



# Moraga-Orinda Fire District

## Board of Directors

### CALL AND NOTICE OF A SPECIAL MEETING

October 18, 2021

#### **6:30 p.m. OPEN SESSION / CLOSED SESSIONS**

*This meeting will be conducted by webinar and teleconference only in accordance with AB 361. To protect our residents, officials, and staff, and in accordance with AB 361, all public meetings are being conducted electronically to prevent imminent risks to the health or safety of attendees. The meeting is not available for in-person attendance. Members of the public may attend the meeting by video or phone linked in this agenda.*

#### **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/84889487075>

Webinar ID: 848 8948 7075

**Public Participation** is encouraged by joining via the ZOOM link or the dial-in information above. You can access it 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 feature. If participating by phone, dial \*9 to *raise your hand*. Staff will call on participants by the name provided or last 4 digits of phone number for dial-in attendees. When your name or number is called, a notification is sent requesting that you unmute your microphone. Participants will be called in the order of hands raised to comment.

Written Public Comment can be provided via email at [info@mofd.org](mailto:info@mofd.org).

- Emails received by **3pm** on the day of the meeting will be forwarded to the Board of Directors. Emails will be made a part of the public record and available to view by 5pm on the day of the meeting by following this link [www.mofd.org/agendas](http://www.mofd.org/agendas)
- Comments may also be submitted by e-mail during the meeting up until the closure of the public comment period on the relevant agenda item. These will be read into the record by staff at their normal cadence and will be limited to a maximum of 3 minutes.

If you are participating via meeting link (i.e. web platform), and experience technological difficulties, please re-join the meeting by phone via phone number provided above. In the event the meeting broadcast is disrupted, or if a technical issue on the agency's end disrupts public comment, the board will pause the meeting and will not take any further action on items on the agenda until access is restored.

The meeting will be live streamed via the MOFD YouTube Channel. A link is accessible via the District's website at [www.mofd.org/agendas](http://www.mofd.org/agendas).

#### 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. SPECIAL AGENDA

##### 3.1. **Adopt Resolution No. 21-17 Making Findings and Determining A Need to Continue Holding Remote Meetings By Teleconference**

Staff Recommendation: 1) Discuss; 2) Deliberate; 3) Adopt Resolution No. 21-17 Making Findings and Determining A Need to Continue Holding Remote Meetings By Teleconference.

#### 4. CLOSED SESSION

##### 4.1. **Conference with Labor Negotiator**

(Government Code Section 54957.6)

Agency Designated Representative: Donna Williamson

Employee Organization: Local 1230, International Association of Firefighters IAFF

##### 4.2. **Conference with Labor Negotiator**

(Government Code Section 54957.6)

Agency Designated Representative: Donna Williamson

Employee Organization: Moraga-Orinda Fire Chief Officers' Association

##### 4.3. **Conference with Labor Negotiator**

(Government Code Section 54957.6)


Agency Designated Representative: Donna Williamson  
Employee Organization: Unrepresented Employees

5. RECONVENE THE MEETING
  - 5.1. Call the Meeting to Order
  - 5.2. Roll Call
6. REPORT OF CLOSED SESSION ACTION
7. 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 October 15, 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

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**TO:** Board of Directors

**FROM:** David Winnacker, Fire Chief

**DATE:** October 18, 2021

**SUBJECT: Item 3.1 – Adopt Resolution No. 21-17 Making Findings and Determining A Need to Continue Holding Remote Meetings By Teleconference**

## **BACKGROUND**

On August 16, 2021, the Board directed staff to prepare for hybrid in-person board meetings and provide the public virtual access to the in-person meetings upon the expiration of State Executive Orders pertaining to virtual meetings. This action was in response to the pending expiration of Executive Orders N-25-20 and N-29-20, which suspended some aspects of the Brown Act and allowed for legislative bodies (any council, board, commission, or committee) to hold meetings entirely electronically with no physical meeting place.

On September 16, 2021, Governor Gavin Newsom signed Assembly Bill 361 into law, which modified the Brown Act's requirements for conducting remote meetings by teleconferencing during a declared state of emergency. AB 361 went into effect as an urgency measure to continue using the modified teleconferencing rules as of October 1, 2021, and added Government Code section 54953(e)(1). AB 361 contains several requirements in order to continue the use of remote meetings. AB 361 amendments to the Brown Act expire on January 1, 2024.

These requirements include:

- The Governor must have proclaimed a state of emergency under the California Emergency Services Act (Govt. Code § 8625 *et. seq.*)
- During a proclaimed state of emergency, either state or local officials have imposed or recommended measures to promote social distancing, or that meeting in person would present an imminent risk to the health or safety of attendees.
- Public agencies must protect the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.
- If a disruption prevents the public agency from broadcasting the meeting or prevents the public from offering public comments, the agency will take no further action on items on the agenda until access is restored.
- In order to continue to utilize remote meetings, the Board must reconsider the factors above every 30 days and adopt specified findings that the facts relied upon still exist.

On August 2, 2021, the Contra Costa County Health Officer issued a Health Order (HO-COVID19-51) requiring wearing face coverings in workplaces and public settings due to the rise of the SARS-CoV-2 Delta Variant (attachment A). The Contra Costa County Health Department strongly recommends online teleconference public meetings as remote meetings present the lowest risk of transmission for the COVID-19 virus (attachment B).

Many persons who regularly attend the District's Board meetings are over 65 and therefore considered particularly vulnerable to COVID-19. The Contra Costa County Health Officer outlines

the risks of meeting in person and recommends wearing a mask and staying at least 6 feet away from people if not fully vaccinated.

(<https://www.coronavirus.cchealth.org/safer-social-interactions>)

The Center for Disease Control currently recommends booster shots for groups considered more vulnerable to COVID or more likely to be exposed, demonstrating the ongoing danger of the virus. Per the CDC website, vaccinated persons are vulnerable to the COVID Delta variant and can spread the infection to others (tend to be less likely to become ill and are infectious for a shorter period of time).

(<https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html>).

The State of California is under an emergency declaration regarding COVID-19. Both state and local health officials continue to recommend social distancing and masking to help stop the spread of the virus. The District's current process with respect to live public comment via Zoom satisfies all of the new requirements in AB 361. Since March 2020, the District has seen an increase in public participation as a result of virtual-only meetings.

Staff recommends adopting resolution 21-17, a resolution making findings and determining a need to continue holding remote meetings by teleconference for the meetings of all governing Board and committee bodies (as defined by the Brown Act) pursuant to Assembly Bill (AB) 361 effective immediately. Resolution 21-17 would expire 30-days after the effective date to be revisited every 30 days.

#### **STAFF RECOMMENDATION**

1) Discuss; 2) Deliberate; 3) Adopt Resolution No. 21-17 Making Findings and Determining A Need to Continue Holding Remote Meetings By Teleconference

#### **ATTACHMENTS**

Attachment A- Contra Costa County Health Officer issued a Health Order HO-COVID19-51  
Attachment B- Contra Costa County Recommendations for Safe Public Meetings  
Attachment C- Resolution No. 21-17, A Resolution of the Moraga-Orinda Fire Protection District Making Findings and Determining A Need to Continue Holding Remote Meetings By Teleconference

**ORDER OF THE HEALTH OFFICER OF THE COUNTY OF CONTRA COSTA  
MANDATING THE WEARING OF FACE COVERINGS IN INDOOR PUBLIC  
SETTINGS BY ALL PERSONS IN RESPONSE TO THE SPREAD OF THE DELTA  
VARIANT OF THE VIRUS THAT CAUSES CORONAVIRUS DISEASE 2019, WITH  
SPECIFIED EXCEPTIONS**

**ORDER NO. HO-COVID19-51**

**DATE OF ORDER: AUGUST 2, 2021**

**Summary of the Order**

This Order of the Health Officer requires all persons to wear face coverings while inside indoor public settings located in Contra Costa County (“County”), regardless of whether they have been fully vaccinated against Coronavirus Disease 2019 (“COVID-19”), unless specifically exempted from the face covering requirement.

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040 AND 120175, THE HEALTH OFFICER OF THE COUNTY OF CONTRA COSTA (“HEALTH OFFICER”) ORDERS:

- 1. Basis for Order.** On June 15, 2021, the State of California eliminated its Blueprint for a Safer Economy, a framework for the gradual resumption of business and other activities in sectors that were closed or restricted in response to the COVID-19 pandemic. The same day, the State rescinded its mandate that all persons wear face coverings in indoor settings outside their residences, with certain exceptions, to protect themselves and others from infection with SARS-CoV-2, the virus that causes COVID-19. The universal mandate was replaced with a face covering requirement that exempted persons fully vaccinated with a COVID-19 vaccine, along with other specified persons. On June 17, 2021, the California Occupational Safety and Health Standards Board adopted workplace regulations for the prevention of COVID-19 (“Regulations”). Among other provisions, the Regulations mandate that employers require employees who are not documented as being fully vaccinated to wear face coverings, with certain exceptions.

Several variants of SARS-CoV-2 have developed since the emergence of the ancestral strain. The Delta variant is more contagious than other strains, and is now the dominant strain of the SARS-CoV-2 virus in the County. Over the two-week period ending July 27, 2021, the

seven-day rolling average of new cases in the County more than doubled, from 136.9 cases per day 289.4 cases per day. For comparison, the rolling-seven-day average of new cases was just 44.7 on May 28, 2021. Hospitalizations also more than doubled during the same time period, from a total of 52 (with 12 in intensive care units) to 117 (with 33 in intensive care units). During this timeframe, nearly 80 percent of the specimens analyzed by the County’s public health laboratory were determined to contain the Delta variant of the virus. Even more concerning, the number of “post-vaccination” infections – i.e., infections of persons who are fully vaccinated against COVID-19 – has increased fivefold in the last month. While symptoms in fully vaccinated persons are generally milder than symptoms in people who are not fully vaccinated, this is not always the case. Approximately 20 percent of persons currently hospitalized for COVID-19 in the County are fully vaccinated persons.

Three COVID-19 vaccines have been authorized for emergency use in the United States. According to the U.S. Centers for Disease Control and Prevention (CDC), available evidence suggests that the currently authorized COVID-19 vaccines are highly effective against transmission, hospitalization and death for the Alpha, Beta, Gamma and Delta variants. The CDC has also indicated that emerging data suggests that fully vaccinated people who are infected with the Delta variant may be transmitting the virus to other people.

In line with the above evidence, the CDC on July 27, 2021, issued a recommendation that fully vaccinated people wear face coverings in public indoor settings located in areas of substantial or high transmission of the COVID-19. As of August 2, 2021, the County was in an area determined by the CDC to be an area of high transmission. On July 28, 2021, the California Department of Public Health (CDPH) issued a revised Guidance for the Use of Face Coverings (“State Face Covering Guidance”), which recommends that fully vaccinated people wear face coverings in indoor public settings statewide.

Given the current trajectory in the number of new cases and hospitalizations, the confirmed infection and hospitalization of fully vaccinated people in this County, emerging evidence that fully vaccinated people may be transmitting the Delta variant, and recommendations by the CDC and CDPH that fully vaccinated people wear face coverings in public indoor settings, I have concluded that, to prevent or slow the spread of the Delta variant, it is necessary to require all persons, regardless of vaccination status, to wear face coverings in public indoor settings in the County, with certain exceptions, until further notice.

2. **Face Covering Requirement.** Except as otherwise set forth in this Order, all persons, regardless of whether they are fully vaccinated against a COVID-19 vaccine or not fully vaccinated, shall wear well-fitted face coverings over the nose and mouth in all indoor public settings in the County. For the purposes of this Order, public settings include but are not limited to business offices, retail stores, restaurants, theaters, family entertainment centers, meeting rooms, and State and local government facilities where services are provided to the public.
3. **Operator and Host Requirements.** Businesses, government agencies and other persons that operate indoor public settings, or host events inside indoor public settings, shall:

- a. At all points of entry to the indoor public setting, promptly post conspicuous signage that communicates the face covering requirement of this Order; and
  - b. To the greatest extent practicable, require persons subject to the face covering requirement in this Order to wear face coverings upon entry into and while inside the indoor public setting.
4. **Exceptions.** The face covering requirement of this Order does not apply to individuals in the following circumstances:
- a. When alone in a room.
  - b. When actively eating or drinking.
  - c. When swimming or showering.
  - d. When receiving care or other service that requires removal of the face covering, including by way of example and without limitation, medical care requiring exposure of the nose or mouth, cosmetic services involving the face, and dental procedures.
  - e. When exempt from wearing face coverings under the State Face Covering Guidance or other applicable CDPH guidance. The State Face Covering Guidance exempts the following individuals from wearing masks:
    - (1) Persons younger than two years old. Very young children must not wear a mask because of the risk of suffocation.
    - (2) Persons with a medical condition, mental health condition, or disability that prevents wearing a mask, including persons with a medical condition for whom wearing a mask could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a mask without assistance.
    - (3) Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
    - (4) Persons for whom wearing a mask would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidance.
5. **Conflicts.** Where a conflict exists between this Order and more permissive standards pertaining to the wearing of face coverings set forth in the Regulations, or between this Order and any other Order of the Health Officer in effect, or between this Order and any State Public Health Officer order in effect or CDPH guidance in effect pertaining to the wearing of

face coverings in response to the COVID-19 pandemic, the more restrictive provision controls.

6. **Effective Date and Time.** This Order takes effect at 12:01 a.m. on Tuesday, August 3, 2021, and will remain in effect until it is rescinded or superseded in writing by the Health Officer. The Health Officer will continue to review data concerning the Delta variant and breakthrough infections and transmissions in the County, and reassess the necessity for this Order on an as-needed basis.
  
7. **Copies; Contact Information.** Copies of this Order shall promptly be: (1) made available at the Office of the Director of Contra Costa Health Services, 1220 Morello Avenue, Suite 200, Martinez, CA 94553; (2) posted on the Contra Costa Health Services website (<https://www.cchealth.org>); and (3) provided to any member of the public requesting a copy of this Order. Questions or comments regarding this Order may be directed to Contra Costa Health Services at (844) 729-8410.

**IT IS SO ORDERED:**



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Chris Farnitano, M.D.  
Health Officer of the County of Contra Costa

Dated: August 2, 2021



## **RECOMMENDATIONS FOR SAFELY HOLDING PUBLIC MEETINGS**

Each local government agency is authorized to determine whether to hold public meetings in person, online (teleconferencing only), or via a combination of methods. The following are recommendations from Contra Costa County Health Services to minimize the risk of COVID-19 transmission during a public meeting:

1. Online meetings (teleconferencing meetings) are strongly recommended as those meetings present the lowest risk of transmission of SARS-CoV-2, the virus that causes COVID-19.
2. If a local agency determines to hold in-person meetings, offering the public the opportunity to attend via a call-in option or an internet-based service option is recommended, when possible, to give those at higher risk of and/or higher concern about COVID-19 an alternative to participating in person.
3. A written safety protocol should be developed and followed. It is recommended that the protocol require social distancing – i.e., six feet of separation between attendees – and face masking of all attendees.
4. Seating arrangements should allow for staff and members of the public to easily maintain at least six-foot distance from one another at all practicable times.
5. Consider holding public meetings outdoors. Increasing scientific consensus is that outdoor airflow reduces the risk of COVID-19 transmission compared to indoor spaces. Hosting events outdoors also may make it easier to space staff and members of the public at least six feet apart.
6. Current evidence is unclear as to the added benefit of temperature checks in addition to symptom checks. We encourage focus on symptom checks as they may screen out individuals with symptoms but no fever and help reinforce the message to not go out in public if you are not feeling well.
7. Consider a voluntary attendance sheet with names and contact information to assist in contact tracing of any cases linked to a public meeting.

Chris Farnitano, MD  
Health Officer, Contra Costa County  
*Revised 9.20.2021*

**RESOLUTION NO. 21-17**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
MORAGA ORINDA FIRE PROTECTION DISTRICT  
MAKING FINDINGS AND DETERMING A NEED TO CONTINUE  
HOLDING REMOTE MEETINGS BY TELECONFERENCE**

**WHEREAS**, the Board Of Directors of the Moraga Orinda Fire District (“District”) is committed to preserving public access and participation in meetings of the Board of Directors; and

**WHEREAS**, all meetings of the District’s Board are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code §§ 54950 – 54963), so that any member of the public may attend, participate, and watch the Board conduct its business; and

**WHEREAS**, Government Code section 54953(e) of the Brown Act, allows a legislative body to hold a teleconference meeting, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

**WHEREAS**, in order to meet by teleconference under Government Code section 54953(e), the Governor must have proclaimed a state of emergency under the California Emergency Services Act (Govt. Code § 8625 *et. seq.*); the legislative body must reconsider the circumstances of the state of emergency; and the legislative body must find that the state of emergency continues to directly impact the ability of the members to meet safely in person and/or state or local officials continue to impose or recommend measures to promote social distancing; and

**WHEREAS**, on March 4, 2020, Governor Newsom proclaimed a State of Emergency declared by Governor Newsom under the California Emergency Services Act due to COVID-19, which is still in existence; and

**WHEREAS**, on August 2, 2021, the Contra Costa County Health Officer issued a Health Order requiring the wearing of face coverings in workplaces and public settings due to the rise of the SARS-CoV-2 Delta Variant, which is still in effect, and strongly recommended online teleconference public meetings as those meetings present the lowest risk of transmission for SARS-CoV-2, the virus that causes COVID-19; and

**WHEREAS**, many persons who regularly attend Board meetings are over the age of 65 and therefore considered particularly vulnerable to COVID-19; and

**WHEREAS**, the District provides in the public notices and agendas for all public meetings the online and telephone options for participation in public meetings, protecting the right of the public to address their local officials and to participate in public meetings, and posts this information on the District’s website, including instructions on how to access the public meeting remotely.

**NOW, THEREFORE BE IT RESOLVED**, that the Board of Directors has reconsidered the circumstances of the state of emergency; and, be it

**FURTHER RESOLVED**, that the Board finds that State or local officials continue to impose or recommend measures to promote social distancing and that State of Emergency declared by Governor

Newsom on March 4, 2020, continues to directly impact the ability of Board members, staff, and the public to meet safely in person; and, be it

**FURTHER RESOLVED**, that the Board finds that because of the aforesaid declared State of Emergency, meeting in person would present an imminent risk to the health or safety of meeting attendees; and be it

**FURTHER RESOLVED**, that the Board authorizes and directs the Fire Chief to place on the Board's agenda, at least once monthly, reconsideration of the State of Emergency to determine whether circumstances warrant continuing to meet by teleconference under Government Code section 54953(e)(3); and be it

**FURTHER RESOLVED**, that the Board does hereby direct that its Committees make these same findings until directed otherwise by the Board; and be it

**FURTHER RESOLVED**, that the Board authorizes and directs the Fire Chief to take all actions necessary to carry out the intent and purpose of this Resolution including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

**FURTHER RESOLVED**, that this Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) November 19, 2021, or such time the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the District's Board may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

**PASSED, APPROVED and ADOPTED** this 18<sup>th</sup> day of October 2021 at a 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 21-17**  
**Dated: October 20, 2021**

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Craig Jorgens, President  
Board of Directors

ATTEST:

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Marcia Holbrook  
District Secretary/District Clerk