

Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109
(415) 749-5073

Board of Directors Regular Meeting
Wednesday, March 20, 2013

APPROVED MINUTES

CALL TO ORDER

Chairperson Ash Kalra called the meeting to order at 10:08 a.m.

ROLL CALL

Present: Chairperson Ash Kalra; Vice-Chairperson Nate Miley; Secretary Carole Groom; and Directors Susan Adams, John Avalos, Tom Bates, Teresa Barrett, John Gioia, Scott Haggerty, David Hudson, Liz Kniss, Eric Mar, Jan Pepper, Mark Ross, Jim Spering, Brad Wagenknecht and Shirlee Zane.

Absent: Directors Carol Klatt, Edwin Lee, Mary Piepho, Tim Sbranti and Ken Yeager.

PLEDGE OF ALLEGIANCE

Chairperson Kalra led the Pledge of Allegiance.

OPENING COMMENTS: None.

PUBLIC COMMENT ON NON-AGENDA MATTERS: None.

CONSENT CALENDAR (ITEMS 1 – 6)

- 1. Minutes of the Board of Directors Regular Meeting of March 6, 2013;**
- 2. Board Communications Received from March 6, 2013, through March 19, 2013;**
- 3. Notice of Violations Issued and Settlements in Excess of \$10,000 in February 2013;**
- 4. Referral of Proposed Budget for Fiscal Year Ending 2014 to the Budget and Finance Committee;**
- 5. Contractor Selection for the Development of a Plug-In Electric Vehicle Readiness Plan for the Monterey Bay Area; and**
- 6. Set a Public Hearing for April 17, 2013, to Consider Adoption of Proposed Regulation 12, Rule 13: Foundry and Forging Operations; Regulation 6, Rule 4: Metal Recycling and Shredding Operations; Amendments to Regulation 2, Rule 1: Permits, General Requirements and approval of a California Environmental Quality Act Negative Declaration.**

Board Comments: None.

Public Comments: None.

Board Action: Director Haggerty made a motion to approve Consent Calendar Items 1, 2, 3, 4, 5 and 6; Director Sperring seconded; and the motion carried unanimously.

COMMITTEE REPORTS AND RECOMMENDATIONS

7. Report of the Personnel Committee Meeting of March 11, 2013

Committee Chairperson Wagenknecht

The Personnel Committee met on Monday, March 11, 2013, and approved the minutes of February 11, 2013.

The Personnel Committee met in closed session to conduct a performance evaluation of the Executive Officer/Air Pollution Control Officer (APCO) with no reportable action. The Personnel Committee Chair will brief the Board of Directors on the evaluation during today's closed session.

The Personnel Committee received the Hearing Board Interview summary material for the professional engineer and medical profession categories, conducted interviews of applicants for each, and recommends Board of Directors' approval of the appointments to the Air District's Hearing Board of Gilbert Bendix for the principal professional engineer category and Nicholas van Haeften for the alternate professional engineer category, effective immediately, and Peter Chiu for the principal medical profession category and Lisa Thompson for the alternate medical profession category, effective April 15, 2013.

The next meeting of the Personnel Committee is on Monday, April 22, 2013, at 9:30 a.m.

Board Comments: None.

Public Comments: None.

Board Action:

Director Wagenknecht made a motion to approve the report of the Personnel Committee; Director Adams seconded; and the motion carried unanimously.

8. Report of the Legislative Committee Meeting of March 14, 2013

Committee Chairperson Bates

The Legislative Committee met on Thursday, March 14, 2013, and approved the minutes of March 21, 2012, and December 3, 2012.

The Legislative Committee received an update on the Air District's legislative agenda of which there are two primary components. The first is passing legislation to reauthorize critical air quality funding programs due to expire in the next several years, including the Carl Moyer and Assembly Bill (AB)

923 programs. Senate Bill (SB) 8 (Perea and Skinner) and SB 11 (Pavley and Rubio) would reauthorize these programs. The second is to sponsor legislation in response to the August 6, 2012, fire at the Chevron Richmond refinery. SB 691 (Hancock) would encourage compliance by establishing higher penalty ceilings for one-day incidents that disrupt communities. The Committee recommends the Board of Directors approve the following positions:

AB 8 Perea & Skinner: Support
SB 11 Pavley & Rubio: Support; and
SB 691 Hancock: Support.

The Legislative Committee discussed new bills, and is recommending the following positions to the Board of Directors.

AB 794 Gorell: Oppose
AB 818 Blumenfield: Oppose
AB 866 Lindner: Oppose
AB 953 Ammiano: Support
AB 1077 Muratsuchi: Support
AB 1193 Ting: Support in concept
SB 454 Corbett: Support in concept
SB 621 Gaines: Oppose
SB 736 Wright: Oppose
SB 760 Wright: Oppose; and
SB 792 DeSaulnier: No position.

The Legislative Committee discussed the timing of the proposed delegation visit to Sacramento and will work with Chair Kalra.

The next meeting of the Legislative Committee is at the call of the Chair.

Board Action:

Director Bates made a motion to approve the report and recommendations of the Legislative Committee and Director Wagenknecht seconded.

Public Comments: None.

Board Comments:

At the request of the Board, Jack Broadbent, Executive Officer/APCO, provided an explanation of the staff recommendation regarding AB 794 Gorrell.

Director Spering asked why exceptions do not exist for remotely cited facilities, which question was answered by Mr. Broadbent.

Board Action:

Director Bates made an amended motion to approve the report and recommendations of the Legislative Committee, excluding AB 794 Gorrell and AB 953 Ammiano; Director Wagenknecht seconded; and the motion carried unanimously.

Director Hudson suggested a watch position on both AB 794 Gorrell and AB 953 Ammiano.

Director Bates made a motion to adopt an oppose position on AB 794 Gorrell; Director Adams seconded; and the motion carried, with Director Spering voting no.

Director Bates made a motion to adopt a support position on AB 953 Ammiano; Director Groom seconded; and the motion carried, with Directors Hudson and Haggerty voting no.

Director Haggerty noted that a “no” vote is the only option under the current Administrative Code for a Director who wants an abstention not be counted as a vote for the majority outcome and asked staff to consider an amendment to the same.

9. Report of the Climate Protection Committee Meeting of March 14, 2013
Committee Chairperson Avalos

The Climate Protection Committee met on Thursday, March 14, 2013, and postponed approval of the minutes of October 31, 2011, and April 16, 2012, for lack of a quorum.

The Climate Protection Committee received an informational staff presentation on collaboration with the California Air Resources Board on Climate Change, including the air districts’ roles in Cap and Trade compliance, revision of the AB 32 Scoping Plan, adaptive management, program implementation assessments, greenhouse gas (GHG) data management and next steps.

The Climate Protection Committee then received a staff presentation regarding approval of additional ConocoPhillips GHG Reduction Grant Program (GGRGP) project components. The Climate Protection Committee reviewed the program background, status of funds awarded, a summary of projects remaining on a Board approved contingency list and a request for expansion of that contingency list. A consensus of the members present at the Climate Protection Committee meeting supported staff’s recommendation for the Board of Directors to:

1. Allocate an additional up to \$435,907 in GGRGP derived funds;
2. Approve the addition of 17 GGRGP contingency project components listed in Attachment C;
and
3. Authorize the Executive Officer/APCO to execute all contracts and contingencies to expend the funding for the recommended GGRGP contingency project components listed in Attachment C.

The Climate Protection Committee also received a staff presentation on the California Air Pollution Control Officers Association GHG Reduction Exchange, including an overview of the reasons for and functions of the exchange and how the Air District participates in the exchange.

The next meeting of the Climate Protection Committee is at the call of the Chair.

Board Action:

Director Avalos made a motion to approve the report of the Climate Protection Committee and consensus of the members present at the Climate Protection Committee meeting and Director Adams seconded.

Board Comments:

Director Zane noted the lack of quorum and inquired about the Board policy relating to participating in meetings remotely via telephone or videoconferencing. The Board discussed the history and current status of the policy.

Public Comments: None.

Board Action: The motion carried unanimously.

10. Report of the Stationary Source Committee Meeting of March 28, 2013
Committee Chairperson Avalos

The Stationary Source Committee met on Monday, March 18, 2013, and approved the minutes of September 17, 2012.

The Stationary Source Committee received the staff presentation Update on Work Plan – Action Items Related to Accidental Releases from Industrial Facilities, including status updates regarding the seven key action categories of investigation, procedures, air quality monitoring, rule development, community outreach, legislation and resource needs.

The Stationary Source Committee received the staff presentation Proposed Rules 12-13: Foundry & Forging Operations and 6-4: Metal Recycling & Shredding Operations, including overview, background, an explanation of the two rules approach, overviews of foundry and forge and metal recycling and shredding operations and emissions, recent facility improvements, a summary of the proposed rules, emissions reductions, costs, the rule development process and next steps.

The next meeting of the Stationary Source Committee is Monday, April 15, 2013, at 10:30 a.m.

Director Gioia made a motion to approve the report of the Stationary Source Committee and Director Wagenknecht seconded.

Board Comments:

Director Spring requested, and Director Gioia and Mr. Broadbent provided, clarification regarding the direction to staff on outreach in the rule development process.

Public Comments: None.

Board Action: The motion carried unanimously.

PRESENTATION

11. Overview of the 2012/2013 Wood Smoke Reduction Program

Mr. Broadbent introduced the topic and Eric Stevenson, Director of Technical Services, who gave the staff presentation Overview of the 2012-13 Winter Spare the Air Season, including the benefits of fine particulate matter reductions, progress and trends, impacts of meteorology and forecasting, an enforcement overview, summary of local partnerships and outreach efforts, examples of media coverage, and public response.

Director Zane asked, regarding slide #5, Meteorology & Progress, why the Santa Rosa location is the only site included, which questions were answered by Mr. Stevenson.

Director Gioia noted, regarding slide #5, Meteorology & Progress, the downward trend before 2008 and asked staff to explain, which explanation was provided by Mr. Stevenson. Director Ross noted the wood smoke penalties were not imposed until 2008 but that a non-penalty program existed before that time.

Mr. Stevenson continued the presentation.

Chairperson Kalra asked, regarding slide #7, Wood Smoke Enforcement, for information about the available exemptions, which explanation was provided by Mr. Stevenson.

Director Miley asked, regarding slide #7, Wood Smoke Enforcement, for an explanation of the jump in violations from 2010-11 to 2011-12, which explanation was provided by Mr. Stevenson.

Director Zane asked, regarding slide #7, Wood Smoke Enforcement, for information about the wood smoke school program, which was provided by Brian Bunger, District Counsel. Chairperson Kalra asked that any information available on the wood smoke school program be forwarded to the full Board of Directors.

Director Miley asked, regarding slide #7, Wood Smoke Enforcement, for information relative to the amounts and locations of the fines imposed for the 178 violations listed, which information was provided by Messrs. Bunger and Stevenson and Wayne Kino, Director of Compliance and Enforcement.

Director Kniss asked, regarding slide #7, Wood Smoke Enforcement, about whether the Air District continues to receive multiple, repeated complaints by one individual about another, which question was answered by Mr. Kino.

Director Adams asked about the appeal rights built in to the notice of violation process, which questions were answered by Mr. Bunger.

Director Zane asked for an explanation about a seeming lack of correlation between the number of complaints and violations, which question was answered by Mr. Kino.

Mr. Stevenson concluded the presentation.

Director Adams made introductory comments regarding an outreach video made by and for Marin County. The video was played for the Board.

Board Comments:

Director Gioia asked for more information relative to outreach efforts being made to non-English speaking communities.

Director Ross noted the violations are not abundant in regions traditionally known to have diverse non-English speaking communities and asked if the outreach effort may need to focus on other obstacles to understanding, which question was answered by Mr. Bunger.

Public Comments:

Fred Mundy addressed the Board regarding the lack of enforcement relative to existing opacity limits, the inadequacy of the voice recognition report system, the lack of a natural gas/propane exemption, the ineffectiveness of the program and the need for improving the navigability of the Air District website.

Andres Kislik addressed the Board regarding the underwhelming response to his repeated complaints about a troublesome neighbor, the commendable progress made to date, and to request improved enforcement efforts.

Susan Goldsborough, Families for Clean Air, addressed the Board regarding the results of a recent survey of Forest Knolls and to encourage enforcement of the existing opacity limits.

Tracey Grant, Families for Clean Air, addressed the Board regarding the contribution of wood smoke to climate change and to urge for the further curtailing of residential wood burning.

Patricia Weisselberg, Families for Clean Air, addressed the Board regarding the focus of the wood smoke program on Spare the Air Days instead of opacity limits and urged for implementation of an altered approach.

Beverly Wood, Families for Clean Air, addressed the Board to suggest that the entire program be revamped.

J. Haden Werhan addressed the Board to present a video of a neighbor violator, to commend the Air District efforts to date and to request additional assistance with the neighbor violator.

Victoria Werhan addressed the Board to echo the comments and requests of Mr. Werhan and to request the Air District conduct a site visit, provide an update on program plans for the future and to reconsider the structure of the program, as it serves to pit neighbors against each other as they attempt to impose, and defend against, the rule.

Mr. Broadbent relayed to the Board that staff will investigate those situations described today, noted that the program was created for a large and diverse region, and said the Air District needs the assistance of the cities and counties if it is going to have an effect on those isolated hot spots throughout the region. Chairperson Kalra noted that local ordinances provide greater enforcement capabilities and urged the Board to look at how best their own cities and counties might help.

Director Gioia suggested this may present an opportunity for Air District staff to work with local public health agencies, perhaps in shaping a model ordinance for existing structures, to which Mr. Broadbent responded.

Director Bates asked if the Air District may delegate enforcement authority to local agencies, which question was answered by Mr. Bunger. Director Bates suggested the Air District research how best to enable this delegation.

Director Zane said it is important for the Air District to reach out to, and work with, local enforcement partners, suggested the Board and its Committees keep enforcement needs in mind during the budget cycle, and said staff should review the available exemptions.

Director Hudson echoed the comments of his colleagues and said the Air District needs to take up opacity; noted studies which continue to show a disconnect in the public mind about the health effect of wood burning, much like there was initially for secondhand smoke; urged cities and counties to enact ordinances; and asked staff to consider a grant program to extend natural gas/propane retrofits as far as possible.

Director Ross said the budget includes the enforcement consideration mentioned by Director Zane, requested that staff act on the complaints aired today and asked if there is a public nuisance law that applies, which question was answered by Mr. Bunger. Mr. Kino clarified that garbage burning, as opposed to wood burning, is a violation regardless of opacity or the calling of Winter Spare the Air Alerts.

Director Pepper asked about the existence of grant programs that might be able to direct resources at this issue, which question was answered by Mr. Broadbent. Jean Roggenkamp, Deputy APCO, noted that staff is already conducting this search.

Director Sperring suggested staff develop a legal assistance program to support the victims of egregious behavior.

Director Bates asked about the Air District's authority to apply more localized standards, which questions were answered by Mr. Broadbent.

Board Action: None; informational only.

CLOSED SESSION

The Board adjourned to Closed Session at 12:03 p.m.

12. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957 and 54957.6)

Pursuant to Government Code Sections 54957 and 54957.6, the Board met in closed session to discuss the performance evaluation of the Executive Officer conducted at the Personnel Committee meeting on March 11, 2013.

OPEN SESSION

The Board resumed Open Session at 12:20 p.m. with no reportable action.

PUBLIC COMMENT ON NON-AGENDA MATTERS: None.

BOARD MEMBERS' COMMENTS: None.

OTHER BUSINESS

13. Report of the Executive Officer/APCO: None.

14. Chairperson's Report:

Chairperson Kalra congratulated Directors Avalos and Mar on their reappointments to the Board, announced the cancellation of the Board meeting on April 3, 2013, and directed interested members of the Board to contact staff regarding attending the annual conference of the Air & Waste Management Association.

15. Time and Place of Next Meeting: Wednesday, April 17, 2013, Bay Area Air Quality Management District Office, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.

16. Adjournment: The Board meeting adjourned at 12:22 p.m.

151 Sean Gallagher

Sean Gallagher
Clerk of the Boards