

Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105
(415) 749-5073

Board of Directors Regular Meeting
Wednesday, December 7, 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 10:00 a.m.

Roll Call:

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

Absent: Directors Pauline Russo Cutter, Carole Groom, Tyrone Jue, Jan Pepper, and Warren Slocum.

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

Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3

Susan Gustofson, Valero, reiterated a public comment that she made to the Board in June 2016, urging the Board to conduct a more robust and comprehensive assessment of the proposed fee structure (regarding Regulation 3: Fees). Ms. Gustofson said that she would like to see this happen earlier in the fiscal year, in parallel with the budget, as a more transparent approach of justifying program cost containment.

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

El Cerrito resident, Ruby Macdonald, advocated for caps on refinery emissions due to her belief that refineries are resilient enough to withstand whatever impacts caps may cause to refinery operations.

Greg Karras, Communities for a Better Environment, spoke about the state ruling which voided the Environmental Impact Report (EIR) and Land Use Permit that Contra Costa County approved for the Phillips 66 refinery's liquefied petroleum gas project in Rodeo, and urged the District to revoke this project's invalid air permits immediately.

Martinez resident, Tom Lewis, said that it is important to protect people from themselves and urged the Board to pass proposed Rule 12-16, despite the refineries' opposition to Rule 12-16.

Jeff Lord, Valero, described the pride he takes in seeing a refinery project's evolution, from concept to installation, insisted that high-quality improvements are constantly made to protect the community's health, and urged the Board to consider the people whose labor keeps the economy strong.

Rick Purser, Eichleay, opposed both proposed Rules 11-18 and 12-16, saying that current standards are already strict, and that the Board should consider sound science when voting on new rules.

Liz Roberts, Chevron, acknowledged Chevron's safety culture and the financial contributions that Chevron has made to the community of Richmond.

Palo Alto resident, Stephen Rosenblum, said that he felt that certain District producers discourage public input, and urged the District to hold Closed Sessions either before or after Board meetings, as well as create an email aggregate so that the public may send the Board correspondence directly.

Aimee Lohr, Phillips 66, asked the Board not to forget all of the good that the refineries do for their communities, such as giving back to schools and veterans, and making it possible for people to travel.

Bill Gamba, Phillips 66, said that the Bay Area refineries produce the cleanest fuel in the world, and that capping greenhouse gas (GHG) emissions at refineries would result in leakage.

Vallejo resident, Heather Blithely, requested that the District reassess the air monitoring needs in the City of Vallejo, as there is one air monitoring sensor located in central Vallejo, but none near the water, where oil spills have occurred in the past.

Richard Quiroz, Chevron, said that the District's stakeholder meeting process regarding the development of the two proposed refinery rules, 12-16 and 11-18, has not been balanced, and that failing to recognize the role of refineries will result in unintended consequences.

Scott Shapiro, Chevron, stated that he appreciates the rules that the District has implemented to ensure safe air for the community, but that the new proposed refinery rules are clearly targeted at pushing refining out of the Bay Area, causing leakage.

Richard Gray, 350 Bay Area, said that the District is failing to monitor fence line pollution impacts adequately because it allows refineries to self-regulate, and this should stop.

Vallejo resident, Ken Szutu, said that despite refineries' sustainable and safe practices, refinery-related incidents that impact public health still occur. Mr. Szutu also promoted citizen monitoring, saying that the public should become more engaged and familiar with low-cost weather monitoring tools.

Woodacre resident, Eileen Schatz, spoke of her concern regarding the levels of asthma in children and older adults in lower-income communities of the Bay Area, and urged the Board to separate the EIR into two and cap emissions at refineries immediately.

Mark Brett, Anvil Corporation, opposed both proposed rules 12-16 and 11-18, saying that refineries have evolved to produce clean fuel and decrease their toxic air contaminant emission levels, that the public depends on refinery products, and that the Board should make its decisions based upon scientific facts, and not on emotions.

Walt Gill, Chevron, acknowledged the efforts and contributions of Chair Mar and Director Bates.

NOTED PRESENT: Director Spring was noted present at 10:25 a.m.

Jack Broadbent, Executive Officer/Air Pollution Control Officer, stated that every refinery in the Bay Area has fence line monitoring and will soon have neighborhood monitoring, which was made possible by fee increases approved by the Board last year.

Chair Mar suggested that Closed Session be pushed to the end of the Board meetings and that Report of the Executive Officer (regarding the development of proposed Rules 12-16 and 11-18) be moved to the beginning of the agenda, before the Consent Calendar.

COMMENDATIONS/PROCLAMATIONS/AWARDS

3. Recognition of Outgoing Board Chairperson

The Board of Directors recognized outgoing Board Chairperson Eric Mar for his outstanding leadership as Chair of the Board of Directors in 2016. Incoming Board Chairperson, Liz Kniss, listed Chair Mar's accomplishments as Chair, and Board members congratulated Chair Mar and praised his contributions. Chair Mar thanked the Board and staff, mentioned his plans to go back to teaching, and encouraged the remaining Board members to experience the Refinery Corridor Healing Walks that are offered by Native Americans in Prayer.

Public Comments:

Jed Holtzman, 350 Bay Area, thanked Chair Mar his service to the District and commended his commitment to community input, grassroots advocacy, environmental justice, and bottom-up leadership.

4. Recognition of Four Outgoing Board Members

The Board of Directors presented the "Lifetime Achievement Award" to Director Tom Bates for his service, leadership, and dedication to protecting air quality in the Bay Area. Chair Mar listed the highlights of Director Bates' entire career, as well as his accomplishments while with the Air District. Board members and staff also recognized Director Bates' longevity and leadership in politics and offered their thanks. Director Bates urged the regional agencies of the Bay Area to meet the challenges that will result from the incoming Presidential administration in unison, and praised the Bay Area for its innovation.

The Board of Directors also recognized the accomplishments of outgoing Directors John Avalos and Osby Davis, who are terming out of office, and Director David Canepa, who will be transitioning from his Council seat at the City of Daly City to the San Mateo County Board of Supervisors. After Board

members gave individual remarks, which credited the outgoing Board Members for balancing local and regional perspectives, Director Davis urged the Board to do what is right, rather than what is popular, Director Canepa thanked both the industry and community advocates for their courage, and Director Avalos said that he would be attending District Board meetings as a community activist.

Public Comments:

Jed Holzman, 350 Bay Area, thanked Director Avalos for being especially attentive to climate advocates and for helping develop and elevate the District's Regional Climate Protection Strategy.

OTHER BUSINESS

5. Report of the Executive Officer/APCO: Update on Progress of Regulation 11, Rule 18 and Regulation 12, Rule 16 (OUT OF ORDER, ITEM 15)

NOTED PRESENT: Director Miley was noted present at 11:22 a.m.

Mr. Broadbent first gave a brief air quality summary as part of his report, noting that the District has not yet had to call a Winter Spare the Air Alert and that the Bay Area has not exceeded the Federal Ambient Air Quality Standards during this winter season. Regarding the progress of proposed Rules 11-18 and 12-16, Mr. Broadbent displayed the updated proposed EIR schedule and reported that staff is currently reviewing comments received on the California Environmental Quality Act (CEQA) / Initial Study.

Board Comments Prior to Public Comments:

The Board and staff discussed the public's concern for assurance that proposed Rule 12-16 may still come before the Board for consideration in May 2017 as planned, even if proposed Rule 11-18 within the same EIR is delayed; staff's opinion that severing the single EIR into two will not accelerate the adoption of Rule 12-16; the reiteration of the fact that this item will remain a non-action item until May 2017 and the acknowledgment that the monthly staff updates have been generating a high volume of public comments which dominate the majority of the meeting and compromise actual action items; how the District will use the revised Scoping Plan of the California Air Resources Board (CARB) to enhance District rulemakings, rather than duplicate or exceed CARB's efforts; the industrial sector strategy proposed in CARB's Draft Scoping Plan regarding efficiency improvement opportunities at stationary sources, and the new partnerships between CARB and local air districts that may result; CARB's speculation of how the Cap and Trade Program or a carbon tax may affect the mid-term GHG reduction target for California of 40 percent below 1990 levels by 2030; the practicality of accelerating the adoption of District rules, despite the possibility of having to amend District rules that are approved prior to the adoption of new CARB regulations; and the Board's request that action items be considered and voted upon prior to the discussion of informational items, even if those informational items may generate substantial public comments.

Public Comments:

San Mateo resident, Mark Roest, urged the Board to separate the EIR into two in order to prevent the delay of capping emissions at refineries.

Cupertino resident, Gary Latshaw, supported Rule 12-16, urging the Board not to allow the refineries to increase their GHG emission levels or accommodate high-density crudes.

Bob Lilley, Contra Costa Electric, said that throughout his career within the industry, he has seen the air become cleaner and working and living conditions become safer.

Jack Lucero Fleck, 350 Bay Area, referred to the language of Section 5 of AB 197 to demonstrate that the Board has the authority to prioritize regulations that result in direct emission reductions at large stationary sources of greenhouse gas emissions. Director Gioia noted that this legislation is direction to CARB, and not to local air districts.

Brian Ruff, Shell, said that he was proud that Shell provides jobs for so many people while respecting the environment, and that he feels safe raising his children downwind of the Shell refinery. Mr. Ruff said that if regulations do not continue to let Bay Area refineries meet demand, product will have to be imported from less sustainable facilities.

Charles Han, Shell, said that he appreciates the good intentions behind the proposed rules which are meant to preserve children's health, but that he believes that the details of these rules will lead to unintended consequences, such as leakage.

Laura Pagano, Bay Area Clean Water Agencies, requested an extension of the EIR process so that local wastewater agencies may have more time to participate.

Alvin Lim, Shell, urged the Board to consider sound science when voting on regulations.

Robert Peters, Shell, said that Shell goes to extremes to operate safely and that Shell employees take pride in their work.

Berkeley resident, Dr. Claire Broome, said that she believes that Rule 12-16 would be consistent with CARB's Draft Scoping Plan.

Fairfield resident, Mike Easter, expressed his concern that if the Board disregards staff recommendations, irreparable results will occur.

Mark Webster, Shell, said that he moved his family here because of the good things he heard about the Bay Area refineries, and now he has seen that they are the cleanest in the world. Mr. Webster said that he will encourage other agencies to partner with the community and industry in order to make progressive change, as the District has demonstrated.

George Smith, East Bay Leadership Council, said that proposed Rule 11-18 is inconsistent with the proposed amendments to District Rule 2-5, and will impact many businesses, hospitals, and schools that do not foresee the regulations that this rule imposes.

Bob Brown, Western States Petroleum Association (WSPA), said that WSPA continues to support staff's recommendation of having both rules under a single EIR, and has submitted its concerns regarding both rules.

Robert Payn, Shell, said that without good-quality facts, clarity, and refinery engagement, changes to regulation can be harmful to the environment.

Debbie Meeks, Criterion Catalysts & Technologies, expressed her concern about the impact that these rules may have on her company's operations, which serve the refineries.

Bob Gutierrez, California Hispanic Chamber of Commerce, asked the Board to remember that when refinery operations are impacted by regulation, the community organizations and small businesses that benefit from the generosity of the refinery industry also suffer.

Janet Stromberg, 350 Bay Area, said that there is no urgency to adopt Rule 11-18, but that Rule 12-16 is urgent. Ms. Stromberg also said that taking the time to address comments on rule 11-18 will also delay Rule 12-16, and that the rules should be developed and considered separately.

Frances Aubrey, Alameda Interfaith Climate Action Network, urged the Board to act according to what is right, and not based upon pressure from the industry.

Ella Marie Kallois, Roberts Companies, asked the Board members that do not have a refinery in their jurisdiction, or who are not apprised of Bay Area refinery activities and the refining process, to defer to staff recommendations on the regulations.

Don England, Tesoro, urged the Board to defer to staff recommendations and said that Rule 12-16 would result in minimal environmental solutions and maximum economic consequences.

Iren Suhami, Valero, reiterated her request from November in which she asked that District staff recalculate the Valero refinery's proposed numeric cap calculations, including 2010 as a baseline year. Ms. Suhami said that 2010 had not been included in the original calculation and also requested a reason as to why.

Lori Schectel, Central Contra Costa County Sanitary District, said that she supports the intent of proposed Rule 11-18, but not the rule in its current form because of the excessive costs, aggressive implementation schedule, and conflicting GHG-reduction goals.

Carolyn Bowden, California Nurses Association, said that if the Board can guarantee that there will be two complete EIR studies by May 2017, one full analysis of each rule, the environmental organizations will cease to comment until then.

David Wong, Valero, said that he believes that the Risk Reduction Level from Rule 11-18 lacks scientific basis.

Justin Shapiro, Tesoro, said that he is concerned with some of the conditions of Rule 12-16, and hopes that the Board will carefully consider the rule's socioeconomic analysis in March 2017.

Gordon Johnson, Shell, said that it is unclear how the caps in Rule 12-16 were calculated and that the methodology should be transparent before regulations are approved.

Steve Nadel, Sunflower Alliance, predicted that Rule 11-18 will not be completed as scheduled, and urged the Board to separate the EIR into two.

Randy Schmidt, Bay Area Clean Water Agencies, said that the costs for businesses and public agencies having to comply with Rule 11-18 are too excessive and that the rule's proposed schedule is too aggressive.

Oakland resident, Dr. Heather Kuiper, supported Rule 12-16 and said that community activists will continue to provide the Board with health evidence in order to understand the health benefits of the rule and the implications of failing to implement it.

Sharon Evans, Phillips 66, said that local GHG caps are unlikely to improve air quality but will impact refinery production levels and the economy, and asked that the Board follow the recommendations of the District's Advisory Council and staff.

Charles Davidson, Sunflower Alliance, spoke about the association between high-GHG refinery processes and Particulate Matter.

Debi Lowe, Phillips 66, urged the Board to consider the potential impact on low-income families and the economy if refinery operations are curtailed.

David Gassman, No Coal in Oakland, urged the District to adhere to its committed rulemaking schedule.

Martinez resident, Lynn McGuire, urged staff to increase its outreach of Rule 11-18 to businesses in order to supply accurate representative data and allow for their review of health risks.

Walt Gill, Chevron, said that Chevron continues to support the analysis of Rules 12-16 and 11-18 in a combined EIR.

Ella Teevan, Food & Water Watch, requested the severance of the rules into two separate EIRs.

Steven Yang, Chevron, urged the Board not to adopt Rule 12-16, saying that diesel PM is the primary driver of health risk, and as this rule will not monitor diesel PM, it will not be effective. Mr. Yang also said that adopting this rule will set precedent that federal provisions can be disregarded.

Richard Gray, 350 Bay Area, disputed language from the Draft Staff Report regarding the District's claim that Air District maximum readings for PM2.5 and NOx do not come from the refinery-area monitors, and reminded the Board that fence line monitors have not yet been installed.

Palo Alto resident, Stephen Rosenblum, suggested that the reason that a large number of people continuously attend Board meetings solely for this item, even though action will not be taken until May 2017, is because it has taken five years for the District to come this far with the development of Rule 12-16 and people are worried about the motivation of staff now that it is being developed.

Bill Gamba, United Steelworkers, said that local refinery caps will not lower the GHG emissions, but will undermine the Cap and Trade Program and hurt the economy.

Richmond resident, Zeva Longley, said that she lives near the Chevron refinery and has lost multiple neighbors to cancer and other diseases. Ms. Longley requested the accelerated installation of fence line monitors and subsequent data analyzation.

Matt Regan, Bay Area Council, said that he is pleased to hear of staff's enhanced outreach to businesses regarding the development of Rule 11-18, and also urged the Board to understand that the largest determinant of health is having a job and health insurance.

Ratha Lai, Asian Pacific Environmental Network, thanked the Board for listening to listening to so many public comments on multiple occasions regarding this issue, and also said that the scoping of Rule 11-18 is currently prolonging the EIR process.

Rebecca Milliken, Berkeley Climate Action Coalition and Ecology Center, urged for the separation of the rules into two EIRS so that Rule 12-16 may progress.

Nicole Liner, Berkeley Climate Action Coalition and Ecology Center, urged the Board to assess the rules separately and swiftly adopt Rule 12-16.

San Leandro resident, Lawrence Abbott, supported Rule 12-16 and requested that the rules be separated into two EIRs.

Albert Kueffner, Alameda Interfaith Climate Action Network, commented on the conflicting objectives of Rules 12-16 and 11-18 and urged the Board to separate them into two EIRs.

Bettina Hughes, 350 Marin, requested collection and analysis of independent fence line pollution and GHG data from refineries, and urged the District to include this in its study of these rules.

Sarah Deslauriers, California Association of Sanitation Agencies, said that Rule 11-18 may discourage the production and beneficial use of bio gas for generating renewable energy.

Laurie Mintzer, Chevron, expressed her concern that the Board is continuing toward adoption of a rule crafted by activists, despite staff's recommendations.

Paul Alder, Phillips 66, supported the Advisory Council's recommendation to not pursue local GHG caps at refineries, emphasizing that a Bay Area cap would force a reduction in this region's refining production capacity, even though the State's need for fuel consumption will remain the same.

Kate Malcom, Chevron, said that adopting a rule developed by activists without consideration of the regulatory community's comments, and against the advice of technical experts, conflicts with the District's mission statement.

Brenda Kuehnle, Chevron, said that refineries provide living wage to the general population, that the health risks from Bay Area refineries are small, and curtailing Bay Area refinery operations will impact the economy.

Brent Eastep, Phillips 66, requested clarification on the cancer risk action level threshold, 25 per million versus 10 per million, as he encountered two sources with conflicting numbers.

Brittany King, Sierra Club, urged the Board to separate the EIR into two, as she she sees mixed messages being given to the public by staff regarding the EIR schedule.

Suejung Shin, Phillips 66, urged the Board to read the staff report thoroughly, especially the science-based conclusions and evidence from CARB.

Board Comments Following Public Comments:

The Board and staff discussed staff’s intent to bring both rules to the Board for consideration in May 2017 with one socioeconomic impact analysis; the types of facilities that would be affected by Rule 11-18; staff’s assurance that both rules will be equally analyzed; public health versus “planet health”; concern that the Board is being pressured to accelerate the adoption of a rule, despite the fact that the rule opposes what the Advisory Council and staff have recommended; legal concerns regarding CARB’s revised Scoping Plan, and whether or not supporting CARB would limit the District’s liability or exposure; and staff’s intended significance of Rule 11-18.

At Director Kaplan’s direction, Mr. Broadbent confirmed that Rule 12-16 will brought to the Board for consideration in May 2017, regardless of whether or not Rule 11-18 is still on schedule at that time.

Board Action:

None; file and receive.

CONSENT CALENDAR (ITEMS 5-7)

6. **Minutes of the Board of Directors Regular Meeting of November 16, 2016 (ITEM 5)**
7. **Board Communications Received from November 16, 2016 through December 6, 2016 (ITEM 6)**
8. **Proposed Regulatory Agenda for 2017 (ITEM 7)**

Public Comments:

No requests received.

Board Comments:

The Board and staff discussed the development of the Draft Regulatory Measures List in Item 7, Proposed Regulatory Agenda for 2017.

Board Action:

Director Mitchoff made a motion, seconded by Director Spering, to **approve** the Consent Calendar Items 5 through 7, inclusive; and the motion **carried** by the following vote of the Board:

- | | |
|-------|--|
| AYES: | Avalos, Bates, Canepa, Chavez, Gioia, Haggerty, Hudson, Kaplan, Kniss, Mar, Miley, Mitchoff, Rice, Ross, Spering, and Wagenknecht. |
| NOES: | None. |

ABSTAIN: None.

ABSENT: Barrett, Cutter, Davis, Groom, Jue, Pepper, Sinks, Slocum, and Zane.

COMMITTEE REPORTS

9. Report of the Climate Protection Committee Meeting of November 17, 2016 (ITEM 8)

In the interest of time, the Climate Protection Committee Chair Report was not read, though it was distributed to all Board members.

Public Comments:

No requests received.

Board Comments:

None.

Board Action:

None; receive and file.

10. Report of the Executive Committee Meeting of November 21, 2016 (ITEM 9)

In the interest of time, the Executive Committee Chair Report was not read, though it was distributed to all Board members.

Public Comments:

No requests received.

Board Comments:

None.

Board Action:

None; receive and file.

PUBLIC HEARING

11. Public Hearing to Consider Adoption of Proposed Amendments to Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants and Adoption of a Negative Declaration Pursuant to the California Environmental Quality Act (ITEM 10)

Damian Breen, Deputy Air Pollution Control Officer, introduced Sanjeev Kamboj, Engineering Division Manager, who gave the staff presentation *Public Hearing to Consider Adoption of Proposed Amendments to Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants*, including: outline;

effectiveness of control programs; stationary source programs; Regulation 2, Rule 5 new source review for toxic air contaminants; summary of Rule 2-5; proposed Rule 2-5 changes; impacts of Rule 2-5 revisions; CEQA analysis; socioeconomic analysis; public outreach comments and responses from open houses and on public hearing documents; and recommendations.

Public Comments:

Shawn Lee, Chevron, expressed his concern that the socioeconomic analysis is inaccurate and not inclusive of the industry.

Susan Gustofson, Valero, said that staff did an inadequate job at responding to the latest comments provided, specifically regarding the interaction of Rule 2-5 and proposed Rule 11-18. Ms. Gustofsen said that unintended impacts have not been addressed by staff and that this rule should not be adopted as amended.

Brent Eastep, Phillips 66, said that he did not understand why the District would not allow for net health risk benefit projects or consider decreases in toxics in the analysis for all types of sources. Director Gioia challenged the validity of Mr. Eastep's statement.

Suejung Shin, Phillips 66, remarked that thorough consideration of public comments may have been overlooked by the District, as there was only one week between the deadline for public comments and consideration for adoption.

Iren Suhami, Valero, said that this amended rule does not take into account all of the projects that proposed Rule 11-18 will generate.

Paul Adler, Phillips 66, said that there is a lack of outreach to non-refinery facilities that will be impacted by these amendments.

Board Comments:

The Board and staff discussed the new calculated state cancer risk based on the Office of Environmental Health Hazard Assessment's 2015 Health Risk Assessment Guidelines; potentially significant impacts of individual projects and technical feasibility of risk limits; the need for an increase in workshops and better criteria for identifying workshop locations; enhanced outreach efforts to impacted areas; and the difference between this rule and proposed Rule 11-18 (Best Available Control Technology versus Best Available Retrofit Control Technology.)

Board Action:

Director Gioia made a motion, seconded by Director Wagenknecht, to **approve** the amendments to Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants; and the motion **carried** by the following vote of the Board:

AYES:	Avalos, Bates, Canepa, Chavez, Gioia, Hudson, Kaplan, Kniss, Mar, Rice, Ross, Spering, and Wagenknecht.
NOES:	None.

ABSTAIN: None.

ABSENT: Barrett, Cutter, Davis, Groom, Haggerty, Jue, Miley, Mitchoff, Pepper, Sinks, Slocum, and Zane.

PRESENTATION

12. Regulation 6, Rule 3: Wood Burning Devices and Winter Spare the Air Messaging Program (ITEM 11)

In the interest of time, Mr. Broadbent suggested that this presentation be emailed to the Board members and brought back to the Board at a later date, and Chair Mar authorized Mr. Broadbent's suggestion.

Public Comments:

Richard Gray, 350 Bay Area, said that he hopes that this successful program will eventually phase out natural gas device incentives and move solely to wood to electric transfers.

Bettina Hughes, 350 Marin, said that she hopes that other incentives, such as insulation and solar panels, will eventually be incorporated into the program. Ms. Hughes also said that Forest Knolls is an area with a high volume of wood smoke, but she does not see District enforcement in the area.

Board Comments:

The Board and staff discussed the highest incentive of the program, which is electric heat pumps, due to their lack of emissions.

Board Action:

None; receive and file.

CLOSED SESSION (commenced at 1:23 p.m.)

13. CONFERENCE WITH LEGAL COUNSEL (ITEM 12)

EXISTING LITIGATION (Government Code Section 54956.9(a))

Pursuant to Government Code Section 54956.9(a), a need exists to meet in closed session with legal counsel to consider the following cases:

- a) **Valero Refining Company – California, and Tesoro Refining & Marketing Company, LLC v. Bay Area AQMD**, Contra Costa County Superior Court, Case No. N16-0095

Brian Bunger, District Counsel, said that there was no reportable action on this item.

- b) **Western States Petroleum Association, Valero Refining Company – California, Tesoro Refining and Marketing Company, LLC, and Phillips 66 Company v. Bay Area AQMD**, Contra Costa County Superior Court, Case No. N16-0963

Brian Bunger, District Counsel, said that there was no reportable action on this item.

OPEN SESSION (commenced at 1:38 p.m.)

PUBLIC COMMENT ON NON-AGENDA MATTERS

14. **Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3 (ITEM 13)**

No requests received.

BOARD MEMBERS' COMMENTS

15. **Board Members' Comments (ITEM 14)**

None.

OTHER BUSINESS CONTINUED

16. **Chairperson's Report**

Chair Mar announced that Director Ross was reappointed for another two-year term on this Board, and that Director Miley was reappointed for another four-year term. Chair Mar also reminded everyone that the January Board meeting is the Board's Annual retreat and is presumed to be offsite.

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

Wednesday, January 18, 2017, (location to be determined) at 9:45 a.m.

18. **Adjournment**

The Board meeting adjourned at 1:40 p.m. in honor of the victims of the Oakland Ghost Ship warehouse fire.

MS/ Marcy Hiratzka
Marcy Hiratzka
Clerk of the Boards