

Moraga-Orinda Fire Protection District



BOARD OF DIRECTORS REGULAR BOARD MEETING MINUTES

January 17, 2018

(Approved February 7, 2018)

1. **Opening Ceremonies**

The Board of Directors convened in Open Session at 6:00 P.M. on January 17, 2018 at the Hacienda Mosaic Room, Moraga, California. President Barber called the meeting to order. Directors Anderson and Famulener were absent. Present were the following Directors and Staff:

President Barber	Dave Winnacker, Fire Chief	Jeff Sloan, Labor Negotiator
Director Jex	Gloriann Sasser, Admin Services Director	
Director Jorgens	Jonathan Holtzman, District Counsel	

2. **Public Comment**

There was no comment from the public.

3. **Closed Session**

At 6:00 P.M., the Board adjourned into Closed Session.

4. **Reconvene the Meeting**

President Barber reconvened the regular business meeting of the Moraga-Orinda Fire District Board of Directors at 7:09 P.M. Present were the following Directors and Staff:

President Barber	Dave Winnacker, Fire Chief	Jeff Sloan, Labor Negotiator
Director Jex	Gloriann Sasser, Admin Services Director	Kathy Leonard, Fire Marshal
Director Jorgens	Jonathan Holtzman, District Counsel	Grace Santos, District Clerk

5. **Report of Closed Session Action**

President Barber reported that the Board voted on Closed Session Item 3.4 – Liability Claim by Peter Nowicki against the Moraga Orinda Fire District for monetary loss and damages exceeding \$146,934. This claim arose from a September 21, 2015 determination by the Contra Costa County Employees' Retirement Association that Mr. Nowicki had received overpayment of retirement benefits, which resulted in a retroactive reduction in retirement benefits and the imposition of a repayment obligation. Mr. Nowicki claims breach of employment contract and breach of the duty of good faith and fair dealing by the District, and promissory estoppel. Councilmember Jex moved to deny this claim based on the failure to timely submit a Government Tort Claim, and the failure to allege sufficient facts to support the claims of breach of employment contract, breach of the duty of good faith and fair dealing, and promissory estoppel. Councilmember Jorgens seconded the motion. The motion to deny the claim passed unanimously 3-0.

There was no reportable action taken on items 3.1 Conference with Labor Negotiator (Local 1230), 3.2 Conference with Labor Negotiator (Local 2700), and 3.3 Conference with Labor Negotiator (MOFCOA).

6. **Public Comment**

There was no comment from the public.

7. **Public Hearing**

7.1 **Opportunity for public comments contesting weed abatement notification given by the Fire District**

President Barber opened the public hearing and asked if there were property owners who had any objections to the costs of abatement. There were no comments from the public. President Barber closed the public hearing and confirmed the report for costs of abatement incurred by the Fire District in abating public nuisances on separate parcels of land within the Moraga-Orinda Fire District boundaries.

Director Jex asked when the money would be recovered, and if it is accrued as a claim. ASD Sasser stated that the cost of abatement is added to the property owner's tax roll, and that payment is usually received by the District in October of each year. She did not think that it has been included in accounts receivable in the past because it was always placed on the tax roll. If the amounts were larger,

Director Jex suggested maintaining a record, for an accounting and control standpoint, so that the District can recover it.

Motion by Director Jorgens and seconded by Director Jex to adopt Resolution 18-04, Confirming and Adopting the Reported Costs Incurred by the Moraga-Orinda Fire District in Abating Public Nuisances on Certain Property within the District Pursuant to Health and Safety Code section 14912. Said motion carried a unanimous 3-0 roll-call vote (Ayes: Barber, Jex and Jorgens; Absent: Anderson and Famulener).

7.2 Public Hearing to consider the proposed revision to the Schedule of Fees for District Services

President Barber opened the public hearing and asked if there were members of the public who wished to speak regarding the revision to the Schedule of Fees. There were no comments from the public. President Barber closed the public hearing.

Director Jorgens stated that sometimes it costs more to have a fee than it would to have no fee at all. The District should not be charging for a number of the items, especially to non-profits or for some organizations in the community. Has asked if staff has considered the cost of collecting the fees versus the cost of revenue, and if architects could do inspections or certify that plans have been designed properly for sprinkler systems and plan reviews. He asked if there were an alternate way that might be more economic for us but still get the job done.

FM Leonard stated that the District does not always charge everyone fees. The Town of Moraga is not charged for fireworks permits, and churches and non-profit fees are waived for certain services. When the fee study analysis was done, the entire organization was analyzed to find out the true cost of providing services. As a government agency, MOFD is not allowed to generate a profit, and it does so according to those guidelines. FM Leonard stated that the biggest revenue is from plan review and inspection fees. The purpose of plan review on a licensed architect submitted drawings are to insure that the local ordinances, fire code and application for that particular project meets the requirements of the District. We adopted an ordinance that is stricter than the fire code based on our fire history, climate and topography. Therefore, it is critically important to have plans double-checked by the District to make sure that they comply.

Director Jex asked if fees for compressed gas, cryogenics, flammable and combustible liquids were for an inspection due to the installation. FM Leonard stated that conducting inspections shows the District made an effort to ensure public safety through the installation and use of these particular applications.

Chief Winnacker stated that staff will provide the Board with an idea of how many errors per thousand or hundred are being identified during the plan check process, which will address concerns.

Director Jorgens asked if it should be combined in the budgeting process since it is a revenue-generating and cost-incurring part of the budget, and because it has also has staffing level requirements and affects the revenue.

FM Leonard stated that part of the fee schedule includes the California State Fire Marshal's mandated inspections, which include apartments, schools, dorms, assembly and institutions. The inspections and permits are required by the State Fire Marshal.

President Barber closed the public hearing.

Motion by Director Jorgens and seconded by Director Jex to adopt Resolution 18-05, A Resolution of the Moraga-Orinda Fire District Revising a Schedule of Fees for District Services. They directed staff to present a policy on a fee waiver for government and non-profit organizations. Said motion carried a unanimous 3-0 roll-call vote (Ayes: Barber, Jex and Jorgens; Absent: Anderson and Famulener).

8. Consent Agenda

Items 8.1 Meeting Minutes and 8.4 Monthly Financial Report were pulled to discuss separately.

Motion by Director Barber and seconded by Director Jorgens to approve and file items 8.2 Monthly Incident Report, 8.3 Monthly Check/Voucher Register, and 8.5 CCCERA Investment Performance Review Report.

Said motion carried a unanimous 3-0 roll-call vote (Ayes: Barber, Jex and Jorgens; Absent: Anderson and Famulener).

District Clerk Santos noted that the Minutes of January 3, 2018 are incorrect by stating that Director Jex was present and attended the meeting. District Clerk Santos will correct the minutes to reflect that Director Jex was absent.

Motion by Director Barber and seconded by Director Jorgens to approve item 8.1 Meeting Minutes subject to the corrections. Said motion carried a unanimous 3-0 roll-call vote (Ayes: Barber, Jex and Jorgens; Absent: Anderson and Famulener).

Director Jex commented on some significant differences on item 8.4 Monthly Financial Report that may have a significant impact on the District's plan. He asked if staff would include additional information or recommendations during the mid-year budget review. ASD Sasser stated that it is part the mid-year budget review. Narrative will also be included to explain significant variances, issues, and any budget adjustment recommendations.

Director Jorgens asked if staff would include an additional column in the report to include the current period budget number rather than the total budget next to it. ASD Sasser stated that information is included in the board packet.

Director Jorgens stated that many fire trails in his district have not been graded in years. He asked staff to consider conducting fire trail grading, to provide a schedule and include a map.

Motion by Director Jex and seconded by Director Jorgens to approve and file item 8.4 Monthly Financial Report. Said motion carried a unanimous 3-0 roll-call vote (Ayes: Barber, Jex and Jorgens; Absent: Anderson and Famulener).

9. Regular Agenda

9.1 Resolution No. 18-01 Authorizing Investment of Monies in Local Agency Investment Fund

The District uses the State of California Local Agency Investment Fund (LAIF) for the investment of District funds. One of the requirements of participation in LAIF is for the Board to confirm the authority of District officers to order the deposit or withdrawal of funds in LAIF. Due to the new board officers and fire chief appointment, it is necessary to update the officers authorized to deposit or withdraw monies.

Motion by Director Jex and seconded by President Barber to adopt Resolution No. 18-01 Authorizing Investment of Monies in Local Agency Investment Fund. Said motion carried a unanimous 3-0 roll-call vote (Ayes: Barber, Jex and Jorgens; Absent: Anderson and Famulener).

Director Jorgens suggested updating the members on the Public Facilities Financing Corporation. ASD Sasser stated it is written so that the Officers of the District are also the Board members of the Financing Corporation. She will review with District Counsel to see if any formal action needs to be taken.

9.2 Resolution No. 18-02 A Resolution of the Board of Directors of the Moraga-Orinda Fire Protection District Authorizing an Agreement That Designates Citibank, N.A. as a Provider of District Banking Services and the Fire Chief, Administrative Services Director and/or Fire Marshal to Execute District Checks, Drafts, Notes or Other Instruments for the Payment of Money

The District uses Citibank for banking services. Currently the Interim Fire Chief, Administrative Services Director and Fire Marshal are authorized signers on the Citibank accounts. Due to the appointment of a new fire chief, it is necessary to update authorized signers with Citibank. Staff recommends the Fire Chief, Administrative Services Director and Fire Marshal to be authorized signers.

Motion by Director Jorgens and seconded by President Barber to adopt Resolution No. 18-02 Authorizing an Agreement that Designates Citibank, N.A. as a Provider of District Banking Services and the Fire Chief, Administrative Services Director and/or Fire Marshal to Execute District Checks, Drafts, Notes or Other Instruments for the Payment of Money. Said motion carried a unanimous 3-0 roll-call vote (Ayes: Barber, Jex and Jorgens; Absent: Anderson and Famulener).

9.3 Resolution No. 18-03 A Resolution of the Board of Directors of the Moraga-Orinda Fire Protection District Approving an Investment Policy for District Funds

The District's Investment Policy requires the Board to annually review the District's Investment Policy. The Policy has been reviewed by staff. No changes are recommended.

Director Jorgens stated that some of the District's funds are now being invested in slightly more aggressive investments. He asked if the money is being invested in treasuries that have a positive return and if it meets the District's investment policy. ASD Sasser that the District issued debt to construct Station 43 and due to the delay in construction, the money was in a money market account at Citibank earning 0.6% interest. She worked with the bank to open a certificate of deposit for twelve months that is at 1.2%. The state of California requires collateralization, and Citibank provided the proof that it was collateralized appropriately for the amount that was above FDIC insurance.

Motion by Director Jorgens and seconded by Director Jex to adopt 9.3 Resolution No. 18-03 A Resolution of the Board of Directors of the Moraga-Orinda Fire Protection District Approving an Investment Policy for District Funds. Said motion carried a unanimous 3-0 roll-call vote (Ayes: Barber, Jex and Jorgens; Absent: Anderson and Famulener).

9.4 St. Stephens Lease Amendment

President Barber stated that this item would be deferred to the next Board meeting. He has a conflict on this matter and should take no part in the deliberations or the vote. By recusing himself, it results in the lack of a quorum.

9.5 Correction to Board Officers

Each year, the Board of Directors elects new officers, Finance Committee Members and District Liaisons. On December 20, 2017, the Board of Directors elected new officers and erroneously advanced one Director out of order. Director Jorgens should have been moved into the Secretary position and Director Anderson should have been moved to the Treasurer position.

Director Jorgens questioned the language of the motion and suggested making a motion to change the officers instead of making a correction. President Barber stated that it has been an MOFD tradition to follow a certain process. The Board may want to consider documenting the process and suggested looking at the issue at a future meeting.

Motion by President Barber and seconded by Director Jorgens to approve Director Craig Jorgens as Secretary and Director Steve Anderson as Treasurer. Said motion carried a unanimous 3-0 roll-call vote (Ayes: Barber, Jex and Jorgens; Absent: Anderson and Famulener).

9.6 Update on Implementation of GovInvest Actuarial Consulting and Technology Services

In June 2017 the Board authorized an agreement with GovInvest for actuarial consulting and technology services. The services include actuarial software, actuarial valuations, accounting valuations and actuarial consulting. The software provides real-time information, instant actuarial and financial analysis and insights into how to pay down unfunded liabilities. The Board requested an update on the implementation status.

This project has three main components:

- Actuarial valuation - completed and presented to the Board in September 2017. This service was paid for in the amount of \$1,482.
- Pension module – complete. The District has not paid for this module.
- OPEB module – all requested data was submitted by the District to GovInvest in 2017. The OPEB module requires more programming and takes longer to implement than the pension module. The OPEB module will be completed by GovInvest in March 2018. The District has not paid for this module.

Director Jorgens asked if the District is now able to run scenarios. ASD Sasser stated that they can now run scenarios for the pension side, but not yet for the OPEB side.

This item was for informational purposes only. No action was required.

9.7 Revise the Budget Development Policy

The District has a Board adopted Budget Development Policy (Policy). The purpose of the Policy is to provide a process for developing the Annual Operating Budget (Budget). At the December 20, 2017 Board meeting, the Board discussed changing the budget development process.

The current budget development process is as follows:

1. Proposed budget presented to the Finance Committee in May for public and Finance Committee direction.
2. Proposed budget presented to the Board in May for detailed review, public comment and Board direction.
3. Budget adopted by the Board in June prior to the beginning of the next fiscal year after deliberation and final changes.

The Board discussed the role of the Finance Committee and the role of the full Board in the budget development process. The Board discussed the value of being brought into the budget process earlier in the process.

Staff has updated the Policy based on the Board discussion to reflect the following:

1. Proposed budget presented to the Board in May at a public budget workshop for detailed review, public comment and Board direction.
2. The proposed budget is revised based on direction received at the budget workshop, then presented to the Board in May at a regular Board meeting for further detailed review, public comment and Board direction.
3. Budget adopted in June prior to the beginning of the next fiscal year after deliberation and final changes.

Motion by Director Jex and seconded by Director Jorgens to adopt the revised Budget Development Policy. Said motion carried a unanimous 3-0 roll-call vote (Ayes: Barber, Jex and Jorgens; Absent: Anderson and Famulener).

9.8 Consider Establishment of a Labor Negotiations Ad Hoc Committee

The Board would like to consider establishment of a Labor Negotiations Ad Hoc Committee.

Motion by Director Jorgens and seconded by Director Jex to establish a Labor Negotiations Ad Hoc Committee and nominate Directors Jorgens and Anderson to be on the Committee. Said motion carried a unanimous 3-0 roll-call vote (Ayes: Barber, Jex and Jorgens; Absent: Anderson and Famulener).

9.9 Increased Hiring Authorization Request

In July 2017, the Board approved hiring four additional firefighters in conjunction with accepting a SAFER grant. A hiring process was conducted and three recruits entered the Alameda County Fire Department academy on January 16th 2018. A planned fourth recruit withdrew from the process two weeks ago and replacement candidates are currently being screened to take his place. MOFD developed a hiring list in late 2017 with 19 candidates (12 of whom scored above 80%). Given the current fire department hiring trends and the competitive job market, this list will soon be obsolete. Due to its size and emphasis on paramedic skills during the probationary period, MOFD is generally unable to process more than six new employees at any given time. Further, from July 1st to December 31st 2017 MOFD averaged 3.67 overtime positions per day. Lastly, up to six members may retire this year resulting in impacts to overtime and staffing.

Vince Wells, President of Local 1230, stated that he appreciated the Fire Chief's efforts to maintain the staffing shortages, however they have not heard the Board's final position on whether or not they are in favor of supporting the concept of returning to the 19-member staffing, and to reopen the second ambulance. As the Board looks at hiring and staffing, that should be something that needs to be decided first. The 5-year plan stated it to be re-established on July 1, 2018, and Local 1230 wants to make sure it is part of the discussion. Mr. Wells suggested tabling the discussion prior to making a significant decision without the attendance of the full Board.

Chief Winnacker stated that there is nothing about this decision that would positively or negatively impact a staffing plan. They are simply seeking authorization to increase the hiring of members that are anticipated to be needed based on planned departures. This would not affect the size of the daily staffing.

Motion by Director Jex and seconded by Director Jorgens to increase the hiring of firefighters from 4 to 6. Said motion carried a unanimous 3-0 roll-call vote (Ayes: Barber, Jex and Jorgens; Absent: Anderson and Famulener).

9.10 Teeter Plan and County Treasury

Contra Costa County (County) utilizes the Teeter Plan for property tax apportionments. The Teeter Plan allows the County to allocate property taxes to local government jurisdictions at 100% of the billed amount rather than actual tax collections. The County apportions these levies to all taxing jurisdictions although 100% of the taxes have not been collected. In return for allocating 100% of the billed amount, the County collects all future delinquent tax payment along with penalties and interest.

In addition to the Teeter Plan, the County also allows local government agencies to voluntarily participate in the County Treasury. For agencies who participate in the County Treasury, the County allows agencies to draw on amounts that are on the tax roll, even if the County has not yet received the tax payment from taxpayers.

The District participates in the County Treasury. This provides cash flow to the District before property tax payments are paid by taxpayers. The District borrows from the County Treasury when required to meet cash obligations. The actual cost to utilize the County Treasury is nominal (less than \$1,000 per year in fees).

There has been Board discussion regarding moving away from utilizing the County Treasury and becoming completely financially independent.

The District's pension obligation bond issuance requires Contra Costa County to transfer to the bond trustee on December 20th of each year, an amount equal to the debt service payment for the bonds in the next calendar year. This would reduce the cash payment received by the District every December through 2020 (\$3.5M - \$3.9M).

Since July 2014, the District used the County Treasury 16 times (negative balances shown in Attachment A.) During the current fiscal year, the District used the County Treasury one time to date.

The District's financial reserves have increased significantly over the last several years which provides additional options for the District. However, the District still needed to utilize the County Treasury in November 2017. Use of the County Treasury provides the District with cash flow security that we will not have if we leave the County Treasury. Staff recommends the District remain in the County Treasury, continue to monitor its use and report to the Board on this topic again in January 2019.

If the District decides to leave the County Treasury, the County will assist the District to transition to a settling agency and remove all funds from the County Treasury.

Director Jex stated that on December 2014/15 and 2015/16 there was substantial borrowing, and in 2017/18, there was a \$9M swing. He asked what happened. ASD Sasser explained that in June 30, 2016, the District had \$771K. In June 30, 2017, the District had \$4M, which is what effectively carried us through this year. In November, the District went to -\$108K because it had \$4M to start. At the bottom of Attachment A, the cash payment is received in December but is recorded the following month due to the timing of when we get the County reports.

Director Jorgens suggested having a discussion at a future Board meeting about setting reasonable targets for the District's various funds. ASD Sasser explained that the District can invest through the County Treasury in LAIF, but we are just limited to LAIF. Director Jorgens stated that the District should have a goal to have more reserves and directed staff to revisit the minimum fund balance level.

9.11 Planned Contributions to the Pension Rate Stabilization Program

In 2017 the District began participating in the Public Agency Retirement Services pension rate stabilization program (PRSP). The PRSP is an irrevocable trust designed exclusively for California public agencies to prefund pension costs.

The money in the PRSP is invested in the Capital Appreciation Index Plus Fund. As of November 30, 2017 (most recent available), the one-year investment return of the fund is 15.07%.

To date, the District contributions to the PRSP have been approximately the same dollar amount as the contributions into the District's other post-employment benefits (OPEB) trust fund. Now that the District has implemented the GovInvest actuarial software, more information is available regarding the District's pension costs. For example, the District can now determine projected pension costs based on various discount rates and updated investment returns. The discount rate used by the Contra Costa County Employees' Retirement Association is 7%.

An update to the District's Long Range Financial Plan will be presented in February 2018. Staff requests the Board provide direction regarding the discount rates to be used for planned contributions to the PRSP. Multiple options could be calculated and discussed.

Director Jorgens stated that it would be reasonable for the District to use the same philosophy and the same targets for rates of return for pension obligations as it does the OPEB obligations. ASD Sasser stated that as part of the mid-year budget process, she would update the 15-year Long Range Financial Plan. One of the line items is how much money the District plans to put into the Pension Trust. Director Jorgens suggested using the matrix that GovInvest did for the District that showed what happened with different numbers of years and discount rates.

10. Committee Reports

10.1 Finance Committee (Directors Anderson and Jorgens)

Director Jorgens reported that the Committee had a discussion with ASD Sasser which included the structure of the budget approval process, having a Board discussion about the reserve policy and look at some benchmarking, the discount rate, and breaking out the unfunded pension liability line item from the basic pension cost.

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

The Committee has not met.

10.3 Board of Directors and Fire Chief Roles & Responsibilities and Rules of Procedures Update Ad Hoc Committee (Directors Famulener and Jorgens)

The Committee has not met.

10.4 Audit Ad Hoc Committee (Director Jex)

Director Jex reported that the Committee will not meet until March to prepare for the annual audit.

10.5 Long Range Financial Plan Ad Hoc Committee (Directors Barber and Jex)

President Barber reported that the Committee has not met.

11. Announcements

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

Director Jorgens reported that he, Directors Anderson and Famulener attended the County Fire Boards and Commissioners Association meeting in December. The speaker was CAL FIRE Staff Chief David Shew.

11.2 Questions and informational comments from Board members and Staff

Chief Winnacker stated that there was an error in the response time listed on the item 8.4 Monthly Incident Report for the two vegetation fires. He is still looking into where the error occurred, which he believed lies somewhere within Tableau, the software the District uses to compile the run data.

11.3 Fire Chief Updates – January 2018

11.3.1 Thomas Fire Report

Captain Mike Lacy gave a PowerPoint presentation on the Tubbs Fire, which occurred on October 8, 2017 in the North Bay. He stated that the fire has a very real potential to occur in our district. The Board thanked Captain Lacy for his report.

11.4 Communications Received

There was nothing to report.

11.5 Future Agenda Items

There was nothing to report.

12. Adjournment

At 9:21 P.M., President Barber called for adjournment of the regular meeting.



Grace Santos
Secretary to the Board

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