

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

APPROVED MINUTES

Community Advisory Council
Thursday, January 18, 2024

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. After reciting the expectations and ground rules of the meeting, Co-Chair Jefferson referred to the State of California's Victims' Bill of Rights Act of 2008: Marsy's Law, which amended the California Constitution to provide additional rights to victims, to preserve and protect a victim's rights to justice and due process. He listed several of these rights, in reference to the removal of Mr. Charles Reed from the Council, effective December 20, 2023.

Roll Call:

Present, In Person: Council Co-Chairpersons Kevin John Jefferson, Latasha Washington, and Ken Szutu; and Council Members Fernando Campos, William Goodwin, Ms. Margaret Gordon, Arieann Harrison, Joy Massey, Hana Mendoza, Rio Molina, Dr. Jeff Ritterman, and Kevin G. Ruano Hernandez.

Participated Remotely, via Zoom (remote presence does not count for quorum, but votes are counted for all action items): Council Member Mayra Pelagio (just cause).

Absent: Council Members Dr. Juan Aguilera and Violet Saena.

Note: Dr. Aguilera listened into the meeting remotely via Zoom as member of the public since his reason for attending remotely did not fall under exemptions for "just cause," which allows for remote participation under Assembly Bill (AB) 2449 (Rubio, 2022). Thus, he was marked as "absent."

CONSENT CALENDAR

2. APPROVAL OF THE DRAFT MINUTES OF NOVEMBER 30, 2023

Public Comments

No requests received.

Council Comments

None.

Council Action

Council Member Ruano Hernandez made a motion, seconded by Council Member Goodwin, to **approve** the Draft Minutes of November 30, 2023, and the motion **carried** by the following vote of the Council:

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

Motion Approved

ACTION ITEMS

3. ELECTION OF COMMUNITY ADVISORY COUNCIL CO - CHAIR

Suma Peesapati, Environmental Justice and Community Engagement Officer, gave the staff presentation *Election of Community Advisory Council Co-Chair*, including: outcome; requested action; outline; Section 1.3.1 (Duties of Leadership).

Public Comments

No requests received.

Council Comments

The Council and staff discussed whether nominations had already closed or could be given during the meeting.

Council Action

Council Member Ms. Margaret Gordon made a motion, seconded by Dr. Ritterman, to **appoint** Ken Szutu as a third Council Co-Chairperson, effective immediately; and the motion **carried** by the following vote of the Council:

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

Motion Approved

4. FUNDING COMMUNITY BENEFITS FROM PENALTY FUNDS

Greg Nudd, Deputy Executive Officer of Science and Policy, gave the staff presentation *Funding Community Benefits from Penalty Funds*, including: potential presentation outcomes; background;

proposal; about the penalties; example method for allocation; results; Finance and Administration Committee Meeting of December 20, 2023; Council feedback; and action parts 1, 2, and 3.

Public Comments

Public comments were given by Pat Toth Smith, Benicia resident; Kathy Kerridge, Benicia resident; Nancy Reiser, Crockett resident; Stuart McCullough, Martinez Community Foundation; Heidi Taylor, Healthy Martinez; Stephen Golub; Marilyn Bardet, Benicia resident; Michael Coody, Rodeo resident; Mayor Brianne Zorn, City of Martinez; Maureen Brennan, Rodeo resident; T. Shaia, Rodeo resident; Judith Sullivan, Benicia resident; Betty Lucas, Benicia resident; David Gassman, and Jean Tepperman.

Council Comments

The Council and staff discussed how the Council will be involved in this process, should the Board accept the recommended actions; the desire that the Air District implements a future participatory budgeting process; the desire to see penalty fees significantly increased; the extent to which are penalty and permit fees are expected to increase; current funding sources of the Air District's enforcement program; whether the budget target of \$3M is a static target, or whether that amount may be set it lower or higher; whether the recommended action presented to the Council is to recommend that the Board create a policy, or approve a policy that was already created by staff; new methods and criteria being utilized to increase lawsuit settlements; the history of annual Air District fee increases; violation circumstances that would cause the Air District to revoke an issued permit; health data analysis the Air District uses to measure the health outcomes of fenceline community residents; whether penalty fees are automatically increased each time a facility violates a regulation; reasons for the anticipated increase in penalty collections in 2024, and whether penalty amounts can be estimated; the Council's desire for the Air District to make use of community partnerships and clearly communicate how community advocacy can help the Air District enforce Air District regulations; the definitions of "local" and "regional"; the request for improved and enhanced public outreach regarding Council meetings; why only a one-year pilot program is being proposed (instead of a permanent program) when there is already a history of Air District regulation violations; concerns about the training and current practices of the Air District's Compliance & Enforcement staff; the desire for improvements to the Air District's Air Quality Complaint Program (quicker follow up), and concerns that the Air District's current system does not support the needs of the community; the suggestion that the Air District collect feedback from the Assembly Bill (AB) 617 Community Emissions Reduction Plan Community Steering Committees on this proposed program; whether changes to policy will be coupled with changes to (interpretations of) regulations so that higher penalties may be assessed; the suggestion of implementing the proposed allocation structure, regardless of whether the penalty payment amount reaches \$100,000; how the Air District plans to mitigate future situations in which facilities operate without permits, and the request for a list of such former violations; whether facilities whose operations do not require Air District permits are monitored by the Air District and can receive Notices of Violation, and the request for a list of the exempted companies and whether they have been issued Notices of Violation.

Council Action (Three Items)

Action 1 of 3

Recommended Action:

Consider recommending that the Air District Board of Directors take the following actions:

- *Create a policy that automatically sets aside a portion of penalties for regional and local benefits.*
- *Review the results after one year to ensure that the process is equitable and effective.*

Co-Chairperson Jefferson made a motion, seconded by Council Member Mendoza, that the Council table recommending that the Air District Board of Directors create a policy that automatically sets aside a portion of penalties for regional and local benefits, and review the results after one year to ensure that the process is equitable and effective.

After further discussion, the maker of the motion withdrew his original motion.

Then, Co-Chairperson Jefferson made a motion, seconded by Council Member Mendoza, to recommend that the Air District Board of Directors create a policy in collaboration with the Community Advisory Council that automatically sets aside a portion of penalties for regional and local benefits; and the motion **carried** by the following vote of the Council:

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

Motion Approved

Then, Co-Chairperson Washington made a motion, seconded by Council Member Harrison, to recommend that the Air District Board of Directors have the Community Advisory Council conduct an annual periodic review of the program after one year to ensure that the policy is effective and equitable; and the motion **carried** by the following vote of the Council:

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

Motion Approved

Action 2 of 3

Recommended Action:

Consider recommending that the Air District Board of Directors take the following action:

- *Ensure community outreach and oversight of any local or regional benefit fund spending programs.*

Council Member Pelagio made a motion, seconded by Co-Chairperson Jefferson, to recommend that the Air District Board of Directors ensure, with the collaboration of the Community Advisory Council, that there is the creation of a plan for community outreach and oversight of any local or regional benefit fund spending programs; and the motion **carried** by the following vote of the Council:

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

Motion Approved

Action 3 of 3

Recommended Action:

Consider recommending that the Air District Board of Directors take the following action:

• *Create a policy that automatically sets aside a portion of penalties for regional and local benefits according to the proposed allocation scheme*

Co-Chairperson Jefferson made a motion to recommend that the Air District Board of Directors create a policy that automatically sets aside a portion of penalties for regional and local benefits, but, due to the lack of a second, the motion was tabled.

Motion NOT Approved

THE COUNCIL RECESSED AT 8:56 P.M., AND RESUMED AT 9:11 P.M.

INFORMATIONAL ITEM

5. COMPLIANCE AND ENFORCMENT UPDATE

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, gave the presentation *Enforcement Case Study: Green Sage Cannabis Cultivating Facility*, including: outcome; requested action; overview; Before Telling the Story, a Moment to Reflect on the Health and Safety of Our Communities; Green Sage Management; the scale of the violation; violations at Green Sage; duration of the violation; who were the advocates and agencies; Environmental Democracy Project's (EDP) three-pronged approach; community efforts and collaboration; EPD's suggestions for improvements; CalEnviroScreen 4.0 Bay Area regional map; Green Sage's defiance of enforcement efforts; and Air District Compliance and Enforcement Division Perspective.

Public Comments

No requests received.

Council Comments

The Council and staff discussed whether EDP can still partner with the Air District, as Ms. Boyce has left the Bay Area and plans to step down as Executive Director; why the enforcement action that was taken in this case is not applied to all violations, and whether that can be regularly replicated, moving forward; the estimated percentage of acts of defiance by regulation violators; the location of Green Sage Management's current operations; where language stating whether a specific type of equipment

or activity does not require an Air District permit can be found; the fact that not all disadvantaged communities have local grassroots legal resources, and often struggle to report violations; and the suggestion of increasing the Air District's resources by having enforcement staff confirm complaints that are reported.

Council Action

None; receive and file.

OTHER BUSINESS

6. PUBLIC COMMENT ON NON-AGENDA ITEMS

No requests received.

7. COUNCIL MEMBER COMMENTS / OTHER BUSINESS

Council Member Ms. Margaret Gordon requested that the following topics be agendized at future Council meetings: 1) how to continue collaborative governmental and community-based efforts to stop Air District regulation violations (as seen in the matter of illegal diesel generator use at the Green Sage cannabis cultivation facility in East Oakland); and 2) information on the process of sexual harassment training for members of the Council, and the manner in which the Air District processes sexual harassment allegations from members of the Council.

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 meeting was adjourned at 10:23 p.m.

/s/ Marcy Hiratzka
Marcy Hiratzka
Clerk of the Boards