

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

Board of Directors Regular Meeting  
Wednesday, April 16, 2014

## **APPROVED MINUTES**

1. **CALL TO ORDER:** Chairperson Nate Miley called the meeting to order at 9:53 a.m.

**Opening Comments:** None.

### **Roll Call:**

**Present:** Chairperson Nate Miley; Vice-Chairperson Carole Groom; Secretary Eric Mar; and Directors Susan Adams, John Avalos, Teresa Barrett, 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, Mary Piepho, Mark Ross, Jim Spering, Brad Wagenknecht and Shirlee Zane.

**Absent:** Directors Tim Sbranti (resigned).

**Pledge of Allegiance:** Chairperson Miley led the Pledge of Allegiance.

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

2. **Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3:**  
No requests received.

### **PROCLAMATION/AWARD**

3. **Board of Directors (Board) Recognition of Ann Flemer, Deputy Director, Metropolitan Transportation Commission, on the Occasion of Her Retirement After 32 Years of Service and for Her Commitment to Improving Air Quality in the Bay Area.**

Chairperson Miley, Directors Gioia, Spering and Bates, and Jean Roggenkamp, Deputy Air Pollution Control Officer (DAPCO), on behalf of staff, recognized Ms. Flemer on the occasion of her retirement after 32 years of service and for her commitment to improving air quality in the Bay Area.

NOTED PRESENT: Director Piepho was noted present at 9:55 a.m., Director Kniss was noted present at 9:57 a.m., and Director Adams was noted present at 9:58 a.m.

**CONSENT CALENDAR (ITEMS 4 – 8)**

- 4. Minutes of the Board Regular Meeting of April 2, 2014;**
- 5. Board Communications Received from April 2, 2014 through April 15, 2014;**
- 6. Air District Personnel on Out-of-State Business Travel;**
- 7. Notice of Violations Issued and Settlements in Excess of \$10,000 in March 2014; and**
- 8. Notice of Proposed Amendments to the Air District’s Administrative Code, Division III: Personnel Policies and Procedures, Section 2 Equal Employment Opportunity Plan, Section 2.3 Discrimination Complaint Procedure.**

Board Comments: None.

Public Comments: No requests received.

Board Action:

Director Wagenknecht made a motion to approve Consent Calendar Items 4 through 8, inclusive; and Director Piepho seconded with a request to correct Consent Calendar Item 4, *Minutes of the Board Regular Meeting of April 2, 2014*, page 1, item 2, *Roll Call*, to move “Mary Piepho” from the Present to the Absent category.

The motion carried by the following vote of the Board:

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

NOES: None.

ABSTAIN: Zane.

ABSENT: Haggerty, Kalra and Sbranti.

**COMMITTEE REPORTS AND RECOMMENDATIONS**

- 9. Report of the Legislative Committee (LC) Meeting of April 3, 2014**  
Committee Chairperson Bates

The LC met on Thursday, April 3, 2014 and approved the minutes of November 18, 2013.

The LC then discussed new bills and is recommending the following positions to the Board:

Assembly Bill (AB) 1696 Wieckowski: Support if amended

AB 1907 Ridley-Thomas: Support

AB 2027 Logue: Oppose

AB 2050 Quirk: Support and seek amendments

AB 2202 Logue: Oppose unless amended

Senate Bill (SB) 1125 Pavley: Support

SB 1204 Lara: Support if amended

SB 1371 Leno: Support

SB 1415 Hill: Support

Should SB 1415 pass, the LC noted the Personnel Committee should discuss Advisory Council composition and recruitment.

The LC also received a staff update on existing bills and is recommending to the Board an “oppose unless amended” position on both SB 792 DeSaulnier and AB 1330 Perez.

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

NOTED PRESENT: Director Haggerty was noted present at 10:08 a.m.

Board Action:

Director Bates made a motion to approve the recommendations of LC and Director Kniss seconded.

Board Comments:

The Board and staff discussed the exclusion of AB 2145 Bradford and the possibility, procedure and timing of the Board taking of a position.

Public Comments: No requests received.

Board Action (continued):

The motion carried by the following vote of the Board:

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

NOES: None.

ABSTAIN: None.

ABSENT: Kalra and Sbranti.

Director Gioia made a motion to take up the Board's consideration of a position on AB 2145 Bradford out of its proper order and as an emergency item, based on the schedules of the state legislature and the Board, and Director Adams seconded.

NOTED PRESENT: Director Kalra was noted present at 10:15 a.m.

Public Comments (continued): No requests received.

The motion carried by the following vote of the Board:

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

NOES: None.

ABSTAIN: None.

ABSENT: Sbranti.

Board Comments (continued):

The Board and staff discussed AB 2145 Bradford.

Public Comments (continued): No requests received.

Board Action:

Director Zane made a motion to oppose AB 2145 Bradford; Director Pepper seconded; and the motion carried by the following vote of the Board:

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

NOES: None.

ABSTAIN: Kim and Spering.

ABSENT: Avalos and Sbranti.

## **PUBLIC HEARING**

### **10. Public Hearing to Receive Testimony on Proposed Amendments to Air District Regulation 3: Fees**

Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO) introduced Jeff McKay, DAPCO, who gave the staff presentation *Proposed Amendments to Regulation 3: Fees*, including an overview of revenue sources in the Fiscal Year End 2013 Budget, an explanation of the background and current cost recovery policy, trends in cost cutting, proposed changes to fee schedules, greenhouse gas fees, impact on small businesses, a fee comparison with South Coast Air Quality Management District, public comments, and the rule development schedule.

#### **Public Comments:**

Janet Whittick, California Council for Environmental and Economic Balance (CCEEB), addressed the Board in opposition to the proposed increase of carbon dioxide equivalent emissions fee.

Mr. Broadbent explained the nexus for the proposed greenhouse gases emission fee increase.

#### **Board Comments:**

The Board and staff discussed the 10-Point Climate Action Work Program and concerns about its potential conflict with or duplication of the cap and trade program and other related state and federal programs; cost containment being characterized as an effort towards increased efficiencies in Air District work as opposed to a cause for diminished effectiveness in regulating and protecting air quality; the delivery of a staff response to CCEEB's concerns at the Board meeting on June 4, 2014; the desire to see cost containment being addressed; cumulative impact on small business over several years and whether enhanced assistance can be provided by the Air District, such as a waiver program; the forms of assistance and support currently provided by the Air District; and the amount of asbestos fees as a percentage of total fees.

Board Action: None; receive and file.

## **PRESENTATION**

### **11. Community Air Risk Evaluation (CARE) Program Summary Report**

Mr. Broadbent introduced the topic, commended the efforts of the public members of the CARE Task Force, and introduced Phil Martien, Air Quality Engineering Manager of Planning, Rules and Research, who gave the staff presentation *Report on the CARE Program*, including air quality improvements over time, challenges remaining, CARE Program goals and accomplishments, cancer toxicity-weighted emissions projected for the Bay Area in 2015, regional-scale studies, first identified cumulative impact areas in 2009, reasons why the maps should be updated, new method for identifying cumulative impact areas, revisions and updates to cumulative impact areas, episodic fine particulate matter (PM<sub>2.5</sub>) and ozone exceedance areas, uses of maps, reducing health impacts, examples of the Clean Air Communities Initiative, local-scale studies, technical assistance to local governments, key findings of the CARE Program, and next steps in the near- and longer-terms.

The Board and staff discussed, at slide 13, *Update to Cumulative Impact Areas*, the near total absence of Napa and Sonoma counties from the map and the reasoning for their absence; the removal of “Redwood City/East Palo Alto” in 2013; the definition of “Cumulative Impact Areas” as it pertains to the exclusion of Gilroy and Livermore despite their inclusion in slides 14, *Episodic PM<sub>2.5</sub> and Ozone Exceedance Areas*, and 15, *Uses of Maps*; the exclusion of Dublin, Livermore and Pleasanton from slide 13, *Update to Cumulative Impact Areas*; the siting of air monitors in Livermore and San Ramon; the addition of Pittsburg/Antioch and the Concord area north of Highway 4 in slide 13, *Update to Cumulative Impact Areas*; near-roadway health impacts outside of cumulative impact areas; the impact of the new method for identifying cumulative impacts; the timeliness of the monitoring data used; and the impact of socio-economic considerations.

Director Groom requested the health data used to identify cumulative impact areas, especially as it pertains to Redwood City/East Palo Alto.

Mr. Martien concluded the presentation.

#### Board Comments:

The Board and staff discussed the level and extent of Air District partnership with county health departments; the recent evolution of health departments generally; the value of monitoring consistent with U.S. Environmental Protection Agency (EPA) guidelines and of going further in light of the microclimates and unique regional demographics of the Bay Area; the City of Berkeley Public Health Division’s methodology in developing its Health Status Report; specific strategies the City of Berkeley and Air District can work more closely on; the California Environmental Quality Act guidelines; changes to mapping relative to Napa on slide 8, *Regional-Scale Studies*; whether wood smoke was included in calculations shown on slide 14, *Episodic PM<sub>2.5</sub> and Ozone Exceedance Areas*; whether Napa County can partner with the Air District on the installation of an air monitoring station and whether the data gleaned therefrom would be included in Air District reports; opportunities for action in Napa County in response to the graph *By Source Category*, on slide 7, *Cancer Toxicity-Weighted Emissions: Bay Area (2015)*; questions relative to the placement of and cause for readings from the monitor in Bethel Island, relative to slide 14, *Episodic PM<sub>2.5</sub> and Ozone Exceedance Areas*; the meaning of “8 Hour Ozone Exceedance Areas”; the conflict between infill development and minimizing exposure to air pollution; the difficulty of creating healthy infill development and what, if any, mitigation tools recommended by the Air District; today’s presentation as an overview of the Air District’s continuing effort to use the best data available; likely revisions to expand designations by the California EPA; the importance of including health impact reports; what types of cancer were or were not included and why; what locales are included and how each was weighted; the inclusion of Patterson Pass on slide 15, *Uses of Maps*, and the desire to see a broader representation of air quality levels in the Bay Area; whether the methodology for siting air quality monitors should be reconsidered; the likelihood that 25% of cap and trade revenue will go to CARE communities and the impact on those communities that are designated as episodic exceedance areas; the CalEnviroScreen as the state’s tool for directing cap and trade resources; the intend use of the information presented today; how to improve the accuracy of the CalEnviroScreen data; and the challenge of marrying data and intuitions.

Public Comments:

Henry Clark, West County Toxics Coalition/Bay Area Environmental Health Collaborative, addressed the Board to commend the work done, express concern about future infill development, and make a call for action, particularly at the county level, based on the work that has been done.

Marie Harrison, Greenaction, addressed the Board regarding the Air District permitting of a crude by rail project in Richmond without public notice in seeming conflict with the prior agreement or understanding with the Air District, to provide an update on the death rate in Bayview-Hunters Point over the last 12 months, and to question the fate of the work done by the CARE Task Force.

Leotis Martin, Greenaction, addressed the Board regarding the cancer-related death rate in Bayview-Hunters Point and the resulting need to make a greater understanding of cancer a part of the regional dialogue, the permitting of a crude by rail project in Richmond without public notice in seeming conflict with the prior agreement or understanding with the Air District, and to remind of the importance of preserving the environment for future generations.

Mr. Broadbent said the crude by rail project alluded to by the public speakers is the subject of today's closed session, a full-time inspector is stationed in Bayview-Hunters Point, and staff will meet with concerned members of the public to discuss and report back to the Executive Committee.

Board Comments (continued):

The Board and staff discussed the inconsistency between the concerns expressed by the Board and the characterization in the report that there are no concerns; the underrepresentation of the suburbs; the plan by staff to collect and address those concerns expressed today and report back, first to the Executive Committee and then to the Board; and that it was staff's intent that today's presentation was a summary update of a living document/program.

Directors Spring and Bates asked staff to compile and deliver to the Board a written summary of the concerns expressed today and staff responses to each.

Board Action: None; receive and file.

**CLOSED SESSION**

The Board adjourned to Closed Session at 12:42 p.m.

**12. EXISTING LITIGATION (Government Code Section 54956.9(a))**

Pursuant to Government Code Section 54956.9(a), the Board met in closed session with legal counsel to consider the following case:

**Communities for a Better Environment, et al. v. Bay Area AQMD, et al.**, San Francisco County Superior Court, Case No. CPF-14-513557.

## **OPEN SESSION**

The Board resumed Open Session at 12:57 p.m. with no reportable action.

**PUBLIC COMMENT ON NON-AGENDA MATTERS:** No requests received.

**BOARD MEMBERS' COMMENTS:** None.

## **OTHER BUSINESS**

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

Mr. Broadbent reported that staff sent a letter to Governor Brown regarding cap and trade revenue recommendations without committee or Board approval because of the deadline imposed by the Governor's office.

### **14. Chairperson's Report:**

Chairperson Miley announced those directors who have expressed an interest in attending the 2014 Annual Air & Waste Management Conference in Long Beach, California; the cancellation of the Board meeting on May 7, 2014; and the scheduling of the Executive Committee meeting on May 7, 2014.

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

Wednesday, May 21, 2014, 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 1:00 p.m.

*15/ Sean Gallagher*

Sean Gallagher  
Clerk of the Boards