

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

Board of Directors Regular Meeting  
Wednesday, March 19, 2014

## **APPROVED MINUTES**

1. **CALL TO ORDER:** Chairperson Nate Miley called the meeting to order at 9:49 a.m.

**OPENING COMMENTS:** None.

### **ROLL CALL:**

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

Absent: Directors Teresa Barrett, Mary Piepho, Tim Sbranti (resigned) and Shirlee Zane.

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

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

Robert Card, IBM, was invited to the podium to which there was no response.

### **CONSENT CALENDAR (ITEMS 3 – 9)**

3. **Minutes of the Board of Directors (Board) Regular Meeting of February 19, 2014;**
4. **Board Communications Received from February 19, 2014 through March 18, 2014;**
5. **Air District Personnel on Out-of-State Business Travel;**
6. **Notice of Violations Issued and Settlements in Excess of \$10,000 in February 2014;**
7. **Referral of Proposed Budget for Fiscal Year Ending (FYE) 2015 to the Budget and Finance Committee;**
8. **Adoption of Amendments to the Air District's Administrative Code Division I: Operating Policies and Procedures for the Hearing Board – Section 8.6 Limits on Term of Office; and**
9. **Set a Public Hearing for April 16, 2014 to Consider Adoption of Proposed Amendments to Regulation 3: Fees and Approval of a Notice of Exemption from the California Environmental Quality Act (CEQA).**

Board Comments:

Agenda Item #8, Adoption of Amendments to the Air District’s Administrative Code Division I: Operating Policies and Procedures for the Hearing Board – Section 8.6 Limits on Term of Office, was removed from the consent calendar for consideration.

Public Comments: None.

Board Action:

Director Hudson made a motion to approve Consent Calendar Items 3 through 7, inclusive, and 9; Director Haggerty seconded; and the motion carried by the following vote of the Board:

AYES: Adams, Avalos, Bates, Chavez, Gioia, Groom, Haggerty, Hudson, Kalra, Kim, Klatt, Kniss, Miley, Pepper, Ross, Spering and Wagenknecht.

NOES: None.

ABSTAIN: None.

ABSENT: Barrett, Mar, Piepho, Sbranti and Zane.

NOTED PRESENT: Director Mar was noted present at 9:56 a.m.

**8. Adoption of Amendments to the Air District’s Administrative Code Division I: Operating Policies and Procedures for the Hearing Board – Section 8.6 Limits on Term of Office (as Removed from Consent Calendar)**

Board Comments:

The Board and staff discussed the possible elimination of term limits altogether, the staggered terms of Hearing Board members, and a possible comprehensive review of the Advisory Council and Hearing Board by the Executive Committee (EC).

Public Comments: None.

Board Action:

Director Hudson made a motion to approve the recommendation of staff regarding Adoption of Amendments to the Air District’s Administrative Code Division I: Operating Policies and Procedures for the Hearing Board – Section 8.6 Limits on Term of Office; Director Wagenknecht seconded; and the motion carried by the following vote of the Board:

AYES: Adams, Chavez, Gioia, Groom, Haggerty, Hudson, Kalra, Kim, Klatt, Kniss, Mar, Miley, Pepper, Ross, Spering and Wagenknecht.

NOES: None.

ABSTAIN: None.

ABSENT: Avalos, Barrett, Bates, Piepho, Sbranti and Zane.

## **COMMITTEE REPORTS AND RECOMMENDATIONS**

### **10. Report of the Stationary Source Committee (SSC) Meeting of February 24, 2014** Committee Chairperson Gioia

The SSC met on Monday, February 24, 2014, and approved the minutes of October 21, 2013.

The SSC received the staff presentation *Lehigh Southwest Cement Compliance Status*, including background; facility location and description; issues prior to the adoption of Regulation 9, Rule 13 due to facility operations; control technologies utilized as a result of Regulation 9, Rule 13; the facility's current compliance status; and compliance and enforcement activities.

The SSC then received the staff presentation *Update on Sims Metal Management Facility*, including background information on the facility; overviews of the facility fires; a summary of the goals and requirements of Regulation 6, Rule 4: Metal Recycling and Shredding Operations; and next steps.

The SSC then received the staff presentation *Update on Petroleum Refining Emissions Tracking Rule*, including an explanation of the purpose of the Rule; an update on the development process; summaries of baseline and ongoing emissions inventories, trigger-levels and emissions reduction plans, air monitoring systems, public comments, and revisions to the draft rule; a schematic flow chart of a typical complex refinery; analyses of trends in crude oil quality; the relationship between crude slate and carbon dioxide emissions; and next steps.

The next meeting of the SSC is quarterly at the call of the Chair.

Board Comments: None.

Public Comments: None.

Board Action: None; receive and file.

### **11. Report of the Mobile Source Committee (MSC) Meeting of February 27, 2014** Committee Chairperson Haggerty

The MSC met on Thursday, February 27, 2014, and approved the minutes of January 23, 2014.

The MSC then reviewed a request to award FYE 2014 Transportation Fund for Clean Air (TFCA) funding to ten Regional Fund Shuttle and Rideshare Projects. The MSC discussed the program guidelines, policies, and possible changes to the program, and instructed staff to provide an in-depth briefing on shuttles and ride sharing programs at a future meeting. The MSC also requested that staff provide additional review for project # 14R12, Altamont Corridor Express Routes 53 and 54, and to return at the next committee meeting with the results of that review for consideration. The MSC recommends the Board of Directors:

1. Approve awards for the TFCA Shuttle, Ridesharing and Vanpool projects listed in Attachment A to the MSC staff report; and
2. Authorize the Executive Officer/Air Pollution Control Officer (APCO) to enter into agreements for the recommended TFCA projects in Attachment A in the amount of \$3,732,038.

The MSC then reviewed and discussed the staff presentation *Air District Grant Programs Overview*, including background; summaries of 2013 allocations from the California Goods Movement Bond, TFCA Regional Fund, Mobile Source Incentive Fund, the Carl Moyer Program, and the total from all these funds; summaries of 2013 highlights and expenditures by county; emissions reductions achieved; 2014 projections and proposed TFCA allocations; and upcoming activities.

The MSC then reviewed a request for On-Road Truck Replacement Funding and recommends the Board:

1. Approve changes to the FYE 2014 TFCA Regional Fund Policies to include on-road truck replacement projects as an eligible project type;
2. Allocate \$5 million in TFCA Regional Funds for eligible projects submitted as part of the Year 4 Goods Movement Program; and
3. Authorize the Executive Officer/APCO to enter into contracts for eligible projects.

The next meeting of the MSC is on Thursday, April 24, 2014, at 9:30 a.m.

Board Comments: None.

Board Action:

Director Haggerty made a motion to approve the recommendations of the MSC and Director Hudson seconded.

Public Comments:

Dr. Anthony Fisher, Coalition for Clean Air, addressed the Board in support of diesel reduction efforts through on-road truck replacement funding, to request increased funding to replace additional vehicles and to offer his organization's support on future retrofit efforts.

The Board and staff discussed the funding levels for the truck and bus program, applicable vehicle types, the nature and frequency of funding sources, the outlook of funding distribution to the Air District, the focus of Air District efforts to date, and whether there are options for alternative funding sources.

Board Action (continued):

The motion carried by the following vote of the Board:

AYES: Adams, Bates, Chavez, Gioia, Groom, Haggerty, Hudson, Kalra, Kim, Klatt, Kniss, Mar, Miley, Pepper, Ross, Spering and Wagenknecht.

NOES: None.

ABSTAIN: None.

ABSENT: Avalos, Barrett, Piepho, Sbranti and Zane.

**12. Report of the EC Meeting of March 17, 2014**  
Committee Chairperson Miley

The EC met on Monday, March 17, 2014, and approved the minutes of December 16, 2013.

The EC received the Quarterly Report of the Hearing Board for October through December 2013, including summaries of the cases and fees collected, from Terry Trumbull, Esq., Chairperson of the Hearing Board.

The EC then received a staff presentation on the *Bay Area Commuter Benefits Program (BACBP)*, which is being developed by the Air District and the Metropolitan Transportation Commission in response to Senate Bill (SB) 1339 enacted in fall 2012. The BACBP would require employers with 50 or more full-time employees in the Bay Area to provide commuter benefits to their employees. The presentation described the purpose and positive benefits of the BACBP; the four commuter benefit options that employers could choose amongst; applicability of the BACBP; employer outreach and public workshops; input received; recent progress and preparations for implementation; and next steps.

The EC also received a staff presentation on the *Community Air Risk Evaluation (CARE) Program Update*, including discussion of CARE objectives and accomplishments; updated maps of impacted communities; and next steps.

Lastly, the EC received a briefing on SB 1415 regarding the Air District Advisory Council, including a description of and the current status of SB 1415, authored by Senator Jerry Hill.

The next meeting of the EC is Monday, April 21, 2014, at 9:30 a.m.

Board Comments: None.

Public Comments: None.

Board Action: None; receive and file.

## **PUBLIC HEARING**

### **13. Public Hearing to Consider Adoption of Proposed Regulation 14: Mobile Source Emissions Reduction Measures, Rule 1: BACBP; and Approval of a CEQA Negative Declaration**

Jean Roggenkamp, Deputy APCO (DAPCO), introduced the topic and David Burch, Principal Environmental Planner of Planning, Rules and Research, who gave the staff presentation *BACBP*, including a description of the purpose and positive benefits of the Program; the four commuter benefit options that employers could choose among; applicability of the Program; employer outreach and public workshops; input received; recent progress and preparations for implementation; and next steps.

#### **Board Comments:**

Director Hudson requested a copy of the airport ordinance.

The Board and staff discussed the amount of flexibility provided by the legislation in terms of program structure; a proposal to phase-in the program in urban centers first; the possibility of an exemption for employers of low-wage service staff that do most of their commuting during non-peak hours with limited transit opportunities; the limited transit opportunities in some locales; what effect Option 1 will have on existing employer programs; and possible incentivization by the Air District for employers and employees.

#### **Public Comments:**

Sara Greenwald, 350 San Francisco, addressed the Board in support of the BACBP and to note the inadequacy of the proposal to address the professional limitations imposed by limited transit options in parts of the Bay Area.

Janice Blumenkrantz, League of Women Voters Bay Area, submitted written material and addressed the Board in support of the BACBP.

Stuart Baker, Commuter Check, addressed the Board in support of the BACBP.

#### **Board Action:**

Director Kalra made a motion, seconded by Director Kniss, to:

1. Adopt a Negative Declaration pursuant to the CEQA for proposed Regulation 14, Rule 1; and
2. Adopt proposed Regulation 14: Mobile Source Emissions Reduction Measures, Rule 1: BACBP.

Board Comments (continued):

The Board and staff discussed the desire to see data coming out of the BACBP pilot regarding whether a mode shift is achieved; whether the tax benefit is tied to work-related commutes only; if the employer tax deduction for employer-provided transportation has a limitation; the need for BACBP flexibility that equals that of its users; minimum compliance levels; whether the benefit is considered a pensionable one for employees; options for employers in terms of support from the Air District; whether additional incentives to employers are possible; the short- and long-term benefits; and the administrative burden imposed on employers with small administration staffs.

Director Ross requested information that shows how the Air District, as an employer, complies with the requirements of BACBP.

Director Kalra amended the motion to include direction to staff to include in its pilot program report to the Board an analysis of BACBP's impact in suburban locales with limited transit options; seconded by Director Kniss; and the amended motion carried by the following vote of the Board:

AYES: Adams, Avalos, Bates, Chavez, Gioia, Groom, Haggerty, Hudson, Kalra, Kim, Klatt, Kniss, Mar, Miley, Pepper, Ross and Spering.

NOES: None.

ABSTAIN: None.

ABSENT: Barrett, Piepho, Sbranti, Wagenknecht and Zane.

The Board and staff discussed the length of the pilot program and the updates that can be expected.

**CLOSED SESSION**

The Board adjourned to Closed Session at 11:15 a.m.

**14. 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.

**15. 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, DAPCO  
Tom Christian, Cassidy Turley  
Ric Russell, Cassidy Turley
- Negotiating Parties: Columbia Pacific Real Estate Fund I, L.P.
- Under Negotiation: Price and Terms

**OPEN SESSION**

The Board resumed Open Session at 11:34 a.m. with no reportable action.

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

There were no requests for public comment.

**17. BOARD MEMBERS' COMMENTS:**

The Board referred the letter from Director Zane, received March 18, 2014, to the Executive Committee.

The Board and staff discussed the status of the recruitment process for the vacant agriculture category seat on the Advisory Council.

**OTHER BUSINESS**

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

Mr. Broadbent presented a summary of the Winter Fine Particulate Matter Season and gave a brief overview of some of the items the Board will see in the coming months.

**19. Chairperson's Report:**

Chairperson Miley invited those directors who are interested in attending the 2014 Annual Air & Waste Management Conference in Long Beach, California, to contact Rex Sanders, Manager of Executive Operations.



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

Wednesday, April 2, 2014, Bay Area Air Quality Management District Headquarters, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.

**21. Adjournment:** The Board meeting adjourned at 11:40 a.m.

*/s/ Sean Gallagher*

Sean Gallagher  
Clerk of the Boards