

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

Board of Directors Regular Meeting
Wednesday, June 19, 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; Secretary Carole Groom; and Directors Teresa Barrett, Tom Bates, John Gioia, Scott Haggerty, David Hudson, Carol Klatt, Liz Kniss, Eric Mar, Jan Pepper, Mary Piepho, Mark Ross, Jim Spering, Brad Wagenknecht, Ken Yeager and Shirlee Zane.

Absent: Directors Susan Adams, John Avalos, Edwin Lee and Tim Sbranti.

PLEDGE OF ALLEGIANCE: Chairperson Kalra led the Pledge of Allegiance.

OPENING COMMENTS: None.

PUBLIC COMMENT ON NON-AGENDA MATTERS:

Tim Brand addressed the Board of Directors (Board) to request further emissions reductions and the installation of a single emissions stack at the Lehigh Cement facility in Cupertino.

NOTED PRESENT: Director Yeager was noted present at 9:55 a.m.

Gary Latshaw, Sierra Club, addressed the Board to extend an invitation to a workshop regarding the Lehigh Cement facility in Cupertino, to be held on September 5, 2013, at the City of Cupertino.

PROCLAMATIONS/AWARDS

Chairperson Kalra recognized Nancy Yee, Senior Air Quality Engineer, who is retiring after completing the milestone of forty-one (41) years of service with the Air District. Ms. Yee addressed the Board in appreciation.

Director Miley recognized Linda Carey, Senior Air Quality Inspector, who completed the milestone of twenty-five (25) years of service with the Air District during this first half of the calendar year. Ms. Carey addressed the Board in appreciation.

NOTED PRESENT: Director Mar was noted present at 10:04 a.m.

Director Gioia recognized Rosalyn Novicio, Administrative Secretary, who completed the milestone of twenty-five (25) years of service with the Air District during this first half of the calendar year. Ms. Novicio addressed the Board in appreciation.

Director Yeager recognized Michael Basso, Senior Air Quality Meteorologist, who completed the milestone of forty (40) years of service with the Air District during this first half of the calendar year. Mr. Basso addressed the Board in appreciation.

NOTED PRESENT: Director Kniss was noted present at 10:14 a.m.

Director Zane recognized Clifford Sennello, Air Quality Inspector, who completed the milestone of forty (40) years of service with the Air District during this first half of the calendar year. Mr. Sennello addressed the Board in appreciation.

Chairperson Kalra recognized Glen Colwell, Air Monitoring Manager, and Naomi Bernardo, Air Quality Inspector, in absentia, for their completion of milestone years of service with the Air District during this first half of the calendar year.

CONSENT CALENDAR (ITEMS 1 – 6)

- 1. Minutes of the Board of Directors Regular Meeting of June 5, 2013;**
- 2. Board Communications Received from June 5, 2013, through June 18, 2013;**
- 3. Notice of Violations Issued and Settlements in Excess of \$10,000 in May 2013;**
- 4. Resolution to Accept Carl Moyer Multi-District Funding and Congestion Mitigation and Air Quality Improvement Funds;**
- 5. Approval of Carl Moyer Projects with Dollar Amounts in Excess of \$100,000; and**
- 6. Environmental Protection Agency (EPA) Grant Recognition.**

Board Comments: None.

Public Comments: None.

Board Action: Director Wagenknecht made a motion to approve Consent Calendar Items 1, 2, 3, 4, 5 and 6; Director Ross seconded; and the motion carried unanimously.

COMMITTEE REPORTS AND RECOMMENDATIONS

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

The LC met on Thursday, June 6, 2013, and approved the minutes of May 6, 2013, upon establishing a quorum.

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, AB 923 and AB 118 programs, and to make changes to the Clean Fuel Outlet Regulation. 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 then received an update on the June 12, 2013, visit to Sacramento by a Board delegation consisting of Board Chairperson Ash Kalra, LC Chair Tom Bates, and Members Susan Adams and Brad Wagenknecht, who will meet with legislators at the State Capitol to discuss issues of concern to the Air District. The Board Chairperson will provide a brief overview of the trip at the end of this report.

The LC then received an update on other legislation, including SB 792 (DeSaulnier) and AB 953 (Ammiano), and the diminishing prospect of multiple reforms being made to the California Environmental Quality Act (CEQA) this session.

The next meeting of the LC is at the call of the Chairperson.

Public Comments: None.

Board Comments: None.

Board Action:

Director Bates made a motion to approve the report of the LC; Director Gioia seconded; and the motion carried unanimously.

8. Report of the Executive Committee (EC) Meeting of June 17, 2013 Chairperson Kalra

The EC met on Monday, June 17, 2013, and approved the minutes of May 20, 2013.

The EC received the staff presentation Status Report on 939 Ellis Street Disposition and Relocation to 390 Main Street, including considerations for the future, accomplishments to date, next steps and timeline.

The EC received the staff presentation Recommendation of Web Redesign and Development Services Vendor, including background, an overview of the redesign project, summaries of the request for proposals process and results, and information regarding the recommended vendor, SymSoft Solutions. The Committee recommends the Board authorize the Executive Officer/Air Pollution Control Officer (APCO) to:

1. Execute a contract up to \$747,845 with SymSoft Solutions for Website Redesign and Development Services for Request for Proposals 2013-003; and
2. Execute up to \$100,000 in contract amendments for contingency tasks.

The EC received the staff presentation Update on My Air Online Program, including background, an overview of the permitting and compliance systems status, a summary of the fiscal year ending (FYE) 2014 plan and recommendations. The EC recommends the Board:

1. Authorize Executive Officer/APCO to execute contract amendments in total of \$1,498,692 with specified vendors and amounts; and
2. Approve reclassification of one management level position to the position of Deputy APCO (DAPCO), effective July 1, 2013.

The next meeting of the EC is at the call of the Chairperson.

Public Comments: None.

Board Comments: None.

Board Action:

Director Groom made a motion to approve the report and recommendations of the EC; Director Bates seconded; and the motion carried unanimously.

PUBLIC HEARINGS

9. Public Hearing to Consider Adoption of Proposed Amendments to Air District Regulation 3: Fees and Regulation 5: Open Burning

Jack Broadbent, Executive Officer/APCO, introduced Jeff McKay, DAPCO, who gave the staff presentation Draft Amendments to Regulation 3: Fees and Regulation 5: Open Burning, including an explanation of the background and current cost recovery policy, proposed changes to fee schedules, impact on small businesses, proposed incident response and open burning fees, public comments, the rule development schedule and recommendations.

Director Gioia asked, regarding slide 12, Incident Response Fee, about the amount and nature of the proposed fee, which questions were answered by Mr. Broadbent.

Mr. McKay concluded the presentation.

Board Comments:

Director Piepho asked about the frequency of open burning fee charges and for a briefing on the public workshops, which question was answered by Mr. McKay and briefing provided by Wayne Kino, Director of Compliance & Enforcement.

Director Zane asked for more information relative to public acceptance of the proposed open burning fee and its consistency with the rules of the Northern Sonoma County Air Pollution Control District, which information was provided by Messrs. McKay and Kino.

Director Zane asked about the provision of technical support to permittees in the form of alternatives to burning, which question was answered by Mr. Kino. Director Zane encouraged staff to seek grant money to support the long-term effort of switching from burn methods to new technology.

Director Hudson asked for increased attention to and the extension of grant money, if obtained, to the San Joaquin Valley.

Director Piepho encouraged the Board to keep in mind the ecological benefits of open burning.

Director Spering asked to be walked through the process from the perspective of a permittee, which was done by Mr. Kino. Director Spering expressed his support for the fee, questioned the accuracy of the Air District cost in certain instances, and asked staff to perform a process audit and report back the results.

Director Ross asked whether the Air District receives fee waivers from other government agencies, about the lifespan and administration of burn permits, and about the imposition of incident response fees on government agencies, which questions were answered by Mr. McKay.

Director Gioia said the Budget and Finance Committee (BFC) has worked on this topic extensively and it is thought that when the Air District permit production system is fully functional that it will bring down Air District costs and, in turn, the fees.

Director Zane restated her request for industry support provided in a readily accessible way and encouraged staff to contact the county agriculture commissioners.

Mr. Broadbent said this is not the first time this proposal has been considered and encouraged the Board to direct staff to put aside resources to include the expansion of a pilot program exploring alternative practices.

Director Zane asked staff to report back to the Board a monetary figure for the cost of expanding the pilot program to the major agricultural counties.

Public Comments:

Kari Nadeau, M.D., Ph.D., American Lung Association, addressed the Board in support of the fee.

Jenny Bard, American Lung Association, addressed the Board in support of the fee and the development enhanced technologies as alternatives to burning.

Rex Spross addressed the Board in support of the fee and decreased burning.

Miriam Spross addressed the Board to read a letter from Susanne Dygby in support of the fee and decreased burning and then addressed the Board to request enhanced oversight of local fire departments relative to open burning. Chairperson Kalra asked staff to follow up with Ms. Spross.

Ken Blonski, Hills Emergency Forum and East Bay Regional Park District, submitted a letter and addressed the Board in opposition to the fee as an impediment to effective wild land management.

Director Gioia asked if any fire agencies charge other agencies for permits and similar fees, which questions were answered by Mr. Blonski.

Chris Spohrer, California State Parks, submitted a letter; addressed the Board in opposition to the fee as an impediment to effective wild land management; and requested an alternative fee structure for government agencies, that the carry-over provision be extended to prescribed burns and for an extended burn season.

Steven Chappell, Suisun Resource Conservation District, addressed the Board neutrally, namely to address concerns relative to the marsh burn element. Director Piepho asked for an explanation of the beneficial aspect of burns, which was provided by Mr. Chappell.

Richard Sampson, California Department of Forestry and Fire Protection, addressed the Board in opposition to the fee in light of the alignment of agency missions. Director Gioia said he is on the board of directors for a local hospital that is charged fees by its fire agency and that although the point is well taken, the Air District is not alone in the practice of charging fees to other government agencies.

David McLean, California Department of Forestry and Fire Protection, addressed the Board in opposition to the fee, noted the absence of May and June from the range management fee schedule, and requested an exemption for training burns that do not require smoke management plans and the creation of three-year windows for burn permits.

Board Comments:

Chairperson Kalra said the fee proposal is primarily driven by the cost recovery policy mentioned and the proposal required a balancing of the interests of all the involved government agencies.

Mr. Broadbent said the rules are not changing substantively with the proposal, namely in regard to the charging of fees to government agencies, suggested the training burns issue mentioned by Mr. McLean can likely be addressed without any changes to the regulations, and restated his recommendation that the Board direct staff to put aside funds to expand the alternative practices pilot program.

Director Groom reminded the Board that the BFC has been working on this topic for five years and through many revisions; said the Air District is also struggling financially while also being understaffed; and stated that decisions made by the BFC were not made lightly.

Director Haggerty asked if there had been any thought about exempting wild land training, which questions were answered by Messrs. Broadbent and Kino. Director Haggerty requested a summary of outreach efforts relative to fire departments, an overview of the fee structure and a detail of the cost of developing a smoke management plan. Mr. Sampson provided information regarding the cost of developing a smoke management plan. Director Haggerty said wood chipping and similar methods are the direction the Air District needs to push practices, that the missing months mentioned by Mr. McLean need to be included, and that he is concerned about the regulated community going underground as a result of the proposed changes.

Director Wagenknecht asked about the rules relative to the April through November season, which questions were answered by Mr. Broadbent. Director Wagenknecht suggested the carbon management plan include a quantification of the positive difference between chipping and burning.

Board Action:

Director Gioia made a motion, seconded by Director Piepho, to adopt a resolution to approve proposed amendments to Air District Regulation 3: Fees and Regulation 5: Open Burning, effective July 1, 2013, and approve the filing of a CEQA Notice of Exemptions, with the understanding that policy issues raised today will be reviewed separately by the appropriate committees and staff will explore an expansion of the alternative practices pilot program.

Director Zane expressed her continued concern about the effect of the proposal on government agencies and suggested the matter be sent back to committee.

Director Spring asked for staff's assurance that they will perform a process audit and report back, which Mr. Broadbent provided.

Director Piepho said the alignment of public safety concerns should be explored further and asked staff to report back at an agreed upon time regarding clarification of the stakeholder process.

Mr. Broadbent encouraged the Board to approve the proposal today and to dedicate a Stationary Source Committee meeting to the topic of agricultural burning and related Air District procedures.

Director Piepho requested staff respond to the letter of concern from the State Department of Parks and Recreation.

Director Bates asked about the current practice of charging fees to public agencies and about the size of the proposed fee increase, which questions were answered by Messrs. Broadbent and McKay.

Director Ross suggested a category of lesser fees for government agencies.

Chairperson Kalra restated the motion pending on the floor to adopt a resolution to approve proposed amendments to Air District Regulation 3: Fees and Regulation 5: Open Burning, effective July 1, 2013, and approve the filing of a CEQA Notice of Exemptions, with the understanding that the policy issues raised today will be reviewed separately by the Stationary Source Committee (SSC) in the fall, staff will explore an expansion of the alternative practices pilot program, and that staff respond to the letter of concern from the State Department of Parks and Recreation.

Director Haggerty asked for an amendment to direct staff to provide to the Board an outreach list one or two months prior to the SSC meeting to ensure all stakeholders are included. Chairperson Kalra amended the motion to include the same with delivery of the outreach list to the SSC instead of the Board.

The motion carried unanimously.

10. Public Hearing to Consider Adoption of the Air District's Proposed Budget for FYE 2014

Mr. Broadbent offered to waive the staff presentation.

Public Comments: None.

Board Comments: None.

Board Action:

Director Hudson made a motion, seconded by Director Kniss, to adopt a resolution to approve the Budget for FYE 2014 and Various Budget Related actions, as recommended by staff.

Director Spring asked after the staff response to his question posed at the last meeting regarding staffing vacancies, which question was answered by Mr. Broadbent. Director Spring asked for a schedule for the filling of staff vacancies. Mr. Broadbent said it will be addressed at an upcoming Personnel Committee meeting and the subsequent Board meeting.

The motion carried unanimously.

PUBLIC COMMENT ON NON-AGENDA MATTERS: None.

BOARD MEMBERS' COMMENTS: None.

OTHER BUSINESS

11. Report of the Executive Officer/APCO:

Mr. Broadbent presented a summary of the Summer Ozone Season, noted the delivery of the Air District's annual report and outreach materials to the directors and mentioned the upcoming annual conference of the Air and Waste Management Association that will be attended by a number of Air District delegates from the Board, Advisory Council and staff.

12. Chairperson's Report:

Chairperson Kalra briefed the Board on the legislative delegation on June 12, 2013, and introduced Thomas Addison, Senior Advanced Projects Advisor, who gave a legislative update.

13. Time and Place of Next Meeting: Wednesday, August 7, 2013, Bay Area Air Quality Management District Headquarters, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.

14. Adjournment: The Board meeting adjourned at 12:11 p.m.

15/ Sean Gallagher
Sean Gallagher
Clerk of the Boards