

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

Board of Directors Regular Meeting
Wednesday, April 19, 2023

APPROVED MINUTES

This meeting was webcast, and a video recording is 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, John J. Bauters, called the meeting to order at 9:03 a.m.

Roll Call:

Present, In-Person (Bay Area Metro Center, 375 Beale Street, 1st Floor Board Room, San Francisco, California, 94105): Chairperson John J. Bauters; Vice Chairperson Davina Hurt; and Directors Ken Carlson, Noelia Corzo, Juan Gonzalez, Myrna Melgar, Katie Rice, and Shamann Walton.

Present, In-Person Satellite Location: (Office of Contra Costa County Supervisor John Gioia, Conference Room, 11780 San Pablo Avenue, Suite D, El Cerrito, California, 94530): Directors Erin Hannigan, Joelle Gallagher, John Gioia, Nate Miley, Mark Ross, and Steve Young.

Present, In-Person Satellite Location: (City of Palo Alto City Hall, 250 Hamilton Avenue, 7th Floor, Palo Alto, California, 94301): Directors Margaret Abe-Koga, Sergio Lopez, Ray Mueller, and Vicki Veenker.

Present, In-Person Satellite Location: (Santa Rosa Junior College Campus, Doyle Library, Room 148, 1501 Mendocino Avenue, Santa Rosa, California, 95401): Secretary Lynda Hopkins; and Director Brian Barnacle.

Absent: Directors David Haubert, David Hudson, Tyrone Jue, and Otto Lee.

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

Chair Bauters introduced Mark Kiffe, a new Air Quality Engineer, in the Engineering Division.

CONSENT CALENDAR (ITEMS 5 – 13)

5. Approval of the Minutes of the Board of Directors Meeting of April 5, 2023
6. Board Communications Received from April 5, 2023 through April 18, 2023
7. Personnel Out-of-State Business Travel Report for March 2023
8. Authorization to Approve an Amendment to Renew Contract for Spare the Air Advertising and Messaging Campaigns
9. Authorization of Contract to Secure Office, Shop, and Garage Space in Oakland
10. Authorization to Amend Contract with Kearns & West, Inc.
11. Authorization to Issue a Credit Card to the Interim Chief Operating Officer

12. Report of the Legislative Committee Meeting of April 5, 2023
 - a. Air District-Sponsored Bills:
 1. **Co-Sponsor** Assembly Bill 1609 (Garcia) - Air pollution: motor vehicle registration: pollution reduction.
 - b. Discussion and Consideration of Brown Act Bills:
 1. **Support** Assembly Bill 817 (Pacheco) – Open meetings: teleconferencing: subsidiary body.
 2. **Support** Senate Bill 537 (Becker) – Open meetings: local agencies: teleconferences.
 - c. Consideration of New Bills:
 1. **Oppose** Assembly Bill 698 (Essayli) – Energy; Gas stoves.
 2. **Oppose Unless Amended** Senate Bill 415 (Durazo) – Air quality: rules and regulations: socioeconomic impacts assessment.
 3. **Work with Author** on Senate Bill 768 (Caballero)- California Environmental Quality Act: vehicle miles traveled: statement of overriding consideration.
 4. **Support** Senate Bill 527 (Min) - Neighborhood Decarbonization Program.

13. Report of the Finance and Administration Committee Meeting of April 5, 2023

Public Comments

No requests received.

Board Comments

None.

Board Action

Director Melgar made a motion, seconded by Director Carlson, to **approve** Consent Calendar Items 5 – 13, inclusive; and the motion **carried** by the following vote of the Board:

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

ACTION ITEMS

14. CONSIDER TAKING ‘SUPPORT’ POSITION ON SENATE BILL 674 (GONZALEZ)

Alan Abbs, Legislative Officer, gave the staff presentation *Consider Taking 'Support' Position on Senate Bill (SB) 674 (Gonzalez)*, including: outcome; outline; requested action; and SB 674 (Gonzalez).

NOTED PRESENT: Director Abe-Koga was noted present at 9:08 a.m.; Director Miley was noted present at 9:09 p.m.; and Director Lopez was noted present at 9:15 a.m.

Public Comments

No requests received.

Board Comments

None.

Board Action

Vice Chair Hurt made a motion, seconded by Director Gonzalez, to **adopt** the position of SUPPORT, regarding SB 674 (Gonzalez) - Air pollution: refineries: community air monitoring systems: fence-line monitoring systems; and the motion **carried** by the following vote of the Board:

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

15. AUTHORIZATION OF ACTIONS TO SUPPORT ORGANIZATIONAL RESTRUCTURING; AND NOTICE OF PROPOSED AMENDMENTS TO SECTIONS 3, 4, 9 AND 13 OF DIVISION III OF THE ADMINISTRATIVE CODE REGARDING SENIOR MANAGEMENT CLASSIFICATIONS

Dr. Philip M. Fine, Executive Officer / Air Pollution Control Officer (APCO) gave the staff presentation *Recommend Authorization of Position Classifications to Support Organizational Restructuring*, including: outcome; outline; organizational structure; classification changes, cost impacts; and requested action.

Public Comments

Public comments were given by Jan Warren, Interfaith Climate Action Network of Contra Costa County.

Board Comments

The Board and staff discussed appreciation for the transition from the Interim Executive Officer/APCO to the new Executive Officer/APCO; whether the “reclassification” of staff positions means that staff reductions, to relocating staff members from one division to another, will occur; the need for additional Compliance & Enforcement staff; whether reclassification of positions are anticipated to increase the amount of work for a given position; and how the Air District plans to address the issues of pay equity and potential salary disparities.

Board Action

Director Melgar made a motion, seconded by Director Gonzalez, to:

Authorize the recommendations of the April 5, 2023, Finance and Administration Committee to support organizational restructuring:

1. Authorize position classifications, reclassifications, salary resolution; and
2. Receive Notice of Proposed Amendments to Sections 3, 4, 9 and 13 of Division III of the Administrative Code Regarding Senior Management Classifications and Consider Adopting the Proposed Amendments at its next Meeting on May 3, 2023.

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

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

[Click here to view signed Board Resolution No. 2023-04.](#)

16. **ONLINE PERMITTING AND COMPLIANCE SYSTEM STATUS UPDATE AND AUTHORIZATION TO EXECUTE CONTRACT AMENDMENTS FOR THE OFFICE OF MY AIR ONLINE**

Blair L. Adams, Information Systems Officer, gave the staff presentation *Online Permit Billing System Status Update and Authorization to Execute Contract Amendments for My Air Online*, including: outline; requested action; My Air Online; completed deliverables (2008 to 2012, 2013 to 2018, and 2019 to 2022); deliverable status overall; online permit billing and compliance system capitalized costs; annual budget - historical and forecasts; remaining features, future considerations; schedule; vendor specifics; and recommended action.

Public Comments

No requests received.

Board Comments

The Board and staff discussed the definition of “capitalized costs”; the objective of consolidating several legacy systems and associated processes into a modular technology ecosystem designed to streamline and semi-automate workflows to improve staff productivity, data consistency, and accessibility; when the development of new ecosystem began; where there is a capitalized asset value for the legacy systems; whether the data from the legacy systems will be moved to the new system, or at least be accessible; the decommission of the legacy systems; why permit costs are projected to decrease, beginning in 2025; whether the Air District has received customer feedback regarding My Air Online, and whether the new system will be a product that customers need and find satisfactory; whether other California Air Districts use similar permitting systems and the projected costs; the anticipated timeline for facility migrations to the new system, and whether the more complex facilities will be served outside of the new system; whether the new system tracks the speed at which customers are being served; interest in future comparisons between the legacy and new systems; whether, in 2008, the Air District anticipated spending \$36 million for the new system, how to tell whether the Air District is “on budget” for the new system, and what is the real cost and budget (operations & maintenance of the new system); and whether it is possible to create a permitting system that is shared by multiple regulating agencies/air districts.

NOTED PRESENT: Director Ross was noted present at 9:42 p.m.

Board Action

Director Gonzalez made a motion, seconded by Director Rice, to **receive** the Online Permitting Billing and Compliance System Status Update and **authorize** the Executive Officer/APCO to execute contract amendments for the office of My Air Online; and the motion **carried** by the following vote of the Board:

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

OTHER BUSINESS

17. PUBLIC COMMENT ON NON-AGENDA MATTERS

Public comments were given by Jan Warren, Interfaith Climate Action Network of Contra Costa County.

18. BOARD MEMBER COMMENTS

Director Young spoke of the federal appeals court ruling on April 17, 2023, which overturned the City of Berkeley’s 2019 ban on natural gas in new construction, saying that it violates federal law that gives the U.S. government the authority to set energy-efficiency standards for appliances. Director Young wanted the Board and Air District staff to be aware of this, in case the amendments to Air District

Regulation 9: Inorganic Gaseous Pollutants, Rule 4: Nitrogen Oxides from Fan Type Central Furnaces (Rule 9-4) and Rule 6: Nitrogen Oxides Emissions from Natural Gas-Fired Boilers and Water Heaters (Rule 9-6), which were adopted on March 15, 2023, fall under the same scrutiny.

19. **REPORT OF THE EXECUTIVE OFFICER/APCO**

Dr. Fine reported that early next month, management audits of the Air District's Engineering and My Air Online Divisions will be conducted by Sjoberg Evashenk Consulting, Inc.

20. **CHAIRPERSON'S REPORT**

Chair Bauters reported that the Board's Community, Equity, Health, and Justice Committee will meet at 1:00 p.m. on Wednesday, April 19, 2023.

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

Wednesday, May 3, 2023, at 9:00 a.m. at 375 Beale Street, San Francisco, CA 94105. The meeting will be in-person for the Board members and members of the public will be able to either join in-person or via webcast.

CLOSED SESSION (9:58 a.m.)

22. **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.

23. **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 cases:

Chevron U.S.A Inc. v. Bay Area Air Quality Management District, Contra Costa Superior Court Case No. MSN21-1739;

Martinez Refining Co. LLC v. Bay Area Air Quality Management District, Contra Costa Superior Court Case No. MSN21-1568;

The Athletics Investment Group, LLC v. Bay Area Air Quality Management District, Alameda County Superior Ct. No. 22CV010930; and

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 had nothing to report.

24. **CONFERENCE WITH LABOR NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54957.6**

Conference with Labor Negotiators

Pursuant to Government Code Section 54957.6

Agency Designated Representatives:

Laura A. Izon , Atkinson, Andelson, Loya, Ruud & Romo

John Chiladakis, Acting Chief Administrative Officer

Employee organization: BAAQMD Employees' Association

REPORTABLE ACTION: Mr. Crockett reported that the Board discussed the item and gave direction to the labor negotiator, regarding next steps.

OPEN SESSION (11:44 a.m.)

23. **ADJOURNMENT**

The meeting was adjourned at 11:45 a.m.

/s/ Marcy Hiratzka

Marcy Hiratzka
Clerk of the Boards