



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT



**COMMUNITY
ADVISORY COUNCIL**
CLEAN AIR FOR ALL

BOARD OF DIRECTORS
COMMUNITY ADVISORY COUNCIL

January 18, 2024

COUNCIL MEMBERS

DR. JUAN AGUILERA
FERNANDO CAMPOS
WILLIAM GOODWIN
MS. MARGARET GORDON
ARIEANN HARRISON
JOHN JEFFERSON
JOY MASSEY
HANA MENDOZA

RIO MOLINA
MAYRA PELAGIO
DR. JEFF RITTERMAN
KEVIN RUANO HERNANDEZ
FAGAMALAMA VIOLET SAENA
KEN SZUTU
LATASHA WASHINGTON

**MEETING LOCATION(S) FOR IN-PERSON ATTENDANCE BY
COUNCIL MEMBERS AND MEMBERS OF THE PUBLIC**

**Bay Area Metro Center
1st Floor Yerba Buena Room
375 Beale Street
San Francisco, CA 94105**

THE FOLLOWING STREAMING OPTIONS WILL ALSO BE PROVIDED

These streaming options are provided for convenience only. In the event that streaming connections malfunction for any reason, the Community Advisory Council reserves the right to conduct the meeting without remote webcast and/or Zoom access.

The public may observe this meeting through the webcast by clicking the link available on the air district's agenda webpage at www.baaqmd.gov/about-the-air-district/community-advisory-council/agendasreports.

Members of the public may participate remotely via Zoom at <https://bayareametro.zoom.us/j/81553035438>, or may join Zoom by phone by dialing (669) 900-6833 or (408) 638-0968. Para Español, marque: (888) 688-2099. Esta línea telefónica es solo para escuchar, no hay moderador.

The Webinar ID for this meeting is: 815 5303 5438

Public Comment on Agenda Items: The public may comment on each item on the agenda as the item is taken up. Members of the public who wish to speak on a matter on the agenda will have three minutes each to address the Council on that agenda item, unless a different time limit is established by the Co-Chairs. No speaker who has already spoken on an item will be entitled to speak to that item again.

The Council welcomes comments, including criticism, about the policies, procedures, programs, or services of the District, or of the acts or omissions of the Council. Speakers shall not use threatening, profane, or abusive language which disrupts, disturbs, or otherwise impedes the orderly conduct of a Council meeting. The District is committed to maintaining a workplace free of unlawful harassment and is mindful that District staff regularly attend Council meetings. Discriminatory statements or conduct that would potentially violate the Fair Employment and Housing Act – i.e., statements or conduct that is hostile, intimidating, oppressive, or abusive – is *per se* disruptive to a meeting and will not be tolerated.

COMMUNITY ADVISORY COUNCIL MEETING AGENDA

THURSDAY, JANUARY 18, 2024

6:00 PM

Land Acknowledgement Statement

We begin by acknowledging that this land is unceded Indigenous land. The territories, or counties we represent, are of the Indigenous people. To acknowledge this history of our country - that this nation was built on genocide, the exclusion and erasure of Indigenous people - grounds our work in truth. We also acknowledge that our modern global economy was founded on the free and forced labor of enslaved Black people. And that exploited labor continuously perpetuates itself in disadvantaged communities of color, as we see in the treatment of farm workers, immigrant workers, prison labor, and domestic workers. This practice of land acknowledgement calls on us to recognize our violent history that is the foundation of white supremacy, and to recognize the longstanding and ongoing resistance of People of Color to dehumanization, repression, and homicide. And that the brilliance and leadership of People of Color in resistance, vision, wisdom, and love be honored and recognized as we work to dismantle ongoing legacies of settler colonialism and anti-blackness.

1. Call to Order - Roll Call

The Facilitator, on behalf of the Council Co-Chairs, shall call the meeting to order and the Clerk of the Boards shall take roll of the Council Members.

CONSENT CALENDAR (Item 2)

2. Approval of the Draft Minutes of the Community Advisory Council Meeting of November 30, 2023

The Council will consider approving the Draft Minutes of the Community Advisory Council Meeting of November 30, 2023.

ACTION ITEM(S)

3. Election of Community Advisory Council Co-Chair

This is an action item for the Council to vote on the selection of a third Co-Chair. This item will be presented by Miriam Torres, Senior Advanced Policy Advisor, Executive Office.

4. Funding Community Benefits from Penalty Funds

This is an action item for the Council to consider recommending to the Air District Board of Directors that they set a policy that automatically allocates a portion of penalties for regional and local community benefits. This item will be presented by Gregory H. Nudd, Deputy Executive Officer, Science and Policy.

INFORMATIONAL ITEM(S)

5. Compliance and Enforcement Update

This is an informational item to present a retrospective review of the enforcement case related to the Green Sage Cannabis Cultivating Facility's illegal use of diesel generators. This item will be presented by Brian Case, Assistant Counsel II of the Air District's Legal Office, Paul Grazzini, Supervising Air Quality Specialist of the Air District's Compliance and Enforcement Division, and Tanya Boyce, Executive Director of the Environmental Democracy Project.

OTHER BUSINESS

6. Public Comment on Non-Agenda Matters

Pursuant to Government Code Section 54954.3, members of the public who wish to speak on matters not on the agenda will be given an opportunity to address the Council. Members of the public will have three minutes each to address the Council, unless a different time limit is established by the Chair. The Council welcomes comments, including criticism, about the policies, procedures, programs, or services of the District, or of the acts or omissions of the Council. Speakers shall not use threatening, profane, or abusive language which disrupts, disturbs, or otherwise impedes the orderly conduct of a Council meeting. The District is committed to maintaining a workplace free of unlawful harassment and is mindful that District staff regularly attend Council meetings. Discriminatory statements or conduct that would potentially violate the Fair Employment and Housing Act – i.e., statements or conduct that is hostile, intimidating, oppressive, or abusive – is per se disruptive to a meeting and will not be tolerated.

7. Council Member Comments / Other Business

Any member of the Council, on his or her own initiative or in response to questions posed by the public, may: ask a question for clarification, make a brief announcement or report on his or her own activities, provide a reference to staff regarding factual information, request staff to report back at a subsequent meeting concerning any matter or take action to direct staff to place a matter of business on a future agenda.

8. Time and Place of Next Meeting

Thursday, March 21, 2024, at 6:00 p.m. at 375 Beale Street, San Francisco, CA 94105. The meeting will be in-person for the Community Advisory Council members and members of the public will be able to either join in-person or via webcast.

9. Adjournment

The Council meeting shall be adjourned by the facilitator.

CONTACT:

MANAGER, EXECUTIVE OPERATIONS
375 BEALE STREET, SAN FRANCISCO, CA 94105
vjohnson@baaqmd.gov

(415) 749-4941
FAX: (415) 928-8560
BAAQMD homepage:
www.baaqmd.gov

- Any writing relating to an open session item on this Agenda that is distributed to all, or a majority of all, members of the body to which this Agenda relates shall be made available at the Air District's offices at 375 Beale Street, Suite 600, San Francisco, CA 94105, at the time such writing is made available to all, or a majority of all, members of that body.

Accessibility and Non-Discrimination Policy

The Bay Area Air Quality Management District (Air District) does not discriminate on the basis of race, national origin, ethnic group identification, ancestry, religion, age, sex, sexual orientation, gender identity, gender expression, color, genetic information, medical condition, or mental or physical disability, or any other attribute or belief protected by law.

It is the Air District's policy to provide fair and equal access to the benefits of a program or activity administered by Air District. The Air District will not tolerate discrimination against any person(s) seeking to participate in, or receive the benefits of, any program or activity offered or conducted by the Air District. Members of the public who believe they or others were unlawfully denied full and equal access to an Air District program or activity may file a discrimination complaint under this policy. This non-discrimination policy also applies to other people or entities affiliated with Air District, including contractors or grantees that the Air District utilizes to provide benefits and services to members of the public.

Auxiliary aids and services including, for example, qualified interpreters and/or listening devices, to individuals who are deaf or hard of hearing, and to other individuals as necessary to ensure effective communication or an equal opportunity to participate fully in the benefits, activities, programs and services will be provided by the Air District in a timely manner and in such a way as to protect the privacy and independence of the individual. Please contact the Non-Discrimination Coordinator identified below at least three days in advance of a meeting so that arrangements can be made accordingly.

If you believe discrimination has occurred with respect to an Air District program or activity, you may contact the Non-Discrimination Coordinator identified below or visit our website at www.baaqmd.gov/accessibility to learn how and where to file a complaint of discrimination.

Questions regarding this Policy should be directed to the Air District's Non-Discrimination Coordinator, Suma Peesapati, at (415) 749-4967 or by email at speesapati@baaqmd.gov.

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT
375 BEALE STREET, SAN FRANCISCO, CA 94105
FOR QUESTIONS PLEASE CALL (415) 749-4941**

**EXECUTIVE OFFICE:
MONTHLY CALENDAR OF AIR DISTRICT MEETINGS**

JANUARY 2024

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Community Advisory Council	Thursday	18	6:00 p.m.	1st Floor, Yerba Buena Room
Board of Directors Special Meeting/ Retreat	Wednesday	31	10:00 a.m.	Southeast Community Center 1550 Evans Ave. Alex Pitcher Pavilion Room San Francisco, CA 94124

FEBRUARY 2024

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Meeting	Wednesday	7	10:00 a.m.	1st Floor Board Room
Board of Directors Stationary Source Committee	Wednesday	14	10:00 a.m.	1st Floor, Yerba Buena Room
Board of Directors Community Equity, Health and Justice Committee	Wednesday	14	1:00 p.m.	1st Floor, Yerba Buena Room
Board of Directors Finance and Administration Committee	Wednesday	21	10:00 a.m.	1st Floor Board Room
Board of Directors Policy, Grants and Technology Committee	Wednesday	21	1:00 p.m.	1st Floor Board Room

MARCH 2024

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Meeting	Wednesday	6	10:00 a.m.	1st Floor Board Room
Board of Directors Stationary Source Committee	Wednesday	13	10:00 a.m.	1st Floor, Yerba Buena Room
Board of Directors Community Equity, Health and Justice Committee	Wednesday	13	1:00 p.m.	1st Floor, Yerba Buena Room
Board of Directors Finance and Administration Committee	Wednesday	20	10:00 a.m.	1st Floor Board Room
Board of Directors Policy, Grants and Technology Committee	Wednesday	20	1:00 p.m.	1st Floor Board Room
Board of Directors Community Advisory Council	Thursday	21	6:00 p.m.	1st Floor, Yerba Buena Room

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairpersons John Kevin Jefferson, and Latasha Washington
and Members of the Community Advisory Council

From: Philip M. Fine
Executive Officer/APCO

Date: January 18, 2024

Re: Approval of the Draft Minutes of the Community Advisory Council Meeting of
November 30, 2023

RECOMMENDED ACTION

Approve the Draft Minutes of the Community Advisory Council Meeting of November 30, 2023

BACKGROUND

None.

DISCUSSION

Attached for your review and approval are the Draft Minutes of the Community Advisory Council Meeting of November 30, 2023

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson

ATTACHMENTS:

1. Draft Minutes of the Community Advisory Council Meeting of November 30, 2023

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

DRAFT MINUTES

Community Advisory Council
Thursday, November 30, 2023

1. CALL TO ORDER - ROLL CALL

The meeting Facilitator, Randolph Belle of Randolph Belle, Artist (RBA) Creative, called the Community Advisory Council (Council) in-person meeting to order at 6:03 p.m.

This meeting was held in person, but was conducted under procedures authorized by Assembly Bill (AB) 2449 (Rubio 2022), allowing Council Members to attend Ralph M. Brown Act meetings remotely without following the traditional rules for teleconferenced meetings, if a member participating remotely demonstrates a need to do so, either because of an emergency circumstance or other “just cause” as defined in the statute (for non-emergencies, members may only make use of this provision two times per calendar year).

Roll Call:

Present, In Person: Council Co-Chairpersons Ms. Margaret Gordon, and Latasha Washington; and Council Members Fernando Campos, William Goodwin, Arieann Harrison, Joy Massey, Charles Reed, Dr. Jeff Ritterman, Violet Saena, and Ken Szutu.

Participated Remotely, via Zoom (remote presence does not count for quorum, but votes are counted for all action items): Co-Chairperson John Kevin Jefferson; and Council Members Hana Mendoza, Rio Molina, and Mayra Pelagio, (just cause).

Absent: Council Members Dr. Juan Aguilera, and Kevin G. Ruano Hernandez.

2. PUBLIC COMMENT ON NON-AGENDA MATTERS

Public comments, regarding recent unplanned flaring events at the Richmond Chevron refinery and Martinez Refining Company, were given by Charles Davidson, Hercules resident; Call-In-User_1; Heidi Taylor, Healthy Martinez Refinery Accountability Group; Nancy Rieser, Crockett resident; and Alycia Gadde, Healthy Martinez Refinery Accountability Group.

CONSENT CALENDAR

3. APPROVAL OF THE DRAFT MINUTES OF THE COMMUNITY ADVISORY COUNCIL SPECIAL MEETING/RETREAT OF SEPTEMBER 14 AND 15, 2023

Public Comments

No requests received.

Council Comments

None.

Council Action

Co-Chair Washington made a motion, seconded by Council Member Gordon, to **approve** the Approval of the Draft Minutes of the Community Advisory Council Special Meeting/Retreat of September 14 and 15, 2023; and the motion **carried** by the following vote of the Council:

AYES:	Campos, Goodwin, Gordon, Harrison, Jefferson, Massey, Mejia, Mendoza, Molina, Pelagio, Reed, Ritterman, Saena, Szutu, Washington.
NOES:	None.
ABSTAIN:	None.
ABSENT:	Aguilera, Ruano Hernandez.

Motion Approved

ACTION ITEM

4. VOTE ON THE CREATION OF A COMMUNITY ADVISORY COUNCIL MEMBER SELECTION AD HOC COMMITTEE

Miriam Tores, Senior Advanced Projects Advisor, gave the staff presentation *Vote on the Creation of a Member Selection Ad Hoc Committee*, including: outcome; outline; requested action; glossary; Council Charter; Board Resolution No. 2023-14; vacant youth seat; youth member seat selection process; youth member application screening; and Member Selection Ad Hoc Committee.

Public Comments

Public comments were given by Call-In-User_1

Council Comments

The Council and staff discussed the outreach methods of Air District staff responsible for the recruitment of the Council’s vacant youth seat; concern regarding Board oversight over Council activities; concerns with the current status of the recruitment for the Council’s vacant youth seat; the number of Board that are interested in participating in the candidate selection process; whether the Council’s Charter requires *three* Co-Chairpersons, as Ms. Margaret Gordon left her Co-Chairperson seat in September, leaving two Co-Chairs left; whether an evaluation was conducted after the first Council recruitment process occurred, and if so, whether any feedback shaped the current recruitment practices; the desire for equal county representation when considering

candidates; the suggestion of posting the recruitment announcement with a QR code (linked to the application) on the Air District’s social media accounts, and sending the recruitment notice to high schools and colleges; the request to clarify the preferred age range of the candidates applying for the vacant youth seat; the request for a map that plots the area that each current Council Member represents; the request to revise the Council’s Charter to allow for an additional number of representatives in San Francisco; and the request that exit interviews be conducted when a Council member leaves the Council.

Council Action

Co-Chair Jefferson made a motion, seconded by Co-Chair Washington, to **create** an Ad Hoc Committee, comprised of Council Members Ruano Hernandez, Gordon, Pelagio, and Co-Chair Jefferson, to select Community Advisory Council candidates for Board consideration to fill one vacant youth seat, and the motion **carried** by the following vote of the Council:

AYES: Campos, Goodwin, Harrison, Jefferson, Massey, Mejia, Mendoza, Molina, Pelagio, Ritterman, Saena, Szutu, Washington.
NOES: Gordon, Reed.
ABSTAIN: None.
ABSENT: Aguilera, Ruano Hernandez.

Motion Approved

INFORMATIONAL ITEMS

5. **ADVANCING AN EQUITABLE TRANSITION TO CLEAN AND HEALTHY BUILDINGS**

Dr. Idania Zamora, Assistant Manager of the Climate Protection Program, gave the staff presentation *Advancing and Equitable Transition to Clean and Healthy Buildings*, including: outcome; outline; requested action; glossary of terms; request to the Council; why are buildings important; building emissions in context; why building appliances; building appliance rules; Implementation Working Group (IWG); IWG structure; IWG scope and goals; IWG phases and timeline; what is coming next; early solutions; rising asthma rates are a growing health and equity issue; Bay Area Healthy Homes Initiative and roles within partnership; Silicon Valley Clean Energy electrification concierge services; funding; US Environmental Protection Agency (EPA) Inflation Recovery Act (IRA) funding; US EPA climate pollution reduction grant; California Energy Commission’s Equitable Building Decarbonization program; and next steps.

Public Comments

Public comments were given by Call-In-User_1.

Council Comments

The Council and staff discussed concerns about the various types of burdens that can be caused by displacement when conducting home retrofits to meet electrification requirements; concern that the Equity Subcommittee of the Air District’s Building Appliance Rule IWG may have to meet during business hours; the desire to know realistic expectations regarding the number of households that can successfully transition to zero-pollution heating, given the anticipated amount of allocated funding; the need for improved filtration and ventilation systems in communities currently under redevelopment; concerns about labels such as “overburdened community” and the proposed change to “community of concern”; anticipated health-costs benefits of the Air District’s appliance rules; the concentration of nitrogen oxide (NOx) emissions in indoor air quality, and how the Air District’s appliances rules are anticipated to reduce NOx levels of indoor air quality; who is anticipated to bear the costs of home electrification retrofits and any resulting increases in energy costs; grid capacity; concerns about a perceived lack of funding and assistance being offered to transition homes to electrification within fenceline communities; the request for the individual names of the stakeholders that are participating in the IWG; whether the meeting notes or minutes from the Air District’s Building Appliances Rules Implementation Working Group Plenary Meeting of November 7, 2023 are available; whether the Equity Subcommittee of the Air District’s Building Appliance Rule IWG will engage directly with the public; the cost-benefit analysis of electrification; whether the members of the Equity Subcommittee of the Air District’s Building Appliance Rule IWG will be representing the Council or themselves; and whether old appliances that are phased out will be required to be decommissioned.

Council Action

None; receive and file.

COUNCIL RECESSED AT 7:52 P.M., AND RESUMED AT 8:03 P.M.

6. COMMUNITY ADVISORY COUNCIL SEPTEMBER RETREAT NEXT STEPS

Co-Chair Washington gave a summary of the inaugural Community Advisory Council Retreat, held on September 14-15, 2023, in Petaluma. She said that a video that captured highlights of the retreat was shown to the Board of Directors’ Community Equity, Health, and Justice Committee, and then explained how members of the Council will use what was brainstormed at the retreat to form the Council’s official equity statement, which she hopes will be ready by January 2024.

Public Comments

No requests received.

Council Comments

The Council and staff discussed whether there is going to be another Council retreat; the request for the 8 themes on “equity” that resulted from the brainstorming completed during the retreat; the suggestion of additional themes, including “empowerment” and “community-centered”; and

appreciation of the Council for the diversity of the topics that were agendized and discussed at the retreat and for opportunities to build relationships.

Council Action

None; receive and file.

7. WORK PLAN AD HOC COMMITTEE UPDATE

The Council received an update from the Council’s Work Plan Ad Hoc Committee, given by Council members Ken Szutu (Committee Chair) and William Goodwin (Committee Vice Chair):

Prior to the retreat, Council Members were asked to complete a survey prepared by consultant, Lyons-Newsman Consulting, designed to help guide the retreat’s work plan template. During the retreat, the Council worked together to develop overarching goals and a work plan that reflects a shared vision. Lyons-Newman Consulting facilitated a two-hour session at the retreat on the development of the Council’s goals and Work Plan.

After the retreat, the consultant worked with the Work Plan Ad Hoc Committee to finalize the CAC Goals and Work Plan. Air District staff reached out to Council Members who had requested agenda items during the retreat, to clarify their intent. The consultant then created a poll to help the Work Plan Ad Hoc Committee prioritize the proposed agenda items, according to the Fiscal Year Calendar (from July ‘24 to May ‘25.) The proposed work plan reflects guidance from all Council Members. If anything needs to be added or re-prioritized, Council Members are to contact Air District staff by Dec 12, 2023.

Public Comments

No requests received.

Council Comments

The Council and staff discussed the status of the contract with Lyons-Newman Consulting; concerns about labels such as “overburdened community” and the proposed change to “community of high environmental concern”; the request that at least two of the Council’s meetings occur in impacted communities within the North County and South County areas, per calendar year; the desire to accelerate the process of collecting presentations from different Bay Area communities and having those presentations given at Council meetings; and the desire for meetings outside the Council meetings (that would not violate the Ralph M. Brown Act), in which Council Members could officially meet with members of communities that have experienced air quality incidents and have subsequent concerns and complaints.

Council Action

None; receive and file.

8. ENVIRONMENTAL JUSTICE POLICY AD HOC COMMITTEE UPDATE

The Council received an update from the Council’s Environmental Justice Policy Ad Hoc Committee, given by Co-Chair Washington (Co-Lead for the Ad Hoc Committee).

Since September 2023, the Environmental Justice Policy Ad Hoc Committee has been developing environmental justice strategic priorities to embed in the Air District's Strategic Plan, with guidance from Vernice Miller-Travis, Executive Vice President of The Metropolitan Group. The resulting Environmental Justice Action Plan will contain multiple environmental justice recommendations for each division at the Air District. This plan will have an environmental justice-focused impact on how the Air District does its work. The Ad Hoc Committee brainstormed “What impact could the EJ plan have?” and created a list of multiple ideas that were then prioritized. Some goals of the Plan are to increase Air District transparency, community engagement, information-sharing, and having more environmental justice approaches to updating regulations and creating stricter policies for enforcement, prioritizing frontline communities and decreasing air pollution for impacted communities.

In October 2023, the Ad Hoc Committee met with and Air District Division Directors in person to discuss roles and functions. The divisions that have been identified as needing increased environmental justice-focused solutions policy approaches are Legal, Compliance and Enforcement, and Engineering.

On December 11, the Ad Hoc Committee will meet with BluePoint Planning, the consultant helping to develop the Air District’s Strategic Plan, to discuss environmental priorities and strategic planning framework. The Ad Hoc Committee will send the Council Members these materials prior to meeting with BluePoint Planning.

Public Comments

Public comments were given by Call-In-User_1.

Council Comments

The Council and staff discussed the desire for Air District technical staff to engage with impacted communities on a much more frequent and close level, outside of the Brown Act; the desire for people with lived experiences to work at the Air District, and engage with members of impacted communities; the need to budget appropriately, as change has costs associated with it; the desire for a system in which the community provides feedback on action taken by the Board of Directors; the desire for engagement between the Council and the Air District’s laboratory staff; and the request that the Council be made aware of any and all community resources at the Air District.

Council Action

None; receive and file.

OTHER BUSINESS

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

Dr. Philip M. Fine, Executive Officer/APCO, gave remarks on the following items:

- The work and contributions of the Council’s Environmental Justice Policy Ad Hoc Committee on the Air District’s Strategic Plan is much appreciated.
- The Air District received a Contra Costa County Community Warning System Level 1 alert filed by Chevron regarding an unplanned flaring event from November 27, 2023 at 3:42 pm to November 28, 2023 at 2:03 am. The Air District has issued four notices of violation, three for visible emissions violations from flares and 1 public nuisance violation to Chevron Refinery. The Air District also received a Contra Costa County Community Warning System Level 1 alert filed by Martinez Refining Company (MRC), regarding an unplanned flaring event from November 29, 2023 at 4:33 pm to 9:00 pm. The Air District issued a notice of violation to MRC for Public Nuisance.
- Legislative update: The Air District is continuing to work with Assemblymember Buffy Wicks on potential amendments to AB 1465, Nonvehicular air pollution: civil penalties. Introduced in 2023 by Assemblymember Wicks, the bill was originally introduced to triple penalties at refineries for discharges of one or more toxic air contaminants and was later amended to increase penalties for all Title V stationary sources if the discharge includes one or more air contaminants. This bill is currently inactive, and the language may be amended during the 2024 Legislative Session. Air District staff also continues to advocate for AB 617 funding and will be asking the Board of Directors to approve the hiring of additional Community Engagement staff to support AB 617 initiatives (six new Full Time Equivalent Employees and seven new Limited-Term Contract Employees.)
- § 1.3 (Leadership) of the Council’s Charter states, “In 2022, the Council approved a three Co-Chair model. The leadership model may be amended based on needs expressed by the Council and approved by the Board but shall be no more than three Co-Chairs at a time.” If the Council would like a third one, as there are currently only two, the Board of Directors must approve that appointment, or the Council may request that the Board of Directors officially changes the Council’s leadership model to 2 co-chairs.
- Victor Douglas, former Manager of the Rules and Strategic Policy Division, recently retired after serving the Air District for 22 years. His contributions to the protection of human health are appreciated.
- The following individuals will serve in a rotational assignment as acting Deputy Executive Officer of Equity and Community Programs, while the recruitment for the permanent DEO is conducted (this position oversees the Community Engagement Office, Diversity, Equity & Inclusion Office, Strategic Incentives Division, and Technology Implementation Office): **Suma Peesapati**, Environmental Justice and Community Engagement Officer, from 11/27/23 – 12/24/23; and **Marcia Raymond**, Assistant Counsel, from 12/25/23 – 1/21/24.

Public Comments

Public comments were given by Call-In-User_1.

Council Comments

The Council and staff discussed whether the recent flaring incidents at Chevron and MRC have resulted in any penalties; whether testing will be done to address the concerns of the public from fenceline communities in Martinez and Richmond; the request for a list of changes to the Air District’s practices regarding incident response that demonstrate how the Air District is improving its practices; concerns about the perceived lack of engagement with those living in communities where incidents have occurred; and the desire for polluters to pay for health costs of fenceline residents whose health has been directly impacted by their operations.

10. COUNCIL MEMBER COMMENTS / OTHER BUSINESS

Dr. Ritterman suggested that Air District staff verbally acknowledge those who give public comment regarding their recent experience with pollution/exposure incidents, out of respect. In addition, Ms. Margaret Gordon said that Dr. Fine’s status report on the recent refinery flaring incidents would have been appropriate to follow the public comments that were given during Item 2 of this meeting.

Council Member Reed requested that the topic of “the role that community science plays” be agendized at a future Council meeting. He added that he hopes that the Air District acknowledges the community leaders and organizations that are conducting their own research and monitoring efforts.

Council Member Szutu said that he would like the Council and Air District staff to go into impacted communities and listen to those affected by exposure incidents. He emphasized his desire for a commitment from the Air District to do that, and treat the community as a resource and partner.

Council Member Ms. Margaret Gordon requested that the following topics be agendized at future Council meetings: Council meeting locations (they should include impacted communities); the Council’s desire for Air District technical staff to engage with impacted communities on a much more frequent level; and ad hoc committees meeting times (they should be held during evening hours.)

11. TIME AND PLACE OF NEXT MEETING

The agenda had stated that the next Council meeting was to be determined at a later time. But after the agenda was published, the meeting date, time, and location was confirmed. The facilitator announced that the next Council meeting would be held on Thursday, January 18, 2024, at 6:00 p.m., at 375 Beale Street, San Francisco, CA, 94105. The meeting will also be webcast for members of the public.

12. **ADJOURNMENT**

The meeting was adjourned at 9:25 p.m.

Marcy Hiratzka
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairpersons John Kevin Jefferson, and Latasha Washington
and Members of the Community Advisory Council

From: Philip M. Fine
Executive Officer/APCO

Date: January 18, 2024

Re: Election of Community Advisory Council Co-Chair

RECOMMENDED ACTION

Election of Community Advisory Council (CAC) Co-Chair.

BACKGROUND

The CAC leadership could, among other things, preside over meetings, oversee activities of the ad hoc committees, perform all other necessary duties as prescribed by the CAC Charter, and ensure that CAC decisions are democratic, equitable, and timely.

DISCUSSION

The CAC was established with a three Co-Chair leadership model. The CAC Charter provides the CAC the flexibility to select a different model of leadership “based on the needs expressed by the CAC and approved by the Board, but shall be no more than three Co-Chairs at a time” (CAC Charter). The inaugural CAC Co-Chairs elected in March 2022 are: Co-Chairs Jefferson, Washington, and Ms. Gordon. During the September 2023 retreat, Ms. Margaret Gordon resigned as Co-Chair, effective October 1, 2023. Per the CAC Charter (page 5):

If a leadership position becomes vacant, that position must be filled within two meetings after the vacancy occurs. The leadership position shall be filled through a nomination, selection, and voting process. The process will be as follows: Members seeking a vacant leadership position shall submit an essay, which provides a summary of their background and outlines the reasons they seek the position. The full CAC shall be presented with the essays 72 hours in advance of the meeting in which the CAC will vote on each prospective candidate. The candidate receiving the majority of the votes will be selected to fill the vacant leadership position.

Staff asked CAC members interested in the Co-Chair position to submit an essay by December 28, 2023. Submitted essays are included in this packet. The Community Advisory Council will vote to select a third Co-Chair for the Community Advisory Council.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Co-Chair stipends are included in the Air District’s budget to fund the work of the Community Advisory Council.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Miriam Torres
Reviewed by: Marcia Raymond

ATTACHMENTS:

- 1. Co-Chair Essay Submission from Ken Szutu

Co-Chair Essay Submission

Introduction

I am Ken Szutu, a CAC member representing Solano County. I am running for the role of Co-Chair of the Community Advisory Council. My motivation for seeking this role is tied to the transformative opportunity that lies before us. At the helm of the Bay Area Air Quality Management District (BAAQMD), there is a commitment to a new era with a strategic plan that centers around Environmental Justice (EJ). This forward-looking vision calls upon CAC to collaborate closely in this endeavor, presenting an important and timely opportunity to drive changes and improvements in how we address critical community and environmental issues. I believe that our collective efforts can make a substantial impact, and this meaningful work is what drives me.

Background and Experience

My background and experience provide me with a unique perspective to lead as Co-Chair:

1. **Lived Experience:** I've personally dealt with polluters and navigated the complexities of the Bay Area Air Quality Management District (BAAQMD). This firsthand experience has given me the determination and understanding needed to drive effective change.
2. **Early Advocacy:** I've been committed to community well-being long before it became a popular trend and before AB617 became law. I've witnessed firsthand the challenges faced by communities like Vallejo, often overlooked and in need of attention. My experience has exposed me to a range of challenges, and I'm determined to use this knowledge to shape a better framework for EJ communities.
3. **CAC Engagement:** During my time on the CAC, I've actively worked to highlight the need for improvement of success rate for the current complaint process. I've also advocated for the introduction of Community-engaged Enforcement as a potential solution to this issue. Additionally, I've held leadership roles, including Chair of the Work-Plan Ad Hoc and membership in the Environmental Justice (EJ) Policy Ad Hoc.
4. **Community Collaboration:** Beyond my work within CAC, I've collaborated with various community groups to advocate for the passage of the BAAQMD appliance rule by the board. After this rule passed by the board, I'm involved in the Implementation Working Group, ensuring that the EJ perspective is integrated into the implementation process.

Contribution to the Community

If elected as Co-Chair, I will focus on the following areas within the strategic plan:

1. ***Holistic Environmental Justice***: It's crucial to recognize that Environmental Justice (EJ), AB617, and community focus represent fundamentally different approaches compared to regional strategies and the Clean Air Act. While parallel implementation may not always be practical, we should conceptually separate these approaches to ensure that the unique nature of EJ is acknowledged and integrated into our strategies.
2. ***Single Point of Contact (Concierge)***: I propose the creation of a single, user-friendly interface – the "Concierge" – where all community inputs, including complaints, inquiries, and suggestions, can be directed. This streamlined approach eliminates the need for community members to navigate a complex network and ensures that their voices are heard.
3. ***Transparency and Accountability***: To enhance transparency and accountability, all community inputs will be carefully tracked and evaluated upon closure. This evaluation will be an essential part of the performance review process, promoting continuous improvement.
4. ***Community-District Synergy***: EJ communities provide potent force and resources, available and engaged 24 hours a day. By harnessing this strength and combining it with the resources of the District, we can effectively implement community-engaged monitoring and enforcement, ensuring our community's safety.
5. ***Community-Level Monitoring***: To comprehensively protect our communities, we must prioritize community-level monitoring. This approach allows us to address localized issues promptly and tailor solutions that align with our unique needs.

Conclusion

In conclusion, my candidacy for Co-Chair of the Community Advisory Council is driven by a deep commitment to community welfare and a vision for positive change. With my extensive background, lived experiences, and a comprehensive strategy for our strategic plan, I am confident that I can make a substantial contribution to our diverse and dynamic council. I am eager to serve in this capacity and collaborate with fellow CAC members to realize our shared goals.

Closing Statement

I extend my sincere appreciation to my fellow CAC members for considering my candidacy. If you require further information or have any questions, please do not hesitate to reach out. Together, we can shape a brighter future for our community and the entire Bay Area.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairpersons John Kevin Jefferson, and Latasha Washington
and Members of the Community Advisory Council

From: Philip M. Fine
Executive Officer/APCO

Date: January 18, 2024

Re: Funding Community Benefits from Penalty Funds

RECOMMENDED ACTION

Vote to make a recommendation to the Air District Board of Directors regarding a policy for penalty funds to be set aside for community benefits.

BACKGROUND

The Air District collects penalties from individuals and businesses that violate our regulations. In recent years, penalty collections have averaged about \$3 million per year. These funds go into the Air District's budget and are used to pay for enforcement staff and other expenses. For comparison, the staff and contract costs of the Air District's enforcement program exceeds \$16 million per year.

Most of the individual penalties are for less than \$50,000. However, there have typically been one or more larger penalties that exceed \$1 million each year. Most of the penalty money collected is from these large payments. Looking at the past two and half fiscal years, all the large payments were from oil refineries and related industries. Over 85% of the penalty money received during this period were from this industrial sector.

For many years, community and environmental justice advocates have asked for penalty funds to be spent in the impacted communities where the violations occurred. With the Air District's recent focus on enforcement, staff anticipates that penalty collections will increase significantly. Therefore, staff believes that the Air District can make this change without significant impacts to the operating budget.

On December 20, 2023, Air District Executive Officer Dr. Philip Fine presented an informational item to the Finance and Administration Committee of the Air District's Board of Directors regarding the use of penalty money to fund community benefits. The idea that Dr. Fine suggested at the meeting was for the Board to set a policy that would automatically allocate penalty funds for community benefits. The exact nature of that allocation would depend on input from community representatives and advocates. The Board would still be able to change that policy either as a general matter or for a particular penalty collection, but they would have to take

formal action to do so. Furthermore, any program design or expenditures of the penalty funds that are set-aside for community benefits would be subject to additional outreach, engagement, and input from the affected communities.

The Committee was supportive of the idea and were proud to be leaders on this issue. They were also supportive of the idea of having both local benefit funds for communities impacted by violations and a regional fund to address needs in communities that may not have major stationary sources with violations. The Committee was also in favor of having a one-year pilot program and then re-adjusting if needed. The Committee directed staff to consult with the Community Advisory Committee and other community groups including the Richmond-North Richmond-San Pablo AB 617 Community Steering Committee. The item was referred to the Board's Community Health, Equity, and Justice Committee for further consideration and recommendations after CAC consideration.

DISCUSSION

Staff has developed an example allocation method designed to accomplish the following goals:

- Allocate as much penalty money as possible to the community where the violation occurred.
- Avoid the creation of local benefit funds that are too small to be practically implemented.
- Address the needs of communities outside of the refinery corridor.
- Recover reasonable staffing costs for the Air District and minimize or eliminate budget risk.

This example allocation is intended as a starting point for discussion with the Community Advisory Council. The Council may elect to recommend a different approach to the Board of Directors.

Under the example allocation, the first \$100,000 of each penalty payment would go to offset the Air District's expenses in enforcing regulations. After the budget target is met (\$3,000,000 for this year), those funds would go into a regional benefit fund. The budget target has been in the range of \$3 million for the past few years, so we would expect that to be consistent for the next few years. For the next \$100,000 to \$1,000,000 of a penalty, 50% would go to a fund to benefit the community impacted by the violation. The balance would go either to the Air District budget or the regional benefit fund, depending on if the budget target has been met. For penalty collections above \$1,000,000, 80% of the penalties would be reserved for local benefits programs, with 20% to the Air District or the regional fund.

The table below summarizes the example allocation scheme:

Lower Break Point	Upper Break Point	% to Local Benefit Fund	% to Air District or Regional Benefit Fund
\$0	\$100,000		100%
\$100,000	\$1,000,000	50%	50%
\$1,000,000		80%	20%

The Air District requests the Council’s guidance on the overall approach (local and regional benefit funds) and the structure of the allocation including percentages and dollar tiers.

The focus now is on the allocation policy, the issue of how the funds would be programmed and spent will require more outreach and program development with the CAC and affected communities.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Currently, staff does not anticipate significant budget impacts from this proposal.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Greg Nudd
Reviewed by: Philip M. Fine

ATTACHMENTS:

1. Funding Community Benefits from Penalty Funds Excel Document

Purpose: The purpose of this document is to analyze patterns in penalty amounts over the current and previous two fiscal years. It also includes data about the Air District's direct costs for enforcement for context.

Author: Greg Nudd (gnudd@baaqmd.gov)

Last updated: 11/30/2023

Tabs	Description/Notes
Penalties:	<p>The Air District can seek monetary penalties for violations of our regulations. Those penalties have to be imposed by a court after a violation is proven. Typically, the Air District comes to agreements with the violator that results in a monetary fine and changes to facility operations to prevent or minimize future similar issues. This avoids a court case and helps prevent future issues. If these "settlements" exceed \$10,000 they are reported to the Board of Directors and published in the Board agenda packet. A list of all penalty agreements in excess of \$10,000 is shown in the Penalties tab. The author highlighted those penalty amounts that appear to be in refinery communities based on his nine years of experience regulating industrial sources in the Bay Area. A more rigorous analysis may change the findings with respect to the amount of fines from refinery communities, but that change would be relatively small. Also note that fiscal year 2022-2023 penalty collection amounts were low compared to historical averages, which was due to several reasons, including turnover in the Legal Division. That Division is now fully staffed and is aggressively pursuing enforcement cases. This tab also shows the fiscal year amounts for total penalties collected and total collected from refinery communities.</p>
Analysis:	<p>This tab takes the penalty amount data from the Penalty tab and combines it into one column sorted by amount. The data is divided into sections depending on a range of amounts. Those ranges are then subtalled and counted to get an understanding of the distribution of both the number of agreements and the distribution of the amounts of the agreements.</p>
Enforcement Costs:	<p>This tab summarizes the direct costs of the Air District's enforcement program from the Compliance and Enforcement Division and the Legal Division. This is an underestimate of total costs because it does not include overhead such as administration, finance, or real estate. It also omits direct enforcement costs incurred in other divisions, such as Engineering as those costs are not broken out in the budget. These budget numbers come from the final budget for the current fiscal year, which can be found at the following URL: https://www.baaqmd.gov/publications/budget-and-audit</p>

Settlements Over \$10,000

Fiscal Year 2021 - 2022			
Date of Settlement	Site Name	Settlement Amount	# of NOVs
9/15/2021	ST Shore Terminals	\$89,000	5
9/20/2021	MECS INC.	\$50,000	1
9/21/2021	Petaluma Creamery	\$21,500	2
9/27/2021	Tesoro Refining & Marketing Co.	\$2,227,000	58
9/29/2021	Booster Fuels, Inc.	\$51,000	1
9/30/2021	Alameda County GSA	\$15,840	2
10/6/2021	A B & I Foundry	\$13,000	2
10/7/2021	Republic of Services of Sonoma County, Inc.	\$42,350	5
10/12/2021	Martinez Refining Company, LLC	\$433,000	44
10/18/2021	Safeway Stores Inc., Bakery Plant	\$35,000	1
10/21/2021	Pick N Pull Auto Dismantlers	\$60,000	1
10/26/2021	United Airlines, Inc.	\$35,000	2
10/27/2021	Northern Calif Power Agency	\$10,000	4
11/4/2021	USS-UPI, LLC	\$17,500	1
11/16/2021	Valero Refining Company - California	\$191,500	14
12/1/2021	Gilroy Energy Center, LLC (Willskill Energy Co.)	\$10,000	1
12/21/2021	Clean Harbors Industrial Services, Inc.	\$10,000	1
1/11/2022	Sanmina-SCI	\$30,000	1
1/11/2022	Air Liquide Large Industries US LP	\$90,000	1
1/11/2022	Air Liquide Large Industries US LP	\$69,000	6
1/25/2022	Central Concrete Supply Inc.	\$12,000	1

Settlements Over \$10,000

1/28/2022	Mountain View Los Altos High School	\$30,000	2
2/10/2022	Kellog Creek Aggregates Inc.	\$15,000	3
2/16/2022	Valero Refining Company - California	\$99,000	10
2/23/2022	SFPP, LP	\$15,000	1
3/2/2022	Berkeley Asphalt Co.	\$57,000	5
3/24/2022	Valero Refining Company - California	\$345,000	17
4/11/2022	Browning Ferris Industries of CA	\$70,000	5
5/4/2022	City of Richmond Wastewater Treatment Plant	\$15,000	3
5/9/2022	Specialized Coating Services	\$30,000	1
5/26/2022	Master Builders Solutions Construction	\$10,000	1

Total	\$4,198,690	
Total from refinery communities	\$3,454,500	82%

Fiscal Year 2022 - 2023			
7/1/2022	Restoration Management Co.	\$10,000	1
8/9/2022	San Francisco Public Utilities Commission	\$20,000	2
8/15/2022	Northrup Grumman Systems Corporation	\$12,000	1
8/31/2022	BFI Newby Island Recycler and International Disposal Corp, of CA	\$210,000	30
9/12/2022	University of California, Berkeley	\$15,000	4
9/17/2022	Keller Canyon Landfill Co.	\$83,750	7
9/19/2022	Mission Valley Rock Co.	\$12,000	1
9/29/2022	Double AA El Camino	\$35,000	9
11/28/2022	Paramount Group	\$34,400	4

Settlements Over \$10,000

12/12/2022	Tesoro Refining & Marketing Co.	\$1,469,579	83
2/9/2023	Anchor Brewing, LLC	\$19,000	1
3/3/2023	Liaoning Benefit Petroleum (US) Corporation	\$14,000	5
4/5/2023	Northrup Grumman Systems Corporation	\$32,000	1
5/2/2023	Lennar Homes of CA	\$30,000	2
5/14/2023	Kirby Offshore Marine LLC	\$15,000	1
6/7/2023	SJ Plating Inc.	\$35,000	1
6/14/2023	Concord Ready Mix Inc.	\$35,000	2
6/29/2023	Grupe Homes	\$16,000	1

Total \$2,097,729

Total from refinery communities \$1,469,579 70%

Fiscal Year 2023 - 2024 to date			
7/13/2023	Clover Flat Resource & Recovery Park	\$24,500	7
7/27/2023	Chemtrade West US LLC	\$1,150,000	7
9/26/2023	Sunquest Properties Inc.	\$10,000	1

Total \$1,184,500

Total from refinery communities \$1,150,000 97%

Looking at breaks:				
Penalty amounts:	Count	Total	% count	%total
\$10,000	36	\$786,090	69.2%	10.5%
\$10,000				
\$10,000				
\$10,000				
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\$21,500				
\$24,500				
\$30,000				
\$30,000				
\$30,000				
\$30,000				
\$32,000				
\$34,400				
\$35,000				
\$35,000				
\$35,000				
\$35,000				
\$35,000				
\$42,350				
\$50,000				
\$51,000	11	\$1,070,250	21.2%	14.3%
\$57,000				
\$60,000				
\$69,000				
\$70,000				
\$83,750				
\$89,000				
\$90,000				
\$99,000				
\$191,500				
\$210,000				
\$345,000	2	\$778,000	3.8%	10.4%
\$433,000				
\$1,150,000	3	\$4,846,579	5.8%	64.8%
\$1,469,579				
\$2,227,000				
Total	\$7,480,919			
count	52			
percent from refining	81.2%			

Enforcement Budget and Staffing:		
Compliance and Enforcement Division	Code 401	Code 403
Budget	\$ 7,987,846	\$ 6,235,277
Staff	39.45	30.79
Legal Division	Code 203	
Budget	\$ 1,731,640	
Staff	7.05	
Total budget:	\$ 15,954,763	
Total staff:	77.29	

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairpersons John Kevin Jefferson, and Latasha Washington
and Members of the Community Advisory Council

From: Philip M. Fine
Executive Officer/APCO

Date: January 18, 2024

Re: Compliance and Enforcement Update

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

This is an informational item for the Community Advisory Council (CAC) to hear a retrospective review of both the governmental and community-based efforts to bring an end to illegal diesel generator use at the Green Sage cannabis cultivation facility in East Oakland. This retrospective review will be provided by Air District Supervising Air Quality Specialist Paul Grazzini, Assistant Counsel Brian Case, and Tanya Boyce, Executive Director of the Environmental Democracy Project. Boyce has previously served as a project manager for the Oakland Redevelopment Agency, started the development consulting business Affirm Land Use Services, LLC, and is a graduate of Golden Gate University School of Law. In 2022, Boyce became the Executive Director of the Environmental Democracy Project, an environmental justice non-profit that aims to educate, advocate, and litigate to stop environmental injustices. One such injustice was the use of diesel generators at the Green Sage cannabis facility in East Oakland. The Environmental Democracy Project advocated for the Air District and other agencies to take action to end the generator use, filed a suit against Green Sage in federal court, and sued the City of Oakland. Further, Boyce testified as an important witness in proceedings before the Air District's Hearing Board.

DISCUSSION

During the first part of this item, the CAC will hear a brief overview of how the Green Sage cannabis facility, by using diesel generators illegally as their power source, defied an Air District notice of violation for six months before the operation halted. The second part will be an opportunity for the CAC to hear from Tanya Boyce, who will present the actions that community members took in this case and make suggestions for future improvements to the Air District's compliance and enforcement procedures. The third part will be a question and answer session with the CAC about the material presented.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Brian Case, Paul Grazzini and Amy Smith

Reviewed by: Suma Peesapati

ATTACHMENTS:

None