

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

Board of Directors Regular Meeting
Wednesday, May 21, 2014

APPROVED MINUTES

- 1. CALL TO ORDER:** Chairperson Nate Miley called the meeting to order at 10:22 a.m.

Opening Comments: None.

Roll Call:

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

Absent: Directors Susan Adams, John Gioia, Carol L. Klatt, Liz Kniss, Tim Sbranti (resigned), Jim Spering and Brad Wagenknecht.

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:**

Nile Malloy, Communities for a Better Environment (CBE), submitted a letter from CBE to Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO) of the Air District, dated May 21, 2014, and addressed the Board of Directors (Board) to read from the same.

Marilyn Langlois, Richmond Progressive Alliance, addressed the Board regarding her involvement in the review of the Chevron Richmond Refinery modernization project on the City of Richmond Planning Commission and her surprise at discovering the issuance of an Air District permit while the environmental impact report is still incomplete; to note the history of particulate matter emissions in excess of permitted levels at the Chevron Richmond Refinery; and to urge for a focus on the health of residents when considering these matters.

Torm Nampraseurt, Asian Pacific Environmental Network (APEN), addressed the Board regarding the lack of concern by Chevron Richmond Refinery for the neighboring community members in Richmond and to request the Air District's help to protect public health.

Lipo, APEN, addressed the Board, with Mr. Nampraseurt providing translation services, regarding his long-standing residence in Richmond that predates the Chevron Richmond Refinery, which is hurting the residents of Richmond, and to request a limit on refinery emissions.

Greg Karras, CBE, addressed the Board to request the Chevron Richmond Refinery permit be revoked immediately based on its premature issuance, the irreversible public health impacts of refinery emissions, the current particulate matter emissions inventory, and the permit conditions in need of remedy through operational changes.

Marie Walchek, California Nurses Association, addressed the Board regarding the frequent treatment of ailments associated with industrial air emissions and to urge the Air District to rescind the authority to construct issued to the Chevron Richmond Refinery.

Ethan Buckner, Forest Ethics, addressed the Board to echo the comments of those before him; to urge for the revocation of the authority to construct issued to the Chevron Richmond Refinery pending a public input process to ensure the protection of the community; and to note the similarity between this matter and a permit recently issued to Kinder Morgan.

Diane Bailey, Natural Resources Defense Council, addressed the Board to urge for the revocation of the Chevron Richmond Refinery permit in the face of the introduction of tar sands crude oil in US processing stocks; to suggest that staff comments on the Chevron Richmond Refinery permit and operations are troubling; and to request a review of the Chevron Richmond Refinery permit application that includes a cumulative impacts analysis.

Vivian Huang, APEN, addressed the Board regarding her shock in discovering the recent refinery permits issued by the Air District without environmental review or public comment; to note the significant public health impacts of these types of operations; to request the rescission of the Chevron Richmond Refinery permit, a cap on pollution limits and to require transparency and public participation in all permitting processes.

Denny Larson, Global Community Monitor, addressed the Board to commend the proposed Petroleum Refining Emissions Tracking Rule and the implementation of continuous emissions monitoring; to suggest these advances are being undermined by a permitting process that resulted in the issuance of the Chevron Richmond Refinery permit and the recently issued permit to Kinder Morgan; and to suggest that both permits should be rescinded or revoked as soon as possible for public health reasons.

Aaron Reaven, 350 Bay Area, addressed the Board to express the support of 350 Bay Area of those comments made before him; to note the value of the Air District Advisory Council's current exploratory assignment from the Board, *The Path Forward for the Energy Sector to Move Towards the 2050 Greenhouse Gas Goals*, and the discouraging reluctance of Air District staff to adopt a leadership role in this realm; and to state the importance of Air District leadership in advancing the energy discussion towards a renewable model.

Chairperson Miley directed staff to agendize a discussion regarding the Chevron Richmond Refinery permit with the Stationary Source Committee (SSC) and a discussion regarding energy alternatives with the Climate Protection Committee. Jean Roggenkamp, Acting Executive Officer/APCO, restated those topics mentioned that will be addressed by each committee.

The Board and staff discussed exploring whether there is an option to revoke permits; the heartfelt testimony from the public for procedural transparency, when a SSC meeting is likely to occur and; the impact of these refinery operations on those in the neighboring communities.

CONSENT CALENDAR (ITEMS 3 – 10)

3. **Minutes of the Board Regular Meeting of April 16, 2014;**
4. **Board Communications Received from April 16, 2014 through May 20, 2014;**
5. **Air District Personnel on Out-of-State Business Travel;**
6. **Notice of Violations Issued and Settlements in Excess of \$10,000 in April 2014;**
7. **Quarterly Report of Executive Office and Division Activities;**
8. **Consider Amending the Job Classification and the Salary Range of Executive Secretary I/II (Executive Secretary I from Level 127 to 128 and Executive Secretary II from Level 131 to Level 132) and Consider Establishing the New Classification of Senior Executive Secretary at Salary Level 134;**
9. **Adoption of 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; and**
10. **Resolution to Accept \$500,000 from California Energy Commission (CEC).**

Board Comments: None.

Public Comments: No requests received.

Board Action:

Director Haggerty made a motion to approve Consent Calendar Items 3 through 10, inclusive; Director Piepho seconded; and the motion carried by the following vote of the Board:

AYES: Barrett, Bates, Chavez, Groom, Haggerty, Hudson, Kalra, Kim, Mar, Miley, Pepper, Piepho, Ross and Zane.

NOES: None.

ABSTAIN: None.

ABSENT: Adams, Avalos, Gioia, Klatt, Kniss, Sbranti, Spering and Wagenknecht.

COMMITTEE REPORTS AND RECOMMENDATIONS

11. **Report of the Ad Hoc Building Oversight Committee (AHBOC) Meeting of April 16, 2014**
Committee Chairperson Miley

The AHBOC met on Wednesday, April 16, 2014.

The AHBOC received and discussed the staff presentation *Approval of Expenditure in Excess of \$70,000*, including a description of agency space design and programming, and consulting on shared services in the new building. The AHBOC recommends the Board authorize the Executive

Officer/APCO to reimburse the Bay Area Headquarters Authority for change orders and third party services in the development and operations of the Air District's space at the new Regional Agency Headquarters in an amount not to exceed \$500,000.00.

The AHBOC then received and discussed the staff presentation *Regional Agency Headquarters Status Report 375 Beale Street*, including a construction update; shared services vision; a description of shared technology services at move-in; the recent furniture fair and procurement update; and next steps.

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

Board Comments: None.

Public Comments: No requests received.

Board Action:

Chairperson Miley made a motion, seconded by Director Haggerty, to approve the recommendation of the AHBOC; and the motion carried by the following vote of the Board:

AYES: Barrett, Bates, Chavez, Groom, Haggerty, Hudson, Kalra, Kim, Mar, Miley, Pepper, Piepho, Ross and Zane.

NOES: None.

ABSTAIN: None.

ABSENT: Adams, Avalos, Gioia, Klatt, Kniss, Sbranti, Spering and Wagenknecht.

12. Report of the SSC Meetings of April 21, 2014 and May 1, 2014

Committee Chairperson Gioia (read by Director Bates)

The SSC met on Monday, April 21, 2014, and approved the minutes of February 24, 2014, and then again on Thursday, May 1, 2014, at which time it approved the minutes of April 21, 2014.

The SSC received the staff presentation *Update on Petroleum Refining Emissions Tracking Rule (Rule)*, including rule development process milestones; summaries of the initial draft Rule and public comments; potential revisions being considered; and next steps.

The SSC then received the staff presentation *Bay Area Energy Projects*, including a description of crude oil transport by railcar and ship; overviews of refinery, rail and ship transport emissions; summaries of energy projects at Valero, Wespac, Kinder Morgan, Phillips 66, and Chevron; regional emissions from transportation of crude oil for these energy projects; an overview of U.S. crude oil production; flash point information relative to flammability for crude oil; crude oil sources for Bay Area refineries; and crude-by-rail transportation projections for California.

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

That concludes the Chairperson report of the SSC.

Board Comments: None.

Public Comments:

David McCoard, Sierra Club, addressed the Board to urge for a cumulative impacts analysis and the implementation of the Rule before further consideration of any permits for refinery projects.

Walt Gill, Chevron, addressed the Board regarding the facility improvements and modernization being performed under the Chevron Richmond Refinery permit in order to meet air quality standards and stated Chevron's commitment not to realize any net increases in criteria pollutants.

Board Action: None; receive and file.

13. Report of the Budget and Finance Committee (BFC) Meeting of April 23, 2014
Committee Chairperson Groom

The BFC met on Wednesday, April 23, 2014, and approved the minutes of March 26, 2014.

The BFC received and discussed the staff presentation *Proposed Fiscal Year End (FYE) 2015 Budget*. The BFC reviewed proposed expenses and capital; Air District reserve funds and designations; current staffing levels and strategic staffing principles; vacancies for FYE 2014; climate program staffing; proposed staffing levels in FYE 2015; a status report on fees and unfunded liabilities including pensions and Other Post-Employment Benefits. The BFC recommends Board adoption of the FYE 2015 Proposed Budget during the June 4 Board Budget Hearing.

The BFC received and discussed the staff presentation *Third Quarter Financial Report – FYE 2014*, including an overview of general fund revenues and expenses, revenue and expense year-over-year comparisons, investments, fund balances, purchasing reporting requirements, and cumulative vendor payments in excess of \$70,000.

The next meeting of the BFC is Wednesday, June 25, 2014, at 9:30 a.m.

That concludes the Chairperson report of the BFC.

Board Comments: None.

Public Comments: No requests received.

Board Action: None; receive and file.

14. Report of the Mobile Source Committee (MSC) Meeting of April 24, 2014
Committee Chairperson Haggerty

The MSC met on Thursday, April 24, 2014, and approved the minutes of February 27, 2014.

The MSC reviewed Projects and Contracts with Proposed Awards Over \$100,000 and recommends the Board:

1. Approve Carl Moyer Program (CMP) projects with proposed grant awards over \$100,000;
2. Approve the allocation of \$150,000 for direct-mail outreach for the Vehicle Buy Back Program (VBBP); and
3. Authorize the Executive Officer/APCO to enter into agreements for the recommended projects and direct-mail contract.

The MSC then reviewed FYE 2015 Transportation Fund for Clean Air (TFCA) County Program Manager (CPM) Expenditure Plans and a request for Waivers from Santa Clara Valley Transportation Authority (VTA) and San Francisco County Transportation Authority (SFCTA), including TFCA background, FYE 2015 Expenditure Plans, and policy waiver requests. The MSC recommends the Board:

1. Approve the allocation of FYE 2015 TFCA CPM Funds listed in Table 1 of the Committee staff report;
2. Authorize the Executive Officer/APCO to enter into funding agreements with the CPMs for the total funds to be programmed in FYE 2015, listed in Table 1 of the MSC staff report; and
3. Approve policy waivers to allow VTA to use FYE 2015 TFCA CPM Funds for pedestrian improvement and bicycle sharing projects and SFCTA to use FYE 2015 TFCA CPM Funds for arterial management projects.

The MSC then reviewed and discussed the staff presentation *Update on TFCA Regional Fund Shuttle and Ridesharing Incentive Program*, including a discussion of key policy drivers, program issues, and program realignment opportunities. The MSC requested that staff return later this year with recommendations for improving the program in future cycles.

The MSC then reviewed a request for FYE 2015 TFCA Funding Allocations, including a review of the FYE 2015 TFCA expenditure plan and revenue; a description of the recommended Regional Fund and Air District-led programs; and the proposed TFCA cost-effectiveness limits for Air District-led programs. The MSC directed staff to explore options for requiring that the hosts of publicly available EV charging stations install equipment that is capable of accepting payment from end-users only, so that station sponsors can recover the cost of providing service and electricity. The MSC recommends the Board:

1. Allocate \$18.8 million in its TFCA funding to the projects and programs listed in Table 1 of the MSC staff report;
2. Authorize the Executive Officer/APCO to enter into funding agreements and contracts up to \$100,000 for projects and programs listed in Table 1 of the MSC staff report;

3. Accept up to \$500,000 in Alternative and Renewable Fuel and Vehicle Technology Program (ARFVTP) funding from the CEC for electric vehicle charging projects; and
4. Authorize the Executive Officer/APCO to execute all contracts necessary to accept, appropriate, and expend CEC ARFVTP monies.

The next meeting of the MSC is on Thursday, May 22, 2014, at 9:30 a.m.

Board Comments: None.

Public Comments: No requests received.

Board Action:

Director Haggerty made a motion, seconded by Director Kalra, to approve the recommendations of the MSC; and the motion carried by the following vote of the Board:

AYES: Barrett, Bates, Chavez, Groom, Haggerty, Hudson, Kalra, Kim, Mar, Miley, Pepper, Piepho, Ross and Zane.

NOES: None.

ABSTAIN: None.

ABSENT: Adams, Avalos, Gioia, Klatt, Kniss, Sbranti, Spering and Wagenknecht.

CLOSED SESSION

The Board adjourned to Closed Session at 11:20 a.m.

15. 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 cases:

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.

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 11:38 a.m. with no reportable action.

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

BOARD MEMBERS' COMMENTS:

The Board and staff discussed the possible screening of a documentary film, "Toxic Hot Seat," at a future Board meeting and that Sonoma Clean Power, an alternative electricity provider, went live last week and had very few residents and businesses opting out.

OTHER BUSINESS

16. Report of the Executive Officer/APCO:

Ms. Roggenkamp reported that the screening of "Toxic Hot Seat" will likely be outside of a Board meeting at a time as yet to be determined; that District Counsel will deliver a staff report on the recent California legislation that resulted in roll call votes on all action items; and presented a summary of the Summer Ozone Season.

17. Chairperson's Report:

Chairperson Miley congratulated Director Bates on his re-appointment to the Board; announced the Air & Waste Management Association (AWMA) 2014 Annual Conference Air District Chairperson's Dinner is on Wednesday, June 25, 2014 onboard the Queen Mary in Long Beach, California and invited RSVPs to Air District staff; and reported that he will likely be unable to attend AWMA Annual Conference or the Chairperson's Dinner.

18. Time and Place of Next Meeting:

Wednesday, June 4, 2014, Bay Area Air Quality Management District Headquarters, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.

19. Adjournment: The Board meeting adjourned at 11:42 a.m.

151 Sean Gallagher

Sean Gallagher
Clerk of the Boards