

Bay Area Air Quality Management District  
939 Ellis Street  
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Board of Directors Special Meeting  
September 10, 2012

## **APPROVED MINUTES**

### **CALL TO ORDER**

Chairperson John Gioia called the meeting to order at 9:50 a.m.

### **ROLL CALL**

Present: Chairperson John Gioia; Vice Chairperson Ash Kalra; and Directors John Avalos, Tom Bates, Susan Garner, David E. Hudson, Eric Mar, Mary Piepho, Katie Rice, Mark Ross, Brad Wagenknecht and Ken Yeager.

Absent: Secretary Nate Miley; and Directors Susan Gorin, Carole Groom, Scott Haggerty, Jennifer Hosterman, Carol L. Klatt, Liz Kniss, Edwin M. Lee, Jim Spering and Shirlee Zane.

### **PLEDGE OF ALLEGIANCE**

Director Wagenknecht led the Pledge of Allegiance.

### **OPENING COMMENTS**

None.

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

Mavis Williams, Hunters View Mothers Committee for Health and Environmental Justice, addressed the Board citing a lack of agency follow up after the interagency walk through of the Bayview Hunters Point redevelopment project.

Vendell White, MAC, addressed the Board requesting immediate further action at Bayview Hunters Point.

Leaotis Martin, Hunters View Mothers and Fathers Committee for Health and Environmental Justice, addressed the Board to report some of the health issues suffered by residents of Bayview Hunters Point and to request assistance with ensuring regulatory compliance by construction crews.

Genese Hughes, Hunters View Mothers Committee for Health and Environmental Justice, addressed the Board regarding her daughter's incapacitating health condition and to request Air District assistance and information regarding regulatory compliance by construction crews at Bayview Hunters Point.

Marie Harrison, Greenaction for Health and Environmental Justice, addressed the Board regarding her request that the Air District enforce its regulations relative to construction crews at Bayview Hunters Point and to propose as inadequate the equipment and practices currently in place.

NOTED PRESENT: Director Mar was noted present at 10:01 a.m.

Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO), said an inspector is onsite, a Notice of Violation was issued to The John Stewart Company relative to compliance with its asbestos mitigation plan, Air District staff is working closely with the City of San Francisco regarding the health impacts mentioned today, additional site tours are planned, and suggested that staff brief the Stationary Source Committee at its meeting on September 17, 2012.

NOTED PRESENT: Director Bates was noted present at 10:04 a.m.

Chairperson Gioia approved Mr. Broadbent's suggestion to brief the Stationary Source Committee.

Director Avalos, Chairperson of the Stationary Source Committee, offered to meet with Ms. Harrison in the interim.

Director Piepho asked staff to provide her a timeline and clarification regarding what the Air District means when it issues a notice of violation as it relates to asbestos mitigation.

Director Mar thanked the residents of Bayview Hunters Point for their comments and said he looks forward to working with Director Avalos on this matter.

#### **CONSENT CALENDAR (ITEMS 1 – 6)**

- 1. Minutes of the Board of Directors Special Meeting of July 30, 2012;**
- 2. Board Communications Received from July 30, 2012, through September 9, 2012;**
- 3. Air District Personnel on Out-of-State Business Travel;**
- 4. Quarterly Report of Executive Office and Division Activities;**
- 5. Approval of Contract for Janitorial Services; and**
- 6. Consider Approving Resolution No. 2012-05, Delegating Administrative Authority to the Executive Officer/APCO on Matters Related to the California State Association of Counties Excess Insurance Authority.**

Board Action: Chairperson Gioia tabled approval of Consent Calendar Items 1, 2, 3, 4, 5 and 6 for lack of a quorum.

## **PRESENTATIONS**

### **7. Chevron Richmond Refinery Incident**

Chairperson Gioia made introductory comments regarding the importance of the incident and the work that follows.

Mr. Broadbent gave the initial staff presentation Chevron Refinery Fire Overview, including roles and responsibilities and event background, and introduced Eric Stevenson, Director of Technical Services, who gave the staff presentation regarding investigation and air monitoring.

NOTED PRESENT: Director Garner was noted present at 10:19 a.m., at which time a quorum was established.

Mr. Broadbent concluded the staff presentation Chevron Refinery Fire Overview regarding next steps.

#### **Board Comments:**

Chairperson Gioia said the cost of enhanced rules may be a factor but will not be an obstacle to the Air District as it will be borne by industry.

Director Ross asked if air monitors are generally placed consistent with prevailing winds and whether they should instead ring the facility. Mr. Stevenson replied that air monitors are generally up- and down-wind with the focus on which direction most frequently prevails. Director Ross asked if the Federal Emergency Management Agency and the U.S. Department of Homeland Security should be helping here and perhaps also in developing a national model. Mr. Stevenson agreed and said the Air District has reached out to other states and regions to see what methods are being utilized.

Director Piepho asked for the identities of the first responders staff referred to in the presentation or whether the reference was instead a general one. Mr. Stevenson said it was in reference to the broader definition. Mr. Broadbent added that in this incident it was as much the Fire Department for Chevron as the County. Mr. Broadbent also point out that Contra Costa County is different than most counties because of the refineries present, and that their first responder capability is more robust than most of the Bay Area counties.

Director Piepho suggested, regarding slide 13, Air Monitoring, using the mobile air monitoring equipment for emergency responses and asked, regarding slide 15, Air Monitoring, that while the Air District must be mindful of costs it must also be mindful of community impacts and safety, whether equipment or data sharing with other agencies or local laboratories might be possible. Mr. Broadbent said that will be a possibility to consider as the Air District goes forward with its analysis. Director Piepho expressed her concern about the urgency of the matter and the time required to complete the analysis contemplated.

Director Piepho asked, referring to slide 6, Background, whether the Air District can do plume samples, perhaps with the use of a balloon. Mr. Broadbent responded that staff is researching the possibilities via balloon or drone.

Director Kalra said the technology exists if the money does and the Air District's use of new technology is essential to obtaining more precise data with the use of less equipment.

Director Garner asked if a representative from Chevron will be addressing the Board today. Chairperson Gioia responded yes, among others.

Director Bates said that monitoring is important but there needs to be some consideration of what can be done in the areas of prevention and public notification.

Chairperson Gioia said additional presentations today will address the response aspect, confirmed the Air District is working with the community and stakeholders in terms of shaping future monitoring and rulemaking efforts and echoed Director Kalra's comment about utilizing the most innovative technology available.

Chairperson Gioia introduced Randy Sawyer, Chief Environmental Health and Hazardous Materials Officer, Contra Costa County, who gave the presentation Contra Costa Hazardous Materials Program Response August 6, 2012 Chevron Fire, including an overview, response timeline, an explanation of the role of Contra Costa Hazardous Materials, plans for future coordination with the Air District and a summary of emergency room impact.

Donald Holstrum, Director Western Regional Office of Investigations, U.S. Chemical Safety Board (CSB), addressed the Board regarding the background and mission of the CSB, the reason for the agency's involvement in this incident investigation, the CSB team deployment and interview/investigation process, provided a summary of outreach efforts, detailed various areas of interest such as gauging health impacts and the communications of potential hazards, and discussed the broad-perspective approach to the overall investigation.

Chairperson Gioia said that he looks forward to receiving the CSB recommendations not only as to Chevron practices but also agency responses.

Dr. Alberto Ayala, Chief, Monitoring and Laboratory Division, California Air Resources Board (ARB), gave the presentation Air Emergencies in California: The ARB's Role for Supporting Local Responders, including ARB's emergency response program, the limits of ground-level support and looking ahead.

Daniel Meer, Assistant Director, Superfund Division, Emergency Response, Preparedness and Prevention Branch, U.S. Environmental Protection Agency (EPA), addressed the Board regarding the role of the EPA relative to the Air District generally and specific to this incident, a summary of the initiation of and process relative to the EPA's incident investigation, and the upcoming risk management audit that will occur.

Nigel Hearne, General Manager, Chevron Refinery, gave the presentation Proposed Fenceline and Community Monitoring Locations, including a map and photographic images of the same, and addressed the Board regarding company accountability and its focus on the safety of its staff and community, and the company's cooperative role in the ongoing investigation.

Chairperson Gioia asked for clarification that the locations detailed in the presentation are consistent with the City of Richmond's requested citing. Mr. Hearne said yes.

Greg Karras, Senior Scientist, Communities for a Better Environment (CBE), gave the presentation Chevron Richmond Refinery Crude Unit Fire on August 6, 2012: What We Know Now, including a comparison of reported and expected symptoms, a series of images of the smoke and vapor plumes, a diagram of a crude distillation unit, a pattern of piping problems at Chevron's crude unit, a detail of sulfur levels in crude generally and specific to the Richmond refinery, and a look at the current state of the refinery.

Mr. Karras added that monitoring is only a component of the failure, not the failure itself, and that the event was a nearly fatal disaster.

Mr. Karras asked that the Air District include incidents such as this in its emission tracking policy so as to prevent emissions increases from refineries.

Roger Lin, Staff Attorney, CBE, addressed the Board regarding the fact that the refinery equipment is destroyed and will require a rebuild if they are to continue operations, and while a focus on monitoring is important, prevention is key, and asked if the Air District will require Chevron to install state of the art equipment during the rebuild process.

Mr. Broadbent said the rebuild could possibly require a permit change and, should that be the case, Air District staff will be involved and that the best equipment will be required of the refinery and the Board of Directors will receive updates.

Chairperson Gioia clarified that today's meeting was intended to be the beginning of a dialogue rather than the final word on the incident.

Gayle McLaughlin, Mayor, City of Richmond (City), addressed the Board regarding the need for preventative measures to avoid a repeat occurrence and to address the City's air quality, 15,000 community members sought immediate medical treatment in relation to the recent incident, to emphasize the importance of finding the root cause of the incident, to encourage the utilization of both ambient and incident air monitoring, to recall for the Board that asthma has been suggested as the single largest cause of absenteeism in the community, and to urge independent thinking when working with industry partners.

Chairperson Gioia highlighted the commitment of the involved agencies to fully discover not only what has already occurred, but how best to avoid it in the future.

Director Piepho said the ARB may have the needed resources for monitoring and asked for resource sharing between them and the Air District as work is being done to improve the systems related to this incident. Dr. Ayala agreed, said that is at the heart of ARB's appearance at today's meeting and invited further discussion moving forward.

Director Ross echoed Chairperson Gioia's comments, expressed the need for utilizing the best available communications, monitoring and prevention technologies by Chevron and the agencies, and asked for greater integration of the various systems and programs already in place by the Air District and the County to provide better, more timely and informative, reports to the public.

Director Bates encouraged a focus on preventative measures, a review of the changing nature of the materials going into the refinery and the long-term safety of the facilities that results.

Director Yeager said ARB staff are looking forward to working with the Air District on issues including protocols, modeling and monitoring, and had, before this incident, already initiated a review of emergency response capabilities, the results of which will be informed by recent events.

Director Kalra asked if and how the characterization of the refinery as a new or existing facility will affect the rules and standards that will be applied by the Air District. Mr. Broadbent said the necessary information is not yet available in terms of Chevron's rebuilding intentions but it will not have any bearing in this instance because staff will require the best equipment regardless. Director Kalra confirmed the best available technology will be required no matter how the facility is characterized. Mr. Broadbent said yes, noted the Air District's root-cause analysis requirement when there is a flare event and stated that including incidents in the overall emissions tracking and monitoring rule is a suggestion that will be considered in the initial rule making at the outset. Director Kalra thanked staff and asked that it be included or, in the event it is not, that an analysis of why be included instead. Chairperson Gioia stated that it is important to note that after the Air District's enactment of the flare management rule, several years ago, the number of flares cumulatively has gone down considerably.

Director Garner asked Air District staff if existing plume disbursement models match what was observed at the refinery incident. Jean Roggenkamp, Deputy APCO, responded that the Air District is still collecting emissions data but a comparison will be possible when collected. Mr. Broadbent added that there is a great deal to learn about the incident still, such as the central issue of how much fuel was burned, and that once staff questions have been answered, the analysis can be done relatively quickly and will be part of a report back to the Executive Committee. Director Garner said she is interested in seeing these reports and suggested modeling is integral to any discussion about future plans. Mr. Broadbent agreed but added that the modeling would be undertaken to get a better sense of what occurred and the current focus is on how best to capture an event like this in the future and to accurately inform the public in real time. Director Garner asked if the plume followed Chevron's map model. Mr. Broadbent said Air District staff will need to review the material and engage in the larger effort before providing an answer. Director Garner asked if a timeline has been established for the items shown in the Air District presentation, slide 8, Investigation. Mr. Broadbent responded that a timeline is being developed for discussion at an upcoming Executive Committee meeting and the interagency investigations will take a very long time. Chairperson Gioia interjected that the CSB is conducting the main root-cause analysis. Mr. Broadbent agreed but suggested that it too will take a while. Mr. Hearne recalled that Chevron is working under a 6-month timeline in regards to the Occupational Safety & Health Administration investigation but other agencies may extend it in the course of conducting related investigations.

Director Bates apologized for his late arrival and early departure.

Mr. Meer clarified that the EPA investigation will likely take 12 to 18 months.

Public Comments:

Letressa Alford, Senior District Representative, U.S. House of Representatives Congressman George Miller, addressed the Board to express gratitude to the Air District for opening its doors to the public, to request a full review of the incident, and to express Congressman Miller's willingness to assist.

Denny Larson, Global Community Monitor, addressed the Board regarding the need to implement modern monitoring technology and a change in practices, including greater public involvement. Chairperson Gioia asked if the agreement between Chevron and the City is a good one. Mr. Larson responded in the affirmative and suggested the community would appreciate more of the same independent-contractor operated model systems.

Evan Wade, National Association for the Advancement of Colored People, Richmond Branch, addressed the Board to request clarification regarding the location of monitors and to inquire about seemingly delayed particulate monitoring by the Air District that occurred hours after the incident. Chairperson Gioia responded that it was delayed because it is automatic monitoring and maximizing the effectiveness of existing resources will be part of the upcoming dialogue. Mr. Stevenson said the monitoring station in San Pablo is one of three current monitoring locations in the proximity of the facility, one of which was used for the additional analyses.

Eduardo Martinez, Richmond Progressive Alliance, addressed the Board regarding the exaggerated concerns being expressed about costs at the cost of diminished concern for public health and to urge reevaluation of that equation, to suggest that any costs should be Chevron's to bear, to suggest that the Air District's and public's responsibility is setting appropriate standards for public health with an eye to the cumulative effect on the environment, to urge the requirement of 24-hour fence-line monitoring and alternative methods for dealing with high-sulfur materials, and asked if monitoring at the other refineries is able to monitor flares from Chevron. Mr. Broadbent responded that fence-line monitoring outside the Conoco facility in Rodeo is in place because of a settlement and it will likely be explored in relation to this incident and provided a summary of the flare regulation.

Chairperson Gioia said Mr. Martinez mentioned unreported flares and asked staff if this can be substantiated because he believes all flares must be reported under the Air District's regulations, the strictest in the nation. Mr. Broadbent said he is not aware of any allowable unreported flare. Wayne Kino, Acting Director of Compliance & Enforcement, said the flares are monitored at all five refineries and, along with a root cause analysis, facilities must implement prevention measures. Chairperson Gioia concluded that all flares are reported.

Dr. Henry Clark, West County Toxics Coalition, addressed the Board citing a disproportionate impact of the refinery on an already impacted community. He stated that the circumstances that enabled the incident are a violation of human rights and suggested the issue of monitor misplacement is not a new issue but only one gaining traction because of media attention, just as it did after incidents in 1993 and 2001, and if the Air District is sincere about change then now is the time to act.

Marilyn Langlois, Richmond Progressive Alliance, addressed the Board regarding the community's dependence on the Air District as their advocates, commended enhanced monitoring and increased prevention efforts, requested the strictest possible requirements be included in Chevron's refinery rebuild permit, and cited an incident in Wales as something to avoid at all costs.

Marie Harrison, Greenaction for Health & Environmental Justice, addressed the Board to request the Air District strongly consider adopting CBE's suggestions, urged 24-hour monitoring throughout the state, and suggested that community planning is a key component being left out of the current dialogue. Chairperson Gioia responded that the Board of Directors passed thresholds of significance and new California Environmental Quality Act Guidelines, deemed on the leading edge nationally, that look at housing and new sources of emissions, impose much more stringent requirements for citing analysis, and look at housing and cumulative impacts, which resulted in the Air District being sued by the California Building Industry Association, a case the Air District is currently fighting on appeal. Ms. Harrison thanked the Board of Directors and encouraged continued work.

Guadalupe Corral addressed the Board, with the assistance of an interpreter, regarding the absence of a Spanish language emergency call despite a recent census showing that 30% of the community population is Spanish-speaking. Ms. Corral indicated that she did not hear mention of the Iron Triangle in the news, told of the recent creation of a community garden that users are now afraid to harvest from, her concern about the delayed sounding of the alarm, and requested enhanced information sharing with schools. Chairperson Gioia said these questions would be answered.

Tracy Reed, Resources for Human Development, addressed the Board regarding this incident bringing to light existing disparities in health-care delivery and the need for change, to inquire what the follow-up plan is for those affected by the incident and to remind the Air District that even with health insurance the cost of co-payments and related health-care expenses can limit access for her and others.

Wafaa Aborashed, Bay Area Environmental Health Collaborative (BAEHC), addressed the Board regarding the response being the result of a collaboration of the involved agencies, the failure of the federal government to cut through the layers of bureaucracy that result, and to criticize the lack of a comprehensive and cumulative monitoring system.

Yolanda Lewis, Chief Deputy, Black Economic Council, addressed the Board regarding the inadequacy of industry best practices if this incident was possible while they are allegedly in place and being complied with. She stated that more effective mitigation technology exists but is not in place because its proponents cannot find an audience. She suggested that if safety is good business, as Chevron says is the case, then it is time to step up efforts, and to issue an invitation to the Black Economic Council's event on October 16, 2012, at the Oakland Marriott to discuss the best available technology and solutions.

Chairperson Gioia made closing remarks.

Mr. Broadbent said the City of Richmond is conducting a public meeting tomorrow night on the same topic and Air District staff will be in attendance.

Board Action: None; informational only.

8. **Bureau of State Audits Report on the Metropolitan Transportation Commission (MTC) Acquisition of 390 Main Street:** Postponed to the next meeting.
9. **Production System Project Update:** Postponed to the next meeting.

10. **EXISTING LITIGATION (Government Code Section 54956.9(a)):** Postponed to the next meeting.

**PUBLIC COMMENT ON NON-AGENDA MATTERS**

None.

**BOARD MEMBERS' COMMENTS:** None.

**OTHER BUSINESS**

11. **Report of the Executive Officer/APCO:** None.
12. **Chairperson's Report:** None.
13. **Time and Place of Next Meeting:** Wednesday, September 19, 2012, Bay Area Air Quality Management District Office, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.
14. **Adjournment:** The Board of Directors meeting adjourned at 12:46 p.m.

*151 Sean Gallagher*  
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Clerk of the Boards