

MINUTES OF THE
MAG MANAGEMENT COMMITTEE MEETING
October 13, 2010
MAG Office Building - Saguaro Room
Phoenix, Arizona

MEMBERS ATTENDING

Carl Swenson, Peoria, Chair	Bill Hernandez, Guadalupe
Charlie Meyer, Tempe, Vice Chair	Darryl Crossman, Litchfield Park
# Matt Busby for George Hoffman, Apache Junction	Christopher Brady, Mesa
David Fitzhugh for Charlie McClendon, Avondale	David Andrews for Jim Bacon, Paradise Valley
Stephen Cleveland, Buckeye	David Cavazos, Phoenix
* Gary Neiss, Carefree	# John Kross, Queen Creek
* Usama Abujbarah, Cave Creek	* Bryan Meyers, Salt River Pima-Maricopa Indian Community
Rich Dlugas, Chandler	David Richert, Scottsdale
Pat Dennis for Rick Flaaen, El Mirage	* Mark Coronado, Surprise
Alfonso Rodriguez for Phil Dorchester, Fort McDowell Yavapai Nation	* Reyes Medrano, Tolleson
Rick Davis, Fountain Hills	# Gary Edwards, Wickenburg
* Rick Buss, Gila Bend	Mark Hannah for Lloyce Robinson, Youngtown
* David White, Gila River Indian Community	Steve Hull for John Halikowski, ADOT
Michelle Gramley for Collin DeWitt, Gilbert	Kenny Harris for David Smith, Maricopa Co.
Brent Stoddard for Ed Beasley, Glendale	Bryan Jungwirth for David Boggs, Valley Metro/RPTA
John Fischbach, Goodyear	

* Those members neither present nor represented by proxy.

Participated by telephone conference call. + Participated by videoconference call.

1. Call to Order

The meeting was called to order by Chair Carl Swenson at 12:03 p.m.

2. Pledge of Allegiance

The Pledge of Allegiance was recited.

Chair Swenson noted that John Kross, Gary Edwards, and Matt Busby were participating in the meeting via teleconference.

Chair Swenson noted that previously transmitted materials for agenda items #5C, #5H, and #8 were at each place.

Chair Swenson announced that public comment cards were available to members of the public who wish to comment. He noted that parking garage validation and transit tickets were available from Valley Metro/RPTA for those using transit to come to the meeting.

3. Call to the Audience

Chair Swenson stated that Call to the Audience provides an opportunity to the public to address the Management Committee on items that are not on the agenda that are within the jurisdiction of MAG, or non-action agenda items that are on the agenda for discussion or information only. Chair Swenson noted that those wishing to comment on agenda items posted for action will be provided the opportunity at the time the item is heard. Public comments have a three minute time limit and there is a timer to help the public with their presentations.

Chair Swenson noted that no comment cards had been submitted.

4. Executive Director's Report

Dennis Smith, MAG Executive Director, reported on items of interest in the MAG region. He first reported on the 2010 domestic violence press conference, which was held earlier in the week. Mr. Smith stated that the event highlighted the MAG Domestic Violence Protocol Evaluation Project funded by the Arizona Governor's Office, which is an attempt to work with member agencies, prosecutors' offices, and police departments on a protocol to improve procedures for arresting and prosecuting domestic violence offenders. He noted that last year, 111 people died in Arizona as a result of domestic violence, compared to approximately 90 people from drowning and each year this region spends approximately \$18 million to \$26 million on domestic violence cases.

Mr. Smith stated that the MAG Information Services Division updated the map through June 2010 noting the pending and foreclosed residential homes in the Valley. He displayed the map and said that there was a total of 59,149 pending and foreclosed residential properties – 20,102 foreclosed and 39,047 pending. Mr. Smith noted that this reflects an increase of 1,369 properties over the last report. He commented that the foreclosure map is used frequently, especially in EPA presentations. Mr. Smith stated that this reflects job losses – approximately 100,000 jobs have been lost in the last three years – and the region has returned to the 1999 employment rate.

Mr. Smith stated that MAG is a co-partner with ECOTality for supporting the development of infrastructure for electric vehicles. He reported that a press conference on the electric vehicle project will take place on October 19, 2010, at 9:00 a.m. at the Desert Botanical Garden. Mr. Smith stated that Mayor Tom Schoaf, MAG Regional Council Chair, will speak on MAG's partnership in the project and maps will be presented showing general charging station locations. He stated that MAG member agencies are invited.

Mr. Smith stated that the Western High Speed Rail Conference begins today. He noted that MAG is a founding member of the Western High Speed Rail Alliance. Mr. Smith stated that Mayor Smith, Mayor, City of Mesa and Chair of the TPC, will be presenting on interwoven economic destinies. He displayed a map of the Metropolitan Statistical Areas, and he commented that 84 percent of the population of the Intermountain West live in urban areas, contrary to popular belief

that they are rural areas. Mr. Smith pointed out that the map also shows how ports influence the regions, the possible route for Interstate 11, and high speed rail lines. He added that there is a possible high speed rail line that could go from Los Angeles to Las Vegas and stated that the Intermountain West states were left out of the national bullet train project.

Mr. Smith announced that the new MAG website was launched recently. He stated that the change was made to increase the ease of navigating the website and includes a better search engine and more flash animation.

Chair Swenson thanked Mr. Smith for his report. No questions for Mr. Smith were noted.

5. Approval of Consent Agenda

Chair Swenson stated that agenda items #5A, #5B, #5C, #5D, #5E, #5F, #5G, #5H, #5I, #5J, and #5K were on the Consent Agenda. He reviewed the public comment guidelines for the Consent Agenda. Chair Swenson noted that no public comment cards had been received.

Chair Swenson asked if any member of the Committee had questions or a request to have a presentation on any Consent Agenda item. None were noted.

Mr. Crossman moved to recommend approval of #5A, #5B, #5C, #5E, #5G, #5H, #5I, #5J, and #5K. Mr. Hernandez seconded, and the motion passed unanimously.

5A. Approval of September 8, 2010, Meeting Minutes

The Management Committee, by consent, approved the September 8, 2010, meeting minutes.

5B. ADOT Red Letter Process

The Regional Council approved the Red Letter Process in 1996 to provide early notification of potential development in planned freeway alignments. Development activities include actions on plans, zoning, and permits. Key elements of the process include Notifications: ADOT will periodically forward Red Letter notifications to MAG. Notifications will be placed on the consent agenda for information and discussion at the Transportation Review Committee, Management Committee, and Regional Council meetings. If a member wishes to take action on a notification, the item can be removed from the consent agenda for further discussion. The item could then be placed on the agenda of a subsequent meeting for action. Advance acquisitions: ADOT is authorized to proceed with advance right-of-way acquisitions up to \$2 million per year in funded corridors. Any change in the budgets for advance right-of-way acquisitions constitutes a material cost change as well as a change in freeway priorities and therefore, would have to be reviewed by MAG and would require Regional Council action. With the passage of Proposition 400 on November 2, 2004, the Regional Transportation Plan (RTP) includes funding for right-of-way acquisition as part of the funding for individual highway projects. This funding is spread over the four phases of the Plan. Funding for advance acquisitions may be made available on a case-by-case basis. For information, the ADOT Advance Acquisition policy allows the expenditure of funds to obtain right-of-way where needed to address hardship cases (residential only), forestall development (typical Red Letter case), respond to advantageous offers or, with remaining funds,

acquire properties in the construction sequence for which right-of-way acquisition has not already been funded. In addition to forestalling development within freeway corridors, ADOT, under the Red Letter Process, works with developers on projects adjacent to or close to existing and proposed routes that may have a potential impact on drainage, noise mitigation, and/or access. For this purpose, ADOT needs to be informed of all zoning and development activity within one-half mile of any existing and planned facility. Without ADOT input on development plans adjacent to or near existing and planned facilities, there is a potential for increased costs to the local jurisdiction, the region and/or ADOT. ADOT has forwarded a list of notifications from January 1, 2010, to June 30, 2010. Of the 47 notices received, five had an impact to the State Highway System.

5C. Project Changes – Amendment and Administrative Modification to the FY 2011-2015 MAG Transportation Improvement Program

The Management Committee, by consent, recommended approval of amendments and administrative modifications to the FY 2011-2015 MAG Transportation Improvement Program, and as appropriate, to the Regional Transportation Plan 2010 Update. The fiscal year (FY) 2011-2015 Transportation Improvement Program (TIP) and Regional Transportation Plan (RTP) 2010 Update were approved by the MAG Regional Council on July 28, 2010. Since that time, there have been requests from member agencies to modify projects in the programs. The Arizona Department of Transportation (ADOT) is requesting a modification to the SRL303 project to split the utility relocation projects out to individual ones, a revised scope for the South Mountain Environmental Impact Statement (EIS) project, and a new pavement preservation project. There are four new federal Safe Routes to Schools program funded projects; this process is managed by ADOT with input provided by MAG. Wickenburg is requesting to move its STP-TEA funded project from 2010 to 2011, and two new transit projects need to be added to the TIP since they received federal money through a competitive grant application. In addition, there are requests for changes to four Congestion Mitigation and Air Quality (CMAQ) funded projects. There have been recommendations on the above requested changes by the Transportation Review Committee, Air Quality Technical Advisory Committee, and the Intelligent Transportation Systems Committee.

5D. Change in State Route Numbers

The State Transportation Board is renumbering the following freeways: Interstate 10 Reliever Freeway - previously State Route (SR)-801 - is now SR-30, and Williams Gateway Freeway - previously SR-802 - is now SR-24. Board action for SR-24 occurred in September 2010; action for SR-30 is anticipated in January 2011. All ADOT maps are illustrating the new route numbers. This item was on the agenda for information.

5E. Recommendation of Road Safety Improvement Projects for Possible Federal Highway Safety Improvement Program

The Management Committee, by consent, recommended approval of the list of safety improvement projects to the Arizona Department of Transportation for federal funds in the 70 percent Highway Safety Improvement Program category available for fiscal years 2011, 2012 and 2013. On August 17, 2010, MAG announced a call for projects to identify a list of candidate road

safety improvement projects to be recommended to the Arizona Department of Transportation (ADOT) for possible federal Highway Safety Improvement Program (HSIP) funds available in FY 2011, 2012 and 2013. A total of nine project applications were received by MAG. These applications have been reviewed and a recommendation has been developed by the Transportation Safety Committee. The final decision on which of the recommended projects will be funded and at what level will be determined by ADOT. Funded projects will be included in the current TIP through a future amendment, and the implementation of projects will be coordinated by ADOT. Safety improvement projects are considered exempt from a potential TIP conformity freeze.

5F. Consultant Selection for the MAG Freight Transportation Framework Study

The Management Committee, by consent, recommended that Parsons Brinckerhoff be selected to conduct the Freight Transportation Framework Study for an amount not to exceed \$500,000. The FY 2011 MAG Unified Planning Work Program and Annual Budget, approved by the MAG Regional Council in May 2010, includes \$500,000 to conduct the Freight Transportation Framework Study that will examine freight and multimodal opportunities in the Sun Corridor. This study will develop a multimodal freight transportation framework for the study area that will likely be implemented at multiple jurisdictional levels and examine opportunities for an inland port. A Request for Proposals was advertised on August 19, 2010, and seven proposals were received. A multi-agency proposal evaluation team reviewed the proposal documents and held interviews. On October 5, 2010, the proposal evaluation team recommended to MAG the selection of Parsons Brinckerhoff to complete the study for an amount not to exceed \$500,000.

5G. Don't Trash Arizona Litter Prevention and Education Contract Amendment

The Management Committee, by consent, recommended approval to amend the consultant contract with RIESTER for one additional year for the Litter Prevention and Education Program to include \$300,000 budgeted in the MAG FY 2010 Unified Planning Work Program and Annual Budget for litter prevention and education. It costs our region more than \$3 million every year to pick up litter from our regional freeway system. Proposition 400 includes funding for a litter prevention and education program designed to increase awareness of the health, safety, environmental and economic consequences of freeway litter and ultimately change the behavior of offenders. The Don't Trash Arizona Litter Education and Prevention program is implemented by MAG in cooperation with the Arizona Department of Transportation (ADOT). In September 2008, the Regional Council approved the selection of RIESTER as the consultant to design and implement the Litter Prevention and Education Program. Staff recommended amending the consultant contract with RIESTER for one additional year for the Litter Prevention and Education Program and to include the \$300,000 budgeted in the FY 2011 Unified Planning Work Program and Annual Budget for litter prevention and education efforts.

5H. Conformity Consultation

The Maricopa Association of Governments is conducting consultation on a conformity assessment for an amendment and administrative modification to the FY 2011-2015 MAG Transportation Improvement Program (TIP). The amendment and administrative modification involve several projects, including FY 2011 Arizona Department of Transportation projects on State Route 303, Safe Routes to School funded projects, and City of Phoenix transit projects. The amendment

includes projects that may be categorized as exempt from conformity determinations. The administrative modification includes minor project revisions that do not require a conformity determination. This item was on the agenda for consultation.

5I. Status of Remaining MAG Approved PM-10 Certified Street Sweeper Projects That Have Not Requested Reimbursement

A status report is being provided to members of the MAG Management Committee on the remaining PM-10 certified street sweeper projects that have received approval, but have not requested reimbursement. To assist MAG in reducing the amount of obligated federal funds carried forward in the MAG Unified Planning Work Program and Annual Budget, MAG is requesting that street sweepers be purchased and reimbursement be requested by the agency within one year plus ten calendar days from the date of the MAG authorization letter.

5J. MAG FY 2012 PSAP Annual Element/Funding Request and FY 2012-2016 Equipment Program

The Management Committee, by consent, recommended approval of the MAG FY 2012 PSAP Annual Element/Funding Request and FY 2012-2016 Equipment Program for submittal to the Arizona Department of Administration. Each year, the Public Safety Answering Point (PSAP) Managers submit inventory and upgrade requests that are used to develop a five-year equipment program that forecasts future 9-1-1 equipment needs of the region and will enable MAG to provide estimates of future funding needs to the Arizona Department of Administration (ADOA). The funding request for FY 2015 is required to be submitted to the ADOA by December 15, 2010. On July 15, 2010, the MAG 9-1-1 PSAP Managers recommended approval of the MAG FY 2012 PSAP Annual Element/Funding Request and FY 2012-2016 Equipment Program. On September 20, 2010, the MAG 9-1-1 Oversight Team recommended approval.

5K. Application Process for U.S. Department of Housing and Urban Development Stuart B. McKinney Funds for Homeless Assistance Programs

On December 8, 1999, the MAG Regional Council approved MAG becoming the responsible entity for a year-round homeless planning process which includes submittal of the U.S. Department of Housing and Urban Development (HUD) Stuart B. McKinney Continuum of Care Consolidated Application for the MAG region. The Continuum of Care grant supports permanent supportive housing, transitional housing, and supportive services. A total of \$196 million has been awarded to the region since 1999. Last year, the region received more than \$23.4 million for 53 homeless programs. It is anticipated that the region will be awarded comparably in 2010. A draft list of new and renewal projects is provided to MAG Management Committee members for information and discussion. The final consolidated application will be presented to the MAG Continuum of Care Regional Committee on Homelessness on November 15, 2010, for approval.

6. 2010 Annual Report on the Status of the Implementation of Proposition 400

Roger Herzog, MAG Senior Project Manager, stated that Proposition 400 was approved by the voters of Maricopa County in November 2004, and authorized the extension of a half-cent sales tax for use on transportation projects in the MAG Regional Transportation Plan to 2025. He reported that the law requires that MAG issue an annual report on the life cycle programs for

freeways/highways, arterial streets, and transit. Mr. Herzog noted that a public hearing is scheduled for November. Mr. Herzog noted that MAG has been conducting a parallel process to update the Regional Transportation Plan and the life cycle programs, and he said that declining revenue resulted in the deferral of some projects beyond the end of the life cycle programs but that the projects remained in the Regional Transportation Plan, which was extended to FY 2031. He stated that the Regional Transportation Plan 2010 Update was approved by the Regional Council on July 28, 2010.

Mr. Herzog stated that revenues in FY 2010 were 8.9 percent lower than FY 2009, and FY 2010 was the third consecutive year for declining revenue collections. He stated that the year-to-year decrease in revenues since 2007 have been significant.

Mr. Herzog reported that the current long range revenue forecast was 6.2 percent lower than the prior forecast and the revenue estimates for the life of the tax had decreased by 26 percent, from a high of \$15 billion in 2007 to the current \$11 billion.

Mr. Herzog first addressed the Freeway Life Cycle Program by saying that a major imbalance between costs and revenues was identified in FY 2009. He noted that a process to rebalance the program was conducted to restore a balance through FY 2026, utilizing such measures as value engineering, program management, project rescoping, updated cost estimates, and project deferrals. Mr. Herzog noted that \$2.4 billion in cost savings were realized and \$4.4 billion in projects were deferred. He stated that the newly balanced Freeway Life Cycle Program future costs are estimated at \$8.3 billion while anticipated revenues are at \$8.4 billion.

Mr. Herzog stated that major projects in the Freeway Life Cycle Program retained within the original FY 2026 horizon included Loop 202/South Mountain Freeway, Loop 303 (I-17 to I-10), the HOV lane system, and improvements to the inner freeway network (e.g., I-10, I-17). Mr. Herzog stated that major projects that had been deferred beyond FY 2026 included State Route (SR)-801 (renumbered to SR-30) and the final construction for SR-802 (renumbered to SR-24), general purpose lanes on the outer freeways, several interchanges with arterials, and direct HOV ramps. He remarked that although a number of changes have been made, there has been significant progress since the start of the program in FY 2006.

Mr. Herzog then reported on the Arterial Life Cycle Program funded by Proposition 400. Mr. Herzog noted that 20 arterial street projects were completed in FY 2010, with \$62 million in reimbursements distributed, a total of \$178 million in reimbursements since the beginning of the program. He commented that a lot of work is anticipated during the next five years as work proceeds on various phases of 87 different projects.

Mr. Herzog stated that in FY 2009, \$22 million in reimbursements for the Arterial Program were shifted beyond FY 2026 to achieve a balanced program. He stated that the adjustments were retained in the FY 2010 program update. Mr. Herzog added that Lead Agencies have deferred the use of \$38 million in federal and regional funding from FY 2010 to later years due to problems with match or other development issues. He reported that estimated future reimbursements of \$1.5 billion were in balance with projected revenues of \$1.6 billion.

Mr. Herzog then addressed the Transit Life Cycle Program. He stated that the Transit Life Cycle Program had encountered similar cost and revenue imbalances as the Freeway Life Cycle Program. He reported that the Transit Life Cycle Program was balanced in FY 2009 by delaying the implementation of some projects. Mr. Herzog stated that in FY 2010 the program was refined further, especially service levels on supergrid regional bus routes, to allow more routes to be retained. He also noted a program shift from bus capital funding to operations expenditures.

Mr. Herzog reported that for FY 2011 to FY 2026, the Transit Life Cycle Program estimated future costs are \$4.6 billion and projected revenues are \$4.8 billion. He stated as part of the rebalancing of the Transit Life Cycle Program, a number of projects were maintained within the original FY 2026 horizon, including 16 bus rapid transit/express bus routes, 24 regional grid bus routes, and 25.7 miles of high capacity transit/light rail transit. Mr. Herzog stated that a number of projects were deferred beyond FY 2026, including 15 bus rapid transit/express bus routes, nine regional grid bus routes, and 12 miles of high capacity transit/light rail transit. He noted the significant progress made in transit since the start of the Proposition 400 program, including the opening of the light rail starter system and the implementation of 11 bus rapid transit/express bus routes and seven regional bus grid routes. Mr. Herzog added that an additional seven new bus routes over the next five years are anticipated.

Mr. Herzog then reported on ongoing issues. He said that the life cycle programs will encounter a number of ongoing issues, and he noted that a new revised revenue forecast being prepared this fall may show another decrease. Mr. Herzog stated that another concern is federal transportation funding, which remains uncertain. He stated that federal reauthorization expired in 2009 and has been extended through continuing resolutions. Mr. Herzog stated that project scope/cost updates and program adjustments will need to continue in order to utilize limited funds as effectively as possible. He stated that another ongoing activity is the performance audit of the Regional Transportation Plan by the Auditor General, which was just initiated. Mr. Herzog stated that the final report is anticipated in October 2011.

Chair Swenson thanked Mr. Herzog for his report. No questions for Mr. Herzog were noted.

7. Update on the EPA Proposed Partial Approval and Disapproval of the MAG 2007 Five Percent Plan for PM-10

Lindy Bauer, MAG Environmental Director, noted that at the last Management Committee meeting, she reported on the Environmental Protection Agency's (EPA) notice to propose partial approval and disapproval of the MAG 2007 Five Percent Plan for PM-10. She stated that MAG submitted comments. Ms. Bauer stated that comments on the proposed action were due on October 12, 2010, and on October 4, 2010, MAG and the Arizona Department of Environmental Quality (ADEQ) sent a letter to EPA requesting a 60-day extension of the comment period. She advised that EPA granted an extension of the comment period, not the 60 days requested, but to October 20, 2010. Ms. Bauer stated that MAG, ADEQ, and Maricopa County are working on comments to the proposed notice.

Ms. Bauer reported on two recent videoconferences with EPA. The first was on October 1, 2010, to discuss the Exceptional Events Rule and the associated issues. She noted that participants included the agencies who developed the plan, EPA Research Triangle Park, EPA Region IX, and

the EPA Office of General Counsel. Ms. Bauer stated that this gave MAG and ADEQ the opportunity to present their recommendations to fix the flawed Exceptional Events Rule. She advised that EPA has acknowledged problems with the Rule and they discussed that they are working on short- and long-term solutions, and there might also be a policy memorandum to assist. Ms. Bauer reported that the EPA General Counsel cautioned that even though EPA is working on fixing the Rule, do not think that EPA will reverse action on the nonconcurrence of the four high wind exceptional events. She commented that staff feels if EPA fixes the Rule, it should also fix any errors caused by the Rule. Ms. Bauer stated that at the meeting, it was reiterated that MAG wanted to continue working with EPA on the technical fixes to the plan.

Ms. Bauer stated that the second videoconference with EPA was requested by Congressman Harry Mitchell and took place on October 8, 2010. He requested that MAG host the event at the MAG office. Ms. Bauer noted that other participants included the agencies involved in the development of the plan, representatives from Congressmen Flake and Pastor's offices; MAG Regional Council Chair, Mayor Tom Schoaf, from Litchfield Park; and MAG Transportation Policy Committee Chair, Mayor Scott Smith, from Mesa.

Ms. Bauer stated that Mayor Schoaf presided over the meeting and took the opportunity to tell EPA that the MAG region takes air quality very seriously. She reported that he mentioned that the region has taken a number of aggressive efforts over the years, such as attaining the carbon monoxide standard and the one-hour ozone standard, not violating the .08 ppm ozone standard, that it was among the first in the nation to have an alternative fuels program to help with carbon monoxide, has the most stringent vehicle emissions testing programs in the country, has a pilot recharging program for electric vehicles underway, and has met the PM-2.5 standard. Ms. Bauer stated that Mayor Schoaf also mentioned that the MAG Regional Council has allocated significant funding for PM-10 certified street sweepers and paving unpaved roads. She stated that the meeting provided the opportunity to discuss with EPA how MAG feels the plan has been effective – there have been no violations at the monitors in stagnant conditions. Ms. Bauer stated that MAG also conveyed it is committed to working with EPA on technical fixes to the plan.

Ms. Bauer stated that MAG requested EPA delay action on the plan because it feels that EPA needs to review the exceptional events documentation in its totality. She stated that Mayor Smith emphasized to EPA why the region is very concerned with a conformity freeze. Ms. Bauer stated that EPA had questioned why MAG was concerned because they said MAG can still proceed with the projects in the first four years of the TIP. She said that Mayor Smith then explained that a conformity freeze is unacceptable because, on a monthly basis, MAG has amendments to the TIP. With the downturn in the economy and in revenue, MAG needs as much flexibility as possible to adjust to changing conditions to make unexpected changes to the TIP.

Ms. Bauer stated that EPA indicated it was receptive to working with the MAG region, and although it did not say it would delay final action, the meeting was positive and an opportunity for MAG to say it does not want a conformity freeze. She said that MAG was committed to exploring all options to minimize the time the region would be in a conformity freeze, if not to eliminate undergoing a freeze altogether.

Chair Swenson thanked Ms. Bauer for her report and asked members if they had questions.

Mr. Harris asked about the strategy to deal with what the EPA legal counsel might be planning. Ms. Bauer replied that ADEQ has been participating in the Western Air Resources Council (WESTAR), a coalition of 15 western states, which has expressed concern with the Exceptional Events Rule since September 2009. She stated that MAG worked with ADEQ on a two-page paper that was included in the agenda packet that includes the fixes Arizona feels are important. Ms. Bauer reported that ADEQ staff attended a Westar meeting in Portland in September to communicate concerns. She added that at the October 1, 2010, videoconference, ADEQ presented the recommendations of the state and MAG to fix the Rule.

8. Pattern Outdoor Lighting Code

Chair Swenson stated that there is great interest in this agenda item, and he noted that 13 requests for public comment had been received. He stated that the Pattern Outdoor Lighting Code is recommended to the Management Committee by the Dark Sky Stakeholders Group. Chair Swenson stated that given the continuing interest in this subject, he would suggest hearing the staff report and the public comments, but then refer this back to the Stakeholders Group so they can take the input and come back to the Management Committee with a recommendation. Agreement by the Committee was noted.

Heidi Bickart, MAG Planner, provided a report on the Pattern Outdoor Lighting Code that was developed by the Dark Sky Stakeholders Group. She said that her presentation would cover the purpose of a lighting code, the background, the economic benefits of good lighting, and a review of key aspects of the code.

Ms. Bickart stated that the Pattern Outdoor Lighting Code was developed by the Dark Sky Stakeholder Group at the request of the MAG Regional Council. She stated that the Pattern Outdoor Lighting Code provides suggestions for updating existing member agency outdoor lighting codes. Ms. Bickart noted that most MAG jurisdictions have a lighting code but it was last updated in the 1980s and a lot has changed since then in terms of lighting technology.

Ms. Bickart stated that lighting codes are a best practice for good lighting at night. They promote the community, business, and improve how things look. Ms. Bickart stated that no one notices good lighting, but bad lighting is noticed immediately, as most people have experienced glare into their eyes. She also noted that more recent lighting technology can provide energy and cost savings.

Ms. Bickart gave the background of the development of the Pattern Outdoor Lighting Code. She said that in December 2008, the MAG Regional Council received a presentation from the Director of the Kitt Peak Observatory asking for MAG's help to make the night time sky darker. She reported that each city, town and tribal government was asked to revisit the adequacy and enforcement of their respective lighting ordinances in an effort to reduce light pollution in this region. Ms. Bickart stated that in January 2009, the MAG Management Committee approved convening a Dark Sky Stakeholders Group. She said that 16 attendees met eight times since March 2009 to collect information on outdoor light pollution, review best practices in lighting codes, and develop a Pattern Outdoor Lighting Code.

Ms. Bickart stated that this project was completed at a regional level in an effort to promote uniformity in lighting codes throughout all jurisdictions in our region. She noted that in July 2010, MAG held a Dark Sky workshop to solicit feedback from external stakeholders, including the lighting industry, safety officials, those who use outdoor lighting for commercial and retail purposes and anyone else with an interest in promoting dark skies. Contact information for these stakeholders was provided to MAG from the Dark Sky Stakeholders Group. Ms. Bickart advised that comments from several stakeholders were received and all comments are available on the MAG Dark Sky website. She added that revisions were made to the code based on some of the comments from the workshop attendees.

Ms. Bickart stated that Arizona is one of three places in the world for astronomy, due to the dry climate and dark skies. She advised that Mt. Graham has the largest telescope on the planet, but the astronomy industry in the state is in jeopardy. Ms. Bickart stated that a study conducted in 2006 by the Arizona Arts, Sciences and Technology Academy found that there was a billion dollars of infrastructure for observatories and space science development and the total dollar impact to Arizona is \$250 million per year for a clean high tech industry that many say they want. Ms. Bickart pointed out that this includes nearly \$12 million in tax revenues to state and local governments, of which cities and towns receive about \$3.1 million. She remarked that at the time of this report, astronomy was pulling in more money than bioscience. Ms. Bickart added that the economic activity of astronomy generates a total of 3,300 jobs for the state.

Ms. Bickart asked if the Committee wanted to lose a clean high tech industry that brings in \$250 million per year to the Arizona economy, 3,300 jobs to the state, and \$3.1 million in tax revenues to the cities and towns because of light pollution. She noted that all stakeholders need to work together to create a balance to be business friendly and have dark skies.

Ms. Bickart displayed an image of Phoenix at night taken from the International Space Station, which showed the outline of freeways, and pointed out that most of the light is wasted light, which translates to wasted energy and wasted dollars. She stated that much of the light escaped the light fixtures and did not light the roadway where needed. Ms. Bickart displayed a photo from Kitt Peak observatory looking toward the Phoenix metro area and she stated that the lights from the Phoenix metro area are having an effect on observatories in southern Arizona and northern Arizona.

Ms. Bickart introduced Chris Luginbuhl, an astronomer from the Naval Observatory in Flagstaff. Mr. Luginbuhl stated that he would touch on two specific topics of the code. He first addressed control of light by shielding. Mr. Luginbuhl showed some examples of the glare and spill lighting of vintage sports field lighting versus new technology lighting, where the light levels on playing fields are double than those previously. He stated that players and spectators can see better, no light trespasses into surrounding neighborhoods, and there is better energy efficiency. Mr. Luginbuhl stated that shielding is not a new part of lighting codes and has been in existence for years.

Mr. Luginbuhl stated that new technology for brightness limits on outdoor signs was not addressed in existing codes. He displayed the old style floodlit billboard and noted that lighting efficiency can be improved dramatically by positioning the lighting from the top of the billboard. Mr. Luginbuhl stated that if a community does not place a limit on signs, they tend to get larger

and larger in size, and the same thing can occur with illumination – the signs in competitive areas get brighter and brighter to attract attention. He reported that in the past five years, digital billboards have come into production with lighting bright enough to see them in the daytime, which provides the potential for extreme brightness at night. Mr. Luginbuhl stated that the industry recognizes this and also recognizes that appropriate limits need to be established to ensure there are no problems with visibility and users have sufficient light to read signs without wasting energy unnecessarily. He noted that surveys show that about 90 percent of current billboards are at or below that recommended in the Pattern Outdoor Lighting Code. Mr. Luginbuhl stated that the shielding limits and the brightness limits have benefits for not only the observatories, but also in saving energy, improving vision, ensuring drivers can see adequately, and neighbors do not have light shining in their backyards. He expressed that he looked forward to working with the interested parties and hoped to find a solution.

Chair Swenson thanked Ms. Bickart and Mr. Luginbuhl for their presentations. He asked if members had questions for the presenters. None were noted. Chair Swenson stated that due to the number of requests for public comment, he would request that speakers be succinct and if previous speakers have made the point, he would appreciate noting that rather than repeating the same comment. Chair Swenson noted that MAG has a three-minute time limit and would seek to keep to that limit.

Chair Swenson recognized public comment from Kenneth Peskin, International Sign Association and speaking on behalf of the Arizona Sign Association. Mr. Peskin spoke about concerns for sections of the Pattern Outdoor Lighting Code related to on-premise signs. He stated that there are national and international approaches to green building codes and said that all other codes specifically exempt internally illuminated signs from a curfew – specific times when a sign needs to be turned off. Mr. Peskin stated that internally illuminated signs are not big contributors among categories. He stated that if this code is adopted, each community will have to decide when a business is open or closed. Mr. Peskin stated that this may not be very clear, for example, churches, theaters, schools, shopping centers, or bank automatic teller machines. He urged that the signage portion of the code be removed. Chair Swenson thanked Mr. Peskin for his comments.

Chair Swenson recognized public comment from Kent Grantham, Smithcraft, and speaking on behalf of the Arizona Sign Association, who said that the curfew being proposed in the code is a major concern for them. Mr. Grantham stated that signage is the least expensive and most effective form of advertising and can be responsible for 50 percent of first time customers of a business because they saw a sign. He stated that businesses rely on visible signage to attract highly mobile customers and a well-designed and well-placed sign can generate huge profits, especially when it is a part of a sophisticated marketing tool that works 24 hours a day, seven days a week. Mr. Grantham stated that a curfew could render a sign 50 percent less effective. He explained that there are five factors that apply to good signage design: size, location, orientation, luminescence, and contrast, and he noted that two of the five would be affected by this ordinance. With luminescence, a curfew renders a sign ineffective at certain times. With contrast limits, the sign would be less readable and effective, day or night. Mr. Grantham also expressed their concern that this would effectively be taxing businesses. Mr. Grantham's time expired. He concluded his comment by saying that existing signs would be grandfathered, but if a business wanted to pursue changes that would require a permit, a lot of municipalities would require that

nonconforming items be brought into conformance. Chair Swenson thanked Mr. Grantham for his comments.

Chair Swenson recognized public comment from Mike Mayhew, from Daktronics, who indicated that Mr. Grantham had covered most of his comments, but he wanted to add comments on the technical aspects of LEDs. He said that LEDs are very directional and he stated that if the code is changed to adapt an intensity level, he would suggest 300 nits as a maximum level at night with an auto sensor. Mr. Mayhew stated that they have done multiple demonstrations and have found that 300 nits is acceptable. He added that Maricopa County has presented that in its draft code that is under consideration. Mr. Mayhew explained that LED light does not go straight up, it goes toward the viewing audience, and if you go beyond the 50 degree angle, 50 percent of the intensity is lost. Chair Swenson thanked Mr. Mayhew for his comments.

Chair Swenson recognized public comment from Ian Lewin, a resident of the City of Scottsdale, who said that the Arizona Sign Association has requested he provide comments. Mr. Lewin stated that he was supportive of lighting codes and supportive of brightness limits on signs, however, he was concerned that the proposed limit of 100 nits is extremely low. Mr. Lewin stated that he has operated his company, Lighting Sciences, for 31 years, and they did much of the basic research work on the light trespass limitations now used in the United States. He indicated that he was unaware of any comprehensive survey of on-premises signs to determine brightness. Mr. Lewin added that the measure on billboards was another issue. He stated that on-premises signs tend to be in urban areas where the ambient brightness level is at a reasonably high level, which is needed to make signs legible. Mr. Lewin stated that 300 nits is a good balance between legibility, attention gathering and overly bright signs. He expressed concern with the proposed code using terms that have not been scientifically defined, for example, what is the difference between light gray and dark gray and the definition of yellow – there is light yellow and dark yellow. Mr. Lewin stated that the proposed code needs work and he hoped a full evaluation will be done. Chair Swenson thanked Mr. Lewin for his comments.

Chair Swenson recognized public comment from Gordon Keig, development partner with Kornwasser Shopping Centers and state director of the International Council of Shopping Centers. Mr. Keig stated that shopping centers in 2009 had more than \$49 billion of economic impact to the state and brought in \$2.9 billion in sales tax revenue. He indicated that the shopping center industry supports environmental design and energy efficiency, however, they are concerned that they did not have a voice in the development of the Pattern Outdoor Lighting Code. Mr. Keig stated that the concept of crime prevention through environmental design (CPTED) is an internationally recognized standard for lighting in public and private properties and a primary element is to ensure that high areas, such as ATMs, parking lots, dumpsters, and sidewalks, are well-lit to reduce the possibility of crime. He stated that illumination of those areas is extremely important. Mr. Keig stated that one of the elements of CPTED is lighting for safety and the proposed code flies in the face of ensuring safe properties. He stated that the customary design practice provides different lighting standards for different uses, for example, a shopping center with stores and theaters are treated the same as an industrial park that closes at 5:00 or 6:00 p.m. Mr. Keig stated that there are more than 40,000 parking lot lighting fixtures in Maricopa County and the industry believes that implementing this code could cost them more than \$100 million over time. He asked if this code was entirely necessary. Mr. Keig stated that the genesis began in October 2009 when Kitt Peak provided a report to the Management Committee that light

pollution degrades the visibility of our night skies. Mr. Keig's time expired. He stated that less than one month ago, the National Optical Astronomy Observatory released a study that concluded that the light levels 20 years ago are the same level as today, which means that the existing ordinances are sufficient to protect the astronomy industry. Chair Swenson thanked Mr. Keig for his comments.

Chair Swenson recognized public comment from Stacey Langford, Vice President of the Arizona Bankers' Association. Ms. Langford stated that the banking industry has concerns regarding how the curfew would affect banking services available after hours, such as ATMs and night drops. She indicated that the Association feels there are serious safety and security concerns and concerns for customer convenience that services are available after hours. Ms. Langford stated that they have concerns for advertising signage, drive-up lane indicators, and parking areas for walk-up ATMs. She said that she looked forward to working with the Stakeholders Group and having an exemption for the banking industry for after hours services. Chair Swenson thanked Ms. Langford for her comments.

Chair Swenson called forward Larry Robinson, who was not present.

Chair Swenson recognized public comment from Michelle Ahlmer, the Executive Director of the Arizona Retailers Association, which has about 1,800 members in the state. Ms. Ahlmer stated that the Association sent a letter yesterday that was distributed to members. She said that if the curfew is placed on businesses with lighting, Amber Alerts will be impacted because they are posted on reader boards. Ms. Ahlmer stated that this presents a significant safety concern and she did not think this had been taken into consideration. She expressed their concern for lighting in canopies over facilities such as gas stations, home improvement stores, and gardening centers because those are ways criminals can exit stores. Ms. Ahlmer stated that they also have concern that the code will impact the effective resolution of security cameras. She noted that the Association has been working with law enforcement for a number of years on improvements and they do not want to negatively impact the effectiveness of the program. Ms. Ahlmer also expressed concern for the safety of employees and customers as they leave the building. She noted that the required retrofit would cost one retailer alone \$2 million in Maricopa County and this total adds up when all of the retailers are considered. Ms. Ahlmer stated that the Association was not included in the Stakeholders Group meetings. She said that the retailers significantly impact the budgets of every city and are the majority of contributors to the sales tax. Ms. Ahlmer stated that MAG would not want to do anything that would further burden retailers during these economic times. Chair Swenson thanked Ms. Ahlmer for her comments.

Chair Swenson recognized public comment from Trish Hart from the Arizona Food Marketing Alliance, a trade association representing retail grocers, food suppliers, and convenience stores. She noted that the Alliance just heard about this issue the day before, but they have been working on lighting issues for years – with the City of Tucson in the 1990s and more recently with the City of Flagstaff. Ms. Hart stated that she echoed Ms. Ahlmer's comments. She said that the Alliance is very concerned for the safety of its customers and employees. Ms. Hart explained that employees are there at all times of the day, stocking shelves and taking deliveries. She stated that the Alliance is also concerned with costs. Ms. Hart stated that the Alliance has not had input and would like to participate in the process moving forward. She noted that she met with the City of Mesa the prior evening on its CPTED lighting ordinance. Ms. Hart expressed concern that a

business would be fined if it is found to be noncompliant with the ordinance. She stated that they want to ensure the code will not be in conflict with the ordinances of other cities. Ms. Hart requested that this be returned to the Stakeholders Group so that everyone involved can have input. Chair Swenson thanked Ms. Hart for her comments.

Chair Swenson recognized public comment from Amy Bratt, Public Affairs Officer and Economic Development Manager of the Greater Phoenix Chamber of Commerce, who represents nearly 3,000 members of the business community. She stated that the Chamber had not had time to exercise its full process, but she wanted to provide the comments from the Economic Development Committee. Ms. Bratt stated that the Chamber appreciates the business generated by all economic drivers, small, large, common and unique. She stated that the economic impacts of this policy are not understood, such as name recognition on buildings, or on a resort using uplighting as part of its landscape design. Ms. Bratt stated that the Economic Development Committee requests MAG and the Dark Sky Stakeholder Group reconvene and review the economic impacts of this policy, and once completed, they would appreciate that today's speakers return to the Chamber's Economic Development Committee for further discussion. Chair Swenson thanked Ms. Bratt for her comments.

Chair Swenson recognized public comment from Richard Hubbard from Valley Partnership, a real estate advocacy group in the Valley. Mr. Hubbard stated that the previous speakers addressed his concerns, but he wanted to say that the issue hit his members strongly. He stated that signage and illuminated signage for identification are paramount to the operation and success of the members' businesses. Mr. Hubbard expressed appreciation for Chair Swenson's recommendation to return this issue to the Stakeholders Group. He stated that Valley Partnership looks forward to working with the Stakeholders in this process. Chair Swenson thanked Mr. Hubbard for his comments.

Chair Swenson recognized public comment from John Clements, from CBS Outdoor. Mr. Clements asked for confirmation of his understanding that this item was being returned to the Stakeholders Group for further work. Mr. Clements was informed his understanding was correct. Mr. Clements stated that he would not need to provide comments in that case, but wanted to say his company was not involved in the initial Stakeholders Group and would like to participate in future discussions. Chair Swenson thanked Mr. Clements for his comments.

Chair Swenson recognized public comment from Katrin de Marnette from Clear Channel Outdoor, an outdoor advertising company. She said that her company was also not involved in the Stakeholders Group and was pleased this was being sent back for discussion and hoped to participate as a stakeholder. Chair Swenson thanked Ms. de Marnette for her comments.

Chair Swenson thanked the speakers for coming to the meeting and providing their comments to the committee and staff. He asked members if they had questions.

Mr. Crossman asked if the contact information for the speakers had been provided so that staff could invite them to meetings. Chair Swenson replied that all of the speaker cards contained contact information.

Mr. Fischbach stated that he originally had three concerns and now had five. He said that his first concern was why the stakeholders had not been included. His second concern was 100 nits versus

300 nits. Mr. Fischbach stated that the City of Goodyear has been meeting over the past couple of weeks with sign companies regarding digital billboards. He indicated that 300 nits was the standard acceptable to them and in his opinion, did not violate anything. Mr. Fischbach stated that his third concern was the curfew because he could not understand how turning off signs when a business closes could be approached. He stated that he would like the Stakeholders to address facilities with differing hours. Mr. Fischbach stated that his fourth concern was that the definitions of colors need to be clarified. His fifth concern was the costs that would be incurred. If the cost would increase to \$100 million, we need to address that.

Mr. Brady commented that it was unfortunate that it appeared that there was some rush to bring this to the Management Committee. He expressed his concern that the intention of this policy was to save a certain industry. Mr. Brady stated that there was a rhetorical question asked in the presentation and he hoped that staff looks at an objective approach to balance all stakeholders' needs. He added that observatories are stakeholders, but we need to find a way to balance this for everybody. Mr. Brady stated that another challenge is if this will be a regional solution, because communities now developing might have a different view about bringing in signage than those communities already developed. He stated that there are a lot of big businesses that have huge impacts to city budgets and he thought cities would proceed cautiously.

Mr. Andrews echoed Mr. Brady's comments and said that a balanced approach is important. He added that the astronomy industry is important to the state's economy, and in turn creates jobs in retail, which then creates jobs for sign companies.

Mr. Cavazos asked if there was an estimated timeframe for the Stakeholders Group to bring back a revised policy to the Management Committee. Mr. Smith replied that he would like to bring this to the Committee as soon as possible, but did not want to rush the process, depending upon the time required to work out the comments. He said that the goal is to do a good job, rather than a rush job. Mr. Smith stated that the Kitt Peak ordinance was done in 1984, and if it takes two to four months of work, it would be worth the time invested.

Mr. Richert suggested that each community's risk management division should be involved, along with the State Land Department, the largest landowner in the state.

Vice Chair Meyer stated that a lot of input has been received from industry, but he was concerned that guidance might need to be provided to the Stakeholders going forward. He said that some might take the position that less is better and some might take the position that more is better and he thought there might be a middle ground. Vice Chair Meyer stated that there is some level of illumination that is necessary that might not result in excess illumination that might have detrimental effects. He said he hoped for objective standards to meet the common ground between lower illumination and full visibility needed by the sign and retail industries. Vice Chair Meyer suggested having standards rather than specific regulations about when to turn a sign on and off. He stated that MAG providing standards that accomplish all goals would be ideal for the Management Committee.

Chair Swenson stated that many thoughtful comments were heard today. He encouraged a collaborative discussion with the stakeholders, who are important to cities. Chair Swenson stated

that the Management Committee was interested in a balanced recommendation coming back to the committee.

9. Valley Fever Corridor Project

Dr. John Galgiani, Director of the University of Arizona Valley Fever Center for Excellence, displayed a map of the areas affected by Valley Fever and said that the Maricopa, Pinal and Pima county area is the most intense area of infection. He stated that the University of Arizona is the only college of medicine that is located in the hyper endemic region of this fungal infection. Dr. Galgiani stated that the fungus that causes Valley Fever grows in the soil and it can take inhaling only one spore to develop pneumonia. He said that Valley Fever causes one-third of all community acquired pneumonias in the region.

Dr. Galgiani displayed a graph of the Valley Fever cases in Arizona and California, which have the most infections, from 1990 to 2009. He noted that two-thirds of the Valley Fever cases occur in Arizona, mostly in the area of Maricopa County, Pinal County, and Pima County, where the majority of the population resides. Dr. Galgiani noted that this is dubbed the Valley Fever Corridor.

Dr. Galgiani stated that the Department of Health Services did a study in 2007 of some Valley Fever patients that showed that the illness lasted an average of six months, 75 percent of those working missed more than one month of work, and 25 percent needed more than ten doctor visits. He added that other data show that hospitalization was required for 40 percent of those infected, which cost about \$86 million.

Dr. Galgiani noted the recent case of Valley Fever contracted by Conor Jackson, an Arizona Diamondbacks player, who was out the entire season due to his illness. He stated that because diagnostic tests were not satisfactory, Mr. Jackson was not diagnosed until after two blood tests, which came back negative. Dr. Galgiani stated that better diagnostics, new drugs, and vaccines are at the heart of the collaborative effort with Arizona State University and Northern Arizona University. He stated that the University of Arizona is spearheading the effort, which is overseen by the Food and Drug Administration, and developing a vaccine is a real possibility.

Dr. Galgiani stated that their goal is to disseminate information on Valley Fever to clinicians and the general public that there is no way to avoid Valley Fever if you live here. He stated that knowledge is the best management strategy. Chair Swenson thanked Dr. Galgiani for attending the meeting and he asked members if they had questions.

Vice Chair Meyer asked what messages could be conveyed to the public in terms of symptoms and prevention. Dr. Galgiani stated that he did not think there are steps people could take to prevent Valley Fever, because the spores get in the air. He added that he did not think occupational exposure was a major contributor because the wind blows in the desert and everyone has a 30 percent chance each year of contracting Valley Fever. Dr. Galgiani stated that understanding the symptoms and physicians looking for this diagnosis is a part of the strategy. He reported that 10,000 people in Arizona are diagnosed with Valley Fever annually, and a diagnosis can be made only with specific lab tests. Dr. Galgiani noted that doctors of tourists who

have visited Arizona should know that if their patient has pneumonia, there is a 30 percent chance it can be attributed to Valley Fever.

Mr. Smith commented that even though Valley Fever is all over, the epicenter is the Northwest Valley.

Mr. Crossman asked the symptoms of Valley Fever. Dr. Galgiani explained that some of the symptoms of Valley Fever include chest pain, cough, weight loss, and fever. He added that if a physician diagnoses a community acquired pneumonia, Valley Fever should be considered. Mr. Crossman asked if people can become infected more than once. Dr. Galgiani replied no, a person is immune once he or she has had Valley Fever and it is not contagious. He noted that medical groups have passed resolutions supporting this effort, but having public awareness is useful. Dr. Galgiani would provide Valley Fever fact sheets.

Chair Swenson stated that the City of Peoria, being in the Northwest Valley, has looked at Maricopa County health data and they wholeheartedly support this effort.

Mr. Crossman moved to recommend acceptance of a Resolution to promote public awareness of the educational efforts of the Valley Fever Center for Excellence in its work to address Valley Fever in the MAG region. Mr. Cleveland seconded, and the motion passed unanimously.

10. Request for Future Agenda Items

Topics or issues of interest that the Management Committee would like to have considered for discussion at a future meeting will be requested.

No requests from the Committee were noted.

11. Comments from the Committee

An opportunity was provided for Management Committee members to present a brief summary of current events. The Management Committee is not allowed to propose, discuss, deliberate or take action at the meeting on any matter in the summary, unless the specific matter is properly noticed for legal action.

No comments from the Committee were noted.

Adjournment

With no further business, Vice Chair Meyer moved, Ms. Dennis seconded, and the motion passed to adjourn the meeting at 1:30 p.m.

Chair

Secretary