

# Moraga-Orinda Fire Protection District



## BOARD OF DIRECTORS REGULAR BOARD MEETING MINUTES

February 7, 2018  
(Approved February 21, 2018)

### 1. Opening Ceremonies

The Board of Directors convened in Open Session at 6:00 P.M. on February 7, 2018 at the Sarge Littlehale Room, Orinda, California. President Barber called the meeting to order. Director Jorgens was absent. Present were the following Directors and Staff:

|                    |  |                                     |
|--------------------|--|-------------------------------------|
| President Barber   | Director Jex                             | Jeff Sloan, Labor Negotiator        |
| Director Anderson  | Dave Winnacker, Fire Chief               | Jonathan Holtzman, District Counsel |
| Director Famulener | Gloriann Sasser, Admin Services Director | Christine Russell, HR 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 7:09 P.M. Director Jorgens was absent. Present were the following Directors and Staff:

|                    |  |                                     |
|--------------------|--|-------------------------------------|
| President Barber   | Director Jex                             | Jonathan Holtzman, District Counsel |
| Director Anderson  | Dave Winnacker, Fire Chief               | Christine Russell, HR Manager       |
| Director Famulener | 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 (MOFCOA).

### 6. Public Comment

There was no comment from the public.

### 7. Consent Agenda

Motion by Director Famulener and seconded by Director Jex to approve and file items 7.1 Meeting Minutes, 7.2 Quarterly Treasurer's Report, 7.3 Quarterly Ambulance Billing Report, and 7.4 Budget Timeline. Said motion carried a 3-0 roll-call vote (Ayes: Barber, Famulener and Jex; Abstain: Anderson; Absent: Jorgens).

### 8. Regular Agenda

#### 8.1 Amendment to Lease Agreement with St. Stephen's Episcopal Church

President Barber recused himself because of a relationship he has with St. Stephen's Church. He left the room.

In April 2016, MOFD entered into a lease with St Stephen's Episcopal Church to house temporary Fire Station 43 in the upper tier of their parking lot. While the lease remains in force for the duration of the station construction, it also referenced an anticipated construction timeline of 12-24 months and limited MOFD use to the North West portions of the parking lot. As a result of delays in construction of the replacement fire station, MOFD will continue to occupy the space through 2019 and has used, and may continue to use, additional areas of the upper tier of the parking lot. In December 2017, St Stephens contacted MOFD expressing their interest in re-negotiating portions of the contract. The attached proposed amendment includes an increase in rent to \$2,000 per month for use of the entire upper tier and states that the contract will be renegotiated if MOFD continues to occupy the space as of April 2019.

Motion by Director Anderson and seconded by Director Famulener to approve the Amendment to the lease agreement with St. Stephen's Episcopal Church. Said motion carried a 3-0 roll-call vote (Ayes: Anderson, Famulener and Jex; Absent: Director Jorgens).

President Barber rejoined the meeting.

## **8.2 Construction Administration Authorization**

MOFD retained Shaw Kawasaki Architects (SKA) to design the replacement facility for Station 43. During the period from November 17, 2015 to January 17, 2018 SKA completed and billed various changes to the design and construction administration functions. This work was billed but portions were not paid pending clarification of several questions posed by the board. After meeting with SKA, the outstanding amount was reduced by approximately \$37,000 for previously billed work with inclusion of language clarifying that this payment will settle all outstanding SKA invoices.

During the period that FSG was anticipated to construct Fire Station 43, the board approved a quote from SKA for \$79,000 for construction management. With various changes to the project, the need to update inputs from consultants, and the pending decision to award the contract to a new construction company, SKA's construction administration quote has been resubmitted for \$99,000.

Director Anderson asked if they could charge MOFD if the project goes longer than the May 31, 2019 completion date. Chief Winnacker stated that SKA would be hesitant to sign an open-ended agreement. The timeline anticipated gives a buffer for normal and minor unanticipated changes, but does not reflect an understanding that SKA would continue under this contract if the District were to re-bid to someone else and the project were to go extensively over the current timeline.

Director Anderson asked if, by authorizing this, the District would be losing its rights to any legal actions against the architect. Chief Winnacker stated that Geoff Spellberg, who was involved with negotiations regarding the previous work, recommended moving forward. Some of the work that was billed, which is now being forgiven, was authorized either by the District or the District's representative. His recommendation was that MOFD is getting a good deal.

Motion by Director Famulener and seconded by Director Jex to authorize SKA construction administration quote for \$99,000. Said motion carried a 3-1 roll-call vote (Ayes: Barber, Famulener and Jex; Noes: Anderson; Absent: Jorgens).

## **8.3 Update Regarding Stipend In-Lieu of Medical Benefits Program**

In late 2016, the District's outside tax counsel determined that allowing employees to receive deferred compensation in-lieu of District health benefits conflicts with IRS rules and seriously endangers the tax-exempt status of health benefits provided to all employees. To avoid that significant risk, the District had to stop making in-lieu payments to deferred compensation. The District has been meeting with Local 1230 since late 2016 regarding this issue, but its attempts to resolve it have been unsuccessful.

Vince Wells, President of Local 1230, stated that they are disappointed that the document was included in the packet and made available to the public. The fact-finding process is part of the negotiations and bargaining process. They are disappointed and feel that it was unfair of the District to publish the comments and statements previous to the release of the information from the fact-finder.

President Barber asked ASD Sasser why this information was included in the packet, if it was simply an update for the Board. ASD Sasser stated that was correct.

Mark DeWeese, MOFD Firefighter, asked the Board to keep an open mind to whatever solutions the fact-finder comes up with and that they continue to collaborate with Local 1230.

Director Famulener stated that she agrees with President Wells and Firefighter DeWeese that this information should have been kept in closed session during the fact-finding process. She appreciates the updates, but hopes that any future updates are presented by the attorney during closed session.

President Barber agreed with Director Famulener and stated that the Board is not being asked to take action on this item at this time. More information will be provided in closed session until the issue is resolved and then will be made available to the public.

#### **8.4 Approval of Side Letter of Agreement Between Moraga-Orinda Fire District and Moraga-Orinda Fire Chief Officers Association**

In 2016 MOFD held a battalion chief's examination with (2) internal applicants. Both applicants failed to meet the minimum passing score for portions of the examination and a promotional list was not formed. While forecasting retirements and separations requires assumptions and is an imperfect science, there is a possibility of up to (2) battalion chief openings during the (24) month period that a promotional list will be in effect.

The Moraga-Orinda Fire Chief Officers Association (MOFCOA) Memorandum of Understanding directs that after July 2, 2014, an associate's degree or higher is required to apply for and hold the position of battalion chief. It further states that battalion chiefs promoted prior to this date will be limited to Step 1 of the salary scale until they hold a degree. Staff recommended reverting to the pre July 2, 2014 educational requirements to increase the competitiveness of the examination.

In order to increase the size of the participating population, the attached side letter is submitted for the board's consideration as a one-time measure. Staff has met and conferred with the MOFCOA on this topic without objection.

Director Famulener stated that MOFD has highly qualified individuals for the Battalion Chief position and the District should not lower its standards by reverting the educational requirements. She asked Local 1230 President Vince Wells for his comments. Mr. Wells stated that they met with Chief Winnacker and they all agreed to the amendments and changes. There are qualified Captains who meet the experience and can do the Battalion Chief position, but do not meet the minimum educational requirements. They support the Chief and MOFCOA's decision to make the change.

President Barber asked if there is a standard practice among fire departments on this subject. Chief Winnacker stated that it varies, but the universal concept, with the exception of a few large agencies, is to adopt the state curriculum for Chief Officers certification. MOFD also requires several additional classes specific to wildland. MOFD has a number of talented people and this is intended to pool more people into the process so the District can get the best results possible. He agreed that education is very important, however given the wide range of degrees that would qualify under the current requirement and the time that may have elapsed since that degree was obtained, he is comfortable that the written test can be structured in a way that the District can test for the same function through a written exercise and the candidate's ability to both comprehend and express themselves in a written form. Chief Winnacker stated that allowing us to tap into the potential of our internal talent pool is beneficial and outweighs some of what we lose for eliminating this requirement of the associate's degree this one time.

Director Anderson commented that he would defer to Chief Winnacker, and trusts his best judgement. He asked Local 1230 President Wells if there were other Battalion Chiefs throughout Contra Costa County who lacked an associate's degree. Mr. Wells replied that Contra Costa County Fire Protection District just had a Battalion Chief test and their requirement was four years of experience as a Captain. He added that experience far outweighs the benefits of an associate's degree.

President Barber stated that in this case it seems warranted. A credential by itself is often not sufficient grounds to make a decision on this. He also supports the idea of giving people an incentive to further their education so if this will solve the problem, he would be supportive of it.

Director Anderson stated that there is a grammatical error in the side letter. Associates degree should include an apostrophe and updated to reflect "associate's".

Motion by Director Anderson and seconded by Director Jex to approve the modified educational requirements for the Battalion Chief position. Said motion carried a unanimous 4-0 roll-call vote (Ayes: Anderson, Barber, Famulener and Jex; Absent: Jorgens).

**9. Committee Reports**

**9.1 Finance Committee (Directors Anderson and Jorgens)**

Director Anderson reported that the Finance Committee met and they had some discussions with ASD Sasser regarding the Long Range Financial Forecast.

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

The Committee has not met.

**9.3 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.

**9.4 Audit Ad Hoc Committee (Director Jex)**

The Committee has not met.

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

The Committee has not met.

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

Director Anderson reported that the committee met several times with legal staff.

**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**

ASD Sasser introduced the District's new Human Resources Benefits Manager Christine Russell. She worked for the City of Novato for 11 years.

**10.3 Communications Received**

Chief Winnacker stated that the District continues to receive a steady stream of letters and cards thanking our firefighters for their efforts in both the North Bay/Napa and Santa Barbara.

**10.4 Future Agenda Items**

Director Famulener stated that the Board Officers issue needs to be settled and ASD Sasser will look into it. President Barber directed staff to put the item on the agenda for a future meeting.

**11. Adjournment**

At 7:31 P.M., President Barber called for adjournment of the regular meeting.



Grace Santos  
Secretary to the Board