

Moraga-Orinda Fire Protection District



BOARD OF DIRECTORS REGULAR BOARD MEETING MINUTES

June 15, 2016

(Approved July 6, 2016)

1. **Opening Ceremonies**

The Board of Directors convened in Open Session at 6:00 P.M. on June 15, 2016 in the Hacienda Mosaic Room, 2100 Donald Drive, Moraga, California. President Anderson called the meeting to order.

Present were the following Directors and Staff:

Director Anderson
Director Barber
Director Evans
Director Famulener

Director Weil
Gloriann Sasser, Admin Services Director
Grace Santos, District Clerk

2. **Public Comment**

There were no comments.

3. **Closed Session**

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

4. **Reconvene The Meeting**

President Anderson 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 Barber
Director Evans
Director Famulener
Director Weil

Gloriann Sasser, Admin Services Director
Jerry Lee, Battalion Chief
Felipe Barreto, Battalion Chief
Grace Santos, District Clerk

5. **Report of Closed Session Action**

President Anderson reported that the Board issued negotiating instructions to the real estate agent for 4268 El Nido Ranch Road, Lafayette.

6. **Public Comment**

Marie Gee, Orinda resident, asked if the District conducted an environmental impact study of 4268 El Nido Ranch Road, Lafayette. Ms. Gee asked for contact information for Burk Holdings, LLP, which state the business is registered in, and who the owners are. President Anderson suggested that Ms. Gee do research on Burk Holdings, LLP. He stated that an environmental impact study would have been done before building the fire station, however, since it was not built, no study was done.

Richard Olsen, Moraga resident, provided a brief update on the Moraga Planning Commission meeting and stated that City Ventures requested approval of a general development plan and tentative map for the development. The Commissioners made a number of requests for additional information and the matter was continued to June 20, 2016. Mr. Olsen was advised that Town Planning staff would probably ask for a continuance, with a possible date of July 18, 2016.

7. **Consent Agenda**

Motion by Director Weil and seconded by Director Barber to receive and file Items 7.1. Meeting Minutes, 7.2. Monthly Incident Report, 7.3. Monthly Check/Voucher Register, 7.4. Adoption of Annual Operating Budget Fiscal Year 2016/17. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Evans, Famulener and Weil).

President Anderson announced that the agenda will be taken out of order and that Item 8.5 will be discussed immediately after Item 8.1.

8. Regular Calendar

8.1 Resolution 16-11 Approving Membership in the Fire District Association of California Employees Benefit Authority

Effective July 1, 2016, the District will provide vision insurance to benefitted employees. The District's insurance broker, Keenan and Associates, has reviewed various carrier options for providing vision insurance. The Fire District Association of California Employee Benefits Authority (FDAC) is a joint powers authority that provides health and welfare benefit programs to public agencies. FDAC offers vision insurance through Vision Service Plan (VSP). By obtaining vision insurance through FDAC, the District will be part of a much larger pool and can take advantage of more competitive rates with a longer fixed rate term than if the District obtained insurance directly from a carrier. The FDAC annual membership dues are currently \$413. Membership must be maintained for a minimum of three fiscal years.

Motion by Director Famulener and seconded by Director Barber to adopt Resolution No. 16-11 Approving Membership in the Fire District Association of California Employees Benefit Authority. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Evans, Famulener and Weil).

8.5 Analysis of Funding Equity Between Taxpayers of Orinda and Moraga

At the May 9, 2016 Finance Committee meeting, the Finance Committee directed staff to analyze perceived funding inequities between taxes paid and services received by the taxpayers of Orinda and Moraga. It is necessary to review the history of the District when considering this issue.

In August 1996, the City of Orinda and the Town of Moraga each approved a Resolution of Application to the Contra Costa County Local Agency Formation Commission Requesting Reorganization of the Orinda Fire Protection District and the Moraga Fire Protection District. There is no reference in either Resolution to property taxes; the only reference is to the fire flow tax.

On August 30, 1996, an application to the Local Agency Formation Commission Requesting Reorganization of the Moraga and Orinda Fire Protection Districts was submitted by the City of Orinda and Town of Moraga.

The intent of the City of Orinda and the Town of Moraga was:

- To have one combined District with no service zones
- All property taxes and fund balances would be combined
- Fire flow tax would be equalized throughout the District

On October 9, 1996, the Local Agency Formation Commission (LAFCO) adopted Resolution 96-27 making determinations and approving the Moraga-Orinda Fire Protection District Consolidation.

On January 14, 1997, the Contra Costa County Board of Supervisors adopted Resolution 97/16, ordering the Moraga-Orinda Fire Protection District Consolidation subject to confirmation by the voters. Exhibit D to said Resolution included the Ballot Measures that had to be approved in order to complete the consolidation.

On June 3, 1997, the voters approved all of the necessary ballot measures to confirm the consolidation, adopt a special tax in Orinda, approve an appropriation limit, and elect directors.

Based on the ballot language, the Orinda fire flow tax was restricted to use in the Orinda service area. There was no restriction on any property taxes in the ballot language. The election material included arguments and rebuttals in favor of the consolidation.

While the election material arguments and rebuttals likely were appropriate at the time, the statements were somewhat general and did not differentiate between fire flow tax restrictions and property taxes in accordance with the City and Town Resolutions, the LAFCO application, LAFCO Resolution and actual ballot measures. The ballot measures were approved and the District was formed.

On July 1, 1997, the Board adopted Resolution 97-10 initiating proceedings to establish service zones in accordance with the conditions imposed by LAFCO. On September 23, 1997, the Board adopted Resolution 97-16 establishing a capital improvement fund for the Moraga Service Zone. The purpose

of the new fund was for the use and expenditure for capital improvements within the Moraga Service Zone.

On June 22, 1999, the Board adopted Resolution 99-03 combining the financial operating and capital accounts of the Moraga and Orinda Service Zones. It was determined that it was in the public interest to combine the financial operating and capital accounts into Districtwide financial operating and capital accounts due to undue administrative burden and duplication of accounting practices. The resolution did not otherwise affect the status of the Moraga and Orinda Service Zones.

On June 22, 1999, the Board adopted Resolution 99-04 finding that the operating and capital accounts of the Moraga and Orinda Service Zones, when allocated, benefit both Service Zones of the District. The resolution stated the District provides for prevention and suppression services on an integrated basis throughout the District and in medical and automatic aid situations and provides those and other emergency life and property saving services on an integrated basis. The provision of the services is based on the availability and use of the equipment and facilities of the respective Service Zones. Therefore, the Board declared the operating and capital accounts of the Moraga and Orinda Service Zones, when allocated, benefit both the Service Zone from which the allocation occurs and the Service Zone from which allocation does not occur.

Based on the above, the District provides services on an integrated basis and accounts for financial operating and capital accounts on a combined, District-wide basis.

The separate service zones were established coterminous with the boundaries of the previous Orinda and Moraga Fire Protection Districts. The previous Moraga Fire Protection District included a part of Orinda. Therefore, the Moraga Service Zone includes part of Orinda. The Service Zones do not follow the boundaries of the City or Town.

The ballot measure regarding the appropriations limit is significant. Article XIII B of the California Constitution requires the District to annually adopt an appropriations limit. The appropriations limit restricts the amount of money the District can appropriate or budget from government proceeds of taxes. The ballot measure passed by the voters combined the two separate District's limits into one new limit because the District was formed to be one combined district. There was no differentiation between how much money could be appropriated in Orinda or Moraga. There was one consolidated District with one spending limit.

Staff reviewed the financial records of the District. The adopted budget for FY1998/99 included a General Operating Fund budget for a Moraga Zone and an Orinda Zone (property taxes and operating expenditures) along with a Capital Outlay Fund for both zones (fire flow taxes and capital expenditures). The adopted budgets for 1999/2000 to the present included one combined budget with no separations by service zone. This is consistent with Resolutions 99-03 and 99-04, which combined the operating and capital accounts.

The audited financial statements from FY1997/98 accounted for a Moraga Zone and Orinda Zone for all finances: assets, liabilities, operating and capital revenue and expenditures. From FY1998/99 to the present, all finances were combined and there was no separation of zones in the audited financial statements. This is also consistent with Resolutions 99-03 and 99-04, which combined the operating and capital accounts.

When the District was formed, the intent was that the fire flow tax would be equalized throughout the District. Staff reviewed the fire flow tax rates for the last 7 years. The fire flow tax rate has been 6 cents in both the Moraga and Orinda Service Zones. The fire flow tax rate is equal.

When the District was established the intent was to operate one combined fire protection district. Since 1999, per Board resolutions, the District has provided all services on an integrated basis to the Moraga-Orinda Fire District.

Steve Cohn, Orinda resident, read a prepared statement which included history on the Orinda Fire Protection District, the Moraga Fire Protection District, how each district was funded by a portion of the statutory one percent tax on assessed real property values, and the merger into the Moraga-Orinda Fire District. Mr. Cohn stated MOFD is a good organization that provides good service to the

community. Orinda left the Contra Costa County Fire Protection District when substantial tax dollars were being exported for services outside of Orinda, and urged the District not to let history repeat itself.

Gordon Nathan, Moraga resident, thanked Administrative Services Director (ASD) Sasser for her work on the presentation. Mr. Nathan stated ASD Sasser's report does not show the amount of time, effort and heart put in by community volunteers, Town and City council representatives to develop a plan for combining the two formerly independent districts into one fully functional fire district. Hundreds of hours of meetings, research and discussions with LAFCO representatives preceded the formal LAFCO application to combine and form the new MOFD. He stated that an inordinate amount of staff and Board time has been devoted to this issue over the years and should be put to rest once and for all.

Vince Maiorana, Orinda resident, stated that the reason Orinda wanted to break away from the Contra Costa County Fire Protection District was because they used Orinda tax dollars in other areas of Contra Costa County. He asked the District to review the perceived inequities and make it better.

Richard Olsen, Moraga resident, stated that much of the history that Mr. Steve Cohn gave was incorrect and added that he would be happy to correct the record. Mr. Olsen stated that he was on the Moraga Fire Commission and helped form the Moraga-Orinda Fire District. He gave a history on the formation of the district, the passing of the fire flow and assessed property taxes, and the perceived inequity between the Moraga and Orinda taxes.

The Board decided that they would like to have another meeting to discuss this item and to hear the public's concerns. They asked staff not to spend additional time in research or financial accounting, but instead allow the public to bring additional detail and information to the meeting. They directed staff to continue the item at a future regular meeting when it would be the only item other than consent on the agenda. They asked staff to suggest a few dates at the next meeting, and publicize the event allowing for enough notice to the public.

8.2 Approval of Salary Schedules Effective July 1, 2016

The current Memorandums of Understanding provide a 4.5% salary increase for all employee classifications effective July 1, 2016. Salary schedules have been updated to reflect the increase.

Mark DeWeese, MOFD Firefighter and Local 1230 representative, read a prepared statement. Firefighter DeWeese stated that Local 1230 is thankful to see their salary schedule heading in the right direction. He also commented on the nationwide income inequality problem that affects the District. He stated that the inequity is a key reason why the District has recruitment and retention difficulties, as well as morale and trust issues, and hopes the Board places solving these issues as a top priority.

Motion by Director Evans and seconded by Director Weil to approve Salary Schedules Effective July 1, 2016. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Evans, Famulener and Weil).

8.3 Approval of Amendment No. 5 to Fire Chief Employment Agreement Adjusting Annual Base Salary

Effective July 1, 2016, all full-time employees will receive a salary increase of 4.5%. The proposed amendment to the fire chief employment agreement would provide the same salary increase to the fire chief. The proposed amendment would increase the fire chief annual base salary 4.5% from \$220,000 to \$229,900 effective July 1, 2016.

The proposed Amendment No. 5 would provide a salary adjustment to the Fire Chief equal to all other full-time employees.

Motion by Director Weil and seconded by Director Barber to approve Amendment No. 5 to Fire Chief Employment Agreement Adjusting Annual Base Salary. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Evans, Famulener and Weil).

8.4 Approval of Benefits for Unrepresented Employees

The FY2016/17 Annual Operating Budget includes the addition of a part-time Fire Inspector/Plans Examiner position and the reclassification of the Human Resources Benefits Manager position from part-time with no benefits to full-time benefitted. As a result, it is necessary for the Board to approve the salary and benefits for these new positions.

Beginning July 1, 2016, the District will have five unrepresented positions as follows:

- Fire Chief
- Administrative Services Director
- Fire Marshal
- Human Resources Benefits Manager
- Fire Inspector/Plans Examiner

The salary and benefits for the fire chief, administrative services director and fire marshal are included in individual employment agreements approved by the Board. It was recommended that the Board approve an unrepresented Employee Handbook that details the salary and benefits for all unrepresented employees. The Employee Handbook details the salary and benefits for the five unrepresented positions. Page one of the Employee Handbook specifies that in the event the Employee Handbook differs from an individual employment agreement, the individual employment agreement will prevail.

The Employee Handbook provides salary and benefits for the two new positions consistent with existing unrepresented employees.

Motion by Director Evans and seconded by Director Barber to approve Salary and Benefits for Unrepresented Employees. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Evans, Famulener and Weil).

9. Committee Reports

9.1 Finance Committee (*Directors Barber & Weil*)

There was nothing to report.

10. Announcements

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

(Government Code Section 53232.3(d))

There was nothing to report.

10.2 Questions and informational comments from Board members and Staff

President Anderson commented on how all of the District fire stations displayed the American flag at half-staff. He found it very appropriate.

10.3 District Updates for May 2016

There was nothing to report.

11. Adjournment

At 9:30 P.M., President Anderson called for adjournment of the regular meeting.



Grace Santos
Secretary to the Board