Moraga-Orinda Fire District

Board of Directors

CALL AND NOTICE OF A SPECIAL MEETING

April 7, 2021

3:00 p.m. CLOSED SESSION
5:00 p.m. OPEN SESSION

Pursuant to Executive Order N-29-20, Teleconferencing Restrictions of the Brown Act have been suspended.

PLEASE NOTE TELECONFERENCE MEETING INFORMATION:

To join the Meeting:

By Phone: 1-669-900-6833

Please click the link below to join the webinar by Zoom:
https://us02web.zoom.us/j/86585656320

Webinar ID: 865 8565 6320

Public Participation is encouraged by joining via the ZOOM link or the dial-in information above. You can access either via a smartphone or computer App (Zoom) or via phone.

Live Public Comment can be provided via the Zoom app (during public comment) by the raise hand or chat function. If participating by phone, dial *9 to raise your hand. Staff will unmute participant to allow comment. Participants will be unmuted in the order of hands raised or chat request to comment.

Written Public Comment can be provided via email at info@mofd.org. Emails will be read into the record by staff during public comment at their normal cadence and will be limited to a maximum of 3 minutes. To be read into the record, e-mail must contain in the subject line "Public Comment – Not on the Agenda" or "Public Comment – Agenda Item #" with the relevant agenda item indicated.

The meeting will be live streamed via the MOFD YouTube Channel. A link is accessible via the District's website.

---

1. OPENING CEREMONIES
   - 1.1. Call the Meeting to Order
   - 1.2. Roll Call
2. PUBLIC COMMENT
   General public comment on any closed session item that will be heard. Comments may be limited to no more than three minutes pursuant to board policy.
3. CLOSED SESSION
   - 3.1. **Conference with Labor Negotiator**
     (Government Code Section 54957.6)
     Agency Designated Representative: Donna Williamson
     Employee Organization: Local 1230, International Association of Firefighters IAFF
   - 3.2 **Conference with Labor Negotiator**
     (Government Code Section 54957.6)
     Agency Designated Representative: Jonathan Holtzman
     Employee Organization: Unrepresented Employees
   - 3.3 **Conference with Labor Negotiator**
     (Government Code Section 54957.6)
     Agency Designated Representative: Donna Williamson
     Employee Organization: Moraga-Orinda Fire Chief Officers' Association
4. RECONVENE THE MEETING
   - 4.1. Call the Meeting to Order
   - 4.2. Roll Call
5. REPORT OF CLOSED SESSION ACTION

6. PUBLIC COMMENT – ITEMS NOT ON THE AGENDA
At the beginning of each regular District Board meeting, any member of the public may address the District Board concerning any item **not** on the Board's agenda but within the subject matter jurisdiction of the Board. Speakers will be limited to three (3) minutes unless otherwise specified by the Presiding Officer. The public will be given an opportunity to speak on each agenda item at the time it is called. The Board may discuss and/or take action regarding any or all of the items listed below. Once the public comment portion of any item on this agenda has been closed by the Board, no further comment from the public will be permitted unless authorized by the Board and if so authorized, said additional public comment shall be limited to the provision of information not previously provided to the Board or as otherwise limited by order of the Presiding Officer or the Board.

7. SPECIAL AGENDA

7.1. **Resolution 21-06 A Resolution of the Board of Directors of the Moraga-Orinda Fire Protection District Appreciation and Congratulations to Fire Engineer Janet Brandi on her Retirement**
Staff Recommendation: 1) Discuss; 2) Deliberate; 3) Adopt Resolution 21-06 A Resolution of the Board of Directors of the Moraga-Orinda Fire Protection District Appreciation and Congratulations to Fire Engineer Janet Brandi on her Retirement.

7.2. **Authorize Emergency Paid Sick Leave in Accordance with SB95 and Approve 2021 COVID-19 Paid Supplemental Sick Leave Policy**
Staff will present information on California Senate Bill 95 which requires the District to provide supplemental paid sick leave for covered employees who are unable to work or telework due to certain reasons related to COVID-19 and a new 2021 COVID-19 Paid Supplemental Sick Leave Policy to provide this required paid sick leave.
Staff Recommendation: 1) Discuss; 2) Deliberate; 3) Determine an expiration date for SB95 required COVID-19 supplemental sick leave; 4) Authorize all existing and new benefitted 56 hour work week employees to receive 112 hours of COVID-19 Supplemental Paid Sick Leave. This leave can be used for any reason consistent with the COVID-19 related reasons included in SB95; 5) Authorize all existing and new benefitted 40 hour work week employees to receive 80 hours of COVID-19 Supplemental Paid Sick Leave. This leave can be used for any reason consistent with the COVID-19 related reasons included in SB95; 6) Authorize all existing and new part-time employees to receive COVID-19 Supplemental Paid Sick Leave hours in accordance with SB95. This leave can be used for any reason consistent with the COVID-19 related reasons included in SB95; 7) Upon request, authorize retroactive use of COVID-19 Supplemental Paid Sick Leave by employees during the period January 1, 2021 through April 7, 2021 and a restoration of non-SB95 COVID-19 supplemental sick leave to the employee's sick leave accrual bank; 8) Approve 2021 COVID-19 Paid Supplemental Sick Leave Policy.

7.3. **Authorize Chipping Services To Be Provided by an Outside Contractor Instead of District Employees for the Remainder of FY2021 in an Amount Not-To-Exceed $30,000**
Staff Recommendation: 1) Discuss; 2) Deliberate; 3) Authorize chipping services to be provided by an outside contractor instead of District employees for the remainder of FY2021 in an amount not-to-exceed $30,000.

8. ADJOURNMENT

The Moraga-Orinda Fire Protection District ("District"), in complying with the Americans with Disabilities Act ("ADA"), requests individuals who require special accommodations to access, attend and/or participate in District Board meetings due to a disability, to please contact the District Chief's office, (925) 258-4501, at least one business day prior to the scheduled District Board meeting to ensure that we may assist you.

Any disclosable public records related to an open session item on a Regular meeting agenda and distributed by the Moraga-Orinda Fire District to a majority of members of the Board of Directors less than 72 hours prior to that meeting are available for public inspections at 1280 Moraga Way, Moraga, during normal business hours.

I hereby certify that this agenda in its entirety was posted on April 6, 2021, at the Moraga and Orinda Fire Administration offices, Stations 41, 42, 43, 44, and 45. Agenda provided to the Moraga Town Office (Hacienda) and Orinda City Hall.

Marcia Holbrook
District Secretary/Clerk

Moraga-Orinda Fire District

TO: Board of Directors

FROM: David Winnacker, Fire Chief

DATE: April 7, 2021

SUBJECT: **Item 7.1 – Resolution 21-06 A Resolution of the Board of Directors of the Moraga-Orinda Fire Protection District Appreciation and Congratulations to Fire Engineer Janet Brandi on her Retirement**

BACKGROUND

Fire Engineer Janet Brandi became a full-time firefighter with the Moraga-Orinda Fire Protection District in 1997 and was promoted to Engineer in 2007. On March 30th, Fire Engineer Brandi concluded an exemplary 26-year career in the fire service.

Fire Engineer Brandi has made a positive difference in countless lives, both in the City of Orinda, Town of Moraga, and Canyon communities. Fire Engineer Brandi has exhibited such dedication and leadership in her public service that the Moraga-Orinda Fire District desires to recognize her for that service to the community. Fire Engineer Janet Brandi leaves a legacy of strength and perseverance, inspiring all women and men in the fire industry.

Moraga-Orinda Fire Protection District expresses appreciation and congratulations to Fire Engineer Janet Brandi upon her retirement and recognizes her exemplary service to the community.

RECOMMENDATION

1) Discuss; 2) Deliberate; 3) Adopt Resolution 21-06 A Resolution of the Board of Directors of the Moraga-Orinda Fire Protection District Appreciation and Congratulations to Fire Engineer Janet Brandi on her Retirement.

ATTACHMENTS

Attachment A – Resolution 21-06, A Resolution of the Board of Directors of the Moraga-Orinda Fire Protection District Appreciation and Congratulations to Fire Engineer Janet Brandi on her Retirement

RESOLUTION NO. 21-06

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MORAGA-ORINDA FIRE PROTECTION DISTRICT APPRECIATION AND CONGRATULATIONS TO FIRE ENGINEER JANET BRANDI UPON HER RETIREMENT

WHEREAS, Fire Engineer Janet Brandi became a full-time firefighter with the Moraga-Orinda Fire Protection District in 1997 and promoted to Engineer in 2007; and

WHEREAS, Fire Engineer Janet Brandi concludes a 26-year career in the fire service retiring from the Moraga-Orinda Fire District; and

WHEREAS, Fire Engineer Janet Brandi responded to over 7,500 emergency calls and served on a strike team during the 2017 Tubbs Fire; and

WHEREAS, Fire Engineer Janet Brandi has been invaluable and inspiring not only to the members of the Moraga-Orinda Fire Protection District team but to all the women who desire to become a firefighter; and

WHEREAS, Fire Engineer Janet Brandi made a positive difference in countless lives, both in the City of Orinda, Town of Moraga, and Canyon communities; and

WHEREAS, Fire Engineer Janet Brandi has exhibited such dedication and leadership in her public service that the Moraga-Orinda Fire District desires to recognize her for that service to the community at large; and

WHEREAS, Fire Engineer Janet Brandi leaves a legacy of strength and perseverance inspiring all women and men in the fire industry; and

NOW, THEREFORE BE IT RESOLVED, that the Board of Directors of the Moraga-Orinda Fire Protection District expresses appreciation, praise, and congratulations to Fire Engineer Janet Brandi upon her retirement after 26 years of dedicated and exemplary service to the community, recognizing her talent and energy devoted to serving the public, and wish her all the best in her retirement.

The District Clerk is directed to forward an original of this Resolution to Fire Engineer Janet Brandi.

PASSED, APPROVED, and ADOPTED this 7th day of April 2021, at the Special Meeting of the District Board of Directors held virtually due to the COVID-19 pandemic, on motion made by Director ____ and seconded by Director _____, and duly carried with the following roll call vote.

AYES:

NOES:

ABSENT:

ABSTAIN:

Resolution 21-06
Dated: April 7, 2021

Craig Jorgens, President
Board of Directors

ATTEST:

Marcia Holbrook
District Secretary/District Clerk

Moraga-Orinda Fire District

TO: Board of Directors

FROM: David Winnacker, Fire Chief

DATE: April 7, 2021

SUBJECT: **Item 7.2 – Authorize Emergency Paid Sick Leave in Accordance with SB95 and Approve 2021 COVID-19 Paid Supplemental Sick Leave Policy**

Background

In April 2020, the MOFD board approved a grant of additional sick leave of 144 hours to all employees to minimize the impact of the COVID-19 pandemic. As a government employer, MOFD was not eligible for federal reimbursement for the cost of this action under the Families First Coronavirus Response Act.

In response to the ongoing COVID-19 pandemic, Governor Newsom signed SB95 on March 19, 2021. The law requires employers to provide an additional 80 hours of COVID-19 supplemental paid sick leave to full-time employees and a prorated amount of COVID-19 supplemental paid sick leave to part-time employees based on their work schedule and work history. For firefighters, the law specifically requires employers to provide an additional two weeks of COVID-19 supplemental paid sick leave, based on total hours scheduled in the two weeks preceding when the employee takes leave. There is no reimbursement provided by SB95 to employers. The law requires the following:

1. Leave must be used for COVID related reasons as defined by the law.

   (A) The covered employee is subject to a quarantine or isolation period related to COVID-19 as defined by an order or guidelines of the State Department of Public Health, the federal Centers for Disease Control and Prevention, or a local health officer who has jurisdiction over the workplace. If the covered employee is subject to more than one of the foregoing, the covered employee shall be permitted to use COVID-19 supplemental paid sick leave for the minimum quarantine or isolation period under the order or guidelines that provides for the longest such minimum period.

   (B) The covered employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.

   (C) The covered employee is attending an appointment to receive a vaccine for protection against contracting COVID-19.

   (D) The covered employee is experiencing symptoms related to a COVID-19 vaccine that prevent the employee from being able to work or telework.

(E) The covered employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.

(F) The covered employee is caring for a family member, as defined in subdivision (c) of Labor Code section 245.5, who is subject to an order or guidelines described in subparagraph (A) or who has been advised to self-quarantine, as described in subparagraph (B).

(G) The covered employee is caring for a child, as defined in subdivision (c) of Labor Code section 245.5, whose school or place of care is closed or otherwise unavailable for reasons related to COVID-19 on the premises.

2. The use of this leave is retroactive to 1 January, 2021.

3. Employers must account for and track this supplemental COVID sick leave separately.

4. Employers must notify employees regarding COVID-19 supplemental paid leave benefits by making the model notice, prepared by the Labor Commissioner and available here: https://www.dir.ca.gov/dlse/2021-COVID-19-Supplemental-Paid-Sick-Leave.pdf, publicly available (Attachment A.)

5. The requirement to provide COVID-19 supplemental paid sick leave shall remain in effect through September 30, 2021, except that a covered employee taking COVID-19 supplemental paid sick leave at the time of the expiration of this section shall be permitted to take the full amount of COVID-19 supplemental paid sick leave to which the covered employee otherwise would have been entitled.

A draft policy has been written to administer this paid sick leave (Attachment B.)

Staff Recommendation

Staff recommends granting additional paid sick leave as follows:

1) Determine an expiration date for SB95 required COVID-19 supplemental sick leave.

2) Authorize all existing and new benefitted 56 hour work week employees to receive 112 hours of COVID-19 Supplemental Paid Sick Leave. This leave can be used for any reason consistent with the COVID-19 related reasons included in SB95.

3) Authorize all existing and new benefitted 40 hour work week employees to receive 80 hours of COVID-19 Supplemental Paid Sick Leave. This leave can be used for any reason consistent with the COVID-19 related reasons included in SB95.

4) Authorize all existing and new part-time employees to receive COVID-19 Supplemental Paid Sick Leave hours in accordance with SB95. This leave can be used for any reason consistent with the COVID-19 related reasons included in SB95.

5) Upon request, authorize retroactive use of COVID-19 Supplemental Paid Sick Leave by employees during the period January 1, 2021 through April 7, 2021 and a restoration of non-SB95 COVID-19 supplemental sick leave to the employee's sick leave accrual bank.

6) Approve 2021 COVID-19 Paid Supplemental Sick Leave Policy.

Attachments

Attachment A – 2021 COVID-19 Supplemental Paid Sick Leave Information from the State of California Department of Industrial Relations

Attachment B - 2021 COVID-19 Paid Supplemental Sick Leave Policy

2021 COVID-19 Supplemental Paid Sick Leave

Effective March 29, 2021

Covered Employees in the public or private sectors who work for employers with more than 25 employees are entitled to up to 80 hours of COVID-19 related sick leave from January 1, 2021 through September 30, 2021, immediately upon an oral or written request to their employer. If an employee took leave for the reasons below prior to March 29, 2021, the employee should make an oral or written request to the employer for payment.

A covered employee may take leave *if the employee is unable to work or telework for any of the following reasons:*

- Caring for Yourself: The employee is subject to quarantine or isolation period related to COVID-19 as defined by an order or guidelines of the California Department of Public Health, the federal Centers for Disease Control and Prevention, or a local health officer with jurisdiction over the workplace, has been advised by a healthcare provider to quarantine, or is experiencing COVID-19 symptoms and seeking a medical diagnosis.
- Caring for a Family Member: The covered employee is caring for a family member who is subject to a COVID-19 quarantine or isolation period or has been advised by a healthcare provided to quarantine due to COVID-19, or is caring for a child whose school or place of care is closed or unavailable due to COVID-19 on the premises.
- Vaccine-Related: The covered employee is attending a vaccine appointment or cannot work or telework due to vaccine-related symptoms.

Paid Leave for Covered Employees

- 80 hours for those considered full-time employees. Full-time firefighters may be entitled to more than 80 hours, caps below apply.
  - For part-time employees with a regular weekly schedule, the number of hours the employee is normally scheduled to work over two weeks.
  - For part-time employees with variable schedules, 14 times the average number of hours worked per day over the past 6 months.
- Rate of Pay for COVID-19 Supplemental Paid Sick Leave: Non-exempt employees must be paid the highest of the following for each hour of leave:
  - Regular rate of pay for the workweek in which leave is taken
  - State minimum wage
  - Local minimum wage
  - Average hourly pay for preceding 90 days (not including overtime pay)
- Exempt employees must be paid the same rate of pay as wages calculated for other paid leave time.

Not to exceed $511 per day and $5,110 in total for 2021 COVID-19 Supplemental Paid Sick leave.

Retaliation or discrimination against a covered employee requesting or using COVID-19 supplemental paid sick leave is strictly prohibited. A covered employee who experiences such retaliation or discrimination can file a claim with the Labor Commissioner's Office. Locate the office by looking at the list of offices on our website (http://www.dir.ca.gov/dlse/DistrictOffices.htm) using the alphabetical listing of cities, locations, and communities or by calling 1-833-526-4636.

This poster must be displayed where employees can easily read it. If employees do not frequent a physical workplace, it may be disseminated to employees electronically.

Copyright © 2021 State of California, Department of Industrial Relations. Permission granted to display, perform, reproduce and distribute exclusively for nonprofit and educational purposes, and may not be used for any commercial purpose. All other rights reserved.

7.2A

Moraga-Orinda Fire District

2021 COVID-19 Paid Supplemental Sick Leave Policy

The State of California recently enacted a new law requiring certain public sector employers, including the Moraga-Orinda Fire District ("MOFD" or "District"), to provide covered employees with paid leave for qualifying reasons related to COVID-19. The District enacts this policy in accordance with the new law.

An employee is entitled to use this policy if, upon an oral or written request to their supervisor or within the chain of command, they advise that they are unable to work or telework for the following reasons:

- are subject to a quarantine or isolation period related to COVID-19 (and may use such leave for the minimum quarantine period or the longest minimum isolation period under federal, state, or local guidelines);
- have been advised to self-quarantine by a health care provider;
- are attending a vaccine appointment;
- are symptomatic for COVID-19 and are seeking a medical diagnosis;
- are experiencing symptoms after receiving a vaccine for COVID-19;
- are caring for a qualified family member who is subject to a quarantine or isolation order related to COVID-19; or
- are caring for a child whose school or place of care is closed or otherwise unavailable because of COVID-19.

This policy does not apply to employees subject to a general stay-at-home order absent one of the qualifying reasons stated above. If the District believes that an employee is not using the leave for a qualifying reason, it may, in its discretion, require the employee to provide medical certification to support a leave request.

The policy applies to leave requests made on or after March 29, 2021. The District reserves the right to terminate this policy, provided it does not do so before September 30, 2021.

If, between January 1, 2021 and March 28, 2021, an employee took a qualifying leave as defined above, and used then-existing paid leave benefits, was not paid for such leave, or was not paid at least the amount required under the new law, then an employee may request leave under this policy retroactively.

Employees must submit a retroactive payment request form to Human Resources no later than April 30, 2021. An employee's wage statement will reflect a deduction from their COVID-19 leave bank for payment of retroactive benefits and, if applicable, a credit towards the other form of paid leave used.

Employees in the job classifications of Firefighter, Firefighter Paramedic, Engineer, Engineer Paramedic I or II, Fire Captain, Fire Captain Paramedic I or II or Battalion Chief scheduled to work more than 80 hours in the two weeks prior to taking a qualifying leave are entitled to qualifying leave in the amount equal to those same number of hours. For example, if a firefighter contracts COVID-19 and had worked 112 hours in the two weeks prior to their diagnosis, then the firefighter is entitled to 112 hours of qualifying leave.

Full-time employees in all other job classifications are entitled to 80 hours of qualifying leave.

Part-time employees in all other job classifications are entitled to qualifying leave under the conditions described below.

- If the employee has a normal weekly schedule, then they are entitled to qualifying leave in an amount equal to those same number of hours.
- If the employee works a variable schedule, then they are entitled to qualifying leave in an amount 14 times the average number of hours worked each day in the six months preceding the date that the employee took qualifying leave. If the employee has worked less than six months, but more than 14 days, then the District will make this same calculation over the entire period that the employee has worked for the District. If the employee has worked for the District 14 days or less, then they are entitled to qualifying leave in an amount equal to the number of hours worked for the District in total.

Part-time employees are entitled to take qualifying leave even if they are not entitled to other employee benefits provided by the District.

Leave provided under this policy will be reflected as CA SUP AVAIL on employee wage statements.

Moraga-Orinda Fire District

TO: Board of Directors

FROM: David Winnacker, Fire Chief

DATE: April 7, 2021

SUBJECT: **Item 7.3 – Authorize Chipping Services To Be Provided by an Outside Contractor Instead of District Employees for the Remainder of FY2021 in an Amount Not-To-Exceed $30,000.**

Background

In 2020 MOFD began offering community chipping with a rented chipper and three staff members in the newly created position of Fuels Mitigation Specialist. From January to March 2021 the incumbent employees resigned to take firefighting positions with local agencies (2 employees) or to enroll in full time paramedic school (1 employee). To date MOFD's hiring efforts have resulted in a single replacement employee with one more starting the background process and the recently formed hiring list exhausted. Several candidates declined the position in order to take fire-fighting crew positions with local agencies. The creation or expansion of fire crews by several area agencies and a hiring surge by CalFire have created a more competitive environment in which MOFD is struggling to hire and retain fuels mitigation specialists.

Staff is in the process of forming a new hiring list, however this will take time and the lack of staff will likely preclude community chipping this spring as the 1 June compliance deadline draws near and Fire Prevention's focus shifts to enforcement.

From 1 January to 15 April, these vacancies have resulted in the following savings:

Salary savings:	$14,177.29
Medical/Dental/VSP/Life ins - savings:	$3,659.19
Retirement savings:	$5,252.59

Total Net Savings: **$23,089.07**

As the two current vacancies move forward, additional savings will be realized at $6,118 per position per month.

In order to provide chipping services to the community during the months of May and June 2021, staff recommends hiring chipping crew services from an independent contractor. The contractor would use the District's leased truck and chipper to perform chipping services. The projected cost is $30,000 which would be funded from a combination of the Fuels Mitigation Specialist vacancies and fire chief contingency. Sufficient appropriations exist in the FY2021 General Fund budget as follows:

Fuels Mitigation Specialist Vacancies	$23,089

Fire Chief Contingency	$7,000

Staff will issue a request for proposals for a two-person chipping crew, obtain bids from multiple companies and enter into a contract for chipping services.

Staff Recommendation

Staff recommends the Board authorize chipping services to be provided by an outside contractor instead of District employees for the remainder of FY2021 in an amount not-to-exceed $30,000.