



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

BOARD OF DIRECTORS  
SPECIAL MEETING/RETREAT  
JANUARY 19, 2011

A meeting of the Bay Area Air Quality Management District Board of Directors will be held at 9:45 a.m. at the Ed Roberts Campus, Osher Education Conference Room, 3075 Adeline Street, Berkeley, California, 94703.

**Questions About  
an Agenda Item**

The name, telephone number and e-mail of the appropriate staff person to contact for additional information or to resolve concerns is listed for each agenda item.

**Meeting Procedures**

The public meeting of the Air District Board of Directors begins at 9:45 a.m. The Board of Directors generally will consider items in the order listed on the agenda. However, any item may be considered in any order.

After action on any agenda item not requiring a public hearing, the Board may reconsider or amend the item at any time during the meeting.

**BOARD OF DIRECTORS  
SPECIAL MEETING/RETREAT  
A G E N D A**

**WEDNESDAY  
JANUARY 19, 2011  
9:45 A.M.**

**ED ROBERTS CAMPUS  
OSHER EDUCATION CONFERENCE ROOM  
3075 ADELINE STREET  
BERKELEY, CA 94703**

**CALL TO ORDER**

Opening Comments  
Roll Call  
Pledge of Allegiance

Chairperson, Brad Wagenknecht  
Clerk of the Boards

**PROCLAMATION/COMMENDATIONS**

*The Board of Directors will recognize a recipient of the Climate Leadership Award in honor of Dr. Stephen Schneider.*

*The Board of Directors will recognize outgoing Directors Chris Daly, Dan Dunnigan, and Pamela Torliatt for their service, leadership and dedication to protecting air quality in the Bay Area.*

*The Board of Directors will recognize outgoing Chairperson Brad Wagenknecht for his service, leadership and dedication to protecting air quality in the Bay Area.*

**PUBLIC COMMENT PERIOD**

**Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3**  
*Members of the public are afforded the opportunity to speak on any agenda item. All agendas for regular meetings are posted at District headquarters, 939 Ellis Street, San Francisco, CA, at least 72 hours in advance of a regular meeting. At the beginning of the regular meeting agenda, an opportunity is also provided for the public to speak on any subject within the Board's subject matter jurisdiction. Speakers will be limited to three (3) minutes each.*

**BOARD MEMBERS' COMMENTS**

*Any member of the Board, or its staff, 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. (Gov't Code § 54954.2)*

**CONSENT CALENDAR (ITEMS 1 – 4)**

1. Minutes of December 15, 2010

Staff/Phone (415) 749-

**J. Cooper/5130**  
[jcooper@baaqmd.gov](mailto:jcooper@baaqmd.gov)

2. Communications

**J. Broadbent/5052**  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*Information only.*

3. Authorize EO/APCO to Issue Purchase Order not to exceed \$800,000 for Contract Services Related to Continued Operation of the BioWatch Monitoring Network

J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*The Board of Directors will consider approval of a Purchase Order not to exceed \$800,000 to Technical and Business Systems under a grant from the Department of Homeland Security.*

4. Passage of Resolution to accept funding from the Metropolitan Transportation Commission (MTC) for the Regional Bicycle Share Pilot

J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*The Board of Directors will consider adopting a resolution in support of a Regional Bicycle Share Pilot Project as required by MTC as a condition of their Climate Change Grant Program.*

### **COMMITTEE REPORTS AND RECOMMENDATIONS**

5. Report of the **Personnel Committee** Meeting of January 12, 2011

CHAIR: B. WAGENKNECHT

J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*The Committee recommends Board of Directors approval of the following:*

A. Advisory Council Appointments:

1. *Appoint Jonathan Cherry to the Air District's Advisory Council to fill an immediate vacancy, with a term of office expiring December 31, 2011 in the member category of Architect.*

B. Procedure for Handling Formal Complaints Against Board of Director Appointed Positions:

1. *Adopt a procedure for handling formal complaints against Board of Director appointed positions, as amended, to refer the complaint to the Personnel Committee and to the Chair of the Board of Directors.*

6. Report of the **Personnel Committee** Meeting of January 19, 2011

CHAIR: B. WAGENKNECHT

J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*The Committee may recommend Board of Directors approval of a candidate for the Community Planning member category.*

### **BOARD OF DIRECTORS RETREAT**

7. **Opening Comments**

Chairperson, Tom Bates

8. **Upcoming Committee Assignments, Possible Changes in Meeting Procedures, and Goals** Chairperson, Tom Bates

*The Board Chair will summarize the 2011 Board of Directors Committee assignments, meeting procedures and goals for the upcoming year.*

9. **State of the Air District** J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*The Executive Officer/APCO will address the Board of Directors regarding the state of the Air District.*

10. **Air Quality Summary** J. Roggenkamp/4646  
[jroggenkamp@baaqmd.gov](mailto:jroggenkamp@baaqmd.gov)

*The Deputy Air Pollution Control Officer will present an overview of air quality in the Bay Area.*

11. **Administrative Overview** J. McKay/4629  
[jmkay@baaqmd.gov](mailto:jmkay@baaqmd.gov)

*The Deputy Air Pollution Control Officer will provide an administrative and financial overview.*

12. **Major Initiatives for 2011** J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*The Executive Officer/APCO and staff will discuss major initiatives for 2011.*

13. **Regional Coordination Efforts** J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*The Executive Officer/APCO will discuss with the Board of Directors regional coordination efforts.*

## **OTHER BUSINESS**

14. Report of the Executive Officer/APCO
15. Chairperson's Report
16. Time and Place of Next Meeting – 9:45 A.M. Wednesday, February 2, 2011 – 939 Ellis Street, San Francisco, CA 94109
17. Adjournment

**CONTACT EXECUTIVE OFFICE - 939 ELLIS STREET SF, CA 94109**

**(415) 749-5130**  
**FAX: (415) 928-8560**  
**BAAQMD homepage:**  
[www.baaqmd.gov](http://www.baaqmd.gov)

- To submit written comments on an agenda item in advance of the meeting.
- To request, in advance of the meeting, to be placed on the list to testify on an agenda item.
- To request special accommodations for those persons with disabilities. Notification to the Executive Office should be given at least 3 working days prior to the date of the meeting so that arrangements can be made accordingly.
- 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 headquarters at 939 Ellis Street, San Francisco, CA 94109, at the time such writing is made available to all, or a majority of all, members of that body. Such writing(s) may also be posted on the Air District's website ([www.baaqmd.gov](http://www.baaqmd.gov)) at that time.

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
**939 ELLIS STREET, SAN FRANCISCO, CALIFORNIA 94109**  
**(415) 771-6000**

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

**JANUARY 2011**

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Personnel Committee Meeting	Wednesday	19	9:00 a.m.	Ed Roberts Campus World Institute on Disability Conference Room, 2 <sup>nd</sup> Floor 3075 Adeline St Berkeley, CA 94703
Board of Directors Regular Meeting / Retreat <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	19	9:45 a.m.	Ed Roberts Campus Osher Education Conf. Room 3075 Adeline Street Berkeley, CA 94703
Joint Policy Committee Meeting	Friday	21	10:00 a.m.	MTC Auditorium 101 – 8 <sup>th</sup> Street Oakland, CA 94607
Board of Directors Mobile Source Committee <i>(Meets 4<sup>th</sup> Thursday each Month)</i>	Thursday	27	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

**FEBRUARY 2011**

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	2	9:45 a.m.	Board Room
Board of Directors Regular Meeting <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	16	9:45 a.m.	Board Room
Board of Directors Mobile Source Committee <i>(Meets 4<sup>th</sup> Thursday each Month)</i>	Thursday	24	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

**MARCH 2011**

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	2	9:45 a.m.	Board Room
Board of Directors Regular Meeting <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	16	9:45 a.m.	Board Room
Board of Directors Mobile Source Committee <i>(Meets 4<sup>th</sup> Thursday each Month)</i>	Thursday	24	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Tom Bates and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: January 10, 2011

Re: Board of Directors Draft Meeting Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Board of Directors Regular Meeting of December 15, 2010.

DISCUSSION

Attached for your review and approval are the draft minutes of the Board of Directors Regular Meeting of December 15, 2010.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109  
(415) 749-5000

Board of Directors Regular Meeting  
December 15, 2010

## **DRAFT MINUTES**

**CALL TO ORDER:** Chairperson Brad Wagenknecht called the meeting to order at 9:48 a.m.

Roll Call: Chairperson Brad Wagenknecht; Vice Chair Bates; Secretary John Gioia; and Directors Chris Daly, Dan Dunnigan, Carole Groom, Scott Haggerty, Jennifer Hosterman, David Hudson, Ash Kalra, Liz Kniss, Eric Mar, Nate Miley, Mark Ross, James Spering, Pamela Torliatt, Gayle B. Uilkema, and Ken Yeager

Absent: Director Harold Brown, Susan Garner, Carol Klatt, and Shirlee Zane

**PLEDGE OF ALLEGIANCE:** Chairperson Wagenknecht led the Pledge of Allegiance.

**PUBLIC COMMENTS:** None

**BOARD MEMBER COMMENTS:** None

### **PROCLAMATION(S)/AWARDS**

Chairperson Wagenknecht reported that the Board of Directors will recognize outgoing Directors, Chris Daly, Dan Dunnigan, and Pamela Torliatt at the January 19, 2011 Retreat and Regular Board Meeting.

### **LEADERSHIP DEVELOPMENT PROGRAM RECOGNITION**

The Board of Directors recognized employees who graduated from the Air District's first Leadership Development Program (LDP). Graduate Tim Underwood provided comments about the program, which he said is designed to groom staff to be future leaders.

### **CONSENT CALENDAR (Items 1-5):**

- 1. Minutes of December 1, 2010 Regular Meeting;**
- 2. Communications;**
- 3. Transportation Fund for Clean Air (TFCA) Report on Regional Fund Expenditures and Effectiveness for Fiscal Year 2009/10;**
- 4. Consider Authorization of Contract for Geospatial Computer Services;**



**5. Consider Authorization of Contract for Training Materials and Training Implementation**

**Board Action:** Director Dunnigan made a motion to approve Consent Calendar Items 1, 2, 3, 4, and 5; Director Kniss seconded the motion; unanimously approved without objection.

**COMMITTEE REPORTS AND RECOMMENDATIONS**

**6. Report of the Legislative Committee Meeting of December 6, 2010**

Chair: B. Wagenknecht, on behalf of Chair S. Garner

The Legislative Committee met on Monday, December 6, 2010 and approved the Minutes of October 4, 2010.

The Committee discussed a potential 2011 legislative agenda and requested that staff explore the following:

- Protect existing District programs and revenues from State rollbacks and cuts; and
- Co-sponsor, with MTC, a bill that deals with adoption of a transit benefit ordinance, similar to requirements in San Francisco, Berkeley, and Richmond.

The bill would require certain sized employers to provide pre-tax commute benefits to their employees.

The Committee also expressed interest in identifying upfront costs and impacts to small businesses and the amount of pre-tax dollars savings, and recommended the Board of Directors accept the 2011 legislative agenda, as presented.

The Committee then discussed possible impacts to the District from Proposition 26, a Constitutional Amendment that defines a tax as a “levy, charge, or exaction of any kind”. The provision is not retroactive for local governments, but applies to new taxes and fees going forward, and to increases to existing fees. With certain exceptions, it requires a two-thirds vote of the Legislature or the public for many things that previously required only a majority vote.

The Committee reviewed exemptions that relate to specific government services, reasonable regulatory costs for permits and inspections, fines or penalties relative to a violation of a law, and government property rental, purchase or lease.

Separately, the Budget and Finance Committee met on December 8, 2010 and will provide a Committee Report on how Proposition 26 affects the District’s fee schedules.

The next meeting of the Legislative Committee is at the Call of the Chair.

**Board Action:** Chair Wagenknecht made a motion to approve the report and recommendations of the Legislative Committee; Director Hudson seconded the motion; carried unanimously without opposition.

**7. Report of the Budget and Finance Committee Meeting of December 8, 2010**

Chair: C. Groom

The Budget and Finance Committee met without an initial quorum on December 8, 2010.

The Committee received the Financial Report for the first quarter for Fiscal Year 2010/11 and reviewed a comparison of budget to actual revenue, actual expenditures, investment balances, fund balances, and year end results.

The Committee received a District financial overview and reviewed reserve and OPEB funding levels per Board direction, current staff vacancies, personnel costs and turnover, a breakdown of General Fund revenue sources, cost recovery, and utilization of staff resources.

The Committee asked that staff return with a plan to address District-wide fee restructuring during the fee schedule and budget review process in the spring.

A quorum of the Committee was established and the minutes of April 28, 2010 were approved.

The Committee then considered and recommended Board of Directors' approval to accept an EPA Grant in the amount of \$200,000 and award a contract to Sonoma Technology for continued development of data management system services for ambient air quality and meteorological data.

The Committee discussed potential impacts of Proposition 26 on the District. The provision is not retroactive for local governments, but applies to new taxes and fees going forward and increases to existing fees. With certain exceptions, it requires a two-thirds vote of the Legislature or the public for many things that previously required only a majority vote.

The Committee received an overview of District fees prior to Proposition 26. The Committee discussed potential strategies for fee schedule adjustments in the upcoming budget review to achieve greater cost recovery, while still adhering to the 15% cap on fee increases and to Proposition 26.

The next meeting of the Budget and Finance Committee is at the Call of the Chair.

**Board Action:** Director Groom made a motion to approve the report and recommendations of the Budget and Finance Committee; Director Uilkema seconded the motion; carried unanimously without opposition.

**8. Report of the Stationary Source Committee Meeting of December 13, 2010**

Chair: G. Uilkema

The Committee met on Monday, December 13, 2010 and approved the minutes of November 27, 2010.

The Committee received a status report on the Flare Minimization Plan 3<sup>rd</sup> Annual Update submitted under Regulation 12, Rule 12: Flares at Petroleum Refineries. The Committee reviewed basic flare systems, prevention and minimization, discussed Bay Area refinery maintenance flaring, vent gas volumes, and methane, hydrocarbon, and sulfur dioxide emissions from flares from 2004 to 2009. Next steps will be to consider public comments, and review and evaluate FMPs for approval.

The Committee received a status report on the Lennar Bayview Hunters Point (BVHP) Parcel "A" Redevelopment project, discussed readings taken from ambient asbestos monitors and results from additional mitigation measures and locations of air monitors. A map showing future redevelopment projects and their projected transfer dates from the Navy was presented to the Committee. The Committee asked for information on asbestos background levels and locations of naturally occurring asbestos and District responses to elevated readings, and for presentation materials to be made available to BVHP representatives, who were not in attendance.

Chair Uilkema provided additional comments to the Committee report, stating that in response to requests from BVHP community groups, the Committee had rescheduled the content of the December 13, 2010 meeting and staff prepared special reports and information. The Committee asked her to express disappointment that no BVHP members appeared at the meeting.

The Committee then received a report on the Odor Evaluation Technical Conference sponsored by the District on August 2, 2010. An overview of speaker presentations on community perspectives and the science of odors were presented, as well as monitoring technologies, and current District training and field testing.

The Committee lastly received an update on the proposed Agricultural Engine Rule: Regulation 11, Rule 17 and reviewed the current Airborne Toxic Control Measure's (ATCM's) requirements. A proposed Alternative Compliance Plan (ACP) defers replacement of engines used less than 100 hours per year. The Committee reviewed costs and extension of eligibility for District funding programs, greater reductions achieved from adoption of the new rule, extensive outreach efforts conducted by District staff, and next steps to finalize the proposed Rule and schedule it for public hearing in March.

The next meeting of the Committee is at the call of the Chair.

**Motion:** Director Uilkema made a motion to approve the amended report of the Stationary Source Committee; Director Hudson seconded the motion.

Director Daly opposed the amendment by the Chair, and said the situation was currently being explored.

**Board Action:** Chair Uilkema made a motion to approve the original report of the Stationary Source Committee and omit her proposed amendment; Director Torliatt seconded the motion; carried unanimously without opposition.

Chairperson Wagenknecht reorganized the agenda and announced that the Board of Directors would adjourn to Closed Session.

**CLOSED SESSION:**

The Board of Directors adjourned to Closed Session at 10:13 a.m.

**11. EXISTING LITIGATION (Government Code Section 54956.9(a))**

*Pursuant to Government Code Section 54956.9(a), a need exists to meet in closed session with legal counsel to consider the following case(s):*

California Building Industry Association v. Bay Area AQMD, San Francisco Superior Court,  
Case No. RG 10548693

**OPEN SESSION**

The Board of Directors reconvened in Open Session at 10:38 a.m. District Counsel Brian Bunger announced that the Board of Directors met in Closed Session and no reportable action was taken.

**PRESENTATION(S)**

**9. Update on Implementation of the District's California Environmental Quality Act (CEQA) Guidelines and Consideration of a Recommendation to Set the Effective Date for the Threshold of Significance for Risks and Hazards for New Receptors at May 1, 2011**

Director of Planning and Research, Henry Hilken, gave the staff presentation and reviewed work efforts since the June 2, 2010 Board meeting. He described responses to comments and the Board's discussion and recommendation on the effective date. He presented examples of the District's desire to have healthy infill developments to help meet the SB 375 target.

Mr. Hilken discussed work to date on implementation of CEQA guidelines. Many city and county agencies are finding that projects meet thresholds and are making commitments through development of Community Risk Reduction Plans (CRRPs) to address local risk such as Santa Clara, San Pablo, Walnut Creek, Dublin, San Francisco, and Redwood City. Staff has also been working with regional agencies, ABAG and MTC, and has established an Air Quality/Priority Development Area (PDA) Workgroup. Staff have developed a model to calculate benefits of transportation measures in PDAs, and are meeting regionally with the Bay Area Planning Director Association (BAPDA) to coordinate regional programs and support local planning and development.

Work is underway with District staff providing assistance on CRRPs. Pilot projects are starting in San Jose and San Francisco. Staff is preparing local emission inventories, making progress on modeling, mapping growth areas and outreach plans, simplifying processes for analyzing and mitigating risk and hazard impacts, standardizing setbacks and mitigation measures for specific sources, and working on worksheets/checklists to streamline the approach.

There have been questions and comments heard which involve concerns about the guidelines making infill and affordable housing development more difficult, and that screening tables are overly conservative. Mr. Hilken said that screening tables and technical support tools are intended to be helpful, and affordable housing development should not place residents in unhealthy locations. Comment letters received since June 2, 2010 are included in the packet.

Mr. Hilken discussed current activities to date to address concerns, and staff is recommending extending the risk and hazards thresholds to May 1, 2011 to allow cities and counties to become more comfortable with the guidelines. Staff has been working on charts and technical tools, putting information on the District website, updating screening tables, and he suggested setting up a technical work group of staff and commenters to work through materials while in draft form.

He discussed the risk and hazard screening approach, stating that simplified and conservative assumptions in a screening table, save time and resources. He said screening tables are based on the

highest traffic volumes. If projects do not pass the screen, they still are able to conduct further analysis, obtain local traffic data next to the proposed project and scale project setbacks accordingly. He then presented draft disclaimer language to be included on the website which refers to screening tables being conservative and the ability to further refine projects. He noted that another helpful step is stationary source screening tables, and most comments have focused on these tables.

Mr. Hilken said lastly, staff wants to hold another round of workshops in late January/early February for local governments, as staff has found it very helpful to continue dialogue. Staff's recommendation is that the Board of Directors set the effective date for risk and hazard thresholds for new receptors to May 1, 2011.

Chairperson Wagenknecht reviewed public comment protocols due to the number of speakers, suggested speakers focus on risk to new receptors, and repeated the recommendation which is to set the effective date to May 1, 2011.

#### Public Comments:

John Rahaim, Director, San Francisco Planning Department, expressed support for a delay until the City's plan can be put into place and acknowledged the CRRPs as an important tool to look at the plan in a broader way rather than a project-by-project basis. However, numerous housing units proposed along PDAs and near transit centers, which creates regional air quality benefits, will most likely present the City with a problem.

Tom Rivard, San Francisco Department of Public Health, said more time is needed to complete modeling, and he asked for cooperation from the staff and Board regarding how to assess mitigations and build new housing in areas that would be considered challenging.

Darin Ranelletti, City of Oakland Planning Department, supported delayed implementation and healthy infill, and believes this can largely be achieved through mitigated air quality impacts. In Oakland, typical mitigation is through the use of filters; however, District staff has informed them that use of filters is not sufficient and only addresses indoor air and not outdoor air. The methodology recommended does not distinguish between this and provides an inadequate assessment of risk. He suggested the Board direct staff to revise the methodology to provide an accurate assessment and take comments from stakeholders.

Laura Tam, San Francisco Urban Research Association (SPUR), thanked the District for updating the guidelines, appreciates the work to improve sustainability and wants to support thresholds and staff recommendations to delay implementation until May. However, she thinks there could be unintended consequences. She urged changes be made in the meantime, and reviewed the five suggestions as outlined in the letter submitted by SPUR and made part of the record.

Jacques Pelham, Assistant Counsel, BRIDGE Housing Corporation, expressed thanks to the Board and to staff for working with the affordable housing community to address concerns. District staff made a presentation last week. There was concern regarding failure rate of projects near generators and stationary sources. There are ongoing revisions to screening models that will improve the accuracy of results. He expressed concern that the existing tables are still on the website and are being used, and asked that they be removed until they are made accurate.

Linda Best, Contra Costa Council, supports delay in the effective date for new receptors and asked to be sure screening tools can be revised to clear up false positives and refine mitigation measures. She also supported taking tools off the website until further refined.

Evan Reeves, Center for Creative Land Recycling (CCLR), thanked staff for their continued accessibility, are encouraged tools are a work in progress, and they remain hopeful that they will have a tool to reliably identify sites where there is a real concern for air quality. They also support the recommendation to delay implementation, but asked that website information be removed and replaced with guidance for local agencies.

Ignacio Dayrit, Center for Creative Land Recycling (CCLR), suggested working with redevelopment agencies because they are not aware of the guidelines. He asked to bring up issues regarding housing elements, Proposition 65, and whether rehabilitation of a building affects agencies with housing element funding.

Rosina Roibal, Bay Area Environmental Health Collaborative (BAEHC), supports CEQA and has pushed for more stringent thresholds. She thinks there should not be affordable housing projects in polluted areas, does not support delaying implementation, believes developers are more concerned with profits and not health and asked that the Air District be committed in its original recommendation.

Azibuike Akasa, Regional Asthma Management Program (RAMP), said RAMP supports CEQA guidelines and staff recommendations for technical support, do not support the delay because recommendations and refinements can be done simultaneously, suggested CRRP models be propagated throughout the counties, and for a status report to be provided in the future.

Marie Harrison, GreenAction, Bayview Hunters Point, expressed support of CEQA guidelines and staff's recommendation and said BVHP was not aware of the Stationary Source Committee meeting, and noted miscommunication.

Leotus Martin echoed comments of the last three speakers, suggested new receptor thresholds not be delayed, and was opposed to building houses on contaminated land.

Matt Regan, Bay Area Council, asked that the strongest language be put on website so that data is reflected as a work in progress, and that information be removed until data is refined and updated. He acknowledged the District's focus on public health, thinks sustainable infill development has moving parts and healthy air is only one of them.

Stephanie Reyes, Greenbelt Alliance, agreed air quality levels are unhealthy for new housing developments, agreed with technical tools, thinks thresholds are good metrics to assess impacts and should be used, and supported staff recommendation for a May 1<sup>st</sup> implementation.

Andy Katz, Breathe California, said they appeared last year to support GHG and risk and hazardous receptor thresholds, and asked staff to develop options to enhance information, to continue providing assistance, and to continue moving forward.

Evelyn Stivers, Non-Profit Housing Association (NPA), expressed support of the general concept of thresholds, but said affordable housing developer members with small infill projects are having

trouble with the CEQA process. She supported removing stationary sources information from the website, asked that peer review be done to come to a common agreement and asked that guidelines be removed or disclaimer language added to the website.

Tim Colen, Executive Director, San Francisco Housing Action Coalition and former geologist for EPA Region IX, expressed concern about the failure rate for affordable housing sites, believes that funding affordable housing is already difficult and supported the addition of a disclaimer on the website.

Chairperson Wagenknecht said that tools may be overly conservative, but the information is scientifically based, and he asked for comment by the Executive Officer/APCO. Mr. Broadbent summarized steps taken by staff which responds to concerns heard. The District stands by its recommendation to move the effective date to May 1, 2011, and if the Board chooses there will be an annual review in June 2011. The District strongly believes tools to date are scientifically based and sound. A strong disclaimer can be posted that if a project fails the screen, additional steps will be taken. He said staff has removed higher emission estimates, flow charts and inventories are provided and work and coordination will continue between staff and developers and environmental representatives relative to guidelines.

He also noted that the representative from the City of Oakland mentioned filters may not go far enough, and he would want to revisit this issue and work with him, as this is not the experience with the City of San Francisco.

MOTION: Vice Chair Bates made a motion to approve the recommendation, appreciates testimony, feels strongly that the notion of removing the guidelines from the website is too late, as it is public knowledge. He supports the May 1, 2011 delay and while some people want thresholds in place now, delaying it will allow the District to hold meetings and further refine the guidelines. He also asked that the disclaimer be included that states conservative information is being relied upon and there are modifications that can be made. Secretary Gioia seconded the motion.

DISCUSSION: Director Torliatt said last June when guidelines were adopted, the Board made a compromise by having an effective date of January 1, 2011. She did not agree with extending it further, thinks the reality is that guidelines are out there and the only thing that will change is the District may not comment until May 1, 2011 on the guidelines. It is very exciting what San Francisco is doing in moving forward on their CRRP and this is the kind of push the District was trying to work with cities on to look at the larger picture.

She entertained a substitute motion to continue with the existing effective date of January 1, 2011, and asked for discussion.

Director Spering was opposed to removing screening criteria from the website, stressed the need to strengthen disclaimer language and include a statement that guidelines are not intended to be a detriment to affordable housing in transportation corridors.

Director Mar thanked speakers for their comments, agreed that delays made in June were a compromise and was supportive of Director Torliatt's suggestion for a substitute motion.

Director Hudson suggested an amended substitute motion for an extension to June 1, 2011 to be aligned with the District's update.

Director Daly expressed support for Director Torliatt's substitute motion.

Director Yeager questioned how screening criteria might change between now and May and whether any problems would occur given the current website information. Mr. Broadbent explained that staff will ensure project proponents have the most updated and reliable information for that particular stationary source, which will go a long way to address concerns and the proposed disclaimer will also assist users.

Director Kalra thinks the issue raised is not having accurate information, although if a project were to fail initial screening and additional steps are taken, the additional work would not be burdensome. He added that people were well aware that guidelines adopted in June were not a finished product. It should not be a surprise that more refinement is being done. He supported the District's recommendation, believes communication is important with cities, counties and regional agencies and agreed the website should reflect accurate information.

**Substitute Motion:** Director Torliatt made a substitute motion to maintain the effective date for risk and hazard thresholds for new receptors as January 1, 2011; Director Daly seconded the motion; which failed by the following roll call vote (4-12-0-4): Ayes: Daly, Kalra, Mar, and Torliatt. Noes: Bates, Dunnigan, Gioia, Groom, Haggerty, Hosterman, Hudson, Miley, Ross, Spering, Yeager, and Wagenknecht. Abstain: None. Absent: Brown, Garner, Klatt, and Zane.

Chairperson Wagenknecht gave staff direction to coordinate the effective date and annual review date as May 1, 2011.

**Board Action:** Vice Chair Bates made a motion to adopt a Resolution extending the effective date of the District's CEQA Risk and Hazards Thresholds of Significance for New Receptor Projects until May 1, 2011; Secretary Gioia seconded the motion; which was approved by the following roll call vote (16-0-0-5): Ayes: Bates, Daly, Dunnigan, Gioia, Groom, Haggerty, Hosterman, Hudson, Kalra, Mar, Miley, Ross, Spering, Torliatt, Yeager, and Wagenknecht. Noes: None. Abstain: None. Absent: Brown, Garner, Klatt, Kniss and Zane.

***Adopted Resolution 2010-14: A Resolution of the Board of Directors of the Bay Area Air Quality Management District Extending the Effective Date of the District's CEQA Risk and Hazards Thresholds of Significance for New Receptor Projects until May 1, 2011.***

## **PUBLIC HEARING(S)**

### **10. Public Hearing to Consider Adoption of Proposed Amendments to Regulation 9, Rule 10: Nitrogen Oxides and Carbon Monoxide from Boilers, Steam Generators and Process Heaters in Petroleum Refineries; and Adoption of a CEQA Negative Declaration**

Julian Elliot, Senior Air Quality Engineer, gave the staff presentation on Amendments to Regulation 9, Rule 10: NO<sub>x</sub> and CO from boilers, steam generators and process heaters in petroleum refineries. He reviewed the Rule's history, described refinery heaters, current NO<sub>x</sub> limits, proposed amendments, the rule development process, the regulation's requirements. He also discussed Continuous Emissions



Monitoring Systems (CEMS) and District compliance audits to verify effectiveness of alternative monitoring and possibly propose future rule changes.

He said staff recommends the Board adopt the CEQA Negative Declaration and adopt proposed amendments to Regulation 9, Rule 10: NO<sub>x</sub> and CO from boilers, steam generators and process heaters in petroleum refineries.

Public Comment:

Guy Bjerke, Western States Petroleum Association, thanked staff for preparing the rule, said his comments are reflective of the consensus of refineries, noted it expands the applicability of heaters and boilers, they appreciate staff's response with a correction in 301.5 and said their concern is that some boilers and heaters operate very rarely. When refineries use boilers or heaters, the typical normal usage is something that the District should recognize in its calculations for compliance purposes.

Todd Lopez, Valero Refinery, Benicia, referred to a provision in the existing rule that has to do with a disincentive of replacing units rather than installing controls on existing units, which he thinks has a detrimental environmental impact in that a replacement unit will be better for the environment. He thinks there should be an incentive for this as opposed to installing controls and asked that the Board not adopt the rule at this time but try to remove the disincentive for replacing units to make sure they are coming up with the most emission reductions as possible, and deal with how the rule overlaps with GHG regulations. Valero is on the cusp of spending \$850 million on NO<sub>x</sub> controls and furnaces and they want to comply both with this rule and GHG regulations. He also pointed out that the agenda report states the rule will help reduce GHG emissions, but CEQA analysis states they will increase, but it is not quantified. The increases may be mitigated by replacement units which he asked to be incentivized.

Mr. Broadbent acknowledged Mr. Lopez' comments, he stands by staff's recommendation and suggested exploring ways to incentivize refineries.

**Board Action:** Director Hosterman made a motion to adopt CEQA Negative Declaration and adopt proposed amendments to Regulation 9, Rule 10: NO<sub>x</sub> and CO from boilers, steam generators and process heaters in petroleum refineries, and directed staff to explore incentivizing refineries; Director Daly seconded the motion; which carried by unanimous voice vote.

Mr. Broadbent briefly outlined the length of time further study would occur as being 18 to 24 months.

***Adopted Resolution 2010-13: A Resolution of the Board of Directors of the Bay Area Air Quality Management District Amending District Regulation 9, Rule 10: Nitrogen Oxides and Carbon Monoxide from Boilers, Steam Generators and Process Heaters in Petroleum Refineries and Adopting a CEQA Negative Declaration for the Project.***

**OTHER BUSINESS**

12. **Report of the Executive Officer/APCO:** Mr. Broadbent reported that two Spare the Air days were called on December 1 and 12, 2010, and briefly reported on new security measures implemented at District Headquarters.
13. **Chairperson's Report** - None
14. **Time and Place of Next Meeting:** Special Meeting/Retreat - Wednesday, January 19, 2011, 9:45 a.m., Ed Roberts Campus, Osher Education Conference Room, 3075 Adeline St., Berkeley, CA 94703.
15. **Adjournment:** The Board of Directors meeting adjourned at 12:23 p.m.

Lisa Harper  
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Tom Bates and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: January 18, 2011

Re: Board Communications Received from December 16, 2010 through January 18, 2011

RECOMMENDED ACTION:

Receive and file.

DISCUSSION

A list of Communications directed to the Board of Directors received by the Air District from December 15, 2010 through January 18, 2011, if any, will be at each Board Member's place at the January 19, 2011 Board meeting.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
Memorandum

To: Chairperson Tom Bates and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: January 12, 2011

Re: Authorize EO/APCO to Issue Purchase Order not to exceed \$800,000  
for Contract Services Related to Continued Operation of the BioWatch  
Monitoring Network

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RECOMMENDED ACTION:

Recommend that the Board of Directors authorize the Executive Officer/APCO to issue a purchase order to Technical and Business (T&B) Systems not to exceed \$800,000 to allow for the continued operation of the BioWatch monitoring network.

SUMMARY:

In accordance with the District's Administrative Code, Division II, Fiscal Policies and Procedures, Section 4.3, staff requests that the Board authorize the Executive Officer to issue a Purchase Order to T&B Systems not to exceed the amount of \$800,000. Funding is covered by an ongoing Department of Homeland Security grant and operation of the network by T&B Systems is covered under a contract through July, 2012.

DISCUSSION:

The BioWatch program began in February of 2003 with eight locations in the San Francisco area. In July of 2003, the network expanded to include 6 additional sites in the San Jose area. The operational demands of this network necessitated the use of a contractor and a Request for Quotation (RFQ) was sent to five qualified contractors. Staff received proposals from three contractors who responded to the RFQ. After a thorough evaluation, the contract was awarded to T&B Systems (Board of Directors Memo, Agenda Item 5E, dated August 26, 2003). In 2006, the network was again expanded to a total of 32 sites located throughout the Bay Area and additional grant funding was incorporated into the budget (Budget and Finance Committee Memo, Agenda Item 5, dated May 15, 2006).

T&B Systems has continued to operate the network effectively and efficiently. The Department of Homeland Security has noted that T&B System's operational costs are among the lowest in the nation. They have met every operational demand within budget. This Purchase Order will cover operation of the network through the end of the current grant period without exceeding the total grant award. The current contract through July, 2012 has been written to terminate if Federal Grant funds are exhausted or become unavailable.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

Funds for this Purchase Order issuance are from a Homeland Security Grant that covers operation of the existing network and the associated Air District costs of administering the program. There will be no financial impact to the Air District's general revenue resources.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Eric Stevenson

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Bates and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: January 7, 2011

Re: Resolution to accept funding from the Metropolitan Transportation  
Commission (MTC) for the Regional Bicycle Share Pilot

RECOMMENDED ACTION

Recommend Board of Directors:

- Adopt a resolution to accept Climate Innovation Program (CIP) grant funding from the MTC for the Regional Bicycle Share Pilot.

BACKGROUND

On October 27, 2010, the Bay Area Air Quality Management District (Air District) was awarded \$4.29 million in CIP grant funding from the MTC to lead a regional bicycle sharing pilot project. This project is conducted in partnership with the Santa Clara Valley Transportation Authority (VTA), SamTrans, San Francisco Municipal Transportation Agency, San Mateo County and Redwood City. CIP funds will be matched by \$1.4 million from FY 09/10 Transportation Fund for Clean Air (TFCA) Regional Funds (approved by the Air District's Board of Directors on November 3, 2010). The partner agencies will also provide \$1.3 million match towards this pilot project. The combined \$7 million in funding will be used to test the deployment of 1,000 shared-bicycles in five cities along the peninsula transportation corridor in San Francisco, San Mateo and Santa Clara counties.

DISCUSSION

In order for the Air District to accept CIP funding, which originates from Congestion Mitigation and Air Quality Improvement (CMAQ) funding, a resolution of local support from the Air District's Board of Directors is required. Specifically, this resolution must authorize the filing of an application for federal funding, commit the necessary non-federal match to the project and state an assurance from the Air District that the project will be completed.

BUDGET CONSIDERATION / FINANCIAL IMPACT

None. The Air District would distribute MTC monies as “pass-through” funds on a reimbursement basis. Administrative costs for project staffing are provided by the funding sources (CIP, TFCA and local funding).

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Karen M. Schkolnick  
Reviewed by: Damian Breen

Attachment 1: Resolution of Local Support STP/CMAQ Funding Resolution No. 2011-

**Resolution of Local Support  
STP/CMAQ Funding  
Resolution No. 2011-**

The purpose of this Resolution is authorize the filing of an application for federal Surface Transportation Program (STP) and/or Congestion Mitigation and Air Quality Improvement (CMAQ) funding, to commit the necessary non-federal match, and to state the assurance to complete the project listed below:

**WHEREAS**, Bay Area Air Quality Management District (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$4,291,000 in funding from the federal Surface Transportation Program (STP) and/or Congestion Mitigation and Air Quality Improvement (CMAQ) program for the Regional Bicycle Share Pilot (herein referred to as PROJECT) for the MTC Resolution, No. 3925, New Federal Surface Transportation Act (FY 2009-10, FY 2010-11 and FY 2011-12) Cycle 1 STP/CMAQ Program: Project Selection Criteria, Policy, Procedures and Programming (herein referred to as PROGRAM); and

**WHEREAS**, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA) (Public Law 109-59, August 10, 2005) authorized the Surface Transportation Program (23 U.S.C. § 133) and the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149) through September 30, 2009; and

**WHEREAS**, SAFETEA has been extended through December 31, 2010 pursuant to Public Law 111-147, March 18, 2010 and may be subsequently extended pending enactment of successor legislation for continued funding; and

**WHEREAS**, pursuant to SAFETEA, and the regulations promulgated thereunder, eligible project sponsors wishing to receive federal Surface Transportation Program and/or Congestion Mitigation and Air Quality Improvement Program (STP/CMAQ) funds for a project shall submit an application first with the appropriate Metropolitan Planning Organization (MPO), for review and inclusion in the MPO's Transportation Improvement Program (TIP); and

**WHEREAS**, the Metropolitan Transportation Commission (MTC) is the MPO for the nine counties of the San Francisco Bay region; and

**WHEREAS**, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of STP/CMAQ funds; and

**WHEREAS**, APPLICANT is an eligible project sponsor for STP/CMAQ funds; and

**WHEREAS**, as part of the application for STP/CMAQ funding, MTC requires a resolution adopted by the responsible implementing agency stating the following:

- 1) the commitment of necessary local matching funds of at least 11.47%; and
- 2) that the sponsor understands that the STP/CMAQ funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional STP/CMAQ funds; and
- 3) that the project will comply with the procedures specified in Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
- 4) the assurance of the sponsor to complete the project as described in the application, and if



- approved, as included in MTC's TIP; and
- 5) that the project will comply with all the project-specific requirements as set forth in the PROGRAM; and

**NOW, THEREFORE, BE IT RESOLVED** that the APPLICANT is authorized to execute and file an application for funding for the PROJECT under the Surface Transportation Program (STP) and Congestion Mitigation and Air Quality Improvement Program (CMAQ) of SAFETEA, any extensions of SAFETEA or any successor legislation for continued funding; and be it further

**RESOLVED** that the APPLICANT by adopting this resolution does hereby state that:

1. APPLICANT will provide \$1,400,000 in non-federal matching funds; and
2. APPLICANT understands that the STP/CMAQ funding for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional STP/CMAQ funding; and
3. APPLICANT understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, as revised); and
4. PROJECT will be implemented as described in the complete application and in this resolution and, if approved, for the amount programmed in the MTC federal TIP; and
5. APPLICANT and the PROJECT will comply with the requirements as set forth in the program; and therefore be it further

**RESOLVED** that APPLICANT is an eligible sponsor of STP/CMAQ funded projects; and be it further

**RESOLVED** that APPLICANT is authorized to submit an application for STP/CMAQ funds for the PROJECT; and be it further

**RESOLVED** that there is no legal impediment to APPLICANT making applications for the funds; and be it further

**RESOLVED** that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and be it further

**RESOLVED** that APPLICANT authorizes its Executive Director, General Manager, or designee to execute and file an application with MTC for STP/CMAQ funding for the PROJECT as referenced in this resolution; and be it further

**RESOLVED** that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application; and be it further

**RESOLVED** that the MTC is requested to support the application for the PROJECT described in the resolution and to include the PROJECT, if approved, in MTC's TIP.

The foregoing resolution was duly and regularly introduced, passed and adopted at a regular meeting of the Board of Directors of the Bay Area Air Quality Management District on the Motion of Director \_\_\_\_\_, seconded by Director \_\_\_\_\_, on the \_\_\_\_ day of \_\_\_\_\_, 2011 by the following vote of the Board:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Tom Bates  
Chair of the Board of Directors

ATTEST:

\_\_\_\_\_  
Ash Kalra  
Secretary of the Board of Directors

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Tom Bates and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: January 12, 2011

Re: Report of the Personnel Committee Meeting of January 12, 2011

RECOMMENDED ACTION

The Committee recommends Board of Directors' approval of the following items:

- A) Advisory Council Appointments:
  - 1. Appoint Jonathan Cherry to the Air District's Advisory Council to fill an immediate vacancy, with a term of office expiring December 31, 2011 in the member category of *Architect*.
- B) Procedure for Handling Formal Complaints Against Board of Director Appointed Positions:
  - 1. Adopt a procedure for handling formal complaints against Board of Director appointed positions, as amended to refer the complaint to the Personnel Committee and to the Chair of the Board of Directors.

BACKGROUND

The Personnel Committee met on January 12, 2011 to consider the following:

- A) Recommend Board of Directors' approval to appoint two Advisory Council Members in the member categories of Community Planning and Architect; one member to a term of office expiring December 31, 2012, and one member to fill a vacancy with a term of office expiring December 31, 2011; one appointment to the Architect category is being recommended; and, the Personnel Committee will conduct a second interview for two candidates under the member category of Community Planning on January 19, 2011, prior to the Board of Directors' Special Meeting/Retreat, to fill a vacancy with a term of office expiring December 31, 2012;
- B) Recommend Board of Directors' approval to adopt a procedure for Handling Formal Complaints Against Board of Director Appointed Positions;
- C) Public Employee Performance Evaluation, Pursuant to government Code Section 54957 and 54957.6, conduct a performance evaluation of the Executive Officer/APCO.

Attached are the staff reports submitted to the Personnel Committee for the January 12, 2011 meeting.

Chairperson Wagenknecht will provide an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACTS:

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Lisa Harper  
Reviewed by: Jennifer C. Cooper

Attachment(s)

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Harold Brown and  
Members of the Personnel Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: January 5, 2011

Re: Conduct Interviews and Consider Recommending Board of Directors'  
Approval of Two Candidates for Appointment to the Air District's Advisory  
Council

RECOMMENDED ACTION:

Conduct interviews and consider recommending Board of Directors' approval of two candidates for appointment to the Air District's Advisory Council.

BACKGROUND:

Pursuant to Section 40261 of the California Health and Safety Code the Air District is required to maintain an Advisory Council consisting of 20 members. Further, section 40262 requires that the member categories consist of at least three representatives of public health agencies; at least four representatives of private organizations active in conservation or protection of the environment within the bay district; at least one representative of colleges or universities in the state; and at least one representative of each of the following groups within the bay district: regional park district, park and recreation commissions or equivalent agencies of any city, public mass transportation system, agriculture, industry, community planning, transportation, registered professional engineers, general contractors, architects, and organized labor. To the extent that suitable persons cannot be found for each of the specified categories, council members may be appointed from the general public. The new term expires on December 31, 2012.

DISCUSSION:

One incumbent member has declined to be reappointed. This member's term of office expired on December 31, 2010. Another member has resigned, and this member's term of office would have expired on December 31, 2011. These departures create two vacancies on the Advisory Council. These two vacancies will be filled by candidates in the member categories of Community Planning, Architect or Conservation Organization. Staff initiated a recruitment effort to fill the vacancies. After extensive recruitment and outreach efforts, staff received a total of fourteen applications for the vacancy.

The Human Resources Office and Executive Office have assessed the candidates' experience and education relative to the positions for which the candidates applied and have selected 6 candidates with the most relevant qualifications to interview with the Personnel Committee under the categories of community planning and architect.

Interviews of these 6 candidates will take place on Wednesday, January 12, 2011 and will begin at 1:30 p.m. The length of each interview will be approximately fifteen minutes. The application materials of the 6 candidates are included for your review.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Christine Holmes

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Harold Brown and  
Members of the Personnel Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: October 25, 2010

Re: Procedure for Handling Formal Complaints Against Board of Director  
Appointed Positions

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RECOMMENDED ACTION:

Consider recommending that the Board of Directors adopt the following procedure for handling formal complaints against Board appointed positions.

BACKGROUND:

The purpose of this policy is to provide guidelines for handling formal complaints brought against employees who report directly to the Bay Area Air Quality Management District Board of Directors.

This policy only applies to formal complaints brought against Board appointed positions who report directly to the Board. Complaints brought against any other District employees will continue to be handled in the manner outlined by the District's Administrative Code.

RIGHT TO FILE COMPLAINT:

An Air District employee, Board member, or a member of the public may file a formal complaint in accordance with this policy when such person reasonably believes that an Air District employee who reports directly to the Board of Directors has engaged in improper conduct which, if true, would constitute a violation of District policy, federal, state or local law.

Such a formal complaint must be in writing, signed, dated and filed with the Chair of the Board's Personnel Committee. At a minimum, the formal complaint shall set forth the name of the Air District employee accused of wrongdoing, the date(s) of the alleged wrongdoing, a detailed description of the alleged wrongdoing, and names and contact information of any witnesses who likely have knowledge relating to the allegations.

No formal complaint shall be accepted or considered if the actions complained of took place more than one year prior to the date of filing of the formal complaint.

## PROCEDURE:

If an Air District employee, member of the public or another Board member brings a complaint to the attention of a Board member, that Board member shall promptly refer the complaint to the Personnel Committee.

Upon receipt of a written formal complaint meeting the requirements set forth above, the Personnel Committee shall determine what action, if any, to take with respect to the formal complaint. The Personnel Committee reserves the right to take no action on the formal complaint if it is time-barred, does not contain sufficient information upon which action can be taken, or is determined to be frivolous, vexatious or brought in bad faith.

If the formal complaint is not dismissed for any of the foregoing reasons, the Personnel Committee may refer the formal complaint for investigation. Depending upon the circumstances of the particular formal complaint and persons involved, the Personnel Committee will make a determination as to whether the matter is referred to an investigator outside the Air District. If the formal complaint is potentially criminal in nature, the Board of Directors may refer the complaint to proper law enforcement authorities.

In appropriate circumstances, the Personnel Committee may recommend to the Board that the employee being accused of wrongdoing be placed on administrative leave pending the completion of the investigation.

The investigator chosen by the Personnel Committee to conduct the investigation of the formal complaint shall be responsible for the following:

- Conducting a prompt, thorough, and impartial investigation;
- Securing tangible and documentary evidence;
- Interviewing the complainant(s), respondent(s) and witnesses;
- Recommending steps to be taken in order to ensure that the complained of behavior does not continue during the investigation;
- Maintaining confidentiality to the greatest extent practicable;
- Informing all concerned of the prohibition against retaliation against the complainant(s) and witnesses;
- Coming to a conclusion about whether the allegations are substantiated or unsubstantiated;
- Making credibility findings; and
- Issuing a written investigative report.

The investigator will initially meet with the Personnel Committee to discuss the investigative findings and any related recommendations. Thereafter, the Personnel Committee shall report the findings and recommendations to the full Board. The investigator will be present to answer any questions that the Board may have.

At the conclusion of the investigation, the Personnel Committee shall send a written notice to the complainant indicating that the investigation has been concluded and summarizing the findings of the investigation. The complainant is not entitled to know the nature of discipline, if any, taken against the District employee as a result of the investigative findings.



If the Personnel Committee and Board of Directors determine that discipline is appropriate, the provisions of the Air District's Administrative Code relating to discipline shall be followed.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Approved by: Jack M. Colbourn

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Tom Bates and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: January 12, 2011

Re: Report of the Personnel Committee Meeting of January 19, 2011

RECOMMENDED ACTION

The Committee may recommend Board of Directors' approval to appoint one Advisory Council Member in member category of *Community Planning*, to fill a vacancy with a term of office expiring December 31, 2012.

BACKGROUND

The Personnel Committee will meet on January 19, 2011 prior to the Board of Directors Special Meeting/Retreat to discuss and consider the following:

- A) Conduct a second round of interviews and appointment of one Advisory Council Member in the category of *Community Planning* to fill a vacancy with a term of office expiring December 31, 2012;
- B) Public Employee Performance Evaluation, Pursuant to government Code Section 54957 and 54957.6, conduct a performance evaluation of the Executive Officer/APCO, and District Counsel.

Attached are the staff reports submitted to the Personnel Committee for the January 19, 2011 meeting. Chair Wagenknecht will provide an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACTS:

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Lisa Harper  
Reviewed by: Jennifer C. Cooper

Attachment(s)

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Brad Wagenknecht and  
Members of the Personnel Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: January 12, 2011

Re: Conduct Interviews and Consider Recommending Board of Directors'  
Approval of One Candidate for Appointment to the Air District's Advisory  
Council

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RECOMMENDED ACTION:

Conduct interviews and consider recommending Board of Directors' approval of one candidate for appointment to the Air District's Advisory Council.

BACKGROUND:

Pursuant to Section 40261 of the California Health and Safety Code the Air District is required to maintain an Advisory Council consisting of 20 members. Further, section 40262 requires that the member categories consist of at least three representatives of public health agencies; at least four representatives of private organizations active in conservation or protection of the environment within the bay district; at least one representative of colleges or universities in the state; and at least one representative of each of the following groups within the bay district: regional park district, park and recreation commissions or equivalent agencies of any city, public mass transportation system, agriculture, industry, community planning, transportation, registered professional engineers, general contractors, architects, and organized labor. To the extent that suitable persons cannot be found for each of the specified categories, council members may be appointed from the general public. The new term expires on December 31, 2012.

DISCUSSION:

Six candidates were interviewed by the Personnel Committee on January 12, 2011, to fill two current vacant positions. The vacant positions are in the Architect and Community Planning member categories. The Personnel Committee reached consensus on a candidate to fill the Architect member category. They wish to bring two of the candidates for the Community Planning category back for a second interview, to be scheduled on January 19, 2011 beginning at 9:00 a.m. The length of each interview will be approximately 15 to 20 minutes. The application materials of the two candidates to be interviewed again are included for your review.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Christine Holmes  
Approved by: Jack M. Colbourn

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Tom Bates and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: January 12, 2011

Re: Change in Board of Directors Meeting Procedures

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RECOMMENDED ACTION:

Recommend that the Board of Directors consider changing the public comment procedure at Board of Directors meetings.

SUMMARY:

Pursuant to Government Code Section 54954.3, members of the public are afforded the opportunity to speak on any agenda item. All agendas for regular meetings are posted at District headquarters located at 939 Ellis Street, San Francisco, California, at least 72 hours in advance of a regular meeting. At the beginning of the regular meeting agenda, an opportunity is also provided for the public to speak on any subject within the Board's subject matter jurisdiction. Speakers are limited to three (3) minutes each.

DISCUSSION:

Currently, the Board of Directors accepts public comments at the beginning of a Board of Directors meeting. Persons wishing to make public comment must fill out a Public Comment Card indicating their name and the number of the agenda item on which they wish to speak, or that they intend to address the Board on matters not on the Agenda for the meeting. The process is bifurcated into public comments regarding non-agenda items and agenda items.

**Public Comment on Non-Agenda Matters, Pursuant to Government Code Section 54954.3**

Under the new proposed procedure, members of the public requesting to speak would complete and submit a Public Comment Card at the beginning of the meeting, at which time the card would be entered into a random drawing. For the first round of public comment on non-agenda matters at the beginning of the agenda, ten persons selected by a drawing by the Clerk of the Boards from among the Public Comment Cards indicating they wish to speak on matters not on the agenda for the meeting will have three (3) minutes each to address the Board on matters not on the agenda. For this first round of public comments on non-agenda matters, all Public

Comment Cards must be submitted in person to the Clerk of the Board at the location of the meeting and prior to commencement of the meeting. The remainder of the speakers wishing to address the Board on non-agenda matters will be heard at the end of the agenda, and each will be allowed three (3) minutes to address the Board at that time. The Chair of the Board of Directors has discretion to modify the allotted time for public comment.

Members of the Board may engage only in very brief dialogue regarding non-agenda matters, and may refer issues raised to District staff for handling. In addition, the Chairperson may refer issues raised to appropriate Board Committees to be placed on a future agenda for discussion.

### **Public Comment on Agenda Items**

After the initial period of public comment on non-agenda matters, the public may comment on each remaining action and consent item on the agenda as the item is taken up. Public Comment Cards for items on the agenda must be submitted in person to the Clerk of the Board at the location of the meeting and prior to the Board taking up the particular item. Where an item was moved from the Consent Calendar to an Action item, no speaker who has already spoken on that item will be entitled to speak to that item again.

Speakers may speak for three (3) minutes on each item on the Agenda. If there are more than ten persons interested in speaking on an item on the agenda, the Chairperson or other Board Member presiding at the meeting may limit the public comment for all speakers to one minute per speaker, or make other rules to ensure that all speakers have an equal opportunity to be heard. Speakers are permitted to yield their time to one other speaker; however no one speaker shall have more than four minutes. The Chairperson or other Board Member presiding at the meeting may, with the consent of persons representing both sides of an issue, allocate a block of time (not to exceed 5 minutes) to each side to present their issue. The remaining speakers for that issue may be limited to one (1) minute each or they may yield their time to another speaker for a maximum of four (4) minutes.

### **BUDGET CONSIDERATION/FINANCIAL IMPACT:**

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Jennifer C. Cooper  
Prepared by: Brian Bunger