

Moraga-Orinda Fire Protection District



BOARD OF DIRECTORS REGULAR BOARD MEETING MINUTES

June 20, 2018

(Approved July 18, 2018)

1. Opening Ceremonies

The Board of Directors convened in Open Session at 6:00 P.M. on June 20, 2018 at the Sarge Littlehale Community Room, 22 Orinda Way, Orinda, California. President Barber called the meeting to order. Present were the following Directors and Staff:

Director Anderson	Director Jex	Gloriann Sasser, Admin Services Director
Director Barber	Director Jorgens	Christine Russell, HR Benefits Manager
Director Famulener	Dave Winnacker, Fire Chief	Jeff Sloan, District Counsel

District Counsel Jonathan Holtzman arrived at 6:15 p.m.

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 7:00 p.m. Present were the following Directors and Staff:

Director Anderson	Director Jorgens	Christine Russell, HR Benefits Manager
Director Barber	Dave Winnacker, Fire Chief	Grace Santos, District Clerk
Director Famulener	Jonathan Holtzman, District Counsel	
Director Jex	Gloriann Sasser, Admin Services Director	

5. Report of Closed Session Action

President Barber reported that 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 (Employee Organization: Moraga-Orinda Fire Chief Officers Association).

6. Public Comment

Mr. Steven Danziger, Orinda resident, commented on the vegetation management notices that he and his neighbors received. He was informed by an elderly resident that this is the first time in 40 years that she received a notice stating that she needs to cut between her fence and Moraga Way. Mr. Danziger stated that the neighbors were unclear about what to do, and if they needed to do anything at all because of the easement.

Chief Winnacker suggested that residents call the number on the bottom of the notice to get answers to their questions.

7. Consent Agenda

President Barber asked to remove item 7.1 Meeting Minutes and discuss separately.

Motion by Director Famulener and seconded by Director Jex to approve and file items 7.2 Monthly Incident Report, 7.3 Monthly Check/Voucher Register, and 7.4 Monthly Financial Report. Said motion carried a 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex and Jorgens).

President Barber stated that contrary to what the second sentence in Section 9.3 of the May 16, 2018 Minutes states, he wants the record to show that this was not his belief then, nor is it now.

Motion by Director Jorgens and seconded by Director Anderson to approve and file item 7.1 Meeting Minutes. Said motion carried a 4-1 roll-call vote (Ayes: Anderson, Barber, Jex and Jorgens; Noes: Famulener).

Chief Winnacker introduced the District's newest firefighters, Thomas Schwedhelm, Michael Stiehr, Andrew Kalenian and Benjamin Guthmiller, who recently graduated from the Alameda County Fire District's academy.

Director Anderson commented that he was not aware that the graduation took place and would appreciate being notified of all graduation ceremonies going forward.

8. Regular Agenda

8.1 Approval of One Month Extension of District's Payment of Enhanced Medical Insurance Contribution Rates

The District is currently in negotiations in pursuit of successor Memoranda of Understanding with International Association of Firefighters Local 1230 (IAFF), AFSCME Local 2700, and the Moraga Orinda Fire Chief Officers Association (MOFCOA). In 2016, the District entered into side letters of agreement with each of the three employee organizations to provide enhanced medical insurance contributions. The side letters provided that on June 30, 2018, the enhanced medical insurance contributions "shall revert" to the previous lower contribution levels.

In light of the status of negotiations with IAFF Local 1230, an extension of the enhanced medical insurance contributions for one additional month, through July 31, 2018 is appropriate. The terms of the side letter between the parties remain in full force and effect. This extension shall also be applicable to the bargaining units represented by AFSCME Local 2700 and MOFCOA.

The approximate additional cost is \$25,000 and sufficient appropriations are available in the 2018/2019 Annual Operating Budget.

Motion by Director Jex and seconded by Director Jorgens to approve a one-month extension of District's payment of Enhanced Medical Insurance Contribution Rates. Said motion carried a 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex and Jorgens; Noes: None).

8.2 Adoption of Annual Operating Budget Fiscal Year 2018/19

The District has a Budget Development Policy (Policy). In accordance with the Policy, the budget process began in February 2018. The proposed Annual Operating Budget was presented to the Board on May 2, 2018 and May 16, 2018. The Board directed staff to bring the Budget back to the Board for adoption.

President Barber noted that the budget and amounts designated for transfer to the trust will be determined by the Board in a subsequent board action informed by negotiations presently ongoing.

Motion by Director Jorgens and seconded by Director Jex to adopt the proposed Annual Operating Budget Fiscal Year 2018/19, and notwithstanding the budgeted amount of funds designated for transfer to the Trust, the actual transfer amount shall be finally determined by the Board in a subsequent Board action. Transfer of funds shall be made after such subsequent Board action. Said motion carried a 4-1 roll-call vote (Ayes: Anderson, Barber, Jex and Jorgens; Noes: Famulener).

8.3 Resolution 18-12 Establishing the District's Annual Appropriations Limit for Fiscal Year 2018/19

Each year the Board of Directors is required to establish an appropriations limit for the District per California Government Code Section 7910. In accordance with the calculation formula established in the Government Code, the District's appropriations limit for Fiscal Year 2018/19 is \$29,294,501.

Motion by Director Jorgens and seconded by Director Anderson to adopt Resolution No. 18-12 establishing the appropriations limit for Fiscal Year 2018/19 at \$29,294,501. Said motion carried a 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex and Jorgens; Noes: None).

8.4 Resolution No. 18-13 Adopting a Modified Schedule of Cost Recovery Fees for Emergency Medical Services

Emergency medical services are partially paid for by ambulance transport cost recovery fees and non-transport emergency medical services cost recovery fees. District Resolution No. 13-02, approved in May 2013, adopted a modified schedule of fees. This Resolution and the District's

Ambulance Service Agreement with Contra Costa County EMS include a provision for an annual modification to emergency medical services fees.

Based on a recent fee survey of other providers in Contra Costa County and a review of industry billing practices, a single base fee of \$2,500 for all transports along with increases to other chargeable fees will make MOFD consistent with the rates and practices of other transport providers in the area.

Director Anderson commented on the significant misunderstanding about billing. He stated that if a resident of Orinda, Moraga and Canyon is, or is not, transported, there is no need to pay the fees. The District will try to collect from the resident's insurance company, if they have insurance, but under no case will the money come out of the resident's pocket.

Director Jorgens asked if there would be an increase in revenue from the fees, and if it will reflect in the budget that was just adopted. ASD Sasser stated that the increase is not reflected in the budget. Even though the District would get more revenue, we are not sure how much. Even though we are charging more, the majority of the calls are for residents and a significant portion of that will be written off.

Director Jex asked if the \$2500 Emergency Ambulance Response Base Rate is in line with what insurers are currently paying. ASD Sasser stated that the District will have significant write-offs because the majority of the District's transports are Medi-care transports, and they pay significantly less.

Mr. Gordon Nathan, Moraga resident, stated that there could be instances when a resident receives service but is not transported and receives a bill from their insurance carrier denying payment because the patient was not transported. He asked if the residents could submit the bill to MOFD and request for an exemption. Chief Winnacker stated that if someone is a resident of MOFD and their insurance carrier does not pay, the District writes off the charges and no supplemental fees are collected.

Chief Winnacker stated that last year the District returned \$112K to residents who have inadvertently paid. The District is very aggressive in returning the money to the rightful owner.

Motion by Director Jorgens and seconded by Director Famulener to adopt Resolution 18-13 Establishing a Modified Schedule of Cost Recovery Fees for Emergency Medical Services. 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex and Jorgens; Noes: None).

8.5 Resolution 18-09, Ordering Even - Year Board of Directors Election; Consolidation of Elections; and Specifications of the Election Order

The terms of office for three members of the Board of Directors in Divisions 1, 3, and 4 will conclude in December of 2018. The Moraga-Orinda Fire District will participate in the November 2018 General District Election, as a part of the Statewide General Election.

California Elections Code requires a general district election be held in each district to choose a successor for each elective officer whose term will expire on the first Friday in December. Other elections may be held in the district and it is to the advantage of the district to consolidate.

California Elections Code also requires the governing body of any local agency to adopt regulations pertaining to materials prepared by a candidate for a Special District election, including whether a charge shall be levied against each candidate submitting a candidate statement to be sent to the voters. In past elections, the candidates have paid for the cost of their candidate statement.

Resolution 18-09 gives notice of holding a General Election, as well as specific instructions as to how such an election shall be held and conducted. The resolution also defines the filing instructions, and fee information.

The Moraga-Orinda Fire District Board has the authority to regulate how many words will be allowed in the Candidate Statement and payment for the voluntary Candidate Statement. The word count in the past has been limited to 400 words with the candidate paying the full cost.

Due to further streamlining efforts by the Elections Division, the cost of printing has been reduced, and the Contra Costa County Elections Division is recommending a 250-word limit. This is the standard used by most cities and special districts, and mandated for State elections. The minimum cost for a candidate statement is \$200. A district may elect to go over 250 words in which case the candidate statement costs will double.

The Contra Costa County Elections Division is estimating printing cost for a 250-word candidate statement to be:

- Division 1 – \$200.00
- Division 3 – \$200.00
- Division 4 – \$200.00

Statements over 250 words will double in price.

The County Registrar of Voters has determined the cost of the election to the District to be approximately \$1.25 - \$1.75 per registered voter. Per the Contra Costa County Elections Division, the total number of registered voters are:

- Division 1 – 4,150
- Division 3 – 5,410
- Division 4 – 5,517

A total of \$22,000 has been budgeted for the costs of conducting the election.

The County Elections Office requires that we decide what action is to be taken in the event of a tie vote:

- The winner shall be determined by lot at a time and place designated by this board.
- The governing board shall call a run-off election on the sixth Tuesday following the election at which the tie vote occurred.

Staff has been advised that a stand-alone election is estimated to cost about \$5.00 per registered voter.

Mr. Nathan stated that he is not in favor of drawing by a lot and feels that is not a good way to settle a tie vote. There was a brief conversation by Board members and the public. It was decided that in the event of a tie vote, the winner shall be determined by lot at a time and place designated by this Board.

Motion by Director Jorgens and seconded by Director Jex to amend and adopt Resolution No. 18-09 to include specification of election order that in the event of a tie vote, the winner shall be determined by lot at a time and place designated by this Board. Said motion carried a 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex and Jorgens; Noes: None).

8.6 Changing the Election of Directors from Division to Election of Directors At Large

At the May 16, 2018 Board Meeting, staff was directed to place on the agenda the topic of changing the election of directors from division-based elections to at-large elections. Detailed information regarding procedures and requirements were compiled and is included in a memorandum from District Counsel Jon Holtzman.

President Barber read a prepared statement from Mr. Richard Olsen (Attachment A), Moraga resident, who was unable to attend the meeting due to a medical condition. Director Famulener thanked Director Olsen for his statement.

Director Anderson stated that the District would have to go through LAFCO to make this happen. This would open up a lot of other issues. He agreed with Mr. Olsen's comments and stated that it would be expensive to switch to an at-large election.

District Counsel Holtzman stated that the memorandum lays out the process if the Board decided to move to at-large elections. Under the founding documents, before the District could proceed, it would

need to vote to dissolve the service zones, which there are currently two of. Once the Board has determined that services are fully integrated and the fire flow tax can be equalized throughout the District, the Board may dissolve the service zones to combine personnel and funds into a single zone. The Board can then move to place the change of at-large elections on the ballot. The memo lays out the process for doing so.

Mr. Gordon Nathan commented that he did not see anything in Counsel's memo about the two fire flow taxes. If the Board were to dissolve the two zones into one, Mr. Nathan asked which fire flow tax would the Board vote for. In the event the District moves to an at-large election, he asked what would happen to the two fire flow tax caps. He agreed with Director Anderson that keeping the respective Divisions is the fair thing to do, and if it were otherwise, there would be some bias and complicate matters.

District Counsel Holtzman stated that a complete research was not done, however, the founding documents (Attachment B in the June 20 agenda packet) specifically states that it may require a reaffirmation of a fire flow tax ordinance throughout the newly combined District.

Directors Jorgens and Jex both agreed with all of Director Anderson's comments.

President Barber commented that for the reason by former Director Olsen, Director Anderson, and joined in by Directors Jorgens and Jex, opening this door would raise many problems that the District ought to avoid at this time. It inevitably raises issues pertaining to tax equity between the two municipalities and unincorporated areas that is fair or should be addressed. President Barber stated that for all those reasons, he is not in favor of pursuing this matter at this time.

8.7 Election of an Independent Special District Representative to the Countywide Redevelopment Agency Oversight Board

In 2011, the State of California dissolved redevelopment agencies throughout the state and created redevelopment agency (RDA) oversight boards as successor agencies. As part of this legislation, on July 1, 2018, the more than 400 RDA oversight boards in California will be consolidated into one oversight board per county (with the exception of Los Angeles, which will have five). In Contra Costa County, there are 17 RDA oversight boards which will be consolidated into one board per Health & Safety Code §34179(j).

When this occurs, each county's Independent Special District Selection Committee ("ISDSC") will be granted authority to appoint one special district representative to the county's RDA oversight board. The ISDSC consists of the presiding officer (or his/her designee) of the legislative body of each independent special district in the County (this is the same group that appoints the special district members of LAFCO).

If this committee fails to appoint the special district representative by July 15, 2018, the Governor will make the appointment on its behalf. The Governor may also appoint individuals for any member position that remains vacant for more than 60 days. Therefore, it is important that the independent special districts in Contra Costa County take proactive steps to ensure a successful local appointment process.

Director Anderson strongly recommend that the Board put someone who has the interest of the fire districts as a representative on the new RDA board.

Director Famulener stated that Susan Morgan is a member of the Contra Costa County Fire Commissioners Association and has the fire districts' interest at heart. She recommended voting for Susan Morgan.

President Barber asked if this board would oversee a County redevelopment agency or a redevelopment agency of municipalities within the County, and what interest is it to the District. If it is of no interest to the District and does not affect the finances or operations, he would be inclined to abstain. If it does affect the District, he wants to determine which candidate would most likely represent whatever interest the District has in redevelopment agency oversight.

Chief Winnacker stated that operationally, the District has no interest. This is a political decision.

Director Anderson stated that he disagreed with the Chief because there will be State dollars involved, which could impact the requirements needed from MOFD if, for example, they decided to put in an urban transit center in downtown Orinda. It would have a dramatic impact on MOFD.

Director Famulener endorsed Susan Morgan. Directors Jex and Jorgens stated that they agree to endorse Susan Morgan, who wrote a candidate statement.

Motion by Director Jorgens and seconded by Director Famulener to vote for Susan Morgan, complete and return the signed ballot to Contra Costa LAFCO by email by June 30, 2018. Said motion carried a 4-0 roll-call vote (Ayes: Anderson, Famulener, Jex and Jorgens; Abstain: Barber).

9. Committee Reports

9.1 Finance Committee (Directors Anderson and Jorgens)

The Committee did not meet and there was nothing to report.

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

The Committee did not meet and there was nothing to report.

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

The Committee did not meet and there was nothing to report.

9.4 Audit Ad Hoc Committee (Director Jex)

Director Jex reported that he accomplished a resolution of an outstanding legal bill. He announced that he would be meeting with ASD Sasser and the auditor in the next few weeks to plan the 2018 audit.

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

The Committee did not meet and there was nothing to report.

9.6 Labor Negotiations Ad Hoc Committee (Directors Anderson and Jorgens)

The entire Board met. There was nothing to report.

10. Announcements

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

There was nothing to report.

10.2 Questions and informational comments from Board members and Staff

There was nothing to report.

10.3 Fire Chief Updates

Chief Winnacker commented on the continuing trend of decrease in turn out times/the improvement in the "get-out" times from the stations, which is continuing good news and a testament to the commitment of the members to continually improve their service.

Chief Winnacker announced that the District is conducting live fire training, which is a regional collaboration. Staff has been meeting with PG&E and the City of Orinda regarding an upcoming Miner Road fuels mitigation project, which will be held in conjunction with a repaving project. The primary costs associated with this work is the traffic closure, which is also the primary inconvenience and disruption to the community's flow. The chance to get multiple projects done during the same period is good news and it will have a great impact on decreasing the risk of a rapid evacuation in North Orinda.

Chief Winnacker reported that, in conjunction with the notice of violations associated with the Exterior Hazard Abatement ordinance deadline of June 15, 2018, staff has been aggressively conducting Firewise assessments with communities that are interested. There has been positive feedback on the professionalism and thoroughness of the assessments, which are being conducted by the Fire Prevention District Aides.

Fourth of July planning is under way. It is a big day for the District, and with the weather template to be hot and dry, there is a very high risk of wild fire danger during that time.

Director Famulener reminded the Directors that the next Contra Costa County Fire Commissioners Association dinner is on June 21, 2018. A representative from the Contra Costa County Sheriff's Office Marine Patrol Division is the speakers.

President Barber extended his congratulations and thanks to the Chief and Fire Marshal for their work in conjunction with brush clearing. The work that is being done on private property right now and recent days is more than he recalls ever having seen in the 30 years that he has lived in the District.

Chief Winnacker stated that the Fire Marshal and her staff have been tirelessly going door to door to spread the work.

Director Jorgens commented on the number of HOA, school board, community and City Council meetings that Chief Winnacker, the Fire Marshal and staff have attended to discuss prevention and fuels mitigation. He appreciates their time and effort in educating, informing and getting the community involved.

10.4 Communications Received

There was nothing to report.

10.5 Future Agenda Items

President Barber asked ASD Sasser if the Board will be receiving a quarterly or annual report from the OPEB and Pension Trust Funds Manager, and if he would distribute written material in advance. ASD Sasser stated that at the July 20, 2018 Board meeting, Andrew Brown from HighMark Capital, will present an update to the Board. The report with the performance results and other information will be included in the packet.

Director Anderson would like to add an item on the next meeting agenda to discuss egress and access issues of the Indian Valley area development.

Director Jorgens asked Chief Winnacker for an update on the Fire Station 43 project and the trailer issues. Chief Winnacker stated that the mobile temporary facility is aging and developed a leak from the dishwasher. The dishwasher leaked for a period of time and caused water to infiltrate the particle board, where it sat underneath the composite flooring. Crews were removed from the temporary trailer and housed at Station 45, engaged the contractor who repaired the dishwasher and replaced the damage. The flooring, substrate, cabinets and a couple inches of the drywall were removed and replaced. A mold remediation company came in and completed two rounds of mold remediation and testing, and the results should be in on June 21. Upon receiving clearance that the station is habitable, the District will reoccupy the station and move the crew back. It will not happen until the industrial hygienist informs us that it is safe to occupy.

Chief Winnacker reported that at the Station 43 construction project, the sanitary sewer connection has been made, and the next step will be the pouring of the grade beams, followed on by the slabs. All the under slab electrical and conduit has been run. We anticipate moving forward with that very quickly. Construction is going well and there have not been any weather days. There have been some small adjustments, which is standard for a project of this scope. The only change order to date was for \$1200, which was associated with the oil water separator. It was pre-purchased as part of the earlier contractor endeavors and was delivered missing a three-foot extension. The extension and the associated wiring for the extension is the reason for the change order.

President Barber asked the Chief to provide routine reports to the Board on the Station 43 construction project, and include a budget report.

11. Adjournment

At 8:30 P.M., Director Jorgens called for adjournment of the regular meeting.



Grace Santos, District Secretary/Clerk