

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

Board of Directors Regular Meeting  
Wednesday, December 3, 2014

## **APPROVED MINUTES**

*Note: Audio and video recordings of the meeting are available on the website of the Bay Area Air Quality Management District at <http://www.baaqmd.gov/The-Air-District/Board-of-Directors/Agendas-and-Minutes.aspx>.*

1. **CALL TO ORDER:** Chairperson Nate Miley called the meeting to order at 9:54 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, Margaret Fujioka, John Gioia, Scott Haggerty, David Hudson, Ash Kalra, Roger Kim (on behalf of Edwin Lee), Liz Kniss, Mark Ross and Brad Wagenknecht.

Absent: Directors Teresa Barrett, Carol L. Klatt (resigned), Jan Pepper, Mary Piepho, Jim Sperring and Shirlee Zane.

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

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

### **PROCLAMATION / AWARDS**

3. **The Board of Directors (Board) Recognized Naomi Bernardo as Recipient of the 2014 Rodney Swartzendauber Outstanding Inspector Award**

Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO), commended Naomi Bernardo, Air Quality Inspector II of the Compliance and Enforcement Division, for receiving the 2014 Rodney Swartzendauber Outstanding Inspector Award.

NOTED PRESENT: Director Hudson was noted present at 9:58 a.m. and Director Mar was noted present at 10:00 a.m.

**4. The Board Recognized Employees Who Have Completed Milestones of Twenty-Five (25), Thirty (30), Thirty-five (35), Forty (40), and Forty-Five (45) Years of Service with the Air District During this Second Half of the Calendar Year**

Director Avalos recognized Jeffery Matsuoka, Research Analyst 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. Matsuoka addressed the Board in appreciation.

Director Avalos recognized David Garrison, RTO Supervisor of the Compliance and Enforcement Division, in absentia, who completed the milestone of twenty-five (25) years of service with the Air District during this second half of the calendar year. Wayne Kino, Director of Compliance and Enforcement, accepted the recognition on behalf of Mr. Garrison.

Director Mar recognized May Leung, Air Quality Permit Technician of the Engineering Division, who completed the milestone of twenty-five (25) years of service with the Air District during this second half of the calendar year. Ms. Leung addressed the Board in appreciation.

NOTED PRESENT: Directors Bates and Kalra were noted present at 10:11 a.m.

Director Mar recognized Scott Owen, Supervising Air Quality Engineer of the Engineering Division, who completed the milestone of thirty (30) years of service with the Air District during this second half of the calendar year. Mr. Owen addressed the Board in appreciation.

Chairperson Miley recognized Helen Lee, Administrative Secretary of the Executive Office, who completed the milestone of twenty-five (25) years of service with the Air District during this second half of the calendar year. Ms. Lee addressed the Board in appreciation.

NOTED PRESENT: Director Fujioka was noted present at 10:16 a.m.

Chairperson Miley recognized Rochelle Reed, Air Quality Technician of the Counsel's Office, who completed the milestone of twenty-five (25) years of service with the Air District during this second half of the calendar year. Ms. Reed addressed the Board in appreciation.

Chairperson Miley recognized Dinesh Patel, Principal Air Quality Chemist of the Technical Services Division, in absentia, who completed the milestone of twenty-five (25) years of service with the Air District during this second half of the calendar year.

Director Gioia recognized Kim Karas, Director of Engineering, who completed the milestone of forty (40) years of service with the Air District during this second half of the calendar year. Mr. Karas addressed the Board in appreciation.

Director Groom recognized Ruth Argueta, Air Quality Technician of the Compliance and Enforcement Division, who completed the milestone of forty (40) years of service with the Air District during this second half of the calendar year. Ms. Argueta addressed the Board in appreciation.

**CLOSED SESSION**

The Board adjourned to Closed Session at 10:27 a.m.

**5. EXISTING LITIGATION (Government Code Section 54956.9(a)) (Out of Order Agenda Item 14)**

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

**Communities for a Better Environment, et al. v. Bay Area AQMD, Kinder Morgan Material Services, LLC, et al., Real Parties in Interest**, San Francisco County Superior Court, Case No. CPF-14-513557, First District Court of Appeal, Case No. Pending.

**OPEN SESSION**

The Board resumed Open Session at 10:47 a.m. with no reportable action.

**CONSENT CALENDAR (ITEMS 6 – 10) (Agenda Items 5 – 9)**

- 6. Minutes of the Board Regular Meeting of November 17, 2014;**
- 7. Board Communications Received from November 17, 2014 through December 2, 2014;**
- 8. Notice of Violations Issued and Settlements in Excess of \$10,000 in the month of October 2014;**
- 9. Contract Amendment to Provide Support for Greenhouse Gas (GHG) and Criteria Pollutant Emissions Reductions Efforts for Super Bowl 2016; and**
- 10. Cooperative Air District Enforcement of the Refrigerant Management Program with the California Air Resources Board.**

Board Comments: None.

Public Comments: No requests received.

Board Action:

Director Groom made a motion, seconded by Director Haggerty, to approve Consent Calendar Items 6 through 10 (agenda items 5 through 9), inclusive; and the motion carried by the following vote of the Board:

- AYES: Avalos, Bates, Chavez, Fujioka, Gioia, Groom, Haggerty, Hudson, Kalra, Kim, Kniss and Miley.
- NOES: None.
- ABSTAIN: None.
- ABSENT: Adams, Barrett, Klatt, Mar, Pepper, Piepho, Ross, Spring, Wagenknecht and Zane.

## **COMMITTEE REPORTS**

### **11. Report of the Stationary Source Committee (SSC) Meeting of November 24, 2014 (Agenda Item 10)**

Committee Chairperson Gioia

The SSC met on Monday, November 24, 2014, and approved the minutes of October 1, 2014.

The SSC received and discussed the staff presentation *Review of Refinery Emission Reduction Approaches*, including background; an overview of the staff evaluation of potential approaches to implement a strategy to reduce emissions from refineries by 20% or by as much as is feasible; a summary of evaluation criteria; a summary of approaches evaluated; a summary of evaluation results; recommendations; and next steps. This issue will be on the agenda for the December 17, 2014 Board meeting.

The SSC then received and discussed the staff presentation *Tesoro Refinery Flaring Activity*, including a diagram of a typical flare system; summaries of flare monitoring and management rules; and overviews of the Tesoro flare system and previous flaring.

The SSC then received and discussed the staff presentation *Discretionary Permits under the California Environmental Quality Act (CEQA)*, including a summary of CEQA statutory provisions; Office of Planning and Research CEQA guidelines; court decisions; and examples from Air District regulations.

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

Board Comments: None.

Public Comments: No requests received.

Board Action: None; receive and file.

### **12. Report of the Budget and Finance Committee (BFC) Meeting of November 26, 2014 (Agenda Item 11)**

Committee Chairperson Groom

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

The BFC received and discussed the staff presentation *Fourth Quarter Financial Report – Fiscal Year Ending (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 BFC then received and discussed the staff presentation *First Quarter Financial Report – FYE 2015*, 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 BFC then received and discussed the staff presentation *939 Ellis Street Sale Proceeds*. Based on this discussion, the BFC recommends the Board:

1. Appropriate \$1,103,103 in the current fiscal year to cover the monthly base rent of 939 Ellis Street; and
2. Transfer remaining sale proceeds to the General Fund Building Reserves to:
  - a. Use towards purchase of 375 Beale Street Office Space (minimum of \$8.5M has been committed); and
  - b. Finance current and future building needs and obligations.

The next meeting of the BFC is Wednesday, January 28, 2015, at 9:30 a.m.

Board Action:

Director Groom made a motion, seconded by Director Kniss, to approve the recommendations of the BFC.

Board Comments:

The Board and staff discussed when lease payments began or begin on each property; the state of discussions with the Metropolitan Transportation Commission (MTC) regarding the cost of project delays; construction schedule update; MTC efforts to expedite the departure of the current tenant at 375 Beale Street; and the loan payment schedule.

Public Comments: No requests received.

Board Action (continued):

The motion carried by the following vote of the Board:

- AYES: Avalos, Bates, Chavez, Fujioka, Gioia, Groom, Haggerty, Hudson, Kalra, Kim, Kniss and Miley.
- NOES: None.
- ABSTAIN: None.
- ABSENT: Adams, Barrett, Klatt, Mar, Pepper, Piepho, Ross, Spring, Wagenknecht and Zane.

**13. Report of the Climate Protection Committee (CPC) Meeting of December 1, 2014 (Agenda Item 12)**  
Committee Chairperson Avalos

The CPC met on Monday, December 1, 2014, and approved the minutes of September 29, 2014.

The CPC received and discussed the presentation *The Marin Carbon Project, Carbon Farming: Increasing Carbon Capture on California's Working Lands* by Jeff Creque, Carbon Cycle Institute, including background on the project's objective to increase carbon sequestration in agricultural soils via application of compost; estimates of benefits related to carbon sequestration, GHG emissions reductions, and agricultural productivity; California rangelands carbon sequestration and GHG mitigation potential; discussion of the Corda Ranch pilot project; quantification of carbon farm impacts; and increases in soil moisture and other carbon capture synergies.

The CPC then received and discussed the presentation *Local Climate Action Plans*, including background on Air District support for local climate action plans and their relevance to the 10-point Climate Protection Work Program and Regional Climate Protection Strategy; a summary of Bay Area cities with adopted climate action plans; current emissions reduction targets and estimated GHG reductions; common and innovative GHG reduction measures; examples of voluntary versus mandatory measures; implementation strategies; climate action plans as related to cap-and-trade funds; and next steps.

The next meeting of the CPC is on Thursday, January 15, 2015, at 9:30 a.m.

Board Comments: None.

Public Comments: No requests received.

Board Action: None; receive and file.

## **PRESENTATION**

### **14. Wood Smoke Program (Agenda Item 13)**

Mr. Broadbent introduced the topic and Eric Stevenson, Director of Technical Services, who gave the initial staff presentation *Wood Smoke Program* through slide 5, *Survey Data Results*, including localized impacts; wood smoke in San Geronimo Valley; and survey data results.

Mr. Stevenson introduced Brian Bunger, District Counsel, who gave the continued staff presentation *Wood Smoke Program* through slide 7, *Air District Rule Development*, including Air District authority and rule development.

Mr. Bunger introduced Mr. Kino, who gave the remainder of the staff presentation *Wood Smoke Program*, including wood smoke rule development, wood smoke model ordinance and rule development schedule.

Board Comments:

The Board and staff discussed staff's current vision for the upcoming rule-making process; a possible restriction of the exemption; how the Air District works with local jurisdictions with wood smoke regulations in place, both at initial program launch and since that time; public comments received, particularly from Richard Winge, regarding rental properties with wood burning as the sole source of

heat; the adversarial tone of correspondence received on this topic; the absence of emergency or expedited rule-making authority and potential efforts to engage the legislature to expand Air District authority to allow it; what types of wood-burning devices are being used and whether U.S. Environmental Protection Agency (EPA)-approved devices are an improvement in terms of heating capabilities; why the four cities were selected for slide 5, *Survey Data Results*; the desire for a list of the worst offending cities in descending order; abuses of the current exemption and potential rule revisions to override, alter or cancel the exemption or revise downward the air pollution levels at which Spare the Air Days are called; which cities and counties have already adopted local ordinances regarding wood smoke; the importance of an education campaign, both directly targeting the public and through Board members and their affiliations; the need for a multi-pronged approach beyond legislation and rule-making, including, but not limited to, education; possible air quality impacts of different types of wood fuel; the value added through the adoption of local wood smoke ordinances; the number of low-income residents who rely on wood burning for heat in western Marin County; the value of advancing this campaign during non-winter seasons; a commendable new Spare the Air television advertisement and staff participation at a public event in Marin County; whether the Air District can mandate remodel and new construction requirements; the importance of focusing the outreach campaign on improved community health; Marin County Supervisor Steve Kinsey's concern about a moratorium on wood burning given efforts by some residents to upgrade to EPA-certified devices; the value of providing some level of Air District funding for local jurisdictions working on local wood smoke ordinances; staff opinion regarding EPA-certified devices; possible escalation of fines and penalties; whether property owners or tenants are ultimately fined and penalized; the possibility of penalizing property owners and only providing notification to tenants; the possibility of requiring non-wood burning heat sources in residential rentals; the significant education campaign needed relative to the dangers of wood smoke emissions in the Bay Area; clarification about what penalties may be leveled against property owners as opposed to tenants; the viability of creating a provision that allows for applying the purchase price of an improved heating unit against fines and penalties for wood smoke violations; and the need for greater clarification of the enforcement process as this discussion and rule-making advance.

NOTED PRESENT: Director Adams was noted present at 11:25 a.m., Director Ross was noted present at 11:42 a.m. and Director Wagenknecht was noted present at 11:54 a.m.

Public Comments:

Julio Focaracci addressed the Board in support of regulations to eliminate wood smoke.

Haden Werhan submitted written material and addressed the Board while playing back two videos regarding his residential neighbor's burning of refuse.

Lane Arye addressed the Board regarding the incessant smoke in and around homes in the San Geronimo Valley; in support of a moratorium on wood burning, enhanced enforcement of current regulations and an enhanced outreach program; and in opposition to allowing or encouraging EPA-approved devices as a provision of an Air District wood smoke resolution, construction remodeling as a trigger for upgrades, and to a continuation of an exemption provision.

Board Comments (continued):

The Board and staff discussed return of the topic to an SSC agenda as soon as possible in the new year; whether the video played by Mr. Werhan can be used as the basis for engaging the perpetrator; the advisability of expanding the program beyond residential; and the recommendation to begin public announcements regarding the dangers of illegal trash burning as soon as possible in advance of the year-end holidays.

Board Action: None; receive and file.

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

**16. BOARD MEMBERS' COMMENTS:** None.

**OTHER BUSINESS**

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

Mr. Broadbent gave the staff presentation *Winter PM<sub>2.5</sub> [Fine Particulate Matter] Seasons*; reported out on the recent conference, *My Air Quality: Using Sensors to Know What's in Your Air*, as jointly hosted by the California APCOs Association (CAPCOA), the Air District and South Coast Air Quality Management District; announced the appointment by Governor Edmund G. Brown of Barbara Lee, former APCO for the Northern Sonoma County Air Pollution Control District, as Director of the California Department of Toxic Substances Control; announced the appointment by Air District staff of Maricela Martinez, former Executive Secretary II, as Manager, Executive Operations; and played back a newly completed promotional video produced by CAPCOA.

The Board and staff discussed sharing the CAPCOA video with the public relations and outreach offices of the nine Bay Area counties.

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

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

Wednesday, December 17, 2014, Bay Area Air Quality Management District Headquarters, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.

**20. Adjournment:** The Board meeting adjourned at 12:27 p.m.

*15/ Sean Gallagher*

Sean Gallagher  
Clerk of the Boards