

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 3, 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) Vice Chairperson, Davina Hurt, 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): Vice Chairperson Davina Hurt; Secretary Lynda Hopkins; and Directors Juan Gonzalez, David Haubert, Sergio Lopez, 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 Ken Carlson, Erin Hannigan, Joelle Gallagher, John Gioia, 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, 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): Director Brian Barnacle.

Present, In-Person Satellite Location: (County of Santa Clara, 70 West Hedding St., East Wing, 10th Floor, San Jose, California, 95110): Director Otto Lee.

Present, In-Person Satellite Location: (Glenarden Branch Library, 8724 Glenarden Parkway, Small Conference Room, Glenarden, Maryland, 20706): Director Nate Miley.

Absent: Chairperson John J. Bauters; and Directors Noelia Corzo, David Hudson, and Tyrone Jue.

2. **PLEDGE OF ALLEGIANCE**
3. **SPECIAL ORDERS OF THE DAY**

None.

CONSENT CALENDAR (ITEMS 4 – 11)

4. Approval of the Minutes of the Board of Directors Meeting of April 19, 2023
5. Board Communications Received from April 19, 2023 through May 2, 2023
6. Notices of Violations Issued and Settlements in Excess of \$10,000 in the Month of March 2023
7. Authorization to Execute Lease Amendments for Office, Shop, Lab, and Garage Space for Meteorology and Measurement Division in Richmond
8. Consider Adopting Proposed Amendments to Sections 3, 4, 9, and 13 of Division III of the Administrative Code Regarding Senior Management Classifications
9. Report of the Stationary Source and Climate Impacts Committee Meeting of April 12, 2023
10. Report of the Mobile Source & Climate Impacts Committee Meeting of April 12, 2023
 - A. Projects and Contracts with Proposed Awards over \$500,000:
 - Action Item: Approve recommended projects with proposed grant awards over \$500,000; and
 - Authorize the Executive Officer/Air Pollution Control Officer to enter into all necessary agreements with applicants for the recommended projects.
11. Report of the Community Equity, Health and Justice Committee Meeting of April 19, 2023

Public Comments

No requests received.

Board Comments

None.

Board Action

Director Haubert made a motion, seconded by Director Gonzalez, to **approve** Consent Calendar Items 4 – 11, inclusive; and the motion **carried** by the following vote of the Board:

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

PUBLIC HEARING

12. PUBLIC HEARING TO RECEIVE TESTIMONY ON PROPOSED AMENDMENTS TO AIR DISTRICT REGULATION 3: FEES

NOTED PRESENT: Secretary Hopkins was noted present at 9:07 a.m., Director Gallagher was noted present at 9:08 a.m., Directors Melgar and Ross were noted present at 9:10 a.m., Director Lopez was noted present at 9:14 a.m., Director Miley was noted present at 9:30 a.m., and Director Hannigan was noted present at 9:33 a.m.

The Board of Directors will held the first of two public hearings to receive testimony on proposed amendments to the Air District's fee regulation, Regulation 3, that would apply beginning July 1, 2023. The second public hearing is scheduled for June 7, 2023.

Fred Tanaka, Manager of the Engineering Division, gave the staff presentation *Amendments to Regulation 3, Fees*, including: outcome; outline; requested action; cost recovery background; draft fee amendments and proposed changes to fee schedules; proposed fee and fee schedule changes; schedules not being increased; other proposed amendments; impacts on large facilities and small businesses; budget and rule development schedule; summary of public comments; and feedback requested.

Vice Chair Hurt opened the public hearing.

Public Comments

Public comments were given by Christine Wolfe, California Council for Environmental and Economic Balance.

Board Comments

The Board and staff discussed types of audited General Fund expenditures; the request for future data that shows the Air District's use of contractors' services (dollar amounts and percentages); why some fee schedules are higher in certain overburdened communities and not as high in communities that are not overburdened; how the Air District implements equity when considering fees for businesses/facilities of a wide range of sizes; concerns from the public regarding potentially duplicative efforts of the Air District; the request to separate open burn fees for residential and commercial customers; whether the Air District has legal mandates for cost recovery, and whether the Air District may reduce costs/subsidize through automated processes; the desire for incentives and/or fee waivers for prescribed burns in rural communities, which may result in wildfire risk reduction, and the request for improved coordination between fire agencies and the Air District; how the fee schedules of the Air District compare with those of other California air districts; whether facilities may appeal for fee relief; how a "small business" is defined by Regulation 3: Fees; whether an annual socioeconomic analysis is conducted when considering Air District fee amendments; the acknowledgement of industry's desire for socioeconomic analyses of Air District activities (how jobs may be impacted), and the subsequent request for an analyses of health impacts in overburdened communities where air pollution is generated by industry; whether recategorization adjustments may be made for fee schedules that are under-recovered and result in a deficit; how frequently outstanding fees must be collected by the Air District when a facility is transferred to a new owner/operator, and the average size of business that is typically in such a situation; the fact that the presence of industry in overburdened communities, despite the

resulting creation of jobs, may not be appreciated, and the suggestion that the Air District seeks the opinion of overburdened communities as to which businesses are valued in those communities; whether the Air District may set fees over 100% of the cost; whether the Air District may use fees or lower fees to incentivize desired behavior; reasons why the Bay Area petroleum refineries are charged varying fees; which entities bear financial burdens if the Air District does not increase its fees; factors that have contributed to the difference in the Air District's current cost recovery level and the cost recovery level from 2013; whether the Air District offers discounts for permit renewals; how the state mandate that prohibits air districts from increasing fees over fifteen percent prevents air district from adjusting fees in a way that could resolve cost recovery disparities; the mission of the Air District (create a healthy breathing environment for every Bay Area resident while protecting and improving public health, air quality, and the global climate); whether discounted fee scheduled could be made available to facilities that implement green/less polluting practices; and how future rule developments may exacerbate cost recovery.

Vice Chair Hurt closed the public hearing.

Board Action

None; receive and file.

OTHER BUSINESS

13. PUBLIC COMMENT ON NON-AGENDA MATTERS

Public comments were given by Alicia Gidet, Martinez resident; and Linda Olivera, Martinez resident.

14. BOARD MEMBER COMMENTS

Director Ross stated that the City of Martinez is creating a community focus group to address health impacts from refinery air pollution. He invited Air District staff to become involved with the group's efforts.

15. REPORT OF THE EXECUTIVE OFFICER/APCO

Dr. Fine reported that the Air District's 2022 Annual Report was released on May 3, 2023, and can be found at <https://annualreport.baaqmd.gov/2022/>

16. CHAIRPERSON'S REPORT

Vice Chair Hurt reported that on April 27, 2023, the California Air Resources Board adopted In-Use Locomotive regulation (which aims to reduce emissions from locomotives operating in California), and Advanced Clean Fleets Regulation (which aims to accelerate the widespread adoption of zero-emission vehicles in the medium- and heavy-duty sector and for light-duty package delivery vehicles in California.)

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

Wednesday, May 17, 2023, at 375 Beale Street, San Francisco, CA 94105. There will be a Special Meeting starting at 8:30 a.m. to hold a public hearing to review the proposed budget for Fiscal Year 2023-2024 and provide the public with an opportunity to comment on it, followed by a Regular Meeting starting at 9:00 a.m. The meetings will be in-person for Board members, and members of the public will be able to join either in-person or via webcast.

CLOSED SESSION (10:52 a.m.)

18. **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: Alexander Crockett, District Counsel, reported that there was no reportable action.

OPEN SESSION (12:05 p.m.)

19. **ADJOURNMENT**

The meeting was adjourned at 12:05 p.m.

/s/ Marcy Hiratzka
Marcy Hiratzka
Clerk of the Boards