

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 20, 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 9:08 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; Secretary Lynda Hopkins; and Directors Noelia Corzo, David Haubert, Tyrone Jue, and Katie Rice.

Present, In-Person Satellite Location: (Palo Alto City Hall, 250 Hamilton Ave., Palo Alto, California, 94301): Directors Sergio Lopez, Ray Mueller, and Vicki Veenker.

Present, In-Person Satellite Location: (San Ramon City Hall, 7000 Bollinger Canyon Rd, Community Conference Room, 2nd Floor, San Ramon, California, 94583): Director David Hudson.

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: (Office of Contra Costa County Supervisor John Gioia, 11780 San Pablo Ave., Suite D, Conference Room, El Cerrito, California, 94530): Directors John Gioia, Mark Ross, and Steve Young.

Present, In-Person Satellite Location: (Napa County Administration Building, 1195 Third Street, Suite 310, Crystal Conference Room, Napa, California, 94559): Directors Joelle Gallagher and Erin Hannigan.

Absent: Directors Margaret Abe-Koga, Brian Barnacle, Ken Carlson, Juan Gonzalez, Myrna Melgar, Nate Miley, and Shamann Walton.

2. **PLEDGE OF ALLEGIANCE**

3. **SPECIAL ORDERS OF THE DAY**

Chair Bauters welcomed Rochelle Bronson, Assistant Air Quality Specialist in the Air District's Compliance & Enforcement Division; LaKeisha Shurn, Administrative Assistant in the Air District's Community Engagement Division; Steven Lo, Staff Specialist in the Air District's Community Engagement Division; Erica Flahan, Procurement Manager in the Air District's Administrative Resources Division; and Lisa Baker Human Resources Officer.

NOTED PRESENT: Director Lopez was noted present at 9:15 a.m.

CONSENT CALENDAR (ITEMS 4 – 17)

4. Approval of the Draft Minutes of the Board of Directors Meeting of December 6, 2023
5. Board Communications Received from December 6, 2023, through December 19, 2023
6. Personnel Out-of-State Business Travel
7. Quarterly Report of California Air Resources Board Representative - Honorable Davina Hurt
8. Adopt Proposed Board and Committee Meeting Schedule for Calendar Year 2024
9. Authorization to Execute Contract Amendments with West Oakland Environmental Indicators Project, Beth Altshuler Muñoz Consulting, Inc., and RBA Creative, LLC
10. Authorization to Execute a Contract with Cascadia Consulting Group
11. Authorization to Execute a Contract with CPS HR Consulting
12. Authorization to Amend Contract with the Public Health Institute's Regional Asthma Management and Prevention (RAMP) Program to Support the Home Air Filtration Program
13. Authorization to Extend the Term and Increase the Total Contract Limit of the Master Services Agreement with Kearns & West, Inc. for Facilitation Services to Support the Building Appliance Rules Implementation Working Group, Community Engagement Office, and Agency-Wide Public Engagement
14. Authorization of Contract to Amend Lease in San Pablo, CA
15. Report of the Legislative Committee Meeting of November 29, 2023

Potential Legislative Activities for 2024

Action Item: The Board of Directors considered approving recommended Potential Legislative Activities for 2024.

16. Report of the Community Advisory Council Meeting of November 30, 2023
17. Report of the Finance and Administration Committee Meeting of December 6, 2023

The Board of Directors considered the following actions recommended by the Committee:

- A. Appoint Seven Candidates to the Advisory Council – *The Board of Directors considered appointing Stephanie Holm, Phil Martien, Garima Raheja, Gina Solomon, Ann Marie Carlton, Michael Kleinman, and Michael Schmeltz, to the Advisory Council for a two-year term from December 20, 2023 to December 20, 2025.*

- B. Authorize Fiscal Year Ending (FYE) 2024 Mid-Year Budget and Staffing Adjustments – *The Board of Directors considered authorizing the FYE 2024 mid-year budget and staffing adjustments to: 1) Authorize use of Community Air Protection Program grant for six (6) new Full Time Equivalents (FTEs) and seven (7) new Limited-Term Contract Employees (LTCEs) to support AB 617 initiatives; 2) Authorize one (1) new FTE for executive operations and reclassify vacant positions to support organizational operations, and 3) transfer \$100,000 from the Legal Division’s professional services budget to the salaries budget specifically designated to hire one (1) temporary staff attorney.*

Public Comments

No requests received.

Board Comments

None.

Board Action

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

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

PUBLIC HEARING

18. **PUBLIC HEARING TO CONSIDER ADOPTION OF PROPOSED AMENDMENTS TO REGULATION 8: ORGANIC COMPOUNDS, RULE 8: WASTEWATER COLLECTION AND SEPARATION SYSTEMS (RULE 8-8), AND ADOPTION OF A NEGATIVE DECLARATION FOR THE PROPOSED AMENDMENTS TO RULE 8-8 PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Poornima Dixit, Senior Air Quality Engineer, gave the staff presentation *Proposed Amendments to Regulation 8: Organic Compounds, Rule 8: Wastewater Collection and Separation Systems*, including: outcome; requested action; outline; background; simplified wastewater treatment system; emissions from wastewater collection and treatment systems; purpose of proposed amendments; rule development process; proposed amendments; emissions reductions; compliance costs; cost effectiveness and incremental cost effectiveness; socioeconomic impact analysis; California Environmental Quality Act (CEQA) impact analysis; statutory findings; Air District impact; comments received; and resolution and recommendation.

NOTED PRESENT: Director Hannigan was noted present at 9:25 a.m.

Chair Bauters opened the public hearing.

Public Comments

Public comments were given by Matt Diaz, Chevron; Bob Brown, Western States Petroleum Association; Dr. Stephen Rosenblum, Palo Alto resident; Todd Osterberg, Chevron; Jan Warren, Interfaith Climate Action Network of Contra Costa County; and Jennifer Ahlskog, Philipps 66.

Board Comments

The Board and staff discussed whether comments received were solely from petroleum refineries or other industrial businesses as well; the anticipated implementation timeline; concerns about the prevention of the recycling of hydrocarbons; the manner in which wastewater collection and separation systems are related to air pollution (overlapping regulatory authorities), whether the Air District has engaged with any water agencies about this regulation, and the request for written correspondence with a water agency for the Board's review; the number of estimated non-refinery facilities that this proposed amendment may affect, and whether cost effectiveness for non-refinery facilities has been evaluated; the anticipated timeline for gathering data on methane emissions related to this process, and appreciation for the focus on methane emissions; the request that the next time this regulation is to be amended, language clearly states that Publicly Owned Treatment Works will not be affected; whether emissions reductions can be measured in the cost analysis process; whether there is evidence to suggest there are a lot of emissions from equipment leaks in petroleum refineries; how much it will cost affected facilities to implement the required changes, per the proposed amendments; the level of engagement with affected facilities ahead of time; whether the Air District can determine the effectiveness of Best Available Retrofit Control Technology (BARCT) controls; whether the Air District quantify that this regulation would result in greater emission reductions than a water regulation, and whether this proposed regulation amendment improves upon an existing water regulation; whether the recent flaring incidents at the Chevron and Martinez Refining Company (MRC) are related to this item; and the history of the Board's adoption of an Expedited BARCT Implementation Schedule, mandated by Assembly Bill 617, for industrial Cap-and-Trade facilities that did not currently have Best Available Retrofit Control Technology in place.

Chair Bauters closed the public hearing.

Board Action

Chair Bauters made a motion, seconded by Director Gioia, to **adopt** proposed amendments to Regulation 8: Organic Compounds, Rule 8: Wastewater Collection and Separation Systems (Rule 8-8), and **adopt** of a Negative Declaration for the proposed amendments to Rule 8-8 pursuant to the California Environmental Quality Act; and the motion **carried** by the following vote of the Board:

AYES: Bauters, Corzo, Gallagher, Gioia, Hannigan, Hopkins, Hurt, Jue, Lee, Lopez, Mueller, Rice, Ross, Veenker, Young.
NOES: Hudson.
ABSTAIN: Haubert.
ABSENT: Abe-Koga, Barnacle, Carlson, Gonzalez, Melgar, Miley, Walton.

[Click here to view Board Resolution No. 2023-25](#)

OTHER BUSINESS

19. PUBLIC COMMENT ON NON-AGENDA MATERS

No requests received.

20. BOARD MEMBER COMMENTS

None.

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

Dr. Philip M. Fine, Executive Officer/APCO, reported on the multiple incidents and resulting Notices of Violation at the Chevron and MRC sites in November and December of 2023.

Board Comments

Director Gioia reported that the Contra Costa County Board of Supervisors ordered a safety culture assessment (third party review) of MRC. Director Ross noted the frequency of recent incidents at MRC and encouraged the Air District to use their leverage to have MRC operate in a safer manner. Director Young reported that the Benecia City Council, on December 19, 2023, discussed the options for graduating from the current Benecia – Valero Cooperation Agreement into an improved form of industrial oversight.

Dr. Fine also thanked Vice Chair Hurt and Director Veenker for attending legislative meetings with Air District staff on Capitol Hill in Washington DC in December of 2023. Vice Chair Hurt thanked Kadesh and Associates for arranging and facilitating the meetings, and Director Veenker said that the Air District's activities were well received by the delegation and that she has hopes of future collaboration with federal agencies.

22. CHAIRPERSON'S REPORT

Chair Bauters announced the following:

- Vice Chair Hurt was reappointed by the San Mateo County City Selection Committee to the Air District's Board for another term, from 1/1/24 to 12/31/25
- Director Melgar resigned from the Air District's Board, effective January 1, 2024
- Vanessa Johnson will send email to the Board members, requesting committee assignment preferences. Responses are due to her by January 5, 2024
- The Board's Finance and Administration Committee will meet following the Board meeting (on December 20, 2023), no earlier than 1:00 p.m.

Vice Chair Hurt announced that this is Chair Bauters' final mtg chairing this Board. Board members acknowledged his leadership for the past year and a half.

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

January 31, 2024, at 10:00 a.m. at The Southeast Community Center, 1550 Evans Ave., Alex Pitcher Pavilion & Amphitheater, San Francisco, CA 94124. The meeting will be in-person for the Board of Directors members and members of the public will be able to either join in-person or via webcast.

CLOSED SESSION (10:55 a.m.)

24. **CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION (GOVERNMENT CODE SECTION 54956.9(a))**

Pursuant to Government Code Section 54956.9(a), the Board met 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.

REPORTABLE ACTION: Alexander Crockett, District Counsel, had nothing to report.

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

Pursuant to Government Code Section 54956.9(a) and (d)(2), the Board met in Closed Session with legal counsel to discuss significant exposure to litigation, based on facts and circumstances not known to a potential plaintiff or plaintiffs: One case

REPORTABLE ACTION: Mr. Crockett had nothing to report.

OPEN SESSION (12:08 p.m.)

26. **CONSIDERATION OF REMOVAL OF COMMUNITY ADVISORY COUNCIL MEMBER CHARLES REED**

Mr. Crockett explained that the Board received information regarding a complaint filed by a member of the Air District's Community Advisory Council (CAC), claiming that CAC member, Mr. Charles Reed, made multiple unwelcome communications of a sexual nature, directed at the Complainant. Consistent with Air District procedure, the Air District retained an independent, outside investigator to initiate an investigation of the allegations. Based on the investigation, it was found that Mr. Reed did engage in multiple unwelcome communications of a sexual nature, both in writing, and orally. Mr. Crockett said that the Air District is committed to maintain a workplace that is free from this type of behavior, and that, pursuant to the CAC's governing structure, adopted by the Board on July 5, 2023, the Board has the authority to remove any CAC member by Board majority vote. Mr. Crockett added that the full details of this investigation are to be kept confidential, to protect the privacy of the Complainant.

Public Comments

Public comments were given by Ken Szutu, CAC; Charles Reed; Dani Jermany; Dr. Jeff Ritterman, CAC; Aiyahna Johnson, East Oakland Community Emissions Reduction Plan Community Steering Committee; and Shirley Reed.

Board Comments

Bauters explained that the Complainant was given the option to voluntarily engage in mediation, and they declined.

Board Action

Chair Bauters made a motion, seconded by Secretary Hopkins, to **remove** Mr. Charles Reed from the Air District's Community Advisory Council, effective immediately; and the motion **carried** by the following vote of the Board:

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

27. **ADJOURNMENT**

The meeting was adjourned at 12:34 p.m.

/s/ Marcy Hiratzka
Marcy Hiratzka
Clerk of the Boards