

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

Board of Directors Regular Meeting
Wednesday, June 21, 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 9:00 a.m. He acknowledged the presence of Director David Hudson, who returned after a six-month absence, due to medical issues.

Roll Call:

Present, In-Person (Bay Area Metro Center, 375 Beale Street, Yerba Buena Room, San Francisco, California, 94105): Chairperson John J. Bauters; Vice Chairperson Davina Hurt; Secretary Lynda Hopkins; and Directors Ken Carlson, Noelia Corzo, Juan Gonzalez, David Haubert, Tyrone Jue, and Myrna Melgar.

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, Doyle Library, Room 148, 1501 Mendocino Ave., Santa Rosa, California, 95401): Director Brian Barnacle.

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

Present, In-Person Satellite Location: (San Ramon City Hall, 7000 Bollinger Canyon Road, San Ramon, California, 94583): Director David Hudson.

Absent: Directors Katie Rice and Shamann Walton.

2. **PLEDGE OF ALLEGIANCE**

3. **SPECIAL ORDERS OF THE DAY**

Chair Bauters stated that Alexandra Kamel was promoted to Senior Assistant Counsel, and also introduced Carrie Schilling, who was recently hired as Senior Assistant Counsel in the Air District's Legal Division.

CONSENT CALENDAR (Items 4 – 17)

4. Approval of the Draft Minutes of the Board of Directors Regular Meeting of June 7, 2023
5. Board Communications Received from June 7, 2023, through June 20, 2023
6. Personnel Out-of-State Business Travel Report for May 2023
7. Notices of Violations Issued and Settlements in Excess of \$10,000 in the Month of April 2023
8. Authorization to Execute Contract Amendment for BioWatch Maintenance and Operations
9. Authorization to Amend Partnership Agreement with the Metropolitan Transportation Commission and Supplement Funding
10. Authorization to Approve an Amendment to Extend Contract and Increase Funding for Required Renovations to Air District Monitoring Field Stations
11. Authorization to Execute Contract Amendment with Metropolitan Group, LLC
12. Authorization to Execute Gas Purchases for Meteorology and Measurement Division Operations
13. Authorization to Accept Grant Program Revenues from the U.S. Environmental Protection Agency for Community Monitoring
[<Link to signed Board Resolution No. 2023 – 19 is available here>](#)
14. Report of the Legislative Committee Meeting of June 7, 2023

The Board of Directors will receive a report of the Legislative Committee meeting of June 7, 2023, and will consider the following action recommended by the Committee.

A. State Legislative Update and Consideration of New Bills:

Action Item: The Board of Directors will consider taking positions in SUPPORT of the following bills:

1. Assembly Bill (AB) 50 (Wood) – Public utilities: timely service: customer energization.
2. Senate Bill (SB) 410 (Becker) – Powering Up Californians Act.

15. Report of the Finance and Administration Committee meeting of June 7, 2023

The Board of Directors will receive a report of the Finance and Administration Committee meeting of June 7, 2023, and will consider the following action recommended by the Committee.

A. Consider Appointment of Alternate Member of the Air District's Hearing Board:

Action Item: The Board of Directors will consider appointing Dr. Fung Lam, as an Alternate Member of the Hearing Board in the Public category.

16. Report of the Advisory Council Meeting of June 12, 2023
17. Report of the Mobile Source and Climate Impacts Committee Meeting of June 14, 2023

The Board of Directors will receive a report of the Mobile Source and Climate Impacts Committee meeting of June 14, 2023, and will consider the following actions recommended by the Committee.

- A. Solicitation for Electric Charging Infrastructure for Medium – and Heavy-Duty Vehicles and Equipment.

Action Item: The Board will consider approving the process and selection criteria for a new competitive solicitation for electric charging infrastructure for medium- and heavy-duty vehicles and equipment.

- B. Projects and Contracts with Proposed Grant Awards Over \$500,000

Action Item: The Board of Directors will consider approving the award of incentive funding to projects with proposed grant awards in excess of \$500,000 and authorize the Executive Officer/Air Pollution Control Officer (APCO) to execute grant agreements for the recommended project.

Public Comments

No requests received.

Board Comments

None.

Board Action

Director Gonzalez made a motion, seconded by Director Carlson, to **approve** Consent Calendar Items 4 – 17, inclusive; and the motion **carried** by the following vote of the Board:

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

PUBLIC HEARING

18. **PUBLIC HEARING TO CONSIDER THE SUBMISSION OF THE CURRENT VERSIONS OF REGULATION 9: INORGANIC GASEOUS POLLUTANTS, RULE 4: NITROGEN OXIDES FROM NATURAL GAS-FIRED FURNACES (RULE 9-4) AND REGULATION 9: INORGANIC GASEOUS POLLUTANTS, RULE 6: NITROGEN OXIDES EMISSIONS FROM NATURAL GAS-FIRED BOILERS AND WATER HEATERS (RULE 9-6) TO THE UNITED STATES ENVIRONMENTAL**

PROTECTION AGENCY (EPA) AND THE CALIFORNIA AIR RESOURCES BOARD (CARB) FOR INCLUSION IN THE STATE IMPLEMENTATION PLAN (SIP)

The Board of Directors held a public hearing to consider the submission of the current versions of Regulation 9: Inorganic Gaseous Pollutants, Rule 4: Nitrogen Oxides from Natural Gas-Fired Furnaces (Rule 9-4) and Regulation 9: Inorganic Gaseous Pollutants, Rule 6: Nitrogen Oxides Emissions from Natural Gas-Fired Boilers and Water Heaters (Rule 9-6) to the United States Environmental Protection Agency and the California Air Resources Board for inclusion in the State Implementation Plan. In accordance with the regulatory requirements for submitting rules and regulations to the SIP, the Board of Directors was required to approve the submittal at a Public Hearing. The Public Hearing was noticed on April 5, 2023, and the public comment period closed on May 12, 2023.

NOTED PRESENT: Director Hannigan was noted present at 9:06 a.m., and Director Melgar was noted present at 9:11 a.m.

Greg Nudd, Deputy Executive Officer of Science and Policy, introduced Mark Tang, Principal Environmental Planner, and Jennifer Lam, Senior Air Quality Engineer, who gave the staff presentation *Public Hearing: Submission of Regulation 9, Rule 4 and Rule 6 to the State Implementation Plan*, including: outcome; outline; requested action; what is a SIP; elements of a SIP; rule submittal into the SIP; Regulation 9, Rules 4 and 6 and SIP; public comments and responses; and feedback requested/prompt.

Chair Bauters opened the Public Hearing.

NOTED PRESENT: Directors Abe-Koga, Mueller, and Miley were noted present at 9:23 a.m.

Public Comments

Public comments were given by Jed Holtzman, Rocky Mountain Institute; Mike Kapolnek, Sunnyvale resident; anonymous caller; and Fernando Gaytan, Earthjustice.

Board Comments

The Board and staff discussed whether recent amendments made to Rules 9-4 and 9-6 will help improve National Ambient Air Quality Standards (NAAQS) nonattainment areas in the Bay Area; how deferring to market conditions will this impact the Air District's ability make adjustments to meet NAAQS attainment goals, and concerns regarding the Air District's ability to meet the market response quickly enough; impacts of Bay Area air pollution on other California regions; reasons to both approve the submission of Rules 9-4 and 9-6 into the SIP immediately and wait several years to do so; the EPA's anticipated timeline for approving the SIP; concerns about grid capacity, electrification contractor availability, and retrofit cost burdens for low and middle income households; electrification initiatives and funding programs in the City of Palo Alto; the new \$1 billion U.S. Green Climate Fund, the world's largest climate and environment focused multilateral fund, and how much those funds will be able to assist with Bay Area electrification projects; alternative ways to move forward if the proposed recommendation is not adopted today; why the Air District feels that the ongoing litigation of the City of Berkeley's ban on natural gas infrastructure is not relevant to Rules 9-4 and 9-6; the desire to accelerate the Rules 9-4 and 9-6 Implementation Working Group's (IWG) efforts to subsidize electrification costs for lower income residents, and concerns about how the IWG may

evaluate/measure consumer costs; updates regarding California investor-owned utilities and income-based electricity rates and the reducing of cost burdens; whether the SIP implementation process could be paused, should Regulations 9-4 and 9-6 be incorporated into the SIP, approved by the EPA, and power interruptions occur after SIP implementation begins; the Air District's zero-tolerance policy against harassment, bullying and discrimination, and various Board members' sentiments regarding the bullying of Air District staff by members of the public; the suggestion that the Air District partners with local municipalities to encourage industry to transition to electrification and give industry time to catch up; the suggestion that the Air District partners with Bay Area community choice aggregation agencies to utilize Inflation Reduction Act funds for electrification projects; IWG membership composition; and the suggestion that the Air District works with Association of Bay Area Governments and the Bay Area Regional Energy Network to develop an education program about electrification for the public.

NOTED PRESENT: Director Ross was noted present at 10:13 a.m.

Chair Bauters closed the Public Hearing.

Board Action

Chair Bauters made a motion, seconded by Secretary Hopkins, to **adopt** a resolution authorizing the submission of Rule 9-4 and Rule 9-6 to the US Environmental Protection Agency and the California Air Resources Board for inclusion in the State Implementation Plan to reduce emissions of nitrogen oxides to attain and maintain the National Ambient air Quality Standards promulgated by the EPA, and proposed to be strengthened by the US EPA, to protect public health and the environment; and the motion **carried** by the following vote of the Board:

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

[<Link to signed Board Resolution No. 2023 – 09 is available here>](#)

ACTION ITEM

19. APPROVAL OF AN AMENDMENT TO THE EMPLOYMENT AGREEMENT FOR DISTRICT COUNSEL

Chair Bauters explained that Alexander Crockett has been employed in the position of District Counsel since May 23, 2022. During the June 7, 2023, Closed Session for the District's Board of Directors, the Board provided the one-year employment performance review for District Counsel. The Board considered a proposed amendment to the Employment Agreement for District Counsel increasing the salary by 5%.

Public Comments

No requests received.

Board Comments

None.

Board Action

Chair Bauters made a motion, seconded by Director Gonzalez, to **approve** an amendment to the Employment Agreement for District Counsel, increasing the salary by 5%; the motion **carried** by the following vote of the Board:

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

OTHER BUSINESS

20. PUBLIC COMMENT ON NON-AGENDA MATTERS

Public comments were given by an anonymous caller.

21. BOARD MEMBER COMMENTS

Various Board members welcomed Director Hudson back after his medical absence.

Vice Chair Hurt announced that on June 22, the California Air Resources Board will honor seven recipients of the 2022 Haagen-Smit Clean Air Awards, California's premier award annually recognizing individuals who have made transformative contributions toward improving air quality or addressing climate change.

Director Lee thanked Director Abe-Koga for recently hosting the Cities Association of Santa Clara County's Annual General Membership Dinner, in her capacity as the Association's President, and also thanked Vice Chair Hurt for attending and discussing air quality in the nine Bay Area Counties.

Director Hudson thanked Air District staff for setting up an Air District satellite office location for him. He added that personal attacks during designated public comment periods subsequently take up time which should be used to discuss agenda matters.

Director Mueller reported that fire authorities have been telling him that they have particular concerns about the Air District's prescribed burning requirements.

Director Gallagher thanked Vice Chair Hurt for being the keynote speaker at the Inaugural Napa Climate Summit: MOVING FORWARD FASTER, on May 24, 2023.

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

Dr. Philip M. Fine, Executive Officer/APCO, waived his report.

23. **CHAIRPERSON'S REPORT**

Chair Bauters announced the following:

- The Stationary Source and Climate Impacts Committee will meet on June 21, 2023, following the Board meeting, at 375 Beale Street, San Francisco, California, 94105.
- The Community Equity, Health, and Justice Committee will meet on June 21, 2023, following the Stationary Source and Climate Impacts Committee meeting, at 375 Beale Street, San Francisco, California, 94105.

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

Wednesday, July 5, 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 (10:40 a.m.)

25. **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 had nothing to report.

OPEN SESSION (11:14 a.m.)

26. **ADJOURNMENT**

The meeting was adjourned at 11:15 a.m.

/s/ Marcy Hiratzka
Marcy Hiratzka
Clerk of the Boards