



Moraga-Orinda Fire District

Board of Directors

REGULAR MEETING
March 20, 2024 – 5:00 PM
5:00 p.m. CLOSED SESSION
7:00 p.m. OPEN SESSION
Public Workshop

MEETING LOCATION:
Sarge Littlehale Room
22 Orinda Way
Orinda, CA 94563

To access the meeting remotely:
please click the link below to join the webinar by Zoom:
<https://us02web.zoom.us/j/88037126104>

or By Phone: 1-669-900-6833
Webinar ID: 880 3712 6104

Public Participation

This meeting will be conducted in a hybrid format with in-person and remote options for public participation. If you are participating via the Zoom meeting link (i.e. web platform), and experience personal technological difficulties, please re-join the meeting by phone via phone number provided above.

For In-person Attendees: Face coverings are strongly encouraged and attendees are encouraged to be up-to-date on the COVID-19 vaccine. Social distance should be maintained when practical. If you are feeling sick, please do not attend the meeting in person.

SPEAKER CARDS: Members of the public may comment on any item on the agenda before or during the Board's consideration of the item. If you would like to speak during the public forum or on an item listed on the agenda, you are invited to submit a speaker card to the District Clerk. You will be permitted to speak even if you elect not to submit a speaker card or decline to provide information requested on the card. After the Board of Directors has heard from everyone who submitted speaker cards, anyone electing not to submit a speaker card may form a line at the lectern. Public comment is limited to 3 minutes per speaker per agenda item.

For Remote Attendees: join via the ZOOM link or the dial-in information above. You can access the meeting via a smartphone or computer App (Zoom) or phone. Live Public Comment can be provided via the Zoom app (during the public comment period) by the raise hand feature. The District Clerk will announce, "the next speaker has been unmuted." A notification will appear for the speaker who has raised their hand, asking them to unmute their microphone. Please unmute your microphone and state your first and last name for the record (not required). If participating by phone, dial *9 to raise your hand. Staff will announce the last four (4) digits of the phone number for dial-in attendees. Participants will be called in the order of hands raised.

Submit Public Comment Before the Meeting: Members of the public can provide public comment by sending an e-mail to info@mofd.org no later than 3:00 p.m. the day of the meeting. Those e-mails will be distributed to the Board of Directors and posted on the District's website as part of the public record by 5:00 p.m. on the day of the meeting. Note: any written public comments received after the deadline will not be distributed to the Board of Directors or posted on the District's website until the following day. Written comments will NOT be read into the record. All written public comments are available to view at mofd.org/agendas.

The meeting will be live streamed via the [MOFD YouTube Channel](#). A link is accessible via the District's website.

1. **OPENING CEREMONIES**

- Call the Meeting to Order
- Roll Call
- Pledge of Allegiance

2. **PUBLIC COMMENT - CLOSED SESSION ITEMS**

3. **CLOSED SESSION**

3.1 **Conference with Labor Negotiator - Local 1230, IAFF**

(Government Code Section 54957.6)

Employee Organization: Local 1230, International Association of Firefighters IAFF

Agency Designated Representative: Luke Jensen

3.2 **Conference with Labor Negotiator - MOFCOA**

(Government Code Section 54957.6)

Employee Organization: Moraga-Orinda Fire Chief Officers' Association

Agency Designated Representative: Luke Jensen

3.3 **Conference with Labor Negotiator - Unrepresented Employees**

(Government Code Section 54957.6)

Employee Organization: Unrepresented Employees

Agency Designated Representative: Luke Jensen

3.4 **Conference with Legal Counsel - Existing Litigation**

(Paragraph (1) of subdivision (d) of Section 54956.9)

Name of Case: Sandia Pearson and Anita K. Pearson v. Moraga-Orinda Fire District

Case No. Case No. N23-2201

[Attachment: October 23, 2023 CEQA Notice Letter final.pdf](#)

[Attachment: October 25, 2023 Civil Case Cover Sheet.pdf](#)

[Attachment: October 25, 2023 Verified Petition for Writ of Mandate \[CEQA\]](#)

3.5 **Conference with Legal Counsel - Existing Litigation**

(Paragraph (1) of subdivision (d) of Section 54956.9)

Name of Case: Peter J. Nowicki v. Contra Costa County Employee' Retirement Association, Moraga-Orinda Fire District, and Does 1 - 25 inclusive

Case No. Case No. MSC17-01266

[Attachment: Peter Nowicki v. CCCERA, MOFD Case No. MSC17-01266 Declaration of R. Benjamin Nelson ISO Motion For Leave.pdf](#)

[Attachment: Peter Nowicki v. CCCERA, MOFD Case No. MSC17-01266 Fifth Amended and Supplemental Petition.pdf](#)

4. **RECONVENE THE MEETING**

- Call the Meeting to Order
- Roll Call

5. **REPORT OF CLOSED SESSION ACTION**

6. **PUBLIC COMMENT – ITEMS NOT ON THE AGENDA**

At the beginning of each regular District Board meeting, any member of the public may address the District Board concerning any item not on the Board's agenda but within the subject matter jurisdiction of the Board. Speakers will be limited to three (3) minutes unless otherwise specified by the Presiding Officer. The public will be given an opportunity to speak on each agenda item at the time it is called. The Board may discuss and/or take action regarding any or all of the items listed below. Once the public comment portion of any item on this agenda has been closed by the Board, no further comment from the public will be permitted unless authorized by the Board and if so authorized, said additional public comment shall be limited to the provision of information not previously provided to the Board or as otherwise limited by order of the Presiding Officer or the Board.

7. **PUBLIC HEARING**

7.1 **[Second Reading and Adoption of Ordinance No. 24-01, Revising a Schedule of Fees for District Services and Superseding Ordinance No. 23-02, as amended pursuant to Board direction.](#)**

Staff Recommendation: 1) Discuss; 2) Deliberate; 3) Conduct a public hearing; 4) Adopt

Ordinance No. 24-01, Revising a Schedule of Fees for District Services and Superseding Ordinance No. 23-02 effective April 22, 2024, as amended pursuant to Board direction.

[Attachment A: 24-01 Ordinance Schedule of Fees.pdf](#)

[Attachment B: Fee Schedule 2024.pdf](#)

[Attachment C: Written Public Comment Received](#)

[Attachment D: Response to Written Public Comment](#)

8. ANNOUNCEMENTS

8.1 Brief information only reports related to meetings attended by a Director at District expense

(Government Code Section 53232.3(d))

8.2 Questions and informational comments from Board members and Staff

8.3 Communications Received

[01 - Richard Olsen.pdf](#)

8.4 Fire Chief Updates

a. Finance Report

b. Human Resources

c. Fire Marshal

d. Tunnel East Bay Hills Fuel Break Project

e. Home Hardening Grant Program

f. Operations

[Attachment: February 2024 Fire Prevention Report.pdf](#)

9. CONSENT AGENDA

9.1 Meeting Minutes - February 21, 2024 (regular)

Staff Recommendation: Approve and File

[Attachment: 02-21-24 Regular Minutes.pdf](#)

9.2 Monthly Incident Report – February 2024

Staff Recommendation: Approve and File

[Attachment: Monthly Incident Report February 2024.pdf](#)

9.3 Monthly Check/Voucher Register – February 2024

Staff Recommendation: Approve and File

[Attachment: Monthly Check Register February 2024.pdf](#)

9.4 Monthly Financial Report – February 2024

Staff Recommendation: Approve and File

[Attachment: February 2024 Financials.pdf](#)

10. REGULAR AGENDA

10.1 Public Workshop Long Range Financial Forecast March 2024

Staff Recommendation: 1) Discuss; 2) Deliberate; 3) Provide direction to Staff.

[Attachment A - LRFF March 2024.pdf](#)

[Attachment B - Capital March 2024.pdf](#)

[Attachment C - Apparatus March 2024.pdf](#)

10.2 Adopt Resolution 24-02 revising Rules of Procedure for Board Meetings addressing voting requirements, rules for public comment, removal of the Board Officer positions of Secretary and Treasurer, and adding disruptive conduct procedures

Staff Recommendation: 1) Discuss; 2) Deliberate; 3) Adopt Resolution 24-02 revising Rules of Procedure for Board Meetings addressing voting requirements, rules for public comment, adding disruptive conduct procedures, removal of the Board Officer positions of Secretary and Treasurer, and other issues.

[Attachment A: 24-02 MOFD Rules Tracked Changes \(2-21-24 JVH\) \(distributed at the meeting\).docx](#)

[Attachment B: 24-02 MOFD Rules Additional Modifications.pdf](#)

[Attachment C: 24-02 MOFD Rules of Procedure Final.pdf](#)

10.3 Discuss Recognizing Various Groups with Ceremonial Documents including Proclamations that fall outside the Subject Matter Jurisdiction of the Fire District

Staff Recommendation: 1) Discuss; 2) Deliberate; 3) Provide Direction to Staff
[Attachment: City of Brentwood Proclamation Policy](#)
[Attachment: City of Lafayette Proclamation Policy](#)
[Attachment: Town of Danville Proclamation Policy](#)

11. **COMMITTEE REPORTS**

11.1 **Ad Hoc Committee Joint Fire Prevention w/City of Orinda (Directors Jorgens and Roemer)**

11.2 **Standing Audit Committee (Directors Hasler and Jex)**

12. **ANNOUNCEMENTS**

12.1 **Future Agenda Items**

13. **ADJOURNMENT**

The Moraga-Orinda Fire Protection District ("District"), in complying with the Americans with Disabilities Act ("ADA"), requests individuals who require special accommodations to access, attend and/or participate in District Board meetings due to a disability, to please contact the District Chief's office, (925) 258-4501, at least one business day prior to the scheduled District Board meeting to ensure that we may assist you.

Any disclosable public records related to an open session item on a Regular meeting agenda and distributed by the Moraga-Orinda Fire District to a majority of members of the Board of Directors less than 72 hours prior to that meeting are available for public inspections at 1280 Moraga Way, Moraga, during normal business hours, and available on our website at www.mofd.org/agendas.

I hereby certify that this agenda in its entirety was posted on March 13, 2024, at the Moraga and Orinda Fire Administration offices, Stations 41, 42, 43, 44, and 45 and electronically at www.mofd.org/agendas. Agenda provided to the Moraga Town Office (Hacienda) and Orinda City Hall.



Marcia Holbrook
District Secretary/Clerk



Moraga-Orinda Fire District

TO: Board of Directors

FROM: Jonathan Holtzman, District Counsel

DATE: March 20, 2024

SUBJECT: **Item 3.4 Conference with Legal Counsel - Existing Litigation**

RECOMMENDATION

(Paragraph (1) of subdivision (d) of Section 54956.9)
Name of Case: Sandia Pearson and Anita K. Pearson v. Moraga-Orinda Fire District
Case No. Case No. N23-2201

ATTACHMENT

[Attachment: October 23, 2023 CEQA Notice Letter final.pdf](#)
[Attachment: October 25, 2023 Civil Case Cover Sheet.pdf](#)
[Attachment: October 25, 2023 Verified Petition for Writ of Mandate \[CEQA\]](#)



SUSANN M. BRADFORD
2748 Adeline Street, Suite A
Berkeley, CA 94703
Phone: (510) 900-9502
Email: sbradford@greenfirelaw.com
www.greenfirelaw.com

October 23, 2023

By Email and U.S. Mail

Moraga-Orinda Fire District
Fire Chief Dave Winnacker
President John Jex
1280 Moraga Way
Moraga, CA 94556
Email: info@mofd.org,
Dwinnacker@mofd.org,
mmjjex@gmail.com

Re: Notice of Commencement of CEQA Litigation Challenging the Approval of Amended Fuel Break Ordinance No. 23-08 Without Conducting Environmental Review

Dear Moraga-Orinda Fire District Board of Directors and Fire Chief:

This letter is to notify you that Orinda residents, Sandia Pearson And Anita K. Pearson, will file suit against Moraga-Orinda Fire District (“the District”) for failure to observe the requirements of the California Environmental Quality Act (“CEQA”), Public Resources Code, section 21000 et seq., the CEQA Guidelines, California Code of Regulations, section 15000 et seq., in approving Amended Fuel Break Ordinance No. 23-08 without first conducting an environmental review, and for issuing a Notice of Exemption that misrepresents the administrative record. This notice is given pursuant to Public Resources Code section 21167.5.

Please note that, under Public Resources Code section 21167.6, the record of proceedings for the Department’s actions includes, among other items, all “internal agency communications, including staff notes and memoranda related to the project or to compliance with [CEQA].” Because all e-mails and other internal communications related to the Amended Fuel Break Ordinance are part of the administrative record for the lawsuit to be filed by the Pearsons, the Department may not destroy or delete such documents prior to preparation of the record in this case.

Respectfully,

Susann M. Bradford

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Jessica L. Blome (CBN: 314898); Susann M. Bradford (CBN: 341338)
2748 Adeline Street, Ste. A, Berkeley, CA 94703

TELEPHONE NO.: 510-900-9502 FAX NO. (Optional): 510-900-9502
 E-MAIL ADDRESS: jblome@greenfirelaw.com; sbradford@greefirelaw.com
 ATTORNEY FOR (Name): Sandia Pearson and Anita K. Pearson

FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF CONTRA COSTA
 STREET ADDRESS: 750 Court Street
 MAILING ADDRESS:
 CITY AND ZIP CODE: Martinez, CA 94553
 BRANCH NAME: Wakefield Taylor Courthouse

CASE NAME:
SANDIA PEARSON AND ANITA K. PEARSON v MORAGA-ORINDA FIRE DISTRICT

<p>CIVIL CASE COVER SHEET</p> <p><input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)</p>	<p>Complex Case Designation</p> <p><input type="checkbox"/> Counter <input type="checkbox"/> Joinder</p> <p>Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)</p>	<p>CASE NUMBER:</p> <hr/> <p>JUDGE:</p> <p>DEPT.:</p>
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Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

<p>Auto Tort</p> <p><input type="checkbox"/> Auto (22)</p> <p><input type="checkbox"/> Uninsured motorist (46)</p> <p>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <p><input type="checkbox"/> Asbestos (04)</p> <p><input type="checkbox"/> Product liability (24)</p> <p><input type="checkbox"/> Medical malpractice (45)</p> <p><input type="checkbox"/> Other PI/PD/WD (23)</p> <p>Non-PI/PD/WD (Other) Tort</p> <p><input type="checkbox"/> Business tort/unfair business practice (07)</p> <p><input type="checkbox"/> Civil rights (08)</p> <p><input type="checkbox"/> Defamation (13)</p> <p><input type="checkbox"/> Fraud (16)</p> <p><input type="checkbox"/> Intellectual property (19)</p> <p><input type="checkbox"/> Professional negligence (25)</p> <p><input type="checkbox"/> Other non-PI/PD/WD tort (35)</p> <p>Employment</p> <p><input type="checkbox"/> Wrongful termination (36)</p> <p><input type="checkbox"/> Other employment (15)</p>	<p>Contract</p> <p><input type="checkbox"/> Breach of contract/warranty (06)</p> <p><input type="checkbox"/> Rule 3.740 collections (09)</p> <p><input type="checkbox"/> Other collections (09)</p> <p><input type="checkbox"/> Insurance coverage (18)</p> <p><input type="checkbox"/> Other contract (37)</p> <p>Real Property</p> <p><input type="checkbox"/> Eminent domain/Inverse condemnation (14)</p> <p><input type="checkbox"/> Wrongful eviction (33)</p> <p><input type="checkbox"/> Other real property (26)</p> <p>Unlawful Detainer</p> <p><input type="checkbox"/> Commercial (31)</p> <p><input type="checkbox"/> Residential (32)</p> <p><input type="checkbox"/> Drugs (38)</p> <p>Judicial Review</p> <p><input type="checkbox"/> Asset forfeiture (05)</p> <p><input type="checkbox"/> Petition re: arbitration award (11)</p> <p><input checked="" type="checkbox"/> Writ of mandate (02)</p> <p><input type="checkbox"/> Other judicial review (39)</p>	<p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)</p> <p><input type="checkbox"/> Antitrust/Trade regulation (03)</p> <p><input type="checkbox"/> Construction defect (10)</p> <p><input type="checkbox"/> Mass tort (40)</p> <p><input type="checkbox"/> Securities litigation (28)</p> <p><input type="checkbox"/> Environmental/Toxic tort (30)</p> <p><input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)</p> <p>Enforcement of Judgment</p> <p><input type="checkbox"/> Enforcement of judgment (20)</p> <p>Miscellaneous Civil Complaint</p> <p><input type="checkbox"/> RICO (27)</p> <p><input type="checkbox"/> Other complaint (not specified above) (42)</p> <p>Miscellaneous Civil Petition</p> <p><input type="checkbox"/> Partnership and corporate governance (21)</p> <p><input type="checkbox"/> Other petition (not specified above) (43)</p>
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): two (2)
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: October 25, 2023

Jessica L. Blome

 (TYPE OR PRINT NAME)



 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)–Personal Injury/Property Damage/Wrongful Death
 Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
 Asbestos Property Damage
 Asbestos Personal Injury/Wrongful Death
 Product Liability *(not asbestos or toxic/environmental)* (24)
 Medical Malpractice (45)
 Medical Malpractice–Physicians & Surgeons
 Other Professional Health Care Malpractice
 Other PI/PD/WD (23)
 Premises Liability (e.g., slip and fall)
 Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
 Intentional Infliction of Emotional Distress
 Negligent Infliction of Emotional Distress
 Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
 Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
 Defamation (e.g., slander, libel) (13)
 Fraud (16)
 Intellectual Property (19)
 Professional Negligence (25)
 Legal Malpractice
 Other Professional Malpractice *(not medical or legal)*
 Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
 Other Employment (15)

Contract

Breach of Contract/Warranty (06)
 Breach of Rental/Lease
 Contract *(not unlawful detainer or wrongful eviction)*
 Contract/Warranty Breach–Seller Plaintiff *(not fraud or negligence)*
 Negligent Breach of Contract/Warranty
 Other Breach of Contract/Warranty
 Collections (e.g., money owed, open book accounts) (09)
 Collection Case–Seller Plaintiff
 Other Promissory Note/Collections Case
 Insurance Coverage *(not provisionally complex)* (18)
 Auto Subrogation
 Other Coverage
 Other Contract (37)
 Contractual Fraud
 Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
 Wrongful Eviction (33)
 Other Real Property (e.g., quiet title) (26)
 Writ of Possession of Real Property
 Mortgage Foreclosure
 Quiet Title
 Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

Commercial (31)
 Residential (32)
 Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

Asset Forfeiture (05)
 Petition Re: Arbitration Award (11)
 Writ of Mandate (02)
 Writ–Administrative Mandamus
 Writ–Mandamus on Limited Court Case Matter
 Writ–Other Limited Court Case Review
 Other Judicial Review (39)
 Review of Health Officer Order
 Notice of Appeal–Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
 Construction Defect (10)
 Claims Involving Mass Tort (40)
 Securities Litigation (28)
 Environmental/Toxic Tort (30)
 Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment

Enforcement of Judgment (20)
 Abstract of Judgment (Out of County)
 Confession of Judgment *(non-domestic relations)*
 Sister State Judgment
 Administrative Agency Award *(not unpaid taxes)*
 Petition/Certification of Entry of Judgment on Unpaid Taxes
 Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
 Other Complaint *(not specified above)* (42)
 Declaratory Relief Only
 Injunctive Relief Only *(non-harassment)*
 Mechanics Lien
 Other Commercial Complaint Case *(non-tort/non-complex)*
 Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
 Other Petition *(not specified above)* (43)
 Civil Harassment
 Workplace Violence
 Elder/Dependent Adult Abuse
 Election Contest
 Petition for Name Change
 Petition for Relief From Late Claim
 Other Civil Petition

Jessica L. Blome (Cal Bar. No. 314898)
Susann M. Bradford (Cal Bar. No. 341338)
GREENFIRE LAW, PC
2748 Adeline Street, Suite A
Berkeley CA 94703
Ph/Fax: (510) 900-9502
Email: jblome@greenfirelaw.com
sbradford@greenfirelaw.com

Per local Rule, This case is assigned to
Judge Treat, Charles S, for all purposes.

Attorneys for Petitioners

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF CONTRA COSTA**

SANDIA PEARSON AND ANITA K.
PEARSON, individual residents of Orinda,

Petitioners,

v.

MORAGA-ORINDA FIRE DISTRICT

Respondent.

Case No.: N23-2201

**VERIFIED PETITION FOR WRIT OF
MANDATE [CEQA]**

(Code Civ. Proc., § 1085 (Mandamus),
Pub. Res. Code, §§ 21000, et seq. (CEQA))

Complaint Filed: October 25, 2023
Trial Date: TBD

1 This action alleges that the Moraga-Orinda Fire District (“MOFD”) violated the California
2 Environmental Quality Act (“CEQA”) in approving Amended Fuel Break Ordinance No. 23-08
3 without conducting an environmental review and in issuing a Notice of Exemption that misrepresents
4 the administrative record. The Amended Ordinance, which MOFD claims is exempt from CEQA
5 review, requires residents and landowners throughout the Moraga-Orinda area to clear large areas of
6 vegetation from the entire perimeters of their properties causing potentially significant adverse
7 impacts to the environment. Through this lawsuit, petitioners seek to compel MOFD to comply with
8 CEQA by conducting an environmental review of the Amended Ordinance to identify and mitigate
9 against any potentially significant impacts on the environment. In support of this petition, petitioners
10 allege as follows:

11 **PARTIES**

12 1. Petitioners Anita K. Pearson and Sandia (“Sandy”) Pearson are individuals residing in
13 Orinda, California. Their family trust owns a 9.5-acre parcel of undeveloped property at 629 Miner
14 Road in Orinda, which they have maintained as natural habitat for native species.

15 2. Respondent Moraga-Orinda Fire District is a fire protection district that provides fire
16 protection and emergency medical services to the communities of Moraga and Orinda and the
17 surrounding unincorporated areas, including the communities of Canyon and Bollinger Canyon. It
18 was formed in 1997, through the consolidation of predecessor districts and operates under the
19 authority of the Fire Protection District Law of 1987. (See Cal. Health & Safety Code, §§ 13800 *et*
20 *seq.*).

21 **JURISDICTION AND VENUE**

22 3. This Court has jurisdiction over this action pursuant to Code of Civil Procedure,
23 section 1085 (traditional writ of mandate) and Public Resources Code, sections 21168.5 and 21168.9
24 (CEQA).

25 4. Venue is proper in this Court pursuant to Code of Civil Procedure, section 394,
26 because respondent is a local agency whose principal office is located in Contra Costa County, and
27 because the challenged action and associated environmental impacts affect real property and natural
28

1 resources located entirely within Contra Costa County.

2 5. The petition initiating this action was timely filed within 35 days after respondent
3 issued a Notice of Exemption in accordance with CEQA Guidelines, section 15062 and Public
4 Resources Code, section 21167, subdivision (d).

5 6. On October 23, 2023, petitioners complied with Public Resources Code, section
6 21167.5 by serving a written notice on respondent regarding the petitioner’s commencement of this
7 action. A true and correct copy of the notice is attached hereto as Exhibit A.

8 7. Petitioners are sending a copy of this Petition and Complaint to the California
9 Attorney General concurrently with filing, thereby complying with the requirements of Public
10 Resources Code section 21167.7 and Code of Civil Procedure section 388.

11 **GENERAL ALLEGATIONS OF FACT**

12 **A. Introduction.**

13 8. On September 20, 2023, MOFD approved Amended Fuel Break Ordinance No. 23-08
14 (“Amended Ordinance”) over the objections of numerous area residents and despite the City of
15 Orinda’s request for additional time for review and collaboration.

16 9. The Amended Ordinance replaces the MOFD’s previous Fuel Break Ordinance No.
17 23-04, which went into effect on February 15, 2023, without conducting any CEQA review and
18 without issuing a Notice of Exemption (“NOE”).

19 10. On June 7, 2023, MOFD served Petitioner Anita K. Pearson with a “Pre-Citation
20 Notification” demanding that she comply with Fuel Break Ordinance No. 23-04 by creating a 100-
21 foot fuel break around the entire perimeter of her family’s 9.5 acre property located at 629 Miner
22 Road in Orinda.

23 11. This Notification declared that “[f]uel mitigation and defensible space work shall be
24 conducted in a manner that the activities will not result in the taking of endangered, rare or threatened
25 plant or animal species or cause significant erosion and sedimentation of surface waters in accordance
26 with California Environmental Quality Guidelines Section 15304” (MOFD Notification, June 7,
27 2023), but offered no guidance concerning how to determine whether such species were present or
28 how to prevent such harm.

1 12. The Notification, in effect, delegated CEQA compliance to ordinary citizens affected
2 by the ordinance.

3 13. On August 2, 2023, petitioners notified MOFD that their approval of Fuel Break
4 Ordinance 23-04 had violated CEQA and expressed their intent to enforce CEQA through litigation if
5 necessary.

6 14. In response to petitioners' notice, MOFD entered into a tolling agreement to extend the
7 time for challenging Ordinance 23-04 until September 30, 2023, and agreed to stay enforcement of
8 Ordinance 23-04 while they developed the Amended Ordinance.

9 15. The Amended Ordinance, which repealed and replaced Ordinance 23-04, was
10 introduced at a Special Board Meeting of the MOFD Board of Directors on September 6, 2023, and
11 approved by the Board at its regular board meeting just two weeks later.

12 16. MOFD conducted no environmental review to determine whether the Amended
13 Ordinance may have potentially significant environmental impacts on the environment prior to its
14 approval of the Amended Ordinance.

15 17. MOFD contends that the Amended Ordinance is exempt from CEQA review, claiming
16 exemptions under CEQA Guidelines sections 15307 and 15308 (categorical exemptions), CEQA
17 Guidelines section 15269 and Public Resources Code section 21080(a)(4) (emergency exemption),
18 and CEQA Guidelines section 15601(b)(3) (commonsense exemption). (Amend. Ord. No. 23-08, § 9.)

19 18. MOFD rejected the City of Orinda's offer to intervene and facilitate a more robust
20 community process, which it expressed in public comments stating that "it is advisable for the District
21 to slow down and engage in a community consultation to ensure a shared understanding of
22 alternatives which were considered, including how other communities have approached the matter
23 and how to best communicate to property owners how they can comply with the District's
24 requirements." (Public comments of City of Orinda (Sept.6, 2023).)

25 19. Petitioners submitted timely public comments objecting to MOFD's failure to conduct
26 any CEQA review for the Amended Ordinance, identifying potentially significant impacts of the
27 Ordinance, and explaining why each of the proposed exemptions is not applicable.

28 20. MOFD has no procedures in place to provide for administrative appeals of Board

1 actions.

2 21. MOFD filed a Notice of Exemption (“NOE”) with the County Clerk of Contra Costa
3 County on September 21, 2023.

4 22. Attachment C to the NOE, contains a document entitled “Responses to Select Public
5 Comments” that was not included in the Board’s Agenda Packet or available for public review prior
6 to the Board’s approval of the Amended Ordinance.

7 **B. Background.**

8 23. According to the California Fire Safe Regulations, a “fuel break” is a “strategically
9 located area where the volume and arrangement of vegetation has been managed to limit fire
10 intensity, fire severity, rate of spread, crown fire potential, and/or ember production.” (Cal. Code
11 Regs., tit. 14, § 1270.01, subd. (n).)

12 24. Fuel breaks are one tool used by fire districts to reduce fire risk.

13 25. The Fire Safe Regulation addressing fuel breaks (“Fuel Break Regulation”) indicates
14 that “[l]ocal Jurisdiction[s] shall determine the need and location for Fuel Breaks in consultation with
15 the Fire Authority,” and does not contemplate unilateral action by fire districts. (See Cal. Code Regs.,
16 tit. 14, § 1276.03.)

17 26. The Fuel Break Regulation also states that “Fuel Breaks shall have, at a minimum, one
18 point of entry for fire fighters and any Fire Apparatus. The specific number of entry points and entry
19 requirements shall be determined by the Local Jurisdiction, in consultation with the Fire Authority.”
20 (Cal. Code Regs., tit. 14, § 1276.03, subd. (c).) And, “[f]uel Breaks shall be constructed using the
21 most ecologically and site appropriate treatment option.” (*Id.* at subd. (f).)

22 27. In addition, Public Resources Code section 4117 provides that:

23 Any county, city, or district may adopt ordinances, rules, or regulations to provide
24 fire prevention restrictions or regulations that are necessary to meet local
25 conditions of weather, vegetation, or other fire hazards. Such ordinances, rules, or
26 regulations may be more restrictive than state statutes in order to meet local fire
27 hazard conditions.

28 (Cal. Pub. Resources Code § 4117 (emphasis added).)

29 28. In 2022, MOFD enacted a fuel break ordinance, Ordinance No. 22-02, that required

1 fuel breaks of 30 feet around the perimeter of undeveloped parcels between one and ten acres in size.
2 (MOFD Ord. No. 22-02.) Only developed parcels, meaning those with at least one habitable structure,
3 and undeveloped parcels over 10 acres in size were required to construct 100-foot fuel breaks. The
4 ordinance allowed contiguous parcels controlled by the same party to be treated as a single parcel for
5 purposes of the ordinance.

6 29. In February 2023, MOFD adopted Fuel Break Ordinance No. 23-04, which replaced
7 Ordinance 22-02 and extended the 100-foot fuel break requirement to all undeveloped parcels greater
8 than one acre. No reason was given for this expansion, although the MOFD fire chief, during public
9 meetings, expressed the opinion that the 2022 ordinance was too confusing for landowners. (See e.g.,
10 MOFD Special Board Meeting (Sept. 6, 2020), Recording at 49:50 – 50:17 (“It really had to do with
11 reducing the complexity and the uncertainty surrounding which requirements applied where.”).)

12 30. No evidence was identified to support the fire chief’s opinion.

13 31. These fuel breaks are in addition to the defensible space clearings and fuel breaks
14 required around structures and along access roads, as mandated by MOFD Ordinance No. 23-03 and
15 state standards.

16 32. The recently adopted Amended Ordinance maintains the uniform 100-foot fuel break
17 requirement but added a new definition of “Affected Parcels” that includes all parcels within or
18 adjacent to a “Community at Risk,”¹ and all parcels within unincorporated areas that have at least one
19 habitable structure or are adjacent to a parcel with at least one habitable structure. (Amend. Ord. No.
20 23-08 § 4(b).)

21 33. In effect, the Amended Ordinance applies to all parcels located within Moraga and
22 Orinda, and all parcels within unincorporated areas of the Fire District, except for those that are (1)
23 undeveloped, (2) not adjacent to a developed parcel, and (3) not adjacent to an incorporated city or
24 town. Again, no rationale was given for these changes. In addition, all parcels of one acre or less must

25 ¹ The “Communities at Risk” list is maintained by the California Department of Forestry and Fire Protection
26 (“CalFIRE”) for the purpose of identifying funding eligibility for risk-reduction projects. (See
27 <https://osfm.fire.ca.gov/divisions/community-wildfire-preparedness-and-mitigation/fire-plan/communities-at-risk/>.) Both Moraga and Orinda, as well as the community of Canyon and the neighboring city of Lafayette, are included on this eligibility list. The Amended Ordinance does not address funding for projects.

1 be cleared so the entire parcel meets the fuel break standards.

2 34. The Amended Ordinance provides no map or estimate of the total number of parcels
3 affected, and no estimate of how many acres of land are required to be cleared by the Amended
4 Ordinance.

5 35. The 100-foot fuel breaks required in 2023 ordinances are significantly larger than the
6 30-foot fuel breaks required in 2022, which substantially increases the potential for adverse
7 environmental impacts, as well as the cost to residents and landowners.²

8 36. To put this in perspective, the Amended Ordinance requires the owner of a 5-acre
9 parcel (217,800 sq. ft.),³ measuring 600 ft. x 363 ft., to clear an area of 152,600 sq. ft., which is 3.5
10 acres—or 70% of the entire property. In contrast, the 2022 ordinance would have required the owner
11 of the same parcel to clear an area of 54,180 sq. ft., which is just under 1.25 acres—or 25% of the
12 property.

13 37. Insofar as the owners of adjoining parcels are both required to construct fuel breaks,
14 the size of the area to be cleared along property lines was actually increased from 60 feet to 200 feet.
15 In comparison, the width of a standard football field is only 160 feet.

16 38. MOFD has provided no evidence that the increase in size from 30-foot to 100-foot fuel
17 breaks is necessary for fire prevention purposes.

18 39. In fact, MOFD Fire Chief Dave Winnacker has stated publicly that “there does not
19 appear to be a body of evidence supporting the efficacy of fuel breaks, shaded or otherwise,” and
20 admitted that fuel breaks are often ineffective, particularly when they are remote from roadways,
21 lacking vehicular access for firefighters, or not strategically placed along ridgetops. (See Daily
22 Dispatch Guest Column, “We Can Do It Better” (Aug. 7, 2023).⁴)

23 40. The fuel breaks required by the Amended Ordinance do not provide for vehicular
24 access for firefighters and are not strategically placed. Instead, the Ordinance mandates the same one-

25 ² Area residents report that cost estimates of \$15,000 to \$20,000 per property—just for the first year—are
not uncommon.

26 ³ One acre is 43,560 sq. ft.

27 ⁴ Available at <https://www.dailydispatch.com/Columns/GuestColumn.aspx>.

1 size-fits-all prescription for every affected parcel.

2 41. The fuel breaks are required to meet the following standards:

3 (A) Grasses cut to less than 3”.

4 (B) Removal of all Hazardous Vegetation.

5 (C) Non-irrigated brush removed such that the minimum space between shrubs is as follows:

6 a. On flat or mild slopes (less than 20%): Two times the height of the shrub

7 b. On mild to moderate slopes (20-40%): Four times the height of the shrub

8 c. On moderate to steep slopes (greater than 40%): Six times the height of the shrub.

9 (D) Removal of all Combustible Material.

10 (E) Removal of dead, diseased, or dying trees.

11 (F) Maintain trees to remove Ladder Fuels so that foliage, twigs, or branches are

12 (1) greater than 6 feet above the ground for trees fifteen feet or taller and (2) at least one-third of the height of the tree above the ground for trees less than fifteen feet tall.

13 (Amend. Ord. No. 23-08 § 4.) Implementation of these measures across large areas of the landscape, including as much as 70% of the affected parcels, constitutes a large scale habitat disturbance.

14 42. The Amended Ordinance defines “hazardous vegetation” as follows:

15 Vegetation that is combustible and endangers the public safety by creating a Fire Hazard, including but not limited to bark, mulch, seasonal and recurrent grasses, weeds, stubble, dry leaves, dry needles, or any other vegetation identified by the Fire Code Official. Hazardous Vegetation shall not include healthy, mature, scenic, trees.

18 (Amend. Ord. No. 23-08 § 3.)

19 43. The Amended Ordinance purports to address environmental concerns by simply declaring that there will be no impacts and asserting that:

21 The Fuel Break requirements of this Ordinance shall be interpreted and applied to avoid the taking of endangered, rare, or threatened plant or animal species, significant erosion and sedimentation of surface waters, and the removal of healthy, mature, scenic trees.

24 (Amend. Ord. No. 23-08 § 4(d).) However, the Amended Ordinance provides no means of enforcing this requirement, in effect, delegating compliance to the individuals who control each parcel.

26 44. Although the Amended Ordinance adds language to highlight MOFD’s process for requesting “modifications” of the fuel break requirements, this provision also places the burden of

1 initiating environmental compliance on the affected public. (See Amend. Ord. No. 23-08 § 5.)

2 45. Requests for modifications to accommodate endangered species or slope stability and
3 erosion require the person who owns or controls the property to submit a report and site prescription
4 prepared by a certified biologist or geologist.⁵

5 46. Other requested modifications are subject to discretionary approval by the fire chief or
6 his designee, and may be granted only if (1) the modification is found to be necessary to address an
7 environmental concern, or (2) in cases where strict compliance would be impractical and the
8 modification complies with the intent and purpose of the ordinance, and would achieve the same
9 practical effect. (See Amend. Ord. No. 23-08 § 5(a).)

10 47. Persons requesting modifications may also choose to submit individualized fire
11 protection plans to mitigate other issues, which may be approved if they comply with the California
12 Fire Code, section 4903. (See Amend. Ord. No. 23-08 § 5(b).) Such plans are subject to rigorous
13 standards set forth in Fire Code sections 4903.2.1.1 and 4903.2.1.2, and thus likely to require
14 professional surveys and consulting services to prepare. (See Cal. Code Regs., tit. 24, §§ 4902 et seq.)

15 48. The Amended Ordinance also mandates that the individual landowners, lessees, or
16 managers of parcels with sensitive or protected resources “shall request a modification,” but provides
17 no information to assist them in determining what parcels fall into this category. (*Id.*, § 4(d).) Unless
18 the individuals who controls each parcel are aware of the sensitive plants, habitat, or other natural
19 resources on their property and willing to go out of their way to seek protection for these, there is no
20 assurance that such resources will be identified or protected.

21 49. In addition, the Amended Ordinance states that failure to comply with any of its
22 provisions constitutes a public nuisance and is subject to fines and civil penalties or misdemeanor
23 charges. (Amend. Ord. No. 23-08 § 6.) MOFD Ordinance 23-06 allows the district to abate nuisances
24 at the property owner’s expense or place a lien on the property. The threat of penalties has already
25 encouraged many landowners to construct fuel breaks without investigating whether sensitive
26 resources could be adversely impacted. (*See* public comments.)

27 ⁵ This requirement is explained on the MOFD website: “Modification/Extension Request Form,”
28 <https://www.mofd.org/business/forms-applications/modification-extension-request-form>.

1 50. In short, MOFD has delegated all responsibility for environmental protection to
2 individual landowners.

3 **C. Environmental Impacts of Amended Ordinance.**

4 51. The removal of natural ground cover and native vegetation from large areas
5 surrounding each property may have significant adverse effects on the environment, including
6 impacts on native plants and wildlife, sensitive and protected species, soil erosion, and water quality.

7 52. The Orinda-Moraga area is home to an abundance of native wildlife and sensitive
8 natural plant communities.

9 53. The Orinda General Plan notes that: “Information from the Natural Diversity Data
10 Base of the California Department of Fish and Game shows that several rare or endangered species
11 have been located in or near the Orinda Planning Area. State and federal law protects rare, threatened
12 and endangered animal species by preserving habitats.” (Orinda General Plan, at 4-1.)

13 54. Threatened and endangered species known to occur within the Orinda-Moraga area
14 include California red-legged frog,⁶ Alameda whipsnake,⁷ and pallid manzanita.⁸ Many other special
15 status species are also known to occur in and around this area.⁹ However, MOFD conducted no
16 surveys or literature reviews to identify what species could be adversely impacted by large scale
17 habitat disturbance.

18 55. The Endangered Species Act (ESA) prohibits the unauthorized “take” of endangered
19 species, which includes actions that kill, harass, or harm such species. (16 U.S.C. §§ 1538 (B), 1532
20 (19)). As defined by the Act’s implementing regulations, “harm” includes “significant habitat

21 _____
22 ⁶ U.S. Fish and Wildlife Service, “California Red-Legged Frog,” <https://www.fws.gov/species/california-red-leggedfrog-rana-draytonii> (last visited September 14, 2023).

23 ⁷ U.S. Fish and Wildlife Service, “Alameda Whipsnake,” <https://www.fws.gov/species/alameda-whipsnake-masticophis-lateralis-euryxanthus> (last visited September 14, 2023).

24 ⁸ California Dept. of Fish and Wildlife, “Pallid Manzanita,” <https://wildlife.ca.gov/Conservation/Plants/Endangered/Arctostaphylos-pallida> (last visited September 14, 2023).

25 ⁹ See CDFW, California Natural Diversity Database, <https://wildlife.ca.gov/Data/CNDDDB>; see also,
26 Diablo Firesafe council (March 2009), Best Management Practices Guidebook for Hazardous Fuel
27 Treatments in Contra Costa County, <https://diablofiresafe.org/s/Best-Management-Practices-Hazardous-Fuel-Contra-Costa-2009.pdf>.

1 modification or degradation” that “kills or injures wildlife by significantly impairing essential
2 behavioral patterns, including breeding, feeding or sheltering.” (50 CFR § 17.3).

3 56. The removal of vegetation to create football-field-sized fuel breaks along property
4 lines throughout the affected area is likely to cause significant habitat modification that could easily
5 disrupt the normal behavior of protected species through the elimination of food plants, food plants of
6 prey species, denning and mating sites, and cover.

7 57. Other special-status species are also known to occur, or likely to occur, within the
8 affected area. For example, public comments included a site review of a 6-acre parcel on Miner Road,
9 located near the petitioners’ property, that identified 15 protected-status species that have the
10 potential to occur in this area, and confirmed the presence of San Francisco dusky-footed woodrat
11 (*Neotoma fuscipes annectens*), a state species of special concern. (See Public comments of Tyler Rust
12 (Sept. 4, 2023).)

13 58. Dusky footed woodrats favor habitat with well-developed understory and to use
14 natural ground litter to build nests—landscape features that would be largely eliminated from areas
15 converted into fuel breaks. Woodrat nests also create habitat for other species, including small
16 mammals, reptiles, amphibians, and arthropods, thereby enhancing biodiversity. San Francisco
17 dusky-footed woodrats are also known to be sensitive to habitat disturbances and have abandoned
18 nests that were exposed by clearcuts. They also rely on native plants that occur in the understory as
19 their principal food source. (*Id.*)

20 59. Petitioners have observed signs of San Francisco dusky-footed woodrats on their
21 property as well—and recently found a dead woodrat near the area where a neighbor recently
22 installed a fuel break.

23 60. Other public comments have noted the potential occurrence of migratory birds within
24 the area. (See public comments of Barbara Malloch Leitner (Sept. 6, 2023).) MOFD conducted no
25 surveys or literature review to examine what bird species could be adversely impacted by large scale
26 habitat disturbance and ground cover removal.

27 61. The requirement to remove dead trees from fuel breaks also includes snags that
28 provide habitat for a variety of species. Snags provide perches and nest sites for raptors, habitat for

1 insects that serve as food sources for birds and small mammals, and hollow cavities provide nesting
2 and food storage sites for birds and small mammals. For example, petitioners have observed acorn
3 woodpeckers in the area, which inhabit hollow trees and construct granaries in dead trees to store
4 acorns. A single snag may support a colony of a dozen or more woodpeckers. (*See* Public comments
5 of Sandy Pearson (Sept.2, 2023).)

6 62. Habitat disturbance and removal of vegetative cover also impacts native species in the
7 surrounding areas due to habitat fragmentation, elimination of habitat corridors, and changes to the
8 micro-climate, including impacts on temperature or humidity.¹⁰ Large open areas may effectively cut
9 off species from accessing areas of habitat located across a fuel break due to the absence of protective
10 cover and linkage. These impacts can reduce biodiversity and impact species reproduction, decreasing
11 the viability of localized populations.

12 63. The Amended Ordinance also contains no provisions to ensure the protection of
13 riparian areas, which provide important habitat for a wide variety of native species and migratory
14 birds, as well as aquatic species. As noted in public comments, other fire districts provide guidance
15 for avoiding impacts to riparian areas and associated species, and noting that actions affecting stream
16 banks may require streambed alteration agreements or water quality permits.¹¹ (*See e.g.*, Fish and
17 Game Code § 1602.)

18 64. Removal of brush and ground cover may also impact sensitive natural plant
19 communities, including important remnants of native woodlands, shrublands and grasslands that are
20 already heavily impacted by development. Public comments submitted by the California Native Plant
21 Society (CNPS) noted the potential impacts of indiscriminate mowing, which may adversely impact
22 native bunchgrasses and other desirable vegetation and inadvertently facilitate encroachment by
23 invasive weeds. (*See* Public comments of CNPS (Sept. 5, 2023).) These comments also identified

24 ¹⁰ *See e.g.*, Miguel Lurgi (May 30, 2019), “Habitat loss doesn’t just affect species, it impacts networks of
25 ecological relationships,” *The Conversation* (May 30, 2019), [https://theconversation.com/habitat-loss-
26 doesnt-just-affect-species-it-impactsnetworks-of-ecological-relationships-117687](https://theconversation.com/habitat-loss-doesnt-just-affect-species-it-impactsnetworks-of-ecological-relationships-117687).

27 ¹¹ *See e.g.*, Marin Wildfire Prevention Authority (June 9, 2022), “Ecologically Sound Practices for
28 Vegetation Management,” <https://www.espmarin.org/esppractices>; Diablo Firesafe Council (March 2009),
Best Management Practices Guidebook for Hazardous Fuel Treatments in Contra Costa County, at 67-70,
79-80.

1 resources developed by other fire districts to prevent or mitigate such impacts. However, MOFD has
2 made no effort to minimize or reduce the potentially significant impacts of fuel breaks on native plant
3 communities.

4 65. Sensitive natural communities are required to be inventoried and mitigated for as part
5 of CEQA. (See CDFW (March 18, 2018), Protocols for Surveying and Evaluating Impacts to Special
6 Status Native Plant Populations and Sensitive Natural Communities.¹²)

7 66. Removal of vegetation from steep slopes also increases risk of soil disturbance and
8 destabilization of steep slopes, which may contribute to risk of landslides and adversely impact water
9 quality. (See Public comments of Friends of Orinda Creek (Sept. 5, 2023).)

10 67. The Contra Costa County General Plan notes that there are multiple landslide deposits
11 within the Orinda-Moraga area, and finds that “the presence or absence of deep-rooted vegetation . . .
12 can exert a controlling effect on the intensity of natural processes occurring on a particular hillside.”
13 (Safety Element, at p. 10-22). While the Amended Ordinance acknowledges that the area is hilly and
14 subject to landslides, which can impact evacuation routes and firefighting response times, it does not
15 evaluate the potential for large scale vegetation removal to exacerbate this issue. (Amend. Ord. No.
16 23-08 §§ 2(k)(iii)(A) and (B).)

17 68. Although MOFD’s Fire Chief stated in public meetings that the fuel breaks are not
18 required to expose bare soil, public comments indicate that some contractors and residents have
19 nevertheless cleared grasses and brush all the way to the soil. As noted in public comments submitted
20 by the City of Orinda:

21 On-the-ground experience shows that compliance in and of itself is not necessarily
22 bringing the totality of considerations into play. For example, one property owner
23 takes the level of clearance to such a degree as to impact creek banks potentially
24 causing landslides and water quality issues whereas a measured approach would
25 have met the goals of the Ordinance without causing environmental harm had the
26 homeowner known the rules were different for a creek area.

27 (Public comments of City of Orinda (Sept.6, 2023); *see also* Public comments of Friends of Orinda
28 Creek (Sept. 5, 2023).) It is thus foreseeable that some property owners will interpret the requirement

12 Document available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>.

1 to cut grasses to “less than 3 [inches]” and eliminate non-irrigated brush to mean they should remove
2 as much of this vegetation as possible. In addition, some people may find clearing as much vegetation
3 as possible to be an economical way to comply with the ordinance, given that the fuel breaks must be
4 maintained year after year.

5 69. The potential for increased risk of mudslides and slope destabilization due to excessive
6 vegetation clearing was also raised in other public comments documenting the susceptibility of some
7 areas to mudflows during the rainy season. (See Public comments of Julia Hunting (Sept. 5, 2023.)
8 Large fuel breaks may exacerbate this problem, potentially increasing risk of damage to homes and
9 evacuation routes.

10 70. Similarly, excessive clearing within riparian zones can destabilize streambanks and
11 increase water pollution by eliminating the vegetative buffer and allowing sediments from runoff to
12 flow directly into creeks.¹³

13 71. Increased sediment loads can degrade aquatic habitat, harm fish and aquatic species by
14 increasing siltation of stream beds, and contribute to the clogging and sedimentation of human
15 constructed waterworks.¹⁴ Notably, unauthorized discharges of sediment pollution into waterways are
16 prohibited by the state Porter Cologne Act and by the federal Clean Water Act. (See Cal. Water Code,
17 §§ 13000 et seq.; 33 U.S.C. §§ 1251 et seq.)

18 72. Based on these observations, comments, and resources, there is a high likelihood that
19 the Amended Ordinance may cause potentially significant impacts on biological resources, geological
20 conditions, and water quality.

21 **D. Proposed CEQA exemptions are not applicable.**

22 73. Categorical exemptions apply to “classes of projects that have been determined not to
23 have a significant effect on the environment” by the Secretary of the Natural Resources Agency.
24 (Pub. Resources Code, § 21084, subd. (a)). Categorical exemptions are improperly applied where a

25 ¹³ See e.g., California Riparian Habitat Restoration Handbook, 2nd ed. (July 2009),
26 <https://coveredactions.deltacouncil.ca.gov/services/download.ashx?u=a3689597-31c2-4140-adb0-9200fa71c0e0>.

27 ¹⁴ See e.g., USDA Natural Resources Conservation Service, Water Quality Degradation: Sediment (March
28 2012), https://efotg.sc.egov.usda.gov/references/public/AR/Water_Quality_Degradation_Sediment.pdf.

1 project is shown to be distinguishable from other projects in the class or where there is substantial
2 evidence that the project will have a significant effect on the environment. (*Berkeley Hillside Pres. v.*
3 *City of Berkeley* (2015) 60 Cal. 4th 1086, 1105.)

4 74. Categorical exemptions are also inapplicable where “the cumulative impact of
5 successive projects of the same type in the same place, over time is significant,” or “where there is a
6 reasonable possibility that the activity will have a significant effect on the environment due to
7 unusual circumstances.” (Cal. Code Regs., tit. 14, § 15300.2, subds. (b) and (c).)

8 75. Class seven categorical exemptions apply to “actions taken by regulatory agencies . . .
9 to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory
10 process involves procedures for protection of the environment.” (Cal. Code Regs., tit. 14, § 15307.)
11 Here, the project will not assure the maintenance, restoration, or enhancement of native plant
12 communities, wildlife habitat, slope stability, or water quality, and any benefit to a natural resource is
13 incidental to project’s objective of advancing public health and safety.

14 76. Class eight categorical exemptions apply to “actions taken by regulatory agencies . . .
15 to assure the maintenance, restoration, enhancement, or protection of the environment where the
16 regulatory process involves procedures for protection of the environment.” (Cal. Code Regs., tit. 14, §
17 15307.) Here, the project is not designed to maintain, restore, enhance, or protect native plant
18 communities, wildlife habitat, slope stability, or water quality, and any protection of the natural
19 environment is incidental is to the project’s objective of advancing public health and safety.

20 77. In addition, the Project is likely to have a significant effect on the environment due to
21 the cumulative effect of hundreds of fuel breaks causing large scale habitat modifications within the
22 same area together with other vegetation removal projects in the same area. (Cal. Code Regs., tit. 14,
23 § 15300.2, subd. (b).) Unusual circumstances may also apply in areas at risk for soil erosion,
24 mudslides, and areas of critical wildlife habitat. (Cal. Code Regs., tit. 14, § 15300.2, subd. (c).)

25 78. The commonsense exemption is not a categorical exemption, but applies only “[w]here
26 it can be seen with certainty that there is no possibility that the activity in question may have a
27 significant effect on the environment.” (Cal. Code Regs., tit 14, § 15061, subd. (b)(3).) Here, there is
28 no such certainty, as clearing vegetation from hundreds of acres is likely to have a significant effect

1 on the environment.

2 79. The emergency exemption applies only to “[s]pecific actions necessary to prevent or
3 mitigate an emergency.” (Pub. Resources Code, § 21080, subd. (b)(4).). Here, there is no evidence to
4 support the finding that requiring fire breaks of this magnitude, placed non-selectively around every
5 parcel within the affected area is necessary to prevent an emergency.

6 80. Pursuant to CEQA,

7 “Emergency” means a sudden, unexpected occurrence, involving a clear and
8 imminent danger, demanding immediate action to prevent or mitigate loss of, or
9 damage to, life, health, property, or essential public services. “Emergency”
includes such occurrences as fire, flood, earthquake, or other soil or geologic
movements, as well as such occurrences as riot, accident, or sabotage.

10 (Pub. Resources Code § 21060.3.) This does not mean every action to reduce the risk of wildfires
11 qualifies for this exemption. (*Western Mun. Water Dist. v. Superior Court* (1986) 187 Cal.App.3d
12 1104, 1111-12.) Here, the Fire Chief has also admitted that there is no evidence that fuel breaks are
13 effective in preventing a fire emergency.

14 **FIRST CAUSE OF ACTION**
15 **(Writ of Mandate under CCP, § 1085 and Pub. Resources Code, §§ 21000, et seq.,**
16 **CEQA Compliance)**

17 81. Petitioner hereby realleges and incorporates by reference each of the above paragraphs
18 as if fully set forth herein.

19 82. Under CEQA, a “project” is “an activity which may cause either a direct physical
20 change in the environment, or a reasonably foreseeable indirect physical change in the environment.”
21 (Pub. Resources Code, § 21065.) Here, the discretionary approval of the Amended Ordinance is a
22 project because it requires landowners to make physical changes to the environment.

23 83. Before approving any “project,” a lead agency must first decide whether CEQA
24 applies. Here, respondent is the “lead agency” under CEQA and has filed a Notice of Exemption
25 asserting that CEQA does not apply to its approval of Amended Fuel Break Ordinance 23-08.

26 84. Respondent exempted the project from CEQA under sections 15307 and 15308 of the
27 CEQA Guidelines (categorical exemptions); section 15269 of the CEQA Guidelines and Public
28

1 Resources Code section 21080(a)(4) (emergency exemption), and CEQA Guidelines section
2 15601(b)(3) (commonsense exemption).

3 85. Respondent failed to comply with CEQA by exempting the project from review when
4 no exemption applies.

5 86. CEQA further requires that a lead agency's findings for the approval of a project be
6 supported by substantial evidence in the administrative record. CEQA further requires that a lead
7 agency provide an explanation of how evidence in the record supports the conclusions it has reached.

8 87. Respondent violated CEQA by adopting findings and a Notice of Exemption that are
9 inadequate as a matter of law as they are not supported by substantial evidence in the record,
10 including but not limited to the following:

- 11 a. Finding that the Amended Ordinance is exempt from CEQA pursuant to section
12 15307 of the CEQA Guidelines.
- 13 b. Finding that the Amended Ordinance is exempt from CEQA pursuant to section
14 15308 of the CEQA Guidelines.
- 15 c. Finding that the Amended Ordinance is exempt from CEQA pursuant to section
16 15269 of the CEQA Guidelines.
- 17 d. Finding that the Amended Ordinance is exempt from CEQA pursuant to section
18 15061, subdivision (b)(3) of the CEQA Guidelines.
- 19 e. Finding that no exception in CEQA Guidelines section 15300.2 applies to the
20 Amended Ordinance.

21 88. As a result of the foregoing defects, respondents prejudicially abused their discretion
22 by making determinations or adopting findings that do not comply with the requirements of CEQA
23 and approving the Project in reliance thereon.

24 89. Respondents are capable of conducting a CEQA review to assess the potentially
25 significant environmental effects of the Amended Ordinance but have chosen not to. Instead they
26 claim a grab bag of exemptions to justify the decision to delegate their responsibility for
27 environmental protection to individual property owners who may or may not have the knowledge,
28

1 resources, or motivation to ensure that natural resources will be protected. MOFD will likely continue
2 its refusal to evaluate the impacts of its actions unless compelled to do so by this Court.

3 90. Code of Civil Procedure, section 1085, and Public Resources Code section 21168.9,
4 authorize this Court to issue a writ of mandate to compel a public agency to set aside the decision that
5 fails to comply with CEQA.

6 **SECOND CAUSE OF ACTION**
7 **(Writ of Mandate under CCP, § 1085 and Pub. Resources Code, §§ 21000, *et seq.*,**
8 **CEQA Procedural Violation)**

9 91. Petitioner realleges and incorporates all of the above paragraphs as if fully set forth
10 herein.

11 92. Respondents also violated CEQA by appending to the Notice of Exemption, as
12 Attachment C, a document entitled “Responses to Select Public Comments” that was not part of the
13 Board Agenda Packets or made available to the public prior to the Board of Directors’ approval of the
14 Amended Ordinance. This document is not part of the public record but, rather, contains post hoc
15 rationales for MOFD’s decision to approve the Amended Ordinance. As such, it should not be
16 included in the NOE as if these responses informed the Board’s decision.

17 93. By including in its findings information that was not part of the public record at the
18 time the agency made its decision, respondent has misrepresented the basis of its decision and thus
19 failed to proceed in the manner required by law.

20 94. Therefore, respondent’s approval and exemption of the Project from CEQA must be
21 set aside.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, petitioner respectfully pray for the following relief:

- 24 a. For a peremptory writ of mandate requiring Moraga-Orinda Fire District to:
- 25 i. Vacate and set aside approval of Amended Ordinance 23-08 and the NOE.
- 26 ii. Conduct a sufficient environmental review under CEQA prior to authorizing any
27 new or amended Fuel Break Ordinance.
- 28 b. Award petitioners their attorneys’ fees and costs of suit; and

1 c. Award such other relief as this court may deem just and proper.

2 Dated: October 25, 2023

GREENFIRE LAW, PC

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Jessica L. Blome

Susann M. Bradford

Attorneys for petitioners

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VERIFICATION

I, Sandia Pearson, spokesperson for the petitioners in this action, have read the foregoing Petition for Writ of Mandate and know its contents. The facts alleged in the above Petition are within my own knowledge and I know these facts to be true, except as to matters alleged therein on information and belief.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this declaration is executed on October 24, 2023 at Orinda, California.


Sandia Pearson
Sandia Pearson

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Exhibit A



SUSANN M. BRADFORD
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October 23, 2023

By Email and U.S. Mail

Moraga-Orinda Fire District
Fire Chief Dave Winnacker
President John Jex
1280 Moraga Way
Moraga, CA 94556
Email: info@mofd.org,
Dwinnacker@mofd.org,
mmjjex@gmail.com

Re: Notice of Commencement of CEQA Litigation Challenging the Approval of Amended Fuel Break Ordinance No. 23-08 Without Conducting Environmental Review

Dear Moraga-Orinda Fire District Board of Directors and Fire Chief:

This letter is to notify you that Orinda residents, Sandia Pearson And Anita K. Pearson, will file suit against Moraga-Orinda Fire District (“the District”) for failure to observe the requirements of the California Environmental Quality Act (“CEQA”), Public Resources Code, section 21000 et seq., the CEQA Guidelines, California Code of Regulations, section 15000 et seq., in approving Amended Fuel Break Ordinance No. 23-08 without first conducting an environmental review, and for issuing a Notice of Exemption that misrepresents the administrative record. This notice is given pursuant to Public Resources Code section 21167.5.

Please note that, under Public Resources Code section 21167.6, the record of proceedings for the Department’s actions includes, among other items, all “internal agency communications, including staff notes and memoranda related to the project or to compliance with [CEQA].” Because all e-mails and other internal communications related to the Amended Fuel Break Ordinance are part of the administrative record for the lawsuit to be filed by the Pearsons, the Department may not destroy or delete such documents prior to preparation of the record in this case.

Respectfully,

Susann M. Bradford



Moraga-Orinda Fire District

TO: Board of Directors

FROM: Jonathan Holtzman, District Counsel

DATE: March 20, 2024

SUBJECT: **Item 3.5 Conference with Legal Counsel - Existing Litigation**

RECOMMENDATION

(Paragraph (1) of subdivision (d) of Section 54956.9)

Name of Case: Peter J. Nowicki v. Contra Costa County Employee' Retirement Association, Moraga-Orinda Fire District, and Does 1 - 25 inclusive

Case No. Case No. MSC17-01266

ATTACHMENT

[Attachment: Peter Nowicki v. CCCERA, MOFD Case No. MSC17-01266 Declaration of R. Benjamin Nelson ISO Motion For Leave.pdf](#)

[Attachment: Peter Nowicki v. CCCERA, MOFD Case No. MSC17-01266 Fifth Amended and Supplemental Petition.pdf](#)

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2 R. Benjamin Nelson, Of Counsel(CA SBN 300274)
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6 Attorneys for Petitioner
PETER J. NOWICKI
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF CONTRA COSTA**

10
11 PETER J. NOWICKI,

12 Petitioner,

13 v.

14 CONTRA COSTA COUNTY EMPLOYEES'
15 RETIREMENT ASSOCIATION, MORAGA-
ORINDA FIRE DISTRICT, and DOES 1
through 25, inclusive,

16 Respondents.
17

Case No. MSC17-01266

**DECLARATION OF R. BENJAMIN
NELSON IN SUPPORT OF MOTION FOR
LEAVE TO FILE FIFTH AMENDED AND
SUPPLEMENTAL PETITION FOR WRIT
OF MANDAMUS PURSUANT TO CODE
OF CIVIL PROCEDURE § 1085**

Date: 6-3-24

Time: 9:00

Place: Dept. 9

Judge: Hon. John P. Devine

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DECLARATION OF R. BENJAMIN NELSON

I, R. Benjamin Nelson, declare as follows:

1. I am an attorney duly admitted to practice before this Court and represent Petitioner Peter J. Nowicki in this matter. I have personal knowledge of the facts set forth herein, and if called as a witness, I could and would competently testify thereto.

2. I make this declaration in support of Mr. Nowicki’s Motion for Leave to File Fourth Amended Petition for Writ of Mandamus.

3. A true and correct copy of the proposed Fifth Amended and Supplemental Petition is attached hereto as **Exhibit A**.

4. A true and correct copy of a redline showing changes between the Fourth Amended Petition and the proposed Fifth Amended and Supplemental Petition is attached hereto as **Exhibit B**.

5. The proposed Fifth Amended and Supplemental Petition alleges new developments occurring after the filing of the Fourth Amended Petition, including the following:

(a) The First Appellate District’s ruling reversing judgment for CCCERA on August 10, 2021;

(b) The parties’ attempts to resolve their dispute out of court after the First Appellate District’s ruling;

(c) Respondents’ partial repayments provided to Mr. Nowicki on June 6, 2022, July 22, 2022, February 24, 2023, and March 23, 2023;

(d) Mr. Nowicki’s Government Claims served on August 17, 2023, and December 7, 2023; and

(e) Respondents’ denial of Mr. Nowicki’s Government Claims on September 15, 2023, January 12, 2024, and January 16, 2024.

6. The effect of the supplemental allegations is to (a) ensure that Mr. Nowicki’s existing request for damages does not run afoul of the Government Claims Act in the event that the Court determines that the damages he seeks are not exempted from the Government Claims Act under Government Code section 905, and (b) provide additional detail regarding developments after the

1 First Appellate District’s ruling and the current dispute over Mr. Nowicki’s existing request to be
2 “ma[d]e whole.”

3 7. The proposed Fifth Amended Petition also amends Mr. Nowicki’s counsel.

4 8. Mr. Nowicki did not delay in filing his request leave to file the proposed Fifth
5 Amended and Supplemental Petition. Between the First Appellate District’s ruling on August 10,
6 2021, and March 23, 2023, when Respondents sent their final partial payment, Mr. Nowicki
7 attempted to resolve this matter out of court. In April 2023, Mr. Nowicki’s former attorney
8 announced his retirement due to an urgent health issue.

9 9. When I joined the case in May 2023, Mr. Nowicki was still considering his options
10 for obtaining his goal of being made whole by Respondents. Due to the uniqueness of Mr. Nowicki’s
11 situation, the case demanded substantial legal research and analysis, and I needed to get up to speed
12 on years of developments in the case. Once I completed that research and analysis, Mr. Nowicki
13 served his first Government Claim on August 17, 2023. CCCERA denied that claim on September
14 15, 2023. The Government Claims Act requires a lawsuit to be filed within six months of a claim
15 denial or March 14, 2024.

16 10. Between February 7 and 15, 2024, I met and conferred with counsel for CCCERA
17 regarding Petitioner’s request to stipulate to the proposed amendments and supplements to the
18 Petition. A true and correct copy of my email correspondence with counsel for CCCERA is attached
19 as **Exhibit C**.

20 11. On February 15, CCCERA filed a “Request for Case Management Conference” in
21 which CCCERA “request[ed] that this Court issue a final Judgment and a Writ in accordance with
22 Nowicki v. Contra Costa County Employees’ Retirement Assn. (2020) 67 Cal.App.5th 736 and set
23 the briefing schedule for Respondent’s Return on the Writ.” Petitioner does not agree that entry of
24 judgment is appropriate at this time. Mr. Nowicki seeks damages and interest as outlined in the
25 proposed Fifth Amended and Supplemental Petition.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 16th day of February, 2024 at Berkeley, California.



R. Benjamin Nelson

Exhibit A

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gregg@majlabor.com
2 R. Benjamin Nelson, Of Counsel (CA SBN 300274)
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6 Attorneys for Petitioner
PETER J. NOWICKI
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF CONTRA COSTA**

10
11 PETER J. NOWICKI,

12 Petitioner,

13 v.

14 CONTRA COSTA COUNTY EMPLOYEES'
15 RETIREMENT ASSOCIATION, MORAGA-
ORINDA FIRE DISTRICT, and DOES 1
16 through 25, inclusive,

17 Respondents.

Case No. MSC17-01266

**FIFTH AMENDED AND
SUPPLEMENTAL PETITION FOR WRIT
OF MANDAMUS PURSUANT TO CODE
OF CIVIL PROCEDURE § 1085**

1 Petitioner PETER J. NOWICKI alleges as follows:

2 **PARTIES**

3 1. PETER J. NOWICKI (“Nowicki” or “Petitioner”) is a citizen and resident of the
4 City and County of San Francisco.

5 2. Respondent CONTRA COSTA COUNTY EMPLOYEES’ RETIREMENT
6 ASSOCIATION (“CCCERA”) is, and at all times relevant herein was, a retirement board within
7 the meaning of California Constitution, Article XVI, Section 17, subsection (h); and County
8 Employees Retirement Law of 1937, Government Code section 31450 *et seq.* (“the 1937 Act”).

9 3. Respondent MORAGA-ORINDA FIRE DISTRICT (the “Fire District”) was and is
10 at all times relevant hereto a duly constituted Fire District within the meaning of California Health
11 & Safety Code Section 13800 *et seq.*, and was Nowicki’s employer from June 1983 until January
12 2009.

13 **FACTUAL ALLEGATIONS**

14 **A. Petitioner’s Employment History**

15 4. Nowicki joined the Fire District as a firefighter in 1985 and advanced through the
16 ranks until he was promoted to the position of Fire Chief in July 2006. He retired in 2009 and was
17 therefore entitled to receive retirement benefits under the Fire District-maintained retirement plan
18 which is administered by Respondent CCCERA for the benefit of Fire District employees.

19 5. During his employment as Fire Chief, Nowicki negotiated his employment contract
20 with the Fire District in compliance with the Brown Act in good faith and in accordance with 1)
21 information that he had received from CCCERA in written materials and at CCCERA-conducted
22 workshops; and 2) contracts negotiated with other employees, including Memoranda of
23 Understanding between the Fire District and its represented rank and file employees. He received
24 retroactive salary increases, as did most other Fire District employees.

25 6. In keeping with the commitment made to him when he accepted his appointment as
26 Fire Chief, Nowicki submitted documentation to the Fire District Board in May 2007 regarding his
27 annual performance evaluation in order to support a request for an annual salary increase
28 commensurate with his performance during the previous year. However, the Fire District Board

1 repeatedly deferred approval of Nowicki's request until his employment contract was amended
2 approximately 9 months later, on February 6, 2008. The amended contract increased Nowicki's
3 salary to \$186,000, retroactive to July 2007.

4 7. As he had the year before, in May 2008, Petitioner met with Fire District Board
5 representatives and submitted documentation regarding his performance during his second year as
6 Fire Chief. The Fire District Board again deferred approval of Nowicki's request, this time for
7 over 6 months. On December 10, 2008, Nowicki's Fire Chief employment contract was amended
8 retroactive to July 2008. The amended contract of December 10, 2008 did not include an increase
9 in salary, but it did provide for an annual vacation sell-back option of 260 hours and also allowed
10 conversion of accrued administrative leave into vacation time which could be converted into a
11 cash payment. As in the previous year, these provisions were intended to prevent the forfeiture of
12 previously accrued leave benefits which Nowicki had been unable to utilize because of the
13 extensive time demands of the Fire Chief position.

14 8. His contract also complied with a "straddling policy" between the Fire District and
15 CCCERA under which employees were permitted to divide conversion of accrued vacation
16 between two calendar years, thereby increasing retirement benefit calculations. Nowicki exercised
17 his vacation sell-back option pursuant to that policy by converting 60 hours of accrued vacation
18 time into a cash payment on December 31, 2008, and then converting 260 hours of accrued
19 vacation time into a cash payment on January 5, 2009.

20 9. On January 30, 2009, Nowicki retired from the Fire District and began to receive
21 retirement benefits from CCCERA.

22 10. During each year that Nowicki received the maximum annual distribution allowed
23 under IRS regulations, the Fire District assumed the responsibility for making subsequent monthly
24 distributions. For example, in 2015 the Fire District made direct payment to Nowicki of his
25 monthly retirement benefits for a portion of September and for the entire months of October,
26 November and December.

27
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1 **B. The Retirement Board Proceedings**

2 9. On August 5, 2015, more than 6 ½ years after his retirement, Nowicki was
3 informed by CCCERA that it had scheduled a hearing for September 9, 2015 in order to review
4 what it described as “. . . acts of pension spiking, through members’ receipt of pay items that were
5 not earned as a part of their regularly recurring employment compensation during their careers.”
6 Nowicki was further informed that his pension was subject to investigation and that the hearing
7 would allow him “the opportunity to present to the Board your position and any information you
8 believe is relevant to the calculation of your retirement allowance.”

9 10. Nowicki attended the CCCERA Board meeting on September 9, 2015. At that
10 meeting the Board’s legal counsel argued that Nowicki’s salary and benefit increases were
11 improper under Government Code section 31539 because they were applied retroactively and
12 negotiated in violation of the Brown Act (Gov. Code § 54950 *et seq.*). The Board’s counsel
13 additionally made false and misleading statements by, *inter alia*, omitting relevant portions of
14 Nowicki’s contracts with the Fire District for his services as Fire Chief; by misleading the Board
15 as to the law regarding the topic before it, which was illegal pension spiking; and by erroneously
16 describing the negotiations between the Fire District Board and Nowicki as having involved
17 “closed secret sessions without public scrutiny.”

18 11. On September 11, 2015 Nowicki received a letter from the CCCERA informing
19 him that his pension would be reduced to \$14,667.74 per month, retroactive to the date of his
20 retirement, on the stated, although erroneous, grounds that Nowicki had caused his “final average
21 salary (compensation earnable) to be improperly increased at the time of retirement,” i.e. pension
22 spiking.

23 12. On September 21, 2015, Nowicki received a letter from CCCERA stating that he
24 had received overpayments of retirement benefits in the amount of \$585,802.90, including interest,
25 and he subsequently received a spreadsheet detailing the amount and incidence of the alleged
26 overpayments. CCCERA began deduction of \$9,227.43 from each of Nowicki’s monthly
27 retirement benefit distributions, and Nowicki was informed by CCCERA that it would continue to
28 do so each month until May 1, 2022, for a total deduction of \$728,966.47, at which time his

1 retirement benefit would be permanently reduced from \$20,076.00 to approximately \$14,296.00
2 per month, a yearly reduction of \$69,360.

3 13. The process of negotiating salary and benefit increases for Chief Nowicki's
4 contract consisted of meeting with the President of the Board of the Fire District to discuss
5 suggested modifications of the contract's provisions, including salary and benefit increases; after
6 which the President would meet in closed session with the Fire District Board without Petitioner
7 being in attendance, to discuss that contract. Petitioner is informed and believes that the process
8 by which the Fire District negotiated salary and benefit increases for all of the other Fire Chiefs
9 (Jim Johnston, Randy Bradley and Steven Healey) was the same, including discussion of
10 retroactive application of their salary and benefit increases; which was in substantial conformity
11 with the Fire District's standard practices for all of its employees. CCCERA has not contested the
12 process by which salary and benefit increases of Nowicki's predecessor and successors were
13 negotiated and has not reduced their pension benefits.

14 14. As a result of the CCCERA Board's abuse of discretion, CCCERA wrongfully
15 deprived Nowicki of his retirement benefits as further described below.

16 **C. Subsequent Proceedings**

17 15. On August 10, 2021, the First Appellate District held that CCCERA's confiscation
18 and deprivation of Nowicki's retirement benefits were abuses of discretion and reversed the
19 judgment previously entered in this case.

20 16. Thereafter, without any judgment having been entered, CCCERA purported to
21 reinstate Nowicki's pension and to return his previously confiscated pension benefits.

22 17. On June 6, 2022, CCCERA issued a check for \$265,835.24 to JP Morgan Securities
23 and a check for \$217,501.56 to Pershing LLC.

24 18. In a letter dated June 7, 2022 and signed by Jimmy Lambert, Member Services
25 Supervisor, CCCERA stated that "these checks represent the 'Direct Rollover' of [Nowicki's]
26 taxable contributions" and that "[a]ll distributions from [Nowicki's] IRA will be considered
27 ordinary income."
28

1 19. On July 22, 2022, the Fire District sent a check to Nowicki for \$367,560.50 for
2 gross pay of \$514,790.61, including withholding for federal income tax of \$113,253.93 and
3 California state income tax of \$33,976.18.

4 20. On February 24, 2023, CCCERA sent Nowicki a “corrective distribution” in the
5 amount of \$383,310.75. CCCERA stated that the check showed withholding of \$38,331.08 in
6 federal taxes and \$7,666.22 in California state taxes.

7 21. On March 23, 2023, CCCERA sent Nowicki an interest payment of \$2,002.38.

8 22. But Respondents’ purported restoration of Nowicki’s retirement benefits did not
9 restore Nowicki’s monetary loss, which is ongoing.

10 23. Respondents’ deprivation of Nowicki’s pension and confiscation of previously paid
11 benefits left Nowicki without adequate income to pay his bills for a period of several years.

12 24. As a result, Nowicki was forced to sell many of his investments to make up for the
13 shortfall in income. If Respondents had not deprived Nowicki of his pension or confiscated
14 previously paid benefits, Nowicki would still own the investments, which have increased in value
15 substantially since when Respondents’ actions forced Nowicki to sell them.

16 25. At the same time that Nowicki was deprived of income on the investments that
17 Respondents’ actions forced Nowicki to sell, on information and belief, Respondents were
18 profiting on the pension benefits that it confiscated from Nowicki and should have been paying
19 him.

20 26. Respondents’ purported repayments also subjected Nowicki to additional tax
21 obligations that he would not have incurred if Respondents had not confiscated his pension in the
22 first place. These tax obligations include being taxed twice on the same benefits and incurring a
23 higher tax rate on all of his income regardless of source due to Respondents’ repayment of years
24 of confiscated benefits in lump sums.

25 27. The increase in Nowicki’s income caused by Respondents’ lump sum payments has
26 also caused an increase in his and his wife’s Medicare premiums.

27 28. Nowicki has also suffered emotional distress for which Respondents have not
28 compensated him. Rather than enjoy his retirement, Nowicki has been forced to spend his golden

1 years fighting the unjustified deprivation of his benefits and spending substantial sums on
2 attorneys.

3 29. Additionally, the Fire District has refused to pay Nowicki interest on any of its
4 repayments.

5 CLAIM FILING

6 30. This action is exempt from claim filing requirements pursuant to Government Code
7 section 905. As a protective measure, however, Nowicki served Government Claims on
8 Respondents.

9 31. On August 17, 2023, Nowicki served a Government Claim on CCCERA. On
10 September 15, 2023, CCCERA denied Nowicki's Government Claim.

11 32. Nowicki served a supplemental Government Claim on CCCERA on December 7,
12 2023, which CCCERA denied on January 12, 2024.

13 33. Nowicki's Government Claims served on CCCERA and CCCERA's responses
14 thereto are attached hereto as **Exhibits A-D**.

15 34. Nowicki also served a Government Claim on the Fire District on December 7,
16 2023, which the Fire District denied on January 16, 2024. Nowicki's Government Claim served on
17 the Fire District and the Fire District's response thereto are attached hereto as **Exhibits E-F**.

18 SCOPE OF REVIEW

19 35. Because Petitioner Nowicki was an employee of the Fire District, he possessed a
20 fundamental vested right to his vested right benefits. Those rights were violated by the process by
21 which his benefits were substantially reduced as the result of a decision of the CCCERA Board
22 made on September 8, 2015. This Court has ruled that review of CCCERA's decision shall be
23 pursuant to a request for a Writ of Mandate under Code of Civil Procedure section 1085. This
24 petition is brought by Petitioner pursuant to that ruling.

25 FIRST CAUSE OF ACTION

26 **Mandamus Under Code of Civil Procedure Section 1085 and** 27 **Damages Under Code of Civil Procedure Section 1095** 28 **(Against Both Respondents)**

36. Nowicki reincorporates as if reallaged paragraphs 1 through 35, above.

1 37. Nowicki has constitutionally protected vested rights to the pension benefits which
2 he has earned.

3 38. The CCCERA Board reduced Nowicki's pension benefits purportedly pursuant to
4 its authority under Government Code section 31539, which states, in relevant part, as follows:

5 **Section 31539.** (a) The board of retirement may, in its discretion, correct any error
6 made in the calculation of a retired member's monthly allowance or any other
7 benefits under this chapter, if either of the following exist:

8 (1) The error in the calculation of the member's monthly allowance or other benefits
9 under this chapter was made as a result of fraudulent reports for compensation made,
10 or caused to be made, by the member for his or her own benefit.

11 (2) The member caused his or her final compensation to be improperly increased or
12 otherwise overstated at the time of retirement and the system applied that overstated
13 amount as the basis for calculating the member's monthly retirement allowance or
14 other benefits under this chapter. [Underlining added.]

15 39. Nowicki did not cause either the retroactivity or the alleged violations of the Brown
16 Act upon which the Board based its finding of "improper" conduct. The delays in granting
17 Nowicki's requests to the Fire District and the retroactive application of those salary and benefit
18 increases were not caused by Nowicki but rather, by the Fire District's repeated failure to address
19 Nowicki's annual requests in a timely manner and its delays, matters over which Nowicki had no
20 control. Since the CCCERA Board's findings were unsupported by the evidence, the Board
21 abused its discretion by finding that Nowicki had violated section 31539.

22 40. Nor was there evidence that supported the Board's finding that Nowicki "caused"
23 any Brown Act violations. The Fire District's agenda was set and approved by the Fire District's
24 Board President and Nowicki did not participate in the decision as to whether his agenda item
25 would be discussed in either open or closed session. In addition, the legal counsel for the Fire
26 District attended each Fire District meeting to insure adherence with applicable legal standards,
27 including with the Brown Act. The CCCERA Board's decision was founded upon its counsel's
28 untrue assertion that Petitioner was involved with that violation (if there was one), but he was not
so involved. It was not within Nowicki's power or responsibility to insure compliance with legal
standards.

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VERIFICATION

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am a party to this action. I have read the foregoing FIFTH AMENDED AND SUPPLEMENTAL PETITION FOR WRIT OF MANDAMUS PURSUANT TO CODE OF CIVIL PROCEDURE § 1085, and know its contents. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 16, 2024, at San Francisco, California.

Peter J. Nowicki

Print Name of Signatory

Signature

Exhibit B

1 Gregg McLean Adam, Bar No. (CA SBN 203436)
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9 Attorneys for Plaintiff and Petitioner
PETER J. NOWICKI

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF CONTRA COSTA**
13

14 PETER J. NOWICKI,

15 Petitioner,

16 v.

17 CONTRA COSTA COUNTY EMPLOYEES'
18 RETIREMENT ASSOCIATION, MORAGA-
ORINDA FIRE DISTRICT, and DOES 1
19 through 25, inclusive,

20 Respondents.
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Case No. MSC17-01266

FOURTH FIFTH AMENDED AND
SUPPLEMENTAL PETITION FOR WRIT
OF MANDAMUS PURSUANT TO CODE
OF CIVIL PROCEDURE § 1085

1 Petitioner PETER J. NOWICKI alleges as follows:

2 **PARTIES**

3 1. PETER J. NOWICKI (“Nowicki” or “Petitioner”) is a citizen and resident of the
4 City and County of San Francisco.

5 2. Respondent CONTRA COSTA COUNTY EMPLOYEES’ RETIREMENT
6 ASSOCIATION (“CCCERA”) is, and at all times relevant herein was, a retirement board within
7 the meaning of California Constitution, Article XVI, Section 17, subsection (h); and County
8 Employees Retirement Law of 1937, Government Code section 31450 *et seq.* (“the 1937 Act”).

9 3. Respondent MORAGA-ORINDA FIRE DISTRICT (the “Fire District”) was and is
10 at all times relevant hereto a duly constituted Fire District within the meaning of California Health
11 & Safety Code Section 13800 *et seq.*, and was Nowicki’s employer from June 1983 until January
12 2009.

13 **FACTUAL ALLEGATIONS**

14 **A. Petitioner’s Employment History**

15 3.4. Nowicki joined the Moraga-Orinda Fire District (“Fire District”) as a firefighter in
16 1985 and advanced through the ranks until he was promoted to the position of Fire Chief in July
17 2006. He retired in 2009 and was therefore entitled to receive retirement benefits under the Fire
18 District-maintained retirement plan which is administered by Respondent CCCERA for the benefit
19 of Fire District employees.

20 4.5. During his employment as Fire Chief, Nowicki negotiated his employment contract
21 with the Fire District in compliance with the Brown Act in good faith and in accordance with 1)
22 information that he had received from CCCERA in written materials and at CCCERA-conducted
23 workshops; and 2) contracts negotiated with other employees, including the Memoranda of
24 Understanding between the Fire District and its represented rank and file employees. He received
25 retroactive salary increases, as did most other Fire District employees.

26 5.6. In keeping with the commitment made to him when he accepted his appointment as
27 Fire Chief, Nowicki submitted documentation to the Fire District Board in May 2007 regarding his
28 annual performance evaluation in order to support a request for an annual salary increase

1 commensurate with his performance during the previous year. However, the Fire District Board
2 repeatedly deferred approval of Nowicki's request until his employment contract was amended
3 approximately 9 months later, on February 6, 2008. The amended contract increased Nowicki's
4 salary to \$186,000, retroactive to July 2007.

5 6.7. As he had the year before, in May 2008, Petitioner met with Fire District Board
6 representatives and submitted documentation regarding his performance during his second year as
7 Fire Chief. The Fire District Board again deferred approval of Nowicki's request, this time for
8 over 6 months. On December 10, 2008, Nowicki's Fire Chief employment contract was amended
9 retroactive to July 2008. The amended contract of December 10, 2008 did not include an increase
10 in salary, but it did provide for an annual vacation sell-back option of 260 hours and also allowed
11 conversion of accrued administrative leave into vacation time which could be converted into a
12 cash payment. As in the previous year, these provisions were intended to prevent the forfeiture of
13 previously accrued leave benefits which Nowicki had been unable to utilize because of the
14 extensive time demands of the Fire Chief position.

15 7.8. His contract also complied with a "straddling policy" between the Fire District and
16 CCCERA under which employees were permitted to divide conversion of accrued vacation
17 between two calendar years, thereby increasing retirement benefit calculations. Nowicki exercised
18 his vacation sell-back option pursuant to that policy by converting 60 hours of accrued vacation
19 time into a cash payment on December 31, 2008, and then converting 260 hours of accrued
20 vacation time into a cash payment on January 5, 2009.

21 8.9. On January 30, 2009, Nowicki retired from the Fire District and began to receive
22 retirement benefits from CCCERA.

23 10. During each year that Nowicki received the maximum annual distribution allowed
24 under IRS regulations, the Fire District assumed the responsibility for making subsequent monthly
25 distributions. For example, in 2015 the Fire District made direct payment to Nowicki of his
26 monthly retirement benefits for a portion of September and for the entire months of October,
27 November and December.

28

B. The Retirement Board Proceedings

1
2 9. On August 5, 2015, more than 6 ½ years after his retirement, Nowicki was
3 informed by CCCERA that it had scheduled a hearing for September 9, 2015 in order to review
4 what it described as “. . . acts of pension spiking, through members’ receipt of pay items that were
5 not earned as a part of their regularly recurring employment compensation during their careers.”
6 Nowicki was further informed that his pension was subject to investigation and that the hearing
7 would allow him “the opportunity to present to the Board your position and any information you
8 believe is relevant to the calculation of your retirement allowance.”

9 10. Nowicki attended the CCCERA Board meeting on September 9, 2015. At that
10 meeting the Board’s legal counsel argued that Nowicki’s salary and benefit increases were
11 improper under Government Code section 31539 because they were applied retroactively and
12 negotiated in violation of the Brown Act (Gov. Code § 54950 *et seq.*). The Board’s counsel
13 additionally made false and misleading statements by, *inter alia*, omitting relevant portions of
14 Nowicki’s contracts with the Fire District for his services as Fire Chief; by misleading the Board
15 as to the law regarding the topic before it, which was illegal pension spiking; and by erroneously
16 describing the negotiations between the Fire District Board and Nowicki as having involved
17 “closed secret sessions without public scrutiny.”

18 11. On September 11, 2015, Nowicki received a letter from the CCCERA informing
19 him that his pension would be reduced to \$14,667.74 per month, retroactive to the date of his
20 retirement, on the stated, although erroneous, grounds that Nowicki had caused his “final average
21 salary (compensation earnable) to be improperly increased at the time of retirement,” i.e. pension
22 spiking.

23 12. On September 21, 2015, Nowicki received a letter from CCCERA stating that he
24 had received overpayments of retirement benefits in the amount of \$585,802.90, including interest,
25 and he subsequently received a spreadsheet detailing the amount and incidence of the alleged
26 overpayments. CCCERA began deduction of \$9,227.43 from each of Nowicki’s monthly
27 retirement benefit distributions, and Nowicki ~~has been~~ was informed by CCCERA that it ~~will~~ would
28 continue to do so each month until May 1, 2022, for a total deduction of \$728,966.47, at which

1 time his retirement benefit ~~will~~would be permanently reduced from \$20,076.00 to approximately
2 \$14,296.00 per month, a yearly reduction of \$69,360.

3 13. The process of negotiating salary and benefit increases for Chief Nowicki's
4 contract consisted of meeting with the President of the Board of the Fire District to discuss
5 suggested modifications of the contract's provisions, including salary and benefit increases; after
6 which the President would meet in closed session with the Fire District Board without Petitioner
7 being in attendance, to discuss that contract. Petitioner is informed and believes that the process
8 by which the Fire District negotiated salary and benefit increases for all of the other Fire Chiefs
9 (Jim Johnston, Randy Bradley and Steven Healey) was the same, including discussion of
10 retroactive application of their salary and benefit increases; which was in substantial conformity
11 with the Fire District's standard practices for all of its employees. CCCERA has not contested the
12 process by which salary and benefit increases of Nowicki's predecessor and successors were
13 negotiated and has not reduced their pension benefits.

14 14. ~~The monetary loss which Nowicki has and will continue to suffer as~~As a result of
15 the CCCERA Board's ~~prejudicial~~ abuse of discretion ~~includes \$585,802.90 in rescinded pension~~
16 ~~and CCCERA wrongfully deprived Nowicki of his~~ retirement benefits as well as interest
17 ~~calculated on~~ further described below.

18 C. Subsequent Proceedings

19 15. ~~On August 10, 2021, the First Appellate District held that amount resulting in a~~
20 ~~monthly deduction from CCCERA's confiscation and deprivation of Nowicki's retirement~~
21 ~~benefits of \$9,227.43 continuing until May 1, 2022, for an interim loss of \$728,966.47, at which~~
22 ~~time Nowicki's monthly retirement benefit will be permanently reduced to approximately~~
23 ~~\$14,296.00. In addition, Nowicki incurred a loss of \$146,933.59 which the Fire District deducted~~
24 ~~from Nowicki's salary as Fire Chief, and remitted to CCCERA for the purpose of funding~~
25 ~~Nowicki's retirement benefits, but which salary deductions were not returned to Nowicki when~~
26 ~~abuses of discretion and reversed the judgment previously entered in this case.~~

27 16. ~~Thereafter, without any judgment having been entered, CCCERA reduced~~purported
28 to reinstate Nowicki's pension and to return his previously confiscated pension benefits.

1 17. On June 6, 2022, CCCERA issued a check for \$265,835.24 to JP Morgan Securities
2 and a check for \$217,501.56 to Pershing LLC.

3 18. In a letter dated June 7, 2022 and signed by Jimmy Lambert, Member Services
4 Supervisor, CCCERA stated that “these checks represent the ‘Direct Rollover’ of [Nowicki’s]
5 taxable contributions” and that “[a]ll distributions from [Nowicki’s] IRA will be considered
6 ordinary income.”

7 19. On July 22, 2022, the Fire District sent a check to Nowicki for \$367,560.50 for
8 gross pay of \$514,790.61, including withholding for federal income tax of \$113,253.93 and
9 California state income tax of \$33,976.18.

10 20. On February 24, 2023, CCCERA sent Nowicki a “corrective distribution” in the
11 amount of \$383,310.75. CCCERA stated that the check showed withholding of \$38,331.08 in
12 federal taxes and \$7,666.22 in California state taxes.

13 21. On March 23, 2023, CCCERA sent Nowicki an interest payment of \$2,002.38.

14 22. But Respondents’ purported restoration of Nowicki’s retirement benefits by
15 disregarding the salary which Nowicki earned as Fire Chief did not restore Nowicki’s monetary
16 loss, which is ongoing.

17 23. Respondents’ deprivation of Nowicki’s pension and confiscation of previously paid
18 benefits left Nowicki without adequate income to pay his bills for a period of several years.

19 24. As a result, Nowicki was forced to sell many of his investments to make up for the
20 shortfall in income. If Respondents had not deprived Nowicki of his pension or confiscated
21 previously paid benefits, Nowicki would still own the investments, which have increased in value
22 substantially since when Respondents’ actions forced Nowicki to sell them.

23 25. At the same time that Nowicki was deprived of income on the investments that
24 Respondents’ actions forced Nowicki to sell, on information and belief, Respondents were
25 profiting on the pension benefits that it confiscated from Nowicki and should have been paying
26 him.

27 26. Respondents’ purported repayments also subjected Nowicki to additional tax
28 obligations that he would not have incurred if Respondents had not confiscated his pension in the

1 first place. These tax obligations include being taxed twice on the same benefits and incurring a
2 higher tax rate on all of his income regardless of source due to Respondents' repayment of years
3 of confiscated benefits in lump sums.

4 27. The increase in Nowicki's income caused by Respondents' lump sum payments has
5 also caused an increase in his and his wife's Medicare premiums.

6 28. Nowicki has also suffered emotional distress for which Respondents have not
7 compensated him. Rather than enjoy his retirement, Nowicki has been forced to spend his golden
8 years fighting the unjustified deprivation of his benefits and spending substantial sums on
9 attorneys.

10 29. Additionally, the Fire District has refused to pay Nowicki interest on any of its
11 repayments.

12 CLAIM FILING

13 15-30. This action is exempt from claim filing requirements pursuant to Government Code
14 section 905, subdivision (f), which exempts claims for "... money or benefits under any public
15 retirement or pension system.". As a protective measure, however, Nowicki served Government
16 Claims on Respondents.

17 31. On August 17, 2023, Nowicki served a Government Claim on CCCERA. On
18 September 15, 2023, CCCERA denied Nowicki's Government Claim.

19 32. Nowicki served a supplemental Government Claim on CCCERA on December 7,
20 2023, which CCCERA denied on January 12, 2024.

21 33. Nowicki's Government Claims served on CCCERA and CCCERA's responses
22 thereto are attached hereto as **Exhibits A-D**.

23 34. Nowicki also served a Government Claim on the Fire District on December 7,
24 2023, which the Fire District denied on January 16, 2024. Nowicki's Government Claim served on
25 the Fire District and the Fire District's response thereto are attached hereto as **Exhibits E-F**.

26 SCOPE OF REVIEW

27 16-35. Because Petitioner Nowicki was an employee of the Fire District, he possessed a
28 fundamental vested right to his vested right benefits. -Those rights were violated by the process by

1 which his benefits were substantially reduced as the result of a decision of the CCCERA Board
2 made on September 98, 2015. This Court has ruled that review of CCCERA's decision shall be
3 pursuant to a request for a Writ of Mandate under Code of Civil Procedure section 1085. This
4 petition is brought by Petitioner pursuant to that ruling.

5 FIRST CAUSE OF ACTION

6
7 **Mandamus Under Code of Civil Procedure Section 1085**
8 **(Abuse and**
9 **Damages Under Code of Discretion Civil Procedure Section 1095**
10 **(Against Both Respondents)**

11 36. Nowicki reincorporates as if realigned paragraphs 1 through 35, above.

12 17.37. Nowicki has constitutionally protected vested rights to the pension benefits which
13 he has earned.

14 18.38. The CCCERA Board reduced Nowicki's pension benefits purportedly pursuant to
15 its authority under Government Code section 31539, which states, in relevant part, as follows:

16 **Section 31539.** (a) The board of retirement may, in its discretion, correct any error
17 made in the calculation of a retired member's monthly allowance or any other
18 benefits under this chapter, if either of the following exist:

19 (1) The error in the calculation of the member's monthly allowance or other benefits
20 under this chapter was made as a result of fraudulent reports for compensation made,
21 or caused to be made, by the member for his or her own benefit.

22 (2) The member caused his or her final compensation to be improperly increased or
23 otherwise overstated at the time of retirement and the system applied that overstated
24 amount as the basis for calculating the member's monthly retirement allowance or
25 other benefits under this chapter. [Underlining added.]

26 19.39. Nowicki did not cause either the retroactivity or the alleged violations of the Brown
27 Act upon which the Board based its finding of "improper" conduct. The delays in granting
28 Nowicki's requests to the Fire District and the retroactive application of those salary and benefit
increases were not caused by Nowicki but rather, by the Fire District's repeated failure to address
Nowicki's annual requests in a timely manner and its delays, matters over which Nowicki had no
control. Since the CCCERA Board's findings were unsupported by the evidence, the Board
abused its discretion by finding that Nowicki had violated section 31539.

1 20.40. Nor was there evidence that supported the Board's finding that Nowicki "caused"
2 any Brown Act violations. The Fire District's agenda was set and approved by the Fire District's
3 Board President and Nowicki did not participate in the decision as to whether his agenda item
4 would be discussed in either open or closed session. In addition, the legal counsel for the Fire
5 District attended each Fire District meeting to insure adherence with applicable legal standards,
6 including with the Brown Act. The CCCERA Board's decision was founded upon its counsel's
7 untrue assertion that Petitioner was involved with that violation (if there was one), but he was not
8 so involved. It was not within Nowicki's power or responsibility to insure compliance with legal
9 standards.

10 41. Based on the CCCERA Board's decision, Respondents clawed back portions of
11 Nowicki's pension that they had paid between 2009 and 2015 and reduced Nowicki's pension
12 going forward, as described herein.

13 21.42. Nowicki is beneficially interested in this action and does not have a plain, speedy
14 and adequate remedy in the ordinary course of law.

15 43. As a result of CCCERA's actions, Mr. Nowicki has and continues to suffer
16 damages as described herein.

17 **PRAYER FOR RELIEF**

18 Petitioner requests the following relief from the Court:

- 19 1. An Order requiring Respondent CCCERA to vacate its decision of September 9,
20 2015 on the basis that Respondent CCCERA's conduct violated Code Civ. Proc. section 1085;
- 21 2. An Order requiring ~~Respondent~~Respondents to reinstate Petitioner's retirement
22 benefits as they existed prior to ~~CCCERA's~~Respondents' illegal conduct;
- 23 3. An Order requiring ~~Respondent~~Respondents to make Nowicki whole for the
24 monetary loss and emotional distress which he has and will continue to suffer, including interest at
25 the legal rate;
- 26 4. Costs and attorneys' fees pursuant to statute; and
- 27 5. A grant of such other relief as it may deem just and proper.

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Dated: ~~March~~, 2018 February 16,
2024

MESSING ADAM & JASMINE LLP

By _____
Gregg McLean Adam
~~Peter A. Janiak~~
~~Steven Kaiser~~
~~Wendi Berkowitz~~
R. Benjamin Nelson, Of Counsel
~~Attorneys for Plaintiff and Petitioner~~
PETER J. NOWICKI

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VERIFICATION

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am a party to this action. I have read the foregoing ~~Fourth Amended Petition For Writ Of Mandamus Pursuant To Code Of Civil Procedure~~ FIFTH AMENDED AND SUPPLEMENTAL PETITION FOR WRIT OF MANDAMUS PURSUANT TO CODE OF CIVIL PROCEDURE § 1085, and know its contents. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on ~~March~~, February 16, 2024, at San Francisco, California.

Peter J. Nowicki

Print Name of Signatory

Signature

Exhibit C

Friday, February 16, 2024 at 13:14:53 Pacific Standard Time

Subject: RE: Nowicki v. CCCERA: Amended & Supplemental Petition
Date: Thursday, February 15, 2024 at 4:57:38 PM Pacific Standard Time
From: Chin, Maytak
To: Ben Nelson, Fairley, Mariah K.
CC: Gregg Adam
Attachments: image001.jpg, 2024.02.15 Respondent's Request for CMC.pdf

Hi Ben,

Please find the attached as a courtesy copy of the served Request for CMC for this case we filed with the Court today. Following appeal, we would like to get this case on the trial court's radar again.

Best,
Maytak

From: Ben Nelson <Ben@majlabor.com>
Sent: Thursday, February 15, 2024 7:47 AM
To: Chin, Maytak <MChin@ReedSmith.com>; Fairley, Mariah K. <MFairley@reedsmith.com>
Cc: Gregg Adam <Gregg@majlabor.com>
Subject: Re: Nowicki v. CCCERA: Amended & Supplemental Petition

External E-Mail - FROM Ben Nelson <ben@majlabor.com>

Hi Maytak,

Mr. Nowicki is naming the Fire District as a respondent.

Thanks,
Ben



R. Benjamin Nelson

Of Counsel

MESSING ADAM & JASMINE LLP

165 N. Redwood Dr., Suite 206 | San Rafael, CA 94903

Direct: 415.266.1824 | Fax: 415.266.1128 | Email: ben@majlabor.com

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client or work product privilege. Additionally, any advice contained in this communication (including attachments) is not intended or written to be used, and cannot be used, as tax advice. Issues regarding taxation or tax law should be referred to your tax advisor.

From: Chin, Maytak <MChin@ReedSmith.com>
Date: Wednesday, February 14, 2024 at 2:00 PM
To: Ben Nelson <Ben@majlabor.com>, Fairley, Mariah K. <MFairley@reedsmith.com>
Cc: Gregg Adam <Gregg@majlabor.com>
Subject: RE: Nowicki v. CCCERA: Amended & Supplemental Petition

Thanks for this additional clarifying information. One last question before I circle back with my client with it. I saw in the redline pleading that it appears to add back in the Fire District. Is it Petitioner's intention to move for joinder of the Fire District in this phase of the case?

Best,
Maytak

From: Ben Nelson <Ben@majlabor.com>
Sent: Wednesday, February 14, 2024 1:54 PM
To: Chin, Maytak <MChin@ReedSmith.com>; Fairley, Mariah K. <MFairley@reedsmith.com>
Cc: Gregg Adam <Gregg@majlabor.com>
Subject: Re: Nowicki v. CCCERA: Amended & Supplemental Petition

External E-Mail - FROM Ben Nelson <ben@majlabor.com>

Hi Maytak,

I appreciate your response. Mr. Nowicki is not presenting any supplemental claims. As I'm sure you know, a supplemental petition is a petition that contains allegations regarding events that occur after the filing of the initial petition.

Mr. Nowicki has good cause to amend and supplement the petition. Mr. Nowicki alleges the submission of government claims after the filing of the existing petition to ensure that his existing request to be made whole will not run afoul of the Government Claims Act in the event that the Court determines that the damages he seeks are subject to the Act.

If CCCERA has any response, please provide it by end of day on Friday, February 16, or we will file a motion for leave to amend and supplement.

Thanks,
Ben



R. Benjamin Nelson
Of Counsel
MESSING ADAM & JASMINE LLP
165 N. Redwood Dr., Suite 206 | San Rafael, CA 94903

Direct: 415.266.1824 | Fax: 415.266.1128 | Email: ben@majlabor.com
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From: Chin, Maytak <MChin@ReedSmith.com>
Date: Wednesday, February 14, 2024 at 1:13 PM
To: Ben Nelson <Ben@majlabor.com>, Fairley, Mariah K. <MFairley@reedsmith.com>
Cc: Gregg Adam <Gregg@majlabor.com>
Subject: RE: Nowicki v. CCCERA: Amended & Supplemental Petition

Hi Ben,

I spoke with my client yesterday about this. We are not going to stipulate to the proposed, redline document you sent. First, Petitioner has not explained what his good cause is for obtaining leave of court to amend the Petition. Second, we are unaware of any procedural mechanism or law that allows for "supplemental" claims in a CCP § 1085 writ petition. If you have legal authority that supports Petitioner's request for supplemental claims being added in this fashion, we ask that you send that to us.

Best,
Maytak

From: Ben Nelson <Ben@majlabor.com>
Sent: Wednesday, February 14, 2024 12:48 PM
To: Chin, Maytak <MChin@ReedSmith.com>; Fairley, Mariah K. <MFairley@reedsmith.com>
Cc: Gregg Adam <Gregg@majlabor.com>
Subject: Re: Nowicki v. CCCERA: Amended & Supplemental Petition

External E-Mail - FROM Ben Nelson <ben@majlabor.com>

Hi Maytak,

As you know, the Government Claims Act sets a filing deadline for taking legal action based on a claim letter. It's now been a week since we asked you for your position on our proposed amended and supplemental petition. Please confirm by the end of the day on Friday, February 16 whether you are willing to stipulate. If you are not willing to stipulate, please also provide your reasons for refusing to do so.

Thanks,
Ben



R. Benjamin Nelson

Of Counsel

MESSING ADAM & JASMINE LLP

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From: Chin, Maytak <MChin@ReedSmith.com>

Date: Wednesday, February 7, 2024 at 4:23 PM

To: Ben Nelson <Ben@majlabor.com>, Fairley, Mariah K. <MFairley@reedsmith.com>

Cc: Gregg Adam <Gregg@majlabor.com>

Subject: RE: Nowicki v. CCCERA: Amended & Supplemental Petition

Hi Ben,

I received your email and am returning to the office tomorrow. I will consult with our client and get back to you.

Thanks,
Maytak

From: Ben Nelson <Ben@majlabor.com>

Sent: Wednesday, February 7, 2024 1:26 PM

To: Fairley, Mariah K. <MFairley@reedsmith.com>

Cc: Gregg Adam <Gregg@majlabor.com>; Chin, Maytak <MChin@ReedSmith.com>

Subject: Re: Nowicki v. CCCERA: Amended & Supplemental Petition

External E-Mail - FROM Ben Nelson <ben@majlabor.com>

Hi Mariah,

I don't believe we've met yet, but Maytak has cc'd you on email correspondence associated with this case. I received an out of office notification from Maytak with no indication of when she would return and a notification from Harvey that he has retired. Are you able to assist?

Thanks,
Ben



R. Benjamin Nelson

Of Counsel

MESSING ADAM & JASMINE LLP

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Direct: 415.266.1824 | Fax: 415.266.1128 | Email: ben@majlabor.com

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From: Ben Nelson <Ben@majlabor.com>

Date: Wednesday, February 7, 2024 at 10:03 AM

To: MChin@ReedSmith.com <MChin@ReedSmith.com>

Cc: HLeiderman@ReedSmith.com <HLeiderman@ReedSmith.com>,
MFairley@reedsmith.com <MFairley@reedsmith.com>, Gregg Adam

<Gregg@majlabor.com>

Subject: Nowicki v. CCCERA: Amended & Supplemental Petition

Hi Maytak,

We have prepared a minor amendment and supplement to Mr. Nowicki's petition alleging the government claims that Mr. Nowicki has submitted and clarifying the damages that Mr. Nowicki seeks. Will CCCERA stipulate to the amendments and supplements? A redline of the proposed amendments and supplements is attached.

Please note that I am now of counsel at Messing, Adam, & Jasmine LLP. You may reach me at this address in the future.

Thanks,
Ben



R. Benjamin Nelson

Of Counsel
MESSING ADAM & JASMINE LLP
165 N. Redwood Dr., Suite 206 | San Rafael, CA 94903
Direct: 415.266.1824 | Fax: 415.266.1128 | Email: ben@majlabor.com
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6 Attorneys for Petitioner
PETER J. NOWICKI
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF CONTRA COSTA**

10
11 PETER J. NOWICKI,
12 Petitioner,
13 v.
14 CONTRA COSTA COUNTY EMPLOYEES'
15 RETIREMENT ASSOCIATION, MORAGA-
ORINDA FIRE DISTRICT, and DOES 1
through 25, inclusive,
16 Respondents.

Case No. MSC17-01266

**NOTICE OF MOTION AND MOTION
FOR LEAVE TO FILE FIFTH AMENDED
AND SUPPLEMENTAL PETITION FOR
WRIT OF MANDAMUS PURSUANT TO
CODE OF CIVIL PROCEDURE § 1085;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Date: 6-3-24
Time: 9:00
Place: Dept. 9

Judge: Hon. John P. Devine

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NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on above date and time, or as soon thereafter as the matter may be heard, in Department 9 of the Contra Costa Superior Court, located at 725 Court Street, Martinez, California 94553, Petitioner Peter J. Nowicki will, and hereby does, move for leave to file a Fifth Amended and Supplemental Petition for Writ of Mandamus.

The motion is made pursuant to California Code of Civil Procedure section 473(a)(1) and 464(a) and based on this motion and notice of motion, memorandum of points and authorities, Declaration of R. Benjamin Nelson, the pleadings and papers on file herein, and on such further arguments and material as the Court may consider at the hearing on this matter.

Dated: February 16, 2024

MESSING ADAM & JASMINE LLP

By 

Gregg McLean Adam
R. Benjamin Nelson
Attorneys for Petitioner
PETER J. NOWICKI

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **I. INTRODUCTION**

3 Petitioner Peter J. Nowicki is a twenty-five-year veteran of the Moraga-Orinda Fire
4 District whose career culminated in a term as Fire Chief. For years after his retirement, however,
5 Respondents wrongfully deprived Mr. Nowicki of the retirement benefits that he had earned. On
6 August 10, 2021, the First Appellate District held that CCCERA’s decision to reduce Mr.
7 Nowicki’s retirement benefits constituted an “abuse of discretion.” After the First Appellate
8 District’s ruling, Respondents voluntarily repaid a portion of the amounts that they owe Mr.
9 Nowicki, but it has become clear that Respondents will not make Mr. Nowicki whole. Mr.
10 Nowicki now seeks leave to amend and supplement his petition to obtain damages caused by the
11 deprivation of his retirement benefits and Respondents’ manner of partially repaying him, as well
12 as interest.

13 Specifically, the proposed amended and supplemental petition (the “Proposed Petition”)
14 contains the following changes:

15 **First**, the Proposed Petition alleges Mr. Nowicki’s compliance with the Government
16 Claims Act and Respondents’ denial of Mr. Nowicki’s claims on September 15, 2023, January 12,
17 2024, and January 16, 2024, necessitating the filing of an amended and supplemental petition by
18 March 14, 2024.

19 **Second**, the Proposed Petition elaborates on Mr. Nowicki’s current request to be “ma[d]e
20 . . . whole,” specifying that Mr. Nowicki seeks damages for (a) lost income from investments that
21 he had to sell to make up for the shortfall in income caused by Respondents’ underpayments, (b)
22 Respondents’ wrongful profits on benefits that that it should have provided to Nowicki, (c) the
23 additional tax and other obligations that Mr. Nowicki has incurred due to Respondents’ manner of
24 partial repayment, and (d) the emotional distress that Mr. Nowicki has suffered as a result. The
25 Proposed Petition also contains allegations regarding developments in the parties’ dispute since
26 the First Appellate District’s ruling.

1 **Third**, the Proposed Petition updates the address of existing counsel (Gregg McLean
2 Adam), removes Nowicki’s former counsel (Steve Kaiser and Wendi Berkowitz), and names an
3 additional counsel (R. Benjamin Nelson).

4 **II. BACKGROUND**

5 On January 30, 2009, Mr. Nowicki retired from his position as Fire Chief for the Moraga-
6 Orinda Fire District and began receiving a monthly retirement benefit under the retirement plan
7 administered by CCCERA in the amount of \$20,076.00.

8 On September 9, 2015, CCCERA held a meeting in which it decided to reduce Mr.
9 Nowicki’s retirement benefits going forward and to claw back payments that it had already made
10 to Mr. Nowicki. Beginning on November 1, 2015, Respondents substantially reduced Mr.
11 Nowicki’s monthly pension payments.

12 On October 13, 2015, Mr. Nowicki filed suit against Respondents in this court in case
13 number N15-1696. Mr. Nowicki voluntarily dismissed case number N15-1696 to file a lawsuit in
14 federal court, which was dismissed. On July 10, 2017, Mr. Nowicki filed this lawsuit. In his
15 Petition for Writ of Administrative Mandamus and Verified Complaint, Mr. Nowicki sought to be
16 “made whole for the monetary loss which he encountered, plus interest at the legal rate.” On April
17 15, 2020, judgment was entered for CCCERA. Mr. Nowicki appealed.

18 On August 10, 2021, the First Appellate District reversed the entry of judgment for Mr.
19 Nowicki, holding that the CCCERA “Board’s determination that Nowicki caused his pension to be
20 improperly increased at the time of retirement . . . constituted an abuse of discretion.” *Nowicki v.*
21 *Contra Costa Cty. Emps’. Ret. Ass’n*, 67 Cal. App. 5th 736, 760 (2021).

22 Thereafter, the parties attempted to resolve their dispute out of court. In connection with
23 those efforts, CCCERA issued checks for \$265,835.24 and \$217,501.56 purportedly representing
24 a direct rollover of Nowicki’s taxable contributions on June 6, 2022; the Fire District issued a
25 check for \$367,560.50 on July 22, 2022; CCCERA issued a check for \$383,310.75 purportedly
26 representing a “corrective distribution” on February 24, 2023; and CCCERA made an additional
27 interest payment of \$2,002.38 on March 23, 2023. Respondents have refused to compensate Mr.
28 Nowicki further.

1 Respondents' refusal to compensate Mr. Nowicki necessitated Mr. Nowicki's filing of
2 Government Claims as a protective measure in the event that a court determines that the damages
3 he seeks are not exempted from the Government Claims Act under Government Code section 905.
4 Mr. Nowicki served Government Claims on CCCERA on August 17, 2023, and December 7,
5 2023, which CCCERA denied on September 15, 2023, and January 12, 2024, respectively. Mr.
6 Nowicki served a Government Claim on the Fire District on December 7, 2023, which the Fire
7 District denied on January 16, 2024.

8 **III. ARGUMENT**

9 "The court may, in furtherance of justice, and on any terms as may be proper, allow a party
10 to amend any pleading or proceeding by adding . . . the name of any party, or by correcting a mistake
11 in the name of a party." Code of Civil Procedure § 473(a)(1). Likewise, "[t]he plaintiff . . . may be
12 allowed, on motion, to make a supplemental complaint . . . , alleging facts material to the case
13 occurring after the former complaint" *Id.* § 464(a). The court should exercise its discretion
14 "liberally in favor of amendments, for judicial policy favors resolution of all disputed matters in the
15 same lawsuit." *Kittredge Sports Co. v. Superior Court*, 213 Cal. App. 3d 1045, 1048 (1989). Even
16 where a party "unreasonably delayed moving to amend[,] . . . it is an abuse of discretion to deny
17 leave to amend where the opposing party was not misled or prejudiced by the amendment. *Id.*

18 Justice requires that Mr. Nowicki be permitted to file an amended and supplemental petition.
19 In contrast, Respondents would suffer no prejudice by the amendments or supplementation.

20 **A. Justice Requires that Mr. Nowicki Be Permitted to Amend and Supplement His**
21 **Petition**

22 The Proposed Petition clarifies Mr. Nowicki's request for damages by elaborating on the
23 damages sought under Code of Civil Procedure section 1095, including lost investment income,
24 Respondents' unjust profits on Mr. Nowicki's pension benefits, the tax and other consequences of
25 the manner in which Respondents decide to repay Mr. Nowicki's pension benefits, and emotional
26 distress. Likewise, a supplemental petition is appropriate to allege Mr. Nowicki's compliance with
27 the Government Claims Act and other developments in the parties' dispute since the First Appellate
28

1 District's ruling. If Mr. Nowicki is not permitted to amend and supplement his petition, he will be
2 forced to file a new action against Respondents.

3 **B. Respondents Would Suffer No Prejudice as a Result of the Proposed**
4 **Amendments and Supplementation**

5 In contrast, the Proposed Petition would cause no prejudice to Respondents, who have
6 known about Mr. Nowicki's desire to be "made whole" since at least July 10, 2017, when Mr.
7 Nowicki filed his Petition for Writ of Administrative Mandamus and Verified Complaint. Moreover,
8 Mr. Nowicki has already provided Respondents the requisite notice by submitting Government
9 Claims, and Respondents are aware that Mr. Nowicki must file suit regarding these claims by March
10 14, 2024.

11 **IV. CONCLUSION**

12 Petitioner respectfully requests that this Court issue an order granting him leave to file a
13 Fifth Amended and Supplemental Petition for Writ of Mandamus Pursuant to Code of Civil
14 Procedure § 1085.

15
16 Dated: February 16, 2024

MESSING ADAM & JASMINE LLP

17
18 By



19 _____
20 Gregg McLean Adam
21 R. Benjamin Nelson
22 Attorneys for Petitioner
23 PETER J. NOWICKI
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1 **APPENDIX OF PROPOSED CHANGES**

2 Pursuant to California Rules of Court, Rule 3.1324(a)(2)-(3), Petitioner proposes the
3 following changes to the Petition for Writ of Mandamus:

- 4 A. Update Petitioner’s counsel at page 1, line 1-4; remove Peter A. Janiak, Steven
5 Kaiser, and Wendy Berkowitz’s names, bar numbers, and email addresses.
- 6 B. Add R. Benjamin Nelson, his bar number, email address, law firm, firm address,
7 and telephone number as Petitioner’s counsel at page 1, line 5-8.
- 8 C. Add Moraga-Orinda Fire District to the named respondents at page 1, line 15-16.
- 9 D. Add the party description for Moraga-Orinda Fire District at page 2, line 9-12.
- 10 E. Replace the full party name with the defined term at page 2, line 11.
- 11 F. Add the language describing Nowicki’s receipt of the annual and monthly
12 retirement benefits from the Fire District at page 3, line 19-23.
- 13 G. Replace the future tenses with the past tenses at page 4, line 17-19.
- 14 H. Replace the language describing CCCERA’s deprivation of Nowicki’s retirement
15 benefits at page 5, line 4-5.
- 16 I. Add the following factual allegations, from page 5, line 6, to page 6, line 17:

17 C. Subsequent Proceedings

18 15. On August 10, 2021, the First Appellate District held that
19 CCCERA’s confiscation and deprivation of Nowicki’s retirement
benefits were abuses of discretion and reversed the judgment previously
entered in this case.

20 16. Thereafter, without any judgment having been entered, CCCERA
21 purported to reinstate Nowicki’s pension and to return his previously
confiscated pension benefits.

22 17. On June 6, 2022, CCCERA issued a check for \$265,835.24 to JP
Morgan Securities and a check for \$217,501.56 to Pershing LLC.

23 18. In a letter dated June 7, 2022 and signed by Jimmy Lambert,
24 Member Services Supervisor, CCCERA stated that “these checks
25 represent the ‘Direct Rollover’ of [Nowicki’s] taxable contributions” and
that “[a]ll distributions from [Nowicki’s] IRA will be considered
ordinary income.”

26 19. On July 22, 2022, the Fire District sent a check to Nowicki for
27 \$367,560.50 for gross pay of \$514,790.61, including withholding for
28 federal income tax of \$113,253.93 and California state income tax of
\$33,976.18.

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20. On February 24, 2023, CCCERA sent Nowicki a “corrective distribution” in the amount of \$383,310.75. CCCERA stated that the check showed withholding of \$38,331.08 in federal taxes and \$7,666.22 in California state taxes.

21. But Respondents’ purported restoration of Nowicki’s retirement benefits did not restore Nowicki’s monetary loss, which is ongoing.

22. Respondents’ deprivation of Nowicki’s pension and confiscation of previously paid benefits left Nowicki without adequate income to pay his bills for a period of several years.

23. As a result, Nowicki was forced to sell many of his investments to make up for the shortfall in income. If Respondents had not deprived Nowicki of his pension or confiscated previously paid benefits, Nowicki would still own the investments, which have increased in value substantially since when Respondents’ actions forced Nowicki to sell them.

24. At the same time that Nowicki was deprived of income on the investments that Respondents’ actions forced Nowicki to sell, on information and belief, Respondents were profiting on the pension benefits that it confiscated from Nowicki and should have been paying him.

25. Respondents’ purported repayments also subjected Nowicki to additional tax obligations that he would not have incurred if Respondents had not confiscated his pension in the first place. These tax obligations include being taxed twice on the same benefits and incurring a higher tax rate on all of his income regardless of source due to Respondents’ repayment of years of confiscated benefits in lump sums.

26. The increase in Nowicki’s income caused by Respondents’ lump sum payments has also caused an increase in his and his wife’s Medicare premiums.

27. Nowicki has also suffered emotional distress for which Respondents have not compensated him.

28. Additionally, the Fire District has refused to pay Nowicki interest on any of its repayments.

J. Add the following information regarding claim filing, at page 5, line 17-27:

30. As a protective measure, however, Nowicki served Government Claims on Respondents.

31. On August 17, 2023, Nowicki served a Government Claim on CCCERA. On September 15, 2023, CCCERA denied Nowicki’s Government Claim.

32. Nowicki served a supplemental Government Claim on CCCERA on December 7, 2023, which CCCERA denied on January 12, 2024.

33. Nowicki’s Government Claims served on CCCERA and CCCERA’s responses thereto are attached hereto as Exhibits A-D.

34. Nowicki also served a Government Claim on the Fire District on December 7, 2023, which the Fire District denied on January 16, 2024.

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Nowicki’s Government Claim served on the Fire District and the Fire District’s response thereto are attached hereto as Exhibits E-F.

K. Replace “September 9, 2015” with “September 8, 2015” at page 5, line 22.

L. Add “and Damages Under Code of Civil Procedure Section 1095” under First Cause of Action at page 6, line 2-3.

M. Replace “(Abuse of Discretion)” to “(Against Both Respondents)” at page 6, line 3.

N. Add the following language under First Cause of Action at page 6, line 4:

34. Nowicki reincorporates as if realleged paragraphs 1 through 34, above.

O. Add “with” under First Cause of Action at page 6, line 26.

P. Add the following description under First Cause of Action at page 7, line 3-5.

40. Based on the CCCERA Board’s decision, Respondents clawed back portions of Nowicki’s pension that they had paid between 2009 and 2015 and reduced Nowicki’s pension going forward, as described herein.

Q. Add the following description under First Cause of Action at page 7, line 5-6.

42. As a result of CCCERA’s actions, Mr. Nowicki has and continues to suffer damages as described herein.

R. Add “CCCERA” under Prayer for Relief at page 7, line 7.

S. Replace “Respondent” with “Respondents” under Prayer for Relief at page 7, line 9.

T. Replace “CCCERA’s” with “Respondents” under Prayer for Relief at page 7, line 10.

U. Replace “Respondent” with “Respondents” under Prayer for Relief at page 7, line 11.

V. Add “and emotional distress” under Prayer for Relief at page 9, line 11-12.



Moraga-Orinda Fire District

TO: Board of Directors

FROM: Dave Winnacker, Fire Chief

DATE: March 20, 2024

SUBJECT: **Item 7.1 Second Reading and Adoption of Ordinance No. 24-01, Revising a Schedule of Fees for District Services and Superseding Ordinance No. 23-02, as amended pursuant to Board direction.**

BACKGROUND

At the February 21, 2024, Board meeting, the Board approved the introduction and first reading of Ordinance 24-01, revising the schedule of fees for District services. Staff presented the proposed revised Schedule of Fees using the most recent salary increase of 5% pursuant to the Board's direction at the regular board meeting on January 17, 2024. The proposed fees reflect a 5% increase.

The District has given public notice of its intention to establish and impose the fees specified in the Fee Schedule attached as Attachment B. The public notice was published in accordance with Health and Safety Code section 13916(b) and Section 6066 of the Government Code. In addition, all interested parties were invited to attend the public hearing or submit written comments regarding the proposed revisions to the Schedule of Fees Ordinance 24-01. All written comments received before the board packet posting are included in Attachment C. The response to those comments from Staff is also included in Attachment D. Any written public comments received after the board packet's posting will be made available for viewing on the District's website at www.mofd.org/agendas as part of the public record.

Summary of Proposed Revisions

Twelve (12) additional fees have been added for services related to processing Hydrant/Fire Service Forms, Plan Reviews and Inspections for Energy Storage Systems, Plan Reviews and Inspections for Solar Photovoltaic Power Systems, Environmental Review Services, and Insurance Property Compliance Inspections. Those twelve additional fees are identified below.

PLAN REVIEW			
PR12.13	Hydrant/Fire Service Form	per form/project	\$47
PR15.1	Energy Storage Systems		
PR15.1.1	Plan Review	per permit	\$577
PR15.1.2	Inspection	per inspection	\$97
PR15.2	Solar Photovoltaic Power Systems		
PR15.2.1	Plan Review	per permit	\$577
PR15.2.2	Inspection	per inspection	\$97
PR15.3	UL 9540A Modification	per project	\$203
ENVIRONMENTAL REVIEW			
ER1	Senior Technical Specialist	Hourly [6]	\$261

ER2	Senior Biologist	Hourly [6]	\$194
ER3	Staff Biologist/Botanist	Hourly [6]	\$140
ER4	Senior Botanist	Hourly [6]	\$212
ER5	Senior GIS Specialist	Hourly [6]	\$207
	MISCELLANEOUS		
ASP1.4	Insurance Property Compliance Inspection	per inspection	\$170

In addition, the word "Nuisance" was added to the Repeated False Alarm fees description. The description now reads Repeated False or Nuisance Alarm Responses.

RECOMMENDATION

Staff Recommendation: 1) Discuss; 2) Deliberate; 3) Conduct a public hearing; 4) Adopt Ordinance No. 24-01, Revising a Schedule of Fees for District Services and Superseding Ordinance No. 23-02 effective April 22, 2024, as amended pursuant to Board direction.

ATTACHMENT

[Attachment A: 24-01 Ordinance Schedule of Fees.pdf](#)

[Attachment B: Fee Schedule 2024.pdf](#)

[Attachment C: Written Public Comment Received](#)

[Attachment D: Response to Written Public Comment](#)

ORDINANCE NO. 24-01**AN ORDINANCE OF THE MORAGA-ORINDA FIRE PROTECTION DISTRICT OF CONTRA COSTA COUNTY REVISING A SCHEDULE OF FEES FOR DISTRICT SERVICES AND SUPERSEDING ORDINANCE NO. 23-02**

The Board of Directors of the Moraga-Orinda Fire District of Contra Costa County (“District”) ordains as follows:

SECTION 1. Authorization and Purpose.

The purpose of this ordinance is to establish fees, as defined in the California Constitution, that are no more than necessary to cover the reasonable costs of District governmental activities, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor’s burdens on, or benefits received from, the District’s governmental activities.

This ordinance and the fees for District Services established herein is adopted pursuant to the provisions of the Fire Protection District Law of 1987 (Health and Safety Code sections 13800 et seq., the “Act”). Specifically, as authorized under Health and Safety Code section 13916, the District hereby establishes and adopts the schedule of fees, established for the purpose of recovering for the District the cost of providing services and enforcing regulations.

The provisions of this ordinance and schedule of fees are consistent with, and authorized by, the provisions of Health and Safety Code section 13916 and other laws pertaining to fee schedules. Except as otherwise indicated, the definitions of the Act are incorporated herein, and this ordinance shall be interpreted in a manner consistent with the Act.

SECTION 2. Fee Schedule

The fees established and adopted by this ordinance are attached hereto as “Exhibit A” entitled 2024 District Fee Schedule.

SECTION 3. Public Notice of Intent to Establish Fee Schedule

Pursuant to the provisions of Health and Safety Code section 13916(b), the District gave public notice pursuant to Section 6066 of the Government Code, of its intent to establish and impose the fees contained in the Fee Schedule attached as Exhibit “A”. All legal requirements for adoption of this ordinance have been met.

SECTION 4. Findings Regarding Costs of Services

The District Board finds that it must charge fees to cover the costs of (a) services which the District provides and (b) enforcement of any regulation for which the District has responsibility.

The District Board finds that no fee included in the 2024 District Fee Schedule exceeds the costs reasonably incurred by the District in providing the service or enforcing the regulation for which the fee is charged in accordance with Health and Safety Code section 13916(a). The fees set

forth in Exhibit “A” and adopted by this ordinance are not a tax as defined by section 1(e) of Article XIII C of the California Constitution and are exempt from voter approval under that section. The fees are no more than necessary to cover the reasonable costs of the governmental activity, and the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor’s burdens on, or benefits received from, the governmental activity.

The District Board finds that, consistent with the provisions of Health and Safety Code section 13916(a), the 2024 District Fee Schedule does not include fees on new construction or development for the construction of public improvements or facilities or the acquisition of equipment.

SECTION 5. Supersession

To the extent Ordinance # 23-02, and any other action, whether by resolution or ordinance, was adopted by the Board of Directors to set or impose a fee, and to the extent Ordinance # 23-02 and any other resolution or ordinance is inconsistent with the provisions of this ordinance, that portion of Ordinance # 23-02 and any other previous resolution or ordinance that is inconsistent with the terms of this ordinance are superseded by this ordinance. The adoption of this ordinance shall not amend or affect the remaining portions of Ordinance # 23-02 and any such previously adopted ordinance or resolution.

This ordinance is not intended to contain all fees that are or may be charged by the Fire District for services and supplies and to the extent that other fees are customarily charged or are established elsewhere and are not listed in Exhibit “A,” all such fees, charges, and rates shall remain in full force and effect.

SECTION 6. Severability

Should any fee herein established be held to be invalid or otherwise unenforceable, such determination shall not affect the validity of the remainder of this ordinance or the remaining fee provisions. The Board hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 7. Prior Fees

The adoption of this ordinance shall not in any manner affect any action or be construed as a waiver of any fee, charge, penalty or fine required by or resulting from any previous ordinance imposing a fee, charge, penalty or fine.

SECTION 8. Effective Date

This Ordinance and the Fee Schedule shall become effective on April 22, 2024, and within fifteen (15) days of passage, shall be published once with the names of the Directors voting for and against it, in the Contra Costa Times, a newspaper of general circulation in this District. Passed and Adopted on _____ by the following Vote:

PASSED, APPROVED and ADOPTED this 20th day of March at the regular meeting of the District Board of Directors held at 22 Orinda Way, Orinda, California 94563 on March 20, 2024, on a motion made by Director ____, seconded by Director ____, and duly carried with the following roll call vote

AYES:

NOES:

ABSENT:

ABSTAIN:

ORDINANCE 24-01

ATTEST:

Michael Roemer, President
Board of Directors

I certify that this is a full, true and correct copy of the original document which is on file in my office, and that was passed and adopted by the Moraga-Orinda Fire Protection District on the date shown.

ATTEST:

Marcia Holbrook
District Secretary/District Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Jonathan Holtzman, District Counsel

Dave Winnacker, Fire Chief

**2024 MORAGA-ORINDA FIRE DISTRICT
FEE SCHEDULE**

Attachment B

Fee No.	Fee Description	Unit	2023	2024
INSPECTION - SINGULAR PERMITTED ACTIVITIES				
T1	Special Events, Tents and Booths,			
T1.1	Tents between 400 and 5000 ft ² in size, and canopies in excess of 400 s.f.	per permit	\$386	\$405
T1.2	Tents greater than 5000 ft ² in size	per permit	\$482	\$506
T1.3	For use greater than 180 days reinspection is required	per permit	\$187	\$196
T2	Holiday tree lots	per permit	\$125	\$131
T3	Model rockets	per permit	\$125	\$131
T1.4	Additional tent inspections		\$125	\$131
SE1	Street Fairs, Carnivals, and Special Events/ Plan Review and Inspection	per permit (1)	\$390	\$410
E1	Explosives - any kind	per permit (3)	\$453	\$476
FW	Fireworks			
FW1.1	Fireworks Aerial	per permit (3)	\$903	\$948
FW1.2	Set Piece / Theatrical	per permit (3)	\$602	\$632
HM1	Hazardous Materials	per permit (3)	\$602	\$632
BP1	Burn Permit - Recreational- Open Flame	per permit	\$184	\$193
SP	Singular Permits - Other/ Inspection			
SP1.1	Change of Occupancy	per permit	\$368	\$386
SP1.2	Install/Maintain Acid Battery Systems > CFC Table 1206.2	per permit	\$376	\$395
SP1.3	Miscellaneous Permit (otherwise not listed above)	per permit	\$290	\$305
INSPECTION - ANNUAL OPERATING PERMITS/INSPECTION REQUIRED				
API	LPG Dispense	per permit	\$435	\$457
AP2	Welding or Hot Works	per permit	\$435	\$457
AP3	Spraying Flammable Finishes	per permit	\$435	\$457
AP4	Compressed Gas / Cryogenics	per permit		
AP4.1	Inert		\$435	\$457
AP4.2	Flammable		\$435	\$457
AP4.3	Cryogenics Portable Tanks		\$435	\$457
AP4.4	Cryogenics Portable Tanks Fixed System		\$435	\$457
AP5	Flammable / Combustible Liquids	per permit		
AP5.1	Flammable Liquid Storage Cabinet		\$435	\$457
AP5.2	Flammable Liquid Storeroom		\$435	\$457
AP5.3	Aboveground Storage Outside		\$453	\$476
AP5.4	Underground Storage Tank		\$453	\$476
AP6	Engine Repair Facilities	per permit		
AP6.1	1 - 4 Bays		\$435	\$457
AP6.2	5 - 8 Bays		\$435	\$457
AP6.3	9 + Bays		\$435	\$457
AP7	Group A Places Of Public Assembly	per permit		
AP7.1	Occupancy Load 50-100		\$360	\$378
AP7.2	Occupancy Load 101-200		\$435	\$457
AP7.3	Occupancy Load 201-299		\$577	\$606
AP7.4	Occupancy Load 300 +		\$577	\$606
AP8	Group E Occupancies- Schools (Permit includes first and second inspection)	per permit		
AP8.1	Private Schools			
AP8.1.1	E-2 Occupant Load ≤ 150		\$482	\$506
AP8.1.2	E-1 Occupant Load > 150		\$602	\$632
AP8.3	Public Schools			
AP8.3.1	E-2 Occupant Load ≤ 150		\$482	\$506
AP8.3.2	E-1 Occupant Load > 150		\$602	\$632

Ordinance 24-01/Exhibit A
First Reading: January 17, 2024
First Reading: February 21, 2024
Second Reading: March 20, 2024

**2024 MORAGA-ORINDA FIRE DISTRICT
FEE SCHEDULE**

Attachment B

Fee No.	Fee Description	Unit	2023	2024
AP9	Group I Institutional (I-2.1, I-4)	per permit		
AP9.1	Occupant Load 7-20		\$577	\$606
AP9.2	Occupant Load 21-99		\$652	\$685
AP9.3	Occupant Load 100 -249		\$652	\$685
AP9.4	Occupant Load 300 +		\$652	\$685
AP10	Group R-2 Occupancies Apartments	per permit		
AP10.1	Base Fee		\$174	\$183
AP10.1.1	3-12 units, per unit		\$174	\$183
AP10.1.2	13-30 units, per unit		\$3	\$3
AP10.1.3	31+ units, per unit		\$4	\$4
AP10A	Group R-2 Assisted Living Facilities			
AP10A.1	Base Fee		\$435	\$457
AP10A.1.2	per unit		\$4	\$4
AP11	Group R-3.1 Daycare-Residential	per permit		
AP11.1	R 3.1 Residential Day Care Occupant, Load 6 or Fewer			
AP12	Group R-4 Adult & Residential Care Facilities	per permit		
AP12.1	R 4 Adult Residential Day Care (Non-Medical), Client Load 7+, max of 6 non-ambulatory		\$505	\$530
AP12.2	Licensed Facilities (includes R-2.1,R-4)			
AP12.3	Occupant Load < 6		\$505	\$530
AP12.4	Occupant Load > 6		\$505	\$530
AP12.5	850 Form Fire Clearance Inspection		\$253	\$266
AP13	Group R-4 Day Care Facilities-Commercial	Per permit		
AP13.1	Occupant Load ≤ 50		\$481	\$505
AP13.2	Occupant Load > 50		\$541	\$568
AP14	Annual Operational Permits - Other			
AP14.1	Combustible Materials Storage	per permit	\$505	\$530
AP14.4	High Pile Stock/Rack Systems	per permit	\$577	\$606
PLAN REVIEWS				
PR1	Site Access Review: Preliminary Plan Review, Consulting, and Meetings			
PR1.1	Pre-project review	per project (3)	\$602	\$632
PR1.2	Design Review			
PR1.2.1	Residential	per project	\$359	\$377
PR1.2.2	Commercial	per project	\$602	\$632
PR1.3	Residential Addition/Remodel	per project	\$359	\$377
PR3	Site / Water/ Access Review	per project	\$482	\$506
PR4	Cell Tower / Antenna/ Land Use Review/ Solar	per project	\$435	\$457
PR5	Street Numbering / Address Review	per project	\$225	\$236
PR6	Residential and Building Construction - New Building			
PR6.1	Plan Review			
PR6.1.1	0 - 5,000 s.f.	per project	\$577	\$606
PR6.1.2	Greater than 5,000 s.f.	hourly	\$144	\$151
PR6.2	Inspection			
PR6.2.1	0 - 5,000 s.f.	per inspection	\$435	\$457
PR6.2.2	Greater than 5,000 s.f.	hourly	\$144	\$151
PR7	Building Construction - Tenant Improvement			
PR7.1	Plan Review			
PR7.1.1	0 - 5,000 s.f.	per project	\$723	\$759
PR7.2.2	Greater than 5,000 s.f. (per hour with \$100 deposit)	hourly	\$144	\$151
PR7.3	Inspection			
PR7.3.1	0 - 5,000 s.f.	per inspection	\$577	\$606
PR7.3.2	Greater than 5,000 s.f.	hourly	\$144	\$151

Ordinance 24-01/Exhibit A
First Reading: January 17, 2024
First Reading: February 21, 2024
Second Reading: March 20, 2024

**2024 MORAGA-ORINDA FIRE DISTRICT
FEE SCHEDULE**

Attachment B

Fee No.	Fee Description	Unit	2023	2024
PR8	Fire Alarm and Communication System			
PR8.1	Plan Review/	per project		
PR8.1.1	First 25 Devices		\$577	\$606
PR8.1.2	each additional 25 devices, or portion thereof		\$217	\$228
PR8.2	Inspection Fire Alarm	per inspection		
PR8.2.1	First 25 Devices		\$435	\$457
PR8.2.2	each additional 25 devices, or portion thereof		\$217	\$228
PR8.3	Emergency responder radio communication (ERRCS) system Plan Review	per project	\$164	\$172
PR8.4	Inspection ERRCS	per inspection	\$116	\$122
PR8.5	Elevator Communication System Plan Review	per project	\$164	\$172
PR8.6	Inspection Elevator Communication System	per inspection	\$116	\$122
PR9	Fire Protection Systems - Residential - New or Modify			
PR9.1	Plan Review	per project		
PR9.1.1	First 25 Heads		\$435	\$457
PR9.1.2	each additional 25 heads, or portion thereof		\$217	\$228
PR9.2	Inspections (Rough and Final)	per inspection		
PR9.2.1	First 25 Heads		\$435	\$457
PR9.2.2	each additional 25 heads, or portion thereof		\$217	\$228
PR10	Fire Protection Systems - Commercial New			
PR10.1	Plan Review	per project		
PR10.1.1	First 25 Heads		\$577	\$606
PR10.1.2	each additional 25 heads, or portion thereof		\$217	\$228
PR10.2.2	Inspection	per inspection		
PR10.2.2.1	First 25 Heads		\$577	\$606
PR10.2.2.2	each additional 25 heads, or portion thereof		\$217	\$228
PR10.2.2.3	Per additional Riser	per riser	\$144	\$151
PR11	Fire Protection Systems - Commercial - Tenant Improvement			
PR11.1	Plan Review	per project		
PR11.1.2	First 25 Heads		\$577	\$606
PR11.1.3	each additional 25 heads, or portion thereof		\$217	\$228
PR11.2	Inspection	per inspection		
PR11.2.1	First 25 Heads		\$482	\$506
PR11.2.2	each additional 25 heads, or portion thereof		\$217	\$228
PR12	Fire Protection Systems - Miscellaneous/ Plan Review and Inspection			
PR12.1	Additional Overhead Hydro Test	per test	\$577	\$606
PR12.2	Spray Booths Including Fire Protection System (New Install)	per permit	\$505	\$530
PR12.3	Fire Pumps & Related Equipment - Install or Modify (Non-Residential Applications)	per permit	\$505	\$530
PR12.4	Standpipe System/ AFES Underground	per permit	\$577	\$606
PR12.5	Pre-Action Fire Protection System	per permit	\$577	\$606
PR12.6	Hood and Duct Fire Protection system	per permit	\$577	\$606
PR12.7	Clean Agent Fire Protection System	per permit	\$652	\$685
PR12.8	Nitrous Oxide/Medical Gas System	per permit	\$652	\$685
PR12.9	Smoke Management System	per permit	\$652	\$685
PR12.10	Fire Hydrant Plan Review	per permit	\$505	\$530
PR12.11	Water Flow Field Test for Sprinkler Systems	per test	\$505	\$530
PR12.12	Inspection	per inspection	\$577	\$606
PR12.13	Hydrant/Fire Service Form	per form		\$47
PR13	Tanks / Piping			
PR13.1	Install/Remove Underground	per permit		
PR13.1.1	Plan Review		\$577	\$606
PR13.1.2	Inspection	per inspection	\$577	\$606
PR13.2	Install/ Remove Aboveground Tank with Lines	per permit		
PR13.2.1	Plan Review		\$577	\$606
PR13.2.2	Inspection	per inspection	\$577	\$606
PR13.3	Temporary Construction Tank (Install and Use per Location/ Site)	per permit		
PR13.3.1	Plan Review		\$577	\$606
PR13.3.2	Inspection	per inspection	\$577	\$606
PR14	Special Hazard - Hazardous Material			
PR14.1	Hazardous Materials Approval for Use & Compliance	per project	\$723	\$759
PR14.2	Compressed Gas & Cryogenics (Initial plan review and install)	per project	\$723	\$759

NEW

Ordinance 24-01/Exhibit A

First Reading: January 17, 2024

First Reading: February 21, 2024

Second Reading: March 20, 2024

**2024 MORAGA-ORINDA FIRE DISTRICT
FEE SCHEDULE**

Attachment B

Fee No.	Fee Description	Unit	2023	2024	
PR15	Solar and Energy Systems				
PR15.1	Energy Storage Systems				
PR15.1.1	Plan Review	per permit		\$577	*NEW*
PR15.1.2	Inspection	per inspection		\$97	*NEW*
PR15.2	Solar Photovoltaic Power Systems				
PR15.2.1	Plan Review	per permit		\$577	*NEW*
PR15.2.2	Inspection	per inspection		\$97	*NEW*
PR15.3	UL 9540A Modification	per project		\$203	*NEW*
ENVIRONMENTAL REVIEW					
ER1	Senior Technical Specialist	Hourly [6]		\$261	*NEW*
ER2	Senior Biologist	Hourly [6]		\$194	*NEW*
ER3	Staff Biologist/Botanist	Hourly [6]		\$140	*NEW*
ER4	Senior Botanist	Hourly [6]		\$212	*NEW*
ER5	Senior GIS Specialist	Hourly [6]		\$207	*NEW*
MISCELLANEOUS					
ALT1	Alternative Means and Methods	per project (3)	\$753	\$791	
ASP1	Additional Inspections	per inspection	\$290	\$305	
ASP1.1	Fire Marshal	Hourly	\$106	\$111	
ASP1.2	Senior Inspector	Hourly	\$116	\$122	
ASP1.3	Fire Inspector	Hourly	\$91	\$96	
ASP1.4	Insurance Property Compliance Inspection	per inspection		\$170	*NEW*
PR1	Additional Plan Review/Permit Renewal/Resubmittal Fee	per submittal	\$290	\$305	
SB1	After hours Inspections (2 Hour Minimum)	per project	\$435	\$457	
MS1	Photocopies (per Page) Letter or legal Size	per copy	\$0.10	\$0.10	
RS1	Research Fee	hourly (4)	\$144	\$151	
IR1	Incident Report Request	per request	\$6	\$6	
CP1	Instructional Services (CPR)	per student	\$101	\$106	
MR1	Medical Records Request	per request	\$15	\$15	
FA1	Repeated False or Nuisance Alarm Responses (first 3 responses free in 30 consec. days)	per response	no charge	no charge	
FA2	Repeated False or Nuisance Alarm Responses (4-6 responses in 30 consec. days)	per response	\$200	\$210	
FA3	Repeated False or Nuisance Alarm Responses (7-9 responses in 30 consec. days)	per response	\$400	\$420	
FA4	Repeated False or Nuisance Alarm Responses (10-12 response in 30 consec. days)	per response	\$600	\$630	
FA5	Repeated False or Nuisance Alarm Responses (13 or more responses in 30 consec. days)	per response	\$800	\$840	
WA1	Weld Inspections	per instance	\$435	\$457	
DP1	Deposit processing fee	per project	\$73	\$77	
SA1	Subpoena Fee	per employee per day [5]	\$275	\$275	
RC1	Returned Check Charge	per check	\$33	\$35	
WA2	Weed Abatement	per parcel	Cost + 50%	Cost + 50%	
MF1	One-time Mitigation fee - Wilder Development	per parcel	\$2,000	\$2,000	
PT1	Property Sale or Transfer Online Self Check	per parcel	no charge	no charge	
PT2	Property Sale or Transfer On Site First Inspection Fee	per parcel	\$165	\$173	
PT3	Property Sale or Transfer On Site Re-Inspection Fee	per parcel	\$220	\$231	
PT4	Seller or Buyer Phone or Over the Counter Compliance Check Fee	per parcel	\$22	\$23	
OP1	Online payment Debit and Credit Card User Fee - 2.45% of gross volume	per transaction	2.45%	2.45%	
OP2	Online payment ACH/eCheck User Fee - \$1	per transaction	\$1	\$1	

[Notes]

- [1] Does not include standby time. Separate fee would apply.
- [2] Actual Cost of photos not included. Separate fee would apply.
- [3] Minimum fee includes time shown. For service required in excess of standard, hourly rate would apply.
- [4] Fee for retrieval & formatting of records information above and beyond basic retrieval and copy of a public record.
- [5] A deposit of \$275 for each day that a specified employee is required to remain in attendance pursuant to the subpoena. The District shall then be reimbursed for traveling expenses and the full cost to the District of paying the employee. If the actual expenses should later prove to be less than \$275 per day tendered, the excess of the amount shall be refunded. If the actual expenses should later prove to be more than the amount deposited, the District may collect the balance from the party at whose request the subpoena is issued. California Government Code 68097.2.
- [6] Hours beyond 8 hours per day are charged at an overtime rate of 1.5 times our standard hourly rates for qualifying personnel. To comply with California Labor Code 512 and California Code of Regulations 11040, if onsite conditions prohibit personnel from taking required breaks, one additional hour of time will be billed per day for qualifying staff covered under the regulations.

Ordinance 24-01/Exhibit A
First Reading: January 17, 2024
First Reading: February 21, 2024
Second Reading: March 20, 2024

From: [Charles Porges](#)
To: [Info](#)
Subject: Solar and Energy fees
Date: Friday, March 1, 2024 10:07:30 AM

To the Board of Directors,
I find the Solar and Energy fees unreasonable and unnecessary. As you know PG&E does a thorough review of the submitted plans and performs inspections as well.

With the proposed fees you will add a \$1300 disincentive to installing photovoltaic systems.

Photovoltaic systems with batteries will reduce the power required to be transmitted through PG&E lines which are a known fire hazard.

I request that you eliminate them or reduce them by a factor of ten.

Thank you,
Charles Porges

From: [Winnacker, David](#)
To: charles.porges@gmail.com
Cc: [Isaacs, Jeff](#); [Holbrook, Marcia](#)
Subject: RE: Solar and Energy fees
Date: Friday, March 1, 2024 12:35:22 PM

Charles,

Thank you for contacting the Fire District and your comments have been forwarded to the Board.

This item was addressed during our February Board meeting in response to questions raised by Director Danziger. A summary of the relevant discussion is included below for your consideration.

1. This is not a new fee per se as MOFD has always charged a plan review fee for solar systems as required by Chapter 12 of the Fire Code, it just did not previously have its own category. This caused confusion amongst applicants.
2. PG&E does not perform any type of plan review required by California Code of Regulations Title 24 and as an investor owned private company, does not have the authority to do so. PG&E's review is limited to the interconnect requirements associated with grid connection. Should a resident be installing an off-grid system, PG&E would not be involved.
3. California Fire Code requires that the Fire Code Official review plans and issue either a construction permit or operational permit.
4. The Office of the state Fire Marshal requires a construction permit for installation of energy storage systems regulated by Chapter 12 of the State Fire Code.

Section 105.6.5 Energy storage systems. A construction permit is required to install energy storage systems regulated by Section 1207.

California Fire Code Chapter 12 was added to address the current energy systems found in this code, and is provided for the introduction of a wide range of systems to generate and store energy in, on and adjacent to buildings and facilities. The expansion of such energy systems is related to meeting today's energy, environmental and economic challenges. Ensuring appropriate criteria to address the safety of such systems in building and fire codes is an important part of protecting the public at large, building occupants and emergency responders. More specifically, this chapter addresses standby and emergency power, portable generators, photovoltaic systems, fuel cell energy systems, and energy storage systems.

For further context, as addressed during the February Board Meeting, there are firefighter specific safety concerns related to roof access which are regulated by the Fire Code and enforced by MOFD in our role as the Fire Code Official. Of note, this is an area where MOFD adopted state minimum requirements and did not amend the Fire Code.

Thank you,

Dave Winnacker
Fire Chief

From: [Winnacker, David](#)
Cc: [Sasser, Gloriann](#); ["Jonathan Holtzman"](#); [Holbrook, Marcia](#); rjolsen@pacbell.net
Subject: FW: Home Hardening Program Expansion: Consider Using HOAs and Firewise Communities to Lead a Voluntary Effort
Date: Thursday, February 22, 2024 4:20:50 PM

Directors,
Please see below for correspondence received.

Respectfully,

Dave Winnacker
Fire Chief
Moraga-Orinda Fire District



From: Richard Olsen <rjolsen@pacbell.net>
Sent: Thursday, February 22, 2024 1:19 PM
To: Winnacker, David <dwinacker@mofd.org>
Subject: Home Hardening Program Expansion: Consider Using HOAs and Firewise Communities to Lead a Voluntary Effort

Dear Chief Winnacker,

I listened via Zoom to the first part of last evening's MOFD Board of Directors Meeting, through Agenda Item 9.1 (the Mid-Year Budget Review).

With particular respect to Director Jorgens' comments relative to the MOFD's Home Hardening Program during the Agenda Item 9.1 discussion, I certainly understand and respect Craig's advocacy of expanding and fully funding that program. At the same time, I also completely appreciate the additional direct burden doing so would impose on the MOFD's already fully utilized staff. In that circumstance, an ideal solution would necessarily require the full support of any Home Hardening Program expansion by highly motivated and well organized volunteers who would have to directly assume the burden of "selling" and implementing the program.

There are two sets of already existing community organizations within the MOFD's service area that could jointly (or separately) undertake that assignment. One such group would be the Homeowners Associations that serve the subdivisions and neighborhoods within the MOFD. (Per Director Jorgens' current biography on the MOFD's website: "He is also the President of his local homeowner's association.") A second such group would be the MOFD's Firewise USA Communities. Both sets of organizations are already highly organized and have effective leadership teams in place. Most of the homeowners who reside in the communities served by those organizations would presumably have a high level of self-interest in improving the wildland fire resistance of their personal residences. They could also potentially benefit from "Wildfire Mitigation Homeowners Insurance Property Level Discounts" provided by some property insurers.

The participation of HOAs and Firewise Communities in such an all-volunteers-managed activity would necessarily involve some limited MOFD staff initial outreach to those entities. Assuming that the MOFD has a master list of all the HOAs and Firewise communities in the District, that outreach would involve visiting the websites of each such entity, identifying the entity's Manager or Board Chair and then sending to those individuals a summary of what is available. That communication would need to include a strong suggestion that because of the MOFD's staffing

situation, IF the entity's leadership believes that implementing the program would be in the best interests of their constituents, they would necessarily have to provide the local volunteer support to fully implement the Home Hardening Program within their community.

Thank you very much for your attention to my above suggestions. Please feel free to share this communication with the members of the MOFD's Board of Directors and anyone else you deem appropriate.

Sincerely,

Richard J. ("Dick") Olsen
1861 Saint Andrews Drive
Moraga, CA 94556-1057
E-mail: rjolsen@pacbell.net
iPhone: 925/286-8114
Fax: 925/376-4319



Moraga-Orinda Fire District

Office of the Fire Marshal

FIRE PREVENTION REPORT February 2024

Number/Types of Complaints: Total YTD

- Dead Tree – 0
- Exterior Hazard – 12

Exterior Hazard Inspections: YTD

- Number of Assessments – 899
 - Initial Pass – 0
 - Initial Failed - 899
- Number of Cases Closed – 527
- Number of Open Cases – 372
 - Remain Open From 2023 -25
- Number of Notice to Abate – 0
- Number of Pre-citations – 899
- Number of Citations – 36
 - Exterior Hazards Violations – 35
 - Other CFC Violations – 1

CHIPPING: Total YTD

- Total Number of Days–25
- Total Est. Tons of Material Removed– 71

PLAN REVIEW COMPLETED

2020 - 296	2022 – 409	2024 – 45
2021 – 359	2023 – 301	

Monthly Breakdown

January– 25	April–	July-	October-
February– 20	May–	August-	Nov-
March–	June-	September-	December-

Property Transfer Inspections – 22

- Property Transfer Initial Pass – 9
- Property Transfer Initial Fail– 13
(Mostly 2-foot Non-Combustible Zone)

Exterior Hazard Inspections: February 1 –29

- Number of Assessments – 536
 - Initial Pass - 248
 - Initial Failed – 288
- Number of Cases Closed – 248
- Number of Open Cases – 288
 - Remain Open From 2023 -25
- Number of Notice to Abate – 0
- Number of Pre-citations – 533
- Number of Citations – 11
 - Exterior Hazards Violations – 10
 - Other CFC Violations – 1

STATE MANDATED INSPECTIONS

E-Occupancy (Public & Private K-12 Schools)

- 1st Inspection= 0 (Pass = 0, Fail = 0)
- 2nd Inspection= 6 (Pass = 0, Fail = 6)
- Citations Issued= 0

R-2 Occupancy (Apartments, Dorms, fraternities, sororities)

- 1st Inspection= 4 (Pass = 0, Fail = 4)
- 2nd Inspection= 2 (Pass = 0, Fail = 2)
- Citations Issued= 0

R-1 Occupancy (Boarding Houses, Motels, Hotels) = 0

I-Occupancy (Jails) = 0

CURRENT PROJECTS

- | | | |
|---------------------|----------------------|--------------|
| ➤ Employee Training | ➤ Community Outreach | ➤ Fuel Break |
| ➤ Chipper Training | ➤ Inspections | |
| ➤ FAC-A Training | ➤ Pile Burning | |

Code Enforcement Violation Counts

For Date Period From 02/01/2024 Through 02/29/2024

Violation	Count
23.03 Juniper removal	518
23.03 15-foot clearance	36
23.03 Zone Two (2) / Tree 6-foot clearance	7
23.03 Zone Zero (non-combustible zone) Ground cover	7
23.03 Zone Zero (non-combustible zone) 1-foot vertical clearance	5
23.03 Zone One / Tree 6-foot clearance	3
23.03 Zone Zero / Tree 6-foot clearance	3
23.03 Zone Two (2) / Hazardous Vegetation	3
23.03 Zone Zero / 6-foot roof clearance	3
23.03 3-foot roadside clearance	2
23.03 Zone Two (2) / Brush	1
23.03 Zone Zero / Hazardous Vegetation	1
23.03 Zone Zero / Firewood, Lumber, Combustible Material	1
23.03 Zone One / Hazardous Vegetation	1
23.03 Zone Zero / Chimney 10-foot clearance	1
23.03 Zone Zero / Dead Material	1
H&S 13871 Failure to Comply	1
Total	594



Photo taken by MOFD Fuel Mitigation Staff on 3/11/2024. This photo was taken after owner submitted photo showing compliance.



Photos submitted by Owner showing Juniper was removed. Photo submitted to MOFD on 3/11/24



Administrative Citation Report

Fine Amount \$500 of Above, Open Status

For Date Period 01/01/2021 Through 2/29/2024

Case #	Citation	Cite Date	Location	GoGov Status	Data Ticket Status	# Notices	Appealed ?	Responsible Party	FTB?	Original Amount	Charges /Fees	Owing
22-0175	220175005	6/20/2023	CORTE ROYAL	Closed	Open	3	No	NEHREBECKI PETER R TRE	Yes	\$ 500.00	\$ 61.06	\$ 561.06
22-0175	220175005	10/3/2023	CORTE ROYAL	Closed	Open	3	No	NEHREBECKI PETER R TRE	No	\$ 500.00	\$ 61.06	\$ 561.06
22-0175	220175005	10/10/2023	CORTE ROYAL	Closed	Open	3	No	NEHREBECKI PETER R TRE	No	\$ 500.00	\$ 61.06	\$ 561.06
22-0175	2201750052	8/28/2023	CORTE ROYAL	Closed	Open	3	No	NEHREBECKI PETER R TRE	Yes	\$ 500.00	\$ 61.06	\$ 561.06
22-0175	2201750053	9/14/2023	CORTE ROYAL	Closed	Open	3	No	NEHREBECKI PETER R TRE	Yes	\$ 500.00	\$ 61.06	\$ 561.06
22-0175	2201750054	9/21/2023	CORTE ROYAL	Closed	Open	3	No	NEHREBECKI PETER R TRE	Yes	\$ 500.00	\$ 61.06	\$ 561.06
22-0175	2201750055	9/28/2023	CORTE ROYAL	Closed	Open	3	No	NEHREBECKI PETER R TRE	Yes	\$ 500.00	\$ 61.06	\$ 561.06
22-0175	2201750057	10/4/2023	CORTE ROYAL	Closed	Open	3	No	NEHREBECKI PETER R TRE	No	\$ 500.00	\$ 61.06	\$ 561.06
22-0240	220240005	5/16/2023	LAVINA CT	Closed	Open	3	No	UHL VALERY	Yes	\$ 500.00	\$ 61.06	\$ 561.06
22-0260	220260005	6/2/2022	CALLE LA MESA	Hold	Hold	3	No	WILCOX RICHARD MORRIS TRE	Yes	\$ 500.00	\$ 61.06	\$ 561.06
22-0260	2202600052	10/4/2023	CALLE LA MESA	Hold	Open	3	No	WILCOX RICHARD MORRIS TRE	No	\$ 500.00	\$ 61.06	\$ 561.06
22-2561	222561005	10/12/2022	VALENCIA RD	Open	Open	3	No	LEVINSON RUTH E	Yes	\$ 500.00	\$ 61.06	\$ 561.06
22-2561	222561005	5/16/2023	VALENCIA RD	Open	Open	3	No	LEVINSON RUTH E	Yes	\$ 500.00	\$ 61.06	\$ 561.06
22-2723	222723005	10/5/2022	BARBARA RD	Closed	Open	3	No	SU VICTOR WEN	Yes	\$ 500.00	\$ 61.06	\$ 561.06
22-3256	223256005	11/17/2022	BARBARA RD	Hold	Open	3	No	GORDON WILLIAM N	Yes	\$ 500.00	\$ 61.06	\$ 561.06
22-3256	223256005	5/16/2023	BARBARA RD	Hold	Hold	3	No	GORDON WILLIAM N & BETTY A	No	\$ 500.00	\$ 61.06	\$ 561.06
22-3401	223401005	5/16/2023	MINER RD	Hold	Open	3	No	PERRY CYRLE H TRE	Yes	\$ 500.00	\$ 61.06	\$ 561.06
22-3401	223401005	1/5/2023	MINER RD	Hold	Open	3	No	PERRY CYRLE H TRE	Yes	\$ 500.00	\$ 61.06	\$ 561.06
22-3631	223631005	5/16/2023	BATES BLVD	Hold	Hold	3	No	SOUTHWOOD VALLEY ESTATES LLC	No	\$ 500.00	\$ 61.06	\$ 561.06
22-3631	223631005	12/13/2022	BATES BLVD	Hold	Hold	3	No	SOUTHWOOD VALLEY ESTATES LLC	No	\$ 500.00	\$ 61.06	\$ 561.06
22-3806	223806005	12/16/2022	CAMINO DON MIGUEL	Open	Open	2	No	CHICAGO TRUST COMPANY	No	\$ 500.00	\$ 61.06	\$ 561.06
22-3806	223806005(2)	5/16/2023	CAMINO DON MIGUEL	Open	Open	2	No	CHICAGO TRUST COMPANY	No	\$ 500.00	\$ 61.06	\$ 561.06
22-3806	22380600504	11/1/2023	CAMINO DON MIGUEL	Open	Open	2	No	CHICAGO TRUST COMPANY	No	\$ 500.00	\$ 61.06	\$ 561.06
22-3806	22380600505	12/12/2023	CAMINO DON MIGUEL	Open	Open	2	No	CHICAGO TRUST COMPANY	No	\$ 500.00	\$ 50.50	\$ 550.50
22-3806	22380600506	1/12/2024	CAMINO DON MIGUEL	Open	Open	1	No	CHICAGO TRUST COMPANY	No	\$ 500.00	\$ 50.00	\$ 550.00
22-3806	2238060053	9/28/2023	CAMINO DON MIGUEL	Open	Open	2	No	CHICAGO TRUST COMPANY	No	\$ 500.00	\$ 61.06	\$ 561.06
22-3892	22389200503	01/18/2024	WILDER RD	Open	Open	1	No	BROOKS STREET C/O MIKE MOHLER	No	\$ 500.00	\$ 50.00	\$ 550.00
22-3957	223957005	10/7/2022	BIRCHWOOD DR	Closed	Open	3	No	INZERILLO JOHN A	Yes	\$ 500.00	\$ 61.06	\$ 561.06
22-4000	224000005	5/16/2023	MINER RD	Hold	Hold	3	No	PERRY CYRLE H TRE	No	\$ 500.00	\$ 61.06	\$ 561.06
22-4258	224258005	8/8/2023	EVANS PL	Hold	Hold	3	No	KAWAGUCHI JON	No	\$ 500.00	\$ 61.06	\$ 561.06
22-4258	22425800502	1/24/2024	EVANS PL	Open	Open	1	No	KAWAGUCHI JON	No	\$ 500.00	\$ 50.00	\$ 550.00
22-4258	22425800503	2/23/2024	EVANS PL	Open	Open	0	No	KAWAGUCHI JON	No	\$ 500.00	\$ -	\$ 500.00
23-0275	230275005	6/30/2023	BATES BLVD	Hold	Hold	3	No	SOUTHWOOD VALLEY ESTATES LLC	No	\$ 500.00	\$ 61.06	\$ 561.06
23-0839	230839005	10/2/2023	HONEY HILL RD	Closed	Open	3	No	HAMMAC SETH TRE	No	\$ 500.00	\$ 61.06	\$ 561.06
23-0839	230839005	8/30/2023	HONEY HILL RD	Closed	Open	3	No	HAMMAC SETH TRE	Yes	\$ 500.00	\$ 61.06	\$ 561.06
23-1026	23102600501	11/3/2023	GLORIETTA BLVD	Open	Open	3	No	SHMAVONIAN GERALD S	No	\$ 500.00	\$ 61.06	\$ 561.06
23-1026	23102600502	12/14/2023	GLORIETTA BLVD	Open	Open	1	No	SHMAVONIAN GERALD S	No	\$ 500.00	\$ 50.00	\$ 550.00

Case #	Citation	Cite Date	Location	GoGov Status	Data Ticket Status	# Notices	Appealed ?	Responsible Party	FTB?	Original Amount	Charges /Fees	Owing
23-1026	23102600503	1/23/2024	GLORIETTA BLVD	Open	Open	0	No	SHMAVONIAN GERALD S	No	\$ 500.00	\$ -	\$ 500.00
23-1121	23112100501	12/5/2023	MORAGA WAY	Closed	Open	2	No	EGAN RAYMOND	No	\$ 500.00	\$ 55.50	\$ 555.50
23-1121	23114200502	10/31/2023	MORAGA WAY	Closed	Open	3	No	ROMERO JOSE M PAREDES	No	\$ 500.00	\$ 61.06	\$ 561.06
23-1147	23114700501	12/5/2023	RICHARD CT	Open	Open	2	No	IGLEHART DIANE	No	\$ 500.00	\$ 55.50	\$ 555.50
23-1210	231210005	10/3/2023	GLORIETTA BLVD	Closed	Open	3	No	CONVERSE JOHN W & SARAH E	No	\$ 500.00	\$ 61.06	\$ 561.06
23-1210	231210005	8/31/2023	GLORIETTA BLVD	Closed	Open	3	No	CONVERSE JOHN W & SARAH E	No	\$ 500.00	\$ 61.06	\$ 561.06
23-1358	23135800502	12/4/2023	MINER RD	Open	Open	2	No	MCCAULOU DAVID R & JOYCE S	No	\$ 500.00	\$ 55.50	\$ 555.50
23-1358	23135800503	1/5/2024	MINER RD	Open	Open	1	No	MCCAULOU DAVID R & JOYCE S	No	\$ 500.00	\$ 50.00	\$ 550.00
23-1358	23135800501	9/29/2023	MINER RD	Open	Open	3	No	MCCAULOU DAVID R & JOYCE S	No	\$ 500.00	\$ 61.06	\$ 561.06
23-1535	23153500501	11/9/2023	BIRCH CT	Open	Open	2	No	WEST MELANIE	No	\$ 500.00	\$ 61.06	\$ 561.06
23-1535	23153500502	12/12/2023	BIRCH CT	Open	Open	1	No	WEST MELANIE	No	\$ 500.00	\$ 50.50	\$ 550.50
23-1535	23153500503	1/23/2024	BIRCH CT	Open	Open	0	No	WEST MELANIE	No	\$ 500.00	\$ 50.00	\$ 550.00
23-1628	23162800501	1/8/2024	CHARLES HILL RD	Open	Open	1	No	GATTIS ANNE SIMPSON TRE	No	\$ 500.00	\$ 50.00	\$ 550.00
23-1628	23162800502	2/28/2024	CHARLES HILL RD	Open	Open	0	No	GATTIS ANNE SIMPSON TRE	No	\$ 500.00	\$ -	\$ 500.00
23-1784	23178400501	10/23/2023	GLORIETTA BLVD	Open	Open	3	No	YEATMAN GRANT & ELIZABETH P	No	\$ 500.00	\$ 61.06	\$ 561.06
23-1784	23178400502	12/5/2023	GLORIETTA BLVD	Open	Open	2	No	YEATMAN GRANT & ELIZABETH P	No	\$ 500.00	\$ 55.50	\$ 555.50
23-1784	23178400503	1/4/2024	GLORIETTA BLVD	Open	Open	1	No	YEATMAN GRANT & ELIZABETH P	No	\$ 500.00	\$ 55.00	\$ 550.00
23-1804	23180400501	1/8/2024	GLORIETTA BLVD	Open	Open	1	No	QUIROS ANA DORIS	No	\$ 500.00	\$ 55.00	\$ 550.00
23-1956	23135800503	2/15/2024	IRONBARK CIR	Open	Open	0	No	MCCAULOU DAVID R & JOYCE S	No	\$ 500.00	\$ -	\$ 500.00
23-1956	231956005	10/18/2023	IRONBARK CIR	Open	Open	3	No	TSAO DENIS TRE	No	\$ 500.00	\$ 61.06	\$ 561.06
23-1956	23195600502	12/4/2023	IRONBARK CIR	Open	Open	2	No	TSAO DENIS TRE	No	\$ 500.00	\$ 55.50	\$ 555.50
23-2079	232079005	10/18/2023	NORMANDY LN	Closed	Open	3	No	TU KIEN	No	\$ 500.00	\$ 61.06	\$ 561.06
23-2079	23207900502	12/12/2023	NORMANDY LN	Closed	Open	2	No	TU KIEN	No	\$ 500.00	\$ 50.50	\$ 550.50
23-2291	23229100501	10/23/2023	MOSSBRIDGE LN	Open	Open	3	No	HOWARD WILLIAM SCOTT TRE	No	\$ 500.00	\$ 61.06	\$ 561.06
23-2291	23229100502	12/4/2023	MOSSBRIDGE LN	Open	Open	1	No	HOWARD WILLIAM SCOTT TRE	No	\$ 500.00	\$ 55.50	\$ 555.50
23-2291	23229100503	1/5/2024	MOSSBRIDGE LN	Open	Open	1	No	HOWARD WILLIAM SCOTT TRE	No	\$ 500.00	\$ 50.00	\$ 550.00
23-2291	23229300501	12/4/2023	MOSSBRIDGE LN	Open	Open	2	No	ZHOU WENBO	No	\$ 500.00	\$ 55.50	\$ 555.50
23-2291	23229300502	1/4/2024	MOSSBRIDGE LN	Open	Open	1	No	ZHOU WENBO	No	\$ 500.00	\$ 50.00	\$ 550.00
23-2369	23236900501	12/4/2023	AMBER VALLEY DR	Closed	Open	2	No	AU JOSEPH T & FAN F TRE	No	\$ 500.00	\$ 55.50	\$ 555.50
23-2539	23253900501	10/27/2023	PASEO DEL RIO	Closed	Open	3	No	KNAPP KEVIN C TRE	No	\$ 500.00	\$ 61.06	\$ 561.06
23-2834	23283400501	10/31/2023	CORTE FORTUNA	Closed	Open	3	No	EGELSTON JOHN & GENA	No	\$ 500.00	\$ 61.06	\$ 561.06
23-2958	232958005	12/4/2023	CAREY CT	Open	Open	2	No	DESHAZER TYLER & RORY	No	\$ 500.00	\$ 55.50	\$ 555.50
23-2958	23295800501	10/27/2023	CAREY CT	Open	Open	3	No	DESHAZER TYLER & RORY	No	\$ 500.00	\$ 61.06	\$ 561.06
23-2958	23295800503	1/5/2024	CAREY CT	Open	Open	1	No	DESHAZER TYLER & RORY	No	\$ 500.00	\$ 50.00	\$ 550.00
23-3212	23321200501	10/31/2023	MORAGA WAY	Closed	Open	3	No	PEREZ ALBERT EST OF	No	\$ 500.00	\$ 61.06	\$ 561.06
23-3420	23342000501	9/21/2023	RHEEM BLVD	Open	Open	1	No	BERGLUND CHRISTOPHER W	No	\$ 500.00	\$ 50.00	\$ 550.00
23-3420	23342000502	2/14/2024	RHEEM BLVD	Open	Open	0	No	BERGLUND CHRISTOPHER W	No	\$ 500.00	\$ -	\$ 500.00
23-3439	23343900501	9/26/2023	VALLEY VIEW RD	Open	Open	1	No	THOMPSON BEVERLY JEAN TRE	No	\$ 500.00	\$ 50.00	\$ 550.00
23-3439	23343900502	2/15/2024	VALLEY VIEW RD	Open	Open	0	No	THOMPSON BEVERLY JEAN TRE	No	\$ 500.00	\$ -	\$ 500.00
23-3485	23348500501	10/3/2023	EVERGREEN DR	Open	Open	0	No	BLAZONA EDGAR & TARA	No	\$ 500.00	\$ -	\$ 500.00

REPEATED FALSE ALARM RESPONSES
For Date Period 01/01/2024 Through 2/29/2024

Invoice	Invoice Date	Property Address	Responsible Party	# False Alarms	Original Amount	Owing
SMC- Jan 2024	2/7/2024	ST MARYS RD	SAINT MARY'S COLLEGE OF CALIFORNIA	12	\$6,000	\$6,000
SMC- Feb 2024	3/5/2024	ST MARYS RD	SAINT MARY'S COLLEGE OF CALIFORNIA	14	\$5,200	\$5,200



Moraga-Orinda Fire District
BOARD OF DIRECTORS
REGULAR BOARD MEETING MINUTES
February 21, 2024
(DRAFT – PENDING APPROVAL)

1. OPENING CEREMONIES

The Board of Directors convened Open Session at 5:01 p.m. on February 21, 2024, at the Sarge Littlehale Room, 22 Orinda Way, Orinda, California 94563. This meeting was conducted in a hybrid format with in-person and remote options for public participation. The meeting included teleconference participation from Board Member Greg Hasler from Celebration, Florida.

President Roemer called the meeting to order, requested an attendance roll call, and led the Pledge of Allegiance. Present were the following Directors and Staff (present in person unless noted with asterisks):

Board Member: Director Steven Danziger, Director Greg Hasler** (arrived 5:02), Director John Jex, Director Craig Jorgens, President Mike Roemer

Staff: Fire Chief Dave Winnacker, Administrative Services Director Gloriann Sasser, District Clerk Marcia Holbrook

District Counsel: Renne Public Law Group Founding Partner Jonathan Holtzman, Of Counsel Rubin Cruse**, Jr., and Senior Analyst Luke Jensen

Special Counsel: Downey Brand LLP Executive Partner Kathryn Oehlschlager

2. PUBLIC COMMENT – CLOSED SESSION ITEMS (audio 00:02:50)

There were no requests to address the Board.

At 5:03 p.m., the Board adjourned to Closed Session.

3. CLOSED SESSION

3.1 Conference with Labor Negotiator - Local 1230, IAFF

(Government Code Section 54957.6)

Employee Organization: Local 1230, International Association of Firefighters IAFF

Agency Designated Representative: Luke Jensen

3.2 Conference with Labor Negotiator – MOFCOA

(Government Code Section 54957.6)

Employee Organization: Moraga-Orinda Fire Chief Officers' Association

Agency Designated Representative: Luke Jensen

3.3 Conference with Labor Negotiator - Unrepresented Employees

(Government Code Section 54957.6)

Employee Organization: Unrepresented Employees

Agency Designated Representative: Luke Jensen

3.4 Conference with Legal Counsel - Existing Litigation

(Paragraph (1) of subdivision (d) of Section 54956.9)

Name of Case: Sandia Pearson and Anita K. Pearson v. Moraga-Orinda Fire District

Case No. N23-2201

3.5 Public Employee Performance Evaluation

(Government Code Section 54957)

Public Employee Appointment Title: Fire Chief

At 6:57 p.m., the Board adjourned the Closed Session.

4. RECONVENE THE MEETING (audio 00:03:23)

President Roemer reconvened the Moraga-Orinda Fire District Board of Directors regular meeting at **7:05 p.m.** Present were the following Directors and Staff (present in person unless noted with asterisks):

Board Member: Director Steven Danziger, Director Greg Hasler**, Director John Jex, Director Craig Jorgens, President Mike Roemer

Staff: Fire Chief Dave Winnacker, Administrative Services Director Gloriann Sasser, Fire Marshal Jeff Isaacs**, Battalion Chief Steve Gehling, Finance Manager Mary Smith**, Human Resources Manager Christine Russell, District Clerk Marcia Holbrook

District Counsel: Renne Public Law Group Founding Partner Jonathan Holtzman

5. REPORT OF CLOSED SESSION ACTION (audio 00:)

There was no reportable action regarding Items 3.1-3.5.

6. PUBLIC COMMENT - ITEMS NOT ON THE AGENDA (audio 00:04:01)

Jonathan Goodwin, Canyon resident (attended via Zoom), inquired about the writ of mandamus filed against the District concerning MOFD Ordinance 23-08. Mr. Goodwin expressed concern about a statement in a document suggesting that Counsel believed the assigned Judge might be prejudiced against the District. The request to have the Judge step aside was dismissed because it was filed 15 days after the deadline. President Roemer responded that the purpose of closed session is to avoid compromising strategy and urged Mr. Goodwin to have confidence in the Board. President Roemer asked if Mr. Goodwin considered this response fair and if he understood the Board's position.

District Clerk Holbrook stated that Mr. Goodwin was back as an Attendee and could be repromoted to allow a response. President Roemer then inquired if there were any additional public comments. District Clerk Holbrook responded that there were no additional comments; however, Mr. Goodwin re-raised his hand to respond. Mr. Goodwin noted that he had 1 1/2 minutes remaining on the timer. He then clarified that he was not asking the Board to reveal strategy but found it difficult to believe that submitting something 15 days after the deadline could be considered a strategic move. Mr. Goodwin asked for an explanation regarding the Judge's perceived unfairness to the District. He argued that that information was a matter of public concern. President Roemer declined to answer due to ongoing litigation.

There were no additional requests to address the Board.

7. ANNOUNCEMENTS (audio 00:08:54)

7.1 Brief information only reports related to meetings attended by a Director at District expense (Government Code Section 53232.3(d)). Director Danziger attended the LAFCO meeting on February 14, 2024. He reported that LAFCO employees were receiving a 4.5% salary increase. There were no expenses associated with this meeting.

7.2 Questions and informational comments from Board members and Staff. No report.

7.3 Communications Received. Two (2) communications were acknowledged: 1) LAFCO public notice that LAFCO is currently accepting applications for one alternate public member seat; 2) Letter from Fred Weil regarding insurance companies cancelling fire insurance. President Roemer acknowledged a response from Steve Cohn regarding the cancellation of fire insurance that was sent directly to the Directors but labeled not for public comment by Mr. Cohn.

7.4 Fire Chief Updates

a. Finance Report

Finance Manager Smith provided the report covering the status of Office of Emergency Service (OES) reimbursements, the Tunnel East Bay Hills Fuel Break, and Treasury Bills updates. The presentation is attached to these minutes (item 7.4(a)). Additionally, FM Smith spoke about 1) Implementing a paperless timekeeping application for Academy candidates and 2) Saint Mary's College has paid all outstanding receivables (\$49k) for Nuisance Alarms. A new invoice, however, was issued in January 2024 for Nuisance Alarms (\$6,000). Finance Manager Smith announced that the Interim Audit is scheduled for the week of March 11, 2024.

b. Human Resources

HR Manager Russell provided an update on recruitment and employment changes within the District. Five (5) Firefighter Paramedic trainees are attending the CON FIRE academy and are expected to graduate on May 20, 2024. Registration for the promotional Fire Engineer exam is open until April 7, 2024, with the examination scheduled for April 9-11, 2024. One Fuels Mitigation Specialist resigned; Staff has opened recruitment to fill the vacancy. Interviews are expected to be held in mid-March. Director Jorgens inquired about the individual's destination, and HR Manager Russell stated that such information was not provided. Director Danziger asked if the position was one of the grant-funded positions. HR Manager Russell confirmed.

- c. **Fire Marshal**
Fire Marshal Isaacs provided an update on the Fuels Mitigation Staff's activities, including enforcing regulations regarding Junipers, pre-citation notices, and educating residents seeking clarification on requirements. Additionally, Staff performed dormitory inspections at Saint Mary's College facilities.
- d. **Tunnel East Bay Hills Fuel Break Project**
Fire Marshal Isaacs reported that Crew 12 has been actively involved in fuel reduction efforts around Wilder. They have successfully created over 100 piles that are now prepared and ready for burning. The current plan is to proceed with burning once dry weather permits. Additional crews will be added in spring to ensure the project's timely completion.
- e. **Home Hardening Grant Program**
Fire Chief Winnacker informed the Board that a recommendation had been placed on the Consent Agenda (item 8.8) for the Board to authorize the acquisition of additional Gutterglove material. Staff is cautious about over-ordering, as they haven't fully grasped the demand, plus there is a lack of sufficient storage space at the Station. The plan is to purchase and distribute the new inventory and continually assess demand before considering further orders. Director Jorgens suggested increasing public awareness by hanging banners around town, expressing concern about a lack of public knowledge based on his conversations. Fire Chief Winnacker acknowledged the need for increased awareness and mentioned ongoing efforts to build awareness through various channels. Although a full-scale announcement has been delayed, the program has generated much interest, and efforts to spread the word will continue. Director Jorgens highlighted the benefits of residents installing guards during the rainy season and recommended using sandwich sign boards on roads to promote this information. Fire Chief Winnacker explained that advertising efforts have been limited to avoid overcommitting. Once Staff is caught up, the plan is to increase advertising, but caution has been exercised due to current staff and space limitations. Director Jorgens advocated for increasing the supply order, considering the available budget.
- f. **Operations**
Battalion Chief Gehling highlighted the various challenges faced by the District during the last month with a significant amount of wet weather and high winds, leading to challenges with flooding, multiple vehicle accidents, and fallen trees. The Contra Costa County Emergency Operations Center was activated on February 4, 2024. A preposition task force was set up with resources staged throughout the County to respond to incidents and assist agencies. Chief Gehling discussed the impact of the inclement weather on the freeway, with an increased number of vehicle accidents, including an incident involving Engine 43 being struck by a vehicle on Highway 24. The presentation stressed the dangers faced by emergency crews on the road. Additionally, the presentation covered a challenging residential structure fire that occurred on February 10, 2024. Despite the difficult hillside conditions, the Crew successfully contained the fire. Chief Gehling concluded with an update on the Contra Costa County Recruit Academy, reporting that the five (5) recruits from the District are progressing well.

President Roemer opened Public Comment.

Jonathan Goodwin, Canyon resident (via Zoom), expressed gratitude for the District's learning from past incidents and inquired about the Dispatch Center's staffing procedures during large water events. Fire Chief Winnacker confirmed that when the County prepositions additional resources for response, they also preposition additional resources for the Dispatch center.

There were no additional requests to address the Board.

8. CONSENT AGENDA (audio 00:30:20)

- 8.1-8.3 Meeting Minutes – January 16, 2024 (special), January 17, 2024 (regular), January 30, 2024 (special)
- 8.4 Monthly Incident Report – January 2024
- 8.5 Monthly Check/Voucher Register – January 2024
- 8.6 Monthly Financial Report– January 2024
- 8.7 Quarterly Investment Report - December 31, 2023
- 8.8 Authorize the Fire Chief to enter into a purchasing agreement with Gutterglove Inc. in the amount not to exceed \$53,722.63
- 8.9 Authorize the Fire Chief to Enter into an Agreement with Motorola Solutions for Handheld Motorola APX8000XE Radio Model 2.5 P25 Phase 2 dual band 7/800 & VHF with East Bay Regional Communications Systems (EBRCS) capabilities in the Amount Not to Exceed \$519,824.67
- 8.10 Authorize Staff to enter into a contract amendment with Fire Ready in the amount of \$74,875 in order to close out the fuel reduction work completed by Fire Ready

Director Jorgens requested that items 8.6, Monthly Financial Report–January 2024, and 8.7, Quarterly Investment Report - December 31, 2023, be pulled.

President Roemer Opened Public Comment. There were no requests to address the Board.

Motion by Director Jorgens and seconded by Director Danziger to approve Consent Agenda items 8.1, 8.2, 8.3, 8.4, 8.5, 8.8, 8.9, and 8.10. The Motion carried a 5-0 roll call vote (Ayes: Danziger, Hasler, Jex, Jorgens, and Roemer; Noes: None; Absent: None; Abstain: None).

Item 8.6 Monthly Financial Report–January 2024 and Item 8.7 Quarterly Investment Report - December 31, 2023.

Director Jorgens stated that both items could be discussed together because his concern regarding the items is the same. He raised concerns about the financial reporting for the Treasury Bill (T-bill) investments. He pointed out that the County's statements reported to the District show the value of the T-bills as if they had already reached maturity and accrued all the interest, which he believed to be inaccurate. Director Jorgens illustrated his point by citing the current period investment earnings of \$674K, not the actual amount accrued but the expected amount at the end of maturity. ASD Sasser confirmed.

Director Jorgens stated the issue was previously encountered during the year-end audit. He acknowledged that the data comes from the County but expressed concern that the current reporting makes the District's financials inaccurate. Director Jorgens inquired about how Staff can more accurately reflect their actual financial status since the County is not using accrual accounting. Director Jex responded that the District's accounting operates on a cash basis throughout the quarter and then with an accrual basis applied at the quarter's end or during the annual audit.

ASD Sasser explained that the County purchases the T-bill investments, conducts the accounting, and sends the District a monthly statement. This statement reflects full credit for the investment earnings on the day the T-bill was purchased. Staff then records this investment and reconciles the monthly balances to the County statements. Cash basis accounting is performed until the fiscal year's end on June 30. At the fiscal year's end, any necessary adjustments are made to reflect material changes or accrue for investment earnings. Director Jorgens disagreed with the County's Forward Cash Basis accounting method. President Roemer suggested that the District list the investment at the purchase price until it is sold. Director Jorgens added that it doesn't need to be done monthly but at least during the mid-year budget review. President Roemer agreed.

Fire Chief Winnacker explained that the fundamental problem lies in the County's process. He emphasized the practical challenges of creating a separate accounting structure and the substantial workload for Staff in implementing a parallel reporting system. The intent is to hold the investments to maturity, and measures are being taken to avoid crossing fiscal year boundaries. Staff could provide the market value to the Board at either monthly, bimonthly, or quarterly intervals.

President Roemer asked if it could be recorded at the purchase price, not the maturity price. Director Jorgens responded it is linear and performed at the beginning and the end. District Counsel Holtzman expressed hesitation with that approach. If the District were to sell the T-bill, the District would not receive exactly that amount. District Counsel Holtzman voiced concern about not reporting the figures provided by the County. Director Jorgens suggested that Staff add a footnote stating the numbers are an estimate because the last column will be the updated budget number anyway.

Director Hasler favored adding a footnote to the report recommending that the statement read, "There is unearned revenue of \$X at the time of purchase." President Roemer clarified if Director Hasler recommended listing the purchase price rather than the eventual sales price with the footnote. Director Hasler clarified that it should be the sales price, and Staff should keep reporting the investment the way they are currently accounting and add the footnote. That way, the reader of the financial statement will be aware.

President Roemer raised the question of consistency with the County's practices, even if deemed incorrect. Director Jex stressed the District's cash-based accounting and the importance of consistent reporting. Director Jorgens proposed totaling numbers on the Quarterly Investment Report and adding a footnote to address discrepancies. Fire Chief Winnacker expressed concern about deviating from established practices, emphasizing the risk of errors, and favored adding a footnote to clarify the realization of numbers at maturity and unearned interest. Director Jorgens urged Staff to inform the County about the inaccuracies in their accounting methods, emphasizing the need for correction. Fire Chief Winnacker concurred and stated that would be the best solution to receive a correct letter from the County. Staff will follow up with the County and determine why and what options are available to align with the actual availability of funds versus anticipated.

President Roemer supported following Director Hasler's recommendation of adding a footnote until the County issued a corrected letter. President Roemer asked if there was a consensus. All Directors agreed.

Motion by Director Jorgens and seconded by Director Danziger to approve Consent Agenda items 8.6 and 8.7 as written. The Motion carried a 5-0 roll call vote (Ayes: Danziger, Hasler, Jex, Jorgens, and Roemer; Noes: None; Absent: None; Abstain: None).

9. REGULAR AGENDA

9.1 Mid-Year Budget Review FY2024 and Approval of a Capital Projects Fund Expenditure Budget Adjustment Decrease in the Amount of \$3,794,906 and Authorize an Operating Transfer Out of the General Fund into the Capital Projects Fund in the Amount of \$3,000,000 (audio 00:48:27)

Administrative Services Director Sasser presented the report. The original budget anticipated a General Fund deficit of \$633K, but second quarter projections now indicate a reduced deficit of \$350K. This improvement is attributed to General Fund revenue surpassing the budget by \$364K, mainly from higher investment earnings following the Board's decision to invest in US Treasury Bills instead of the Local Agency Investment Fund (LAIF). The General Fund expenditures are expected to exceed budget by \$67K, with lower salaries and retirement contributions due to vacancies but increased overtime expenses. Mid-year projections include a \$463,553 contribution for Other Post-Employment Benefits (OPEB) and a \$1,569,279 contribution for the Pension Rate Stabilization Trust (PRST) Fund based on the latest actuarial report. To obtain the breakdown of information, please refer to the attached presentation (item 9.1).

Director Jorgens observed that one of the major contributors to the excess Expenditures was Leave Usage and inquired if a trend is expected to continue for the rest of the year or into the next year. ASD Sasser explained that a significant portion of the Leave Usage stems from Workers' Compensation cases, making it challenging to project.

ASD Sasser continued and highlighted two line items in the operating expense category. The first focused on the Home Hardening Grant program. The budget initially allocated \$500K for this program, but the projected expenditure currently stands at \$265K. Director Jorgens expressed concern, stating the excess allocation should be utilized for the intended purpose rather than as a reserve for other purposes. Fire Chief Winnacker underscored the challenges related to the capacity issue in managing increased distribution and highlighted that the current workload has already stretched Staff to maximum capacity. Director Jorgens proposed recruiting additional volunteers, specifically involving the Boy Scouts, to aid in distribution efforts. Fire Chief Winnacker replied that organizing volunteers, including Boy Scouts requires considerable time and effort. The second item focused on the outside attorney fees, anticipated to surpass the budget by \$100K, with \$21K related to the Fuel Break lawsuit. To address these items, Staff will make line item adjustments within the General Fund budget, eliminating the need for a budget adjustment at the board level.

ASD Sasser concluded the presentation by stating that the District's General Fund Unrestricted Fund balance was \$17.5M at the start of the fiscal year. The projected deficit is expected to reduce this balance to \$17.1M at fiscal year-end. Staff recommended a mid-year budget adjustment in the Capital Projects Fund, with an expenditure budget decrease of \$3,794,906. This adjustment reflects the removal of the Station 41/Administration construction project and the addition of the Station 45 remodel project. Additionally, Staff recommended the Board authorize an operating transfer of \$3M from the General Fund to the Capital Projects Fund to accumulate funds for future capital projects.

Director Jex inquired why the Board would consider reversing the allocation to the Station 41 project, given the ongoing commitment to the construction project. ASD Sasser clarified that the recommendation is a budget adjustment to decrease the Capital Projects expenditures because the District will not spend that money between now and the fiscal year-end on June 30. The Board can reallocate additional funds from the General Fund to the Capital Projects Fund in the next budget cycle.

Director Jex pointed out that the Long Range Financial Forecast (Forecast) anticipated a \$19M reserve for Capital Expenditures and questioned the rationale behind decreasing the budget. ASD Sasser answered that the next Forecast is scheduled for the March 2024 Regular meeting. The Forecast will be adjusted so those funds will remain in the Capital Projects Fund and be spent a few years later. Director Jex asked if the expectation is that the District will have more resources in the future than now. There should be allocations of \$3M and another \$3M. Director Jex voiced reservations about the proposed reversal of \$3.4M. Director Jorgens stated that \$5.8M had been initially removed from the planned expenditures, with \$2M allocated. The result is a reduction of \$3.8M from the expected expenditure.

ASD Sasser clarified that the Capital Projects Fund budget was initially \$10.7M. The District will not spend that amount due to the decision not to rebuild Station 41 in the current fiscal year. The revised

projection for expenditures in this fiscal year is \$4M, leading to the recommendation for a budget adjustment to decrease the Capital Projects Fund budget.

Director Jorgens contended that the Board has not approved the \$2M expenditure, and there have not been any proposals on how those funds will be spent. Director Jorgens questioned the readiness to write a \$2M check. Fire Chief Winnacker acknowledged the unlikelihood of the project generating such expenses by the end of the fiscal year. The intention was to avoid the need for a correction, given that if the funds are not spent, they return to the Capital Fund for allocation to this project in the following year.

Director Jex pointed out that when the Board allocated funds into the Capital Projects Fund, it was for current and future long-term Capital expenditures. Director Jorgens raised a question about the current budget allocation for the Capital Fund. ASD Sasser answered \$3M. Director Jorgens asked if Staff was asking to put more into the fund. ASD Sasser clarified, no, it is the same budgeted amount.

ASD Sasser clarified that the original budget included a \$3M transfer from the General Fund to the Capital Projects Fund. Staff recommended that the Board authorize the execution of this transfer. Director Jex referenced the \$3.4M reversal. ASD Sasser stated this is not a reversal but a reduction in the Capital Projects Fund expenditure budget.

Director Jorgens questioned the need for Board approval if the allocation is already in the budget. ASD Sasser explained that Board approval is recommended and considered good practice, as the auditors inquire about authorized transfers. Obtaining approval enhances transparency and helps avoid potential oversights in the budgeting process. Fire Chief Winnacker highlighted that the transfer is documented in the Long Range Financial Forecast on line 45 titled, Transfer In From General Fund – Prior POB Money, with a value of \$3M. He emphasized it is a best practice for a transfer of this magnitude to have the Board's approval and the opportunity for the Board to have input. Director Jex sought assurance that the entry did not represent a reduction to the Capital Fund. Fire Chief Winnacker confirmed it is a reduction in expenditures, and the funds will remain in the Capital Fund as intended. Staff also recommends the Board authorize the transfer of \$3M as scheduled in the Forecast.

Director Jorgens asked if Staff arrived at the figures by taking money from the Home Hardening Grant program. ASD Sasser confirmed and explained that the General Fund expenditure budget is sufficient to cover the remaining fiscal year's expenditures. The Home Hardening Grant program reduction was based on discussions with the Fire Chief that not all of the allocated budget will be utilized this fiscal year.

Director Jorgens expressed disagreement that he did not want the recommendation's approval to be contingent on the assumption that the original budgeted funds allocated to the Home Hardening Grant program wouldn't be spent. Director Jorgens intended to work towards finding the necessary resources to fulfill the budgeted objectives. ASD Sasser acknowledged. Staff will return to the Board for approval if a budget adjustment is necessary.

President Roemer opened Public Comment.

Jacob Airola, Local 1230 Union Representative (attended in person), inquired about the restricted Capital Projects Fund reserved for the Station 41 project and whether it is subject to T-bill investments and incurs interest on the restricted money. ASD Sasser responded affirmatively, stating that all the District's money, including the General and Capital Projects Fund, is invested.

Director Jorgens raised concerns about the \$2.6M in the Chase account with a 0% interest rate. ASD Sasser explained that an RFP was conducted, resulting in the current bank account structure. Director Jorgens suggested minimizing the checking account balance and possibly reissuing an RFP for banking services. Fire Chief Winnacker explained the uniqueness of small government banking. Director Danziger asked about the timing of funds in the account that are allocated for payroll, and ASD Sasser explained that ADP, the payroll provider, necessitates the funds to be in the account prior to pay date.

Jonathan Goodwin, Canyon resident (attended via Zoom), commented on the legal costs related to the writ of mandate situation and the previous payout in an employment situation where the District's policy did not align with law. He thought the Board should scrutinize how money is spent on lawsuits. He cautioned that failure to address these concerns might become an issue in future elections.

There were no additional requests to address the Board. President Roemer opened Public Comment on the Motion.

Motion by Director Jorgens and seconded by Director Roemer to authorize an Operating Transfer Out of the General Fund into the Capital Projects Fund in the amount of \$3,000,000.

Fire Chief Winnacker clarified that two items were being recommended for approval. The first is related to decreasing the Capital Projects Fund Expenditures, and the second part pertains to the Operating Transfer out of the General Fund into the Capital Projects Fund. President Roemer inquired whether Director Jorgens wanted to amend his Motion considering this clarification.

Director Jorgens inquired about the Operating transfer. Fire Chief Winnacker elaborated that Staff recommend adjusting \$3.7M that the District will not spend and then secondarily transferring \$3M to the Capital Project Fund. Director Jorgens observed that the two numbers being changed are \$5.8M to \$2M, resulting in a \$3.8M adjustment that included a whole bunch of other numbers. Given the involvement of various numbers in the adjustment, he questioned whether the Board was essentially approving a new budget.

ASD Sasser stated the budget for the Capital Projects Fund expenditures is \$10,770,263, and the projected actual spending is \$6,975,000. The recommended adjustment of \$3,794,906 is meant to decrease the expenditure budget since the District will not be spending that amount in the current fiscal year. Director Jorgens questioned the need to make the budget adjustment. ASD Sasser responded that the adjustment is recommended and is at the Board's direction. Director Jex inquired if the end-of-year projection for June 30 was a \$6M balance in the Capital Fund. ASD Sasser confirmed.

There were no additional requests to address the Board. President Roemer opened Public Comment on the Motion.

Director Jorgens proposed a friendly amendment to the previous Motion to approve the \$2M allocation for the Station 45 remodel project, the removal of the budget for Station 41 construction, and the \$3M transfer for the Operating Transfer. He suggested limiting approval to these specific items, as he believed that approving other adjustments might entail approving a substantially different budget. Director Jorgens felt that the Board had not spent enough time thoroughly reviewing and modifying each line item in the budget.

Amended Motion by Director Jorgens and seconded by Director Jex to Authorize an Operating Transfer Out of the General Fund into the Capital Projects Fund in the amount of \$3,000,000, the reduction of the budget for the Station 41 remodel in the amount of \$5.8M, and the increase in the budget by the \$2M for the Station 45 remodel. Said Motion carried a 5-0 roll call vote (Ayes: Danziger, Hasler, Jex, Jorgens, and Roemer; Noes: None; Absent: None; Abstain: None).

9.2 Determine the amount of the OPEB trust contribution and the amount of the Pension Rate Stabilization Trust contribution for fiscal year 2024 and authorize a transfer of District funds to complete the trust contributions (audio 01:17:30)

Administrative Services Director Sasser presented the report. The General Fund budget includes \$543K for an OPEB (Other Post-Employment Benefits) trust contribution, with the most recent actuarial valuation calculating a trust contribution of \$463,553. For the pension trust contribution, the budget includes \$1,569,279. The amount and timing of both contributions are subject to Board authority. Staff recommended that the Board determine the amounts of the OPEB and pension trust contributions and authorize the transfer of District funds for these trust contributions. Director Danziger supported the OPEB contribution of \$463,553 and the pension trust contribution of \$1,569,279 as budgeted. Director Jorgens agreed.

President Roemer opened Public Comment. There were no requests to address the Board. President Roemer opened Public Comment on the Motion. There were no requests to address the Board.

Motion by Director Jorgens and seconded by Director Jex to approve the OPEB trust contribution in the amount of \$463,553 and the pension rate stabilization trust contribution in the amount of \$1,569,279 for fiscal year 2024 and authorize the transfer of District funds to complete the trust contributions. Said Motion carried a 5-0 roll call vote (Ayes: Danziger, Hasler, Jex, Jorgens, and Roemer; Noes: None; Absent: None; Abstain: None).

9.3 First Reading and Introduction of Ordinance No. 24-01, An Ordinance of the Moraga-Orinda Fire Protection District of Contra Costa County Revising a Schedule of Fees for District Services and Superseding Ordinance No. 23-02, as amended pursuant to Board direction. (audio 01:20:13)

Fire Chief Winnacker presented the staff report, outlining revisions to the schedule of fees for district services. Following the Board's directive at the January 17, 2024 meeting, the proposed fees now reflect a 5% increase based on the most recent salary adjustments, compared to the initial 2.8% increase suggested by Staff. The revised fee schedule introduced 12 additional fees outlined in the staff report.

The fee schedule also clarifies false alarms, distinguishing between "false alarms" and "nuisance alarms." Staff recommended the Board introduce and waive the reading of Ordinance No. 24-01 to revise the fee schedule, superseding Ordinance No. 23-01. The proposed changes are slated to take effect April 22, 2024

Director Jorgens inquired about the threshold of false or nuisance alarms that would trigger fines from the District. Fire Chief Winnacker responded that the number remains unchanged from the current practice. Director Danziger sought clarification on solar fees and service distinctions between the District and Contra Costa County. Fire Chief Winnacker clarified that the District enforces the fire code, whereas the County focuses on building codes and solar panels are subject to both codes. With regard to the fire code requirements, these are largely related to firefighter safety during an emergency response. In response to the question about the solar fee, Fire Chief Winnacker answered no; the fee was part of another category in the current fee schedule and this item does not create a new expense for residents seeking to add solar systems in the district.

President Roemer opened Public Comment.

Jonathan Goodwin, Canyon resident (attended via Zoom), commented on one issue mentioned by the Fire Chief regarding roof ventilation problems arising from structures designed to maximize power usage. He highlighted a historical lack of communication between the District and the community and suggested creating a communication tool to keep the community engaged and aware.

There were no additional requests to address the Board. President Roemer opened Public Comment on the Motion. There were no requests to address the Board.

Motion by Director Jorgens and seconded by Director Jex to Introduce and Waive the Reading of Ordinance No. 24-01 of the Moraga-Orinda Fire Protection District of Contra Costa County Revising a Schedule of Fees for District Services and Superseding Ordinance No. 23-02 effective April 22, 2024. Said Motion carried a 5-0 roll call vote (Ayes: Danziger, Hasler, Jex, Jorgens, and Roemer; Noes: None; Absent: None; Abstain: None)

9.4 Resolution 24-03, a Resolution of the Board of Directors of the Moraga-Orinda Fire Protection District nominating a Director as a Representative of Special Districts on the Contra Costa Local Agency Formation Commission (LAFCO) (audio 01:32:18)

Fire Chief Winnacker presented a report. The District received correspondence from Lou Ann Texeira, LAFCO Executive Officer, advising all independent special districts of an upcoming election for a Special District (Regular) seat on Contra Costa LAFCO. It is recommended that the Board adopt a resolution to nominate a MOFD Board member to serve if interested. The Board did not express any interest in making a nomination.

President Roemer opened the Public Comment.

Jonathan Goodwin, Canyon resident (attended via Zoom), stressed the importance of the District remaining vigilant and involved in LAFCO. Director Jorgens clarified that Director Danziger serves as the District's representative and attends LAFCO meetings.

There were no additional requests to address the Board.

9.5 Adopt Resolution 24-02 revising Rules of Procedure for Board Meetings addressing voting requirements, rules for public comment, removal of the Board Officer positions of Secretary and Treasurer, and adding disruptive conduct procedures (audio 01:35:40)

District Counsel Holtzman presented the report, marking the second time the amendments have been brought before the Board. An amended proposed Rules of Procedures that incorporated changes was distributed to the Board and public during the meeting. The amended Rules of Procedures are available on the District's website at www.mofd.org/agendas and are attached to these meeting minutes (item 9.5). District Counsel Holtzman clarified that the redlined changes in the newly distributed version represent modifications made on top of the changes initially posted in the agenda packet.

District Counsel Holtzman stated that the decision to adopt the revised rules of procedure will depend on the extent of changes made tonight. If there are only a few changes, the Board may proceed with the adoption, as the item is currently slated for adoption. Alternatively, if substantial changes are made, deferring adoption in the following months is possible. District Counsel Holtzman proceeded to review the major modifications:

Section 2.5 PUBLIC HEARINGS

Removal of the allowance for Testimony by Proponents, Testimony by Opponents and Rebuttal by Proponents in non-quasi-judicial public hearings. This decision stems from the nature of these hearings, often mandated by the fire code or other regulations. No objections were voiced regarding this change.

Section 4.4 DECORUM AND ORDER - PUBLIC

Removal of the first paragraph and paragraph (c) due to language that could pose constitutional issues and potential legal concerns related to the content of those sections. Added to paragraph (a) Brown Act, Government Code section 54957.95. This code section was enacted approximately a year ago and included as a measure to handle disruptive conduct during meetings.

Section 4.10 PROCEDURES IN ABSENCE OF RULES

Counsel initially proposed changing the procedures in the absence of rules from Robert's Rules of Order to Rosenberg's Rules of Order as they are considered more straightforward to understand. Counsel received an objection from a Director for that change. Therefore, Counsel reversed the change back to Roberts Rules of Order. No objections were voiced regarding this change.

Section 12 STANDING OR AD HOC COMMITTEES

Changes were made in this section at the request of a Director. Additional details were added to elaborate on the appointment of committees and who appoints. **Director Jorgens pointed out that Section 12, as currently written, seems redundant and suggested alternative wording: "appoint committees and their members." District Counsel Holtzman agreed to amend the paragraph.**

Section 13 BOARD ATTENDANCE AND VACANCIES

Section 13 was added at the request of a Director to establish the expectation that individuals are expected to attend meetings with procedures on what to do if they are unable to attend. In addition, Government Code Section 1780 (Health and Safety Code 13852(b)) was added on how to handle Board Vacancies in response to questions raised by two Directors. No objections were voiced regarding this change.

Section 2.2 DELIVERY OF AGENDA FOR REGULAR MEETINGS

Staff initially proposed the deletion of "reports and other documentation related thereto" from the first sentence in paragraph (a). Counsel received a suggestion from a Director that it be restored. Counsel did not believe that Staff had any objections to restoring that language.

Fire Chief Winnacker stated that the reason for removing specific language was to align with the established practice. The standard protocol involves excluding PowerPoints and Operations reports from the packet to guarantee that the information being presented during the meeting remains current and up to date. A plain reading of the language suggested that those presentations would need to be included in the packet under the proposed change. The removal of that language was intended to reflect that Staff reports and supporting material would be included in the packet. The associated presentations and supporting material would be presented at the meeting and included in minutes following the meeting. Director Jorgens expressed his intention for the change to allow Staff to release certain materials earlier, when possible, to provide more time for the Directors to review the material. Director Jorgens suggested adding the phrase "when possible" to the current language for early distribution of materials to the Board.

District Counsel Holtzman noted that the second request for discussion, raised by a Director, pertained to changing the due date for the publication of the packet from Friday to Wednesday. Director Danziger expressed concerns about changing the due date to Wednesday and the undue burden it would place on Staff. Director Danziger proposed a compromise to add language to say, "the agenda publication and distribution shall be done as early as the close of business on the Wednesday preceding the regular scheduled board meeting and no later than the close of business on Friday."

Director Jorgens expressed a willingness to keep the formal due date on Friday but suggested that, when possible, send portions of the packet out ahead of time. Director Danziger asked if that approach was allowed. Fire Chief Winnacker explained the challenges associated with the production of the Packet and expressed concerns about maintaining consistency, transparency, and version control if portions were sent separately.

Director Jorgens questioned whether there are items that can be sent to Directors without being published in the packet (example the CCCERA report). Fire Chief Winnacker responded that Staff could communicate with Directors outside of the packet but emphasized that those requests would be subject to a Public Records Request. District Counsel Holtzman also questioned how Staff would know which documents the Board desires beforehand. Director Jorgens proposed a simplified approach, sending documents on Wednesday if available or distributing everything on Friday. Director Jorgens clarified that the proposed change doesn't need to apply to every single item but should consider significant documents, such as the CCCERA report.

Director Danziger recommended leaving the current wording as it is written, allowing Staff to produce the packet sooner when feasible. District Counsel Holtzman emphasized the substantial workload and time commitment of producing the packet. He pointed out that the existing process of creating the Board packet is not broken and preferred to maintain the current process.

Fire Chief Winnacker stressed the complexity of the compilation process and suggested if the deadline shifts to Wednesday, items received on Thursday or Friday would not be included. Fire Chief Winnacker highlighted the impracticality of dribbling out information and having to reissue the packet, as it consumes significant staff resources.

President Roemer and Director Danziger favored maintaining the Friday deadline but urged Staff to produce the packet sooner. Director Jorgens clarified that the decision is explicitly for a Friday as the deadline, not based on best efforts. Fire Chief Winnacker sought clarity on the Board's direction regarding when Staff would publish the packet.

Director Danziger favored keeping the packet publication deadline on Friday. President Roemer and Director Hasler concurred, favoring Friday as the deadline. Additionally, Director Jex agreed to leave it as Friday but suggested having Wednesday as a target to encourage earlier publication efforts. District Counsel Holtzman summarized that the Board is directing Staff to leave the language regarding the packet publication as Friday. Directors Danziger, Hasler, Jex, Jorgens, Roemer all agreed.

District Counsel Holtzman informed the Board of a proposal that had been discussed with a Director about adding language allowing of additional time, upon request, for public comment. Counsel advised against this idea, expressing concerns about the discretionary nature, and recommended staying with a defined time allotment.

District Counsel Holtzman then inquired if there were any other items the Board wished to consider or discuss pertaining to the revised Rules of Procedure. Director Danziger raised the following items for discussion:

Section 1.1 REGULAR MEETING

Director Danziger noted that it currently states closed sessions begin at 6:00 p.m., but today's meeting started at 5 p.m. Director Danziger suggested that no specific time should be mentioned. District Counsel Holtzman agreed with the suggestion, acknowledging that he would find a way to adjust the information since it's not a regular session. Director Jorgens also agreed with this adjustment and suggested: "as described on the agenda."

Section 7.7 MOTION TO TABLE

Director Danziger asked for Counsel to explain the rule on MOTION TO TABLE. District Counsel Holtzman read Rosenberg's Rules of Procedure.

Motion to table. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on "hold." The motion can contain a specific time in which the item can come back to the body. "I move we table this item until our regular meeting in October." Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting.

District Counsel Holtzman explained a Motion to Table means this Motion, if passed, requires the discussion of the agenda item to be halted and the agenda item to be placed on "hold." In other words, the Motion takes precedence over other matters. Director Danziger asked if a Motion to Table requires a second. District Counsel answered yes.

Director Danziger then asked about the procedures for adding agenda items. Director Jorgens responded that items are added during the future agenda items section on the agenda. However,

items should also be allowed at the end or middle of a discussion because it seems redundant to have to request the item again at the end of the meeting.

Director Danziger inquired about the procedure for adding agenda items in between meetings. Fire Chief Winnacker explained the challenge with board members making requests outside of a meeting. He mentioned that such requests were received in a manner that prevented other board members' input, leading to potential bias in staff resource allocation. Fire Chief Winnacker recommended limiting agenda item requests to board meetings to ensure a comprehensive discussion and consideration of factors by the entire Board to avoid preferential access to staff resources and potential one-sided influences on the conversation. District Counsel concurred and highlighted that some requests could require a substantial amount of legal time. Counsel reviewed the benefits of discussing future agenda items as a group and, therefore, shaping the agenda item.

President Roemer stressed the need for caution in placing items on the agenda that strictly pertain to the business of the fire board and to avoid national issues. Fire Chief Winnacker felt that it was a disservice to Staff if they were inadvertently recruited to support individual directors' perspectives, and at the same time, conveying that issues are irrelevant to the fire district's operations to superiors can be challenging. Fire Chief Winnacker expressed a preference for such discussions to take place among the board members. President Roemer agreed. Director Danziger agreed.

District Counsel Holtzman inquired about the protocol in case of an emergency. Fire Chief Winnacker responded by explaining the past practice, particularly for potentially controversial matters during emergencies. In such situations, deference is given to the President, who serves as the Chair of the Board (this is an exception rather than a rule). President Roemer sought clarification on the categories of emergencies. Fire Chief Winnacker explained that emergencies are specific to matters of the Board and not the normal sequence of adding things for normal operations.

4.4 (c) DECORUM AND ORDER - PUBLIC

Director Danziger said he found the paragraph confusing. **The issue was in the second sentence, starting with "it." He also asked about the word chilling. District Counsel Holtzman stated the paragraph would be corrected, and the word chilling is a legal term.** He explained the legal context, highlighting the protection of free speech under US Supreme Court law, even if the speech is distasteful. The focus is on conduct that interferes with the Board's ability to function. The argument is that while speech is protected, certain types of disruptive behavior can impede the Board's ability to conduct meetings effectively. The District has the obligation to maintain a workplace free from harassment under Title VII. Adopting rules of conduct against disruptive conduct, rather than speech content, is the intention.

Director Jorgens inquired if the Board should stop taking public comments over Zoom. District Council Holtzman stated it is a policy choice for the Board. Director Jorgens favored leaving things the way they were as long as things were going okay. District Council Holtzman is addressing the potential legal risks associated with the proposed measure. They acknowledge that while many jurisdictions are adopting similar measures, there remains a potential threat of legal action from individuals who claim that such measures discriminate against their viewpoints. President Roemer expressed support.

Section 8 VOTING PROCEDURE

Director Danziger inquired about the voting order used when the Clerk calls the Board to vote. District Clerk Holbrook responded that the voting order is alphabetical, with the President called last. Director Danziger sought clarification on how this order was determined. District Clerk Holbrook explained that it was a historical practice in place when she assumed the Clerk position. Director Danziger asked if there was anything in Roberts's rules of order about voting procedures. Fire Chief Winnacker confirmed that Roberts's Rules of Order (12th Edition, Section 45-48) states that roll calls are taken alphabetically with the exception of the president officer, whose name is called last.

Section 11 ELECTION OF OFFICERS

Director Danziger inquired about what happens to the individuals currently holding the Board Secretary and Treasurer positions if those roles are eliminated and a second Vice President is added. Additionally, he sought information on the effective date of these changes.

District Council Holtzman stated the Board could make it effective on the final passage of the Resolution or effective at the end of the next election and every year we have our next elections.

All Directors agreed to have it go into effect at the end of the next election and every year we have our next elections. **District Council Holtzman stated he would write in “nothing herein shall affect those who have been appointed prior.”** All Directors agreed.

District Council Holtzman conveyed he would revise the draft resolution and seek final approval at the March meeting.

President Roemer opened Public Comment.

Jonathan Goodwin, Canyon resident (attended via Zoom), stated that the current rules say that a Board Member desiring to speak shall be recognized by the Presiding Officer. Currently, the Board does not follow this rule. Mr. Goodwin suggested the language be altered to say at the discretion of the presiding officer, and the same rule will apply to all board members if it switches from one to the other. In addition, Mr. Goodwin suggested, regarding large Board packets, adding a section on the website for material sent out in advance for review, noting these items will be discussed in the upcoming agenda that will be published by the Wednesday before and with the understanding that these are subject to change and are not final. Items would be at the discretion of the Fire Chief.

There were no additional requests to address the Board.

9.6 Discussion regarding the addition to the Rules of Procedure Section 4.7 (b) Conflict of Interest and Section 11 regarding the Successorship of Election of Officers (audio 02:23:52)

District Counsel Holtzman provided the report. At the January 17, 2024, regular board meeting, Staff was directed to reintroduce two items for board direction:

1. Proposed addition to the Conflict of Interest, (§) 4.7, provision relating to Board members' receipt of campaign contributions from a party or prospective party to a proposed District contract or any agent, representative, or affiliate thereof. *(see the board staff report for complete language)*
2. Proposed addition to the Election of Officers, (§) 11, stating no member of the Board shall serve in the same position of President or Vice President for more than one consecutive year unless all other board members decline to accept nomination to serve as either President or Vice-President, in which case the current President or Vice President may serve a second consecutive term in that office.

Director Danziger favored the proposed additional language for the Election of Officers. He opposed the Conflict of Interest addition, finding it arbitrary, capricious, and exceeding state law and feeling it would be burdensome and difficult to manage and enforce. Director Danziger proposed referencing the Levine Act in the Rules of Procedures and including it as an attachment.

Director Hasler had no comment about the additional language regarding the Election of Officers. However, he expressed uncertainty about adding the new Conflict of Interest language and reservations about the proposed addition. District Counsel Holtzman sought direction from the Board and clarified that Director Danziger supported the new language for the Election of Officers (§) 11. The matter was considered concluded unless there were objections. Directors Danziger, Jorgens, and President Roemer all agreed, and the rest of the Board expressed no objections.

District Counsel Holtzman continued the discussion of addressing the Conflict of Interest proposed language and inquired about the Directors' preference for including the Levine Act in the Rules of Procedures or the new proposed additional language outlined in the staff report. Director Jorgens stated that since the Levine Act is the law, quoting it might not be necessary since it's already established. There are numerous other laws not referenced in the Rules of Procedure.

Director Jorgens favored leaving the Conflict of Interest section 4.7 the way that it was (in its existing state). Director Danziger agreed. Director Jex agreed with the law as it was defined. District Counsel Holtzman emphasized the Levine Act applies and is strict. Director Jorgens stated that it ignores labor contracts. District Counsel Holtzman concurred it ignores competitively bid, labor, or personal employment contracts. **District Counsel Holtzman concluded there was consensus that the Conflict of Interest Section 4.7 would remain unchanged from the original language in the Rules of Procedure. All Directors agreed.**

President Roemer opened Public Comment.

Jonathan Goodwin, Canyon resident (attended via Zoom), inquired whether labor contracts were exempt from conflict of interest laws. District Counsel Holtzman confirmed and explained the Levine Act.

There were no additional requests to address the Board.

10. COMMITTEE REPORTS (audio 02:32:51)

10.1 Standing Audit Committee (Directors Jex & Hasler). No report

10.2 Ad Hoc Committee Joint Fire Prevention w/City of Orinda (Directors Jorgens & Roemer).
Director Jorgens reported the next meeting will be held on March 21, 2024.

President Roemer opened Public Comment. There were no requests to address the Board.

11. ANNOUNCEMENTS (audio 02:33:24)

11.1 Future Agenda Items.

Director Danziger requested an agenda item to discuss the recognition of various groups and traditions outside of the District's scope, including recognitions or proclamations of months like Black History Month and LGBTQ Month. Director Danziger stressed that there was no urgent need for the discussion and delegated the decision on when to include it on the agenda to the Staff. District Counsel Holtzman explained the issue originated from Director Danziger's recognition inquiry, prompting Staff to suggest a Board discussion to collectively decide how to handle various recognitions, acknowledging the challenge that recognizing one group might leave others unacknowledged.

President Roemer inquired about the discussion encompassing the appropriateness of taking a moment at the end of a meeting to honor something when adjourning. District Counsel Holtzman clarified that the intention was not to dictate individual statements but to collectively decide how the Board would handle recognitions. President Roemer expressed understanding.

District Council Holtzman responded that it would be better to establish general guidance on how the Board would approach these recognitions to avoid inadvertently insulting one group when recognizing others. All the directors agreed.


President Roemer opened Public Comment. There were no requests to address the Board.

12. ADJOURNMENT

At 9:38 p.m., Director Danziger motioned and seconded by Director Roemer to adjourn the meeting in recognition that February is Black History Month. Said Motion carried a 5-0 roll call vote (Ayes: Danziger, Hasler, Jex, Jorgens, and Roemer; Noes: None; Absent: None; Abstain: None)

/s/ Marcia Holbrook
District Secretary/District Clerk

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



Moraga-Orinda Fire District
Board of Directors

Finance Report
February 21, 2024

1

Strike Team Reimbursement - OES

- Strike Team Receivable Update:

	Estimated
	<u>2023-2024</u>
OES Strike Team Receivable	\$633,341
OES Payments Received	<u>\$590,592</u>
Net Receivable Outstanding	\$ 52, 592
- \$198k received since last Board meeting

2

Tunnel East Bay Hills - Financial Update

- Tunnel East Bay Hills Financial Update:

Project Budget	\$6,380,563
Invoiced to Cal Fire through 12/31/23	\$2,131,192
Payments Received from Cal Fire	<u>\$ 1,178,650</u>
Outstanding Receivable – 4Q23 Invoice	\$ 952,542
1Q24 Expenses not yet billed	\$ 0
Total Expenses Outstanding	\$ 952,542
- Invoice for 4Q23 submitted to Cal Fire on 1/31/24

3

Treasury Bill Update:

- The District now has \$24.2 million invested in Treasury Bills
- Treasury bill maturity:
 - \$3.0 million matures 2/15/24 @ 5.325%
 - \$4.5 million matures 2/22/24 @ 5.335%
 - \$3.0 million matures 3/21/24 @ 5.351%
 - \$1.3 million matures 5/23/24 @ 5.371%
 - \$12.4 million matures 6/13/24 @ 5.307%
- Staff will project cash flows to determine amount of reinvestment available when treasury bills mature

4

Other Items:

- New timekeeping application in use for Academy candidates – replaces paper timesheets
- In January, SMC paid outstanding receivable of \$49k for Nuisance Alarms from August 2022 through December 2023 (paid via credit card)
- The Interim Audit will take place the week of March 11th

5



Moraga-Orinda Fire District Board of Directors

Human Resources Update – February 21, 2024

RECRUITMENT UPDATE

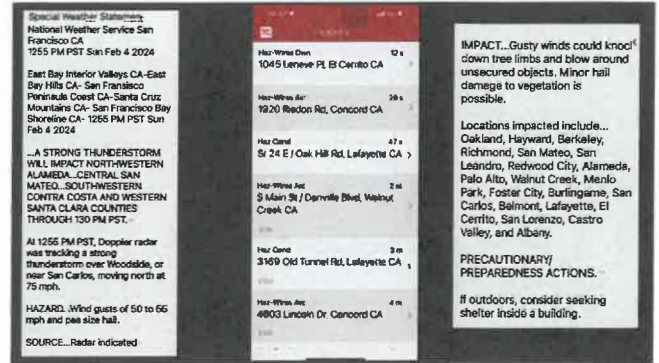
- Firefighter Paramedic Trainee
- Promotional Fire Engineer/Fire Engineer Paramedic II

EMPLOYMENT CHANGES

- Employee Separation
 - Fuels Mitigation Specialist – resigned January 2024



1



2



3



4



5



6



7



8



9



10



11



12



Mid-Year Budget Review

July 1, 2023 – December 31, 2023

1

Quarter Two General Fund Surplus Projections

- Budget deficit \$633K
- Projected deficit \$350K

	Budget June 2023	Projected After Quarter Two
Revenue	\$34.8M	\$35.2M
Expenditures	\$32.5M	\$32.5M
Transfer out to Capital Projects Fund	\$3.0M	3.0M
Deficit	(\$633K)	(\$350K)

2

Quarter Two Financial Update

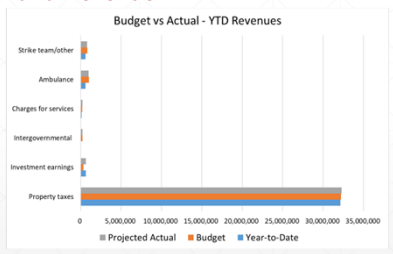
General Fund Revenue – Exceed budget \$364K

- Property tax exceed budget +\$78K
- Investment earnings +\$310K
- Ambulance services (\$32K)
- Strike team revenue (\$30K)

3

General Fund Revenue

Budget vs Actual - YTD Revenues



4


Property Tax Revenue Detail

	Current Year to Date	Total Prior Year	Percentage Change	Notes
Current Secured	\$30,925,162	\$29,470,154	4.94%	Complete - all revenue received for they year
Supplemental	127,094	1,012,057	-87.44%	Incomplete - largest amount to be received in May
Unitary	318,451	301,461	5.64%	Complete
Current Unsecured	958,078	728,213	31.57%	Complete
Prior	(197,813)	(79,024)	150.32%	Incomplete
Total	32,130,972	31,432,861	2.22%	

5

Ambulance Transports & Revenue

Number of Transports July - December



6

Quarter Two Financial Update

General Fund Expenditures – Exceed Budget \$67K

- Salaries less than budget \$509K
- Overtime exceed budget \$1.8M
- Strike team overtime less than budget \$80K
- Retirement contributions less than budget \$415K
- OPEB contribution less than budget \$79K (based on most recent actuarial report)
- Pension rate stabilization trust contribution \$1.6M
- Operating expenses less than budget \$60K

7

Quarter Two Financial Update

Operating Expenses

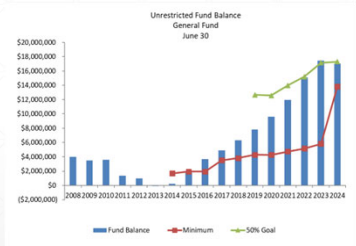
	Budget	Projected FY2024 Expenditures	Fire Chief Line Item Adjustment
Home hardening grant program	\$500,000	\$265,000	(\$235,000)
Outside attorney fees	275,000	375,000	100,000

Outside Attorney Fees

	July 1, 2023 - December 31, 2023	Percentage of Total Cost
Fuel Break Lawsuit	\$40,623	21.10%
Other Legal	151,901	78.90%
Total	\$192,524	100.00%

8

General Fund Unrestricted Fund Balance



9

Recommended Budget Adjustment Capital Projects Fund and Authorize Transfer

- Expenditures – Decrease \$3,794,906 to reflect elimination of Station 41/Administration construction project and addition of the Station 45 remodel project
- Board authorize operating transfer out of the General Fund into the Capital Projects Fund \$3,000,000

10

Financial Update Plan FY2024



11

RESOLUTION NO. 24-02

**RESOLUTION OF THE BOARD OF DIRECTORS OF
THE MORAGA-ORINDA FIRE DISTRICT
ADOPTING REVISED RULES OF PROCEDURE FOR BOARD MEETINGS
AND RELATED FUNCTIONS AND ACTIVITIES**

WHEREAS, the Board of Directors (“District Board”) of the Moraga-Orinda Fire District ("District") has previously adopted Rules of Procedure to govern the conduct of its meetings and related functions and activities through Resolution Number 07-02;

WHEREAS, on January 19, 2011, the District Board adopted Resolution No. 11-03 which repealed Resolution Number 07-02 and adopted new Rules of Procedure to govern the conduct of its meetings and related functions and activities;

WHEREAS, the District Board desires to further amend its Rules of Procedure to comply with changes in the Brown Act and other laws, to include additional provisions relating to addressing disruptive conduct and relating to conflicts of interest, and for purposes of clarification.

NOW, THEREFORE, BE IT RESOLVED that the District Board does hereby repeal Resolution Number 11-03 relating to the adoption of Rules of Procedure and related functions and activities within the District.

BE IT FURTHER RESOLVED that the District Board does hereby adopt the following Rules of Procedure for District Board meetings and related functions and activities:

PURPOSE: The purpose and intent of the District Board in adopting these rules is to provide directory, as opposed to mandatory, guidelines relating to the conduct of the public business by or on behalf of the District Board, and in the event of any noncompliance with or violation of any provision herein, such will not be deemed to affect the validity of any action taken, unless otherwise specifically provided by law. ~~or specifically provided by these rules.~~ These procedures are intended to supplement and implement provisions of the Ralph M. Brown Act, Government Code section 54950 et seq., (the "Brown Act").

1. MEETINGS

1.1 REGULAR MEETING:

The District Board shall hold regular meetings located at 22 Orinda Way, Orinda, CA on the third Wednesday of the month, with the Closed session beginning at 6 p.m. and the Open session beginning at 7 p.m.. When the day for a regular meeting of the District Board falls on a legal holiday, the District Board, at the preceding meeting, shall determine the time and date of any rescheduled meeting.

The meeting site may be changed for convenience, to accommodate larger attendance, and for other reasons, provided that the alternate location is within the jurisdiction of the District, permitted by law, accessible as required pursuant to the Americans with Disabilities Act, and the alternate location is posted at the District offices and on its website. (Govt. Code § 54954)

1.2 ADJOURNED MEETINGS TO A FUTURE DATE:

Any meeting may be adjourned to a time, place, and date certain, but not beyond the next regular meeting, in compliance with the Brown Act, Government Code Section 54955. Once adjourned, the meeting may not be reconvened until the date of the adjourned meeting. Whenever a regular or adjourned meeting is adjourned as provided in this section, the resulting adjourned meeting is a regular meeting for all purposes.

The Clerk shall provide notice of an Adjourned Meeting in the same way required for a special meeting. A copy of the notice of adjournment shall be posted on or near the door of the place where the meeting was held within twenty-four hours of adjournment. If the adjourned meeting occurs more than five days after the meeting that was continued, a new agenda for the adjourned meeting shall be posted 72 hours in advance of the adjourned meeting.

1.3 SPECIAL AND EMERGENCY MEETINGS:

Special and emergency meetings shall be held and noticed in compliance with the Brown Act, Government Code Sections 54956 and 54956.5

Special Meetings may be called by the Board President or majority of Board Members on 24-hours notice, as set forth in Government Code section 54956. The notice shall specify the time and place of the special meeting and the business to be transacted or discussed. Only matters contained in the notice may be considered.

1.4 QUORUM:

Pursuant to Health & Safety Code section 13856:

- (1) A majority of the District Board shall constitute a quorum for the transaction of business.
- (2) The District Board shall act only by ordinance, resolution, or motion. Except as specifically provided to the contrary by statute, a recorded vote by a majority of the total membership of the District Board is required on each action. See Attachment A for a non-exhaustive summary of certain voting requirements.

1.4.1 Legally Required Participation:

If a majority of the District Board shall be disqualified to vote on a matter by reason of actual or apparent conflict of interest, and at least one disqualified District Board member's participation is legally required for a decision to be made, the District Board shall select by lot or other means of random selection, or by such other impartial and equitable means as the District Board shall determine, that number of its disqualified members which, when added to the members eligible to vote, shall constitute a quorum. The selected disqualified members may vote, but may not participate in discussion or deliberation on the item. This rule shall be interpreted in accordance with the Political Reform Act and all conflict of interest laws and regulations.

1.5 MEETINGS TO BE PUBLIC:

All regular, adjourned, special, and emergency meetings of the District Board shall be open to the public, provided, however, the District Board may hold closed sessions from which the public may be excluded for the consideration of matters authorized by the Brown Act, which include, but are not presently limited to, personnel matters, negotiations for the sale or purchase of real property, attorney-client consultation concerning existing and potential litigation.

1.6 PROHIBITED HARASSMENT POLICY:

As set forth more fully in the District's Prohibited Harassment Policy (A 3.07.02), the District, including at the meetings of the Board and its Committees, is committed to maintaining a work environment that is free from discrimination and harassment based on a protected category. It is against District policy to engage in verbal conduct that denigrates an individual because of their race, color, sex, marital status, religious creed, age for individuals over forty years of age, sexual orientation, national origin, military status, veteran status, mental disability, physical disability, genetic information, gender, gender identity, gender expression, medical condition, ancestry or any other basis protected by any applicable ordinance, regulation, federal, state, or local law. The Prohibited Harassment Policy is designed to encourage professional and respectful behavior and to prevent discriminatory and harassing conduct in the workplace.

2. ORDER OF BUSINESS

2.1 AGENDA:

In order to facilitate the orderly conduct of the business of the District Board, the Board Clerk shall prepare an agenda for each regular Board Meeting in accordance with the Order of Business set forth in Section 2.1.1, and in consultation with the District Chief, President, and General Counsel. The Agenda prepared by the Board Clerk shall, at a minimum, include:

1. The date of the meeting.
2. The time of the meeting.
3. The location of the meeting.
4. A specified period of time for members of the public to address the District Board on items of interest to the public that are not listed on the agenda and within the jurisdiction of the District Board.
5. A specified section under which Board Members and District Staff may present information-only reports.

2.1.1 The Order of Business of each regular meeting shall be as contained in the Agenda prepared by the Board Clerk. The Agenda shall be a listing by topic of the subjects which shall be taken up for consideration in the following order:

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. PUBLIC COMMENT – CLOSED SESSION ITEMS
5. CLOSED SESSION

6. RECONVENE THE MEETING
7. REPORT OF CLOSED SESSION ACTION
8. PUBLIC HEARINGS
9. ANNOUNCEMENTS
10. PUBLIC COMMENT – CONSENT AGENDA ITEMS AND ITEMS NOT ON THE AGENDA
11. CONSENT CALENDAR
12. REGULAR CALENDAR
13. COMMITTEE REPORTS
14. REQUESTS FOR ITEMS ON FUTURE AGENDAS
15. ADJOURNMENT

2.1.2 At the direction of the Presiding Officer or on a majority vote of the District Board, items may be taken out of the order prescribed above, so long as there is no discernible prejudice to the right of the public to be heard on the matter.

2.1.3 The Board may not take action or discuss any item not appearing on the agenda, except as provided in this section. A Board member or staff may briefly respond to statements made or questions posed by members of the public during public comment. A board member or staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. A Board member may provide a reference to staff or other resources for factual information, request staff to report back to the Board at a subsequent meeting concerning any matter, or, if approved by a majority vote of the Board, take action to direct staff to place a matter of business on a future agenda.

The District Board may take action on items of business which do not appear on the posted agenda under any of the following conditions or circumstances. The Board shall publicly identify the item and the basis for taking action.

(1) Upon a determination by a majority vote of the District Board that an emergency situation exists, as defined in the Brown Act, Government Code Section 54956.5;

(2) Upon a determination by a two-thirds vote of the District Board, or, if less than two-thirds of the members are present, by a unanimous vote of those members present, that the need to take immediate action arose subsequent to the Agenda having been posted;

(3) The item was posted for a prior meeting of the District Board occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is proposed to be taken.

2.2 DELIVERY OF AGENDA FOR REGULAR MEETINGS:

(a) The Agenda for each regular meeting of the District Board shall be delivered to the Board Members and made available to the public on the Friday preceding the Wednesday meeting to which it pertains. In respect to every regular meeting, the Agenda shall conform to the Brown Act, Government Code Section 54954.2, and shall be posted at least 72 hours prior to the time scheduled for the meeting. Agendas shall be posted on the windows outside the administrative offices of the District located at 1280 Moraga Way, Moraga, CA 94556, on the District's website, and at such other places within the District as the District Board has designated for posting notices of District Board meetings, and shall, in accordance with Government Code section 54954.1, be provided to

anyone who has requested, in writing, to receive copies of the agenda.

(b) Reports and other documentation that are public records and relate to items on the Agenda shall, as a general rule, be made available to the public on the Friday preceding the Wednesday meeting to which it pertains. If such a report or document is made available to the Board less than 72 hours before the meeting, it shall also be made available for public inspection in accordance with Government Code section 54957.5.

2.3 ROLL CALL:

Before proceeding with the business of the District Board, the names of those Board members that are present shall be entered in the minutes. No formal roll call need be taken.

2.4 APPROVAL OF MINUTES:

Unless requested by a majority of the District Board, minutes of the previous meeting may be approved without public reading if the Board Clerk has previously furnished each Board Member with a copy thereof.

2.5 PUBLIC HEARINGS:

(a) Generally, public hearings (such as Public Hearing on Fire Code Adoption, Public Hearing on Adoption of a Fee Ordinance), other than those of a quasi-judicial nature, shall be conducted in the following order:

- Staff Review
- Questions of Staff by District Board
- Hearing opened by Board President
- Preliminary Board Comments
- ~~Testimony by proponents~~
- ~~Testimony by opponents~~
- Public Comments
- ~~Rebuttal by proponents~~
- Questions by District Board
- Discussion by District Board
- Proposed Action by District Board
- Public Comment on Proposed Action by District Board
- Closing of Hearing
- Final Action by District Board

(b) Quasi-judicial hearings (such as when the Board sits as a Board of Appeals relative to the application and interpretation of the District Fire Code) shall be conducted in accordance with the principles of due process, and the District Counsel shall advise the District Board in this regard.

In general, such quasi-judicial hearings shall be conducted in the following manner:

Board members disclose any ex parte communications

Staff report

Board questions for staff

Presiding officer then opens the public portion of the hearing

Presentation by appellant (10 minutes)

Board questions for appellant, applicant and/or staff

Public comment

Rebuttal by staff (10 minutes)

Rebuttal by appellant (5 minutes)

Final Board questions of appellant

Final Board questions of staff

Presiding officer closes the public portion of hearing

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

At any hearing before the Board sitting in a quasi-judicial capacity, the Board may request that parties testify under oath.

(c) Questions or comments from the public shall be limited to the subject under consideration. Depending upon the extent of the agenda, and the number of persons desiring to speak on an issue, the Presiding Officer or the Board may at the beginning of the hearing establish time limits consistent with Section 2.6(d). Any person may speak for a longer period of time, upon approval of the Presiding Officer or the District Board, when this is deemed necessary in such cases as when a person is speaking as representative of a group or has graphic or slide presentations requiring more time.

2.6 PUBLIC COMMENT:

(a) Pursuant to Government Code section 54954.3 of the Brown Act, at any regular and special meeting, members of the public may directly address the Board on any agenda item before or during the Board's consideration of the item.

(b) In addition, for regular meetings, the Board provides the members of the public with a Public Comment Period where the public may address the Board on any matter not listed on the agenda that is within the subject matter jurisdiction of the Board and for members of the public to address the Board on items on the Consent Calendar.

(c) If a matter not on the agenda requires a collective decision by a majority of the members of the Board, the matter may be received and then forwarded to staff, a Director or Board Committee for recommendation and report at a subsequent meeting, in accordance with Section 2.1.3. This procedure is necessary in order to comply with the Brown Act.

(d) Public comment may be limited by the Presiding Officer or the Board to three (3) minutes per speaker, unless different time limits are established by the Presiding Officer or the Board. The Presiding Officer or the Board may also limit the total amount of time allocated for public testimony on any particular issue.

(e) If a member of the public uses a translator when making public comment, the Board shall allow that person at least twice the amount of time otherwise allowed for public comment on that item. This shall not apply when the District uses simultaneous translation equipment in a manner that allows the Board to hear the translated public testimony simultaneously.

(f) The District may not require a member of the public to provide their name or other information or to complete a questionnaire as a condition for attending or speaking at a Board meeting. Any attendance list, questionnaire, or other document circulated at a meeting must state clearly that signing or completing the document is optional.

(g) A member of the public who wishes to make public comment shall be asked to state their name for the record. The provision of such information is voluntary and is not a condition of providing public comment.

(h) The Board shall not prohibit public criticism of the policies, procedures, programs, or services of the District, or of the acts or omissions of the Board.

2.7 CONSENT CALENDAR:

Items of a routine nature, and non-controversial, shall be placed on the Consent Calendar. All items may be approved by one blanket motion upon a majority vote and upon such other voting requirements established by statute. Prior to, or following review of, the Consent Calendar by the District Chief, any Board Member may request that any item be withdrawn from the Consent Calendar for separate consideration. Members of the public shall be provided an opportunity to comment on the Consent Calendar prior to the Board's consideration of the Consent Calendar in accordance with Section 2.6. Any member of the public may request any Board Member to withdraw a Consent Calendar item from Board consideration. However, any Board Member may abstain from voting on any Consent Calendar item without requesting its removal from the Consent Calendar, and the Board Clerk shall be instructed to record such abstentions in the minutes. Any abstention shall be considered a non-vote.

2.8 PARTICIPATION BY MEMBERS OF THE DISTRICT BOARD IN AGENDA SETTING:

The President or any District Board Member may bring before the District Board any new business under the Announcements portion of the agenda for the purpose of agendizing and not discussing, but formal action on such matters shall be deferred until a subsequent District Board meeting unless deemed to be of an urgent nature.

3. PRESIDING OFFICER

3.1 PRESIDING OFFICER

The Board President shall be the Presiding Officer, also referred to herein as “Chair”, at all meetings of the District Board. In the absence of the Board President, the Board Vice-President shall preside. In the absence of both the Board President and the Board Vice President, the Board Second Vice President Board Member with the greatest seniority shall act as the presiding officer to serve until the arrival of the Board President or Board Vice President or until adjournment.

3.2 CALL TO ORDER:

The meeting of the District Board shall be called to order by the Presiding Officer.

3.3 PARTICIPATION OF PRESIDING OFFICER:

The Presiding Officer may move, second, and debate from the Chair, subject only to such limitations of debate as are imposed on all Board Members, and the Presiding Officer shall not be deprived of any of the rights and privileges of a Board Member by reason of acting as Presiding Officer. However, the Presiding Officer is primarily responsible for the conduct of the meeting. If the Presiding Officer desires to personally engage in extended debate on questions before the District Board, the Presiding Officer should consider turning the Chair over to another member.

3.4 QUESTION TO BE STATED:

The Presiding Officer shall verbally restate each question immediately prior to calling for the vote. Following the vote, the Presiding Officer shall verbally announce whether the question carried or was defeated. The Presiding Officer may also publicly state the effect of the vote for the benefit of the audience before proceeding to the next item of business.

3.5 SIGNING OF DOCUMENTS:

The Board President, or Board Vice President, in the absence of the Board President, shall sign ordinances and resolutions adopted by the District Board. The Board Clerk or Deputy Board Clerk shall attest to the signature of the Board President or Board Vice President.

3.6 MAINTENANCE OF ORDER:

The Presiding Officer is responsible for the maintenance of order and decorum at all times. No person is allowed to speak who has not first been recognized by the Chair. All questions and remarks shall be addressed to the Chair.

4. RULES, DECORUM AND ORDER

4.1 POINTS OF ORDER:

The Presiding Officer shall determine all Points of Order subject to the right of any member to appeal to the District Board. If any appeal is taken, the question shall be, "Shall the decision of

the Presiding Officer be sustained?" in which event a majority vote shall govern and conclusively determine such question of order.

4.2 DECORUM AND ORDER - BOARD MEMBERS:

(a) Any Board Member desiring to speak shall address the Chair and, upon recognition by the Presiding Officer, shall confine remarks to the question under debate.

(b) A Board Member desiring to question the staff shall address questions to the District Chief or District Counsel, in appropriate cases, who shall be entitled either to answer the inquiry himself or to designate some member of staff for that purpose.

(c) A Board Member, once recognized, shall not be interrupted while speaking unless called to order by the Presiding Officer; unless a Point of Order is raised by another Board Member; or unless the speaker chooses to yield to questions from another Board Member.

(d) Any Board Member called to order while speaking shall cease speaking immediately until the question of order is determined. If ruled to be in order, the Board member shall be permitted to proceed. If ruled to be not in order, the Board member shall remain silent or shall alter remarks so as to comply with rules of the District Board.

(e) Board Members shall accord the utmost courtesy to each other, to District employees, and to the public appearing before the District Board and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities.

(f) Any Board Member may move to require the Presiding Officer to enforce the rules and the affirmative vote of a majority of the District Board shall require the Presiding Officer to so act.

4.3 DECORUM AND ORDER - EMPLOYEES:

Members of the administrative staff and employees of the District, when acting in the course of performance of official duties, shall observe the same rules of procedure and decorum applicable to members of the District Board. The District Chief shall insure that all District employees observe such decorum. Any staff members including the District Chief, desiring to address the District Board or members of the public shall first be recognized by the Chair. All remarks shall be addressed to the Chair and not to any one individual Board Member or member of the public.

4.4 DECORUM AND ORDER - PUBLIC:

~~Members of the public attending District Board meetings shall observe the same rules or order and decorum applicable to the District Board. Any person making impertinent and slanderous remarks or who becomes boisterous while addressing the District Board or while attending the District Board meeting shall be removed from the room if the sergeant of arms is so directed by the Presiding Officer, and such person may be barred from further audience before the District Board. Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted by the Presiding Officer, who may direct the sergeant of arms~~

~~to remove such offenders from the room. Aggravated cases shall be prosecuted on appropriate complaint signed by the Presiding Officer.~~

- (a) In order to ensure that business is conducted in an orderly fashion and that all have an equal opportunity to observe and participate in the proceedings, the following rules of order shall be applied to address conduct which disrupts, disturbs, or otherwise impedes the orderly conduct of the meeting. This disruptive behavior can include failing to comply with reasonable and lawful regulations of the legislative body, as well as behavior that constitutes use of force or a true threat of force. (Government Code Section 54957.95)
- (b) No attendee of a Board meeting, at any meeting site or virtually, shall use loud, threatening, profane, or abusive language, whistle, clap, stamp their feet, speak over or interrupt the recognized speaker, or engage in any other disorderly conduct which disrupts the orderly conduct of the meeting.

~~(c) No attendee of a Board meeting, at any meeting site or virtually, shall use loud, threatening, profane, or abusive language, whistle, clap, stamp their feet, speak over or interrupt the recognized speaker, or engage in any other disorderly conduct which disrupts the orderly conduct of the meeting.~~

~~(d)~~(c) Continued use of verbal conduct that denigrates an individual because of their race, color, gender, religion, sexual orientation, age, national origin, disability, or other protected category after a verbal warning from the Presiding Officer disrupts the orderly conduct of the meeting. It interferes with the Board's ability to accomplish its functions in a reasonably efficient matter by causing a distraction from District business, chilling other members of the public's participation, interfering with the ability of those present to listen and understand the business and proceedings of the District or Board, and may constitute or contribute to employment or other types of discrimination and harassment.

4.5 ENFORCEMENT OF DECORUM:

(a) The Presiding Officer shall maintain order. In that regard, the Presiding Officer may take such actions reasonably calculated to maintain order, which include, but are not limited to, calling a recess, adjourning the meeting to another date, or ordering the removal of persons disrupting the meeting as provided in this section. The District Chief or designee shall be ex-officio sergeant-of-arms of the District Board. The ex-officio sergeant-of-arms shall carry out all orders and instructions given by the Presiding Officer for the purpose of maintaining order and decorum in the Board Chambers. Upon instructions from the Presiding Officer, it shall be the duty of the sergeant-of-arms or another representative to remove any person from the District Board Chambers.

(b) The Presiding Officer may order an individual to be removed from a Board meeting when the individual is engaging in behavior that constitutes use of force or a "true threat of force," meaning a threat that has sufficient indicia of intent and seriousness that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat.

(c) If a meeting is willfully disrupted by a group of people so as to render the orderly conduct of the meeting infeasible, the presiding officer may take such actions reasonably calculated to maintain order, which include, but are not limited to, calling a recess, adjourning the meeting to

another date, or ordering the removal of persons disrupting the meeting as provided in this section. As set forth in the Brown Act, Government Code Section 54957.9, in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the District Board may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Duly accredited representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this

section shall prohibit the District Board from establishing procedures for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

(d) Removal for Disruptive Conduct

- (i) The Presiding Officer may order an individual to be removed from a Board meeting when the individual is engaging in behavior that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting, which may include but is not limited to failing to comply with these Rules of Procedure.
- (ii) Prior to ordering the removal of the individual for disruptive conduct, the presiding officer shall warn the individual that their behavior is disrupting the meeting and, when applicable, shall follow the procedures in Section 4.5 (~~ed~~) below.

(e) Verbal Conduct Denigrating a Person Because of a Protected Category

When a person engages in verbal conduct that denigrates an individual because of their race, color, gender, religion, sexual orientation, age, national origin, disability, or other protected category, the presiding officer shall take the following actions:

- (i) The Presiding Officer shall stop the speaker and read the relevant portions of the District's Harassment-Free Workplace Policy. The presiding officer shall state that the District does not condone comments in violation of the District's Policy and that the speaker's harassment is unwanted and unwelcome and impedes the orderly conduct of the meeting by interfering with the Board's ability to accomplish its functions in a reasonably efficient matter by causing a distraction from District business, chilling participation from other members of the public, interfering with the ability of those present to listen and understand the business and proceedings of the District and may constitute or contribute to employment or other forms of discrimination.
- (ii) The presiding officer shall state that any District employee present may be excused from attendance at the meeting during the speaker's remarks.
- (iii) The Presiding Officer shall hold the speaker's time and the speaker may resume speaking after the Presiding Officer's statement, unless the speaker's comments continue to disrupt, disturb, or impede the orderly conduct of the meeting. If the speaker continues to disrupt, disturb, or impede the orderly conduct of the meeting, the Presiding Officer may take such actions as reasonably calculated to maintain order as stated in Rule 4.5(a), including, but not limited to, prohibiting the speaker from further commenting or ordering the speaker to be removed from the meeting.
- (iv) After the end of the speaker's comments, any Board member may make a brief response to such comments, if desired.

4.6 PERSONAL PRIVILEGE:

A District Board Member may request a point of personal privilege, requesting the immediate consideration of a matter affecting the comfort, safety or orderliness of a member.

4.7 CONFLICT OF INTEREST:

All Board Members are subject to the provisions of California Law relative to conflicts of interest, including, but not limited to, California Government Code, section 1090 *et seq.*, conflict of interest codes as may be adopted by the District Board, and the provisions of Government Code section 87100 *et seq.* relative to certain defined financial interests prohibiting participation in District decisions. Any Board Member prevented from voting because of a conflict of interest or a declared financial interest shall identify the conflict of interest and refrain from debate and voting on the included matter. Such Board Member must also leave the District Chambers during debate and voting on the issue except as may be allowed by the Political Reform Act, Government Code §87105.

4.8 LIMITATION OF DEBATE:

No Board Members normally should speak more than once upon any one subject until every other Board Member choosing to speak thereon has spoken.

4.9 DISSENTS, PROTESTS, AND COMMENTS:

Any Board Member shall have the right to express dissent from or protest to or comment upon any action of the District Board and have the reason entered in the minutes. If such dissent, protest or comment is desired to be entered in the minutes, this should be made clear by language such as, "I would like the minutes to show that I am opposed to this action for the following reasons . . ."

4.10 PROCEDURES IN ABSENCE OF RULES:

In the absence of a rule herein to govern a point or procedure, ~~Robert's Rosenberg's~~ Rules of Order shall be used as a guide.

4.11 RULINGS OF PRESIDENT ARE FINAL UNLESS OVERRULED:

In presiding over District Board meetings, the Board President, Board Vice President, or temporary Presiding Officer shall decide all questions of interpretation of these rules, points of order or other questions of procedure requiring rulings. Any such decision or ruling shall be final unless overridden or suspended by a majority vote of the Board Members present and voting, and shall be binding and legally effective (even though clearly erroneous) for purposes of the matter under consideration.

4.12 ACTIONS NOT INVALIDATED:

~~Except as otherwise required by law or required specifically by these Rules of Procedure, f~~
Failure to strictly comply with these Rules of Procedure shall not necessarily invalidate any action taken by the District Board.

5. PROCEDURES FOR BOARD ACTION ON REGULAR CALENDAR ITEMS

5.1 The Board shall take input from staff and other invited experts and ask questions for clarification.

5.2 The Board shall discuss the item on the agenda and may ask further questions of staff or other invited experts.

5.3 The Board shall invite comments or questions from the public relative to that agenda item. A limitation of three (3) minutes may be imposed upon each person so desiring to address the Board, unless different time limits are established by the Presiding Officer or the Board. The Presiding Officer or the Board may also limit the total amount of time allocated for public testimony on the agenda item.

5.4 A motion is made and seconded if an action is intended to occur.

5.5 The Board deliberates on the motion.

5.6 The Board votes.

6. ADDRESSING THE DISTRICT BOARD

6.1 MANNER OF ADDRESSING THE DISTRICT BOARD:

Any member of the public desiring to address the District Board shall wait to be recognized by the Presiding Officer. After being recognized, the member of the public shall be asked but is not required to state their name for the record.

All remarks and questions shall be addressed to the Chair and not to any individual District Board Member, staff member or other person. During a public hearing, all remarks shall be limited to the subject under consideration. No person shall enter into any discussion without being recognized by the Presiding Officer.

6.2 TIME LIMITATION:

Any member of the public desiring to address the District Board may be required to limit his or her address to three (3) minutes unless further time has been granted by the Presiding Officer in accordance with Section 2.6.

6.3 LIMITATION REGARDING PUBLIC COMMENT AND REPORTS:

The making of oral communications to the District Board by any member of the public during the Public Comment portion of the Agenda shall be subject to the following limitations in accordance with Section 2.6:

6.3.1 The Presiding Officer or the Board may limit the total amount of time allowed for public comment on non-agenda topics at any single meeting. Those whose presentations are postponed shall be given priority at the next meeting, during the Public Comment portion of the Agenda.

6.3.2 If it appears that several speakers desire to speak regarding a single topic, the Presiding Officer or the Board may reasonably limit the amount of time for public comment as to each side of an issue. In this regard, preference may be given to speakers who represent groups or persons who have designated a spokesperson.

6.4 WRITTEN CORRESPONDENCE

The District Chief is authorized to receive and open all mail addressed to the District Board as a whole and give it immediate attention to the end that all administrative business referred to in said communications that falls within the District Chief's duties established by law or delegation by the Board, and not necessarily requiring District Board action, may be disposed of between District Board meetings. A copy of such communication shall be sent to each Board Member by the appropriate means. Any communication relating to a matter pending or to be brought before the District Board shall be included in the agenda packet for the meeting at which such item is to be considered.

Letters of appeal from administrative decisions shall be processed under applicable provisions of the District ordinances.

Copies of all other communications sent to the District Board will be transmitted to all District Board Members.

6.5 PERSONS AUTHORIZED TO BE WITHIN PLATFORM:

No person except District officials shall be permitted within the platform area in front of the District Board table without the invitation or consent of the Presiding Officer.

7. MOTIONS

7.1 PROCESSING OF MOTIONS:

When a motion is made and seconded, it shall be stated by the Presiding Officer before debate. A motion so stated shall not be withdrawn by the mover without the consent of the person seconding it.

7.2 MOTIONS OUT OF ORDER:

The Presiding Officer may at any time, by majority consent of the District Board, permit a Board member to introduce an ordinance, resolution or motion out of the regular agenda order.

7.3 DIVISION OF QUESTION:

If the question contains two or more divisionable propositions, the Presiding Officer may, and upon request of a Board Member shall, divide the same.

7.4 PRECEDENCE OF MOTIONS:

When a motion is before the District Board, no motion shall be entertained except the

following, which shall have precedence in the following order:

- a. Adjourn
- b. Fix Hour of adjournment
- c. Table
- d. Limit or terminate discussion
- e. Substitute
- f. Reconsider
- g. Amend
- h. Postpone

7.5 MOTION TO ADJOURN: (not debatable)

A motion to adjourn shall be in order at any time, except as follows:

- a. When repeated without intervening business or discussion.
- b. When made as an interruption of a Board Member while speaking.
- c. When discussion has been ended, and vote on motion is pending, and,
- d. While a vote is being taken.

A motion to adjourn "to another time" shall be debatable only as to the time to which the meeting is adjourned.

7.6 MOTION TO FIX HOUR OF ADJOURNMENT:

Such a motion shall be to set a definite time at which to adjourn and shall be undebatable and shall be unamendable except by unanimous vote.

7.7 MOTION TO TABLE:

A motion to table shall be used to temporarily by-pass the subject. A motion to table shall be undebatable and shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the matter may be "taken from the table" at any time prior to the end of the next regular meeting.

7.8 MOTION TO LIMIT OR TERMINATE DISCUSSION:

Such a motion shall be used to limit or close debate on, or further amendment to, the main motion and shall be undebatable. If the motion fails, debate shall be reopened; if the motion passes, a vote shall be taken on the main motion.

7.9 MOTION TO AMEND:

A motion to amend shall be debatable only as to the amendment. A motion to amend an amendment shall be in order, but a motion to amend an amendment to an amendment shall not be in order. An amendment modifying the intention of a motion shall be in order, but an amendment relating to a different matter shall not be in order. A substitute motion on the same subject shall be acceptable, and voted on before a vote on the amendment. Amendments shall be voted first then the main motion as amended.

7.10 MOTION TO CONTINUE

Motions to continue to a definite time shall be amendable and debatable as to propriety of postponement and time set.

8. VOTING PROCEDURE

8.1 VOTING PROCEDURE:

In acting upon every motion, the vote shall be taken by voice or roll call or any other method by which the vote of each Board Member present can be clearly ascertained. The Board Clerk shall call the names of all members seated when a roll call vote is ordered or required. Board Members shall respond "aye," "no" or "abstain," provided that when a vote is collectively taken by voice or when a method of voting other than by voice or roll call is used, any Board Member not audibly and clearly responding "no" or "abstain" or otherwise registering an objection shall have his voice recorded as "aye". An abstention shall count as a non-vote.

8.2 ROLL CALL VOTING:

Every ordinance and any resolution or orders for franchises or payments of money require, at minimum, three affirmative votes. A roll call vote shall be used for these changes. Any other question before the District Board shall not require a roll call vote unless demanded by any Board Member. It shall not be in order for Board Members to explain their vote during roll call. Any Board Member may change his vote before the next order of business.

8.3 RECONSIDERATION:

Any Board Member who voted with the majority may move a reconsideration of any action at the same or next meeting. After a motion for reconsideration has once been acted upon, no other motion for reconsideration thereof shall be made without unanimous consent of the District Board.

8.4 TIE VOTES:

Tie votes shall be lost motions. When all District Board Members are present, a tie vote on whether to grant an appeal from official action shall be considered a denial of such appeal, unless the District Board takes other action to further consider the matter. If a tie vote results at a time when less than all Board Members are present the matter shall automatically be continued to the agenda of the next regular meeting of the District Board, unless otherwise ordered by the District Board.

9. RESOLUTIONS

9.1 DEFINITIONS:

Legislative acts of the District Board (usually a role of public policy for long-term application) are taken by ordinance, whereas more routine business and administrative matters (usually more temporary and transitory in nature) are accomplished by "resolutions." The term "resolution," generally denotes any action taken affirmatively via a vote of the District Board, other than one taken by ordinance. Three terms are in general use to denote such (non-ordinance) actions: "resolution," "minute order," and "motion" (thereafter recorded by minute entry). All three actions are equally as legally effective and binding; they just vary in the formality of respective

memorialization.

The most formal is referred to locally as a "resolution" which in addition to being referenced in the minutes, will be recorded by a separate document, numbered in sequence for each calendar year and preserved in a separate set of books. Such "resolutions" are used in this District for various reasons, such as when specifically required by law, when needed as a separate evidentiary document to be transmitted to another governmental agency, or where the frequency of future reference back to its contents warrants a separate document (with the additional "whereas" explanatory material it often recites) to facilitate such future reference and research.

A "minute order" denotes a separate document which is also maintained in a separate set of books, under a system of sequential numbering, and is referenced in the minutes; however, the "minute order" is drafted far more briefly than a "resolution" and is distinguished from a mere minute entry only by the need in general, to have a separate document to facilitate certain administrative processes to which it pertains.

A "motion" (assuming it was one which passed) is a District Board action which is recorded simply by an item entry in the minutes of the meeting at which it was accomplished, and no separate document is made to memorialize it.

9.2 RESOLUTIONS PREPARED IN ADVANCE:

Where a resolution has been prepared in advance, the procedure shall be: Motion, second, discussion, vote pursuant to methods prescribed in Section 8.1, and result declared. It shall not be necessary to read a resolution in full or by title except to identify it. Any Board Member may require that the resolution be read in full.

9.3 RESOLUTIONS NOT PREPARED IN ADVANCE:

Where a resolution has not been prepared in advance, the procedure shall be to instruct the District Chief or District Counsel to prepare a resolution for presentation at the next District Board meeting.

9.4 URGENCY RESOLUTIONS:

In matters of urgency, a resolution may be presented verbally in motion form together with instructions for written preparation for later execution. After the resolution has been verbally stated, the voting procedure in 8.1 above shall be followed.

Urgency resolutions shall be avoided except when absolutely necessary; and shall be avoided entirely when resolutions are required by law. Where the resolution has been drafted in written form either before or during the meeting, this paragraph shall not be deemed applicable.

10. ORDINANCES

10.1 INTRODUCTION AND ADOPTION OF ORDINANCES:

Ordinances shall not be passed within five days of their introduction, nor at other than a regular meeting or at an adjourned regular meeting. However, an urgency ordinance may be passed immediately upon introduction and either at a regular or special meeting. Except when, after reading the title, further reading is waived by regular motion adopted by majority vote of the Board

Members present, all ordinances shall be read in full either at the time of introduction or passage, provided, however, that a reading of the title or ordinance shall not be required if the title is included on the published agenda and a copy of the full ordinance is made available to the public online and in print at the meeting before the introduction or passage.

When ordinances, other than urgency ordinances, are altered after introduction, they shall be passed only at regular or at an adjourned regular meeting held at least five days after alteration.

Corrections of typographical or clerical errors are not alterations within the meaning of this section.

This section shall not apply to ordinances which by statute can be passed only after notice and a public hearing.

10.2 EFFECTIVE DATE:

All ordinances, except as otherwise provided by law, shall take effect 30 days after adoption, but may be made operative at such later date as may be designated in the ordinance.

10.3 PUBLISHING:

It shall be the duty of the Board Clerk to post or publish all ordinances within 15 days after adoption.

10.4 URGENCY ORDINANCES:

All urgency ordinances must receive four (4) affirmative votes to be adopted and to become effective immediately. If such an ordinance fails to receive a 4/5 majority, it may thereafter be considered and passed in the same manner as regular ordinances if all legal requirements for adoption of a non-urgency ordinance have been satisfied.

11. ELECTION OF OFFICERS

The District Board shall elect the following Officers: President Vice President, and Second Vice President on an annual basis or as may be required after a general district election. The District Board may also elect such additional officers as may be created.

12. STANDING OR AD HOC COMMITTEES

The District Board may appoint such standing or ad hoc committees as are necessary to conduct District business- and keep informed on matters relevant to the District. The Board shall appoint and may remove members of standing and ad hoc committees. Directors so assigned shall report to the Board on matters of these committees.

13. BOARD ATTENDANCE AND VACANCIES

Each member of the Board is expected to attend each meeting of the Board and each meeting of any committee to which the Director has been appointed. Members of the Board shall be responsible to inform the Fire Chief and Board President at least 96 hours in advance of a scheduled meeting if the Director expects to be absent. If an unexpected absence is necessary, the Director should inform the Fire Chief and Board President as soon as possible before the commencement of

the meeting. Board vacancies shall be filed pursuant to Government Code Section 1780 (Health and Safety Code 13852(b)).

PASSED, APPROVED AND ADOPTED this 21st day of February 2024 at the regular meeting of the District Board held at 22 Orinda Way, Orinda, California 94563, on a motion made by Director ____, seconded by Director ____, and duly carried with the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Resolution 24-02
Dated: February 21, 2024

Michael Roemer, President
Board of Directors

I certify that this is a full, true and correct copy of the original document which is on file in my office, and that was passed and adopted by the Moraga-Orinda Fire Protection District on the date shown.

ATTEST:

Marcia Holbrook,
District Secretary/District Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Jon Holtzman, District Counsel

Dave Winnacker, Fire Chief

VOTING REQUIREMENTS FOR THE BOARD OF DIRECTORS

Attachment A to the Moraga Orinda Fire District Rules of Procedure for the Board of Directors

I. Majority votes of the Membership of the Board

Unless the Board of Directors is taking an action specified below or as otherwise required by statute, a majority vote of the membership of the Board of Directors, or three votes, is required to take action. (Health & Safety Code § 13856.)

II. Adoption of Ordinances

A. Regular Ordinance

Adoption of a regular ordinance requires a majority of members of the Board of Directors – three members. (Health & Safety Code § 13856(b).)

B. Urgency Ordinance

Adoption of an urgency ordinance requires a four-fifths vote of the Board of Directors – four members. (Health & Safety Code § 13861(h); Govt. Code § 25123(d).)

An urgency ordinance is an ordinance passed for the immediate preservation of the public peace, health or safety. (Govt. Code § 25123(d).) An urgency ordinance may be passed immediately upon introduction at either a regular or special meeting. (Govt. Code § 25131.)

III. Financial Decisions Requiring More than a Majority Vote.

A. Reallocation of Certain Types of Appropriations.

Changes to certain types of appropriations after the approval of a final budget, requires four votes of the Board of Directors. Four votes are required if the Board seeks to make available for appropriation any of the following:

(a) Balances in appropriations for contingencies, including accretions from cancellations of appropriations.

(b) Designations and reserves no longer required for the purpose for which intended, excluding the general reserve, balance sheet reserves, and reserve for encumbrances.

(c) Amounts which are either in excess of anticipated amounts or not specifically set forth in the budget derived from any or anticipated increases in available financing. (Health & Safety Code § 13900.)

B. Appropriating Funding in an Emergency.

If an emergency affects the ability of the District to provide adequate services, the Board of Directors may make available for expenditure money that was not specifically set forth as revenue in the final budget. Such an action requires four votes. (Health & Safety Code § 13901.)

C. Discontinuing Capital Outlay Reserves.

The Board may establish a reserve for capital outlays for a specific declared purpose. If so, the Board may transfer to that capital outlays reserve any unencumbered surplus funds remaining at the end of the fiscal year. The capital outlay reserve may only be used for the purpose declared by the Board. If the Board finds that the final budget reserve is no longer required, it may discontinue the reserve or transfer any balance to the district's general fund. The decision to discontinue the reserve or transfer the balance must be made by a unanimous vote of the Board. (Health & Safety Code § 13902.)

IV. Incurring Debt.

A. Borrowing Funds to Acquire Property.

The District may borrow money to purchase real property. (Health & Safety Code § 13906.) The Board must approve the action to incur the debt by a resolution adopted by four votes. (*Ibid.*)

B. General Obligation Bond Indebtedness Under the Fire Protection District Law.

The Board may issue general obligation bonds for the acquisition or construction of any real property, other capital expenses, or funding any outstanding indebtedness. The Board must adopt a resolution calling an election to incur indebtedness and to issue general obligation bonds. (Health & Safety Code §§ 13925 *et. seq.*) If two-thirds of the voters approve incurring the debt and issuing the bonds, the Board may then adopt resolutions to issue the bond. (Health & Safety Code § 13928.) Because the statutes authorizing the Board to adopt resolutions calling for an election and then issuing the bonds do not expressly require a supermajority, the Board may adopt those resolutions by a majority of the total membership of the Board, or three members. (Health & Safety Code § 13856.)

C. Temporary Borrowing.

Health & Safety Code section 13897 allows a district to borrow money and incur indebtedness as otherwise authorized in Articles 7, 7.4, 7.5, 7.6, and 7.7 of the Government Code.

The District may temporarily borrow funds to be repaid within the same year as the funds are borrowed. The District must adopt a resolution approved by a four-fifths vote of the Board to do so. (Govt. Code §§ 53824, 53825.)

The District may borrow funds secured by a note for any purpose the District is authorized to use funds, including but not limited to current expenses, capital expenditures, investment and reinvestment, and the discharge of any obligation or indebtedness. (Govt. Code § 53852.) The notes must be repaid within 15 days of issuance. (Govt. Code § 53854.) There is no voting requirement specified within Article 7.6.

D. Securitized Limited Obligation Notes.

The District may borrow money secured by a limited obligation note. The District may use the money solely for the acquisition of land, facilities, or equipment. (Govt. § 53837.) The District must adopt a resolution approved by a four-fifths vote of the Board to do so. (Govt. Code § 53838.)

E. Grant Anticipation Notes.

The District may temporarily borrow money based on a grant anticipation note, grant, or loan from the federal or state government for which funds have been appropriated and committed to the District. (Govt.

Code §§ 53859, 53859.02.) The Board must approve the debt by resolution, but the statute does not require a four-fifths vote. (Govt. Code § 53859.03.)

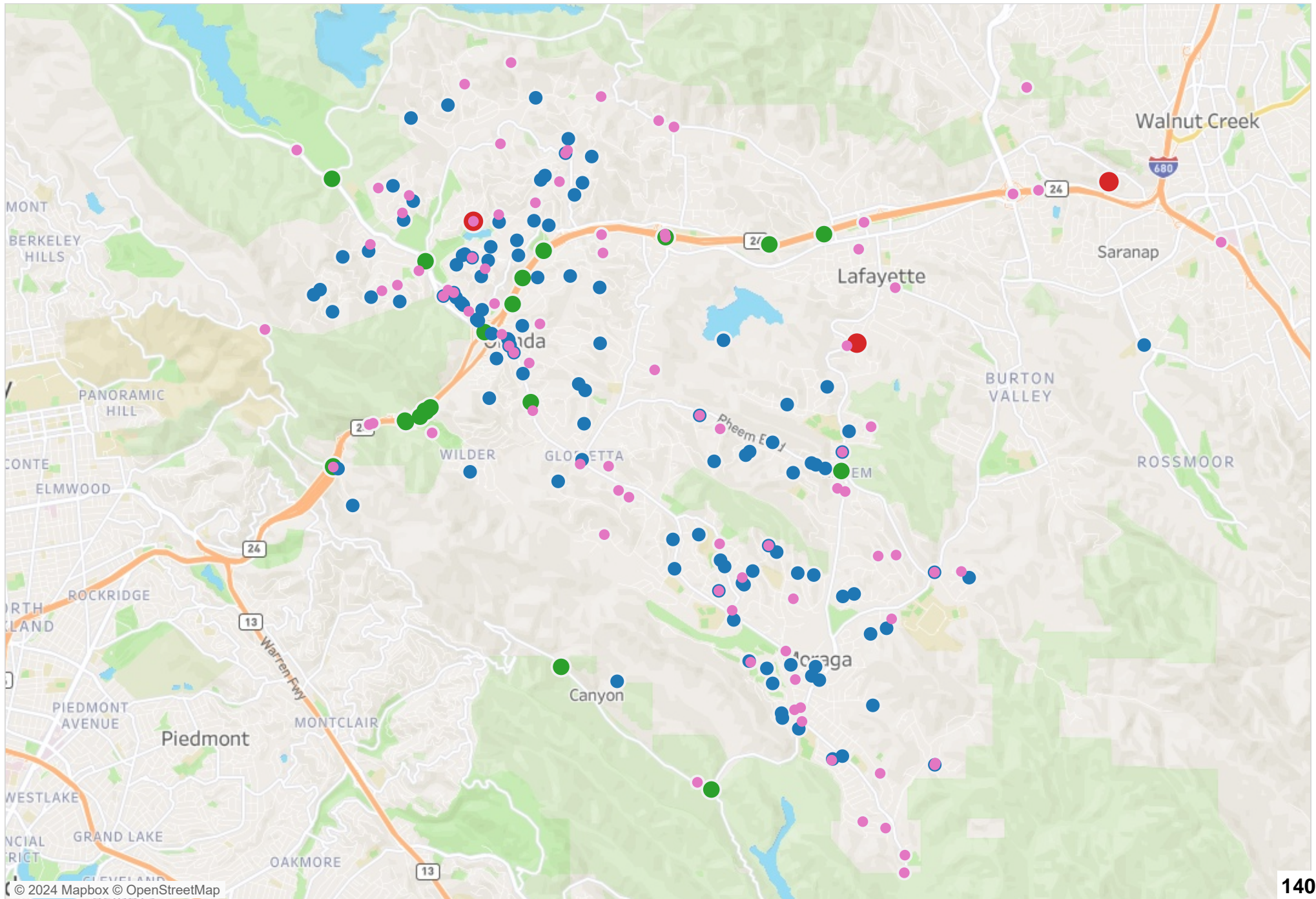
Incident Types

■ All Others (Alarms / Pub Service .. ■ EMS / Rescue

■ Vehicle Accidents

■ Structure Fires

Incident Location Map for MOFD February 2024



MOFD Response Time Summary by Incident Type (grouped) for All Code 2 and Code 3 Responses.

Will only show Incident Types that are applicable. EMS/Rescue \ Structure Fires (actual type is in a structure) \ Vegetation Fires \ Other Types Grouped - Alarms/Hazards/Pub Svc/Etc... Data Is Based On Completed RMS Incident Report Data Entered by Company Officer. Resp. Data Based on "First Arriving Unit". "In District" = Moraga, Orinda, Canyon. "Out of District" = Lafayette & any Other City Aid Provided to.

	February, 2024								Totals
	All Others (Alarms / Pub Service / Etc.)		EMS / Rescue		Structure Fires		Vehicle Accidents		
	In District	Out of Dist.	In District	Out of Dist.	In District	Out of Dist.	In District	Out of Dist.	
Incident Totals	77	5	146	1	1	1	21	4	256
Median Turnout	1.13	0.28	1.10	0.00	1.43	1.85	0.83	1.06	1.07
Median Resp Time	6.27	5.84	5.58	13.63	7.20	6.33	5.92	7.09	5.90
Resp Time (90th%)	11.03	9.59	8.80	13.63	7.20	6.33	10.18	9.52	9.51

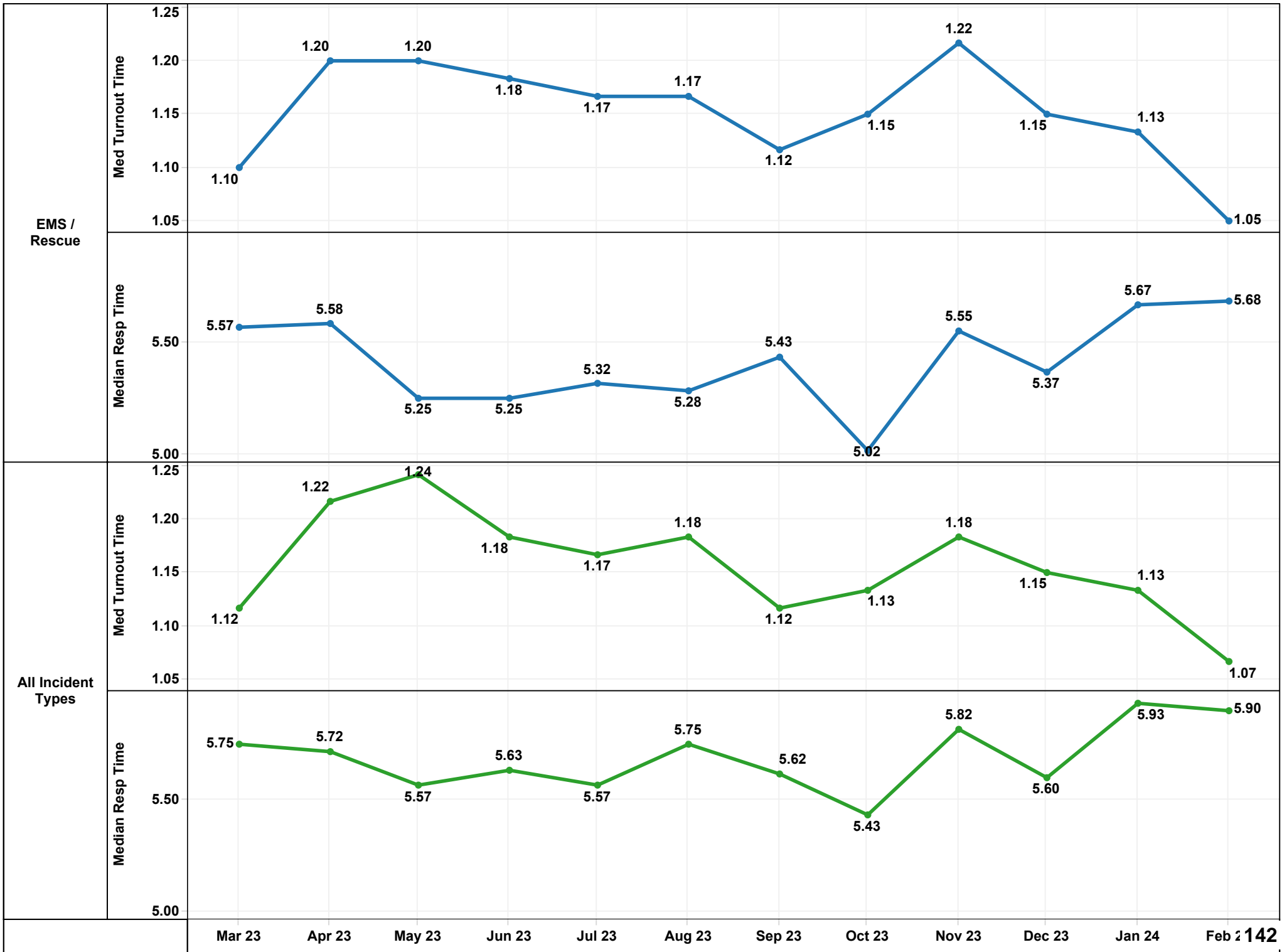
Code 3 Response Time Summary by City and Incident Type. Times shown are based on the First Responding Units Arrival at Scene of Emergency.

		February, 2024			
		Incident Totals	Median Turnout	Median Resp Time	Resp Time (90th%)
Orinda	EMS / Rescue	78	1.03	5.88	9.47
	Structure Fires	1	1.43	7.20	7.20
	All Other Types	14	1.09	7.11	15.27
	Totals for City	93	1.03	5.92	9.50
Moraga	EMS / Rescue	50	1.05	4.97	7.12
	All Other Types	24	0.97	6.65	11.08
	Totals for City	74	1.03	5.58	8.36
Lafayette	EMS / Rescue	5	0.87	7.97	13.63
	Structure Fires	1	1.85	6.33	6.33
	All Other Types	1	0.32	9.43	9.43
	Totals for City	7	0.87	7.97	12.40
Canyon	EMS / Rescue	2	0.92	15.10	15.10
	Totals for City	2	0.92	15.10	15.10
Overall Total		176	1.03	5.90	9.48

Response Totals by Incident Type

	Mar 23	Apr 23	May 23	Jun 23	Jul 23	Aug 23	Sep 23	Oct 23	Nov 23	Dec 23	Jan 24	Feb 24	Total
All Others (Alarms / Pub Service / Etc.)	151	88	101	104	112	124	105	121	107	106	126	116	1,361
EMS / Rescue	179	179	143	188	177	203	149	173	178	190	176	148	2,083
Structure Fires	3		2	2	2	5	3	2	2	1	2	3	27
Veg Fires		1	1	1	1	5	1	2					12
Vehicle Accidents	32	19	29	23	12	22	20	23	33	28	39	25	305
Grand Total	365	287	276	318	304	359	278	321	320	325	343	292	3,788

Run Chart for MOFD EMS / Rescue and All Incident Types for the last full 12 months. Median Turnout and Response Times By Month for First At Scene Units



Moraga-Orinda Fire District
 Check/Voucher Register - Check Register
 From 2/1/2024 Through 2/29/2024

Check Number	Check Date	Name	Check Amount	Transaction Description
<u>50 - General Fund</u>				
WirePension02.26.24	2/26/2024	U.S. Bank PARS Account 6746050100	1,569,279.00	PARS - Pension Contribution
ACHOPEB02.26.24	2/26/2024	U.S. Bank PARS Account 6746059400	463,553.00	PARS - OPEB Contribution
ACHFRMS02.07.24-04	2/8/2024	Fire Risk Management Services	284,134.50	Workers Comp Quarterly payment
ACHCalPers02.08.24	2/8/2024	Calif. Public Employees'	234,124.43	CalPers Feb 2024
ACHCCCERA02.08.24	2/8/2024	CCCERA	208,651.71	CCCERA Payment Feb 2024
ACHRenne02.07.24-11	2/8/2024	Renne Public Law Group, LLP	35,694.49	Labor negotiations/outside attorneys/fuel break litigation
ACHDNI02.28.24-01	2/29/2024	Definitive Networks, Inc.	20,450.75	IT Services Jan 2024
ACHCalCard02.15.24	2/15/2024	U.S. Bank	19,369.90	Cal Card Statement 01.22.24
ACHDental02.07.24	2/7/2024	Delta Dental Plan of Calif.	16,820.66	Delta Dental Feb 2024
ACHBoundtree01.31.24	2/1/2024	Bound Tree Medical, LLC	10,997.64	Medical Supplies - Dec 2023
ACHDowney01.31.24-02	2/1/2024	Downey Brand LLP	10,478.00	Fuel Break Litigation
ACHDowney02.28.24-02	2/29/2024	Downey Brand LLP	9,584.45	Fuel Break Litigation Jan 2024
OnlinePGE02.07.24-01	2/8/2024	Pacific Gas & Electric	7,736.13	Gas & Electric service
ACHHuntS02.21.24-03	2/22/2024	Hunt & Sons, Inc.	7,611.44	Fuel
ACHIAFFDues02.08.24	2/8/2024	IAFF Local 1230 Dues	7,329.65	IAFF Dues Feb 2024
001825	2/29/2024	HdL Coren & Cone	7,200.00	Property Tax Forecasting
ACHStryker02.07.24re	2/8/2024	Stryker Sales Corporation	7,072.00	Reissue Stryker ck 1726 via ACH
001800	2/15/2024	East Bay Electric, Inc.	6,910.35	Admin Bldg Interior Light Replacement
ACHWC302.28.24-05	2/29/2024	West Coast Code Consultants	6,452.50	In House Plan Review Jan 2024
ACHWittman02.07.24-1	2/8/2024	Wittman Enterprises, LLC	6,168.27	Ambulance Billing Service
001782	2/8/2024	American Fidelity Assurance	5,595.74	FSA
OnlinePGE02.21.24-01	2/22/2024	Pacific Gas & Electric	5,542.67	Gas & electric
001794	2/8/2024	Wildland Resource Management Inc.	5,500.00	Annual contract - HEF 2024 Membership
001791	2/8/2024	ParcelQuest	2,999.00	ParcelQuest Software Renewal
ACHMOPFA02.08.24	2/8/2024	Moraga-Orinda Professional Firefighters Associat	2,693.00	MOPFA Feb 2024
ACHRenne02.21.24-04	2/22/2024	Renne Public Law Group, LLP	2,622.00	Fuel Break Lawsuit
ACHFRMSL02.07.24-05	2/8/2024	Fire Risk Management Services	2,598.79	Life/Suppl Life/VSP
001778	2/1/2024	ADP, Inc.	1,920.25	Payroll Processing Service
ACHIAFFIns02.08.24	2/8/2024	IAFF Local 1230 Insurance	1,788.49	IAFF Insurance Feb 2024
001805	2/15/2024	Stanford Health Care Tri-Valley	1,784.00	Physical - Byrd
001828	2/29/2024	Walnut Creek Chrysler Jeep Dodge Ram	1,726.89	Unit 469 Bumper
ACHNorcal02.08.24	2/8/2024	1st NorCal Federal Credit Union	1,702.20	NorCal Feb 2024
OnlineRepSvc02.07.24	2/8/2024	Republic Services	1,600.43	Trash Service Feb 2024
	2/15/2024	East Bay Electric, Inc.	1,468.10	Stn 45 Light Repair
	2/29/2024	A T and T	1,330.71	Phone Service Feb 20-Mar 19 Acct 925 258 9746 829 9
	2/8/2024	A T and T	1,330.52	Phone Service 1/20-2/19/24 Acct 925 258 9746 829 9
	2/22/2024	A T and T Mobility	1,124.43	Wireless Acct 287291512913
ACHEAN02.21.24-02	2/22/2024	EAN Services, LLC	919.20	Jarske Car Rental
001793	2/8/2024	Staples Business Credit	874.62	Household supplies 12/27-1/23/24
ACHLNCurtis02.28.24-	2/29/2024	L.N. Curtis & Sons	833.42	Fire Hooks/PPE
ACHDataT02.07.24-03	2/8/2024	Data Ticket Inc.	798.65	Citation Processing Service
ACHLNCurtis02.07.24-	2/8/2024	L.N. Curtis & Sons	734.64	Tools/Boots
001795	2/15/2024	ADP, Inc.	729.65	Processing Service - W-2's
	2/22/2024	EBMUD	663.74	Water Service Stn 44 Acct 56154800001
001796	2/15/2024	American Fidelity	584.96	Suppl Life Insurance - Feb 2024
001822	2/29/2024	Jared Costanza	580.00	ACLS and PALS renewal
001827	2/29/2024	Liu Chun Ming	555.50	Citation 231092005 Refund
	2/22/2024	EBMUD	555.23	Water Service 11/30-2/1/24 Acct 31941900001
001809	2/22/2024	Eric Berg	551.92	Home Hardening Reimbursement
001804	2/15/2024	Gloriann Sasser	512.15	CSFMO Conference reimbursement - Mileage and Per
001823	2/29/2024	Desired Effect, LLC	510.00	Technician 2.21.24
001817	2/29/2024	Alliance	509.80	Ambulance Refund Ref# 000161135 Incident 23078581
001806	2/22/2024	A T and T Mobility	498.33	Wireless Acct 287291512571
ACHOffD01.31.24-03	2/1/2024	Office Depot	491.51	Office Supplies/Toner/Vacuum
ACHSequoia02.14.24-0	2/15/2024	Sequoia Ecological Consulting, Inc.	483.75	Tunnel East Bay Hills and On Call Services Jan 2024
001816	2/29/2024	Aetna	478.04	Ambulance Refund Ref# 4XX3F89TJ84 - Overpymt

Moraga-Orinda Fire District
 Check/Voucher Register - Check Register
 From 2/1/2024 Through 2/29/2024

Check Number	Check Date	Name	Check Amount	Transaction Description
ACHAlSCO02.21.24-01	2/22/2024	ALSCO - American Linen Division	475.32	Monthly Linen Service
ACHBrck02.07.24-02	2/8/2024	BRCK Inc.	464.10	VOIP
ACHSunVHVAC02.21.24-001789	2/22/2024	Sun Valley Heating & Air Conditioning	446.00	Stn 43 heater repair
001789	2/8/2024	Michael Lacy	399.00	AH-330 Course - All Hazard Strike Team Leader
ACHLNCurtis02.014.24-001812	2/15/2024	L.N. Curtis & Sons	367.66	Pants
001812	2/22/2024	EBMUD	339.56	Water Service 11/29-1/30/24 Acct 33313122624
001819	2/29/2024	A T and T	338.40	Phone Service 2/20-3/19 Acct 925 258 9731 181 2
001783	2/8/2024	A T and T	338.34	Phone Service 01.20-02.19.24 Acct 925 258 9731 181 2
001818	2/29/2024	The Appliance Doctor	323.01	Dryer repair stn 43
	2/29/2024	The Appliance Doctor	320.00	Range Repair Stn 42
ACHStryker02.14.24-0	2/15/2024	Stryker Sales Corporation	316.00	LP15 Service Call
	2/15/2024	A T and T	315.67	Calnet 1/12-2/11/24 BAN 9391035207
ACHStryker01.31.24a	2/1/2024	Stryker Sales Corporation	313.65	Gurney Service
001787	2/8/2024	Guaranteed Plumbing	310.00	Stn 45 Plumbing
001803	2/15/2024	Guaranteed Plumbing	305.00	Stn 42 Plumbing Service
	2/8/2024	East Bay Tire Company	303.46	Tire repair 1/30/24
	2/22/2024	EBMUD	297.16	Water Service 12/12-2/13/24 Acct 31807600001
001788	2/8/2024	Steve Huebner	290.00	ACLS certification
001801	2/15/2024	EcoMulch	258.00	Residential Chip Dump 2/12/24
	2/22/2024	EcoMulch	258.00	Residential Chip Dump 2/21/24
001802	2/15/2024	Matthew Epperson	250.00	Paramedic Recertification
ACHMaze02.07.24-07	2/8/2024	Maze & Associates	250.00	Web ACFR
ACHPOAuto02.14.24-04	2/15/2024	Pacific Office Automation	243.65	Admin copier
	2/22/2024	EBMUD	229.38	Water Service Stn 43 11/29-1/30/24
001798	2/15/2024	Biomedical Waste Disposal	224.64	Waste Disposal Stn 41 2/9/24
001797	2/15/2024	A T and T	222.04	Calnet 1/1-1/31/24 BAN 9391053307
	2/29/2024	Liu Chun Ming	220.00	Citation 231094002 Refund
001786	2/8/2024	East Bay Tire Company	210.32	Tire Repair 1/25/24
	2/15/2024	East Bay Electric, Inc.	204.98	Admin Building Light Repair
ACHChase02.05.24	2/5/2024		183.75	Bank Fees - Feb 2024
001790	2/8/2024	Jerry Lee	180.00	ACLS Recertification
	2/15/2024	EcoMulch	172.00	Residential Chip Dump 2/9/24
ACHAirtgas02.14.24-01	2/15/2024	Airtgas USA, LLC	146.03	Helium/Nitrogen
ACHOfficeD02.28.24-0	2/29/2024	Office Depot	145.26	Office Supplies
001799	2/15/2024	Clark Pest Control of Stockton Inc.	136.00	Pest Control Stn 42 1/30/24
001820	2/29/2024	Clark Pest Control of Stockton Inc.	136.00	Pest Control Stn 41 02.28.24
001826	2/29/2024	Chris Kelso	132.53	Ambulance Refund Incident 23000126 Date 1/1/23
001813	2/22/2024	EcoMulch	129.00	Residential Chip Dump 2/16/24
001824	2/29/2024	EcoMulch	129.00	Residential Chip Dump 02.27.24
001785	2/8/2024	Mark DeWeese	122.00	EMT Recertification
	2/29/2024	ADT Security Services	119.53	Security Service Admin 3/4-4/3 Acct 402025453
001780	2/1/2024	A T and T Mobility	118.10	Wireless Dec 16-Jan 15 Acct 287016079073
	2/15/2024	Biomedical Waste Disposal	116.91	Waste Disposal Stn 45 2/9/24
001781	2/1/2024	Comcast	97.14	Stn 45 j/23-2/22/24 Acct 8155 40 006 0190996
001784	2/8/2024	Comcast	97.14	Modem Stn 41 1/29-2/28/24 Acct 8155 40 005 0208428
	2/8/2024	Comcast	97.14	Stn 42 1/24-2/23/24 Acct 8155 40 005 0208436
001821	2/29/2024	Comcast	97.14	Stn 42 2/24-3/23/24 Acct 8155 40 005 0208436
	2/29/2024	Comcast	97.14	Stn 45 2/23-3/22/24 Acct 8155 40 006 0190996
001779	2/1/2024	ADT Security Services	94.35	Security Service Stn 45 2/9-3/8/24
001815	2/29/2024	ADT Security Services	94.35	Security Service 3/9-4/8/24 Acct 402025440 Stn 45
001792	2/8/2024	Shred-it	92.57	Shredding Service 1/17/24
ACHAirtgas02.07.24-01	2/8/2024	Airtgas USA, LLC	63.10	Argon
ACHODepot02.07.24-10	2/8/2024	Office Depot	62.36	Batteries
ACHMMan02.07.24-08	2/8/2024	Minuteman Press	60.78	Business Cards
001807	2/22/2024	AT&T	53.50	Internet Feb 10-Mar 9 Acct 293834673
	2/29/2024	ADT Security Services	52.62	Security Service Stn 41 Acct 402025444
001810	2/22/2024	Comcast	45.44	Modem Stn 42 2/14-3/13/24 Acct 8155 40 006 0191002
001811	2/22/2024	Department of Justice	32.00	Fingerprints - Jan 2024

Moraga-Orinda Fire District
Check/Voucher Register - Check Register
From 2/1/2024 Through 2/29/2024

Check Number	Check Date	Name	Check Amount	Transaction Description
001808	2/22/2024	Monina Berestka	9.85	Postage Reimbursement
ACHODepot02.14.24-03	2/15/2024	Office Depot	8.77	Office Supplies
001814	2/22/2024	Tom Gilbertson	<u>7.54</u>	Service Fee reimbursement - 2320588.3 Plan review
Total 50 - General Fund			3,006,773.58	

Moraga-Orinda Fire District
Check/Voucher Register - Check Register
From 2/1/2024 Through 2/29/2024

Check Number	Check Date	Name	Check Amount	Transaction Description
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61 - Tunnel East Bay Hills Fuel Break

ACHSequoia02.14.24-0	2/15/2024	Sequoia Ecological Consulting, Inc.	<u>7,919.80</u>	Tunnel East Bay Hills and On Call Services Jan 2024
Total 61 - Tunnel East Bay Hills Fuel Break			7,919.80	

Moraga-Orinda Fire District
Check/Voucher Register - Check Register
From 2/1/2024 Through 2/29/2024

Check Number	Check Date	Name	Check Amount	Transaction Description
<u>62 - Fire Risk Reduction Grant</u>				
ACHCalPers02.08.24	2/8/2024	Calif. Public Employees'	2,042.82	CalPers Feb 2024
ACHDental02.07.24	2/7/2024	Delta Dental Plan of Calif.	111.92	Delta Dental Feb 2024
ACHFRMSL02.07.24-05	2/8/2024	Fire Risk Management Services	<u>35.01</u>	Life/Suppl Life/VSP
		Total 62 - Fire Risk Reduction Grant	<u>2,189.75</u>	
Report Total			<u>3,016,883.13</u>	

Moraga Orinda Fire District
General Fund
Actual to Budget Summary 7/1/23-2/29/24

	Current Period Actual	Budget \$	Actual vs Budget	Prior Year Current Period Actual	Prior Year Change	Prior Year % Change	Comments
Revenue							
Total Taxes	32,136,352.50	32,201,888.00	(65,535.50)	30,514,499.67	1,621,852.83	5.32%	Property Tax Revenue trending appropriately
Investment Earnings	706,207.13	350,000.00	356,207.13	66,959.61	639,247.52	954.68%	\$67K interest LAIF, \$639k from Tbills. There is unearned revenue of \$218k as of 2/29/2024
Total Intergovernmental Revenue	18,429.19	233,148.00	(214,718.81)	72,997.51	(54,568.32)	-74.75%	Refund of State Mandated Costs 17/18
Total Charges for Service	166,541.01	200,350.00	(33,808.99)	135,308.78	31,232.23	23.08%	Increase in Plan other services fees (SMC Alarms), inspection fees
Total Charges for Service - Ambulance	749,247.50	1,008,750.00	(259,502.50)	670,948.75	78,298.75	11.67%	Ambulance billing lags one month - PY numbers decreased due to significant write-offs in this period last year
Other Revenue-Strike Team Recovery	599,917.99	830,000.00	(230,082.01)	987,809.73	(387,891.74)	-39.27%	Strike team revenue fluctuates from year to year
Other Revenue	<u>3,680.80</u>	<u>5,000.00</u>	<u>(1,319.20)</u>	<u>16,769.98</u>	<u>(13,089.18)</u>	<u>-78.05%</u>	
Total Revenue	34,380,376.12	34,829,136.00	(448,759.88)	32,465,294.03	1,915,082.09	5.90%	
Expenses							
Salaries	7,574,899.02	11,627,637.00	4,052,737.98	7,308,094.74	266,804.28	3.65%	Salaries are trending appropriately
Overtime	2,345,028.25	3,480,202.00	1,135,173.75	1,677,767.00	667,261.25	39.77%	Overtime increase due to increased vacancies and increased worker's compensation injuries
Overtime - Strike Team	404,759.40	549,840.00	145,080.60	604,337.35	(199,577.95)	-33.02%	Strike Team overtime fluctuates from year to year
Retirement Contributions	4,508,099.70	6,900,000.00	2,391,900.30	3,771,824.52	736,275.18	19.52%	Increase in FY24 CCCERA rates +10.4% of payroll
Other Benefits	<u>4,216,919.73</u>	<u>5,576,863.00</u>	<u>1,359,943.27</u>	<u>2,422,945.10</u>	<u>1,793,974.63</u>	<u>74.04%</u>	Other Benefits trending appropriately - Pension Stabilizatio/OPEB payments made in Feb, \$2.0 million
	19,049,706.10	28,134,542.00	9,084,835.90	15,784,968.71	3,264,737.39	20.68%	
Operating and Other Expense	<u>4,841,702.20</u>	<u>7,341,232.00</u>	<u>2,499,529.80</u>	<u>4,555,256.49</u>	<u>286,445.71</u>	<u>6.29%</u>	Prop and Liability Ins. Increase \$33k; Home Hardening supplies \$153k; Attorney \$98k
Total Expenditures	23,891,408.30	35,475,774.00	11,584,365.70	20,340,225.20	3,551,183.10	17.46%	
Excess of Revenues Over/ (Under) Expenditures	<u>10,488,967.82</u>	<u>(646,638.00)</u>	<u>11,135,605.82</u>	<u>12,125,068.83</u>	<u>(1,636,101.01)</u>	<u>-13.49%</u>	

Moraga-Orinda Fire District
Statement of Revenues and Expenditures - General Fund Actual to Budget 2023.2024
From 7/1/2023 Through 2/29/2024

		Current Period Actual	Budget \$	Budget \$ Variance	Percent Budget Remaining	Prior Year Current Period Actual	Prior Year Change	Prior Year % Change	
Total Revenue									
		34,380,376.12	34,829,136.00	(448,759.88)	(1.29)%	32,465,294.03	1,915,082.09	5.90	
Total Expenditures									
		23,891,408.30	35,475,774.00	11,584,365.70	32.65%	20,340,225.20	3,551,183.10	17.46	
Excess of Revenues Over/ (Under) Expenditures									
		10,488,967.82	(646,638.00)	11,135,605.82	(1,722.08)%	12,125,068.83	(1,636,101.01)	(13.49)	
Strike Team									
	Other Revenue-Strike Team Recovery	4971	599,917.99	830,000.00	(230,082.01)	(27.72)%	987,809.73	(387,891.74)	(39.27)
	Overtime - Strike Team	5016	404,759.40	549,840.00	145,080.60	26.39%	604,337.35	(199,577.95)	(33.02)
			195,158.59	280,160.00	(85,001.41)		383,472.38	(188,313.79)	
Revenue									
Taxes									
	Property Tax-Current Secured	4010	30,930,542.10	30,982,918.00	(52,375.90)	(0.17)%	29,435,205.77	1,495,336.33	5.08
	Property Tax-Supplemental	4011	127,094.45	300,000.00	(172,905.55)	(57.64)%	205,362.35	(78,267.90)	(38.11)
	Property Tax-Unitary	4013	318,451.34	250,000.00	68,451.34	27.38%	301,461.20	16,990.14	5.64
	Property Tax-Curr Unsecured	4020	958,077.99	853,970.00	104,107.99	12.19%	728,212.60	229,865.39	31.57
	Prop Tax- Prior Secured	4030	(137,104.71)	(100,000.00)	(37,104.71)	37.10%	(95,133.02)	(41,971.69)	44.12
	Prop Tax-Prior Supplement	4031	(65,490.38)	(75,000.00)	9,509.62	(12.68)%	(55,769.06)	(9,721.32)	17.43
	Prop Tax Prior Unsecured	4035	4,781.71	(10,000.00)	14,781.71	(147.82)%	(4,840.17)	9,621.88	(198.79)
	Total Taxes		32,136,352.50	32,201,888.00	(65,535.50)	(0.20)%	30,514,499.67	1,621,852.83	5.32
Use of Money & Property									
	Investment Earnings*	4181	706,207.13	350,000.00	356,207.13	101.77%	66,959.61	639,247.52	954.68
	Total Use of Money & Property		706,207.13	350,000.00	356,207.13	101.77%	66,959.61	639,247.52	954.68
Intergovernmental Revenue									
	Homeowners Relief Tax	4385	650.65	147,000.00	(146,349.35)	(99.56)%	72,011.51	(71,360.86)	(99.10)
	State Mandated Costs Reimbursement	4436	16,786.00	0.00	16,786.00	0.00%	0.00	16,786.00	100.00
	Other/In Lieu of Taxes	4580	992.54	900.00	92.54	10.28%	986.00	6.54	0.66
	Measure H-Emerg Med Ser Subsid	4896	0.00	85,248.00	(85,248.00)	(100.00)%	0.00	0.00	0.00
	Total Intergovernmental Revenue		18,429.19	233,148.00	(214,718.81)	(92.10)%	72,997.51	(54,568.32)	(74.75)
Charges for Service									
	Permits	4740	2,398.00	5,000.00	(2,602.00)	(52.04)%	4,155.00	(1,757.00)	(42.29)
	Plan Review	4741	81,886.00	140,000.00	(58,114.00)	(41.51)%	80,575.50	1,310.50	1.63
	Inspection Fees	4742	9,291.00	15,000.00	(5,709.00)	(38.06)%	4,235.00	5,056.00	119.39
	Weed Abatement Charges	4744	0.00	0.00	0.00	0.00%	3,000.00	(3,000.00)	(100.00)
	Reports/ Photocopies	4746	375.00	350.00	25.00	7.14%	324.00	51.00	15.74

Moraga-Orinda Fire District
Statement of Revenues and Expenditures - General Fund Actual to Budget 2023.2024
From 7/1/2023 Through 2/29/2024

		Current Period Actual	Budget \$	Budget \$ Variance	Percent Budget Remaining	Prior Year Current Period Actual	Prior Year Change	Prior Year % Change
Other Charges for Service	4747	37,664.00	5,000.00	32,664.00	653.28%	12,221.00	25,443.00	208.19
Administrative Citation Fee	4748	<u>34,927.01</u>	<u>35,000.00</u>	(72.99)	(0.21)%	<u>30,798.28</u>	<u>4,128.73</u>	<u>13.41</u>
Total Charges for Service		166,541.01	200,350.00	(33,808.99)	(16.87)%	135,308.78	31,232.23	23.08
Charges for Service - Ambulance								
Ambulance Service Fees	4898	942,182.91	1,570,750.00	(628,567.09)	(40.02)%	1,016,749.48	(74,566.57)	(7.33)
Ambulance Service Fee Reimbursements	4899	(173,942.27)	(515,000.00)	341,057.73	(66.22)%	(333,288.27)	159,346.00	(47.81)
Ambulance Collection Recovery Payments	4900	5,785.52	3,000.00	2,785.52	92.85%	177.00	5,608.52	3,168.66
Ground Emergency Medical Transportation	4901	(24,778.66)	(50,000.00)	25,221.34	(50.44)%	(12,689.46)	(12,089.20)	95.27
Total Charges for Service - Ambulance		749,247.50	1,008,750.00	(259,502.50)	(25.73)%	670,948.75	78,298.75	11.67
Other Revenue								
Other Revenue-Strike Team Recovery	4971	599,917.99	830,000.00	(230,082.01)	(27.72)%	987,809.73	(387,891.74)	(39.27)
Other Revenue-Misc.	4974	0.51	1,000.00	(999.49)	(99.95)%	10,823.40	(10,822.89)	(100.00)
Misc Rebates & Refunds	4975	3,131.30	3,500.00	(368.70)	(10.53)%	1,813.90	1,317.40	72.63
Sale of Surplus Property	4980	548.99	500.00	48.99	9.80%	2,383.01	(1,834.02)	(76.96)
Transfers In	4999	0.00	0.00	0.00	0.00%	1,749.67	(1,749.67)	(100.00)
Total Other Revenue		<u>603,598.79</u>	<u>835,000.00</u>	(231,401.21)	(27.71)%	<u>1,004,579.71</u>	(400,980.92)	(39.92)
Total Revenue		<u>34,380,376.12</u>	<u>34,829,136.00</u>	(448,759.88)	(1.29)%	<u>32,465,294.03</u>	<u>1,915,082.09</u>	<u>5.90</u>
Expenditures								
Salaries & Benefits								
Permanent Salaries	5011	7,500,943.05	11,530,000.00	4,029,056.95	34.94%	7,254,933.66	246,009.39	3.39
Temporary Salaries	5013	73,955.97	97,637.00	23,681.03	24.25%	53,161.08	20,794.89	39.12
Overtime	5014	2,345,028.25	3,480,202.00	1,135,173.75	32.62%	1,677,767.00	667,261.25	39.77
Deferred Compensation/RHSA	5015	75,616.33	120,000.00	44,383.67	36.99%	74,825.74	790.59	1.06
Overtime - Strike Team	5016	404,759.40	549,840.00	145,080.60	26.39%	604,337.35	(199,577.95)	(33.02)
Contract Services	5018	33,231.97	50,000.00	16,768.03	33.54%	65,108.32	(31,876.35)	(48.96)
Worker's Compensation Recovery	5019	(381,592.93)	(450,000.00)	(68,407.07)	15.20%	(178,576.73)	(203,016.20)	113.69
Payroll Taxes -FICA,SUI	5042	147,615.75	222,493.00	74,877.25	33.65%	135,387.64	12,228.11	9.03
Payroll Processing Fees	5043	12,308.90	27,000.00	14,691.10	54.41%	11,214.72	1,094.18	9.76
Retirement Contributions	5044	4,508,099.70	6,900,000.00	2,391,900.30	34.67%	3,771,824.52	736,275.18	19.52
Life/Health Insurance-Permanent Employees	5060	1,065,621.94	1,660,000.00	594,378.06	35.81%	1,056,899.57	8,722.37	0.83
Employee's-Health Insurance Contribution	5061	(195,527.58)	(315,000.00)	(119,472.42)	37.93%	(143,035.42)	(52,492.16)	36.70
Retiree Health Insurance	5062	813,326.16	1,280,000.00	466,673.84	36.46%	765,502.54	47,823.62	6.25
Retiree-Health Insurance Contribution	5063	(249,958.49)	(362,000.00)	(112,041.51)	30.95%	(223,978.77)	(25,979.72)	11.60
Unemployment Insurance	5064	(275.40)	5,000.00	5,275.40	105.51%	2,946.35	(3,221.75)	(109.35)

Moraga-Orinda Fire District
Statement of Revenues and Expenditures - General Fund Actual to Budget 2023.2024
From 7/1/2023 Through 2/29/2024

		Current Period Actual	Budget \$	Budget \$ Variance	Percent Budget Remaining	Prior Year Current Period Actual	Prior Year Change	Prior Year % Change
Retiree-Health OPEB Contribution	5065	463,553.00	463,553.00	0.00	0.00%	0.00	463,553.00	100.00
Vision Insurance	5066	11,317.58	20,000.00	8,682.42	43.41%	11,584.14	(266.56)	(2.30)
Pension Rate Stabilization	5067	1,569,279.00	1,569,279.00	0.00	0.00%	0.00	1,569,279.00	100.00
Workers' Compensation Insurance	5070	852,403.50	1,286,538.00	434,134.50	33.74%	845,067.00	7,336.50	0.87
Total Salaries & Benefits		19,049,706.10	28,134,542.00	9,084,835.90	32.29%	15,784,968.71	3,264,737.39	20.68
Operating Expense								
Office Supplies	6100	5,303.16	8,500.00	3,196.84	37.61%	3,765.56	1,537.60	40.83
Postage	6101	937.02	3,000.00	2,062.98	68.77%	1,002.34	(65.32)	(6.52)
Books & Periodicals	6102	695.40	2,460.00	1,764.60	71.73%	129.00	566.40	439.07
Printer Ink Cartridges	6103	2,541.84	3,000.00	458.16	15.27%	1,713.39	828.45	48.35
Telephone - Landlines	6109	1,896.04	26,000.00	24,103.96	92.71%	0.00	1,896.04	100.00
Telephone/Communication	6110	58,543.34	65,500.00	6,956.66	10.62%	47,781.83	10,761.51	22.52
Dispatch/Comm Center Services w/ AVL MDT	6111	0.00	230,000.00	230,000.00	100.00%	0.00	0.00	0.00
Utilities- Sewer	6120	4,006.37	5,000.00	993.63	19.87%	4,041.60	(35.23)	(0.87)
Utilities-Garbage	6121	12,710.77	20,100.00	7,389.23	36.76%	12,778.21	(67.44)	(0.53)
Utilities-PG&E	6122	45,112.19	84,500.00	39,387.81	46.61%	44,462.24	649.95	1.46
Utilities-Water	6123	15,956.05	32,000.00	16,043.95	50.14%	13,575.06	2,380.99	17.54
Utilities-Medical Waste	6124	1,471.52	2,700.00	1,228.48	45.50%	1,600.75	(129.23)	(8.07)
Small Tools & Instruments	6130	7,575.68	9,000.00	1,424.32	15.83%	4,637.78	2,937.90	63.35
Minor Equipment/Furniture	6131	0.00	2,500.00	2,500.00	100.00%	0.00	0.00	0.00
Computer Equipment & Supplies	6132	15,850.62	20,000.00	4,149.38	20.75%	2,584.62	13,266.00	513.27
Gas Power Chain Saw/Other Equipmen	6133	553.40	5,000.00	4,446.60	88.93%	2,218.78	(1,665.38)	(75.06)
Fire Trail Grading	6135	118.10	25,000.00	24,881.90	99.53%	1,172.06	(1,053.96)	(89.92)
Technical, Rope Rescue & Extrication	6137	6,156.98	18,000.00	11,843.02	65.79%	5,439.65	717.33	13.19
Fire Fighting Equipment-Hoses & Nozzles	6138	9,087.89	10,000.00	912.11	9.12%	3,048.73	6,039.16	198.09
Fire Fighting Equipment-Class A Foam	6139	0.00	8,000.00	8,000.00	100.00%	0.00	0.00	0.00
Medical & Lab Supplies	6140	70,208.40	130,000.00	59,791.60	45.99%	63,329.34	6,879.06	10.86
Food Supplies	6150	2,178.22	5,500.00	3,321.78	60.40%	1,473.66	704.56	47.81
Safety Clothing & Personal Supplies	6160	72,997.53	126,000.00	53,002.47	42.07%	27,628.66	45,368.87	164.21
Household Expense	6170	10,262.44	22,200.00	11,937.56	53.77%	10,010.34	252.10	2.52
Household Expense-Linen	6171	4,474.52	8,700.00	4,225.48	48.57%	6,060.95	(1,586.43)	(26.17)
Public & Legal Notices	6190	7,369.07	22,000.00	14,630.93	66.50%	1,147.24	6,221.83	542.33
Dues, Memberships & Professional Fees	6200	15,195.51	23,020.00	7,824.49	33.99%	8,946.49	6,249.02	69.85
EMT/Paramedic Licensure Fees	6201	5,330.00	4,000.00	(1,330.00)	(33.25)%	9,098.88	(3,768.88)	(41.42)
Rent & Leases (Equipment)	6250	8,169.29	19,000.00	10,830.71	57.00%	12,759.21	(4,589.92)	(35.97)
Computer Software & Maintenance	6251	63,110.59	93,750.00	30,639.41	32.68%	96,136.98	(33,026.39)	(34.35)

Moraga-Orinda Fire District
Statement of Revenues and Expenditures - General Fund Actual to Budget 2023.2024
From 7/1/2023 Through 2/29/2024

		Current Period Actual	Budget \$	Budget \$ Variance	Percent Budget Remaining	Prior Year Current Period Actual	Prior Year Change	Prior Year % Change
Website Development & Maintenance	6252	5,556.60	5,292.00	(264.60)	(5.00)%	5,292.00	264.60	5.00
EPA ID# Verification Fee	6264	0.00	150.00	150.00	100.00%	0.00	0.00	0.00
CCC HazMat Plan (CUPA)	6265	3,152.00	3,650.00	498.00	13.64%	3,327.00	(175.00)	(5.26)
BAAQMD & Environmental Health Fees	6266	0.00	900.00	900.00	100.00%	0.00	0.00	0.00
Air Monitor Maintenance & Replacement	6269	0.00	800.00	800.00	100.00%	0.00	0.00	0.00
Maintenance -- Equipment	6270	52,831.29	130,800.00	77,968.71	59.61%	44,274.45	8,556.84	19.33
Central Garage Repairs	6271	66,940.33	300,000.00	233,059.67	77.69%	156,353.53	(89,413.20)	(57.19)
Central Garage Gasoline & Oil	6272	67,881.97	110,000.00	42,118.03	38.29%	59,840.26	8,041.71	13.44
Central Garage Tires	6273	14,091.63	15,000.00	908.37	6.06%	9,339.14	4,752.49	50.89
Service/Repair Fuel System Dispensers	6274	0.00	2,500.00	2,500.00	100.00%	0.00	0.00	0.00
Aerial Ladder & Pump Testing	6275	0.00	1,500.00	1,500.00	100.00%	0.00	0.00	0.00
Smog Inspections	6276	0.00	500.00	500.00	100.00%	250.00	(250.00)	(100.00)
Air Compressor Quarterly Service	6278	0.00	9,000.00	9,000.00	100.00%	4,723.53	(4,273.53)	(100.00)
Hydro Test SCBA & Oxy Cylinder	6279	5,788.85	35,000.00	29,211.15	83.46%	19,807.12	(14,018.27)	(70.77)
Tank Testing	6280	0.00	1,120.00	1,120.00	100.00%	0.00	0.00	0.00
Maintenance -- Building	6281	66,268.53	118,000.00	51,731.47	43.84%	56,614.14	9,654.39	17.05
Maintenance -- Grounds	6282	5,088.31	18,900.00	13,811.69	73.08%	8,640.72	(3,552.41)	(41.11)
Meetings & Travel Expenses	6303	6,362.32	1,500.00	(4,862.32)	(324.15)%	266.63	6,095.69	2,286.20
Employee Assistance Program	6309	13,230.00	15,000.00	1,770.00	11.80%	13,230.00	0.00	0.00
Medical - Pre-Emp Processing and Annual	6311	14,367.00	30,000.00	15,633.00	52.11%	2,532.20	11,834.80	467.37
Ambulance Billing Administration Fees	6312	37,660.29	85,000.00	47,339.71	55.69%	39,916.46	(2,256.17)	(5.65)
Outside Attorney Fees	6313	204,730.92	275,000.00	70,269.08	25.55%	106,629.14	98,101.78	92.00
CCC County Tax Administration Fee	6316	0.00	215,000.00	215,000.00	100.00%	0.00	0.00	0.00
Professional Services	6317	67,992.00	56,500.00	(11,492.00)	(20.34)%	13,468.00	54,524.00	404.84
Professional Services - Labor Negotiator	6318	17,285.00	75,000.00	57,715.00	76.95%	1,069.50	16,215.50	1,516.18
Professional Services - Technology	6319	137,009.18	246,640.00	109,630.82	44.45%	129,573.37	7,435.81	5.74
Professional Services - Pre-Employment	6320	14,213.50	30,000.00	15,786.50	52.62%	16,926.05	(2,712.55)	(16.03)
Professional Services - Promotional Exams &	6321	3,185.18	2,000.00	(1,185.18)	(59.26)%	974.49	2,210.69	226.86
Professional Services-OPEB Actuarial	6322	6,750.00	8,000.00	1,250.00	15.63%	2,500.00	4,250.00	170.00
Exterior Hazard Removal	6323	3,541.70	35,000.00	31,458.30	89.88%	12,618.09	(9,076.39)	(71.93)
Professional Services-Prop Tax Audit &	6326	7,200.00	7,600.00	400.00	5.26%	7,200.00	0.00	0.00
Professional Services	6327	0.00	77,000.00	77,000.00	100.00%	574.61	(574.61)	(100.00)
Residential Fuels Mitigation and Home	6353	206,102.26	500,000.00	293,897.74	58.78%	52,923.20	153,179.06	289.44
Testing Materials & Training Props	6354	31,647.63	50,000.00	18,352.37	36.70%	20,381.84	11,265.79	55.27
Career Development Classes	6357	5,271.43	25,000.00	19,728.57	78.91%	7,974.07	(2,702.64)	(33.89)
District Sponsored Training-Mandated	6361	6,300.66	15,000.00	8,699.34	58.00%	766.29	5,534.37	722.23

Moraga-Orinda Fire District
Statement of Revenues and Expenditures - General Fund Actual to Budget 2023.2024
From 7/1/2023 Through 2/29/2024

		Current Period Actual	Budget \$	Budget \$ Variance	Percent Budget Remaining	Prior Year Current Period Actual	Prior Year Change	Prior Year % Change
Election Expense	6465	0.00	0.00	0.00	0.00%	21,285.51	(21,285.51)	(100.00)
Recruiting Costs	6470	0.00	140,000.00	140,000.00	100.00%	0.00	0.00	0.00
Strike Team Supplies	6474	11,112.37	65,000.00	53,887.63	82.90%	32,458.31	(21,345.94)	(65.76)
Community Emergency Response Team	6475	404.31	8,000.00	7,595.69	94.95%	1,992.73	(1,588.42)	(79.71)
Health & Wellness	6476	5,793.13	16,500.00	10,706.87	64.89%	7,121.66	(1,328.53)	(18.65)
Recognition Supplies	6478	0.00	4,500.00	4,500.00	100.00%	(246.66)	246.66	(100.00)
Other Special Departmental Exp	6479	44,273.80	140,650.00	96,376.20	68.52%	21,629.88	22,643.92	104.69
Public Education Supplies	6480	19,547.74	8,000.00	(11,547.74)	(144.35)%	1,695.88	17,851.86	1,052.66
LAFCO	6482	14,529.76	16,000.00	1,470.24	9.19%	13,010.66	1,519.10	11.68
Emergency Preparedness Expense	6484	14,061.79	21,000.00	6,938.21	33.04%	7,566.26	6,495.53	85.85
Misc. Services & Supplies	6490	6,051.92	95,500.00	89,448.08	93.66%	5,215.20	836.72	16.04
Fire Chief Contingency	6491	26,180.23	114,000.00	87,819.77	77.03%	12,476.91	13,703.32	109.83
Property & Liability Insurance	6540	<u>177,475.00</u>	<u>170,000.00</u>	<u>(7,475.00)</u>	<u>(4.40)%</u>	<u>144,187.00</u>	<u>33,288.00</u>	<u>23.09</u>
Total Operating Expense		1,837,690.57	4,335,932.00	2,498,241.43	57.62%	1,452,922.52	384,768.05	26.48
Other Expense								
Bank Fees	7510	4,011.45	5,000.00	988.55	19.77%	2,082.00	1,929.45	92.67
County Tax Collection Fees	7530	0.18	300.00	299.82	99.94%	251.97	(251.79)	(99.93)
Transfers to Other Funds	7997	<u>3,000,000.00</u>	<u>3,000,000.00</u>	<u>0.00</u>	<u>0.00%</u>	<u>3,100,000.00</u>	<u>(100,000.00)</u>	<u>(3.23)</u>
Total Other Expense		<u>3,004,011.63</u>	<u>3,005,300.00</u>	<u>1,288.37</u>	<u>0.04%</u>	<u>3,102,333.97</u>	<u>(98,322.34)</u>	<u>(3.17)</u>
Total Expenditures		<u>23,891,408.30</u>	<u>35,475,774.00</u>	<u>11,584,365.70</u>	<u>32.65%</u>	<u>20,340,225.20</u>	<u>3,551,183.10</u>	<u>17.46</u>
Excess of Revenues Over/ (Under) Expenditures		<u>10,488,967.82</u>	<u>(646,638.00)</u>	<u>11,135,605.82</u>	<u>(1,722.08)%</u>	<u>12,125,068.83</u>	<u>(1,636,101.01)</u>	<u>(13.49)</u>

* There is unearned revenue of \$218K as of 2/29/2024

Moraga-Orinda Fire District
Statement of Revenues and Expenditures - Capital Projects Fund Actual to Budget - 23.24
From 7/1/2023 Through 2/29/2024

		Current Period Actual	Total Budget - Original	Total Budget Variance - Original	Percent Total Budget Remaining - Original
Revenue					
Taxes					
Fire Flow Tax	4066	1,098,956.70	1,105,000.00	(6,043.30)	(0.55)%
Total Taxes		1,098,956.70	1,105,000.00	(6,043.30)	(0.55)%
Use of Money & Property					
Investment Earnings*	4181	38,726.74	10,000.00	28,726.74	287.27%
Total Use of Money & Property		38,726.74	10,000.00	28,726.74	287.27%
Intergovernmental Revenue					
Misc State Aid/ Grants	4435	188,485.73	414,250.00	(225,764.27)	(54.50)%
Intergovernmental Revenue-Fed...	4437	0.00	862,321.00	(862,321.00)	(100.00)%
Total Intergovernmental Revenue		188,485.73	1,276,571.00	(1,088,085.27)	(85.23)%
Charges for Service					
Impact Mitigation Fees	4743	0.00	2,000.00	(2,000.00)	(100.00)%
Total Charges for Service		0.00	2,000.00	(2,000.00)	(100.00)%
Other Revenue					
Other Revenue-Strike Team Rec...	4971	48,404.08	100,000.00	(51,595.92)	(51.60)%
Transfers In	4999	3,000,000.00	3,000,000.00	0.00	0.00%
Total Other Revenue		3,048,404.08	3,100,000.00	(51,595.92)	(1.66)%
Total Revenue		4,374,573.25	5,493,571.00	(1,118,997.75)	(20.37)%
Expenditures					
Other Expense					
Bank Fees	7510	282.00	200.00	(82.00)	(41.00)%
Fire Flow Tax Collection Fees	7531	11,710.40	14,000.00	2,289.60	16.35%
Fire Fighting Equip-Fixed Asset ...	7701	111,876.19	1,206,780.00	1,094,903.81	90.73%
Apparatus/Vehicles-Fixed Asset ...	7703	0.00	2,825,033.00	2,825,033.00	100.00%
Computer Equip & Software-Fix...	7704	164,250.00	164,250.00	0.00	0.00%
FEMA (AFG) Grants-Fixed Asse...	7707	25,511.30	250,000.00	224,488.70	89.80%
Buildings-Stations-Fixed Asset E...	7708	0.00	10,000.00	10,000.00	100.00%
Misc. Equipment Expense	7709	0.00	500,000.00	500,000.00	100.00%
Station 45 - Construction in Prog...	7713	0.00	2,000,000.00	2,000,000.00	100.00%
Operating Transfers Out	7999	161,145.00	320,835.00	159,690.00	49.77%
Total Other Expense		474,774.89	7,291,098.00	6,816,323.11	93.49%
Total Expenditures		474,774.89	7,291,098.00	6,816,323.11	93.49%
Excess of Revenues Over/ (Under) Ex...		3,899,798.36	(1,797,527.00)	5,697,325.36	(316.95)%

*Unearned Interest in Capital Fund is \$18k

Moraga-Orinda Fire District
Statement of Revenues and Expenditures - Debt Service Fund Actual to budget - 23.24
From 7/1/2023 Through 2/29/2024

		Current Period Actual	Total Budget \$ - Original	Total Budget \$ Variance - Original	Percent Total Budget Remaining - Original
Revenue					
Other Revenue					
Transfers In	4999	<u>161,145.00</u>	<u>320,835.00</u>	<u>(159,690.00)</u>	<u>(49.77)%</u>
Total Other Revenue		<u>161,145.00</u>	<u>320,835.00</u>	<u>(159,690.00)</u>	<u>(49.77)%</u>
Total Revenue		<u>161,145.00</u>	<u>320,835.00</u>	<u>(159,690.00)</u>	<u>(49.77)%</u>
Expenditures					
Other Expense					
Lease Agreement Station 43 Principal	7906	136,000.00	272,000.00	136,000.00	50.00%
Lease Agreement Station 43 Interest	7907	25,145.00	48,835.00	23,690.00	48.51%
Total Other Expense		<u>161,145.00</u>	<u>320,835.00</u>	<u>159,690.00</u>	<u>49.77%</u>
Total Expenditures		<u>161,145.00</u>	<u>320,835.00</u>	<u>159,690.00</u>	<u>49.77%</u>
Excess of Revenues Over/ (Under) Expenditures		<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00%</u>

Moraga-Orinda Fire District
Statement of Revenues and Expenditures - Tunnel East Bay Hills Actual to Budget - 23.24
From 7/1/2023 Through 2/29/2024

		Current Period Actual	Total Budget - Original	Total Budget Variance - Original	Percent Total Budget Remaining - Original
Revenue					
Intergovernmental Revenue					
Misc State Aid/ Grants	4435	1,628,571.74	5,743,998.00	(4,115,426.26)	(71.65)%
Total Intergovernmental Revenue		1,628,571.74	5,743,998.00	(4,115,426.26)	(71.65)%
Total Revenue		1,628,571.74	5,743,998.00	(4,115,426.26)	(71.65)%
Expenditures					
Salaries & Benefits					
Temporary Salaries	5013	36,634.38	155,000.00	118,365.62	76.36%
Overtime	5014	3,421.89	0.00	(3,421.89)	0.00%
Payroll Taxes -FICA,SUI	5042	3,064.29	10,000.00	6,935.71	69.36%
Total Salaries & Benefits		43,120.56	165,000.00	121,879.44	73.87%
Operating Expense					
Office Supplies	6100	146.92	0.00	(146.92)	0.00%
Computer Equipment & Supplies	6132	1,209.42	0.00	(1,209.42)	0.00%
Professional Services	6317	131,355.23	366,220.00	234,864.77	64.13%
Exterior Hazard Removal	6323	1,214,409.88	3,967,350.00	2,752,940.12	69.39%
Exterior Hazard Removal - Mech...	6324	34,174.42	630,000.00	595,825.58	94.58%
Misc. Services & Supplies	6490	420.89	0.00	(420.89)	0.00%
Total Operating Expense		1,381,716.76	4,963,570.00	3,581,853.24	72.16%
Total Expenditures		1,424,837.32	5,128,570.00	3,703,732.68	72.22%
Excess of Revenues Over/ (Under) Ex...		203,734.42	615,428.00	(411,693.58)	(66.90)%

Moraga-Orinda Fire District
Statement of Revenues and Expenditures - FMS Grant 23.24
From 7/1/2023 Through 2/29/2024

		Current Period Actual	Total Budget - Original	Total Budget Variance - Original	Percent Total Budget Remaining - Original
Revenue					
Intergovernmental Revenue					
Misc State Aid/ Grants	4435	88,892.22	194,191.00	(105,298.78)	(54.22)%
Total Intergovernmental Revenue		88,892.22	194,191.00	(105,298.78)	(54.22)%
Total Revenue		88,892.22	194,191.00	(105,298.78)	(54.22)%
Expenditures					
Salaries & Benefits					
Permanent Salaries	5011	48,110.83	109,928.00	61,817.17	56.23%
Overtime	5014	0.00	2,000.00	2,000.00	100.00%
Deferred Compensation/RHSA	5015	1,086.25	2,400.00	1,313.75	54.74%
Overtime - Strike Team	5016	646.34	0.00	(646.34)	0.00%
Payroll Taxes -FICA,SUI	5042	642.90	1,629.00	986.10	60.53%
Retirement Contributions	5044	9,657.11	26,792.00	17,134.89	63.96%
Life/Health Insurance-Permanen...	5060	10,214.67	12,396.00	2,181.33	17.60%
Employee's-Health Insurance C...	5061	(1,966.76)	(1,452.00)	514.76	(35.45)%
Vision Insurance	5066	80.07	192.00	111.93	58.30%
Total Salaries & Benefits		68,471.41	153,885.00	85,413.59	55.50%
Operating Expense					
Office Supplies	6100	0.00	1,000.00	1,000.00	100.00%
Telephone/Communication	6110	0.00	2,500.00	2,500.00	100.00%
Other Special Departmental Exp	6479	2,429.86	10,000.00	7,570.14	75.70%
Public Education Supplies	6480	0.00	1,000.00	1,000.00	100.00%
Misc. Services & Supplies	6490	0.00	5,000.00	5,000.00	100.00%
Total Operating Expense		2,429.86	19,500.00	17,070.14	87.54%
Total Expenditures		70,901.27	173,385.00	102,483.73	59.11%
Excess of Revenues Over/ (Under) Ex...		17,990.95	20,806.00	(2,815.05)	(13.53)%



Moraga-Orinda Fire District

TO: Board of Directors

FROM: Gloriann Sasser, Administrative Services Director

DATE: March 20, 2024

SUBJECT: **Item 10.1 Public Workshop Long Range Financial Forecast March 2024**

BACKGROUND

The Long Range Financial Forecast (Forecast) has been updated. The Forecast covers a forward-looking 10-year period. The Forecast uses several significant assumptions, which are explained below.

Budget Development – Fiscal Year 2025 Annual Operating Budget

The FY2025 Annual Operating Budget is being developed and will be presented to the Board in a public budget workshop on April 17, 2024. The Forecast amounts for FY2025 are based on the work completed to date for the FY2025 Budget. The following budgeted amounts are complete and reflected in the Forecast:

- Revenue, including property tax
- Salaries and benefits expenditures including retirement costs based on actual rates set by Contra Costa County Employees' Retirement Association (CCCERA.) The FY2025 salaries include a salary increase of 3% (the District is currently in MOU negotiations with the labor unions.) Salary increases of 3% are assumed FY2026 and beyond.
- The salaries and benefits costs include two new positions effective July 1, 2024 subject to Board approval: Deputy Fire Chief and Office Specialist
- Capital Projects Fund expenditures
- Debt Service Fund expenditures
- OPEB and Pension Trust contributions
- Operating expenses are projected based on the FY2025 budget work completed to date

Property Tax Revenue

Property tax revenue for FY24/25 has been projected by HdL, the District's property tax revenue consultants. The total property tax revenue increase for FY24/25 is projected to be 3.97% or \$1.28M. The property sales that occurred in calendar year 2023 impact the District's FY24/25 property tax revenue as a result of reassessment to market rates at the time of sale.

The Property Tax Revenue California Consumer Price Index granted for all taxing entities in the State per Proposition 13 for 24/25 is 2.0%. The history of the Property Tax Revenue California Consumer Price Index is as follows:

Fiscal Year	Property Tax Revenue California Consumer Price Index
24/25	2.0%
23/24	2.0%
22/23	2.0%
21/22	1.036%
20/21	2.0%
19/20	2.0%
18/19	2.0%
17/18	2.0%
16/17	1.525%

Median sale prices of single-family homes in the District (both cities) decreased 5.41% in 2023 over the previous calendar year and there was a decrease in the number of homes sold by 106 transactions (365 homes sold in 2023 v. 471 in 2022.) This means that there were 22% fewer homes sold in calendar year 2023 when compared with the prior year and these 2023 sales impacted the FY24/25 projected property tax revenue. The homes that sold in 2023 saw a 71% increase in assessed value compared to the value before the sale transaction. This increase in the tax roll values will result in increased property tax revenue to the District.

HdL property tax revenue projections for the District are as follows:

- 25/26 3.95%
- 26/27 4.87%
- 27/28 4.88%
- 28/29 4.90%

The Forecast uses HDL's projections for FY24/25 and then, as directed by the Board, 3.5% property tax revenue growth throughout.

Other General Fund Revenues

- Ambulance fees – Projected to increase 1.5%
- Strike team revenue (net of overtime costs) – FY24/25 is projected at \$200,000, then increase 3% throughout
- Other revenue (fuel break administrative fee) – The administrative fee for the Tunnel East Bay Hills Fuel Break is projected to be received in the General Fund in FY25/26 (\$683,632.)

General Fund Expenditures

- Regular salaries – +3% effective July 1, 2024 subject to ongoing MOU negotiations, then +3% throughout. For context, a 1% salary increase District-wide equates to \$224K. Forecast includes two new positions effective July 1, 2024 subject to Board approval: Deputy Fire Chief and Office Specialist and Safety roster strength of 57.
- Overtime – +3% effective July 1, 2024 subject to ongoing MOU negotiations, then +3% throughout
- Benefits – +3% throughout
- Retiree health insurance – Capped per MOUs, no increases
- Operating expenses – Projected actuals for FY23/24, proposed budget amounts for FY24/25 based on budget work completed to date (+6%), then increase +3% throughout
- Residential fuels mitigation and home hardening grant program - \$300K projected expenditures for FY23/24, then \$500K throughout

Pension Costs

There are several significant items to note related to administration of the District's pension benefits at the Contra Costa County Employees' Retirement Association (CCCERA):

- The most recent CCCERA actuarial valuation as of 12/31/2022 was calculated using a 6.75% investment earnings assumption
- Actual year-to-date CCCERA investment returns net of fees for the period January 1, 2023 through December 31, 2023 was +9.0%.
- CCCERA set the District's pension rates for FY24/25 based on the 12/31/2022 actuarial valuation. The District's Safety pension rates increased 10.50% (Classic) and 10.87% (PEPRA) primarily due to an investment loss of -10.6% in 2022. The actual rates set by CCCERA for FY24/25 have been used in the Forecast.
- CCCERA's actuary, Segal Consulting, is in the process of calculating updated 5-year rate projections based on the 2023 actual CCCERA investment returns (+9%.) The updated projections have not been released by CCCERA. Staff used the GovInvest software to project the rate increases as follows:

Fiscal Year	Employer Rate Change Safety Classic (3% @ 50)	Employer Rate as Percentage of Pensionable Compensation Safety Classic (3% @ 50)	Employer Rate as Percentage of Pensionable Compensation Safety PEPRA (2.7% @ 57)
FY2022	+0.40%	72.97%	62.44%
FY2023	-2.62%	70.35%	59.63%
FY2024	+10.45%	80.80%	69.94%
FY2025	+10.50%	91.30%	80.81%
FY2026*	+2.68% Projected	93.98%	83.49%
FY2027*	+2.99% Projected	96.97%	86.48%
FY2028*	+1.86% Projected	98.83%	88.34%
FY2029*	+0.09% Projected	98.92%	88.43%
FY2030*	-15.97% Projected	82.95%	72.46%
FY2031 forward*	No projections are provided by CCCERA. The remaining years use calculations provided by GovInvest software.		

* These rates are projected and have not been set by the CCCERA Board.

OPEB Funding

The Forecast includes OPEB contributions based on actuarial calculations used in the GASB 75 OPEB Valuation Report as of June 30, 2023 which were calculated using a discount rate of 6.25% and 13-year closed amortization period. The Forecast assumes the District continues to fund the full actuarially recommended contribution throughout the Forecast. As of January 31, 2024 (most recent), the OPEB trust fund 1-year investment return is 12.62%.

Pension Rate Stabilization Trust Fund Contributions

Pension trust contributions are based on GovInvest software calculations using a discount rate of 6.25%, salary increases of 5% effective July 1 2023 and 3% throughout the remaining years, 2023 CCCERA actual investment earnings of +9.0% and investment earnings of 6.25% throughout the remaining years. The Forecast includes this trust contribution throughout the Forecast.

Capital Projects Fund

The Long Range Financial Forecast - Capital Expenditures (Attachments B and C), have been updated to reflect the revised timing of the Station 45 remodel and Station 41/Administration construction projects. Major expenses include:

Remodel Station 45 as follows:

FY2024 \$2,000,000 included
in Budget
FY2025 \$1,000,000

Rebuild Station 41/Administration as follows:

FY2026 \$7,000,000
FY2027 \$3,600,000

Apparatus Purchases as follows:

FY2024 \$2,200,000 for two Type 1 fire engines included in budget
\$250,686 for one Type VI fire engine included in budget
\$374,647 for two ambulances included in budget
FY2025 \$330,000 for two ambulances
\$75,000 for one fire chief vehicle replacement

The pension obligation bonds were paid-in-full effective July 1, 2022. The District has one outstanding debt issue that paid for the construction of Fire Station 43 with an annual debt service payment of \$322K. The Forecast includes a transfer of money that was previously used to pay for the pension obligation bonds from the General Fund to the Capital Projects Fund to pay for the construction of Fire Station 41/Administration and to pay for the remodel of Fire Station 45. This would allow the District to pay cash for the two projects.

Transfers from the General Fund to the Capital Projects Fund are as follow:

FY2024 (approved by Board February 2024)	\$3,000,000
FY2025	\$3,000,000
FY2026 and FY2027	\$2,000,000
FY2028 and ongoing	\$1,100,000

Fund Balance Policy and Fund Balance Goal

The District’s Fund Balance Policy states the District will maintain a minimum unrestricted fund balance in the General Fund of at least 40% of budgeted General Fund revenue at fiscal year-end with a goal of achieving a 50% year-end General Fund balance in the long term. Results are 50% to 127%. Note these fund balance projections forecast a 3% salary increase throughout the Forecast.

Growth of Reserves

	Unrestricted Reserves	General Fund Unrestricted Reserves as a Percentage of Budgeted Revenue	OPEB Trust Fund	Pension Stabilization Trust Fund
2016	\$9,753,441	19%	\$176,437	\$0
2017	\$11,485,547	23%	\$472,933	\$304,836

2018	\$12,319,249	28%	\$882,129	\$700,449
2019	\$12,846,486	31%	\$1,358,338	\$1,879,809
2020	\$13,960,991	38%	\$1,999,673	\$3,022,693
2021	\$16,887,812	43%	\$2,948,603	\$5,582,483
2022	\$19,618,860	49.68%	\$2,798,054	\$6,845,315
2023	\$26,093,631	53.50%	\$3,548,145	\$10,003,244
2024 Projected	\$24,657,610	53.13%	\$4,233,457	\$12,295,806

Long Range Financial Forecast Results

The Forecast shows a deficit of \$303K in the General Fund in FY2025, a surplus of \$1.3M in FY2026, and surpluses in the General Fund with revenue exceeding expenditures (including OPEB and pension trust contributions) in all future years. The Forecast shows a Capital Projects Fund deficit in FY2026 and FY2027 primarily due to the planned construction of Station 41/Administration (\$10.6M estimated.)

Summary of Unfunded Liabilities

The section titled Summary of Unfunded Liabilities includes projections of the District’s unfunded pension liabilities calculated using the GovInvest software presenting both CCCERA’s actuarial assumptions and the District’s actuarial assumptions. It also includes projections of the District’s OPEB unfunded liabilities based on the District’s OPEB actuarial assumptions and planned trust contributions.

Conclusion

Staff will continue to carefully monitor the District's finances. Staff requests Board direction regarding the Long Range Financial Forecast which will be brought back to the Board at the April 17, 2024 board meeting.

RECOMMENDATION

Staff Recommendation: 1) Discuss; 2) Deliberate; 3) Provide direction to Staff.

ATTACHMENT

- [Attachment A - LRFF March 2024.pdf](#)
- [Attachment B - Capital March 2024.pdf](#)
- [Attachment C - Apparatus March 2024.pdf](#)

Moraga-Orinda Fire Protection District
 Long Range Financial Forecast - Capital Expenditures
 Draft Update
 March 2024

	DESCRIPTION	AGE	REPLACEMENT DATE	BOOK VALUE	2018 REPLACEMENT COST	PROJ 24/25	PROJ 25/26	PROJ 26/27	PROJ 27/28	PROJ 28/29	PROJ 29/30	PROJ 30/31	PROJ 31/32	PROJ 32/33	PROJ 33/34
	BUILDINGS & GROUNDS														
	STATION-41/TRAINING	62	2026	579,367	8,500,000		5,800,000	3,600,000							
	ADMINISTRATION	50	2026	340,435	1,500,000		1,200,000								
	STATION-42	17	2041	1,992,000	2,721,437										
	STATION-43	2	2058		4,093,000										
	STATION-44	12	2046	2,648,802	2,478,819										
	STATION-45	48	2024	475,488	2,500,000	1,000,000									
	CAPITAL IMPROVEMENTS - OTHER						76,385	78,677	81,037	83,468	85,972	88,551	91,208	93,944	96,762
	TOTAL FACILITIES EXPENDITURES					1,000,000	7,076,385	3,678,677	81,037	83,468	85,972	88,551	91,208	93,944	96,762
	TOTAL APPARATUS EXPENDITURES/VEHICLE					405,000	38,312	0	480,475	141,710	0	500,000	0	1,500,000	500,000
	FIREFIGHTING CAPITAL EQUIPMENT						53,045	54,636	56,275	57,964	59,703	61,494	63,339	65,239	67,196
	IT CAPITAL EXPENDITURES						20,600	21,218	21,855	22,510	23,185	23,881	24,597	25,335	26,095
	OTHER CAPITAL EXPENDITURES					21,500	22,145	22,809	23,494	24,198	24,924	25,672	26,442	27,236	28,053
	TOTAL CAPITAL					\$ 1,426,500	\$ 7,210,487	\$ 3,777,340	\$ 663,135	\$ 329,850	\$ 193,784	\$ 699,598	\$ 205,586	\$ 1,711,754	\$ 718,106

Apparatus Costs

March 2024													
DESCRIPTION	AGE	REPLACE DATE	COST	PROJ 24/25	PROJ 25/26	PROJ 26/27	PROJ 27/28	PROJ 28/29	PROJ 29/30	PROJ 30/31	PROJ 31/32	PROJ 32/33	PROJ 33/34
ENGINES - STRUCTURE PROTECTION													
1998 ENGINE TYPE 1 SPARTAN, HI-TEC (RESERVE APPARATUS)		2024	1,100,000	Ordered and included in FY2024 Budget - Pending Delivery									
2008 ENGINE TYPE 1 PIERCE		2024	1,100,000	Ordered and included in FY2024 Budget - Pending Delivery									
2012 ENGINE TYPE 1 PIERCE	12	2035	585,163									1,500,000	
2017 ENGINE TYPE 1 PIERCE	7	2037	602,834										
2017 ENGINE TYPE 1 PIERCE	7	2037	602,834										
ENGINES - WILDLAND													
2002 ENGINE TYPE 3 WESTATES	22	N/A	386,428	Retire Upon Type VI Arrival									
2002 ENGINE TYPE 3 WESTATES	22	2028	386,428				480,475						
2008 ENGINE TYPE 3 PIERCE	16	2031	386,428						500,000				
2010 ENGINE TYPE 3 PIERCE	14	2035	386,428										
ENGINES -													
2018 ENGINE TYPE 6	6	2038	151,250										
2023 ENGINE TYPE 6		2043	250,686	Ordered and included in FY2024 Budget - Pending Delivery									
AERIAL LADDER TRUCKS													
2017 TILLER TRUCK - 100' PIERCE	7	2035	1,286,924										
SPECIALIZED APPARATUS													
2009 WATER TENDER PIERCE-KENWORTH	15	2034	300,000										400,000
AMBULANCES													
2015 AMBULANCE NAVISTAR TERRASTAR LEADER	9		212,277	Replaced by F-450									
2015 AMBULANCE NAVISTAR TERRASTAR LEADER	9		212,277	Replaced by F-450									
2017 AMBULANCE	7	2027	180,645			165,000							
2017 AMBULANCE	7	2029	180,645			165,000							
2023 AMBULANCE F-450		2033	175,000	Ordered and included in FY2024 Budget - Pending Delivery									
2023 AMBULANCE F-450		2033	175,000	Ordered and included in FY2024 Budget - Pending Delivery									
COMMAND VEHICLES													
2008 COMMAND-CHEVY SUBURBAN - SELL IN 2025	16	N/A	60,000										
2017 COMMAND-CHEVY TAHOE	7	2028	52,048	75,000									
2019 COMMAND-DODGE 2500	5	2029	70,000					100,000					
2023 COMMAND-DODGE 2500	1	2034	64,190										100,000
SUPPORT VEHICLES													
2011 CHEVY TAHOE	13	N/A	34,700										
2012 FORD EXPLORER	12	2026	34,700		38,312								
2017 FORD EXPLORER	7	2029	33,546					41,710					
2019 DODGE 5500 AIR LIGHT UNIT	5	N/A	250,000										
UTILITY VEHICLES													
2000 UTILITY FORD F250	24	N/A	60,000										
2005 FORD RANGER - SELL	19	N/A	18,769										
2005 FORD RANGER - SELL	19	N/A	18,769										
2005 FORD RANGER - SELL	19	N/A	18,769										
2019 DODGE 2500	5	2035	40,000										
2022 DODGE 1500	2	2035	64,000										
2022 DODGE 1500	2	2035	64,000										
2023 FORD RANGER	1	2038	35,000										
2023 FORD RANGER	1	2038	35,000										
TOTAL APPARATUS EXPENDITURES/VEHICLE				405,000	38,312	0	480,475	141,710	0	500,000	0	1,500,000	500,000
FIREFIGHTING/RESCUE APPARATUS AMBULANCES COMMAND/SUPPORT/STAFF VEHICLES													



Moraga-Orinda Fire District

TO: Board of Directors

FROM: Jonathan Holtzman, District Counsel

DATE: March 20, 2024

SUBJECT: **Item 10.2 Adopt Resolution 24-02 revising Rules of Procedure for Board Meetings addressing voting requirements, rules for public comment, removal of the Board Officer positions of Secretary and Treasurer, and adding disruptive conduct procedures**

BACKGROUND

At the February 21, 2024, regular board meeting, the Board discussed amendments to the Rules of Procedures, marking the second time the amendments had been brought before the Board. The Board engaged in a comprehensive deliberation and ultimately agreed to accept the redline changes present during the meeting (Attachment A.) In addition, the Board directed additional modifications, which have been integrated into the amended Rules of Procedures. Subsequent to the meeting, Counsel conducted a final review of the Rules of Procedures. To enhance clarity and readability and to reduce redundancy, Counsel made a small number of edits which changed the order in which information is presented. A summary of the substantive and formatting changes are included below and are shown in track changes in Attachment B.

The Summary of the Additional modifications:

1.1 REGULAR MEETING	The Closed session language edited to say "beginning at either 5 p.m. or 6 p.m. (as described on the particular agenda).
1.3 SPECIAL AND EMERGENCY MEETINGS	Inserted language "not less than"
1.5 MEETINGS TO BE PUBLIC	Deleted the word "presently"
2.1 AGENDA	Inserted language "A brief general description of each item of business to be transacted and discussed."
2.1.3 ORDER OF BUSINESS	Inserted language "As provided in Government Code section 54954.2(a)(3)" and "As provided in Government Code section 54954.2(b)."
2.2 DELIVERY OF AGENDA FOR REGULAR MEETINGS	Restored "and reports and other documentation related thereto" to the first paragraph

2.5 CONSENT CALENDAR	Moved from 2.7 to 2.5
2.6 PROCEDURES FOR BOARD ACTION ON REGULAR CALENDAR ITEMS	Moved from 5.0 to 2.6. Numbers 1-6 were changed to alphabet letters a-f
2.8 PUBLIC COMMENT	Section 6.0 ADDRESSING THE DISTRICT BOARD was consolidated into Section 2.8 PUBLIC COMMENT. The redundant information was removed. Letter (I) language is new in order to comply with the Brown Act.
2.9 PARTICIPATION BY MEMBERS OF THE DISTRICT BOARD IN AGENDA SETTING	Deleted the sentence "the Announcements portion of the agenda" and replaced with "Items on Future Agenda (section 2.1.1)" to be consistent with language in Section 2.1.1. Deleted words "agendizing and not discussing." Inserted language "placing an item of business on future agenda."
3.1 PRESIDING OFFICER	Deleted phrase "Board Member with the greatest seniority"
4.4 DECORUM AND ORDER - PUBLIC	Clarified the second sentence that started with the word "it." Deleted the word "it". Inserted word "Such conduct"
5 WRITTEN CORRESPONDENCE	Established a new section
6 MOTIONS	Section numbering changed from 7 to 6
7 VOTING PROCEDURE	Section numbering changed from 8 to 8
8 RESOLUTIONS AND MOTIONS	Section numbering changed from 9 to 8. Inserted the word "Motions" into the title of the section. Deleted Sections: 9.1, DEFINITIONS, 9.2 RESOLUTIONS IN ADVANCE, 9.3 RESOLUTIONS NOT PREPARED IN ADVANCE, AND 9.4 URGENCY RESOLUTIONS.
9 ORDINANCES	Section numbering changed from 10 to 9
10 ELECTION OF OFFICERS	Inserted language "Nothing herein shall affect the status of officers appointed prior to the adoption of this Resolution (No. 24-02)."

12 STANDING OR AD HOC COMMITTEES

Inserted the words "create or dissolve" and "and appoint their members" and struck "The Board shall appoint and may remove members of standing and ad hoc committees."

All modifications presented and discussed during the February 21, 2024, regular board meeting have been accepted within the document. The additional amendments made by Counsel have also been accepted and included in the final Resolution. The final clean version is attached as Attachment C.

RECOMMENDATION

Staff Recommendation: 1) Discuss; 2) Deliberate; 3) Adopt Resolution 24-02 revising Rules of Procedure for Board Meetings addressing voting requirements, rules for public comment, adding disruptive conduct procedures, removal of the Board Officer positions of Secretary and Treasurer, and other issues.

ATTACHMENT

[Attachment A: 24-02 MOFD Rules Tracked Changes \(2-21-24 JVH\) \(distributed at the meeting\).docx](#)

[Attachment B: 24-02 MOFD Rules Additional Modifications.pdf](#)

[Attachment C: 24-02 MOFD Rules of Procedure Final.pdf](#)

RESOLUTION NO. 24-02

**RESOLUTION OF THE BOARD OF DIRECTORS OF
THE MORAGA-ORINDA FIRE DISTRICT
ADOPTING REVISED RULES OF PROCEDURE FOR BOARD MEETINGS
AND RELATED FUNCTIONS AND ACTIVITIES**

WHEREAS, the Board of Directors (“District Board”) of the Moraga-Orinda Fire District ("District") has previously adopted Rules of Procedure to govern the conduct of its meetings and related functions and activities through Resolution Number 07-02;

WHEREAS, on January 19, 2011, the District Board adopted Resolution No. 11-03 which repealed Resolution Number 07-02 and adopted new Rules of Procedure to govern the conduct of its meetings and related functions and activities;

WHEREAS, the District Board desires to further amend its Rules of Procedure to comply with changes in the Brown Act and other laws, to include additional provisions relating to addressing disruptive conduct and relating to conflicts of interest, and for purposes of clarification.

NOW, THEREFORE, BE IT RESOLVED that the District Board does hereby repeal Resolution Number 11-03 relating to the adoption of Rules of Procedure and related functions and activities within the District.

BE IT FURTHER RESOLVED that the District Board does hereby adopt the following Rules of Procedure for District Board meetings and related functions and activities:

PURPOSE: The purpose and intent of the District Board in adopting these rules is to provide directory, as opposed to mandatory, guidelines relating to the conduct of the public business by or on behalf of the District Board, and in the event of any noncompliance with or violation of any provision herein, such will not be deemed to affect the validity of any action taken, unless otherwise specifically provided by law. ~~or specifically provided by these rules.~~ These procedures are intended to supplement and implement provisions of the Ralph M. Brown Act, Government Code section 54950 et seq., (the "Brown Act").

1. MEETINGS

1.1 REGULAR MEETING:

The District Board shall hold regular meetings located at 22 Orinda Way, Orinda, CA on the third Wednesday of the month, with the Closed session beginning at 6 p.m. and the Open session beginning at 7 p.m.. When the day for a regular meeting of the District Board falls on a legal holiday, the District Board, at the preceding meeting, shall determine the time and date of any rescheduled meeting.

The meeting site may be changed for convenience, to accommodate larger attendance, and for other reasons, provided that the alternate location is within the jurisdiction of the District, permitted by law, accessible as required pursuant to the Americans with Disabilities Act, and the alternate location is posted at the District offices and on its website. (Govt. Code § 54954)

1.2 ADJOURNED MEETINGS TO A FUTURE DATE:

Any meeting may be adjourned to a time, place, and date certain, but not beyond the next regular meeting, in compliance with the Brown Act, Government Code Section 54955. Once adjourned, the meeting may not be reconvened until the date of the adjourned meeting. Whenever a regular or adjourned meeting is adjourned as provided in this section, the resulting adjourned meeting is a regular meeting for all purposes.

The Clerk shall provide notice of an Adjourned Meeting in the same way required for a special meeting. A copy of the notice of adjournment shall be posted on or near the door of the place where the meeting was held within twenty-four hours of adjournment. If the adjourned meeting occurs more than five days after the meeting that was continued, a new agenda for the adjourned meeting shall be posted 72 hours in advance of the adjourned meeting.

1.3 SPECIAL AND EMERGENCY MEETINGS:

Special and emergency meetings shall be held and noticed in compliance with the Brown Act, Government Code Sections 54956 and 54956.5

Special Meetings may be called by the Board President or majority of Board Members on 24-hours notice, as set forth in Government Code section 54956. The notice shall specify the time and place of the special meeting and the business to be transacted or discussed. Only matters contained in the notice may be considered.

1.4 QUORUM:

Pursuant to Health & Safety Code section 13856:

- (1) A majority of the District Board shall constitute a quorum for the transaction of business.
- (2) The District Board shall act only by ordinance, resolution, or motion. Except as specifically provided to the contrary by statute, a recorded vote by a majority of the total membership of the District Board is required on each action. See Attachment A for a non-exhaustive summary of certain voting requirements.

1.4.1 Legally Required Participation:

If a majority of the District Board shall be disqualified to vote on a matter by reason of actual or apparent conflict of interest, and at least one disqualified District Board member's participation is legally required for a decision to be made, the District Board shall select by lot or other means of random selection, or by such other impartial and equitable means as the District Board shall determine, that number of its disqualified members which, when added to the members eligible to vote, shall constitute a quorum. The selected disqualified members may vote, but may not participate in discussion or deliberation on the item. This rule shall be interpreted in accordance with the Political Reform Act and all conflict of interest laws and regulations.

1.5 MEETINGS TO BE PUBLIC:

All regular, adjourned, special, and emergency meetings of the District Board shall be open to the public, provided, however, the District Board may hold closed sessions from which the public may be excluded for the consideration of matters authorized by the Brown Act, which include, but are not presently limited to, personnel matters, negotiations for the sale or purchase of real property, attorney-client consultation concerning existing and potential litigation.

1.6 PROHIBITED HARASSMENT POLICY:

As set forth more fully in the District's Prohibited Harassment Policy (A 3.07.02), the District, including at the meetings of the Board and its Committees, is committed to maintaining a work environment that is free from discrimination and harassment based on a protected category. It is against District policy to engage in verbal conduct that denigrates an individual because of their race, color, sex, marital status, religious creed, age for individuals over forty years of age, sexual orientation, national origin, military status, veteran status, mental disability, physical disability, genetic information, gender, gender identity, gender expression, medical condition, ancestry or any other basis protected by any applicable ordinance, regulation, federal, state, or local law. The Prohibited Harassment Policy is designed to encourage professional and respectful behavior and to prevent discriminatory and harassing conduct in the workplace.

2. ORDER OF BUSINESS

2.1 AGENDA:

In order to facilitate the orderly conduct of the business of the District Board, the Board Clerk shall prepare an agenda for each regular Board Meeting in accordance with the Order of Business set forth in Section 2.1.1, and in consultation with the District Chief, President, and General Counsel. The Agenda prepared by the Board Clerk shall, at a minimum, include:

1. The date of the meeting.
2. The time of the meeting.
3. The location of the meeting.
4. A specified period of time for members of the public to address the District Board on items of interest to the public that are not listed on the agenda and within the jurisdiction of the District Board.
5. A specified section under which Board Members and District Staff may present information-only reports.

2.1.1 The Order of Business of each regular meeting shall be as contained in the Agenda prepared by the Board Clerk. The Agenda shall be a listing by topic of the subjects which shall be taken up for consideration in the following order:

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. PUBLIC COMMENT – CLOSED SESSION ITEMS
5. CLOSED SESSION

6. RECONVENE THE MEETING
7. REPORT OF CLOSED SESSION ACTION
8. PUBLIC HEARINGS
9. ANNOUNCEMENTS
10. PUBLIC COMMENT – CONSENT AGENDA ITEMS AND ITEMS NOT ON THE AGENDA
11. CONSENT CALENDAR
12. REGULAR CALENDAR
13. COMMITTEE REPORTS
14. REQUESTS FOR ITEMS ON FUTURE AGENDAS
15. ADJOURNMENT

2.1.2 At the direction of the Presiding Officer or on a majority vote of the District Board, items may be taken out of the order prescribed above, so long as there is no discernible prejudice to the right of the public to be heard on the matter.

2.1.3 The Board may not take action or discuss any item not appearing on the agenda, except as provided in this section. A Board member or staff may briefly respond to statements made or questions posed by members of the public during public comment. A board member or staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. A Board member may provide a reference to staff or other resources for factual information, request staff to report back to the Board at a subsequent meeting concerning any matter, or, if approved by a majority vote of the Board, take action to direct staff to place a matter of business on a future agenda.

The District Board may take action on items of business which do not appear on the posted agenda under any of the following conditions or circumstances. The Board shall publicly identify the item and the basis for taking action.

(1) Upon a determination by a majority vote of the District Board that an emergency situation exists, as defined in the Brown Act, Government Code Section 54956.5;

(2) Upon a determination by a two-thirds vote of the District Board, or, if less than two-thirds of the members are present, by a unanimous vote of those members present, that the need to take immediate action arose subsequent to the Agenda having been posted;

(3) The item was posted for a prior meeting of the District Board occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is proposed to be taken.

2.2 DELIVERY OF AGENDA FOR REGULAR MEETINGS:

(a) The Agenda for each regular meeting of the District Board shall be delivered to the Board Members and made available to the public on the Friday preceding the Wednesday meeting to which it pertains. In respect to every regular meeting, the Agenda shall conform to the Brown Act, Government Code Section 54954.2, and shall be posted at least 72 hours prior to the time scheduled for the meeting. Agendas shall be posted on the windows outside the administrative offices of the District located at 1280 Moraga Way, Moraga, CA 94556, on the District's website, and at such other places within the District as the District Board has designated for posting notices of District Board meetings, and shall, in accordance with Government Code section 54954.1, be provided to

anyone who has requested, in writing, to receive copies of the agenda.

(b) Reports and other documentation that are public records and relate to items on the Agenda shall, as a general rule, be made available to the public on the Friday preceding the Wednesday meeting to which it pertains. If such a report or document is made available to the Board less than 72 hours before the meeting, it shall also be made available for public inspection in accordance with Government Code section 54957.5.

2.3 ROLL CALL:

Before proceeding with the business of the District Board, the names of those Board members that are present shall be entered in the minutes. No formal roll call need be taken.

2.4 APPROVAL OF MINUTES:

Unless requested by a majority of the District Board, minutes of the previous meeting may be approved without public reading if the Board Clerk has previously furnished each Board Member with a copy thereof.

2.5 PUBLIC HEARINGS:

(a) Generally, public hearings (such as Public Hearing on Fire Code Adoption, Public Hearing on Adoption of a Fee Ordinance), other than those of a quasi-judicial nature, shall be conducted in the following order:

- Staff Review
- Questions of Staff by District Board
- Hearing opened by Board President
- Preliminary Board Comments
- ~~Testimony by proponents~~
- ~~Testimony by opponents~~
- Public Comments
- ~~Rebuttal by proponents~~
- Questions by District Board
- Discussion by District Board
- Proposed Action by District Board
- Public Comment on Proposed Action by District Board
- Closing of Hearing
- Final Action by District Board

(b) Quasi-judicial hearings (such as when the Board sits as a Board of Appeals relative to the application and interpretation of the District Fire Code) shall be conducted in accordance with the principles of due process, and the District Counsel shall advise the District Board in this regard.

In general, such quasi-judicial hearings shall be conducted in the following manner:

Board members disclose any ex parte communications

Staff report

Board questions for staff

Presiding officer then opens the public portion of the hearing

Presentation by appellant (10 minutes)

Board questions for appellant, applicant and/or staff

Public comment

Rebuttal by staff (10 minutes)

Rebuttal by appellant (5 minutes)

Final Board questions of appellant

Final Board questions of staff

Presiding officer closes the public portion of hearing

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

At any hearing before the Board sitting in a quasi-judicial capacity, the Board may request that parties testify under oath.

(c) Questions or comments from the public shall be limited to the subject under consideration. Depending upon the extent of the agenda, and the number of persons desiring to speak on an issue, the Presiding Officer or the Board may at the beginning of the hearing establish time limits consistent with Section 2.6(d). Any person may speak for a longer period of time, upon approval of the Presiding Officer or the District Board, when this is deemed necessary in such cases as when a person is speaking as representative of a group or has graphic or slide presentations requiring more time.

2.6 PUBLIC COMMENT:

(a) Pursuant to Government Code section 54954.3 of the Brown Act, at any regular and special meeting, members of the public may directly address the Board on any agenda item before or during the Board's consideration of the item.

(b) In addition, for regular meetings, the Board provides the members of the public with a Public Comment Period where the public may address the Board on any matter not listed on the agenda that is within the subject matter jurisdiction of the Board and for members of the public to address the Board on items on the Consent Calendar.

(c) If a matter not on the agenda requires a collective decision by a majority of the members of the Board, the matter may be received and then forwarded to staff, a Director or Board Committee for recommendation and report at a subsequent meeting, in accordance with Section 2.1.3. This procedure is necessary in order to comply with the Brown Act.

(d) Public comment may be limited by the Presiding Officer or the Board to three (3) minutes per speaker, unless different time limits are established by the Presiding Officer or the Board. The Presiding Officer or the Board may also limit the total amount of time allocated for public testimony on any particular issue.

(e) If a member of the public uses a translator when making public comment, the Board shall allow that person at least twice the amount of time otherwise allowed for public comment on that item. This shall not apply when the District uses simultaneous translation equipment in a manner that allows the Board to hear the translated public testimony simultaneously.

(f) The District may not require a member of the public to provide their name or other information or to complete a questionnaire as a condition for attending or speaking at a Board meeting. Any attendance list, questionnaire, or other document circulated at a meeting must state clearly that signing or completing the document is optional.

(g) A member of the public who wishes to make public comment shall be asked to state their name for the record. The provision of such information is voluntary and is not a condition of providing public comment.

(h) The Board shall not prohibit public criticism of the policies, procedures, programs, or services of the District, or of the acts or omissions of the Board.

2.7 CONSENT CALENDAR:

Items of a routine nature, and non-controversial, shall be placed on the Consent Calendar. All items may be approved by one blanket motion upon a majority vote and upon such other voting requirements established by statute. Prior to, or following review of, the Consent Calendar by the District Chief, any Board Member may request that any item be withdrawn from the Consent Calendar for separate consideration. Members of the public shall be provided an opportunity to comment on the Consent Calendar prior to the Board's consideration of the Consent Calendar in accordance with Section 2.6. Any member of the public may request any Board Member to withdraw a Consent Calendar item from Board consideration. However, any Board Member may abstain from voting on any Consent Calendar item without requesting its removal from the Consent Calendar, and the Board Clerk shall be instructed to record such abstentions in the minutes. Any abstention shall be considered a non-vote.

2.8 PARTICIPATION BY MEMBERS OF THE DISTRICT BOARD IN AGENDA SETTING:

The President or any District Board Member may bring before the District Board any new business under the Announcements portion of the agenda for the purpose of agendizing and not discussing, but formal action on such matters shall be deferred until a subsequent District Board meeting unless deemed to be of an urgent nature.

3. PRESIDING OFFICER

3.1 PRESIDING OFFICER

The Board President shall be the Presiding Officer, also referred to herein as “Chair”, at all meetings of the District Board. In the absence of the Board President, the Board Vice-President shall preside. In the absence of both the Board President and the Board Vice President, the Board Second Vice President Board Member with the greatest seniority shall act as the presiding officer to serve until the arrival of the Board President or Board Vice President or until adjournment.

3.2 CALL TO ORDER:

The meeting of the District Board shall be called to order by the Presiding Officer.

3.3 PARTICIPATION OF PRESIDING OFFICER:

The Presiding Officer may move, second, and debate from the Chair, subject only to such limitations of debate as are imposed on all Board Members, and the Presiding Officer shall not be deprived of any of the rights and privileges of a Board Member by reason of acting as Presiding Officer. However, the Presiding Officer is primarily responsible for the conduct of the meeting. If the Presiding Officer desires to personally engage in extended debate on questions before the District Board, the Presiding Officer should consider turning the Chair over to another member.

3.4 QUESTION TO BE STATED:

The Presiding Officer shall verbally restate each question immediately prior to calling for the vote. Following the vote, the Presiding Officer shall verbally announce whether the question carried or was defeated. The Presiding Officer may also publicly state the effect of the vote for the benefit of the audience before proceeding to the next item of business.

3.5 SIGNING OF DOCUMENTS:

The Board President, or Board Vice President, in the absence of the Board President, shall sign ordinances and resolutions adopted by the District Board. The Board Clerk or Deputy Board Clerk shall attest to the signature of the Board President or Board Vice President.

3.6 MAINTENANCE OF ORDER:

The Presiding Officer is responsible for the maintenance of order and decorum at all times. No person is allowed to speak who has not first been recognized by the Chair. All questions and remarks shall be addressed to the Chair.

4. RULES, DECORUM AND ORDER

4.1 POINTS OF ORDER:

The Presiding Officer shall determine all Points of Order subject to the right of any member to appeal to the District Board. If any appeal is taken, the question shall be, "Shall the decision of

the Presiding Officer be sustained?" in which event a majority vote shall govern and conclusively determine such question of order.

4.2 DECORUM AND ORDER - BOARD MEMBERS:

(a) Any Board Member desiring to speak shall address the Chair and, upon recognition by the Presiding Officer, shall confine remarks to the question under debate.

(b) A Board Member desiring to question the staff shall address questions to the District Chief or District Counsel, in appropriate cases, who shall be entitled either to answer the inquiry himself or to designate some member of staff for that purpose.

(c) A Board Member, once recognized, shall not be interrupted while speaking unless called to order by the Presiding Officer; unless a Point of Order is raised by another Board Member; or unless the speaker chooses to yield to questions from another Board Member.

(d) Any Board Member called to order while speaking shall cease speaking immediately until the question of order is determined. If ruled to be in order, the Board member shall be permitted to proceed. If ruled to be not in order, the Board member shall remain silent or shall alter remarks so as to comply with rules of the District Board.

(e) Board Members shall accord the utmost courtesy to each other, to District employees, and to the public appearing before the District Board and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities.

(f) Any Board Member may move to require the Presiding Officer to enforce the rules and the affirmative vote of a majority of the District Board shall require the Presiding Officer to so act.

4.3 DECORUM AND ORDER - EMPLOYEES:

Members of the administrative staff and employees of the District, when acting in the course of performance of official duties, shall observe the same rules of procedure and decorum applicable to members of the District Board. The District Chief shall insure that all District employees observe such decorum. Any staff members including the District Chief, desiring to address the District Board or members of the public shall first be recognized by the Chair. All remarks shall be addressed to the Chair and not to any one individual Board Member or member of the public.

4.4 DECORUM AND ORDER - PUBLIC:

~~Members of the public attending District Board meetings shall observe the same rules or order and decorum applicable to the District Board. Any person making impertinent and slanderous remarks or who becomes boisterous while addressing the District Board or while attending the District Board meeting shall be removed from the room if the sergeant of arms is so directed by the Presiding Officer, and such person may be barred from further audience before the District Board. Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted by the Presiding Officer, who may direct the sergeant of arms~~

~~to remove such offenders from the room. Aggravated cases shall be prosecuted on appropriate complaint signed by the Presiding Officer.~~

~~(e)(a)~~ In order to ensure that business is conducted in an orderly fashion and that all have an equal opportunity to observe and participate in the proceedings, the following rules of order shall be applied to address conduct which disrupts, disturbs, or otherwise impedes the orderly conduct of the meeting. This disruptive behavior can include failing to comply with reasonable and lawful regulations of the legislative body, as well as behavior that constitutes use of force or a true threat of force. (Government Code Section 54957.95)

~~(d)(b)~~ No attendee of a Board meeting, at any meeting site or virtually, shall use loud, threatening, profane, or abusive language, whistle, clap, stamp their feet, speak over or interrupt the recognized speaker, or engage in any other disorderly conduct which disrupts the orderly conduct of the meeting.

~~(e)~~ ~~No attendee of a Board meeting, at any meeting site or virtually, shall use loud, threatening, profane, or abusive language, whistle, clap, stamp their feet, speak over or interrupt the recognized speaker, or engage in any other disorderly conduct which disrupts the orderly conduct of the meeting.~~

~~(f)(c)~~ Continued use of verbal conduct that denigrates an individual because of their race, color, gender, religion, sexual orientation, age, national origin, disability, or other protected category after a verbal warning from the Presiding Officer disrupts the orderly conduct of the meeting. It interferes with the Board's ability to accomplish its functions in a reasonably efficient matter by causing a distraction from District business, chilling other members of the public's participation, interfering with the ability of those present to listen and understand the business and proceedings of the District or Board, and may constitute or contribute to employment or other types of discrimination and harassment.

4.5 ENFORCEMENT OF DECORUM:

(a) The Presiding Officer shall maintain order. In that regard, the Presiding Officer may take such actions reasonably calculated to maintain order, which include, but are not limited to, calling a recess, adjourning the meeting to another date, or ordering the removal of persons disrupting the meeting as provided in this section. The District Chief or designee shall be ex-officio sergeant-of-arms of the District Board. The ex-officio sergeant-of-arms shall carry out all orders and instructions given by the Presiding Officer for the purpose of maintaining order and decorum in the Board Chambers. Upon instructions from the Presiding Officer, it shall be the duty of the sergeant-of-arms or another representative to remove any person from the District Board Chambers.

(b) The Presiding Officer may order an individual to be removed from a Board meeting when the individual is engaging in behavior that constitutes use of force or a "true threat of force," meaning a threat that has sufficient indicia of intent and seriousness that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat.

(c) If a meeting is willfully disrupted by a group of people so as to render the orderly conduct of the meeting infeasible, the presiding officer may take such actions reasonably calculated to maintain order, which include, but are not limited to, calling a recess, adjourning the meeting to

another date, or ordering the removal of persons disrupting the meeting as provided in this section. As set forth in the Brown Act, Government Code Section 54957.9, in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the District Board may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Duly accredited representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this

section shall prohibit the District Board from establishing procedures for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

(d) Removal for Disruptive Conduct

- (i) The Presiding Officer may order an individual to be removed from a Board meeting when the individual is engaging in behavior that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting, which may include but is not limited to failing to comply with these Rules of Procedure.
- (ii) Prior to ordering the removal of the individual for disruptive conduct, the presiding officer shall warn the individual that their behavior is disrupting the meeting and, when applicable, shall follow the procedures in Section 4.5 (~~ed~~) below.

(e) Verbal Conduct Denigrating a Person Because of a Protected Category

When a person engages in verbal conduct that denigrates an individual because of their race, color, gender, religion, sexual orientation, age, national origin, disability, or other protected category, the presiding officer shall take the following actions:

- (i) The Presiding Officer shall stop the speaker and read the relevant portions of the District's Harassment-Free Workplace Policy. The presiding officer shall state that the District does not condone comments in violation of the District's Policy and that the speaker's harassment is unwanted and unwelcome and impedes the orderly conduct of the meeting by interfering with the Board's ability to accomplish its functions in a reasonably efficient matter by causing a distraction from District business, chilling participation from other members of the public, interfering with the ability of those present to listen and understand the business and proceedings of the District and may constitute or contribute to employment or other forms of discrimination.
- (ii) The presiding officer shall state that any District employee present may be excused from attendance at the meeting during the speaker's remarks.
- (iii) The Presiding Officer shall hold the speaker's time and the speaker may resume speaking after the Presiding Officer's statement, unless the speaker's comments continue to disrupt, disturb, or impede the orderly conduct of the meeting. If the speaker continues to disrupt, disturb, or impede the orderly conduct of the meeting, the Presiding Officer may take such actions as reasonably calculated to maintain order as stated in Rule 4.5(a), including, but not limited to, prohibiting the speaker from further commenting or ordering the speaker to be removed from the meeting.
- (iv) After the end of the speaker's comments, any Board member may make a brief response to such comments, if desired.

4.6 PERSONAL PRIVILEGE:

A District Board Member may request a point of personal privilege, requesting the immediate consideration of a matter affecting the comfort, safety or orderliness of a member.

4.7 CONFLICT OF INTEREST:

All Board Members are subject to the provisions of California Law relative to conflicts of interest, including, but not limited to, California Government Code, section 1090 *et seq.*, conflict of interest codes as may be adopted by the District Board, and the provisions of Government Code section 87100 *et seq.* relative to certain defined financial interests prohibiting participation in District decisions. Any Board Member prevented from voting because of a conflict of interest or a declared financial interest shall identify the conflict of interest and refrain from debate and voting on the included matter. Such Board Member must also leave the District Chambers during debate and voting on the issue except as may be allowed by the Political Reform Act, Government Code §87105.

4.8 LIMITATION OF DEBATE:

No Board Members normally should speak more than once upon any one subject until every other Board Member choosing to speak thereon has spoken.

4.9 DISSENTS, PROTESTS, AND COMMENTS:

Any Board Member shall have the right to express dissent from or protest to or comment upon any action of the District Board and have the reason entered in the minutes. If such dissent, protest or comment is desired to be entered in the minutes, this should be made clear by language such as, "I would like the minutes to show that I am opposed to this action for the following reasons . . ."

4.10 PROCEDURES IN ABSENCE OF RULES:

In the absence of a rule herein to govern a point or procedure, ~~Robert's Rosenberg's~~ Rules of Order shall be used as a guide.

4.11 RULINGS OF PRESIDENT ARE FINAL UNLESS OVERRULED:

In presiding over District Board meetings, the Board President, Board Vice President, or temporary Presiding Officer shall decide all questions of interpretation of these rules, points of order or other questions of procedure requiring rulings. Any such decision or ruling shall be final unless overridden or suspended by a majority vote of the Board Members present and voting, and shall be binding and legally effective (even though clearly erroneous) for purposes of the matter under consideration.

4.12 ACTIONS NOT INVALIDATED:

~~Except as otherwise required by law or required specifically by these Rules of Procedure, f~~
Failure to strictly comply with these Rules of Procedure shall not necessarily invalidate any action taken by the District Board.

5. PROCEDURES FOR BOARD ACTION ON REGULAR CALENDAR ITEMS

5.1 The Board shall take input from staff and other invited experts and ask questions for clarification.

5.2 The Board shall discuss the item on the agenda and may ask further questions of staff or other invited experts.

5.3 The Board shall invite comments or questions from the public relative to that agenda item. A limitation of three (3) minutes may be imposed upon each person so desiring to address the Board, unless different time limits are established by the Presiding Officer or the Board. The Presiding Officer or the Board may also limit the total amount of time allocated for public testimony on the agenda item.

5.4 A motion is made and seconded if an action is intended to occur.

5.5 The Board deliberates on the motion.

5.6 The Board votes.

6. ADDRESSING THE DISTRICT BOARD

6.1 MANNER OF ADDRESSING THE DISTRICT BOARD:

Any member of the public desiring to address the District Board shall wait to be recognized by the Presiding Officer. After being recognized, the member of the public shall be asked but is not required to state their name for the record.

All remarks and questions shall be addressed to the Chair and not to any individual District Board Member, staff member or other person. During a public hearing, all remarks shall be limited to the subject under consideration. No person shall enter into any discussion without being recognized by the Presiding Officer.

6.2 TIME LIMITATION:

Any member of the public desiring to address the District Board may be required to limit his or her address to three (3) minutes unless further time has been granted by the Presiding Officer in accordance with Section 2.6.

6.3 LIMITATION REGARDING PUBLIC COMMENT AND REPORTS:

The making of oral communications to the District Board by any member of the public during the Public Comment portion of the Agenda shall be subject to the following limitations in accordance with Section 2.6:

6.3.1 The Presiding Officer or the Board may limit the total amount of time allowed for public comment on non-agenda topics at any single meeting. Those whose presentations are postponed shall be given priority at the next meeting, during the Public Comment portion of the Agenda.

6.3.2 If it appears that several speakers desire to speak regarding a single topic, the Presiding Officer or the Board may reasonably limit the amount of time for public comment as to each side of an issue. In this regard, preference may be given to speakers who represent groups or persons who have designated a spokesperson.

6.4 WRITTEN CORRESPONDENCE

The District Chief is authorized to receive and open all mail addressed to the District Board as a whole and give it immediate attention to the end that all administrative business referred to in said communications that falls within the District Chief's duties established by law or delegation by the Board, and not necessarily requiring District Board action, may be disposed of between District Board meetings. A copy of such communication shall be sent to each Board Member by the appropriate means. Any communication relating to a matter pending or to be brought before the District Board shall be included in the agenda packet for the meeting at which such item is to be considered.

Letters of appeal from administrative decisions shall be processed under applicable provisions of the District ordinances.

Copies of all other communications sent to the District Board will be transmitted to all District Board Members.

6.5 PERSONS AUTHORIZED TO BE WITHIN PLATFORM:

No person except District officials shall be permitted within the platform area in front of the District Board table without the invitation or consent of the Presiding Officer.

7. MOTIONS

7.1 PROCESSING OF MOTIONS:

When a motion is made and seconded, it shall be stated by the Presiding Officer before debate. A motion so stated shall not be withdrawn by the mover without the consent of the person seconding it.

7.2 MOTIONS OUT OF ORDER:

The Presiding Officer may at any time, by majority consent of the District Board, permit a Board member to introduce an ordinance, resolution or motion out of the regular agenda order.

7.3 DIVISION OF QUESTION:

If the question contains two or more divisionable propositions, the Presiding Officer may, and upon request of a Board Member shall, divide the same.

7.4 PRECEDENCE OF MOTIONS:

When a motion is before the District Board, no motion shall be entertained except the

following, which shall have precedence in the following order:

- a. Adjourn
- b. Fix Hour of adjournment
- c. Table
- d. Limit or terminate discussion
- e. Substitute
- f. Reconsider
- g. Amend
- h. Postpone

7.5 MOTION TO ADJOURN: (not debatable)

A motion to adjourn shall be in order at any time, except as follows:

- a. When repeated without intervening business or discussion.
- b. When made as an interruption of a Board Member while speaking.
- c. When discussion has been ended, and vote on motion is pending, and,
- d. While a vote is being taken.

A motion to adjourn "to another time" shall be debatable only as to the time to which the meeting is adjourned.

7.6 MOTION TO FIX HOUR OF ADJOURNMENT:

Such a motion shall be to set a definite time at which to adjourn and shall be undebatable and shall be unamendable except by unanimous vote.

7.7 MOTION TO TABLE:

A motion to table shall be used to temporarily by-pass the subject. A motion to table shall be undebatable and shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the matter may be "taken from the table" at any time prior to the end of the next regular meeting.

7.8 MOTION TO LIMIT OR TERMINATE DISCUSSION:

Such a motion shall be used to limit or close debate on, or further amendment to, the main motion and shall be undebatable. If the motion fails, debate shall be reopened; if the motion passes, a vote shall be taken on the main motion.

7.9 MOTION TO AMEND:

A motion to amend shall be debatable only as to the amendment. A motion to amend an amendment shall be in order, but a motion to amend an amendment to an amendment shall not be in order. An amendment modifying the intention of a motion shall be in order, but an amendment relating to a different matter shall not be in order. A substitute motion on the same subject shall be acceptable, and voted on before a vote on the amendment. Amendments shall be voted first then the main motion as amended.

7.10 MOTION TO CONTINUE

Motions to continue to a definite time shall be amendable and debatable as to propriety of postponement and time set.

8. VOTING PROCEDURE

8.1 VOTING PROCEDURE:

In acting upon every motion, the vote shall be taken by voice or roll call or any other method by which the vote of each Board Member present can be clearly ascertained. The Board Clerk shall call the names of all members seated when a roll call vote is ordered or required. Board Members shall respond "aye," "no" or "abstain," provided that when a vote is collectively taken by voice or when a method of voting other than by voice or roll call is used, any Board Member not audibly and clearly responding "no" or "abstain" or otherwise registering an objection shall have his voice recorded as "aye". An abstention shall count as a non-vote.

8.2 ROLL CALL VOTING:

Every ordinance and any resolution or orders for franchises or payments of money require, at minimum, three affirmative votes. A roll call vote shall be used for these changes. Any other question before the District Board shall not require a roll call vote unless demanded by any Board Member. It shall not be in order for Board Members to explain their vote during roll call. Any Board Member may change his vote before the next order of business.

8.3 RECONSIDERATION:

Any Board Member who voted with the majority may move a reconsideration of any action at the same or next meeting. After a motion for reconsideration has once been acted upon, no other motion for reconsideration thereof shall be made without unanimous consent of the District Board.

8.4 TIE VOTES:

Tie votes shall be lost motions. When all District Board Members are present, a tie vote on whether to grant an appeal from official action shall be considered a denial of such appeal, unless the District Board takes other action to further consider the matter. If a tie vote results at a time when less than all Board Members are present the matter shall automatically be continued to the agenda of the next regular meeting of the District Board, unless otherwise ordered by the District Board.

9. RESOLUTIONS

9.1 DEFINITIONS:

Legislative acts of the District Board (usually a role of public policy for long-term application) are taken by ordinance, whereas more routine business and administrative matters (usually more temporary and transitory in nature) are accomplished by "resolutions." The term "resolution," generally denotes any action taken affirmatively via a vote of the District Board, other than one taken by ordinance. Three terms are in general use to denote such (non-ordinance) actions: "resolution," "minute order," and "motion" (thereafter recorded by minute entry). All three actions are equally as legally effective and binding; they just vary in the formality of respective

memorialization.

The most formal is referred to locally as a "resolution" which in addition to being referenced in the minutes, will be recorded by a separate document, numbered in sequence for each calendar year and preserved in a separate set of books. Such "resolutions" are used in this District for various reasons, such as when specifically required by law, when needed as a separate evidentiary document to be transmitted to another governmental agency, or where the frequency of future reference back to its contents warrants a separate document (with the additional "whereas" explanatory material it often recites) to facilitate such future reference and research.

A "minute order" denotes a separate document which is also maintained in a separate set of books, under a system of sequential numbering, and is referenced in the minutes; however, the "minute order" is drafted far more briefly than a "resolution" and is distinguished from a mere minute entry only by the need in general, to have a separate document to facilitate certain administrative processes to which it pertains.

A "motion" (assuming it was one which passed) is a District Board action which is recorded simply by an item entry in the minutes of the meeting at which it was accomplished, and no separate document is made to memorialize it.

9.2 RESOLUTIONS PREPARED IN ADVANCE:

Where a resolution has been prepared in advance, the procedure shall be: Motion, second, discussion, vote pursuant to methods prescribed in Section 8.1, and result declared. It shall not be necessary to read a resolution in full or by title except to identify it. Any Board Member may require that the resolution be read in full.

9.3 RESOLUTIONS NOT PREPARED IN ADVANCE:

Where a resolution has not been prepared in advance, the procedure shall be to instruct the District Chief or District Counsel to prepare a resolution for presentation at the next District Board meeting.

9.4 URGENCY RESOLUTIONS:

In matters of urgency, a resolution may be presented verbally in motion form together with instructions for written preparation for later execution. After the resolution has been verbally stated, the voting procedure in 8.1 above shall be followed.

Urgency resolutions shall be avoided except when absolutely necessary; and shall be avoided entirely when resolutions are required by law. Where the resolution has been drafted in written form either before or during the meeting, this paragraph shall not be deemed applicable.

10. ORDINANCES

10.1 INTRODUCTION AND ADOPTION OF ORDINANCES:

Ordinances shall not be passed within five days of their introduction, nor at other than a regular meeting or at an adjourned regular meeting. However, an urgency ordinance may be passed immediately upon introduction and either at a regular or special meeting. Except when, after reading the title, further reading is waived by regular motion adopted by majority vote of the Board

Members present, all ordinances shall be read in full either at the time of introduction or passage, provided, however, that a reading of the title or ordinance shall not be required if the title is included on the published agenda and a copy of the full ordinance is made available to the public online and in print at the meeting before the introduction or passage.

When ordinances, other than urgency ordinances, are altered after introduction, they shall be passed only at regular or at an adjourned regular meeting held at least five days after alteration.

Corrections of typographical or clerical errors are not alterations within the meaning of this section.

This section shall not apply to ordinances which by statute can be passed only after notice and a public hearing.

10.2 EFFECTIVE DATE:

All ordinances, except as otherwise provided by law, shall take effect 30 days after adoption, but may be made operative at such later date as may be designated in the ordinance.

10.3 PUBLISHING:

It shall be the duty of the Board Clerk to post or publish all ordinances within 15 days after adoption.

10.4 URGENCY ORDINANCES:

All urgency ordinances must receive four (4) affirmative votes to be adopted and to become effective immediately. If such an ordinance fails to receive a 4/5 majority, it may thereafter be considered and passed in the same manner as regular ordinances if all legal requirements for adoption of a non-urgency ordinance have been satisfied.

11. ELECTION OF OFFICERS

The District Board shall elect the following Officers: President Vice President, and Second Vice President on an annual basis or as may be required after a general district election. The District Board may also elect such additional officers as may be created.

12. STANDING OR AD HOC COMMITTEES

The District Board may appoint such standing or ad hoc committees as are necessary to conduct District business- and keep informed on matters relevant to the District. The Board shall appoint and may remove members of standing and ad hoc committees. Directors so assigned shall report to the Board on matters of these committees.

13. BOARD ATTENDANCE AND VACANCIES

Each member of the Board is expected to attend each meeting of the Board and each meeting of any committee to which the Director has been appointed. Members of the Board shall be responsible to inform the Fire Chief and Board President at least 96 hours in advance of a scheduled meeting if the Director expects to be absent. If an unexpected absence is necessary, the Director should inform the Fire Chief and Board President as soon as possible before the commencement of

the meeting. Board vacancies shall be filed pursuant to Government Code Section 1780 (Health and Safety Code 13852(b)).

PASSED, APPROVED AND ADOPTED this 21st day of February 2024 at the regular meeting of the District Board held at 22 Orinda Way, Orinda, California 94563, on a motion made by Director ____, seconded by Director ____, and duly carried with the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Resolution 24-02
Dated: February 21, 2024

Michael Roemer, President
Board of Directors

I certify that this is a full, true and correct copy of the original document which is on file in my office, and that was passed and adopted by the Moraga-Orinda Fire Protection District on the date shown.

ATTEST:

Marcia Holbrook,
District Secretary/District Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Jon Holtzman, District Counsel

Dave Winnacker, Fire Chief

VOTING REQUIREMENTS FOR THE BOARD OF DIRECTORS

Attachment A to the Moraga Orinda Fire District Rules of Procedure for the Board of Directors

I. Majority votes of the Membership of the Board

Unless the Board of Directors is taking an action specified below or as otherwise required by statute, a majority vote of the membership of the Board of Directors, or three votes, is required to take action. (Health & Safety Code § 13856.)

II. Adoption of Ordinances

A. Regular Ordinance

Adoption of a regular ordinance requires a majority of members of the Board of Directors – three members. (Health & Safety Code § 13856(b).)

B. Urgency Ordinance

Adoption of an urgency ordinance requires a four-fifths vote of the Board of Directors – four members. (Health & Safety Code § 13861(h); Govt. Code § 25123(d).)

An urgency ordinance is an ordinance passed for the immediate preservation of the public peace, health or safety. (Govt. Code § 25123(d).) An urgency ordinance may be passed immediately upon introduction at either a regular or special meeting. (Govt. Code § 25131.)

III. Financial Decisions Requiring More than a Majority Vote.

A. Reallocation of Certain Types of Appropriations.

Changes to certain types of appropriations after the approval of a final budget, requires four votes of the Board of Directors. Four votes are required if the Board seeks to make available for appropriation any of the following:

(a) Balances in appropriations for contingencies, including accretions from cancellations of appropriations.

(b) Designations and reserves no longer required for the purpose for which intended, excluding the general reserve, balance sheet reserves, and reserve for encumbrances.

(c) Amounts which are either in excess of anticipated amounts or not specifically set forth in the budget derived from any or anticipated increases in available financing. (Health & Safety Code § 13900.)

B. Appropriating Funding in an Emergency.

If an emergency affects the ability of the District to provide adequate services, the Board of Directors may make available for expenditure money that was not specifically set forth as revenue in the final budget. Such an action requires four votes. (Health & Safety Code § 13901.)

C. Discontinuing Capital Outlay Reserves.

The Board may establish a reserve for capital outlays for a specific declared purpose. If so, the Board may transfer to that capital outlays reserve any unencumbered surplus funds remaining at the end of the fiscal year. The capital outlay reserve may only be used for the purpose declared by the Board. If the Board finds that the final budget reserve is no longer required, it may discontinue the reserve or transfer any balance to the district's general fund. The decision to discontinue the reserve or transfer the balance must be made by a unanimous vote of the Board. (Health & Safety Code § 13902.)

IV. Incurring Debt.

A. Borrowing Funds to Acquire Property.

The District may borrow money to purchase real property. (Health & Safety Code § 13906.) The Board must approve the action to incur the debt by a resolution adopted by four votes. (*Ibid.*)

B. General Obligation Bond Indebtedness Under the Fire Protection District Law.

The Board may issue general obligation bonds for the acquisition or construction of any real property, other capital expenses, or funding any outstanding indebtedness. The Board must adopt a resolution calling an election to incur indebtedness and to issue general obligation bonds. (Health & Safety Code §§ 13925 *et. seq.*) If two-thirds of the voters approve incurring the debt and issuing the bonds, the Board may then adopt resolutions to issue the bond. (Health & Safety Code § 13928.) Because the statutes authorizing the Board to adopt resolutions calling for an election and then issuing the bonds do not expressly require a supermajority, the Board may adopt those resolutions by a majority of the total membership of the Board, or three members. (Health & Safety Code § 13856.)

C. Temporary Borrowing.

Health & Safety Code section 13897 allows a district to borrow money and incur indebtedness as otherwise authorized in Articles 7, 7.4, 7.5, 7.6, and 7.7 of the Government Code.

The District may temporarily borrow funds to be repaid within the same year as the funds are borrowed. The District must adopt a resolution approved by a four-fifths vote of the Board to do so. (Govt. Code §§ 53824, 53825.)

The District may borrow funds secured by a note for any purpose the District is authorized to use funds, including but not limited to current expenses, capital expenditures, investment and reinvestment, and the discharge of any obligation or indebtedness. (Govt. Code § 53852.) The notes must be repaid within 15 days of issuance. (Govt. Code § 53854.) There is no voting requirement specified within Article 7.6.

D. Securitized Limited Obligation Notes.

The District may borrow money secured by a limited obligation note. The District may use the money solely for the acquisition of land, facilities, or equipment. (Govt. § 53837.) The District must adopt a resolution approved by a four-fifths vote of the Board to do so. (Govt. Code § 53838.)

E. Grant Anticipation Notes.

The District may temporarily borrow money based on a grant anticipation note, grant, or loan from the federal or state government for which funds have been appropriated and committed to the District. (Govt.

Code §§ 53859, 53859.02.) The Board must approve the debt by resolution, but the statute does not require a four-fifths vote. (Govt. Code § 53859.03.)

RESOLUTION NO. 24-02
RESOLUTION OF THE BOARD OF DIRECTORS OF THE
MORAGA-ORINDA FIRE DISTRICT
ADOPTING REVISED RULES OF PROCEDURE FOR
BOARD MEETINGS AND RELATED FUNCTIONS AND ACTIVITIES

WHEREAS, the Board of Directors (“District Board”) of the Moraga-Orinda Fire District ("District") has previously adopted Rules of Procedure to govern the conduct of its meetings and related functions and activities through Resolution Number 07-02;

WHEREAS, on January 19, 2011, the District Board adopted Resolution No. 11-03 which repealed Resolution Number 07-02 and adopted new Rules of Procedure to govern the conduct of its meetings and related functions and activities;

WHEREAS, the District Board desires to further amend its Rules of Procedure to comply with changes in the Brown Act and other laws, to include additional provisions relating to addressing disruptive conduct and relating to conflicts of interest, and for purposes of clarification.

NOW, THEREFORE, BE IT RESOLVED that the District Board does hereby repeal Resolution Number 11-03 relating to the adoption of Rules of Procedure and related functions and activities within the District.

BE IT FURTHER RESOLVED that the District Board does hereby adopt the following Rules of Procedure for District Board meetings and related functions and activities:

PURPOSE: The purpose and intent of the District Board in adopting these rules is to provide directory, as opposed to mandatory, guidelines relating to the conduct of the public business by or on behalf of the District Board, and in the event of any noncompliance with or violation of any provision herein, such will not be deemed to affect the validity of any action taken, unless otherwise specifically provided by law. These procedures are intended to supplement and implement provisions of the Ralph M. Brown Act, Government Code section 54950 et seq., (the "Brown Act").

1. MEETINGS

1.1 REGULAR MEETING:

The District Board shall hold regular meetings located at 22 Orinda Way, Orinda, CA on the third Wednesday of the month, with Closed session beginning at either 5 p.m. or 6 p.m. (as described on the particular agenda) and the Open session beginning at 7 p.m. When the day for a regular meeting of the District Board falls on a legal holiday, the District Board, at the preceding meeting, shall determine the time and date of any rescheduled meeting.

The meeting site may be changed for convenience, to accommodate larger attendance, and for other reasons, provided that the alternate location is within the jurisdiction of the District, permitted by law, accessible as required pursuant to the Americans with Disabilities Act, and the alternate location is posted at the District offices and on its website. (Govt. Code § 54954)

1.2 ADJOURNED MEETINGS TO A FUTURE DATE:

Any meeting may be adjourned to a time, place, and date certain, but not beyond the next

regular meeting, in compliance with the Brown Act, Government Code Section 54955. Once adjourned, the meeting may not be reconvened until the date of the adjourned meeting. Whenever a regular or adjourned meeting is adjourned as provided in this section, the resulting adjourned meeting is a regular meeting for all purposes.

The Clerk shall provide notice of an Adjourned Meeting in the same way required for a special meeting. A copy of the notice of adjournment shall be posted on or near the door of the place where the meeting was held within twenty-four hours of adjournment. If the adjourned meeting occurs more than five days after the meeting that was continued, a new agenda for the adjourned meeting shall be posted 72 hours in advance of the adjourned meeting.

1.3 SPECIAL AND EMERGENCY MEETINGS:

Special and emergency meetings shall be held and noticed in compliance with the Brown Act, Government Code Sections 54956 and 54956.5

Special Meetings may be called by the Board President or majority of Board Members on not less than 24 hours notice, as set forth in Government Code section 54956. The notice shall specify the time and place of the special meeting and the business to be transacted or discussed. Only matters contained in the notice may be considered.

1.4 QUORUM:

Pursuant to Health & Safety Code section 13856:

- (1) A majority of the District Board shall constitute a quorum for the transaction of business.
- (2) The District Board shall act only by ordinance, resolution, or motion. Except as specifically provided to the contrary by statute, a recorded vote by a majority of the total membership of the District Board is required on each action. See Attachment A for a non-exhaustive summary of certain voting requirements.

1.4.1 Legally Required Participation:

If a majority of the District Board shall be disqualified to vote on a matter by reason of actual or apparent conflict of interest, and at least one disqualified District Board member's participation is legally required for a decision to be made, the District Board shall select by lot or other means of random selection, or by such other impartial and equitable means as the District Board shall determine, that number of its disqualified members which, when added to the members eligible to vote, shall constitute a quorum. The selected disqualified members may vote but may not participate in discussion or deliberation on the item. This rule shall be interpreted in accordance with the Political Reform Act and all conflict of interest laws and regulations.

1.5 MEETINGS TO BE PUBLIC:

All regular, adjourned, special, and emergency meetings of the District Board shall be open to the public, provided, however, the District Board may hold closed sessions from which the public may be excluded for the consideration of matters authorized by the

Brown Act, which include, but are not ~~presently~~ limited to, personnel matters, negotiations for the sale or purchase of real property, attorney-client consultation concerning existing and potential litigation.

1.6 PROHIBITED HARASSMENT POLICY:

As set forth more fully in the District's Prohibited Harassment Policy (A 3.07.02), the District, including at the meetings of the Board and its Committees, is committed to maintaining a work environment that is free from discrimination and harassment based on a protected category. It is against District policy to engage in verbal conduct that denigrates an individual because of their race, color, sex, marital status, religious creed, age for individuals over forty years of age, sexual orientation, national origin, military status, veteran status, mental disability, physical disability, genetic information, gender, gender identity, gender expression, medical condition, ancestry or any other basis protected by any applicable ordinance, regulation, federal, state, or local law. The Prohibited Harassment Policy is designed to encourage professional and respectful behavior and to prevent discriminatory and harassing conduct in the workplace.

2. ORDER OF BUSINESS

2.1 AGENDA:

In order to facilitate the orderly conduct of the business of the District Board, the Board Clerk shall prepare an agenda for each regular Board Meeting in accordance with the Order of Business set forth in Section 2.1.1, and in consultation with the District Chief, President, and General Counsel. The Agenda prepared by the Board Clerk shall, at a minimum, include:

1. The date of the meeting.
2. The time of the meeting.
3. The location of the meeting.
4. A specified period of time for members of the public to address the District Board on items of interest to the public that are not listed on the agenda and within the jurisdiction of the District Board.
- ~~5.~~ A specified section under which Board Members and District Staff may present information-only reports.
- ~~5-6.~~ A brief general description of each item of business to be transacted and discussed.

2.1.1 The Order of Business of each regular meeting shall be as contained in the Agenda prepared by the Board Clerk. The Agenda shall be a listing by topic of the subjects which shall be taken up for consideration in the following order:

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. PUBLIC COMMENT – CLOSED SESSION ITEMS

5. CLOSED SESSION
6. RECONVENE THE MEETING
7. REPORT OF CLOSED SESSION ACTION
8. PUBLIC HEARINGS
9. ANNOUNCEMENTS
10. PUBLIC COMMENT – CONSENT AGENDA ITEMS AND ITEMS NOT ON THE AGENDA
11. CONSENT CALENDAR
12. REGULAR CALENDAR
13. COMMITTEE REPORTS
14. REQUESTS FOR ITEMS ON FUTURE AGENDAS
15. ADJOURNMENT

2.1.2 At the direction of the Presiding Officer or on a majority vote of the District Board, items may be taken out of the order prescribed above, so long as there is no discernible prejudice to the right of the public to be heard on the matter.

2.1.3 The Board may not take action or discuss any item not appearing on the agenda, except as provided in this section. As provided in Government Code section 54954.2(a)(3), a Board member or staff may briefly respond to statements made or questions posed by members of the public during public comment. A board member or staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. A Board member may provide a reference to staff or other resources for factual information, request staff to report back to the Board at a subsequent meeting concerning any matter, or, if approved by a majority vote of the Board, take action to direct staff to place a matter of business on a future agenda.

As provided in Government Code section 54954.2(b), the District Board may take action on items of business which do not appear on the posted agenda under any of the following conditions or circumstances. The Board shall publicly identify the item and the basis for taking action.

- (1) Upon a determination by a majority vote of the District Board that an emergency situation exists, as defined in the Brown Act, Government Code Section 54956.5;
- (2) Upon a determination by a two-thirds vote of the District Board, or, if less than two-thirds of the members are present, by a unanimous vote of those members present, that the need to take immediate action arose subsequent to the Agenda having been posted;
- (3) The item was posted for a prior meeting of the District Board occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is proposed to be taken.

2.2 DELIVERY OF AGENDA FOR REGULAR MEETINGS:

- (a) The Agenda for each regular meeting of the District Board, **and reports and other documentation related thereto**, shall be delivered to the Board Members and made available to the public on the Friday preceding the Wednesday meeting to which it pertains. In respect to every regular meeting, the Agenda shall conform to the Brown Act, Government Code Section 54954.2, and shall be posted at least 72 hours prior to the time scheduled for the meeting. Agendas shall be posted on the windows outside the administrative offices of the District located at 1280 Moraga Way, Moraga, CA 94556, on the District's website, and at such other places within the District as the District Board has designated for posting notices of District Board meetings, and shall, in accordance with Government Code section 54954.1, be provided to anyone who has requested, in writing, to receive copies of the agenda.
- (b) Reports and other documentation that are public records and relate to items on the Agenda shall, as a general rule, be made available to the public on the Friday preceding the Wednesday meeting to which it pertains. If such a report or document is made available to the Board less than 72 hours before the meeting, it shall also be made available for public inspection in accordance with Government Code section 54957.5.

2.3 ROLL CALL:

Before proceeding with the business of the District Board, the names of those Board members that are present shall be entered in the minutes. No formal roll call need be taken.

2.4 APPROVAL OF MINUTES:

Unless requested by a majority of the District Board, minutes of the previous meeting may be approved without public reading if the Board Clerk has previously furnished each Board Member with a copy thereof.

2.5 CONSENT CALENDAR:

Items of a routine nature, and non-controversial, shall be placed on the Consent Calendar. All items may be approved by one blanket motion upon a majority vote and upon such other voting requirements established by statute. Prior to, or following review of, the Consent Calendar by the District Chief, any Board Member may request that any item be withdrawn from the Consent Calendar for separate consideration. Members of the public shall be provided an opportunity to comment on the Consent Calendar prior to the Board's consideration of the Consent Calendar in accordance with Section 2.8. Any member of the public may request any Board Member to withdraw a Consent Calendar item from Board consideration. However, any Board Member may abstain from voting on any Consent Calendar item without requesting its removal from the Consent Calendar, and the Board Clerk shall be instructed to record such abstentions in the minutes. Any abstention shall be considered a non-vote.

2.6 PROCEDURES FOR BOARD ACTION ON REGULAR CALENDAR ITEMS:

- (a) The Board shall take input from staff and other invited experts and ask questions for clarification.

- (b) The Board shall discuss the item on the agenda and may ask further questions of staff or other invited experts.
- (c) The Board shall invite comments or questions from the public relative to that agenda item. A limitation of three (3) minutes may be imposed upon each person so desiring to address the Board, unless different time limits are established by the Presiding Officer or the Board. The Presiding Officer or the Board may also limit the total amount of time allocated for public testimony on the agenda item.
- (d) A motion is made and seconded if an action is intended to occur.
- (e) The Board deliberates on the motion.
- (a)(f) The Board votes.

2.52.7 PUBLIC HEARINGS:

- (a) Generally, public hearings (such as Public Hearing on Fire Code Adoption, Public Hearing on Adoption of a Fee Ordinance), other than those of a quasi-judicial nature, shall be conducted in the following order:
 - Staff Review
 - Questions of Staff by District Board
 - Hearing Opened by Board President
 - Preliminary Board Comments
 - Public Comments
 - Questions by District Board
 - Discussion by District Board
 - Proposed Action by District Board
 - Public Comment on Proposed Action by District Board
 - Closing of Hearing
 - Final Action by District Board
- (b) Quasi-judicial hearings (such as when the Board sits as a Board of Appeals relative to the application and interpretation of the District Fire Code) shall be conducted in accordance with the principles of due process, and the District Counsel shall advise the District Board in this regard.

In general, such quasi-judicial hearings shall be conducted in the following manner:

- Board Members Disclose any Ex Parte Communications
- Staff Report
- Board Questions for Staff
- Presiding Officer then Opens the Public Portion of the Hearing
- Presentation by Appellant (10 minutes)

Board Questions for Appellant, Applicant and/or Staff

Public Comment

Rebuttal by Staff (10 minutes)

Rebuttal by Appellant (5 minutes)

Final Board Questions of Appellant Final Board Questions of Staff

Presiding Officer closes the Public Portion of Hearing

Board Discusses, Deliberates, Makes Findings and takes Final Action by Motion.

At any hearing before the Board sitting in a quasi-judicial capacity, the Board may request that parties testify under oath.

- (c) Questions or comments from the public shall be limited to the subject under consideration. Depending upon the extent of the agenda, and the number of persons desiring to speak on an issue, the Presiding Officer or the Board may at the beginning of the hearing establish time limits consistent with Section 2.6 (d). Any person may speak for a longer period of time, upon approval of the Presiding Officer or the District Board, when this is deemed necessary in such cases as when a person is speaking as representative of a group or has graphic or slide presentations requiring more time.

2.62.8 PUBLIC COMMENT:

- (a) Pursuant to Government Code section 54954.3 of the Brown Act, at any regular and special meeting, members of the public may directly address the Board on any agenda item before or during the Board's consideration of the item.
- (b) In addition, for regular meetings, the Board provides the members of the public with a Public Comment Period where the public may address the Board on any matter not listed on the agenda that is within the subject matter jurisdiction of the Board and for members of the public to address the Board on items on the Consent Calendar.
- (c) ~~Any member of the public desiring to address the District Board shall wait to be recognized by the Presiding Officer. After being recognized, the member of the public shall be asked but is not required to state their name for the record.~~
- (b)(d) ~~All remarks and questions shall be addressed to the Chair and not to any individual District Board Member, staff member or other person. During a public hearing, all remarks shall be limited to the subject under consideration. No person shall enter into any discussion without being recognized by the Presiding Officer.~~
- (e) ~~If a matter not on the agenda requires a collective decision by a majority of the members of the Board, the matter may be received and then forwarded to staff, a Director or Board Committee for recommendation and report at a subsequent meeting, in accordance with Section 2.1.3. This procedure is necessary in order to comply with the Brown Act.~~
- (e) Public comment may be limited by the Presiding Officer or the Board to three (3) minutes per speaker, unless different time limits are established by the Presiding Officer or the Board. The Presiding Officer or the Board may also limit the total

amount of time allocated for public testimony on any particular issue.

- ~~(f)~~ The Presiding Officer or the Board may limit the total amount of time allowed for public comment on non-agenda topics at any single meeting. Those whose presentations are postponed shall be given priority at the next meeting, during the Public Comment portion of the Agenda.
- ~~(d)~~(g) If it appears that several speakers desire to speak regarding a single topic, the Presiding Officer or the Board may reasonably limit the amount of time for public comment as to each side of an issue. In this regard, preference may be given to speakers who represent groups or persons who have designated a spokesperson.
- ~~(e)~~(h) If a member of the public uses a translator when making public comment, the Board shall allow that person at least twice the amount of time otherwise allowed for public comment on that item. This shall not apply when the District uses simultaneous translation equipment in a manner that allows the Board to hear the translated public testimony simultaneously.
- (i) The District may not require a member of the public to provide their name or other information or to complete a questionnaire as a condition for attending or speaking at a Board meeting. Any attendance list, questionnaire, or other document circulated at a meeting must state clearly that signing or completing the document is optional.
- ~~(f)~~(j) No person except District officials shall be permitted within the platform area in front of the District Board table without the invitation or consent of the Presiding Officer.
- ~~(g)~~ A member of the public who wishes to make public comment shall be asked to state their name for the record. The provision of such information is voluntary and is not a condition of providing public comment.
- (k) The Board shall not prohibit public criticism of the policies, procedures, programs, or services of the District, or of the acts or omissions of the Board.
- ~~(h)~~(l) If a matter not on the agenda requires a collective decision by a majority of the members of the Board, the matter may be received and then forwarded to staff, a Director or Board Committee for recommendation and report at a subsequent meeting, in accordance with Section 2.1.3. This procedure is necessary in order to comply with the Brown Act.

~~2.7~~ CONSENT CALENDAR:

~~Items of a routine nature, and non-controversial, shall be placed on the Consent Calendar. All items may be approved by one blanket motion upon a majority vote and upon such other voting requirements established by statute. Prior to, or following review of, the Consent Calendar by the District Chief, any Board Member may request that any item be withdrawn from the Consent Calendar for separate consideration. Members of the public shall be provided an opportunity to comment on the Consent Calendar prior to the Board's consideration of the Consent Calendar in accordance with Section 2.6. Any member of the public may request any Board Member to withdraw a Consent Calendar item from Board consideration. However, any Board Member may abstain from voting on any Consent Calendar item without requesting its removal from the Consent Calendar, and the Board Clerk shall be instructed to record such abstentions in the minutes. Any abstention shall be considered a non-vote.~~

2.9 PARTICIPATION BY MEMBERS OF THE DISTRICT BOARD IN AGENDA SETTING:

The President or any District Board Member may bring before the District Board any new business under Requests for Items on Future Agendas (section 2.1.1)~~the Announcements portion of the agenda~~ for the purpose of placing an item of business on future agendas~~agendizing and not discussing~~, but formal action on such matters shall be deferred until a subsequent District Board meeting unless deemed to be of an urgent nature.

3. PRESIDING OFFICER

3.1 PRESIDING OFFICER

The Board President shall be the Presiding Officer, also referred to herein as “Chair”, at all meetings of the District Board. In the absence of the Board President, the Board Vice-President shall preside. In the absence of both the Board President and the Board Vice President, the Board Second Vice President ~~Board Member with the greatest seniority~~ shall act as the presiding officer to serve until the arrival of the Board President or Board Vice President or until adjournment.

3.2 CALL TO ORDER:

The meeting of the District Board shall be called to order by the Presiding Officer.

3.3 PARTICIPATION OF PRESIDING OFFICER:

The Presiding Officer may move, second, and debate from the Chair, subject only to such limitations of debate as are imposed on all Board Members, and the Presiding Officer shall not be deprived of any of the rights and privileges of a Board Member by reason of acting as Presiding Officer. However, the Presiding Officer is primarily responsible for the conduct of the meeting. If the Presiding Officer desires to personally engage in extended debate on questions before the District Board, the Presiding Officer should consider turning the Chair over to another member.

3.4 QUESTION TO BE STATED:

The Presiding Officer shall verbally restate each question immediately prior to calling for the vote. Following the vote, the Presiding Officer shall verbally announce whether the question carried or was defeated. The Presiding Officer may also publicly state the effect of the vote for the benefit of the audience before proceeding to the next item of business.

3.5 SIGNING OF DOCUMENTS:

The Board President, or Board Vice President, in the absence of the Board President, shall sign ordinances and resolutions adopted by the District Board. The Board Clerk or Deputy Board Clerk shall attest to the signature of the Board President or Board Vice President.

3.6 MAINTENANCE OF ORDER:

The Presiding Officer is responsible for the maintenance of order and decorum at all times. No person is allowed to speak who has not first been recognized by the Chair. All

questions and remarks shall be addressed to the Chair.

4. RULES, DECORUM AND ORDER

4.1 POINTS OF ORDER:

The Presiding Officer shall determine all Points of Order subject to the right of any member to appeal to the District Board. If any appeal is taken, the question shall be, "Shall the decision of the Presiding Officer be sustained?" in which event a majority vote shall govern and conclusively determine such question of order.

4.2 DECORUM AND ORDER - BOARD MEMBERS:

- (a) Any Board Member desiring to speak shall address the Chair and, upon recognition by the Presiding Officer, shall confine remarks to the question under debate.
- (b) A Board Member desiring to question the staff shall address questions to the District Chief or District Counsel, in appropriate cases, who shall be entitled either to answer the inquiry himself or to designate some member of staff for that purpose.
- (c) A Board Member, once recognized, shall not be interrupted while speaking unless called to order by the Presiding Officer; unless a Point of Order is raised by another Board Member; or unless the speaker chooses to yield to questions from another Board Member.
- (d) Any Board Member called to order while speaking shall cease speaking immediately until the question of order is determined. If ruled to be in order, the Board member shall be permitted to proceed. If ruled to be not in order, the Board member shall remain silent or shall alter remarks so as to comply with rules of the District Board.
- (e) Board Members shall accord the utmost courtesy to each other, to District employees, and to the public appearing before the District Board and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities.
- (f) Any Board Member may move to require the Presiding Officer to enforce the rules and the affirmative vote of a majority of the District Board shall require the Presiding Officer to so act.

4.3 DECORUM AND ORDER - EMPLOYEES:

Members of the administrative staff and employees of the District, when acting in the course of performance of official duties, shall observe the same rules of procedure and decorum applicable to members of the District Board. The District Chief shall insure that all District employees observe such decorum. Any staff members including the District Chief, desiring to address the District Board or members of the public shall first be recognized by the Chair. All remarks shall be addressed to the Chair and not to any one individual Board Member or member of the public.

4.4 DECORUM AND ORDER - PUBLIC:

- (a) In order to ensure that business is conducted in an orderly fashion and that all have an equal opportunity to observe and participate in the proceedings, the following rules of order shall be applied to address conduct which disrupts, disturbs, or otherwise impedes the orderly conduct of the meeting. This disruptive behavior can include failing to comply with reasonable and lawful regulations of the legislative body, as well as behavior that constitutes use of force or a true threat of force. (Government Code Section 54957.95)
- (b) No attendee of a Board meeting, at any meeting site or virtually, shall use loud, threatening, profane, or abusive language, whistle, clap, stamp their feet, speak over or interrupt the recognized speaker, or engage in any other disorderly conduct which disrupts the orderly conduct of the meeting.
- (c) Continued use of verbal conduct that denigrates an individual because of their race, color, gender, religion, sexual orientation, age, national origin, disability, or other protected category after a verbal warning from the Presiding Officer disrupts the orderly conduct of the meeting. Such conduct interferes with the Board's ability to accomplish its functions in a reasonably efficient matter by causing a distraction from District business, chilling other members of the public's participation, interfering with the ability of those present to listen and understand the business and proceedings of the District or Board, and may constitute or contribute to employment or other types of discrimination and harassment.

4.5 ENFORCEMENT OF DECORUM:

- (a) The Presiding Officer shall maintain order. In that regard, the Presiding Officer may take such actions reasonably calculated to maintain order, which include, but are not limited to, calling a recess, adjourning the meeting to another date, or ordering the removal of persons disrupting the meeting as provided in this section. The District Chief or designee shall be ex-officio sergeant-of-arms of the District Board. The ex-officio sergeant-of-arms shall carry out all orders and instructions given by the Presiding Officer for the purpose of maintaining order and decorum in the Board Chambers. Upon instructions from the Presiding Officer, it shall be the duty of the sergeant- of-arms or another representative to remove any person from the District Board Chambers.
- (b) The Presiding Officer may order an individual to be removed from a Board meeting when the individual is engaging in behavior that constitutes use of force or a "true threat of force," meaning a threat that has sufficient indicia of intent and seriousness that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat.
- (c) If a meeting is willfully disrupted by a group of people so as to render the orderly conduct of the meeting infeasible, the presiding officer may take such actions reasonably calculated to maintain order, which include, but are not limited to, calling a recess, adjourning the meeting to another date, or ordering the removal of persons disrupting the meeting as provided in this section. As set forth in the Brown Act, Government Code Section 54957.9, in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly

conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the District Board may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Duly accredited representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the District Board from establishing procedures for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

(d) Removal for Disruptive Conduct

- (i) The Presiding Officer may order an individual to be removed from a Board meeting when the individual is engaging in behavior that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting, which may include but is not limited to failing to comply with these Rules of Procedure.
- (ii) Prior to ordering the removal of the individual for disruptive conduct, the presiding officer shall warn the individual that their behavior is disrupting the meeting and, when applicable, shall follow the procedures in Section 4.5 (e) below.

(e) Verbal Conduct Denigrating a Person Because of a Protected Category

When a person engages in verbal conduct that denigrates an individual because of their race, color, gender, religion, sexual orientation, age, national origin, disability, or other protected category, the presiding officer shall take the following actions:

- (i) The Presiding Officer shall stop the speaker and read the relevant portions of the District's Harassment-Free Workplace Policy. The presiding officer shall state that the District does not condone comments in violation of the District's Policy and that the speaker's harassment is unwanted and unwelcome and impedes the orderly conduct of the meeting by interfering with the Board's ability to accomplish its functions in a reasonably efficient matter by causing a distraction from District business, chilling participation from other members of the public, interfering with the ability of those present to listen and understand the business and proceedings of the District and may constitute or contribute to employment or other forms of discrimination.
- (ii) The presiding officer shall state that any District employee present may be excused from attendance at the meeting during the speaker's remarks.
- (iii) The Presiding Officer shall hold the speaker's time and the speaker may resume speaking after the Presiding Officer's statement, unless the speaker's comments continue to disrupt, disturb, or impede the orderly conduct of the meeting. If the speaker continues

to disrupt, disturb, or impede the orderly conduct of the meeting, the Presiding Officer may take such actions as reasonably calculated to maintain order as stated in Rule 4.5(a), including, but not limited to, prohibiting the speaker from further commenting or ordering the speaker to be removed from the meeting.

- (iv) After the end of the speaker's comments, any Board member may make a brief response to such comments, if desired.

4.6 PERSONAL PRIVILEGE:

A District Board Member may request a point of personal privilege, requesting the immediate consideration of a matter affecting the comfort, safety or orderliness of a member.

4.7 CONFLICT OF INTEREST:

All Board Members are subject to the provisions of California Law relative to conflicts of interest, including, but not limited to, California Government Code, section 1090 *et seq.*, conflict of interest codes as may be adopted by the District Board, and the provisions of Government Code section 87100 *et seq.* relative to certain defined financial interests prohibiting participation in District decisions. Any Board Member prevented from voting because of a conflict of interest, or a declared financial interest shall identify the conflict of interest and refrain from debate and voting on the included matter. Such Board Member must also leave the District Chambers during debate and voting on the issue except as may be allowed by the Political Reform Act, Government Code §87105.

4.8 LIMITATION OF DEBATE:

No Board Members normally should speak more than once upon any one subject until every other Board Member choosing to speak thereon has spoken.

4.9 DISSENTS, PROTESTS, AND COMMENTS:

Any Board Member shall have the right to express dissent from or protest to or comment upon any action of the District Board and have the reason entered in the minutes. If such dissent, protest or comment is desired to be entered in the minutes, this should be made clear by language such as, "I would like the minutes to show that I am opposed to this action for the following reasons...."

4.10 PROCEDURES IN ABSENCE OF RULES:

In the absence of a rule herein to govern a point or procedure, Robert's Rules of Order shall be used as a guide.

4.11 RULINGS OF PRESIDENT ARE FINAL UNLESS OVERRULED:

In presiding over District Board meetings, the Board President, Board Vice President, or temporary Presiding Officer shall decide all questions of interpretation of these rules, points of order or other questions of procedure requiring rulings. Any such decision or ruling shall be final unless overridden or suspended by a majority vote of the Board Members present and voting and shall be binding and legally effective (even though

clearly erroneous) for purposes of the matter under consideration.

4.12 ACTIONS NOT INVALIDATED:

Failure to strictly comply with these Rules of Procedure shall not necessarily invalidate any action taken by the District Board.

~~5. PROCEDURES FOR BOARD ACTION ON REGULAR CALENDAR ITEMS~~

~~6.0 The Board shall take input from staff and other invited experts and ask questions for clarification.~~

~~7.0 The Board shall discuss the item on the agenda and may ask further questions of staff or other invited experts.~~

~~8.0 The Board shall invite comments or questions from the public relative to that agenda item. A limitation of three (3) minutes may be imposed upon each person so desiring to address the Board, unless different time limits are established by the Presiding Officer or the Board. The Presiding Officer or the Board may also limit the total amount of time allocated for public testimony on the agenda item.~~

~~9.0 A motion is made and seconded if an action is intended to occur.~~

~~10.0 The Board deliberates on the motion.~~

~~11.0 The Board votes.~~

~~12.5. WRITTEN CORRESPONDENCE ADDRESSING THE DISTRICT BOARD~~

~~12.1 MANNER OF ADDRESSING THE DISTRICT BOARD:~~

~~Any member of the public desiring to address the District Board shall wait to be recognized by the Presiding Officer. After being recognized, the member of the public shall be asked but is not required to state their name for the record.~~

~~All remarks and questions shall be addressed to the Chair and not to any individual District Board Member, staff member or other person. During a public hearing, all remarks shall be limited to the subject under consideration. No person shall enter into any discussion without being recognized by the Presiding Officer.~~

~~12.2 TIME LIMITATION:~~

~~Any member of the public desiring to address the District Board may be required to limit his or her address to three (3) minutes unless further time has been granted by the Presiding Officer in accordance with Section 2.6.~~

~~12.3 LIMITATION REGARDING PUBLIC COMMENT AND REPORTS:~~

~~The making of oral communications to the District Board by any member of the public during the Public Comment portion of the Agenda shall be subject to the following limitations in accordance with Section 2.6:~~

~~12.3.1 The Presiding Officer or the Board may limit the total amount of time allowed for public~~

~~comment on non-agenda topics at any single meeting. Those whose presentations are postponed shall be given priority at the next meeting, during the Public Comment portion of the Agenda.~~

~~12.3.2 If it appears that several speakers desire to speak regarding a single topic, the Presiding Officer or the Board may reasonably limit the amount of time for public comment as to each side of an issue. In this regard, preference may be given to speakers who represent groups or persons who have designated a spokesperson.~~

~~12.4 WRITTEN CORRESPONDENCE~~

The District Chief is authorized to receive and open all mail addressed to the District Board as a whole and give it immediate attention to the end that all administrative business referred to in said communications that falls within the District Chief's duties established by law or delegation by the Board, and not necessarily requiring District Board action, may be disposed of between District Board meetings. A copy of such communication shall be sent to each Board Member by the appropriate means. Any communication relating to a matter pending or to be brought before the District Board shall be included in the agenda packet for the meeting at which such item is to be considered.

Letters of appeal from administrative decisions shall be processed under applicable provisions of the District ordinances.

Copies of all other communications sent to the District Board will be transmitted to all District Board Members.

~~13.0 PERSONS AUTHORIZED TO BE WITHIN PLATFORM:~~

~~No person except District officials shall be permitted within the platform area in front of the District Board table without the invitation or consent of the Presiding Officer.~~

15.6. MOTIONS

15.16.1 PROCESSING OF MOTIONS:

When a motion is made and seconded, it shall be stated by the Presiding Officer before debate. A motion so stated shall not be withdrawn by the mover without the consent of the person seconding it.

15.26.2 MOTIONS OUT OF ORDER:

The Presiding Officer may at any time, by majority consent of the District Board, permit a Board member to introduce an ordinance, resolution or motion out of the regular agenda order.

15.36.3 DIVISION OF QUESTION:

If the question contains two or more divisionable propositions, the Presiding Officer may, and upon request of a Board Member shall, divide the same.

15.46.4 PRECEDENCE OF MOTIONS:

When a motion is before the District Board, no motion shall be entertained except the following, which shall have precedence in the following order:

- a. Adjourn
- b. Fix Hour of adjournment
- c. Table
- d. Limit or terminate discussion
- e. Substitute
- f. Reconsider
- g. Amend
- h. Postpone

~~15.56.5~~ MOTION TO ADJOURN: (not debatable)

A motion to adjourn shall be in order at any time, except as follows:

- a. When repeated without intervening business or discussion.
- b. When made as an interruption of a Board Member while speaking.
- c. When discussion has been ended, and vote on motion is pending, and,
- d. While a vote is being taken.

A motion to adjourn "to another time" shall be debatable only as to the time to which the meeting is adjourned.

~~15.66.6~~ MOTION TO FIX HOUR OF ADJOURNMENT:

Such a motion shall be to set a definite time at which to adjourn and shall be undebatable and shall be unamendable except by unanimous vote.

~~15.76.7~~ MOTION TO TABLE:

A motion to table shall be used to temporarily by-pass the subject. A motion to table shall be undebatable and shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the matter may be "taken from the table" at any time prior to the end of the next regular meeting.

~~15.86.8~~ MOTION TO LIMIT OR TERMINATE DISCUSSION:

Such a motion shall be used to limit or close debate on, or further amendment to, the main motion and shall be undebatable. If the motion fails, debate shall be reopened; if the motion passes, a vote shall be taken on the main motion.

~~15.96.9~~ MOTION TO AMEND:

A motion to amend shall be debatable only as to the amendment. A motion to amend an amendment shall be in order, but a motion to amend an amendment to an amendment shall not be in order. An amendment modifying the intention of a motion shall be in order, but an amendment relating to a different matter shall not be in order. A substitute motion on the same subject shall be acceptable and voted on before a vote on the amendment.

Amendments shall be voted on first then the main motion as amended.

~~15.106.10~~ MOTION TO CONTINUE

Motions to continue to a definite time shall be amendable and debatable as to propriety of postponement and time set.

16.7. VOTING PROCEDURE

~~16.17.1~~ VOTING PROCEDURE:

In acting upon every motion, the vote shall be taken by voice or roll call or any other method by which the vote of each Board Member present can be clearly ascertained. The Board Clerk shall call the names of all members seated when a roll call vote is ordered or required. Board Members shall respond "aye," "no" or "abstain," provided that when a vote is collectively taken by voice or when a method of voting other than by voice or roll call is used, any Board Member not audibly and clearly responding "no" or "abstain" or otherwise registering an objection shall have his voice recorded as "aye". An abstention shall count as a non-vote.

~~16.27.2~~ ROLL CALL VOTING:

Every ordinance and any resolution or orders for franchises or payments of money require, at minimum, three affirmative votes. A roll call vote shall be used for these changes. Any other question before the District Board shall not require a roll call vote unless demanded by any Board Member. It shall not be in order for Board Members to explain their vote during roll call. Any Board Member may change his vote before the next order of business.

~~78.3.~~ RECONSIDERATION:

Any Board Member who voted with the majority may move a reconsideration of any action at the same or next meeting. After a motion for reconsideration has once been acted upon, no other motion for reconsideration thereof shall be made without unanimous consent of the District Board.

~~78.4~~ TIE VOTES:

Tie votes shall be lost motions. When all District Board Members are present, a tie vote on whether to grant an appeal from official action shall be considered a denial of such appeal, unless the District Board takes other action to further consider the matter. If a tie vote results at a time when less than all Board Members are present the matter shall automatically be continued to the agenda of the next regular meeting of the District Board, unless otherwise ordered by the District Board.

17.8. RESOLUTIONS AND MOTIONS

~~17.1~~ DEFINITIONS:

8.1 Legislative acts of the District Board (usually a role of public policy for long-term

application) are taken by ordinance, whereas more routine business and administrative matters (usually more temporary and transitory in nature) are accomplished by "resolutions." The term "resolution," generally denotes any action taken affirmatively via a vote of the District Board, other than one taken by ordinance. Three terms are in general use to denote such (non-ordinance) actions: "resolution," "minute order," and "motion" (thereafter recorded by minute entry). ~~All three actions are equally as legally effective and binding; they just vary in the formality of respective memorialization.~~

The most formal is referred to locally as a "resolution" which in addition to being referenced in the minutes, will be recorded by a separate document, numbered in sequence for each calendar year and preserved in a separate set of books. Such "resolutions" are used in this District for various reasons, such as when specifically required by law, when needed as a separate evidentiary document to be transmitted to another governmental agency, or where the frequency of future reference back to its contents warrants a separate document (with the additional "whereas" explanatory material it often recites) to facilitate such future reference and research.

~~A "minute order" denotes a separate document which is also maintained in a separate set of books, under a system of sequential numbering, and is referenced in the minutes; however, the "minute order" is drafted far more briefly than a "resolution" and is distinguished from a mere minute entry only by the need in general, to have a separate document to facilitate certain administrative processes to which it pertains.~~

A "motion" (assuming it was one which passed) is a District Board action which is recorded simply by an item entry in the minutes of the meeting at which it was accomplished, and no separate document is made to memorialize it.

~~18.0—RESOLUTIONS PREPARED IN ADVANCE:~~

~~Where a resolution has been prepared in advance, the procedure shall be: Motion, second, discussion, vote pursuant to methods prescribed in Section 8.1, and result declared. It shall not be necessary to read a resolution in full or by title except to identify it. Any Board Member may require that the resolution be read in full.~~

~~20.0—RESOLUTIONS NOT PREPARED IN ADVANCE:~~

~~Where a resolution has not been prepared in advance, the procedure shall be to instruct the District Chief or District Counsel to prepare a resolution for presentation at the next District Board meeting.~~

~~22.0—URGENCY RESOLUTIONS:~~

~~In matters of urgency, a resolution may be presented verbally in motion form together with instructions for written preparation for later execution. After the resolution has been verbally stated, the voting procedure in 8.1 above shall be followed.~~

~~Urgency resolutions shall be avoided except when absolutely necessary; and shall be avoided entirely when resolutions are required by law. Where the resolution has been drafted in written form either before or during the meeting, this paragraph shall not be deemed applicable.~~

25.9. ORDINANCES

25.19.1 INTRODUCTION AND ADOPTION OF ORDINANCES:

Ordinances shall not be passed within five days of their introduction, nor at other than a regular meeting or at an adjourned regular meeting. However, an urgency ordinance may be passed immediately upon introduction and either at a regular or special meeting. Except when, after reading the title, further reading is waived by regular motion adopted by majority vote of the Board Members present, all ordinances shall be read in full either at the time of introduction or passage, provided, however, that a reading of the title or ordinance shall not be required if the title is included on the published agenda and a copy of the full ordinance is made available to the public online and in print at the meeting before the introduction or passage.

When ordinances, other than urgency ordinances, are altered after introduction, they shall be passed only at regular or at an adjourned regular meeting held at least five days after alteration.

Corrections of typographical or clerical errors are not alterations within the meaning of this section.

This section shall not apply to ordinances which by statute can be passed only after notice and a public hearing.

25.29.2 EFFECTIVE DATE:

All ordinances, except as otherwise provided by law, shall take effect 30 days after adoption, but may be made operative at such later date as may be designated in the ordinance.

25.39.3 PUBLISHING:

It shall be the duty of the Board Clerk to post or publish all ordinances within 15 days after adoption.

25.49.4 URGENCY ORDINANCES:

All urgency ordinances must receive four (4) affirmative votes to be adopted and to become effective immediately. If such an ordinance fails to receive a 4/5 majority, it may thereafter be considered and passed in the same manner as regular ordinances if all legal requirements for adoption of a non-urgency ordinance have been satisfied.

26.10. ELECTION OF OFFICERS

The District Board shall elect the following Officers: President, Vice President, and Second Vice President on an annual basis or as may be required after a general district election. The District Board may also elect such additional officers as may be created. Nothing herein shall affect the status of officers appointed prior to the adoption of this Resolution (No. 24-02). ~~those who have been appointed prior.~~

27.11. STANDING OR AD HOC COMMITTEES

The District Board may ~~create~~appoint or dissolve ~~such~~ standing or ad hoc committees and appoint their members as ~~are~~ necessary to conduct District business and keep informed on matters relevant to the District. ~~The Board shall appoint and may remove members of standing and ad hoc committees.~~ Directors so assigned shall report to the Board on matters of these committees.

28.12. BOARD ATTENDANCE AND VACANCIES

Each member of the Board is expected to attend each meeting of the Board and each meeting of any committee to which the Director has been appointed. Members of the Board shall be responsible to inform the Fire Chief and Board President at least 96 hours in advance of a scheduled meeting if the Director expects to be absent. If an unexpected absence is necessary, the Director should inform the Fire Chief and Board President as soon as possible before the commencement of the meeting. Board vacancies shall be filled pursuant to Government Code Section 1780 (Health and Safety Code 13852(b)).

PASSED, APPROVED AND ADOPTED this 20th day of March 2024 at the regular meeting of the District Board held at 22 Orinda Way, Orinda, California 94563, on a motion made by Director ____, seconded by Director ____, and duly carried with the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Resolution 24-02

Michael Roemer, President Board of Directors

I certify that this is a full, true and correct copy of the original document which is on file in my office, and that was passed and adopted by the Moraga-Orinda Fire Protection District on the date shown.

ATTEST:

Marcia Holbrook,
District Secretary/District Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Jon Holtzman, District Counsel

Dave Winnacker, Fire Chief

VOTING REQUIREMENTS FOR THE BOARD OF DIRECTORS

Attachment A to the Moraga Orinda Fire District Rules of Procedure for the Board of Directors

I. Majority votes of the Membership of the Board

Unless the Board of Directors is taking an action specified below or as otherwise required by statute, a majority vote of the membership of the Board of Directors, or three votes, is required to take action. (Health & Safety Code § 13856.)

II. Adoption of Ordinances

A. Regular Ordinance

Adoption of a regular ordinance requires a majority of members of the Board of Directors – three members. (Health & Safety Code § 13856(b).)

B. Urgency Ordinance

Adoption of an urgency ordinance requires a four-fifths vote of the Board of Directors – four members. (Health & Safety Code § 13861(h); Govt. Code § 25123(d).)

An urgency ordinance is an ordinance passed for the immediate preservation of the public peace, health or safety. (Govt. Code § 25123(d).) An urgency ordinance may be passed immediately upon introduction at either a regular or special meeting. (Govt. Code § 25131.)

III. Financial Decisions Requiring More than a Majority Vote.

A. Reallocation of Certain Types of Appropriations.

Changes to certain types of appropriations after the approval of a final budget, requires four votes of the Board of Directors. Four votes are required if the Board seeks to make available for appropriation any of the following:

- (a) Balances in appropriations for contingencies, including accretions from cancellations of appropriations.
- (b) Designations and reserves no longer required for the purpose for which intended, excluding the general reserve, balance sheet reserves, and reserve for encumbrances.
- (c) Amounts which are either in excess of anticipated amounts or not specifically set forth in the budget derived from any or anticipated increases in available financing. (Health & Safety Code § 13900.)

B. Appropriating Funding in an Emergency.

If an emergency affects the ability of the District to provide adequate services, the Board of Directors may make available for expenditure money that was not specifically set forth as revenue in the final budget. Such an action requires four votes. (Health & Safety Code § 13901.)

C. Discontinuing Capital Outlay Reserves.

The Board may establish a reserve for capital outlays for a specific declared purpose. If so, the Board may transfer to that capital outlays reserve any unencumbered surplus funds remaining at the end of the fiscal year. The capital outlay reserve may only be used for the

purpose declared by the Board. If the Board finds that the final budget reserve is no longer required, it may discontinue the reserve or transfer any balance to the district's general fund. The decision to discontinue the reserve or transfer the balance must be made by a unanimous vote of the Board. (Health & Safety Code § 13902.)

IV. Incurring Debt.

A. Borrowing Funds to Acquire Property.

The District may borrow money to purchase real property. (Health & Safety Code § 13906.) The Board must approve the action to incur the debt by a resolution adopted by four votes. (*Ibid.*)

B. General Obligation Bond Indebtedness Under the Fire Protection District Law.

The Board may issue general obligation bonds for the acquisition or construction of any real property, other capital expenses, or funding any outstanding indebtedness. The Board must adopt a resolution calling an election to incur indebtedness and to issue general obligation bonds. (Health & Safety Code §§ 13925 *et. seq.*) If two-thirds of the voters approve incurring the debt and issuing the bonds, the Board may then adopt resolutions to issue the bond. (Health & Safety Code § 13928.) Because the statutes authorizing the Board to adopt resolutions calling for an election and then issuing the bonds do not expressly require a supermajority, the Board may adopt those resolutions by a majority of the total membership of the Board, or three members. (Health & Safety Code § 13856.)

C. Temporary Borrowing.

Health & Safety Code section 13897 allows a district to borrow money and incur indebtedness as otherwise authorized in Articles 7, 7.4, 7.5, 7.6, and 7.7 of the Government Code.

The District may temporarily borrow funds to be repaid within the same year as the funds are borrowed. The District must adopt a resolution approved by a four-fifths vote of the Board to do so. (Govt. Code §§ 53824, 53825.)

The District may borrow funds secured by a note for any purpose the District is authorized to use funds, including but not limited to current expenses, capital expenditures, investment and reinvestment, and the discharge of any obligation or indebtedness. (Govt. Code § 53852.) The notes must be repaid within 15 days of issuance. (Govt. Code § 53854.) There is no voting requirement specified within Article 7.6.

D. Securitized Limited Obligation Notes.

The District may borrow money secured by a limited obligation note. The District may use the money solely for the acquisition of land, facilities, or equipment. (Govt. § 53837.) The District must adopt a resolution approved by a four-fifths vote of the Board to do so. (Govt. Code § 53838.)

E. Grant Anticipation Notes.

The District may temporarily borrow money based on a grant anticipation note, grant, or loan from the federal or state government for which funds have been appropriated and committed to the District. (Govt. Code §§ 53859, 53859.02.) The Board must approve the debt by resolution, but the statute does not require a four -fifths vote. (Govt. Code § 53859.03.)

RESOLUTION NO. 24-02
RESOLUTION OF THE BOARD OF DIRECTORS OF THE
MORAGA-ORINDA FIRE DISTRICT
ADOPTING REVISED RULES OF PROCEDURE FOR
BOARD MEETINGS AND RELATED FUNCTIONS AND ACTIVITIES

WHEREAS, the Board of Directors (“District Board”) of the Moraga-Orinda Fire District ("District") has previously adopted Rules of Procedure to govern the conduct of its meetings and related functions and activities through Resolution Number 07-02;

WHEREAS, on January 19, 2011, the District Board adopted Resolution No. 11-03 which repealed Resolution Number 07-02 and adopted new Rules of Procedure to govern the conduct of its meetings and related functions and activities;

WHEREAS, the District Board desires to further amend its Rules of Procedure to comply with changes in the Brown Act and other laws, to include additional provisions relating to addressing disruptive conduct and relating to conflicts of interest, and for purposes of clarification.

NOW, THEREFORE, BE IT RESOLVED that the District Board does hereby repeal Resolution Number 11-03 relating to the adoption of Rules of Procedure and related functions and activities within the District.

BE IT FURTHER RESOLVED that the District Board does hereby adopt the following Rules of Procedure for District Board meetings and related functions and activities:

PURPOSE: The purpose and intent of the District Board in adopting these rules is to provide directory, as opposed to mandatory, guidelines relating to the conduct of the public business by or on behalf of the District Board, and in the event of any noncompliance with or violation of any provision herein, such will not be deemed to affect the validity of any action taken, unless otherwise specifically provided by law. These procedures are intended to supplement and implement provisions of the Ralph M. Brown Act, Government Code section 54950 et seq., (the "Brown Act").

1. MEETINGS

1.1 REGULAR MEETING:

The District Board shall hold regular meetings located at 22 Orinda Way, Orinda, CA on the third Wednesday of the month, with Closed session beginning at either 5 p.m. or 6 p.m. (as described on the particular agenda) and the Open session beginning at 7 p.m. When the day for a regular meeting of the District Board falls on a legal holiday, the District Board, at the preceding meeting, shall determine the time and date of any rescheduled meeting.

The meeting site may be changed for convenience, to accommodate larger attendance, and for other reasons, provided that the alternate location is within the jurisdiction of the District, permitted by law, accessible as required pursuant to the Americans with Disabilities Act, and the alternate location is posted at the District offices and on its website. (Govt. Code § 54954)

1.2 ADJOURNED MEETINGS TO A FUTURE DATE:

Any meeting may be adjourned to a time, place, and date certain, but not beyond the next regular meeting, in compliance with the Brown Act, Government Code Section 54955. Once adjourned, the meeting may not be reconvened until the date of the adjourned meeting. Whenever a regular or adjourned meeting is adjourned as provided in this section, the resulting adjourned meeting is a regular meeting for all purposes.

The Clerk shall provide notice of an Adjourned Meeting in the same way required for a special meeting. A copy of the notice of adjournment shall be posted on or near the door of the place where the meeting was held within twenty-four hours of adjournment. If the adjourned meeting occurs more than five days after the meeting that was continued, a new agenda for the adjourned meeting shall be posted 72 hours in advance of the adjourned meeting.

1.3 SPECIAL AND EMERGENCY MEETINGS:

Special and emergency meetings shall be held and noticed in compliance with the Brown Act, Government Code Sections 54956 and 54956.5

Special Meetings may be called by the Board President or majority of Board Members on not less than 24 hours notice, as set forth in Government Code section 54956. The notice shall specify the time and place of the special meeting and the business to be transacted or discussed. Only matters contained in the notice may be considered.

1.4 QUORUM:

Pursuant to Health & Safety Code section 13856:

- (1) A majority of the District Board shall constitute a quorum for the transaction of business.
- (2) The District Board shall act only by ordinance, resolution, or motion. Except as specifically provided to the contrary by statute, a recorded vote by a majority of the total membership of the District Board is required on each action. See Attachment A for a non-exhaustive summary of certain voting requirements.

1.4.1 Legally Required Participation:

If a majority of the District Board shall be disqualified to vote on a matter by reason of actual or apparent conflict of interest, and at least one disqualified District Board member's participation is legally required for a decision to be made, the District Board shall select by lot or other means of random selection, or by such other impartial and equitable means as the District Board shall determine, that number of its disqualified members which, when added to the members eligible to vote, shall constitute a quorum. The selected disqualified members may vote but may not participate in discussion or deliberation on the item. This rule shall be interpreted in accordance with the Political Reform Act and all conflict of interest laws and regulations.

1.5 MEETINGS TO BE PUBLIC:

All regular, adjourned, special, and emergency meetings of the District Board shall be open to the public, provided, however, the District Board may hold closed sessions from

which the public may be excluded for the consideration of matters authorized by the Brown Act, which include, but are not limited to, personnel matters, negotiations for the sale or purchase of real property, attorney-client consultation concerning existing and potential litigation.

1.6 PROHIBITED HARASSMENT POLICY:

As set forth more fully in the District's Prohibited Harassment Policy (A 3.07.02), the District, including at the meetings of the Board and its Committees, is committed to maintaining a work environment that is free from discrimination and harassment based on a protected category. It is against District policy to engage in verbal conduct that denigrates an individual because of their race, color, sex, marital status, religious creed, age for individuals over forty years of age, sexual orientation, national origin, military status, veteran status, mental disability, physical disability, genetic information, gender, gender identity, gender expression, medical condition, ancestry or any other basis protected by any applicable ordinance, regulation, federal, state, or local law. The Prohibited Harassment Policy is designed to encourage professional and respectful behavior and to prevent discriminatory and harassing conduct in the workplace.

2. ORDER OF BUSINESS

2.1 AGENDA:

In order to facilitate the orderly conduct of the business of the District Board, the Board Clerk shall prepare an agenda for each regular Board Meeting in accordance with the Order of Business set forth in Section 2.1.1, and in consultation with the District Chief, President, and General Counsel. The Agenda prepared by the Board Clerk shall, at a minimum, include:

1. The date of the meeting.
2. The time of the meeting.
3. The location of the meeting.
4. A specified period of time for members of the public to address the District Board on items of interest to the public that are not listed on the agenda and within the jurisdiction of the District Board.
5. A specified section under which Board Members and District Staff may present information-only reports.
6. A brief general description of each item of business to be transacted and discussed.

2.1.1 The Order of Business of each regular meeting shall be as contained in the Agenda prepared by the Board Clerk. The Agenda shall be a listing by topic of the subjects which shall be taken up for consideration in the following order:

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. PUBLIC COMMENT – CLOSED SESSION ITEMS

5. CLOSED SESSION
6. RECONVENE THE MEETING
7. REPORT OF CLOSED SESSION ACTION
8. PUBLIC HEARINGS
9. ANNOUNCEMENTS
10. PUBLIC COMMENT – CONSENT AGENDA ITEMS AND ITEMS NOT ON THE AGENDA
11. CONSENT CALENDAR
12. REGULAR CALENDAR
13. COMMITTEE REPORTS
14. REQUESTS FOR ITEMS ON FUTURE AGENDAS
15. ADJOURNMENT

2.1.2 At the direction of the Presiding Officer or on a majority vote of the District Board, items may be taken out of the order prescribed above, so long as there is no discernible prejudice to the right of the public to be heard on the matter.

2.1.3 The Board may not take action or discuss any item not appearing on the agenda, except as provided in this section. As provided in Government Code section 54954.2(a)(3), a Board member or staff may briefly respond to statements made or questions posed by members of the public during public comment. A board member or staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. A Board member may provide a reference to staff or other resources for factual information, request staff to report back to the Board at a subsequent meeting concerning any matter, or, if approved by a majority vote of the Board, take action to direct staff to place a matter of business on a future agenda.

As provided in Government Code section 54954.2(b), the District Board may take action on items of business which do not appear on the posted agenda under any of the following conditions or circumstances. The Board shall publicly identify the item and the basis for taking action.

- (1) Upon a determination by a majority vote of the District Board that an emergency situation exists, as defined in the Brown Act, Government Code Section 54956.5;
- (2) Upon a determination by a two-thirds vote of the District Board, or, if less than two-thirds of the members are present, by a unanimous vote of those members present, that the need to take immediate action arose subsequent to the Agenda having been posted;
- (3) The item was posted for a prior meeting of the District Board occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is proposed to be taken.

2.2 DELIVERY OF AGENDA FOR REGULAR MEETINGS:

- (a) The Agenda for each regular meeting of the District Board, and reports and other

documentation related thereto, shall be delivered to the Board Members and made available to the public on the Friday preceding the Wednesday meeting to which it pertains. In respect to every regular meeting, the Agenda shall conform to the Brown Act, Government Code Section 54954.2, and shall be posted at least 72 hours prior to the time scheduled for the meeting. Agendas shall be posted on the windows outside the administrative offices of the District located at 1280 Moraga Way, Moraga, CA 94556, on the District's website, and at such other places within the District as the District Board has designated for posting notices of District Board meetings, and shall, in accordance with Government Code section 54954.1, be provided to anyone who has requested, in writing, to receive copies of the agenda.

- (b) Reports and other documentation that are public records and relate to items on the Agenda shall, as a general rule, be made available to the public on the Friday preceding the Wednesday meeting to which it pertains. If such a report or document is made available to the Board less than 72 hours before the meeting, it shall also be made available for public inspection in accordance with Government Code section 54957.5.

2.3 ROLL CALL:

Before proceeding with the business of the District Board, the names of those Board members that are present shall be entered in the minutes. No formal roll call need be taken.

2.4 APPROVAL OF MINUTES:

Unless requested by a majority of the District Board, minutes of the previous meeting may be approved without public reading if the Board Clerk has previously furnished each Board Member with a copy thereof.

2.5 CONSENT CALENDAR:

Items of a routine nature, and non-controversial, shall be placed on the Consent Calendar. All items may be approved by one blanket motion upon a majority vote and upon such other voting requirements established by statute. Prior to, or following review of, the Consent Calendar by the District Chief, any Board Member may request that any item be withdrawn from the Consent Calendar for separate consideration. Members of the public shall be provided an opportunity to comment on the Consent Calendar prior to the Board's consideration of the Consent Calendar in accordance with Section 2.8. Any member of the public may request any Board Member to withdraw a Consent Calendar item from Board consideration. However, any Board Member may abstain from voting on any Consent Calendar item without requesting its removal from the Consent Calendar, and the Board Clerk shall be instructed to record such abstentions in the minutes. Any abstention shall be considered a non-vote.

2.6 PROCEDURES FOR BOARD ACTION ON REGULAR CALENDAR ITEMS:

- (a) The Board shall take input from staff and other invited experts and ask questions for clarification.
- (b) The Board shall discuss the item on the agenda and may ask further questions of staff

or other invited experts.

- (c) The Board shall invite comments or questions from the public relative to that agenda item. A limitation of three (3) minutes may be imposed upon each person so desiring to address the Board unless different time limits are established by the Presiding Officer or the Board. The Presiding Officer or the Board may also limit the total amount of time allocated for public testimony on the agenda item.
- (d) A motion is made and seconded if an action is intended to occur.
- (e) The Board deliberates on the motion.
- (f) The Board votes.

2.7 PUBLIC HEARINGS:

- (a) Generally, public hearings (such as Public Hearing on Fire Code Adoption, Public Hearing on Adoption of a Fee Ordinance), other than those of a quasi-judicial nature, shall be conducted in the following order:

Staff Review

Questions of Staff by District Board

Hearing Opened by Board President

Preliminary Board Comments

Public Comments

Questions by District Board

Discussion by District Board

Proposed Action by District Board

Public Comment on Proposed Action by District Board

Closing of Hearing

Final Action by District Board

- (b) Quasi-judicial hearings (such as when the Board sits as a Board of Appeals relative to the application and interpretation of the District Fire Code) shall be conducted in accordance with the principles of due process, and the District Counsel shall advise the District Board in this regard.

In general, such quasi-judicial hearings shall be conducted in the following manner:

Board Members Disclose any Ex Parte Communications

Staff Report

Board Questions for Staff

Presiding Officer then Opens the Public Portion of the Hearing

Presentation by Appellant (10 minutes)

Board Questions for Appellant, Applicant and/or Staff

Public Comment

Rebuttal by Staff (10 minutes)

Rebuttal by Appellant (5 minutes)

Final Board Questions of Appellant Final Board Questions of Staff

Presiding Officer closes the Public Portion of Hearing

Board Discusses, Deliberates, Makes Findings and takes Final Action by Motion.

At any hearing before the Board sitting in a quasi-judicial capacity, the Board may request that parties testify under oath.

- (c) Questions or comments from the public shall be limited to the subject under consideration. Depending upon the extent of the agenda, and the number of persons desiring to speak on an issue, the Presiding Officer or the Board may at the beginning of the hearing establish time limits consistent with Section 2.6 (d). Any person may speak for a longer period of time, upon approval of the Presiding Officer or the District Board, when this is deemed necessary in such cases as when a person is speaking as representative of a group or has graphic or slide presentations requiring more time.

2.8 PUBLIC COMMENT:

- (a) Pursuant to Government Code section 54954.3 of the Brown Act, at any regular and special meeting, members of the public may directly address the Board on any agenda item before or during the Board's consideration of the item.
- (b) In addition, for regular meetings, the Board provides the members of the public with a Public Comment Period where the public may address the Board on any matter not listed on the agenda that is within the subject matter jurisdiction of the Board and for members of the public to address the Board on items on the Consent Calendar.
- (c) Any member of the public desiring to address the District Board shall wait to be recognized by the Presiding Officer. After being recognized, the member of the public shall be asked but is not required to state their name for the record.
- (d) All remarks and questions shall be addressed to the Chair and not to any individual District Board Member, staff member or other person. During a public hearing, all remarks shall be limited to the subject under consideration. No person shall enter into any discussion without being recognized by the Presiding Officer.
- (e) Public comment may be limited by the Presiding Officer or the Board to three (3) minutes per speaker, unless different time limits are established by the Presiding Officer or the Board. The Presiding Officer or the Board may also limit the total amount of time allocated for public testimony on any particular issue.
- (f) The Presiding Officer or the Board may limit the total amount of time allowed for public comment on non-agenda topics at any single meeting. Those whose presentations are postponed shall be given priority at the next meeting, during the Public Comment portion of the Agenda.
- (g) If it appears that several speakers desire to speak regarding a single topic, the Presiding Officer or the Board may reasonably limit the amount of time for public

comment as to each side of an issue. In this regard, preference may be given to speakers who represent groups or persons who have designated a spokesperson.

- (h) If a member of the public uses a translator when making public comment, the Board shall allow that person at least twice the amount of time otherwise allowed for public comment on that item. This shall not apply when the District uses simultaneous translation equipment in a manner that allows the Board to hear the translated public testimony simultaneously.
- (i) The District may not require a member of the public to provide their name or other information or to complete a questionnaire as a condition for attending or speaking at a Board meeting. Any attendance list, questionnaire, or other document circulated at a meeting must state clearly that signing or completing the document is optional.
- (j) No person except District officials shall be permitted within the platform area in front of the District Board table without the invitation or consent of the Presiding Officer.
- (k) The Board shall not prohibit public criticism of the policies, procedures, programs, or services of the District, or of the acts or omissions of the Board.
- (l) If a matter not on the agenda requires a collective decision by a majority of the members of the Board, the matter may be received and then forwarded to staff, a Director or Board Committee for recommendation and report at a subsequent meeting, in accordance with Section 2.1.3. This procedure is necessary in order to comply with the Brown Act.

2.9 PARTICIPATION BY MEMBERS OF THE DISTRICT BOARD IN AGENDA SETTING:

The President or any District Board Member may bring before the District Board any new business under Requests for Items on Future Agendas (section 2.1.1) for the purpose of placing an item of business on future agendas, but formal action on such matters shall be deferred until a subsequent District Board meeting unless deemed to be of an urgent nature.

3. PRESIDING OFFICER

3.1 PRESIDING OFFICER

The Board President shall be the Presiding Officer, also referred to herein as “Chair”, at all meetings of the District Board. In the absence of the Board President, the Board Vice-President shall preside. In the absence of both the Board President and the Board Vice President, the Board Second Vice President shall act as the presiding officer to serve until the arrival of the Board President or Board Vice President or until adjournment.

3.2 CALL TO ORDER:

The meeting of the District Board shall be called to order by the Presiding Officer.

3.3 PARTICIPATION OF PRESIDING OFFICER:

The Presiding Officer may move, second, and debate from the Chair, subject only to such

limitations of debate as are imposed on all Board Members, and the Presiding Officer shall not be deprived of any of the rights and privileges of a Board Member by reason of acting as Presiding Officer. However, the Presiding Officer is primarily responsible for the conduct of the meeting. If the Presiding Officer desires to personally engage in extended debate on questions before the District Board, the Presiding Officer should consider turning the Chair over to another member.

3.4 QUESTION TO BE STATED:

The Presiding Officer shall verbally restate each question immediately prior to calling for the vote. Following the vote, the Presiding Officer shall verbally announce whether the question carried or was defeated. The Presiding Officer may also publicly state the effect of the vote for the benefit of the audience before proceeding to the next item of business.

3.5 SIGNING OF DOCUMENTS:

The Board President, or Board Vice President, in the absence of the Board President, shall sign ordinances and resolutions adopted by the District Board. The Board Clerk or Deputy Board Clerk shall attest to the signature of the Board President or Board Vice President.

3.6 MAINTENANCE OF ORDER:

The Presiding Officer is responsible for the maintenance of order and decorum at all times. No person is allowed to speak who has not first been recognized by the Chair. All questions and remarks shall be addressed to the Chair.

4. RULES, DECORUM AND ORDER

4.1 POINTS OF ORDER:

The Presiding Officer shall determine all Points of Order subject to the right of any member to appeal to the District Board. If any appeal is taken, the question shall be, "Shall the decision of the Presiding Officer be sustained?" in which event a majority vote shall govern and conclusively determine such question of order.

4.2 DECORUM AND ORDER - BOARD MEMBERS:

- (a) Any Board Member desiring to speak shall address the Chair and, upon recognition by the Presiding Officer, shall confine remarks to the question under debate.
- (b) A Board Member desiring to question the staff shall address questions to the District Chief or District Counsel, in appropriate cases, who shall be entitled either to answer the inquiry himself or to designate some member of staff for that purpose.
- (c) A Board Member, once recognized, shall not be interrupted while speaking unless called to order by the Presiding Officer; unless a Point of Order is raised by another Board Member; or unless the speaker chooses to yield to questions from another Board Member.

- (d) Any Board Member called to order while speaking shall cease speaking immediately until the question of order is determined. If ruled to be in order, the Board member shall be permitted to proceed. If ruled to be not in order, the Board member shall remain silent or shall alter remarks so as to comply with rules of the District Board.
- (e) Board Members shall accord the utmost courtesy to each other, to District employees, and to the public appearing before the District Board and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments, and statements as to motives and personalities.
- (f) Any Board Member may move to require the Presiding Officer to enforce the rules, and the affirmative vote of a majority of the District Board shall require the Presiding Officer to so act.

4.3 DECORUM AND ORDER - EMPLOYEES:

Members of the administrative staff and employees of the District, when acting in the course of performance of official duties, shall observe the same rules of procedure and decorum applicable to members of the District Board. The District Chief shall insure that all District employees observe such decorum. Any staff members including the District Chief, desiring to address the District Board or members of the public shall first be recognized by the Chair. All remarks shall be addressed to the Chair and not to any one individual Board Member or member of the public.

4.4 DECORUM AND ORDER - PUBLIC:

- (a) In order to ensure that business is conducted in an orderly fashion and that all have an equal opportunity to observe and participate in the proceedings, the following rules of order shall be applied to address conduct which disrupts, disturbs, or otherwise impedes the orderly conduct of the meeting. This disruptive behavior can include failing to comply with reasonable and lawful regulations of the legislative body, as well as behavior that constitutes use of force or a true threat of force. (Government Code Section 54957.95)
- (b) No attendee of a Board meeting, at any meeting site or virtually, shall use loud, threatening, profane, or abusive language, whistle, clap, stamp their feet, speak over or interrupt the recognized speaker, or engage in any other disorderly conduct which disrupts the orderly conduct of the meeting.
- (c) Continued use of verbal conduct that denigrates an individual because of their race, color, gender, religion, sexual orientation, age, national origin, disability, or other protected category after a verbal warning from the Presiding Officer disrupts the orderly conduct of the meeting. Such conduct interferes with the Board's ability to accomplish its functions in a reasonably efficient matter by causing a distraction from District business, chilling other members of the public's participation, interfering with the ability of those present to listen and understand the business and proceedings of the District or Board, and may constitute or contribute to employment or other types of discrimination and harassment.

4.5 ENFORCEMENT OF DECORUM:

- (a) The Presiding Officer shall maintain order. In that regard, the Presiding Officer may take such actions reasonably calculated to maintain order, which include, but are not limited to, calling a recess, adjourning the meeting to another date, or ordering the removal of persons disrupting the meeting as provided in this section. The District Chief or designee shall be ex-officio sergeant-of-arms of the District Board. The ex-officio sergeant-of-arms shall carry out all orders and instructions given by the Presiding Officer for the purpose of maintaining order and decorum in the Board Chambers. Upon instructions from the Presiding Officer, it shall be the duty of the sergeant- of-arms or another representative to remove any person from the District Board Chambers.
- (b) The Presiding Officer may order an individual to be removed from a Board meeting when the individual is engaging in behavior that constitutes use of force or a “true threat of force,” meaning a threat that has sufficient indicia of intent and seriousness that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat.
- (c) If a meeting is willfully disrupted by a group of people so as to render the orderly conduct of the meeting infeasible, the presiding officer may take such actions reasonably calculated to maintain order, which include, but are not limited to, calling a recess, adjourning the meeting to another date, or ordering the removal of persons disrupting the meeting as provided in this section. As set forth in the Brown Act, Government Code Section 54957.9, in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the District Board may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Duly accredited representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the District Board from establishing procedures for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.
- (d) Removal for Disruptive Conduct
 - (i) The Presiding Officer may order an individual to be removed from a Board meeting when the individual is engaging in behavior that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting, which may include but is not limited to failing to comply with these Rules of Procedure.
 - (ii) Prior to ordering the removal of the individual for disruptive conduct, the presiding officer shall warn the individual that their behavior is disrupting the meeting and, when applicable, shall follow the procedures in Section 4.5 (e) below.
- (e) Verbal Conduct Denigrating a Person Because of a Protected Category

When a person engages in verbal conduct that denigrates an individual because of their race, color, gender, religion, sexual orientation, age, national origin,

disability, or other protected category, the presiding officer shall take the following actions:

- (i) The Presiding Officer shall stop the speaker and read the relevant portions of the District's Harassment-Free Workplace Policy. The presiding officer shall state that the District does not condone comments in violation of the District's Policy and that the speaker's harassment is unwanted and unwelcome and impedes the orderly conduct of the meeting by interfering with the Board's ability to accomplish its functions in a reasonably efficient matter by causing a distraction from District business, chilling participation from other members of the public, interfering with the ability of those present to listen and understand the business and proceedings of the District and may constitute or contribute to employment or other forms of discrimination.
- (ii) The presiding officer shall state that any District employee present may be excused from attendance at the meeting during the speaker's remarks.
- (iii) The Presiding Officer shall hold the speaker's time and the speaker may resume speaking after the Presiding Officer's statement, unless the speaker's comments continue to disrupt, disturb, or impede the orderly conduct of the meeting. If the speaker continues to disrupt, disturb, or impede the orderly conduct of the meeting, the Presiding Officer may take such actions as reasonably calculated to maintain order as stated in Rule 4.5(a), including, but not limited to, prohibiting the speaker from further commenting, or ordering the speaker to be removed from the meeting.
- (iv) After the end of the speaker's comments, any Board member may make a brief response to such comments, if desired.

4.6 PERSONAL PRIVILEGE:

A District Board Member may request a point of personal privilege, requesting the immediate consideration of a matter affecting the comfort, safety, or orderliness of a member.

4.7 CONFLICT OF INTEREST:

All Board Members are subject to the provisions of California Law relative to conflicts of interest, including, but not limited to, California Government Code, section 1090 *et seq.*, conflict of interest codes as may be adopted by the District Board, and the provisions of Government Code section 87100 *et seq.* relative to certain defined financial interests prohibiting participation in District decisions. Any Board Member prevented from voting because of a conflict of interest, or a declared financial interest shall identify the conflict of interest and refrain from debate and voting on the included matter. Such Board Member must also leave the District Chambers during debate and voting on the issue except as may be allowed by the Political Reform Act, Government Code §87105.

4.8 LIMITATION OF DEBATE:

No Board Members normally should speak more than once upon any one subject until every other Board Member choosing to speak thereon has spoken.

4.9 DISSENTS, PROTESTS, AND COMMENTS:

Any Board Member shall have the right to express dissent from or protest to or comment upon any action of the District Board and have the reason entered in the minutes. If such dissent, protest or comment is desired to be entered in the minutes, this should be made clear by language such as, "I would like the minutes to show that I am opposed to this action for the following reasons...."

4.10 PROCEDURES IN ABSENCE OF RULES:

In the absence of a rule herein to govern a point or procedure, Robert's Rules of Order shall be used as a guide.

4.11 RULINGS OF PRESIDENT ARE FINAL UNLESS OVERRULED:

In presiding over District Board meetings, the Board President, Board Vice President, or temporary Presiding Officer shall decide all questions of interpretation of these rules, points of order or other questions of procedure requiring rulings. Any such decision or ruling shall be final unless overridden or suspended by a majority vote of the Board Members present and voting and shall be binding and legally effective (even though clearly erroneous) for purposes of the matter under consideration.

4.12 ACTIONS NOT INVALIDATED:

Failure to strictly comply with these Rules of Procedure shall not necessarily invalidate any action taken by the District Board.

5. WRITTEN CORRESPONDENCE

The District Chief is authorized to receive and open all mail addressed to the District Board as a whole and give it immediate attention to the end that all administrative business referred to in said communications that falls within the District Chief's duties established by law or delegation by the Board, and not necessarily requiring District Board action, may be disposed of between District Board meetings. A copy of such communication shall be sent to each Board Member by the appropriate means. Any communication relating to a matter pending or to be brought before the District Board shall be included in the agenda packet for the meeting at which such item is to be considered.

Letters of appeal from administrative decisions shall be processed under applicable provisions of the District ordinances.

Copies of all other communications sent to the District Board will be transmitted to all District Board Members.

6. MOTIONS

6.1 PROCESSING OF MOTIONS:

When a motion is made and seconded, it shall be stated by the Presiding Officer before debate. A motion so stated shall not be withdrawn by the mover without the consent of the person seconding it.

6.2 MOTIONS OUT OF ORDER:

The Presiding Officer may at any time, by majority consent of the District Board, permit a Board member to introduce an ordinance, resolution or motion out of the regular agenda order.

6.3 DIVISION OF QUESTION:

If the question contains two or more divisionable propositions, the Presiding Officer may, and upon request of a Board Member shall, divide the same.

6.4 PRECEDENCE OF MOTIONS:

When a motion is before the District Board, no motion shall be entertained except the following, which shall have precedence in the following order:

- a. Adjourn
- b. Fix Hour of adjournment
- c. Table
- d. Limit or terminate discussion
- e. Substitute
- f. Reconsider
- g. Amend
- h. Postpone

6.5 MOTION TO ADJOURN: (not debatable)

A motion to adjourn shall be in order at any time, except as follows:

- a. When repeated without intervening business or discussion.
- b. When made as an interruption of a Board Member while speaking.
- c. When discussion has been ended, and vote on motion is pending, and,
- d. While a vote is being taken.

A motion to adjourn "to another time" shall be debatable only as to the time to which the meeting is adjourned.

6.6 MOTION TO FIX HOUR OF ADJOURNMENT:

Such a motion shall be to set a definite time at which to adjourn and shall be undebatable and shall be unamendable except by unanimous vote.

6.7 MOTION TO TABLE:

A motion to table shall be used to temporarily by-pass the subject. A motion to table shall be undebatable and shall preclude all amendments or debate of the subject under

consideration. If the motion shall prevail, the matter may be "taken from the table" at any time prior to the end of the next regular meeting.

6.8 MOTION TO LIMIT OR TERMINATE DISCUSSION:

Such a motion shall be used to limit or close debate on, or further amendment to, the main motion and shall be undebatable. If the motion fails, debate shall be reopened; if the motion passes, a vote shall be taken on the main motion.

6.9 MOTION TO AMEND:

A motion to amend shall be debatable only as to the amendment. A motion to amend an amendment shall be in order, but a motion to amend an amendment to an amendment shall not be in order. An amendment modifying the intention of a motion shall be in order, but an amendment relating to a different matter shall not be in order. A substitute motion on the same subject shall be acceptable and voted on before a vote on the amendment. Amendments shall be voted on first then the main motion as amended.

6.10 MOTION TO CONTINUE

Motions to continue to a definite time shall be amendable and debatable as to propriety of postponement and time set.

7. VOTING PROCEDURE

7.1 VOTING PROCEDURE:

In acting upon every motion, the vote shall be taken by voice or roll call or any other method by which the vote of each Board Member present can be clearly ascertained. The Board Clerk shall call the names of all members seated when a roll call vote is ordered or required. Board Members shall respond "aye," "no" or "abstain," provided that when a vote is collectively taken by voice or when a method of voting other than by voice or roll call is used, any Board Member not audibly and clearly responding "no" or "abstain" or otherwise registering an objection shall have his voice recorded as "aye". An abstention shall count as a non-vote.

7.2 ROLL CALL VOTING:

Every ordinance and any resolution or orders for franchises or payments of money require, at minimum, three affirmative votes. A roll call vote shall be used for these changes. Any other question before the District Board shall not require a roll call vote unless demanded by any Board Member. It shall not be in order for Board Members to explain their vote during roll call. Any Board Member may change his vote before the next order of business.

7.3. RECONSIDERATION:

Any Board Member who voted with the majority may move a reconsideration of any action at the same or next meeting. After a motion for reconsideration has once been acted upon, no other motion for reconsideration thereof shall be made without unanimous consent of the District Board.

7.4 TIE VOTES:

Tie votes shall be lost motions. When all District Board Members are present, a tie vote on whether to grant an appeal from official action shall be considered a denial of such appeal, unless the District Board takes other action to further consider the matter. If a tie vote results at a time when less than all Board Members are present the matter shall automatically be continued to the agenda of the next regular meeting of the District Board, unless otherwise ordered by the District Board.

8. RESOLUTIONS AND MOTIONS

8.1 Legislative acts of the District Board (usually a role of public policy for long-term application) are taken by ordinance, whereas more routine business and administrative matters (usually more temporary and transitory in nature) are accomplished by "resolutions." The term "resolution," generally denotes any action taken affirmatively via a vote of the District Board, other than one taken by ordinance. Three terms are in general use to denote such (non-ordinance) actions: "resolution," "minute order," and "motion" (thereafter recorded by minute entry).

The most formal is referred to locally as a "resolution" which in addition to being referenced in the minutes, will be recorded by a separate document, numbered in sequence for each calendar year and preserved in a separate set of books. Such "resolutions" are used in this District for various reasons, such as when specifically required by law, when needed as a separate evidentiary document to be transmitted to another governmental agency, or where the frequency of future reference back to its contents warrants a separate document (with the additional "whereas" explanatory material it often recites) to facilitate such future reference and research.

A "motion" (assuming it was one which passed) is a District Board action which is recorded simply by an item entry in the minutes of the meeting at which it was accomplished, and no separate document is made to memorialize it.

9. ORDINANCES

9.1 INTRODUCTION AND ADOPTION OF ORDINANCES:

Ordinances shall not be passed within five days of their introduction, nor at other than a regular meeting or at an adjourned regular meeting. However, an urgency ordinance may be passed immediately upon introduction and either at a regular or special meeting. Except when, after reading the title, further reading is waived by regular motion adopted by majority vote of the Board Members present, all ordinances shall be read in full either at the time of introduction or passage, provided, however, that a reading of the title or ordinance shall not be required if the title is included on the published agenda and a copy of the full ordinance is made available to the public online and in print at the meeting before the introduction or passage.

When ordinances, other than urgency ordinances, are altered after introduction, they shall be passed only at regular or at an adjourned regular meeting held at least five days after alteration.

Corrections of typographical or clerical errors are not alterations within the meaning of this section.

This section shall not apply to ordinances which by statute can be passed only after notice and a public hearing.

9.2 EFFECTIVE DATE:

All ordinances, except as otherwise provided by law, shall take effect 30 days after adoption, but may be made operative at such later date as may be designated in the ordinance.

9.3 PUBLISHING:

It shall be the duty of the Board Clerk to post or publish all ordinances within 15 days after adoption.

9.4 URGENCY ORDINANCES:

All urgency ordinances must receive four (4) affirmative votes to be adopted and to become effective immediately. If such an ordinance fails to receive a 4/5 majority, it may thereafter be considered and passed in the same manner as regular ordinances if all legal requirements for adoption of a non-urgency ordinance have been satisfied.

10. ELECTION OF OFFICERS

The District Board shall elect the following Officers: President, Vice President, and Second Vice President on an annual basis or as may be required after a general district election. The District Board may also elect such additional officers as may be created. Nothing herein shall affect the status of officers appointed prior to the adoption of this Resolution (No. 24-02).

11. STANDING OR AD HOC COMMITTEES

The District Board may create or dissolve standing or ad hoc committees and appoint their members as necessary to conduct District business and keep informed on matters relevant to the District. Directors so assigned shall report to the Board on matters of these committees.

12. BOARD ATTENDANCE AND VACANCIES

Each member of the Board is expected to attend each meeting of the Board and each meeting of any committee to which the Director has been appointed. Members of the Board shall be responsible to inform the Fire Chief and Board President at least 96 hours in advance of a scheduled meeting if the Director expects to be absent. If an unexpected absence is necessary, the Director should inform the Fire Chief and Board President as soon as possible before the commencement of the meeting. Board vacancies shall be filled pursuant to Government Code Section 1780 (Health and Safety Code 13852(b)).

PASSED, APPROVED AND ADOPTED this 20th day of March 2024 at the regular meeting of the District Board held at 22 Orinda Way, Orinda, California 94563, on a motion made by Director ____, seconded by Director ____, and duly carried with the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Resolution 24-02

Michael Roemer, President Board of Directors

I certify that this is a full, true and correct copy of the original document which is on file in my office, and that was passed and adopted by the Moraga-Orinda Fire Protection District on the date shown.

ATTEST:

Marcia Holbrook,
District Secretary/District Clerk

APPROVED AS TO FORM:

Jon Holtzman, District Counsel

APPROVED AS TO CONTENT:

Dave Winnacker, Fire Chief

VOTING REQUIREMENTS FOR THE BOARD OF DIRECTORS

Attachment A to the Moraga Orinda Fire District Rules of Procedure for the Board of Directors

I. Majority votes of the Membership of the Board

Unless the Board of Directors is taking an action specified below or as otherwise required by statute, a majority vote of the membership of the Board of Directors, or three votes, is required to take action. (Health & Safety Code § 13856.)

II. Adoption of Ordinances

A. Regular Ordinance

Adoption of a regular ordinance requires a majority of members of the Board of Directors – three members. (Health & Safety Code § 13856(b).)

B. Urgency Ordinance

Adoption of an urgency ordinance requires a four-fifths vote of the Board of Directors – four members. (Health & Safety Code § 13861(h); Govt. Code § 25123(d).)

An urgency ordinance is an ordinance passed for the immediate preservation of the public peace, health or safety. (Govt. Code § 25123(d).) An urgency ordinance may be passed immediately upon introduction at either a regular or special meeting. (Govt. Code § 25131.)

III. Financial Decisions Requiring More than a Majority Vote.

A. Reallocation of Certain Types of Appropriations.

Changes to certain types of appropriations after the approval of a final budget, requires four votes of the Board of Directors. Four votes are required if the Board seeks to make available for appropriation any of the following:

- (a) Balances in appropriations for contingencies, including accretions from cancellations of appropriations.
- (b) Designations and reserves no longer required for the purpose for which intended, excluding the general reserve, balance sheet reserves, and reserve for encumbrances.
- (c) Amounts which are either in excess of anticipated amounts or not specifically set forth in the budget derived from any or anticipated increases in available financing. (Health & Safety Code § 13900.)

B. Appropriating Funding in an Emergency.

If an emergency affects the ability of the District to provide adequate services, the Board of Directors may make available for expenditure money that was not specifically set forth as revenue in the final budget. Such an action requires four votes. (Health & Safety Code § 13901.)

C. Discontinuing Capital Outlay Reserves.

The Board may establish a reserve for capital outlays for a specific declared purpose. If so, the Board may transfer to that capital outlays reserve any unencumbered surplus funds remaining at the end of the fiscal year. The capital outlay reserve may only be used for the

purpose declared by the Board. If the Board finds that the final budget reserve is no longer required, it may discontinue the reserve or transfer any balance to the district's general fund. The decision to discontinue the reserve or transfer the balance must be made by a unanimous vote of the Board. (Health & Safety Code § 13902.)

IV. Incurring Debt.

A. Borrowing Funds to Acquire Property.

The District may borrow money to purchase real property. (Health & Safety Code § 13906.) The Board must approve the action to incur the debt by a resolution adopted by four votes. (*Ibid.*)

B. General Obligation Bond Indebtedness Under the Fire Protection District Law.

The Board may issue general obligation bonds for the acquisition or construction of any real property, other capital expenses, or funding any outstanding indebtedness. The Board must adopt a resolution calling an election to incur indebtedness and to issue general obligation bonds. (Health & Safety Code §§ 13925 *et. seq.*) If two-thirds of the voters approve incurring the debt and issuing the bonds, the Board may then adopt resolutions to issue the bond. (Health & Safety Code § 13928.) Because the statutes authorizing the Board to adopt resolutions calling for an election and then issuing the bonds do not expressly require a supermajority, the Board may adopt those resolutions by a majority of the total membership of the Board, or three members. (Health & Safety Code § 13856.)

C. Temporary Borrowing.

Health & Safety Code section 13897 allows a district to borrow money and incur indebtedness as otherwise authorized in Articles 7, 7.4, 7.5, 7.6, and 7.7 of the Government Code.

The District may temporarily borrow funds to be repaid within the same year as the funds are borrowed. The District must adopt a resolution approved by a four-fifths vote of the Board to do so. (Govt. Code §§ 53824, 53825.)

The District may borrow funds secured by a note for any purpose the District is authorized to use funds, including but not limited to current expenses, capital expenditures, investment and reinvestment, and the discharge of any obligation or indebtedness. (Govt. Code § 53852.) The notes must be repaid within 15 days of issuance. (Govt. Code § 53854.) There is no voting requirement specified within Article 7.6.

D. Securitized Limited Obligation Notes.

The District may borrow money secured by a limited obligation note. The District may use the money solely for the acquisition of land, facilities, or equipment. (Govt. § 53837.) The District must adopt a resolution approved by a four-fifths vote of the Board to do so. (Govt. Code § 53838.)

E. Grant Anticipation Notes.

The District may temporarily borrow money based on a grant anticipation note, grant, or loan from the federal or state government for which funds have been appropriated and committed to the District. (Govt. Code §§ 53859, 53859.02.) The Board must approve the debt by resolution, but the statute does not require a four-fifths vote. (Govt. Code § 53859.03.)



Moraga-Orinda Fire District

TO: Board of Directors

FROM: Dave Winnacker, Fire Chief

DATE: March 20, 2024

SUBJECT: **Item 10.3 Discuss Recognizing Various Groups with Ceremonial Documents including Proclamations that fall outside the Subject Matter Jurisdiction of the Fire District**

BACKGROUND

At the February 21, 2024, regular board meeting, a director requested an agenda item to discuss recognizing various groups that fall outside the subject matter jurisdiction of the Fire District. In response to this request, Staff contacted neighboring cities and municipalities and requested sample policies related to issuing Proclamations and a list of proclamations issued last year. The responses from local cities are listed below (lists are not exhaustive), and sample policies are attached.

City of Antioch

1. American Red Cross Month
2. Antioch Christian Center – 25th Year Anniversary
3. Arbor Day
4. Autrey James, Antioch's 2022/23 Lifetime Veteran of the Year
5. Be Kind to Animals Month
6. Black History Month
7. Declaring Grace Bible Fellowship of Antioch Day
8. Health for Humanity – Yogathon
9. Human Trafficking Prevention Month
10. In Memory of Ronald A. Grant, Public Servant Leader
11. National Library Week
12. Pentecostal Missionary Church of Christ (4th Watch) – 50th Golden Church Anniversary
13. Prescription Drug Abuse Awareness Month
14. Public Works Week
15. Recognizing Dr. Carol Weyland Conner's Humanitarian Contributions to the City of Antioch

City of Brentwood

1. All Abilities Month
2. American Diabetes Month
3. American Heart Month
4. Arab Heritage Month
5. Arbor Day
6. Asian American and Pacific Islanders Heritage Month
7. Autism Awareness Month
8. Back to School Month
9. Bike to Work Week
10. Black History Month
11. Breast Cancer Awareness Month
12. Childhood Cancer Awareness Month

13. Code Enforcement Appreciation Week
14. Diversity Month
15. Down Syndrome Awareness Month
16. Filipino American Heritage Month
17. Hispanic Heritage Month
18. Indigenous Peoples' Day
19. Jewish American Heritage Month
20. Juneteenth
21. Martin Luther King, Jr. Day
22. Memorial Day/Armed Forces Week
23. Municipal Clerk's Week
24. National Cancer Prevention Month
25. National Day of Prayer
26. National Giving Month
27. National Library Week
28. National Public Works Week
29. National Religious Freedom Day
30. National Safety Month
31. National Senior Center Month
32. National Slavery/Human Trafficking Prevention Day
33. National Suicide Prevention Week
34. National Volunteer Week
35. Native American Heritage Month
36. October as Cybersecurity Awareness Month
37. Older Americans Month
38. Pancreatic Cancer Awareness Month
39. Parks and Recreation Month
40. Patriots Day
41. Police Week
42. Polish American Heritage Month
43. Pride Month
44. Red Cross Awareness Month
45. Small Business Saturday
46. Veterans' Day
47. VFW Day
48. Vietnam Veteran's Memorial Day
49. Water Awareness Month
50. Women's Month
51. World Polio Day

City of Concord

1. Affordable Housing Month
2. American Red Cross Month (March)
3. Celebrating Arbor Day
4. Child Care "Provider Appreciation Day"
5. Concord Shiva Murugan Temple
6. Day of Honor
7. Earth Day
8. Family Justice Center
9. Fair Housing Month - Fair Housing Act 55th Anniversary
10. Health for Humanity Yogathon
11. Juneteenth
12. Library Week
13. National Gun Violence's Awareness Day

14. Opening Day
15. Pride in the Plaza Day
16. Professional Municipal Clerks Week
17. Support for Small Business

City of Danville

1. Alzheimer's and Brain Awareness Month
2. American Heart Month
3. Asian American and Pacific Islander Heritage Month
4. Black History Month
5. Domestic Violence Awareness Month
6. East Bay MUD. Centennial Anniversary
7. Fair Housing Month
8. International Overdose Awareness Day
9. Jewish American Heritage Month
10. Juneteenth. LGBTQ+ Pride Month
11. Lunar New Year
12. Mental Health Awareness Month
13. National Disabilities Awareness Month
14. National Hispanic Heritage Month
15. National Hospice Palliative Care Month
16. National Library Week
17. National Night Owl
18. National Volunteer Appreciation Month
19. Parks Make Life Better Month
20. Prescription Drug Abuse Awareness Month
21. Professional Municipal Clerks Week
22. Provider Appreciation Day
23. Red Cross Month
24. Shelter in Place Education Day
25. United Against Hate Week
26. Women's History Month

City of El Cerrito

1. Affordable Housing Week
2. American Red Cross Month
3. Arbor Day
4. Asian Pacific Heritage Month
5. Bike to Work Day
6. Black History Month (Fly Pan American Flag)
7. Earth Day
8. Education and Sharing Day Proclamation
9. Filipino American History Month
10. Hispanic Heritage Month
11. Jewish American Heritage Month
12. Juneteenth
13. LGBTQIA Pride Month (Fly Pride Flag)
14. Loving Day
15. Lunar New Year
16. National Arts and Humanities Month
17. National Library Day
18. National Night Out
19. National Public Works Week
20. National Suicide Prevention Month

21. Tibetan Uprising day/Support of People (Fly flag - lobby)
22. United Against Hate Week
23. Women's History Month

City of Lafayette

1. Black History Month
2. Women's History Month
3. Developmental Disabilities Awareness Month
4. Transgender Day of Visibility (TDOV)
5. Middle East/Northern Africa Heritage Month
6. Asian Pacific American Heritage Month
7. Jewish American Heritage Month
8. LGBTQ Pride Month
9. "Be Kind 21 in Lafayette"
10. Hispanic Heritage Month
11. Global Diversity Awareness Month
12. Filipino American History Month
13. Native American Heritage Month

City of Orinda

1. Asian Pacific Heritage Month
2. Black History Month
3. Jewish Heritage Month
4. LGBTQ+ Pride Month

City of Richmond

1. Affordable Housing Week "Affordable Homes for All"
2. Alcohol Awareness Month
3. Arbor Day
4. Bike Month
5. Black History Month
6. Cinco de Mayo Holiday and Festivities
7. crime Prevention TECHS All-Stars Reading is Fun Book Club
8. Diversity Celebration Month (Juneteenth, Lesbian, Gay, Bi-sexual, and Transgender (LGBT) Pride, and Immigrant Heritage Month)
9. Domestic Violence Awareness Month
10. Elder and Dependent Adult Abuse Awareness Month
11. Historic Preservation Month
12. Homelessness Awareness Month
13. International Holocaust Remembrance Day
14. National Native American Heritage Month
15. October Code Enforcement Officer Appreciation Week
16. October Food Week
17. Prescription Drug Abuse Awareness Month
18. RYSE-ing Leaders Day
19. Sexual Assault Awareness Month
20. United Against Hate Week
21. Women's History Month

RECOMMENDATION

Staff Recommendation: 1) Discuss; 2) Deliberate; 3) Provide Direction to Staff

ATTACHMENT

Attachment: City of Brentwood Proclamation Policy
Attachment: City of Lafayette Proclamation Policy
Attachment: Town of Danville Proclamation Policy

Subject: Procedures for Ceremonial Documents	Policy No: 110-4	Date: May 26, 2022
	Resolution No: 2022-65	Page 1 of 2

PURPOSE

The purpose of this policy is to establish guidelines for the issuance of ceremonial documents including proclamations and certificates of appreciation/recognition.

POLICY

A. Requests for Recognition Criteria:

The City of Brentwood will consider a request for a proclamation or certificate of appreciation/recognition from any group or individual, as long as the request has some type of local relevance and/or promotes activities taking place in the City of Brentwood. All requests are subject to approval by and prepared on behalf of the Mayor or the Mayor's designee. The general criteria for the issuance of these types of recognition are:

1. Issues with widespread community interest or concern, with a primary emphasis on requests that are in support of City Council goals and objectives;
2. Recognition of a local, civic organization, group or individual achieving outstanding or significant accomplishments
3. Acknowledgment of significant events or celebrations.

B. Ceremonial Documents:

1. **Certificates**

Certificates of Appreciation/Recognition may be issued for the following (not an exhaustive list):

- Heroism
- Eagle Scout achievement
- School or sports groups achievements
- Non-profit corporations
- Retirements
- Individuals or groups who have made significant contributions to the community

Information required: A summary of the achievement or an overview of the years of service or specific contribution to the community.

2. **Proclamations – The City Council will adopt an annual calendar of proclamations each year.**

Proclamations may be issued for the following (not an exhaustive list):

- Brentwood civic celebrations
- Brentwood organizations contributing to the economic development of the City
- Issues with widespread Brentwood community interest with a primary emphasis on requests in support of City Council's goals and objectives
- Significant Brentwood community based events
- Significant anniversaries of City of Brentwood based institutions, corporations, community partners, and non-profit organizations
- Fundraisers benefiting the citizens of Brentwood

Information required: A brief history of the organization or a description of the purpose, goals, motto or theme of the event is required to complete the proclamation. If funds are to be raised, who will benefit from the event, and what will take place during the time of celebration/recognition, including dates and times.

COUNCIL/ADMINISTRATIVE POLICY

Subject: Procedures for Ceremonial Documents	Policy No: 110-4	Date: DRAFT
	Resolution No: 2022-65	Page 2 of 2

All proclamations considered by the Mayor and the City Manager's Office will be placed on a City Council agenda. Routine proclamations will be placed on the Consent Calendar, and in the event a recipient is present, these items can be pulled from the Consent Calendar to allow the recipient a brief statement related to the proclamation. Proclamations requested by a City Council Member who would like to recognize a specific person or organization will be placed under Presentations.

When appropriate, the City's social media channels may be used to inform the public of the proclamation.

C. Receiving Requests:

To start the ceremonial document process an individual or organization must first submit a written request. Written requests should be sent to the attention of the Mayor on the standard application. Requests received will be administered by the City Manager's Office and the City Clerk Division and approved by the Mayor.

All requests must be received at least fifteen (15) business days prior to the event to the address listed on the Request for Ceremonial Documents Form.

All requests will go through an internal review and approval process. The Mayor and the City Manager's Office reserves the right to determine the appropriateness and the type of document to be issued based on the information provided by the requesting individual and/or organization. Submission of a request, does not guarantee the issuance of a ceremonial document.

All requests must include the name and daytime phone number of the contact person.

Submitting a draft with your request of the document desired will expedite the process considerably.

Please specify whether the document should be mailed, held for pick-up, or presented at a special event or City Council meeting. Documents will be presented at special events pending the availability of the Mayor, his/her designee or other city officials to honor such requests. Presentation at a specific City Council meeting must be approved in advance by the City Manager or his/her designee.

Only one ceremonial document will be issued per event.

D. Other Types of Presentations: The City will also, on occasion, issue other types of formal recognition, including plaques at special events, or a Key to the City as determined by the issuing official. The City Manager's Office will be responsible for the coordination of these events.

2024 PROCLAMATION LIST

JANUARY	2024 DATES (dates subject to change each year)
National Religious Freedom Day	January 16, 2024
Martin Luther King, Jr. Day	January 15, 2024
National Slavery/Human Trafficking Prevention Day	January 11, 2024
FEBRUARY	
Black History Month	February 1 st to March 1 st
National Cancer Prevention Month	February
American Heart Month	February
MARCH	
Red Cross Awareness Month	March
Down Syndrome Awareness Month	March 21, 2024
Autism Awareness Month	March
Women's Month	March
Vietnam Veteran's Memorial Day	March 29 th
APRIL	
Arbor Day	April 26, 2024
Diversity Month	April 2024
National Library Week	April 7 – 13, 2024
Arab Heritage Month	April
National Volunteer Week	APRIL 21-27, 2024
MAY	
National Day of Prayer	First Thursday of May
Municipal Clerk's Week	May 5-11, 2024
Bike to Work Week	May 13-19, 2024
Police Week	May 12-18, 2024
National Public Works Week	May 19-25, 2024
Jewish American Heritage Month	May
Asian American and Pacific Islanders Heritage Month	May
Older Americans Month	May
Water Awareness Month	May
Memorial Day/Armed Forces Week	Last Monday in May/Third Saturday in May
JUNE	
Pride Month	June
National Safety Month	June
Juneteenth	June 19, 2024
JULY	
Parks and Recreation Month	July
AUGUST	
Back to School Month	August
SEPTEMBER	
National Senior Center Month	September
Childhood Cancer Awareness Month	September

2024 PROCLAMATION LIST

National Suicide Prevention Week	September 8-14, 2024
Patriots Day	September 11, 2024
Hispanic Heritage Month	September 15 – October 15, 2024
VFW Day	September 29, 2024
OCTOBER	
World Polio Day	October 24, 2024
All Abilities Month	October 24, 2024
Code Enforcement Appreciation Week	2 nd week of October
Indigenous Peoples' Day	October 14, 2024
Breast Cancer Awareness Month	October
Filipino American Heritage Month	October
Polish American Heritage Month	October
October as Cybersecurity Awareness Month	October
NOVEMBER	
American Diabetes Month	November
Pancreatic Cancer Awareness Month	November
Veterans' Day	November 11, 2024
Small Business Saturday	November 30, 2024
Native American Heritage Month	November
DECEMBER	
National Giving Month	December

Proclamation Policy

1. Requests for proclamations by recognized organizations (for example, a request by the American Cancer Society for a proclamation for Breast Cancer Awareness Month) should be submitted to cityhall@lovelafayette.org. Including a draft of the proclamation will expedite the process. Please allow 3-4 weeks for a proclamation to be prepared and placed on a City Council agenda for consideration.
2. Requests for proclamations for ceremonial purposes (for example, Eagle Scout Courts of Honor, Girl Scout Gold Awards, 100th Birthday recognitions) should be submitted to cityhall@lovelafayette.org. Including a draft of the proclamation will expedite the process. Proclamations will be prepared for the Mayor's signature; they will not be placed on a City Council agenda.
3. Requests for proclamations to honor individuals or organizations, to support the causes of organizations not within paragraph 1, above, or for any other purpose should be submitted to cityhall@lovelafayette.org. Including a draft of the proclamation will expedite the process. All requests will appear on the next Council agenda under written communications.
4. In January of each year the Mayor and Vice Mayor will propose events from the National Multicultural PTA Calendar to be recognized by the City during the next two calendar years. The proposal will be placed on the City Council agenda in January. With the adoption of Resolution 2022-05 on January 24, 2022, the City Council of the City of Lafayette encourages each of us in Lafayette to take the opportunity to deepen our knowledge and understanding of the varied backgrounds and life experiences represented in our community.

[Resolution 2023-02](#) Adopting the Lafayette City Council Proclamation Calendar for 2023-2024 calendar years.

**BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE
IN THE MATTER OF:**

Adopting the Lafayette City Council)
Proclamation Calendar for 2023 and)
2024 calendar years)

Resolution No. 2023-02

WHEREAS, on January 24, 2022, the City Council members agreed to have the Mayor and Vice Mayor identify events from the National Multicultural PTA calendar to be recognized by the Lafayette City Council for the next two oncoming years; and

WHEREAS, the Lafayette City Council seeks to promote inclusiveness by increasing knowledge and understanding of the various backgrounds and life experiences represented in our community; and

WHEREAS, the Lafayette City Council wishes to promote inclusiveness by celebrating the rich diversity in our community;

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Lafayette proclaims for each of the 2023 and 2024 calendar years:

- February as Black History Month
- March as Women’s History Month and Developmental Disabilities Awareness Month
- March 31st as Transgender Day of Visibility (TDOV)
- April as Middle East/Northern Africa Heritage Month
- May as Asian Pacific American Heritage Month and Jewish American Heritage Month
- June as LGBTQ Pride Month
- September as “Be Kind 21 in Lafayette” and Hispanic Heritage Month (September 15-October 15)
- October as Global Diversity Awareness Month and Filipino American History Month
- November as Native American Heritage Month

And *BE IT FURTHER RESOLVED THAT* THE City Council of the City of Lafayette encourages each of us in Lafayette to take the opportunity to deepen our knowledge and understanding of the varied backgrounds and life experiences represented in our community.

PASSED AND ADOPTED by the City Council of the City of Lafayette at a regular meeting on January 9, 2023.

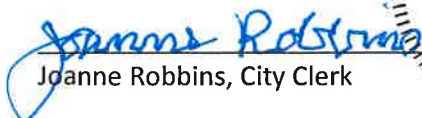
AYES: Anduri, Dawson, Candell, Geringer and Kwok

NOES: None

ABSTAIN: None

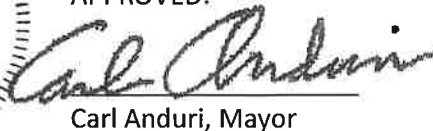
ABSENT: None

ATTEST:


Joanne Robbins, City Clerk



APPROVED:


Carl Anduri, Mayor



REQUEST FOR TOWN OF DANVILLE PROCLAMATION

Proclamation requests may be considered in connection with individuals and/or organizations who are Danville residents or Danville based. All requests for Proclamations should be directed to the Town Manager's office for review, approval and processing.

Section 1: General Criteria for consideration of a Town Proclamation:

Requests must:

- A. Fall into the broad category of "promoting the public good," as part of the mission of local government.
- B. Be consistent with Danville's role as a local government agency responsible to the citizens of the Town; and represent a purpose upon which Town Council action is appropriate or necessary.
 1. Recognize individual Danville citizens or Danville-based organizations whose extraordinary contributions and achievements have community-wide significance;
 2. Call public attention to a significant community event, service or program in support of a Danville based non-profit; (e.g. Discovery Counseling Center - Alcohol Awareness Month)
 3. Requests for proclamations received in support of non-profit organizations based outside of Danville may be considered if the organization has a broad reach on Danville citizens and the local community (e.g. cancer awareness, hospice, parks and recreation month, etc.).
 4. Recognize community services provided to the Town of Danville at the request of county and/or state government agencies. (e.g. National Red Cross Month)
- C. Not be political in nature; or generate demands to provide "equal time" to interests or organizations whose views may be contrary to the organization making the request.
- D. Not be issued as marketing, advertisement or commercial promotion of a for-profit business.
- E. Not be inconsistent with previous policy or past actions taken by the Town Council.

Section 2: Types of Proclamations

Proclamations may fall into one of three categories:

- A. Proclamations that are requested for placement on a regular Town Council Agenda
- B. Proclamations that are not requested for placement on a regular Town Council Agenda; and
- C. Certificates of Mayoral Recognition

A determination as to the appropriate category for a proclamation request shall be made by Town staff and may involve consultation with the Mayor if appropriate.

A. Proclamations that are requested for placement on a regular Town Council Agenda

These proclamations meet all identified criteria and are presented as part of a regular Town Council meeting under “Presentations and Proclamations”. These proclamations are signed by the entire Town Council.

B. Proclamations that are not requested for placement on a regular Town Council Agenda

These are proclamations that are not requested for placement on a regular Town Council Agenda (e.g. Operation Welcome Home, Eagle Scout). This determination may be made through staff, or upon consultation with the Mayor. Time permitting, these proclamations shall be signed by the entire Town Council. When constrained by time, the Mayor may sign these proclamations on behalf of the entire Town Council.

C. Certificates of Mayoral Recognition

A Certificate of Recognition is similar in appearance to a proclamation but is less formal. Certificates of Recognition are issued at the discretion of the Mayor and signed by the Mayor. Individual Councilmembers may request through the Mayor that a Certificate be prepared and issued. Certificates of Recognition are used to acknowledge an individual or group achievements, contributions to the community, or to recognize a noteworthy event or occasion (e.g. celebrating a 100th birthday; 50th wedding anniversary, recognizing a local business for a specific achievement).

Section 3: Requesting a Proclamation

Danville residents may request a proclamation through [Danville Connect](#) or via e-mail to Diane Friedmann, dfriedmann@danville.ca.gov. All proclamation requests require

completing a “Request for Proclamation” form or, in the case of an Eagle Court of Honor, an Eagle Court Questionnaire.

The process of receiving a proclamation request to completion takes approximately 3 weeks. If a resident requests placement of a proclamation on a specified Town Council meeting date, the Town Manager’s staff will make every effort to accommodate the request. Inform the resident Town Council meetings are held on the 1st and 3rd Tuesday of each month, except for January and August when the Town Council meets once per month. The Town Council dates and times are available on our website. (www.danville.ca.gov). This also applies to requests asking the Town to place the proclamation in the mail.

When a proclamation has been prepared and placed on a town council agenda, a follow-up proclamation e-mail is sent to the resident containing the following information:

- Date the proclamation has been placed on the Town Council agenda
- Town Council meeting start time and location.
- Request for the name, title and organization of the person who will be accepting the proclamation at the Town Council meeting.

Attachment A - Proclamation Form

Attachment B - Eagle Court of Honor Questionnaire

REQUEST FOR PROCLAMATION FORM

1. Name of Person or Organization: _____

2. Contact Information (*website address and phone number*):

3. Purpose for Request (*Example: American Red Cross Month*): _____
_____ ; or

Achievement to be recognized (*Milestone Birthday, Significant Achievement*)

(If significant achievement, birthday, etc., provide specific details and background information and history - can attach info if necessary).

4. Name and Title of Recipient receiving proclamation: _____

If request is for Sports/School Recognition, please provide:

5. Name of School or Sports Team: _____

6. Accomplishment to be recognized: (*Example: National Speech and Debate Award Winners; Danville All Star Little League, Northern California State Champions*):

7. Season Record and/or Statistics: _____

ATTACHMENT A

8. Names of players and coaches (*Attach list if necessary*):

Other:

9. Specific Town Council meeting date requested: _____

10. If not to be received at a Town Council meeting, please provide an address to which the proclamation is to be mailed:

Date Submitted: _____

Please e-mail completed form to dfriedmann@danville.ca.gov

Proclamations

Proclamation is an official announcement and an opportunity for the Town Council to formally recognize individual Danville residents or Danville-based organizations whose extraordinary contributions and achievements have community-wide significance. Proclamations can also call public attention to recognize a day, week, or month to honor, celebrate, or create awareness of an event, special occasion, cause, or significant issue that has a broad reach on Danville residents and the local community.

[Click to view all 2022 proclamations.](#)

So far, in 2023, the following proclamations have been issued.

January 2023

[San Ramon Valley High School 2022 Football Team Proclamation \(PDF\)](#)

February 2023

Town of Danville

[Black History Month Proclamation \(PDF\)](#)

[Lunar New Year Proclamation \(PDF\)](#)

[American Heart Month Proclamation \(PDF\)](#)

March 2023

[American Red Cross Month Proclamation \(PDF\)](#)

[Women's History Month Proclamation \(PDF\)](#)

[Prescription Drug Abuse Awareness Month Proclamation \(PDF\)](#)

[National Disabilities Awareness Month Proclamation \(PDF\)](#)

April 2023

[Fair Housing Month Proclamation \(PDF\)](#)

[National Volunteer Appreciation Month Proclamation \(PDF\)](#)

[Alcohol Awareness Month Proclamation \(PDF\)](#)

[National Library Week Proclamation \(PDF\)](#)

May 2023

[Professional Municipal Clerks Week Proclamation \(PDF\)](#)

[Asian American and Pacific Islander Heritage Month Proclamation \(PDF\)](#)

[Provider Appreciation Day Proclamation \(PDF\)](#)

[Jewish American Heritage Month Proclamation \(PDF\)](#)

[Mental Health Awareness Month Proclamation \(PDF\)](#)

June 2023

[LGBTQ+ Pride Month Proclamation \(PDF\)](#)

[Juneteenth Proclamation \(PDF\)](#)

July 2023

Town of Danville

[Parks Make Life Better Month Proclamation \(PDF\)](#)

[National Night Out Proclamation \(PDF\)](#)

August 2023

[International Overdose Awareness Day Proclamation \(PDF\)](#)

September 2023

[National Hispanic Heritage Month Proclamation \(PDF\)](#)

October 2023

[Domestic Violence Awareness Month Proclamation \(PDF\)](#)

November 2023

[United Against Hate Week Proclamation](#)

 Government Websites by [CivicPlus®](#)