

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

Board of Directors Regular Meeting
Wednesday, December 19, 2012

APPROVED MINUTES

CALL TO ORDER

Chairperson John Gioia called the meeting to order at 9:49 a.m.

ROLL CALL

Present: Chairperson John Gioia; Vice Chairperson Ash Kalra; Secretary Nate Miley and Directors Susan Adams, John Avalos, Susan Gorin, Carole Groom, Scott Haggerty, David E. Hudson, Liz Kniss, Eric Mar, Mark Ross, Jim Spering, Brad Wagenknecht, Ken Yeager and Shirlee Zane.

Absent: Directors Tom Bates, Susan Garner, Jennifer Hosterman, Carol L. Klatt, Edwin M. Lee and Mary Piepho.

PLEDGE OF ALLEGIANCE

Director Spering led the Pledge of Allegiance.

OPENING COMMENTS: None.

PUBLIC COMMENT ON NON-AGENDA MATTERS: None.

PROCLAMATIONS/AWARDS

Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO), and Chairperson Gioia presented an Award of Appreciation to Tom Cackette, Chief Deputy Executive Officer, California Air Resources Board, on behalf of the Air District. Mr. Cackette addressed the Board in appreciation.

NOTED PRESENT: Director Kniss was noted present at 9:59 a.m.

Chairperson Gioia recognized outgoing Directors Garner and Hosterman in absentia for their service, leadership and dedication in protecting air quality in the Bay Area.

Chairperson Gioia and Mr. Broadbent recognized outgoing Director Kniss for her service, leadership and dedication in protecting air quality in the Bay Area. Director Kniss addressed the Board in appreciation.

NOTED PRESENT: Director Mar was noted present at 10:02 a.m.

Chairperson Gioia recognized former Director Katie Rice for her service, leadership and dedication in protecting air quality in the Bay Area. Supervisor Rice addressed the Board in appreciation.

NOTED PRESENT: Director Zane was noted present at 10:09 a.m.

Chairperson Gioia introduced newly appointed Director Adams from the County of Marin.

NOTED PRESENT: Director Gorin was noted present at 10:11 a.m.

Chairperson Gioia recognized outgoing Director Gorin for her service, leadership and dedication in protecting air quality in the Bay Area. Director Gorin addressed the Board in appreciation.

Director Yeager recognized Stanley Yamaichi, Supervising Air Quality Instrument Specialist, who completed the milestone of thirty-five (35) years of service with the Air District during this second half of the calendar year. Mr. Yamaichi addressed the Board in appreciation.

Director Miley recognized Michael Bostick, Air Quality Inspector, who completed the milestone of twenty-five (25) years of service with the Air District during this second half of the calendar year. Mr. Bostick addressed the Board in appreciation.

Director Groom recognized Jason Chen, Programmer Analyst, who completed the milestone of twenty-five (25) years of service with the Air District during this second half of the calendar year. Mr. Chen addressed the Board in appreciation.

Director Groom recognized Douglas Tolar, Senior Air Quality Specialist, who completed the milestone of twenty-five (25) years of service with the Air District during this second half of the calendar year. Mr. Tolar addressed the Board in appreciation.

Director Adams recognized Judith Cutino, Senior Air Quality Engineer, who completed the milestone of twenty-five (25) years of service with the Air District during this second half of the calendar year. Ms. Cutino addressed the Board in appreciation.

Chairperson Gioia recognized Douglas Hall, Supervising Air Quality Engineer, who completed the milestone of twenty-five (25) years of service with the Air District during this second half of the calendar year. Mr. Hall addressed the Board in appreciation.

Chairperson Gioia recognized Jorge Franco, Air Quality Inspector, who completed the milestone of twenty-five (25) years of service with the Air District during this second half of the calendar year. Mr. Franco addressed the Board in appreciation.

Chairperson Gioia recognized Jeannette Lim, Supervising Air Quality Inspector, Tony Gambardella, Supervising Air Quality Specialist, and David Fairley, Statistician, in absentia, for their completion of milestone years of service with the Air District during this second half of the calendar year.

CONSENT CALENDAR (ITEMS 1 – 4)

- 1. Minutes of the Board of Directors Special Meeting of December 5, 2012;**
- 2. Board Communications Received from December 5, 2012, through December 18, 2012;**
- 3. Authorize Expenditures for the Implementation of the Production System; and**
- 4. Proposed Regulatory Agenda for 2012.**

Board Comments: None.

Public Comments: None.

Board Action: Director Wagenknecht made a motion to approve Consent Calendar Items 1, 2, 3 and 4; Director Yeager seconded; and the motion was unanimously approved without objection.

COMMITTEE REPORT AND RECOMMENDATIONS

- 5. Report of the Executive Committee Meeting of December 17, 2012**
Chairperson J. Gioia

The Committee met on Monday, December 17, 2012, and approved the minutes of October 22, 2012.

The Committee received from Thomas M. Dailey, M.D., Chairperson of the Hearing Board, the Quarterly Report of the Hearing Board for July through September 2012, including summaries of the cases and fees collected.

The Committee considered the staff presentation on Real Estate Broker Selection for Disposition of 939 Ellis Street, including an update on 390 Main Street building negotiations, request for proposals scope, process and scores, commission fees and recommendation. The committee discussed the need to ensure that the Air District's obligations to the broker are appropriately limited in the case that the District should withdraw from the marketing process following the listing. The Committee recommends the Board authorize the Executive Officer/APCO to enter into a contract with Cassidy Turley, including contingencies for withdrawal from the offer process, to develop marketing strategies for disposition of 939 Ellis Street.

The Committee considered the staff presentation to Authorize Additional Funding for Web Site and Production System Integration, including progress to date, next steps, direction for 2013, resources needed and recommendations. The Committee recommends the Board authorize the Executive Officer/APCO to amend the existing contract with Lightmaker, Inc., by \$120,000, increase the Information Services fiscal year 2012 – 2013 budget by \$200,000, and authorize the Executive Officer/APCO to enter into contracts for services not to exceed \$200,000, with IntelliBridge Partners, Inc.

The Committee received the staff presentation on the Regional Plug-in Electric Vehicle Plan, including an overview of the key elements required by the United States Department of Energy grant which funded the plan, a summary of local government readiness findings, the regional siting analysis for public charging, implementation actions to be undertaken by regional agencies and next steps.

The next meeting of the Committee is in January 2013, at the call of the Chair.

Board Comments: None.

Public Comments: None.

Board Action: Chairperson Gioia made a motion to approve the report and recommendations of the Executive Committee; Director Wagenknecht seconded; and the motion was unanimously approved without objection.

PUBLIC HEARING

6. Continuation of the Public Hearing to Consider Adoption of Proposed Amendments to Air District New Source Review (NSR) and Title V Permitting Regulations (Regulation 2, Rules 1, 2, 4 and 6) and Adoption of a California Environmental Quality Act (CEQA) Environmental Impact Report (EIR)

Mr. Broadbent introduced Alexander Crockett, Assistant Counsel of Counsel's Office, who gave the staff presentation Updates to BAAQMD New Source Review and Title V Permitting Programs, Proposed Amendments to Regulation 2 - Rules 1, 2, 4, and 6, including a summary of existing permitting programs, regulatory developments, proposed amendments, public outreach and significant input, EIR, proposed effective date and proposed resolution.

Board Comments:

Director Ross asked about the nature and resolution of concerns expressed by Valero Refining, which questions were answered by Mr. Crockett.

Director Hudson asked about the phrase "except greenhouse gases" in slide #25, Clarification that 5 tons per year Exemption Backstop Does Not Apply to Greenhouse Gases (GHGs), and the interplay between facility size and emission levels, which questions were answered by Mr. Crockett.

Public Comments:

Bill Quinn, Vice President, California Council for Environmental and Economic Balance, addressed the Board in support of the proposal despite standing concerns about the definition of "modification," the non-attainment modeling test requirements and concerns about the permitting process.

Guy Bjerke, Manager, Bay Area Region & State Safety Issues, Western States Petroleum Association, echoed the comments of Mr. Quinn and expressed his additional concern regarding potential impacts to energy efficiency projects.

Board Action: Director Wagenknecht made a motion, seconded by Director Groom, to:

1. Adopt amendments to the Air District's NSR and Title V permitting programs, as set forth in the Regulation 2, Rule 1 (Permits, General Requirements), Regulation 2, Rule 2 (Permits, New Source Review), and Regulation 2, Rule 6 (Permits, Major Facility Review), effective upon final United States Environmental Protection Agency (EPA) approval;

2. Adopt amendments to the Air District's NSR and Title V permitting programs, as set forth in the Regulation 2, Rule 4 (Permits, Emissions Banking), effective immediately;
3. Certify a final EIR for the proposed amendments pursuant to the CEQA; and
4. Resolve to revisit National Ambient Air Quality Standards (NAAQS) Protection Requirement and other Fine Particulate Matter (PM_{2.5}) Requirements in the Future.

Director Spering asked about revisiting the rule with respect to the NAAQS, which question was answered by Mr. Broadbent. Mr. Broadbent recommended that updates be presented to the Stationary Source Committee approximately every six months and expressed staff's shared concern about the effect of the proposal on energy efficiency projects.

Director Spering proposed an amendment to the pending motion to include direction that staff provide periodic updates to the Board or a committee thereof. Director Wagenknecht made a motion to amend the pending motion, seconded by Director Groom, to:

1. Adopt amendments to the Air District's NSR and Title V permitting programs, as set forth in the Regulation 2, Rule 1 (Permits, General Requirements), Regulation 2, Rule 2 (Permits, New Source Review), and Regulation 2, Rule 6 (Permits, Major Facility Review), effective upon final EPA approval;
2. Adopt amendments to the Air District's NSR and Title V permitting programs, as set forth in the Regulation 2, Rule 4 (Permits, Emissions Banking), effective immediately;
3. Certify a final EIR for the proposed amendments pursuant to the CEQA;
4. Resolve to revisit NAAQS Protection Requirement and other PM_{2.5} Requirements in the Future; and
5. Direct staff to periodically present updates to the Board or a committee thereof.

The amended motion was carried unanimously without objection, with Director Adams abstaining.

PUBLIC COMMENT ON NON-AGENDA MATTERS: None.

BOARD MEMBERS' COMMENTS: None.

OTHER BUSINESS

7. Report of the Executive Officer/APCO:

Mr. Broadbent presented an update on the Winter PM_{2.5} Season; notified the Board that the next meeting of the Board will be held at San Jose City Hall; and updated the Board regarding the future Air District office at 390 Main Street.

Director Sperring asked about 390 Main Street, which Mr. Broadbent answered.

8. Chairperson's Report:

Chairperson Gioia announced the reappointment of Directors Haggerty and Miley to the Board by the Alameda County Board of Supervisors.

9. Time and Place of Next Meeting:

Wednesday, January 16, 2013, San Jose City Hall, 200 East Santa Clara Street, San Jose, California 95113 at 9:45 a.m.

CLOSED SESSION

The Board adjourned to Closed Session at 11:46 a.m.

10. EXISTING LITIGATION (Government Code Section 54956.9(a))

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

California Building Industry Association v. Bay Area AQMD, Alameda County Superior Court, Case No. RG-10548693; California Court of Appeal, First Appellate District, Case No. A135335.

OPEN SESSION

The Board resumed Open Session at 11:50 a.m. with no reportable action.

11. Adjournment: The Board meeting adjourned at 11:50 a.m.

151 Sean Gallagher

Sean Gallagher
Clerk of the Boards