



BOARD OF DIRECTORS
FINANCE AND ADMINISTRATION COMMITTEE

December 20, 2023

BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

COMMITTEE MEMBERS

JOHN J. BAUTERS – CHAIR
MARGARET ABE-KOGA
DAVID HAUBERT
DAVID HUDSON
SERGIO LOPEZ
MARK ROSS

DAVINA HURT - VICE CHAIR
BRIAN BARNACLE
LYNDA HOPKINS
TYRONE JUE
KATIE RICE

**MEETING LOCATION(S) FOR IN-PERSON ATTENDANCE BY
COMMITTEE MEMBERS AND MEMBERS OF THE PUBLIC**

**Bay Area Metro Center
1st Floor Board Room
375 Beale Street
San Francisco, CA 94105**

**Office of Alameda County Supervisor
David Haubert
4501 Pleasanton Avenue
Pleasanton, CA 94566**

**Mountain View City Hall
Council Chambers
500 Castro Street
Mountain View, CA 94041**

THE FOLLOWING STREAMING OPTIONS WILL ALSO BE PROVIDED

These streaming options are provided for convenience only. In the event that streaming connections malfunction for any reason, the Finance and Administration Committee reserves the right to conduct the meeting without remote webcast and/or Zoom access.

The public may observe this meeting through the webcast by clicking the link available on the air district's agenda webpage at www.baaqmd.gov/bodagendas.

Members of the public may participate remotely via Zoom at <https://bayareametro.zoom.us/j/81529076048>, or may join Zoom by phone by dialing (669) 900-6833 or (408) 638-0968. The Webinar ID for this meeting is: 815 2907 6048

Public Comment on Agenda Items: The public may comment on each item on the agenda as the item is taken up. Members of the public who wish to speak on a matter on the agenda will have two minutes each to address the Committee on that agenda item, unless a different time limit is established by the Chair. No speaker who has already spoken on an item will be entitled to speak to that item again.

The Committee welcomes comments, including criticism, about the policies, procedures, programs, or services of the District, or of the acts or omissions of the Committee. Speakers shall not use threatening, profane, or abusive language which disrupts, disturbs, or otherwise impedes the orderly conduct of a Committee meeting. The District is committed to maintaining a workplace free of unlawful harassment and is mindful that District staff regularly attend Committee meetings. Discriminatory statements or conduct that would potentially violate the Fair Employment and Housing Act – i.e., statements or conduct that is hostile, intimidating, oppressive, or abusive – is *per se* disruptive to a meeting and will not be tolerated.

FINANCE AND ADMINISTRATION COMMITTEE MEETING AGENDA

WEDNESDAY, DECEMBER 20, 2023

1:00 PM

1. **Call to Order - Roll Call**

The Committee Chair shall call the meeting to order and the Clerk of the Boards shall take roll of the Committee members.

2. **Pledge of Allegiance**

CONSENT CALENDAR (Item 3)

3. Approval of the Draft Minutes of the Finance and Administration Committee Meeting of December 6, 2023

The Committee will consider approving the Draft Minutes of the Finance and Administration Committee Meeting of December 6, 2023.

ACTION ITEM(S)

4. Management Audit Report on Air District Engineering Functions and Initial Response

The Committee will receive a presentation by George Skiles of Sjoberg Evashenk Consulting, Inc. on key findings from the management audit of Engineering functions, and an update on current initiatives for continuous improvement and the corrective action strategy for improvement that tie-in to the Air District's strategic plan by Dr. Meredith Bauer, Deputy Executive Officer of Engineering and Compliance, and Pamela Leong, Director of Engineering. The Committee will consider directing the Executive Officer/APCO to prepare an action plan to address the Engineering Audit Report's recommendation to be presented to the Finance and Administration Committee for approval within 90 days.

INFORMATIONAL ITEM(S)

5. Using Penalty Funds for Community Benefits

The Committee will receive a presentation on the potential for allocating some portion of collected penalty funds to programs intended to address the impacts of excess pollution on neighboring communities. The Air District typically collects roughly \$3 million per year in penalty funds which are used as general revenue and allocated through the budgeting process. Community advocates have called for those funds to be used to address the impacts of air pollution on their communities. Dr. Philip Fine, Executive Officer/APCO will present background information on this issue and a proposal for moving forward.

OTHER BUSINESS

6. Public Comment on Non-Agenda Matters

Pursuant to Government Code Section 54954.3, members of the public who wish to speak on matters not on the agenda will be given an opportunity to address the Committee. Members of the public will have two minutes each to address the Committee, unless a different time limit is established by the Chair. The Committee welcomes comments, including criticism, about the policies, procedures, programs, or services of the District, or of the acts or omissions of the Committee. Speakers shall not use threatening, profane, or abusive language which disrupts, disturbs, or otherwise impedes the orderly conduct of a Committee meeting. The District is committed to maintaining a workplace free of unlawful harassment and is mindful that District staff regularly attend Committee meetings. Discriminatory statements or conduct that would potentially violate the Fair Employment and Housing Act – i.e., statements or conduct that is hostile, intimidating, oppressive, or abusive – is per se disruptive to a meeting and will not be tolerated.

7. Committee Member Comments

Any member of the Committee, 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)

8. Time and Place of Next Meeting

At the Call of the Chair.

CLOSED SESSION

9. Conference with Legal Counsel re Anticipated Litigation (Government Code Sections 54956.9(a) and (d)(2))

Significant exposure to litigation pursuant to Government Code section 54956.9(a) and (d)(2): Claim of Terri Levels (1 claim) and Claim of Rex Sanders (1 claim).

OPEN SESSION

10. Adjournment

The Committee meeting shall be adjourned by the Chair.

CONTACT:

MANAGER, EXECUTIVE OPERATIONS
375 BEALE STREET, SAN FRANCISCO, CA 94105
vjohnson@baaqmd.gov

(415) 749-4941
FAX: (415) 928-8560
BAAQMD homepage:
www.baaqmd.gov

- 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 offices at 375 Beale Street, Suite 600, San Francisco, CA 94105, at the time such writing is made available to all, or a majority of all, members of that body.

Accessibility and Non-Discrimination Policy

The Bay Area Air Quality Management District (Air District) does not discriminate on the basis of race, national origin, ethnic group identification, ancestry, religion, age, sex, sexual orientation, gender identity, gender expression, color, genetic information, medical condition, or mental or physical disability, or any other attribute or belief protected by law.

It is the Air District's policy to provide fair and equal access to the benefits of a program or activity administered by Air District. The Air District will not tolerate discrimination against any person(s) seeking to participate in, or receive the benefits of, any program or activity offered or conducted by the Air District. Members of the public who believe they or others were unlawfully denied full and equal access to an Air District program or activity may file a discrimination complaint under this policy. This non-discrimination policy also applies to other people or entities affiliated with Air District, including contractors or grantees that the Air District utilizes to provide benefits and services to members of the public.

Auxiliary aids and services including, for example, qualified interpreters and/or listening devices, to individuals who are deaf or hard of hearing, and to other individuals as necessary to ensure effective communication or an equal opportunity to participate fully in the benefits, activities, programs and services will be provided by the Air District in a timely manner and in such a way as to protect the privacy and independence of the individual. Please contact the Non-Discrimination Coordinator identified below at least three days in advance of a meeting so that arrangements can be made accordingly.

If you believe discrimination has occurred with respect to an Air District program or activity, you may contact the Non-Discrimination Coordinator identified below or visit our website at www.baaqmd.gov/accessibility to learn how and where to file a complaint of discrimination.

Questions regarding this Policy should be directed to the Air District's Non-Discrimination Coordinator, Suma Peesapati, at (415) 749-4967 or by email at spesapati@baaqmd.gov.

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT
375 BEALE STREET, SAN FRANCISCO, CA 94105
FOR QUESTIONS PLEASE CALL (415) 749-4941**

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

DECEMBER 2023

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Meeting	Wednesday	20	9:00 a.m.	1 st Floor Board Room
Board of Directors Finance and Administration Committee	Wednesday	20	1:00 p.m.	1 st Floor Board Room
Board of Directors Community Equity, Health and Justice Committee - CANCELLED	Wednesday	20	1:00 p.m.	1 st Floor Board Room

JANUARY 2024

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Special Meeting/ Retreat	Wednesday	31	10:00 a.m.	Southeast Community Center 1550 Evans Ave. Alex Pitcher Pavilion Room San Francisco, CA 94124

MV 12/13/2023 – 11:15 a.m.

G/Board/Executive Office/Moncal

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson John J. Bauters and Members
of the Finance and Administration Committee

From: Philip M. Fine
Executive Officer/APCO

Date: December 20, 2023

Re: Approval of the Draft Minutes of the Finance and Administration Committee
Meeting of December 6, 2023

RECOMMENDED ACTION

Approve the Draft Minutes of the Finance and Administration Committee Meeting of December 6, 2023

BACKGROUND

None.

DISCUSSION

Attached for your review and approval are the Draft Minutes of the Finance and Administration Committee Meeting of December 6, 2023.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson

ATTACHMENTS:

1. Draft Minutes of the Finance and Administration Committee Meeting of December 6, 2023

Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105
(415) 749-5073

Finance and Administration Committee
Wednesday, December 6, 2023

DRAFT MINUTES

This meeting was webcast, and a video recording is available on the website of the Bay Area Air Quality Management District at www.baaqmd.gov/bodagendas

CALL TO ORDER

1. **Opening Comments:** Finance and Administration Committee (Committee) Chairperson, John J. Bauters, called the meeting to order at 1:03 p.m.

Roll Call:

Present, In-Person (375 Beale Street, 1st Floor Board Room, San Francisco, California, 94105): Chairperson John J. Bauters; Vice Chairperson Davina Hurt; and Directors Lynda Hopkins, Tyrone Jue, Sergio Lopez, and Katie Rice.

Present, In-Person Satellite Location (Office of Alameda County Supervisor David Haubert, 4501 Pleasanton Avenue, Pleasanton, California, 94566): Director David Haubert.

Present, In-Person Satellite Location (Santa Rosa Junior College Campus, Doyle Library, 1501 Mendocino Ave., Room 148, Santa Rosa, California, 95401): Director Brian Barnacle.

Absent: Directors Margaret Abe-Koga, David Hudson, and Mark Ross.

2. **PLEDGE OF ALLEGIANCE**

CONSENT CALENDAR

3. **APPROVAL OF THE DRAFT MINUTES OF THE FINANCE AND ADMINISTRATION COMMITTEE MEETING OF NOVEMBER 1, 2023**

Public Comments

No requests received.

Committee Comments

None.

Committee Action

Vice Chair Hurt made a motion, seconded by Director Hopkins, to **approve** the Draft Minutes of the Finance and Administration Committee Meeting of November 1, 2023; and the motion **carried** by the following vote of the Committee:

AYES: Barnacle, Bauters, Haubert, Hopkins, Hurt, Jue, Lopez, Rice.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Hudson, Ross.

ACTION ITEMS

4. **CONDUCT INTERVIEWS AND CONSIDER RECOMMENDING THE BOARD OF DIRECTORS’ APPROVAL OF CANDIDATES FOR APPOINTMENT TO THE ADVISORY COUNCIL**

Greg Nudd, Deputy Executive Officer of Science and Policy, spoke about the function of the Advisory Council, and emphasized that its new focus will be cumulative impacts of air pollution on overburdened communities. Chair Bauters explained that the terms of the seven Advisory Council members expired in July 2023, and that, based on the Air District’s 13-week recruitment to fill these positions, 15 applications were received. Candidates were initially screened by a panel of Air District staff that share subject matter expertise and have worked closely with the Advisory Council in the past. Ten candidates were advanced to the next step and interviewed by a panel composed of Air District Executive Officer Dr. Phillip Fine, Deputy Executive Officer Greg Nudd, and Community Advisory Councilmember Dr. Juan Aguilera. The interview panel assessed those ten candidates. All 10 of the candidates were deemed qualified to serve on the Advisory Council, but four of the ten candidates were *highly* qualified in the subject of cumulative impacts.

Chair Bauters asked the Committee if it would agree to recommend that the Board appoint the four candidates who were deemed highly qualified, without a full interview during the Committee meeting, and the Committee agreed. Chair Bauters explained to candidates Garima Raheja, Dr. Gina Solomon, Dr. Phil Martien, and Dr. Stephanie Holm that they would be recommended for Board appointment to the Advisory Council on December 20, 2023, and then they were given 2 minutes to address the Committee, as a courtesy.

The Committee then conducted full interviews of the remaining six candidates for consideration of the remaining three seats on the Advisory Council. These candidates included: Dr. Michael Kleinman, Dr. Ann Marie Carlton, Dr. David Reichmuth, Jared Briskman, Jessica Coria, and Dr. Michael Schmeltz.

Public Comments

Public comments were given by Dr. Stephen Rosenblum, Palo Alto resident.

Committee Comments

The Committee and staff discussed the manner in which Air District staff plans to rely upon the Advisory Council; outreach methods used to advertise the recruitment; the request to remove the question of whether an Air District job applicant has a driver’s license from the Air District’s job application template; and the suggestion of refining the Advisory Council candidate interview questions to incorporate lived experiences of environmental injustice.

Committee Action

Chair Bauters made a motion, seconded by Director Hopkins, to recommend the Board **approve:**

1. The appointment of Garima Raheja to the Advisory Council for a two-year term.
2. The appointment of Dr. Gina Solomon to the Advisory Council for a two-year term.
3. The appointment of Dr. Phil Martien to the Advisory Council for a two-year term.
4. The appointment of Dr. Stephanie Holm to the Advisory Council for a two-year term.

The motion **carried** by the following vote of the Committee:

AYES: Barnacle, Bauters, Haubert, Hopkins, Hurt, Jue, Lopez, Rice.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Hudson, Ross.

Chair Bauters made a motion, seconded by Director Hopkins, to recommend the Board **approve:**

1. The appointment of Dr. Michael Kleinman to the Advisory Council for a two-year term.
2. The appointment of Dr. Ann Marie Carlton to the Advisory Council for a two-year term.
3. The appointment of Dr. Michael Schmeltz to the Advisory Council for a two-year term.

The motion **carried** by the following vote of the Committee:

AYES: Barnacle, Bauters, Haubert, Hopkins, Hurt, Jue, Lopez, Rice.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Hudson, Ross.

5. **RECOMMEND AUTHORIZATION OF FISCAL YEAR ENDING (FYE) 2024 MID-YEAR BUDGET AND STAFFING ADJUSTMENTS**

Dr. Philip Fine, Executive Officer/Air Pollution Control Officer (APCO), gave the staff presentation *Authorization of FYE 2024 Mid-Year Budget and Staffing Assignments*, including: requested action; Assembly Bill (AB) 617 program background; comprehensive approach for AB 617; revenue to support additional positions; AB 617 budget cost considerations; staffing adjustment cost considerations; and recommended action.

Public Comments

No requests received.

Committee Comments

The Committee and staff discussed the need to reclassify vacant positions to support organizational operations; whether Air District staff takes the past, current, and future Fiscal Years into consideration when calculating revenue projection; and whether the Air District is confident that the California Legislature will continue to allocate annual funding for AB 617.

Committee Action

Director Rice made a motion, seconded by Director Lopez, to recommend the Board do the following:

Approve the FYE 2024 mid-year budget and staffing adjustments to: 1) Authorize use of Community Air Protection Program grant for six (6) new Full Time Equivalent (FTEs) and seven (7) new Limited-Term Contract Employees (LTCEs) to support AB 617 initiatives; 2) Authorize one (1) new FTE for executive operations and reclassify vacant positions to support organizational operations, and 3) transfer \$100,000 from the Legal Division’s professional services budget to the salaries budget specifically designated to hire one (1) temporary staff attorney.

The motion **carried** by the following vote of the Committee:

- AYES: Barnacle, Bauters, Haubert, Hopkins, Hurt, Jue, Lopez, Rice.
- NOES: None.
- ABSTAIN: None.
- ABSENT: Abe-Koga, Hudson, Ross.

OTHER BUSINESS (OUT OF ORDER)

6. PUBLIC COMMENT ON NON-AGENDA MATTERS (ITEM 7)

No requests received.

7. COMMITTEE MEMBER COMMENTS (ITEM 8)

None.

8. TIME AND PLACE OF NEXT MEETING (ITEM 9)

Wednesday, December 20, 2023, at 1:00 p.m. at 375 Beale Street, San Francisco, CA 94105. The meeting will be in-person for the Finance and Administration Committee members and members of the public will be able to either join in-person or via webcast.

INFORMATIONAL ITEM (OUT OF ORDER)

9. AIR DISTRICT PRELIMINARY ANNUAL FINANCIAL REPORT FOR THE FYE JUNE 30, 2023, AND THE FISCAL YEAR 2023-2024 FINANCIAL REPORT FOR THE FIRST QUARTER ENDING SEPTEMBER 30, 2023 (ITEM 6)

Chair Bauters waived the two staff presentations that were prepared for this item, *Preliminary Financial Results for FYE 2023*, and *First Quarter Financial Update FYE 2024*. These presentations contained updates on the Air District’s preliminary financial results for the Fiscal Year (FY) 2022-2023 and the FY 2023-2024 financial update for the first quarter ending September 30, 2023.

Public Comments

No requests received.

Committee Comments

None.

Committee Action

None; receive and file.

10. ADJOURNMENT

The meeting was adjourned at 2:51 p.m.

Marcy Hiratzka
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John J. Bauters and Members
of the Finance and Administration Committee

From: Philip M. Fine
Executive Officer/APCO

Date: December 20, 2023

Re: Management Audit Report on Air District Engineering Functions and Initial
Response

RECOMMENDED ACTION

Receive a management audit Report on the Air District's Engineering Functions and Findings from Sjoberg Evashenk Consulting and consider directing the Executive Officer to prepare an action plan to address the Engineering Audit Report's recommendations to be presented to the Finance and Administration Committee for approval within 90 days.

BACKGROUND

During today's Finance and Administration Committee Meeting, Sjoberg Evashenk Consulting, Inc. will present its Findings from the Audit of Air District Engineering Functions, which include Timeliness & Backlog, Tracking of Information, Staffing Impacts, and Fee Recovery.

The audit began in May 2023 and the Engineering Division has been working closely with the auditor for a thorough review of Engineering functions. In the meantime, the Engineering Division has continued with its existing continuous improvement effort and looks forward to new recommendations for improvement from the auditor.

DISCUSSION

The Engineering Division of the Air District plays a crucial role in assessing air quality permit applications and granting permits to businesses operating equipment that could potentially emit air pollutants. Additionally, the Division maintains an up-to-date inventory of emissions from all permitted equipment, which is vital for community and regional health impact assessments and rulemaking activities.

The Engineering Division actively tracks and evaluates various operational metrics aimed at understanding workload and operational efficiency. We presented some of these metrics at the October 17, 2022 Stationary Source and Climate Impacts Committee meeting. They indicated that over the last decade, although the Air District issued 77% of permits within 180 days of receiving the application, permitting actions for other applications consistently extended past the

deadlines required by our own regulations. In most of these cases, the applications pertained to equipment used in facilities with complex emissions sources, including refineries, landfills, composting operations, wastewater treatment facilities, and concrete & asphalt batch plants.

In addition to noting that the delays occurring primarily at complexity industrial facilities, it is important to note that the volume of applications and the complexity and number of regulatory reviews for each application have significantly increased over the last decade. The volume of permitting has increased due to increased economic growth in the Bay Area over the previous decade, and the complexity of the application review has increased due to the emergence of more complex Air District, State, and Federal rules, the advent of novel technologies, and the addition of stringent health risk assessment requirements for many types of permit applications.

As part of this agenda item, following the presentation by the management auditor, staff will review the management auditors' key findings, present current Engineering initiatives to reduce the permitting backlog, and the corrective action strategy for improvement that tie-in to the Air District's strategic plan.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Pamela Leong
Reviewed by: Meredith Bauer and Sharon Landers

ATTACHMENTS:

None

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John J. Bauters and Members
of the Finance and Administration Committee

From: Philip M. Fine
Executive Officer/APCO

Date: December 20, 2023

Re: Using Penalty Funds for Community Benefits

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

The Air District collects penalties from regulated entities that violate our regulations. In past years, penalty collections have typically exceeded \$3 million. These funds are treated as general revenue in the Air District budget. For comparison, the direct cost of the Air District's enforcement program exceeds \$16 million per year. For many years, community and environmental justice advocates have called for penalty funds to be returned to the communities impacted by the violation.

Most of the individual penalties are for less than \$50,000. However, there are typically one or more penalties that exceed \$1M. Most of the penalty money is from these large settlements. Looking at the past two- and one-half fiscal years, all the large settlements were from oil refiners and related industries. Over 85% of the penalty funds during this period were from this industrial sector.

For many years, community and environmental justice advocates have asked for penalty funds to be spent to benefit impacted communities. With the Air District's recent focus on enforcement, staff anticipates that penalty collections will increase significantly. Therefore, staff expects that it will be possible to allocate a portion of these penalty funds in such a way that budget impacts can be mitigated or eliminated.

DISCUSSION

Staff has developed an example allocation method designed to accomplish the following goals:

- Allocate as much penalty money as possible to the community impacted by the violation.
- Avoid the creation of local benefit funds that are too small to practically administer.
- Address the needs of communities outside the refinery corridor.
- Recover reasonable staffing costs for the Air District and minimize or eliminate budget risk.

This example allocation method will be discussed at the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

This is an early discussion of the concept. Full information on potential budget impacts will be discussed in a future presentation when a fully developed policy is proposed. Currently, staff does not anticipate significant budget impacts from this proposal.

Respectfully submitted,

Philip M. Fine
Executive Officer/APCO

Prepared by: Greg Nudd
Reviewed by: Philip M. Fine

ATTACHMENTS:

None