

Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

Board of Directors Regular Meeting
Wednesday, June 1, 2011
9:45 a.m.

APPROVED MINUTES

CALL TO ORDER: Chairperson Tom Bates called the Regular Meeting to order at 9:48 a.m.

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

Roll Call:

Present: Chairperson Tom Bates; Vice Chair John Gioia; Secretary Ash Kalra; and Directors Susan Garner, Susan Gorin, Carole Groom, Scott Haggerty Jennifer Hosterman, David Hudson, Carol Klatt, Eric Mar, Nate Miley, Mark Ross, James Spering, Gayle B. Uilkema and Brad Wagenknecht

Absent: Directors John Avalos, Harold Brown, Liz Kniss, Johanna Partin, Ken Yeager and Shirlee Zane.

PUBLIC COMMENT ON NON-AGENDA MATTERS:

Chairperson Bates stated that a trial run of real-time language translation services was occurring at the meeting today.

Chairperson Bates opened the public comment period and seeing no one come forward to speak, he closed the public comment period.

CONSENT CALENDAR (Items 1-4):

- 1. Minutes of the May 18, 2011 Regular Meeting.**
- 2. Board Communications Received from May 18, 2011 through May 31, 2011.**
- 3. District Personnel on Out-of-State Business Travel.**
- 4. Notice of Proposed Amendments to the Air District's Administrative Code Division II Fiscal Policies and Procedures – Section 4 Purchasing Procedures: 4.3 Contract Limitations**

Board Action: Director Haggerty made a motion to approve Consent Calendar Items 1 through 4; Director Spering seconded the motion, which carried unanimously without objection.

COMMITTEE REPORTS AND RECOMMENDATIONS

5. Report of the Budget and Finance Meeting of May 25, 2011

Chair: Carole Groom

Director Groom reported that the Budget and Finance Committee met on Wednesday May 25, 2011 and approved the minutes of April 28, 2011.

The Committee received an update on the Fiscal Year Ending (FYE) 2011 Budget, and the Air District's current year fiscal challenges and response. The Air District has seen a decrease in permit fees and interest revenue. Penalties and settlement revenues have increased, and the Air District has decreased non-capital expenditures, and cut service and supply costs. The budget for capital projects has decreased over the past three years and continues to trend downward. The Air District has made many cost cutting choices, such as: deferring the modeling system upgrades; reducing technical assistance for local climate action plans; reducing technical assistance for mobile source measures; reducing media buys for Winter Spare the Air; reducing youth outreach; and reducing event sponsorships. Staff expects to only use the reserve amounts projected in the budget, and continue to keep the reserves at above 15% of the general fund.

Staff presented four permitting and inspection enhancement projects to the Committee, and requested authorization for funding. The four projects are Title V Permitting Automation Systems, Enforcement Inspector Tablet Computing, Emission Train Browser, and Registration Program Integration. These projects are part of the itemized Capital Projects in the FYE 2012 budget. The Committee recommends Board of Directors authorization to expend \$700,000 to fund the projects, pending the final approval of the Fiscal Year Ending 2012 Proposed Budget.

The Committee received a presentation regarding purchasing procedures and contract limitations. Staff requested that a change be made in the policy so recurring payments for routine business costs, such as utilities, that are more than, or accumulate over \$70,000, can be presented in the Quarterly Financial Report. The Committee agreed that this change in the policy should go before the Board of Directors.

The Committee discussed the development of a cost recovery policy as a follow up to the Matrix Group Cost Recovery and Containment study. The study recommended that the Air District adopt a formal cost recovery policy to provide greater certainty to fee payers regarding future increases. Staff suggested that a stakeholder advisory group be created to further clarify key points of a cost recovery policy for the Air District.

The next meeting is at the call of the Chair.

Board Action: Director Groom made a motion to approve the report and the recommendations of the Budget and Finance Committee; Director Klatt seconded the motion; which carried unanimously without objection.

6. Report of the Executive Committee Meeting of May 26, 2011

Chair: Tom Bates

Chairperson Bates reported that the Executive Committee met on Thursday, May 26, 2011 and approved the minutes of April 11, 2011.

The Committee received an update from the Joint Policy Committee on their Economic Development and Resilience Work Plan for June 2011 through January 2012. This plan was unanimously approved by the Joint Policy Committee on May 20th and consists of three complementary projects integrating Bay Area economic development and climate/energy resilience, including both adaptation and mitigation actions. These projects will make the Bay Area economically stronger and healthier in the near-term and more prepared for the challenges ahead.

Committee Members viewed a demonstration of interactive video conferencing with remote sites in San Jose and Santa Rosa and discussed how video conferencing would work for the Board of Director's committee meetings. The Committee Members' comments about video conferencing included public access and noticing, the cost of using remote facilities, the need for Directors to be present at meetings, and questions about stipends. The Committee recommended video conferencing during Committee meetings that are informational only.

The Committee received an update on webcasting, and members agreed that the transparency and public access to the Board of Directors meetings is important. The Committee recommends Board of Director's approval of the proposal to expend \$156,000 to purchase video equipment for webcasting of Board meetings.

The Committee adjourned to a closed session conference regarding labor negotiations and there was no reportable action from the closed session. The next meeting of the Executive Committee is September 16, 2011.

Board Action: Chair Bates made a motion to approve the report and recommendations of the Executive Committee; Director Wagenknecht seconded the motion; which carried unanimously without objection.

PRESENTATIONS

7. Legal Framework for the Air District – How Do We Clean the Air?

District Legal Counsel Brian Bunger presented an overview of the legal framework for the Air District, the second in a series of workshops. The first workshop was about air monitoring, and the third one will address permitting and enforcement. Mr. Bunger recognized William Guy and Alexander Crockett in particular for their assistance with the presentation.

Mr. Bunger reviewed the criteria pollutants and Federal and State laws regarding pollutants, air toxics, and greenhouse gases. Slides were shown illustrating the regulatory authority and interconnections from the California Legislature to the California Air Resources Board (ARB),

the Air District, and the authority coming from the U.S. Congress and the Federal Clean Air Act to the Environmental Protection Agency and to the Air District. Most of the Air District's authorities pre-existed ARB.

The Federal Clean Air Act allows ARB to regulate motor vehicles. The Air District has less contact with mobile sources, although they are a larger part of the problem. Vice Chair Gioia asked where work with the ports fits into the Air District's authority.

Mr. Bunger responded that the ports are an indirect source. The Air District can control the attraction pollution aspect but cannot control the engines in ships or vehicles. Both Federal and State laws cover the concept of indirect sources.

Mr. Bunger reviewed the Air District's primary responsibility under the Health and Safety Code, and the Federal 2001 Ozone Attainment Plan and its components.

California's 2010 Clean Air Plan requires that the Air District demonstrate a 5% reduction in nonattainment pollutant emissions per year averaged over three years or that District implement "every feasible measure". Mr. Bunger described the plan components and implementation of measures.

He reviewed the differences between the State and Federal plan requirements and Federal New Source Performance Standards (NSPS). The Air District implements regulations required by Federal and California Clean Air Acts which include: new source review permit programs; specific regulatory actions committed to by the Air District in its Attainment Plans; and additional Air District regulatory provisions.

The Bay Area 2001 Ozone Attainment Plan is a revision to the State Implementation Plan (SIP) and the Air District may need to prepare a SIP for Particulate Matter (PM) in the near future.

Director Uilkema asked about the Board's authority to incorporate controls for a pollutant not on the list. Executive Officer/APCO Jack Broadbent stated that at the end of each year a list is provided to the public outlining regulations, rulemaking, and actions the Air District could be considering. Mr. Bunger added that there is a broad definition of pollutants, dating back to the 1950s.

Director Hudson questioned whether Nitrogen trifluoride (NF₃) is now on the list, and if it needed to be added to Climate Action Plans. Mr. Broadbent said the pollutants of concern for global warming are well known and there may not be many sources of NF₃ in California.

Mr. Bunger continued his presentation stating there are two types of Air District regulations, substantive and procedural. Substantive requirements include Best Available Retrofit Control Technology (BARCT). Procedural requirements include noticing of hearings, analysis of overlapping requirements, socioeconomic impact analysis, and incremental cost analysis. The Board of Directors must find that rules meet the requirements of necessity, authority, clarity, consistency, non-duplication, and reference. The goal is to create rules that are implemented universally and effectively; and picking control measures that are the most effective and most feasible without undue expense.

He further outlined Air District considerations such as pre-construction permits for major sources; Lowest Achievable Emission Rate (LAER); emission offsets; Prevention of Significant Deterioration (PSD) for attainment pollutants; Best Available Control Technology (BACT); operating requirements; equipment registration; Federal and State regulations of air toxics and permitting of Title V and large emitters.

Mr. Bunger went over other topics that have an impact on the Air District, such as California Environmental Quality Act (CEQA); SB 375, the Sustainable Communities Strategy; the Air District's consultative policy role as part of the Regional Transportation Plan (RTP) and Joint Policy Committee (JPC); the prohibition on public nuisances and regulating visible emissions.

Board Member Comments:

Vice Chair Gioia questioned and Mr. Bunger clarified the various levels of authority, standards and roles the Air District has relating to the Chevron Refinery project. Mr. Bunger explained that major sources are sources with 100 tons per year or more of pollutants; the Air District has 114 major sources.

Director Gorin discussed a recent issue in downtown Santa Rosa relating to a restaurant, and clarified that the Air District receives and responds to complaints about cooking and would work with the source and complainant, and also verified that cooking is exempt from Winter Spare the Air alerts.

Public Comments: None.

Board Action: None, informational only.

8. Presentation on the Air District's Proposed Budget for FYE 2012

Deputy Air Pollution Control Officer Jeff McKay, presented the FYE 2012 budget overview, which is scheduled for consideration and final approval at the June 15, 2011 Board of Directors meeting.

Mr. McKay went over the key points of the \$61.1 million general fund budget, noting that there are 363 positions, and reserves remain at over 15% reflecting prior Board direction. He explained that cost containment was being approached in a pro-active, balanced, multi-faceted, multi-year way. Personnel costs are being controlled by keeping the number of full-time equivalent (FTE) positions unchanged from the amended FYE 2008 budget. The vacancy count is steadily increasing with 36 vacancies being held, and 2 additional vacancies from turnover. Management and labor are working together on contract negotiations. Leadership development and training opportunities remain part of the budget for cross training employees and keeping them flexible, to address personnel needs using current staff.

Mr. McKay outlined cuts in services and supplies, and reduced capital spending as a result of deferred maintenance on the building. He also discussed fee increases and cost recovery. Other cost cutting measures will include deferred modeling system upgrades, reduced technical

assistance for local climate action plans, reduced technical assistance for mobile source measures, reduced media buys for Winter Spare the Air, reduced youth outreach, and reduced event sponsorship. He further explained that the Air District has diversified revenue sources, with 1/2 coming from permit fees and 1/3 from property tax. Expenditures are approximately 75% for staffing, and 25% for service, capital and supplies.

Mr. McKay said this is not a single year approach. This budget keeps personnel costs down, reduces expenditures, incorporates fee increases, and in a measured way taps into reserves.

Public Comments: None.

Board Comments:

There was discussion about the potential shared facility with the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC). Staff clarified that negotiations are continuing and expect concurrence of the executive boards of the other agencies in July. The Air District owns the current building and anticipates a cost savings with relocation. A special meeting regarding this issue may be held in July.

Board Action: None. Final public hearing and Board consideration will be on the agenda for the June 15, 2011 Board meeting.

Employee Association Representative Steven Chin, addressed the Board of Directors before they adjourned into closed session. Mr. Chin stated that employees have a good relationship with the Board and with management staff. Mr. Chin said he had previously addressed the Executive Committee, and that the employees are opening the contract to have certainty and help address the financial concerns of Air District. He continued that the tentative agreement reflects a reasonable and equitable understanding, and he thanked Mr. Broadbent and Mr. Colbourn. Mr. Chin felt that the contract proposal maintains a good working relationship.

Chairperson Bates stated he appreciates the attitude of the employee association for opening the contract and negotiating.

CLOSED SESSION

9. Conference with Labor Negotiators

Chair Bates adjourned the meeting into a closed session at 11:13 a.m.

OPEN SESSION

The meeting was reconvened at 11:34 a.m. Chairperson Bates said there was no reportable action from the Closed Session.

PUBLIC COMMENT ON NON-AGENDA MATTERS

There was no public comment.

BOARD MEMBERS' COMMENTS

There were no comments from Board Members.

OTHER BUSINESS

10. Report of the Executive Officer/APCO

Mr. Broadbent announced the retirement of Director of Enforcement Kelly Wee. Mr. Brian Bateman will now serve as the Director of Enforcement, and Mr. John Chiladakis will be appointed as the Director of Engineering. He added that employees will be recognized for their years of service at the next Board meeting.

Deputy Air Pollution Control Officer Jean Roggenkamp announced that the Air District has been awarded several new grants totaling over \$2.3 million.

Funding received from Assembly Bill (AB) 118 – Advanced Technology Demonstration:

- Marine - Demonstration of DPF/SCR on a Vessel-Caterpillar - \$261,000
- Locomotive #1 - Construction and Demonstration of Tier-4 Genset - NREC and Richmond Pacific Railroad - \$529,810
- Locomotive #2 - GTE Diesel Particulate Matter Filter Demonstration -BNSF Railroad - \$270,190

Funding received from the Carl Moyer Multi-District Program:

- On-Road Truck Voucher Incentive Program - \$1,252,923

11. Chairperson's Report

Chairperson Bates announced that the Mobile Source Committee meeting on June 23 has been cancelled and asked that Board members stay flexible during summer as they may need to come together for building negotiations.

12. Time and Place of Next Meeting: 9:45 A.M. Wednesday, June 15, 2011 – 939 Ellis Street, San Francisco, CA 94109

13. Adjournment: Chair Bates adjourned the meeting at 11:38 a.m.

ISI Kris Perez Krow

Kris Perez Krow
Clerk of the Boards