

Bay Area Air Quality Management District
Ed Roberts Campus – Osher Education Conference Room
3075 Adeline Street
Berkeley, CA 94703

Board of Directors Special Meeting/Retreat
January 19, 2011

APPROVED MINUTES

CALL TO ORDER: Chairperson Brad Wagenknecht called the meeting to order at 10:47 a.m.

Roll Call: Chairperson Brad Wagenknecht; Vice Chair Bates; Secretary John Gioia; and Directors Chris Daly, Dan Dunnigan, Susan Garner, Carole Groom, Scott Haggerty, David Hudson, Ash Kalra, Liz Kniss, Eric Mar, Mark Ross, James Spring, and Pamela Torliatt

Absent: Director Harold Brown, Jennifer Hosterman, Carol Klatt, Nate Miley, Gayle B. Uilkema, Ken Yeager and Shirlee Zane

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

PROCLAMATION(S)/AWARDS

Chairperson Wagenknecht, on behalf of the Board of Directors recognized the late Dr. Stephen Schneider, recipient of the Climate Leadership Award, and presented the award to Dr. Schneider's wife, Dr. Root.

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

Chairperson Brad Wagenknecht recognized retiring Clerk of the Boards, Lisa Harper, for her service to the District.

Executive Officer/APCO Jack Broadbent recognized outgoing Chairperson Brad Wagenknecht on behalf of staff.

Incoming Chairperson Tom Bates recognized outgoing Chairperson Wagenknecht, on behalf of the entire Board of Directors for his service, leadership and dedication to protecting air quality in the Bay Area.

PUBLIC COMMENTS: None

BOARD MEMBER COMMENTS:

Director Liz Kniss announced that Director Shirlee Zane's husband had unexpectedly passed away late last night. Directors and staff held a moment of silence and extended sympathies to Director Zane and her family.

CONSENT CALENDAR (Items 1-4):

1. **Minutes of December 15, 2010 Regular Meeting;**
2. **Communications;**
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;**
4. **Passage of Resolution to accept funding from the Metropolitan Transportation Commission (MTC) for the Regional Bicycle Share Pilot**

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

Resolution No. 2011-01 was adopted authorizing 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 projects as listed in the Resolution.

COMMITTEE REPORTS AND RECOMMENDATIONS

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

Chair: B. Wagenknecht

The Personnel Committee met without an initial quorum on Wednesday, January 12, 2011 and once a quorum was established, approved the minutes of August 25, 2010 and November 17, 2010.

The Committee held interviews of 6 candidates for appointment to the Air District's Advisory Council. The Committee recommends Board of Directors' approval to 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.

The Committee was deadlocked in its decision to recommend the second appointment in the member category of Community Planning and requested a second interview be held with the two finalists on January 19, 2011 prior to the start of the Board of Directors' Special Meeting/Retreat.

The Committee considered a procedure for handling formal complaints against Board of Director appointed position, and recommends that the Board of Directors adopt the recommended procedure, as amended, to require referral of the complaint to both the Personnel Committee and to the Board of Directors' Chairperson.

The Committee then adjourned to Closed Session to conduct a performance evaluation of the Executive Officer/APCO, pursuant to Government Code Section 54957 and 54957.6. The Committee reconvened in Open Session, and the Chair announced that no reportable action had been taken in Closed Session.

Board Action: Chairperson Wagenknecht made a motion to approve the Personnel Committee's report and recommendations from the meeting of January 12, 2011; Director Kniss seconded the motion; carried unanimously without opposition.

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

Chair: B. Wagenknecht

The Personnel Committee met earlier this morning on Wednesday, January 19, 2011 and approved the minutes of the meeting of January 12, 2011.

The Committee held interviews of two candidates for appointment to the Air District's Advisory Council under the *Community Planning* member category. The Committee recommends that the Board of Directors appoint Peter Chamberlin to fill an expired term of office, effective immediately through December 31, 2012, under the *Community Planning* category.

The Committee then adjourned to Closed Session to conduct a performance evaluation of the Executive Officer/APCO and District Legal Counsel, pursuant to Government Code Section 54957 and 54957.6.

The Committee reconvened in Open Session, and the Chair announced that no reportable action had been taken in Closed Session.

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

Board Action: Chairperson Wagenknecht made a motion to approve the Personnel Committee's report and recommendations from the meetings of January 12, 2011 and January 19, 2011; Director Kniss seconded the motion; carried unanimously without opposition.

BOARD OF DIRECTORS RETREAT:

7. Opening Comments

Chairperson Bates cited his prior service on the District Board of Directors in 1973 and 1976, noted the significant progress to date, and voiced the desire to continue the great leadership of the Board.

8. Upcoming Committee Assignments, Possible Change in Meeting Procedures, and Goals

Chairperson Bates reported he met with staff and has proposed changes to Committee membership. He asked that Directors contact him if revisions need to be made, depending upon availability and interest.

He proposed the following amendments to meeting protocols in an effort to streamline meetings and allow sufficient time for agenda items:

- When 10 or more speakers register under public comment, they are to fill out a speaker card and hand it to the Clerk at the beginning of the meeting. The Clerk will call out names randomly under public comment. Additional speakers will be asked to speak at the end of the meeting, where Public Comment can again be agenda.

- The Chair will have the ability to limit the number of minutes under public comment, depending upon the number of speakers and items on the agenda.
- The Committee Chair Reports will not be read out loud at meetings, but instead be included in the Board packet under the Consent Calendar. If a Board Member wishes to remove an item, they may do so during consideration of the Consent Calendar.
- Case studies and informational items shall be presented as a means to educate the public and Board Members on topics such as the enforcement process, outreach, grant funds, and other processes.

Lastly, Chairperson Bates gave an historical account of Ed Roberts and the naming of the conference center. Mr. Roberts chaired legislation for Centers for Independent Living all over the world, formed the World Institute on Disabilities, and is a person who fought for affordable housing, wheelchair accessibility, ADA issues, and employment and disability rights. He hoped his year as Chair would be filled with both hard work and fun.

9. State of the Air District

Executive Officer/APCO Jack Broadbent gave an overview of the following:

- The state of the Air District;
- An air quality summary;
- An administrative overview;
- Major initiatives for 2011;
- Regional coordination efforts

A significant issue staff has tackled in addition to regional smog issues of ozone and particulate matter is a concerted effort to address localized toxic air contaminant concentrations that characterize certain communities. The District has dealt with these through amendments to CEQA guidelines. There are new lower ambient air quality standards that will direct efforts with regard to particulate matter and ozone; the two issues have driven the regulatory agenda at the District.

The District's climate protection program is very much a part of the overall institution. The District's role is to compliment state and federal programs. The Tailoring Rule will hopefully be implemented through the Title V Rule, and the Advisory Council's work has been instrumental in moving forward recommendations.

Mr. Broadbent highlighted Community Risk Reduction Plans (CRRPs), and said the dilemma the District seems to be engaged in is that CEQA guidelines are perceived as impeding infill development. The District has been sued by the Building Industry Association (BIA). The District continues to believe that the most appropriate step to take is to have communities develop CRRP's which will merit resources to be directed toward a collaborative effort with the Bay Area. Mr. Broadbent then reviewed two pilot programs underway in San Jose and San Francisco, as well as expansion to other CARE communities.

He presented a chart showing the Clean Air Communities Initiative, which involves regulations and guidelines, monitoring and modeling, outreach and education, grants and incentives and enforcement for priority communities.

Given the density of the Bay Area, it is appropriate to focus on this issue and the Board will monitor this effort. The District wants to better tie to the Sustainable Communities Strategy (SCS) underway and is in discussions with ABAG and MTC staff.

Administratively, the District is at the halfway point of the fiscal year. Revenues are received from various sources, all of which are down. Expenditures continue to increase and staff is working to balance the budget while also moving the regulatory agenda. Staff is responding accordingly, contract negotiations are underway with employees, vacancies are not being filled in certain areas, and staff continues to cut costs. Residing in the headquarters building costs a lot and staff thinks it can lower costs by finding a less expensive location, or co-locate in a regional governance center.

Mr. Broadbent discussed the 2011 major initiatives as:

- Agriculture Engine Rule
- Public Engagement Plan
- Production System Live
- Metal Melting Rule
- Vacuum Trucks Rule
- Contract Negotiations with Employees Association
- 2011/2012 Budget
- Community Development Guidelines
- Air District Conference
- Joint Policy Committee Climate Action Plan
- Refine CEQA Tools
- Centralized Information & Records Management
- Leadership Development Program
- Facility Relocation
- Clean Air Foundation
- Bay Area Business Assistance Program
- New Source Review Rule (amendments)
- General PM Rule

Chairperson Bates questioned and clarified that 20%, or \$10 million of a \$50 million OPEB liability, which is built into the District's budget, has and will continue to be paid down.

10. Air Quality Summary

Deputy APCO Jean Roggenkamp provided an overview of the following air quality issues:

Ozone

- National 8-hour Standard - 75 parts per billion (ppb)

Fine Particulate Matter (PM_{2.5})

- National 24-hour Standard - 35 micrograms per cubic meter (ug/m³)

Toxic Air Contaminants (TACs)

- Diesel PM is primary TAC in the Bay Area and California

Green House Gases (GHG)

- CO₂ equivalent (CO₂e) – Carbon dioxide and other pollutants that contribute to climate change

Ms. Roggenkamp stated the District is currently in non-attainment for ozone, there were 9 days above the national 8-hour standard, the District exceeded the State 1-hour standard on 8 days, and exceeded the State's 8-hour standard on 10 days. Spare the Air Alerts were called on August 23, 24, September

1, 2, 3, 25, 26, 27 and 28, 2010. The District is in the midst of its wintertime season and thus far has only had one day where the standard was exceeded.

She then presented a chart showing ozone exceedance trends from 1968 to 2010, which shows high ozone days over time have been reduced. A chart showing PM2.5 exceedance days shows downward trend, as well; however, this is the first time the District has been non-attainment for PM2.5, and the District has never been classified for the federal standard for PM10.

Ms. Roggenkamp then presented a chart of health risks from toxic air contaminants, showing an estimate of 1,300 in a million excess cancers, most of which are from diesel particulate matter. An estimate prepared for 2008 shows just over 400 in a million excess cancers. The West Oakland Health Risk Assessment shows a total of 1,186 in a million excess cancers. Ms. Roggenkamp said the good news is that a truck survey was done and estimates of activity indicate that there is less traffic than expected. Also, the truck clean up program has had dramatic effects.

A map of the CARE impacted communities was then presented, showing the 6 impacted communities of Concord, Richmond/San Pablo, Western Alameda County, San Jose, Redwood City/Palo Alto, and eastern San Francisco.

Director Haggerty said he has questioned staff in the past regarding why the I-580 corridor in the Tri-Valley is not included as an impacted area, believing it has to do with the use of socio-economic data, and asked that this particular data not be used. Ms. Roggenkamp stated the results are based on population density and agreed to follow-up with Director Haggerty.

Ms. Roggenkamp then presented a GHG Emission Inventory showing that there is more work to be done to reduce GHG's. If business as usual does not change, the emissions increase significantly up through 2030.

Director Torliatt confirmed that the residential emissions relate to equipment for water use, heating and cooling which will change as additional or revised rules are implemented.

In closing, Ms. Roggenkamp stated the Board had adopted the Clean Air Plan, which is required to be an ozone reduction plan and is also a multi-pollutant plan. The U.S. Environmental Protection Agency (EPA) is considering a more stringent ozone standard in June 2011 which could trigger a requirement to do a planning process for the 8-hour ozone standard. The Board also adopted SB 656 Implementation Schedules, and all measures are being implemented and are ongoing. For PM2.5, a plan is due in 2012 to the EPA on how the District will be in attainment. A rule to address new source review requirements for PM is also required. Not only does the District need to adopt the plan, also the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) need to adopt it, as well. Therefore, collaboration amongst all agencies will take place. She noted the Community Risk Reduction Plans (CRRPs) address air toxics which were addressed earlier by Mr. Broadbent. The Climate Protection Plan (CPP) includes technical support for cities and counties, and the JPA is also developing a Climate Bay Area program which will be brought to the JPC soon.

Director Torliatt questioned and confirmed that the telephone/email alert program is increasing all the time; it is up to approximately 14,000 and staff will soon be compiling results of the season.

11. Administrative Overview

Deputy APCO Jeff McKay said in addressing fiscal challenges, staff uses a variety of approaches, have let vacancies go unfilled, and said a multi-faceted, multi-year approach has been utilized.

The District's General Fund Budget is \$62.4 million, includes 363 positions, and reserves reflect prior Board direction. He presented a breakdown of General Fund revenue sources, stating the bulk of revenue is derived from permit fees (49%) and property tax (34%). General Fund expenditures comprise of 65% in salaries and benefits, 24% in services and supplies, 8% in CalPERS, and 4% in capital expenditures. He noted that the response to challenges has been handled in a pro-active, balanced, multi-faceted and multi-year approach with reducing personnel costs, tracking expenditures, fees, and reserves. He noted that the CalPERS is a required contribution. Also, the Board previously approved funding \$2 million a year.

Directors Spring and Garner questioned and confirmed with Mr. McKay that the Board had previously approved 363 positions. Temporary positions are generally avoided, their numbers are declining, involve less staff costs, and are used only as a temporary backfill or when grant funding program work is required to achieve deliverables of the District. Mr. Broadbent pointed out restrictions with the Employees Association contract, as well as the 1,000 hour limit on CalPERS hours. He confirmed the budget has separate line items for temporary employees, as well as for overtime.

Regarding the use of personnel costs, Mr. McKay stated the District's FTE is unchanged from the amended FYE 2008 Budget. The vacancy count has steadily increased with 27 vacancies held and 7 additional vacancies created from turnover. Management and labor continually meet and leadership development and training is ongoing which addresses succession planning. In addition, Mr. McKay discussed examples of utilizing employees in other areas.

In response to Director Garner, Mr. Broadbent that the 34 vacancies represent a variety of staff just below the director level, at senior as well as lower level staff. In better times, it is hoped those positions could be filled.

Chairperson Bates requested staff agendize a review of the District's affirmative action program for an upcoming Personnel Committee meeting, which Mr. Colbourn stated was being updated.

Mr. McKay continued his presentation and reviewed expenditures. In the last two fiscal years at the mid-year estimate, services and supplies was cut by 10% and this is being maintained, as well as capital spending, to include deferring maintenance on the HVAC system and elevators.

Mr. McKay reviewed fees, stating that in early 2009, staff brought forward projections to the Board showing the need for 10% fee increases to continue maintaining the District's core activities. Due to financial and economic times, a 5.5% fee increase was approved for the 2011 budget. This presents challenges in reduced receipts of permit fees, and staff will be discussing this at an upcoming Budget and Finance Committee meeting. He added that this low rate of cost recovery puts the District at only 50% of the cost of permit activity. When the District proposes a 10% fee increase, this takes the District only to a 55% cost recovery. Given inflation, this is further reduced.

Vice Chairperson Gioia questioned if Proposition 26 has posed any challenges for the District fees. District Counsel Brian Bunger said Proposition 26 does not affect most of the District's permit and regulatory fees. A cost recovery study is being completed, at which time final data will be reviewed, and Proposition 26 definitions are consistent with what the District has done historically. Although, there are a couple of areas such as indirect source review fees and the carbon fee where more refined thinking will be needed.

Regarding reserves, Mr. McKay said in prior years, property taxes exceeded the budget. Those funds were available for the temporary budget gap. Future year assumptions involve reserves, and it is projected that vacancies will remain unfilled, services and supplies and capital will remain unchanged, property tax unchanged, as well as continuing 5.5% increases on permit fees.

Mr. McKay then presented a slide showing reserve projections in March 2010 of \$13.3 million and as audited in January 2011 at \$12.9 million. For the current budget and with two \$2 million drawdowns in 2011, this would maintain more than 15% of the General Fund. However, with no increased cost recovery after 2011, reserve projections drop quickly, and after 2014, reserves would be drawn down to very little.

In summary, the District is taking a balanced approach to its fiscal challenges, it has the ability to support core functions and initiatives, and movement in cost recovery is included in the projections.

Director Garner questioned how long the District can continue on 3% attrition a year before impacting the District's ability to generate revenue. Mr. McKay said staff is addressing whether there is a need to allocate resources to those areas most affected by revenue. Mr. Broadbent added that the District is getting to a point where attrition is impacting statutory functions at the District. There are also more employees wanting to retire, succession planning and leadership development is underway, but vacancies cannot be filled. As communities continue to want certain things, there is only so much the District can do.

Director Kniss discussed temporary personnel practices in Santa Clara County which have resulted in the desire for pension reform and asked that these types of impacts be discussed in the future. Mr. Broadbent cited the difficulty in finding people with the level of technical expertise in the job market.

Director Spring referred to reaching thresholds for core functions and initiatives, and he asked that these be separated out as to what is discretionary and what is not, and what actions will be taken upon reaching a certain threshold.

12. Major Initiatives for 2011

Mr. Broadbent referred to the handout outlining the District's major initiatives for 2011 and said he is available for questions of Boardmembers.

13. Regional Coordination Efforts

Mr. Broadbent presented the significant collaboration with regional agencies and local governments, stating there is a lot of work with communities, provisions for technical assistance, and he noted there will be committee meetings in each of these areas. The key point he would want to make is that the District is a critical part of assisting MTC and ABAG in the development of the Sustainable

Communities Strategy (SCS), and collaboration includes planning, technical assistance, economic support, EV infrastructure, Climate Bay Area, and the facility move.

Director Sperring questioned whether the District is open to looking at all opportunities in moving the District's headquarters, and he suggested forecasting operational needs over the next 50 years. Mr. Broadbent stated that while staff prefers to remain in San Francisco, in time and in looking at finances, there is continuous openness to looking at other areas.

OTHER BUSINESS

14. **Report of the Executive Officer/APCO:** Mr. Broadbent indicated he had previously provided this report.
15. **Chairperson's Report** – Chairperson Bates introduced members of his staff in attendance.
16. **Time and Place of Next Meeting:** 9:45 a.m., Wednesday, February 2, 2011 – 939 Ellis Street, San Francisco, CA 94109.
17. **Adjournment:** The Board of Directors meeting adjourned at 12:03 p.m.

LS/ Lisa Harper

Lisa Harper
Clerk of the Boards