

Bay Area Air Quality Management District  
939 Ellis Street  
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Board of Directors Regular Meeting  
November 19, 2012

## **APPROVED MINUTES**

### **CALL TO ORDER**

Chairperson John Gioia called the meeting to order at 9:48 a.m.

### **ROLL CALL**

Present: Chairperson John Gioia; Vice Chairperson Ash Kalra; Secretary Nate Miley; and Directors Tom Bates, Susan Gorin, Carole Groom, David E. Hudson, Carol L. Klatt, Liz Kniss, Eric Mar, Mark Ross, Jim Spering, Brad Wagenknecht and Shirlee Zane.

Absent: Directors John Avalos, Susan Garner, Scott Haggerty, Jennifer Hosterman, Edwin M. Lee, Mary Piepho, Katie Rice and Ken Yeager.

### **PLEDGE OF ALLEGIANCE**

Chairperson Gioia led the Pledge of Allegiance.

**OPENING COMMENTS:** None.

**PUBLIC COMMENT ON NON-AGENDA MATTERS:** None.

### **PRESENTATIONS**

#### **1. Update on Chevron Richmond Refinery Rebuild of Crude Unit #4**

Chairperson Gioia and Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO), made introductory comments.

NOTED PRESENT: Director Bates was noted present at 9:55 a.m., thereby establishing a quorum.

Director Zane asked for a Board briefing regarding the cause of the incident. Chairperson Gioia responded that this information was provided to the Board at a previous meeting. Mr. Broadbent added that a number of investigations as to the cause are still underway and final decisions will not be available for a couple of months. Director Zane asked if the State Attorney General is involved.

Messrs. Broadbent and Bunger responded that they are not aware of any formal involvement by the attorney general and identified other agencies involved.

Jeffrey McKay, Deputy APCO, gave the staff presentation Update on Chevron Refinery Rebuild of Crude Unit #4, including units affected by the fire, Chevron's permit application, repair tracking, the Air District's scope of work, a progress summary and next steps.

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

Chairperson Gioia noted the jurisdiction of the City of Richmond (City) over some of the issues involved, as further detailed in the letter to the City from the U.S. Chemical Safety and Hazard Investigation Board (CSB) dated November 17, 2012.

Director Zane expressed her concern with the pace of the rebuild process when the investigations are incomplete. Mr. McKay said the elements of the Air District's permit process include rebuild specifications, the investigations are instead focused on maintenance and other elements, and that staff would not proceed without the knowledge that what is being built coincides precisely with the plans provided, however, it is a separate issue from the investigations. Director Zane disagreed and asked who is reviewing submissions from Chevron. Mr. Broadbent clarified that Chevron is undertaking the rebuild within the existing permit and Air District staff are exercising every authority available to them in reviewing each component of every submission; if a new permit is required then a different review process would be triggered; and the metallurgy issue identified in the CSB letter is not within the Air District's purview. Director Zane suggested the law allows Chevron to rebuild but the Air District has a responsibility to do as much as possible and asked which staff members are reviewing submissions from Chevron. Mr. Broadbent identified the staff.

Chairperson Gioia said the Air District needs to coordinate its efforts with those of the City, as there is a perception that Chevron is moving forward with the rebuild in the face of incomplete investigations. Mr. Kino said the CSB is focusing on the root cause at this point so there is no further information on metallurgy beyond the guidance provided in the aforementioned letter.

Director Ross asked who will be the ultimate arbiter of the materials used and asked what the fugitive emissions reduction is estimated to be after the installation of the new equipment. Mr. McKay said it is too early to provide an estimated reduction. Mr. Broadbent added that a significant reduction is not expected.

NOTED PRESENT: Director Wagenknecht was noted present at 10:24 a.m.

Barbara Smith, Senior Business Manager, Chevron Refinery, gave the presentation Richmond Refinery: Crude Unit Repairs, including incident investigation and repair timeline, permitting, crude unit overview, inspection and repair, mechanical integrity materials and inspections, cooling tower repair, emissions reductions and summary.

Chairperson Gioia suggested, regarding slide 12, Mechanical Integrity – Materials, pausing the rebuild to address the perception that Chevron is proceeding without all of the information available and asked what Chevron's plan is in terms of pipe replacement. Ms. Smith said the City paused its consideration of applications pending a meeting with Chevron and the involved agencies. Chairperson

Gioia clarified that Chevron is not moving forward with pipe replacement efforts until that issue is resolved. Ms. Smith said that is correct.

Director Mar commented on Chevron's role in recent City elections and a currently pending application to process dirtier crude, and asked for a response. Ms. Smith said the application is a modernization project to provide production flexibility. Director Mar asked if it allows a doubling of the amount of sulfur in the crude. Ms. Smith said yes and crudes with those levels of sulfur have been reliably and safely processed by the industry for many years.

Director Zane asked about the monitoring of corrosion rates. Ms. Smith said that sulfur is an inherent component of crude oil, is a factor but not the main factor in corrosion, and said Chevron will continue its program of monitoring and enhancing its facilities. Director Zane asked about Chevron's participation in the City election. Ms. Smith said Chevron believes the public should have factual information available to them about candidates running for City Council.

Chairperson Gioia clarified that Chevron will not move forward with the pipe replacement without a resolution with the City and CSB. Ms. Smith said they are unable to proceed without permits from the City.

Ms. Smith concluded the presentation.

Randy Sawyer, Chief Environmental Health and Hazardous Materials Officer, Contra Costa County (County), addressed the Board regarding the status of the County investigation and the rebuild process.

Director Zane asked how the County Department of Public Health has addressed the influx of residents to hospitals following the incident. Mr. Sawyer said that an investigation is underway. Chairperson Gioia said that at least one of the involved hospitals is conducting its own investigation. Director Zane asked that County public health officials work with their counterparts at the Air District. Mr. Sawyer said that is being done.

Cora Gherga, Acting Deputy Chief of Enforcement, California Division of Occupational Safety and Health (CalOSHA), addressed the Board regarding CalOSHA's jurisdiction, mission, operations and scope of involvement after the incident on August 6, 2012.

Chairperson Gioia asked if CalOSHA has permit authority. Ms. Gherga said no with the exception of construction permits, they only review the permits deemed necessary by other agencies and have no regulatory authority.

Director Zane asked for information relative to citations issued by CalOSHA. Ms. Gherga said the matter is still under investigation with a deadline of February 6, 2013. Director Zane asked if any Chevron staff were hospitalized. Ms. Gherga said four people were hospitalized for minor injuries, including fire fighters, refinery operators and contractors.

Director Bates asked if CalOSHA had any pipe inspection responsibility before the incident and Ms. Gherga said no. Director Bates asked if CalOSHA will proactively address the matter throughout the state should pipe corrosion be identified as the root cause. Ms. Gherga said yes, pending the result of the investigation.

## **COMMITTEE REPORTS AND RECOMMENDATIONS**

### **2. Report of the Nominating Committee Meeting of November 7, 2012**

Chairperson J. Gioia

The Committee met on Wednesday, November 7, 2012, and approved the minutes of November 2, 2011.

The Committee considered nomination of Board Officers for the 2013 Term of Office and recommends Ash Kalra as Chairperson, Nate Miley as Vice Chairperson and Carole Groom for Secretary.

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

Board Comments: None.

Public Comments: None.

Board Action: Chairperson Gioia made a motion to approve the report and recommendations of the Nominating Committee; Director Wagenknecht seconded; and the motion was unanimously approved without objection.

## **CONSENT CALENDAR (ITEMS 3 – 4)**

- 3. Board Communications Received from November 7, 2012, through November 18, 2012; and**
- 4. Quarterly Report of Executive Office and Division Activities for the Months of July 2012 – September 2012.**

Board Comments: None.

Public Comments: None.

Board Action: Director Hudson made a motion to approve Consent Calendar Items 3 and 4; Director Ross seconded; and the motion was unanimously approved without objection.

## **COMMITTEE REPORTS AND RECOMMENDATIONS (CONTINUED)**

### **5. Report of the Personnel Committee Meeting of November 8, 2012**

Chairperson B. Wagenknecht

The Committee met on Thursday, November 8, 2012, and approved the minutes of July 23, 2012.

The Committee received the Advisory Council Interview summary material for the Public Health and Conservation Organization categories, conducted interviews of applicants for each, and recommends

Board approval of incumbent reappointments and the appointments of Heather Forshey for the Public Health category and Timothy O'Connor for the Conservation Organization category.

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

Board Comments: None.

Public Comments: None.

Board Action: Director Wagenknecht made a motion to approve the report and recommendations of the Personnel Committee; Director Hudson seconded; and the motion was unanimously approved without objection.

### **PRESENTATIONS (CONTINUED)**

#### **1. Update on Chevron Richmond Refinery Rebuild of Crude Unit #4 (continued)**

Mary Wesling, Enforcement Coordinator, EPA, addressed the Board regarding the operations and responsibilities of the agency, an investigation overview pending the results and jurisdictional matters.

Chairperson Gioia asked if the EPA is providing input to the involved agencies and what sort. Ms. Wesling said the EPA is meeting with the parties weekly to discuss matters such as technical issues, demolition work and investigations. Chairperson Gioia asked if the EPA will issue an opinion. Ms. Wesling said yes and they will be available at the close of the investigation. Chairperson Gioia asked what happens if the investigation is closed after the rebuild is complete. Ms. Wesling said Chevron will be provided recommendations soon and expressed her confidence that all the involved parties will not allow a rebuild until these issues are resolved.

Greg Karras, Senior Scientist, Communities for a Better Environment (CBE), gave a presentation Update to the BAAQMD Board on Chevron's Richmond Refinery Crude Unit Fire on 6 August 2012, including recent findings and actions needed now.

Board Comments:

Chairperson Gioia asked about the Air District's authority generally. Mr. Broadbent said the Air District is part of a team that includes federal, state and local officials; emissions are within the jurisdiction of the Air District and every effort is being made in that regard; avoidance of future incidents of a similar nature are something all parties are working to avoid; and the answer to the metallurgy issue is one to be prescribed by the City and involved fire authorities through the multi-jurisdictional collaborative. Chairperson Gioia asked about Air District authority under the flare management rule.

Director Ross asked the Air District's role in ongoing maintenance inspections. Mr. Broadbent, Director Ross and Mr. Kino discussed past Chevron remodel work and Air District inspections for air quality emissions.

Director Kalra said that campaign finance reform is needed; the CSB letter shows excellent cooperation by Chevron; the collaboration by the involved agencies is commendable; this presents an opportunity to consider opportunities to exercise all available Air District authority to address safety because failures in infrastructure lead to incidents that are within the jurisdiction of the Air District even if the underlying failure may not be; and urged greater collaboration with the CSB in light of their expertise.

Director Zane asked how rebuild efforts can be classified as improving upon the existing facilities when the investigations are not yet complete and urged the Air District to exert its authority in every way possible.

Director Hudson said the City and involved fire authorities have been identified as the arbiters regarding the metallurgy issue but correspondence from both are noticeably absent from the material provided today and requested their input. Mr. Broadbent said City fire services are contracted with the County, a number of City departments are involved, and City administration is working to compile it. Director Hudson asked that all the involved parties continue to communicate with the Board.

Director Bates asked if Mr. Karras' suggestion that the flare rule grants authority to the Air District to get more involved in the rebuild is correct. Mr. Bunger said he would report back.

Mr. Broadbent said that staff is looking at everything and taking responsibility in every reasonable way but the pipe material is not within the Air District's purview. Mr. Broadbent added that the Air District is working with the City.

Director Bates urged Air District staff to consider performing a top-down evaluation of how this incident should have been handled in the ideal. Director Bates said the question is who needs to be empowered, as this seems to be a state issue, and the incident response to date implies the need for a holistic analysis. Mr. Broadbent said there is a bigger and broader issue in need of discussion relative to the age of the facilities in the state and the evolution of materials used.

Director Sperring said it is important not to vilify corporations, just as it is important to prosecute them for violations of law or the public trust; and recalled that the incident was an accident and should be evaluated in that light so as to determine how processes can be improved and that appears to be happening; added that staff almost undoubtedly has matters in hand; and opined that piping material seems like an important component of a comprehensive discussion but that local officials have sited houses around this refinery and others like it for decades and bear some responsibility for the ramifications of the incident.

Chairperson Gioia said he lives close to the refinery and has for some time; the Air District should exert its authority to the greatest extent possible, assist with organizing the efforts of the various involved agencies and provide guidance to the public in determining which agency is ideally suited to address various issues; the City should not be left to decide on the metallurgy issue; and it is important and in the best interest of all involved for the parties to take the time to establish a consensus among them before moving forward regardless of rights to do otherwise under the law.

Director Sperring requested a matrix be prepared that identifies which agency is responsible for the various components involved. Mr. Broadbent said it would be delivered through the Stationary Source Committee.

Director Zane asked Chevron to provide a written explanation of the need to rush the rebuild.

Director Ross said the Air District has responsibilities relative to a number of refineries and asked for a detail of the Air District's jurisdiction in terms of inspections.

Chairperson Gioia noted the importance of input from the CSB as they are free from the constraints suffered by CalOSHA and the EPA as they conduct their respective investigations.

#### Public Comments:

Greg Feere, Contra Costa Building Trades Council, addressed the Board to attest to the slow pace of the rebuild contrary to what is being said and to request that additional delays be avoided in light of Chevron's cooperativeness with this project to date.

Michael Hernandez, Plumbers and Steamfitters Local #342, addressed the Board regarding the importance of moving forward with a safe rebuild for the sake of jobs creation.

Roger Lin, Staff Attorney, CBE, addressed the Board to note the confusing information provided by Chevron regarding piping permits from the City and to suggest that a facility constructed in 1976 that is being rebuilt now may be improperly identified as not being a new source/rebuild.

John Ziesenhenn, Chief Executive Officer, M.A. Hays Company, addressed the Board in support of the process as it is currently.

Diane Bailey, Senior Scientist, Natural Resources Defense Council, addressed the Board to echo the comments of Messrs. Karras and Lin regarding a thorough analysis of BACT.

Eduardo Martinez, Richmond Progressive Alliance, addressed the Board regarding Chevron's approach to politics and business as being inconsistent with its statements in this forum.

Arthur Hatchett, Greater Richmond Interfaith Program, addressed the Board in support of the process as it is currently and to note Chevron's long-standing commitment to the community.

Mr. Broadbent said that staff will report back to the Stationary Source Committee in the first quarter of 2013 and continue to work with the involved agencies in the meantime.

Chairperson Gioia recalled that staff is reviewing the possibility of increasing Air District fines and asked if there is information sharing between the investigations. Mr. Broadbent said there is.

Director Zane asked for Board updates. Mr. Broadbent agreed. Chairperson Gioia opined that it is important for the Air District to exercise both its formal and informal authorities to the greatest extent possible and restated the importance of CSB's recommendations and the perception developing relative to a rebuild that occurs prior to the completion of the investigations.

Board Action: None; informational only.

**6. Status Report on Implementation of Work Plan for Action Items Related to Accidental Releases from Industrial Facilities**

Chairperson Gioia continued this matter to the next meeting of the Board.

**PUBLIC COMMENT ON NON-AGENDA MATTERS:** None.

**BOARD MEMBERS' COMMENTS:** None.

**OTHER BUSINESS**

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

Mr. Broadbent recommended the Board meeting on December 5, 2012, be held at the future District office building, located at 390 Main Street, San Francisco, and that the continued public hearing on Regulation 2 be postponed to December 19, 2012, as a result.

**8. Chairperson's Report:**

Chairperson Gioia announced the cancellation of the Budget & Finance Committee meeting on December 26, 2012, the Mobile Source Committee meeting on December 27, 2012, and the Board meeting of January 2, 2013.

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

Wednesday, December 5, 2012, future Bay Area Air Quality Management District Office, 390 Main Street, San Francisco, California 94105 at 9:45 a.m.

**10. Adjournment:** The Board of Directors meeting adjourned at 12:56 p.m.

*151 Sean Gallagher*  
Sean Gallagher  
Clerk of the Boards