



Moraga-Orinda Fire District
BOARD OF DIRECTORS
REGULAR BOARD MEETING MINUTES
February 21, 2024
(APPROVED: MARCH 20, 2024)

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

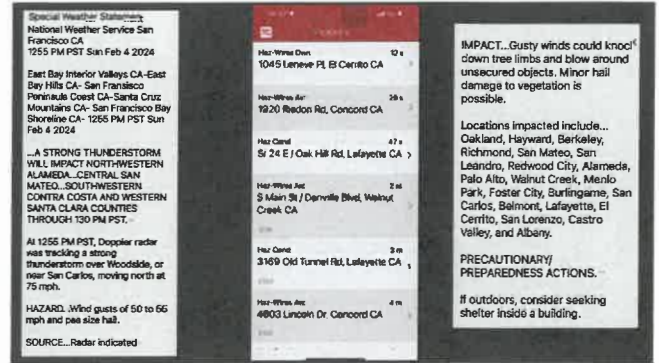
- Firefighter Paramedic Trainee
- Promotional Fire Engineer/Fire Engineer Paramedic II

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

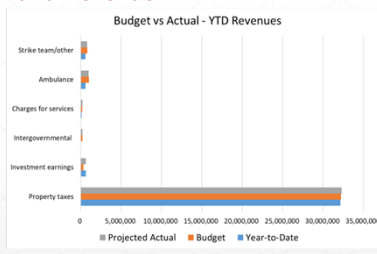
General Fund Revenue – Exceed budget \$364K

- 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

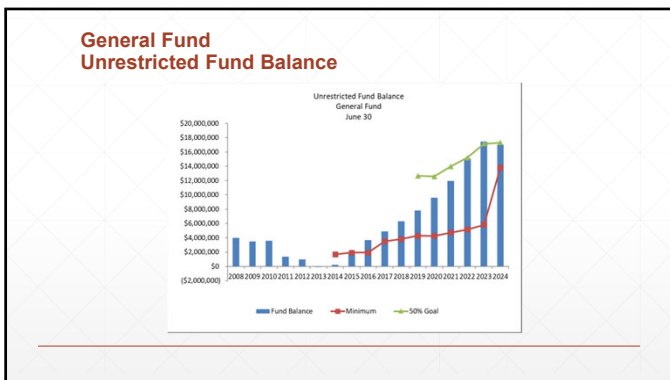
Operating Expenses

	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

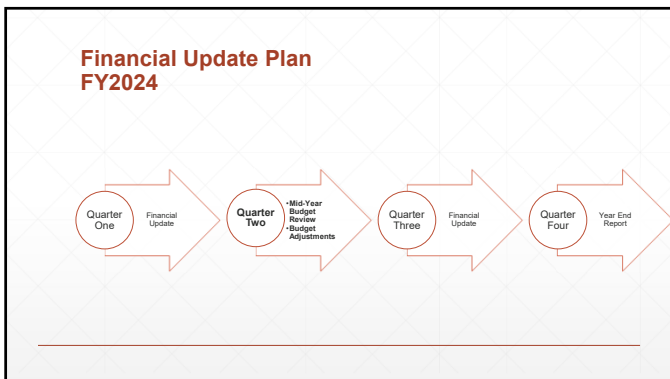


9

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



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

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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.)