

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 1, 2024

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, Davina Hurt, called the meeting to order at 10:08 a.m.

Roll Call:

Present, In-Person (Bay Area Metro Center, 375 Beale Street, 1st Floor Board Room, San Francisco, California, 94105): Chairperson Davina Hurt; and Directors Ken Carlson, John Gioia, Tyrone Jue, Sergio Lopez, Katie Rice, Mark Salinas.

Present, In-Person Satellite Location: (Palo Alto City Hall, 250 Hamilton Ave., Community Meeting Room, Palo Alto, California, 94301): Directors Margaret Abe-Koga, Noelia Corzo, Ray Mueller, and Vicki Veenker.

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 Nate Miley and Mark Ross.

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

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

Present, In-Person Satellite Location: (Office of Alameda County Supervisor David Haubert, 4501 Pleasanton Ave., Pleasanton, California, 94566): Director David Haubert.

Absent: Vice Chairperson Lynda Hopkins; Directors Juan González III, Erin Hannigan, David Hudson, Otto Lee, Shamann Walton, and Steve Young.

2. **PLEDGE OF ALLEGIANCE**

3. **SPECIAL ORDERS OF THE DAY**

Chair Hurt welcomed the following new employees: Brian Do and David Taobra, both in the role of Air Quality Specialist I in Compliance & Enforcement. Chair Hurt also announced that Tim Williams was promoted to the role of Director of Diversity, Equity, and Inclusion.

NOTED PRESENT: Director Mueller was noted present at 10:18 a.m.

CONSENT CALENDAR (ITEMS 4 – 14)

4. Approval of the Draft Minutes of the Board of Directors Meeting of April 3, 2024
5. Board Communications Received from April 3, 2024 through April 30, 2024
6. Notices of Violations Issued and Settlements in Excess of \$10,000 in the Month of March 2024
7. Transportation Fund for Clean Air 40% Fund Expenditure Plan for Fiscal Year Ending 2025
8. Selection of Vehicle Buy Back Program Contractors
9. Acceptance of Federal Highway Administration Funding
[Click here to view Board Resolution No. 2024-03](#)
10. Authorization to Purchase Equipment from Sonoma Technology, Incorporated
11. Authorization to Execute a Contract Amendment with Kearns & West, Inc.
12. Adoption of a Revised Reserves Policy
13. Report of the Finance and Administration Committee Meeting of April 17, 2024
14. Report of the Community Equity, Health, and Justice Committee Special Meeting of April 22, 2024

Public Comments

No requests received.

Board Comments

Regarding Item 9 (Acceptance of Federal Highway Administration Funding), Director Rice expressed her concern regarding the degree to which agencies higher than air districts regulate public electric vehicle charging infrastructure that are financed with public monies. She said that in the future, she would like to understand what the Air District requires for the grant programs it administers, regarding long-term reliability and performance standards, and whether state and federal agencies are in alignment with the Air District's practices.

Board Action

Director Rice made a motion, seconded by Director Carlson, to **approve** Consent Calendar Items 4 – 14, inclusive; and the motion **carried** by the following vote of the Board:

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

PUBLIC HEARING

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

The Board of Directors 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, 2024. for public review and comment. Final action will be taken at the conclusion of the second public hearing, scheduled for June 5, 2024.

Fred Tanaka, Engineering Manager, gave the staff presentation *Amendments to Regulation 3, Fees*, including: outcome; outline; requested action; cost recovery background (variables); cost recovery background: fee-recoverable work, limitations of cost recovery, sample of fee schedule trends, historical strategies; proposed amendments: cost recovery, schedules not being increased, obsolete sections, clarifying language, alignment of risk assessment fees, and cost recovery impact; impact of proposed amendments: petroleum refineries and small business; small business considerations; air district comparisons: renewal fees for petroleum refineries, small refineries, medium facilities; budget and rule development schedule; summary of public comments; and feedback requested.

NOTED PRESENT: Director Miley was noted present at 10:30 a.m.

Chair Hurt opened the public hearing.

Public Comments

Public comments were given by Bob Brown, Western States Petroleum Association; and Allegra Curiel, California Council for Environmental and Economic Balance.

Board Comments

The Board and staff discussed public comments regarding a perceived lack of communication about fee workshops and hearings, and the desire for enhanced outreach to stakeholders; Schedule B: Combustion of Fuels (permitted boilers, engines, heaters); whether rule development, an activity that is covered by Regulation 3, is an ongoing activity (versus a one-time cost); the manner in which rule development costs are incorporated into the Air District’s cost recovery policy; projected cost recovery levels over the next several fiscal years, and the contributing factors to historical fee increases; comparison of the fees of the South Coast and Bay Area Air Quality Management Districts; Jue; whether small permitted facilities are taking advantage of fee discounts, and the suggestion of shifting their focus towards a green business model instead of being discounted; concern regarding the perception that the Air District is subsidizing polluters, but should be trying to reach 100% cost

recovery; and the desire that small businesses, whose concerns may not always be communicated, would not be subjected to fee increases.

Chair Hurt closed the public hearing.

Board Action

None; receive and file.

ACTION ITEMS

16. COMMUNITY EMISSIONS REDUCTION PLAN FOR THE RICHMOND, NORTH RICHMOND, SAN PABLO PATH TO CLEAN AIR (PTCA) AREA

Diana Ruiz, Community Engagement Manager, and Dr. Wendy Goodfriend, Planning and Climate Protection Division Director, gave the staff presentation *Path to Clean Air Richmond-North Richmond-San Pablo Community Emissions Reduction Plan*, including: outcome; outline; requested action; overview of the Path to Clean Air; Community Steering Committee (CSC); PTCA Plan goals; turning problems into solutions; fuel refining solutions; fuel refining proposed rules and rule-related actions; mobile source solutions; commercial and industrial solutions; marine and rail solutions; public health solutions; other proposed rules and rule-related actions; PTCA Plan public review; CSC approval and (Board) Community Equity, Health, and Justice Committee recommendation; implementation and reporting; compliance with California Environmental Quality Act; and recommended actions.

Public Comments

Public comments were given by CSC members Nancy Peace, Dr. Omoniyi Omotoso, and Marisol Cantú.

Board Comments

The Board and staff discussed appreciation of the CSC and Air District staff for their years of work on the Plan, which is considered groundbreaking and a model to other communities.

Board Action

Director Gioia made a motion, seconded by Director Carlson, to **adopt** the proposed Path to Clean Air Richmond-North Richmond-San Pablo Community Emissions Reduction Plan, and approve the determination that adoption of the Plan is exempt from the California Environmental Quality Act (CEQA); and the motion **carried** by the following vote of the Board:

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

17. FUNDING COMMUNITY BENEFITS FROM PENALTY FUNDS

Greg Nudd, Deputy Executive Officer, Science and Policy, gave the staff presentation *Funding Community Benefits from Penalty Funds*, including: outcomes; outline; about penalties; proposed policy; community benefit project examples; penalty allocation proposal; mitigating budget risk; Community Advisory Council recommendations; Richmond-North Richmond-San Pablo PTCA CSC recommendations; partial results for Fiscal Year Ending 2024; and recommendation.

Public Comments

Public comments were given by Nancy Peace, Point Richmond resident.

Board Comments

The Board and staff discussed whether the community benefits could be retroactive from January 2023 instead of from the beginning of this fiscal year; the anticipated process to collaborate with community groups to ensure that they are heard throughout the programming of funds; whether the proposed penalty allocation structure would apply to each individual penalty; projected costs of Compliance and Enforcement and Legal staff that will be working on this program; whether issued Notices of Violation have any impacts on penalties; whether a baseline is needed to protect the Air District's budget; details regarding the local benefit fund for the Pleasanton area, and which entity determines the way in which penalty money will be used in Pleasanton; whether a similar fund or policy may be created for communities that are highly impacted by mobile sources; whether the policy could allocate 70% for local and 30% for regional community benefits, instead of the suggested 80/20% or 90/10%; and whether the \$20 M Chevron penalty from February 2024 is an anomaly or an average penalty amount.

Board Action

Director Gioia made a motion, seconded by Director Lopez, to **adopt** the policy to allocate penalty money to community benefits as described in the attached policy document entitled "Funding Community Benefits from Penalty Funds", including the requirement to report back to the Board on the effectiveness of the policy; the motion **carried** by the following vote of the Board:

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

18. STATE LEGISLATIVE BILLS UPDATE

Alan Abbs, Legislative Officer, and Rowena Brown, District Director for Assemblymember Bonta, gave the presentation *State Legislative Bills Update*, including: outcome; outline; requested action; Assembly Bill (AB) 2852 (Bonta); and requested action.

Public Comments

No requests received.

Board Comments

None.

Board Action

Director Carlson made a motion, seconded by Director Jue, to **adopt** the position of SUPPORT for Assembly Bill 2851 (Bonta) – Metal shredding facilities: fenceline air quality monitoring; the motion **carried** by the following vote of the Board:

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

OTHER BUSINESS

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

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

20. **BOARD MEMBER COMMENTS**

None.

21. **REPORT OF THE EXECUTIVE OFFICER / AIR POLLUTION CONTROL OFFICER**

Dr. Philip M. Fine, Executive Officer/APCO, announced the following:

- May 1, 2024 is the start of the Spare the Air summer smog season. The largest source of smog pollution and greenhouse gas emissions in the Bay Area are the millions of cars on our roadways every day. The Spare the Air campaign encourages Bay Area residents to drive less and look for ways to share, shorten or change their commutes to help reduce smog, traffic and gridlock in the region. As seasonally warmer temperatures begin, the risk of calling Spare the Air Alerts for unhealthy air quality becomes greater.
- Arsenio Mataka will be the new Deputy Executive Officer of Equity and Community Programs, effective June 10, 2024.
- At the April 3, 2024 Board meeting, at the conclusion of Closed Session, one of the noticed remote locations did not reappear back on Zoom to hear the Closed Session report. Alexander Crockett, General Counsel, repeated the Closed Session report from April 3, 2024, for the record.

22. **CHAIRPERSON'S REPORT**

Chair Hurt made the following announcements:

- On March 13, 2024, the Alameda County Mayors' Conference, appointed City of Hayward Mayor, Mark Salinas, to serve on the Air District's Board of Directors for a term of two years, beginning on April 13, 2024.
- One of the Air District's new initiatives will be Office Hours of the Board of Directors Chairperson, in an effort to improve communication between the Chair and Air District constituents, businesses, and elected officials regarding air quality issues. The Chair will travel to the jurisdiction of the parties that wish to take engage, and Board members are encouraged to participate in these meetings, as they occur in their home jurisdictions.
- The Board of Directors as the Sole Member of the Bay Area Clean Air Foundation Meeting will be held at 9:45 a.m. on June 5. No remote locations will be permitted on that day, due to adoption of fees and Fiscal Year 2024-2025 Proposed Budget.
- Andrea Vidaurre, Co-Founder and Senior Policy Analyst at the San Bernardino-based People's Collective for Environmental Justice, is the North American recipient of the Goldman Environmental Foundation's 2024 Goldman Environmental Prize, given to one person from each inhabited continent.

23. TIME AND PLACE OF NEXT MEETING

Wednesday, June 5, 2024, at 10:00 a.m. at 375 Beale Street, San Francisco, CA 94105. 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. Chair Hurt added that there will be no remote locations permitted on that day, due to adoption of fees and Fiscal Year 2024-2025 Proposed Budget.

24. ADJOURNMENT

The meeting was adjourned at 12:50 p.m.

/s/ Marcy Hiratzka
Marcy Hiratzka
Clerk of the Boards