



Moraga-Orinda Fire District
 BOARD OF DIRECTORS
 REGULAR BOARD MEETING MINUTES
 August 17, 2022
 (APPROVED SEPTEMBER 21, 2022)

1. OPENING CEREMONIES

The Board of Directors convened a teleconference Open Session at 7:00 p.m. on August 17, 2022, via the Zoom application <https://us02web.zoom.us/j/87515151628>, webinar id: 87515151628 and by phone at 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 and requested an attendance roll call. Fire Chief Winnacker led the pledge of allegiance.

President Donner Director Baitx (Absent) Director Danziger Director Jex Director Jorgens	Dave Winnacker, Fire Chief Jeff Isaacs, Fire Marshal Gloriann Sasser, Admin. Services Director Christine Russell, HR Manager	Mary Smith, Finance Manager Jonathan Holtzman, District Counsel Mariam Morley, District Counsel Marcia Holbrook, District Clerk
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2. CONSENT AGENDA (audio 02:34)

2.1 Adopt Resolution 22-25 Re-Ratifying Findings and Determining A Need to Continue Holding Remote Meetings By Teleconference

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 Jex to adopt Resolution 22-25 Re-Ratifying Findings and Determining A Need to Continue Holding Remote Meetings By Teleconference. Said motion carried 4-0-1-0 roll call vote (Ayes: Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: Baitx; Abstain: None).

3. PUBLIC COMMENT - ITEMS NOT ON THE AGENDA (audio 04:05)

President Donner opened the public comment.

David Sylvester, Moraga resident, announced that he was in attendance.

District Clerk Holbrook announced one written public comment was received after 3 p.m. from Kelly Morris-Nichols regarding a work-related incident that occurred on December 2, 2012, and the status of the payout of the work comp, attached to these minutes. District Counsel Holtzman noted two names referenced in the comment had been redacted due to the potential confidential medical information.

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

4. PUBLIC HEARING (audio 09:23)

4.1 Administrative Citation Hearing for Property Located at 118 David Drive, Moraga, APN 258470046, Administrative Citation Number 22-1398-001

Fire Marshal Isaacs provided the report. On June 3, 2022, MOFD inspected 118 David Drive, Moraga, APN: 258470046. Staff identified violations of MOFD Ordinance 20-01 (Fire Code) on the property. A Pre-citation Notification was issued, ordering the property owner to correct the violation(s) listed in the Pre-Citation Notification within 30 days from the date of the Notification. The Pre-Citation Notification advised the property owner that failure to correct the violation(s) would result in the issuance of an Administrative Citation and a \$100 fine. MOFD re-inspected your property on July 11, 2022, and determined that the OPEN violation(s) were not corrected. Accordingly, on July 12, 2022, MOFD issued Administrative Citation number 22-1398-001 and a \$100 fine. On July 18, 2022, the Owner submitted a request for a hearing stating he is not the Responsible Person. On August 9, 2022, MOFD met with the property owner and provided a copy of the Contra Costa County Assessor's parcel map outlining the parcel's boundary. On August 12, 2022, Staff provided the property owner a copy of the August 17, 2022 staff report and supporting documents. Administrative Citation 22-1398-001 has been placed on hold pending adjudication.

President Donner opened the administrative hearing and public comment.

District Clerk Holbrook announced that Mr. David Sylvester was in attendance per a Zoom Chat message. Director Jorgens asked if Mr. Sylvester was considered public comment or the actual agenda item. District Clerk Holbrook answered Mr. Sylvester is the Property Owner. Director Jorgens asserted Mr. Sylvester is not public comment. District Counsel Holtzman confirmed Mr. Sylvester has 10 minutes to speak on the item. Director Danziger asked if Mr. Sylvester's comments were part of the public comment. District Counsel Holtzman replied no. President Donner asked if there was any member of the public to address the Board. There were no requests to address the Board.

President Donner inquired if Mr. Sylvester was experiencing any technical difficulties. District Clerk Holbrook responded no communications were received indicating any technical issues. Director Danziger inquired if the Board could discuss while waiting for Mr. Sylvester. District Counsel Holtzman stated the Board must hear Mr. Sylvester's statement before any Board discussion since it is a due process hearing.

ADMINISTRATIVE CITATION APPEAL - \$100.00 FINE / 118 DAVID DRIVE MORAGA

David Sylvester, property owner, 118 David Drive, Moraga, presented a written statement outlining two arguments claiming he is not the responsible party for the area of the violations, attached to these minutes, item 4.1. Mr. Sylvester asserted Ordinance 289 - Chapter 12.10 does not apply to St. Mary's Road or his situation. The property line for 118 David Drive begins 40 feet from the center line of St. Mary's Road, making the right-a-way maintenance ordinance moot. The 118 David Drive property line on St. Mary's is 68 feet. St. Mary's width (per plot map) is 108 feet. The actual paved section width is 33 feet. Ordinance 289 does not apply to 118 David Drive because it is not close enough to the road. Mr. Sylvester commented that the citation communication process led to unnecessary confusion and delay and suggested improving the process by sending specific letters with the ordinances attached, abatement procedures, and all the rules.

Fire Chief Winnacker clarified that Ordinance 289 is a Town of Moraga Ordinance and deferred to the Town of Moraga regarding the application and interpretation of the Ordinance. Director Danziger asked about Mr. Sylvester's contention that he is not the responsible party.

Fire Chief Winnacker referred to the County Assessors Map (Map) on page 17 of the August 17, 2022 Board Packet. The Map shows parcel 46 going to the edge of St Mary's road. The question Mr. Sylvester proposed is how the Town of Moraga Ordinance 289 applies, where the line is drawn, and whether or not the interpretation of Ordinance 289 means that it is the budding property owner's responsibility or is the Town of Moraga's responsibility. This question is not something the District can adjudicate. As with any parcel, the District cites the parcel owner of record. If a parcel owner of record believes some other party is responsible, either through contract, interpretation of an ordinance, or use agreement, that discussion is between the property owner and the other party. The District is not in a position to adjudicate those positions or provide rulings. Fire Chief Winnacker asserted in accordance with the Map; the District has cited the responsible party.

Director Jorgens stated that the question is who owns the piece of property where the road is located. Director Jorgens contended the Map shows some property lines have easements over them. The 118 David Drive property does not appear to be that way.

Fire Chief Winnacker answered the Map shows the parcel ending at the road. The Town of Moraga's Ordinance says the "Abutting Property" owner means the Owner of a parcel of real property applies. Director Jorgens countered that the District is enforcing the Town of Moraga's Ordinance, which is not the District's job. The District's job would be to assess the Town of Moraga.

Fire Chief Winnacker responded the Map shows that the Town of Moraga does not own the road. The road does not show an owner. Rights were conveyed to the municipality to allow the public way, but the Town of Moraga does not hold the fee title of the roadway. Director Jorgens stated that the Map does not show Mr. Sylvester as owning the fee title. The Map shows the endpoints of property lines. There is a gap between the roads on the Map, and those property owners do not own those roads. Fire Chief Winnacker replied that is not the legal or actual interpretation throughout the District and others. If the District were to make that change in the interpretation, that would be sweeping in nature.

Director Jorgens responded that is different. In the City of Orinda, people own the center of the road, and there is an easement. That is a different thing than what the Map shows. Fire Chief Winnacker countered that it is not what the Map shows. The Map shows the same indication. The Map for most of the public roads shows what this Map shows. Director Jorgens disagreed and deferred to District Counsel for guidance regarding the property line outlined in red on the Map.

Fire Marshal Isaacs explained the citation was issued for the portion of Mr. Sylvester's property that abutted St. Mary's road. Director Jorgens replied as long as it is on his actual parcel, if it is actually in what the Map defines as St. Mary's Road, then it is not Mr. Sylvester's problem according to the District. It might be according to the Town of Moraga, but not according to the District.

District Counsel Morley understood the citation was issued for land that abuts the roadway that is not part of the roadway. Director Jorgens pointed out that it is inside the red box outlined on the Map and has nothing to do with the Town of Moraga; that has to do with the District because it is on his actual property. District Counsel Morley responded yes, that was her understanding. Director Jorgens stated that was his first question if the citation applied to violations inside the red box drawn on the Map. Fire Chief Winnacker responded that was Mr. Sylvester's point under bullet number two.

District Counsel Holtzman asked for a point of clarification if Mr. Sylvester's statement is that he does not own the property. Mr. Sylvester explained the property line shows that 68 feet of the property line are St Mary's road. His point is that St Mary's Road, the paved part of St Mary's Road, is 33 feet wide, half the distance from his 68 feet. St. Mary's road is longer than 68 feet wide. It is approximately 108 feet wide, which means that there are 40 feet of non-paved roadway owned by somebody else, and not Mr. Sylvester. Mr. Sylvester contested that the District is asking him to abate property approximately 40 feet off the edge of the paved road.

Director Jorgens reiterated that the District has the authority to enforce abatement on the Owner on that 68-foot border. The Town of Moraga Ordinance is between the Town of Moraga and the property owner, not between the District and the property owner. The District has done this in the exact opposite way for other parcels. Director Jorgen's clarified he was not saying the Owner is not going to have to abate the violation. It should not be the District to take that Owner to Court or issue a citation. The District only has the authority to issue a citation to the Owner of the parcel. Mr. Sylvester is not the Owner of that part of the parcel, according to Mr. Sylvester.

Director Danziger inquired about the case notes that Fuels Mitigation Manager Graham met with Mr. Sylvester and that Mr. Sylvester would hire a contractor to take care of the mitigation issues. Mr. Sylvester answered he has reached out to a mitigation firm and is in the process of getting quotes but has done nothing at this point. Mr. Sylvester explained after meeting with Mr. Graham, he realized there was more mitigation on the property because the property is slightly over an acre. A dead tree also needs to be removed.

Director Danziger pointed out that Mr. Sylvester had not done anything about the notice to abate. Mr. Sylvester responded that he is turning the earth, started a mower, and has been working on it. Director Danziger called attention to the fact that the violations have been occurring since June 2022. Part of the issue in contention is that it may not be Mr. Sylvester's property, but it sounds like most of it is Mr. Sylvester's property. Director Jorgens noted there had not been anything specifying what needed to be done and on what parts of Mr. Sylvester's property. Mr. Sylvester declared that the citation was specific to St Mary's road. All other violations will be worked on and are not part of the Administrative Citation Hearing. Fire Marshal Isaac confirmed.

Director Jorgens supported the fuel mitigation efforts of the District. However, the rule of law is that the District can only give citations to the property owner because, for example, the District does not give citations to renters. Somebody needs to get a survey, and for the part that is not Mr. Sylvester's property, the Town of Moraga can deal with the violations. Otherwise, the District needs to cite the Town of Moraga, which can then use their rule to force Mr. Sylvester to do the roadside work. Fire Chief Winnacker reiterated that the Town of Moraga does not own the roadway in a fee title. It is an easement. Director Jorgens countered that somebody owns the roadway.

Director Jorgens stated the Map does not appear to have an easement for St Mary's Road. Fire Chief Winnacker affirmed Staff would research and provide more information; however, that is not an accurate assessment of how the maps are drawn. The Map is consistent with the maps throughout the community, all of which are easements and not held in fee title by the City of Orinda and Town of Moraga. Director Jorgens asked if Mr. Sylvester owns more land than the Map shows. Fire Chief Winnacker responded that Staff would research with the County Assessor and the Town of Moraga and bring that information back to the Board.

Director Danziger agreed with Director Jorgen's comments and recommended Staff obtain a statement from the Town of Moraga or supporting evidence saying this is Mr. Sylvester's property. Fire Chief Winnacker clarified that it would not be the Town of Moraga. The Town of Moraga would acknowledge

that they do not own the fee title. The County Assessor is the determinant of the property lines, the roads, and the easements recorded for public use.

Director Jorgens stated when you are a developer, you sell pieces of property, and most of the time, they show only to the middle of the road, and that is what is owned. And then there is an easement. The Map does not show an easement on the property. Director Jorgens recommended looking at the Title. The Title Insurance Company will tell the District exactly what Mr. Sylvester owns. Fire Chief Winnacker confirmed Staff to research.

Director Danziger preferred putting the onus on Mr. Sylvester to get that information from the County and to present that information to the Board. Director Danziger recommended continuing the hearing next month, directing Mr. Sylvester to go to the County. Director Jorgens questioned if it was Mr. Sylvester's responsibility and opposed requiring the Owner to obtain that evidence. Director Jex commented that St. Mary's Road is long. Director Jorgens recommended Staff consult a real estate lawyer, as the Map presented shows the property line, outlined in red, shows the road wider than it is paved. Fire Chief Winnacker confirmed that Staff will return with more information but cautioned that the Board was putting too much stock into the drawing of the lines on that Map as that would suggest the City of Orinda and the Town of Moraga own all of the roads and streets in fee title, which they do not. Director Jorgens asked if that statement was definitive. Fire Chief Winnacker replied yes.

Director Jex expressed concern about the other violations found on the property, opposed waiting another 30 days regarding the dead trees and other issues found on the property, and asked what actions the property owner intended to take to remove the other hazards. Mr. Sylvester stated he is a compliant person and has been compliant with the fire code and weed abatement issue for 20 years while living on the property. After meeting with the District and learning of hazards, including the need to remove a dead tree that is located in the woods, halfway between the house and St. Mary's Road, a phone call has been made to obtain quotes to remove the dead trees as soon as possible.

Director Jorgens commented that the Town of Moraga recently passed an ordinance that said it is the neighboring property owner to the roads who is responsible for the abatement on that property. This is consistent with the City of Orinda. The Town of Moraga Ordinance might be a new obligation. Fire Chief Winnacker provided background on the Town of Moraga Ordinance 289. The Ordinance resulted from Mr. Sylvester's neighbor contesting a citation issued in 2018 or 2019 for roadside vegetation overhanging St. Mary's road. The neighbor contested and said it was the obligation of the Town of Moraga. The Town of Moraga reviewed its 1990 Ordinance and determined it was vague and passed Ordinance 289 in response to the case raised by the neighbor. Director Jorgens commented, from a practical standpoint, that sooner or later, Mr. Sylvester will have to do the work and recommended starting the work. Director Danziger asked if a motion was required to continue the administrative hearing at the September board meeting. District Counsel Holtzman confirmed.

President Donner asked if there were any previous violations on the parcel. Fire Chief Winnacker answered no. The District has not been active in that area in the last several years, pending the dispute regarding roadside vegetation resolution. President Donner supported taking Mr. Sylvester on his word that he has been compliant and requested a commitment from Mr. Sylvester to obtain compliance about the work that needs to be done on his property. At the same time, Staff will proceed with the due diligence process on the property section in debate.

Mr. Sylvester agreed if the ordinances for the property weeds to be abated and limbs to be raised within X feet of the road edge or the center of the road, and his property turns out to be in violation, he will take care of that immediately. Mr. Sylvester did not think that was the case, but if it were, he would take care of it. Mr. Sylvester stated he only has 68 feet. The bigger problem is that it is a relatively long piece of land along the road, and serious weed abatement is likely needed. This will require a shutdown of the road and big crews to come in, which could be expensive.

Fire Chief Winnacker pointed out there are other violations on the property besides the roadsides. If the parcel is over an acre, it requires a 100-foot fuel break from the property line around the entire property. If that property line begins seven feet from the roadway, that 100-foot fuel break is required at the property line, even if that is seven feet from the roadside. Mr. Sylvester was unsure if he understood; however, he asserted that regardless of how big his property was, he did not have to abate anything beyond his property. Fire Chief Winnacker agreed and restated from his property line inward that all properties greater than one acre requires a 100-foot fuel break around their perimeter. Mr. Sylvester concurred that was the information he received from Fuels Mitigation Manager Graham, and he is working to comply.

Director Danziger motioned to hold the Administrative Citation hearing for 118 David Drive in abeyance until the September Regular meeting and directed Staff to come back with additional information and a better Map. Fire Chief Winnacker re-clarified that a better map is not available. Staff to return with a detailed explanation of fee title and easements. The Board did not consider the motion.

Director Danziger questioned the discussion about the red circle on the Map presented. Fire Chief Winnacker defined that the red circle follows the Assessor's Map. The property line is shown at the edge of the roadway, and the easement is shown as laid down on top of that. Director Jorgens stated the easement cannot be on somebody else's property. The easement has to be on the property, so the property line has to include the easement footprint, not the other way around. Fire Chief Winnacker understood. Director Jorgens questioned the ownership of the easement. This information needs to be determined and ensure the District understands what authority is in the fire code and citation capabilities. District Counsel Holtzman confirmed Staff would research and prepare a report for the Board.

Mr. Sylvester inquired about the abatement requirements. Fire Chief Winnacker answered there are two different standards. One standard has to do with roadside vegetation; three feet back, 15 feet up, measured vertically, cannot be anything overhanging the roadway within 15 feet vertically. The other standard with parcels greater than one acre requires a 100-foot fuel break. The reduction or removal of all ground fuels, the removal of any dead or dying trees, and the limbing of any ground fuels underneath trees or tree limbs hanging within six feet to the ground or ground fuels maintained around the perimeter of the parcel 100 feet in, and then 100-feet out from the home.

Director Danziger motioned to continue the Administrative Citation hearing for 118 David Drive in abeyance until the September Regular meeting and directed Staff to obtain additional information on the property. District Counsel Holtzman suggested clarifying that the Board is dealing only with the issue of the property that abuts St. Mary's road and not any other enforceable (inaudible) duration with respect to the property. President Donner agreed. Director Jorgens agreed and stated Mr. Sylvester has to do all the rest of the work, and the Board is not delaying that abatement. The continuance is only for the work in question, whether inside or outside that red line. District Counsel Holtzman confirmed.

Director Jex requested an amendment to the motion to encourage the individual to proceed and not wait another 30 days to complete the work, as it should have been done by the end of May. Director Danziger responded that the administrative hearing is only for the area along St. Mary's road. Fire Chief Winnacker confirmed the direction to continue the Administrative Citation Hearing at the September Regular Board meeting and delay the enforcement of the portion of the parcel in question, specifically approximately seven feet from the edge of the paved road, up the hill to where the property line may begin. Everything on the undisputed side, the South side, anywhere interior of the property line, Staff should proceed with enforcement for current violations in those other areas. Director Jex agreed.

Director Jorgens asked if Mr. Sylvester received the violations regarding the 100-foot fuel break. Fire Chief Winnacker answered the initial assessment was the roadside only. When Fuels Mitigation Manager Graham met Mr. Sylvester onsite, the additional violations were noted and have not been cited but verbally explained to the Owner. Staff postponed citing the parcel in deference to the hearing. Based on the Board's direction, the Staff will proceed with citing those other violations for the undisputed areas of the property. Director Jex agreed. Director Jorgens agreed.

President Donner opened public comment.

Mark Evans, Orinda resident, opposed requiring the Fire District to double-check the Title against the parcel map and was confident that the County Assessors map is correct. Mr. Evans believes it is the property owner's responsibility that abuts St. Mary's road to follow the fire code.

Director Jorgens commented that the situation is more technical, with the Map showing the easement, the property owner, the red line, and the paved part of the road. In the City of Orinda, it does not matter who owns it, you have to fix it, but that is between the City of Orinda and the property owner. Mr. Evans replied that the Town of Moraga has enforced the same code as the City of Orinda. Director Jorgens said the problem is the Map shows where the property ends and does not show where the pavement ends, and the question is how that works. Mr. Evans asked if the direction was for Staff to check all the parcels along the road. Director Jorgens replied that the only question is whether the property owner owns part of that road and has not been given an easement or does some other entity own that part of the road. Mr. Evans asked about the easement question. Director Jorgens answered that the Fire Chief asserted that the property owner had been given an easement for that road. Fire Chief Winnacker confirmed that District Counsel would research and come back to the Board with a full presentation.

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

Motion by Director Danziger and seconded by Director Jorgens to continue the administrative citation hearing to the September Regular Board meeting, in abeyance, citation number 22-1398-001 issued on July 12, 2022, violations pertaining to section 325.6.3.1.2 of Ordinance number 20-01, on the property located at 118 David Drive in Moraga California, APN Number 258470046, dealing with the violations of the property that abuts St. Mary's road, and not any other enforceable violations with respect to the property. Said motion carried 4-0-1-0 roll call vote (Ayes: Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: Baitx; Abstain: None)

5. ANNOUNCEMENTS (audio 0:56:37)

5.1 Brief information only reports related to meetings attended by a Director at District expense (Government Code Section 53232.3(d)). Director Jorgens reported on the Joint Fire Prevention Ad Hoc Committee meeting with the City of Orinda. President Donner was also in attendance. A brainstorming session covered many topics, including the City of Orinda's grant program, which focused on fuel abatement, prioritizing the evacuation routes, and increasing the Firewise communities. A meeting is to be scheduled for the next month. President Donner also discussed the ongoing insurance issues with cancellations and premium increases.

5.2 Questions and informational comments from Board members and Staff. Director Danziger inquired about adding a closed session item to the future agenda. District Counsel Holtzman answered an item could be discussed subject to the closed session requirements. Counsel would make the determination.

5.3 Communications Received. Fire Chief Winnacker noted the apology note for a false alarm from the Pullen Family.

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: the FY22 closing is in process, the Interim Audit is in process, items have been submitted to Auditor, and HRSA changes for Unrepresented Employees processed in ADP.

b. Human Resources

Human Resources Manager Russell reported on the ongoing firefighter paramedic recruitment. The top three candidates have continued with the background process and are expected to enter the Fire Academy in December 2022. Director Danziger inquired about the number of vacancies. HR Manager Russell answered three. President Donner asked if there were any eligible people on the list that are not in the process. HR Manager Russell answered ten. The top three are going through the recruitment process.

HR Manager Russell reviewed the application period for the Fire Inspector/Plans Examiner July 26, 2022, to August 15, 2022. The District received 22 applications. A Battalion Chief recruitment was released on August 16, 2022, and remains open until November 16, 2022, per the safety personnel recruitment schedule. The examination process will occur on December 8, 2022.

c. Fire Marshal

Fire Marshal Isaacs provided the report and outlined the statistics listed in the Monthly Fire Prevention report included in the Board packet, item 5.4(c). Staff conducted meetings with the local School Districts to review the exterior hazard abatement requirements. Staff is in process of working with the local County Fire Marshal group to create a locally amended and adopted fire code. Director Danziger inquired about the inspection process for school properties. Fire Marshal Isaacs described the inspection and enforcement process and described a recent meeting with the Moraga School District. Director Danziger asked if a meeting had been held with the Orinda School District. Fire Marshal Isaacs confirmed. Fire Chief Winnacker informed that every public landowning entity in the District has open citations. Director Danziger asked about the process for reporting dead trees located on school properties. Fire Chief Winnacker directed citizens to report fire hazard concerns via the Fire District's website.

d. Operations

Fire Chief Winnacker gave a PowerPoint presentation and provided an update on the recent Oak Fire, which primarily burned into the scar from the Ferguson Fire near Yosemite National Park (2018). A copy of the presentation is attached to these minutes, item 5.4(d). One of the elements that fueled the fire was a significant Bark Beetle infestation. The Bark Beetle has caused high levels of tree mortality across areas of California. The extent to which tree mortality occurs is primarily influenced by forest stand and drought conditions. A dramatic rise in the number of dead trees follows several years of inadequate precipitation. Drought-stricken trees are more susceptible to host material for Bark Beetles, and successful reproduction results in more beetles and higher levels of tree mortality.

Fire Chief Winnacker warned that the increase in tree mortality is not just a high mountain or Sierra phenomenon. Locally, the District is experiencing accelerating die-off of Monterey pines on private parcels, the watershed lands of the San Pablo Dam plantation, and the continuing spread of sudden Oak Death. Dead trees do not protect our community from wildfire threats. It is vital to remove the dead or dying trees early as any infestation has the potential to spread to surrounding healthy trees. As a result of these conditions, firefighters continue to experience record-setting dry fuel beds due to the dry winter, abnormal weather patterns, and above-average temperatures throughout the country. Fire Chief Winnacker voiced concern with current preparedness levels in the District.

Fire Chief Winnacker shared pictures of deployed members on the Washburn Fire and examples of excellent fuel mitigation carried out around the base of trees that reduced the spread of ground fire. Members continue to work with members from other agencies, gaining training experience they would otherwise not obtain. The Oak Fire has currently burned 19,000 acres. The District supported fighting that fire with two Safety Officers and a Type-3 Engine and then joined Santa Cruz County for a rainbow strike team to the McKinney Fire. The McKinney Fire has burned 60,000 acres and continues to burn.

Fire Chief Winnacker shared a photo of a home not affected by the wildfire and the characteristics of the fuel mitigation around the home. The picture illustrated fire smoldering in the distance. The fire was unable to burn across the areas that were adequately mitigated. As a result of the defensible space created, there was no fire damage or loss to the home. The home's construction materials, the metal roofing, the well-maintained vegetation, and the significant defensible space prepared the home for this wildfire.

On August 6, 2022, crews received and responded to a 911 call to Miramonte Road in Orinda. A subsequent call clarified that the incident was, in fact, at Miramonte Drive in Moraga. The crews had to be redirected en route to the updated location. Fire Chief Winnacker advised if calling from a cell phone, the caller must give the full address, including the city, town, street, road, etc. Any delay in responding to an incident can have a negative impact. The crews arrived and found a two-story condo with smoke showing from the exterior. The crews made an aggressive interior attack and confined the fire's origin to the kitchen. The cause remains under investigation, but it is believed to be an electrical malfunction.

Director Jorgens inquired about a dispatch system capable of determining a person's location. Fire Chief Winnacker answered the 911 system could not pull that information from a phone call. Director Jorgens talked about new technology utilizing geolocation. Fire Chief Winnacker responded that type of technology is being performed with a mobile app, where the application is passively or actively sending location services. The phone call initiated to 911 does not include that information. President Donner asked if cell phone calls get routed to CHP. Fire Chief Winnacker confirmed that CHP would ask about the nature of the emergency and the location and then transfer the call to the appropriate place for disposition. In our case, that would be the Contra Costa County regional emergency communication center.

President Donner recommended adding the direct dispatch number to the inspection notices for people to save on their cell phones. Fire Chief Winnacker answered that the information is regularly shared and will work on a PSA to call attention to the local number. The number to call for the Police Department and the number to call for Fire are two different numbers. Director Jorgens stated the new system is NG911. Fire Chief Winnacker confirmed that the new system is not in service here. Director Jorgens recommended sharing this information with the County. Fire Chief Winnacker acknowledged.

On August 11, 2022, an incident involved a bicyclist who struck a parked truck on San Pablo Dam Road. The patient suffered severe life-threatening injuries. Crews engaged in immediate stabilization of the patient, exercising advanced life-saving measures, which resulted in stabilization. The patient was transferred to the level two trauma facility at John Muir Hospital. Fire Chief Winnacker reported this was a significant multi-agency response and highlighted the interagency interoperability functionality of our crews.

Fire Chief Winnacker updated that the Home Hardening Grant program has been implemented, and the feedback has been positive. Residents can request either the ember-resistant mesh or reimbursement. See the District's website for more information and request forms.

Fire Chief Winnacker announced the State Fire Hazards Severity Zone maps (last published in draft in 2007 and updated in 2009 in their final form) have been released to the CAL FIRE units. Staff

expects to see the SRA maps as soon as September and LRA maps by December. Staff will continue to monitor the production of those maps and will provide updates as soon as they are released. Once the maps are released, the District has 120 days to comment on them (enhanced or degraded depending on our local opinions). Fire Chief Winnacker concluded with a fire code update. The 2023 codes were released in July. A countywide consortium of the local county Fire Marshals has been working on a proposed county model code for all of Contra Costa County, with interest from portions of Alameda and Marin County. As that process is completed, Staff will bring the proposed amendments to adopt them in the California Fire Code to the MOFD Board. That adoption will require a first and second hearing. Upon adoption by the MOFD Board, the adopted Fire Code will go to the City of Orinda, the Town of Moraga, and the County Board of Supervisors for ratification. Staff is cautiously optimistic about completing that process by the end of the year. Normally, the Codes are released early in the year (January or February); therefore, the timeline is slightly behind.

President Donner opened Public Comment for items 5.1-5.4.

Marc Evans, Orinda resident, inquired if there was an update on the weed abatement case, 34 La Campana, presented at the July 20, 2022, meeting. Mr. Evans appreciated the monthly Fire Marshal report and the District's work on fuel mitigation.

Fire Chief Winnacker answered the Board directed abatement but deferred the abatement no greater than 60 days. A resident entered into a tree service contract to mitigate that parcel. The resident subsequently canceled that contract. The District is now moving forward with securing a trespass warrant and posting a request for proposal (RFP) to identify a contractor who can provide a competitive bid. As Staff receives the trespass warrant and the RFP results, the District will move forward with the lien-funded abatement of the parcel. Director Jorgens deduced that the Board's compromise with the local neighbors did not work out. Fire Chief Winnacker confirmed.

Karen Peel, Orinda resident, asked about the timing of the legal process for obtaining the trespass warrant and when the neighborhood could expect actual abatement. Fire Chief Winnacker explained the timing is dependent on the availability of District Counsel and the schedule of the Administrative Law Judge, which are outside the District's control, and the RFP to comply with our procurement ordinance.

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

6. CONSENT AGENDA (audio 1:29:47)

- 6.1 Meeting Minutes – July 20, 2022 (Regular)/Staff Recommendation: Approve and File**
- 6.2 Monthly Incident Report – July 2022/Staff Recommendation: Approve and File**
- 6.3 Monthly Check/Voucher Register – July 2022/Staff Recommendation: Approve and File**
- 6.4 Monthly Financial Report – July 2022/Staff Recommendation: Approve and File**
- 6.5 Quarterly Investment Report - June 30, 2022/ Staff Recommendation: Approve and File**

President Donner opened Public Comment for Consent agenda items 6.1-6.5. There were no requests to address the Board. President Donner closed Public Comment.

Director Jex commented on the CCCERA Prepaid Retirement payment compared to last year's payment of \$5.3M, and alerted Staff that on page 61 of the Annual Report, there is a reconciliation between the contribution made and the actuarially determined liability. Director Jex inquired about the lack of activity in the financial reports. ASD Sasser answered that there was no activity in the debt service fund because there were no debt payments or activity during July, and the District incurred no capital projects expenditures in July for the capital projects fund. The Tunnel East Bay Hills also had no expenditures submitted in July. Director Jex inquired about cash and accrual accounting. ASD Sasser answered there was accrual for the payroll. Director Jex asked if there was anything else significant. ASD Sasser answered no.

Motion by Director Jorgens and seconded by Director Danziger to approve Consent Agenda items 6.1-6.5. Said motion carried 4-0-1-0 roll call vote (Ayes: Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: Baitx; Abstain: None).

President Donner announced that the Fire Chief requested to address the Board before moving on to the Regular agenda. Fire Chief Winnacker acknowledged a Director had requested the discussion of the Retirement Health Savings Account for Battalion Chiefs be carried over to the August agenda. The Staff was inadvertently directed to remove the item. This item will appear on the September agenda.

In addition, Staff will provide a full report about the State of California's \$250K Grant for fuel mitigation work in the unincorporated Southern portion of the District along Pinehurst Road at Canyon. Fire Chief Winnacker signed the contract on August 26, 2021, and confirmation was immediately received via DocuSign stating all parties had signed this contract. Given the season's timing and taking advantage of the limited window to get fuel reduction work done before the onset of the Fall fire season, the Staff was directed to begin executing additional work in that area. Expenses were incurred from August 27, 2021, to September 21, 2021, when the District received the final executed copy of the contract back from the State. That contract had been signed by the local unit and then sent to CAL FIRE legal for additional review. The contract did not come back to the District until September 21, 2021. When the District submitted for reimbursement for those expenses, they were returned as impermissible because they were before the effective date of the contract on September 21, 2021. That resulted in approximately \$130k being expended and fuel break work that the State will not reimburse.

Staff is continuing to ask for a waiver; however, that waiver request will likely not be approved, and the work will not be reimbursed. A full staff report will outline the options for executing that fuel break work through June 2023. There will be two items for the Board's consideration: a budget adjustment to last year's Budget for the revenue the District will not receive and an adjustment to this year's Budget adding the anticipated revenue. There will also be a request for authorization from the District to continue doing work in the area to expend the remaining use of those funds; the final option would be to return the obligated funds to the State. Fire Chief Winnacker acknowledged and apologized for the error. Staff will capture all information in the September staff report. Director Jorgens recommended Staff research the DocuSign response, and there could be a suggested process improvement for the State or agency.

President Donner requested item 7.4 be postponed to the September regular meeting due to pending information from other departments implementing the program.

Motion by Director Donner and seconded by Director Danziger to postpone item 7.4 to the September Regular Board meeting. Said motion carried 4-0-1-0 roll call vote (Ayes: Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: Baitx; Abstain: None).

7. REGULAR AGENDA

7.1 PARS Other Post Employment Benefits Pre-Funding and Pension Rate Stabilization Trust Program Annual Client Review (audio 1:40:10)

Administrative Services Director Sasser provided the report. The District contracts with the Public Agency Retirement Services (PARS) to provide trust and investment management services to pre-fund retiree healthcare through Other Post-Employment Benefits (OPEB) and to invest in Pension Rate Stabilization Trust funds. PARS provides an annual client review of the trust program. ASD Sasser introduced Andrew Brown, HighMark Capital Management Director, Senior Portfolio Manager, Anthony Armas, PARS Client Services Coordinator, and Mitch Barker, PARS Executive Vice President, to present the PARS 115 Trust – OPEB Prefunding Program and Pension Rate Stabilization Program Client Annual Review.

Mr. Barker presented the annual client review, included in the Board packet item 7.1A. Mr. Barker stated PARS is the Administrator for the 115 Trust. The trustee is U.S. Bank, the custodian of the assets and provides fiduciary oversight, and HighMark Capital is the Investment Management Partner. HighMark invests the money at a risk tolerance level commensurate with the goals and objectives of the Fire District. Last fall, U.S. Bank tendered an \$8 billion offer for Union Bank, the parent company of HighMark Capital. Therefore, an upcoming change is expected. Mr. Brown stated the acquisition is pending regulatory approval. HighMark will notify the District as soon as regulatory approval is received.

Mr. Barker noted the Trust is IRS approved, so the earnings from the assets in that Trust are tax exempt. It is a combination Trust and has accounting buckets for both OPEB and Pension, both post-employment benefits. The District has funded approximately \$2.8M in OPEB and approximately \$6.8M in Pension in assets. Mr. Barker stated there are two ways the District can use the money, either reimburse the District for pension-related expenses or pay the retirement system.

Mr. Armas reviewed the OPEB plan, which started with PARS in April 2015. The position of Administrative Services Director is deemed the Plan Administrator and authorized to make any updates or changes as needed to the plan.

Mr. Armas reviewed the account statistics listed in the PARS 115 Trust – OPEB Prefunding Program and Pension Rate Stabilization Program Client Review. Page 5 provided a summary of the Trust as of June 30, 2021; page 6 is a graphical representation of the summary of the Trust, giving a breakout through each fiscal year and active contributions; and pages 7 and 8 are a review of the liabilities of the OPEB. The data is pulled directly from Precision Actuarial with a measurement date of June 30, 2021. As of that

measurement date, there were 66 active members and 149 retirees totaling 215 plan members. Page 8 provided the OPEB Actuarial results comparing the two measurement dates of June 30, 2020, with June 30, 2021. Director Jorgens commented that the numbers are a year old.

Mr. Armas answered those are the latest actuarial numbers with a measurement date. Mr. Brown added these are the most recent actuarial official reports constructed. However, recent estimates were made for the current asset allocation from the policy formalized in February 2022. Mr. Brown asked ASD Sasser if that report was sent to Precision. ASD Sasser confirmed. The updated actuarial valuation is in process as of June 30, 2022. A draft will be presented to the Board at the September board meeting. Mr. Brown imagined the discount rate was up, and liabilities, based on the discount rate, might be down, but deferred speculation to Precision. Director Jorgens stated you cannot randomly use the discount rate because the discount rate has to do with how the liabilities are increasing. Mr. Brown agreed.

Director Jorgens asked how the total liability could go down. Mr. Brown explained if the denominator is higher, the numerator should be lower if all things were equal. However, all things are not equal because of various factors (duration of lives, plan participants, more plan participants, salaries increases). Director Jorgens stated things got \$2M better, and the discount rate was lowered, which means the playability should have gone up, not down on. Director Jex added that the number of employees went up from 59 to 66. Director Jorgens stated it seems strange that, given those numbers, the actuarial number would go down since the discount rate was lowered. If all things were equal, that would have increased that number. Mr. Brown acknowledged. Mr. Barker stated the Actuarial would be able to address that question. Director Jex requested Staff to check in with the Actuarial.

Mr. Armas continued the account review. Page 9 gave a summary of the District's pension, and page 10 provided a graphical representation of that summary, breaking out each fiscal year and active contribution. This data is pulled directly from the latest Annual Comprehensive Financial Report. Mr. Armas concluded with page 11, reviewing the pension funding status for CCCERA. Director Jorgens commented again on the old numbers presented, and now things are currently much worse.

Mr. Brown provided the investment update for the second quarter of 2022, page 12 of the annual client review. The numbers tell a similar story since the last update provided at the November 2021 meeting. A lot of the pain has been felt in the capital markets for the last 12 months but has borne out in the last six months. Mr. Brown shared that Cash has generated a positive number over the last 12 months. It has been a difficult six months with the increased interest rates in the face of significant inflationary economic readings. CPI is up for July, with an 8.5% CPI reading core. Currently, core CPI is at 6%, and inflation is significant throughout the economy and various sectors. The Federal funds rate might have two more increases in the next year, bringing it to around 3.5% in 2023, adding more pressure on the fixed-income markets. Mr. Brown reviewed the fixed income market for the last 12 months, and stated that -9.1% is not as bad as -14.7% on the equity line. Equities going down 14.7% probably happens once every three years. The bond market is declining in double-digit numbers, which is a significant negative occurrence. All categories posted some double-digit decline, except for REITS.

Mr. Brown noted the MSCI EAFE Index, a developed international benchmark, and the MSCI EM Free Index, an emerging market index, were eliminated from the policy post-February 2022. REITS is -8.1% and has been the best equity category for the last 12 months. As of July, OPEB and Pension were both up 8.3%. If July is factored in, YTD, the -18.5% goes down to -10.3%. Director Jorgens inquired about the fixed income markets during this same time period. Mr. Brown answered equities were up 8% in July, and fixed income was up 2.2%. At the end of July, there was a 75 basis point height. The Federal Funds Futures calls for a 3.5% federal funds rate by June 2023. In theory, if we did go from where we are right now, from 2.5% to 3.5% next June, there could be a drastic selloff in the bond market. If inflation numbers stay elevated across various categories and the bond market believes that the Federal Reserve will not stop, the bonds will continue to sell off. The July gains will probably be lost somewhere along the way.

Mr. Brown reviewed the positioning on page 13 as of June 2021. Allocations are at 90% equities, 7% targeted in fixed income, and 3% in Cash. In February, modifications were made to the strategic asset allocation range; those are depicted in the middle of the page. The equity plan allocation ranges from 85-100%, zero to 10% on a fixed income, and zero to 5%. A 6.82% is the forecast and expected rate of return over a 20-30 year horizon. Director Jorgens asked why there is 3% in the Cash category. Mr. Brown answered Cash is the Safe Haven investment. The investments are underweight in stocks and bonds, leaving Cash as the plug. Mr. Brown conjectured that 3% is not overweight from a 1% policy point. For directional consistency, 90% is in stock, and 10% is in the bond-cash portfolio. If the equity markets rally as they did in July, the District will participate in the rally train.

Mr. Brown discussed the pension numbers on page 14. The number for Pension and OPEB are just a little bit different, which is a function of when the contributions are made. The pension contributions are a little bit higher than the current run rate. HighMark tries to average it over a multi-day period, so to the extent that averaging in the process is fruitful. You will see a slightly higher number to the extent that HighMark did not get the best prices, and on the days that HighMark averaged, it will be slightly lower. Once the averaging and processes are done, the plans are congruent. Page 15 shows 90% equities, 7% bonds, and 2.993% in the Cash money market. Once the money is put to work, the allocations are the same.

Director Jorgens asked why the District does not buy government obligations. That has got to be the safest thing you can buy, but other things have higher returns that are as safe. Mr. Brown asked for a certificate of deposit. Director Jorgens answered that it is not very much money, so we can get FDIC-insured things but probably earn more than a government bond. Mr. Brown agreed in terms of a slightly higher yield. The money market is an efficient administrative vehicle for accounting entry, selling the money market, buying stock ETFs, and buying a bond fund. The First American money market is up to a 1.93 yield. The District could make slightly more on a CD or commercial paper, but if HighMark wanted to effect a transaction by selling cash, buying bonds, or stocks, HighMark would have to break a CD; therefore, efficiency is the main reason. Mr. Brown concluded with a review of the Index Funds Returns on page 16.

Director Jorgens asked if the S&P 500 growth versus core versus value is one of those regular S&P 500. Mr. Brown answered the middle row would be the regular core S&P. There was a slight tilt to value over the last four or five months. Director Jorgens commented that the I-shares had a slightly higher load than some competitive index funds. Mr. Brown answered that it depends. The Schwab funds are a little bit higher, and some Vanguard funds might be slightly lower, especially on the real estate side. The Vanguard refund is 12 basis points. The I-shares offering is in the 20s or low 30s. HighMark uses Vanguard. The Vanguard short-term investment grade bond fund is 12 basis points. There will be a bigger delta on small and mid-CAP. Large CAP is a commodity.

Director Danziger asked if the Vanguard real estate ETF is for institutions or if available to an individual. Mr. Brown did not know the answer but guessed an individual could invest in all the investments shown in the review.

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

7.2 Direct the Discount Rate to be Used for the Other Post-Employment Benefits Actuarial Valuation Report as of June 30, 2022, and for the Pension Rate Stabilization Trust Fund. (audio 2:07:40)

Administrative Services Director Sasser provided the report. The District contracted with Precision Actuarial, Inc. to complete the required Other Post-Employment Benefits (OPEB) Actuarial Valuation Report as of June 30, 2022. As part of the process of preparing the new report, Precision Actuarial requested from HighMark Capital Management updated long-term capital market return estimates for the District's OPEB plan. The updated projected long-term expected rate of return for the District's OPEB portfolio is 6.39% net of fees. The prior actuarial valuation report used a discount rate of 6.14%, the projected long-term expected rate of return net of fees at June 30, 2021. The updated projected rate of return for the Pension Rate Stabilization Trust Fund is also 6.39% net of fees. The District is currently using a rate of 6.25% for Pension Rate Stabilization Trust Fund contributions. Staff recommended the Board direct the use of a discount rate of 6.39% for the OPEB Actuarial Valuation Report as of June 30, 2022, and provide direction regarding the discount rate to be used for the Pension Rate Stabilization Trust funding in the next long-range financial forecast.

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

Director Jorgens recalled that the Board picked 6.25% because it was closer to what CalPERS was expected to earn. They are two potentially different things that can vary over time, the discount rate for liabilities and the rate of return on the portfolio. One has more to do with inflation. Tweaking these things is more distracting and misleading than just leaving them the same unless there is some dramatic difference that is very observable in the economy. Director Jex agreed. Director Danziger supported approving the recommendation and stated that the District has contracted with a company to develop the rate. Director Danziger asked if the District would use 6.25% again.

Director Jorgens stated maybe the rate of return on the portfolio would be a little better. Nothing indicates that the discount rate used for the liabilities needs to be a different number. Director Jorgens opined the company has no idea whether the number is 6.39% or 6.48%. The data that provided the inputs into these numbers has less accuracy than the two decimal places. Director Danziger supported the recommendation

and the 6.25% as the economy is uncharted territory. President Donner agreed in taking a conservative approach. Director Jex stated the market volatility adds additional risk. Director Jorgens agreed.

Director Jorgens stated that 6.25% for the discount rate and 6.39% for the rate of return on the portfolio are two different inputs. President Donner asked if the Board would use 6.25% for both. Director Jorgens supported the recommendation of a 6.39% rate of return in the portfolio and a 6.25% discount rate on the liabilities. Director Danziger agreed. President Donner agreed. Director Jex agreed.

Motion by Director Jex and seconded by Director Danziger to use a 6.39% rate of return in the portfolio and 6.25% for the discount rate on the liabilities. 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.

7.3 Authorize the purchase of two ambulances from National Auto Fleet in the amount of \$374,346.94 and approve a Capital Projects Fund expenditure budget adjustment increase in the amount of \$24,346.94 (audio 2:14:27)

Fire Chief Winnacker provided the report. The FY2023 Capital Projects Fund Budget includes \$350,000 for the purchase of two ambulances. The District's Purchasing Ordinance requires completion of the formal bid process and Board approval for this purchase. Sourcwell is a national cooperative purchasing compact with whom MOFD maintains an account. Cooperative purchasing is "Procurement conducted by, or on behalf of, one or more Public Procurement Units" as defined by the American Bar Association Model Procurement Code for State and Local Governments. Cooperative purchasing meets the District's Purchasing Ordinance requirements. Due to ongoing COVID-caused disruptions to the supply chain and associated inflation, the budgeted amount is insufficient to purchase two ambulances. The assumptions and estimates received during the development of the budget process last February and March 2021 are not matching the costs of entering into an agreement, utilizing Sourcwell, and attempting to get other bids have discovered limited options and extended delivery times. Staff has secured a quote and is ready to execute a contract with Board approval. Staff recommended a Capital Projects Fund expenditure budget adjustment increase in the amount of \$24,346.94.

Director Jorgens asked if the District is saving on the thing that slides in the box. Fire Chief Winnacker answered the box would be removed, refurbished, and placed on a new chassis for existing ambulances. Director Jorgens inquired about the old chassis and expected proceeds. Fire Chief Winnacker answered they are sold as surplus valued at \$1K-\$5K range. Director Jorgens recommended finding a different place to sell and auction the items, such as eBay, for increased proceeds that will be netted out against the budget adjustment. ASD Sasser explained auction proceeds are recorded as District sale of asset revenue. Director Jorgens asked if it goes into the capital fund. ASD Sasser confirmed the proceeds are placed back into the fund where the item was purchased. In this case, the vehicle was purchased from the capital projects fund and sale proceeds will return to the capital projects fund. Director Danziger inquired about the delivery time. Fire Chief Winnacker answered unknown.

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

Motion by Director Jorgens and seconded by Director Danziger to authorize the purchase of two ambulances from National Auto Fleet in the amount of \$374,346.94 and approve a Capital Projects Fund expenditure budget adjustment increase in the amount of \$24,346.94. 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

7.4 Single Role EMT and Paramedic Positions - *item moved to the September Regular Board Meeting*

8 COMMITTEE REPORTS (audio 2:20:44)

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

8.2 East Bay Hills Wildfire Prevention and Vegetation Management Joint Powers Agency Meetings (Directors Danziger and Jorgens). Director Jorgens reported that multiple Districts are working on a combined fire code rather than a larger group.

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

8.4 Joint Fire Prevention Ad Hoc Committee w/City of Orinda (Directors Donner and Jorgens). See item 5.1, audio 56:53 minutes.

President Donner opened the public comment.

Marc Evans, Orinda resident, shared a positive experience with PG&E and a power outage situation due to smoking electrical lines on a tree. PG&E acted very professionally and acted on a situation before it became an incident.

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

9. ANNOUNCEMENTS (audio 2:23:22)

9.1 Future Agenda Items.

Director Danziger requested a status report on the Kelly Morris-Nichols litigation. District Counsel Holtzman confirmed the item would be placed on the Closed Session agenda. Director Danziger inquired if there was anything to discuss regarding the station 41 project, and unclear if the item should be placed on the open or closed session agenda. District Counsel Holtzman stated the discussion would need to be placed on the open agenda unless there is a discussion about land acquisition. Director Danziger suggested he would send an email, work on this item, and was unaware if there was anything to report. Director Danziger specified the only future agenda item to add is the Kelly Morris-Nichols litigation.

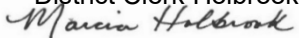
Director Jorgens requested rules and procedures for the Board of Directors' attendance, implementing attendance requirements for a minimum number of board meetings, and consequences for failing to attend the minimum number. District Counsel Holtzman to prepare a report for the September regular agenda.

Director Danziger plans to submit an amendment to the Board of Directors Levels of Performance and Goals and Objectives. Fire Chief Winnacker clarified that the Board adopted the 2023 Budget at the June 2022 Regular Board meeting. If additional non-monetary items are to be considered, it would be the Board's pleasure to take that out of sequence. Fire Chief Winnacker reviewed the Budget adoption timeline. Director Danziger misunderstood and thought he could submit changes through October 2022. District Counsel Holtzman answered the Board could amend the Budget. Director Danziger reiterated that the amendment has nothing to do with numbers, only a change of words and goals. Director Danziger to follow up if needed.

10 ADJOURNMENT

At 9:29 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).

District Clerk 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: [Kelly Nichols](#)
To: [Info](#)
Subject: Board of Directors
Date: Wednesday, August 17, 2022 3:24:44 PM

Hello,

My name is Kelly Morris-Nichols, I'm a former Firefighter-Paramedic of MOFD. I was retired out on disability after being struck by a vehicle on highway 24 on the 2nd of December in 2012. I was pregnant with my second child, shattered my left foot, which needed to be fused. Broke my tibia and fibula, and severely injured my knees, which have had multiple surgeries, including a total knee replacement last month. The accident has changed my life entirely. I'm in pain 24/7, suffer from PTSD, and it ruined my marriage to Matt Nichols, who was a Battalion Chief, and is currently a Captain with MOFD. Collectively, myself, [REDACTED], [REDACTED], and MOFD sued Caltrans as well as one of the driver's. Due to the Firefighter's Rule, our attorneys had to appeal several decisions. We did collect money in a settlement from Caltrans. Part of that was left in a Trust account, per MOFD's request for Work Comp reimbursement. Years later, we went to trial against the driver. MOFD, [REDACTED], and [REDACTED] lost, and mine was a hung jury. I was scheduled for retrial March 28th of this year. Due to my divorce, and immediate need to buy my Ex out of our house, I chose to settle, hoping I could use that money for my home. It has been 5 months since the settlement, and yet I cannot get my money because MOFD has not even given my attorneys a specific amount they anticipate to collect for Work Comp. This is so frustrating! I had to postpone the buyout and refinance, and now the rates are super high, which cost me a lot more! I would really love to finally put all this in the past, and move on. It would be great if MOFD could reach out to my attorneys and release my settlement. If there is an amount they have in mind, at least share that with us. I do not feel that I should have to pay back anything. All the after accident reports came back showing negligence on MOFD's behalf. Standards, OAG's, and Freeway Responses were changed. Please acknowledge my requests. This is going on 10 years now, and I'd love some resolution and peace in my life.

Thanks

Kelly Morris-Nichols

Sent from my iPhone

Sylvester 118 Drive

Response to MOFD Code Violation 20.01 – Annual Grasses

1. **Ordinance #289 - Chapter 12.10 doesn't apply to St. Mary's Road problem.** Focus of ordinance is some *other* issue:
 - a. Abutting Property Owner: real property which fronts on any portion of sidewalk area
 - b. Each tree placed in public right of way (12.010.030)
 - c. Each shrub, hedge or other landscaping placed...

2. **My property line begins 40 feet from center line** of St. Mary's Road, making ROW maintenance ordinances moot
 - a. My property line on St. Mary's is 68 feet
 - b. St. Mary's width (per plot map) is 108 feet. Actual paved width is 33 feet.

3. **Citation communication led to unnecessary confusion and delay**
 - a. Major change by MOFD/Town of Moraga deserves **letter** to those affected:
 - i. Why change impacts specific property owner (copy of ordinance with specific sections highlighted)
 - ii. Proper "abatement" defined
 - iii. Specific parameters set (i.e. removal up to x feet from road, etc.)

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	\$291,674
OES Payments Received	<u>\$1,500,465</u>	<u>\$ 0</u>
Net Receivable Outstanding	\$ 160,597	\$291,674

- 2021-2022 – Last payment received 8/2
- 2022-2023 – Estimated based on F-42's received to date

Finance Report Cont'd.



- Other Items

- FY22 – closing in process
- Interim Audit – in process – items submitted to Auditor
- HRSA changes for Unrepresented Employees processed in ADP

MOFD Board Update
August 17, 2022



How bark beetles attack
In drought conditions, native beetles can kill large numbers of trees in California's forests. Their attack is a critical role in a tree's natural defense against the insects.

1. Bark beetles are small, hard-bodied insects that attack trees by boring through their outer bark. Attacking beetles release pheromones that attract other beetles, resulting in mass attacks that can spill over to nearby trees.
2. When bark beetles attack a tree, the tree releases a resinous pitch that drowns the beetles and pushes them out of the hole. When short on water, the tree can't produce enough pitch to ward off mass attacks.
3. Once past the protective outer bark, the beetles feed on the moist inner bark — forming thick, brown tunnels, where they lay eggs. The hatching larvae make more galleries, which cut off the tree's ability to transport nutrients.
4. The tree dries, and its needles turn red-brown.

Successful beetle attack
"Pitchout" tree defense

The western pine beetle, one of several native bark beetles

across size

Inner bark
Outer bark
Beetle gallery

Source: US Forest Service



Dispatched and enroute to incident at 1309 hrs.
Arrived on scene: 6 minutes
On-scene time: 10 minutes
Transport time: 16 minutes
Pt. care transfer to JMMC staff: 3 minutes

