



Moraga-Orinda Fire District
 BOARD OF DIRECTORS
 REGULAR BOARD MEETING MINUTES
 July 20, 2022
 (APPROVED AUGUST 17, 2022)

1. OPENING CEREMONIES

The Board of Directors convened a teleconference Open Session at 7:00 p.m. on July 20, 2022, via the Zoom application <https://us02web.zoom.us/j/87353617019>, webinar id: 87353617019 and by phone 669-900-6833. This meeting was conducted by webinar and teleconference only in accordance with AB 361. The meeting was not available for in-person attendance.

President Donner called the meeting to order, requested an attendance roll call, and led the pledge of allegiance.

President Donner Director Baitx (Absent) Director Danziger Director Jex	Director Jorgens Dave Winnacker, Fire Chief Gloriann Sasser, Admin. Services Christine Russell, HR Manager	Mary Smith, Finance Manager Jonathan Holtzman, District Counsel Marcia Holbrook, District Clerk
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2. CONSENT AGENDA (audio 2:41)

- 2.1 Adopt Resolution 22-23 Re-Ratifying Findings and Determining A Need to Continue Holding Remote Meetings By Teleconference/ Staff Recommendation: Adopt Resolution 22-23
- 2.2 Meeting Minutes – June 15, 2022 (Regular)/Staff Recommendation: Approve and File
- 2.3 Monthly Incident Report – June 2022/Staff Recommendation: Approve and File
- 2.4 Monthly Check/Voucher Register – June 2022/Staff Recommendation: Approve and File
- 2.5 Monthly Financial Report – June 2022/Staff Recommendation: Approve and File
- 2.6 Dissolve the MOFD 25th Anniversary Celebration Ad Hoc Committee/Staff Recommendation: Dissolve 25th Anniversary Ad Hoc Committee

Director Danziger requested items 2.3 and 2.4 be pulled from the Consent Agenda.

Motion by Director Jex and seconded by Director Jorgens to approve Consent Agenda items 2.1, 2.2, 2.5, and 2.6 Said motion carried 4-0-1-0 roll call vote (Ayes: Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: Baitx; Abstain: None).

2.3 Monthly Incident Report – June 2022

Director Danziger inquired about the Response Time Summary on the report and the possibility of future modifications. Fire Chief Winnacker confirmed changes could be made and explained that all of the components currently in the report are included due to prior board direction.

2.4 Monthly Check/Voucher Register – June 2022

Director Danziger inquired if there was a policy for the distribution of the volunteer uniforms. Fire Chief Winnacker explained the volunteer uniforms are for members of the Communication Support Team 241/Disaster Volunteer Service Workers. There are a limited number of members and their uniforms are a budgeted item under Emergency Preparedness. President Donner asked if this group included CERT volunteers. Fire Chief Winnacker answered CERT is a separate category organized under the LAMORINDA CERT Foundation. Disaster Volunteer Service Workers are capable of driving the breathing support unit and can be called out to support fires and other extended incidents with the District's rehab unit. Director Jorgens inquired about unit 459 and the \$760 expense for an oil change and brake inspections. Fire Chief Winnacker answered there was a significant amount of service performed and would obtain the service details. Director Jorgens asked about the \$16,000 emergency air conditioning expense. Fire Chief Winnacker answered the cost was for a new system due to the age of fire station 45.

Motion by Director Danziger and seconded by Director Jorgens to approve Consent Agendas items 2.3 and 2.4. Said motion carried 4-0-1-0 roll call vote (Ayes: Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: Baitx; Abstain: None).

President Donner opened the public comment for the consent agenda items.

Jonathan Goodwin, Canyon resident, commented that asking the public if they want to pull an item on the consent agenda is customary. Mr. Goodwin questioned why the brush on the side of Canyon road was left by the District but the brush was picked up in Moraga. The County dumped wood chips on top of the desiccated material left by the District, creating a fire danger. Mr. Goodwin made recommendations regarding emergency preparedness, encouraging the District to go towards a Standard of Coverage model to prepare for a future

major regional event, and provided a list of considerations. Mr. Goodwin suggested a task force be created to develop recommendations for the District.

Lisa Foster, Orinda resident, informed the Board that the chat was disabled. District Clerk Holbrook enabled the chat, and President Donner verified with Ms. Foster that the chat was working.

Director Danziger commented that Mr. Goodwin's public comment did not pertain to the consent agenda items and the comments should have been made during the public forum. Director Danziger responded to Mr. Goodwin that as a constituent of District 3, he would reach out to go over the items and possibly bring the items back at a future Board meeting.

District Clerk Holbrook reported receipt of an email from an attendee participating by phone who wanted to provide public comment and had difficulty using the raise hand feature. District Clerk Holbrook communicated with the attendee and received written public comment to read into the record.

Director Danziger asked if the public comment pertained to the consent agenda. Director Jorgens commented that the Board had already voted on the consent agenda, and public comment should be before the vote. District Clerk Holbrook received the written public comment from Dave Schnayer, Moraga resident, and proceeded to read it into the record. Director Danziger suggested that the public comment be read under item three, public comment on items not on the agenda. President Donner allowed the public comment.

Written Public Comment, Dave Schnayer, Moraga resident, commented on his dissatisfaction with interactions with the Fire Chief regarding the violations on his property and discriminatory action by the District. Mr. Schnayer appreciated the professionalism of the Fuels Mitigation Specialist; however, complained of not receiving a response to correspondence sent to Director Jex or from any other Board members. Written public comments are attached to these minutes.

Director Jorgens responded he had never seen any unprofessional behavior from the Fire Chief and would contact Mr. Schnayer with District Counsel. President Donner added he has been to dozens of engagements where the Fire Chief has spoken publicly and has been nothing but professional, courteous, and polite. President Donner offered to attend the call with Director Jorgens and District Counsel. District Counsel Holtzman confirmed to schedule a time. District Counsel Holtzman asked if the Board voted on the items pulled from the consent agenda. President Donner confirmed.

There were no additional requests to address the Board. President Donner closed public comment.

3. PUBLIC COMMENT - ITEMS NOT ON THE AGENDA (audio 21:42)

President Donner opened the public comment.

Marc Evans, Orinda resident, commented that the process of public comment is disruptive and recommended the public send comments ahead of the meeting to the Board, as it was challenging to listen and understand the comments. President Donner responded that the Board would consider the suggestion.

Chris Young, a resident, expressed appreciation for the Lamorinda Wildfire Preparedness and Evacuation Guide sent to the community.

There were no additional requests to address the Board. President Donner closed public comment.

4. PUBLIC HEARING (audio 25:11)

4.1 Public Hearing on failure to comply with the Notice to Abate order for 34 La Campana Road, Orinda CA, APN: 262191005; declare the property a seasonal and recurrent nuisance and order Fire Chief to abate the property

Fire Chief Winnacker provided the report. The property located at 34 LA CAMPANA ROAD, ORINDA, CA 94563, APN: 262191005 ("the Property"), has recurring property violations identified in a 30-Day Exterior Fire Hazard Property Assessment Notice issued to the Property owner on September 8, 2021, and in the Notice to Abate Letter issued on October 15, 2021. On November 4, 2021, staff issued a Pre-Citation letter to the existing and recurring violations on the parcel. On April 21, 2022, staff issued an Administrative Citation for failing to correct the property's identified violations. On May 19, 2022, a second Administrative Citation was issued for failure to correct the identified violations. On June 2, 2022, a Pre-Lien notification was sent to the owner, notifying the owner that the District would be moving forward with an Abatement hearing. On June 23, 2022, the Abatement Hearing Notification was mailed, notifying the owner that the Board would convene an abatement hearing for the property. Staff recommended the Board adopt Resolution 22-22, a Resolution of the Moraga-Orinda Fire Protection District declaring fire hazards on 34 La Campana Road, Orinda CA, APN 262191005, a seasonal and recurrent public nuisance and directing the Fire Chief to abate these nuisances at the Property owner's expense.

President Donner opened the public hearing.

Fire Chief Winnacker asked if the property owner or representative was present. District Clerk Holbrook confirmed Tish Gleason and Keith St. Clair were present.

Tish Gleason, the property owner's representative, stated Keith St. Clair would be talking as Mr. St. Clair has been working on the abatement. The property owner never reads the notices because he is physically (inaudible) challenged and refuses to open his mail. Mr. St. Clair has paid the \$300 in fines.

Keith St. Clair stated he was unaware of what was happening with the property until notified by Fuels Mitigation Manager Graham. Mr. St. Clair reported he had completed removing trees and grass over the last nine weeks. Mr. St. Clair plans to start a GoFundMe fundraiser to continue mitigation. Due to a recent complaint, Mr. St. Clair met with Fuels Mitigation Manager Graham and Fire Marshal Isaacs at the property to identify the hazards, and the District found nine other dead trees. Mr. St. Clair requested more time to clear the violations and has an excavator and tree person coming to work on the property. Mr. St. Clair stated he has gone way beyond what the original photo showed in violation. Mr. St. Clair described the removal of ivy out of trees, cleaned the driveway and the bamboo from the front of the house.

Fire Chief Winnacker asked if the 14 dead trees remained on the property. Mr. St. Clair answered they had five removed, and nine more were found by the Fuels Mitigation Manager and Fire Marshal. Mr. St. Clair was unaware of the nine dead trees until the recent complaint was received by the District on July 15, 2022. Mr. St. Clair requested more time since he was just recently made aware of the complaint and of the nine dead trees. Mr. St. Clair stated his goal is to take out everything and get the property mitigated. A friend will weed eat the property going forward. The only hazards remaining are the nine trees.

Fire Chief Winnacker had no additional comments other than the District has been in touch with Mr. St. Clair. The staff has made several site visits attempting to contact the property owner, which were unsuccessful. The owner does not read his mail, and the attempts to discuss the hazards with the homeowner have been unsuccessful.

Mr. St. Clair confirmed that the owner would go and hide when the District came to the door. The owner has a reverse mortgage, and if the District places a lien on the house, the reverse mortgage will not allow that, and the owner will be homeless. The owner has no place to go and is scared. Mr. St. Clair cautioned the District on the fragile state of the owner.

President Donner asked if work had been done on the property in the last two weeks. Mr. St. Clair confirmed. Mr. St. Clair stated he is waiting for the Board's confirmation for the extra time to get the GoFundMe going. President Donner thanked Mr. St. Clair for his comments and helping out his neighbor.

President Donner asked if staff had been up to the property in the last couple of weeks to see what work had been done. Fire Chief Winnacker answered no. Until July 20, 2022, staff was unaware that Mr. St. Clair had done the additional work. Fire Chief Winnacker pointed out the dead trees constitute a violation of the fire code and the violations are spread over several years. Director Jorgens asked if the mitigation depends on the success of the GoFundMe. Tish Gleason answered the mitigation would happen without the GoFundMe. Mr. St. Clair interjected that he needed the GoFundMe to fund the work. Director Jorgens commented on the challenge for the Board. Tish Gleason intervened and stated it would happen without a GoFundMe.

Director Jex asked if a two-week extension would accomplish the removal of the violations. Ms. Gleason asked Mr. St. Clair if he thought the contractor could do the work in two weeks. Mr. St. Clair responded he could not get the GoFundMe in two weeks. Ms. Gleason replied she would put up the money and to worry about the GoFundMe later. Ms. Gleason asked Mr. St. Clair if he could schedule the contractor to do the work within two weeks. Mr. St. Clair answered he did not think he could but would call the contractor the next day. The property is on the schedule but the contractor is busy and scheduled. Ms. Gleason asked if Mr. St. Clair could talk with the contractor tomorrow, July 21, 2022. Mr. St. Clair confirmed and provided the name of the contractor. Ms. Gleason reaffirmed that she would put up the money and figure out details later if the contractor could complete the work in two weeks. Director Jorgens expressed support.

President Donner asked if some type of extension to complete the work would be acceptable to staff. Fire Chief Winnacker answered yes, and stated it is within the Board's authority to either not approve the district-funded work, approve it, or direct staff to delay taking action. Fire Chief Winnacker pointed out that in this case, the engagement with the property began with complaints from neighbors who correctly

pointed out that there were violations of the fire code on the parcel. From staff's perspective, the fire code has a process that staff must follow. A resident complaint brought the District to that parcel, and violations were found upon inspection. Fire Chief Winnacker affirmed directing staff to delay to allow more time for the owner or representative of the owner to complete the work is preferential. District-funded work incurs additional staff time, and an administrative fee levied against the property. Director Jorgens supported approving an extension in order to provide several additional weeks for corrective action to be taken by the parcel owner. Should the required work not be accomplished by the next regular meeting, the Board can hold another hearing.

Mr. St. Clair commented on the complaint made on July 15, 2022. The complaint was regarding the nine trees in violation. Mr. St. Clair stated the work would get done. Director Jorgens suggested Mr. St. Clair consider preempting future mitigation needs and cut down more of the trees before they die. Mr. St. Clair concurred. Director Jorgens clarified the suggestion is not a fire code recommendation, just a suggestion for Mr. St. Clair to consider since the equipment and contractor will already be there.

Director Danziger stated the situation has been going on since September 2021, and he has reviewed all the neighbors' comments and pictures. Director Danziger supported an extension and recommended approving the resolution and directing the Fire Chief to abate the property and hold it in abeyance for a certain amount of time. Director Danziger opined that if the Board delays until next month, which would be an additional four weeks, the situation could go on all summer. Director Danziger expressed concern regarding delaying Board action and the work being completed.

Ms. Gleason responded that a couple of others would put in money to get to \$25K to have the work done. The pending task is to talk to the contractor, ask where the property is scheduled on the list, and see if they can move it up. Mr. St. Clair stated he received verbal support from neighbors for the GoFundMe.

Director Jorgens asked if there was a price estimate from the contractor. Ms. Gleason confirmed the quote is for \$25K. Director Jorgens reconfirmed Ms. Gleason's commitment to fund the \$25,000 cost of abatement. Ms. Gleason confirmed that she is not the only person putting money towards the abatement.

Director Jex supported giving the two-week extension; if work is done in a couple of weeks, or at least almost complete, the Board can reevaluate or give management the authority at that point. Director Jorgens asked if it was acceptable to require a signed prepaid contract stating the work would be completed within the next month. Fire Chief Winnacker concurred as long as it is within 30 to 60 days. The District has a history of accepting that course of action to stop the fire code citation process, given the potential backlog for demand fuel mitigation this time of year. Director Jorgens inquired with Ms. Gleason if that was reasonable. Ms. Gleason confirmed. Director Jex expressed support. President Donner and Director Jorgens agreed.

Marc Evans, Orinda resident, expressed disappointment and did not support the decision to give the homeowner an extension.

Director Jorgens responded that the Board's objective is to have the work done in the next 30 days by the resident or representatives. The Board supports having the District abate the property, pass the resolution, and give the owner's representatives two weeks to sign a prepaid contract and 30 days to complete the work. Mr. Evans replied this situation was not just something that happened this year, reiterating his disappointment and opposing the decision.

Jonathan Goodwin, Canyon resident, briefly explained that 3 minutes is not a long time to express oneself, which is why he spoke so fast during earlier comments. Mr. Goodwin supported the decision by the Board, and the compassion shown to the homeowner.

Charles Foster, Orinda resident and neighbor to the Property owner asked if the District's position is that the District does not care how the work gets done as long as it gets done. The resident is not capable of living in Orinda anymore. It appears the District does not care how the abatement is done as long as certain boxes are checked regarding fire material removal.

Fire Chief Winnacker answered from a process standpoint the District does not prioritize the method through which compliance is achieved so as long as the fire hazards are abated and the fire code requirements are met. There is a strong bias for work being done voluntarily by the resident or the property owner. This is more efficient and does not consume additional District resources to oversee the completion of the work which then forces the administrative process of recouping reimbursement of the administrative fee.

Mr. Foster added that the community needs to be aware that the problem will get solved in the short term, but it will not go away because the brush will grow back. For the record, there needs to be an understanding that the people, such as Mr. St. Clair, currently helping the Property owner, will not always be around and this help is finite.

Director Jorgens motioned to approve the item as presented and direct the Fire Chief to hold off abating for 30 days so long as, within the next two weeks, the District has a signed contract from the owner or owner representatives to finish the abatement within a set timeframe. Director Jorgens recommended 30 days. Director Jex seconded the motion. Director Danziger requested the motion to be restated.

Director Jorgens stated the motion is to approve the item as presented and delay the enforcement if there is a signed contract received within two weeks to complete the abatement during the next 30 days, or the District will proceed with the district-funded abatement. Director Danziger rephrased the District would approve the order to declare 34 La Campana a seasonal recurrent nuisance, a signed contract within two weeks stating the work will be completed within 30 days. Director Jorgens confirmed. Director Danziger supported the motion.

There were no additional requests to address the Board. President Donner closed the public hearing.

Motion by Director Jorgens and seconded by Director Jex to adopt Resolution 22-22, a Resolution of the Moraga-Orinda Fire Protection District declaring that fire hazards on 34 La Campana Road, Orinda CA, APN 262191005 constitute seasonal and recurrent public nuisances and directing the Fire Chief to abate these nuisances at the property Owner's expense. The Fire Chief is to delay abatement for two weeks to allow the property Owner to obtain a signed contract to complete the abatement work within 30 days. Said motion carried 4-0-1-0 roll call vote (Ayes: Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: Baitx; Abstain: None)

Director Danziger commented in reviewing the documents and exhibits there is considerable trash around the house, combustibles, and other hazards besides the dead trees. All the hazards have to be done within this period.

5. ANNOUNCEMENTS (audio 1:00:26)

5.1 Brief information only reports related to meetings attended by a Director at District expense (Government Code Section 53232.3(d)). No Report.

5.2 Questions and informational comments from Board members and staff. Director Danziger appreciated the staff and the Board for supporting all the activities for the 25th Anniversary celebrations, celebrated on July 1, 2022.

5.3 Communications Received. Fire Chief Winnacker reported correspondence received by Pete Nowicki. Fire Chief Winnacker announced that one written public comment was received by 3:00 p.m.

Steve Cohn, Orinda resident expressing strong disagreement with the Pete Nowicki correspondence. The comment was forwarded to the Board of Directors and made available for viewing on the District website, attached to the minutes as item 5.3 public comments.

5.4 Fire Chief Updates

a. Finance Report

Finance Manager Smith provided the report and presented the status of OES reimbursements, attached to these minutes, item 5.4(a). Other items reviewed were the FY22 closing is in process, payroll increases and CCCERA rate increases effective 7/1/22 have been input in ADP, and OES Salary Survey updated with new rates.

Director Danziger inquired about the new bank and the lockbox. Finance Manager Smith answered there were a couple of glitches with the new bank, which have been resolved. The new bank and the lockbox are working smoothly. Director Jex asked how quickly the District will recover the net receivable outstanding balance versus prior years. Finance Manager Smith answered that the District receives the invoices from OES much quicker than in the past. The timing of how quickly the District will receive payment is unknown. The invoices have been received more quickly, and these assignments were not tied to COVID. The ones that took so long were the ones tied to COVID, which did not have an end date. Fire Chief Winnacker stated CAL FIRE and OES do not close out the payment of an incident until the incident is declared under control. For COVID, the District incurred the cost during that time as it was left open for 18 months. Incidents this time of year tend to be measured in days. In fire season, those incidents can run for months (90-100 days) before the paperwork is started for processing.

b. Human Resources

Human Resources Manager Russell provided the report. The firefighter/paramedic oral board interviews were hosted in mid-June. Eleven out of the 33 candidates passed and moved to the paramedic evaluation, which was conducted on Friday, July 15, 2022. From the paramedic evaluation, seven out of the ten candidates passed, and one candidate withdrew. The eligibility list has been established and will be good for two years. The top three candidates on the eligibility list are moving forward with the background investigation process. Director Danziger asked if any of the candidates were lateral. Human Resources Manager Russell answered no. The laterals that applied did not qualify as lateral candidates. Director Danziger asked about the male-female ratio. Human Resources Manager Russell was not able to share that information.

c. Fire Marshal

Fire Chief Winnacker provided the report and outlined the statistics in the Monthly Fire Prevention report included in the Board packet. The significant increase in the 15' EVA violations is due to virtual inspections. Staff has transitioned the scheduling of the Measure R chipper to the City of Orinda. There has been a significant increase in phone calls due to issuing pre-citations and citation notices and revisiting parcels to educate the owner upon request. The revisiting of parcels takes a significant amount of Staff time and inhibits the District's ability to expand inspections into other areas. The large parcels and government-owned properties are generally complaint driven. District resources continue to be consumed by recurrent violations on the roadsides, the large privately owned parcels, and the government/publicly owned parcels. Director Danziger asked about the Fire Inspector/Plans Examiner position status. Fire Chief Winnacker answered Human Resources would be posting the job within the next week. Director Danziger asked if staff would post the job on social media. Fire Chief Winnacker confirmed. Director Jorgens inquired why the District is still renting or leasing a chipper/truck since it is not being used during these months and inquired on the status of purchasing the chipper truck. Fire Chief Winnacker to review the leasing information on the leased chipper/truck.

d. Operations

Fire Chief Winnacker provided the report and shared a PowerPoint presentation, attached to these minutes, item 5.4(d). A fire incident occurred near the Moraga County Club on June 20, 2022. The fire was started by a contractor performing required fuel mitigation past the deadline in response to a citation notice. Fire Chief Winnacker described the aggressive attack by ground crews. The fire was contained to 1 acre. Director Jorgens asked if the District could require anybody doing abatement work to carry a fire extinguisher. Fire Chief Winnacker responded that it is already a requirement of the California Fire Code. Director Danziger commented on the significant amount of work being done in the area by heavy equipment and asked if the work resulted from the direction of the District.

Fire Chief Winnacker answered the property owner was cited for several seasonal recurrent violations on a number of their parcels throughout the area. Some of the work is in accordance with the fire code requirements. On June 16, 2022, the District responded to a serious injury in Tilden Park, where two heavy pieces of paving equipment crushed a man. Based on the information in the call, an air ambulance was immediately requested. The patient was administered a newly authorized medication called Tranexamic acid (TXA), which helps prevent internal bleeding. The patient was assessed, treated, and en-route to the landing zone to meet the helicopter within 10 minutes of patient contact.

The patient was flown to the nearby trauma center and is recovering well after multiple surgeries. The incident speaks to the importance of the EMS and a well-integrated system (dispatch, the firefighter-paramedics, the engine, the ambulance, and all available transport options, including an air ambulance). The incident represents a best-case scenario of how quickly care can be administered and a patient can be transported. On July 8, 2022, a San Pablo Dam Road vehicle fire spread into nearby vegetation and was contained before spreading up the hill. A vehicle crashed into a creek on North Lane. Crews obtained access and cut power to the vehicle before it ignited. On June 24, 2022, Probationary Firefighter-Paramedic Kevin Pobre and Firefighter-Paramedic Matt Cooper graduated from Berkeley Fire District's academy. Fire Chief Winnacker congratulated and welcomed the recruits.

Fire Chief Winnacker reviewed the completed prescribed fires in the areas of Campolindo Ridge (11 acres), Painted Rock-Rheem Blvd, and Moraga Rd. (40 acres), and Bear Creek Rd./Bear Ridge Rd. (2 acres). Fire Chief Winnacker explained how prescribed fire is a valuable tool because it promotes the restoration of native plant growth. The environment is fire-adapted, where the exclusion of fire lends to the intrusion of invasive nonnative combustive species. Once those fuels have been ignited by prescribed fire, they are not available to burn again in the year, reducing the potential for

uncontrolled wildfire in those areas. The prescribed fire also provides valuable training for firefighters. Fire Chief Winnacker expressed gratitude for the community support. Prescribed fire is the absolute best tool to reduce the prevalence of combustive fuels and sets the stage for the long-term return of cows to the areas. In the out-years, the grazing will be supported by the cyclical reintroduction of fire on a five to seven-year basis to mimic the natural cycle.

On July 4, 2022, the community safely celebrated the 4th of July. Fire Chief Winnacker thanked surrounding agencies and volunteers who staffed fire watch locations throughout the district. Captains Mike Marquardt and Mike Lacy were deployed as Safety Officers to the Electra Incident in Amador County. Captain Lacy was also assigned to the Washburn Fire as a Safety Officer and Firefighter-Paramedic Josh David as a Fireline Paramedic-Trainee. Firefighter-Paramedic David supported a significant fire line medical evacuation event building his real-world experience.

President Donner inquired about the new drug administered during the Tilden Park incident and if that drug had been added to the District's drug boxes. Fire Chief Winnacker confirmed. Director Danziger commented on a shout-out from Oakland Fire Chief Freeman, thanking the District for the training opportunity provided during the prescribed burn. Fire Chief Winnacker stated it is an excellent opportunity and ancillary benefit of getting agencies together to develop those lines of communication for future joint responses in coming together on a large vegetation fire.

President Donner opened Public Comment for items 5.1-5.4.

Marc Evans, Orinda resident, inquired about the YTD and June exterior hazard inspections and asked if there has been an increase in staff or efficiency in assessments. Fire Chief Winnacker answered increased efficiencies associated with roadside inspections. Mr. Evans asked how the assessments compare to 2021. Fire Chief Winnacker answered 2021 YTD end of June was 1798. Director Jorgens added if the increase is due to the automated virtual inspections.

There were no additional requests to address the Board. President Donner closed Public Comment. No further discussion by the Board.

6. REGULAR AGENDA

6.1 Implementation of the Home Hardening Grant Program (audio 1:27:06)

Fire Chief Winnacker provided the report. At the May 2022 Board meeting, staff presented a \$500k home hardening grant program. The directors discussed the Home Hardening Grant program guidelines and unanimously agreed to provide grants for the purchase of ember-resistant vents not to exceed \$1,000/parcel, not to include labor. Eligible projects are limited to retrofitting existing residential vents, not otherwise required by code, using materials and construction methods approved for ember-resistant construction per the standard identified in Section 7A of the California Building Code and/or R337 of the California Residential Code. Following the budget adoption, staff reviewed existing residential retrofit grant programs to determine best practices. This research determined that grants of \$600 or more require a 1099 and must be reported as income. Grants of \$599 or less do not require reporting. Verification of residency is required. Grants in the form of in-kind material generate the least administrative burden and are the most efficient due to bulk purchasing.

Staff ordered BushFire 1/16" mesh and will begin distributing this material shortly. More information will be made available via the District's website, and social media feeds when the material is ready for distribution. For residents who wish to be reimbursed for commercially available vents, Proof of residency or property ownership in the district, Proof of purchase showing the product make and model, A copy of the OSFM Building Materials Listing Category 8165 Vents for Wildland Urban Interface entry for the make and model shown on the proof of purchase, and Proof of installation in the form of digital photos with date and location available in the meta data are required. New construction and major remodels requiring ember-resistant construction by code are not eligible to participate in this program. Requests for reimbursement not to exceed \$1,000 will be processed monthly via check.

President Donner opened the public comment.

Marc Evans, Orinda resident, inquired about the value of the material ordered and if the District will try to help coordinate or share information with the homeowner on some typical costs and/or providers for the labor.

Fire Chief Winnacker answered the price per roll for a 50-foot length is \$125 plus \$34 in freight, total \$159. The 100-foot roll is \$250 plus \$55 freight, total \$305. The District distributed six rolls of the 50-foot for feedback. The feedback is confirmed. Vents are generally 14" long. Multiply 50 x 12" divided by

14 for the number of materials. The staff has ordered additional material not to exceed the purchasing requirements. Based on feedback, the version supplied has been well received, and is only available from a single vendor, who is the sole source for government purchasing. The cost of labor is dependent on the particular parcel and multiple variables. The District does not make referrals but can provide a list of contractors who are capable of doing the work that residents can select if they choose to hire a contractor.

There were no further requests to address the Board. President Donner closed public comment.

Director Jorgens commented on his conversation with Bushfire recommending they provide circular vents for foundation vents and maybe other sizes for vents on the side of houses. Director Jorgens stated he has received a number of inquiries about gutter guards, and recommended adding gutter guards to the program. Fire Chief Winnacker referred to the previous discussion that there is not a building material listing for 7A gutter guards. Staff would require more time to do additional research to determine if similar ul numbers would allow categorization of the appropriate type. Staff would not want to see a program that resulted in the installation of plastic or other combustible gutter guards. Fire Chief Winnacker expressed concern about how staff could confirm that gutter guards were of the appropriate type so it did not inadvertently contribute to fire danger.

Director Danziger asked if residents would have to buy an entire roll of the material. Fire Chief Winnacker answered the District would be providing the material in kind. The District will cut the material into 14" lengths to match the standard length of a vent. The distribution will be organized similarly to the CERT drum sales.

Director Danziger explained one of his neighbors asked about the program and if they should install mesh around the lattice. Fire Chief Winnacker answered it is preferred to box in a deck with solid material. If a resident were to install mesh, depending on the deck size, that would be a massive amount of mesh. The District's mesh is 7/12" in height, which would not be appropriate. In the program's spirit, boxing in a deck would be different than retrofitting ember-resistant vents. Director Jorgens added that he talked to a person from Australia where a product is sold (in different sizes), and there is a program that encourages mesh to be installed outside of lattice work to prevent embers from getting through. In Australia, it is part of the fire code.

Director Danziger asked if the effective date for the program is July 1, 2022, and if a resident can be retroactively reimbursed for installing the vents. Fire Chief Winnacker deferred to the Board.

Director Danziger proposed effective date of July 1, 2022. Director Jorgens agreed. Director Danziger asked if the program could be implemented with existing staff. Fire Chief Winnacker answered that it is to be determined based on the demand and what form the demand will take regarding reimbursement requests or if residents are picking up the mesh. Emergency Preparedness Coordinator Rein and volunteers have been good about cutting the material, staffing tables to check the driver's license, confirming the person has an address within the District and checking them off a list. Currently, it is a particularly busy time of year, primarily because of the large number of residents who request that staff come and explain their fire code violations.

President Donner recommended a 90-day reimbursement policy to give staff time to process reimbursements. Fire Chief Winnacker concurred and added that the District would process 1099's (reimbursements greater than \$600) during the annual submission to the IRS, which occurs in January or February.

Director Jorgens suggested utilizing the Firewise neighborhoods to help organize and coordinate neighborhoods. Fire Chief Winnacker concurred. No further discussion by the Board.

6.2 Authorization to Contract with Definitive Networks, Inc. for Information Technology Services and Fiber Connections for the period October 1, 2022, through June 30, 2025, with an Option to Extend Two Years. (audio 1:44:00)

Administrative Services Director Sasser provided the report. The District has contracted with Definitive Networks, Inc. (DNI) for information technology services since 2005. The District employs no staff to perform any information technology functions. The current contract with DNI expires on September 30, 2022. Issuance of a request for proposals was required for this contract. In January 2022, staff contracted with ClientFirst Technology Consulting to assist with the RFP process. Based on recommendations from ClientFirst Technology, the RFP included several changes to reflect the District's needs and current technology standards. ASD Sasser introduced Tom Jakobsen, Senior Partner with

ClientFirst Technology, to review the current situation, the work that was performed, and the improvements that were included in the requirements.

Mr. Jakobsen, ClientFirst Technology, shared how ClientFirst specializes in local government consulting and has over 30 years of experience in the information technology field. Mr. Jakobsen highlighted the recommended technology changes put into the RFP. The recommendations included the following: moving away from thin client technology to more of a desktop and laptop technology because of increased video needs, shifting away from localized email to Office 365, improving disaster recovery and backup solutions, and refreshing technology regularly. The RFP was issued in early May 2022. The RFP was available for vendors to respond to for six weeks. Six vendors attended the mandatory bidder's conference. A single written amendment was made to the RFP. The District received one proposal from DNI, which incorporated many recommended changes. Mr. Jakobsen stated the proposal would serve the District well in the next few years. An additional item is the increased bandwidth from both the Internet to district headquarters and from District headquarters to the stations.

Director Danziger asked if there was any feedback on why only one RFP was submitted. Mr. Jakobsen answered the industry is busy and knew it would be difficult to solicit proposals during this time. The RFP requirements were complex because most services are with DNI and in DNI's data centers. The District would have had to move those services out of DNI data centers into another cloud service provider, and there is just no way to answer every question vendors would have asked related to moving DNI data centers. Mr. Jakobsen opined there is some risk to the vendor community, which reduced vendors' willingness to propose. Director Danziger asked if DNI provided the cloud service for the District. Mr. Jakobsen confirmed. Director Danziger asked if the data would stay with DNI. Mr. Jakobsen confirmed and stated only the email would move to Office 365.

Director Jorgens inquired about the fiber optics at the stations. Mr. Jakobsen answered the fiber is provided by AT&T and contracted thru DNI. The pricing on the contract was checked and is less than the California State pricing. Director Jorgens asked if other vendors could theoretically end up with a contract with AT&T and provide the same. Mr. Jakobsen confirmed. Director Jorgens asked if there was a consideration of breaking the RFP into two contracts - one less critical administrative back office and one for higher speeds for mission-critical. Mr. Jakobsen responded that the services are synchronous, meaning they are 100 Mbps up and 100 Mbps down. Upload and download speeds are the same, and typically residential services are really fast on the download and slow on the upload. Director Jorgens stated his residential service is 350 Mbps for \$100/month, which is three times the 100 Mbps. Mr. Jakobsen added that AT&T and Comcast vendors regularly make changes to the configurations of those routers in the residential market and do not inform customers of those changes. The problem is the District runs a static route, which cannot be managed if the vendor is making changes and disrupting service.

Director Jex asked how the services compare to what the District has had in the last three years. ASD Sasser answered current year is \$171,600, FY2022-23 is \$179,439, and escalates at 3% per year. Mr. Jakobsen shared a contract for another east bay client was at 5.1%. Most of the cost increases are salary driven.

Director Danziger inquired about the plan for the transition to the new Office 365. ASD Sasser responded the transition would be completed by October 1, 2022, pending approval of the contract. Director Danziger asked if Citrix was the former system and what the new system would be called. Mr. Jakobsen answered Citrix was the name of the thin client system used before, and now the District will migrate to desktop and laptop computers using Office 365 software. Director Danziger asked about the new phone system. ASD Sasser answered that the District is not instituting a new phone system now. Mr. Jakobsen mentioned that all cyber insurance carriers now require that all equipment is of the current vintage. Districts in the future will be required to maintain current vintage equipment.

Director Jorgens asked if the phone system is used for critical-mission or administrative communications. Mr. Jakobsen answered administratively. Director Jorgens commended that many big companies do not use landline-based phones and have everyone use cell phones. Mr. Tom Jakobsen stated that the District would have difficulty passing 911 requirements. Director Jorgens explained it would not be for the mission-critical system but rather administrative. Director Danziger opined that the differences might be private business versus government.

Mr. Jakobsen stated that the difference is that government sites are relatively fixed and stay fixed for a very long time. The cost-benefit analysis of maintaining fixed services with on-premise-based phone systems works in favor of on-premise-based phone systems. The cloud-based phone system services

are not as cost-effective as premise-based systems. Director Jorgens recommended Mr. Jakobsen look into how phones worked in the Los Angeles earthquake when their fiber got caught up by the earthquake. Mr. Jakobsen responded that was an interesting concern because there is a push to get rid of all copper and move everything to cellular. Cellular does not work in a disaster very well either because you cannot get a signal out of the tower.

Director Danziger asked if the contacts will remain the same at DNI and if technicians perform tasks onsite. ASD Sasser confirmed. Fire Chief Winnacker elaborated that one advantage of DNI being local is that during the contract discussion, DNI met in person to discuss and look at the equipment. When there are issues, upgrades, or patches, DNI technicians physically come to our locations.

President Donner opened the public comment. There were no requests to address the Board. President Donner closed public comment.

Motion by Director Danziger and seconded by Director Jorgens to authorization to Contract with Definitive Networks, Inc. for Information Technology Services and Fiber Connections for the period October 1, 2022, through June 30, 2025, with an Option to Extend Two Years. Said motion carried 4-0-1-0 roll call vote (Ayes: Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: Baitx; Abstain: None). No further discussion by the Board

6.3 Adopt Resolution 22-21 Classifying the Various Components of Fund Balance as Defined in Governmental Accounting Standards Board Statement No. 54 and Adopting a Revised Fund Balance Policy (audio 2:02:29)

Administrative Services Director Sasser provided the report. The District's fund-balance policy requires annual review by the Board. The policy and various risk areas facing the District have been reviewed. The District faces risks in the areas of inflation, rising interest rates, COVID pandemic, low inventory levels of housing and business, drought and fire conditions in California, necessary capital projects, pension costs, and unfunded liabilities. These challenges could affect the District in a number of ways, including increased costs for overtime, mandated sick leave, pension, apparatus, construction, fuel, utilities, and other services and supplies. The policy states the District will maintain a minimum unrestricted fund balance in the General Fund of at least 17% of budgeted General Fund revenue at fiscal year-end with a goal of achieving a 50% year-end General Fund balance in the long term. Staff recommended the adoption of Resolution 22-21 Classifying the Various Components of Fund Balance as Defined in Governmental Accounting Standards Board Statement No. 54, which includes no changes to the current balance policy.

President Donner opened the public comment. There were no requests to address the Board. President Donner closed public comment.

Director Danziger asked what the triggers would be if the District had to use the components of the fund balance that are restricted. Fire Chief Winnacker answered with the appropriate caveat that the expenditures are limited to the appropriate means. As previously discussed with the Board, it would be helpful to establish a distribution policy understanding what event would trigger distribution, whether it be a significant increase in the payment from either OPEB or CCCERA with regard to our pension obligations, or a significant reduction in District revenue, that would be for the Board to determine. Director Danziger requested this be a future agenda down the line to talk about it a bit more.

Director Danziger asked if the \$8M budgeted for the new station 41 was in the capital project fund. ASD Sasser answered the item was discussed, but there was no board direction regarding the station 41 construction project. Director Danziger asked if the money for stations 41 and 45 is currently in the reserve fund.

ASD Sasser explained that the capital projects fund has money committed to capital projects. The current budget includes a transfer out of the general fund into the capital projects fund and will be committed to the capital projects. The Board has discretion over the committed money. Director Jorgens rephrased the long-range financial plan that the Board reviews include a plan for getting that money into the capital budget over time so the project can be funded given the assumptions in the long-range financial plan.

Director Danziger asked if the 17% minimum fund balance and 50% goal include the percentage of the funds in pension stabilization or the OPEB fund. ASD Sasser answered no. The policy explicitly states that the "unrestricted" fund balance is used to calculate the percentage. The money in the PARS trust funds is "restricted." Director Danziger commented on the restricted funds and that it would be another discussion to consider for the policy if proposing changes. ASD Sasser answered that the adoption of the fund balance policy is the item up for deliberation. Resolution 22-21 adopts the fund balance policy.

Director Danziger inquired if not having those fund balances under-represents the District's liquidity and requested comments from the other Directors looking for the basis of why the District did not include those balances.

Director Jorgens commented that they are for different purposes. One is to consider the risk of CCCERA, the fact that they have systematically undercharged the District for the last 20+ years for their pension obligations. The District has gone from having a fully paid pension back in 2004 to tens of millions of dollars in debt. Because the District knows that CCCERA is always charging less than it should be CCCERA has rosy assumptions about how much money CCCERA will earn and how much CCCERA is discounting the future cash flows. The District has put aside money to weather that storm. CCCERA has had a history; when things go wrong, CCCERA sends a big bill, and there is nothing the District can do about this bill. To level out the District's cash flows for that situation is different than saying the District wants to have reserves in case the economy turns bad. Director Danziger asked if the money in the reserves was unrestricted. Director Jorgens confirmed. Director Jorgens added the money in the reserves does not reflect the minimum in the reserves. It reflects the amount in the reserves at the end of the fiscal year. It gets much worse when the District is at its low point, waiting for the next tax payment.

President Donner commented it is another way of guaranteeing that the District is taking care of the employees down the road regarding their pension and medical expenses. Director Jorgens agreed and stated nothing draconian would need to be done to the existing budget.

Director Jex opposed the 17% minimum reserve as inadequate. If you look at the sister organizations similar to MOFD, most have over 50% (close to 70%-80%). The 17% reserves are two months of expenditures, and the District will be in dire financial straits if the District falls to that level. The situation happened to the District before when the reserves were set at 17%, and they had to cut costs. Director Jex recounted sister cities that fell below 17% had to declare a financial emergency. A financial emergency means the District did not have six months of reserves to cover the period when there was no income to meet obligations. President Donner stated that this current Board has unanimously agreed to keep adding to the reserve. Director Jex opposed the 17% minimum statement as it will never be adequate. Director Jorgens pointed out that the Board did agree to the reserve number but agreed on how much to put in the pension funds. Director Danziger asked for an update on the amount in the reserves.

ASD Sasser answered as of June 30, 2021, 43% of unrestricted fund balance reserves, at June 30, 2022, should hit the 50% mark. The fiscal year is still in the process of closing. Director Jex stated the District would be at 50% reserves; however, looking at the construction for new stations 41 and 45 will cost \$10M. Those monies will come from the general reserve fund into the capital fund to fund those projects. The fund balance may hit 50% but will not stay at 50%, depending on the timing of the funds transfer into the capital fund. Director Jex stated in the long-range forecast that the District is looking at \$1M next year, \$3M the following year, and \$1M the following year.

Motion by Director Danziger and seconded by Director Jorgens to Adopt Resolution 22-21 Classifying the Various Components of Fund Balance as Defined in Governmental Accounting Standards Board Statement No. 54 and Adopting a Revised Fund Balance Policy. Said motion carried 4-0-1-0 roll call vote (Ayes: Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: Baitx; Abstain: None). No further discussion by the Board

6.4 Approval of Unrepresented Employee Handbook Authorizing Salary and Benefits for Unrepresented Employees Effective July 21, 2022 (audio 2:17:20)

Fire Chief Winnacker provided the report. The District has 12 unrepresented employee positions. Occasionally unrepresented employees must work on a holiday (for example, July 4.) The Handbook states that if an employee is required to work on a holiday, the employee shall receive equal time off within two months of the holiday. Staff recommended a modification to the Handbook to allow overtime payment for hours worked by non-exempt employees on holidays. Exempt employees would continue to receive equal time off for hours worked on a holiday. The annual cost for this change is projected to be \$5,000. In March 2022, the Board authorized a Side Letter of Agreement with Local 1230 that authorized unit members to exceed the maximum cumulative vacation hours by up to one week in a fiscal year. At the end of the fiscal year, the difference between the vacation hour's cap and the vacation balance, not to exceed one week, shall be converted to a Retiree Health Savings Account contribution using the member's Hourly Base Rate on the District's current publicly available Salary Schedule. Staff recommended extending this benefit to unrepresented employees to maintain parity among employees. The annual cost for this change is projected to be \$4,000.

President Donner opened the public comment. There were no requests to address the Board. President Donner closed public comment.

Director Jorgens expressed support for the recommendation.

Motion by Director Jorgens and seconded by Director Danziger to approve the Unrepresented Employee Handbook Authorizing Salary and Benefits for Unrepresented Employees Effective July 21, 2022. Said motion carried 4-0-1-0 roll call vote (Ayes: Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: Baitx; Abstain: None). No further discussion by the Board

6.5 Approval of Side Letter of Agreement Between Moraga-Orinda Fire Protection District and Moraga-Orinda Fire Chief Officers Association to Amend Section IIIC Retiree Health Savings Account Provisions to Provide Additional Retiree Health Savings Account Provisions (audio 2:21:48)

Fire Chief Winnacker provided the report. In the interest of transparency, Fire Chief Winnacker stated he receives the same benefits as the Battalion Chiefs. In March 2022, the Board authorized a Side Letter of Agreement with Local 1230 that authorized unit members to exceed the maximum cumulative vacation hours by up to one week (56 hours) in a fiscal year. At the end of the fiscal year, the difference between the vacation hours cap and the vacation balance, not to exceed one week (56 hours), shall be converted to a Retiree Health Savings Account contribution using the member's Hourly Base Rate on the District's current publicly available Salary Schedule. In order to maintain parity among employees, staff recommended extending this benefit to Moraga-Orinda Fire Chief Officers Association employees. A Side Letter of Agreement has been prepared to add this benefit. The projected annual cost is \$4,000.

President Donner opened the public comment. There were no requests to address the Board. President Donner closed public comment.

Director Jorgens opposed the recommendation as this item was a negotiated item taken off the table as part of the negotiation and subsequently brought up after the negotiations were closed. The majority of the Board, not including Directors Jorgens and Jex, voted to approve the side letter for L1230 in March 2022. As expressed during the March 2022 Board discussions, the item should have been part of the negotiations. Director Danziger asked how staff determined the cost. Fire Chief Winnacker answered it is based on an estimate of how many employees are within maximum rules, and exceed the max accruals before this program kicks in.

President Donner asked if there could be a small savings to the District if a member decided to put their money into the health savings account. Fire Chief Winnacker confirmed that if a member used the HSA money instead of taking overtime and therefore did not result in a time and a half position being filled, the District would be paying out the vacation in straight time versus time and a half in the case of a backfill. President Donner concluded it is a way for a member to put away for future medical costs and small savings for the District. District Clerk Holbrook announced that an attendee had raised their hand after the closing of public comment.

President Donner re-opened the public comment.

Jacob Airola, Local 1230 Union Representative, opposed the comments made regarding the facts on the negotiations and processes. The benefit was taken away from what was once a fully funded medical and retirement. The program was given in lieu of that and the details of how to fund it (inaudible) or fund it on an equitable basis. It was determined through internal discussions that vacation hours would be reasonable once the hours exceeded the limit. This item was a continuation of the negotiations. Captain Airola opined that it is unlikely that many people will benefit from this program.

Director Jorgens responded, per the District chief negotiator, that this item was taken off the table as part of the negotiations with L1230 and, specifically, not an ongoing negotiation. Director Jorgens offered written correspondence stating those facts. Captain Airola disagreed and stated there was confusion with the timeline. The item was discussed in March. The reference from Director Jorgens happened in November. Director Jorgens disagreed and stated there was never any extra funding or discussion. The only item left to be discussed was the approval of the vendor and the establishment of the accounts. Captain Airola stated that L1230 uses vacation accruals to fund the accounts (no cost to the District). Director Jorgens pointed out that if the item does not cost anything, it should not need Board approval. Director Jorgens reiterated it could not have been part of the negotiation because the District signed a contract with the terms. The item is not within that contract, so it must have been subject to negotiation. Captain Airola stated it had not been fully vetted. Director Jorgens to forward the chief negotiator's memo stating it was not negotiations.

Motion by Director Jorgens and seconded by Director Jex to not approve the Side Letter of Agreement Between Moraga-Orinda Fire Protection District and Moraga-Orinda Fire Chief Officers Association to Amend Section IIC Retiree Health Savings Account Provisions to Provide Additional Retiree Health Savings Account Provisions.

Director Danziger called the question and requested the motion be explained. Director Jorgens stated the motion is not to approve item 6.5. Director Danziger restated that a yes vote means not approving the item, and a no vote would be approving the item. Director Jorgens replied a no vote is to oppose not approving the item. President Donner restated a no vote would mean that we are in disagreement with the motion. Director Jorgens confirmed.

Said motion failed 2-2-1-0 roll call vote (Ayes: Jex and Jorgens; Noes: Danziger and Donner; Absent: Baitx; Abstain: None).

Motion by Director Danziger and seconded by Director Donner to Approve the Side Letter of Agreement Between Moraga-Orinda Fire Protection District and Moraga-Orinda Fire Chief Officers Association to Amend Section IIC Retiree Health Savings Account Provisions to Provide Additional Retiree Health Savings Account Provisions. Said motion failed 2-2-1-0 roll call vote (Ayes: Danziger and Donner; Noes Jex and Jorgens: None; Absent: Baitx; Abstain: None).

Director Danziger requested the item be carried over to the next agenda. No further discussion by the Board.

6.6 Adopt Resolution 22-24 Amending the District Conflict of Interest Code (audio 2:33:03)

Fire Chief Winnacker provided the report. All local government agencies are required by statute to adopt a Conflict of Interest Code that includes provisions designating the positions within the agency required to report certain financial interests, the manner of reporting those financial interests, and standards for when the employees will be disqualified from participating in the making of certain decisions. Conflict of Interest Codes must specifically list positions that make or participate in making decisions for or on behalf of the District. Typically, positions that involve voting on matters, negotiating contracts, or making recommendations on purchases without substantive review must be included in codes. A primary purpose of the code is to require disclosure of those types of investments, interests in real property, sources of income, and business positions that designated positions may affect in their decision-making. The required biennial review of the Conflict of Interest Code has been conducted and determined one position be added with associated disclosure categories to the list of "Designated Positions" in the Code. Section 1 of Resolution 22-24 Amending the District Conflict of Interest Code and Section 2 of the Conflict of Interest Code have been amended to add one new position of "Fire Inspector/Plans Examiner." No other changes were made to the code.

President Donner opened the public comment. There were no additional requests to address the Board. President Donner closed public comment.

Director Danziger asked if the Captains or CERT volunteers in the CERT Program needed to be added to the designated positions. Fire Chief Winnacker explained they are not required as they do not have district purchasing authority or the ability to make purchasing decisions.

Motion by Director Jorgens and seconded by Director Donner to Adopt Resolution 22-24 Amending the District Conflict of Interest Code. Said motion carried 4-0-1-0 roll call vote (Ayes: Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: Baitx; Abstain: None). No further discussion by the Board.

7. COMMITTEE REPORTS (audio 2:37:00)

7.1 Audit Committee (Directors Danziger and Jex). No Report

7.2 East Bay Hills Wildfire Prevention and Vegetation Management Joint Powers Agency Meetings (Directors Danziger and Jorgens). Fire Chief Winnacker continues to meet with the smaller working group. There is a meeting scheduled in September with fire code officials and elected officials to review a proposed countywide model code. Conversations around that meeting associated with extending that same fire code to Marin County and two portions of Alameda County would be a significant achievement.

7.3 Facilities Station 41 Ad Hoc Committee (Directors Baitx and Donner). No Report.

7.4 Joint Fire Prevention Ad Hoc Committee w/City of Orinda (Directors Donner and Jorgens).

Director Jorgens shared that the Orinda city council has passed a grant program pending implementation and is hiring some additional staff to help encourage residents to meet their fire code obligations starting in the north of the City and along evacuation routes. The collaboration and coordination have been beneficial. Steven Danziger commented the Orinda City Council meeting had a lengthy discussion.

**President Donner opened the public comment. There were no requests to address the Board.
President Donner closed public comment.**

8. ANNOUNCEMENTS (audio 2:42:27)

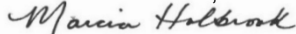
8.1 Future Agenda Items. Director Danziger requested item 6.5, Approval of Side Letter of Agreement Between Moraga-Orinda Fire Protection District and Moraga-Orinda Fire Chief Officers Association to Amend Section III C Retiree Health Savings Account Provisions to Provide Additional Retiree Health Savings Account Provisions.

President Donner opened the public comment. There were no further requests to address the Board.
President Donner closed public comment.

9. ADJOURNMENT

At 9:43 p.m., Director Jorgens motioned and seconded by Director Jex to adjourn the meeting. Said motion carried 4-0-1-0 roll call vote (Ayes: Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: Baitx; Abstain: None).

Marcia Holbrook,



District Secretary/District Clerk

For an audio recording of this and other Board meetings, please visit the MOFD District Board Meeting at www.mofd.org/agendas.

From: [Holbrook, Marcia](#)
Cc: [Winnacker, David](#); [Holbrook, Marcia](#); [Sasser, Gloriann](#); [Jonathan Holtzman](#)
Subject: FW: Meeting
Date: Wednesday, July 20, 2022 7:27:34 PM

Please see the public comment read into record this evening.

Thank you,
Marcia

Marcia Holbrook, District Secretary/District Clerk
Moraga-Orinda Fire District
1280 Moraga Way, Moraga, CA 94556
Phone: (925) 258-4501
Cell: [REDACTED]
Fax: (925) 376-1699

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

From: Dave Schnayer [REDACTED] >
Sent: Wednesday, July 20, 2022 7:15 PM
To: Holbrook, Marcia [REDACTED] >
Subject: Re: Meeting

Our family has lived in Moraga for 27 years, raised three kids and my wife was raised here as well.

After working on our yard every weekend for a couple months and removing a significant number of small trees, plant material and other organic matter, and receiving a warning letter and subsequent "stock" violation letter with generic photos, my wife requested a visit by an MOFD representative to clearly explain the specific expectations of the agency.

We received a Visit at OUR HOME 7/11/2022 by Chief David Winnacker. He did not identify himself as the Chief, did not introduce himself with any standard protocol of civility or decency and only offered that he was the chief once I asked.

Arrogant, egotistical, sexist, derogatory, demeaning, sickening, supremacist, chastising, harassing, fear, distrust, vindictive, and degrading behavior - especially targeting my wife!!!

What do you not understand

It's all there in writing

What about the MOFD website and Chiefs message "if you have any questions call"

What happened to serve and protect? There is no place in public service for this type of discriminatory action and disrespect of long standing community members, or any member of the public for that matter!

If this Chief does not have the ability, skills or temperament to work collaboratively with the public, then the Board needs to find a Chief who does have such characteristics. Very simply, he could have suggested and set a meeting with a community outreach volunteer or staff member with the PR skills and temperament to interact with the public.

Indeed we had a very positive subsequent visit from a Fuel Mitigation person from MOFD. He was very courteous, pleasant and professional.

But where are the elected Board Members who are supposed to represent constituents and at least be responsive to constituent requests, now totally unresponsive despite repeated requests for assistance???? I sent three email requests to our dedicated board member Mr Jex and then followed up with a request to the district secretary and notification to the entire board. To date we have still received no response from anyone on the MOFD Board. Why is there no response? Why are you hiding? What are you scared of? Why are you even on the Board ? Lack of oversight, lack of common decency, lack of professionalism. You should all be ashamed with these violations of basic tenants of fair and equal treatment, and protection of all - not just white males, who protect other white males!!! If you cannot be responsive to the needs of all (regardless of race or gender), take criticism to improve the function of the organization, and truly serve and protect others at a higher level than protecting your own self interests, it is time for you all to step aside! Let others who really are dedicated to the safety, representation and RESPECT of constituents, neighbors and friends step up

> On Jul 20, 2022, at 7:13 PM, Dave Schnayer <[REDACTED]> wrote:

>

> I'm on the phone line

>

>> On Jul 20, 2022, at 7:11 PM, Holbrook, Marcia <[REDACTED]> wrote:

>>

>> I do not see your hand raised. Do you have it raised now? We are talking about consent agenda items now.

>>

>> Marcia Holbrook, District Secretary/District Clerk Moraga-Orinda Fire

>> District

>> 1280 Moraga Way, Moraga, CA 94556

>> Phone: (925) 258-4501

>> Cell: [REDACTED]

>> Fax: (925) 376-1699

>>

>>

>> -----Original Message-----

>> From: Dave Schnayer <[REDACTED]>

>> Sent: Wednesday, July 20, 2022 7:10 PM

>> To: Holbrook, Marcia <[REDACTED]>

>> Subject: Meeting

>>

>> I am on the phone call in with hand raised. Please confirm that I

>> will be recognized

From: [Winnacker, David](#)
To: [Holbrook, Marcia](#); [Jonathan Holtzman](#); [Sasser, Gloriann](#)
Subject: Fwd: Pete Nowicki's letter
Date: Wednesday, July 20, 2022 3:08:19 PM
Attachments: [090720-WallStreetJournal.pdf](#)

See below.

Dave Winnacker
Fire Chief
Moraga-Orinda Fire District
925.258.4500



Begin forwarded message:

From: Steve Cohn [REDACTED] >
Date: July 20, 2022 at 11:48:56 PDT
To: "Winnacker, David" <[REDACTED]>, Steve Danziger - MOFD
<[REDACTED]>, Michael Donner - MOFD [REDACTED] >, Craig
Jorgens - MOFD [REDACTED] >, John Jex - MOFD [REDACTED] >,
"Baitx, Gregory" <[REDACTED]>
Subject: Pete Nowicki's letter

Chief Winnacker & MOFD Board:

At the time Pete Nowicki "played the system" I was incensed. I still am and to hear him sing the "poor me" song brings up a bitter taste in my mouth.

The firefighters had, and still have, one of the most generous retirement plans in the United States. Little MOFD has future pension benefit liabilities of about \$225 million and those are discounted back to today. In actual future dollars, it is 2-3 times as much.

I don't really remember Nowicki's numbers but the Wall Street Journal article reminded me that Pete was earning \$186,000 when he retired and he managed to get himself a pension, at 50 years old, of \$241,000. This was not a IRA of \$241,000, but \$241,000 for every year of his remaining life, indexed up for inflation each year. Assuming Pete lives to 85 years old, MOFD would have to have \$4.6 million in the bank, just to support him. How many 50-year-olds have saved up \$4.6 million or have an employer that gives them \$4.6 million on retirement?

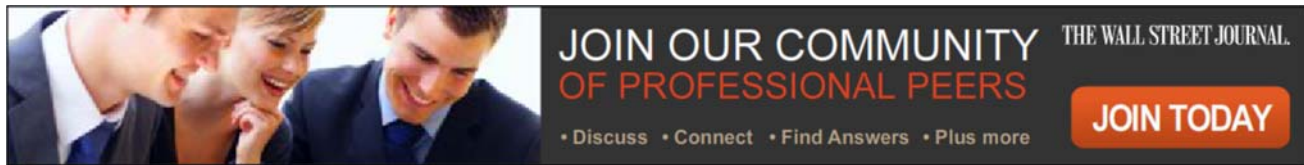
His letter said he had been working in Moraga and at MOFD for 27 years. He was already recipient of the great 2002 benefit package increase to 3 at 50 (which cost the District, i.e. the taxpayers, \$30 million). Even at 3 at 50, he would have only accrued 81% of his final year's salary. Instead he


received 130%; 60% more than he “earned”. What if everyone got 60% more than they earned? The current \$225 million in liabilities would balloon to \$360 million. And instead of being \$45 million underfunded, MOFD’s pension would be \$180 million underfunded. Half of MOFD’s revenues would have to go just to pay off the pension’s unfunded liability. That is if everyone was as “clever” as Pete Nowicki in gaming the system.

I don’t know if you are going to respond to Mr. Nowicki. But if you do, tell him that at least one tax payer did not appreciate his final act as an employee of MOFD which in my mind it effectively nullified any positive service he may have provided to the community. Hopefully, he was a unique example of greed at MOFD.

Sincerely,

Steve Cohn



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U.S. NEWS | JULY 20, 2009

Pension Calculus Draws New Scrutiny

By CRAIG KARMIN

A California dustup over large pension payments is shining a spotlight on the practice of spiking -- increasing a salary just before retirement and boosting the lifelong payout.

Pete Nowicki had been making \$186,000 shortly before he retired in January as chief for a fire department shared by the municipalities of Orinda and Moraga in Northern California. Three days before Mr. Nowicki announced he was hanging up his hat, department trustees agreed to increase his salary largely by enabling him to sell unused vacation days and holidays. That helped boost his annual pension to \$241,000.

The boost was legal, and Mr. Nowicki said he is receiving a permissible pension. "People point to me as a poster child for pension spiking, but I did not negotiate these rules," he said.

The fire district's board agrees. "Chief Nowicki abided by existing rules and guidelines for optimizing his retirement pay," said Frank Spierling, the board's vice president. "I don't fault him. The system itself is broken. We need to change the system."

Mr. Nowicki's situation isn't unique. Contracts that permit a jump in salary just before retirement -- boosting the pension payout -- have been around for years. But as tough times are putting more scrutiny on public pensions, Mr. Nowicki's case has sparked particular anger from colleagues and local residents. Some recently demanded an explanation from the department trustees and others have lobbied the Orinda council to divert funds away from the fire department.

"These guys may have priced themselves out of job," said Steve Cohn, a financial analyst in Orinda.

The practice is getting more attention amid growing concerns about the sustainability of guaranteed pension payouts for public employees after brutal market losses last year in public pension funds.

In California, which has taken to issuing IOUs to hoard cash, a private interest group has launched a campaign to publicize the names of government retirees with pensions of \$100,000 or more to promote its view that steep pensions threaten to bankrupt states and municipalities. Mr. Nowicki's payout was brought to light in the spring in a Contra Costa Times column.

While it happens nationwide, pension spiking has been especially prevalent in California, which some attribute to favorable terms negotiated by powerful unions.

The Pacific Research Institute, a San Francisco-based conservative think tank, estimates that pension spiking costs California taxpayers \$100 million a year for the additional pension payments.

"It's only a minority of workers who engage in pension spiking," said Lawrence McQuillan, a director at the institute. "But it adds up to real money."

Critics of pension spiking maintain the practice is unfair because employees or employers contribute toward pensions

based on salaries. When a salary is significantly boosted around the time of retirement, it creates a shortfall between what a pension system has collected for an employee and what it must pay out.

Union representatives say that over time the system has suffered some abuses. "The rules have been in place historically for a number of reasons, some of them good reasons. But times have changed rather dramatically now," said Rich Ferlauto, head of corporate governance and pension investment at the American Federation of State, County and Municipal Employees. "We support changes in the rules to prevent spiking and other similar abuses."

Mr. Nowicki recently turned 51 years old. If he lives another 25 years, his pension payments will cost the fire district an estimated additional \$1 million or more over what he would have received had he retired at a salary of \$186,000, not including cost of living adjustments, a fire board representative said.

In addition to drawing his pension, Mr. Nowicki currently is working for the fire department as a consultant at an annual salary of \$176,400 while the department searches for his replacement.

Some peers aren't pleased. "We want him out," said Mark DeWeese, a firefighter who along with three other union members recently demanded an explanation for the spike from the fire district's board. Mr. DeWeese said firefighters are agreeing in current contract talks to forgo raises because of the poor economy.

The board said it had no choice but to honor the chief's requests. Mr. Sperling, the board's vice president, said directors spent months trying to decipher a 300-page document that details the pension law passed in 1937.

Mr. Nowicki said he began talking with the board in spring of 2008 about changes to his employment contract that would affect his pension. On Dec. 10, the board approved amendments to his contract requested by Mr. Nowicki, which enabled him to sell back unused vacation and holidays. On Dec. 13, he announced his retirement.

Mr. Nowicki said he asked to have this vacation provision included in his contract because he rarely had time to take vacations. Since he had recently volunteered to forgo a raise, he felt he was entitled to other compensation, he said.

If vacation days are sold during the last year of employment, they count as income for the purposes of calculating a pension, Mr. Sperling said. Because the chief didn't retire until January, he was able to sell back vacation days for both 2008 and 2009. The fire district also paid Mr. Nowicki for unused sick days and holidays, which also counted toward his final pension figure.

Write to Craig Karmin at craig.karmin@wsj.com

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 Fire Chief's Pension Sparks Debate

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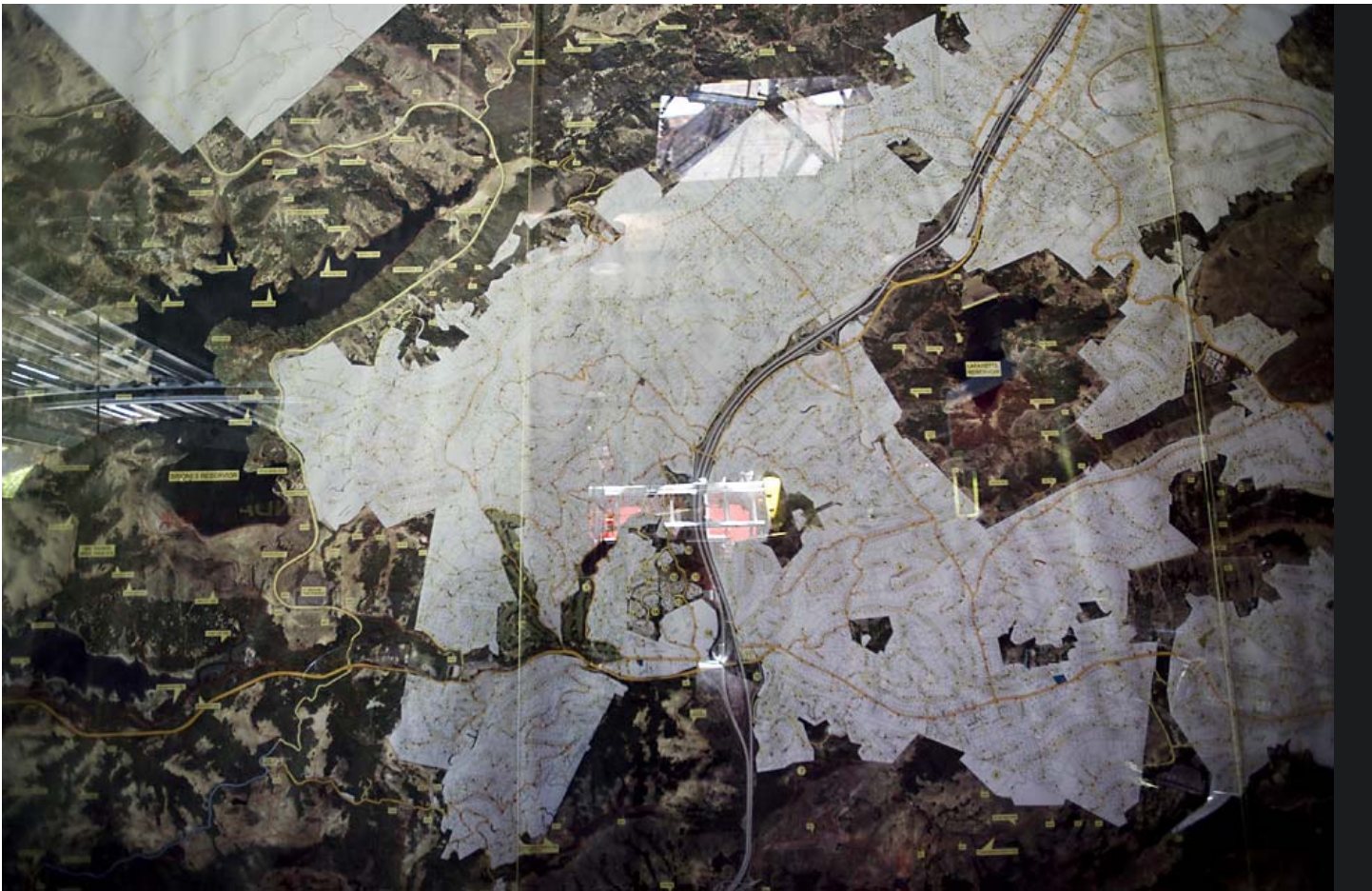
Three days before Pete Nowicki announced he was retiring, fire department trustees agreed to increase his salary in a practice called "pension spiking." The resulting bump in his annual pension has angered colleagues and residents in this Northern California area. ([See related article.](#))



Retired Orinda-Moraga fire chief Pete Nowicki, at Orinda Fire Station 45, gained the salary increase largely by selling unused vacation days and holidays. The boost was legal, and Mr. Nowicki says he earned his keep and is receiving a permissible pension. "I did not negotiate these rules," he said. (Darcy Padilla for The Wall Street Journal)



The dust-up over Mr. Nowicki's pension comes amid growing concerns about the sustainability of guaranteed pension payouts for public employees after brutal market losses last year in public pension funds. (Darcy Padilla for The Wall Street Journal)



Some residents and colleagues have demanded an explanation from the fire department trustees and others have lobbied the Orinda council to divert funds away from the fire department. Above, a district map at Orinda Fire Station 45, where Mr. Nowicki's office is located. (Darcy Padilla for The Wall Street Journal)



Mr. Nowicki continues to work for the fire department as a consultant at an annual salary of \$176,400 while the department searches for a replacement. Above, a photo of the Moraga-Orinda firefighters. (Darcy Padilla for The Wall Street Journal)



Some of Mr. Nowicki's peers are not pleased. "We want him out," said firefighter Mark DeWeese, who along with three other union members recently demanded an explanation for the spike from the fire district's board. (Darcy Padilla for The Wall Street Journal)



The practice of increasing a salary just before retirement to boost a lifelong pension has been around for years and goes by various names, including pension spiking, or chief's disease. Critics maintain it's unfair because it creates a shortfall between what a pension system has collected for an employee and what it must pay out. (Darcy Padilla for The Wall Street Journal)



The fire district board says it had no choice but to honor the chief's requests. "Chief Nowicki abided by existing rules and guidelines for optimizing his retirement pay," said board Vice President Frank Sperling. "I don't fault him. The system itself is broken. We need to change the system." Above, Mr. Nowicki at Orinda Fire Station 45. (Darcy Padilla for The Wall Street Journal)

Comments

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"Democracy" is great...If you don't approve more taxes, we will furlough regular fire and police and keep the \$240K ones (that is a lot more than any 4-star military). Un-sustainable by any measure; and, probably not fixable with the public employees voting bloc.

Comment by jonathan Waldron - July 20, 2009 at [8:04 pm](#)

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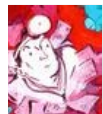
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1 day ago

JAMES WRIGHT wrote:



In the private sector only 18% of companies offer defined benefit plans, the payout even after 30 years of employment is a fraction of final pay and retiree health benefits are rare. Taxpayers can not afford public employee health care and pensions costs. Paying a 51 year old retired fireman over 200,000 a year for the rest of his life is outrageous.

[Link](#)

1 day ago

Daniel Sharp replied:



Agree. Hence, the state's "budget crisis."

[Link](#)

1 day ago

Russ Kiekhaefer replied:



James,

You've got that right. Normally the pension payout is a fraction of the salary, not a multiple of it! Even though this particular dishonest (but legal) practice "only" costs California \$100 million per year, it's a symptom of a very warped state government.

[Link](#)

23 hours ago

Lincoln Maguire replied:



It's not just California!

[Link](#)

23 hours ago

Arnold Hold replied:



Government employees have become the "new" lottery winners, and James is absolutely correct with certainly another name for this practice of overpaying pensions, to the detriment of the taxpayers is government theft.

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22 hours ago

MINH DANG replied:

We are here limiting private companies retirement plan, when private institution is actually creating jobs, while the government TAX people and smooch off people, and create no real job for the overall economy....the biggest spender is not the private institution its the GOVERNMENT...LIMITED its power and we will all be better off.

[Link](#)

18 hours ago

Craig Bradley replied:

BETTER GET A GOVERNMENT JOB SOON

This is why the long term 30 year public sector employee (non-executive) gets a way better deal after retirement than his counterparts in the private sector. Plus, he has union protection and usually much more job security throughout his career than he could ever find in the private sector.

Take a typical professional retiree at the L.A. Dept. of Water and Power, for example. Thirty years equals a monthly pension allowance of \$84,000, plus a generous retiree health care insurance policy as well. In addition, a 3% COLA most every year.

Where is anyone going to get that much on the average from a private sector company, unless they are the CEO? Generous defined benefit pensions reflect the economy and job market of thirty years ago, not today.

Tomorrows private sector retirees will be on the dole and have a much lower standard of life and of health care. It is even possible few people will be able to afford to retire in the traditional manner due to lack of income. Either that, or elder poverty will greatly increase in the future.

[Link](#)

1 day ago

Greg Kemnitz wrote:

Defined-benefit pensions for government workers are a public-choice nightmare. Politicians will have ongoing incentives to reward unions lavishly for help in winning today's elections, while putting tomorrow's electorate on the hook for obligations that eventually can't be paid.

The zeroth rule of democracy: small, fanatically interested single-issue voter groups deliver elections. In local elections, these are often government workers.

[Link](#)

1 day ago

Kamalesh Banerjee wrote:

No wonder the state of California and its municipalities are broke.

[Link](#)

1 day ago

Mike Husman replied:

Oh if it were only California!! This is just the tip of the iceberg, you will be hearing stories like this from many other states and municipalities as the economy continues to sour over the next few years. All government has gotten drunk on spending as much of tax payers money as possible, and making sure that their retirement plans are the best in the world.

The sad part of all of this is that us tax payers will be bailing out all of these states that made stupid decisions like this.

Mike Husman

[Link](#)

1 day ago

Atanu Lahiri wrote:

Please bail out California! This pension is nothing compared to what Goldman execs got after getting bailed out by Govt (TARP + \$13B through AIG + several billions in guarantees since becoming a bank holding company).

[Link](#)

1 day ago

JAMES WRIGHT replied:

Fiscal conservatives do not want to bail out California or GM or Ford or Wall St. or Fannie or Freddie (or anyone).

[Link](#)

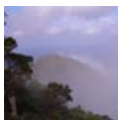
1 day ago

James Zweitu replied:

2 wrong don't make it a right, as your mother would say in this country.

[Link](#)

1 day ago

Greg Kemnitz replied:

Guys getting rich on Wall Street aren't the problem - and there's at least some chance they did it legitimately. This guy is getting rich by gaming the system and ripping off the taxpayers.

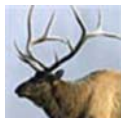
Frankly, state pensions should be sharply limited:

1. No more than \$60K/year in aggregate state pensions for employees and State officials, from the Governor on down.
2. No pension draws before minimum SS age.
3. No pension draws while working or otherwise engaged with the State, or working for a company that does business with the State.

If you want to retire early, fund a 403b.

[Link](#)

1 day ago

J Scott wrote:

No way should this be allowed anywhere, public or private. As the states go bankrupt each one should be forced to renegotiate all of these pensions to a much fairer (to the taxpayer) deal than agreed to by our knuckleheaded legislators.

[Link](#)

1 day ago

E. Cruz wrote:

I couldn't amass this kind of pension worth more than a few million even if I tried as a non government worker. These people that allowed this say it's legal but certainly not moral especially if others are suffering at their expense. Think of the programs that are cut because of these excessive pensions. God have mercy on them.

[Link](#)

1 day ago

Gary Miller wrote:

Thanks fro exposing this practice, so destructive to our financial well being. This nonsense has been going on for years here in California and is particulalry enjoyed by Cops and firefighters who are treated like royalty. My friend's brother retired as fire chief of a big California city a few years ago, in his fifties. He pulls down a six figure pension for life, and has gone back to work as a recruiter for municipal executives. This is the Golden State, alright if you are a public employee!

[Link](#)

1 day ago

Charles R. Ryan wrote:



This situation is BEYOND outrageous.

First this guy can retire at age 51 with \$241,000 a year – plus inflation adjustments and what other benefits? – from a fire district with just 72 full time paid employees and five fire stations in an area with a population of 42,000 people.

Then "In addition to drawing his pension, Mr. Nowicki currently is working for the fire department as a consultant at an annual salary of \$176,400 while the department searches for his replacement." That means this thief is being paid \$417,400 plus taxes and benefits. Why didn't the board just appoint the second most senior employee as acting chief?

Finally they're paying a headhunter to recruit the new chief – another \$75,000-100,000? – although they'll doubtlessly hire someone from with one of the adjoining fire districts if not from the same district. Can't the county HR people screen applicants for the fire district board?

Imagine how many thousands of outrageous government employee situations like this exist at the local, state and Federal levels that we never hear about. And every month the U.S. Congress passes another 1,000 page law nobody bothered to even read in order to expand this kind of thing.

Fire district: <http://www.mofd.org/index2.htm>

Job announcement: http://www.averyassoc.net/Job%20Descriptions/Moraga_Orinda_FC_brochure.pdf

[Link](#)

1 day ago

david helmreich replied:



Charles,
You are absolutely right on!
It is way beyond outrageous. How so? I bet if you look deeper you will find it criminal.
Anyone, and I mean anyone, who can in good conscience game the system to this extent (and a firefighter no less) has surely lost his moral compass a long, long time ago.
He was the fire Chief.
Investigate good old Pete hard and deep enough, go back and review all the contracts and purchases the department made over the years. I assure you you wont have to look long.
Perhaps Pete wont be getting this insane pension for so long after all.

[Link](#)

1 day ago

Eileen Lai replied:

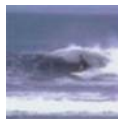


This is happening in my school district in Illinois. My school board just continue to rubber stamp these deals. They are all "friends". I'm sick of it.

[Link](#)

1 day ago

Suva Crew replied:



As a resident of this district...I'm blown away!! We formed this in 1997 and had this BULL included...so it's not decades of legacy. Our roads are thrashed, we contract with the Sheriff for protection, the firehouses look like mansions..only difference is there is a flag pole out front <http://www.mofd.org/Station44.htm>, we fund our schools through private donations to various feeder organizations because public funding is insufficient...and then have these clowns getting this type of income.
WSJ is on the doorstep of many of the residents and they'll be ticked off today. Now I know why I have 2 County fire chiefs living in my neighborhood in \$1.5 million plus homes...

The fleecing of America at the hands of our public servants...NICE

[Link](#)

1 day ago

Dick Cherry wrote:



We have the same problem in our city here in Missouri an underfunded police fire pension fund. The professional unions lobbied the city government for higher pay during the good times and the city politicians not wanting to use current dollars for pay but on other projects opted to increase retirement benefits, after all the fund was making big money then came the crash and now we the city tax payers are threatened by the unions to make good on these gold plated retirements.

The city council of course wants to raise taxes instead of firing city employees. The city wants to believe we will come out of the depression next year they are of course mostly Obama supporters who are looking at the new socialized economy through rose colored glasses. In the end the city tax payers will pay even more for their foolishness. And the local voter involvement don't ask. We have the government we deserve.

[Link](#)

1 day ago

Jerry Cupples wrote:



CalPERS will pay 90% of an employee's maximum salary as a yearly pension for those who reach the 30 year mark. This type of entitlement is one of the major reasons for the California budget crisis. Pensions are guaranteed by law, and many if not most of the beneficiaries are union members. Then of course the elected officials are in the CalPERS plan. The payouts are absurd when compared to the (uncommon) private employment pensions - notwithstanding the sweet deals of corporate executives - but any political attempts to cut them will be impossible.

[Link](#)

1 day ago

MICHAEL LOCKHART replied:



It's not just pensions but total public employee compensation and benefits that are out of control. Can the people of California bypass the politicians and use their initiative process to change these rules?

[Link](#)

1 day ago

Michael Dowd replied:



This entire story is sick. Unfortunately, the public employees' unions have a choke hold on California's government. This is not going to get better anytime soon.

[Link](#)

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1 day ago

D W wrote:



Spiking is an abuse of the pension system. NYC's EE Retirement System is a perfect example of this. I think they changed the spiking element since Tier III.

[Link](#)

1 day ago

Robert Meale wrote:



Let's see, \$1 million over 25 yrs is \$40,000 per year--this is the amount of the annual pension payments the fire chief earned by cashing out his accrued vacation and holiday time. The story is missing three key pieces of info. Is the pension paid on the basis of the high five years' pay, what is the accrual rate, and is there a cap on accrued leave that an employee may present for payment at retirement? Here, the 51 yo chief, who was earning \$186K, presumably jumped his pension from \$201K to \$240K per year by selling his unused leave. Let's guess he put in 30 yrs of covered employment. At an accrual rate of 3.6% per year, he would be entitled to about \$201K per year, using \$186K as his average annual earnings for calculating his pension. Let's say his average annual earnings are his high five years. To raise his payout from \$201K to \$240K, he would have had to raise his average to \$223,500, or about \$37,000 per year times five years. This would mean that his unpaid leave would have to be nearly \$200,000. I doubt, even in Calif, the good chief was entitled to 6-12 mos off every yr. My guess is that the plan document allows the chief to carry over too much leave time, rather than make him use it or lose it. So, perhaps the plan document needs to cap the accrual of leave to, say, 250 hrs carried over from yr to yr; excess leave is lost. Maybe the accrual rate needs tweaking so that the rate for management is below that of that of firefighters, who are facing peril on a daily basis. Perhaps the plan document needs to extend the number of yrs included in calculating the average annual earnings, so that a sale of unused leave doesn't have such a dramatic effect on the employee's pension.

In Florida, a rank and file state worker accrues at 1.6% per yr and may sell back, I think, 240 hrs of unused vacation and 1/4 of unused sick time. If this worker earned \$186K/yr--and precious few state employees earn anything near that--his pension at 30 yrs would be \$89,280. By selling 1.5 mos of unused vacation time and maybe the same in unused sick time, he would raise his salary in his final yr to \$232,500, his average annual earnings (i.e., his high five years') to \$195,300, and his pension to \$93,744--less than \$5000 per yr.

To some readers, the story's lack of detail may suggest a wider-scale problem. Hypothesizing the missing details reveals that the problem is really one of this public pension program in Calif.

[Link](#)

1 day ago

RALPH CARUSO wrote:



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This is not a new problem, there are many contracts particularly with Police and Firefighter Unions that tie pensions to a 100% of their last year's salary. I worked for a large corporation for 28 3/4 yrs. My pension was based on the average of my last 5 years and 1.5% per year of service. I received a pension of 35% of my last years salary. All the way back in the late seventies there was an article that the driver for the chief of police in NYC received a pension of \$36,000 per year because he had substantial OT in his last year. The other factor is that all of the public sector defined benefit pensions have built in raises for inflation. I have received one 1% raise in 15 years on my private corporation pension. We as a nation can no more afford this than we can "Cap and Tax" and the current version of "Health Care Reform".

rhc26

[Link](#)

1 day ago

Matthew Szekely wrote:



The subject of the story will probably live another 30+ years, not the 25 years mentioned in the stories (per mortality tables I found on line). It's funny that the crowd that clamors for "sustainable" development falls silent on the question of "sustainable" pensions.

[Link](#)

1 day ago

Joanie Krubski wrote:



I love the guy says "I did not make the rules"-that is what they are all trained to say. It is a shame that all the little weasel alderman, boards of finance, etc who "negotiated" over the past 25 years cant have assets attached. Most of them are "townies" who are just looking to build their legal or real estate business and who have so many relatives and friends employed(not to mention themselves in many cases) that they wont rock the boat. I made a present value presentation many years ago at my town and the blank stares coming back told me all I needed to know. Ironically, if a private business promised these benefits without funding them, there would be attachments of property and jailtime.

[Link](#)

1 day ago

Brian Shapiro wrote:



Here is how a peson can knowingly game the California firefighter pension system to maximize retirement pension benefits: (1) Don't take vacations, thereby maximizing the vacation sell-back so that one can earn many times more than the forgone vacation over the projected 30-40 years of retirement, and (2) retire as soon as possible (e.g., January), so that it is legal to sell back that whole calendar year's vacation time. This individually selfish behavior doesn't just coincidentally happen. It is strategically planned.

[Link](#)

1 day ago

Gordon Boyd wrote:



Unsustainable. I worked for the State of New York for 13 years, 1975 through 1987, and signed into the now-closed Tier 2 pension plan. Defined benefit. No employee contribution. Today my pension benefit includes my family health coverage for the same cost as state employees, about \$2,500 per year, value about \$14,000. Plus, I receive about \$400 per month cash. Total value \$18,000+. If I'd saved up for an annuity that would guarantee me that much for life, I would have had to set aside about \$300,000. I did not even gross \$300K the whole time I worked for the state. Started at about \$10K, got raises of \$500 or \$1,000 per year, then a couple of promotions put me at \$45K and \$52K before I left and started my business. So it was as if the state put a dollar+ in the pension kitty for every dollar they paid me. Ridiculous.

Another thing. The Republicans here are as guilty as the unions and the Democrats for perpetuating this house of cards. They seek and get union support, and they sponsor the bills that have kept Tier 2 open to all new police and fire recruits but have been closed to all other public employees since 1976. Gov. Paterson finally vetoed this year's "extender", first Gov to do so.

Now the NYS Comptroller, sole trustee of the pension system, has projected that local government and state pension contributions will rise to 29% from 7% of payroll by 2015, to make up the losses since last summer.

Until at least one of the major parties takes an interest in fiscal responsibility, there will be no solution.

[Link](#)

1 day ago

Andrew Cosentino replied:



Don't forget the annuity plan offered to the teachers in NYS, whereby they get guaranteed rates of 7%. That's unheard of, completely out of market - guaranteed rates and return of principal. Who pays for this? Joe Taxpayer? - they need to run all public officials out of office.

[Link](#)

1 day ago

Andrew McDevitt wrote:



The solution to this "spiking" problem is to sunset public employee pensions all together and let public employees participate in 401(k) 403(b) style plans like private sector workers. Let everyone be in charge of their own retirement saving and take power away from pension mangement entities like CALPERS and the retired legislators that end up on their Boards. These long-term public employee legacy costs are going to kill our state/local budgets in the long-term.

[Link](#)

1 day ago

Eileen Lai wrote:



"It's only a minority of workers who engage in pension spiking," said Lawrence McQuillan, a director at the institute. "But it adds up to real money."

B.S., this happen in everywhere, my school board does the same kind of spike in Illinois. I'm sick of it!

[Link](#)

1 day ago

Vincent P. Emmer wrote:



Another clear example of government teaming up with special interest groups to abuse the taxpayer.

[Link](#)

16 hours ago

Roger Brown replied:



Not true.
Taxpayers voted for the abuse over many years.
Taxpyers are responsible for the state budget debacle in CA, NJ, NY
Just as Taxpayers provided the margin for the Obama win and a Dem Soc economy.
We the People are responsible.

[Link](#)

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U.S. NEWS | JULY 20, 2009

Pension Calculus Draws New Scrutiny

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1 day ago

Matthew Szekely wrote:



Here in Austin the corrupt and unaccountable city council spiked the pension of our former city manager. She was given pension credit for a few years she worked as a contractor. Her pension would have been six figures anyway, but was raised considerably. She retired in her early 50s. We will pay her pension for decades.

Link

1 day ago

Sarah Olexsey wrote:



Why does this happen? 1) It must be hard to recruit public employees, so you must need to give them these insane benefits to lure them away from the private sector. What can you offer them? Job stability, lots of vacation they'll probably never use, lots of holidays, decent wages, insane benefits. 2) Legislators don't have this job stability, so they do what they can to get re-elected. We often only have two choices. As someone said before, one-issue groups can really get out the vote!

Link

1 day ago

James Fay wrote:



Paying the pension amount is one thing, that being controlled by pension law and contract. But there was NO NEED WHATSOEVER to pay him as a "consultant" at \$176,000! There's more to this particular story that even the usually on-the-ball WSJ missed.

There was a reason why this chief retired as abruptly as he did: he may have, after a certain date, lost some accrued money which would have affected his final pension numbers negatively. So, to off-set that, he retires before the "drop-dead" date, keeping whatever pension dollars he would have lost, and stays on as chief as a "consultant," collecting the pension AND the "consultant's fee" of \$176G. What a scam!

What makes this chief so great that only HE can be chief until someone else is found (that is, if ANYONE else can be found? After all, he's getting \$176G a YEAR, so he has to hang around for at least a year to collect the full amount). ANY OTHER Fire Department would have sent him on his way with his pension and either appointed another chief right away or made an Acting Chief (with no additional money being paid) until they did.

It appears to me that the local politicians who seem to be rather cavalier about this "consultant's fee" may be in cahoots with the chief, knowing full-well what they are doing is totally unnecessary.

Note to WSJ Reporter Graig Karmin: there's more to this story behind the scenes. Maybe a follow up is needed.

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1 day ago

Peter Quilici wrote:

What's going on in California is common in states with high population areas. Pension spiking has been a problem in my home state of Illinois for decades, and the politicians will do nothing about it. A twist on spiking is a transfer of a political loyalist to a much higher paying position shortly before retirement. Sometimes a position is created solely to provide the boost. A few months in the position and voila, a higher pension based on the higher salary. Illinois sold \$10 billion in pension obligation bonds for its state employee pension plans in 2003, and now it is borrowing another \$3.5 billion for the same purpose. This like the credit crisis many saw coming years out. The resolution will be ugly when the regular folk figure out what has been going on for decades.

[Link](#)

1 day ago

jude moriarty wrote:

I'm sure this is the TIP of the iceberg nationwide and WE the taxpayers are footing the BILLS for local/state and FEDERAL pensions! Meantime Future World has (see Auto Czar Steve the RAT) an illegal bankruptcy paying 100% on the dollar to Morgan/Citi and all others thrown to the winds. They were paid CASH --which happened to be the pension/health benefits worker had paid in over decades. NEW HIRES are temp/part time NO pension/ no health care at an astounding 12 BUCKS per hr.

This is the NEW work a day salary. Meantime local - state - federal - CEOs are cleaning up and WE PAY!! Bush got a cool one million per year with pension - office expenses (ha) and of course life time health. Fed employees (PRES - all others) are in a PROTECTED health plan which means they DON'T get notices NOT COVERED - obscene premium increases /co pay! The Supreme Court gets their FULL salary as pension / political hacks have SS and two other PENSION plans (we subsidize one of these) with YEARLY cost of living increases. NO they are adamant that whatever health plan is passed they are NOT part of it thank you.

Ah - forget that 'Promise' of Obama's that WE were going to have the SAME as he and HIS family (mere campaign rhetoric like ALL the rest). NOTE all of these bozos be it local etc are indignant that it's all LEGAL / not moral mind you but LEGAL ---NOBODY is worth a quarter of a MILLION (for God's sakes) pension and THEN (gag) a 176,000 as a consultant!! Little wonder California and all the states are going belly up!!

HE'S just ONE - meantime there are (CNN) documented accounts of citizens DYING on the floors of ER rooms! Imagine in Super Power - We're number ONE !! When health and people's lives are for PROFIT ----multitudes will DIE for the sake of GREED. Both plans (REP and DEM) keep the pigs at the trough served (Insurance - HMOs - Big Pharma) --We waited all these long years for NOTHING - the Dems can NO longer blame the Republicans - they're all lap dogs - toadies and shills of Wall St / Corporate Hucksters.

[Link](#)

1 day ago

Lloyd Angel wrote:

Legal fraud! But that's O.K. The big "O" will come to the rescue with your tax dollars.

[Link](#)

1 day ago

Dwight Smith wrote:

The fact that the local municipalities as well as the California state governments have not reworked this 'free ride' tells us all how interested the politicians are in truly fixing 'the system'.

Now if we can get the voters to understand that the politicians have been buying support like this for years by promising these unions access to our wallets - then we can start a legitimate debate on the real need for CHANGE!

Not the Obama kind - the fiscally prudent kind. Companies have moved toward the defined contribution pension model - public entities should as well. These types of gaming activities should not be rewarded by archaic rules of engagement. If the chief wants to retire from the service at 51 - he should either be independetly wealthy (or have a rich wife) - or plan to work elsewhere for a few more years - like the rest of us.

[Link](#)

1 day ago

Jeff Stiegler wrote:



Our former police chief in the small town of Paso Robles, CA, was hired in 1997 at an annual salary of \$68,000. He retired 4 years ago and with pension of \$122,000 yearly. He will collect this amount until the day he dies.

[Link](#)

1 day ago

Sangam Singh wrote:



Our Tax Dollars At Work.

[Link](#)

1 day ago

chris witt wrote:



Hopefully he expires soon, so that the pension goes to zero.

[Link](#)

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1 day ago

chris witt wrote:



Link

1 day ago

chris witt wrote:



Link

1 day ago

George Victor wrote:



One of many reasons to get the heck out of California before the doofus dems totally bankrupt the state. But wait! Awwww, too late.....

Link

23 hours ago

Peter Frosini wrote:



That's called "spiking" and "double-dipping!"

Link

23 hours ago

ROBERT GROSS wrote:



The way this guy played the CA pension system is nothing compared to what goes on in NJ...

Link

23 hours ago



Video

Lawmakers' Health Care Juggles 2:50

Keeping Lights On in Recession 3:16

Lawmakers To Push Bernanke On Regulatory Powers 2:24

Rebecca Slayman wrote:



Does California also have a NON-qualified pension plan? I asking because under IRS rules, the maximum annual retirement benefit for 2008 for a qualified plan cannot exceed \$185,000.

[Link](#)

18 hours ago

Marcia Fritz replied:



the IRS limits only apply to those hired after 1994. I just checked with CalPERS. :(

[Link](#)

23 hours ago

Byron Walker wrote:



Great investment. Bank your sick days. Lets assume you begin doing that early in your 30 year career. If you are making \$100/day (\$22K/yr), but you cash out 30 years hence with those sick days worth \$1000/day (\$220k/yr) as the value is grossed up to your current pay rate. That's an 8% tax deferred return over 30 years! Then you get a percentage of the ballooned value of those sick days for the rest of your life! Where are the controls on these practices? Further, if this guy was so good, why hasn't he found a replacement ahead of his retirement. There is no way these practices can continue forever, there isn't enough money in the world to pay for them.

[Link](#)

23 hours ago

ROBERT GROSS wrote:



One more comment, this fire chief is a class act...he cant seem to live on \$240,000 so he had to sell his services as a consultant for an extra \$170,000 (he gamed the system and taxpayers so well, retire before anyone can find a replacement and then collect an extra fee while they "find" someone), while the real firefighters are forgoing raises and being responsible...greed is alive and well

[Link](#)

20 hours ago

NIKOLE HOGUE replied:



While I think whole article explains what's wrong with Cali, I don't have a problem with the working while collecting a pension.

If they don't hire him, they would be paying someone else, so we're not talking about extra taxpayer dollars being spent.

If he finds a private sector job, he's earning a salary while collecting a pension, so I don't have an issue with this particular aspect...

[Link](#)

23 hours ago

John Ingham wrote:



This is one reason why the current budget stalemate needs to result in a meltdown and bankruptcy of CA. Rewrite the rules and renege on the current arrangements. It is not sustainable so lets rip the long overdue band-aid off now.

[Link](#)

23 hours ago

Hank Rearden wrote:



Here lies America
R.I.P. 1776-2009
U.N. convicted of murder-suicide: 2010

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23 hours ago

Jason Barardo wrote:



All I can say is...WOW!!!! What a scandal. That fire chief has balls of steel pulling that stunt in these economic times.

[Link](#)

22 hours ago

Cary Klaffer wrote:



Just another government example of what is decried in corporate executive compensation. The pension calcs get jimmied and guaranteed so that actual work history no longer becomes the relevant basis for the pension. In the case of government, of course, it is the taxpayers rather than stockholders who pay the bill; conveniently, there is no cause of action allowed to sue the government for agreeing to these sweetheart deals. Send a copy of this to Barney Frank and Chuck Schumer and see what they have to say about it.

[Link](#)

22 hours ago

EDWARD L SHANNON wrote:



Public Pension Pigs have been sucking the life out of the taxpayers for many years and now the well has run dry and everybody wants to know why.

[Link](#)

22 hours ago

Thomas Grabenstatter wrote:



The so-called Pension Protection Act (of 2007?) offers a remedy. It allows pension sponsors to implement a "conversion" to a cash-balance account. Under this arrangement, the pension provider calculates the accrued, to date (i.e., today) present value of any earned benefits. This present value becomes a cash-balance that is placed in an employee's account. This account earns some rate of return, that is augmented by an amount that ranges from 1% to 7% per year of additional employment, depending on the employees age.

Take a look at it; it represents the most likely solution to this over-promised fairy dust. It is also probably the most reasonable, and actually fair, resolution to this impossible situation.

[Link](#)

22 hours ago

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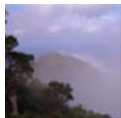
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Lawmakers To Push Bernanke On Regulatory Powers 2:24

Greg Kemnitz wrote:



Somewhere in all that "pension calculus", we divided by zero.
[Link](#)

21 hours ago

JOHN BISSET wrote:



As a former resident of this fire district and also someone who still owns property there, I am furious over this.

This area is bounded on three sides by open space that is prone to wildfires. Some time ago we voted in additional property taxes to pay for better fire protection, which a lot of people would say is the right thing to do. Our reward for this is to get ripped off by this guy's union.

The public employee unions are run by a bunch of socialist gangsters and the state is dominated by the most dishonest, corrupt political party this country has ever seen. The only thing the Democratic legislators are interested in is keeping the gravy train going so they get their kickbacks in the form of campaign contributions. The legislators are superfluous. Since the Teacher's Unions sets education policy, the Firefighter's Union sets fire fighting policy, the Prison Guards Union sets prison policy, the Engineer's Union sets infrastructure policy, etc., what is there left for the legislators to do? Their only job is to keep the graft flowing.

[Link](#)

21 hours ago

JOHN BUSCO wrote:



And then there's pre-retirement disability (not begrudging anyone with a genuine on the job injury or accident)

"Although a greater percentage of San Jose police and firefighter retirees are on disability pensions than in any other large California city, a consultant paid to look into the matter has concluded there isn't a problem.

...

Officers and firefighters have a financial incentive to seek disability retirements. If approved, more than half their taxpayer-funded pension becomes tax-free for life, a break that can be worth \$10,000 or more a year."

http://www.mercurynews.com/cj_5182616

And speaking of double-dipping, from

"Former top San Jose officials work elsewhere while drawing six-figure pensions"

http://www.mercurynews.com/ci_12818004

there is the case of

Dale Foster, 60

Retired: Foster retired in 2005 from his \$160,962-a-year position as acting San Jose fire chief after the city tapped Gilroy's then-chief, Jeff Clet, for the top job. Foster had spent 32 years with the San Jose department.

Today: Foster, whose \$160,803 annual pension four years into retirement nearly equals his former pay, has taken Clet's place as Gilroy's fire chief, where he earns \$158,212. Last year, he earned \$174,300 before cash-strapped Gilroy imposed furloughs that reduced pay by 9.2 percent.

[Link](#)

18 hours ago

Marcia Fritz replied:



San Jose has a higher disability rate than other cities because those injured/disabled on the job get 85% of their pensions tax-free. Most other cities' allow "only" up to 50% tax-free for disabled pensioners.

[Link](#)

19 hours ago

Penny Lee wrote:



Many think you can't get rich being a government worker. This story about a retired Fire Chief getting \$241,000 plus \$176,000 consultant salary should put that myth to rest. I urge all young kids to aspire to work for the government for 30 yrs and retire in early 50's with a 6 figure pension. Beats the heck out of retail business I'm in. My only option is work until I drop.

[Link](#)

19 hours ago

Craig Bradley wrote:



AMERICAN GREED

Chief Nowwicki's explanation is inexcusable. He concedes the "system is broken" but then he willingly and wantonly took full advantage of all the loopholes entitled to him. The system encourages greed and people in his position are often just as greedy as anyone at Goldman Sacks or Wall Street. America is fast running out of time to "fix the system". If it ever crashes or collapses, there will be He"! to pay.

[Link](#)

18 hours ago

Marcia Fritz replied:



Pension trustees have known about this abuse for years and have remained silent. We've only gotten access to the NAMES and PENSIONS this year and had to go to court to get it! Now these trustees can't hide the truth.

[Link](#)

18 hours ago

Marcia Fritz wrote:



The governor formed a public employee benefit commission two years ago to study the increasing trend of retirement costs and make recommendations. A taxpayer advocacy group presented a list of 25 ways to spike pensions at their public hearings and every pension system admitted that vacation cash-outs are pensionable wages. But no one, not legislators, not pension board trustees, not committee members proposed legislation to stop this unnecessary abuse that serves no one.

[Link](#)

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16 hours ago

Joe Cleary wrote:



Wait till they investigate the corrupt NJ program

I make no excuse for the giveaway detailed in this article-- but at least this guy is a fireman and deserves some pension.

Here in NJ- political hacks work "part time" jobs gaining years of credit making a just a few thousand dollars a year. Then these same freeloaders get appointed to a BS state board (we have scores of such boards-- BPU, Insurance etc- you name it-- they never get cut back despite NJ being essentially bankrupt) or the like and make say 125,000 a year for showing up a dozen times a year. Voila someone who never should have collected any pension get an \$80,000 pension after making \$8,000 a year and 2 to 3 years as a board member.

Everyone knows it - no one does a thing about this abuse.

ugh

Link

16 hours ago

Vincent L. Tessier wrote:



Can you say, "Greedy ba\$tar\$ds", boys and girls? I knew you could.

Link

14 hours ago

Pat Burke wrote:



Nice article. Below is a link to a Civil Grand Jury report in Marin County, CA issued in 2005.

http://www.co.marin.ca.us/depts/GJ/main/cvgrjr/2004gj/RetirementReport_Final.pdf

California police and fire unions started getting out of control when Gray Davis was governor. City, county, and state elected officials have found that the path to election is to promise public employee unions their hearts' desire. Recent stock market troubles will compound pension problems, but we can rest assured that our elected officials will not face the music a moment sooner than necessary.

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Byron Walker wrote:



News item: Atlantic City's police chief, John J. Mooney, has an annual salary of \$206,578. Fire Chief Dennis Brooks earns \$196,000. – The Press of Atlantic City, July 8, 2009

Both chiefs also get jobs of vacation, sick and personal days each year, free medical care for the whole family, and free city-owned cars with free gas and insurance. After 25 years of public employment (usually by age 47), each chief, like any cop or fireman, can retire at two-thirds of his highest salary plus free lifetime medical care. Most retiring chiefs also get huge lump-sum cash payments for their unused vacation, sick and personal days. What underling marks his or her chief absent for not showing up, or showing up late, or leaving early? When a chief retires (usually within five years), the process is repeated.

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Finance Report

July 20, 2022

Strike Team Reimbursement - OES



• Strike Team Receivable Update:

	Estimated <u>2021-2022</u>	Estimated <u>2022-2023</u>
OES Strike Team Receivable	\$1,661,062	\$11,039
OES Payments Received	<u>\$1,483,128</u>	<u>\$ 0</u>
Net Receivable Outstanding	\$ 177,934	\$11,039

- 2021-2022 – New invoices received for Sheep/Graham/Calf Canyon fires – June 2022
- 2022-2023 – Estimated based on F-42 received – other assignments pending F-42's

Finance Report Cont'd.



• Other Items





- FY22 – closing in process
- Payroll – payroll increases and CCCERA rate increases effective 7/1/22 – rate changes have been input in ADP
- OES Salary Survey updated with new rates

MOFD Board Update July 20, 2022



INCIDENT ACTION PLAN
ELECTRA INCIDENT
CA-AEU-017769

Sunday



OPERATIONAL PERIOD
7/10/2022 0700
to
7/11/2022 0700

