



Moraga-Orinda Fire District
BOARD OF DIRECTORS
REGULAR BOARD MEETING MINUTES
September 21, 2022
(APPROVED OCTOBER 19, 2022)

1. OPENING CEREMONIES

The Board of Directors convened a teleconference Open Session at 7:00 p.m. on September 21, 2022, via the Zoom application <https://us02web.zoom.us/j/87917459273>, webinar id: 87917459273 and by phone at 669-900-6833. This meeting was conducted by webinar and teleconference 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	Dave Winnacker, Fire Chief	Mary Smith, Finance Manager
Director Baitx	Jeff Isaacs, Fire Marshal	Jonathan Holtzman, District Counsel
Director Danziger	Gloriann Sasser, Admin. Services Director	Mariam Morley, District Counsel
Director Jex	Christine Russell, HR Manager	Marcia Holbrook, District Clerk
Director Jorgens		

2. CONSENT AGENDA (audio 00:01:05)

2.1 Adopt Resolution 22-26 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.

Director Jorgens motioned to Adopt Resolution 22-26. Director Baitx proposed returning to in-person meetings. The remote meetings are unnecessary since restrictions have lightened up. Director Jorgens asked if the State had removed its state of emergency. Director Baitx answered that the State is getting ready to lift the mask mandate, and President Biden has called the pandemic over. Director Baitx has seen all of the Board of Directors in public without masks. Director Jorgens believed that if the State felt it was appropriate, the Board of Directors should wait until notified by the State, and did not think President Biden changed any of the rules or regulations.

Director Danziger favored going back in person but did not think the Governor had lifted the mandate. The City of Orinda and most other boards are still meeting remotely. Director Jex stated the Town of Moraga is still meeting remotely as well. President Donner supported moving to in-person meetings when the mandates are lifted by the State and talked about the benefits of the Zoom meeting, which has increased public participation. Director Jorgens stated the District would have hybrid meetings. Director Danziger pointed out that Zoom would be for the public, not the Directors. Director Jorgens conveyed that there is a law that specifies the meeting requirements for the Directors. Director Danziger stated the meetings are bound to be remote until the Governor declares that meetings are back in-person. Director Baitx suggested the Board lead the way in returning to in-person. President Donner stated the Board would reconsider hybrid meetings when the State lifts the mandate.

Motion by Director Jorgens and seconded by Director Jex to adopt Resolution 22-26 Re-Ratifying Findings and Determining A Need to Continue Holding Remote Meetings By Teleconference. Said motion carried a 4-1-0-0 roll call vote (Ayes: Danziger, Jex, Jorgens, and Donner; Noes: Baitx; Absent: None; Abstain: None).

3. PUBLIC COMMENT - ITEMS NOT ON THE AGENDA (audio 00:02:59)

President Donner opened the public comment.

Jonathan Goodwin, Canyon resident, recommended training for the Board and Staff on how to run a Board meeting. When an item is up for approval or disapproval, it is not a time to make policy on something that is not on the agenda. Mr. Goodwin provided an example from a previous meeting. The Board Chair does not make motions.

Chris Young, Moraga resident, expressed appreciation for the virtual evacuation exercise.

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

4. PUBLIC HEARING (audio 00:11:58)

4.1 Administrative Citation Hearing Mr. Anthony Giovinazzi, Property Located at 1124 Sanders Drive, Moraga, APN 258193001, Citation NO: 21-2601-005

President Donner reviewed the Board of Appeals Hearings Procedures.

1. Board members disclose any ex parte Communications - -None were reported.

2. Staff report

Fire Marshal Isaacs read the staff report into the record and summary of Code Enforcement Case 21-2601. Engine 41 responded to 1124 Sanders Drive, Moraga, to a smoke scare, odor of smoke, outside rubbish fire, illegal burning, and citizen complaints for outside fire and open burning. On July 30, 2021, MOFD issued a Pre-Citation Notice that ordered Mr. Giovinazzi to stop burning and to comply with MOFD ordinances 20-01 (Fire Code), section 105.6.32 and 307.2, and 20-03 (Burn Ban). Failure to comply would result in an Administrative Citation and a fine. On August 3, 2022, MOFD responded to an incident at 1124 Sanders Drive, Moraga. MOFD Fire Officials observed violations of the Fire Code 20-01 and Burn Ban 20-03 ordinances and obtained video evidence. On August 4, 2022, MOFD issued Administrative Citation, No. 21-2601-005, for violation of the Burn Ban ordinance and a \$500 fine.

3. Board questions for Staff

Director Danziger inquired how Staff obtained the video. Fire Marshal Isaacs answered Engine 41 took the video from the public street. Director Danziger asked for an explanation of the Burn Ban ordinance. Fire Chief Winnacker explained that the Burn Ban prohibits anything but the use of a barbecue during high fire danger portions of the year. The Burn Ban has been in effect since Cal Fire placed the suspension. The firefighters exercise a tremendous amount of discretion when responding to the incident of an illegal burning during high fire season and Burn Ban. Forced entry would have been reasonable to extinguish the hazard. The crew has previously worked with the homeowner to extinguish the burning combustible material. In the last incident, the homeowner was adamant about not granting access to his property. The Fire District has a right of entry and right of access when responding to an emergency and emergent situation.

4. President Donner opened the public portion of the hearing

5. Presentation by Appellant (10 minutes) - Mr. Anthony Giovinazzi

Mr. Giovinazzi shared that his family has been a victim for the last four years by two or three neighbors calling 911. There are 5602 houses in Moraga and 8400 fireplaces. There is smoke from the Sierra Nevada and burns in the Moraga Commons. Mr. Giovinazzi thought the Burn Ban was 100%, including religious freedom, but burns are happening at the Lafayette Wine Festival. Mr. Giovinazzi spoke with a local town attorney (name to remain anonymous), who stated using mechanical means to gather evidence is against California law, and problematic. There are laws against standing on top of ladders and looking over fences. Mr. Giovinazzi has been calling other fire districts around California and has interviewed 60+ firefighters on the phone. He learned most did not know if they had a Burn Ban and did not think the Burn Ban solved any problems. At Santa Barbara College, one of the first events was a bonfire on the beach, and the attending firefighters were not concerned with the bonfire. Neighbor Chris Bowen witnessed the denial of entry to his property and explained that he had converted his fire pit to a barbecue pit. He was barbecuing steaks with charcoal and was told by the Fire District in 2021 that charcoal was permissible. Mr. Giovinazzi proclaimed he cares about fire safety by pulling out the leaves, branches, and dead trees from the creek area. Mr. Giovinazzi concluded by saying America is about proof, not probability, and asked why pizza vendors are allowed to burn when exceptions are not allowed.

6. Board questions for Appellant

Director Danziger inquired about the seven times firefighters responded to his home for smoke and odor and if that was due to the barbecuing. Mr. Giovinazzi answered only a few times as he did not know about the law. If the Board could see pictures of his work in the creek, they could see he is serious about fire danger. Director Danziger warned that removing that material from a riparian area may violate fish and wildlife regulations.

President Donner asked if the barbecuing was with charcoal. Mr. Giovinazzi answered yes. President Donner informed that barbecuing with charcoal violated the Burn Ban. Mr. Giovinazzi replied that a fire official told him that charcoal was allowed. Director Jorgens requested clarification from Staff if charcoal was allowed. Fire Chief Winnacker answered any burning other than a UL or ASTM-listed manufactured gas (LPG or NG) outdoor flame devices, such as gas barbecues or gas fire pits, must comply with the Fire Code. Campfires held on private lands must have a MOFD fire permit. Any other burning violates the Burn Ban, which the District included in

the communications provided to the resident. Director Jorgens asked if the Burn Ban included charcoal. Fire Chief Winnacker confirmed. Mr. Giovinazzi restated that a fire department official told him in 2021 that charcoal was allowed.

Director Jorgens commented that Mr. Giovinazzi received eight notices over a long time but just recently converted the pit to a barbecue. The first five or six notices were valid. Mr. Giovinazzi disagreed since he has never let anybody review his property. It is unknown if it was smoke from the Sierra Nevada or from one of the other 8400 active fireplaces in the town. President Donner stated that Fire officials could determine where the smoke was coming from and disagreed with the statement that the smoke could be from other sources. Director Danziger added the incident reports stated that the smoke was coming from Mr. Giovinazzi's backyard. Mr. Giovinazzi contended California law prohibited gathering evidence using mechanical means.

Director Jex noted the repeated incidents and onsite observation from Engine 41. Mr. Giovinazzi reiterated the District did not have access to inspect his property. Director Jorgens asked if the conversion kit was a gas or charcoal barbecue. Mr. Giovinazzi answered charcoal barbecue and restated he was told charcoal was okay.

7. Public comment - There were no requests to address the Board.

8. Rebuttal by Staff (5 minutes)

Fire Chief Winnacker pointed out that barbecuing with charcoal violates the Burn Ban. Barbecuing or any other source of combustion material is a violation of the Burn Ban.

9. Rebuttal by Appellant (5 minutes)

Mr. Giovinazzi emphasized after speaking with a representative of the fire district; he purchased the barbecue conversion kit to use charcoal because he was told it was okay. Mr. Giovinazzi asked why open burning was allowed at the park and the unequal application of the law. Mr. Giovinazzi concluded that he would convert the fire pit to a gas barbecue.

10. Final Board questions of Appellant

Director Danziger clarified that the Burn Ban permits fire for different uses.

11. Final Board questions of Staff

Director Jorgens inquired about the language on the citations. Fire Chief Winnacker described the pre-citation, which includes details for each violation. Director Jorgens rephrased the Burn Ban means that you cannot burn anything but natural gas. Fire Chief Winnacker confirmed. President Donner added that propane is allowed. Fire Chief Winnacker confirmed.

12. President Donner closed the public portion of the hearing

13. Board discusses, deliberates, makes findings, and takes final action by motion.

Director Danziger determined that the evidence and documentation supported the citation. Director Jex agreed. President Donner agreed. Director Jorgens commented the Appellant was provided many warnings about the violation. Director Danziger agreed, there were seven incidents. President Donner clarified a total of nine incidents.

Motion by Director Jex and seconded by Director Jorgens to Adopt Resolution 22-28, a Resolution of the Moraga-Orinda Fire Protection District upholding Administrative Citation No. 21-2601-005 issued on August 4, 2022, for violation of the District Burn Ban Ordinance number 20-03, on the property located at 1124 Sanders Drive, Moraga, APN 258193001 and imposing a \$500 fine. Said motion carried a 5-0 roll call vote (Ayes: Baitx, Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: None; Abstain: None)

4.2 Item 4.2 Administrative Citation Hearing for Mr. Doug Barrows, Property Located at 556 Miner Road, Orinda, APN 261212004, Administrative Citation Number 22- 3307-001 (audio 44:51)

District Counsel Holtzman asked if the Appellant was in attendance. District Clerk confirmed. President Donner asked if the 13 steps in the Board of Appeals Hearings Procedures needed to be reread. District Counsel Holtzman stated it was unnecessary as long as the steps were followed.

1. Board members disclose any ex parte Communications - -none were reported.

2. Staff report

Fire Marshal Isaacs read the staff report into the record and provided a summary of the code enforcement case 21-2601. On June 16, 2022, 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.

On August 5, 2022, MOFD re-inspected 556 Miner Road, Orinda, and determined that the violation(s) listed had not been corrected. Fire Marshal Isaacs pointed out that both violations cited in the pre-citation notice were still present on the property. On August 8, 2022, MOFD issued Administrative Citation 22-3307-001 and a \$100 fine. Staff attempted to contact the Owner on many occasions.

3. Board questions for Staff

No questions Board questions for Staff.

4. President Donner opened the public portion of the hearing

5. Presentation by Appellant (10 minutes) - Mr. Doug Barrows (48:07)

Mr. Barrows apologized for the appeal and agreed with the statements made in the staff report. He has been gone for most of the summer and returned on Sunday, September 18, 2022. He has a lot of mature trees and spends thousands of dollars a year on tree work. He thought the work was completed and then received the citation and cleaned up the property. Mr. Barrows suggested the City of Orinda could use some of their grant money to help with the canopy along the evacuation route. The bigger trees are costly and it is difficult to trim the canopy correctly and consistently. Mr. Barrows reviewed the mitigation work he completed over the last six months. A dozen of the mature cedar trees were cut down. The slash pile remained longer than intended but has been removed. The mature logs remain on the property and vary in size (eighteen to twenty-four inches). The plan was to mill the logs, which became too expensive. Mr. Barrows requested an exemption so he could repurpose the logs in the next few months; however, would like to be allowed to leave them because he does not believe they are a fire hazard.

6. Board questions for Appellant—*step 6 was taken out of order*

Director Jorgens asked if the logs are the only remaining violation. Mr. Barrows confirmed he has four trees that are approximately twenty-four feet long (20-30 feet from the road). The logs were pulled down the road because he planned to take them to a mill. Due to the expense, he is looking at doing it on his property.

7. President Donner opened public comment.

Marc Evans, Orinda resident, provided feedback to improve the pre-citation communication process to add how homeowners can report compliance or what to do if there is confusion with the notice. Mr. Evans submitted a chat message opposing waiving the citation.

Johnathan Goodwin, Canyon resident, submitted a chat message commenting the difficulties in igniting an 18" diameter log.

8. Rebuttal by Staff (5 minutes) - No additional comments from Staff.

9. Rebuttal by Appellant (5 minutes) - No rebuttal by Mr. Barrows. Mr. Barrows agreed with the improvement suggestion.

10. Final Board questions of Appellant

Director Jorgens asked how firewood and wood are differentiated in the Fire Code.

Fire Chief Winnacker explained firewood is anything that has been cut and stacked in an organized manner. Anything in a slash pile (unorganized), or a slash pile of logs lying in their undisturbed state on the ground (on a parcel less than 1 acre), requires total abatement of all dead and down material, other than wood that has been cut and stacked for firewood. Any firewood in Zone 1 requires to be enclosed with fire proof material or moved to greater than 30 feet from the structure.

President Donner asked if it would be allowable for Mr. Barrows to move the logs 30 feet from the structure to create lumber and repurpose the wood. Fire Chief Winnacker answered, not in the current condition. Lumber yards and lumber staging areas are separate sections of the Fire Code. For parcels less than one acre, the Fire Code views logs lying on the ground, in their natural State, whether or not they have been bucked, as dead and decadent material, as a violation, regardless of the future intention of those logs. Mr. Barrows stated his parcel was 1.25 acres. President Donner asked if the parcel size changed the requirements. Fire Chief Winnacker answered yes. The material has to be removed from areas within 100 feet of the structure or within 30 feet of the property line. Director Jorgens did not think downed trees that have been limbed were a fire problem. Fire Chief Winnacker explained the Fire Code does not distinguish. Fire Chief Winnacker confirmed the assessor's map shows the parcel is less than an acre. Mr. Barrows contented his appraisal shows 1.25 acres. Mr. Barrows confirmed and reiterated his plans to remove the logs but would like to be able to repurpose them, and requested additional time.

Director Danziger asked how long Mr. Barrows could have to remove the logs if approved. Fire Chief Winnacker responded the citation remains open. The Staff has held off on issuing additional citations for a failure to comply due to this hearing. The Board could provide direction about the extension. The typical time for issuing the next citation is 14 days and then seven days for additional citations, with fines every day after that.

Director Danziger asked how long Mr. Barrows needed to remove the violations. Mr. Barrows answered the work is not something he can do himself and is subject to a vendor's schedule. He would contact Expert Tree Service and needs a couple of weeks. District Counsel Holtzman stated the District has required proof that the appointment has been made. Fire Chief Winnacker confirmed when there are difficulties in scheduling; it is acceptable to receive a confirmed contract with a scheduled date for removal of the material. Staff will hold issuing new citations in good faith, acknowledging the challenges with scheduling work this time of year. The citation process will be reinitiated if the scheduled work is subsequently canceled.

11. Final Board questions of Staff - No additional questions were asked.

12. Presiding Donner closed the public portion of the hearing

13. Board discusses, deliberates, makes findings, and takes final action by motion.

Director Jorgens acknowledged Mr. Barrows' work and recommended allowing additional time to remove the logs. President Donner agreed. Director Jex agreed. Director Jorgens asked if the fine was \$100. Fire Chief Winnacker confirmed. Director Baitx asked if Mr. Barrows was in direct violation. Fire Chief Winnacker confirmed. Director Baitx expressed concern about waiving the fine simply because Mr. Barrows has good intentions and if that opened the Board up for every citation that has been issued. Directors Jorgens and Jex clarified that waiving the citation was not being considered. Director Jex affirmed the current citation would stand. The question being considered is how much time to allow for the remaining violation to be rectified. Mr. Barrows has indicated the willingness and resources to correct the violation. Director Baitx agreed and had misunderstood the consideration. Director Jorgens proposed upholding the \$100 fine and allowing 30 days to fix the remaining violation. President Donner asked if it was 30 days to fix or 30 days to obtain a contract to remove the violation. Director Jorgens rescinded the previous statement and proposed upholding the \$100 fine and allowing two weeks to obtain a contract to remove the remaining violations. Director Danziger supported the proposal.

Motion by Director Jorgens and seconded by Director Jex to Adopt Resolution 22-27, a Resolution of the Moraga-Orinda Fire Protection District upholding Administrative Citation NO. 22-3307-001 issued on August 8, 2022, for violation of sections 325.6.1 and 325.6.3.1.2 of Ordinance number 20-01, on the property located at 556 Miner Road, Orinda, APN 261212004 and imposing a fine in the amount of \$100.00. The Appellant has two weeks to have a signed contract for mitigating the remaining violations listed in citation NO: 22-3307-001. The contract is to be provided to Fire Marshal Isaacs. Said motion carried a 5-0 roll call vote (Ayes: Baitx, Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: None; Abstain: None)

5. ANNOUNCEMENTS (audio 1:09:17)

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.

President Donner inquired about the evacuation drill. Fire Chief Winnacker to provide the update under the Fire Chief Updates.

5.3 Communications Received. No notable communications received.

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 is closed, and the Interim Audit is in process. Director Jex inquired about the audit process. Finance Manager Smith stated Staff has submitted all the interim items and are waiting for the next steps. Director Jex asked if the Auditor is still indicating a late issuance. Finance Manager Smith answered yes.

b. Human Resources

Human Resources Manager Russell provided the report. The top three candidates for the firefighter-paramedic training recruitment continue to go through the background check process. Once completed, the next step will be the EMS "five call" evaluation. A conditional job offer has been extended for the Fire Inspector-Plans Examiner position, and a background investigation is being conducted. Director Danziger asked about the status of the Battalion Chief Testing position. HR

Manager Russell answered the District opened the recruitment in August. The filing deadline is November 15, 2022. President Donner asked if there were any applicants to date. HR Manager Russell answered none.

c. Fire Marshal

Fire Marshal Isaacs provided the report and outlined the statistics in the Monthly Fire Prevention report included in the Board packet, item 5.4(c). The State Mandated inspections will start once the Fire Inspector position is filled. Current projects include property assessments, property transfers, attending the Zone Zero Workgroup, and finishing the countywide draft of the Fire Code. Director Jex asked if the YTD numbers were fiscal or calendar year. Fire Marshal Isaacs answered calendar year. Director Jorgens asked if Staff felt the District was making progress in making our community safer with the public outreach and the citations. Fire Marshal Isaacs stated when driving down the road, you can see areas where the partnership with the citizens is having an effect. There are still areas where the District struggles to gain compliance.

At 01:18:22, President Donner experienced a brief technical issue.

d. Operations

Fire Chief Winnacker provided the report and presented a PowerPoint presentation, attached to these minutes, item 5.4(d). Five members were deployed to the Six Rivers National Forest Lightning Complex (3-Division Supervisors, 1 GISS- Geographic Information System Specialists, and 1 Fireline Paramedic), a Federal fire. MOFD ran three of the five divisions that carried out the firefighting and suppression activities. The GISS system Specialist managed the GISS operations, a significant undertaking on a fire of this size and complexity. The Fireline Paramedic was one of the District's more recently hired members and his first deployment. These deployments provided an opportunity to develop skills and techniques using coordinated air-ground techniques to put beneficial fire on the ground.

Fire Chief Winnacker showed photos of the deployment, including an M600 Drone used for aerial ignition and infrared (IR) imagery of those ignitions being run down various ridges putting beneficial fire to fill in and head off the main body of fire. The drone operates at 10,000 feet, providing overwatch, tracking the fire's movement, and integrated aerial firing to achieve beneficial effects through the night. These skills may be required for a major fire in the District. The deployed members managed complex operations involving aircraft, handcrews, machinery, and engines, bringing all that into one delicate dance throughout the night. MOFD members were exposed to new technology and identified where and how the District could utilize this technology. The City of Lafayette has a fixed-wing drone with similar capabilities. The discussion about its benefits and how to obtain FAA approvals to operate a drone in the District's airspace has been generated.

Fire Chief Winnacker described the information is collected by the drone and then communicated in "real-time" into the GISS system. The benefits of MOFD members controlling the unmanned aircraft, capturing the fire parameter and pushing that information to another MOFD member in the GISS operations who then updated the incident maps in real-time. In the past, this information relied on a single overflight coming out of Southern California after which the data was processed. The data would come in once a day and often include blind spots. Fire Chief Winnacker emphasized the advancement of technology and the opportunity for the MOFD members to access it.

Engine 345 teamed up with a Santa Clara County Strike Team and deployed to the Mosquito Fire. To date, the Mosquito Fire is the largest in the State (75k acres burned and 35% containment). Two members responded to assist as Damage Inspection Specialists (DINS). DINS is responsible for collecting data on damage and conditions. Seeing the effects of fire benefits the District's Fire Prevention efforts in assessing our landscape for susceptibility to fire and articulating that message to our residents.

Fire Chief Winnacker reported on two local fire incidents. Both incidents are examples of a timely response where Crews got a line around the fire before it became fully established. The roadside fire by Wagner Range was slowed by the work done as part of the North Orinda Shaded Fuel Break and has been maintained with prescribed fire. The fire was slowed because there was not a high prevalence of decadent material from years of overgrowth, which allowed more time for the firefighting force to get a ring around the fire and control that fire quickly. Fire Chief Winnacker concluded that Staff had accumulated 3,705 hours or 154.39 days to mutual-aid assignments throughout the State. These efforts grow exposure to wildfire and best practices. The members come back with good ideas and innovative ways that benefit the District.

Fire Chief Winnacker reviewed the annual community-wide evacuation exercise held with Moraga, Orinda, and Lafayette Police Departments. The exercise established a DOC, which included representatives from the various public safety Command Staff. The Zonehaven Evacuation Management Platform was used to run evacuation exercise scenarios. The community warning system pushed out orders in their role within County OES. County OES received 1,800 responses from the survey as part of the exercise. The results are in the process of being analyzed. Staff will be incorporating the lessons learned from that exercise. Fire Chief Winnacker commented that having a community-wide evacuation of that scale is tremendously helpful and stress-tests the system of real-world conditions. Several neighborhoods took advantage of this opportunity to run neighborhood evacuation exercises that included the flow of vehicles. Residents are encouraged to sign up for the CWS and have the number in their contacts to ensure the call will go through and not appear as spam. All neighborhoods should organize and have an internal notification system plan. No notification system will reach every resident in real time. An additional community-based neighborhood system is recommended to ensure everyone is notified of an evacuation order.

Fire Chief Winnacker remains the CAL Chiefs representative of the AB642 Risk Modeling Advisory workgroup and the AB9 Wildfire Mitigation Advisory Committee. The meetings are held monthly and continue to advance the efforts to see a standardization of how risks are modeled and mitigated. A meeting was held at Stanford under the Hoover Institution, gathering Catastrophic Risk Modelers, Actuaries, Insurance Regulators, and Insurance Industry representatives. The meeting was to advance the role of achieving alignment in the insurance area. The first step toward alignment is with the insurance industry pricing risk through the average annual loss calculation and the renewed/non-renew decision-making process. If a community is doing the work required to prevent or reduce the probability of a catastrophic wildfire, the community ought to be rewarded or incentivized work. Staff continues to engage and believes there are opportunities for additional alignment in that area.

President Donner commended the evacuation drill and recommended educating the public on adding the CWS as an emergency contact. President Donner asked if the District could request evacuation orders in the event of a fire. Fire Chief Winnacker answered yes. The best case scenario is to have face-to-face between the Battalion Chief and the on-duty Patrol Sergeant, Fire Chief, Fire Marshal, or Emergency Preparedness Coordinator to allow the on-duty Battalion Chief to focus on the firefighting response. If that is not possible, the alternative is cell phone communications, or the radio system, depending on the location. Information is transmitted from Fire dispatch to Police (or Sheriff) dispatch. The on-duty officer would issue the order that then flows to the CWS. The District has standardized evacuation zones with an alpha-numeric system. If all systems are down, the hard copy of those zones is carried on the Battalion Chief's vehicle and patrol units. The evacuation order carried out in Sanders Ranch (several years ago) was organized by manually calling out the evacuation zones from the book. While evacuation, by State law, is a Police Department function and firefighting is the Fire Department's function however the two are intrinsically linked during a wildfire and cooperation is critical to positive outcomes.

President Donner proposed a postcard or advertisement in the Lamorinda Weekly to educate the residents to make the CWS an emergency contact on their phones. Several people commented that the warning came in as spam. President Donner inquired about the communication between the District and the Sheriff's Office, Moraga and Orinda Police Departments. Fire Chief Winnacker answered all entities participated in the evacuation exercise and the Bollinger Canyon drill. The agencies continue to have ongoing discussions at all levels. In the absence of a personal relationship, Staff has the on-duty contact and radio system that allows Staff to reach the dispatch center in the event on-duty personnel have not had the opportunity to establish that relationship in advance.

Director Danziger asked if CWS had issued a report of the data with the results of the evacuation exercise (how many phone numbers worked, bounced back, were not connected, and participated). Fire Chief Winnacker will request the after-action report. Director Danziger asked when members are deployed if they use their cars to travel to the incident. Fire Chief Winnacker answered a member could choose to take a personal vehicle. The District maintains several utility vehicles which are available for use for transportation to the deployments. The District is pending delivery of several new vehicles. This time of year, the District maintains two rented vehicles for members to utilize for deployment.

President Donner opened Public Comment for items 5.1-5.4.

Marc Evans, Orinda resident, inquired if the Human Resource Update had a presentation. Fire Chief Winnacker answered the report was verbal. Mr. Evans commended the documentation of the meeting notes for the last two meetings.

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

6. CONSENT AGENDA (audio 1:40:45)

6.1 Meeting Minutes – August 17, 2022 (Regular), September 7, 2022 (Special): Approve and File

6.2 Monthly Incident Report – August 2022/Staff Recommendation: Approve and File

6.3 Monthly Check/Voucher Register – August 2022/Staff Recommendation: Approve and File

6.4 Monthly Financial Report – August 2022/Staff Recommendation: Approve and File

6.5 PARS Annual Statement - June 2022: Receive and File

6.6 Authorize the purchase of two Ford Ranger Pick-Up Trucks from National Auto Fleet Group in the amount of \$77,586 and approve a Capital Projects Fund expenditure budget adjustment increase in the amount of \$7,586

Director Jorgens requested item 6.4 be pulled from the Consent Agenda. Director Jex requested item 6.3 be pulled from the Consent Agenda.

President Donner opened Public Comment for Consent agenda items 6.1-6.6. There were no requests to address the Board. President Donner closed Public Comment.

Motion by Director Jorgens and seconded by Director Danziger to approve Consent Agenda items 6.1, 6.2, 6.5, and 6.6. Said motion carried a 5-0 roll call vote (Ayes: Baitx, Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: None; Abstain: None).

6.3 Monthly Incident Report – June 2022

Director Jex inquired why the block of checks listed for the Tunnel East Bay Hills Fuel Break on the check register did not show on the Statement of Revenues and Expenditures for the Tunnel East Bay Hills Fuel Break. Administrative Services Director Sasser answered the expenditures for the Tunnel East Bay Hills related to the prior fiscal year. The expenses were in accounts payable for the prior fiscal year, which is why they did not show up on the financial report for the new fiscal year.

6.4 Monthly Financial Report – August 2022

Director Jorgens requested a change in the format of statements to show a monthly budget instead of an annual budget. Fire Chief Winnacker suggested quarterly because things like the Strike Team are unknowable month over month. Staff to present options to identify how we can make the statements more approachable. Director Jorgens reiterated that the objective is to know if the District is on or off course.

Motion by Director Jorgens and seconded by Director Jex to approve Consent Agendas items 6.3 and 6.4. Said motion carried a 5-0 roll call vote (Ayes: Baitx, Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: None; Abstain: None).

7. REGULAR AGENDA

7.1 Update Fire Risk Reduction Community Application Board of Forestry and Fire Protection (audio 1:47:18)

Fire Marshal Isaacs provided the report. In 2018, the California State Legislature passed SB 901, adding section 4290.1 to the Public Resource Code, creating a requirement for the Board of Forestry to develop and maintain a Fire Risk Reduction Community list. In August 2022, Staff determined the District was recognized as a Fire Risk Reduction Community. On September 7, 2022, California Insurance Commissioner Lara submitted a regulation to reduce insurance costs to the Office of Administrative Law. "Once approved, the regulation will require all insurance companies to submit new rates that recognize the benefit of safety measures such as upgraded roofs and windows, defensible space, and community-wide programs such as Firewise USA and the Fire Risk Reduction Community designation developed by the state's Board of Forestry and Fire Protection, which currently includes the counties of Los Angeles, Santa Barbara, and Butte as well as cities and local districts." Director Jorgens asked if the regulation would be approved. Fire Marshal Isaacs answered he did not see why it would not be approved. Director Jorgens asked if there was anything more the District could do to trigger the discounts. Fire Marshal Isaacs responded that once the regulation is approved, Staff will work to share the information with the community.

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 Draft GASB 75 OPEB Valuation Report as of June 30, 2022, and Approval of OPEB Funding Policy. (audio 1:52:31)

Administrative Services Director Sasser provided the report. A draft of the District's GASB 75 OPEB Valuation Report as of June 30, 2022, has been completed, and the District's OPEB Funding Policy has been reviewed and updated. ASD Sasser introduced Roger Burton, GovInvest Actuary, Precision Actuarial Inc. Mr. Burton reviewed the draft GASB 75 OPEB Valuation Report and answered the Board's questions.

The District has done a full evaluation every year in the past. This year the Board decided to do a "roll forward" of the report. The report took the results from last year, projected them forward, using the actual benefit payments made during the year, and updated the discount rate, which is the rate used to value the liabilities.

Director Jorgens asked if the District used 6.25% for the discount rate and 6.39% for the rate of return in the portfolio. Mr. Burton confirmed. Director Jorgens asked about the rate of 6.25% versus the 6.39%. Mr. Burton answered the investment rate of return is used to project the assets forward, and the discount rate is for the liability.

Mr. Burton reviewed the Executive Summary of the GASB 75 OPEB Valuation Report (page 3). The Total OPEB Liability increase from \$14,486,398 to \$14,496,567, and assets decrease from \$2,948,603 to \$2,798,054 due to the performance in the stock market. A reconciliation of the changes in the total OPEB liability is available on page 4 of the report. Mr. Burton explained the service cost, interest cost, and differences between the expected and actual experience are added to the beginning liability total of \$14,486,398 (June 30, 2021). The change in the discount rate from 6.14% to 6.25% decreased the liability by \$151,758, and the Benefit Payments and Implicit Subsidy Credit are also subtracted from the June 30, 2021 beginning liability amount. Mr. Burton quickly reviewed the Statement of Assets (page 5) and the Statement of Changes (page 6). Last year, the net investment income was \$630,935, and this year was a loss of \$446,961. The Changes in the Net OPEB Liability (page 7) is a balance sheet showing the changes in liability next to the changes in assets, the net liability, and what the District owes in October.

Mr. Burton stated that GASB 75 allows the amortization of changes in experience or assumptions and the changes in earnings over a set period. The Development of Deferred Outflows and Inflows of Resources (pages 8/9) records those deferrals to be amortized in later years. Director Jorgens asked how many years are amortized. Mr. Burton answered that earnings are amortized over five years, and the expected Average Remaining Service is 4.4 years. Director Jorgens asked if the average employee is only expected to work four more years. Mr. Burton stated that CalPERS has an average of 3.8 years. President Donner added a person in the District is vested after five years with benefits. Mr. Burton stated that might explain why 4.4 years is used. Director Jorgens questioned if everybody is 4.4 years away (on average) from retiring, the District would have a mature workforce. Mr. Burton clarified that the Expected Average Remaining Service Lifetime is the working years left before the employee could retire with benefits. Director Danziger added somebody might have the five years and be vested but not be able to collect the retirement benefits until they reach a certain age.

Mr. Burton reviewed the Expense and Deferred Outflows and Inflows (page 10), which showed the expense calculations. The expense changed liability from last year to this year but only records a recognized portion. The deferred amounts are left out of the calculation; therefore, it will not equal the total change in liability. Mr. Burton discussed the Interest in Liability and Earnings and Investments Gain/Loss (page 11); the 6.39% investment rate return and 6.25% discount rate was used. Mr. Burton noted the interest calculated on the liability and earnings was calculated last year, and at that time, 6.14% was used. The 6.39% and 6.25% will be used in next year's report. Director Jorgens asked how much the District needs to put aside. Mr. Burton stated the Amortization of the Net OPEB Liability (page 16) shows the outstanding net liability, which is the total liability less the assets. The amount was \$11.5M at the beginning of the year (currently \$11.7M) and is amortized over 15 years. The Actuarially Determined Contribution (ADC) (page 17) calculates what the District needs to contribute to the trust fund. The current year is \$366K. Director Jorgens asked how that number compares to the budget. ASD Sasser answered the District budgeted \$351K for the trust contribution. Mr. Burton stated it is projected to be \$543K next year. Director Jex asked what was impacting the increase. Mr. Burton answered the fund's poor performance. If the fund performs well, that will reduce what is to be contributed. Director Jorgens commented it would have a similar impact on the District's pension problems.

Director Jex asked if there were issues regarding the methodology that the District uses contrary or different from what others would do. Mr. Burton replied that the District uses a more conservative discount rate than other districts. Many agencies use the same approach. Director Jex stated the Auditor was asked to check and verify the databases of information being furnished in prior years. Mr. Burton answered the census file was not updated this year, as it is updated every two years, so the data is the same.

Director Danziger asked about the status of the investment returns. Mr. Burton answered he could only provide as of June 30, 2022. ASD Sasser confirmed that June 30, 2022, is the most recent information the District has received. Mr. Burton referred to page 29, which provides a history of returns. As of June 30, 2022, negative 14.43%.

President Donner opened the public comment.

Jonathan Goodwin, Canyon resident, inquired about the \$14M unfunded liability and if the trust fund and payments are supposed to catch up with that amount. Director Jorgens answered yes. Mr. Burton explained it is a total \$14.5M liability, but the District has assets to offset that amount. The net liability is \$11.7M. Director Jex stated there is a schedule for when the liability would be fully funded. Mr. Burton confirmed there is a report in the board packet showing the liability to be funded by 2038. Director Jex added that the intent of doing that is to secure that benefit and ensure that it is funded in case something happens. Director Jorgens added the same concept is used for the pension trust.

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

Motion by Director Jorgens and seconded by Director Jex to approve the OPEB Funding Policy. Said motion carried a 5-0 roll call vote (Ayes: Baitx, Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: None; Abstain: None). No further discussion by the Board.

7.3 Quarter Four Financial Update and Budget Review FY2022 (audio 2:21:40)

Administrative Services Director Sasser provided the report and presented a PowerPoint presentation, attached to these minutes, item 7.3. The fiscal year 2022 is complete. Based on actual results through quarter four, General Fund revenue exceeded expenditures, resulting in a General Fund surplus of \$3.0M. Based on actual results through quarter four, revenue exceeded budget by \$1.2M. Total property tax revenue increased 5.9% over the prior fiscal year, primarily from supplemental property tax revenue, which is tax revenue derived from the reassessment of property following an ownership change or completion of new construction. The District received the most it has ever received in supplemental property tax revenue due to property sales and new construction.

Director Jorgens asked why salaries were less than budget. ASD answered primarily due to vacancies. Fire Chief Winnacker added this is the same as it has been in previous years. Since those budgeted positions are not filled, the District records savings in each category. Director Jorgens asked if this would be a pension savings because the District has to fill in for those people with overtime. Fire Chief Winnacker stated these are the floats that are the vacation-related positions.

ASD Sasser reviewed ambulance activity which has increased revenue compared to the prior year. Strike Team revenue has gone into the General Fund over the last six years. The surplus has fluctuated significantly each year. 2021 was the highest amount, with a surplus of \$1.8M. The current year's surplus is \$848K. The District started the FY with \$15.7M in unrestricted cash and investments. The surplus of \$3M increased the cash balance, and the District ended the fiscal year with \$18.7M in cash and investments. The District did not utilize the Teeter Plan this fiscal year. The District started the fiscal year with \$12M in General Fund Unrestricted fund balance. The \$3M surplus increased the unrestricted fund balance to \$15.1M, 49.7% of budgeted General Fund revenue exceeding the Fund Balance Policy minimum of 17% and less than the Policy goal of 50%.

Director Jorgens inquired about the Debt Service Fund. ASD Sasser answered the deficit was in the prior fiscal year, and it was planned due to the completion of the pension obligation bond payments. There was restricted money sitting in a trust account used for the last payment. That resulted in a deficit. It was based on the way the bonds were structured. Director Jex commented he thought the Capital Projects Fund had a \$3-4M balance. ASD Sasser answered there is a \$5M fund balance. The amount was the deficit for the fiscal year.

President Donner opened the public comment.

Jonathan Goodwin, Canyon resident, inquired about the overall success of the pension obligation bonds. ASD Sasser answered the pension obligation bonds were designed to pay off the Unfunded Liability for the pension. The District still has an Unfunded Liability for the pension; therefore, it did not meet its purpose because of how the pension system is structured and other factors. Mr. Goodwin asked if there was financial loss or gain from selling those bonds. ASD Sasser to follow up with Mr. Goodwin with the answer.

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

7.4 Pinehurst Fuel Reduction Contract Update and Approve FY2023 General Fund Revenue Budget Adjustment Increase in the Amount of \$115,572 and General Fund Expenditure Budget Adjustment Increase in the Amount of \$103,190. (audio 2:33:08)

Fire Chief Winnacker provided the report. On September 15, 2021, the Board was notified that the Fire Chief accepted a no-match fuel reduction contract from CAL FIRE in the amount of \$200,000. The funds were for hazardous fuel reduction for the Pinehurst Road Fuel Break project. The work on Pinehurst Road began on September 7, 2021. On June 28, 2022, Staff submitted an invoice and backup documentation to CAL FIRE for reimbursement of expenditures in the amount of \$200,070. On August 5, 2022, CAL FIRE

informed the District the term of the Agreement started on September 21, 2021, due to delays in state-level legal review, and CAL FIRE would not reimburse the District for work done prior to September 21, 2021. The amount spent by the District for the Pinehurst Road Fuel Break prior to September 21, 2021 that the State will not reimburse was \$124,688. The FY2022 General Fund Budget included state aid revenue in the amount of \$200,000. As a result of the timing error, this revenue category will be under budget \$115,572 in FY2022. The agreement term ends June 30, 2023. The District can complete additional work for the Pinehurst Road Fuel Break and be reimbursed by the State. Staff recommended the Board authorize a General Fund budget adjustment increasing State Aid Revenue in the amount of \$115,572 and Increase Fuels Mitigation Expenditures in the amount of \$103,190.

Director Jorgens summarized the District ended up spending money it thought would be reimbursed. The District still has the grant, which will get reimbursed. Director Danziger asked if there was a plan on how the District will spend the money. Fire Chief Winnacker answered no. The Pinehurst Fuel Break will absorb all available resources. Director Jorgens commented it is effectively like any other grant the Board would approve. Fire Chief Winnacker clarified this project is not a grant but a fuel reduction contract that the District will be reimbursed. Director Danziger asked if there was a plan for completing the work in Canyon and Pinehurst. Fire Chief Winnacker explained Staff had believed the project was completed and funds expended. Should the Board provide authorization to make the budget adjustment, Staff will begin planning to make responsible expenditure in that area.

President Donner opened the public comment.

Jonathan Goodwin, Canyon resident, inquired how the funds were spent and about the brush pile left in May. Fire Chief Winnacker answered the funds were spent for the hand crew, machinery, and chipping. The brush pile was a project that was part of the East Bay Tunnel Hills fuel break (different project). Mr. Goodwin asked if the money was allocated from a different budget. Fire Chief Winnacker confirmed. Mr. Goodwin asked why the District could not clear up the brush. Fire Chief Winnacker explained the District plans to burn the pile when there are favorable conditions. Mr. Goodwin expressed concern about leaving the brush during fire season.

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

Motion by Director Jex and seconded by Director Jorgens to Approve FY2023 General Fund Revenue Budget Adjustment Increase in the Amount of \$115,572 and General Fund Expenditure Budget Adjustment Increase in the Amount of \$103,190. Said motion carried a 5-0 roll call vote (Ayes: Baitx, Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: None; Abstain: None). No further discussion by the Board.

7.5 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 2:41:25)

Fire Chief Winnacker provided the report. 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. To maintain parity among employees, Staff recommended extending this benefit to Moraga-Orinda Fire Chief Officers Association employees to match when the District extended the benefit to Unrepresented Administrative Employees. The projected annual cost is \$4,000.

Director Baitx asked if the benefit included the Fire Chief. Fire Chief Winnacker confirmed per the Fire Chief contract, the benefits follow the Battalion Chiefs' contract. Director Jorgens asked how the contract negotiations went between MOFD and Battalion Chiefs and the timing relative to what happened with L1230. Fire Chief Winnacker answered negotiations proceeded simultaneously and were resolved after the District negotiated the L1230 contract. Director Jorgens asked if the contracts were resolved at the same time this year. Fire Chief Winnacker believed the contracts came forward at the same Board meeting. Director Jorgens remembered they were at least a month apart. This item was not part of the L1230 contract negotiations and was not left outstanding. According to the meeting minutes, the outstanding item was the choice of who would administer the procedures, not letting people sell back vacation. The District is now giving away something that was not part of the contract negotiation.

Fire Chief Winnacker posted a chat message correcting his previous statement regarding the timing of the approval of the contracts. The Board approved L1230's contract on October 27, 2021, and the Unrepresented and Chief Officers Association on November 17, 2021.

President Donner had a different perspective in that the item provides a small savings to the District. The vacation hours belong to the members, and the health savings account is for the members as well, so this would potentially be less health benefits the members will be asking for in future negotiations. Thirty-seven of the 51 members are Strike Team deployable and in horrible air quality conditions 13-14 days in a row. The District has no idea what health effects the fires will cause our members. President Donner supported approving the item.

Director Jorgens debated the District has a wonderfully structured negotiating system. It takes months and sometimes years to negotiate the contract. This item was something that the Union negotiated away during the contract process. Mental health is incredibly important. The argument incentivizes the members not to take their vacations. Director Jorgens opposed approving the item.

President Donner stated that fire department members could take time off at any time because they have the ability to trade shifts. Director Danziger added that members always miss vacation for reasons such as Worker's Compensation, deployment, and other various reasons. Some may be off work but not using vacation time. They have the option when they come back to take it or bank it. Now they can put it in their health savings account. Director Danziger supported approving the item. Director Jorgens stated that all arguments could be valid but are outside the negotiation process.

President Donner opened the public comment.

Jacob Airola, Local 1230 Union Representative, commented when somebody gets injured on the job, the process of going out on leave for injury takes 1 ½ - 2 years. The person may be accruing vacation but cannot utilize the time because they are hurt and likely to separate from the District. The intent was this injured person would need this benefit more than somebody who is about to retire on medical and could use the cash. Kelly Morris is an example. There is a misinterpretation of this being classified as a benefit. It is an IRS rule that was suggested to make it equitable and is something that was not intended to be abused or in lieu of using vacation. Director Jorgens stated members have never been able to sell vacation hours back, which is why it is now a gift and outside the negotiation process (it was part of the negotiation and was not given). Mr. Airola expressed a different opinion that it was a continuation of something agreed upon in November 2021 but did not get fully (inaudible). Director Jorgens asked if it was part of the negotiation. Mr. Airola specified that the HSA was part of the negotiation. Director Jorgens replied the sell-back was not part of the negotiation and had been negotiated away, according to the notes from the District negotiator. According to the minutes, the only outstanding item was selecting the administrator. Mr. Airola added how much the members would contribute was also outstanding. Director Jorgens agreed but stated it was never a concept to allow the ability to sell back vacation time. Mr. Airola disagreed that it is not selling back vacation. Director Jorgens stated it is getting money for unused vacation up to fifty-six hours. Money that would never have gotten because it would have expired. Mr. Airola offered to talk offline.

Jonathan Goodwin, Canyon resident, commented that sometimes people do not cover all the details in every item. The item is not objectionable. Mr. Goodwin provided an example from the fire code regarding firewood and logs. Fire Chief Winnacker clarified that firewood was allowed in the Fire code as a compromise to achieve the necessary political passage. It would be beneficial to ban firewood throughout the District. The Fire Code can only be enforced for which we have the votes, and there has not been the political will to ban firewood from the District in the past. Staff would be open to including banning firewood in this year's revisions. President Donner commented the item was approved for L1230 in April 2022 and Unrepresented Employees in July 2022. It is fair that the Board approves the same for the Battalion Chiefs.

Vincent Wells, Local 1230 Union President, posted a chat message requesting a point of order.

Marc Evans, Orinda resident, commented about the contentious issue, and it seemed like the decision was made six months ago. The same points are discussed until a quorum is present to make a decision. Mr. Evans felt the Directors should be able to compromise. President Donner felt that the right thing to do is to take care of our members.

Vincent Wells, Local 1230 Union President, expressed disappointment to hear the objections from a board member. The purpose of the Fire Board is to take care of the employees and the community. The board member was aware of the situation in the contract negotiations. The details were not finalized when the HSA was agreed on toward the end of the negotiation process. In meeting with the HSA Administrators, additional benefits that were available were not presented to L1230 when the HSA was requested for employees. Mr. Wells requested that the Board move forward with approving the item.

Marc Evans, Orinda resident, clarified his previous statement. It is always the right thing to take care of people, but the Board needs to follow a process. Otherwise, you open the doors for lots of variation.

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

Director Jorgens agreed that not providing the same for groups would not be fair. The problem was the Board approved the item for the first group. It is the principle of giving things away outside the formal negotiating process. Director Danziger stated that it is common to have multiple side letters approved during the course of a contract in the fire service and public safety.

Motion by Director Baitx and seconded by Director Danziger 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 carried a 3-2-0-0 roll call vote (Ayes: Baitx, Danziger, and Donner; Noes: Jex and Jorgens; Absent: None; Abstain: None).

Fire Chief Winnacker requested clarification on the date of implementation. Director Danziger supported going back to July 1, the start of the contract. President Donner agreed. Director Baitx agreed. Fire Chief Winnacker stated the contract started July 1, 2021. Director Danziger asked what was done for the other groups. Fire Chief Winnacker answered effective for L1230 April and unrepresented employees July 2022.

Substitute Motion by Director Danziger and seconded by Director Baitx to approve 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 retroactive to July 1, 2022. Said motion carried a 3-2-0-0 roll call vote (Ayes: Baitx, Danziger, and Donner; Noes: Jex and Jorgens; Absent: None; Abstain: None). No further discussion by the Board

7.6 Status Report on Workers' Compensation Claim for Kelly Morris-Nichols (audio 3:07:16)

Jesus Mendoza, Esq Laughlin, Falbo, Levy & Moresi, Workers Compensation Defense Attorney, provided the report. On August 17, 2022, Ms. Morris-Nichols submitted written public comments about her case, and the Board requested a status report on the claim. Ms. Morris-Nichols is a former employee injured in the line of duty on Highway 24 in December 2012. Ms. Morris-Nichols obtained a disability retirement in January 2014. Ms. Morris-Nichols requested in her written public comment that the Board provide her attorneys a settlement amount. Mr. Mendoza has been involved in the case since 2016 and assured the Board that the case had been a high priority for all defense counsel involved. All settlement negotiations are ongoing and confidential. Those confidential settlement negotiations include the worker's compensation payments already paid on the case while the civil matter was ongoing. Mr. Mendoza explained how the District is a member of the Fire Agencies Self-Insurance System (FASIS). FASIS is a joint powers authority that provides worker's compensation insurance to fire protection districts and community services districts in the State of California. FASIS has contracted with Athens Administrators for claims administration services for the worker's compensation program. All worker's compensation claims are settled within the financial limits set by the FASIS Board of Directors. MOFD is not a legal party to the litigation. As a result, this topic did not meet the requirements to be discussed in a closed session. The claim is being processed through the FASIS system, and MOFD does not have a role in the ongoing negotiations between Kelly Morris-Nichols' attorneys and FASIS. Ms. Morris-Nichol has remained represented by both Compensation and Civil Counsel at all times. Those Councils are actively engaged in those negotiations.

Director Danziger requested Counsel to settle the case. Mr. Mendoza acknowledged. Director Danziger asked if anything prohibited a board member from speaking with Ms. Kelly Morris-Nichols. District Counsel Holtzman expressed concern about talking directly to somebody in active litigation. The item was placed in the Open session because it did not qualify for a closed session exception. It was thought valuable to have this open discussion so everybody could understand that the District does not control this issue. Director Danziger noted the advice and expressed sympathy to Ms. Morris-Nichols.

President Donner opened the public comment.

Jonathan Goodwin, Canyon resident, requested clarification. Ms. Morris-Nichols' filed a lawsuit and ultimately settled it. The insurer (FASIS) has been paying the benefits. If damages are recovered in another lawsuit, the insurer then seeks subrogation for some of their loss. Mr. Mendoza added when an employee files a worker's compensation claim, the JPA is informed and steps into the shoes of the District and assumes obligations. In this case, Ms. Morris-Nichols filed a worker's compensation claim and sued other people. The FASIS entity then goes along with the case and seeks compensation from the at-fault party. Mr. Goodwin summarized that awards were given to multiple lawsuits, and the insurance company is trying to claw back. District Counsel Holtzman emphasized that FASIS was allied with Ms. Morris-Nichols and contributed to those lawsuits to ensure compensation. Mr. Goodwin understood the District had no authority over the outcome of the situation. Mr. Holtzman confirmed.

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

7.7 History and Capability of the Wildfire Camera Network (audio 3:20:45)

Fire Chief Winnacker provided the report. At the August Board meeting, a director requested an update on the history and capability of the wildfire camera network. John Cornell, the Emergency Services Coordinator for the City of Lafayette Police Department, presented an overview of the alert wildfire camera network system. There are approximately 62 cameras across six counties (Contra Costa, Alameda, Solano, San Francisco, and Santa Clara). Mr. Cornell showed an image of the camera on Vollmer Peak Trail in Orinda. The purpose of the cameras is to spot, monitor, and track fires. ALERTWildfire is a consortium of the University of Nevada, Reno, University of California San Diego, and the University of Oregon, providing fire cameras and tools to help firefighters and first responders. Most agencies across California can access the network to view these cameras. There are approximately 1200 cameras statewide. The City of Lafayette has a mobile camera that can be deployed around the county.

The cameras reduce the response time to wildfires and brush fires. When the first 911 call comes in, the dispatcher monitors the cameras to see what is happening in real time. The cameras can discover, locate, and confirm fire ignition, quickly scale fire resources up or down, monitor fire behavior during containment, and help evacuations through enhanced situational awareness. The public can also access the cameras and decide to self-evacuate based on what they see. The link for the cameras <https://www.alertwildfire.org/>. Mr. Cornell shared videos of the Kincaid Fire, LNU Lightning Complex, CZU Lightning Complex, and examples of local use of the cameras. ALERTWildfire is in the process of integrating the system with the PG&E weather station.

Mr. Cornell described the East Bay Regional Communications system network for communications and data processing. Information technology is a secondary use to the network for redundant communications. If the internet service providers were compromised, a satellite connection could be obtained by a portable cell tower that is part of the mobile camera/trailer. The portable hotspots were deployed to the Caldor Fire, allowing connection to the Wildfire Camera Network.

Director Jorgens asked if there was a plan to monitor the cameras by computer or people. Mr. Cornell answered on Red Flag days; there will be a dedicated team at the PG&E Weather Safety Operations Center. Off-season, CAL FIRE has at least one person monitoring the cameras. Fire Chief Winnacker added the District has access to an AI system that monitors for smoke and is effective at picking up smoke plumes with almost no false positives from cloud cover. Director Jorgens asked if there were any barriers to the project or if there was anything the Board could do to help. Mr. Cornell answered there are no barriers now that there is an understanding of the capabilities of the cameras. Director Danziger asked that the link be shared with the public. Mr. Cornell provided <https://www.alertwildfire.org/>. People will see a map of California and then should click on the area of interest.

President Donner opened the public comment.

Jonathan Goodwin, Canyon resident. The comment was inaudible due to a poor internet connection. President Donner suggested Mr. Goodwin disconnect and call in by phone or reconnect.

Mark Evans, Orinda resident, asked how the project was funded. Mr. Cornell explained the funding came from grants. When camera installation is performed, all the equipment is requested through ALERTWildfire. If additional items are needed, ALERTWildfire will reimburse. Mr. Evans reserved his additional questions due to the late hour. Mr. Cornell posted his email (jcornell@ci.lafayette.ca.us) in a chat message for additional questions and offered to speak with members on how to push the project forward.

Jonathan Goodwin, Canyon resident, inquired as to why the City of Lafayette would invest in the program, the maintenance and sustainability of the cameras, and if there was a protocol for earthquake damage assessment. Mr. Cornell answered that the project was proposed to Chief Ben Aldrich. The City manager supported the program. The benefits were demonstrated throughout the county, and other agencies with similar fire severity zones as the project progressed. The equipment was obtained at no cost to the City, and most of the work was performed in-house. The cameras have a seven-year warranty from the manufacturer. Preventative maintenance is performed by people from various radio shops throughout the area. The earthquake emergency action plan falls in line with those members from different radio shops. Mr. Goodwin suggested a plan be developed to use the cameras during a serious earthquake. Agencies could be aware early on of serious infrastructure problems following an earthquake.

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

7.8 Single Role EMT and Paramedic Positions (audio 4:00:16) -- *item pulled. Moved to the October Regular Meeting*

Director Jorgens requested the item be rescheduled when the requested benchmarking data is available. Donner commented that it would hopefully be on the October agenda. Donner asked the other Directors if they were okay with removing the item. Danziger agreed. No opposition from the other directors.

7.9 Attendance at Board Meetings by Members of the Board (audio 4:01:29)

District Counsel Holtzman provided the report. At the August regular Board meeting, Board members requested information regarding the rules concerning absences and how other districts handle the issue of absent directors. Mr. Holtzman reviewed and explained Government Code, Section 1770, and a few undefined areas in the law. There is no process for how a legitimate absence is determined. The law states "ceasing to discharge duties," which does not explicitly address the question of board meeting attendance. A sampling of other districts was performed, and several special districts have various provisions. The other Special Districts have generally followed the form of saying that a person can be removed after 90 days or three consecutive meetings that have been missed without good cause or excuse. Mr. Holtzman stated Counsel had not thoroughly researched the mechanical questions involved in removing a director because directors are elected, which adds to the complexities. There are also different ways in which absences are excused or not excused. The challenge is that a policy that does not have some mechanism for excuse cannot be written because there could be a very sick member, which is a different situation. The challenge is as soon as the opportunity for excused absences is injected, there is a potential to throw the issue back into a more political arena. District Counsel did not make any recommendations to the Board. The report was information only.

Director Jorgens asked if any Districts ever had to implement their policies. Mr. Holtzman answered no, and there were no cases of it. Typically, a person would resign if they were in this position. It may be valuable for the Board to establish standards. Director Jorgens commented when a person signs up to be elected, they swear to fulfill the duties of the office; and suggested developing an attendance policy. President Donner agreed if a board member is sick or has a valid excuse not to attend a meeting (even more than once is reasonable. Unexcused absences for meetings that are missed for whatever other reason is where the District should set policies. President Donner requested a discussion on forming an attendance policy.

Mr. Holtzman replied Counsel could research further and formulate a couple of alternative policies if there is interest from the Board. Director Jorgens stated that the public benefit of having a policy is that the District has a five-member Board for a reason, and having everybody attend regularly makes the Board function better. President Donner agreed. Director Danziger shared that Resolution 11-03 from 2011 sets forth the rules and procedures for board meetings and related functions and activities. The rules of procedure are over ten years old and suggested a review to see if it needs to be updated. President Donner asked if the resolution was due for revision. Mr. Holtzman answered there are a few places to update, for example, the public hearing process.

Mr. Holtzman concluded that Counsel would take the direction provided as general guidance and return to the Board. Director Jorgens added there is no hurry. Mr. Holtzman recommended waiting until the new Board is seated or reseeded.

President Donner opened the public comment.

Jonathan Goodwin, Canyon resident (inaudible). President Donner suggested Mr. Goodwin disconnect and call in by phone or reconnect due to the poor connection. President Donner stated due to the nature of the hour, would return to public comment if Mr. Goodwin could phone in or reconnect.

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

8 COMMITTEE REPORTS (audio 4:11:42)

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). Fire Chief Winnacker reported continued attendance at the meetings. The County Fire Marshals have recommended Regional Fire Code. The process was presented along with the associated exterior fuels management ordinance and distributed to the various Fire Code Officials for Contra Costa County and interested agencies in Alameda County and Marine County. A new Fire Code should be in place by January 1, 2023.

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). No Report.

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

District Clerk Holbrook suggested trying to reconnect with Jonathan Goodwin to see if his connection is better. Mr. Goodwin's connection was inaudible. District Counsel Holtzman recommended Mr. Goodwin put his comments in writing and email it to the clerk to be included in the record.

9. ANNOUNCEMENTS (audio 4:14:52)

9.1 Future Agenda Items.

Director Danziger requested an update on the Home Hardening Grant Program and on the Tunnel East Bay Fuel Break project. These two items can either be agendaized or part of the Fire Chief Update.

President Donner requested to discuss possibly doing an ad or community outreach for the Contra Costa Community Warning System. President Donner stated he had been made aware that County Police, County Fire, and some nurses have received COVID payments of \$2,500. The MOFD members are excluded from this Federal money and requested to form an Ad Hoc Committee to investigate and possibly send a letter to the County Board of Supervisors to include the MOFD members. Fire Chief Winnacker asked which Board members would participate. President Donner volunteered to participate on the committee. Director Jorgens stated it needed to be agendaized to form a committee. President Donner agreed.

10 ADJOURNMENT

At 11:20 p.m., President Donner motioned and seconded by Director Jex to adjourn the meeting. Said motion carried a 5-0 roll call vote (Ayes: Baitx, Danziger, Jex, Jorgens, and Donner; Noes: None; Absent: None; Abstain: None).

Chat messages posted after adjournment:

Jonathan Goodwin, Canyon resident posted a chat message about how Directors dealt with scheduling conflicts in the past.

Vincent Wells, Local 1230 Union President, posted a chat message stating public comment.

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.

Strike Team Reimbursement - OES



- Strike Team Receivable Update:

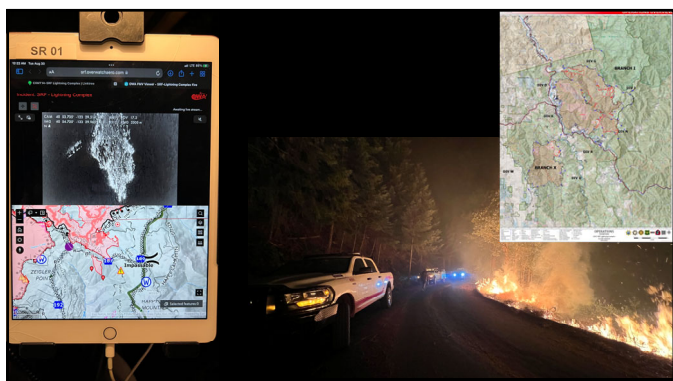
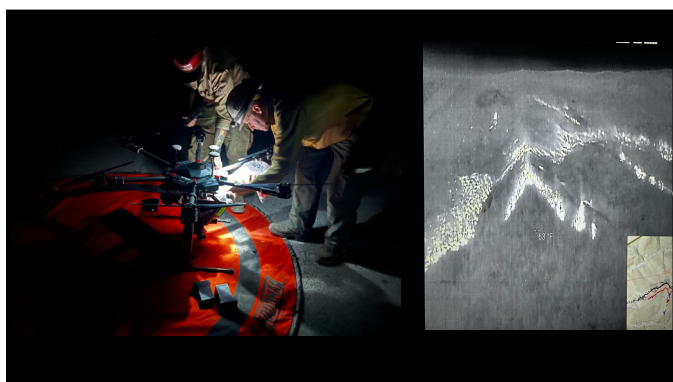
	Estimated <u>2021-2022</u>	Estimated <u>2022-2023</u>
OES Strike Team Receivable	\$1,661,062	\$455,046
OES Payments Received	<u>\$1,500,465</u>	<u>\$ 0</u>
Net Receivable Outstanding	\$ 160,597	\$455,046

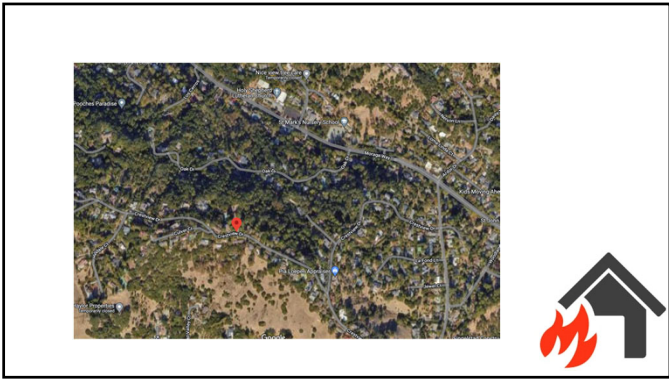
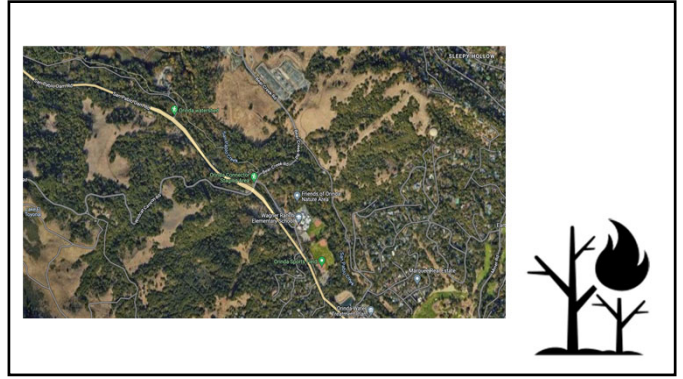
- 2021-2022 – 3 invoices outstanding
- 2022-2023 – Estimated based on F-42's received to date

- Other Items

- FY22 closed – audit in process

MOFD Board Update September 21, 2022







Financial Update Quarter Four

July 1, 2021 – June 30, 2022

Quarter Four General Fund Surplus

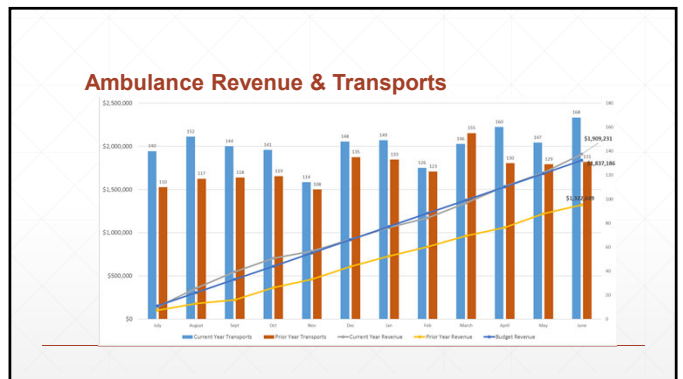
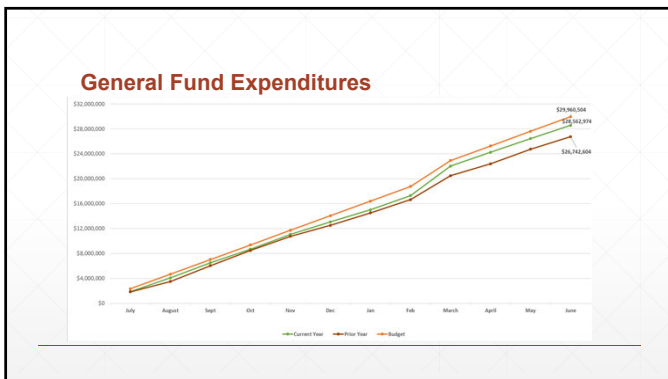
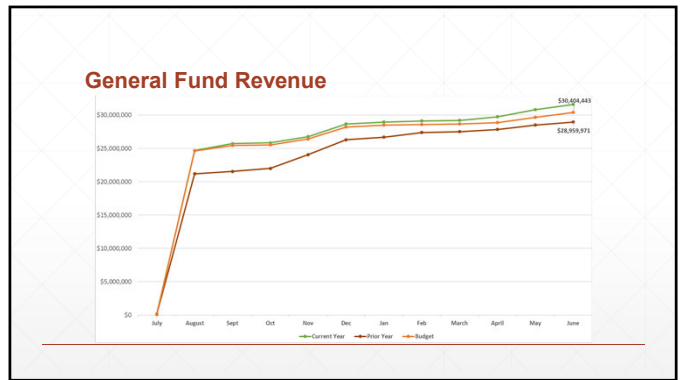
- Original Budget surplus \$744K
- Labor negotiations were ongoing – no salary increases were included in the original budget
- New MOUs effective July 1, 2021
 - Salary increases 4%
 - Medical insurance increases
 - Other benefit increases
- Actual surplus \$3.0M

	Budget June 2021	Actual After Quarter Four
Revenue	\$28.9M	\$31.6M
Expenditures	\$28.1M	\$28.6M
Surplus	\$744K	\$3.0M

Quarter Four Financial Update

Revenue – Exceed budget \$1.2M Expenditures – Less than budget \$1.4M

- Property tax exceed budget (\$683K)
- Strike team revenue exceed budget (\$200K)
- Ambulance services exceed budget (\$154K)
- Fire prevention/plan review exceed budget (\$32K)
- Salaries less than budget (\$466K)
- Overtime less than budget (\$65K)
- Strike team overtime less than budget (\$149K)
- Retirement contributions less than budget (\$238K)
- OPEB contribution less than budget (\$131K)
- Services & supplies less than budget (\$287K)



7.3 - Quarter Four Financial Update

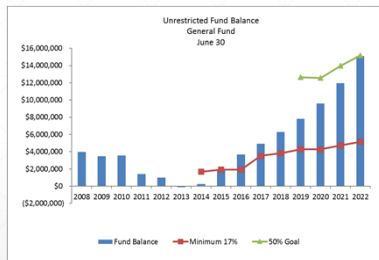
Strike Team Activity



Unrestricted Cash and Investments



General Fund Unrestricted Fund Balance



Other Funds

- Capital Projects Fund – Deficit \$428K
- Debt Service Fund – Deficit \$2.1M
- Tunnel East Bay Hills Fuel Break – Surplus \$18K

Financial Update Plan FY2022

