

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

Board of Directors Regular Meeting  
Wednesday, October 21, 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 9:56 a.m.

**Opening Comments:** None.

### **Roll Call:**

Present: Chairperson Carole Groom; Vice-Chairperson Eric Mar; Secretary Liz Kniss; and Directors John Avalos, Teresa Barrett, David J. Canepa, Cindy Chavez, 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: Directors Tom Bates, Margaret Fujioka and John Gioia.

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

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

Bonnie Roelofs, Shell, addressed the Board of Directors (Board) regarding her proud employment at the Shell Martinez refinery and to suggest the proposed refinery regulations are not in the best interest of Bay Area communities.

NOTED PRESENT: Director Pepper was noted present at 9:59 a.m.

Liz Rosales, Shell Refinery, addressed the Board regarding her gratitude for her job, her employer and the work of Air District staff and to request consideration of the impacts on employment of the proposed refinery regulations.

David Parker, Shell Oil, addressed the Board regarding his and his father's long-term employment in the refinery industry; to opine that Shell produces the cleanest gas available; and to suggest that the proposed refinery regulations will impact the regional economy.

Nancy Navarro, Shell, addressed the Board to report her skepticism about her employer's environmental commitment when she began her employment only to later be pleasantly surprised.

Mark Webster, Shell Martinez Refinery, addressed the Board regarding his ability to support his family through his employment; to suggest the international community looks to the Air District for directional leadership regarding operations; to recall a past relationship with the Air District that resulted in air quality improvements; to opine that the trust and respect of industry that was earned by the Air District is at risk because of political agendas; and to request a return to the traditional rulemaking process.

Richard Black, United Steel Workers (USW), addressed the Board regarding his long-term employment at the refinery in Rodeo and the difficult but successful air quality work that has been accomplished over the years; to encourage a big picture analysis of the impacts of the proposed refinery regulations; and to suggest the economic impact being suggested is real.

Kevin Buchan, Western States Petroleum Association, addressed the Board regarding the presence of refinery representatives in the audience; in opposition to greenhouse gas (GHG) caps; in support of the recommendations detailed in the letter from Richard W. Corey, Executive Officer, California Air Resources Board (ARB), dated September 17, 2015; and to request the postponement of all rulemakings scheduled for Board consideration on December 16, 2015.

Bob Feinbaum addressed the Board regarding his communication with staff, the notice of meeting provided, and the opportunity afforded for public comment.

Mike Miller, USW, addressed the Board regarding his employment at Phillips 66 and support of Assembly Bill 32 and past work of the Air District to ensure the cleanest fuels are refined in the Bay Area; and to request consideration of the economic impacts of additional regulations and postponement of the current rulemakings.

Tom Silva, California Apartment Association, submitted written material entitled, *Don't Let This Be You*, and addressed the Board to offer assistance with regulations impacting Bay Area housing.

Laura Leeds, Chevron, addressed the Board regarding her professional history, her and her husband's refinery employment, and to propose her economic stability is at risk in light of the proposed refinery regulations.

Steve Ardito, Chevron, addressed the Board regarding his long-term employment at Chevron and his long-term residency in the Bay Area; to suggest that his industry responsibly produces goods demanded by our society and all the individuals within it; and in opposition to additional regulations that will put the refineries out of business.

Kathy Wheeler, Shell, addressed the Board regarding her expectation to receive the newly revised proposed refinery rulemakings; to suggest this rulemaking process is broken by traditional standards and unlike any she has seen previously; to opine that industry supports good rules; and to request a postponement of the proposed refinery rulemakings.

Johnny Morales, Shell Oil Refinery, addressed the Board regarding his ability to support a family through his employment and to request consideration of the economic impacts of additional refinery regulations.

Erin Hallissy, Shell Martinez Refinery, addressed the Board regarding her personal experience discovering the cleanliness of the fuel produced and the scope of industry commitment to environmental stewardship and worker safety.

Jack Bean, Industrial Association of Contra Costa County, addressed the Board regarding his concern about proposed refinery rulemakings and to request a postponement of the same.

Jed Holtzman, 350 Bay Area, addressed the Board to suggest the staff memorandum for agenda item 6, *Notices of Violation Issued and Settlements in Excess of \$10,000 in the Month of September 2015*, contains information that is difficult to reconcile with claims of environmental stewardship and community safety; and to suggest that community advocacy is not about the refinery staff addressing the Board today and instead about the industry and environment.

The Board and staff discussed the history and timelines for various proposed refinery rulemakings; opportunities for public comment past and future; possible dates and the appropriate format for an upcoming Stationary Source Committee meeting; Brown Act considerations; the desire for an informal meeting with enhanced opportunities for dialogue; and the economic analysis component of the rulemakings.

### **CONSENT CALENDAR (ITEMS 3 – 9)**

- 3. Minutes of the Board Meeting of October 7, 2015;**
- 4. Board Communications Received from October 7, 2015 through October 20, 2015;**
- 5. Air District Personnel on Out-of-State Business Travel;**
- 6. Notices of Violation Issued and Settlements in Excess of \$10,000 in the Month of September 2015;**
- 7. Participation in Year Five of the California Goods Movement Bond Program;**
- 8. Allocation to Support GHG Emission Reduction Fund Projects; and**
- 9. Consider Authorization for a Contract Extension to Technical and Business Systems and Execution of a Purchase Order in Excess of \$70,000 Pursuant to Administrative Code Division II Fiscal Policies and Procedures, Section 4.3 Contract Limitations, for Continued Operation of the BioWatch Monitoring Network.**

Board Comments: None.

Public Comments: No requests received.

Board Action:

Director Wagenknecht made a motion, seconded by Director Hudson, to approve Consent Calendar Items 3 through 9, inclusive; and the motion carried by the following vote of the Board:

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

## **COMMITTEE REPORTS**

### **10. Report of the Nominating Committee (NC) Meeting of October 21, 2015**

NC Chairperson Groom read:

The NC met on Wednesday, October 21, 2015, and approved the minutes of November 17, 2014.

The NC considered nomination of Board Officers for the 2016 Term of Office and recommends Eric Mar as Chairperson, Liz Kniss as Vice-Chairperson and Dave Hudson for Secretary.

Public Comments: No requests received.

Board Comments: None.

Board Action:

Chairperson Groom made a motion, seconded by Director Zane, to approve the recommendations of the NC; and the motion carried by the following vote of the Board:

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

## **PUBLIC HEARING**

### **11. Public Hearing to Receive Testimony and 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)**

Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO), introduced the topic and Tracy Lee, Air Quality Specialist of the Compliance and Enforcement Division, who gave the staff presentation *Public Hearing on Proposed Amendments to Regulation 6, Rule 3: Wood Burning Devices*, including a summary of the health impacts of wood smoke; Bay Area PM<sub>2.5</sub> [Fine Particulate Matter] Exceedances; PM<sub>2.5</sub> emissions from wood smoke; sources of winter PM<sub>2.5</sub> in the Bay Area; an overview of the rule amendment process; wood smoke reduction strategies; summaries of the

narrowing exemptions and strengthening standards; administrative requirement component; proposed effective dates for various provisions of the proposed amendments; estimated PM<sub>2.5</sub> emission reductions expected; heating fuel costs and emissions; CEQA and socioeconomic analysis; summary of public comments; and recommendation.

Board Comments:

The Board and staff discussed the number of wood-burning devices in the Bay Area; effective dates of the provisions of the proposed rule; the nexus for the focus on the rental properties, instead of all properties, in areas without natural gas service; the timing of, plans for and general policy direction regarding the complete banning of wood burning on Spare the Air Days and in general; whether, and for which devices, the public will be able to get incentive funding under the newly narrowed exemptions; what county partnerships with the Air District are in place to address both indoor and outdoor air quality; the importance of outreach and coordination; the existence and sharing of a model ordinance for local governments; clarification regarding a lack of incentives for wood-burning devices; the value of a well-crafted real estate disclosure and support for the same regarding fireplaces; a suggestion to look at and include group homes in the upcoming staff analysis; whether existing U.S. Environmental Protection Agency (EPA)-certified devices will have to be replaced or upgraded; what will trigger the installation work required of rental properties; support for aligning the timeline for the disclosure requirement with that of the rental installation; clarification of the PM<sub>2.5</sub> reductions expected; the cost of electricity assumed by staff in preparing the presentation; whether natural gas devices will be incentivized; the difference in operational costs between gas and electric devices; support for incentivizing the cleanest devices possible, particularly if the difference in cost is negligible; an update on staff efforts to tailor a targeted response to high-impact regions; support for incentivizing EPA-certified wood-burning devices; whether a home built on 20 acres would be allowed a fireplace; to whom the legal responsibility attaches for the rental property provisions and why; concern about the requirements in the rental property provisions not being properly assigned to the property owner, and instead being placed on the tenant, through a loophole under the currently proposed language; and concern about the impact on the housing market of singling out rental properties.

Public Comments:

Jessica Epston, Silicon Valley Association of Realtors (SILVAR), addressed the Board regarding the fairness of the rulemaking process, to share a readiness to implement the disclosures and to request a postponement of the effective date of the same to allow for a more robust education campaign.

Mark Burns, SILVAR / Peninsula Regional Data Service, addressed the Board regarding readiness to implement the disclosures and to request a postponement of the effective date because of the scope of the process.

Porfirio Regna, Travis Industries, addressed the Board regarding emissions data regarding EPA-certified wood-burning devices in support of incentivizing the same.

Shannon Wright, Hearth, Patio & Barbecue Association (HPBA) / Travis Industries, addressed the Board regarding emissions data regarding EPA-certified wood-burning devices in support of incentivizing the same.

Jay Hanson, HPBA Pacific, addressed the Board to opine that current data suggests current PM<sub>2.5</sub> levels to be the result of gross polluters and to request the Air District incentivize removal of pre-EPA-certified devices to achieve ambient air quality targets.

Andrew Ferguson, North Bay Clean Energy Forum, addressed the Board to provide heat pump data regarding cost and use, their success in other markets and their increasing effectiveness through technological advancements.

Eleanor Butchart, On Fire Santa Rosa, addressed the Board regarding her professional experience helping clients to upgrade their heating sources over the years and provide data on the same.

David Kasten, Creative Energy, addressed the Board in support of gas fireplace inserts and the plugging of chimneys that are not in use.

Ryan Karcich addressed the Board to provide data on heating devices sold and air quality improvements achieved and in opposition to not incentivizing the purchase of gas-powered and EPA-certified wood-burning devices.

Sarah Chandler, HPBA, addressed the Board to question the policy focus of removing or altering the behavior of those deemed gross polluters instead of nurturing a net environmental impact viewpoint.

Colleen Hicks addressed the Board in support of incentivizing electric heat pumps.

Patti Weisselberg, Families for Clean Air (FCA), addressed the Board regarding the incomplete data and CEQA analysis and in support of expanding the proposed rental property requirement beyond the specified areas and to require yet cleaner devices.

Susan Goldsborough, FCA, addressed the Board in support of the proposed rulemaking; to request a robust and regionally balanced enforcement program; and to share her personal story of selling a residence to escape poor air quality in the San Geronimo Valley.

Ken Mandelbaum read a statement from Jenny Bard, American Lung Association, and then addressed the Board on his own behalf, both in support of incentivizing the installation of electric heat pumps.

Bob Feinbaum addressed the Board in opposition to providing any exemptions; to ask why the Air District does not incentivize the extension of natural gas lines by PG&E to unserved areas; and to suggest that the proposed incentives are both inadequate and ill-timed.

Tom Silva, Rental Housing Association, submitted written material entitled, *Comments on August 17, 2015 Staff Report Regulation 6: Particulate Matter & Visible Emissions Rule 3 Wood Burning Devices*, and addressed the Board to request a postponement of the effective date of the disclosures requirement, greater specificity in the provisions regarding \$15,000 remodels, and further review of the provisions specific to landlords.

Jed Holtzman, 350 Bay Area / Sierra Club, addressed the Board in support of the proposed rulemaking with the incentive program included at the same time and to suggest the cost in staff

models is flawed because it calculated gas prices during a supply glut when the real cost difference is negligible, particularly in light of the projected air quality gains.

Tony Fisher, Coalition for Clean Air, addressed the Board in opposition to the current proposals regarding the sale or transfer of real property and the \$15,000 threshold for chimney and fireplace projects and in support of the Air District staff proposal regarding the same, dated March 2015.

Janice Blumenkrantz, League of Women Voters Bay Area, provided written material entitled, *Item 11 – Wood Burning Devices*, and addressed the Board to read from the same.

Stephanie Oxley, FCA, addressed the Board regarding concern regarding exemptions in areas without natural gas service and the uncertain impact of incentive funding.

Richard Gray, 350 Marin, addressed the Board to suggest air quality has not improved in the San Geronimo Valley despite the good work of the Air District; and in opposition to the bifurcation of incentivizing as well as the incentivizing of any non-electric devices.

Tracey Gant, FCA, addressed the Board in support of incentivizing only non-combustion heating devices and to opine that lab data on EPA-certified devices conflicts with that collected in the real world.

#### Board Comments (continued):

The Board and staff discussed the ongoing concerns about what and how to properly incentivize; the status of group homes; support for staff work to develop a program to find and attempt collaboration with gross polluters to bring about change; staff suggestion to postpone and Board member suggestion to advance the effective date of the real estate disclosure requirement; clarification of the rental loophole language and the staff recommendation that the Board adopt the staff recommendation today with direction to staff to propose refined rental language in the future; the reasoning for the bifurcation of incentive funding; staff response to the concerns expressed in the letter from the Rental Housing Owners Association of Southern Alameda County, dated August 26, 2015; Board member support for and opposition to postponing the disclosure requirement to November 2016; whether staff believe EPA-certified devices will result in air quality and climate change improvements and the proper stance for the incentivizing of the same; the successful balance of interests achieved in the staff proposal; support for not incentivizing wood-burning devices; the need to improve rental property language to avoid the penalization of tenants; the desire for improvements to the enforcement program; the value of working with permitting authorities in local government to streamline the permit process for these projects; PM<sub>2.5</sub> decreases expected; opposition to bifurcating the incentives component; support for incentivizing only non-wood burning devices; desire for a discussion about how to encourage tenants to decrease their use of wood-burning devices; support for eventually eliminating the sole source of heat exemption; industry concerns about false triggers of the provisions relative to remodels; a desire to see some deference for those residing on acreage with limited public health impact; discussions between air districts regarding wood smoke, particulate matter and greenhouse gases; the staff response to a suggestion that current PM<sub>2.5</sub> levels are the result of gross polluters and the subsequent request that the Air District incentivize removal of pre-EPA-certified devices to achieve ambient air quality targets; support for the staff recommendation and accelerating

work on the incentives component; concern about an eventual conflict between the Air District and certain constituencies regarding EPA-certified devices; the value of taking old, poorly functioning fireplaces out of service even when replaced with EPA-certified devices; and clarification of the staff proposals today and in the near future.

Board Action:

Director Hudson made a motion, seconded by Director Canepa, to adopt the proposed amendments to Regulation 6: Rule 3: Wood Burning Devices and the Negative Declaration pursuant to CEQA.

Board Comments (continued):

The Board and staff discussed a desire for staff feedback on the question regarding deference for those residing on acreage whose emissions have a limited public health impact and the Air District's full compliance with the applicable CEQA requirements.

Board Action (continued):

The motion carried by the following vote of the Board:

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

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

13. **BOARD MEMBERS' COMMENTS:** None.

**OTHER BUSINESS**

14. **Report of the Executive Officer/APCO:** None.

15. **Chairperson's Report:**

Chair Groom announced the cancellation of the Board meeting on November 4, 2015.

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

Wednesday, November 18, 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.

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