

Bay Area Air Quality Management District
939 Ellis Street
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APPROVED MINUTES

Summary of Board of Directors
Personnel Committee Meeting
Monday, September 19, 2011
9:30 a.m.

Call to Order: Chairperson Brad Wagenknecht called the meeting to order at 9:33 a.m.

Roll Call: Present: Chairperson Brad Wagenknecht, and Vice Chairperson Eric Mar, and Directors John Gioia, Carole Groom, Scott Haggerty, and Carol Klatt

Also Present: Board of Directors Chairperson Tom Bates

Absent: Directors Harold Brown, Susan Gorin, and Jennifer Hosterman

2. **Public Comment Period:** There were none.

3. **Approval of Minutes of January 19, 2011 and March 28, 2011:**

Committee Action: Director Klatt made a motion to approve the minutes of January 19, 2011 and March 28, 2011; Chair Bates seconded the motion; carried unanimously without objection.

4. **Summary of Human Resources Audit Report and Status of Current Air District Programs**

Director of Administrative Services, Jack Colbourn, introduced Eddie Kreisberg, from Meyers Nave, who presented the staff report. The purpose of the audit was to review the Air District's Human Resources practices, policies and governing documents conform to legal requirements. In addition, the Air District requested feedback on best practices. This was done by reviewing the written policies, the Memorandum of Understanding (MOU).

Mr. Kreisberg continued stating the Air District had good compliance with the law, but suggested language changes. Those suggestions include the following:

- Better distinguish between "at will" and "good cause" employees in policies and procedures and employment offer letters.

In addition, Mr. Kreisberg stated as part of the audit overtime was included in the review. In part, the Air District will ensure those who are entitled to overtime, make sure the Air District is calculating the overtime rate accurately.

Meyers Nave made the following recommendations:

- Confirm the Air District is including all types of pay in the overtime rate that the Fair Labor Standards Act (FLSA) requires and then update written policies accordingly.
- We understand the Air District already confirmed it is in fact calculating FLSA overtime properly.

Mr. Kreisberg stated another category of the audit was to make suggestions on improvements or best practices areas, to avoid questions in the future. These suggestions are in the form of new policies that would be useful at the Air District.

The areas of suggestion include:

- Develop impasse procedures for Memorandum of Understanding (MOU) negotiations
- Create 'fitness for duty' policy and fitness for duty exams
- Create expanded sick leave and workers comp rules
- Broaden policy regarding use of technology, (e.g. instant messaging)
- Clean-up language so consistent with current practices
- Note: The District is obligated under State labor law (the Meyers-Milias-Brown Act "MMBA") to negotiate these types of policy changes with the Employees Association.

Mr. Kreisberg continued that he is aware the Air District is currently working on a number of the areas listed above, and this is just suggestions for areas of improvement as opposed to legally problematic areas.

Committee Comments/Questions:

Director Groom inquired about the Air District's sick leave policy. District Counsel, Brian Bunger, stated the Air District's policy is 3.69 hours per pay period.

Executive Officer/APCO, Jack Broadbent, continued stating the Air District has been working on the sick leave policy for quite some time.

Mr. Kreisberg continued with the last area of recommendation includes:

- Revise and re-title District's "Affirmative Action Plan" to Equal Employment Opportunity consistent with District's current practice and practice for (at least) the last 10-15 years and to conform to Proposition 209 prohibition against "granting preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity or national origin in the operation of public employment, public education or public contracting."
- We understand District staff will present proposed revisions consistent with this recommendation at this meeting.

Mr. Kreisberg concluded his presentation.

Committee Action: None; as this item is for receive and file.

5. **Proposed Amendments to (1) the Air District's Administrative Code, Division III Personnel Policies and Procedures – Section 2 Equal Employment Opportunity Policy and (2) Equal Employment Opportunity Plan**

Mr. Colbourn introduced Human Resources Analyst Consultant, Geoff Rothman. Mr. Rothman presented the staff report. Mr. Rothman stated that the current policy which deals with Equal Employment Opportunity (EEO) contains language provisions that do not reflect the current practices within the Air District and should be revised to confirm to the provisions of Proposition 209.

Included as part of the changes are changes to both the Administrative Code. Those changes include removal of any references to affirmative action and specific goals and timetables related to gender, ethnicity, etc. In addition, there is substitution language that references equal employment opportunity. Mr. Rothman continued stating there is no change in the Air District's general policy.

Committee Comments/Questions:

Director Bates asked how the Air District is informed that this practice is being followed. Mr. Rothman responded stating the information is tracked with the use of the available workforce data, which is information that comes from the census bureau. In addition, there is review of the Air District's recruitment and hiring efforts in comparison to the available workforce.

Director Bates requested the Committee receive information on the Air District's recruitment and hiring efforts in order to track the Air District's progress.

Director Gioia asked about the status of policies the Air District currently have in place for the use of contractors with regard to outreach. Director Gioia requested the information on employment practices for contractor be provided at a future meeting.

Committee Action: Director Haggerty made a motion to recommend that the Board of Directors provide notice of proposed amendments to (1) the Air District's Administrative Code, Division III Personnel Policies and Procedures – Section 2 Equal Employment Opportunity Policy and (2) the Equal Employment Opportunity Plan, Director Gioia seconded the motion; carried unanimously without objection.

CLOSED SESSION:

Public Employee Performance Evaluation – District Counsel, Pursuant to Government Code Section 54957 and 54957.6

The Committee adjourned to Closed Session at 9:57 a.m.

OPEN SESSION:

The Committee reconvened in Open Session at 11:51 a.m. Chairperson Wagenknecht reported there were no reportable actions from Closed Session.

Committee Member Comments/Other Business: None

Time and Place of Next Meeting: At the Call of the Chair.

Adjournment: The meeting was adjourned at 11:53 a.m.

/S/ Vanessa Johnson

Vanessa Johnson
Executive Secretary II