

Bay Area Air Quality Management District
939 Ellis Street
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APPROVED MINUTES

Summary of Board of Directors
Executive Committee Meeting
9:30 a.m., Monday, May 24, 2010

- Call to Order - Roll Call:** Chairperson Brad Wagenknecht called the meeting to order at 9:30 a.m.
- Present:** Chairperson Brad Wagenknecht; Vice Chairperson Tom Bates; Secretary John Gioia; Committee Members Chris Daly, Susan Garner, Scott Haggerty, Mark Ross, Pamela Torliatt and Gayle B. Uilkema
- Absent:** None
- Also Present:** Hearing Board Chairperson Tom Dailey, M.D.
- Public Comment Period:** None
- Approval of Minutes:** **Committee Action:** Director Uilkema made a motion to approve the February 22, 2010 minutes; seconded by Director Gioia; carried unanimously without objection.

Quarterly Report of the Hearing Board – January 2010 – March 2010

Hearing Board Chairperson Tom Dailey presented the Quarterly Report of the Hearing Board – January 2010 – March 2010. District Counsel Brian Bunger noted the occurrence of upcoming filings of Accusations by Legal Counsel relating to gas station EVR compliance. Several hearings are anticipated to be scheduled before the Hearing Board.

Committee Action: None; for information only.

Update on Video Conferencing

Deputy APCO, Jeffrey McKay, gave a presentation on possible goals for video conferencing in the Committee Room, Board Room, pre-qualified remote locations and District-owned remote locations. Extending video conferencing capabilities in the Board Room would require substantial fiscal resources, and is questionable as to whether such an investment could be supported. The District could attempt to pre-qualify remote locations on a user cost basis, and staff also could investigate alternatives to investing in its own equipment for remote locations.

Staff is working to find three pre-qualified locations to broadcast Committee meetings. To extend this capability to the Board Room would depend on proof of concept in the Committee meetings, and it should also be tested for remote locations. Staff sent out communications and telephone calls in surrounding counties in attempts to make connections for the south and east

bay sites. Staff is hoping that at the next presentation, all three sites could be ready for Committee meetings.

Committee Comments/Discussion:

Chairperson Wagenknecht confirmed that Board Members could go to remote sites and conduct Committee meetings, and he acknowledged competing perspectives on the subject.

Secretary Gioia supported video conferencing which achieves greater public input, reduces pollution, and he questioned potential partnerships and cost sharing with other regional agencies. Mr. McKay asked Board Members to forward agency(ies) interest to staff for follow-up, and acknowledged that protocols could be developed for holding various types of meetings that lend themselves to video conferencing.

Director Ross suggested staff also contact cable companies and inquire about public access services, stating some agencies have studios in place which could be utilized.

Vice Chairperson Bates and Director Haggerty both voiced mixed feelings about video conferencing interfering with participation and the conduct of holding streamlined meetings. Vice Chairperson Bates suggested staff also consider investigating webcasting, which can be viewed on-line by the public.

Director Torliatt voiced support for video conferencing at Committee meetings; however, she voiced preference for Directors to be present at regular Board meetings. She suggested reaching out to education facilities such as junior colleges, which in turn also enables Directors to get out in the educational community.

Secretary Gioia agreed with staff additionally considering webcasting, which achieves greater transparency, and believed there may be meeting protocol issues when dealing with live public interaction through videoconferencing.

Director Uilkema voiced opposition to video conferencing, stating she has not seen resounding success in terms of its implementation and cited costs to implement when the District is considering moving to a different location.

Directors Torliatt, Haggerty and Chairperson Wagenknecht supported the use of webcasting, questioned potential difficulties in its use for meetings and its costs, and confirmed with Mr. McKay that the cost to use remote locations is about \$100 per hour.

Vice Chairperson Bates suggested staff research how other agencies are currently utilizing webcasting and video conferencing, stating that large corporations regularly conduct business teleconferencing remotely in between their offices all over the world.

Secretary Gioia suggested thinking through how video conferencing should be done and supported development of protocols for certain meetings, testing of equipment, and not spending significant funds on its implementation.

Mr. Broadbent noted that the technology is available and agreed staff can immediately begin looking into webcasting, which could return at the next meeting.

Committee Action: None; for information only.

Strategic Facilities Planning Process Status Report and Consideration to Recommend Establishing a Strategic Facilities Planning Ad Hoc Committee

Strategic Facilities Planning Manager, Mary Ann Okpalaugo provided a status report on the planning process of the District's relocation, stating that an RFI was issued for commercial real estate brokerage and advisory services on January 14, 2010. An RFP for commercial real estate brokerage and advisory services was issued April 21, 2010. Proposals were received and a panel review and interviews will be conducted to select an advisory firm.

Ms. Okpalaugo said a unified strategy to achieve objectives would be presented to the Committee upon completion of the assignment, and she described the scope of work with the advisory firm, which includes:

- Preliminary facility requirements/program for the Air District, MTC and ABAG;
- Development of scenarios and master plan to include feasibility studies; and
- Preliminary cost/benefit evaluations

She presented a sample purchase scenario for 60 Spear Street, San Francisco and described the debt structure and annual principal and interest payment, and the loan balance, loan per square foot cost, and projected property values at funding, at 5 years, and at 10 years.

Ms. Okpalaugo reported that the three agency group met this month and a recommendation was made to establish a Strategic Facilities Planning Ad Hoc Committee comprised of the Chair, Vice-Chair and Executive Officer/Directors of the Air District, MTC and ABAG who will provide direction and oversight of the project. Those individuals are currently identified as:

BAAQMD: Chair Brad Wagenknecht and Vice Chair Tom Bates
MTC: Chair Scott Haggerty and Vice Chair Adrienne Tissier
ABAG: Chair Mark Green and Vice Chair Susan Adams
Staff: Executive Officer/Directors Jack Broadbent, Steve Heminger, and Henry Gardner

Committee Member Comments/Discussion:

Director Haggerty confirmed his absence at the May 3 MTC meeting and noted that site preferences have been maintained as Oakland and San Francisco.

Director Ross clarified that the District was looking at purchasing and not leasing facilities.

Vice Chair Bates supported a newer facility with upgraded technological services, and confirmed that a cost analysis and comparison would be completed as part of the scope of work by the advisory firm. He agreed to serving on the Ad Hoc Committee, but voiced preference for a member with real estate background, and suggested Director Ross.

Mr. Broadbent described the District's interest in replacing its current building, which has outlived its useful life. He noted interest expressed by ABAG and MTC for a regional governance center. He confirmed with Director Torliatt that the issue of leaving the existing building and moving forward with a new building will be addressed as part of the RFP, and with Director Uilkema that BCDC is a state agency and must follow certain GSA rules relating to property in California. He discussed the need to relocate approximately 250 District staff and approximately 150 MTC staff to San Francisco or Oakland offices, and reported that there may be interest by the owners of Cathedral Hill for the current District headquarters building to serve as support space, noting that the hotel will be turned into a hospital.

Chairperson Wagenknecht supported staff's recommendation. Director Garner confirmed that renovation of the existing building will be included as part of cost considerations.

Director Uilkema requested that the Ad Hoc Committee undertake discussion and determination of its Board Officer representation, noting that the same people may not be serving over the time it will take for relocation. Committee members supported year-to-year representation of the Ad Hoc Committee be determined at the pleasure of the Chair.

Committee Action: Director Torliatt made a motion to recommend Board of Directors' approval of a Strategic Facilities Planning Ad Hoc Committee; Vice Chair Bates seconded the motion; unanimously approved without objection.

Update on Proposed Revisions to the District's California Environmental Quality Act (CEQA) Guidelines and Selection of a Contractor to Assist with the Development of Local Emissions Inventories to Support Community Risk Reduction Plans (CRRPs)

Mr. Broadbent provided introductory remarks on progress made by staff to date.

Director of Planning and Research, Henry Hilken, provided an update on the status of the CEQA guidelines and spoke on progress and recommended action on CRRPs and staff's work to present case studies requested by Board Members at previous meetings. He reviewed the several meetings and workshops held, discussed the extensive set of technical support documents developed, training held for local government staff on tools for GHG calculations. Future training in the summer will be oriented to the risk and hazards calculations.

In looking at case studies and receipt of feedback, staff believes the thresholds to be sound. The risk and hazard thresholds are health protective, but also address Priority Development Areas. Staff has made revisions to the odor threshold, added a regional transportation plan threshold, and will present to the Board the recommended threshold, as well as a tiered approach in the risk and hazard threshold as an option.

He discussed progress made on CRRPs. The request for the Committee's consideration relates to local cities being able to develop emission inventories. Staff posted an RFP on March 18, 2010 and received two bids from Sonoma Technology, Inc. (STI) and Environ International Corp. STI was the lower bid. Therefore, staff's recommendation is that the Committee approve the selection of STI and authorize the Executive Officer/APCO to enter into a contract with STI.

Mr. Hilken presented examples of case studies which may pose challenges. He presented Japantown RDA Project in San Jose, with an exceedance which would require setting back the residential portion of the proposal by 200 feet, making the project approvable. He then presented Sciortino Ranch in Brentwood, a project with difficulties meeting the GHG thresholds and the region's long term land use goals.

Staff was also asked to look at Lafayette BART, which is a hypothetical project and revealed setting back residential development by 500 feet would make the project approvable.

Committee Member Comments/Discussion:

Secretary Gioia said the case studies are exactly the kind of thing the Board needs to think of from a regional perspective, as the District's goals may not mesh with those of MTC or ABAG, and the analysis does not address the economic realities that a mixed use project would have on a developer's financial feasibility to build it. He pointed out that developing a reduced number of units because of a project being close to BART would make it more economically challenged.

Director Torliatt reiterated that the CEQA guidelines are simply guidelines, and they provide a local jurisdiction the ability to look at impacts, determine mitigations, and approve projects with a statement of overriding considerations, as appropriate.

Mr. Hilken noted that the setback would shrink over time, given reduced emissions through the CARE program and CARB mobile source regulations. He stated next steps include conducting URBEMIS training for local staff in May, risk and hazard evaluation training in June/July, proceeding with CRRP pilot projects, seeking Air District Board approval of significance thresholds June 2, 2010, and provisions for on-going technical assistance to lead agencies.

Public Comment:

Matt Regan, Bay Area Council, said they remain very concerned about unintended consequences the CEQA amendments will have on projects, noting that developers look at land acquisition costs which will not pencil out economically. He agreed that thresholds will be reduced over time as diesel fuel technology develops, but once a site is lost, it is forever. He said long term planning decisions are being made now regarding encouragement of transit-oriented and infill development and if not feasible, development will be pushed into greenbelts. Another concern is that the amendments will move projects from negative declarations to full blown EIRs. He believes the plan would add another burden on developers and he encouraged moving forward with caution.

Director Comments/Questions:

Director Uilkema expressed concern that the amendments will halt transit-oriented, downtown residential projects from moving forward and with the word "obligations" referred to on page 1 of the staff report, and questioned if the guidelines were to be used as a tool and whether they are advisory or obligatory.

Mr. Bunger stated that in preparing an EIR, CEQA guidelines cannot be ignored. If there is a guideline and an EIR is being prepared, then the lead agency will need to follow the guideline or have sufficient evidence not to follow it. He said a threshold is bound by the fair argument standard, and impacts must be evaluated. The District's guidelines act as that argument and constitute substantial evidence. As a lead agency, one is at risk if guidelines are not followed. Regarding the issue of obligation, he stated that the lead agency has an obligation to figure out what significant impacts are. Those preparing EIR's are evaluating information already out there and they should be making discretionary decisions bound by substantial evidence.

Director Uilkema questioned and confirmed that CARB has similar land use guidance which has some input to the process, as well. She noted that the guidelines may be considered advisory, but in fact, are firm guidelines for evaluating a project for the future. Mr. Bunger stated that if someone decided not to follow the guidelines, they would be at risk of being sued, and conversely, absent guidelines would create an even worse problem.

Vice Chair Bates stated the District is a health agency and cannot ignore the charge. He believes the guidelines are actually helping industry. He stated the City of Berkeley's planning staff was opposed to guidelines, but after attending meetings and understanding them more, he agrees it works and makes sense.

Directors continued discussions regarding the case study for the Lafayette BART, discussed building assumptions and future impacts, modeling with a future inventory, and factors relating to restriction of trucks using the tunnel at certain times.

Mr. Hilken confirmed with Director Haggerty that case studies take approximately a couple of hours to complete and that he would forward the case study on the Santa Clara stadium, and could prepare a case study for a housing development at the Dublin BART station, which he noted was in Supervisor Miley's District.

Secretary Gioia thanked staff for providing case studies posing challenges for certain projects, noted there are people already living in restricted zones, and suggested compiling a CRRP for the entire community instead of on a project by project basis. He also reiterated his support for allowing time for communities to develop CRRPs.

Director Ross referred to the Lafayette BART station example, noting its siting between freeways and potential unintended consequences when smart growth is implemented.

Director Garner questioned and confirmed that funding for CRRPs has already been budgeted. She said while not originally in favor of guideline amendments in December, she believes staff has worked very hard to address all comments, has worked with cities and counties in providing necessary tools, she has heard favorable comments, and is prepared to support CEQA guidelines amendments on June 2, 2010. She believes the matter will cause litigation, as "Not In My Backyard (NIMBY) groups will utilize the CEQA guidelines to stop development. She noted the guidelines are based on science, are in place to help the public in terms of health standards, and they may need to be adjusted over time in addressing regional development.

Director Torliatt confirmed that the CARE programs are funded out of General Fund which is money that could be spent anywhere in the 9 Bay Area counties. She pointed out that the District is targeting money where there are significant health risks. She believes the District, as well as cities and counties, are in a better legal standing when they can base thresholds on science.

Secretary Gioia questioned and confirmed that CARE communities will be assisted with funding right away and some have already begun work to complete inventories.

Committee Action: Vice Chair Bates made a motion to recommend that the Board of Directors select Sonoma Technologies, Inc. (STI) to assist with the development of local emission inventories to support community risk reduction plans; and authorize the Executive Officer/APCO to execute a contract with STI to assist with the development of local emission inventories in an amount not to exceed \$207,200. Director Ross seconded the motion; unanimously approved without objection.

Committee Member Comments/Other Business:

Directors voiced appreciation for staff's work and positive outreach efforts with update of the CEQA Guidelines.

Time and Place of Next Meeting: At the call of the Chair

Adjournment: The meeting was adjourned at 11:10 a.m.

/s/ Lisa Harper
Lisa Harper
Clerk of the Boards