

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

Board of Directors Regular Meeting
Wednesday, April 20, 2016

APPROVED MINUTES

*Note: Audio 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>*

CALL TO ORDER:

- 1. Opening Comments:** Chairperson Eric Mar called the meeting to order at 10:01 a.m. He introduced a new member to the Board of Directors (Board), Rebecca Kaplan, Councilmember At-Large in the City of Oakland.

Roll Call:

Present: Chairperson Eric Mar; Vice-Chairperson Liz Kniss; Secretary David Hudson; and Directors John Avalos, Teresa Barrett, Tom Bates, Cindy Chavez, Osby Davis, John Gioia, Carole Groom, Scott Haggerty, Rebecca Kaplan, Nate Miley, Karen Mitchoff, Deborah Raphael, Katie Rice, Mark Ross, Rod Sinks, Warren Slocum, Jim Spering, Brad Wagenknecht, and Shirlee Zane.

Absent: Directors David J. Canepa and Jan Pepper.

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

PUBLIC COMMENT ON NON-AGENDA MATTERS

- 2. Public Comment On Non-Agenda Matters, Pursuant to Government Code Section 54954.3 (Round 1 of 2)**

Greg Karras, Communities for a Better Environment, addressed the Board to request that it direct staff to bring Rule 12-16 to the Board for consideration by May 2016.

Sara Greenwald, 350 Bay Area, addressed the Board regarding her concern that refinery permits continue to be issued in the absence of regulations, and urged the Board to make decisions on new refinery rules rather than grandfathering in permits for these facilities now.

Berkeley resident, L.A. Wood, addressed the Board regarding the Air District's permitting process and Pacific Steel Casting for nearly twenty-five years of operation in Berkeley. Chairperson Mar and Director Bates asked staff to prepare an update on the status of the PSE permit.

El Sobrante resident, Steven Ingraham, addressed the Board regarding his concerns about neurotoxic impacts from manganese and nickel emitted by Pacific Steele Casting in Berkeley.

Roger Lin, Communities for a Better Environment, distributed a draft resolution proposing emission limit ‘caps’ on refinery-wide climate and particulate air pollution via Rule 12-16, and urged the Board to agendize the proposed resolution for discussion at the May 18, 2016, Board meeting, with consideration for adoption of the rule in August 2016. Chairperson Mar asked staff to speak to this issue. Jack Broadbent, District Executive Officer and Air Pollution Control Officer, outlined the three rules that the Board adopted in 2015 to cut emissions at refineries, Rule 12-15 that would be considered on that day by the Board, and the rule options that will be brought before the Stationary Source Committee on June 1, 2016, for Rule 12-16.

Iren Suhami, Valero, distributed a chart capturing Valero’s (Benicia refinery’s) greenhouse gas (GHG) emissions history, outlining the various reasons why GHG emissions may increase at refineries. Ms. Suhami urged the Board to consider the context of GHG emission increases, rather than looking at those increases in a vacuum, as the District moves forward with future GHG emission discussions.

COMMENDATIONS/PROCLAMATIONS/AWARDS

3. Chairperson Mar announced that the Board of Directors had planned to recognize Barry Wallerstein, former South Coast Air Quality Management District Executive Officer, for his service, but that this presentation was rescheduled for May 18.

NOTED PRESENT: Director Miley noted present at 10:20 a.m.

CONSENT CALENDAR (ITEMS 4 – 11)

Item 8 (Authorization to Extend Current Contract for the Trinity Technology Group to Develop a Wood Stove and Fireplace Replacement Incentive Program) was pulled from the Consent Calendar by District staff for discussion; Item 10 (Authorization for a 5-year Computer Hardware Maintenance Contract) was pulled from the Consent Calendar by District staff to be deferred.

4. **Authorization to Extend Current Contract for the Trinity Technology Group to Develop a Wood Stove and Fireplace Replacement Incentive Program (OUT OF ORDER, AGENDA ITEM 8)**

Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO), provided the background for staff presentation, *Wood Stove and Fireplace Replacement Incentive Program*. Damian Breen, Deputy Air Pollution Control Officer, continued the presentation, including program status; proposed program implementation and schedule; and recommendation.

Board Comments:

The Board and staff discussed the funding source for the proposed contract; Districts staff’s innovative solution to maintain the program’s original timeline; the potential repurposing of the proposed software for other in-house programs; the platform on which the proposed software will be launched; and keeping this program on schedule.

Public Comments:

No requests received.

Board Action:

Director Ross made a motion, seconded by Director Rice, to authorize the Executive Officer/APCO to execute contract amendments with Trinity Technology Group in an amount not to exceed \$200,000, to develop software for the Wood Stove and Fireplace Incentive Program, and the motion **carried** by the following vote of the Board:

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

5. **Minutes of the Board of Directors Regular Meeting of March 16, 2016 (AGENDA ITEM 4)**
6. **Board Communications Received from March 16, 2016 through April 19, 2016 (AGENDA ITEM 5)**
7. **Notices of Violations Issued and Settlements in Excess of \$10,000 in the month of March 2016 (AGENDA ITEM 6)**
8. **Air District Personnel on Out-of-State Business Travel (AGENDA ITEM 7)**
9. **Authorization to Extend Current Temporary Computer Support Services Contract**
- ~~10. **Authorization for a 5-year Computer Hardware Maintenance Contract**~~
11. **Execution of Purchase Orders in Excess of \$70,000 Pursuant to Administrative Code Division II Fiscal Policies and Procedures Section 4.3 Contract Limitations**

Board Comments:

None.

Public Comments:

No requests received.

Board Action:

Director Ross made a motion, seconded by Director Zane, to approve the modified Consent Calendar Items 4 through 7, 9, and 11; and the motion **carried** by the following vote of the Board:

AYES: Avalos, Barrett, Bates, Chavez, Davis, Gioia, Groom, Haggerty, Hudson, Kaplan, Kniss, Mar, Miley, Mitchoff, Raphael, Rice, Ross, Sinks, Slocum, Sperring, Wagenknecht, and Zane.
NOES: None.

ABSTAIN: None.
ABSENT: Canepa and Pepper.

COMMITTEE REPORTS

12. Report of the Climate Protection Committee (CPC) Meeting of March 17, 2016

CPC Vice Chairperson Avalos read:

The Climate Protection Committee met on Thursday, March 17, 2016, and approved the minutes of November 19, 2015.

The Committee received and discussed the staff presentation *Center for Climate Protection's ECO2school Program*, including regional greenhouse gas inventories; carbon savings achieved by bike riding; power of collective action; peer to peer education; solutions; innovation; the green teen presentation; reach and results; and student leaders.

The Committee then received and discussed the staff presentation *10-Point Climate Action Work Program Implementation*, including program history; greenhouse gas goals, inventory and forecast; greenhouse gas emissions monitoring; support for local action; rule development; expanded enforcement; climate change and public health; the Bay Area's energy future; and next steps.

Lastly, the Committee received and discussed the staff presentation *Regional Climate Protection Strategy Update*, including background; frameworks for Climate Action Plans and the Regional Climate Protection Strategy; strategy outreach; tools and objectives; the transportation, stationary sources, energy, building, waste and water, agricultural and natural/working lands sectors; short-lived climate pollutants; strategy open houses; and next steps.

The next meeting of the Committee is on Thursday, July 21, 2016.

This concludes the Chair report of the Climate Protection Committee.

Board Comments:

Board Vice Chair Kniss reported that the City of Palo Alto's adoption of a goal of an eighty percent GHG reduction by 2030.

Director Chavez acknowledged the Committee and staff for considering climate issues relating to water, agriculture, and transportation.

Board Action:

Director Chavez made a motion, seconded by Board Vice Chair Kniss, to approve the recommendations of the CPC; and the motion **carried** by the following vote of the Board:

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

13. Report of the Legislative Committee (LC) Meeting of March 21, 2016

LC Chairperson Wagenknecht read:

The Legislative Committee met on Thursday, March 24, 2016, and postponed the approval of the minutes of March 30, 2015 and October 26, 2015 for lack of quorum.

The Committee discussed the consideration of new bills and a consensus of the members present supported the following positions for the Air District:

AB 1685 (Gomez): Support
AB 2292 (Gordon): Support in concept
ACR 112 (Hadley): Support
SB 1239 (Gaines): Oppose
SB 1383 (Lara): Support if amended
SB 1441 (Leno): Support
AB 1657 (O'Donnell): Support in concept
AB 2055 (Gibson): Support in concept
AB 2841 (Allen): Support in concept
SB 1338 (Lara): Support in concept

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

This concludes the Chair's report of the Legislative Committee.

Board Comments:

Director Mitchoff noted that the date of "March 24, 2016" on the LC Chair Report was incorrect. The correct date was March 21, 2016.

Board Action:

Director Rice made a motion, seconded by Board Vice Chair Kniss, to approve the recommendations of the LC; and the motion **carried** by the following vote of the Board:

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

14. Report of the Budget and Finance Committee (BFC) Meeting of March 23, 2016

BFC Chairperson Hudson read:

The Committee met on Wednesday, March 23, 2016, and approved the minutes of January 27, 2016.

The Committee reviewed and discussed the staff presentation, *Proposed Fiscal Year End 2017 Budget*, including projections for current Fiscal Year Ending 2016; district reserve funds - excluding building proceeds; approved reserve transfers Fiscal Year Ending 2016; proposed budget for Fiscal Year Ending 2017; general fund revenue sources and expenditures; services, supplies, and capital; Fiscal Year Ending 2017 proposed fees; Fiscal Year Ending 2017 full-time employee staffing levels; additional staffing; Fiscal Year Ending 2017 balance summary; Fiscal Year Ending 2017 use of fund balance; retirement medical other post-employment benefits (OPEB) liability; office building obligations; and summary budget for Fiscal Year Ending 2017.

The Committee also reviewed and discussed the staff presentation *Proposed Amendments to Regulation 3, Fees*, including revenue sources for Fiscal Year Ending 2015; cost recovery policy; trends in cost recovery and cost containment; proposed changes to fee schedules; petroleum refining emissions tracking fees; Schedule W costs and fees; major facility community air monitoring fees; Schedule X costs and fees; impacts on large facilities: petroleum refineries and power plants; impacts on small businesses; workshop public comments, and rule development schedule.

The next meeting of the Committee is on Wednesday, April 27, 2016, at 9:30 a.m.

This concludes the Chair report of the Budget & Finance Committee.

Board Comments:

None.

Board Action:

Board Vice Chairperson Kniss made a motion, seconded by Board Chairperson Mar, to approve the recommendations of the BFC; and the motion **carried** by the following vote of the Board:

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

15. Report of the Public Engagement Committee (PEC) Meeting of March 24, 2016

PEC Chairperson Ross read:

The Public Engagement Committee met on Thursday, March 24, 2016, and approved the minutes of October 26, 2015.

The Committee received and discussed the staff presentation *Update on 2016 Youth for Environment and Sustainability Conference*, including the event agenda, outreach methods, a video of the event, and outcomes.

The Committee then received and discussed the staff presentation *James Cary Smith Community Grant Program Update*, including an overview; program awardees; a discussion of the Air District partnerships with the community; a breakdown of funded projects; and opportunities going forward.

Lastly, the Committee received and discussed the staff presentation *Public Engagement for the 2016 Clean Air Plan/Regional Climate Protection Strategy*, including engagement overview; community open houses; informational posters; online civic engagement; Open Air Forum; and the Clean Air/Regional Climate Protection Strategy working group.

The next meeting of the Committee is on Monday, May 2, 2016.

This concludes the Chair report of the Public Engagement Committee.

Board Comments:

None.

Board Action:

Committee Chairperson Ross made a motion, seconded by Director Mitchoff, to approve the recommendations of the PEC; and the motion **carried** by the following vote of the Board:

AYES: Avalos, Barrett, Bates, Chavez, Davis, Gioia, Groom, Haggerty, Hudson, Kaplan, Kniss, Mar, Miley, Mitchoff, Raphael, Rice, Ross, Sinks, Slocum, Spering, Wagenknecht, and Zane.

NOES: None.

ABSTAIN: None.

ABSENT: Canepa and Pepper.

16. Report of the Personnel Committee (PC) Meeting of April 11, 2016

PC Chairperson Rice read:

The Committee met on Monday, April 11, 2016, and approved the minutes of June 11, 2015.

The Committee reviewed and discussed five candidates to fill four vacancies on the Air District's Hearing Board: A Principal and Alternate in both the Medical and Professional Engineer categories. The Committee and staff discussed the recruitment process and then interviewed each candidate. The Committee recommends the Board approve:

1. The reappointment of Hearing Board incumbent, Peter Chiu, M.D., P.E., as Medical category Principal; and
2. The appointment of Hearing Board candidate, Jason Meggs, as Medical category Alternate; and
3. The reappointment of Hearing Board incumbent, Gilbert Bendix, P.E., as Professional Engineer category Principal; and
4. The appointment of Hearing Board candidate, Ryan Janoch, P.E., as Professional Engineer category alternative.

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

I move that the Board approve the Personnel Committee recommendations.

Board Comments:

None.

Board Action:

Committee Chairperson Rice made a motion, seconded by Director Wagenknecht, to approve the recommendations of the PC; and the motion **carried** by the following vote of the Board:

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

17. Report of the Stationary Source Committee (SSC) Meeting of April 18, 2016

SSC Chairperson Gioia read:

The Committee met on Monday, April 18, 2016, and approved the minutes of February 25, 2016.

The Committee received and discussed staff presentation *Upcoming changes to Regulation 9, Rule 13: Cement Kilns*, including its background and purpose; comparison of Air District and U.S. Environmental Protection Agency (EPA) standards; results of rule adoption; continuing issues of concern; technical issues with the ammonia standard; the proposed two-phased regulatory solution; and next steps.

The Committee then received and discussed staff presentation *Air Quality Impacts of California's Organic Waste Diversion Requirements*, including background; solid waste facilities overview; California's organic waste diversion priorities; solid waste industry overview; air emissions; the Air District's role in solid waste regulation; and summary.

The Committee finally received and discussed staff presentation *Permit Application Public Participation Enhancements*, including Improving public participation in the permit application process; the web-based permit application table; the policy implementation roadmap; and next steps.

The next meeting of the Committee is on Monday, June 1, 2016, at 9:30 a.m.

This concludes the Chair report of the Stationary Source Committee.

Board Comments:

The Board and staff discussed the California Air Resources Board's (ARB) GHG emissions inventory as it related to Mr. Suhami's public comment that was relayed during Item 2 (Public Comment on Non-Agenda Matters.)

Board Action:

Committee Chairperson Gioia made a motion, seconded by Board Secretary Hudson, to approve the recommendations of the SSC; and the motion **carried** by the following vote of the Board:

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

18. Report of the Ad Hoc Building Oversight Committee Meeting of April 20, 2016

AHBOC Chairperson Mar read:

The Committee met on Wednesday, April 20, 2016, and approved the minutes of February 17, 2016.

The Committee received and discussed staff presentation *Bay Area Metro Center (375 Beale Street) Project Status Report – April, 2016*, including construction and furniture updates; shared services/service level agreements; and next steps.

The Committee then received and discussed staff presentation *Move-in schedule for 375 Beale Street*, including move date; move requirements; and next steps.

The Committee finally received and discussed staff presentation *Decommissioning Activities at 939 Ellis Street*, including an overview of decommissioning activities to date; results of a Request for Proposals for asset liquidation and other options; and the hybrid approach currently proposed. The Committee recommends that the Board approve:

1. Authorize the Executive Officer/APCO to enter into contract with Bluewater Environmental Services, Inc. not to exceed \$88,940.00 for the disposal and recycle of equipment at 939 Ellis Street; and
2. Transfer \$88,940.00 from the designated building reserve to the Fiscal Year Ending 2016 budget.

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

I move that the Board approve the Ad Hoc Building Oversight Committee recommendations.

Board Comments:

Mr. Broadbent added that the Air District's move-in schedule to 375 Beale Street is based upon Bay Area Headquarters Authority's receipt of Certificate of Occupancy on April 18, 2016.

Chair Mar thanked Air District staff for overseeing moving arrangements and updating the Board with the moving schedule.

Board Action:

Committee Chairperson Mar made a motion, seconded by Director Groom, to approve the recommendations of the AHBOC; and the motion **carried** by the following vote of the Board:

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

PUBLIC HEARINGS

19. Public Hearing to Receive Testimony on Proposed Amendments to Air District Regulation 3: Fees

Mr. Broadbent introduced Jaime Williams, Information Technology Officer and Director of Engineering, who announced that this is the first of two hearings on this topic, and that the Board will consider adoption of the amendments to this Regulation on June 15, 2016. Mr. Williams gave the staff presentation *Proposed Amendments to Regulation 3:Fees*, including

revenue sources- Fiscal Year End (FYE) 2015; trends in cost recovery and cost containment; proposed changes to fee schedules; petroleum refining emissions tracking fees (Schedule W); major facility community air monitoring fees; other proposed amendments; impact on large facilities (petroleum refineries) and small businesses; and rule development schedule.

Board Comments:

The Board and staff discussed the definition of ‘cost recovery’ as it relates to this presentation; personnel costs contributing to fee revenue falling short of overall full cost recovery; reserve funds and county tax revenue that fill the cost recovery gap; the difference in the percentage of fees from refineries and fees from small businesses; 2017 percentage permit fee increase projections with and without Schedule X; bringing community air monitoring in-house; and the maximum cap proposed for fees for abatement devices.

Public Comments:

Mah Buell, Tesoro, addressed the Board regarding fee increases for refineries, even though they are reducing emissions. Mr. Buell also expressed concern that even though Air District data shows that, impacted Community Air Risk Evaluation neighborhoods are not located outside of refineries and communities that they are not in need of community air monitoring.

Berman Obaldia, Western States Petroleum Association, addressed the Board regarding his concerns with proposed fee increases for Schedule W.

Board Comments Continued:

The Board and staff discussed the number of facilities that will be impacted by changing fee schedules; efforts to reach the goal of increasing cost recovery to 85% over four years between FYE 2013-2016; types of facilities from other industries that Schedule X applies to; and the standardization of refinery monitoring that will be brought about by locating new community air monitor stations in Richmond, Concord, Martinez, and Benicia with the full suite of instrumentation and monitoring capabilities that are offered at existing air monitor stations.

Chairperson Mar announced that, due to the large number of public comments for Item 20, Item 21 would precede Item 20.

20. Public Hearing to Consider Adoption of Proposed Regulation 9, Rule 14: Petroleum Coke Calcining Operations; and Approval of a California Environmental Quality Act (CEQA) Initial Study/Negative Declaration. (OUT OF ORDER, AGENDA ITEM 21)

Mr. Broadbent introduced Greg Nudd, Rule Development Manager, who gave the staff presentation *Proposed Regulation 9, Rule 14: Petroleum Coke Calcining Operations*, including overview; petroleum coke calcining process; Rule 9-14 major provisions; SO₂ emissions; costs, cost effectiveness, socioeconomic, and environmental impacts; rule development process; conclusions; and recommendations.

Public Comments:

Charles Davidson, Sunflower Alliance, addressed the Board, advocating for more control of the carbon plant (up to 80%). Mr. Davidson also noted the potential for the generation of acid rain and the high GHG signature of the plant, due to the energy needed to convert green coke to calcined coke.

Greg Karras, Communities for a Better Environment, addressed the Board, requesting that the Board adopt this rule with a revised emissions reduction goal of 80%.

Board Comments:

The Board and staff discussed the capital costs, standard discount rate, and recovery period used to estimate net profits after tax on an annual basis; the percentage of profit of exported unburned petroleum coke on the green coke market versus the calcined coke market; profit estimation based on general rate of profits for similar industries; the Carbon Plant's SO₂ emission limit for both kilns combined as stated in the original Rule 9-14; balancing the emission reduction goal with the District's socioeconomic cost benefit analysis of the facility; and whether or not the facility's production will be affected by the instillation of the proposed equipment.

Board Action:

Director Chavez made a motion, seconded by Director Spring, to approve the CEQA Initial Study/Negative Declaration and adopt the proposed new Regulation 9, Rule 14; and the motion **carried** by the following vote of the Board:

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

21. Public Hearing to Consider Adoption of Proposed Regulation 12, Rule 15: Petroleum Refining Emissions Tracking; Adoption of Associated Air Monitoring Guidance; and Approval of a California Environmental Quality Act (CEQA) Initial Study/Negative Declaration (AGENDA ITEM 20)

Mr. Broadbent said that this rule has been under development for three years. He reintroduced Mr. Nudd, who gave the staff presentation *Proposed Regulation 12, Rule 15: Petroleum Refining Emissions Tracking*, including: overview; background; purpose; rule provisions, changes, and development process; areas of controversy; costs and socioeconomic impacts; environmental impacts, and recommendations.

Public Comments:

Kyle Kuchta, Tesoro, addressed the Board regarding limited resources for student outreach and other negative impacts that may befall the refinery industry if the proposed regulation is passed.

Greg Karras, Communities for a Better Environment, addressed the Board to state that he believes that polluter self-monitoring is an area of controversy for the rule, but was not listed in the presentation as such. Mr. Karras said that he supports the inclusion of crude monitoring and objects to allowing polluters to monitor themselves.

Tom Lewis, Shell, addressed the Board, urging the Board to adopt Rules 12-15 and 12-16, and ignore the pressure from those who would seek to reduce monitoring and mitigation.

Steven Yang, Chevron, addressed the Board regarding the City of Richmond's Environmental Impact Report (EIR) for Chevron's Modernization project in 2014, which evaluated what would happen to emissions if refineries changed their crude. Mr. Yang emphasized that the adopted EIR, which was not challenged, should be seen as research that abolishes the need for Rule 12-15.

Laurie Mintzer, Chevron, addressed the Board regarding her concern that Rule 12-15 forces refineries to report emissions from cargo carriers that the refineries do not own or operate. Ms. Mintzer said that District staff need to obtain cargo carrier emission data from the cargo carrier owners in order to produce accurate data for future rulemaking.

Ann Notarangelo, Shell, addressed the Board regarding her concern for the way in which crude slate information is gathered. She requested that the Board postpone the vote in order to allow the industry and Air District more time to create a different rule that would better benefit all parties and the community.

Erric Castillo, Shell, addressed the Board regarding the potential for job loss at refineries and small businesses if this rule is passed. Mr. Castillo said that sound science and thorough analysis that considers all implications are needed for rulemaking.

Lori Martinelli, Shell, addressed the Board regarding the health of her Shell colleagues, which she feels is not compromised by working in a refinery. Ms. Martinelli expressed her concern that refinery employees will lose their jobs if this rule is passed.

Dan Sabalesky, Shell, addressed the Board regarding the collection of proprietary crude and feedstock data and associated anti-trust and cost implications. Mr. Sabalesky also said that the Cap and Trade and Low Carbon Fuel Standard programs already incorporate crude oil regulations.

Jaki Feeney, Shell, addressed the Board regarding the impacts that Rule 12-15 may impose upon refineries' abilities to contribute to the education sector and refinery recruitment.

Chris McDowell, Tesoro, addressed the Board, stating that Rule 12-15 will require refineries to submit different data than what is currently required, making the EPA, ARB, and Air District's emission inventories inconsistent and incomparable with each other. Ms. McDowell was referring specifically to the addition of the cargo carrier emissions data that would be required under Rule 12-15.

Chuck Raeder, Chevron, addressed the Board stating that refinery employees' concern for the community's health is sometimes overlooked or diminished. Mr. Raeder reiterated that refinery workers do take an active interest in the community's well-being along with those who regulate air quality.

Kathy Wheeler, Shell, addressed the Board regarding her concern that the release of the crude information that would be required by Rule 12-15 would significantly impact Shell's operations.

Susan Nelson, Shell, addressed the Board regarding the Board's task to make educated, well-informed decisions when making rules that may impact refineries. Ms. Nelson cautioned the Board against making unrealistic regulations to appease community groups that wish to shut down refinery operations at the cost of employment and livelihood.

Gordon Johnson, Shell, addressed the Board regarding anti-trust issues relating to the exchange of crude information between refineries.

Joe Ketner, Chevron, addressed the Board to oppose Rule 12-15, stating that it may affect job security for refinery employees, and to question financial impacts that may result from Rule 12-15.

Bill Quinn, California Council for Environmental and Economic Balance (CCEEB), addressed the Board regarding CCEEB's belief that crude slate changes do not correlate with emission levels. Mr. Quinn also said that if this rule is adopted, he would like to see improved protection of collected crude slate data. Finally, Mr. Quinn urged the Board to exclude cargo carrier emissions data from Rule 12-15, stating that inclusion of this data would affect conformity of health risk assessments throughout the state.

Steve Ardito, Chevron, urged the Board to consider potential consequences, stating that adopting excessive and unreasonable regulation will result in disruption of Bay Area refineries, which he stated are among the cleanest in the world.

Mah Buell, Tesoro, addressed the Board regarding the claims that formed the basis of Rule 12-15, stating that more time is needed to correct the crude data portion of the regulation. Mr. Buell also said that he has not seen the Air District make as significant an effort to regulate toxics diesel particulate matter in transportation corridors as was made on refineries. Director Gioia clarified that while the ARB has primary mobile source authority, and the Air District has stationary source authority. He also added that the Air District has administered several grant programs to fund light-duty and heavy-duty vehicles and to reduce emissions from diesel engines.

Suejung Shin, Phillips 66, addressed the Board regarding restricting refinery crude inputs, which she said is an inefficient way to protect public health. Ms. Shin acknowledged that the Air District has successfully monitored refineries by setting direct limits on the source of emissions via permits, and said that it is unclear why deviating from this strategy is needed.

Berman Obaldia, Western States Petroleum Association (WSPA), addressed the Board regarding WSPA's concern regarding compliance obligations for Bay Area refineries under Rule 12-15. Mr. Obaldia stated that this rule does not meet legal necessity thresholds, that the District has not demonstrated the need or authority for new regulations, and that the District has exceeded its authority in requesting competitively sensitive and economically-damaging data without being able to sufficiently protect this information.

Board Comments:

The Board and staff discussed the misinterpretation and clarification of proposed rule provisions; changes to rule provisions that were made based on refineries' requests; the District's past practices and existing procedures regarding the release of proprietary information; the costs associated with proposed Rule 12-15; the proposed display of cargo carrier data as it contributes to facility emission profiles; impacts on refinery jobs as a result of Rule 12-15 adoption; seasonal variations in crude which dictate the frequency of crude slate reporting requirements; the definition of 'proprietary information'; finding a balance between the public's right to information and the District's need for information; and the District's protocol for a response to a breach in the maintenance of confidential information.

Director Davis and Director Spring both stated that before they could make an informed decision on the rule, the remaining questions that they had needed to be answered by staff.

Director Miley asked if it would be possible to vote on the adoption of Rule 12-15, omitting the provision about crude slate information. Brian Bunger, District Counsel, said that such a substantial change in the rule would require a new thirty-day Notice of Hearing period for Rule 12-15.

Mr. Broadbent said that if the Board adopted Rule 12-15, staff would provide it with an update on its implementation six months later.

Board Action:

Substitute Motion: Director Davis made a substitute motion, seconded by Director Mitchoff, to Reschedule the Adoption of Proposed Regulation 12, Rule 15: Petroleum Refining Emissions Tracking; Adoption of Associated Air Monitoring Guidance; and Approval of a California Environmental Quality Act (CEQA) Initial Study/Negative Declaration for the May 18, 2016 Board of Directors meeting; and the motion was defeated by the following vote of the Board:

AYES: Chavez, Davis, Mitchoff, Slocum, Spring,
NOES: Avalos, Barrett, Bates, Gioia, Groom, Hudson, Kaplan, Kniss, Mar, Miley, Raphael, Rice, Ross, Sinks, Wagenknecht, and Zane.

ABSTAIN: None.
ABSENT: Canepa, Hagerty, and Pepper.

Motion: Director Kaplan made a motion with the following friendly amendment, seconded by Director Wagenknecht, to Adopt Proposed Regulation 12, Rule 15: Petroleum Refining Emissions Tracking; Adoption of Associated Air Monitoring Guidance; and Approval of a California Environmental Quality Act (CEQA) Initial Study/Negative Declaration. The friendly amendment from Director Kaplan was to approve staff's recommendation of providing the Board with an update of implementation of Rule 12-15 no later than six months from April 20, 2016, and to evaluate whether or not modifications would be needed at that time. The amended motion carried by the following vote of the Board:

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

PUBLIC COMMENT ON NON-AGENDA MATTERS

22. Public Comment On Non-Agenda Matters, Pursuant to Government Code Section 54954.3 (Round 1 of 2)

No requests received.

BOARD MEMBERS' COMMENTS

23. Director Avalos acknowledged that rule adoption is difficult and that Board members' opinions vary. He said that he would like comments from the public regarding Rule 12-16 from this meeting to be discussed at the Stationary Source Committee meeting on June 1, 2016. He stated that he would like to see community groups involved in a thorough and dynamic process regarding the future 12-16 rulemaking. Director Avalos said that he hopes that the Board will come to a decision on Rule 12-16 at its June 15, 2016 meeting. Mr. Broadbent responded by stating that at the June 1, 2016 Stationary Source Committee meeting, the Committee will be presented with four options for the development of Rule 12-16.

Director Kaplan thanked the Board for an exciting first meeting and said that she looks forward to future collaboration with her colleagues. She also said that recent climate data shows that the first calendar quarter of 2016 was reported the hottest ever on earth.

Director Bates echoed Board Chairperson Mar's earlier request for a status update for the Board regarding activity of Pacific Steel Casting.

OTHER BUSINESS

24. Report of the Executive Officer/APCO:

Mr. Broadbent thanked the Board for its ruling on Rule 12-15. He said that, despite the recent heat, there have been no violations of the federal or state Ambient Air Quality Standards, and that the “Spare the Air” season will begin soon. Mr. Broadbent also announced that information on the Air and Waste Management Association’s 109th Annual Conference will be sent to the Board.

25. Chairperson’s Report:

Chair Mar announced that the Board of Directors’ meeting that was scheduled for May 4 has been cancelled, and the next Board of Directors’ meeting will be held on May 18, 2016.

26. Time and Place of Next Meeting:

Wednesday, May 18, 2016, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.

27. Adjournment:

The Board meeting adjourned at 1:17 p.m.

/s/ Marcy Hiratzka

Marcy Hiratzka
Clerk of the Boards