

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

Board of Directors Regular Meeting  
Wednesday, December 4, 2013

## **APPROVED MINUTES**

**CALL TO ORDER:** Vice-Chairperson Nate Miley called the meeting to order at 9:56 a.m.

### **ROLL CALL**

Present: Chairperson Ash Kalra; Vice-Chairperson Nate Miley; Secretary Carole Groom; and Directors Susan Adams, John Avalos, Teresa Barrett, Tom Bates, Cindy Chavez, John Gioia, Scott Haggerty, David Hudson, Roger Kim (on behalf of Edwin Lee), Carol L. Klatt, Liz Kniss, Eric Mar, Jan Pepper, Mary Piepho, Mark Ross, Jim Spering, Brad Wagenknecht and Shirlee Zane.

Absent: Director Tim Sbranti.

**PLEDGE OF ALLEGIANCE:** Vice-Chairperson Miley led the Pledge of Allegiance.

**OPENING COMMENTS:** None.

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

Kalli Graham, Pittsburg Defense Council, was invited to the podium to which there was no response.

NOTED PRESENT: Chairperson Kalra and Director Chavez were noted present at 9:59 a.m.

NOTED PRESENT: Director Kniss was noted present at 10:00 a.m.

### **PROCLAMATION(S)/AWARD(S):**

Director Piepho recognized Tamara Hirata, Senior Air Quality Inspector, who completed the milestone of thirty (30) years of service with the Air District during this second half of the calendar year. Ms. Hirata addressed the Board in appreciation.

Director Miley recognized Ronald Carey, Jr., Senior 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. Carey addressed the Board in appreciation.

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

Director Spring recognized Jeffrey Gove, Supervising 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. Gove addressed the Board in appreciation.

Director Bates recognized Henry Hilken, Director of the Planning, Rules and Research Division, who completed the milestone of twenty-five (25) years of service with the Air District during this second half of the calendar year. Mr. Hilken addressed the Board in appreciation.

Director Pepper recognized John Marvin, Air Quality Program Manager, who completed the milestone of twenty-five (25) years of service with the Air District during this second half of the calendar year. Mr. Marvin addressed the Board in appreciation.

Chairperson Kalra recognized Frederick Johnson, III, Inspector II, and Lilia Martinez, Administrative Secretary, in absentia, for their completion of milestone years of service with the Air District during this second half of the calendar year.

### **PRESENTATIONS [OUT OF ORDER]**

#### **9. Advisory Council Report [OUT OF ORDER]**

This item was postponed until the Board meeting on December 18, 2013.

### **COMMITTEE REPORTS AND RECOMMENDATIONS [OUT OF ORDER]**

#### **6. Report of the Legislative Committee (LC) Meeting of November 18, 2013 [OUT OF ORDER]**

Committee Chairperson Bates

The LC met on Monday, November 18, 2013, and approved the minutes of June 6, 2013.

The LC received a staff report on the 2013 legislative year, which emphasized two points. First, Assembly Bill (AB) 8 (Perea and Skinner) passed the Legislature and has been signed into law. This bill reauthorizes critical air quality funding programs due to expire in the next several years, including the Carl Moyer, AB 923 and AB 118 programs, and makes changes to the Clean Fuel Outlet Regulation. It provides over \$2 billion in funding to cut emissions through 2023. Second, the bill the Air District co-sponsored, Senate Bill (SB) 691 (Hancock), is a two-year bill. This measure is a response to the August 6, 2012, fire at the Chevron Richmond refinery, and would encourage compliance by establishing higher penalty ceilings for one-day incidents that severely disrupt communities. SB 691 is on the inactive file on the Assembly Floor, and could be voted on at any point in 2014.

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

Public Comments: None.

Board Comments: None.

Board Action:

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

**7. Report of the Personnel Committee (PC) Meeting of December 2, 2013**  
Committee Chairperson Wagenknecht

The PC met on Monday, December 2, 2013, and approved the minutes of July 29, 2013.

The PC received the Advisory Council Interview summary material for the public health agency category seat, conducted interviews of applicants, and recommends Board of Directors' approval of the appointment to the Air District's Advisory Council of Sarat Mayer to the public health agency category seat, for a term beginning January 1, 2014 and expiring December 31, 2015. The PC also recommends Board of Directors' approval of incumbent reappointments, with the exception of Advisory Council Member Jeffrey Bramlett. Staff was directed to agendaize the reappointment of Advisory Council Member Jeffrey Bramlett for further discussion at the next meeting of the PC.

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

Public Comments: None.

Board Comments: None.

Board Action:

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

**CONSENT CALENDAR (ITEMS 1 – 5)**

- 1. Minutes of the Board of Directors Regular Meeting of November 6, 2013;**
- 2. Board Communications Received from November 6, 2013 through December 3, 2013;**
- 3. Notice of Violations Issued and Settlements in Excess of \$10,000 in October 2013;**
- 4. Authorize the Approval of a Purchase Order in Excess of \$70,000 Pursuant to Administrative Code Division II Fiscal Policies and Procedures, Section 4.3 Contract Limitations, for Purchase of Air Monitoring Equipment; and**
- 5. Proposed Regulatory Agenda for 2014.**

Public Comments:

Nicole Nikita Richards addressed the Board regarding the air quality impact of chemicals commonly used during fracking operations.

Board Comments: None.

Board Action:

Director Ross made a motion to approve Consent Calendar Items 1, 2, 3, 4 and 5; Director Piepho seconded; and the motion carried unanimously.

**COMMITTEE REPORTS AND RECOMMENDATIONS (CONTINUED)**

**8. Report of the Nominating Committee (NC) Meeting of December 4, 2013**  
Chairperson Kalra

The NC met on Wednesday, December 4, 2013, and deferred approval of the minutes of November 7, 2012.

The NC considered nomination of Board Officers for the 2014 Term of Office and has no recommendation for the Board at this time. The NC will ask for nominations at today's meeting of the Board.

The next meeting of the NC is on Wednesday, December 18, 2013, at 9:30 a.m.

Public Comments: None.

Board Comments: None.

Board Action:

Chairperson Kalra made a motion to approve the report of the NC; Director Adams seconded; and the motion carried unanimously.

**PRESENTATIONS (CONTINUED)**

**10. Overview and Permit Status of Energy Projects in the Bay Area**

Jack Broadbent, Executive Officer/Air Pollution Control Officer, introduced the topic and Jim Karas, Director of Engineering, who gave the staff presentation Update on Energy Projects, including project locations, permit process overview, details of each of the four projects and a summary of the public participation process.

Board Comments:

Director Gioia asked staff to provide a brief summary of the status of and the Air District's role in each of the four proposed energy projects, which information was provided by Mr. Karas.

Director Zane asked about the Air District's authority relative to project expansions, which question was answered by Mr. Karas.

Director Ross asked for an explanation of the permit appeal process, which explanation was provided by Brian Bunger, District Counsel.

Public Comments:

Greg Karras, Communities for a Better Environment (CBE), gave a presentation in addressing the Board regarding the public health impacts of refining lower quality crude.

Diane Bailey, National Resources Defense Council (NRDC), gave a presentation in addressing the Board regarding the need for more comprehensive analysis of the proposed projects.

Chairperson Kalra asked that the Board be provided with copies of the presentations by Mr. Karras and Ms. Bailey.

Robert Bustos addressed the Board in support of the proposed energy projects.

Barbara Raymond addressed the Board in opposition to the proposed energy projects.

Chris Howe, Valero, addressed the Board to explain the air quality impact of the proposed energy project by Valero.

Ron Rowlett, Carpenters Union, addressed the Board in support of the proposed energy projects.

Martin Espinoza, Local 34 Pile Drivers, addressed the Board in support of the proposed energy projects.

Jason Gallia, Iron Workers 378, addressed the Board in support of a balanced approach to the consideration of the proposed energy projects.

Mark Plubell, Heat and Frost Insulators Local 16, addressed the Board in support of the proposed energy projects.

Walt Gill, Chevron, addressed the Board to provide an update on and explanation of the proposed energy project by Chevron.

Roger Lin, CBE, addressed the Board to read the Air District response to Valero's permit application and environmental impact report relative to the proposed energy project by Valero and to request that the permit applications be put on hold while the intent and impact of the projects are reviewed in a more transparent manner.

Craig Johns, Western States Petroleum Association, addressed the Board in support of the proposed energy projects.

John Galeotti, Operating Engineers Local Union No. 3, addressed the Board in support of the proposed energy projects.

Jacob Delbridge, Refinery Action Collaborative, addressed the Board to advocate for transparency during the permit review process for the proposed energy projects.

Timothy Jefferies, Boilermakers Local 549, addressed the Board in support of the proposed energy projects.

Armie Morgan, Local 3, addressed the Board in support of the proposed energy projects.

Nile Malloy, CBE, addressed the Board to share his experience relative to the Chevron refinery incident in August 2012 and the resulting lawsuit and to encourage more proactive leadership from the Air District.

Andres Soto, CBE, addressed the Board in opposition to the proposed energy projects.

Reverend Earl W. Koteen, Unitarian Universalist Legislative Ministry California, addressed the Board in opposition to the proposed energy projects.

Barbara Skinner, San Francisco 99% Coalition, addressed the Board to echo the requests made by CBE and the NRDC.

Valerie Love, Center for Biological Diversity, addressed the Board in opposition to the proposed energy projects.

Joffre Henderick, Jr., addressed the Board in opposition to the proposed energy projects.

Floyd Earl Smith, 350 Bay Area/BayCAP, addressed the Board to highlight the differences between the presentations given by staff and CBE and to request a delay in the issuance of permits to operate for the proposed energy projects.

Jeff Kilbreth addressed the Board to challenge the meaning of the term “modernization project” used by refineries and their ability to decrease emissions and to make note of the inadequacy of the regulatory structure relative to Chevron in the time leading up to the refinery incident in August 2012.

Mark Hughes, Phillips 66, addressed the Board to provide an update on and explanation of the proposed energy project by Phillips 66.

Stephanie Hervey, The Action Hub, addressed the Board in opposition to the proposed energy projects.

Marilyn Bardet, Good Neighbor Steering Committee of Benicia, addressed the Board in opposition to the proposed energy projects and to encourage increased transparency in the permit review process.

Jack Fleck, 350 Bay Area, addressed the Board in opposition to the proposed energy projects.

Ms. Graham addressed the Board in opposition to the proposed energy project by WesPac.

Nancy Rieser, Crockett Rodeo Working Group, addressed the Board in opposition to the proposed energy projects.

Sylvia Gray-White, CBE/Idle No More/350 Bay Area, addressed the Board regarding the failure of the Air District to fulfill its mission statement.

Jess Dervin-Ackerman, Sierra Club, addressed the Board in opposition to proposed projects that do not decrease current emissions, in support of enhanced climate action and in opposition to the proposed energy projects.

Jed Holtzman, 350 San Francisco, addressed the Board in opposition to the proposed energy projects.

Charles Davidson, 350 Bay Area, addressed the Board in opposition to the proposed energy projects.

Zoe Kelman, National Disease Cluster Alliance/Public Employees for Environmental Responsibility, addressed the Board to encourage expanded baseline data through a more robust monitoring program.

Chairperson Kalra invited public speakers to submit the remainder of their comments in writing for Board review after the meeting.

Colin Miller, Bay Localize/Local Clean Energy Alliance, addressed the Board to request that the permit applications be put on hold until the recently approved climate control regulations are in full effect.

Eduardo Martinez, Richmond Progressive Alliance, addressed the Board in opposition to the proposed energy projects.

Michael Bargo addressed the Board to encourage the Air District to continue providing globally-recognized leadership on climate change.

Board Comments (continued):

Chairperson Kalra asked staff to brief the appropriate committee on any progress relative to the permit of any of the proposed energy projects.

Mr. Broadbent gave a closing statement regarding the permit review process and Air District practice generally, Air District purview and the refinery rule making that is currently underway and likely be presented to the Board in the summer of 2014.

Director Ross asked that when “no net increase” is indicated that staff provide greater detail so the Board can see in what categories there are increases and decreases and for staff to consider implementing a third-party verification process. Director Ross and Mr. Broadbent discussed the advisability of asking a third-party to develop a comprehensive energy picture for the Air District.

Director Adams asked about the types of crudes currently being processed, the refining technologies in place and available, the changes in both that will result from the proposed energy projects and about Air District authority to ask these questions of regulated industry, which questions were answered by Messrs. Broadbent and Bungler. Director Adams noted the need to develop a set of data capable of answering the questions that surface.

Director Gioia noted the importance of providing the Board with staff comment letters that are prepared in response to proposed projects.

Director Zane asked staff to provide the cumulative impacts information for both before and after the proposed energy projects collectively and said the Board needs to be involved in the permit review process.

Director Haggerty requested more comprehensive briefings of proposed projects in their totality, rather than in the piecemeal way that permittees make their requests, as a speaker during public comment suggested is industry practice.

Director Piepho asked that any changes in Air District practice and procedure be applied to all permittees, not solely the refineries.

Chairperson Kalra said SB 691 (Hancock) is stalled in the State Assembly and encouraged interested members of the public to advocate for desired change at all available levels.

Board Action: None; informational only.

### **CLOSED SESSION**

The Board adjourned to Closed Session at 12:40 p.m.

#### **11. EXISTING LITIGATION (Government Code Section 54956.9(a))**

Pursuant to Government Code Section 54956.9(a), the Board met in closed session to discuss with legal counsel 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; California Supreme Court, Case No. S214378.

#### **12. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code Section 54956.8)**

Pursuant to Government Code Section 54956.8, the Board met in closed session to confer with real property negotiators to discuss the disposition and leaseback of real property as follows:

Property:	939 Ellis Street, San Francisco, CA
Air District Negotiators:	Jack P. Broadbent, Executive Officer/APCO Jeffrey McKay, Deputy APCO Tom Christian, Cassidy Turley Ric Russell, Cassidy Turley
Negotiating Parties:	Heights Properties, LLP
Under Negotiation:	Price and Terms



**OPEN SESSION**

The Board resumed Open Session at 12:52 p.m. with no reportable action.

**PUBLIC COMMENT ON NON-AGENDA MATTERS:** None.

**BOARD MEMBERS' COMMENTS:** None.

**OTHER BUSINESS**

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

Mr. Broadbent presented a summary of the Winter Fine Particulate Matter Season.

**14. Chairperson's Report:** None.

**15. Time and Place of Next Meeting:**

Wednesday, December 18, 2013, Bay Area Air Quality Management District Headquarters, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.

**16. Adjournment:** The Board meeting adjourned at 12:53 p.m.

*15/ Sean Gallagher*

Sean Gallagher  
Clerk of the Boards