

Bay Area Air Quality Management District
939 Ellis Street
San Francisco, California 94109
(415) 749-5000

APPROVED MINUTES

Summary of Board of Directors
Executive Committee Meeting
9:30 a.m., Thursday, September 24, 2009

CALL TO ORDER-ROLL CALL: Secretary Tom Bates called the meeting to order at 9:41 a.m. on behalf of Chairperson Torliatt, who arrived shortly thereafter.

Present: Chairperson Pamela Torliatt, Secretary Tom Bates and Committee Members Chris Daly, John Gioia, Yoriko Kishimoto, Mark Ross and Gayle B. Uilkema

Absent: Vice Chairperson Brad Wagenknecht and Committee Member Scott Haggerty

PUBLIC COMMENT PERIOD: None

APPROVAL OF MINUTES: Director Uilkema referred to page one of the minutes and asked that her first name be spelled correctly.

Committee Action: Director Daly made a motion to approve the July 29, 2009 minutes, as amended; seconded by Director Ross; carried unanimously without objection.

Chairperson Torliatt was noted present and chaired the remainder of the meeting.

UPDATE ON THE INDIRECT SOURCE RULE:

Henry Hilken provided an update on the Indirect Source Review (ISR) Rule development, reviewed ISR objectives, projections from ABAG in the next 20 years where growth and vehicle trips and miles traveled are expected to increase, and he presented results from a survey of CEQA documents prepared in Bay Area jurisdictions over a 10-year period which reveal that a considerable amount of emissions will result from approximately 4,000 new projects.

Mr. Hilken said numerical performance standards will be set for new development and for certain types of criteria pollutants, and while they will not set a performance standard for GHG's it will be a critical co-benefit of the indirect source review and an important tool to achieve GHG reductions to meet SB 375 targets. The Rule will apply to any new or modified land use development requiring discretionary approval. An application would be submitted to the Air District at the same time a developer submits an application to cities and counties, and applicants will be expected to meet air quality standards set in the Rule.

Mr. Hilken said staff will develop tools to help cities and counties work through the process and if an agency were interested in making this part of their own permitting process and the process

met the standards in the rule, staff would enter into an agreement and integrate it into their normal permitting process. Fees would be set in such a way to encourage good development which is energy-efficient, located near transit, and projects not able to meet those performance standards would incur an impact fee, which the District would use to mitigate emissions elsewhere.

Regarding stakeholder input, staff has established a workgroup comprised of city managers, planning directors, business and development interests, community groups, the four JPC agencies, and the next meeting will be held in October with an anticipated target adoption for 2010.

Committee/Staff Discussion and Comments:

Director Gioia questioned and confirmed with Mr. Broadbent that a refined timeline should be ready during the first quarter of next year. Details of the thresholds will be discussed at future ISR stakeholder meetings and he requested more meaningful discussion, citing his belief that there is a gap from the policymaker's standpoint, given pressures to locate housing in outlying regions.

Mr. Broadbent noted that the District is proposing mitigation measures in the CEQA guidelines that must be considered when approving projects in a particular infill area and dialogue is currently taking place. Director Gioia again reiterated his desire for more information and discussion to occur.

Director Ross acknowledged Director Gioia's comments and suggested that information be integrated into the ISR and CEQA that policy makers will be able to utilize in approving projects. He questioned whether a third party would be able to litigate against a project citing the District's thresholds. Mr. Bunger said the thresholds are still guidelines; the lead agency must choose a threshold it believes is supported by substantial evidence, and it can be litigated. Mr. Broadbent noted the significant efforts used to update the CEQA guidelines, and he suggested that the update process occur, with the ISR following the year after.

Secretary Bates confirmed with staff that the ISR is the regulatory tool by which the District can apply to land use decision making; the ISR will deal with the residual emissions after a certain project has been mitigated and an option to meeting mitigations may also be the reduction of emissions elsewhere.

Director Kishimoto agreed with the need for more meaningful flow of information and suggested scheduling a JPC workshop. She referred to discretionary approval and confirmed with Mr. Hilken that CEQA applies if the city/county has a discretionary decision. If it is a ministerial decision, it is not subject to CEQA.

Director Kishimoto questioned the party responsible for holding hearings and conducting enforcement. Mr. Hilken explained that staff would review applications and determine whether they meet standards. Mr. Bunger clarified that if there is disagreement with the District's action, it could be set up in such a way where applicants could go to the Hearing Board for redress.

Director Gioia said in some cases, it is not the development but existing industry that is the source of toxic air contaminants. He questioned who has the obligation to mitigate, noting that these were the discussions from a land use perspective that have not occurred amongst policymakers. Mr. Broadbent suggested this question would be better addressed under the next agenda item.

Director Daly acknowledged Director Gioia's comments, discussed his experience living in an infill project 100 feet from a freeway and associated impacts. If conditions were mitigated better, it would make infill projects more appealing and help with the overall goal of encouraging people to live downtown as opposed to moving out to suburban sprawl. When done correctly, CEQA work compliments regional smart planning, whereas the reverse can lead to downtown environmental injustices.

Committee Action: None; for information only.

AIR DISTRICT CEQA GUIDELINES UPDATE:

Planning Manager David Vintze announced that the draft CEQA Guidelines Update was released on September 4, 2009. Staff initially identified the need for more guidance to local lead agencies regarding GHG issues, air toxics and local impacts. He said updating the guidelines is needed due to significant changes in air quality regulatory activity, changes in analytical methodologies and mitigation strategies, and to address emerging and growing air quality concerns.

Mr. Vintze reviewed objectives, discussed emissions levels to be achieved from development in order to meet AB 32 goals and noted that staff is working with various agencies in need of assistance regarding mitigations for projects.

He described thresholds for local community risks and hazards which are broken down in three categories: new sources, new receptors (impacts from a single source) and new source/receptor (cumulative). He described thresholds for criteria pollutants at the project level and plan levels, announced next steps, noted the scheduling of an additional workshop, said the public comment period was extended to October 9, 2009, the draft guidelines have been posted on the District's website, and the guidelines were emailed to a large database. The proposal is to bring significance thresholds to the Board of Directors in fall of 2009, to continue with staff support to lead agencies and for staff review and comment.

Committee/Staff Discussion and Comments:

Director Uilkema asked that the District provide assistance to city planners when reviewing development proposals and in measuring cumulative factors.

Director Ross voiced the need for education and a simplified process. He suggested the use of zones and overlays maps. Mr. Hilken said there will be modeling inputs, outreach and additional workshops held for city/county planners and stakeholders geared to address education needs.

Director Gioia discussed the ease of use with GIS systems to identify locations of business and proximity to development, and asked that additional information be discussed in a broader policy context, such as an expanded JPC meeting.

Ms. Roggenkamp said the GHG and PM thresholds are new and important. She agreed with the need for expanded discussions, said the District will continue to work with the cities and counties and that staff could look at populating data into a GIS system.

Mr. Broadbent reported that state law requires agencies to hold public hearings when making recommendations to local land use decision-makers on significance thresholds and said a broad discussion may be able to be scheduled at the upcoming JPC meeting in November.

Chairperson Torliatt said it is important for the District to move forward and adopt the guidelines knowing there are things to be worked out. Information can continue to be built upon to help the local agencies.

Director Kishimoto compared the guidelines as a work in progress and confirmed that an additional workshop, as requested by Director Garner, is scheduled to be held in Sunnyvale on October 2, 2009. She questioned whether cumulative impacts include impacts of construction itself. Mr. Vintze replied that there is a separate construction threshold. The District will speak to this in the guidelines, but staff is not recommending that contractors calculate life cycle emissions because of the difficulty in doing this. Director Kishimoto asked that this be considered in the future.

Director Ross questioned whether there was subtraction of emissions when existing development is replaced with new development. Mr. Vintze said staff has received comments requesting they be subtracted out, but if there is no activity, it is identified as a new source. Mr. Bunker said if the project includes tearing something down and building something new, all of it would be taken into account. But the other aspect is the baseline; if the use is already stopped, the baseline does not include whatever that use was previously.

Director Daly questioned why the District is defaulting to trip generation versus VMT which he believes is a much better measure, given shorter trips. Mr. Vintze said part of the issue has been infill development. The old way of calculating VMT is through the Institute of Transportation Engineers' Manual, which is outdated. He said the City and County of San Francisco staff would prefer vehicle trips because it more accurately describes higher density infill development versus being penalized for an average vehicle trip attributed to a multi-use development of 20 miles.

Director Bates questioned how the District would address cities and counties not having qualified plans. Mr. Broadbent stated that through the recommended action, plans will be developed. The District anticipates about 8 or 9 additional EIR's where the District will serve as the lead permitting agency for stationary sources.

Directors Gioia and Bates further clarified the process for identifying potential health risks, identifying mitigation measures, and the process for the lead agency to prepare a statement of overriding considerations, given remaining emissions.

Ms. Roggenkamp reiterated that the guidelines are in draft form. Another workshop will be held and staff is still open to comments.

Committee Action: None; for information only.

CONTINUED DISCUSSION TO AMEND THE AIR DISTRICT'S ADMINISTRATIVE CODE REGARDING BOARD OF DIRECTORS OFFICERS' TERM OF OFFICE:

Chairperson Torliatt said she had asked that the item be referred back to the Executive Committee to receive input. She discussed her experience over the last year in having major projects completed within a year's timeframe, such as goals identified at the Retreat such as completing the CEQA guidelines, the Clean Air Plan, and the ISR, and cited the importance of continuity.

Secretary Bates supported moving to a two-year term for the Chair, acknowledged that a year passes by quickly, questioned an appropriate time to transition, and said he would be agreeable to whatever the Board chooses to do.

Director Kishimoto said changing to a two-year term will dramatically reduce the ability for city-appointed members to serve as Chairperson, unless there is an expeditious way to move up to Vice Chairperson, bypassing the Secretary position.

Director Gioia said he believes there are arguments for both a one- and two-year Chairperson term. The policies the Board works on are those the majority of the Board must support and the Chairperson can start a project but may not necessarily complete it. Ultimately, the full Board is the decision-making body and he suggested the Committee discuss positives and negatives and leave the decision up to the full Board.

Director Ross said having been Chair, it was not so difficult getting things started, but he agreed that projects take a long time to complete. He cited value in a two-year term for the Chairperson, but supported the final decision being left to the full Board.

Director Uilkema said she believes all agencies participating on the Board should have an opportunity to share in the leadership of the organization. She referred to the Board's need to rebuild 12 years ago and voiced concern that the 6-year timeframe monopolizes the time any one jurisdiction is in leadership. She believes that a two-year term sets up roadblocks for others who want to be considered for appointment, thinks it is not one person's agenda but rather the organization's goals and objectives established by the consensus of the entire Board that develops policy together. She also believed it is irrelevant what other agencies do and asked that any vote be taken by the full Board.

Secretary Bates agreed with the need for the Board to vote on the matter, agreed continuity is important and would be willing to sacrifice not being able to serve as Chair.

Motion: Secretary Bates made a motion to agendize the two-year appointment for the Chair and suggested considering a one-year term for the Vice Chair and Secretary. Director Daly seconded the motion.

Director Gioia said his preference is to pass the matter onto the Board of Directors for consideration and relay Committee discussion of pros and cons.

Chairperson Torliatt suggested the Committee make a recommendation to the Board of Directors. Committee members questioned the appearance of the recommendation being self-serving, and Chairperson Torliatt offered that the motion include that the action become effective beginning with the Vice Chairperson's term in 2010.

Director Uilkema suggested that the discussion and the recommendation be agendized at the upcoming Board meeting.

Committee Action: Director Bates made a motion to establish a two-year term for the Chairperson, commencing with the Vice Chairperson's term in 2010; Director Daly seconded the motion; which carried by the following roll call vote: (4-2-3) Ayes: Bates, Daly, Ross, Torliatt; Noes: Gioia and Uilkema; Absent: Haggerty, Kishimoto and Wagenknecht.

Chairperson Torliatt requested moving up the California Air Resources Board Appointments on the agenda.

CALIFORNIA AIR RESOURCES BOARD APPOINTMENTS:

No discussion or public comment was received.

Committee Action: Director Uilkema made a motion to recommend adopting a procedure for notifying the Board of Directors when the BAAQMD position on the California Air Resources Board becomes vacant; Secretary Bates seconded the motion; which carried unanimously.

UPDATE OF SURVEY RESULTS RELATIVE TO POTENTIAL RELOCATION OF AIR DISTRICT HEADQUARTERS:

Chairperson Torliatt recommended the item be deferred to the next meeting. Director Uilkema suggested that a separate committee be formed to consider relocation of the Air District headquarters. Director Daly said a separate committee had been recommended, but not formed.

Mr. Broadbent noted that HOK has surveyed staff and results are in from the survey. He recommended continuing the process and scheduling an Executive Committee meeting to discuss the results.

COMMITTEE MEMBER COMMENTS/OTHER BUSINESS: None

TIME AND PLACE OF NEXT MEETING: At the call of the Chair.

ADJOURNMENT: The meeting was adjourned at 11:25 a.m.

/s/ Lisa Harper
Clerk of the Boards