

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109  
(415) 749-5073

Board of Directors Regular Meeting  
Wednesday, March 6, 2013

## **APPROVED MINUTES**

### **CALL TO ORDER**

Chairperson Ash Kalra called the meeting to order at 9:51 a.m.

### **ROLL CALL**

Present: Chairperson Ash Kalra; Vice Chairperson Nate Miley; and Directors John Avalos, Tom Bates, Teresa Barrett, Scott Haggerty, David E. Hudson, Eric Mar, Jan Pepper, Mary Piepho, Mark Ross, Tim Sbranti, Jim Spering and Ken Yeager.

Absent: Secretary Carole Groom and Directors Susan Adams, John Gioia, Carol L. Klatt, Liz Kniss, Edwin M. Lee, Brad Wagenknecht and Shirlee Zane.

### **PLEDGE OF ALLEGIANCE**

Chairperson Kalra led the Pledge of Allegiance.

**OPENING COMMENTS:** None.

### **OATH OF OFFICE/SWEARING-IN OF NEW BOARD OF DIRECTORS:**

Directors Barrett and Pepper took the oath of office.

### **PUBLIC COMMENT ON NON-AGENDA MATTERS:**

Gary Latshaw addressed the Board to request the Air District take a stance on the Keystone XL Pipeline project and to recommend Board review of a recent study by Dr. Daniel M. Stout II of the United States Environmental Protection Agency.

Tim Brand addressed the Board to request the implementation of stricter emissions standards applicable to the operations of the Lehigh cement facility.

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

Joel Masser addressed the Board regarding the feasibility of stricter emission standards applicable to the operations of the Lehigh cement facility.

Jeanne Quock addressed the Board to request assistance with the unmitigated emissions from her neighbor's back-up diesel generator. Chairperson Kalra directed staff to follow up with Ms. Quock.

Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO), said the drafting of regulations regarding back-up diesel generators is already underway and the report relative to the Lehigh facility is currently under review by staff.

### **CONSENT CALENDAR (ITEMS 1 – 7)**

- 1. Minutes of the Board of Directors Regular Meeting of February 6, 2013;**
- 2. Board Communications Received from February 6, 2013, through March 5, 2013;**
- 3. Air District Personnel on Out-of-State Business Travel;**
- 4. Notice of Violations Issued and Settlements in Excess of \$10,000 in January 2013;**
- 5. Quarterly Report of Executive Office and Division Activities;**
- 6. Consider Approval of Hiring Recommendation at Step E of Salary Range 156M for the Director of Engineering Position; and**
- 7. Consider Authorizing Expenditures for the My Air Online Program.**

Board Comments: None.

Public Comments: None.

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

### **COMMITTEE REPORTS AND RECOMMENDATIONS**

- 8. Report of the Personnel Committee Meeting of February 11, 2013**  
Committee Chairperson Wagenknecht (read by Director Mar)

The Personnel Committee met on Monday, February 11, 2013, and approved the minutes of November 8, 2012.

The Personnel Committee met in closed session to conduct a performance evaluation of the District Counsel with no reportable action. The Personnel Committee Chair will brief the Board on the evaluation during today's closed session.

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

Board Comments: None.

Public Comments: None.

Board Action:

Director Mar made a motion to approve the report of the Personnel Committee; Director Hudson seconded; and the motion was unanimously approved without objection.

**9. Report of the Mobile Source Committee Meeting of February 21, 2013**  
Committee Chairperson Haggerty

The Mobile Source Committee met on Thursday, February 21, 2013, and approved the minutes of January 24, 2013.

The Mobile Source Committee then reviewed projects with proposed grant awards over \$100,000 and recommends Board approval of two projects, one that will replace one off-road diesel-powered loader in Sonoma County and another that will replace four pieces of marine equipment operating on a tug boat in Contra Costa County, and authorization for the Executive Officer/APCO to enter into agreements for those projects.

The Mobile Source Committee then received an overview of Air District Grant Programs, including a six-year history of grant funding expenditures, a summary of 2012 grant funding allocations, emissions reductions figures and expenditures by County, 2013 funding projections, and upcoming opportunities and challenges for the grant program.

The Committee also reviewed the Funding for Fiscal Year Ending 2013 Transportation Fund for Clean Air Regional (TFCA) Fund Shuttle Projects and recommends the Board:

1. Modify Policy 28 to increase TFCA cost-effectiveness maximum limit to \$500,000/ton for pilot shuttle projects located in Community Air Risk Evaluation areas and increase the time period for which a project in those areas can maintain “pilot” status from two years to three years;
2. Award the Oakland “B” shuttle the amount of \$177,302 and San Francisco 82X shuttle the amount of \$147,950 for last-mile commute connection service; and
3. Award funding and authorize the Executive Officer/APCO to enter into agreements for 6 Projects: 12R09, 12R10, 12R11, 12R17, 12R18 and 12R19.

The next meeting of the Committee is on Thursday, March 28, 2013, at 9:30 a.m.

Board Action:

Director Haggerty made a motion to approve the report and recommendations of the Mobile Source Committee and Director Piepho seconded.

Public Comments:

Maisha Everhart, Senior Policy Advisor for Intergovernmental Affairs, Office of the Mayor, City of Oakland, read the letter from Mayor Jean Quan, Council President Pro Tem Rebecca D. Kaplan and

Councilmember Lynette G. McElhaney, City of Oakland, dated March 6, 2013, in support of continued funding of City of Oakland, Broadway “B” project.

Zach Seal, Economic & Workforce Development, City of Oakland, addressed the Board in support of continued funding of City of Oakland, Broadway “B” project.

Board Comments:

Director Bates commended the City of Oakland for its efforts on this project, said the term definitions are in need of refinement and urged the Bay Area Regional Transit to get involved in funding projects of this type.

Director Piepho commended the City of Oakland for its efforts on this project and urged the parties to consider a minimal fare of approximately \$0.25 to help offset the operational costs.

Board Action:

The motion was unanimously approved without objection.

Director Ross asked if the recent closure of a business involved in the truck fleet modernization will have an impact on Air District projects, which questions were answered by Mr. Broadbent.

**10. Report of the Executive Committee Meeting of February 25, 2013**  
Chairperson Kalra

The Executive Committee met on Monday, February 25, 2013, and approved the minutes of December 17, 2012.

The Executive Committee received from Christian Colline, P.E., Vice-Chairperson of the Hearing Board, the Quarterly Report of the Hearing Board for October through December 2012, including summaries of the cases and fees collected.

The Executive Committee considered the staff presentation Remote Participation Protocol for Committee Meetings, including current protocol, a proposal for consideration and next steps. The Executive Committee recommends the Board approve a remote participation protocol for select committee meetings, as follows:

1. Allow remote participation by committee members for all committee meetings held in the Air District Headquarters 4<sup>th</sup> floor Conference Room at 939 Ellis Street in San Francisco, with the exception of Executive Committee and Personnel Committee meetings;
2. The Committee Chair, Vice-Chair or member who will facilitate the meeting must participate in person;
3. Any remote participation for committee meetings will occur only via video-conferencing at identified and secured locations; and

4. Video-conferencing locations will be made available for committee meetings upon direction of the Executive Officer/APCO or by request by one or more members of the committee; provided the location(s) is/are available and all legal noticing requirements can be met.

The Executive Committee considered the staff presentation 390 Main Acquisition Status and Financing, including overviews of the site location, floor plans and shared space, components for disposition of 939 Ellis, comparisons of the annual costs for each building, a detailed review of the financing principles and next steps. The Executive Committee recommends, with the concurrence of the Budget and Finance Committee, that the Board authorize the Executive Officer/APCO to complete necessary documents to finance the purchase of the Air District portion of 390 Main Street, San Francisco, CA under the terms of the Principles of Financing presented to the committee. Completed documents will be presented to the Board for final approval at a subsequent meeting.

The next meeting of the Executive Committee is Monday, April 15, 2013, at 9:30 a.m.

Board Action:

Director Piepho made a motion to approve the report and recommendations of the Executive Committee and Director Sbranti seconded.

Board Comments:

Director Ross mentioned the option of staff addressing the issue of entitlements in order to add pre-sale value to the property at 939 Ellis Street.

Director Sbranti echoed the option mentioned by Director Ross and asked for information on the process of identifying additional remote participation locations, which process was discussed by the Board.

Public Comments: None.

Board Action:

The motion was unanimously approved without objection.

**11. Report of the Budget and Finance Committee Meeting of January 23, 2013**  
Committee Chairperson Groom (read by Director Miley)

The Budget and Finance Committee met on Wednesday, February 26, 2013, and approved the minutes of October 24, 2012, and January 23, 2013.

The Budget and Finance Committee considered the staff presentation 390 Main Acquisition Status and Financing, including overviews of the site location, floor plans and shared space, components for disposition of 939 Ellis, comparisons of the annual costs for each building, a detailed review of the financing principles and next steps. The Budget and Finance Committee recommends, with the

concurrence of the Executive Committee, that the Board of Directors authorize the Executive Officer/APCO to complete necessary documents to finance the purchase of the Air District portion of 390 Main Street, San Francisco, CA under the terms of the Principles of Financing presented to the committee. Completed documents will be presented to the Board for final approval at a subsequent meeting.

The next meeting of the Budget and Finance Committee is Wednesday, March 27, 2013, at 9:30 a.m.

Board Comments: None.

Public Comments: None.

Board Action:

Director Miley made a motion to approve the report and recommendations of the Budget and Finance Committee; Director Piepho seconded; and the motion was unanimously approved without objection.

## **PRESENTATION**

### **12. Update on Joint Regional Agency Co-Location at 390 Main Street**

Jeff McKay, Deputy APCO, gave the staff presentation 390 Main Acquisition Status and Financing, including overviews of the site location, floor plans and shared space, components for disposition of 939 Ellis, comparisons of the annual costs for each building, a detailed review of the financing principles, next steps and recommendations.

Director Hudson asked, regarding slide #21, BAAQMD 390 Main Financing Principles, whether the interest rate for the first five years is 1.4 or 3.2%, which question was answered by Mr. McKay.

Mr. McKay concluded the presentation.

Board Comments:

Director Ross asked about the plan in the event that one or more 390 Main Street building owners decide to sell their portion, which questions were answered by Brian Bunger, District Counsel.

Director Hudson clarified and corrected his comments made in the Budget and Finance Committee meeting on February 26, 2013.

Director Sbranti asked about 390 Main Street sale restrictions, which questions were answered by Mr. Bunger.

Director Pepper asked about increases in Operating Expenses of \$13 per square foot, which questions were answered by Messrs. Bunger and McKay.

Director Hudson encouraged staff to constantly reevaluate plans with an eye to maximizing the benefits of co-habitation.

Director Barrett asked, regarding slides #16, Building Purchase 390 Main Street Original Assumptions in 2011, and #17, Building Purchase 390 Main Street February 2013 Assumptions, for an explanation of the change in square footage from 62,500 to 75,000, which question was answered by Mr. McKay.

Steve Heminger, Executive Director, Metropolitan Transportation Commission (MTC), addressed the Board regarding the budget for, status of, and cost to date of renovation work, to commend Air District staff on their collaborative efforts, and to share his experience of agency co-tenancy under the terms of a condominium agreement.

Director Piepho stated San Francisco was not the ideal location.

Director Ross asked about the current value of the property at 390 Main Street, the likelihood of a sale, and whether involving the State of California in the purchase would eliminate the barrier perceived by the San Francisco Bay Conservation and Development Commission, which questions were answered by Mr. Heminger.

Director Pepper asked about the current tenants and remaining space available, which questions were answered by Mr. Heminger.

Director Bates asked about the tenancy timeline, which questions were answered by Mr. Heminger.

Director Miley echoed the comment of Director Piepho.

Public Comments: None.

Board Action:

Director Piepho made a motion, seconded by Director Spring, to authorize the Executive Officer/APCO to complete necessary documents to finance the purchase of the Air District portion of 390 Main Street, San Francisco, CA under the terms of the Principles of Financing presented to the Board. Completed documents will be presented to the Board for final approval at a subsequent meeting.

The motion was unanimously approved without objection.

**PUBLIC COMMENT ON NON-AGENDA MATTERS:**

Andy Katz, Breathe California, addressed the Board to direct its attention to a recent report from his organization regarding Emissions Control Options for Lehigh Hanson Cement Plant, to commend the collaborative work done in the wake of the Chevron refinery incident in August 2012, to express gratitude for the flexibility found in the application of the TFCA grants and to commend Director Yeager for his years of service at the California Air Resources Board.

**CLOSED SESSION**

The Board adjourned to Closed Session at 11:31 a.m.

**13. 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 cases:

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.

**14. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957 and 54957.6)**

Pursuant to Government Code Sections 54957 and 54957.6, the Board met in closed session to discuss the performance evaluation of the District Counsel conducted at the Personnel Committee meeting on February 11, 2013.

**OPEN SESSION**

The Board resumed Open Session at 11:57 a.m. with no reportable action on either item.

**BOARD MEMBERS' COMMENTS:**

Director Haggerty asked for clarification on the current remote participation policy, which was provided by Messrs. Broadbent and Bunger. Director Haggerty asked that telephonic participation at Committee meetings be re-visited as a component of the policy at some later date.

Director Piepho echoed the comment by Director Haggerty.

Director Bates echoed the comment by Director Haggerty and suggested it be considered while planning the new building at 390 Main Street.

Chairperson Kalra echoed the comments of Director Bates.

Director Piepho urged staff to continue efforts to engage the public and to lead in the area of innovative solutions, a sentiment echoed by Chairperson Kalra.

Director Haggerty asked if Alameda County had been contacted regarding its identification as a remote participation location, which question was answered by Ana Sandoval, Manager, Executive Operations/Policy Advisor.

**OTHER BUSINESS**

**15. Report of the Executive Officer/APCO:**

Mr. Broadbent presented an update on the Winter PM<sub>2.5</sub> Season.



**16. Chairperson's Report:**

Chairperson Kalra congratulated Director Gioia on his reappointment to the Board and gave notice of the Board Special Meeting as the Sole Member of the Bay Area Clean Air Foundation on March 20, 2013, at 9:45 a.m.

**17. Time and Place of Next Meeting:** Wednesday, March 20, 2013, Bay Area Air Quality Management District Office, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.

**18. Adjournment:** The Board meeting adjourned at 12:12 p.m.

*/s/ Sean Gallagher*

Sean Gallagher  
Clerk of the Boards