

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

Board of Directors Regular Meeting
December 1, 2010

APPROVED MINUTES

CALL TO ORDER: Chairperson Brad Wagenknecht called the meeting to order at 9:48 a.m.

Roll Call: Chairperson Brad Wagenknecht; Secretary John Gioia; and Directors Chris Daly, Susan Garner, Carole Groom, Scott Haggerty, Jennifer Hosterman, David Hudson, Ash Kalra, Carol Klatt, Eric Mar, Nate Miley, Mark Ross, James Spring, Pamela Torliatt, Gayle B. Uilkema, Ken Yeager, and Shirlee Zane

Absent: Vice Chair Bates, Directors Harold Brown, Dan Dunnigan, and Liz Kniss

PLEDGE OF ALLEGIANCE: Chairperson Wagenknecht led the Pledge of Allegiance.

PUBLIC COMMENTS:

Andrea Papanastassiou, Director for Real Estate Development, Eden Housing, thanked the Board and District staff for the recommendation to delay implementation of new thresholds until May 1, 2011. She discussed examples of screening and development of affordable housing, and asked that screening criteria be removed from the website while additional stakeholder work is being done.

Nyese Joshua, Bayview Hunters Point, submitted a letter into the record regarding a fire on November 16, 2010 at Sims Metal, 300 20th Street, in Potrero Hill. She requested a further review and hearing by the District of the incident.

Mr. Broadbent explained that the City and County of San Francisco act as first responders. Staff prepared an incident report and can follow up with the speaker on what the District has done and learned.

Director Zane asked that the District provide clear communication to the public in terms of how incidents are handled.

Evan Reeves, Policy Director, Center for Creative Land Recycling, discussed concerns regarding the new CEQA risk and hazard thresholds for receptor projects. He said staff acknowledged concerns regarding failure rates and is working on refinements. He asked that screening tables be removed from the website.

BOARD MEMBER COMMENTS:

Director Daly relayed his personal experience living next to a freeway and asked housing advocates to locate and build affordable housing in cleaner areas.

Mr. Broadbent explained that staff will be recommending changing the effective date for hazard and risk thresholds at the December 15, 2010 Board meeting. He recognized the need for more time to be able to work with organizations that rely on guidelines, and staff will be recommending moving the date to January 1, 2011.

Director Torliatt asked for an additional option in the December 15, 2010 staff report to continue with the May 1, 2011 policy and not extend the deadline.

Director Spring reiterated the fact that a full review will be undertaken after one full year after adopting the thresholds.

PROCLAMATION(S)/AWARDS

The Board of Directors recognized the following employees who have completed milestones of twenty-five (25), thirty (30), thirty-five (35), and forty (40) years of service with the Air District during this first half of the calendar year:

30 Years: Nora Lew, Richard Lew, and Lynn Miller
25 Years: Jim Hesson, Janice Hom, Wayne Kino, and Jane Lundquist

CONSENT CALENDAR (Items 1-7):

- 1. Minutes of November 3, 2010 Regular Meeting;**
- 2. Communications;**
- 3. District Personnel on Out-of-State Business Travel;**
- 4. Proposed Regulatory Agenda for 2011;**
- 5. Set a Public Hearing on December 15, 2010 to Consider Adoption of Proposed Amendments to Regulation 9, Rule 10: Nitrogen Oxides and Carbon Monoxide from Boilers, Steam Generators and Process Heaters in Petroleum Refineries; and Adoption of a CEQA Negative Declaration;**
- 6. Consider Adjusting the Air District's Medical Contribution Declared to California Public Employee's Retirement System (CalPERS);**
- 7. Consider Establishing the New Classification of Executive Secretary I/II**

Board Action: Director Torliatt made a motion to approve Consent Calendar Items 1, 2, 3, 4, 5 6, and 7; Director Hosterman seconded the motion; unanimously approved without objection.

COMMITTEE REPORTS AND RECOMMENDATIONS

- 8. Report of the Personnel Committee Meeting of November 17, 2010**
Vice Chair: C. Groom

The Personnel Committee met on Wednesday, November 17, 2010 without a quorum and deferred the minutes of August 25, 2010 to the next Personnel Committee meeting.

The Committee then held interviews of candidates to fill unexpired terms of office for two Advisory Council Members under the *Community Planning* and the *Architect* categories.

The consensus of the Committee was for the Board of Directors to:

- 1) Re-appoint incumbent Advisory Council Members whose terms expire December 31, 2010, except for the *Engineer* category member whose interest will be re-confirmed;
- 2) Appoint Sam Altshuler to the Advisory Council, under the *Engineer* category, to a term of office effective January 1, 2011 through December 31, 2012; and
- 3) Appoint Elizabeth Lutzker to the Advisory Council, under the *Public Health Agency* category, to a term of office, effective January 1, 2011 through December 31, 2012.

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

Board Action: Director Groom made a motion to approve the Personnel Committee's report and consensus proposals of the Personnel Committee; Director Uilkema seconded the motion; carried unanimously without opposition.

9. Report of the Mobile Source Committee Meeting of November 18, 2010

Chair: S. Haggerty

The Mobile Source Committee met on Thursday, November 18, 2010 without an established quorum and, by consensus of those members present, accepted the minutes of the October 28, 2010 Mobile Source Committee meeting.

The Committee discussed and considered recommending Board of Directors' approval of the Carl Moyer Program projects with proposed grant awards over \$100,000. Recommended projects will replace six pieces of off-road equipment, resulting in the reduction of 5.8 tons of criteria pollutants per year. The consensus of Committee members was for the Board of Directors to approve the Year 12 Carl Moyer Program/MSIF projects with proposed grant awards greater than \$100,000, and authorize the Executive Officer/APCO to enter into agreements for the recommended Carl Moyer Program projects.

The Committee received an informational update on the Electric Vehicle Charging Infrastructure Deployment Program and reviewed the schedule for EV deployment in the Bay Area, regional efforts to support EV deployment, including the District's Charging Infrastructure Incentive Program, as well as outreach and assistance to local government regarding charging infrastructure permitting processes. Committee members asked that the initial focus be placed on residential home charging units.

The Committee then considered proposed revisions to Transportation Fund for Clean Air (TFCA) County Program Manager Fund Policies for Fiscal Year (FY) 2011/2012. The Committee discussed the recommended revisions as well as comments received and staff responses. The Committee member consensus was that the Board of Directors approve the proposed policy revisions to govern allocation of FY 2011/2012 TFCA County Program Manager funds.

The Committee then discussed and considered approval for Transportation Fund for Clean Air (TFCA) Regional Funds for Shuttle, Ridesharing and Vanpool projects. The Committee reviewed the application process, evaluation of applications, emissions reductions, and the 13 projects that meet Board adopted policies. The consensus of Committee members was for the Board of Directors to approve TFCA Shuttle, Ridesharing and Vanpool projects listed in Attachment 1; and authorize the Executive Officer/APCO to enter into agreements for the recommended TFCA projects.

The next meeting of the Mobile Source Committee will be at the Call of the Chair.

Board Action: Director Haggerty made a motion to approve the report and consensus proposals of the Mobile Source Committee; Director Sperring seconded the motion; carried unanimously without opposition.

10. Report of the Executive Committee Meeting of November 22, 2010

Chair: B. Wagenknecht

The Executive Committee met on Monday, November 22, 2010 and approved the minutes of October 20, 2010.

The Committee received a Quarterly Report from Hearing Board Chair, Tom Dailey.

The Committee then discussed reimbursing travel costs for Board Members interested in attending the Air and Waste Management's People to People Program 2011 delegation to India. After a lengthy discussion, the Committee agreed to approve reimbursement in the amount of \$2,500 per Board Member, and not to exceed \$10,000 in total.

The Committee also discussed and considered recommending proceeding with a Request for Proposal for a "Stand Alone" option for transactional and financial advisory services surrounding a potential relocation. Based on this discussion, the Committee recommended staff delay proceeding with a Request for Proposal for six months.

The Committee then discussed the implementation of the District's California Environmental Quality Act (CEQA) Guidelines. In addition, the Committee was informed of staff's plan to recommend the Board postpone the effective date for the risk and hazards threshold new receptors, which will be presented at the December 15, 2010 Board of Directors meeting.

The next meeting of the Executive Committee will be at the Call of the Chair.

Director Discussion/Comments:

Director Zane voiced opposition to the expenditure of funds for attendance to the Air and Waste Management's (A&WMA's) People to People Program 2011 delegation to India. She made a motion to deny the recommendation and suggested funds be spent on public outreach and website improvements. Director Mar seconded the motion.

Director Haggerty supported the motion without stipulating the use of funds. He said if the trip is worthwhile, it should be paid for in its entirety. By not paying for it, the message is sent that it is not worthwhile at all, and supported Mr. Broadbent's attendance.

Director Zane amended her motion to remove stipulating where funds should be spent, and supported Mr. Broadbent's attendance to the conference.

Directors discussed the value of the trip, leaving funds unencumbered, Board Member interest in attending the conference, limits on travel, whether or not to limit attendance to one Board Member, support for the Executive Officer/APCO's attendance, the policy and events relating to the trip

planned two years ago which was put on hold, and setting Board policy for compensation of \$2,500 maximum per person and no more than \$10,000 in total.

Board Action: Director Zane made a substitute motion to limit expense to \$2,500 and no more than \$10,000 in total and authorize the Executive Director/APCO to attend the A&WMA's People to People Program 2011 delegation to India for this trip only; Director Mar seconded the motion, which carried by the following roll call vote (11-5-2-3): Ayes: Groom, Haggerty, Hudson, Kalra, Klatt, Mar, Ross, Spering, Uilkema, Yeager, Zane. Noes: Daly and Gioia; Abstain: Garner and Hosterman. Absent: Bates, Brown, Dunnigan.

Board Action: Director Uilkema made a motion to approve the report of the Executive Committee; Director Torliatt seconded the motion; carried unanimously without opposition.

11. Report of the Climate Protection Committee Meeting of November 29, 2010

Chair: P. Torliatt

The Climate Protection Committee met on Monday, November 29, 2010 and approved the Climate Protection Committee minutes of May 19, 2010.

The Committee received a status report and background on the implementation of AB 32 measures, and an update on the cap-and-trade program which is scheduled for adoption by the Air Resources Board on December 16 and 17, 2010. The Committee reviewed applicability of the cap-and-trade program, the issuance and costs of allowances, baseline emissions and the capped level of emissions, as well as outstanding issues relating to conflict of interest requirements for GHG verifiers. The Committee and District staff will continue to participate in and track program development.

The Committee received an update on the status of projects funded through the \$3 million Climate Protection Grant Program. Details on selected grants and results from project implementation were presented for a variety of projects in the areas of youth outreach, climate planning, regional strategies, regionalizing best practices, and fostering innovation.

The Committee then considered initiation of a Climate Leadership Award Program and recommends that the Board of Directors establish an annual Climate Leadership Award Program in the name of Dr. Stephen Schneider, and to present the first award to Dr. Terry Root, in honor of Dr. Stephen Schneider, Stanford biology professor and leading researcher in climate protection. Nominating and selection criteria for the program, including a timeline to accept nominations and making selections will be developed by staff and returned to the Committee for review.

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

Board Action: Director Torliatt made a motion to approve the report and recommendations of the Climate Protection Committee; Director Garner seconded the motion; carried unanimously without opposition.

PRESENTATION

12. Strategic Facilities Planning Project Presentation Provided by CB Richard Ellis

Mr. Broadbent gave an overview on the District's obsolete building, significant deferred maintenance, and efforts which began in 2008 to search for a new headquarters location. He said next steps and recommendations are to authorize the Executive Officer/APCO to proceed with the next phase and issuance of a joint RFP.

Raul Campos, Managing Director, CB Richard Ellis, reviewed deferred maintenance costs to renovate the existing building, totaling \$11.3 million. He discussed Phase I and the steps initiated in the process which had involved release of an initial RFP for strategic facilities planning in October 2008, HOK contracting to perform the work in 2009, the visioning process undertaken, and data gathering.

Phase II involved exploring alternative headquarter solutions for the Air District, MTC and ABAG which was completed and presented to the Ad Hoc Committee on October 1, 2010. Study findings were then presented to the three governing boards of each agency for action, and MTC and ABAG both approved moving forward with next steps.

Mr. Campos then reviewed the Scope of Work which involved three segments: Needs Analysis, Scenario Planning, and Strategy Development. He identified key issues relating to the building and renovation, costs over the next 10 years for continued tenancy, lack of accommodation for further growth space for MTC and ABAG, disposition values, strategy drivers, fit drivers, and cost drivers for all agencies, the San Francisco and Oakland office markets, cost comparisons of scenarios for lease versus own options, and transit commute effects for San Francisco and Oakland.

Key findings include:

1. Consolidate occupancy
 - a. Supports strategic drivers and promotes interagency synergy
 - b. Benefits from economies of scale
 - c. Carbon footprint reduction of 40% or more
2. San Francisco and Oakland are appropriate locations
 - a. Consolidation in either San Francisco or Oakland with close proximity to BART and other transportation will have little adverse impact on any of the agencies
 - b. Currently, existing opportunities exist in both markets
3. Develop specific options in the Market
 - a. Engage outside support to run a competitive process with existing options
 - b. Team to negotiate a non-binding "letter of intent" with best option
 - c. Provide board with results for review and approval of next steps

Recommendation/Next Steps:

- Authorize the Executive Officer/APCO to proceed with the next phase of the Strategic Facilities Planning Project for a joint regional government facility strategy with the Metropolitan Transportation Commission (MTC), and the Association of Bay Area Governments (ABAG); to include the issuance of a Joint Request for Proposal;
- The Outcome of the Market Options will be presented to the Strategic Facilities Planning Ad Hoc Committee for review and approval by each Governing Board

Director Comments/Questions:

Director Haggerty referred to Slide 13, and said he believes the first quarter of 2012 is optimistic but questioned whether the markets would bottom out at beginning of 2012. Mr. Campos stated they looked at every single building that had space on and off the market, and concluded that there are options in both the Oakland and San Francisco markets, including foreclosures. Director Haggerty cited an example of purchasing buildings at courthouse steps, and suggested this be monitored and not completely ruled out.

Director Hosterman questioned costs to renovate the District headquarters, and that two locations in Oakland exist that meet criteria but are not immediately adjacent to MTC and ABAG.

Director Ross confirmed with Mr. Campos that the disposition values in Slide 11 reflect “as is” conditions and include no tenant improvements. He questioned whether BART had been contacted for the first right of refusal. Mr. Campos stated the intent of this phase of work is having a strategy agreed upon prior to engaging groups. Director Ross confirmed the lead time for inspections and due diligence will take approximately three months, that there is a significant challenge in leasing the current District headquarters building, and the preference is owning and engaging in a co-location effort.

Directors discussed the numbers of employees at each location, shared facilities, and noted that financing options would be discussed in the next phase. Direction was given for staff to hold off on pursuing a “Stand Alone” option for six months.

Director Miley confirmed that consideration was given to raw land and new construction, which is reflected on Slide 14, as build to suit. Mr. Campos said the next phase will further identify differences and opportunities, and testing them for qualitative and quantitative issues. An RFP will go out to building owners for ownership and leasing inquiry, with the primary objective to own. All buildings will be reviewed for their debt structure, capital, price, foreclosures, and once responses are received back, they can determine what works best.

Director Zane referred to Slide 14, Financial Analysis, and questioned an estimate in terms of average interest rates over a 15-year period in owning versus leasing. Mr. Campos replied that the net present analysis, time, value and interest rates are calculated in, and that they are reflective of annual numbers over a 10 year period.

Director Spring questioned if a campus approach would be reviewed. Mr. Campos said these types of buildings and locations could be included; however, there are none currently available near urban or transit centers.

Director Haggerty recognized and clarified the geographic diversity and membership of the Strategic Facilities Ad Hoc Committee.

Board Action: Director Haggerty made a motion to authorize the Executive Officer/APCO to proceed with the next phase of the Strategic Facilities Planning Project for a joint regional government facility strategy with the Metropolitan Transportation Commission (MTC), and the Association of Bay Area Governments (ABAG); to include the issuance of a Joint Request for Proposal; and the outcome of the market options will be presented to the Strategic Facilities Planning Ad Hoc Committee for review and approval by each Governing Board; Director Uilkema seconded the motion; unanimously approved without objection.

CLOSED SESSION:

The Board of Directors adjourned to Closed Session at 12:00 p.m.

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

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

- A.) Peter Rogosin v. Bay Area AQMD, San Francisco Superior Court, Case No. CGC-08-478154
- B.) Thomasina Mayfield v. Bay Area AQMD, San Francisco County Superior Court, Case No. CGC-09-484213
- C.) Andrea Gordon v. Bay Area AQMD, San Francisco County Superior Court, Case No. CGC-10-497722
- D.) Duraflame, Inc. v. Bay Area AQMD, California Court of Appeal, First Appellate District, Civil Case No. A128062

SIGNIFICANT EXPOSURE TO LITIGATION

Pursuant to Government Code Section 54956.9(b), a need exists to meet in Closed Session to discuss two potential litigation matters against the District.

OPEN SESSION

The Board of Directors reconvened in Open Session at 12:13 p.m. District Counsel Brian Bunger announced that the Board of Directors met in Closed Session and no reportable action was taken.

OTHER BUSINESS

- 14. Report of the Executive Officer/APCO:** Mr. Broadbent reported on the calling of the first Winter Spare the Air night.
- 15. Chairperson's Report**

Chairperson Wagenknecht announced that the District's first Leadership Development Program (LDP) class is graduating next Tuesday, December 7, 2010 from 10:00 a.m. to 2:00 p.m. at St. Mary's Cathedral. The Board is invited to attend. He announced cancellation of the January 5, 2011 meeting, and said the next regular Board meeting will be held on January 19, 2011 at the David Brower Center in Berkeley for the Board's Annual Retreat.

- 16. Time and Place of Next Meeting:** Regular Meeting - Wednesday, December 15, 2010, 9:45 a.m., Board Room, 939 Ellis Street, San Francisco, CA 94109

17. **Adjournment:** The Board of Directors meeting adjourned at 12:15 p.m.

/s/ Lisa Harper
Lisa Harper
Clerk of the Boards