

# **BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

939 ELLIS STREET - SAN FRANCISCO, CALIFORNIA 94109

Approved Minutes: Advisory Council Regular Meeting and Retreat– January 11, 2006

## **CALL TO ORDER**

Opening Comments: Chairperson Kurucz called the meeting to order at 10:16 a.m.

Roll Call: Present: Kraig Kurucz, Chair, Cassandra Adams, Sam Altshuler, P.E., Diane Bailey, Louise Bedsworth, Ph.D., Ken Blonski, Bob Bornstein, Ph.D., Jeffrey Bramlett, Harold M. Brazil, Irvin Dawid, Emily Drennen, Fred Glueck, William Hanna, Stan Hayes, John Holtzclaw, Ph.D., Victor Torreano, Linda Weiner, Brian Zamora.

Absent: Kevin Shanahan.

Introduction of New Advisory Council Member: Chairperson Kurucz welcomed new Advisory Council member Steven Kmucha, M.D., in the “Public Health Agency” category.

**PUBLIC COMMENT PERIOD:** There were no public comments.

## **CONSENT CALENDAR:**

1. **Approval of Minutes of November 9, 2005.** Mr. Altshuler requested that on page three, paragraph three, his comment on ammonium nitrate research be expanded. Dr. Holtzclaw moved adoption of the minutes as corrected; seconded by Dr. Bedsworth; carried unanimously.

## **COMMITTEE REPORTS**

2. **Executive Committee Meeting of January 11, 2006.** Chairperson Kurucz stated that the Committee met this morning with the members of the Applicant Selection Working Group (ASWG) to discuss the Board’s revision to the procedure for reappointing Council members. The Personnel Committee will now interview new applicants along with incumbents reapplying at the conclusion of their term.

The Executive Committee discussed the role of the Applicant Selection Working Group in the new process and agreed that the latter should conduct a paper screening, grade the applications and forward its ranking and recommendations on who should be interviewed to the Personnel Committee, which will then determine whom it wishes to interview and will conduct interviews. Incumbents seeking reappointment need to resubmit their applications and update their resumes by January 27<sup>th</sup>.

The Committee also discussed Council category representation. It was noted that the American Lung Association is not a “public health agency” *per se*. However, no action from the Council on this issue is required as only the Personnel Committee is empowered adjust members in category assignments.

## **RETREAT FORMAT:**

### **3. Mission of the Advisory Council**

#### **A. Role of the Advisory Council.** Chairperson Kurucz:

- reviewed the California Health & Safety Code provisions establishing the categories on the Council. Mr. Altshuler inquired if these categories could be updated to reflect the need for expertise in indoor air quality and energy. Brian Bunger, District Counsel, replied that any amendments to the categories would have to be made by the Legislature and the deadline for introducing new bills is January 21, 2006. He indicated he would confer with District staff member Tom Addison on taking this proposal to the Board at this time. Ms. Drennen requested that any language updating the legislation be couched in gender neutral terms.
- reviewed the paper in the agenda packet entitled “The Advisory Council and Public Agency Working Together” – which was jointly authored in 1990 by District Deputy APCO Peter Hess and former member of the Advisory Council, and the Air Resources Board (ARB), John Lagarias. Chairperson Kurucz observed that this paper provides an excellent historical view.
- noted that the Board’s recent revision of the reappointment process to the Council may interface with any changes in the Council categories. Mr. Hanna inquired about the number of days beyond a member’s term expiration that a member could serve, insofar as the legislation indicates one may serve until the appointment and qualification of the successor. Brian Bunger, District Counsel, replied that the general provision of the Government Code, under which the Council operates, is 90 days beyond the expiration of a term.
- urged the Council members to review the Code of Conduct recently adopted by the Council.

#### **B. Staff Expectations for the Advisory Council.** Chairperson Kurucz noted that the Executive Officer/Air Pollution Control Officer, Jack P. Broadbent, could not attend today’s meeting as he was meeting with the new Chair of the ARB, Robert F. Sawyer, P.E., Ph.D., who is a former member of the Advisory Council. Jean Roggenkamp, Deputy Air Pollution Control Officer, stated that the Council works to advise the staff and the Board.

This year the Officers of the Governing Board are as follows: Chair – Supervisor Gayle B. Uilkema of Contra Costa County; Vice-Chair – Vice-Mayor Mark Ross of the City of Martinez; and Secretary – Supervisor Jerry Hill of San Mateo County.

#### **C. Brown Act Refresher.** Mr. Bunger stated that the Brown Act requires that Council meetings be open to the public. To conduct business, agendas must be posted and publicly viewable. Its decisions must be made in an open forum. Agenda packet materials and copies of presentations must be available at the meetings. The Council cannot meet in Closed Session because it has no authority over matters for which a closed session would be required. The Brown Act also prohibits conducting “serial” as well as “spoke and hubs” meetings in which members individually and sequentially reach agreement in turn outside a formal meeting context. While a member of the public that is on the agenda as a guest speaker may participate fully in the discussion of the presentation, members of the public who address a specific agenda item are limited to filling out a speaker card and address the Council for a limited period of time. Thereafter their participation in discussion should be limited either to answering clarifying questions or providing brief comments.

Agendas are posted a minimum of 72 hours prior to a meeting on the front door of the building, in the first and seventh floor lobbies, and on the Internet. Issues not on the agenda may not be discussed, except to provide direction to staff, agendaize an item for a future meeting, or direct that research be undertaken. There are narrow exceptions for emergency items, but half of the Council must agree the matter is an emergency and two-thirds must agree to put the matter on the agenda. Moreover, the issue must be unknown to the District rather than to only the Council members.

It is acceptable for Committee Chairs to e-mail members regarding agenda items for forthcoming meetings, and also for two members to conduct research together, as long as they do not reach a quorum. It is generally preferable to limit outside communication as much as possible among Committee members. Violation of the Brown Act has been designated by law as a misdemeanor.

**4. Round Table Discussion with District's Management on Key Issues Facing the District and Assignments Proposed by District Staff.** Peter Hess, Deputy APCO, presented a memorandum entitled "Potential Candidate Assignments from the Executive Officer/APCO" which proposed five areas of study for the Advisory Council, as follows:

- 1) Community Air Risk Evaluation (CARE) Program – The District is entering the second year of the multi-year CARE program. The Executive Officer/APCO is requesting the Advisory Council track the progress of program and to provide input as appropriate. – (Suggested Committees, Public Health and Technical Committees.)
- 2) Climate Change and Green House Gases – Last year the California Air Resources Board and the Air District took steps to initiate a program to address Global Warming. The Executive Officer/APCO is requesting the Advisory Council review and recommend the next steps the District should take to address Greenhouse Gases and Global Warming in coordination with initiatives under way by the California Air Resources Board. (Suggested Committees, Planning and Technical Committees.)
- 3) Particulate Matter Control – The EPA has recently proposed revised federal ambient air quality standards for PM2.5 and PM10. The District has also prepared a control program to move closer to attainment of the State particulate matter Ambient Air Quality Standard. The Executive Officer/APCO is requesting the Advisory Council track the progress of this program and provide input as appropriate. (Suggested Committee involvement, Planning, Public Health and Technical Committees.)
- 4) Wood Burning Control Strategies – A number of years ago the Advisory Council was a leader in formulating the District's model wood burning ordinance. This ordinance has made progress in reducing emissions from wood burning devices in the District. The Executive Officer/APCO is now requesting the Advisory Council continue this work by reviewing and recommending the available emission control option(s) best suited to the District to further control the emissions from wood burning devices. (Suggested Committees, Planning and Public Health Committees.)
- 5) Asthma & Indoor Air Quality – Last year the Advisory Council recommended that the District proceed with an indoor air quality program and made recommendations for next steps. Numerous reports link asthma with poor indoor air quality. The Executive Officer/APCO is requesting the Advisory Council review and suggest possible options where the District can best interface with the County and City Health Officers relative to indoor air quality and asthma. (Suggested Committee, Public Health Committee.)

Jean Roggenkamp, Deputy APCO, stated that the District celebrated its 50<sup>th</sup> anniversary last year, initiated the CARE program, turned its toxics evaluation policy for permits into a rule, adopted new refinery flare rules and very recently adopted an Ozone Strategy for the region. The District has the fastest permit processing time, along with the finest compliance and enforcement program, in California. The Advisory Council also helped to create the climate protection program at the District. Free transit on Spare the Air Days has been expanded from BART to most of the Bay Area transit authorities. The District's budget is under preparation for FY06-07. The agency is fiscally sound. The state subvention cut that has been in effect for the last two years for the District is now expected to be withdrawn.

The District will continue the CARE program and looks to the Council to provide input on it. Also, the District will move forward with its climate protection program. The federal PM<sub>2.5</sub> standard may be lowered this year, and while the District is presently in attainment its status may change by 2007. Particulate matter (PM) is a pollutant of increasingly significant health concern. In the nine Bay Area counties, 40 cities and eight counties have adopted some form of the wood smoke abatement ordinance developed a number of years ago by the District, and to which the Council devoted significant in crafting.

Indoor air quality will be a subject of further review this year in connection with asthma, and perhaps city and county public health officers can be brought into the Council's deliberations. In discussion of the time frames by which recommendations would need to be made for the staff, the spring would be ideal for receiving the Council's climate protection recommendations, prior to the Conference on Climate Protection scheduled in March. Other topics are for the long-range and do not have immediate milestones.

Dr. Holtzclaw suggested the District assess the viability of adopting indirect source review measures such as have been adopted in the Central Valley, one of which imposes penalties for building housing projects that require significant vehicular driving. There is a legal challenge to these measures pending. Ms. Weiner and Ms. Bailey expressed their concurrence that these topics deserve Council attention this year.

Ms. Bailey added that goods movement in the state should be evaluated from the perspective of the Bay Area. At the state level there is a deadline for action during this spring. Another area would be for the Council to review CEQA guidelines for the District, as these need to be updated. In the Sacramento area, for example, there are specific CEQA policies and requirements for construction equipment.

Ms. Bailey added that the Council should consider providing recommendations on the disbursement of funds for the Carl Moyer, and Transportation Fund for Clean Air (TFCA) programs, especially as funding for the Moyer program has been increased and the legislation concerning the TFCA now allows for its allocation to private fleet owners. Ms. Drennen agreed, adding that the District should promote use of public transportation, non-motorized transportation and pedestrian and bicycle projects.

Ms. Roggenkamp replied that the transit authorities are responsible for promoting public transportation, although the District emphasizes mode shift where possible. The TFCA also funds transportation projects and emphasizes mode shift and vehicular pollution reduction. The provision of free transit on Spare the Air days by BART and most of the transit authorities in the Bay Area promotes mass public transportation as a vehicular pollution reduction strategy.

Mr. Altshuler raised concern about emissions of NO<sub>2</sub> from diesel particulate traps. He noted that he has observed clean exhaust from buses but has smelled NO<sub>2</sub> on Market Street. This raises questions of health effects at, above or below odor thresholds, and the Advisory Council should investigate this matter.

Chairperson Kurucz observed that the goal is to have recommendations developed on the main issues by November, although they could occur earlier where required. This will require careful planning by each Committee. Dr. Bedsworth suggested that the District consider how to create and improve collaborative structures with other agencies and the various transit authorities, especially as the climate change issues are on the forefront, and indirect source control issues are on the horizon, of air quality management.

In reply to questions, Ms. Roggenkamp noted that the District's Ozone Strategy is intended to address the state's one-hour ozone standard, as the federal one-hour standard has been revoked. The state has an eight-hour standard, but it has not gone through the Office of Administrative Law. Attainment designations have not been made, and there are no planning requirements as yet. The District is in marginal non-attainment for the federal eight-hour standard, and there are no planning requirements for such a status.

Ms. Weiner commended staff for identifying wood smoke abatement as an issue and noted that, even though the Lung Association is not a public health government agency, it is a public health entity and has worked with the District on wood smoke abatement in previous years and will continue to do so.

Mr. Hayes stated the list prepared by staff has some continuity with last year's, and the Council should review PM source apportionment and monitoring data from this year. There is also a question of the interrelationship between emission mitigation efforts for diesel PM, criteria pollutants, air toxics and climate change. The Advisory Council may be able to weigh in on the question of such interrelationships.

Ms. Roggenkamp noted that where Committee charges overlap, joint Committee meetings economize on staff presentations. Chairperson Kurucz suggested that the Council Regular meetings receive speaker presentations on topics that are common to all committees, particularly in terms of particulate matter.

Mr. Dawid suggested the District investigate establishing bans on wood burning such as are in effect in the San Joaquin Valley as well as monitor the use of remote sensing in the South Coast.

Ms. Adams suggested that indoor air quality be adopted as a part of the District's mission. Mr. Bunger indicated that this would be an issue for the State Legislature, as indoor air quality is primarily an occupational safety and public health agency issue and concerns exposure. Ms. Roggenkamp added that the Governing Board has also adopted issues as part of the District's mission, such as the task to reduce toxic air contaminants some years ago and, more recently, the charge to improve climate protection. Mr. Hess noted that in 1974 the District was charged with implementing indirect source control for a few weeks.

Ms. Bailey suggested the Council further explore the District's role via transportation and goods movement in the state, especially as the Moyer and TFCA programs can influence vehicle emission reductions. Ms. Roggenkamp replied that in the Ozone Strategy recently adopted by the Board, there are many transportation control measures (TCMs) that focus on reducing vehicle miles traveled and trips and assist the transit authorities and the congestion management agencies implementing measures that achieve this. Grant programs help to emphasize mode shift to less polluting means of transportation. If the Council devotes further time to this topic, it should start with what exists in the Ozone Strategy at the present time.

Dr. Bedsworth observed that these measures were vetted last year through the Technical and Air Quality Planning Committees, which made joint recommendations on them in the Strategy. Mr. Hess suggested the Advisory Council provide advice on updates to the transportation issues in the Strategy as they arise. Ms. Drennen suggested the Council also consider ways to recommend implementation of TCMs.

5. **Convene to Working Lunch for Meetings and Discussion Sessions of the Public Health Committee, Air Quality Planning Committee and Technical Committee.** The Council convened into Standing Committee format at 11:56 a.m.
6. **Reconvene to Full Council Format for Follow-up on Committee Discussion Sessions.** The full Advisory Council reconvened at 1:25 p.m. The Standing Committees reported out as follows:

Public Health Committee: Mr. Bramlett stated the Committee confirmed the staff recommendations on topics for review, and will review wood burning control strategies, and indoor air quality as it relates to asthma. Regarding wood burning, the Committee will review the status quo and the level of achievement of voluntary measures, with a perspective on what future implementation strategies might be considered from a regional perspective, taking into account aspects of enforcement. Speaker presentations will include a staff review on the status of wood smoke abatement efforts in the District, and outside experts such as former Advisory Council member Dr. Michael Lipsett to address health effects issues and the status of research. Regarding asthma and indoor air quality, the focus will be on how to reduce asthma triggers. Speakers will be requested to address health effects, review research and development. The Committee will endeavor to produce recommendations in November. As adjunct issues, the Committee will be interested in PM abatement and the CARE program, and thus some joint ventures with other Committees will be sought. Time permitting, indirect source review and goods movement may be addressed. The Committee will meet in 2006 from 10:00 a.m. – 11:30 a.m. February 14, April 11, June 13, August 8, October 10 and, if necessary, December 12.

Technical Committee: Dr. Bornstein stated that the Committee will review climate change, the CARE program, and particulate matter. It will address climate change as its first priority in order to develop recommendations prior to the Conference on Climate Change in March. Committee member Dr. Bedsworth has volunteered to summarize what the Council discussed last year on climate change over several meetings and, with the assistance of Council member Hayes, will submit a draft document for Committee review at its first meeting in February. At the second meeting, the Committee will focus on PM research at the District. The Committee's third priority on the CARE program will ideally be addressed in joint meetings with the Public Health Committee. The Committee's first two meetings are scheduled for February 8 at 1:00 p.m. and April 12 at 9:30 a.m.

Air Quality Planning Committee (AQPC): Mr. Hayes stated that the Committee will initially address climate protection. A joint meeting with the Technical Committee would be ideal to discuss data on the status of PM source apportionment analysis and inventory emission work, as well as abatement actions at the District. The Committee is also interested in wood smoke abatement and the CARE Program. The question is one of determining the sources of PM emissions in order to determine what control measures are appropriate, and then to assess the degree to which these are addressed in existing control programs. Another topic the Committee would like to address is land-use planning, and how the District might productively address this subject. Air quality elements in general plans may provide one avenue for doing so, along with indirect source review. A final issue concerns the integration of and the nexus between air quality programs that address criteria pollutants, air toxics, and climate protection. The Committee would like to meet the second Wednesday of every month in between the Council meeting months. The first meeting would be on February 7<sup>th</sup>.

Dr. Bornstein suggested the AQPC and Technical Committees jointly meet on the 7<sup>th</sup> to discuss climate protection in terms of Dr. Bedsworth's summary and a presentation from staff on the status of climate protection actions by the District. Mr. Hayes expressed his concurrence with this suggestion.

Chairperson Kurucz suggested that a presentation on PM control should be scheduled for the next Council Regular Meeting since it is common to all three Committees. The Council members agreed.

**COMMENDATION/PROCLMATION:**

7. **Recognition of Outgoing Chairperson Brian Zamora.** Chairperson Kurucz noted that the Board presented a plaque to Mr. Zamora at the December 21 Board Regular meeting acknowledging his outstanding leadership of the Council in 2005 in terms of fact-finding and developing excellent recommendations to the Governing Board on global warming and the District's role in indoor air quality management, devoting meetings to evaluating the Governor's hydrogen highway project, the Council's careful review of the CARE program and its adoption of a Code of Conduct, arranging for a formative presentation on urban sprawl and air quality. The Board favorably received the Council's recommendations in 2005. Mr. Zamora expressed his satisfaction in having served in this capacity.

**OTHER BUSINESS:**

8. **Council Member Comments/Other Business.** Mr. Dawid inquired if a Council member could receive travel reimbursement for attending a meeting of another Committee of which he or she was not a member. Mr. Bunger replied that under the Brown Act, a non-Committee member may not participate in a meeting of another Committee, and while Council members are allowed "reasonable and necessary expenses" such attendance does not qualify for reimbursement under the Brown Act. The Attorney General has issued an Opinion that concludes that attending and participating in a meeting at which one is not a member of the body that is meeting constitutes a violation of the Brown Act. Mr. Hanna inquired as to how a non-Committee member would then be able to present a stakeholder view to a Committee in view of such restrictions. Mr. Bunger replied that that member should contact the committee Chair and request that the issue be raised by the Chair as part of the discussion. Mr. Dawid inquired if a Council member could receive travel reimbursement for attending the Climate Protection Summit. Mr. Bunger replied that staff will look into that question. Ms. Bailey noted that the Air & Waste Management Association is holding a meeting on community air monitoring on February 1. Dr. Bornstein inquired about attendance at the AWMA meeting in the summer, and Mr. Bunger replied that the staff is setting a budget and once the number of places for the Advisory Council are determined the Council will be contacted.
9. **Time and Place of Next Meeting.** Noting that the next meeting of the Council is scheduled for March 8 when the Conference on Climate Protection is scheduled to take place, the Council unanimously agreed to modify its meeting date to: 1:30 p.m., Wednesday, March 15, 2006, 939 Ellis Street, San Francisco, CA 94109. The Council Executive Committee will meet at 1:00 p.m.
10. **Adjournment.** The meeting was adjourned at 1:56 p.m.

*James N. Corazza*

James N. Corazza  
Deputy Clerk of the Boards

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