

BOARD MEETING DATE: May 1, 2020

AGENDA NO. 1

MINUTES: Governing Board Monthly Meeting

SYNOPSIS: Attached are the Minutes of the April 3, 2020 meeting.

RECOMMENDED ACTION:

Approve Minutes of the April 3, 2020 Board Meeting.

Faye Thomas
Clerk of the Boards

FT:cmw

FRIDAY, APRIL 3, 2020

Notice having been duly given, the regular meeting of the South Coast Air Quality Management District Board was conducted remotely via video conferencing and telephone. Members present:

William A. Burke, Ed.D., Chairman
Speaker of the Assembly Appointee

Council Member Ben Benoit, Vice Chairman
Cities of Riverside County

Supervisor Lisa A. Bartlett
County of Orange

Council Member Joe Buscaino
City of Los Angeles

Council Member Michael A. Cacciotti
Cities of Los Angeles County – Eastern Region

Senator Vanessa Delgado (Ret.)
Senate Rules Committee Appointee

Gideon Kracov
Governor's Appointee

Mayor Larry McCallon
Cities of San Bernardino County

Council Member Judith Mitchell
Cities of Los Angeles County – Western Region

Supervisor V. Manuel Perez (Left the meeting at 10:35 a.m.)
County of Riverside

Council Member Carlos Rodriguez
Cities of Orange County

Supervisor Janice Rutherford
County of San Bernardino

Member absent:

Supervisor Kathryn Barger
County of Los Angeles

CALL TO ORDER: Chairman Burke called the meeting to order at 9:00 a.m.

Council Member Benoit thanked staff for their efforts in setting up video conference meetings and commented on the success of recent meetings staff conducted using Zoom technology.

Council Member Rodriguez also commended staff for taking proactive steps to conduct remote meetings and extended well wishes to everyone during this difficult time.

Chairman Burke noted that at the March 6, 2020 meeting, the Google contract for the “Right to Breathe” video was referred back to the Administrative Committee for further discussion. Since the March 13, 2020 Administrative Committee meeting was cancelled, he recommended that the Executive Officer be directed to return the \$500,000 allocated for this project to the original funding account, due to the uncertain economic conditions related to COVID 19. Mayor McCallon concurred and there were no objections from Board members.

Chairman Burke asked Board members to consider the relevance of conducting Board meetings over the next 2-3 months, given the amount of staff time to prepare for remote meetings and record low air pollution levels. Hearing no comments or objections, Chairman Burke announced that the Board will continue to meet remotely during the COVID-19 pandemic.

Mr. Nastri reported that unsettled weather over the past few weeks has contributed to good air quality, but it may be a challenge once weather patterns return to normal. There is also preliminary data from roadside monitors that indicate a reduction in traffic, but weather is a primary factor in air quality. Staff will have additional data in the next couple of weeks to evaluate air quality conditions.

CONSENT CALENDAR

1. Approve Minutes of March 6, 2020 Board Meeting
2. Set Public Hearing May 1, 2020 to:
 - A. Adopt Executive Officer’s FY 2020-21 Proposed Goals and Priority Objectives and Proposed Budget
 - B. Determine That Proposed Amendments to Rule 445 – Wood-Burning Devices, Are Exempt from CEQA and Amend Rule 445

Budget/Fiscal Impact

3. Recognize Revenue and Execute Contract to Assess Emissions Impacts of Hydrogen-Natural Gas Fuel Blend on Natural Gas Engines
4. Recognize Revenue, Implement Truck Trade Down Program and Amend Award
5. Recognize and Transfer Funds, Execute and Amend Agreements for Installation and Maintenance of Air Filtration Systems, and Reimburse General Fund for Administrative Costs
6. Recognize Revenue and Execute Contract to Perform Evaluation of Vehicle Maintenance Costs Between Natural Gas and Diesel Fueled On-Road Heavy-Duty Vehicles
7. Adopt Resolution Recognizing Revenue for Funding Agricultural Replacement Measures for Emission Reductions Program and Reimburse General Fund for Administrative Costs
8. Recognize Revenue, Amend Contract and Reimburse General Fund for Administrative Costs for Enhanced Fleet Modernization Program
9. Reallocate Funds, Execute Contract and Add/Delete Positions to Quantify and Characterize Fugitive VOC Emissions Near and Around Refineries
10. Approve Transfer of Funds to Conduct Rule 1118.1 Technical Assessment
11. Appropriate Funds and Amend or Execute Contracts with Outside Counsel and Specialized Legal Counsel and Services
12. Audit Reports of AB 2766 Fee Revenue Recipients for Fiscal Years Ending June 30, 2016 and 2017
13. Remove Various Fixed Assets from South Coast AQMD Inventory
14. Establish List of Prequalified Legal Counsel to Provide Employee and Labor Relations Legal Services

15. Establish Prequalified Vendor Lists Relating to Fleet Services and Building Maintenance
16. Authorize Purchase of Maintenance and Support Services for Servers and Storage Devices
17. Amend Contract to Provide Short- and Long-Term Systems Development, Maintenance and Support Services

Action Item/No Fiscal Impact

18. Amend Charter for Local Government and Small Business Assistance Advisory Group

Items 19 through 25 – Information Only/Receive and File

19. Legislative, Public Affairs and Media Report
20. Hearing Board Report
21. Civil Filings and Civil Penalties Report
22. Lead Agency Projects and Environmental Documents Received
23. Rule and Control Measure Forecast
24. Report of RFPs/RFQs Scheduled for Release in April
25. Status Report on Major Ongoing and Upcoming Projects for Information Management

Council Member Mitchell noted that she has no financial interests in Item Nos. 5, 7 and 8 but is required to identify for the record that she is a Board Member of CARB, which is involved in these items.

Supervisor Perez recused himself from Item No. 5 because of campaign contributions from PepsiCo, Inc. PepsiCo, Inc. is affiliated with FL Transportation, Inc. and New Bern Transport Corporation, which are involved in this item.

Agenda Item 18 was withheld for comment and discussion.

MOVED BY BENOIT, SECONDED BY MCCALLON, AGENDA ITEMS 1 THROUGH 17 APPROVED AS RECOMMENDED, ADOPTING RESOLUTION NO. 20-7 RECOGNIZING FY 2019-20 FARMER FUNDS, BY THE FOLLOWING VOTE:

AYES: Bartlett, Benoit, Burke, Buscaino, Cacciotti, Delgado, Kracov, McCallon, Mitchell, Perez (*except Item #5*), Rodriguez and Rutherford

NOES: None

ABSTAIN: Perez (*Item #5 only*)

ABSENT: Barger

26. Items Deferred from Consent Calendar

18. Amend Charter for Local Government and Small Business Assistance Advisory Group

Derrick Alatorre, DEO/Legislative, Public Affairs and Media, gave the staff presentation on Item No. 18.

Mr. Nastri explained that the proposed amendment would allow members of this group to recommend a position on Governing Board agenda items; however, their recommendations will be routed to the Administrative Committee for review and recommendation to the Board

MOVED BY BENOIT, SECONDED BY KRACOV, AGENDA ITEM 18 APPROVED AS RECOMMENDED, BY THE FOLLOWING VOTE:

AYES: Bartlett, Benoit, Burke, Buscaino, Cacciotti, Delgado, Kracov, McCallon, Mitchell, Perez, Rodriguez and Rutherford

NOES: None

ABSENT: Barger

MOVED BY BENOIT, SECONDED BY RUTHERFORD, AGENDA ITEMS 19 THROUGH 25 APPROVED AS RECOMMENDED, BY THE FOLLOWING VOTE:

AYES: Bartlett, Benoit, Burke, Buscaino, Cacciotti, Delgado, Kracov, McCallon, Mitchell, Perez, Rodriguez and Rutherford

NOES: None

ABSENT: Barger

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Staff Presentation/Board Discussion

28. Update on Proposed Rail Yard Indirect Source Rule (*Presentation in lieu of Board Letter*)

Ian MacMillan, Planning and Rules Manager and Edie Chang, Deputy Executive Officer, CARB, gave the staff presentation on Item No. 28.

Chris Chavez, Coalition for Clean Air, expressed concerns regarding the proposal to create a credit-based emissions reduction program and urged more aggressive reduction requirements for those who have the highest emissions. He expressed support for the engineering requirement plan and noted that it is a good step forward in bringing zero emissions equipment to communities. He added concern regarding incentive programs which rely on funding by the railroads. He inquired about NOV's for locomotive opacity violations and noted that enhanced monitoring should be tied to enforcement. He also inquired about efforts to pursue harmonization of South Coast AQMD's railroad rule with the Interstate Commerce Commission Termination Act. (Submitted Written Comments)

Robert Jimenez, resident of Perris, expressed concerns about the increased development of warehouses in the Inland Empire and pollution. *[The commenter was asked to address this issue during the Public Comment Period as his comments were not related to Item #28]*

Justice, a San Bernardino resident, commented on health concerns related to poor air quality in the Inland Empire and expressed concern for coworkers and family members who suffer from respiratory illnesses. She urged the Board to prioritize the health of communities by adopting strong Indirect Source Rules

(ISRs) for railyards, warehouses and new development and supporting a transition to zero emission technologies.

Carlos de la Cruz, Sierra Club*

Angela Guzman

Kaylie Roche, Sierra Club

Gabriela Mendez, Center for Community Action and Environmental Justice (CCA EJ)

Expressed concerns regarding health effects from air pollution and the increased risk of COVID-19 to individuals who suffer from respiratory conditions. Urged the Board to not postpone rulemaking and adopt strong ISRs and measures to support zero emissions. (*Submitted Written Comments)

Yassi Kavezade, Sierra Club

Cindy Santiago

Andrea Vidaurre, CCA EJ*

Maya Villar

Angie Balderas

Commented that while some areas have seen a decrease in air pollution due to stay-at-home orders, the Inland Empire experienced a smog alert last week because of the increased demand for online shipments from warehouses and logistics facilities in the Inland Empire. Expressed health and safety concerns for children who live and walk to schools near railyards and the lack of progress in enforcing cleaner locomotive standards. Expressed concerns about the health effects of pollution and support for ISRs for railyards, warehouses and new development, zero emissions technologies and green jobs. Requested that emission reduction plans focus on communities most impacted by poor air quality and additional community meetings be held in the Inland Empire. (*Submitted Written Comments)

Scott Myers, OptiFuel Systems, commented on their progress in developing zero and near-zero emission locomotives using renewable natural gas. He noted the difficulties in moving forward with the technology for Tier 5 locomotives because of a preference for electric locomotive technology

Chairman Burke commented on the contentious history related to the rulemaking process for regulations on locomotive emissions.

Mayor McCallon noted the progress that Metrolink has made in decommissioning older locomotives and replacing them with Tier 4 locomotives.

Council Member Cacciotti thanked Mayor McCallon for his comments and efforts. He expressed concerns regarding the emissions from idling Metrolink and Amtrak diesel trains and noted the importance of evaluating impacts to communities from commuter railyards and trains in addition to freight trains.

Mayor McCallon commented that Metrolink has been working with the community near its central maintenance facility and made changes to their operations that reduce pollution and noise.

Council Member Mitchell commented on the long history of dealing with rail authorities and their position that they are exempt from regulatory authority. She expressed support for staff's proposal and commented that the monitoring will inform next steps for zero emission plans. She expressed hope that the proposal will encourage communication and a better relationship with rail authorities. She thanked Ms. Chang for her presentation and collaborating with South Coast AQMD staff.

Chairman Burke thanked Council Member Mitchell for her service as a Board member of CARB.

Council Member Buscaino thanked staff for their collaboration with stakeholders and community members in the development of the proposal. He is optimistic that the measures outlined will result in stronger communication and collaboration with railroad authorities and noted that litigation only delays the actions that are necessary to reduce pollution in impacted communities.

Council Member Rodriguez thanked fellow Board Members for the historical background of communications and actions related to the railroads. He inquired about input on the proposal from rail authorities and noted the importance of seeking their perspective. He inquired about community outreach and economic implications on goods movement and asked for more clarity on those issues in the next update.

Written Comments Submitted by:
Lupe Ruelas, Earthjustice on behalf of Oscar Espino-Pardon and Adrian Martinez and other environmental agencies

RECEIVE AND FILE; NO ACTION NECESSARY

(Supervisor Perez left the meeting at 10:35 a.m.)

BOARD CALENDAR

27. Stationary Source Committee

MOVED BY MITCHELL, SECONDED BY CACCIOTTI, AGENDA ITEM 27, APPROVED AS RECOMMENDED, RECEIVING AND FILING THE STATIONARY SOURCE COMMITTEE REPORT, BY THE FOLLOWING VOTE:

AYES: Bartlett, Benoit, Burke, Buscaino, Cacciotti, Delgado, Kracov, McCallon, Mitchell, Rodriguez and Rutherford

NOES: None

ABSENT: Barger and Perez

PUBLIC COMMENT PERIOD – (Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3)

Joy Langford, Joy Langford and Associates, spoke on behalf of a client who owns a cold storage food facility adjacent to National Gypsum in Long Beach and requested assistance with an ongoing dust problem. She noted that South Coast AQMD inspectors have responded to dust complaints and air monitoring equipment has been installed on both properties. Their facility is handling an increased amount of frozen food products for Southern California and employees and vendors are concerned about safety and possible damage to refrigeration equipment from dust. Ms. Langford requested help in requesting that the facility cease and desist until South Coast AQMD staff can conduct an investigation once the COVID-19 pandemic subsides. She contacted the office of the Long Beach Mayor and has not received a response.

Mr. Nastri explained that inspectors have been engaged in the investigation of complaints at this facility and will continue their monitoring efforts. Staff will review recent monitoring data from the sites and take appropriate action as necessary.

Chairman Burke asked Mr. Nastri to contact the Mayor of Long Beach about the issues at this facility.

Emily Spokes, North East Los Angeles (NELA) Climate Collective, expressed appreciation to Council Member Mitchell regarding her comments at the joint Long Beach and Los Angeles Harbor Commission Board meeting in Long Beach on March 9, 2020. She expressed concerns about air quality and climate change and thanked the Board for conducting remote meetings that provide an opportunity for the public to participate.

Jessica Craven, NELA Climate Collective, thanked the Board for conducting meetings via teleconferencing and expressed support for more teleconference meetings because it is more sustainable than driving. She expressed concerns about climate change and the lack of enforcement of industrial air and water pollution rules and a roll back on vehicle emission standards by U.S. EPA. She noted that more efforts are needed to reduce emissions near Metrolink idling yards and urged the Board to take urgent measures to adopt stricter regulations to clean the air.

Susan Dembowski thanked the Board for efforts to reduce pollution from warehouse facilities and expressed concerns about polluting trucks and health impacts from pollution. She expressed support for strong ISRs for warehouses, railyards and new developments that prioritize health and supports zero emissions for all communities.

Michael Zelniker, The Climate Reality Project, shared information regarding initiatives in Los Angeles to transition energy needs to 100 percent clean renewable energy. He urged for strong regulations and enforcement actions on industrial and transportation sectors and less dependency on fossil fuels to clean the air. He expressed concerns for environmental justice communities who disproportionately suffer the most from poor air quality.

Maya Villar expressed concerns regarding climate change and noted that the staff presentation today lacked clear plans for the future and involvement by local communities.

Chairman Burke suggested that the commenter view South Coast AQMD's website and talk to staff about programs that help the community.

Chris Chavez, Coalition for Clean Air, encouraged the Board to continue upholding its mission to clean the air and protect public health, as industry groups seek regulatory relief in response to economic and health uncertainties due to the current pandemic. He expressed concern regarding the Ports' request to pause the development of At-Berth regulations and the U.S. EPA's recent action to reduce or suspend monitoring enforcement for polluters. He commented on the number of deaths due to air pollution in the Basin and the potential consequences of not meeting attainment deadlines and violating the Clean Air Act. He urged the Board to commit to the development and implementation of strong ISRs for the Ports, warehouses and railyards and not delay rulemaking. He also expressed support for clean transportation incentives and zero emission technologies and thanked the Board for providing accessible methods of public participation during the COVID-19 pandemic. (Submitted Written Comments)

Supervisor Rutherford asked whether South Coast AQMD regulatory and compliance deadlines are being extended to provide economic relief amid the COVID-19 outbreak.

Mr. Nastri responded that the deadline for submittal of annual emission reports and associated payments have been extended and meetings have been scheduled with industry groups to evaluate their requests for relief on a case-by-case basis. A report on these issues will be available soon.

Written Comments Submitted by:
Adris R. Abele

CLOSED SESSION

The Board recessed to closed session at 11:05 a.m., pursuant to Government Code sections:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

- 54956.9(a) and 54956.9(d)(1) to confer with its counsel regarding pending litigation which has been initiated formally and to which the South Coast AQMD is a party. The actions are:

In re: Exide Technologies, Inc., U.S. Bankruptcy Court, District of Delaware, Case No. 13-11482 (KJC) (Bankruptcy Case); Delaware District Court, Case No. 19-00891 (Appellate Case);

People of the State of California, ex rel. SCAQMD v. Exide Technologies, Inc., Los Angeles Superior Court Case No. BC533528;

SCAQMD, et al. v. Elaine L. Chao, et al., District Court for the District of Columbia, Case No. 1:19-cv-03436-KBJ; and

SCAQMD, et al. v. EPA, United States Court of Appeals D.C. Circuit, Case No. 19-1241 (consolidated with Union of Concerned Scientists v. NHTSA, No. 19-1230).

CONFERENCE WITH LEGAL COUNSEL – INITIATING LITIGATION

- 54956.9(a) and 54956.9(d)(4) to consider initiation of litigation (four cases).

Following closed session, Bayron Gilchrist, General Counsel, announced that a report of any reportable actions taken in closed session will be filed with the Clerk of the Board's office and made available to the public upon request.

ADJOURNMENT

There being no further business, the meeting was adjourned by Mr. Gilchrist at 11:20 a.m.

The foregoing is a true statement of the proceedings held by the South Coast Air Quality Management District Board on April 3, 2020.

Respectfully Submitted,

Faye Thomas
Clerk of the Boards

Date Minutes Approved: _____

Dr. William A. Burke, Chairman

ACRONYMS

AQMP = Air Quality Management Plan
CARB = California Air Resources Board
CEQA = California Environmental Quality Act
FY = Fiscal Year
ISR = Indirect Source Rule
RFP = Request for Proposals
U.S. EPA = United States Environmental Protection Agency