

CONTRA COSTA COUNTY  
HAZARDOUS MATERIALS COMMISSION

**Thursday, February 27, 2020**

*4:00 p.m. – 6:00 p.m.*

The County Connection  
2477 Arnold Industrial Way, Board Room  
Concord CA 94520

COMMISSION ACTION MAY BE TAKEN ON ANY ISSUE IDENTIFIED IN THIS AGENDA

*The Contra Costa County Hazardous Materials Commission will provide reasonable accommodations for persons with disabilities planning to attend the Hazardous Materials Commission meetings who contact Michael Kent, Hazardous Materials Commission Executive Assistant, at least 24 hours before the meetings, at (925) 313-6587*

**AGENDA**

1. CALL TO ORDER, ANNOUNCEMENTS AND INTRODUCTIONS
2. APPROVAL OF MINUTES: January 23, 2020
3. PUBLIC COMMENT
4. HAZARDOUS MATERIALS PROGRAMS REPORT ..... Randy Sawyer
5. OPERATIONS COMMITTEE REPORT ..... Committee Chair
6. PLANNING AND POLICY DEVELOPMENT COMMITTEE REPORT ..... Committee Chair
7. OLD BUSINESS:
  - a) None
8. NEW BUSINESS:
  - a) Overview of Safety Culture Assessments requirements in the Industrial Safety Ordinance...Cho Nai Cheung, Hazardous Materials Program
  - b) Report on the Industrial Safety Ordinance Annual Report- Hazardous Materials Program...Cho Nai Cheung, Hazardous Materials Program
  - c) Report on Sea Level Rise impacts Commodity flow in Contra Costa County...Ellen Dempsey, Hazardous Materials Program
  - d) Presentation on pipeline safety issues...Roger Smith, Alamo Improvement Association
  - e) Consider hazardous materials-related principles for the County's legislative platform
9. REPORTS FROM COMMISSIONERS ON MATTERS OF COMMISSION INTEREST ..... Members
10. PLAN NEXT AGENDA
11. ADJOURNMENT

*Attachments*

**Questions:** Call Michael Kent (925) 313-6587

*Any disclosable public records related to an open session item on a regular meeting agenda and distributed by Contra Costa Health Services to a majority of members of the Hazardous Materials Commission less than 72 hours prior to that meeting are available for public inspection at 597 Center Avenue in Martinez*

597 Center Avenue, Suite 200, Martinez CA 94553 (925) 313-6712 Fax (925) 313-6721

**Contra Costa County**  
**HAZARDOUS MATERIALS COMMISSION**

**Draft Minutes**  
**January 23, 2020**

**Members and Alternates Present:** Jonathan Bash, Don Bristol, Mark Hughes, Steve Linsley, Gabe Quinto, George Smith, Leslie Stewart, Tim Bancroft (alternate), Lisa Park (alternate), Ed Morales (alternate)

**Absent:** Rick Alcaraz, Fred Glueck, Mark Ross, Jim Payne

**Staff:** Michael Kent; Randy Sawyer, Matt Kaufmann, Hazmat; Ryan Hernandez, CC Water Agency

**Members of the Public:** Charlie Davidson, Janey Pygeorge, Jan Warren, Audrey Comeaux,

**1. Call to Order:** Commissioner Smith called the meeting to order at 4:03

**Announcements and Introductions:**

Michael Kent announced:

- The nominations for the expired City Seat and vacating Ralph Sattler's Environmental seat were on the consent calendar of the Board of Supervisors on January 21<sup>st</sup>. Mark Ross was re-appointed and Edi Birsan was appointed as his alternate.
- At their December 9<sup>th</sup>, 2019 the Board's Sustainability Committee voted to recommend the addition of an Environmental Justice seat to the Commission as a 14<sup>th</sup> new seat. On January 21<sup>st</sup> the Board of Supervisors voted instead to replace Ralph Sattler's vacated Environmental seat with an Environmental Justice seat. Once the Commission's bylaws have been amended, recruitment for applicants can begin.
- The recommendations the Commission made to the Board of Supervisors concerning pipeline safety will be on the Board's agenda in February.
- The Bay Area Air Quality Management District will be holding a public meeting about their complaint process on February 5<sup>th</sup> from 5:00 – 7:00 at the Board of Supervisors Chambers, 651 Pine Street in Martinez.
- DTSC published two Work Notices concerning sites in Richmond and Walnut Creek.
- There will not be a Planning and Policy Committee meeting in February.

Commissioner Hughes announced that the Industrial Association and the Diablo League of Women Voters will be holding a Candidates Forum for the Board of Supervisors District 5 race on February 10, 2020 at the IEBW Hall in Martinez starting at 7:00.

Commissioner Smith announced that at their January 14, 2020 meeting the Richmond City Council voted to pass an ordinance to phase out the shipment of coal and petroleum coke from facilities in the City of Richmond. The second reading of the ordinance will be on the February 4, 2020 City Council agenda.

## **2. Approval of the Minutes:**

A motion was made by Commissioner Quinto and seconded by Commissioner Hughes to approve the minutes for the December 5, 2019 meeting. The motion passed 9-0.

## **3. Public Comments:**

Charles Davidson asked if the County had done an analysis of the impacts of the Selby Slag site into San Francisco Bay mud adjacent to Pinole Shores. Michael Kent said he was unaware of any analysis that the County has done independent of the CEQA analysis that was done as part of the cleanup plan for the site.

Joanne Fanucchi, a resident of Pittsburg, e-mailed comments concerning the City of Richmond coal ordinance to staff because she was unable to attend the meeting in person, and requested that her comments be read into the record:

*good afternoon -*

*I was overjoyed by Richmond's decision to ban the fossil fuels coal and petcoke from the Levin Terminal. I even volunteered a few times to canvas for NoCoalInRichmond and found the neighborhoods' homes coated with black soot, so this was a long overdue, very much needed action.*

*Since last fall I have known that people were talking about what might happen to the petcoke should this ordinance be adopted. When I heard one leader of an environmental group say they were thinking about Pittsburg, I went on red alert. When I read that the Sierra Club was taking a tour of Koch Carbon petcoke storage facility, my alert increased exponentially and my faith in environmental groups fell at the same rate. I live in Pittsburg. I have to deal with GHG emissions daily. The people on Harbor street, who have been ignored into silence for years, have to deal with the trucks hauling petcoke from Shell and Tesoro into town in the dead of night. Adding P66's petcoke to the mix is not a solution at all; in fact it makes to ordinance a false win if you look at the bigger picture.*

*So - when I read this, I went beyond a red alert into a zone I've not been in before so up close. "Phillips 66 had said if the proposed ordinance was adopted it would have to truck the petcoke it currently sends to Richmond to marine terminals such as those in Stockton or Pittsburg, California, which would result in greater traffic congestion and additional fuel consumption and emissions from trucks and ships."*

*-- [https://finance.yahoo.com/news/california-city-votes-phase-coal-220840475.html?soc\\_src=social-sh&soc\\_trk=fb](https://finance.yahoo.com/news/california-city-votes-phase-coal-220840475.html?soc_src=social-sh&soc_trk=fb)*

*My question for you is what role if any, is your commission going to take on here?*

*Pittsburg is full up on toxic waste. No vacancy.*

*I am aware that Koch covered petcoke storage has managed to limit the fugitive dust a great deal more than having it uncovered on the wharf of Levin Terminal. However, this does not mean it should come here. Infrastructure has always been a maintenance problem everywhere. What would happen with sea level rise or an earthquake? We don't need more trucks coming in even though those trucks are said to not spew the junk while in transit. We already have trucks*

*from Shell (PBF?) and Tesoro coming in. No vacancy in Pittsburg for more toxic waste, please! I have already asked the city council to put this item on the agenda so we can discuss avoiding another decision made on the false solutions presented by the fossil fuel industry. Pittsburg doesn't understand why they have to stop permitting these facilities, stop allowing industrial waste to accumulate in the air, land and water. Once they become educated about the fallacy of carbon trading I'm hopeful they won't continue to repeat their mistakes.*

*Also a comment on dredging - I am part of the Protect the Bay group, although not a card carrying member. I promised to be a part of the actions to shut P66 down. We will not let tar sands tankers in the bay. Period. There are many scientific types telling you how dangerous it would be to disturb some areas of toxic contamination; i.e. Selby Slag, they have told you of all the negative side effects of this. Commerce is not the priority. The Earth is.*

*Please enter these comments into the record.. I will eventually attend meetings so look forward to being properly introduced. Today work was a slammer...*

*Thank you for your time.*

**Joanne Fanucchi, MS.TCM, L.Ac.**

#### **4. Hazardous Materials Programs Report:**

Randy Sawyer reported:

- He has been promoted to Deputy Director of the Health Department overseeing the Hazardous Materials, Environmental Health and Emergency Management Systems divisions. The Acting Director of Hazardous Materials, until they find a replacement, will be Matt Kaufmann. Mr. Kaufmann has been with the Hazardous Materials Program for the last 12 years, the last 6 as Assistant Director. Mr. Sawyer said Mr. Kaufmann is very knowledgeable about the various hazardous materials programs. Mr. Kaufmann said he has a background in biology and is looking forward to filling in as Acting Director. Michael Kent said that in his capacity as facilitator for the program's Incident Response debriefing meetings he has worked with Mr. Kaufmann, and has been very impressed with his knowledge and professionalism. He said he thinks the Commission will be very happy with Mr. Kaufmann as Acting Director. Mr. Sawyer said that they are also planning on reorganizing the program once the new Director has been named. They plan to have only one Assistant Director instead of two, but will create three new supervisor positions. They also plan to incorporate differential pay into the base pay of their Hazardous Materials Specialists. They will also create a new Hazardous Materials/Incident Response Specialist position in addition to the Hazardous Materials Specialist so that staff can choose to be on the Incident Response team or not.
- They expect the root cause investigation for the Nustar fire that occurred in October to be completed by March. They are still waiting on metallurgical results.
- He is working with the Board of Supervisors Ad Hoc Committee on the Industrial Safety Ordinance and the Community Warning System to find a date to conduct a joint review of the Safety Culture Assessments required of the facilities regulated by the Industrial

Safety Ordinance. He agreed with the suggestion made by the Commission that they aim for a meeting in March, and in February have staff brief the Commission on the Safety Culture Assessment process. He also agreed to have a briefing on the annual report for the Industrial Safety Ordinance in March.

#### **5. Operations Committee Report:**

The Operations Committee elected Commissioner Glueck and Commissioner Stewart and Chair and Vice Chair, respectively for 2020.

The Committee discussed ways to recruit for the new vacant Environmental Seat and the new Environmental Justice Seat.

The Committee identified their priorities for 2020.

Finally, the committee reviewed proposed changes to the County's notification policy and focused their comments on the section dealing with the reporting of odors. Their concern was whether it was clear what events would be considered releases vs. odor complaints, and whether outside verified complaints were necessary for a facility to have to report releases that just caused odors.

#### **6. Planning and Policy Development Committee Report:**

The Planning and Policy Committee elected Commissioner Payne as Chair and Commissioner Hughes as Vice Chair for 2020.

The Committee held off discussion the WSPA lawsuit and proposed resolution the Board of Supervisors is being asked to adopt because there were no know new activities related to the case. The Committee decided they will continue to track whether any of the concerns raised by WSPA in the lawsuits are being addressed through the State's Standards Review Board process.

The Committee also discussed the recommendation from Communities for a Better Environment that the County perform an independent analysis of process hazards associated with the recent and foreseeable future introduction of new types of oil feed stocks at the Phillips 66 refinery in Rodeo. They reviewed the status of the CEQA review for the proposed Marine Terminal project at Phillips 66 and learned that no decisions have been made yet as to whether the County will require a Land Use permit or who will be the lead agency for the CEQA process. The Committee voted unanimously not to support CBE's recommendation.

The Committee adopted "principle" statements for the hazardous materials-related issues in the County's Legislative Platform for the full Commission to consider.

The Committee identified their priorities for 2020.

**7. Old Business:** None

**8. New Business:**

**a) Elect Commission Chair and Vice Chair**

Commissioner Bristol nominated Commissioner Smith for Chair. Commissioner Bancroft seconded the nomination. Commissioner Bancroft nominated Commissioner Glueck as Vice Chair. Commissioner Hughes seconded the nomination.

The Commission voted 9 – 0 in favor of the nominations.

**b) Presentation on proposed deepening of San Francisco Bay Shipping Channels**

Ryan Hernandez of the County's Water Agency began his presentation by introducing himself. He said that he has been with the County's Department of Conservation and Development since 2002 and with the Water Agency, which is housed within the Department of Conservation and Development, since 2013. His responsibilities include Delta Water policy and navigation issues.

Mr. Hernandez provided a history of the proposed deepening of the shipping channel and the current status of the project (ppt attached). He explained that the project was authorized in 1965 to deepen the western reach to 45 feet, with the Army Corp of Engineers as the Federal Sponsor and the Port of Stockton as the Local Sponsor. Contra Costa County has had a long history participating in the project and contributed funding for the completion of the Navigation Study.

He went on to explain that earlier attempts to deepen the Channel below 35 feet never happened and concerns were raised about salinity intrusion and endangered species. So expert panels were commissioned to learn about the impacts in 2013, and a new plan was developed. The project was split into two phases. The first phase was to deepen the Channel to Martinez to 38 feet deep. The second phase of the project was to deepen the Channel to Stockton. The Army Corp of Engineers determined they didn't have the capacity to implement the second phase so their Tentatively Selected Plan only calls for implementing the first phase as the entire project.

The Army Corp of Engineers completed the Federal environmental review process in June and approved their Tentatively Selected plan in July, 2019. They hope to publish their final Director's report in 2020.

Moving the dredge materials created by the project still has to go through the State CEQA process. While the Port of Stockton is still the Local Sponsor for the project, they indicated, at this time, they could no longer serve as the CEQA lead because the second phase of the project was not part of the Tentatively Selected Plan. So the Army Corp of Engineers is seeking a lead agency for the CEQA process. Contra Costa County is currently in discussions with the Army

Corp of Engineers about being the lead agency. As a result, the dredging probably won't occur until at least 2022 or 2023.

Commissioner Smith asked if it is correct that the dredge spoils are going to the Montezuma site. Mr. Hernandez said that this is one of the Army Corp of Engineer approved disposal sites.

Commissioner Linsely asked what facilities in Contra Costa County will benefit from the deepening project. Mr. Hernandez said that three refineries, the C&H Sugar factory, Nustar, and maybe the ferry and other industrial users in Port Chicago.

Commissioner Quinto noted that coal that would come to Stockton by rail from Utah would be shipped out via the Carquinez Strait, and wanted to know if this activity would benefit from the deepening project. Mr. Hernandez said only if the Phase 2 deepening of the channel to Stockton where someday to occur, but that is not part of the current plan. Commissioner Park added that ships loaded with coal coming from Stockton currently come to Richmond to be topped off.

Janet Pygeorge commented that the dredging that was done in the 1950's was contaminated and was dumped in San Francisco Bay. So she doesn't have faith in the Army Corp of Engineers because they said that dredging is ok even though she knows there is contamination in the sediments. She also asked who decides if the County will be the lead agency for the CEQA process. Mr. Hernandez said that it will be up to the Department of Conservation and Development, but they would look to the Board of Supervisors for concurrence.

- c) Consider recommendation from Communities for a Better Environment that the County perform an independent analysis of process hazards associated with the recent and foreseeable future introduction of new types of oil feed stocks at the Phillips 66 refinery in Rodeo.**

The Commission heard a report from the Planning & Policy Committee that they considered CBE's request and voted unanimously to not make this recommendation to the Board of Supervisors. The Commission voted 8-0-1 (with Commissioner Park abstaining) to accept the Planning & Policy Committee's recommendation not to make this recommendation to the Board of Supervisors.

**d) Select Commission Priorities for 2020.**

The Operations Committee reported that they had discussed their priorities for 2020 and came up with the following priorities at their January 10, 2020 meeting:

- Examine the impacts of the recycling of lithium batteries. (full Commission)
- Review the implementation of SB 1000 (Environmental Justice) in the development of the County's General Plan.

- Continue to receive updates on the emerging impacts and regulation of PFOS. (full Commission)
- Conduct interviews for the ad-hoc student seat on the Commission.
- Conduct the interviews for the new Environmental Justice seat and the vacant Environmental Seat.
- Hold public meeting on the ISO Safety Culture Assessments requirements.
- Track the implementation of SB 617, the community air pollution risk reduction effort, in Richmond.
- Track the implementation of the County's Pharmaceutical Ordinance.
- Continue to learn about the impacts of the proposed deepening of the shipping channel in SF Bay and Carquinez Strait (full Commission).
- Consider co-sponsoring another cybersecurity workshop.
- Track the implementation of the Air District Rule 11-18 concerning Air Risk Assessments.
- Receive an update on the impacts of Sea Level Rise from the Hazardous Materials Program (full Commission).

The Planning and Policy Committee reported that they had discussed their priorities for 2020 and came up with the following additional priorities at their January 15, 2020 meeting:

- Continue to review, and potentially develop recommendations for, the regulations being developed by DTSC for TSD facilities concerning cumulative and community impacts.
- Track the developments in the WSPA lawsuits concerning the recent amendments to the State's PSM and CalARP regulations, and consider supporting a resolution the Board of Supervisors are being asked to adopt.
- Track the development of Air District regulations that also have hazardous materials implications.
- Review the root cause analysis of the Nustar fire in October, 2019 and potentially develop recommendations as appropriate.

Commissioner Quinto made a motion, seconded by Commissioner Hughes, to accept these priorities for the Commission for 2020. The motion carried 9 – 0.

**9. Reports From Commissioners On Matters of Commission Interest: None**

**10. Plan Next Agenda:**

The Commission will review the principle statements developed for the County's Legislative Platform, receive a briefing on the Safety Culture Assessment process of the ISO, and possibly receive a report on the impacts of dredging.

**11. Adjournment: The meeting adjourned at 6:00 pm.**