

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

APPROVED MINUTES

Summary of Board of Directors
Executive Committee Meeting
9:30 a.m., Wednesday, February 15, 2012

1. Call to Order – Roll Call

Chairperson John Gioia called the meeting to order at 10:03 a.m.

Present: Chairperson John Gioia; Vice Chairperson Ash Kalra; Secretary Nate Miley; and Directors Tom Bates, Carole Groom, Scott Haggerty, Mark Ross and Brad Wagenknecht.

Absent: Director John Avalos.

Also Present: None.

2. Public Comment Period: None

3. Approval of Minutes of December 19, 2011

Committee Action: Director Haggerty made a motion to approve the Minutes of December 19, 2011; Director Wagenknecht seconded; carried unanimously without objection.

4. Update on Protocol for Video Conferencing from the Fourth Floor Conference Room

Chairperson Gioia detailed the current protocol adopted by the Board of Directors, allowing video conferencing by Directors at committee meetings when the agenda includes only non-action items. Jack Broadbent, Executive Officer/APCO, indicated that Director Zane, along with several other Directors, have requested reconsideration of the protocol.

Discussion ensued between Chairperson Gioia and staff regarding the facilities and technology currently available in the Air District headquarters building.

NOTED PRESENT: Director Kalra was noted present at 10:07 a.m.

Committee Comments/Discussion: Director Bates moved to amend the protocol to allow a Director to appear regardless of agenda content but not count towards a quorum or vote on action items. Brian Bunker, District Counsel, opined that under the Brown Act the District does not have the authority to create a hybrid role for Directors at public meetings, neither in determining

the form of an appearance nor to what items that appearance will apply. Director Bates withdrew his motion.

Director Kalra suggested the Air District establish routinely noticed, fixed satellite locations, perhaps even putting the onus on remotely appearing members to address the logistics of preparing for individual meetings, noting that it seems to run counter to the Air District's mission to require long distance travel and the resulting emissions in order to appear at often brief meetings.

Director Wagenknecht proposed that the public exchange is lost in some intangible way by allowing remote appearances. Director Haggerty agreed with Director Wagenknecht, proposed the protocol remain unchanged despite the valid vehicle emissions concern, and added that remotely attending meetings subject to the Brown Act is not something he would recommend.

Director Ross said that there are arguments for both requiring physical attendance and allowing video conferencing, noting that videoconferencing is undeniably the wave of the future but also that there are no rules or policies in place by the State of California, making meetings in that environment doomed to chaos from the outset.

Director Gioia asked for clarification regarding how public requests to speak from remote locations would be handled. Mr. Bunger clarified that no notice of public meeting was posted at remote locations for today so there would not be any requests to speak. Director Haggerty reminded the Committee of past issues with poor public interaction via videoconferencing.

Director Groom proposed that the protocol remain unchanged as there is an implied commitment for Directors to be physically present for the meetings. Director Kalra made a counter proposal to require that perhaps the officers of a committee, or another established subset of a committee, be physically present and technology exists to address other issues as they surface. Director Kalra noted that members of his constituency do not appear at committee meetings and suggested the travel as a contributing factor, an issue that would be alleviated by establishing satellite locations, thereby expanding the Air District's audience and public outreach.

Director Bates proposed that the protocol remain unchanged for the time being but joined in Director Kalra's suggestion that the Air District take action in researching the possibilities to enable videoconferencing in the future. Director Ross expressed his agreement with Director Bates. Chairperson Gioia summarized the majority sentiment, suggesting that Director Kalra and another Director collaborate with Air District staff in adopting the active research role regarding future amendments.

Director Haggerty suggested that deep ground rules detailing the proper conduct of a meeting be well established prior to going live, that satellite locations must exist within each of the nine counties under the Air District's jurisdiction, and that the Air District will have to work with those local governments to ensure the necessary technology is made available to them. Chairperson Gioia suggested that the nature of the topics up for vote may need to be considered on a case-by-case basis.

Director Ross stated that the Joint Policy Committee (JPC) may be a good partner in this project as its member organizations are regional agencies that are likely dealing with this individually. Chairperson Gioia related his experience with a health board that allowed videoconferencing and the issues they confront. Director Kalra expressed his doubt about the wisdom of involving JPC at this stage, suggesting instead that the Air District would be better served by implementing this first and then getting feedback from JPC instead.

Director Groom relayed her sense of disconnect from and lack of rapport in a recent California State Association of Counties in which she appeared remotely.

Director Bates volunteered to work with Director Kalra in collaboration with staff on the ongoing research of this topic and noted that public transportation has proven effective for his needs.

Public Comments: None.

Committee Action: Chairperson Gioia restated as the final decision of the Committee that the protocol will remain unchanged at this time and Directors Kalra and Bates will collaborate with Air District staff in active research regarding future amendments.

5. Status Report on Regional Agency Headquarters (RAHQ) Project

Mr. Broadbent introduced Jeffrey McKay, Deputy Air Pollution Control Officer, who gave the staff presentation Status Report on Regional Agency Headquarters (RAHQ) Project, including a review of the project history to date and a general description of the acquisition details, the financing terms, and the next steps in the project.

Mr. McKay noted, regarding slide 4, Air District Participation General Description, that a small lab space is included in addition to the approximately 62,500 square feet of fully furnished space and that with little difference in total costs, the Air District will enjoy an improved location with brand new facilities.

Mr. McKay suggested, regarding slide 6, Building Purchase Financing, that the Certificate of Participation Financing works to effectively create a lease stream that the building owner will buy.

Mr. Broadbent noted that he reached out to the Bay Area Headquarters Authority (BAHA) to relay the request for Board representation in the Air District's planning discussions with BAHA, as requested at the Air District's Board of Directors meeting on January 18, 2012.

Committee Comments/Questions: Director Haggerty recalled the discussion regarding all the Bay Area regional agencies residing within one facility and noted that the Association of Bay Area Governments (ABAG) needs to also be housed within the same building, suggesting that the Air District Chairperson direct a letter to ABAG requesting reconsideration of ABAG's vote on the matter.

Chairperson Gioia relayed his experience at ABAG and the need for relationship building between the ABAG and MTC. Mr. Broadbent shared that he has mentioned this with his counterparts at ABAG and MTC and been informed that there are ongoing discussions. Director Wagenknecht concurred with Chairperson Gioia and suggested that perhaps the Air District leadership could assist in advancing these discussions.

Director Ross asked for clarification regarding Air District payment of a proportional share of common area expense assessments, whether accommodations are being made for the Air District's likely disproportionate parking needs, and the meaning of "fully furnished." Mr. Broadbent responded that the Air District will be paying a proportional share, that the Air District will likely have to secure additional parking on its own and the furniture is not free to the District. Mr. McKay elaborated on the use of "fully furnished" in the presentation, noting that the cost of furniture is included in the purchase price to take advantage of the MTC's subject matter expertise and an optimal economy of scale. Director Ross replied that technology to enable videoconferencing should be considered for inclusion and suggested that perhaps the MTC should take the lead, again noting the persistent question of whether these regional agencies should continue on as separate agencies. Director Haggerty agreed with Director Ross and urged further discussion of the details with ABAG. Chairperson Gioia observed that a meaningful discussion about getting more parties at the table is an important one. Director Ross suggested in response to Director Haggerty's comment, a letter to ABAG which advocates for a merger of the agencies. Director Haggerty pointed out that the correct response may be to play the role of reconciliator. Director Bates volunteered to put the development of dialogue on the JPC Executive Chair agenda. Directors Bates and Haggerty discussed the proposed approach, with Director Haggerty suggesting ABAG be notified of the JPC agenda and that more of the JPC should be involved in this dialogue instead of limiting it to a few people.

Mr. Broadbent confirmed with the Committee that Air District staff will be moving forward with the project as detailed, noted that the financing package will eventually be agendaized for the Board of Directors, and confirmed that a briefing of the topic in general will be provided at the next Board of Directors meeting.

Public Comments: None.

Committee Action: None; informational only.

CLOSED SESSION

The Committee adjourned to Closed Session at 10:50 a.m.

6. EXISTING LITIGATION (Government Code Section 54956.9(a))

Pursuant to Government Code Section 54956.9(a), a need existed to meet in closed session with legal counsel to consider the following case:

California Building Industry Association v. Bay Area AQMD, Alameda County Superior Court, Case No. RG-10548693

OPEN SESSION

The Committee resumed to Open Session at 11:17 a.m.

7. **Time and Place of Next Meeting:** Monday, March 19, 2012, at 939 Ellis Street, San Francisco, CA 94109 at 9:30 a.m.
8. **Adjournment:** The meeting adjourned at 11:18 a.m.

151 Sean Gallagher

Sean Gallagher
Clerk of the Boards