

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

Board of Directors Regular Meeting
Wednesday, September 2, 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/about-the-air-district/board-of-directors/resolutionsagendasminutes>.

1. **CALL TO ORDER:** Chairperson Carole Groom called the meeting to order at 9:50 a.m.

Opening Comments: None.

Roll Call:

Present: Chairperson Carole Groom; and Directors John Avalos, 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, Jan Pepper, Katie Rice, Mark Ross, Rod Sinks, Jim Spring, Brad Wagenknecht and Shirlee Zane.

Absent: Vice-Chairperson Eric Mar; Secretary Liz Kniss; and Director Teresa Barrett.

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

2. **PUBLIC COMMENT ON NON-AGENDA MATTERS:**

NOTED PRESENT: Directors Haggerty, Ross and Zane were noted present at 9:52 a.m.

Roger Lin, Communities for a Better Environment, addressed the Board of Directors (Board) to request an update on the expected release date of draft proposed rules 12-15 and 12-16 and assurances from staff that there will be adequate time for public review.

Nick Despota, Sunflower Alliance, addressed the Board in support of imposing enforceable numeric caps on refinery emissions and to express concern about proposed refinery projects expected to utilize dirtier crude stocks, the status of draft proposed rules 12-15 and 12-16, and whether there will be adequate time for public review of the same.

3. **COMMENDATIONS / PROCLAMATIONS / AWARDS:**

NOTED PRESENT: Director Miley was noted present at 9:56 a.m.

Director Miley recognized Brenda Cabral, Supervising Air Quality Engineer, who completed the milestone of 25 years of service with the Air District during this first half of the calendar year. Ms. Cabral addressed the Board in appreciation.

Director Canepa recognized Amir Fanai, Principal Air Quality Engineer, who completed the milestone of 25 years of service with the Air District during this first half of the calendar year. Mr. Fanai addressed the Board in appreciation.

Director Zane recognized Robert Franicevich, Supervising Air Quality Instrument Specialist, who completed the milestone of 25 years of service with the Air District during this first half of the calendar year. Mr. Franicevich addressed the Board in appreciation.

Director Zane recognized Phil Martien, Air Quality Engineering Manager, who completed the milestone of 25 years of service with the Air District during this first half of the calendar year. Dr. Martien addressed the Board in appreciation.

NOTED PRESENT: Director Fujioka was noted present at 10:09 a.m.

Director Mitchoff recognized Frank Nakhai, Air Quality Inspector, who completed the milestone of 25 years of service with the Air District during this first half of the calendar year. Mr. Nakhai addressed the Board in appreciation.

Director Miley recognized Jean Roggenkamp, Deputy Executive Officer, who completed the milestone of 30 years of service with the Air District during this first half of the calendar year. Ms. Roggenkamp addressed the Board in appreciation.

Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO), announced the appointment of Ms. Roggenkamp to the position of Deputy Executive Officer.

Rex Sanders, Director of the Executive and Administrative Resources Division, recognized David Bartley, David Brunelle, Peter Calimeris, David Farr, William Hammel, Liberty Mahinay, Dharam Singh, Joseph Slamovich, Garry Smith, and John Swanson, Jr., in absentia, for their completion of milestone years of service with the Air District during this first half of the calendar year.

CONSENT CALENDAR (ITEMS 4 – 12)

- 4. Minutes of the Special Board Meeting of July 29, 2015;**
- 5. Board Communications Received from July 29, 2015 through September 1, 2015;**
- 6. Air District Personnel on Out-of-State Business Travel;**
- 7. Quarterly Report of California Air Resources Board Representative – Honorable John Gioia;**
- 8. Quarterly Report of Executive Office and Division Activities for the Months of April 2015 – June 2015;**
- 9. Notice of Violations Issued and Settlements in Excess of \$10,000 in the Month of July 2015;**
- 10. Allocation of Funding for the Prescott-Joseph Center Breathmobile Mobile Asthma Clinic;**

- 11. Authorize the Executive Officer/APCO to Extend Existing Contracts for Security Services; and**
- 12. Request for Authorization to Place Bids on Real Estate up to \$3 Million to Secure Parking for Operational Needs at 375 Beale Street.**

Board Action:

Director Hudson made a motion to approve Consent Calendar Items 4 through 12, inclusive.

Board Comments:

At the request of Director Chavez, Agenda Items #8, Quarterly Report of Executive Office and Division Activities for the Months of April 2015 – June 2015, and #9, Notice of Violations Issued and Settlements in Excess of \$10,000 in the Month of July 2015, were removed from the consent calendar for consideration.

Public Comments: No requests received.

Board Action (continued):

Director Hudson made an amended motion, seconded by Director Haggerty, to approve Consent Calendar Items 4 through 7, inclusive, and 10 through 12, inclusive; and the motion carried by the following vote of the Board:

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

8. Quarterly Report of Executive Office and Division Activities for the Months of April 2015 – June 2015

Board Comments:

The Board and staff discussed the extent of Air District authority over rail freight and related emissions, accident prevention efforts, and accident response planning; Air District support lent to the City of Benicia on a related project; the encouragement of the federal government by a number of air districts to impose the strictest possible rules on these freight cars; and about the intersection of various federal agencies’ authorities in this realm.

Public Comments: No requests received.

Board Action:

Director Chavez made a motion to approve Consent Calendar Item 8 and the motion carried by the following vote of the Board:

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

9. Notice of Violations Issued and Settlements in Excess of \$10,000 in the Month of July 2015

Board Comments:

The Board and staff discussed the current compliance status of Zero Waste Energy Development Company, LLC.

Public Comments: No requests received.

Board Action:

Director Chavez made a motion, seconded by Director Hudson, to approve Consent Calendar Item 9; and the motion carried by the following vote of the Board:

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

PRESENTATION

13. Status of Regulation 6, Rule 3: Wood Burning Devices Rule Development and Wood Stove and Fireplace Replacement Incentive Program

Mr. Broadbent introduced the topic and Tracy Lee, Air Quality Specialist in the Compliance and Enforcement Division, who gave the initial staff presentation *Wood Smoke Reduction Strategy: Proposed Amendments to Regulation 6, Rule 3: Wood Burning Devices & Heating Device Upgrade Incentive Program*, through slide #10, *Regulation 6, Rule 3 Proposed Effective Dates*, including rule amendment timeline; wood smoke reduction strategies; estimated fine particulate matter reductions; and a summary of proposed amendments.

Ms. Lee introduced Wayne Kino, Director of the Compliance and Enforcement Division, who gave the remainder of the staff presentation, including an overview of and program timeline for the incentive program; incentive program funding; photographic examples of various devices; incentive program funding categories; program administration proposal; and wood smoke reduction strategy discussion items.

Board Comments:

The Board and staff discussed the amount of incentive funding dedicated to low-income households in high wood smoke impacted areas; the effective date of the proposal requiring installation of an alternate form of heat that does not burn wood in rental properties in natural gas service areas, what types of properties would be subject, and which geographic areas have the highest total number of units affected; the viability of administering the incentive program funding in-house; whether \$3 million is adequate for the 1,600 households identified and whether those 1,600 households will make an impact in the region or whether more resources should be dedicated; clarification regarding the trigger event for the fireplace or chimney remodel provision; whether someone with an old electric heater would be eligible for the incentive program; the history of the current level of proposed incentive funding; the staff plan to track the results of the program to better determine the appropriate funding level; the ineligibility of fireplaces as the sole source of heat for rental properties under State landlord-tenant law; a suggestion to add an incentive for duct analysis and repair; whether heating devices are included and eligible under property-assessed clean energy (PACE) programs; details regarding the particulate matter contribution of wood smoke; the staff plan for outreach to and prioritization of low-income households for the incentive program; who makes determinations regarding the applicability or appropriate use of PACE program funding; how staff came to propose \$15,000 as the trigger amount for the fireplace and chimney remodel provision; the viability of changing the fireplace and chimney remodel trigger event to only “a remodel costing \$50,000 or more” and how many households would likely be impacted; the need to better emphasize the existence and use of heat pumps; concern about the impact on the already-difficult rental market of requiring potentially widespread rental remodels; a suggested program administration cost cap of 5%; support on the Board for investment in marketing and outreach, incentivizing devices that do not burn wood, and real estate and rental disclosures; whether the enhanced funding allocation should instead be used to target trouble geographic areas without natural gas service instead of low-income households; why staff has focused on “rental properties in natural gas service areas;” Board concern about an administrative cost of 13%; a general lack of Board support for incentivizing the purchase of any wood-burning devices; a desire to include a requirement for an electric heater in high wood smoke impact areas; a request for information regarding the operational cost of heat pumps as compared to traditional home heating methods; what “program administration” entails for this incentive program; a review of action proposed today and staff plans for the future; the need to prioritize low-income households in trouble areas; lack of support for incentivizing affluent households; a desire to see this program return to Air District control after the initial phase is complete; the possibility of having permitting fees waived by each of the counties; the value of quantifying and contextualizing Air District efforts and the eventual outcome sought; how the Air District intends to realistically enforce the newly proposed “visible emissions limitation;” general Board support for incentivizing only non-wood-burning devices; and where the proposed funds would be transferred from to support the program.

Public Comments:

Kaitly Rosengren, Hearth, Patio & Barbeque Association (HPBA) Pacific, addressed the Board in opposition to requiring the removal of wood-burning devices and to encourage a strong outreach effort in support of the program.

Laura Fultz, American Lung Association (ALA), addressed the Board in support of the proposed revisions, citing a letter from ALA and a number of other organizations, dated September 1, 2015; in opposition to the incentivizing of any wood burning devices; and to encourage enhanced enforcement daily to make the Bay Area a leader relative to State standards.

Margaret Pearce, 350 San Francisco, addressed the Board in support of the proposals generally and in opposition to incentivizing wood and gas burning heating devices.

Tracey Gant, Families for Clean Air (FCA), addressed the Board in support of the proposals and with a call for a decrease in wood smoke levels.

Susan Goldsborough, FCA, addressed the Board in support of 100% subsidies of heat pumps for low-income households with wood burning devices as the sole source of heat and in opposition to any incentivizing of wood burning devices.

Jed Holtzman, 350 Bay Area, addressed the Board in support of prioritizing the installation of electric heat pumps and in opposition to devices which emit particulate matter or strong greenhouse gas elements, including natural gas.

Ayse Gursoz, Breathe California, addressed the Board in support of the proposals and of prioritizing lower-income households.

John Cranch, HPBH, addressed the Board to suggest that heat pumps are not popular on the market and that any Air District campaign to incentivize retrofits include an extensive door-to-door outreach campaign.

Ken Mandelbaum addressed the Board in opposition to incentivizing wood burning devices and to suggest that 2020 stoves may be cleaner than their predecessors but are worse than the alternatives and will have a marginal impact, at best, on regional air quality.

Board Comments (continued):

The Board and staff discussed the action item today relative to the set of devices currently included in the incentivizing program and a strong urging among some Board members to avoid the incentivizing of wood burning devices.

Board Action:

Director Bates made a motion, seconded by Director Hudson, to allocate funds for the Wood Stove and Fireplace Replacement Incentive Program and amended the Fiscal Year Ending 2016 Budget in the amount of \$3 million by transferring these monies from Designated and Undesignated Reserves to Program 402.

Board Comments (continued):

The Board and staff discussed the need for more information and deliberation about the program details at future meetings; direction from the Board regarding incentives and their likely impact on staff's regulatory proposal and the exemption; the desire for a white paper on the proposed program and the impact expected by low-income households; a concern that the proposal will hurt the very low-income households it purports to assist; the importance of education as a component of the program; the viability of fully subsidizing electric heaters; the fireplace disclosure language in use in Marin County; the viability of the Air District further incentivizing remodels by paying the permit fees to cities and counties that refuse to waive them outright; whether Air District wood smoke fines are in need of reconsideration; a request for a side-by-side comparison of the installation and operational cost of all the home heating methods being discussed; the importance of providing for personal choice in the program in order to encourage participation and cooperation; and the possibility of obtaining commitments from heating device manufacturers to rebate the products required or offered through the program.

Board Action (continued):

The motion carried by the following vote of the Board:

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

14. Existing Litigation (Government Code Section 54956.9(a))

Chairperson Groom postponed this agenda item in the interest of time.

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

16. BOARD MEMBERS' COMMENTS:

The Board and staff discussed the scheduling conflict for many of the Board members on September 16, 2015; the desire for more advance notice of and explanations for meeting cancellations; the scope of the wood smoke issue for neighbors of those who burn wood habitually; and a request for clarification regarding commerce and rail authorities.

OTHER BUSINESS

17. Report of the Executive Officer/APCO: None.

18. Chairperson's Report: None.

19. Time and Place of Next Meeting

Wednesday, October 7, 2015, 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 12:33 p.m.

/s/ Sean Gallagher

Sean Gallagher
Clerk of the Boards