

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

Board of Directors Regular Meeting
Wednesday, March 18, 2015

APPROVED MINUTES

Note: Audio and video recordings of the meeting are available on the website of the Bay Area Air Quality Management District at <http://www.baaqmd.gov/The-Air-District/Board-of-Directors/Agendas-and-Minutes.aspx>.

1. CALL TO ORDER

Chairperson Carole Groom called the meeting to order at 9:46 a.m.

Opening Comments: None.

Roll Call:

Present: Chairperson Carole Groom; Vice-Chairperson Eric Mar; Secretary Liz Kniss; and Directors John Avalos, Teresa Barrett, Tom Bates, David J. Canepa, Cindy Chavez, Margaret Fujioka, John Gioia, David Hudson, Roger Kim (on behalf of Edwin Lee), Nate Miley, Karen Mitchoff, Katie Rice, Mark Ross, Rod Sinks, Brad Wagenknecht and Shirlee Zane.

Absent: Directors Scott Haggerty, Jan Pepper and Jim Spering.

Pledge of Allegiance: Chairperson Groom led the Pledge of Allegiance.

2. PUBLIC COMMENT ON NON-AGENDA MATTERS:

Rhoda Fry submitted photographic material and addressed the Board of Directors (Board) regarding Air District enforcement activities at Lehigh Southwest Cement Company facility in Cupertino (Lehigh), to follow up on a request for production data relative to Lehigh and to request the installation of modern pollution controls at the East Materials Storage area of Lehigh.

NOTED PRESENT: Director Fujioka was noted present at 9:49 a.m.

Chairperson Groom and Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO), discussed Ms. Fry's comments and the delivery of an update on Lehigh to the Stationary Source Committee (SSC).

NOTED PRESENT: Director Zane was noted present at 9:51 a.m. and Director Kniss was noted present at 9:52 a.m.

Jon Marcus submitted written and photographic material and addressed the Board regarding a nuisance complaint relative to Le Beau Market at 1263 Leavenworth in San Francisco and the staff response.

Mr. Broadbent said staff would meet with Mr. Marcus today.

Tim Brand addressed the Board regarding Lehigh's compliance with air quality regulations and asked for enforcement action with severe consequences for Lehigh.

Mr. Broadbent said a comprehensive staff update regarding Lehigh will be delivered to the SSC in April.

Gary Latshaw submitted written material and addressed the Board to summarize the same; requested enforcement action relative to Lehigh; and suggested a detailed list of additional technology for installation at Lehigh.

NOTED PRESENT: Director Miley was noted present at 9:58 a.m.

3. COMMENDATIONS / PROCLAMATIONS / AWARDS

Mr. Broadbent introduced Damian Breen, Deputy APCO (DAPCO), who recognized the Production System Pilot Program Business Partners in absentia for their participation in the Production system On-Line Permitting System Pilot Program.

CLOSED SESSION

The Board adjourned to Closed Session at 10:03 a.m.

4. CONFERENCE WITH LABOR NEGOTIATORS (Government Code § 54957.6(a))

Pursuant to Government Code Section 54957.6(a), a need existed to meet in closed session to confer with labor negotiators.

OPEN SESSION

Director Mar was noted present during the closed session and the Board resumed Open Session at 10:35 a.m. with no reportable action.

CONSENT CALENDAR (ITEMS 5 – 14)

- 5. Minutes of the Board Regular Meeting of February 18, 2015;**
- 6. Board Communications Received from February 18, 2015 through March 17, 2015;**
- 7. Air District Personnel on Out-of-State Business Travel;**
- 8. Notice of Violations Issued and Settlements in Excess of \$10,000 in the Month of February 2015;**
- 9. Adoption of Proposed Amendments to the Air District's Administrative Code, Division I: Operating Policies and Procedures, Section 6.; Board of Directors, Committees, Section 6.2.; Standing Committees;**

10. **Increase in Cylogy, Inc. Contract by \$54,000 for Website Testing and Verification;**
11. **Referral of Proposed Budget for Fiscal Year Ending (FYE) 2016 to the Budget and Finance Committee (BFC);**
12. **Set a Public Hearing, to Consider Adoption of Proposed Amendments to Regulation 3: Fees and Approval of a Notice of Exemption from the California Environmental Quality Act;**
13. **Consider Approving a Tentative Agreement between the Air District and the Employees' Association regarding a Separation by Retirement Incentive Program, Adopt a Resolution to Establish a Separation by Retirement Incentive Program for Management and Confidential Employees, and Allocate Funding for the Program in the Amount of \$1 Million from the Undesignated Reserves to the General Fund; and**
14. **Adopt a Resolution to Amend the Air District's Money Purchase Pension Plan (401(a)).**

Board Comments: None.

Public Comments: No requests received.

Board Action:

Director Wagenknecht made a motion, seconded by Director Mar, to approve Consent Calendar Items 5 through 14, inclusive; and the motion carried by the following vote of the Board:

AYES:	Avalos, Barrett, Bates, Canepa, Chavez, Fujioka, Gioia, Groom, Hudson, Kim, Kniss, Mar, Mitchoff, Rice, Ross, Sinks, Wagenknecht and Zane.
NOES:	None.
ABSTAIN:	None.
ABSENT:	Haggerty, Miley, Pepper and Spring.

COMMITTEE REPORTS

15. Report of the Budget and Finance Committee (BFC) Meeting of February 25, 2015 Committee Chairperson Hudson

The BFC met on Wednesday, February 25, 2015, and, upon establishing a quorum, approved the minutes of January 28, 2015.

The BFC received and discussed the staff presentation *Air District Financial Overview*, including Air District Reserve Funds Audited Values; actions taken during downturn; FYE 2015 mid-year summary; General Fund revenue sources and expenditures in the FYE 2015 adopted budget; trends in cost cutting expenses in FYEs 2010-2015; FYE 2016 budget highlights; current vacancy rate and staffing trend; unfunded liabilities based on June 30, 2013 valuations; cost recovery; fund balance policy; and new office building obligations.

The next meeting of the BFC is Wednesday, March 25, 2015, at 9:30 a.m.

Board Comments: None.

Public Comments: No requests received.

Board Action: None; receive and file.

16. Report of the Mobile Source Committee (MSC) Meeting of February 26, 2015
Committee Chairperson Haggerty; Report delivered by Director Avalos

The MSC met on Thursday, February 26, 2015 and approved the minutes of January 22, 2015.

The MSC reviewed and discussed *Projects with Proposed Awards Over \$100,000* and recommends the Board:

1. Approve Carl Moyer Program (CMP) projects with proposed grant awards over \$100,000; and
2. Authorize the Executive Officer/APCO to enter into agreements for the recommended projects.

The MSC then reviewed and discussed the staff presentation *Transportation Fund for Clean Air Audit Report*, including Audit #15 process; regional fund findings and Air District Responses; county program manager fund findings and Air District responses; and trends. The MSC gave direction to staff relative to project sponsor reporting oversight with the goal of improving the timeliness of project sponsor reporting.

The MSC then reviewed and discussed the staff presentation *Residential Lawn Mower Replacement Program*, including background, project description and recommendations. The MSC gave direction to staff to explore an added incentive for American-made equipment and recommends the Board:

1. Allocate \$300,000 in CMP/Mobile Source Incentive Funds to implement the residential lawn mower replacement program; and
2. Authorize the Executive Officer/APCO to execute agreements with one or more metal recycling facilities to help administer the residential lawn mower replacement program.

The next meeting of the MSC is on Thursday, April 23, 2015, at 9:30 a.m.

Board Comments: None.

Public Comments: No requests received.

Board Action:

Director Avalos made a motion, seconded by Director Wagenknecht, to approve the recommendations of the MSC; and the motion carried by the following vote of the Board:

AYES: Avalos, Barrett, Bates, Canepa, Chavez, Fujioka, Gioia, Groom, Hudson, Kim, Kniss, Mar, Mitchoff, Rice, Ross, Sinks, Wagenknecht and Zane.
NOES: None.
ABSTAIN: None.
ABSENT: Haggerty, Miley, Pepper and Spring.

17. Report of the Legislative Committee (LC) Meeting of February 26, 2015
Committee Chairperson Bates

The LC met on Thursday, February 26, 2015 and approved the minutes of April 3, 2014.

The LC discussed a review of the 2014 legislative year, including how staff has handled past direction from the Board on bills that change significantly during the legislative session, the frequency of LC meetings and possible changes in the LC schedule for 2015.

The LC then discussed a potential legislative agenda for 2015 and recommended the Board approve staff to sponsor legislation designed to cut emissions by increasing the rates of vehicle registration, and thereby smog checks, and reducing registration fraud.

The LC then discussed the 2015 legislative session and is recommending the following positions on new bills to the Board:

Assembly Bill (AB) 156 Perea: Oppose
AB 197 E. Garcia: Support
AB 239 Gallagher: Oppose
AB 335 Patterson: Oppose
Senate Bill (SB) 32 Pavley: Support
SB 350 De Leon and Leno: Support

The next meeting of the LC is Monday, March 30, 2015, at 9:30 a.m.

Board Comments: None.

Public Comments: No requests received.

Board Action:

Director Bates made a motion, seconded by Director Mitchoff, to approve the recommendations of the LC; and the motion carried by the following vote of the Board:

AYES: Avalos, Barrett, Bates, Canepa, Chavez, Fujioka, Gioia, Groom, Hudson, Kim, Kniss, Mar, Mitchoff, Rice, Ross, Sinks, Wagenknecht and Zane.
NOES: None.
ABSTAIN: None.
ABSENT: Haggerty, Miley, Pepper and Spring.

18. Report of the Public Outreach Committee (POC) Meeting of March 5, 2015
Committee Chairperson Ross

The POC met on Thursday, March 5, 2015, and approved the minutes of October 30, 2014.

The POC received and discussed the staff presentation *2014/15 Winter Spare the Air Campaign*, including campaign highlights; a video example of a television ad; advertising; media relations and social media information; door-to-door outreach; and results.

The POC then received and discussed the staff presentation *Spare the Air Youth YES! Conference*, including program overview; YES! Conference 2015; keynote speakers; breakout session; conference video; and YES! Conference next steps.

The POC then received and discussed the staff presentation *Approval of Contract for Spare the Air Advertising/Messaging Campaigns*, including background; request for proposals; proposal evaluation; overview of final scores; and staff recommendation. The POC recommends the Board:

1. Approve of O’Rorke, Inc. as the selected contractor for the Spare the Air Campaigns’ Advertising, Communications & Evaluation Services; and
2. Authorize the Executive Officer/APCO to execute a contract with O’Rorke, Inc. for an amount not to exceed \$1,950,000 per contract year as follows:
 - Spare the Air Every Day Campaign - \$1,125,000
 - Winter Spare the Air Campaign - \$825,000
 - In-language Winter Spare the Air survey - additional \$69,000

The POC then received the staff presentation *Approval of a Contract for the Spare the Air Resource Teams*, including background; request for proposals; proposal evaluation; overview of final scores; and staff recommendation. The POC recommends the Board:

1. Approve the selection of Community Focus to facilitate the Spare the Air Resource Teams; and
2. Authorize the Executive Officer/APCO to execute a contract with Community Focus for facilitation services in an amount not to exceed \$245,000 per contract year for up to three years.

The next meeting of the POC is at the call of the Chair.

Public Comments: No requests received.

Board Action:

Director Ross made a motion, seconded by Director Avalos, to approve the recommendations of the POC; and the motion carried by the following vote of the Board:

AYES:	Avalos, Barrett, Bates, Canepa, Chavez, Fujioka, Gioia, Groom, Hudson, Kim, Kniss, Mar, Miley, Mitchoff, Rice, Ross, Sinks, Wagenknecht and Zane.
NOES:	None.
ABSTAIN:	None.
ABSENT:	Haggerty, Pepper and Spering.

Board Comments:

The Board and staff discussed Air District contractor proficiency at performing various translations and awareness of cultural diversity and sensitivities.

19. Report of the Executive Committee (EC) Meeting of March 16, 2015
Committee Chairperson Groom

The EC met on Monday, March 16, 2015, and approved the minutes of October 20, 2014.

The EC received the Quarterly Reports of the Hearing Board (HB) for July through September 2014 and October through December 2014, including summaries of the cases and fees collected, from Terry Trumbull, Esq., Chairperson of the HB.

The EC then received the presentation *Joint Policy Committee (JPC) Update*, from Allison Brooks, Executive Director, JPC, including a report of key activities and overviews of organizational planning and goals.

The EC then received a staff presentation *My Air Online Program Update*, including program goal, structure and roadmap; status updates regarding the public website and publicly accessible data; website design samples; conceptual demo; and permitting and compliance systems status and 2015 goals.

The next meeting of the EC is Monday, April 20, 2015, at 9:30 a.m.

Board Comments: None.

Public Comments: No requests received.

Board Action: None; receive and file.

20. Report of the SSC Meeting of March 16, 2015
Committee Chairperson Gioia

The SSC met on Monday, March 16, 2015, and approved the minutes of November 24, 2014.

The SSC received and discussed the staff presentation *Odor Issues and Air District Actions in the Milpitas Area*, including background; facilities and sources; Air District regulatory role; investigation; and next steps.

The SSC then received and discussed the staff presentation *Board Actions Requiring Emissions Reductions at Refineries 1992-2013 and Refinery Emission Trends 1980-2015 and Main Causes of Reductions*, including tables of board actions and emission trends for reactive organic gases, fine particulate matter, nitrous oxides, and sulfur dioxide.

The SSC then received and discussed the staff presentation *Regulations to Track and Mitigate Emissions from Petroleum Refineries Regulation 12, Rules 15 and 16*, including the elements of each; goals of 12-16; issues raised by the public and industry; and next steps.

The next meeting of the SSC is Monday, April 20, 2015, at 10:30 a.m.

Board Comments: None.

Public Comments: No requests received.

Board Action:

Director Gioia made a motion, seconded by Director Kniss, to receive and file the chair report of the SSC; and the motion carried by the following vote of the Board:

AYES: Avalos, Barrett, Bates, Canepa, Chavez, Fujioka, Gioia, Groom, Hudson, Kim, Kniss, Mar, Miley, Mitchoff, Rice, Ross, Sinks, Wagenknecht and Zane.
NOES: None.
ABSTAIN: None.
ABSENT: Haggerty, Pepper and Spering.

PRESENTATION

21. OVERVIEW OF THE 2014/2015 WOOD SMOKE REDUCTION PROGRAM

Mr. Broadbent introduced the topic and Eric Stevenson, Director of Meteorology, Measurement and Rules, who gave the initial staff presentation *Overview of the 2014-2015 Winter Spare the Air Season* through slide 4, *Highest Air Quality Readings*, including a summary of recent Winter PM_{2.5} [Fine Particulate Matter] Seasons; an analysis of the correlation between rainfall and particulate pollution; and highest air quality readings during 2014-2015 Winter Spare the Air Season.

Mr. Stevenson introduced Lisa Fasano, Communications Officer, who played back a video advertisement and then gave the continued staff presentation *Overview of the 2014-2015 Winter Spare the Air Season* through slide 10, *Results*, including advertising; regional outreach; media coverage; social media; and results.

The Board and staff discussed, at slide 6, *Regional Outreach*, billboard site selection, whether a budget expansion for billboards is justified, and the effectiveness of billboard messaging in general.

Ms. Fasano continued the presentation and then introduced Wayne Kino, Director of Compliance and Enforcement, who gave the remainder of the staff presentation *Overview of the 2014-2015 Winter Spare the Air Season*, including wood smoke enforcement; enforcement highlights and practices; Regulation 6, Rule 3 Rule Development; and public workshop dates and locations.

Board Comments:

The Board and staff discussed the “real estate requirements” and “sale and manufacturing of new wood heaters” proposals on slide 14, *Regulation 6, Rule 3 Rule Development*; potential incentivizing as a component to the current proposals; the commendable education campaign by staff; the viability of targeted advertising for communities with notoriously high levels of wood smoke; whether the Air District has a target date for the eradication of wood burning devices in residential buildings; the importance of a phase-in process; the commendable connection between cigarette and wood smoke;

the handling of 92 repeat-complaint sites and viability of targeted programs to bring them into compliance; the importance of establishing a phase-out date in light of the slow rate of residential real estate turnover and the Air District's authority to do so; the ongoing and intentionally gradual enhancement of staff enforcement actions; the viability of door-to-door outreach as a dispute resolution tool; the importance of environmental justice as a component to any phase-out process and related incentive program; the viability of additional workshops in western Alameda and Contra Costa counties; the importance of decreasing wood smoke levels because of their significant health threat; support for a "point of sale" fireplace retrofit requirement with recommendation that staff develop the provision carefully with the challenges of implementation in mind; support for mandatory disclosure on residential real estate sales of the health risk posed by wood-burning devices; public recognition of this program as "Spare the Air" and the tagline's successful ascension into the public consciousness; and the approximate cost and timeline for average residential fireplace retrofits, whether for heat and aesthetics.

Public Comments:

Patti Weisselberg, Families for Clean Air, addressed the Board regarding poll results showing that 70% of respondents felt the wood smoke rule has not impacted wood-burning behavior; to suggest wood burning is a recreational activity and Air District messaging is not impactful; to propose a ban on all wood burning with specific exceptions, such as days with specific weather conditions; and to express support for an overhaul of the enforcement program.

Tracey Gant, Families for Clean Air, addressed the Board in support of rule development; to suggest the rule is not meaningful without proper enforcement; to request daily Air District protection from wood smoke regardless of regional air quality; to recall a video played before the Board at a past Board meeting which showed a resident burning a plastic chair in a fire pit; and to propose a three strikes rule for wood burning.

Stephanie Oxley, Families for Clean Air, addressed the Board to request a technology-forcing provision be included in the revised rule with the aim of achieving zero wood smoke emissions in the Bay Area.

Mr. Broadbent encouraged participation by the speakers in the rule-making process; reported the program has been effective but that further steps are needed, as exemplified by the rule-making already underway; and to report that updates on the rule-making will be delivered to the SSC.

Board Comments (continued):

The Board and staff discussed the applicability of the existing and proposed rule to backyard burning and barbeques; the importance of the Air District noting and touting the success of its programs, including this one and the flare rule, to help educate the public on the importance of Air District work; and the calls from public advocates is not an indicator of an Air District failure at its job.

Board Action: None; receive and file.

22. **PUBLIC COMMENT ON NON-AGENDA MATTERS:** No requests received.

23. **BOARD MEMBERS' COMMENTS:** None.

OTHER BUSINESS

24. Report of the Executive Officer/APCO

Mr. Broadbent reported that the U.S. Drug Enforcement Administration has vacated 375 Beale, significant construction progress has been made and recommended the scheduling of an Ad Hoc Building Oversight Committee meeting in April.

Jean Roggenkamp, DAPCO, announced the appointment of David Ralston, Community Engagement Manager.

25. Chairperson's Report

Chairperson Groom announced the reappointment of Director Barrett to the Board; invited those Board members who are interested in attending the Air & Waste Management Association's 108th Annual Conference and Exhibition on June 22-25, 2015, in Raleigh, North Carolina, to contact Maricela Martinez, Manager, Executive Operations; and announced the cancellation of the Board meeting on April 1, 2015.

26. Time and Place of Next Meeting

Wednesday, April 15, 2015, Bay Area Air Quality Management District Headquarters, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.

27. Adjournment: The Board meeting adjourned at 11:53 a.m.

/s/ Sean Gallagher

Sean Gallagher
Clerk of the Boards