

Moraga-Orinda Fire Protection District



BOARD OF DIRECTORS REGULAR BOARD MEETING MINUTES

December 20, 2017
(Approved January 17, 2018)

1. Opening Ceremonies

The Board of Directors convened in Open Session at 5:00 P.M. on December 20, 2017 at the Hacienda Mosaic Room, 2100 Donald Drive, Moraga, California. President Famulener called the meeting to order. Present were the following Directors and Staff:

Director Anderson	President Famulener	Gloriann Sasser, Admin Services Director
Director Jex	Director Jorgens	Dave Winnacker
Director Barber	Jerry Lee, Interim Fire Chief	Jonathan Holtzman
Jeff Sloan, Labor Negotiator		

2. Public Comment

There was no comment from the public.

3. Closed Session

At 5:00 P.M., the Board adjourned into Closed Session.

4. Reconvene the Meeting

President Famulener reconvened the regular business meeting of the Moraga-Orinda Fire District Board of Directors at 6:00 P.M. Present were the following Directors and Staff:

Director Anderson	President Famulener	Gloriann Sasser, Admin Services Director
Director Jex	Director Jorgens	Dave Winnacker
Director Barber	Jerry Lee, Interim Fire Chief	Jonathan Holtzman
Jeff Sloan, Labor Negotiator	Grace Santos, District Clerk	

5. Report of Closed Session Action

There was no reportable action taken in Closed Session on item 3.1 Conference with legal Counsel (Potential Litigation), 3.2 Conference with Labor Negotiator (Local 1230), 3.3 Conference with Labor Negotiator (Local 2700), and 3.4 Conference with Labor Negotiator (MOFCOA).

6. Public Comment

There was no comment from the public.

7. Consent Agenda

Director Anderson requested to pull item 7.2 Monthly Incident Report to discuss separately.

Motion by Director Barber and seconded by Director Anderson to approve and file items 7.1 Meeting Minutes, 7.3 Monthly Check/Voucher Register, 7.4 Monthly Financial Report, 7.5 Surplus Property, 7.6 Terminate Employment Agreement Between Moraga-Orinda Fire District and Jerry Lee as Interim Fire Chief. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex, and Jorgens).

Director Anderson stated that there is an error in the Grand Total column of the Response Totals by Incident Type. The August 17 Grand Total column should be 344, and the overall Total should be 3,687. Chief Lee said that he would look into it and make the necessary adjustment.

Motion by Director Jorgens and seconded by Director Jex to approve and file item 7.2 Monthly Incident Report with the corrections. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex, and Jorgens).

8. Regular Calendar

8.1 Retention of District Counsel

The District Counsel Ad Hoc Committee would like to appoint Jonathan Holtzman, currently of Renne Sloan Holtzman Sakai LLP, as District General Counsel effective December 20, 2017. Beginning

March 1, 2018, Mr. Holtzman will no longer be affiliated with Renne Sloan Holtzman Sakai LLP and will be affiliated with Renne Public Law Group. This will require the District to approve and terminate Letters of Engagement.

Motion by Director Jorgens and seconded by Director Anderson to approve Letter of Engagement with Renne Sloan Holtzman Sakai LLP and the appointment of Jonathan Holtzman as General Counsel effective December 20, 2017, appoint Jonathan Holtzman, currently of Renne Sloan Holtzman Sakai LLP, as District General Counsel effective December 20, 2017, authorize the Board President to execute on behalf of the District a Letter of Engagement with Renne Public Law Group, a new law firm Mr. Holtzman will be affiliated with starting March 1, 2018, to provide the District with District Counsel services under the same terms and conditions set forth in the Letter of Engagement the District approved with Renne Sloan Holtzman Sakai for those services, and authorize the Board President to terminate the agreement the Board approved with Renne Sloan Holtzman Sakai for District Counsel Services, but only after the Board President first executes a Letter of Engagement for those services with Renne Public Law Group. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex, and Jorgens).

8.2 Adoption of Resolution No. 17-17 Designation of District's Agent

The District applied for reimbursement from the State of California Office of Emergency Services (Cal OES) for costs incurred due to the closure of the Canyon Bridge in Moraga. The District has submitted a claim to Cal OES in the amount of \$13,850 for cost reimbursement. The District is required to submit a resolution designating the District's agent authorized to execute documents for state financial assistance under the California Disaster Recovery Act. Staff recommends the Board authorize the fire chief to execute documents for state financial assistance.

Motion by Director Jex and seconded by Director Barber to adopt Resolution No. 17-17 Designation of District's Agent. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex, and Jorgens).

8.3 Adoption of Resolution No. 17-18

Resolution 10-13 was adopted by the District in October 2010. Under the resolution, eligible employees who choose to waive MOFD medical insurance benefits may receive a 457 B Deferred Compensation incentive payment in lieu of the medical benefit. The District has determined that it cannot lawfully continue to contribute medical-in-lieu incentive payments into 457 B Deferred Compensation accounts and must discontinue such payments in light of legal requirements.

In the interest of protecting MOFD employees and the cafeteria plan, the District remains committed to good faith participation in any requested fact-finding process, and to the goal of attaining an appropriate, lawful agreement with all affected employee organizations. The District wishes to preserve the status quo within legal bounds for the employees, pending full satisfaction of its bargaining obligations with IAFF Local 1230 including completion of any requested statutory fact-finding process.

Under Resolution 17-18, the District will for all employees participating in the program on a monthly basis set aside and preserve, in a separate account, monetary amounts equal to the amount of the medical-in-lieu payment currently being paid into a 457 B Deferred Compensation account. Resolution 17-18 shall supersede Resolution 10-13 effective January 1, 2018.

Mark McCullah, Local 1230 Representative and MOFD Fire Captain Paramedic stated that the legality of the issue is still being disputed by their legal counsel. He commented that the MOFD Board discontinued depositing into the employees' deferred compensation accounts yet at the same time plan to approve a new Fire Chief contract that includes the exact same benefit. It may be called something different, but is legal. He stated that discontinuing the employee deferred compensation account deposits before the issue is resolved is an act of bad faith in negotiations.

Captain McCullah asked if this would be considered a qualifying event for those employees who would like to sign up for the District's medical benefits. President Famulener stated that during the Open Enrollment period in October, employees had the option to sign up for medical insurance. ASD Sasser stated that Open Enrollment was in September to October, and all employees had the option at that time to enroll, which would become effective on January 1, 2018.

Director Anderson stated that for six months, Local 1230 has known that on January 1, 2018, the benefit would disappear.

Captain McCullah asked what will be done with the money that is being deposited into a separate account.

Vince Wells, President Local 1230, stated that they are in the Meet and Confer process and continue to discuss whether or not they will lose the medical in lieu benefit in January. It was never confirmed during discussions with the Fire District, and they have not been able to advise their members because they were never given a firm decision that conversations were over. They expect that their rights are protected and respected by the Fire District until they come to an amicable solution that both parties agree to, or reach impasse. They informed the District's labor negotiator that they intend to go to fact-finding, so it is their position that the District continues to provide the medical-in-lieu until the process is complete.

Motion by Director Jorgens and seconded by Director Jex to adopt Resolution No. 17-18 Modifying a Stipend In-Lieu of Medical Benefits Program for Employees of the Moraga-Orinda Fire District Who Qualify for Medical Benefits. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex, and Jorgens).

8.4 Approval of Amendment No. 1 to the Consulting Services Agreement Between the Moraga-Orinda Fire Protection District and Consolidated CM, Inc. in the Amount Not to Exceed \$62,700

The Moraga-Orinda Fire District executed a contract agreement with Consolidated CM, Inc. for construction management services for the station 43 construction project on September 27, 2017. The contract with the fire station builder was recently terminated, and the construction project will be going back out to competitive bid. The District now needs to expand the scope of work with the construction manager to include preconstruction administration of the project for the next four to five months and to perform a constructability review of the plans.

The constructability review will be performed before the bid process so that any findings will be shared with the architect, and necessary revisions will be included in the bid document. The total cost of the work proposed in Amendment No. 1 is \$62,700.

Construction management is considered a professional service and is exempt from the bidding requirement in MOFD Ordinance No. 16-01 for purchase of goods and services.

Motion by Director Jex and seconded by Director Jorgens to approve Contract Amendment with Consolidated CM, Inc. in the Amount Not to Exceed \$62,700. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex, and Jorgens).

8.5 Election of Board Officers, Finance Committee Members and District Liaisons

Each year, the Board of Directors elects new officers, Finance Committee Members and District Liaisons.

The Board presently has one Standing Committee – the Finance Committee, and Board Members act as District Liaisons to five outside agencies: 1. Contra Costa Special Districts Association (CCSDA); 2. Contra Costa County Fire Boards and Commissioners Association; 3. Local Agency Formation Committee (LAFCO); 4. Orinda City Council; and 5. Moraga Town Council.

President Famulener nominated Director Barber as President, Director Jex as Vice President, Director Anderson as Secretary and Director Jorgens as Treasurer. Motion by Director Anderson and seconded by Director Barber to elected the officers nominated by President Famulener. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex, and Jorgens).

Director Barber asked if it would be advisable to make the Finance Committee a committee of the whole, with all five members functioning as a committee and not as the Board to receive the budget presentation from Management. In a three-stage process to 1) receive the information, 2) discuss the information in a subsequent meeting, and 3) adopt it at a meeting of the full Board.

Director Jorgens liked the idea of all Board members to be involved in the budget process.

District Counsel Hotlzman stated that the Finance Committee cannot include a quorum of the whole board.

President Famulener stated that if the Board approves having two regular meetings a month, the Finance Committee report could be on the agenda every two weeks. The Finance Committee could keep the entire Board apprised of what is going on.

Director Jorgens stated that it would be ideal if there were a couple of meetings to discuss the budget in detail.

Director Barber asked counsel if, rather than having a meeting at which any action is to be taken, have a public workshop at which the budget would be discussed and debated, but not voted on, to which the public would be invited to attend. District Counsel Holtzman stated this can be done as long as it is properly noticed.

President Famuneler liked the idea and stated that a two-person finance committee would give the Board a head start by working with the staff to put a budget together. They could then put together a workshop where everyone could have their input.

Director Barber agrees that the Finance Committee should be a standing committee but would like the full Board included in the process so that all members have the opportunity to participate. In addition to having a standing committee, we would quickly convene the entire Board for a workshop and subsequently for presentation to the full Board as an action item.

Director Jex stated that he already serves on the Audit Ad Hoc Committee and suggests having Director Jorgens serve on the Finance Committee.

On a motion by Director Barber and seconded by Director Jex, the Board elected the following Committee members:

- Finance Committee – Directors Anderson & Jorgens
- Contra Costa Special Districts Association (CCSDA) Liaison – Director Anderson
- Contra Costa County Fire Commissioners Association Liaison – Director Famulener
- Local Agency Formation Committee (LAFCO) Liaison – Director Anderson
- Orinda City Council Liaison – Director Jorgens
- Moraga Town Council Liaison – Director Famulener

Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex, and Jorgens).

8.6 2018 Regular Board Meeting Schedule

Currently, the Board of Directors conduct Regular Board meetings on the third Wednesday of each month. Various other special meetings are scheduled throughout the year to address time sensitive District issues.

It was brought to staff's attention that the Board would like to consider changing the Regular Board meeting schedule to twice a month, on the first and third Wednesday of each month, with various other special meetings scheduled throughout the year. If this change is approved, the Regular Board Meeting Schedule for 2018 would be the first and third Wednesday of each month.

Instead of having two full board meetings each month, Director Jorgens suggested having a full agenda on the third Wednesday and have time sensitives, and other items similar to special meetings, discussed on the first Wednesday.

District Counsel Holtzman suggested taking it in two parts. The Board should decide whether they want to have two regular meetings a month, and then decide how they plan to orient those meetings. He suggested focusing most of the regular business on the third Wednesday thereby leaving the possibility of cancelling the meeting on the first Wednesday if there was no urgent business.

Motion by President Famulener and seconded by Director Jorgens to approve a Regular Board Meeting Schedule for the first and third Wednesday of each month for Calendar Year 2018. Said

motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex, and Jorgens).

President Famulener took items out of order and moved to item Announcements and Committee Reports. The Committee members reported that they had nothing to report for Items 9.1 through 9.8.

President Famulener thanked the Fire Chief Recruitment, Labor Negotiator, and District Counsel Ad Hoc Committee members for their service and announced that the committees would be disbanded.

Motion by President Famulener and seconded by Director Anderson to disband the Fire Chief Recruitment, Labor Negotiator, and District Counsel Ad Hoc Committees. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex, and Jorgens).

8.7 Approval of Employment Agreement Between Moraga-Orinda Fire District and David Winnacker for the Position of Fire Chief

A board committee has negotiated an employment agreement with David Winnacker for the position of Fire Chief. The terms are consistent with the negotiating instructions from the Board. The committee recommended approval.

Motion by Director Jex and seconded by Director Jorgens to approve the employment agreement between Moraga-Orinda Fire District and David Winnacker for the position of Fire Chief. Said motion carried a unanimous 5-0 roll-call vote (Ayes: Anderson, Barber, Famulener, Jex, and Jorgens).

9. Committee Reports

9.1 Finance Committee (Directors Anderson and Barber)

There was nothing to report.

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

There was nothing to report.

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

There was nothing to report.

9.4 Audit Ad Hoc Committee (Director Jex)

There was nothing to report.

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

There was nothing to report.

9.6 Fire Chief Recruitment Ad Hoc Committee (Directors Barber and Jorgens)

The committee was disbanded.

9.7 Labor Negotiator Ad Hoc Committee (Directors Anderson and Barber)

The committee was disbanded.

9.8 District Counsel Ad Hoc Committee (Directors Anderson and Barber)

The committee was disbanded.

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.

11. Adjournment

At 7:00 P.M., President Famulener called for adjournment of the regular meeting.



Grace Santos
Secretary to the Board