

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

Board of Directors Regular Meeting
Wednesday, June 3, 2015

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 Carole Groom called the meeting to order at 9:47 a.m.

Opening Comments: Chairperson Groom announced the use of the overflow audience room and a reordering of the agenda.

Roll Call:

Present: Chairperson Carole Groom; Secretary Liz Kniss; and Directors John Avalos, Teresa Barrett, Tom Bates, David J. Canepa, Cindy Chavez, Margaret Fujioka, John Gioia, Scott Haggerty, David Hudson, Roger Kim (on behalf of Edwin Lee), Nate Miley, Karen Mitchoff, Katie Rice, Mark Ross, Rod Sinks, Jim Spering, Brad Wagenknecht and Shirlee Zane.

Absent: Vice-Chairperson Eric Mar and Director Jan Pepper.

Pledge of Allegiance: Chairperson Groom led the Pledge of Allegiance.

PUBLIC HEARINGS

2. **Public Hearing to Consider Adoption of Proposed Amendments to Air District Regulation 3: Fees (Out of Order Agenda Item 11)**

Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO), introduced the topic and after the Board of Directors (Board) waived the staff presentation, Jeff McKay, Deputy APCO, gave the staff recommendation from the presentation.

Board Comments: None.

Public Comments: No requests received.

Board Action:

Director Mitchoff made a motion, seconded by Director Sinks, to adopt the proposed amendments to Air District Regulation 3: Fees that would become effective on July 1, 2015, and approve the filing of a California Environmental Quality Act Notice of Exemption; and the motion carried by the following vote of the Board:

AYES: Avalos, Barrett, Bates, Canepa, Chavez, Groom, Hudson, Kim, Mitchoff, Rice, Ross, Sinks, Spering, Wagenknecht and Zane.

NOES: None.

ABSTAIN: None.

ABSENT: Fujioka, Gioia, Haggerty, Kniss, Mar, Miley and Pepper.

3. Public Hearing to Consider Adoption of the Air District's Proposed Budget for Fiscal Year Ending (FYE) 2016 (Agenda Item 12)

Mr. McKay gave an abbreviated staff presentation *Air District's Proposed Budget for FYE 2016*, including projections for FYE 2015; overviews of the reserve funds and transfers for FYE 2015; an overview of proposed budget FYE 2016; summary of general fund revenue sources and expenditures for FYE 2016; year-over-year analysis of services and supplies and capital; proposed fees; climate program staffing; overall staffing level; FYE 2016 fund balance summary; use of reserves recommendations; fund balance policy; unfunded liabilities; motivation to pre-fund California Public Employee Retirement System obligations; office building obligations; and schedule.

Board Comments:

The Board and staff discussed the state of the past proposals for enhanced outreach funding and reserves designated for a wood smoke incentives program.

NOTED PRESENT: Director Fujioka was noted present at 9:54 a.m., Director Haggerty was noted present at 9:55 a.m., and Director Miley was noted present at 9:56 a.m.

Public Comments:

Patti Weisselberg, Families for Clean Air, addressed the Board in opposition to the use of public funds to incentivize the purchase of wood burning devices and natural gas connections and in support of incentivizing heat pumps and similar zero-emission heating devices.

Board Action:

Director Canepa made a motion, seconded by Director Hudson, to adopt a resolution to approve the Budget for the FYE 2016 and various budget-related actions; and the motion carried by the following vote of the Board:

AYES: Avalos, Barrett, Bates, Canepa, Chavez, Fujioka, Groom, Haggerty, Hudson, Kim, Kniss, Miley, Mitchoff, Rice, Ross, Sinks, Spering, Wagenknecht and Zane.

NOES: None.
ABSTAIN: None.
ABSENT: Gioia, Mar and Pepper.

4. PUBLIC COMMENT ON NON-AGENDA MATTERS (AGENDA ITEM 2):

Jerry Secundy, California Council for Environmental and Economic Balance (CCEEB), addressed the Board in support of allowing all stakeholders an opportunity to be heard regardless of their presumed viewpoints.

Kathy Wheeler, Shell, addressed the Board regarding the presence of her extended family throughout the Bay Area and a commitment to the quality of life of Bay Area residents.

Jeff Kilbreth, Richmond Planning Commission, addressed the Board regarding the inadequacy of the public comment period to address the more complex issues and asked the Board to consider an alternate approach that allows full presentations from interested stakeholders as well as staff.

NOTED PRESENT: Director Gioia was noted present at 10:06 a.m.

CONSENT CALENDAR (ITEMS 5 – 10) (AGENDA ITEMS 3 – 8)

- 5. Minutes of the Board Special Budget Hearing and Regular Board Meetings of May 20, 2015;**
- 6. Board Communications Received from May 20, 2015 through June 2, 2015;**
- 7. Quarterly Report of California Air Resources Board Representative – Honorable John Gioia;**
- 8. The Board Will Consider Establishing New Classifications and Salaries for Management Positions as Part of the Air District's Strategic Staffing Plan;**
- 9. The Board Will Consider Authorizing a Contract to the Regents of the University of California for Laboratory Analysis of Ultrafine Particulate Matter (PM) Samples; and**
- 10. Extension of Contracts for My Air Online Development Services.**

Board Comments: None.

Public Comments: No requests received.

Board Action:

Director Hudson made a motion, seconded by Director Mitchoff, to approve Consent Calendar Items 5 through 10, inclusive; and the motion carried by the following vote of the Board:

AYES: Avalos, Barrett, Bates, Canepa, Chavez, Fujioka, Gioia, Groom, Haggerty, Hudson, Kim, Kniss, Miley, Mitchoff, Rice, Ross, Sinks, Spering, Wagenknecht and Zane.
NOES: None.
ABSTAIN: None.
ABSENT: Mar and Pepper.

COMMITTEE REPORTS

11. Report of the Climate Protection Committee (CPC) Meeting of May 21, 2015 (Agenda Item 9)

Committee Chairperson Avalos read:

The CPC met on Thursday, May 21, 2015, and approved the minutes of March 19, 2015.

Members of the public commented on the need for aggressive action to reduce greenhouse gases (GHGs) in general and urged GHG limits at refineries specifically.

The CPC postponed the presentation *Air District Activities to Assess and Reduce Methane Emissions*.

The CPC then received and discussed the presentation *Property Assessed Clean Energy (PACE) Programs*, from Cisco DeVries, Chief Executive Officer for Renewable Funding, including an overview of how PACE programs work; the status of participation in PACE programs in the Bay Area and results to date; potential for PACE programs to reduce GHG emissions from the buildings sector in the Bay Area; and potential role for the Air District in facilitating participation.

The CPC directed that its next meeting include a presentation on the status of the Air District's Climate Protection Program.

The next meeting of the CPC is on Thursday, July 16, 2015, at 9:30 a.m.

Board Comments: None.

Public Comments:

Jed Holtzman, 350 Bay Area, addressed the Board to echo the comments of Mr. Kilbreth and to note the public appearances at the CPC meeting.

Board Action: None; receive and file.

12. Report of the Stationary Source Committee (SSC) Meeting of May 27, 2015 (Agenda Item 10)

Committee Chairperson Gioia read:

The SSC met on Wednesday, May 27, 2015, and postponed approval of the minutes of April 20, 2015.

The SSC received and discussed the staff memorandum *Resolution Regarding a Comprehensive Regulatory Program to Reduce GHGs from Stationary Sources* and an attached resolution. The SSC directed staff to prepare a revised resolution, a summary of

implementation details and dates, to make these materials publicly available by the close of business on June 5, 2015, and to agendize these items for consideration by the Board at the meeting on June 17, 2015. Subsequent to the SSC meeting, Air District staff and the Chair agreed to agendize this item at the Board meeting on July 22, 2015, in order to allow the staff more time to prepare the materials and provide for public comment. Staff will have the meeting agenda and presentations posted on the District website by close of business on July 15, 2015.

The SSC then received and discussed the staff presentation *Five Point Action Plan to Address Refinery Emissions*, including progress to date; goals and elements of the five point action plan; established and new elements of proposed Regulation 12, Rule 15; new elements of proposed Regulation 12, Rule 16; permit review for crude oil changes; refinery emissions reduction rulemakings; the regulatory program to reduce GHG from stationary sources; comments and responses; precedent setting actions; and next steps. The SSC also requested that a presentation on this topic be made to the full Board as part of this agenda item.

The SSC then received and discussed the staff presentation *Candlestick Park Demolition Update*, including an overview of the Candlestick Point Redevelopment Project; project site update and timeline; multi-agency involvement in the project; the Air District role; dust control examples; Air District activity; enhanced dust control measures; and next steps.

The next meeting of the SSC is on Monday, June 15, 2015, at 10:30 a.m.

Board Comments:

The Board and staff discussed the presentations planned for today and future meetings; a summary of presentations to the SSC; potential alternate dates for the upcoming Board meeting; clarification on what meeting material is provided on the Air District website; and the possibility of a meeting of the Metropolitan Transportation Commission Board on July 22, 2015.

Presentation:

Eric Stevenson, Director of the Meteorology, Measurement and Rules Division, gave the staff presentation *Five Point Action Plan to Address Refinery Emissions*, including progress to date; goals and elements of the five point action plan; established and new elements of proposed Regulation 12, Rule 15; new elements of proposed Regulation 12, Rule 16; permit review for crude oil changes; refinery emissions reduction rulemakings; the regulatory program to reduce GHG from stationary sources; comments and responses; precedent setting actions; next steps; issue and resolution submitted by Communities for a Better Environment (CBE) and other groups; staff concerns with the proposed solution; criteria and toxic air contaminants; GHG cap overview; consideration for local GHG caps; and comprehensive regulatory GHG approach.

Mr. Broadbent made additional comments regarding the characterization of the regulatory approach.

Board Comments (continued):

The Board and staff discussed the Board's desire for more raw data, such as refinery GHG emissions baselines and contaminants.

Public Comments:

Shoshana Wechsler addressed the Board to opine that cap-and-trade emission limits do not apply to petroleum refineries, the health risk assessment is inadequate and abundant data exist in evidence of harmful refinery emissions; and in support of enforceable numeric caps on refinery emissions.

Gary Latshaw, Sierra Club, addressed the Board in support of imposing the strictest GHG limits possible on all sources and in support of zero carbon emissions.

Ratha Lai, Sierra Club, addressed the Board regarding his ability to see flares at the Chevron Richmond refinery from his home and to suggest the public is present at the meeting because this is a public issue that requires greater clarity and accountability.

Jim Wilson, 350 Napa, addressed the Board in support of the Air District acting to protect people pursuant to its own mission statement; in opposition to proposed rule 12-16 and to suggest that the lack of action is unacceptable in light of the dire public health ramifications.

Julia Winiarski, Stop Syar Expansion, addressed the Board to request leadership and in support of imposing GHG caps on the biggest emitters and immediate enforceable numeric limits on refineries.

Bill Quinn, CCEEB, addressed the Board in support of the continued use of the established rule development process detailed on the Air District website and the proposed resolution submitted by CCEEB and to suggest that the five point plan is too strict to work.

Marilyn Bardet, Benicians for a Safe and Healthy Community (BSHC) / Good Neighbor Steering Committee, addressed the Board regarding its responsibility and authority to address the health risk posed by the refineries and in support of including emissions caps in proposed rule 12-16.

Mr. Kilbreth addressed the Board to echo the Board comments calling for more raw data; to suggest the Air District has achieved enormous reductions in air pollution but not relative to PM or GHGs; in support of supplemental action to enhance the Assembly Bill (AB) 32 cap-and-trade program; noted the opinion of Attorney General Kamala Harris relative to emissions caps on the Chevron Richmond refinery; and in support of including toxic air contaminant limits in future rulemaking.

Mark Roest, 350 Bay Area / Bay Climate Action Plan / Seawave Battery, Inc., addressed the Board in support of local GHG caps and enforceable numeric emissions limits with decreases required over time.

Steven Yang, Chevron, addressed the Board in opposition to emissions caps and any regulations adopted outside of the traditional rulemaking process and in support of GHG decreases but not through the imposition of emissions caps.

David Farabee, Western States Petroleum Association (WSPA), addressed the Board in opposition to emissions caps; in support of the traditional rulemaking process; and to note the lack of an action item associated with this topic on the meeting agenda.

Marie Walckek, California Nurses Association (CNA), addressed the Board to opine that the Air District is not fulfilling its mission to protect public health and in support of including emissions limits in proposed rule 12-16.

Carolyn Bowden, CNA, addressed the Board to request community protection; to opine that industry requires regulations to act; and in support of immediate enforceable emissions limits.

Ms. Wheeler addressed the Board in support of proposed 12-15 concepts; in opposition to emissions caps in proposed 12-16; and to propose that the data will show emissions caps are not necessary.

Jeff Oliver, Shell / Brand, addressed the Board regarding his commitment to the safety and health of his staff; to opine that the refining process is cleaner than it was in the past; and to suggest that projects are stalled while these discussions continue.

Natalie Braden, Shell, addressed the Board in opposition to proposed rules 12-15 and 12-16 as duplicative, unnecessary and without a foundation in science.

Sean Johnson, Shell Oil Company, addressed the Board regarding the environmental commitment of his employer and his experience working with regulators on developing rules that serve as a compromise between all stakeholders.

Teresa Makarewicz, Shell, addressed the Board in opposition to the current rulemaking process and proposed rules 12-15 and 12-16 as currently written.

Bill Simpich addressed the Board in support of imposing the strictest caps possible on GHGs and toxic emissions and the zero emissions model proposed by Professor Mark Jacobson.

David Gassman, Greenaction for Health and Justice, addressed the Board in support of the position held by the community groups speaking today and a decrease in toxic emissions.

Steve Leshner, Shell, addressed the Board to note Shell's commitment to action on GHGs as evidenced by the signing of a joint statement to the United Nations regarding climate change and in opposition to allowing political concerns result in duplicative regulations, numeric emissions caps and a moratorium on refinery projects.

Juan Li, Chevron, addressed the Board in support of the traditional rulemaking process and cooperation between the stakeholders.

Steve Nadel, Sunflower Alliance (SA), addressed the Board in support of including enforceable numeric emissions limits in proposed rule 12-16 and to suggest that refinery PM is more significant than some reports claim.

Greg Karras, CBE, addressed the Board in support of enforceable numeric emissions limits; to suggest that refinery projects continue daily and impact the baseline emissions calculations; in support of imposing immediate emissions caps; to opine that there is consensus that the refining of tar sands will increase GHG emissions; in opposition to continued emissions monitoring; and to suggest that refinery production is increasing because of an increase in exports which are largely exempt from the cap-and-trade program.

Bill Pinkham, SA / Bike East Bay / 350 Bay Area, addressed the Board in support of immediately imposing strong GHG limits.

Mr. Holtzman addressed the Board regarding the State commitments to achieve its 2020 goals; to ask whether the 2030 goals are achievable given the current status of emissions; to opine that the Air District has primary authority over refinery emissions; and in support of enforceable numeric GHG and toxic emissions limits.

Janet Whittick, CCEEB, addressed the Board in opposition to regional limits and caps on emissions already regulated by the State under AB32 because of leakage concerns; to suggest the Board is ignoring areas where they do have authority relative to climate change; and to opine that co-pollutants are effectively regulated under the existing rules.

Chris McDowell, Tesoro, addressed the Board in support of the traditional rulemaking process.

Culoz Davis addressed the Board to report that the community groups speaking today do not represent her and to suggest that the current transit infrastructure and economic opportunities are inadequate substitutes for petroleum refinery products and operations should they pass the increased cost of operations to consumers at the pump or choose to leave the area.

Walt Gill, Chevron, addressed the Board to summarize the fence-line monitoring network and the resulting data.

Roger Lin, CBE, addressed the Board to summarize the Air District's rulemaking authority; to opine that there is no cost associated with the imposition of emissions caps and that duplicating AB32 cap-and-trade is a moot argument; and to suggest that a former District Counsel to the Board agrees with his assessments.

Nancy Rieser, Crockett-Rodeo United to Defend the Environment, addressed the Board to suggest that Phillips 66 is exporting products refined from tar sands stock; to opine that emissions will rise with no local benefit; and in support of proposed 12-16 with immediate enforceable numeric GHG limits.

Lisa Illes, Sierra Club, addressed the Board in support of immediate action to curb climate change and enforceable numeric GHG limits.

Lipo Chantanasak, Asian Pacific Environmental Network (APEN), addressed the Board in support of imposing caps on all refinery emissions.

Eduardo Martinez, Richmond Progressive Alliance (RPA), addressed the Board in support of enforceable numeric emissions caps at levels lower than currently proposed.

Charles Davidson, SA, submitted written material, *Charles Davidson, Hercules, CA. June 2, 2015*, and addressed the Board by reading from the same.

Annemarie Donjacour, 350 San Francisco, addressed the Board in support of enforceable numeric GHG limits or caps and cooperation among stakeholders in achieving a positive outcome for the community.

Suejung Shin, Phillips 66, addressed the Board in support of the staff recommendation relative to proposed rule 12-16 in order to avoid duplicative regulations and a return to the traditional rulemaking process.

Aimee Lohr, Phillips 66, addressed the Board to suggest emissions have decreased 40% in the Bay Area during recent years and that additional regulations may result in gas prices increasing to cost prohibitive levels for many Bay Area residents.

Paul Adler, Phillips 66, addressed the Board to suggest that Bay Area refineries are the cleanest in the world, the Clean Air Plan process has worked as evidenced by improved emissions, and AB 32 cap-and-trade will further decrease GHGs over time and in opposition to enforceable numeric emissions limits.

Bill Gamba, USW, addressed the Board to opine that refinery operations are cleaner than they were in the past and in opposition to the current proposals.

Guy Bjerke, WSPA, addressed the Board in opposition to resolutions adopted outside of the traditional rulemaking process and in support of regulatory predictability.

Pat Toth-Smith addressed the Board in support of including enforceable numeric GHG and toxic emissions caps in proposed rule 12-16.

Torm Nompraseurt, APEN, addressed the Board regarding members of his extended family throughout the Bay Area who too commonly suffer from cancer and asthma and in support of emission limits to protect community health.

Mike Miller, USW, addressed the Board in support of the traditional rulemaking process through the Clean Air Plan.

Andrés Soto, CBE / BSHC / RPA / Bay Area Refinery Corridor Coalition / SA, addressed the Board to opine that public health is a political issue; in opposition to the provision of proposed rule 12-16 that calls for industry self-reporting; in support of stronger regulations; and to suggest that industry will stay in the Bay Area despite regulations so long as there is a demand for their products.

Sylvia Gray-White, CBE, submitted written material, *Test Results from Trace Elements, Inc., for Ms. White*, and addressed the Board in support of emissions limits and to ask why these requests and negotiations must be repeated.

Denny Larson, Global Community Monitor, addressed the Board to propose that when they were first being contemplated, the refineries were opposed to all of the regulations and processes they are

expressing support for today; in support of emissions reductions; and to opine that the health risk assessment process is flawed.

Board Comments (continued):

The Board and staff discussed the impact of a lack of quorum on the upcoming discussion; an alternative Board comments process; the plan to take the comments, feedback and reports received to initiate a formal, traditional rulemaking process that will go to the Board for consideration in September; summary of staff proposal; clarification of the applicability of cap-and-trade on Bay Area refinery emissions; what will serve as the trigger for crude slate modifications permit review and the timing of the trigger relative to operations; applicability of the proposed crude slate modification provision on projects currently underway; the timeline for the development of a regulatory program to reduce GHGs from stationary sources; whether and under what circumstances the Air District has the authority to impose enforceable numeric emissions limits; suggestion that “difficult” characterization on slide 19, *Staff Concerns with Proposed Solution*, means it is not impossible and that all meaningful change is difficult; comments from both sides calling for certainty and the seeming consistency between emissions caps and that outcome; the importance of addressing short-lived climate pollutants; the action taken and progress made by the Air District despite suggestions otherwise; support for addressing methane emissions and black carbon in conjunction with GHGs; support for the rulemaking process and an enhanced GHG program through that same rulemaking process; the desire for a more robust discussion amongst stakeholders and the application of the rulemaking process; suggestion that some action has occurred but some has not and the latter as the cause for comments about Air District inaction; the existence of different projects, operations and emissions for each of the refineries; the importance, relative to the larger discussion, of the proposed provision to permit crude slates; a suggestion that the disagreement lies with how emissions are to be decreased as all stakeholders seem to agree that they must and will; the need for more data to show the Board an emissions profile with or without the proposed caps in place; concerns about emissions increases while the rulemaking process occurs; further support for the rulemaking process; whether the proposed provision to permit crude slates anticipates dirtier crudes and if incentives for cleaner slates could or do exist; the importance of the rulemaking process ability to bring details to the surface; whether other agencies participate in fence-line monitoring programs and newly proposed community monitoring; the staff proposals as forward thinking and deserving of Board support; a suggestion to reveal monitoring results to inform the rulemaking process and stakeholders generally; the two-year rulemaking as providing abundant opportunity for stakeholder input beyond the public comment period available at today’s meeting and the significant modification and discussion that has transpired as a result; the importance of public advocacy; and clarification of staff deliverables.

Board Action: None; receive and file.

13. **PUBLIC COMMENT ON NON-AGENDA MATTERS:** No requests received.
14. **BOARD MEMBERS’ COMMENTS:** None.

OTHER BUSINESS

15. **Report of the Executive Officer/APCO:** None.
16. **Chairperson’s Report:** None.

Time and Place of Next Meeting

Tentatively Wednesday, July 22, 2015, Bay Area Air Quality Management District Headquarters, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.

17. **Adjournment:** The Board meeting adjourned at 1:14 p.m.

/S/ Sean Gallagher

Sean Gallagher
Clerk of the Boards