

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

Board of Directors Regular Meeting
Wednesday, May 1, 2019

APPROVED MINUTES

*Note: Audio recordings of the meeting are available on the website of the
Bay Area Air Quality Management District at
www.baaqmd.gov/bodagendas*

CALL TO ORDER

1. **Opening Comments:** Board of Directors (Board) Chairperson, Katie Rice, called the meeting to order at 9:37 a.m.

Roll Call:

Present: Chairperson Katie Rice; Vice Chair Rod Sinks; Secretary Cindy Chavez; and Directors Teresa Barrett, David J. Canepa, John Gioia, Carole Groom, David Hudson, Tyrone Jue, Doug Kim, Liz Kniss, Gordon Mar, Karen Mitchoff, Mark Ross, Brad Wagenknecht, and Lori Wilson.

Absent: Directors Margaret Abe-Koga, John J. Bauters, Pauline Russo Cutter, Scott Haggerty, Nate Miley, Jim Spering, and Shirlee Zane.

PUBLIC COMMENT ON NON-AGENDA MATTERS

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

No requests received.

CLOSED SESSION (9:39 a.m.)

NOTED PRESENT: Director Kim was noted present at 9:43 a.m.

3. **CONFERENCE WITH LEGAL COUNSEL**

A. **EXISTING LITIGATION (Government Code Section 54956.9(a))**

Pursuant to Government Code Section 54945.9(a), a need exists to meet in closed session with legal counsel to consider the following case:

Michael Bachmann and Sarah Steele v. Bay Area AQMD, Contra Costa County Superior Court, Case No. C17-01565

REPORT OUT: Brian Bunger, Air District Counsel, reported that there was no reportable action for Item 3A.

B. **ANTICIPATED LITIGATION Government Code Section 54956.9 (c))**

Pursuant to Government Code Section 54956.9 (c), a need exists to meet in closed session with legal counsel to consider the initiation of litigation for one potential case.

REPORT OUT: Mr. Bunger reported that the Board authorized Air District staff to file a petition in the District of Columbia Court of Appeals, when and if the United States Environmental Protection Agency finalizes its proposed rule on vehicle emissions standards, assuming the proposed language does not significantly change.

OPEN SESSION (9:58 a.m.)

CONSENT CALENDAR (ITEMS 4 – 13)

4. **Minutes of the Regular Board of Directors Regular Meeting of April 3, 2019**
5. **Board Communications Received from April 3, 2019 through April 30, 2019**
6. **Air District Personnel on Out-of-State Business Travel**
7. **Notices of Violations Issued and Settlements in Excess of \$10,000 in the month of March 2019**
8. **Consider Authorization to Execute Contract Amendment with West Oakland Environmental Indicators Project**
9. **Quarterly Report of California Air Resources Board Representative – Honorable John Gioia**
10. **Quarterly Report of the Executive Office and Division Activities for the Months of January 2019 – March 2019**
11. **Participation in Community Air Protection Program Fiscal Year Ending (FYE) 2019**
12. **Consider Authorization of a Contract Extension and Execution of a Purchase Order in Excess of \$100,000 to Technical and Business Systems Pursuant to Administrative Code Division II Fiscal Policies and Procedures, Section 4.3 Contract Limitations, for Continued Operation of the BioWatch Monitoring Network**
13. **Consider Authorization to Add a Limited Time and Cost Extension to a Contract to Fund Aircraft-Based Wind Measurements in a Cooperative Project to Assess Methane Emissions from Sources with Bay Area Facilities**

Public Comments

No requests received.

Board Comments

None.

Board Action

Director Wagenknecht made a motion, seconded by Director Hudson, to **approve** the Consent Calendar Items 4 through 13, inclusive; and the motion **carried** by the following vote of the Board:

AYES: Barrett, Chavez, Gioia, Groom, Hudson, Jue, Kim, Kniss, Mar, Mitchoff, Rice, Sinks, Wagenknecht, Wilson.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Bauters, Canepa, Cutter, Haggerty, Miley, Ross, Spring, Zane.

COMMITTEE REPORTS

14. Report of the Climate Protection Committee Meeting of April 22, 2019

Climate Protection Committee Chair, Teresa Barrett, read the following Committee report:

The Climate Protection Committee met on Monday, April 22, 2019, and approved the minutes of September 20, 2018.

The Committee received and discussed the staff presentation Update on Methane Strategy Rule Development Efforts.

The Committee then received and discussed the staff presentation Update on Region-Wide Carbon Dioxide Reduction Strategy.

In the interest of time, Air District staff suggested that the staff presentation Update on Community Choice Energy Study be tabled. The Committee members that were present agreed.

The next meeting of the Climate Protection Committee will be held at the Call of the Chair. This concludes the Chair report of the Climate Protection Committee.

Public Comments

No requests received.

Board Comments

None.

Board Action

None; receive and file.

15. Report of the Budget and Finance Committee Meeting of April 22, 2019

Budget and Finance Committee Chair, Carole Groom, read the following Committee report:

The Committee met on Monday, April 22, 2019, and approved the minutes of March 22, 2019.

The Committee reviewed and discussed the staff presentation Continued Discussion of Fiscal Year Ending 2020 Proposed Air District Budget and Consideration to Recommend Adoption. The Committee recommends the Board:

1. *Conduct Public Hearings on the Fiscal Year Ending 2020 Proposed Budget; and*
2. *Adopt the Fiscal Year Ending 2020 Proposed Budget*

Finally, the Committee reviewed and discussed the staff presentation Third Quarter Financial Report – Fiscal Year Ending June 2019.

The next meeting of the Budget and Finance Committee will be held on Wednesday, September 25, 2019, at 9:30 a.m. This concludes the Chair Report of the Budget and Finance Committee.

Public Comments

No requests received.

Board Comments

None.

Board Action

Director Groom made a motion, seconded by Director Hudson, to **approve** the recommendations of the Budget and Finance Committee; and the motion **carried** by the following vote of the Board:

AYES: Barrett, Chavez, Gioia, Groom, Hudson, Jue, Kim, Kniss, Mar, Mitchoff, Rice, Sinks, Wagenknecht, Wilson.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Bauters, Canepa, Cutter, Haggerty, Miley, Ross, Spering, Zane.

16. Report of the Legislative Committee Meeting of April 24, 2019

Legislative Committee Chair, Doug Kim, read the following Committee report:

The Legislative Committee met on Wednesday, April 24, 2019, and approved the minutes of March 27, 2019.

The Committee considered new bills introduced as part of this California Legislative Session and position recommendations by staff. The Committee recommends that the Board of Directors adopts the following position:

- ***Assembly Bill 661 (McCarty)** – Requires the Sacramento Metropolitan Air Quality Management District to prepare a wildfire smoke air pollution emergency plan and conduct public education, with respect to wildfire smoke impact control measures. While the Air District’s Board of Directors had adopted a position of **OPPOSE UNLESS AMENDED** at the Legislative Committee’s recommendation on April 3, 2019, the Legislative Committee now recommends that the Board of Directors adopt a **WATCH** position, as the bill’s language has since been amended.*
- ***Senate Bill 732 (Allen)** – Authorizes the South Coast Air Quality Management District Board to impose a transaction and use tax within the boundaries of the South Coast District, with the moneys generated to be used for air quality programs. Air District staff recommended that the Committee refrains from taking a position on this bill at this time.*

The Committee then received a staff update on the status of Assembly Bill 836, an Air District-sponsored bill introduced by Assemblymember Buffy Wicks, to increase the number of publicly-accessible clean air spaces during emergency events, such as wildfires.

Finally, the Committee received an update on recent events of significance in Sacramento.

The next meeting of the Legislative Committee will be held on Wednesday, May 27, 2019. I move that the Board approve the Committee’s recommendation. This concludes the Chair’s report of the Legislative Committee.

Public Comments

No requests received.

Board Comments

None.

Board Action

Director Kim made a motion, seconded by Director Wagenknecht, to **approve** the recommendation of the Legislative Committee; and the motion **carried** by the following vote of the Board:

- AYES: Barrett, Chavez, Gioia, Groom, Hudson, Jue, Kim, Kniss, Mar, Mitchoff, Rice, Ross, Sinks, Wagenknecht, Wilson.
- NOES: None.
- ABSTAIN: None.
- ABSENT: Abe-Koga, Bauters, Canepa, Cutter, Haggerty, Miley, Spering, Zane.

17. **Report of the Mobile Source Committee Meeting of April 25, 2019**

Mobile Source Committee Member, David Hudson, read the following Committee report:

The Committee met on Thursday, April 25, 2019, and approved the minutes of March 28, 2019.

The Committee reviewed and discussed the staff presentation, Projects and Contracts with Proposed Grant Awards Over \$100,000. The Committee recommends the Board:

- 1. Approve recommended projects with proposed grant awards over \$100,000;*
- 2. Approve a change to Fiscal Year Ending 2019 Transportation Fund for Clean Air Regional Fund Policies and Fiscal Year Ending 2020 Transportation Fund for Clean Air County Program Manager Fund Policies to increase the cost-effectiveness limit for Pilot Trip Reduction projects;*
- 3. Authorize the Executive Officer/Air Pollution Control Officer to enter into all necessary agreements with applicants for the recommended projects.*

The Committee then reviewed and discussed the staff presentation Transportation Fund for Clean Air Funding for Shuttle and Ridesharing Projects. The Committee recommends the Board:

- 1. Approve a total award of up to \$3,000,000 in Transportation Fund for Clean Air funding for a three-year ridesharing project sponsored by the Metropolitan Transportation Commission; and*
- 2. Authorize the Executive Officer/Air Pollution Control Officer to enter into all necessary agreements with the Metropolitan Transportation Commission for the recommended project.*

The Committee then reviewed and discussed the staff presentation Fiscal Year Ending 2020 Transportation Fund for Clean Air County Program Manager Expenditure Plans & Alameda County Transportation Commission Policy Waiver Request. The Committee recommends the Board:

- 1. Approve the allocation of new Fiscal Year Ending 2020 Transportation for Clean Air County Program Manager funds proposed in the Expenditure Plans;*
- 2. Authorize the Executive Officer/Air Pollution Control Officer to enter into funding agreements with the County Program Managers for the total funds to be programmed in Fiscal Year Ending 2020; and*
- 3. Approve a policy waiver to allow the Alameda County Transportation Commission to use Transportation for Clean Air County Program Manager funds for a shuttle project.*

Finally, the Committee reviewed and discussed the staff presentation Electric Vehicle Ecosystem Update: Electric Vehicle Programs: Incentives and Awareness. The Committee recommends the Board:

- 1. Authorize the Executive Officer/Air Pollution Control Officer to execute a contract with the Center for Sustainable Energy in an amount not to exceed \$115,000 for services performed in Fiscal Year Ending 2019 and Fiscal Year Ending 2020 for electric vehicle market research services; and*

2. *Authorize the Executive Officer/Air Pollution Control Officer to execute a contract with Kearns and West in an amount not to exceed \$36,000 for services performed in Fiscal Year Ending 2019 and Fiscal Year Ending 2020 for meeting and stakeholder facilitation for the Bay Area Electric Vehicle Coordinating Council.*

The next meeting of the Mobile Source Committee will be held on Thursday, May 23, 2019, at 9:30 a.m. I move that the Board approve the Mobile Source Committee's recommendations. This concludes the Chair Report of the Mobile Source Committee.

Public Comments

No requests received.

Board Comments

None.

Board Action

Director Hudson made a motion, seconded by Director Mitchoff, to **approve** the recommendation of the Mobile Source Committee; and the motion **carried** by the following vote of the Board:

AYES: Barrett, Chavez, Gioia, Groom, Hudson, Jue, Kim, Kniss, Mar, Mitchoff, Rice, Ross, Sinks, Wagenknecht, Wilson.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Bauters, Canepa, Cutter, Haggerty, Miley, Spering, Zane.

18. Report of the Stationary Source Committee Meeting of April 29, 2019

Stationary Source Committee Chair, Rod Sinks, read the following Committee report:

The Committee met on Monday, April 29, 2019, and approved the minutes of March 18, 2019.

The Committee reviewed and discussed the staff presentation Update on Monitoring Activities at Refineries and in Nearby Communities.

Finally, the Committee reviewed and discussed the staff presentation Update on the Implementation of Refinery Regulations Regulation 12, Rule 15: Petroleum Refinery Emissions Tracking and Regulation 6, Rule 5: Particulate Emissions from Fluidized Catalytic Cracking Units.

The next meeting of the Committee will be held on Monday, July 15, 2019, at 9:30 a.m. This concludes the Chair report of the Stationary Source Committee.

Public Comments

No requests received.

Board Comments

None.

Board Action

None; receive and file.

PUBLIC HEARING

19. Public Hearing to Receive Testimony on Proposed Amendments to Air District Regulation 3: Fees for Fiscal Year Ending (FYE) 2020

Jack P. Broadbent, Executive Officer/Air Pollution Control Officer, stated that this is the first of two Public Hearings, the final public hearing and consideration of adoption of the proposed amendments being scheduled for June 5, 2019. Mr. Broadbent then introduced Pamela Leong, Director of Engineering, who gave the staff presentation *Proposed Amendments to Regulation 3: Fees*, including: agenda; revenue sources - FYE 2018; cost recovery background; trends in expenditures and cost recovery; proposed changes to fee schedules; other proposed amendments; impact on large facilities - power plants and petroleum refineries; impact on small businesses; Western States Petroleum Association (WSPA) and California Council for Environmental and Economic Balance (CCEEB) comments received; timekeeping improvements; and 2019 rule development schedule.

Chair Rice opened the Public Hearing.

Public Comments

Public comments were given by Bob Brown, WSPA.

Board Comments

The Board and staff discussed whether the Air District has ambitions to reach a 100% cost recovery policy, rather than remain at 85%; how frequently the Air District analyzes increases to the Consumer Price Index for Bay Area Urban Wage Earners and Clerical Workers; why some fee schedules generate revenue less than 50% of costs and whether those fees will be increased; how the (Bay Area) Air District's cost recovery policy and rates compare with those of other California air districts; facilities' concern of increasing fees over time; cost recovery cycle trends of refineries; whether future unfunded liabilities' costs are covered under present-day codes; the Air District's reaction to the American Lung Association's *2019 State of the Air* report, released on April 24, 2019; the types of facilities that are issued Permits to Operate by the Air District; whether the Air District has considered implementing a higher cost recovery goal for the larger permitted facilities; the request for a figure of overall refinery cost recovery (across all five Bay Area refineries and all applicable Air District fees); the distinction between (the Air District imposing) fees, versus taxes; and the request that the Board members received copies of the Air District's letter in response to comments from WSPA and CCEEB.

Chair Rice closed the Public Hearing.

Board Action

None; receive and file.

PRESENTATION

20. Update on Mobile Source Emissions Reductions Measures

Gregory Nudd, Deputy Air Pollution Control Officer of Policy, introduced this item by first presenting slides on local residential cancer risk from marine vessels, rail, and truck emissions. Mr. Nudd then introduced Cynthia Marvin, Chief of the California Air Resources Board's (CARB) Transportation and Toxic Division, who gave the presentation *Reducing Diesel Particulate Matter (DPM) from Freight to Protect Communities*, including: CARB milestones for DPM; CARB freight strategies implemented; 85% reduction in freight DPM from 2000-0202 in Bay Area; freight DPM will decline another 40% from 2000-2020 in Bay Area; expansion of California's strategies to reduce freight impacts; heavy-duty, on-road electric market today; zero-emission, heavy-duty passenger vehicles; new CARB freight actions; truck concepts for new models; programs to assess emissions; ships at berth concepts; transport refrigeration unit concepts; rail yard concepts; harbor craft concepts and contracts; state grants and rebates; freight handbook; and CARB's path forward on freight.

Public Comments

No requests received.

Board Comments

The Board and staff discussed how long it will take the port and rail industries to reach significantly lower levels of emissions and ideally zero emissions; the request for PM levels in West Oakland several decades ago; whether CARB has regulations monitoring emissions when petroleum is transported from one directly from one vessel to another; the locations of the storage warehouses that contain transport refrigeration units; whether CARB is working with other vehicle manufacturers to procure incentive monies for clean diesel technology for passenger vehicles, resulting from violations, other than Volkswagen; how local air districts can best utilize indirect source authority, the example of South Coast Air Quality Management District's current involvement with indirect source authority, and how the California Environmental Quality Act relates to indirect source authority.

Board Action

None; receive and file.

PUBLIC COMMENT ON NON-AGENDA MATTERS

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

Public comments were given by Tony Fisher, Coalition for Clean Air.

BOARD MEMBER COMMENTS

22. Board Members' Comments

- Director Kniss said that it would be helpful to receive a presentation on CARB's functions, authority, and organizational structure. Director Gioia added that he appreciates that the Board receives periodic presentations from CARB so that Board members can become familiar with the very things Director Kniss mentioned.

OTHER BUSINESS

23. Report of the Executive Officer/Air Pollution Control Officer

Mr. Broadbent stated the following:

- He just returned from air-quality-related matters in Qatar and India and will provide the Board with a full report at the May 15, 2019 Board meeting.
- The Air District's 2019 Summer Spare the Air Program commenced today (May 1, 2019.)
- The Air District's 2018 Annual Report has been released. Secretary Chavez praised the Air District's decision to include "Estimated lifetime emissions reduction for projects funded (in tons)" under the "Grant and Incentive Programs" page.
- The American Lung Association's *2019 State of the Air* report was released on April 24, 2019, and minimizes the improvements seen in the Bay Area, focusing instead on the Bay Area's levels of particle and ozone pollution.

24. Chairperson's Report

Chair Rice made the following announcements:

- Welcome to new Board member, San Francisco County Supervisor, Gordon Mar
- The Air District will be hosting several public events to raise awareness about its new program, Clean Cars for All, which offers incentives for low-income Bay Area residents in communities disproportionately burdened by sources of pollution to replace their old vehicles with electric vehicles.
- Several of the Board's standing committees (Budget and Finance, Mobile Source, and Climate Protection) currently have vacancies. Interested Board members are to contact Vanessa Johnson.
- Board members attending the Air and Waste Management's 112th Annual Conference and Exhibition in Quebec City in June need to finalize their trip details with the Vanessa Johnson.
- On April 25, Marin Clean Energy (MCE) launched MCE Solar Charge - an 80kW Solar Photovoltaic system powering 10 publicly-available EV charging stations at MCE's San Rafael Office.

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

Wednesday, May 15, 2019, at 375 Beale Street, San Francisco, CA 94105 at **10:00 a.m.**, following the Air District's second Public Hearing to Receive Testimony on Proposed Amendments to Air District Regulation 3: Fees for Fiscal Year Ending 2020, which begins at 9:30 a.m.

26. **Adjournment**

The meeting adjourned at 11:44 a.m.

/s/ Marcy Hiratzka
Marcy Hiratzka
Clerk of the Boards