

Moraga-Orinda Fire Protection District



BOARD OF DIRECTORS REGULAR BOARD MEETING MINUTES

March 15, 2017
(Approved April 19, 2017)

1. Opening Ceremonies

The Board of Directors convened in Open Session at 7:00 P.M. on March 15, 2017 at the Hacienda Mosaic Room, 2100 Donald Drive, Moraga, California. President Famulener called the meeting to order.

Present were the following Directors and Staff:

President Famulener
Director Anderson
Director Barber
Director Jex

Director Jorgens
Stephen Healy, Fire Chief
Gloriann Sasser, Admin Services Director
Grace Santos, District Clerk

2. Public Comment

Richard Nelson, Orinda resident, commented on how complex pension and retiree medical accounting is and that it needs to be better understood by the directors to avoid the possibility of reduced services or pension cuts in the future. Mr. Nelson recommended the District calculate the expected unfunded liability under a 6% return assumption and plan to accumulate sufficient funds in reserve in a much shorter period than what CCCERA uses. Mr. Nelson commended Chief and staff for putting together a comprehensive financial report. He looks forward to MOFD continuing on this path with the objective of maintaining and enhancing services to the community and thanked Chief Healy for achieving the second highest rating for a fire district.

3. Consent Agenda

Motion by Director Barber and seconded by Director Anderson to receive and file items 3.1 Meeting Minutes, 3.2 Monthly Incident Report, 3.3 Monthly Check/Voucher Register, 3.4 Monthly Financial Report, and 3.5 Approval of Contract with Delta Dental of California. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex and Jorgens).

4. Regular Calendar

4.1 Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2015

In January 2017, the Board established an Ad Hoc Financial Reporting Committee. The Committee reviewed the Comprehensive Annual Financial Report. It has been determined the Statement of Net Position (Attachment A page 11) prepaid items should be reduced from \$21,760,333 to \$150,767. The write-off of \$23,125,586 in the prior period adjustment resulted in increasing the unrestricted deficit to (\$56,768,462).

Director Jorgens stated that "received", in Roberts Rules of Order, means to read aloud. There is never a motion to receive.

Director Anderson stated that this Board has to be on record as accepting changes and felt that a vote is needed to accept it.

Motion by Director Anderson and seconded by Director Barber to approve the Comprehensive Annual Financial Report for the Fiscal Year Ended June 20, 2015. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex and Jorgens).

4.2 Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2016

The Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2016 has been completed. The Ad Hoc Financial Reporting Committee recommends approval.

MOFD Firefighter DeWeese asked if the District was wrong in the way it did the accounting for the two CAFRs or it is changing to an alternative way of accounting. Director Jex stated that it was a correction of an error.

Director Barber asked if each item could be approved separately and treated as three separate actions rather than one. The CAFR is a document that the Board needs to be able to say that it stands behind. Since the other documents are separate from the CAFR, the Board should approve them separately.

Motion by Director Barber and seconded by Director Jorgens to approve the Comprehensive Annual Financial Report for the Fiscal Year Ended June 20, 2016. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex and Jorgens).

Motion by Director Barber and seconded by Director Jorgens to approve the Gann Appropriation Limit Schedule. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex and Jorgens).

Motion by Director Barber and seconded by Director Jorgens to approve the Communication With Those Charged With Governance and Communication of Internal Control Related Matters June 30, 2016. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex and Jorgens).

4.3 Termination of Ad Hoc Financial Reporting Committee

The Ad Hoc Financial Reporting Committee has completed its work. Termination of the Ad Hoc Financial Reporting Committee is recommended.

Motion by Director Jorgens and seconded by Director Jex to terminate the Ad Hoc Financial Reporting Committee. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex and Jorgens).

4.4 Approve Establishment of an Ad Hoc Committee to Recruit and Negotiate Contract with District Financial Auditor

The District is required to contract with an independent certified public accounting firm to conduct the annual external audit of financial statements. The District does not have a contract with an independent certified public accounting firm to conduct the annual external audit of financial statements for the current fiscal year 2016/17. Per District Policy 11, it shall be the responsibility of the District Board to appoint standing committees or ad hoc committees to recruit and negotiate contracts with District Financial Auditors. This negotiated service contract requires the approval of the District Board.

President Famulener announced that Director Jex volunteered to be on the ad hoc committee. Director Jorgens also volunteered for the committee.

Director Anderson stated that before he approved establishment of another ad hoc committee, he wants to make clear what the function of an ad hoc committee is. The ad hoc committee serves the full board and exists as a requirement of the full board. If a board member requests information from the ad hoc committee, the committee should be cognizant and not ignore the wishes of members of the board. When the ad hoc committee makes its discoveries, it is incumbent upon them to relay the information to the full board and is not a violation of the Brown Act. Director Anderson stated that he was perturbed

when a voter of his district called him to tell him that a meeting had occurred. The ad hoc committee has to continue to inform and serve the wishes of the full board.

Director Jorgens stated that it was his understanding that if there is a committee that is achieving a goal, they have to report according to the Brown Act and not able to communicate to individual members of the board, and neither is the staff. It is only possible if you have a formal meeting that is noticed to actually have that communication. It is possible to communicate with individuals of the community, and is not a Brown Act violation, as long as that person does not then communicate the same information to board members as an agent of that person. Director Jorgens stated there may be a potential Brown Act problem.

Director Anderson stated that the Brown Act was never intended to prevent information from being delivered between board members. Director Jorgens stated that it actually is.

Director Anderson stated that Director Jorgens has a misunderstanding of the Brown Act. At least two members from the Board requested that information that the ad hoc committee made discovery on would involve them. They asked for the meeting with the GASB expert to be placed on an agenda, noticed and a conference call scheduled. It never happened, and it should be incumbent upon the ad hoc committee to inform the full board of this.

President Famulener thought that Director Anderson was upset about a leak from the ad hoc committee to the public about what went on during the GASB meeting when the other members of the Board have not been informed.

Director Anderson stated the issue he had was that he requested to be involved in the meeting, and counsel said it could happen, but it would have to be noticed and published. President Famulener and Director Barber stated they also wanted to participate in the call.

Director Barber commented that he left the meeting feeling that it was not a good idea to make it a full noticed meeting and that he would not be a part of it. He suggested returning to the matter when District Counsel arrives to get further clarification.

Director Jorgens withdrew his name from being on the ad hoc committee and nominated Director Anderson. President Famulener stated that she would appreciate if Director Anderson would take it on since he is on the Finance Committee and reviewed the firing of the last auditor. Director Anderson accepted.

Director Jex suggested ASD Sasser select firms that she may know or have worked with, select four or five firms, and call to invite them rather than putting out requests for proposals. The committee will review each applicant's pricing and qualifications, select two to come back to a Board meeting to make an oral presentation, and let the Board make a decision.

ASD Sasser stated that during the last auditor selection, she received four bids after issuing an RFP, which she brought to the Board and made a recommendation. There were no oral interviews and the lowest bid was taken.

Director Jex stated that the ad hoc committee will make an informed decision on the right firm with the right qualifications to serve the District. A firm that is familiar, who will manage it, and one that we can consult with on issues as they arise.

President Famulener stated that she agreed with everything but the oral presentation to the Board. She thinks that both Directors Anderson and Jex are fully qualified to interview these people and decide who would be the best for the District. She is willing to give the

ad hoc committee that authority to hire someone and negotiate a contract. Last time it was done through the Finance Committee so this time it will be through an ad hoc committee.

Director Barber stated that he assumed that the ad hoc committee will make a final recommendation to the Board and the Board will take final action on it. President Famulener agreed.

Chief Healy commented that staff is ready to support the ad hoc committee with the recruitment, crafting, and the negotiating of the contract. The recommended action on the staff report states that the ad hoc committee would recruit and negotiate contracts with the auditors and then bring the contract back to the Board for review and approval. Staff can help with that if the ad hoc committee requires assistance.

Motion by President Famulener and seconded by Director Jorgens to establish an ad hoc committee to recruit and negotiate a contract with a District Financial Auditor and to bring their recommendations and the contract back to the full Board. Directors Anderson and Jex were nominated as members of the Ad Hoc Committee. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex and Jorgens).

4.5 Formation of an Ad Hoc Committee to Update Policy 11 Board of Directors and Fire Chief Roles and Responsibilities, and Resolution 11-03, Adopting Rules of Procedures for Board Meetings and Related Functions and Activities

District Policy 11 (Board of Directors and Fire Chief Roles and Responsibilities and Resolution) was created in 2011 and Resolution 11-03 (Adopting Rules of Procedures for Board Meetings and Related Functions and Activities) was last updated in 2011. Some elements of both documents are out-of-date and need to be updated.

Director Jorgens stated that the documents are currently functioning like bylaws, which the District does not have. He suggested that one of the goals of the committee be to create bylaws.

President Famulener and Director Jorgens volunteered to work on the committee. President Famulener stated that she would gather bylaws and other documents from other fire districts and agencies. She should have some samples to present to the Board in April or May.

Director Anderson stated that he wants it to be clear that the mission of the ad hoc committee is to look at the policy and resolution and make recommendations to the full Board for discussion and review. It would be appropriate for the committee to draw on the expertise of retired Directors Weil and Wyro.

Motion by Director Jorgens and seconded by Director Anderson to form an ad hoc committee to update Policy 11 Board of Directors and Fire Chief Roles and Responsibilities, and Resolution 11-03 Adopting Rules of Procedures for Board Meetings and Related Functions and Activities, and to have Directors Famulener and Jorgens as members of the Ad Hoc Committee. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex and Jorgens).

President Famulener suggested providing an update in May.

District Counsel Bakker arrived at 7:45 P.M.

5. Committee Reports

5.1 Finance Committee (Directors Anderson and Barber)

There was nothing to report.

5.2 Ad Hoc Pension Review Committee (Directors Barber and Jorgens)

Director Jorgens stated that they met but have nothing to report.

5.3 Ad Hoc Financial Reporting Committee (Directors Jex and Jorgens)

The committee no longer exists.

6. Announcements

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

There were no announcements.

6.2 Questions and informational comments from Board members and Staff.

Chief Healy reported that he attended the Orinda City Council meeting on March 14, 2017 to talk about the sinkhole. There were three or four questions about the Fire District and he gave a brief informational description of our response model, and things we have done to adapt. The majority of the meeting was focused on how long it would take to get the road back and some police issues in the community.

Director Barber asked Chief Healy for an update on the Station 43 Project. Chief Healy stated that the project lost some time due to the rains and that he intends to bring Steve Stewart to the April 15, 2017 meeting for an update.

6.3 District Updates for January and February 2017

MOFD Engineer Clayton Hoover gave a slideshow presentation on calls for service during the last month. The presentation included information on incidents and public interactions, such as a structure fire, a vehicle that struck a pedestrian, and a field save. They assisted with the CERT training drill, participated in the Moraga Baseball Association parade, and provided public education training to various preschools and kindergarten classes.

President Famulener asked for guidance from District Counsel Bakker regarding whether or not other directors could have attended the ad hoc committee meeting with the GASB people as long as they did not participate. She also asked if it would have been fine for the ad hoc committee to send a written message to the rest of the Board after the meeting with an update of what happened, so long as no one responded and had a conversation.

District Counsel Bakker explained because the agenda item has already been discussed, he will only answer the questions, but the Board cannot discuss the item again. The item has been concluded and members of the public could have already left. The ad hoc committee meetings are different from standing committee meetings. There is a special rule with standing committee meetings that allow other members of the board to be present and not participate in the meeting, just listen. With respect to ad hoc committee meeting, you cannot be present or convert it into a meeting of the board. He was asked the question before and informed staff that if other members of the Board wish to be present and wish to listen, it could be noticed as a board meeting to allow it. After the meeting happened, the ad hoc committee could have provided a purely informational one-way transmission to the rest of the board with an update of what happened. There would not have been a Brown Act violation in that case. It would have been more appropriate to inform the entire Board.

Director Barber asked if a third member was not physically present, but listened in on a conference call and not participated in the meeting, would that constitute a violation of the Brown Act.

District Counsel Bakker stated that he does not feel that to be a violation of the Brown Act because many agencies broadcast their meetings and there is no reason why an ad hoc committee meeting could not be broadcasted. There is a rule in the Brown Act that says presence constitutes a meeting. Presence meaning physically present. If there were a one-way broadcast, it would be okay. If we want to allow the entire Board to listen in, the best way to do it would be to notice it as a Board meeting and that would resolve the issue.

7. Closed Session

At 8:03 P.M., the Board adjourned into Closed Session.

8. Reconvene the Meeting

President Famulener reconvened the regular business meeting of the Moraga-Orinda Fire District Board of Directors at 9:15 P.M.

9. Report of Closed Session Action

There was no reportable action taken during Closed Session on items 7.1, 7.2, 7.3, 7.4 Conference with Labor Negotiator, and 7.5 Conference with Legal Counsel – Existing Litigation.

10. Public Comment

There was no comment from the public.

11. Adjournment

At 9:16 P.M., President Famulener called for adjournment of the regular meeting.



Glace Santos
Secretary to the Board