

# Moraga-Orinda Fire Protection District



## BOARD OF DIRECTORS REGULAR BOARD **AMENDED** MEETING MINUTES

October 3, 2018  
(Approved November 7, 2018)

### 1. **Opening Ceremonies**

The Board of Directors convened in Open Session at 6:00 P.M. on October 3, 2018 at the Hacienda Mosaic Room, 2100 Donald Drive, Moraga, California. President Barber called the meeting to order. Director Jex participated via teleconference. Present were the following Directors and Staff:

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

### 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 7:06 P.M. Director Jex participated via teleconference. Present were the following Directors and Staff:

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

### 5. **Report of Closed Session Action**

There was no reportable action taken in Closed Session.

### 6. **Public Comment**

To assist the District Clerk in capturing accurate information, President Barber asked that anyone wishing to speak during Public Comment fill out a Public Speaker Request form and submit to District Clerk Santos.

Jonathan Goodwin, Canyon resident, commented on the governance of the organization, the relationship between the firefighters and the Board, as well as the overall state of the union. Mr. Goodwin suggested that the Board form a committee made up of all stakeholders (the community, board members, firefighters and senior management) to define each group's concerns.

### 7. **Consent Agenda**

Director Jorgens commented on the variance of \$1,473,910.58 listed on the first page of the Monthly Financials, and asked why it has not come in. ASD Sasser explained that the District receives property tax revenue in three parts. This is the first portion, the District will receive another portion in December, and the true-up payment is received in April.

Motion by Director Famulener and seconded by Director Anderson to approve and file item 7.1 Monthly Financial Reports. Said motion carried a 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex and Jorgens; Noes: None).

### 8. **Regular Agenda**

#### 8.1 **Draft GASB 75 OPEB Valuation Report as of June 30, 2018 and Approval of OPEB Funding Policy**

The District provides retiree health insurance benefits to employees. Government Accounting Standards Board Statement No. 75 requires the District to complete an actuarial valuation of the other

post-employment benefits (OPEB) plan. As a result, the District contracted with GovInvest to complete an actuarial report calculating the long-term cost associated with the District's OPEB plan.

The current Memorandums of Understanding provide the District's monthly retiree medical contribution at the PERS minimum contribution level and cap the maximum retiree medical contribution at a fixed amount for all labor groups. Retiree dental insurance benefits are also capped, and in addition, employees hired after April 15, 2014 receive only the minimum retiree health insurance contribution at retirement (\$133 per month for 2018). The benefit caps have been included in the updated OPEB valuation.

Roger Burton, GovInvest Actuary, reviewed the GASB 75 OPEB Valuation Report and answered questions from the Board.

ASD Sasser stated that the final report will be presented at the next meeting for the Board to accept.

**8.2 Approval of a Memorandum of Understanding between the District and United Professional Fire Fighters of Contra Costa County I.A.F.F. Local 1230, AFL-CIO for the period July 1, 2018 – June 30, 2021; Approval of Salary Schedule Effective July 1, 2018; Approval of FY2019 General Fund Expenditure Budget Adjustment**

The District and Local 1230 began contract negotiations in April 2018. The District and Local 1230 participated in mediation with a State appointed mediator. After mediation, the two parties successfully reached a tentative agreement. Local 1230 ratified the tentative agreement on September 18, 2018.

The term of the recommended MOU is July 1, 2018 – June 30, 2021.

President Barber announced that the District's labor negotiator will give a presentation on the negotiations process, take questions from the Board, allow representatives from bargaining units to speak (up to 10 minutes), and hear public comment (limited to 3 minutes).

At 7:37 P.M., President Barber called for a 3-minute recess.

President Barber reconvened the regular business meeting of the Moraga-Orinda Fire District Board of Directors at 7:41 P.M.

Jeff Sloan, MOFD Chief Negotiator, gave a presentation on the negotiations process that led to the tentative agreement with Local 1230. Mr. Sloan explained the negotiations process and timelines, discussed key issues, reviewed salary survey data and results of the negotiations process.

Director Famulener stated that the Board was not asked to approve and waive the attorney/client privilege authorizing the release of the salary survey documents, and wants to make sure it is included in the official records of the meeting. Director Jorgens and President Barber both agreed, stating that they had no recollection of waiving this privilege.

Mr. Sloan explained that the attorney/client privilege designation was designated when the documents were in draft form. When the documents were reviewed with the Board, they were still in draft form. They have since transmuted to no longer being a draft. Administration suggested that the District move ahead so that everyone could review the documents.

Director Anderson inquired about next steps if agreement is rejected, the likelihood of unfair labor practice charges being filed, and the timeframe if this were to happen.

Mr. Sloan explained that if the MOU is rejected, MOFD negotiators would meet with the Board in closed session for negotiating instructions. District negotiators would then go back into negotiations with Local 1230 for their input. There is a possibility that Local 1230 would declare impasse, but it is their decision to make. If the tentative agreement is rejected, unfair labor practice charges would be discussed during a closed session meeting.

Director Jorgens stated that an analysis of total salaries with benefits compared to the CPI would have been more relevant and shown a dramatic difference. Benefits packages have more than doubled in the last 20 years as a percentage of the employees' salary.

Larry Menth, Local 1230 Labor Negotiator, commented on the negotiations process and talked about the important items in negotiations, such as the ratification of the healthcare in lieu (which will resolve the unfair labor practice charges), fixed cost issue, equity adjustment and the subvention issue. Mr. Menth thanked the District's negotiations team and looks forward to working with MOFD to address the outstanding issues that remain.

At 8:22 P.M., President Barber called for a 3-minute recess.

President Barber reconvened the regular business meeting of the Moraga-Orinda Fire District Board of Directors at 8:25 P.M.

President Barber thanked both negotiators for their presentations, and asked if Local 1230 foresees working cooperatively with the Chief to achieve efficiencies, effectiveness and better service for the entire District throughout the term of the contract and in the near term.

Local 1230 President Vince Wells stated that they always strive to do just that.

Jonathan Goodwin, Canyon resident, commented on the impact of the Board's decision and how it would affect the financial health of the District, which should have been included with the information on the valuation report.

Gina Arico-Smith, Orinda resident, commented on the District's huge unfunded liability and asked how it is being addressed if there is limited revenue. Ms. Arico-Smith asked the Board to consider the interest and welfare of the taxpayers and public when making their decision to approve the contract.

Red Smith, Orinda resident, stated that the numbers are fictitious if the completed salary study did not include a comparison of unfunded pension liabilities city by city. He would like to see an analysis based on workload and work content that includes the number of times firefighter/paramedics go out and actually perform public services.

Director Jorgens stated that part of the Board's job is to have the best quality fire suppression and emergency medical services possible and balance of priorities. At the end of 2 years, the proposal would cost roughly \$2M, which could be spent to make the entire community a fire-safe community to dramatically reduce the risk of a firestorm similar to ones in Napa and Sonoma. The Board is expected to make difficult decisions that require setting priorities and putting things into perspective.

President Barber read a statement from Richard Nelson, Orinda resident, who could not attend the meeting. Mr. Nelson addressed three points that he felt are paramount in evaluating the proposed agreement. The first financial priority of the District must be to continue paying down the unfunded liability for pensions and retiree medical benefits. The second is that part of the proposed increases are based on comparables with other districts, which may not be appropriate. An obvious difference is that MOFD is the only district in the area that has begun to make the necessary commitment to fully fund pension and retiree medical liabilities. The third, that it is his hope that everyone can all come together as one community, citizens of Moraga and Orinda and firefighters, dropping the concept of comparables and reward the firefighters adequately for what they do, and to come together as one community, working together to achieve common goals. Ensuring that we can meet our promises to firefighters with respect to pensions and retiree medical benefits is one shared goal, and improving the level of service to our community, and modernizing it to meet current needs and conditions, is a second.

President Barber explained that the analysis using CPI comparability and financial condition of the District are required in accordance with the Meyers-Milias-Brown Act (MMBA). The analysis is useful in reaching the agreement and though there are problems with it, the analysis suggests there is a need for a modest increase. The research showed that some of the other districts pay better than MOFD, however, it does not show other aspects such as the financial condition of the district and what type of district they are and suggests that an adjustment is appropriate. MOFD's financial condition is a serious problem. Unlike some of the other districts used in the analysis, President Barber stated that MOFD has not been able to put aside much for operating resources reserves nor has it made a dent in unfunded pension and OPEB liabilities. The contract would make it harder to

do so unless revenues exceed projections. President Barber stated that he will support the tentative agreement.

Vince Wells, President of Local 1230, thanked both negotiations teams for all their hard work and stated that he hopes the Board will move forward to support the new contract. Mr. Wells commented on the significant changes in healthcare benefits, the way it is calculated, and the lack of retiree healthcare benefits for those hired after 2013.

Jonathan Goodwin, Canyon resident, commented on the lack of transparency of the negotiations process and hoped that the Board would consider making the process more transparent.

Director Jorgens agreed with Mr. Goodwin that the process is very broken. The first time the public saw any of the numbers or rationale was not until after the tentative agreement had been reached. He felt that is a problem which does not give the public enough time to give its representatives feedback, and it needs to be changed.

Director Anderson stated that any changes would have to be discussed with the State of California.

Motion by Director Famulener and seconded by Director Anderson to approve the Memorandum of Understanding between the District and United Professional Fire Fighters of Contra Costa County I.A.F.F. Local 1230, AFL-CIO for the period July 1, 2018 – June 30, 2021. Said motion carried a 3-2 roll-call vote (Ayes: Anderson, Barber, Famulener; Noes: Jex and Jorgens).

### **8.3. 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 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.

Previously the board approved extensions of the enhanced medical insurance contributions through October 31, 2018. In light of the status of negotiations with AFSCME Local 2700, an extension of the enhanced medical insurance contributions for one additional month, through November 30, 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 unit represented by MOFCOA.

Motion by Director Famulener and seconded by Director Anderson to approve a One Month Extension of District's Payment of Enhanced Medical Insurance Contribution Rates. Said motion carried a 4-1 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex; Noes: Jorgens).

### **8.4 Report on Unauthorized Actions by District Aides – No staff report**

Chief Winnacker presented information about unauthorized activities that occurred last week. Two MOFD District Aides, unrepresented hourly part-time employees that work in Fire Prevention, are charged with issuing notices to abate exterior fire hazards. The two Aides in question utilized department systems in an unauthorized manner to look up the home address of at least one (possibly as many as six) of the candidates currently running for the MOFD Board, and without authorization or approval, visited the homes and conducted exterior hazard abatement inspections. At three homes (one of a MOFD Board seat candidate and two immediate neighbors), the Aides posted a 30-Day Notice to Abate Exterior Hazards, which is in violation of MOFD's internal policies and procedures, especially in the absence of any violations. Chief Winnacker visited the sites the next morning upon learning of the matter, confirmed that it was incorrect, collected the notices that were issued incorrectly, and informed the homeowners that it was issued in error. Chief Winnacker stated that this should not have happened. He apologized to the Board, the public and the citizens who were affected.

Chief Winnacker stated that a hard-stop on any ongoing hazard inspections have been placed until staff conducts a complete review. He reported that five additional inspections were identified, but require further review to determine the reason why they were inspected and issued notices. If the review finds that additional unauthorized actions were committed, Chief Winnacker will provide the Board with a full report at the next meeting. Before any inspections can resume, the District will review

all recent inspections, provide additional training to the remaining Aides and establish additional control measures to increase oversight and prevent future occurrences.

Director Famulener apologized to the homeowners on behalf of the Board.

Director Jorgens commented that he understood that only three notices were given to the people, and asked if folks said anything about the motivation for giving it just to one organization or one campaign versus another.

Chief Winnacker replied that the former employees in question, when asked, stated that their intent was positive and stated that they were, "Attempting to help the candidates by making sure their homes were Firewise and not in violation of the Ordinance." Chief Winnacker stated that he can not speak to the veracity of their statements, and as referenced earlier, they indicated that they conducted inspections at all six of the new candidates running for officer, however the notices were only issued at one of those sites. Chief Winnacker has no way of confirming whether or not they actually visited the other sites.

Director Jorgens asked how much those notices would cost to people if he would not have found out about it. Chief Winnacker stated the cost would have varied depending on the work done, however they would have been significant had a homeowner taken this at face-value and conducted (at least with one case) a significant large-scale removal of legacy trees. It would have been a significant cost. Chief Winnacker stated that it is important to note that one of the reasons is it was such a shock internally and so important for us to correct immediately. When our representatives go out under the color of authority, representing the full faith and confidence of the District, we rely on the citizens taking at face value that our representatives are there to provide best practice recommendations, and work collaboratively with all, even in the most resistant cases, to achieve a positive outcome both for the homeowner in question and the community at large. If there is any question about the motivation of the representatives or that of the District as it relates to these inspections, that would undercut our entire process and would lead the citizens to ask questions about why is this being done, to seek second opinions and to second-guess the inspector. It would cost a significant degradation in our efficiency and the speed with which we can move through these. Given how lean the District is, this would represent a major challenge so we will work as rapidly as we possibly can to restore the public trust and insure this was an isolated incident that is not repeated.

Director Jorgens stated that three of the candidates are being 100% backed by the firemen's organizations and asked if this candidate was in that group or not.

Chief Winnacker stated that he does not know and will not comment on it.

Director Jorgens stated that he would comment. They were not. This was an independent candidate that was targeted for this by employees of a fire organization and he thinks that it is disgusting that the organization would do that. It is not the Chief's fault, he has done the right things. Director Jorgens stated that this is something that, as an organization, should be really embarrassed by.

Director Famulener stated that the Board is very embarrassed, however the two were part-time student employees that are not part of a firefighters union or are firefighters.;

President Barber extended apologies on behalf of the District and the Board to those affected and thanked the Chief for handling the matter professionally.

Local 1230 President Vince Wells stated that he does not know who the employees where, and they are not members of his bargaining unit. He He has been involved in hundreds of campaigns throughout Contra Costa County and statewide, and they do not support that type of business. They appreciate and support the Chief for addressing it the way that he did. Mr. Wells stated that he takes offence to there being an assumption based on Director Jorgen's comments that, because it is a candidate that they do not support, that any of their members would have been behind that. He stated that he understands where that would have come from but that is not how they do business. He talked to everyone running a campaign in the area about staying above board. They had an error where an ad included inappropriate names and they immediately addressed it. They believe every candidate and apologize to any candidate that was impacted by it. They do not support that type of business. The actions that Chief Winnacker took are supported by their organization. Ss

Director Jorgens asked Mr. Wells if any employees do campaign work while they are on duty, and if they had any that did it. Mr. Wells stated that they should not be, and that he had not idea if any have done so in the District. Director Jorgens stated that he does.

Nathan Bell, Moraga resident, stated that he is incredulous that someone with the full faith and authority of the MOFD can give a citation and Mr. Wells is saying that the employees of the MOFD don't understand this. He stated that this makes no sense and that he is truly incredulous on it, which is all he had to say.

### **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)**

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

#### **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 Committee did not meet and there was nothing to report.

### **10. Announcements**

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

Director Famulener announced that the Contra Costa County Fire Boards and Commissioners will be meeting on October 25, 2018. Contra Costa County Fire Chief Jeff Carman will be the speaker.

#### **10.2 Questions and informational comments from Board members and Staff**

There was nothing to report.

#### **10.3 Fire Chief Updates**

Chief Winnacker read sections of the MOFD Rules and Regulations that pertain to impermissible political activity and reviewed internal policies, procedures and process in the event that there is a report of impermissible political activity. The policies were recently reviewed with all employees of the District. In the event that anyone believes that the policy is violated and District employees are engaging in impermissible political activity, the appropriate step is to submit a complaint so that the District may investigate and, if appropriate, follow up with the appropriate disciplinary procedures. Complaints should be made in a manner that can be verified and investigated, and include information such as times, dates, people involved, unit numbers, etc. Chief Winnacker stated that the District is committed to maintaining its apolitical, non-partisan position while staying out of the political process.

District Counsel Jonathan Holtzman reviewed Government Code Section 3206. Any claims should be brought to the Chief's attention so that it may be thoroughly and promptly investigated. Because the District is apolitical, any issues with candidate behavior should be reported to the Fair Political Practices Commission (FPPC).

#### **10.4 Communications Received**

There was nothing to report.

#### **10.5 Future Agenda Items**

There was nothing to report.

### **11. Adjournment**

At 9:20 P.M., President Barber called for adjournment of the regular meeting.



Grace Santos, District Secretary/Clerk