recovery. The Air District falls short of the 100% full cost recovery mark. The last study was conducted by Matrix Consulting in 2011 and it showed that on an overall basis fees bring in 62% of the cost of the program. In dollar terms, this represents a shortfall of \$16.8 million dollars per year, which is referred to as a cost recovery gap. He further stated that fees are largest source of revenue, and property taxes are used to fill the cost recovery gap.

Mr. Bateman described the recommendation from the cost recovery study, that the district adopt a formal cost recovery policy as a best management practice and having such a policy would provide greater certainty to fee payers regarding future increases.

Air District survey results showed that other air districts do not have a cost recovery policy in place. Some of the districts provided information as to where they are in terms of cost recovery and from those that responded in this matter, most of the districts indicated that they are at 90% or higher in cost recovery.

A stakeholder advisory group was established and has met. Members of the groups consist of major industry groups and environmental group member.

As a result, a draft cost recovery policy has been developed. Elements of the draft policy include: continue to implement feasible cost containment measures, continue analysis of cost recovery on an annual basis, and as a matter of policy, fees should generally fully recover regulatory program activity costs.

Looking out over the next five year period and establishing a specific target in terms of where the Air District wants to get over that five year period in terms of cost recovery is the more practical goal. Staff is proposing a 90% goal over the next five years. The Air District needs to continue to contain our costs to the maximum extent feasible while allowing for funding of effective regulatory programs. Cost containment measures consist of hold on vacancies, cross training staff, reduction in expenditures on services and supplies, and the revised labor contract which will provide substantial savings to the District in personnel costs over time.

Mr. Bateman continued to discuss best management practices being implemented and provided a cost recovery analysis update which will continue to be conducted on an annual basis. Estimated FYE 2012 cost recovery fees are expected to be 72% and cost recovery gap projected to be \$12 million.

Mr. Bateman discussed the availability of subsidies to certain types of businesses or other types of regulated entities. Mr. Bateman also presented a table which showed various options for setting a cost recovery goal over the next 5 years. Staff believes that allocation of costs to fee payers should be conducted in an equitable manner.

Public Comments: None

Committee Member Comments:

Director Uilkema discussed the overall cost recovery plan and using heavy industry to support other programs because this industry makes millions of dollars. Director Uilkema inquired about the Air District's current practice when it comes to the use of tax revenues?

Mr. Bateman stated that past practice has been when a measure is brought to the Board, such as industry for example, the District tries to indicate in the staff report what the impact will be on our resources. If it is going to take more resources, staff will accompany that with a proposed fee increase to match those costs. Staff has been trying, as we move forward with new measures, to get complete cost recovery as best as it could be estimated at the time of those measures.

Mr. Jack Broadbent, Executive Officer, stated that there is an overall perspective in the law as it relates to our fees. The core programs of our permitting and enforcement programs will be covered by the fees and the costs not covered by the fees will be covered by property taxes. Staff is basically providing the Committee members with the staff's thinking and seeking direction from the Board.

Director Uilkema continues stating that staff needs to be careful and make sure to balance the vitality of small business, large business, etc. and be very mindful when establishing the goals and the impacts of these goals.

Director Kalra asked why the Air District is at 68% cost recovery when other districts are at 90%.

Mr. Broadbent responds by stating that BAAQMD is the only district that receives property taxes. This stems back to 1955 when the Air District was established.

Mr. Bunger stated that the cost recovery percentage got exacerbated due to many years of no permit fee increases. Other districts goals are 100% of cost recovery. To that extent we are setting our goal low at 90% in comparison.

Director Mar requests that staff provide more details of the survey results to see the response of other districts.

Director Ross requests that staff provide information in regards to what percentage of property taxes received comes from these industries and business to be able to do a category by category comparison.

Mr. Bunger responds that the information can be obtained from the County.

Committee Action: None.

Approval of Minutes of October 19, 2011: Director Wagenknecht made a motion to approve the October 19, 2011 minutes; Vice Chairperson Kalra seconded the motion; carried unanimously without objection.

8) Committee Member Comments/Other Business: None

9) Time and Place of Next Meeting: At the call of the Chair.

10) Adjournment: The meeting was adjourned at 10:32 a.m.

Maricela Martinez
Executive Secretary

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

DRAFT MINUTES

Summary of Board of Directors
Budget and Finance Committee Meeting
9:30 a.m., Wednesday, January 25, 2012

1. Call to Order – Roll Call

Committee Chairperson Carole Groom called the meeting to order at 9:31 a.m., without a quorum.

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

Absent: Vice Chairperson Ash Kalra; Directors Scott Haggerty, Eric Mar, Katie Rice and Shirlee Zane.

Also Present: None.

2. Public Comment Period: None.

3. Second Quarter Financial Report – Fiscal Year 2011-12

Jack Colbourn, Director of Administrative Services, introduced David Glasser, Finance Manager, who gave the staff presentation regarding the Second Quarter Financial Report – Fiscal Year 2011-2012. Mr. Glasser reviewed the second quarter results for fiscal year 2012, including an itemized list of revenue streams and expenses related to the General Fund and the status of investments held.

Director Wagenknecht and Mr. Glasser discussed the “County receipts” line item in the General Fund Revenues, an updated figure at 53% of budgeted revenue, as being higher than expected. Mr. Glasser explained that “Penalties and Settlements,” when including a recent settlement check, is over 100% of budgeted revenue and “Miscellaneous Revenue” is at 165% of budgeted revenue because it is difficult to forecast and initially set low as a result.

Mr. Glasser continued the staff presentation of year end results, including Fund Balances and Vendor Payments in Excess of \$70,000 without Board Review.

Director Hudson and Mr. Glasser discussed the nature of the “Cubic Transportation Systems” line item on slide 6, Year End Results, Vendor Payments in Excess of \$70,000 without Board Review, Clipper Cards, as the costs relative to the Air District’s program to fund the public transportation needs of Air District staff commuting to and from work.

Committee Comments/Discussion: Director Wagenknecht observed that expenses listed in the 40% range, as opposed to the 50% one could reasonably expect at half-way through the fiscal year, reflects the conservative use of resources. Director Hudson commends staff on the level of detail in the budget information and prudent forethought reflected in their budgetary considerations.

Public Comments: None.

Committee Action: None; informational only.

4. Air District Financial Overview

Jeffrey McKay, Deputy Air Pollution Control Officer, gave the staff presentation regarding Air District Financial Status, including current 2012 fiscal year end projections, a proposed Air District response to the fiscal year 2012 challenge, assumptions and proposed responses to fiscal year 2013, and resulting reserve projections.

Mr. McKay noted that the information provided on the first slide on permit application fees is not representative of all types of fee revenue but only revenue from new applications as it has proven an important indicator in the past. Mr. McKay explained that although fees have increased to improve cost recovery, there is a downward trend in revenues collected, likely to result in a \$1.5 million dollar shortfall relative to the budget.

Mr. McKay relayed that in conversations with Air District consultants, committees of regulated community members, and environmental advocates, it was universally felt that the Air District would benefit from, and the parties would appreciate, the predictability of an established cost recovery policy with set future increases rather than revisiting it fresh every year. Director Groom mentioned the ongoing Committee discussions regarding the appropriateness and amount of fee increases in light of the current state of the economy and the need to strike a balance between serving the goals of the Air District and those of its regulated community members. Director Hudson and Mr. McKay discussed the responses from industry partners to proposed fee increases and the final cost recovery that is projected to result. Director Ross and Mr. McKay discussed the timeline for further presentation of the fee increase policy and the projected figures to be made available at a future Committee meeting.

Mr. McKay clarified in regards to the Air District's projected budget of reserve funds, that the Air District is dropping below the 15% guidance it had hoped to avoid but that there is an expectation that reserves will remain untapped the fiscal year ending 2013 budget.

Mr. McKay highlighted the projected \$800,000 overage relating to the Information Systems Budget, generated largely by the Air District's work to update the Databank system.

Committee Comments/Questions: None.

Public Comments: None.

Committee Action: None; informational only.

5. Authorize Expenditures for Production System Replacement of Databank

Mr. McKay requested funding authorization for Production System Replacement of Databank, specifically expenditures not to exceed \$450,000 with Vertigo Software and not to exceed \$250,000 with Trinity Technology Group, both for replacement of District legacy software systems.

Committee Comments/Questions: Director Hudson inquired about the nature and portability of the new system. Mr. McKay explained that it includes the software used by Air District engineering and enforcement staff to accomplish their day-to-day work, including permitting and fees and affirmed that it is portable to the new Air District headquarters building. Mr. Hudson inquired about the costs of moving the technology. Mr. McKay responded that the Air District’s contract with the Metropolitan Transportation Commission includes the costs of moving technology and discussions have begun regarding plans for the migration of Air District technology. Director Hudson suggested the possibility of alternative funding or loans. Director Wagenknecht asked if further unexpected expenses relative to the Databank system are likely to emerge or if a thorough look at possible incongruities in facilities has been considered in the lead up to the move. Mr. McKay affirmed that every effort has been made to anticipate those issues and plan accordingly.

Public Comments: None.

Committee Action: A consensus of the members present recommended that the Board of Directors approve the request.

6. Committee Member Comments/Other Business:

Director Groom suggested that after cost recovery matters are resolved in future meetings that the Committee takes up the issue of the Production System, the requirements of the physical move and any technical considerations related to the same. Director Hudson and Mr. McKay discussed the challenges of recruiting the most qualified information technology consultants when not done sooner rather than later.

7. Time and Place of Next Meeting: Wednesday, February 22, 2012, at 939 Ellis Street, San Francisco, CA 94109 at 9:30 a.m.

8. Adjournment: The meeting adjourned at 10:10 a.m.

Sean Gallagher
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Groom and Members
of the Budget and Finance Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: February 9, 2012

Re: Air District Financial Audit Report for Fiscal Year Ending 2011

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

The Independent Auditors' Report confirms that the Air District's financial statements "...present fairly, in all material respects, the respective financial position of the governmental activities and each major fund of the Bay Area Quality Management District as of June 30, 2011, and the respective changes in the financial position, for the year then ended in conformity with accounting principles generally accepted in the United States of America." The report on the basic financial statements is unqualified with no reportable conditions, no instances of non-compliance, and no financial statement findings noted. The Auditors report also included a review of the Air District's internal control over financial reporting and compliance with certain provisions of laws, regulations, contracts, grant agreements, and other areas in accordance with *Government Auditing Standards*.

This year marks the implementation of Governmental Accounting Standards Board (GASB), statement No. 54, "*Fund Balance Reporting and Governmental Fund Type Definitions*." One of the objectives of this statement is to improve financial reporting by providing fund balance classifications and categories that will be more easily understood. This new standard establishes fund balance classifications that comprise a hierarchy based primarily on the extent to which a government is bound to observe constraints imposed upon the use of the resources reported in the governmental funds. The new fund balance categories are as follows:

- *Restricted* - includes amounts that can be spent only for the specific purposes stipulated by constitution, external resource providers, or through enabling legislation.
- *Committed* - includes amounts that can be used only for the specific purposes determined by a formal action of the government's highest level of decision-making authority.
- *Assigned* – includes amounts intended to be used by the government for specific purposes but do not meet the criteria to be classified as restricted or committed.
- *Unassigned* - is the residual classification for the government's general fund and includes all spendable amounts not contained in the other classifications.

The Report on compliance in accordance *with OMB Circular A-133* states “In our opinion, the Air District complied, in all material respects, with the requirements referred to above that are applicable to each of its major federal programs for the year ended June 30, 2011.”

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: David Glasser
Reviewed by: Jack M. Colbourn

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Groom and Members of the
Budget and Finance Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: February 14, 2011

Re: Development of a Cost Recovery Policy

RECOMMENDED ACTION

Recommend that the Board of Directors adopt staff's proposed Cost Recovery Policy.

BACKGROUND

In March 2011, the District's contractor, Matrix Consulting Group, completed an updated Cost Recovery and Containment Study. The Study concluded that fees collected by the District are well below the point of full cost recovery (e.g., for Fiscal Year Ending 2010, fees recovered 62% of program costs). The consultant recommended that the District's Board of Directors "adopt a formalized, District-wide cost recovery policy for the fee services included in this Study. Whenever a cost recovery policy is established at less than 100% of the full cost of providing services, a known gap in funding is recognized and may then potentially be recovered through other revenue sources."

At the December 14, 2011 Budget and Finance Committee meeting, an initial draft Cost Recovery Policy was discussed that would guide the development of future amendments to the District's fee regulation. Elements included in this draft Policy include: (1) the District should continue to implement feasible cost containment measures to ensure that the costs of regulatory program activities are reasonable, (2) the District should continue to analyze the extent to which fee revenue recovers the costs of regulatory program activities, and use this information at a fee schedule level to develop appropriate fee amendments, and (3) as a matter of policy, fees should generally be assessed to fully recover regulatory program activity costs (unless the use of tax revenue is identified in specific instances as being appropriate to cover a portion of costs - e.g., small business discounts on permit applications); in order to move towards this goal, the District should adopt fee amendments over the next five years sufficient to increase overall cost recovery to 90 percent. Staff estimated that overall fee revenue would need to be increased by an average of 6.7 percent per year over the next five years to meet the 90 percent cost recovery goal established in the initial draft Policy (assuming that program activity costs would increase by 2 percent per year).

DISCUSSION

In consideration of input received from the Cost Recovery Policy Stakeholder Advisory Group, staff is proposing to modify the initial draft Cost Recovery Policy to set a goal of achieving 85 percent cost recovery within the next four years (instead of 90 percent cost recovery within the next five years as initially proposed). Staff estimates that overall fee revenue would need to be increased by an average of 6.4 percent per year over the next four years in order to meet this goal (instead of 6.7 percent per year over the next five years as initially proposed).

At the February 22, 2012 Committee meeting, staff requests that the committee take a position to recommend approval of the revised Cost Recovery Policy as proposed by staff (a copy of this Policy follows). The Policy would then be presented for consideration of adoption by the full Board of Directors.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The increased fee revenue that would result from meeting the proposed Cost Recovery Policy's goals would reduce the District's financial risks moving forward in an economic environment that continues to be challenging. Ultimately, the District would also be provided with greater flexibility to use property tax revenue for additional air quality program activities and initiatives that further the District's mission, but that lack a dedicated funding source.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Brian Bateman
Reviewed by: Jeffrey McKay

**COST RECOVERY POLICY FOR BAY AREA AIR QUALITY
MANAGEMENT DISTRICT REGULATORY PROGRAMS**
(DRAFT – 02/14/2011)

PURPOSE

WHEREAS, the District has the primary authority for the control of air pollution from all sources of air emissions located in the San Francisco Bay Area, other than emissions from motor vehicles, in accordance with the provisions of Health & Safety Code sections 39002 and 40000.

WHEREAS, the District is responsible for implementing and enforcing various District, State, and federal air quality regulatory requirements that apply to non-vehicular sources.

WHEREAS, the District's regulatory programs involve issuing permits, performing inspections, and other associated activities.

WHEREAS, the District is authorized to assess fees to regulated entities for the purpose of recovering the reasonable costs of regulatory program activities, and these authorities include those provided for in California Health and Safety Code sections 42311, 42364, and 44380.

WHEREAS, the District's fees fall within the categories provided in Section 1(e) of Article XIII C of the California Constitution, which indicates that charges assessed to regulated entities to recover regulatory program activity costs, and charges assessed to cover the cost of conferring a privilege or providing a service, are not taxes.

WHEREAS, the District has adopted, and periodically amends, a fee regulation for the purpose of recovering regulatory program activity costs, and this regulation with its various fee schedules, is used to allocate costs to fee payers in a manner which bears a fair or reasonable relationship to the payer's burden on, or benefits received from, regulatory activities.

WHEREAS, the District analyzes whether assessed fees result in the collection of sufficient revenue to recover the costs of related program activities; these analyses have included contractor-conducted fee studies completed in 1999, 2005, and 2011, and annual District staff-conducted cost recovery updates completed in 2006 through 2010. Each fee study and cost recovery update completed revealed that District fee revenue falls significantly short of recovering the costs of related program activities.

WHEREAS, the District's most recently completed fee study (*Cost Recovery and Containment Study, Bay Area Air Quality Management District, Final Report, Matrix Consulting Group, March 9, 2011*) concluded that in Fiscal Year Ending (FYE) 2010, the District recovered approximately 62 percent of its fee-related activity costs, resulting in an under-recovery of costs (i.e., a cost recovery gap), and a subsidy to fee payers, of approximately \$16.8 million, and that this cost recovery gap resulted despite the implementation of a number of strategies to contain costs.

WHEREAS, cost recovery analyses have indicated that the District's Fee Schedule P: Major Facility Review Fees, which establishes fees for program activities associated with the Title V permit program, has under-recovered costs by an average of \$3.4 million per year over the period FYE 2004 through FYE 2010.

WHEREAS, the District's Board of Directors has recognized since 1999 that the District's cost recovery gap has been an issue that needs to be addressed, and since that time has adopted annual fee amendments in order to increase fee revenue.

WHEREAS, in addition to fee revenue, the District receives revenue from Bay Area counties that is derived from property taxes, and a large portion of this tax revenue has historically been used on an annual basis to fill the cost recovery gap.

WHEREAS, the tax revenue that the District receives varies on a year-to-year basis, and cannot necessarily be relied on to fill the cost recovery gap and also cover other District expenses necessitating, in certain years, the use of reserve funds.

WHEREAS, tax revenue that the District receives, to the extent that it is not needed to fill the cost recovery gap, can be used to fund initiatives or programs that may further the District's mission but that lack a dedicated funding source.

WHEREAS, it may be appropriate as a matter of policy to establish specific fee discounts for small businesses, green businesses, or other regulated entities or members of the public, where tax revenue is used to cover a portion of regulatory program activity costs, and the District's existing fee regulation contains several fee discounts of this type.

POLICY

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Bay Area Air Quality Management District that:

(1) Cost Containment –In order to ensure that the costs of its regulatory programs remain reasonable, the District should continue to implement feasible cost containment measures, including the use of appropriate best management practices, without compromising the District’s effective implementation and enforcement of applicable regulatory requirements. The District’s annual budget documents should include a summary of cost containment measures that are being implemented.

(2) Analysis of Cost Recovery – The District should continue to analyze the extent to which fees recover regulatory program activity costs, both on an overall basis, and at the level of individual fee schedules. These cost recovery analyses should be periodically completed by a qualified District contactor, and should be updated on an annual basis by District staff using a consistent methodology.

(3) Cost Recovery Goals – It is the general policy of the District, except as otherwise noted below, that the costs of regulatory program activities be fully recovered by assessing fees to regulated entities. In order to move towards this goal, the District should amend its fee regulation over the next four years, in conjunction with the adoption of budgets for Fiscal Year Ending (FYE) 2013 through FYE 2016, in a manner sufficient to increase overall recovery of regulatory program activity costs to 85 percent. Amendments to specific fee schedules should also be made in consideration of cost recovery analyses conducted at the fee schedule-level, with larger increases being adopted for the schedules that have the larger cost recovery gaps. This includes Fee Schedule P: Major Facility Review Fees, which has been determined to under-recover costs by a significant amount. Newly adopted regulatory measures should include fees that are designed to recover increased regulatory program activity costs associated with the measure, unless the Board of Directors determines that a portion of those costs should be covered by tax revenue. Tax revenue should also continue to be used to subsidize existing fee discounts that the District provides (e.g., for small businesses, green businesses, and third-party permit appeals), and to cover the cost of the District’s wood smoke enforcement program.

BE IT FURTHER RESOLVED that this resolution is non-binding in the case of unforeseen financial circumstances, and may also be reconsidered or updated by the District’s Board of Directors.