

From: [Winnacker, David](#)
Cc: [Holbrook, Marcia](#); [Sasser, Gloriann](#); "[Jonathan Holtzman](#)"
Subject: FW: Public Comment to MOFD Board
Date: Wednesday, June 16, 2021 12:14:08 PM

Directors,
Please see below for (2) items of correspondence received in advance of tonight's meeting.

Thank you,

Dave Winnacker
Fire Chief
Moraga-Orinda Fire District

From: robertredsmith [REDACTED]
Sent: Wednesday, June 16, 2021 10:56 AM
To: Winnacker, David [REDACTED]
Subject: FW: Public Comment to MOFD Board

Dear Chief Winnacker and President Jorgens,

I'm sure you remember that I ran for the MOFD Board in 2018, where I was not only swamped by the campaign financing of Local #1230, but I was also victim of dozens of off duty firefighters from MOFD and beyond knocking on doors to support their candidate. In the end, I appreciated going through the process—it was a slice of Americana that I'd yet to experience—and I am a better citizen for the effort.

That said, I ran on a platform of fire prevention, fiscal responsibility and, mostly importantly, pure independence from any potential conflict of interest. Of course, the voters had their say and I lost, but I've kept my eye on MOFD activities to ensure that the Local #1230 bought and paid for election didn't subsequently overburden me as a taxpayer. As such, I have been a strong voice recently for Director Baitx to recuse himself from participating in the current labor negotiations as he has a black and white conflict of interest as Mr. Cohn points out below. I won't repeat Mr. Cohn's highly articulate presentation of the facts; rather, I will simply second the information as accurate and compelling.

I would also like to inform you and the Board that if these labor negotiations continue with Director Baitx participating, then I will have no other choice than to gather like-minded residents to pursue legal action against MOFD on behalf of Moraga and Orinda taxpayers for the Board not handling this obvious conflict of interest in house.

Sincerely,

Red Smith
[REDACTED]

-----Original Message-----

From: Steve Cohn [REDACTED]

Sent: Wednesday, June 16, 2021 7:14 AM

To: Chief Dave Winnacker <[REDACTED]>

Subject: MOFD Board Meeting Public Comment

Community Demand for Director Baitx's Recusal

MOFD Board:

I don't want to dwell on the community's demand that Director Baitx recuse himself from the current firefighter labor negotiations (but will reiterate the three reasons* he needs to recuse himself or you need to force his recusal if he will not do so voluntarily), but do ask you: "How did you put the community into this position?"

We, and you, knew from the start that there was a huge conflict of interest. Three of you five board members were "sponsored" by the employees' union (accepting \$30,000 of funding; using union money to outspend your opponents 5:1; and allowing firefighters who live outside the district to go house-to-house campaigning for you) in the 2018 election. From the moment you were elected in November 2018, it was obvious that there would be a conflict 31 months later when the union contract expired and you had to negotiate with the very union that helped you get elected. How could there not be when it is so obvious who your benefactors are. The fact that you are not supported by unknown dark money; and that the conflict apparently was sanctioned by the voters; does not make it any less of a conflict.

It is not that you three are carpet baggers, brought in to take over MOFD. You are all long-standing members of the community; none more so than Director Baitx whose family has deep roots in Moraga which even has a street of that name. But, at the very least, you have allowed yourselves to be labeled with the description of "bought-and-paid-for." And, if rumors are accurate, you have earned that label by regularly and privately meeting with the union since your election (please feel free to correct me if those rumors are false ones).

It is everyone's fault, not just the Board's (although it is supposed to be the "adult in the room"), that we have not addressed this issue until now, the 11th hour. This is a true "constitutional crisis." All three conflicted members (Danziger, Donner and Baitx) should recuse themselves. But that would leave the Board without a quorum to agree to a contract with its employees. That may be considered the employee's own fault, having attempted to control their employer's board, but in the end, if we end up with disgruntled employees, it is the community which will suffer. And that may be the community's fault, as it was the one who elected you, but with the short election cycle and scarcity of local media, it is a fact that the wool can easily be pulled over the local electorate's eyes, and you three did the pulling.

So what is the answer out of this mess you got us into?

At the very least, Director Baitx should recuse himself (or be recused by the rest of the Board if that is an option), from firefighter contract negotiations as he is conflicted on not just one but three levels. This would put the union “controlled” directors on an equal footing with the independent directors, making a fair contract more likely.

A stronger (and more appropriate, in my opinion) response would be for all three conflicted directors to recuse themselves. As noted, this would leave the Board with the inability to agree to a contract. The solution to this conundrum would be for one (or more) of the conflicted Board Members to resign and be replaced either by the remaining Board or special election with person or persons “vetted” as independent. You would not be the first MOFD Board Member to resign, so it would not be a badge of dishonor. In fact, it would be considered by many to be the honorable solution to an ugly situation.

Please consider the options and be willing to discuss them.

Sincerely,

Steve Cohn
Orinda

* The three reasons Director Baitx should recuse himself from firefighter employment contract negotiations:

- 1) As an employee of the East Contra Costa Fire Protection District (ECCFPD), Greg Baitx is a member of the same union as the MOFD firefighters. MOFD is currently in contract negotiations with its firefighters, who are represented by their union president, Vince Wells. Wells is also president of Baitx’s union. Baitx cannot reasonably negotiate, in our best interests, against his own union president.
- 2) Any benefits that Baitx agrees to give MOFD firefighters will be used as a benchmark when he and his fellow employees, represented again by Wells, their union president, enter into wage and benefit negotiations with ECCFPD. If he agrees to major increases for MOFD employees, this will help him receive major increases when his district’s contract comes up for renewal.
- 3) The firefighters’ unions, state and local (outside money) provided 90 percent of the funding for his election campaign in 2018. Over \$9,000 for Baitx and over \$10,000 each for his two fellow board members, Steve Danziger and Michael Donner. This completely overwhelmed the local candidates in what used to be a low-key local election. The union bought the election to control this current round of labor negotiations, raising the bar for all regional fire districts. By forcing Baitx to recuse himself, the local directors, Jorgens and Jex, would be on equal footing with Danziger and Donner, bringing back compromise and more local control.

