

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

Board of Directors Special Meeting  
Wednesday, January 25, 2023

### **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](http://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 9:00 a.m.

#### **Roll Call:**

Present: Chairperson John J. Bauters; Vice Chairperson Davina Hurt; Secretary Lynda Hopkins; and Directors Margaret Abe-Koga, Ken Carlson, Noelia Corzo, Joelle Gallagher, John Gioia, Erin Hannigan, David Haubert, Tyrone Jue, Sergio Lopez, Otto Lee, Myrna Melgar, Nate Miley, Ray Mueller, Rob Rennie, Katie Rice, Mark Ross, Shamann Walton, and Steve Young.

Absent: Director David Hudson.

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

Chair Bauters introduced recently promoted Air District employees: Simon Winer, Supervising Air Quality Specialist, Compliance & Enforcement; and Aubsorn Ward, Accountant, Finance. He also introduced Diana Ruiz, a new manager in Community Engagement.

#### **CONSENT CALENDAR (ITEMS 5 -12)**

5. Remote Teleconferencing per Assembly Bill (AB) 361 (Rivas) [Click here to view signed Board Resolution No. 2023-01](#)

6. Approval of the Minutes of December 21, 2022
7. Board Communications Received from December 22, 2022, through January 24, 2023
8. Personnel Out-of-State Business Travel Report for December 2022
9. Notices of Violations Issued and Settlements in Excess of \$10,000 in the Month of December 2022
10. Report of the Administration Committee Meeting of December 21, 2022
  - A) Action Item: Consider Authorizing the Corrective Action Plan to implement the recommendations from the Human Resources Management Performance Audit.
11. Authorization to Execute Legal Services Agreement with Woodruff, Spradlin & Smart to represent the Air District in *Communities for a Better Environment v. Bay Area Air Quality Management District et al*
12. Authorization to Execute a Contract Amendment with Renne Public Law Group

Public Comments

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

NOTED PRESENT: Directors Miley, Rice, and Young were noted present at 9:09 a.m.

Board Comments

None.

Board Action

Vice Chair Hurt made a motion, seconded by Director Walton, to **approve** Consent Calendar Items 5 through 12 inclusive; and the motion **carried** by the following vote of the Board:

- |          |  |
|----------|--|
| AYES:    | Abe-Koga, Bauters, Carlson, Corzo, Gallagher, Gioia, Hannigan, Haubert, Hopkins, Hurt, Jue, Lopez, Lee, Melgar, Miley, Mueller, Rennie, Rice, Ross, Walton, Young. |
| NOES:    | None.  |
| ABSTAIN: | None.  |
| ABSENT:  | Hudson.  |

**OTHER BUSINESS**

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

No requests received.

**14. BOARD MEMBER COMMENTS**

None.

**15. REPORT OF THE EXECUTIVE OFFICER/AIR POLLUTION CONTROL OFFICER (APCO)**

Sharon L. Landers, Interim Executive Officer/APCO, reported the following:

- Air District staff has released proposed amendments to Rules 9-4 and 9-6 to reduce emissions of nitrogen oxides from residential and commercial furnaces and water heaters in buildings in the Bay Area. These rules govern point of sale emission standards for small, typically residential and commercial, water and space heating systems. Emissions of nitrogen oxides impact local and regional air quality and contribute to the formation of ozone and secondary particulate matter. The Air District Board of Directors will conduct a public hearing to consider adoption of the proposed amendments and certification of the Environmental Impact Report (EIR) on March 15, 2023, at 9:00 AM. Staff plans to convene a formalized ongoing Implementation Working Group (IWG) to support the proposed rule amendments after potential adoption. The IWG is intended to consist of a variety of stakeholders with different areas of expertise in reference to the implementation of the rule amendments. This may include community-based organizations, environmental justice groups, advocacy, and subject matter expert organizations, building technology experts, affordable and market rate housing developers and managers, local and state government staff, funding and financing agencies, equipment manufacturers and distributors, tenant representation organizations and labor organizations.
- On February 28, 2022, the Governor’s State of Emergency will expire, requiring a return to in-person meetings of local legislative bodies, under the Ralph M. Brown Act and Assembly Bill (AB) 2449 (Rubio). The Air District is developing new procedures for in-person meetings that will enable limited remote attendance in publicly accessible remote locations.
- The Governor’s 2023-24 Budget was released on January 10, 2023. A budget deficit of \$22.5 billion is anticipated. Program cuts are anticipated to affect programs of interest to the Air District. Budget hearings will be held, leading up to the 2022-23 May Revision to the Governor's Budget.
- The 2023 Legislative Session has begun, and members will soon be introducing bills; 2,500 are anticipated in February. Air District Legislative staff tracks air quality-related bills and participates in committee hearings and advocacy activities, per the Board’s Legislative Committee.
- Dr. Ranyee Chiang, Director of Meteorology and Measurement, was asked to provide a summary on recent air quality.

### Board Comments

The Board and staff discussed ways in which the Air District notifies the public, stakeholders, and agencies of its rulemakings; the request for a fact sheet about the Rule 9-4 and 9-6 rulemakings that the Board members can circulate to their constituents; circulated misinformation regarding rulemakings that can cause alarm; and whether the amount of rain that the California has had in January will affect the 2023 fire season.

### 16. **CHAIRPERSON’S REPORT**

Chair Bauters gave the following remarks:

- Welcome to four new Board members (County Supervisors Ken Carlson, Noelia Corzo, Joelle Gallagher, and Ray Mueller).
- Director Lee was reappointed to the Board by the Santa Clara County Board of Supervisors on January 10, 2023.
- On February 1, 2022, there will be a Board meeting at 9:00 a.m., and a Budget & Finance Committee meeting at 1:00 p.m. (both remote, per AB 361.)

- A consultant will be selected by Air District staff to update various sections of the Air District’s Administrative Code. The goal is to complete comprehensive updates to the Administrative Code to reflect best practices by the end of 2023.
- A proposed strategic planning process will be introduced to the Board at its annual retreat on March 1, 2023. This process is anticipated to have a 5-year timeline and horizon, with annual updates. This process is intended to be a collaboration between the Board and Air District staff, regarding how to carry out Board priorities.
- In preparation for the transition back to in-person meetings in March, per AB 2449 (Rubio), Chair Bauters reminded the Board members of §1.2(B) of the Air District’s Administrative Code, which states, “*Unless excused by the Chairperson, a Board member shall receive compensation for attending meetings of the Board only if: (1) the Board member arrives for the meeting no later than 30 minutes after the scheduled beginning of the meeting; and (2) the Board member misses no more than 30 minutes of the meeting plus, in the event a meeting continues beyond noon, the time between noon and adjournment.*”
- Per AB 2449 (Rubio), satellite/remote locations in various parts of the Bay Area are being identified by Air District staff. These locations may be utilized by Board members and members of the public who wish to attend Board/committee meetings from those locations, rather than at the Air District’s headquarters in San Francisco.

**17. TIME AND PLACE OF NEXT MEETING**

Wednesday, February 1, 2023, at 9:00 a.m., via webcast, teleconference, or Zoom, pursuant to procedures in accordance with Assembly Bill 361 (Rivas 2021).

**CLOSED SESSION (9:26pm)**

**18. CONFERENCE WITH LEGAL COUNSEL RE ANTICIPATED LITIGATION (GOVERNMENT CODE SECTIONS 54956.9(a) AND (d)(2))**

*Pursuant to Government Code sections 54956.9(a) and (d)(2), the Board will meet 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: Alexander Crockett, District Counsel, had nothing to report.

**19. CONFERENCE WITH LEGAL COUNSEL RE EXISTING LITIGATION (GOVERNMENT CODE SECTION 54956.9(a))**

*Pursuant to Government Code Section 54956.9(a), the Board will meet 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: Mr. Crockett stated that the Board authorized Air District staff to pursue a settlement and litigation strategy in the case of *Communities for a Better Environment v. Bay Area Air Quality Management District*.

**OPEN SESSION (10:26 a.m.)**

**20. ADJOURNMENT**

The meeting adjourned at 10:26 a.m.

*/s/ Marcy Hiratzka*  
Marcy Hiratzka  
Clerk of the Boards