

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

Board of Directors Regular Meeting  
Wednesday, October 7, 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:** Vice-Chairperson Eric Mar called the meeting to order at 9:48 a.m.

**Opening Comments:** None.

### **Roll Call:**

Present: Vice-Chairperson Eric Mar; Secretary Liz Kniss; and Directors John Avalos, Teresa Barrett, 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 Spering, Brad Wagenknecht and Shirlee Zane.

Absent: Chairperson Carole Groom and Director Tom Bates.

**Pledge of Allegiance:** Vice-Chairperson Eric Mar led the Pledge of Allegiance.

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

Patti Weisselberg, Families for Clean Air, addressed the Board of Directors (Board) in opposition to the proposed rule on wood smoke stating it is too permissive and speaking against incentivizing combustion-based heat sources.

NOTED PRESENT: Director Kniss was noted present at 9:51 a.m.

Lindsay Epperly, Phillips 66, addressed the Board regarding her professional and academic experiences and to request the protection of good jobs in the Bay Area when considering proposed rules.

NOTED PRESENT: Director Miley was noted present at 9:54 a.m.

Marc Ventura, Phillips 66, addressed the Board regarding his daily work to refine the cleanest fuel in the country and to request that the Board recall how well refineries are regulated under existing rules when considering the new proposed standards.

Shannon Wright, Travis Industries / Hearth, Patio and Barbecue Association, addressed the Board in opposition to revisions to the woodsmoke rule that would require non-combustion heating devices because of the operational expense for users.

NOTED PRESENT: Directors Fujioka, Haggerty and Pepper were noted present at 9:59 a.m.

Sharon Evans, Phillips 66, addressed the Board regarding her long-term employment by Phillips; in objection to characterizations of her employer as unconcerned about safety and environmental stewardship; and to suggest the possibility of a refinery shut down is real.

Mike Miller, Phillips 66 / United Steel Workers, addressed the Board in opposition to the proposed refinery rules and in support of allowing State programs to achieve the sought after greenhouse gas emissions reductions.

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

Vice-Chairperson Mar postponed this agenda item in the interest of time.

**PRESENTATION**

**4. ADVISORY COUNCIL REPORT ON URBAN HEAT ISLAND IMPACTS [OUT OF ORDER AGENDA ITEM 14]**

Vice-Chairperson Mar postponed this agenda item in the interest of time.

Board Comments: None.

Public Comments: No requests received.

Board Action: None.

**5. ADVISORY COUNCIL SUMMARY OF PAST ACTIVITIES [AGENDA ITEM 15]**

Vice-Chairperson Mar postponed this agenda item in the interest of time.

Board Comments: None.

Public Comments: No requests received.

Board Action: None.

**CONSENT CALENDAR [AGENDA ITEMS 4 – 8]**

**6. Minutes of the Board Meeting of September 2, 2015;**

**7. Board Communications Received from September 2, 2015 through October 6, 2015;**

**8. Air District Personnel on Out-of-State Business Travel;**

9. **Notice of Violations Issued and Settlements in Excess of \$10,000 in the Month of August 2015; and**
10. **Set a Public Hearing for October 21, 2015 to Consider Adoption of Proposed Amendments to Regulation 6; Rule 3: Wood-Burning Devices, and Adoption of a Negative Declaration pursuant to the California Environmental Quality Act (CEQA).**

Board Comments: None.

Public Comments: No requests received.

Board Action:

Director Spring made a motion, seconded by Director Hudson, to approve Consent Calendar Items 6 through 10 (agenda items 4 through 8), inclusive; and the motion carried by the following vote of the Board:

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

## **COMMITTEE REPORTS**

11. **Report of the Climate Protection Committee (CPC) Meeting of September 17, 2015 [Agenda Item 9]**

CPC Chairperson Pepper read:

The CPC met on Thursday, September 17, 2015, and approved the minutes of May 21, 2015.

The CPC received and discussed the presentation *Community Choice Energy (CCE) in California*, from Shawn Marshall, Director, for LEAN Energy US, including an explanation of how CCE works; CCE around the country; policy framework and available programs in California; CCE momentum in the Bay Area; CCE growth in California; CCE reduction of greenhouse gases (GHG); an emissions rate comparison of San Mateo County CCE versus Pacific Gas & Electric; the possible San Mateo County power generation mix; 2014 emission profiles for Sonoma Clean Power and Marin Clean Energy; CCE cost comparison versus Marin and Sonoma CCE financial conditions; CCE collective value in the Bay Area; and CCE green multiplier effects.

The CPC then received and discussed the staff presentation *Air District Activities to Monitor, Analyze and Reduce Methane Emissions*, including methane sources; a methane strategy to get quick emissions reductions; quantification of the warming potential of methane; 2015 Bay Area GHG emissions on both 20- and 100-year time scales; 2015 Bay

Area GHG emissions by source and pollutant; summaries of phase 1, enhanced methane measurements, and phase 2, mobile monitoring and near-source methane sampling; expected outcomes from enhanced methane measurements; initial proposed climate rulemaking; additional activities to reduce methane emissions; and next steps.

The CPC finally received and discussed the staff memorandum *Summary of Key California Climate Legislation in 2015*, including updates on a number of significant climate change issues, such as what mandates after 2020 are appropriate for reductions in GHG emissions, increases to renewable power, buildings' energy efficiency and expenditure of cap-and-trade revenues.

The next meeting of the CPC is on Thursday, November 19, 2015, at 9:30 a.m.

Public Comments:

Jed Holtzman, 350 Bay Area, addressed the Board to encourage review by the full Board of the presentations made to the CPC; to report that CCEs are progressing in most Bay Area counties; to encourage Air District support for local governments by helping with the formation of joint powers authorities and similar planning work; and to request that methane rulemaking be performed on an accelerated timeline.

Board Comments:

The Board and staff discussed the value added by a staff summary of the state of legislation impacting climate change and the California Air Resources Board (ARB).

Board Action: None; receive and file.

**12. Report of the Stationary Source Committee (SSC) Meeting of September 21, 2015  
[Agenda Item 10]**

SSC Chairperson Gioia read:

The SSC met on Monday, September 21, 2015, and approved the minutes of April 20, 2015 and May 27, 2015.

The SSC received and discussed the staff presentation *Refinery Strategy*, including summaries of the development and goals of the overall refinery strategy; target reductions in harmful emissions; summary of rulemaking phases I and II to reduce harmful emissions; continuous monitoring proposals; regulation 12, rule 15, tie-ins to future actions; regulation 12, rule 16, goals of limiting pollution and protecting health; provisions to ensure best practices; precedent setting actions contained in the rules; issues raised by Communities for a Better Environment (CBE) and other community groups; how the rulemaking addresses the issues of criteria pollutants, toxic air contaminants and greenhouse gases; a summary of the ARB perspective on the local GHG rules; an overview of the regulatory program to reduce GHG from stationary sources; and next steps.

The SSC asked staff to provide additional information about the Refinery Strategy, and that information is included in the Board packet for today's meeting.

The next meeting of the SSC is on Monday, October 19, 2015, at 10:30 a.m.

Director Gioia asked staff to provide an update.

Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO), provided the staff update on the refinery rule work, summarized current proposals and introduced Eric Stevenson, Director of Meteorology, Measurement and Rules, who provided additional details regarding the current proposals.

#### Board Comments:

The Board and staff discussed the expected strengthening of the health risk guidelines and the likely timing of the related analyses; the absence of the some attachments in the meeting agenda packet; the desire for historic air quality data over 20 years that is both refinery specific and that includes the cost of adapting to the proposed changes; air quality progress remaining relative to particulate matter; the importance of the proper prioritization of air quality targets and remaining cognizant of public health; the recommendations on Air District action in a letter from Richard W. Corey, Executive Officer, ARB, dated September 17, 2015; the cost-effectiveness of the air monitoring proposals and the potential impacts of the same on employment and public health; the state of dialogue on the Citizen's For A Better Environment (CBE) proposal for an emissions cap for refineries; and the justification for and nature of Mr. Corey's recommendations for the Air District consideration.

#### Public Comments:

Laurie Mintzer, Chevron, addressed the Board regarding her view that the refinery rulemaking was inappropriately fast, provided inadequate time for public comment and that the overreaching nature of many of the proposals make them technologically infeasible; and in opposition to various specific proposals making up the suite of refinery rules.

Steven Yang, Chevron, addressed the Board to suggest the nine proposed rules are being advanced because of the influence of a uniformed public and quoted statements made by community group representatives at past meetings relative to refinery operations.

Susan Gustofson addressed the Board as a long-term resident of the Bay Area and as a Valero employee; to express concern about the economic and public health impacts of the proposed rules; in support of allowing additional time for the rulemaking process; to express concern about the time provided for public comment on the proposed rules; and to suggest the pace of rulemaking is too aggressive.

Ratha Lai, Sierra Club, addressed the Board regarding the slow progress being made on the issues of concern to the public; in support of imposing numeric caps on refineries and on including an environmental justice component to the rules and on working to develop a plan for a just economic transition for workers impacted by the proposed rules.

Greg Karras, CBE, addressed the Board to express concern about the current version of the proposed rules; to suggest a data disparity exists relative to whether refinery emissions have been increasing or decreasing; to suggest the letter from Mr. Corey, dated September 17, 2015, is baseless; to encourage a robust discussion on refinery emissions caps; and in support of a slowed pace of rulemaking to avoid industry lawsuits after final passage.

Roger Lin, CBE, addressed the Board to provide a history of dialogue with Air District staff relative to setting numeric caps on GHG emissions; to suggest that Air District staff is unable to justify a rejection of CBE's written comments submitted during rulemaking; and to suggest the CBE proposal be reviewed in a public meeting.

Kevin Buchan, Western States Petroleum Association, addressed the Board to refute the refinery emissions data presented by CBE and to request additional information on the source of that data; and in opposition to two provisions of the proposed rules that require the submittal of confidential businesses information to Air District staff.

Kathy Wheeler, Shell, addressed the Board to suggest that the anticipated Office of Environment Health Hazard Assessment (OEHHA) standards will spur a great deal of operational improvements at the Shell Refinery; in opposition to proposed rules 12-15 and 12-16; and to propose that the agenda of community groups is not improved public health but the closure of the refineries.

Debi Lowe, Phillips 66, addressed the Board regarding she and her family members' employment by the petroleum industry and in opposition to proposed rules that will impact jobs.

Don England, Tesoro Refining, addressed the Board regarding he and his wife's active participation in their community, made possible by his employer, and to suggest that a refinery shut down would have a profound financial impact for employees, their families and many others in the Bay Area.

Shari Mejia, Shell Martinez Refinery, addressed the Board to suggest that Shell is an important member of its community currently complying with the highest emissions control standards in the world.

Gordon Johnson, Shell Martinez Refinery, addressed the Board regarding his professional history, his personal efforts at sustainable living and in opposition to proposed regulations that seem well intentioned but poorly planned.

Jed Holtzman, 350 Bay Area, addressed the Board to suggest the Air District's current regulatory program is largely speculative in the absence of the current proposed rules regarding refineries; inquired about the status of items requested of the staff by the Board at the meeting on June 3, 2015; and provided a list of perceived flaws in the staff report.

Bill Quinn, California Council for Environmental and Economic Balance, addressed the Board regarding the amount of time provided for public comment and the lack of staff response to a request for an extension of time for the same; in opposition to the regulatory approach detailed in the proposed rules; and to note inconsistencies in the GHG emissions data presented.

Tammy Gard, Shell, addressed the Board regarding her family's and many other families' dependence on the oil industry for their livelihoods.

Matt Buell, Tesoro, addressed the Board regarding the lowering of emissions that has resulted from a gradual tightening of the air quality standards over time and in support of a return to the traditional rulemaking process.

Paul Adler, Phillips 66, addressed the Board to suggest there has been a lowering of Bay Area refinery emissions over the last decade and to ask the Board to contemplate inconsistencies in facts, while considering his suggestion that the desire of community groups is to misinform the process and to impugn Air District and industry credibility.

Anna Rikkelman addressed the Board regarding the number of jobs that rely on the refineries; to suggest that many of the proposed rules are duplicative; and to express concern about the economic impact of the rules for the Bay Area.

Aimee Lohr, Phillips 66, addressed the Board regarding the opportunities provided her by the refinery industry and to recall examples of company involvement in and support of its community.

Don Bristol, Phillips 66, addressed the Board to complement the rulemaking workshops; to suggest that refinery emissions have been improving over time; in support of proposed rule 12-15, provided adequate time is provided to understand and implement guidelines from OEHHA and the subsequent health risk assessments; in opposition to imposing emissions caps at refineries; and to request an extension of time for the rulemaking process.

Board Comments (continued):

The Board and staff discussed the rulemaking timelines; possible reasons for the discrepancies in emissions levels discussed; the business as usual increase in GHGs that the State cap-and-trade program is expected to halt; the credentials of those who will be performing the economic analyses for Air District rulemaking; whether and what input has been received from interests within refinery communities relative to the economic ramifications of the proposed rules; the value of a study session on the rules; whether refinery emissions are contributing to GHG increases and whether the proposed rules are expected to mitigate this increase; the potency of methane relative to global warming; the relevance of proposed rules targeting methane and an update on discussions about the same with ARB; the difference, if any, between actual refinery emissions and their potential to emit (PTE); the findings required for the Board to take action in its rulemaking decisions and the belief that the finding cannot be made relative to caps below PTE; a discussion of GHG emissions in light of the State's cap-and-trade program and the authority of the Air District; an explanation of the history and current status of PTE; a summary of rulemaking efforts and the requisite components of the process; and the importance of bifurcating GHG issues and the impact of toxic pollutants on local communities.

Board Action: None; receive and file.

**13. Report of the Ad Hoc Building Oversight Committee (AHBOC) Meeting of September 23, 2015 [Agenda Item 11]**

Vice-Chairperson Mar read:

The AHBOC met on Wednesday, September 23, 2015 and approved the minutes of April 15, 2015 upon establishing a quorum.

The AHBOC received and discussed the staff presentation *Bay Area Metro Center – 375 Beale Street Project Status Report*, including updates on construction, furniture procurement and move coordination; 375 Beale Street building name; and next steps.

The AHBOC then received and discussed the staff presentation *Update on Parking for Air District Operations*, including an overview of Air District fleet and current parking; parking available at 375 Beale Street; potential solutions for operational parking investigated and potential fleet operation efficiencies; bids on parking property; and Board Direction.

The AHBOC postponed the staff presentation, *Update on Design and Financing of New Information Technology Infrastructure*, until a future meeting.

The AHBOC finally received and discussed the staff presentation *Bay Area Metro Center – 375 Beale Street Update on Proposed Shared Services Organization*, including background on the services to be shared; an update on progress towards sharing; shared services draft budget framework; and next steps.

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

**14. Report of the Executive Committee (EC) Meeting of September 23, 2015 [Agenda Item 12]**

Vice-Chairperson Mar, with the concurrence of the Board, waived reading of the EC chair report.

Board Comments:

The Board and staff discussed the candidate recommendations for the Advisory Council (AC); the timeline expected for the AC review of the proposed refinery rules; how the candidates were nominated and recommended; concern about a loss of community input; and plans for initiating a proposed community council.

Public Comments:

Jed Holtzman, 350 Bay Area, addressed the Board in opposition to the proposed appointees due to his perception of a lack of diversity of backgrounds and experiences on the AC; to note the absence of interviews by the Personnel Committee; and to request the appointments be delayed for the purpose of conducting interviews.



Greg Karras, CBE, addressed the Board to echo the comments of Mr. Holtzman; to ask the Board what the charge or mission of the AC; and to question the qualifications of the nominees.

Board Comments (continued):

The Board and staff discussed the recommendation on the AC and the expected benefits of empaneling the new Body; the viability of adding an environmental justice representative to the AC panel; and the commendable recommendation to empanel three health experts.

Board Action:

Director Canepa made a motion, seconded by Gioia, to approve the recommendations of the EC with direction to staff to follow up on the addition of an environmental justice seat to the AC.

**13. Report of the AHBOC Meeting of September 23, 2015 (continued)**

Board Comments: None.

Public Comments: No requests received.

Board Action: None; receive and file.

**14. Report of the EC Meeting of September 23, 2015 (continued)**

Board Action (continued):

The motion carried by the following vote of the Board:

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

**CLOSED SESSION**

The Board adjourned to Closed Session at 12:07 p.m.

**15. EXISTING LITIGATION (Government Code (GOV) Section 54956.9(a)) [OUT OF ORDER AGENDA ITEM 16]**

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

**Valero Refining Company – California v. Bay Area AQMD, et al.**, San Francisco County Superior Court, Case No. CPF-15-514407

**California Building Industry Association v. Bay Area AQMD**, Alameda County Superior Court, Case No. RG-10548693; California Court of Appeal, First Appellate District, Case No. A135335, California Supreme Court, Case No. S213478

**16. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (GOV § 54956.8) [AGENDA ITEM 17]**

Pursuant to GOV § 54956.8, the Board met in closed session with real property negotiators to discuss the disposition and leaseback of real property as follows:

Property:	435 Bryant Street, San Francisco, CA
Air District Negotiators:	Jack P. Broadbent, Executive Officer/APCO Damian Breen, Deputy APCO Tom Christian, Cushman & Wakefield Aaron Whitelock, Cushman & Wakefield
Negotiating Parties:	Postcard Properties, Inc. Colliers International
Under Negotiation:	Price and Terms

**OPEN SESSION**

The Board resumed Open Session at 12:29 p.m. with reportable action as follows:

16. Existing Litigation: No reportable action.

17. Conference with Real Property Negotiator: The Board authorized the purchase of property at 435 Bryant Street, San Francisco, CA, following the successful completion of the real estate transaction and due diligence process.

**17. Report of the Mobile Source Committee (MSC) Meeting of September 24, 2015 [Agenda Item 13]**

Vice-Chairperson Mar, with the concurrence of the Board, waived reading of the MSC chair report.

Board Comments: None.

Public Comments: No requests received.

Board Action:

Director Hudson made a motion to approve the recommendations of the MSC; and the motion was voted on by the Board as follows:

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

*Note: It was noted after the conclusion of the meeting that the Board did not have a quorum present at the time of the vote on the Report of the Mobile Source Committee and, as a result, the matter will be reagendaized for consideration by the Board at its meeting on October 21, 2015.*

18. **PUBLIC COMMENT ON NON-AGENDA MATTERS:** No requests received.
19. **BOARD MEMBERS' COMMENTS:** None.

**OTHER BUSINESS**

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

Mr. Broadbent announced that the U.S. Environmental Protection Agency released new ozone standards last week that result in the Bay Area being out of attainment and the promotion of Sean Gallagher, Clerk of the Boards.

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

22. **Time and Place of Next Meeting**

Wednesday, October 21, 2015, Bay Area Air Quality Management District Headquarters, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.

23. **Adjournment:** The Board meeting adjourned at 12:32 p.m.

*15/ Sean Gallagher*  
Sean Gallagher  
Clerk of the Boards