

Moraga-Orinda Fire Protection District



BOARD OF DIRECTORS SPECIAL BOARD MEETING MINUTES

May 15, 2019
(Approved June 19, 2019)

1. The Board of Directors convened in Open Session at 6:03 p.m. on May 15, 2019 at the Sarge Littlehale Room, 22 Orinda Way, Orinda, California. President Danziger called the meeting to order and requested an attendance roll call. Present were the following Directors and Staff:

Director Baitx	Director Jorgens	Dave Winnacker, Fire Chief
Director Donner	President Danziger	Admin. Services Director Gloriann Sasser
Director Jex (via teleconference)		Jonathan Holtzman, District Counsel
		Patricia Edwards, Interim District Clerk

2. PUBLIC COMMENT

President Danziger opened the public comment. There were no requests to address the Board. President Danziger closed the Public Comment.

3. SPECIAL CALENDAR

- 3.1 Authorize the Fire Chief to Enter into a Contract with the State of California, Natural Resources Agency, Department of Forestry and Fire Protection to Provide Professional Services to Support CAL FIRE project – North Orinda Emergency Fuel Break in the Amount Not to Exceed \$4,000,000; Authorize Establishment of a North Orinda Emergency Fuel Break Special Revenue Fund; Authorize FY2019 North Orinda Emergency Fuel Break Special Revenue Fund Revenue and Expenditure Budget Adjustment Increases in the Amount of \$4,000,000; Authorize Establishment of Project Manager Position with a Pay Rate of \$59.52 per Hour.

Chief Winnacker stated that Director Jex will be listening to the meeting but will not be able to vote on the agenda items due to an error on the agenda posting format.

Chief Winnacker provided the report. In response to Executive Order N-05-19, CAL FIRE issued a 45-Day Report to Governor Gavin Newsom that systematically identified high priority fuels reduction projects and other measures to protect over 200 of California's most wildfire-vulnerable communities and put the state on a path toward long-term wildfire prevention and forest health. The CAL FIRE report identified more than 30 strategically-defined local projects that can be addressed urgently in partnership with communities to make a difference this wildfire season. The Moraga-Orinda Fire District partnered with CAL FIRE, the East Bay Municipal Utility District, the East Bay Regional Park District, and the Contra Costa County Fire Protection District to submit the North Orinda Fuel Break proposal which was included on this list. The State of California has requested to enter into a professional services contract with the District to complete the North Orinda Emergency Fuel Break project in the amount not to exceed \$4,000,000.

The District has been waiting for the contracting process to move forward through the state system and through the local CAL FIRE unit. Staff is requesting that the District enter into an agreement with CAL FIRE to accept the funds and begin the process for how the work will be conducted. Before the work can commence, a Request for Proposal (RFP) must be posted. A pre-notice has been posted. Bids must be accepted and reviewed. Bids exceeding \$100K must be approved by the Board. Chief Winnacker proposed a May 24, 2019 workshop to provide information to the public regarding the project. He noted that work on the East Bay Municipal Utility District (EBMUD) land will follow their habitat conservation and habitat management plan and stewardship program. Work on the East Bay Regional Parks District (EBRPD) land will be done in accordance with the EBRPD specifications. The project's CEQA requirements have been exempted by the Governor but the project will conform with best practices. Once the grant is accepted, a project manager will be hired, detailed plans will be presented to the public, bids will be accepted, and work will be mobilized as quickly as possible.

President Danziger opened public comment.

Mark McCullah, Local 1230 representative, asked if the fuels manager's position for the grant is the same position as the MOFD fuels manager. Chief Winnacker stated that these are two separate positions. The grant's fuels manager is a contracted, short term, project manager.

Director Jorgens summarized the responsibilities for the grant. The District will act as a project manager for work on private land, EBMUD land, and EBRPD land. He wondered if a public workshop would slow anything down. He expressed concern about the proposed date of the public workshop. Chief Winnacker stated that it is a challenge to identify a window in which to hold the workshop before the work begins. Director Jorgens asked what the District would do with the public input. Chief Winnacker stated that the workshop is intended to explain the project as the project's scope and scale will already have been largely established.

Director Jex asked to define 'public' as he noted that a lot of the project is outside the MOFD's jurisdiction. He asked how MOFD will notice the workshop for areas outside the District's jurisdiction. Chief Winnacker responded any public notice will be provided by MOFD and the partner agencies (CON FIRE, CAL FIRE, EBMUD, and EBRPD).

Director Jorgens asked how the meeting would be presented. Chief Winnacker stated that the workshop will explain that this is what the project looks like. President Danziger suggested that the grant partners attend the meeting and that it be called a 'Town Hall' meeting. Director Jorgens concurred. President Danziger does not like the proposed workshop date and he recommended that another date be selected. Chief Winnacker stated that staff will find a more acceptable date. Director Baitx asked for the project's start date. Chief Winnacker stated that the project does not have an associated start date but it must be completed by December 31, 2019. The start date will depend on how quickly the contract process can be executed and when the contractor can mobilize. Director Jorgens asked about the RFP process. Chief Winnacker stated that a prenotice has been sent. The District RFP process does not require a specific minimum posting time so the range will be 3 to 7 days. Bids exceeding \$100K will be submitted to the Board for their approval.

President Danziger noted that the grant expenses cannot exceed \$4M. Director Jorgens asked if the District will manage the funds. Chief Winnacker stated that the District can get grant advances after it accepts the grant. The District can establish a new project line for the budget. MOFD can carry a 30-day loan on the project, pay the contractors, and then be reimbursed from the state. This is easier than the cash advance process. The District essentially fronts the payments and then is reimbursed from the state. Director Jex asked if the District has sufficient cash flow to operate the grant. He prefers to use the state's funds and not MOFD's. Chief Winnacker noted that the reimbursement process starts after each contractor is paid. A bill can be submitted to the state on the same day as the contractor is paid. Director Jorgens asked if the District could borrow funds from the Teeter Plan if needed. Administrative Services Director (ASD) Sasser responded that the District can use the Teeter Plan if needed. Director Jorgens asked how confident staff is that the state will have the funds. Chief Winnacker stated that the funds are provided on the Cap and Trade which has sufficient funds. ASD Sasser stated that the District can use the Teeter Plan to borrow against the current year's revenues and could borrow more than \$4M if needed. She said that the District did not need the Teeter Plan in Fiscal Year 2018-2019. Director Jex questioned if the District would have sufficient funds in December to cover its bills and the additional programs and facilities. President Danziger asked what financing other agency grant recipients use. Chief Winnacker responded that it depends on the agency. Director Jorgens stated that, with the Teeter Plan, there is not much risk for the District. President Danziger concurred. Director Jex asked what happens if the District spends more than the grant's \$4M. Chief Winnacker said that if the grant expenditures exceed \$4M, the District has failed to manage the grant and the District would be responsible for the overage. The project has goals in terms of the completion of work. The grant funds drive the scope, nature, and life of the work. Director Jex asked if the District is obligated to proceed if the work is not completed by December 31, 2019. Chief Winnacker responded no. If envisioned portions of the project are not completed by December and the funds are expended, the project is considered 'complete'. He confirmed that there is no contract risk for overspending unless the District does not manage the grant appropriately and incurs costs in excess of \$4M. Director Jex asked what budgeting and controls will be in place to insure that an overage does not occur. Chief Winnacker stated that this

grant will be handled the same as other District projects in terms of oversight and controls. Director Jex asked who in the office will be monitoring the grant. Chief Winnacker replied that the grant will be monitored by the project manager and the Chief. The District will hire the needed contract work to make sure that the project is in compliance and proper oversight is provided. Director Jex as Chairman of the Audit Committee requested a monthly report on the status of the contract. He recommended that the District consult with its auditors and to ensure that the appropriate controls are in place. He recommended that the District verify that its current insurance covers any issues generated by the grant. Counsel Holtzman stated that he will look at the District's policy and possible liability. Director Jex requested clarification on the contractor's insurance versus the District's insurance. Counsel Holtzman noted that there is a risk with contract employees. Director Jorgens suggested that the District's insurance company be consulted. Director Donner recommended that additional insurance for the project be secured if needed. Counsel Holtzman noted that this is a good idea. He clarified that the Board's action is to accept the grant, hire the project manager, and that there will be additional opportunities to discuss issues.

Motion by President Danziger and seconded by Director Jorgens to Authorize the Fire Chief to Enter into a Contract with the State of California, Natural Resources Agency, Department of Forestry and Fire Protection to Provide Professional Services to Support CAL FIRE project – North Orinda Emergency Fuel Break in the Amount Not to Exceed \$4,000,000; Authorize Establishment of a North Orinda Emergency Fuel Break Special Revenue Fund; Authorize FY2019 North Orinda Emergency Fuel Break Special Revenue Fund Revenue and Expenditure Budget Adjustment Increases in the Amount of \$4,000,000; Authorize Establishment of Project Manager Position with a Pay Rate of \$59.52 per Hour and provide monthly financial and status reports on the project.

Director Jorgens asked if there are any constraints for the District if the project runs into FY2020. He expressed concern about authorizing a project with a hard stop in December. ASD Sasser stated that this financial activity falls under the District's fiscal year and the internal controls of the District. The Board has to legally appropriate revenue and expenditures. The funds will be placed in a special revenue fund separate from regular operations. It will fall into FY 2020 and that will necessitate budget adjustments. Chief Winnacker said that the funds will roll over into FY 2020. Director Jex asked if the District will set up a project fund and if money from the general fund will be used to pay the initial bills. ASD Sasser stated that the District does not need to authorize fund transfers. She explained the process: the District's cash will go out first, a monthly invoice will be submitted to the state, and the state will reimburse the District. There will be no transfers between the general fund and the special revenue fund. Director Jex summarized that the District will pay the bill, bill the state, and pay out of the general fund. ASD Sasser stated that this process is called "due to (the general fund) and due from (the special revenue fund)".

Said motion carried a 4-0-1 voice vote (Ayes: Baitx, Donner, Jorgens, and Danziger; Noes: None; Abstain: Jex; Absent: None).

3.2 Authorization to Create Part-Time, Non-Benefitted Fuels Mitigation Crew Supervisor Position with a Salary Range of \$21 to \$23 per hour; Authorize FY2019 Position Increase Fuels Mitigation Crew Supervisor +0.5 and Decrease in District Aide -0.5

Chief Winnacker provided the report. As part of the fuels mitigation program, one of the primary duties of the District Aides is to operate a wood chipper. In order to operate a wood chipper in accordance with Cal/OSHA requirements, a supervisor is required to oversee wood chipper operations. It is not efficient to tie the fuels mitigation program manager to chipper operations. Staff requests that a fuels mitigation aide position be converted to a fuels mitigation supervisor position who can oversee chipper operations. The project manager is then able to oversee a group providing outreach education, assessments, and planning, etc. Director Jorgens suggested that all of the fuels mitigation aides be promoted to supervisor status at an additional cost of \$2 per hour. Director Donner asked for the number of chipping crew staff. Chief Winnacker responded four aides and one supervisor. The chipper is typically run with three people. Director Donner suggested that two supervisors be trained. Chief Winnacker revised the request to increase the supervisors by +1.0 and decrease the District Aides by -1.0 for an additional cost of \$2,400.

President Danziger opened the public comment. There were no requests to address the Board. President Danziger closed the Public Comment.

Based on the Board's discussion, Chief Winnacker recommended that the proposal be amended to increase the Fuels Mitigation Crew Supervisor from +0.5 to +1.0 and decrease the District Aides from -0.5 to -1.0. This would change the six month cost to approximately \$2,400.

Motion by President Danziger and seconded by Director Jorgens to Authorization to Create Part-Time, Non-Benefitted Fuels Mitigation Crew Supervisor Position with a Salary Range of \$21 to \$23 per hour; Authorize FY2019 Position Increase Fuels Mitigation Crew Supervisor +1.0 position and Decrease in District Aide -1.0 position. Said motion carried a 4-0-1 voice vote (Ayes: Baitx, Donner, Jorgens, and Danziger; Noes: None; Abstain: Jex; Absent: None).

4. ADJOURNMENT

At 6:40 p.m., President Danziger closed the Special Meeting and the Board adjourned to Closed Session.

For an audio recording of this and other Board meetings, please visit the MOFD District Board Meeting webpage <http://www.mofd.org/board/meetings>