

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

Board of Directors Regular Meeting
Wednesday, May 15, 2013

APPROVED MINUTES

CALL TO ORDER

Chairperson Ash Kalra called the meeting to order at 10:28 a.m.

ROLL CALL

Present: Chairperson Ash Kalra; Vice-Chairperson Nate Miley; Secretary Carole Groom; and Directors Susan Adams, Teresa Barrett, Tom Bates, John Gioia, Scott Haggerty, David Hudson, Carol Klatt, Liz Kniss, Jan Pepper, Mary Piepho, Mark Ross, Jim Spering, Ken Yeager and Shirlee Zane.

Absent: Directors John Avalos, Edwin Lee, Eric Mar, Tim Sbranti and Brad Wagenknecht.

OPENING COMMENTS: None.

PUBLIC COMMENT ON NON-AGENDA MATTERS: None.

CONSENT CALENDAR (ITEMS 1 – 5)

- 1. Minutes of the Board of Directors Regular Meeting of May 1, 2013;**
- 2. Board Communications Received from May 1, 2013, through May 14, 2013;**
- 3. Air District Personnel on Out-of-State Business Travel;**
- 4. Notice of Violations Issued and Settlements in Excess of \$10,000 in April 2013; and**
- 5. Quarterly Report of Executive Office and Division Activities.**

Board Comments: None.

Public Comments: None.

Board Action: Director Gioia made a motion to approve Consent Calendar Items 1, 2, 3, 4 and 5; Director Kniss seconded; and the motion carried unanimously.

COMMITTEE REPORTS AND RECOMMENDATIONS

- 6. Report of the Personnel Committee (PC) Meeting of May 6, 2013**
Committee Chairperson Wagenknecht (as delivered by Chairperson Kalra)

The PC met on Monday, May 6, 2013, and approved the minutes of March 11, 2013.

The PC met in closed session to continue the performance evaluations of both the Executive Officer/Air Pollution Control Officer (APCO) and District Counsel, with no reportable action regarding either. The PC Chair will brief the Board on the evaluations during today's closed session.

The next meeting of the PC is at the call of the Chair.

Public Comments: None.

Board Comments: None.

Board Action:

Director Piepho made a motion to approve the report of the PC; Director Groom seconded; and the motion carried unanimously.

7. Report of the Legislative Committee (LC) Meeting of May 6, 2013
Committee Chairperson Bates

The LC met on Monday, May 6, 2013, and approved the minutes of March 14, 2013.

The LC received an update on the Air District's legislative agenda of which there are two primary components. The first is passing Assembly Bill (AB) 8 Perea and Skinner and Senate Bill (SB) 11 Pavley and Cannella to reauthorize critical air quality funding programs due to expire in the next several years, including the Carl Moyer and AB 923 programs. The second is the bill the Air District is sponsoring, SB 691 Hancock, in response to the August 6, 2012, fire at the Chevron Richmond refinery, which would encourage compliance by establishing higher penalty ceilings for one-day incidents that disrupt communities.

The LC discussed new bills, and is recommending the following positions to the Board of Directors:

SB 793 Lara: Watch and direct staff to send a letter to the California Air Resources Board (CARB) urging an administrative solution

SB 792 DeSaulnier: Oppose

SB 605 Lara: Oppose

The next meeting of the Committee is on Thursday, June 6, 2013, at 9:30 a.m.

Board Comments:

Director Bates noted that Senator DeSaulnier amended SB 792 DeSaulnier on May 14, 2013, a copy of which was distributed to the Board, and suggested the Board adopt a "watch" instead of "oppose" position.

Board Action:

Director Bates made a motion to approve the report and recommendations of the LC with an amendment to a “watch” position on SB 792 DeSaulnier, and Director Piepho seconded.

Chairperson Kalra asked for staff input on SB 792 DeSaulnier, as amended on May 14, 2013.

Director Haggerty called for a point of order regarding the amendment to the Committee recommendation by Director Bates.

Jack Broadbent, Executive Officer/APCO, introduced the amendments and Thomas Addison, Senior Advanced Projects Advisor.

Board Action:

Director Bates made an amended motion to approve the report and recommendations of the LC with the exception of adopting any position on SB 792 DeSaulnier; Director Piepho seconded; and the motion carried unanimously.

Mr. Addison briefed the Board on the amendments to SB 792 DeSaulnier.

Board Comments:

Chairperson Kalra asked staff to clarify its current recommendation, which clarification was provided by Mr. Broadbent and Jean Roggenkamp, Deputy APCO (DAPCO).

The Board discussed SB 792 DeSaulnier.

Public Comments: None.

Board Action:

Director Bates made a motion, seconded by Director Pepper, to adopt a “watch” position on SB 792 DeSaulnier and that it be referred to the Legislative Committee for further consideration.

The Board further discussed SB 792 DeSaulnier.

The motion carried unanimously.

8. Report of the Climate Protection Committee (CPC) Meeting of May 9, 2013
Committee Chairperson Avalos (as delivered by Director Hudson)

The CPC met on Thursday, May 9, 2013, and approved the minutes of March 14, 2013.

The CPC received a staff presentation on Climate Change Science Overview, including indicators of and milestones in the science of climate change, summaries of global energy balance and the greenhouse effect, a look at the role of water vapor and clouds in the greenhouse effect, an overview

of greenhouse gases and trends in atmospheric levels, a look at radiative climate forcings and climate feedbacks, projections of future global warming potential, and a comparison of greenhouse gas emissions by country.

The CPC then received a staff presentation Overview of District Climate Protection Program 2005 – 2013, including overall climate program approach, history of regional summits, grants and incentives, community outreach efforts, stationary source activities, assistance to local governments, local and regional planning activities, and regional and state-wide collaboration opportunities.

The CPC also received a staff presentation Next Steps for Air District Climate Protection Program, in which staff discussed the 2014 Clean Air Plan, including the Plan as a vehicle for organizing regional climate protection activities, the change in landscape since 2010, options for including climate protection in the 2014 Plan, possible measures in a multi-pollutant control strategy and what they require, and considerations going into the process for developing the 2014 Plan.

The CPC postponed the staff presentation Discussion on Proposed Keystone XL Pipeline for lack of time but accepted public comment on the same before adjourning.

The next meeting of the CPC is on Thursday, July 18, 2013, at 9:30 a.m.

Board Comments: None.

Public Comments: None.

Board Action:

Director Hudson made a motion to approve the report of the CPC and Director Piepho seconded.

Director Zane said she was frustrated by the public speakers' reading of the full text of their proposed resolution and expressed her hope that future meetings are conducted differently.

Chairperson Kalra clarified that a previous statement that carbon dioxide level had reached 400 parts per million (ppm) was inaccurate and clarified the current level as 399.52 ppm, a level no less urgent to address for the sake of survival.

The motion carried unanimously.

PUBLIC HEARING

9. Public Hearing to Receive Testimony on Proposed Amendments to Air District Regulation 3: Fees and Regulation 5: Open Burning

Jeff McKay, DAPCO, gave the staff presentation Draft Amendments to Regulation 3: Fees and Regulation 5: Open Burning, including cost recovery background, proposed changes to fee changes and impact on small businesses, proposed new incident response and open burning fees, public comments and rule development schedule.

Board Comments:

Director Gioia asked, regarding slide 12, Incident Response Fee, for more information on the proposed fee and enhanced monitoring efforts currently underway, which information was provided by Mr. Broadbent.

Director Zane said, regarding slide 13, Open Burning Fee, there is very real public concern about the fee and asked what kind of outreach was done and if and to what extent the proposal is consistent with other air districts' fees, which questions were answered by Mr. McKay and Wayne Kino, Director of Compliance & Enforcement. Director Zane requested that staff do additional outreach to constituent groups in Sonoma County.

Mr. Broadbent clarified that the proposed amendments are in response to a long-standing issue that generates numerous complaints and reflect an effort at equity in terms of cost recovery.

Director Zane acknowledged the issue, expressed her support for the fees and requested additional, carefully timed outreach.

Public Comments:

Steven Chappell, Suisun Resource Conservation District, addressed the Board in opposition to the proposed burn fees, namely as it applies to marsh management and the lack of a reimbursement clause for those situations where a request is denied.

Laura Fultz Stout, American Lung Association of California, addressed the Board in support of burn fees as proposed or at higher rates with more stringent burning restrictions.

Board Comments:

Director Adams thanked staff for outreach in Marin County, noted the cumulative effect of government fees on small business, encouraged improved communication and outreach regarding the application of the proposed fees as well as the development of an incentive program, warned of the likelihood of noncompliance by the regulated community if they feel their concerns are not adequately heard or addressed, suggested that staff explore the possibility of establishing partnerships with local fire marshals in an effort to lower the costs of oversight, suggested the implementation of a graduated fee schedule based on historic levels of compliance, said she appreciated the public comment by Mr. Chappell regarding a reimbursement clause and suggested the development of a credit system, and urged creative solutions to addressing public safety concerns regarding restrictions imposed by these rules on prescribed burns used as preventative measures against wild fires.

Director Piepho echoed Director Adams, noted the current Air District approach of attempting to change culture one fee at a time, and requested that staff consider a more comprehensive vision in bringing forward recommendations while being mindful of the varying constituencies that will be affected.

Director Spring asked staff to meet with constituent groups on developing alternatives through compromise.

Mr. Broadbent committed staff to exploring the possibility of an incentive program and conducting additional public outreach.

Board Action: None; informational only.

CLOSED SESSION

The Board adjourned to Closed Session at 11:41 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.

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

Pursuant to Government Code Section 54957 and 54957.6, a need existed for the Board to meet in closed session to continue the performance evaluation of the Executive Officer.

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

Pursuant to Government Code Section 54957 and 54957.6, a need existed for the Board to meet in closed session to continue the performance evaluation of the District Counsel.

OPEN SESSION

The Board resumed Open Session at 11:55 a.m. with no reportable action at this time but with direction to staff that will be represented in a future agenda item.

PUBLIC COMMENT ON NON-AGENDA MATTERS: None.

BOARD MEMBERS' COMMENTS:

Director Piepho thanked Mr. Kino for staff outreach efforts.

Director Zane announced the launch of electric bicycle lockers in the City of Santa Rosa by Sonoma County and the continued development of the Sonoma Clean Power project by Sonoma County.

OTHER BUSINESS

13. Chairperson's Report:

Chairperson Kalra announced the appointment of Director Gioia as the Air District representative to the CARB. The Board discussed the past service of Director Yeager and anticipated service of Director Gioia.

Chairperson Kalra announced the resignation of Director Sbranti from the Board and the likely appointment of his successor on June 12, 2013.

14. Report of the Executive Officer/APCO:

Mr. Broadbent presented a summary of the Summer Ozone Season, announced the Expert Air Monitoring Panel to be hosted by the Air District on July 11, 2013, and wished Director Gioia well in his new role at CARB.

15. Time and Place of Next Meeting: Wednesday, June 5, 2013, Bay Area Air Quality Management District Office, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.

16. Adjournment: The Board meeting adjourned at 12:05 p.m.

/s/ Sean Gallagher

Sean Gallagher
Clerk of the Boards