

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 4, 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](http://www.baaqmd.gov/bodagendas)*

### **CALL TO ORDER**

1. **Opening Comments:** Board of Directors (Board) Chairperson, Davina Hurt, called the meeting to order at 10:06 a.m.

#### **Roll Call:**

Present, In-Person (Bay Area Metro Center, 375 Beale Street, 1<sup>st</sup> Floor Board Room, San Francisco, CA, 94105): Chairperson Davina Hurt; Vice Chair Hopkins; and Directors Margaret Abe-Koga, Ken Carlson, Noelia Corzo, Joelle Gallagher, John Gioia, Juan González III, David Haubert, Tyrone Jue, Sergio Lopez, Katie Rice, Mark Ross, Mark Salinas, Vicki Veenker, Shamann Walton, and Steve Young.

Present, In-Person (County of Santa Clara Office of Supervisor Lee, 70 W. Hedding St., East Wing, 10<sup>th</sup> Floor, San Jose, CA 95110): Director Otto Lee.

Present, In-Person (Office of Contra Costa County Supervisor John Gioia, Conference Room, 11780 San Pablo Ave., Suite D, El Cerrito, CA 94530): Director Erin Hannigan.

Present, In-Person (San Mateo County Board of Supervisors Offices, 500 County Center - 5<sup>th</sup> Floor, Redwood City, CA 94063): Director Ray Mueller.

Absent: Directors Brian Barnacle, Gabe Quinto and Nate Miley.

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

Chair Hurt welcomed the following new employees: Wilmer Chiu, Staff Specialist II, in the Administrative Services Division; Rute Bailey, Assistant Staff Specialist I in the Strategic

Incentives Division; Matthew Green, Air Quality Engineer I in the Engineering Division; and Kishore Madhipatla, Air Quality Specialist I in the Meteorology & Measurement Division.

Chair Hurt also congratulated Carol Allen, Manager in the Risk Assessment and Reduction Section in Engineering, who will be retiring after 34 years at the Air District; and Dr. Judith Cutino, Health Officer, will be retiring after 37 years of service at the Air District.

NOTED PRESENT: Director Walton was noted present at 10:11 a.m.

#### 4. **RECOGNITION OF OUTGOING BOARD MEMBERS**

- A. Recognition of Director, Katie Rice
- B. Recognition of Director, Mark Ross
- C. Recognition of Director, Erin Hannigan
- D. Recognition of Director, Nate Miley

Chair Hurt read the proclamations for each of the outgoing Board Members and noted their 60 years of combined service and contributions. Each outgoing member was given an opportunity to speak.

#### Public Comments

None.

#### Board Comments

Various Board members expressed their gratitude to the outgoing members for their leadership.

#### Board Action

No action taken.

#### **CONSENT CALENDAR (ITEMS 5 – 20)**

- 5. Approval of the Draft Minutes of the Board of Directors Meeting of November 6, 2024
- 6. Board Communications Received from November 6, 2024 through December 3, 2024
- 7. Proposed Board and Committee Meeting Schedule for Calendar Year 2025  
[Click here to view approved Board Resolution No. 2024-12](#)
- 8. Publication of 2025 Regulatory Agenda
- 9. Notices of Violations Issued and Settlements in Excess of \$10,000 in the Month of October 2024

10. Authorization to Amend the Master Services Agreement with the Bayview Hunters Point Community Advocates for the Bayview Hunters Point/Southeast San Francisco Community Emissions Reduction Plan
11. Authorization to Amend the Professional Services Contract with the Marie Harrison Community Foundation for the Marie Harrison Environmental Justice Scholarship
12. Grant Awards for Projects Over \$500,000 for Electric Charging Stations for Medium- and Heavy-Duty Vehicles and Equipment
13. Authorization to Amend the Professional Services Agreement with Robert Half, Inc. for Temporary Staffing
14. Establishment of a New Classification of Civil Rights Officer
15. Authorization to Execute a Contract with Atkinson, Andelson, Loya, Ruud & Romo for HR-Related Outside Counsel Legal Services
16. Report of the Advisory Council Meeting of October 30, 2024
17. Report of the Finance and Administration Committee Special Meeting of November 6, 2024
18. Report of the Stationary Source Committee Meeting of November 13, 2024
19. Report of the Community Equity, Health, and Justice Committee Meeting of November 13, 2024
20. Report of the Community Advisory Council Meeting of November 21, 2024

Public Comments

No requests received.

Board Comments

None.

Board Action

Director González made a motion, seconded by Director Carlson, to **approve** Consent Calendar Items 5-20, inclusive; and the motion **carried** by the following vote of the Board:

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

**ACTION ITEMS**

**21. ELECTION OF NEW VICE-CHAIRPERSON OF THE BOARD OF DIRECTORS**

In accordance with the Air District's Administrative Code, the Nominating Committee considered nominations for the Board of Directors Officer position of Vice Chairperson (to replace Vice-Chairperson Hopkins when she accedes to Chairperson upon the departure

of outgoing Chairperson Hurt.) Chair Hurt summarized recommendation of the Nominating Committee that was voted on prior to the Board meeting (earlier that morning).

Public Comments

No requests received.

Board Comments

The Board and staff discussed contributing factors considered when selecting a new Board officer, including qualities, skillset, experience and background; the total number of candidates considered by the Nominating Committee; and appreciation for the Nominating Committee's thoughtful discussion and consideration.

Board Action

Director Gonzalez made a motion, seconded by Vice Chair Hopkins, to **appoint** Director Vicki Veenker as Board Vice-Chairperson to replace Vice Chairperson Hopkins when Vice Chairperson accedes to Chairperson upon the departure of outgoing Chairperson Hurt; and the motion **carried** by the following vote of the Committee:

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

22. **FISCAL YEAR ENDING (FYE) 2025 MID-YEAR STAFFING AND BUDGET ADJUSTMENT**

*Note: The Finance & Administration Committee recommended approval of this item at its Special Meeting on November 6, 2024. Since the meeting, Air District staff have made minor updates to the item that will be discussed with the Board.*

Arsenio Mataka, Deputy Executive Officer of Equity and Community Programs, Greg Nudd, Deputy Executive Officer of Science and Policy, and Hyacinth Hinojosa, Deputy Executive Officer of Finance and Administration, gave the staff presentation *Authorization of Fiscal Year Ending (FYE) 2025 Mid-Year Budget and Staffing Adjustments*, including: requested motion; background; Equity and Community Programs: organizational restructure; Community Investments Office – staffing request and fund amounts; Strategic Incentives Division – staffing request; Meteorology & Measurement Division – staffing request; Refinery Community Monitoring; Community Air Monitoring Program; new funding and staffing cost considerations; add and delete positions; and recommendation for motion.

## Public Comments

Public comments were given by Sue Bock; LaDonna Williams, All Positives Possible; Kathy Kerridge, Benecia Community Air Monitoring Program.

## Board Comments

The Board and staff discussed whether the proposed mid-year staffing adjustment costs are fully burdened; the anticipated recruitment timeline for the requested positions, and whether these requested positions are ongoing ; the creation and anticipated utilization of 'Schedule X' and whether it was discussed with the Air District's Community Advisory Council (CAC); the difference between Limited-Term Contract Employees (LTCE) positions and Full Time Equivalent (FTE) positions; when the Board will be asked to consider increasing staff within the Rules and Strategic Policy Division; and the way in which penalty funds will be administered as community reinvestment initiatives and distributed to projects in impacted communities, anticipated challenges, and the anticipated timeline/start date.

## Board Action

Director Gonzalez made a motion, seconded by Director Young, to **authorize** the following:

1. The use of up to 9% of the Community Benefit Funds for administrative costs to support the creation of the new Community Investment Office to implement the penalty policy and direct funds to impacted communities.
2. The use of Schedule X designated reserves to support an enhanced Community Monitoring Program in refinery communities.
3. The addition of three new Full-Time Equivalents and three new Limited-Term Contract Employees for the Community Investments Office; three new FTEs for Meteorology and Measurement; and three new FTEs for Strategic Incentives, all funded by new revenue sources.
4. Reclassification of vacant positions and transfers to support organizational operations.

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

AYES: Abe-Koga, Carlson, Corzo, Gallagher, Gioia, González, Hannigan, Haubert, Hopkins, Hurt, Jue, Lee, Lopez, Mueller, Rice, Ross, Salinas, Veenker, Walton, Young.

NOES: None.

ABSTAIN: None.

ABSENT: Barnacle, Quinto, Miley.

## **INFORMATIONAL ITEMS**

### **23. STAFF UPDATE: RULE 9-6, ZERO NITROGEN OXIDES (NO<sub>x</sub>) RESIDENTIAL WATER HEATERS (OUT OF ORDER ITEM, ITEM 25)**

Amy Dao, Senior Environmental Planner, and Jennifer Lam, Assistant Rules and Strategic Policy Manager, gave the staff presentation *Staff Update: Rule 9-6, Zero NO<sub>x</sub> Residential Water Heaters*, including: outline; why are building appliance important; residential appliance emissions; significant public health benefits from zero NO<sub>x</sub> amendments to Rules 9-4 and 9-6; Rules 9-4 and 9-6 overview; purpose and scope of informational update; Implementation Working Group (IWG); additional engagement 2023 – 2024; topic overview; grid and reliability; market readiness: public drivers, wait times, and sales trends; workforce: benchmarking and surveys; permitting: local building permits; costs: billing impacts; average costs: upfront purchase and installation; challenging installations: cost of edge cases, space constraints, panel upsizing and emerging solutions; emerging solutions: emergency replacements; potential housing impacts: lived experience interviews with Bay Area renters; key finding: cities with the strongest protections have the highest percentage of renters; potential housing impacts: emerging solutions; current implementation readiness; equity concerns: costs and potential housing impacts; and next steps: communications and outreach, and rule development.

#### **Public Comments**

Public comments were given by Dr. Bret Andrews, San Francisco Bay Physicians for Social Responsibility; Fernando Gaytan, Earthjustice; Dr. Mary Williams, San Francisco Bay Physicians for Social Responsibility; Jacob Klein, Sierra Club; Dr. Margaret Chen, San Francisco Bay Physicians for Social Responsibility; Lisa Jackson, 350 Contra Costa Action; Dr. Wendy Bernstein, Wellness Equity Alliance; Malen D.; Jen B.; Marti Roach, 350 Contra Costa Action; Joel McKinnon, Citizens Climate Lobby; Francisco Enriquez; Bill Deacon; Jan Warren, Walnut Creek resident; Nerissa de Jusus, 350 Contra Costa Action; Brian Schmidt, Menlo Spark; Michelle Pierce; Tom Graly, Berkeley Electrification Working Group; Sven T.; Melissa Yu, Sierra Club; Angela Evans, Menlo Spark; Leah Catanzarite, RMI (Rocky Mountain Institute); Sam Fishman, San Francisco Bay Area Planning and Urban Research Association (SPUR); Rachel Golden, RMI; John McKenna, 350 Bay Area; Tony Sirna, Evergreen Action; Tim Frank, Construction Trades Workforce Initiative; Lauren Weston, Acterra; Eric Morrill, San Francisco resident; Nicolas Riani, 350 Bay Area; Joni Eisen, San Francisco Climate Emergency Coalition; Paul Wermer, San Francisco Climate Emergency Coalition; Olga Andrews, San Francisco resident; Bruce Hodge, Carbon Free Palo Alto; Michael Arnold, Citizens Climate Lobby; Robert P., Sierra Club; Dashiell Leeds, Sierra Club; Kristel Riestesel, Bay Area Clean Air Coalition; Elaine Lee, Climate Reality Project; Vice Mayor Betsy Nash, Menlo Park City Council; Michael Corbett, Bradford White Corporation; Fiona Hines, California Public Interest Research Group (CALPIRG); David Moller, Marin/Sonoma Building Electrification Squad; Shreyas Sudhakar; Leslie Austin, Community Choice Aggregation Workforce and Environmental Justice Standards Alliance; David Pederson; City Councilmember Jennifer Wise, Menlo Park City Council; Eric Sweet, emeraldECO; Diane Sweet, emeraldECO; Dr. Ann Harvey, Contra Costa Health Services; Dr. Stephen Rosenblum, Climate Acton California; Linh Dan Do, Menlo Park

resident; Andrea Gara, 350 Palo Alto; Fred Bialy, Climate Reality Bay Area; Kristel Wickham; Mars Keith, Sierra Club; Tom Kabat, Menlo Park resident; Jared Johnson, Empower Green Voices Consulting; Susan Green, San Francisco Climate Emergency Coalition; Rebecca Franke; Erik Pearson, City of Hayward Environmental Services; Robert Mayo, Mountain View resident; Arun Sharma, CALPIRG; Jed Holtzman, RMI; Karina Takemoto, Tenderloin Neighborhood Development Corporation; Andy McNamara, Carbon Zero Buildings; Brenna Shafizadeh; Alero Moju, County of San Mateo County Sustainability Department; Alex Lantsberg, San Francisco Electrical Construction Industry; Mani Bekele, Silicon Valley Youth Climate Action; Jayden Wan, Silicon Valley Youth Climate Action; Lucinda Young, Albany Climate Action Group; Daphne Zhu, Silicon Valley Youth Climate Action; Debbie Mytels, Palo Alto resident; Lou Flores, 350 Contra Costa Action; and Mary Dateo, Mountain View resident.

### Board Comments

The Board and staff discussed water heater ventilation measures that may require additional construction costs; potential risks to 2022 Inflation Reduction Act (IRA) funding, given the incoming Presidential administration; existing long-term funding sources and model permitting ordinances and programs that could help jurisdictions, contractors, and residents (particularly low to moderate income property owners and renters) navigate the electrification process; whether energy bills are anticipated to increase or decrease, once appliances begin to transition in 2027, and modeling conducted for varying rate cases and hypothetical customers to show how energy bills may change over time; whether the Air District anticipates federal pushback on the legal validity of Rules 9-4 and 9-6; the projection of approximately 120,000 Bay Area small water heater annual replacements, with a substantial number of those being in lower-income households; whether rebates will be limited to low-income households only; concern for grid reliability issues, especially for older homes; whether the Air District has taken into consideration apartment sizes, regarding the size of existing water heaters; how 'loaner' replacement programs work; whether the cost of families having to relocate, due to construction, would be subsidized, and whether that would require rental ordinance changes; the level of engagement of Pacific Gas & Electric (PG&E) and the California Public Utilities Commission; whether the Air District plans to monitor and prevent retailers from selling appliances that would not comply with Rules 9-4 and 9-6; whether it would be possible for residents with cost burdens to opt out of complying with Rules 9-4 and 9-6; whether emerging technologies/solutions and market expansions will be ready by January 1, 2027 to help accommodate the transition; whether the Air District has conducted outreach to rental/property owners; concern about the misconceptions about Rules 9-4 and 9-6, and the need to increase the amount of engagement and education for public awareness; whether the Air District has conducted an economic sensitivity analysis; concern about lack of space/venting capacity needed to accommodate new appliances, and whether a standard electric is a suitable substitute; the average size of existing water tanks for a typical single family home, and whether multi-family dwellings are expected to comply as well; when/if the California Air Resources Board plans to implement a similar rule; whether there seems to be any bias on more expensive projects, which might be excluded from data; growing understanding of challenging 'edge cases' in the Bay Area, while also acknowledging that the exact extent and parameters for predicting all edge cases and

resulting additional costs or timelines are unknown, and whether edge cases exacerbate the delta between the current cost and going Zero NOx; ways in which local jurisdictions, especially and Sonoma and Solano Counties, which are each located within two air districts, can support enforcement of Rules 9-4 and 9-6; the suggestion for conducting a fiscal analysis to determine how long it would take to recoup costs for increased payments; the invitation to tour the Advanced Energy Center (run by Sonoma Clean Power in Santa Rosa), an interactive education experience that brings clean, energy-saving solutions and options directly to customers; and ways in which the Air District can educate increase public awareness on future health costs (more than equipment costs) that may not be known.

*At this time, due to the late hour, the Board paused Item 25, to begin Closed Session (Items 23 and 24).*

**CLOSED SESSION** (3:05 p.m.)

24. **CONFERENCE WITH LEGAL COUNSEL RE EXISTING LITIGATION (GOVERNMENT CODE SECTIONS 54956.9(a) AND (d)(1)) (ITEM 23)**

Pursuant to Government Code Sections 54956.9(a) and (d)(1), the Board of Directors met in Closed Session with Legal Counsel to discuss the following cases:

State of California et al. v. United States Postal Service et al., Northern District of California Case No. 3:22-cv-02583-RFL;

The Athletics Investment Group, LLC v. Bay Area Air Quality Management District et al., Alameda County Superior Court Case No. 22CV010930;

Stephen (Rex) Sanders v. Bay Area Air Quality Management District, Northern District of California Case No. 23-cv-04416-RFL;

Terri Levels v. Bay Area Air Quality Management District, Northern District of California Case No. 23-cv-04432-RFL;

Lewis Letang v. Bay Area Air Quality Management District, Northern District of California Case No. 24-cv-01316-RFL; Rochele Henderson v. Bay Area Air Quality Management District, Northern District of California Case No. 24-cv-01460-RFL;

Veronica Eady v. Bay Area Air Quality Management District, Northern District of California Case No. 24-cv-07000-RFL; and

Vanessa Johnson v. Bay Area Air Quality Management District, Northern District of California Case No. 24-cv-06276-RFL.

**Reportable Action:** Alexander Crockett, General Counsel, announced that there was nothing to report.



25. **CONFERENCE WITH LEGAL COUNSEL RE ANTICIPATED LITIGATION (GOVERNMENT CODE SECTIONS 54956.9(a) AND (d)(2)) (ITEM 24)**

Pursuant to Government Code Sections 54956.9(a) and (d)(2), the Board of Directors met in Closed Session with Legal Counsel to discuss significant exposure to litigation: Three cases.

**Reportable Action:** Mr. Crockett announced that there was nothing to report.

**OPEN SESSION** (3:16 p.m.)

*Upon returning to Open Session, Chair Hurt announced that quorum was lost, and the Board meeting was required to adjourn, per the Air District's Administrative Code. The Board had planned to resume its discussion of Item 25 (Staff Update: Rule 9-6, Zero Nitrogen Oxides (No<sub>x</sub>) Residential Water Heaters), but as the meeting was forced to adjourn, it was announced that the staff update on Rule 9-6, Zero Nitrogen Oxides (No<sub>x</sub>) Residential Water Heaters, would be continued to a Special Board Meeting at a future date in December 2024. **Note that public comment had closed for this item at the adjournment of the December 4, 2024 Board of Directors meeting, and the continuation of this item will not include a second public comment opportunity, but the Board's discussion of the item only.***

26. **ELECTION AND FEDERAL POLICY IMPACTS**

The Board was unable to hear this item due to a loss of quorum and adjournment of the December 4, 2024 meeting.

**OTHER BUSINESS**

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

The Board was unable to hear this item due to a loss of quorum and adjournment of the December 4, 2024 meeting.

28. **BOARD MEMBER COMMENTS**

The Board was unable to conduct this item due to a loss of quorum and adjournment of the December 4, 2024 meeting.

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

The Board was unable to hear this item due to a loss of quorum and end of December 4, 2024 meeting.

30. **CHAIRPERSON'S REPORT**

The Board was unable to hear this item due to a loss of quorum and end of December 4, 2024 meeting.

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

Chair Hurt announced the next meeting will be Wednesday, January 29, 2025, at 10:00 a.m. at Cal Maritime 200 Maritime Academy Drive, Vallejo, CA 94590. 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. She added that there would likely be a Special Board meeting in December 2024 to continue hearing items that could not be heard due to the forced adjournment of the December 4, 2024 Board meeting.

After the meeting adjourned, a Special Meeting of the Board of Directors was scheduled for Wednesday, December 11, 2024, at 10:00 a.m. at 375 Beale Street, San Francisco CA 94105 (both in-person or via webcast.)

32. **ADJOURNMENT**

The meeting was adjourned at 3:19 p.m.

*/s/ Marcy Hiratzka*  
Marcy Hiratzka  
Clerk of the Boards