

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 21, 2022

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*

This meeting was conducted under procedures authorized by Assembly Bill 361 (Rivas 2021) allowing remote meetings. Members of the Board of Directors participated by teleconference.

CALL TO ORDER

1. **Opening Comments:** Board of Directors (Board) Chairperson, John J. Bauters, called the meeting to order at 9:02 a.m.

Roll Call:

Present: Chairperson John J. Bauters; Vice Chairperson Davina Hurt; Secretary Teresa Barrett; and Directors Margaret Abe-Koga, Pauline Russo Cutter, John Gioia, Erin Hannigan, David Haubert, Lynda Hopkins, David Hudson, Tyrone Jue, Sergio Lopez, Otto Lee, Nate Miley, Karen Mitchoff, Rob Rennie, Katie Rice, Mark Ross, Brad Wagenknecht, and Steve Young.

Absent: Directors David Canepa, Carole Groom, Myrna Melgar, and Shamann Walton.

2. **PLEDGE OF ALLEGIANCE**
3. **PUBLIC MEETING PROCEDURE**
4. **SPECIAL ORDERS OF THE DAY**

New staff members were introduced, including Senior Staff Specialists, Daniel Madrigal and Amy Smith, in the Community Engagement Division. In addition, the Board recognized the Director of the Planning and Climate Protection Division, Henry Hilken, upon his retirement from the Air District.

NOTED PRESENT: Director Wagenknecht was noted present at 9:08 a.m., and Director Miley was noted present at 9:10 a.m.

CONSENT CALENDAR (ITEMS 5 – 18)

5. Remote Teleconferencing per Assembly Bill (AB) 361 (Rivas)
6. Approval of the Minutes of December 7, 2022
7. Board Communications Received from December 7, 2022 through December 20, 2022
8. Notices of Violations Issued and Settlements in Excess of \$10,000 in the Month of November 2022
9. Personnel Out of State Travel Report for October and November 2022
10. Quarterly Report of California Air Resources Board Representative - Honorable Davina Hurt
11. Consider Adopting Proposed Amendments to Division I, Sections 1.1 and 1.2, of the Administrative Code Regarding Board Member Compensation for Meeting Attendance and Board Meeting Start Time
12. Authorization to Accept Clean Cars For All Funding
13. Participation in the Community Air Protection Incentives Program Fiscal Year 2022-2023
14. Authorization to Accept Community Air Protection Program (CAPP) Implementation Funds Fiscal Year 2022-2023 from the California Air Resources Board (CARB)
15. Authorization to Execute a Lease Amendment for the San Pablo-Rumrill Air Monitoring Station
16. Report of the Richmond Area Community Emissions Reduction Plan Steering Committee Meeting of November 28, 2022
17. Report of the Community Equity, Health & Justice Committee Meeting of December 1, 2022
18. Report of the Legislative Committee Meeting of December 12, 2022

Public Comments

No requests submitted.

NOTED PRESENT: Director Hudson was noted present at 9:24 a.m.

Board Comments

None.

Board Action

Director Hudson made a motion, seconded by Director Cutter, to **approve** Consent Calendar Items 5 through 18, inclusive; and the motion **carried** by the following vote of the Board:

- AYES: Abe-Koga, Bauters, Barrett, Cutter, Gioia, Hannigan, Haubert, Hopkins, Hudson, Hurt, Jue, Lee, Lopez, Miley, Mitchoff, Rennie, Rice, Ross, Wagenknecht, Young.
- NOES: None.
- ABSTAIN: None.
- ABSENT: Canepa, Groom, Melgar, Walton.

CLOSED SESSION (9:26 a.m.)

19. PUBLIC EMPLOYEE APPOINTMENT AND EMPLOYMENT PURSUANT TO GOVERNMENT CODE SECTION 54957(b)

Title: Executive Officer/Air Pollution Control Officer (APCO)

Reportable Action: Chair Bauters had nothing to report.

20. CONFERENCE WITH LABOR NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54957.6

Agency Designated Representatives: Board Chair John J. Bauters; Acting Chief Administrative Officer, John Chiladakis; and Charles Sakai and DeeAnne Gillick of Sloan, Sakai, Yeung & Wong

Unrepresented Employee: Executive Officer/APCO

Reportable Action: Chair Bauters had nothing to report.

OPEN SESSION (9:52 a.m.)

ACTION ITEMS

21. CONSIDER AUTHORIZATION OF NON-REPRESENTED EMPLOYEE BENEFITS

John Chiladakis, Acting Chief Administrative Officer, gave the staff presentation *Consider Authorization of Non- Represented Employee Benefits*, including: requested motion; background; compensation practices – benefits; compensation practices; and recommendation for motion.

Public Comments

Public comments were given by Rochele Henderson, an Air District Employee who provided comments in her personal capacity.

Board Comments

None.

Board Action

Director Mitchoff made a motion, seconded by Director Rice, to do the following:

- 1) Direct staff to develop a compensation philosophy, conduct a compensation study, and develop a comprehensive compensation plan for Board approval and in accordance with Human Resource (HR) Management Performance Audit Recommendations 1.6 and 1.7.
- 2) Authorize the employee benefit package currently provided to non-represented employees until a new comprehensive compensation plan is approved by the Board.

The motion **carried** by the following vote of the Board:

AYES: Bauters, Barrett, Cutter, Gioia, Hannigan, Haubert, Hopkins, Hudson, Hurt, Jue, Lee, Lopez, Miley, Mitchoff, Rennie, Rice, Ross, Young.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Canepa, Groom, Melgar, Wagenknecht, Walton.

22. **CONSIDER APPROVING THE EXECUTIVE OFFICER'S EMPLOYMENT AGREEMENT**

Chair Bauters gave the presentation *Consider Approving the Executive Officer's Employment Agreement*, including: Recruitment Schedule for Permanent Executive Officer/APCO; and Motion to Appoint Philip Fine as Executive Officer.

Dr. Philip Fine gave remarks.

Public Comments

No requests received.

Board Comments

None.

Board Action

Director Mitchoff made a motion, seconded by Vice Chair Hurt, to **approve** the contract to appoint Dr. Philip Fine as Executive Officer for a three-year term with an annual salary of \$370,000, \$60,000 for relocation expenses, a 6-month severance provision, family health benefits, \$600,000 life insurance, 21 days of annual leave, 15 days of management leave, and other regular Air District non-represented executive staff employee benefits; and the motion **carried** by the following vote of the Board:

AYES: Bauters, Barrett, Cutter, Gioia, Hannigan, Haubert, Hopkins, Hudson, Hurt, Jue, Lee, Lopez, Miley, Mitchoff, Rennie, Rice, Ross, Young.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Canepa, Groom, Melgar, Wagenknecht, Walton.

23. **CONSIDER AUTHORIZING THE ALLOCATION, CLASSIFICATION, AND RECRUITMENT OF THE 20 UNCLASSIFIED VACANT POSITIONS INCLUDED IN THE FISCAL YEAR ENDING (FYE) 2023 BUDGET**

Mr. Chiladakis gave the staff presentation *Consider Authorizing the Allocation, Classification, and Recruitment of the 20 Unclassified Vacant Positions included in the Fiscal Year Ending (FYE) 2023 Budget*, including: requested action; background; staffing allocation recommendation; FY 2023 Budget Appendix H; and recommendation for motion.

Public Comments

Public comments were given by Rochele Henderson, an Air District Employee who provided comments in her personal capacity.

Board Comments

The Board and staff discussed how many of the 20 positions are in the Engineering Division; and whether future contracts will be considered for the ombuds function providing permit assistance to regulated entities.

Board Action

Secretary Barrett made a motion, seconded by Director Haubert, to **approve** the allocation, classification and recruitment of 20 unclassified positions authorized in the Fiscal Year Ending 2023 Budget; **adopt** a resolution for the allocation, classification, and recruitment of the 20 unclassified vacant positions included in the FYE 2023 Budget; and **update** Appendix H of the FYE 2023 Budget in accordance with the position designations; and the motion **carried** by the following vote of the Board:

AYES: Bauters, Barrett, Cutter, Gioia, Haubert, Hopkins, Hudson, Hurt, Jue, Lee, Lopez, Miley, Mitchoff, Rennie, Rice, Ross, Wagenknecht, Young.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Canepa, Groom, Hannigan, Melgar, Walton.

INFORMATIONAL ITEMS

24. **REVISION OF THE PARTICULATE MATTER (PM)_{2.5} NATIONAL AMBIENT AIR QUALITY STANDARD: THE ROLE OF AIR MONITORING DATA**

Dr. Kate Hoag, Assistant Manager in the Meteorology and Measurement Division, gave the staff presentation Revision of the PM_{2.5} National Ambient Air Quality Standard: the Role of Air Monitoring Data, including: outcome; outline; presentation for information only; National Ambient Air Quality Standards (NAAQS); PM NAAQS (primary); what happens after the US Environmental Protection Agency revises a NAAQS; goals for air monitoring; how should we compare a highly variable dataset to one number; design value (DV); a statistic to summarize air monitoring data to compare to NAAQS; example – DV for a monitoring site; annual PM_{2.5} DV trends; PM_{2.5} trends – wildfire impacts; NAAQS designations and implementation; finalizing the NAAQS; initial area designations; developing a State Implementation Plan; next steps; and feedback requested.

Public Comments

Public comments were given by Jed Holtzman, San Francisco resident; Jan Warren, Interfaith Climate Action Network of Contra Costa County; Dr. Stephen Rosenblum, Palo Alto resident; Charles Davidson, Hercules resident; and Tony Fisher, Coalition for Clean Air.

Board Comments

None.

Board Action

None; receive and file.

OTHER BUSINESS

25. REPORT OF THE INTERIM EXECUTIVE OFFICER/APCO (OUT OF ORDER, ITEM 27)

On behalf of Sharon L. Landers, Interim Executive Officer/APCO, Veronica Eady, Senior Deputy Executive Officer of Policy & Equity, reported the following:

- The Board has recently received emails from members of the public, urging the Board to require fence line monitoring systems at refineries. Air District staff strongly agrees with this approach and the Air District plans to use its authority under Regulation 12, Rule 15 (Petroleum Refining Emissions Tracking) to ensure that the best available equipment is installed as quickly as feasible.
- On December 7, 2022, the Board received a report from the Administration Committee indicating that the Committee directed Air District staff to develop a corrective action plan in response to the HR management performance audit that was conducted earlier this year. The corrective action plan will be presented to the Committee on December 21, 2022, following the Board meeting. Should the Committee approve the proposed corrective action plan, the Committee will recommend that the Board authorizes implementation of the plan at a future meeting.
- Charles Knoderer, Air Quality Manager, Director of Meteorology and Measurement, was asked to provide a summary on recent air quality.

26. CHAIRPERSON’S REPORT (ITEM 28)

Chair Bauters made the following remarks:

- In 2023, the Board/committee meeting schedule will be streamlined, with all meetings falling on the 1st, 2nd, and 3rd Wednesdays of each month. Morning meetings will begin at 9:00 a.m., and afternoon meetings will begin at 1:00 p.m. The tentative schedule is below:

Meeting Type	1 st Wednesday	2 nd Wednesday	3 rd Wednesday
Board	9:00 a.m.		9:00 a.m.
Administration Committee (will absorb Budget & Finance)	1:00 p.m.		
Stationary Source Committee		9:00 a.m.	
Mobile Source Committee		1:00 p.m.	
Community Equity, Health & Justice Committee			1:00 p.m.
Legislative Committee	Will vary from month to month		

- By January 13, 2023, Board members are to have sent Vanessa Johnson their 2023 committee assignment preferences.
- There are to be no committee meetings in January 2023.

The Board then recognized the following outgoing Board members for their outstanding leadership and dedication to protecting air quality in the Bay Area.

- Teresa Barrett
- Pauline Russo Cutter
- Carole Groom
- Karen Mitchoff
- Brad Wagenknecht

Public Comments

Public comments were given by Jed Holtzman, San Francisco resident; and Bob Brown, Western States Petroleum Association.

CLOSED SESSION (11:28 a.m.)

27. CONFERENCE WITH LEGAL COUNSEL RE EXISTING LITIGATION (GOVERNMENT CODE SECTION 54956.9(a)) (ITEM 30)

Pursuant to Government Code Section 54956.9(a), the Board met in Closed Session with Legal Counsel to discuss the following case:

Communities for a Better Environment v. Bay Area Air Quality Management District and McWane Inc., Alameda Superior Court Case No. 22CV020451.

Reportable Action: Alexander Crockett, District Counsel, had nothing to report.

28. CONFERENCE WITH LEGAL COUNSEL RE ANTICIPATED LITIGATION (GOVERNMENT CODE SECTIONS 54956.9(a) AND (d)(2)) (ITEM 31)

Pursuant to Government Code sections 54956.9(a) and (d)(2), the Board met in Closed Session with Legal Counsel to discuss a significant exposure to litigation, based on facts and circumstances not known to a potential plaintiff or plaintiffs: Four cases.

Reportable Action: Mr. Crockett stated that the Board voted to authorize a partial waiver of attorney-client privilege, as to certain investigation materials, as required and determined by Counsel for the District for compliance with due process requirements in connection with employee discipline.

OPEN SESSION (11:58 a.m.)

29. **PUBLIC COMMENT ON NON-AGENDA MATTERS (ITEM 25)**

Public comments were given by Jan Warren, Interfaith Climate Action Network of Contra Costa County; Rochele Henderson, an Air District Employee who provided comments in her personal capacity; and Mary Wehrle.

30. **BOARD MEMBER COMMENTS (ITEM 26)**

None.

31. **TIME AND PLACE OF NEXT MEETING (ITEM 29)**

Wednesday, January 25, 2023, at 9:00 a.m., via webcast, teleconference, or Zoom, pursuant to procedures in accordance with Assembly Bill 361 (Rivas 2021).

32. **ADJOURNMENT**

The meeting adjourned at 12:10 p.m.

/s/ Marcy Hiratzka
Marcy Hiratzka
Clerk of the Boards