

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

Board of Directors Regular Meeting
Wednesday, April 17, 2013

APPROVED MINUTES

CALL TO ORDER

Chairperson Ash Kalra called the meeting to order at 9:50 a.m.

ROLL CALL

Present: Chairperson Ash Kalra; Secretary Carole Groom; and Directors Susan Adams, John Avalos, Teresa Barrett, Tom Bates, John Gioia, David Hudson, Carol Klatt, Liz Kniss, Eric Mar, Jan Pepper, Mary Piepho, Mark Ross, Tim Sbranti, Brad Wagenknecht and Shirlee Zane.

Absent: Vice-Chairperson Nate Miley; and Directors Scott Haggerty, Edwin Lee, Jim Spring and Ken Yeager.

PLEDGE OF ALLEGIANCE

Chairperson Kalra led the Pledge of Allegiance.

OPENING COMMENTS: None.

PUBLIC COMMENT ON NON-AGENDA MATTERS: None.

NOTED PRESENT: Director Piepho was noted present at 9:52 a.m.

CONSENT CALENDAR (ITEMS 1 – 7)

- 1. Minutes of the Board of Directors Regular Meeting of March 20, 2013;**
- 2. Board Communications Received from March 20, 2013, through April 16, 2013;**
- 3. Air District Personnel on Out-of-State Business Travel;**
- 4. Notice of Violations Issued and Settlements in Excess of \$10,000 in March 2013;**
- 5. Approval of Board Members to Attend the Air & Waste Management Association 106th Annual Conference & Exhibition; and**
- 6. Set a Public Hearing for May 1, 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 (CEQA) Negative Declaration; and**

7. Notice of Proposed Amendments to the Air District’s Administrative Code Division I: Operating Policies and Procedures for the Board of Directors – Section 5.4 Failure to Vote.

Board Comments:

Agenda Item #7, Notice of Proposed Amendments to the Air District’s Administrative Code Division I: Operating Policies and Procedures for the Board of Directors – Section 5.4 Failure to Vote, was removed from the consent calendar for consideration.

Public Comments: None.

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

7. Notice of Proposed Amendments to the Air District’s Administrative Code Division I: Operating Policies and Procedures for the Board of Directors – Section 5.4 Failure to Vote.

Brian Bunger, District Counsel, delivered the staff report Notice of Proposed Amendments to the Air District’s Administrative Code Division I: Operating Policies and Procedures of the Board of Directors – Section 5.4 Failure to Vote.

Board Comments:

Chairperson Kalra suggested the sentence, “It shall be the duty of the Directors to vote when present,” or a version thereof, be retained in the final version of the revised Administrative Code. Director Hudson agreed.

Director Piepho asked about the effect of a vote for abstention on one’s right to request reconsideration and whether that effect should be explicitly stated, which questions were answered by Mr. Bunger.

The Board directed staff to agendaize the item for discussion at Executive Committee and to proceed with the proposed Administrative Code change regarding elimination of the failure to vote provision.

Public Comments: None.

Board Action: Director Hudson made a motion to move forward staff’s recommendation regarding Notice of Proposed Amendments to the Air District’s Administrative Code Division I: Operating Policies and Procedures for the Board of Directors – Section 5.4 Failure to Vote, as amended with direction to staff to draft a provision that explicitly states the duty of the Directors to vote when present and the effect of an abstention vote on one’s right to request reconsideration; Director Piepho seconded; and the motion carried unanimously.

NOTED PRESENT: Director Kniss was noted present at 9:59 a.m.

COMMITTEE REPORTS AND RECOMMENDATIONS

8. Report of the Public Outreach Committee Meeting of March 21, 2013

Committee Chairperson Ross

The Public Outreach Committee met on Thursday, March 21, 2013, and approved the minutes of October 31, 2012.

The Public Outreach Committee received and considered the staff presentation Contract for Website Maintenance & Routine Upgrades and recommends the Board authorize the Executive Officer/Air Pollution Control Officer (APCO) to execute a one-year contract with Cylogy, Inc., not to exceed \$110,000 for website maintenance and routine upgrades.

The Public Outreach Committee received the staff presentation Public Participation Plan Update, including the key elements, regional workshops schedule, supplemental outreach efforts and next steps. Public Outreach Committee members noted that the Public Participation Plan should include a simple guide to engaging with the Air District for easy reference.

The Public Outreach Committee received the staff presentation 2013 Spare the Air Campaign, including overviews of creative concepts, social media utilization, media relations, the Bay Area Commuter Benefits Program and next steps.

The Public Outreach Committee received and considered the staff presentation Funding Approval for Spare the Air Campaigns and recommends the Board authorize the Executive Officer/APCO to execute a contract amendment for year two of the contract with O'Rorke, Inc., in the amount of \$1,990,000 for Advertising, Communications & Evaluation Services for the Spare the Air Campaign.

The next meeting of the Public Outreach Committee is at the call of the Chair.

NOTED PRESENT: Director Zane was noted present at 10:03 a.m.

Board Comments: None.

Public Comments: None.

Board Action:

Director Ross made a motion to approve the report and recommendations of the Public Outreach Committee; Director Wagenknecht seconded; and the motion carried unanimously.

9. Report of the Budget and Finance Committee Meeting of March 27, 2013

Committee Chairperson Groom

The Budget and Finance Committee met on Wednesday, March 27, 2013, and approved the minutes of February 27, 2013.

The Budget and Finance Committee received the staff presentation on the Draft Amendments to Regulation 3, Fees, including an overview of revenue sources in the Fiscal Year End (FYE) 2013 Budget, an explanation of the background and current cost recovery policy, proposed changes to fee schedules, impact on small businesses, proposed online customer interface, incident response and open burning fees, public comments and the rule development schedule. The Budget and Finance Committee directed staff to develop alternate fee proposals for further Committee consideration and discussion.

The Budget and Finance Committee received and discussed the staff presentation on the Proposed FYE 2014 Budget. The Budget and Finance Committee reviewed the status of the current FYE 2013, an overview of the revenue and expenditure forecast for FYE 2014, a summary of personnel costs and vacancy distribution, a review of strategic staffing principles and implementation, and trending in Air District reserve funds. The proposed budget is a balanced budget without the use of reserves, and includes the filling of twelve vacant staff positions and an increase in the Other Post-Employment Benefits contribution to \$2.5 million.

The Budget and Finance Committee received the presentation on the Disposition Strategy/Marketing Plan for 939 Ellis Street, by real estate broker Cassidy Turley, including a market and site overview and a summary of the marketing plan and schedule.

The next meeting of the Budget and Finance Committee is Wednesday, April 24, 2013, at 9:30 a.m.

Public Comments: None.

Board Comments: None.

Board Action:

Director Groom made a motion to approve the report of the Budget and Finance Committee; Director Adams seconded; and the motion carried unanimously.

10. Report of the Mobile Source Committee Meeting of March 28, 2013

Committee Chairperson Haggerty (as delivered by Committee Vice-Chairperson Piepho)

The Mobile Source Committee met on Thursday, March 28, 2013, and upon establishing a quorum, approved the minutes of February 21, 2013.

The Mobile Source Committee received an update on the Regional Bicycle Share Pilot Project, including overview, central concepts of bicycle sharing, bicycle and station specifications, pilot project background, goals and objectives, milestones and timeline, bike share agreement, safety measures, estimated costs and next steps.

The Mobile Source Committee then reviewed projects with proposed grant awards over \$100,000 and recommends Board approval of four projects for the replacement of off-road diesel powered loaders, two in Sonoma County and one each in Marin and Napa counties.

The Mobile Source Committee also reviewed the Participation in California Goods Movement Bond Program (I-Bond) Year 4 and recommends the Board:

1. Adopt a resolution in support of the Air District's application for I-Bond funding;
2. Authorize the Executive Officer/APCO to enter into agreements with the California Air Resources Board (ARB) related to the acceptance of I-Bond funding; and
3. Authorize the Executive Officer/APCO to enter into agreements with eligible applicants for projects ranked and approved by the ARB.

The next meeting of the Mobile Source Committee is on Thursday, April 25, 2013, at 9:30 a.m.

Board Comments: None.

Public Comments: None.

Board Action:

Director Piepho made a motion to approve the report and recommendations of the Mobile Source Committee; Director Hudson seconded; and the motion carried unanimously.

PRESENTATIONS

11. Sustainable Community Strategy Update

Jean Roggenkamp, Deputy APCO, introduced the topic, Henry Hilken, Director of Planning, Rules and Research, Miriam Chion, Planning and Research Director, Association of Bay Area Governments (ABAG), and Ken Kirkey, Director of Planning, Metropolitan Transportation Commission (MTC).

Mr. Hilken gave the staff presentation Sustainable Communities Strategy Update, including a summary of Senate Bill (SB) 375 and Plan Bay Area (Plan), review of engagement by the Air District and next steps.

NOTED PRESENT: Director Sbranti was noted present at 10:11 a.m.

Director Adams asked about the impact of proposed changes to the California Environmental Quality Act and its application, which questions were answered by Mr. Hilken.

Ms. Chion gave the initial presentation Draft Plan Bay Area Presentation through slide 16, Regional Growth Strategy Focused Growth, including regional targets, plan development process, growth trends and growth strategy.

Mr. Kirkey gave the remainder of the presentation, including investments, plan goals and remaining milestones.

Board Comments:

Director Kniss asked about the penalties for cities that do not meet the targets, which questions were answered by Ms. Chion.

Director Kniss and Mr. Kirkey discussed the merits of a 40-year prediction model.

Director Kniss and Ms. Chion discussed the challenges of adding housing in the designated areas.

Director Gioia suggested the next round of Sustainable Communities Strategy meetings include ABAG, MTC, Air District and the San Francisco Bay Conservation and Development Commission.

Director Ross asked if increases in casual carpooling and telecommuting count towards the achievement of targets under the Plan, which question was answered by Mr. Kirkey.

Director Hudson encouraged all those involved not to lose sight of the mandated targets.

Director Adams said the size of the document proves prohibitive to most public involvement, predictions ignore developing transportation technology, and projections continue to assume a largely unaffected gas tax revenue for road maintenance when vehicles will no longer rely on gasoline as they have in the past. Mr. Kirkey and Director Adams discussed the same, the seeming conundrum of increased urban infill and improved air quality, and plan timelines.

Director Bates said the Plan does not prevent or circumvent local planning and asked if there are any instructive lawsuits on the topic, which question was answered by Mr. Kirkey. Director Bates noted that 40 years is a long time, demographics will change drastically during that time and the City of Berkeley is working on enabling property owners to build small residential cottages behind existing residences as a matter of right.

Director Sbranti said there is concern about local control of planning processes and asked how transportation resources will be affected for those communities that are unable to meet the established goals, which questions were answered by Mr. Kirkey. Director Sbranti asked how contributions by the counties around the circumference of the Bay Area were taken into account during the development of the Plan, which questions were answered by Ms. Chion. Director Sbranti said it is important to look at ways to encourage jobs creation in the surrounding counties as well.

Director Hudson asked what portion of the state-wide reductions the Bay Area is responsible for, which question was answered by Ms. Roggenkamp.

Public Comments: None.

Board Action: None; informational only.

12. Status Report on 939 Ellis Street Disposition

Jeffrey McKay, Deputy APCO, gave the staff presentation Status Report on 939 Ellis Street Disposition, including a summary of the presentation by broker Cassidy Turley and considerations involved.

Mr. McKay introduced Ric Russell, Managing Partner, Cassidy Turley Northern California, who made introductory comments and Tom Christian, Partner, who gave the presentation Disposition Strategy/Marketing Plan for 939 Ellis Street, including a market and site overview and a summary of the marketing plan and schedule.

Board Comments:

Chairperson Kalra asked about the likely fate of the building after sale, which questions were answered by Messrs. Christian and Russell.

Director Adams asked about the structure of the broker payment, the nature of the sales budget and for information on fire funds, which questions were answered by Messrs. Christian, Russell and McKay.

Public Comments: None.

Board Action: None; informational only.

CLOSED SESSION

The Board adjourned to Closed Session at 11:42 a.m.

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

Pursuant to Government Code Section 54956.9(a), a need existed for the Board 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; California Court of Appeal, First Appellate District, Case No. A135335.

OPEN SESSION

The Board resumed Open Session at 11:46 a.m. with no action reported.

PUBLIC COMMENT ON NON-AGENDA MATTERS: None.

BOARD MEMBERS' COMMENTS: None.

OTHER BUSINESS

14. Report of the Executive Officer/APCO:

Mr. McKay announced the end of the wood smoke season and that the Spare the Air season will kick off in May, that a round of workshops will begin next week regarding the refinery emissions tracking rule and that the first public hearings, both on the proposed budget and the adoption of proposed regulations, are set for May 15, 2013. Director Adams asked if fees for burning will be included, which question was answered by Mr. McKay.

15. Chairperson's Report:

Chairperson Kalra announced the launch of videoconferencing capability, beginning with the Budget and Finance Committee meeting on April 24, 2013. The Board discussed the plan for and pace of adding additional remote sites as well as future committee meetings with videoconferencing capability.

16. Time and Place of Next Meeting: Wednesday, May 1, 2013, Bay Area Air Quality Management District Office, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.

17. Adjournment: The Board meeting adjourned at 11:50 a.m.

15/ Sean Gallagher

Sean Gallagher
Clerk of the Boards