

Moraga-Orinda Fire Protection District



BOARD OF DIRECTORS REGULAR BOARD MEETING MINUTES

November 20, 2019

(Approved December 18, 2019)

1. The Board of Directors convened in Closed Session at 6:00 p.m. on November 20, 2019 at the Orinda Community Center Room 6, 26 Orinda Way, Orinda, California. President Danziger called the meeting to order and requested an attendance roll call. Present were the following Directors and Staff:

Director Baitx	Director Jorgens	Mariam Morley, District Counsel
Director Donner	President Danziger	Patricia Edwards, Interim District Clerk
Director Jex	Dave Winnacker, Fire Chief	

2. PUBLIC COMMENT

President Danziger opened the public comment. There were no requests to address the Board. President Danziger closed the Public Comment.

3. CLOSED SESSION

3.1 Conference with Legal Counsel – Potential Litigation

Potential litigation pursuant to subdivision (d)(2) of Government Code Section 54956.9

3.2 Conference with Legal Counsel – Existing Litigation

(Paragraph (1) of subdivision (d) of Section 54956.9)

Pacific-Mountain Contractors of California, Inc. v. Moraga-Orinda Fire District, Contra Costa County Superior Court C18-02124

3.3 Conference with Labor Negotiator

(Government Code Section 54957.6)

Agency Designated Representative: Jonathan Holtzman

Employee Organization: Local 2700 United Clerical, Technical & Specialized Employees

3.4 Public Employee Performance Evaluation

(Government Code Section 54957)

Public Employee Appointment Title: Fire Chief

4. RECONVENE THE MEETING

4.1 Call the Meeting to Order

4.2 Pledge of Allegiance

President Danziger reconvened the regular business meeting of the Moraga-Orinda Fire District Board of Directors at 7:08 p.m. Present were the following Directors and Staff:

Director Baitx	Director Jorgens	Admin. Services Director Gloriann Sasser
Director Donner	President Danziger	Mariam Morley, District Counsel
Director Jex	Dave Winnacker, Fire Chief	Patricia Edwards, Interim District Clerk

5. REPORT OF CLOSED SESSION ACTION

President Danziger reported the following. For Item 3.1, the Board approved the settlement with the Board's former Secretary/Clerk Grace Santos of Santos' employment related claims against the District. In exchange for the District's payment of \$60,000 which includes back pay, damages, and attorney fees, Ms. Santos has released the District from all claims. This is a no-fault settlement in which the parties agree that each party expressly denies any wrongdoing and the agreement does not constitute the admission of liability or wrongdoing by either party. The District's Interim Clerk has brought a copy of the written Settlement Agreement to this meeting in case any member of the public attending the meeting may wish to review the document. For item 3.2, the legal action brought by Pacific-Mountain Contractors of California, Inc. against the Moraga-Orinda Fire District and the related cross complaint have been fully resolved by the parties agreeing to dismiss all the claims with prejudice with no payment of any amount by either party.

President Danziger reported that there was no reportable action was taken by the Board on item 3.3 Labor Negotiator (Government Code Section 54957.6) and on item 3.4 Public Employee Performance Evaluation (Government Code Section 54957). There were no comments from the public on the Closed Session items.

6. PUBLIC COMMENT

President Danziger opened the public comment. There were no requests to address the Board. President Danziger closed the Public Comment.

7. CONSENT AGENDA

7.1 Meeting Minutes – May 15, 2019 (regular), October 16, 2019 (regular)

Staff Recommendation: Approve and File

7.2 Monthly Incident Report for October 2019

Staff Recommendation: Approve and File

7.3 Monthly Check/Voucher Register – October 2019

Staff Recommendation: Approve and File

7.4 Monthly Financial Report – September 2019

Staff Recommendation: Approve and File

7.5 Quarterly Treasurer's Investment Report

Staff Recommendation: Approve and File

7.6 Quarterly Ambulance Billing Report

Staff Recommendation: Approve and File

7.7 Approve Changes to the Audit Ad Hoc Committee and Dissolve the Long Range Financial Forecast Ad Hoc Committee into the Finance Standing Committee

Staff Recommendation: Add President Danziger to the Audit Ad Hoc Committee; Approve the purpose of the Audit Ad Hoc Committee to provide guidance to the new auditor regarding board expectations to remain in force until June 2020; Dissolve the Long Range Financial Forecast Ad Hoc Committee into the Finance Standing Committee.

7.8 Approval of Resolution NO. 19-11 Approving the Sixth Amended Joint Powers Agreement of the Fire Agencies Insurance Risk Authority and the Updated Liability Risk Coverage Agreement

Staff Recommendation: Approve Resolution NO. 19-11 Approving the Sixth Amended Joint Powers Agreement of the Fire Agencies Insurance Risk Authority and the Updated Liability Risk Coverage Agreement

There was no discussion by the Board. President Danziger opened the public comment. There were no requests to address the Board. President Danziger closed the Public Comment.

Motion by Director Jorgens and seconded by Director Jex to approve Consent Agenda items 7.1 through 7.8. Said motion carried a 5-0 voice vote (Ayes: Baitx, Jex, Jorgens, Donner, and Danziger; Noes: None; Absent: None).

8. REGULAR AGENDA

8.1 Annual Audit and Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2019

Administrative Services Director Sasser provided the report. The District annually engages a certified public accountant to audit the District's financial statements. The District's Administrative Services Division prepared the financial statements for the fiscal year ending June 30, 2019. The financial statements have been audited by Eide, Bailly, LLP. In addition to the financial statement audit, Eide, Bailly, LLP was engaged to prepare a required report on the District's Gann appropriations spending limit calculation and a letter to the Board required by professional accounting standards discussing their audit engagement and the procedures they performed. This report includes no audit findings. In addition to the audited financial statements, the District prepared a Comprehensive Annual Financial Report (CAFR) that is designed to meet the requirements of the Government Finance Officers Association (GFOA). The GFOA established the Certificate of Achievement for Excellence in Financial Reporting Program (CAFR Program) in 1945 to encourage and assist state and local governments to go beyond the minimum requirements of generally accepted accounting principles to prepare comprehensive annual financial reports that evidence the spirit of transparency and full disclosure. The GFOA then recognizes individual

governments that succeed in achieving this goal. This is the fourth year the District has participated in the CAFR Program.

Mr. Ahamad Gharaibeh, partner with Eide, Baily, LLP, provided additional information. He stated that the scope of the audit is to insure that the financial statements are fairly stated, confirm that the account balances reported on the financial statements are fairly stated, and review internal controls related to financial reporting. He stated that there were no adjustments and no exceptions or findings to report. Director Jorgens asked if all was good with the District. Mr. Gharaibeh responded affirmatively. President Danziger questioned the methodology. Mr. Gharaibeh explained the process. Director Jex added that CCCERA audits the MOFD pension data.

ASD Sasser provided information regarding the General Fund Update of \$3.1M surplus which did not include the Pension Rate Stabilization Trust contribution of \$1.1M so the actual surplus is approximately \$2M. Revenue exceeded budget projections by 3.6%. The major revenue variances were property taxes and ambulance revenue. Expenditures were below budget due to salaries, overtime and benefits. The General Fund Balance Policy has a minimum of 17% with a goal of 50% of budgeted revenue. In 2017, it was 23%. In 2018, it was 28%. In 2019, it is 31%. The Pension Obligation Bonds (\$11.5M) will be paid off on July 1, 2022. Other District debt is for the construction of Station 43 and new apparatus. The OPEB and retiree health liability is \$14.8M liability. The net pension liability increased by \$11M. The Capital Project Fund balance is \$5M. The North Orinda Shaded Fuel Break project (NOSFB) balance as of June 30, 2019 is \$17K generated from the 12% administrative rate.

Director Jex noted that he and President Danziger met with the auditor and Board comments were incorporated into the CAFR with emphasis on specific key areas including the NOSFB. Funds were expended for NOSFB before the money was received by the District. Director Jorgens asked if the internal processes for the NOSFB were segregated and adequate for the program. Mr. Gharaibeh stated that the NOSFB funds were definitely segregated from the MOFD budget. Director Jex asked about the adequacy of the General Reserve and a 50% policy goal. Mr. Gharaibeh stated that 50% is a prudent reserve and the policy depends on MOFD's needs. Director Jorgens noted that the Teeter Plan was used in 2019 and that timing is important because at some point during the year, the District's reserves were zero. Director Jex noted that without the reserves, MOFD could not have paid for the NOSFB expenses prior to receiving the state's reimbursement. President Danziger questioned the property tax revenue. ASD Sasser stated that the property tax revenue (\$35M) is in the Debt Service Fund and automatically paid to the bank for the Pension Obligation Bonds. President Danziger asked if the District will have extra money when the Pension Obligation Bonds mature in 2022. Chief Winnacker responded that the Board has the opportunity to reallocate the funds and if they are not allocated, the funds become unrestricted General Fund revenue. Director Jex stated that the funds could be set aside for Station 41 and equipment so that the District will not have to pay interest on a loan.

President Danziger opened the public comment. There were no requests to address the Board. There were no comments from the Board. President Danziger closed the Public Comment.

Motion by Director Jex and seconded by Director Jorgens to approve the Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2019, the Independent Accountant's Report on Applying Agreed-Upon Procedures for Appropriations Limit Calculation for the Year Ended June 30, 2019 and the Communication With Those Charged With Governance June 30, 2019. Said motion carried a 5-0 voice vote (Ayes: Baitx, Jex, Jorgens, Donner, and Danziger; Noes: None; Absent: None).

The Board took a short recess to review the new Type VI apparatus. The meeting reconvened at 7:52 p.m. with all Board members present.

8.2 Discussion of Reclassification of District Aide Positions to Fuels Mitigation Specialists and Transition From Part Time to Full Time Positions

Chief Winnacker provided the report. Historically, the Moraga Fire District and MOFD maintained a reserve program that supported suppression and administrative functions throughout the District. In 2008, this program ended and part time District Aides were hired. Over time, the Aides evolved from providing general support to carrying out fuels mitigation and fire prevention activities which include Red Tag vegetation management inspections. In 2018 and early 2019, the inconsistency of having part time

employees carrying out inspections created challenges as MOFD significantly expanded fuels mitigation programs. Part time employees regularly leave for other opportunities resulting in 80% turnover in 2018 and 64% turnover in 2019 to date. Hiring and training new employees on a regular basis requires a significant investment of limited staff time. In light of the nature of work being carried out by these employees and in an attempt to make the position more desirable, MOFD intends to reclassify the position of District Aide to Fuels Mitigation Specialist. Most employees in this category are seeking follow on employment in the fire service. Feedback received from former and current employees suggests they struggled to explain the position when interviewing with other agencies. Making the name change will more accurately reflect the nature of the work and will support recruiting efforts. Staff recommends that the Aides be transitioned from part time to full time with benefits. The public's request for chipping, fire assessments, inspections and the adoption of a new Fire Code justifies the need for three positions. This would decrease the time spent by other staff time to answer questions from the public.

Director Jex noted that the cost of three full time positions results in a \$66,082 budget increase. Director Jorgens clarified that the budget increase includes benefits for these positions. Chief Winnacker stated that the cost includes medical benefits and CCCERA. President Danziger questioned the chain of command. Chief Winnacker stated that the Aides report to the Fuels Mitigation Manager who reports to the Fire Marshal. Director Jorgens noted that there has been a very positive response to the chipper program and that it is important to keep the momentum going. Director Donner stated that the community is hungry for more and he supports a name change for the Aides. Chief Winnacker noted that there is currently no opportunity for the Aides to advance.

President Danziger opened the public comment. There were no requests to address the Board. President Danziger closed the Public Comment. President Danziger requested that Chief Winnacker present this item at the December 2019 Board meeting for Board action.

8.3 North Orinda Shaded Fuel Break Biology and Cultural Resources Summary Reports

Chief Winnacker provided the report. In June 2019, MOFD entered into a contract with CalFire to carry out a grant funded \$4.0M fuels mitigation project along 14 miles from Lafayette to Tilden Park. In June, the board authorized a contract with Sequoia Ecological Consulting, Inc. to conduct biological monitoring of the project and District Staff signed a contract with Cultural Resources Practitioners, LLC to conduct cultural monitoring of the project. Both the biological and cultural monitoring contractors provided reports of their work. Chief Winnacker noted that a final report will be submitted to the state for program closeout.

President Danziger opened the public comment. There were no requests to address the Board. President Danziger closed the Public Comment.

8.4 Approval of Amendment No. 2 to the Consulting Services Agreement Between the Moraga-Orinda Fire Protection District and Consolidated CM, Inc. in the Amount of \$160,000 and Approval of Capital Projects Fund Expenditure Budget Adjustment Increase in the Amount of \$65,087

Chief Winnacker provided the report. In September 2017, the Board authorized a contract with Consolidated CM, Inc. (Consolidated) for construction management services for the station 43 construction project in the amount not to exceed of \$229,638. Subsequently, it became necessary to expand the scope of work with Consolidated to include a constructability review due to issues with the construction project. In December 2017, the Board authorized Amendment No. 1 with Consolidated in the amount not to exceed \$62,700 to perform the constructability review. The project time in the original contract covered construction work through December 2018 and anticipated the project would be carried out by FSG. The District subsequently rebid the project and awarded the contract to Sausal Construction who began work in May 2018. As a result of the rebid process, Station 43 opened on May 14, 2019. The additional project time resulted in additional construction management costs and inspections as well as other project issues that resulted in increased construction management costs. Staff requests the Board authorize Amendment No. 2 to the consulting services agreement with Consolidated in the amount of \$160,000. The remaining Station 43 project budget is \$94,913 which is insufficient to pay for the increased construction management costs. A Capital Projects Fund expenditure budget adjustment increase is necessary in the amount of \$65,087.

Director Jorgens noted that the original bid was approximately \$200,000. The project took six months longer than expected and this request is a significant amount of additional money. He asked if the scope

of the project had changed. Chief Winnacker stated that Consolidated identified and justified the additional expenses and that they worked past May as the duration of the project exceeded the estimate. Director Jorgens noted that it was a fixed price contract for a fixed time line. Chief Winnacker responded that Consolidated's request identified \$39,866 expended in taking over the contract from FSG. President Danziger asked if the funds are available in the Capital Fund Balance. Chief Winnacker responded affirmatively.

President Danziger opened the public comment. There were no requests to address the Board. President Danziger closed the Public Comment.

Motion by President Danziger and seconded by Director Baitx to approve Amendment No. 2 to the Consulting Services Agreement Between the Moraga-Orinda Fire Protection District and Consolidated CM, Inc. in the Amount of \$160,000 and Approval of Capital Projects Fund Expenditure Budget Adjustment Increase in the Amount of \$65,087. Said motion carried a 5-0 voice vote (Ayes: Baitx, Jex, Jorgens, Donner, and Danziger; Noes: None; Absent: None). Director Jorgens noted that the Board approved the Amendment and suggested that the Chief attempt to negotiate with Consolidated for a lower amount.

8.5 Authorize the Fire Chief to Amend the Cooperative Funding Agreement Among the East Bay Regional Park District and the Moraga Orinda Fire District for Fuels Management in an Amount Not to Exceed \$313,000

Chief Winnacker provided the report. The District contracted with the State of California to create a 19-mile long shaded fuel break in North Orinda and Lafayette in partnership with CALFIRE, Contra Costa County Fire Protection District, East Bay Municipal Utility District and the East Bay Regional Parks District (EBRPD). In July 2019, the District recognized the need to conduct fuels management work on land owned by EBRPD. To meet this requirement, the District entered into a cooperative funding agreement with EBRPD in the amount of \$84,000. In accordance with District policy, contracts in excess of \$100,000 require board approval. Chief Winnacker noted that work on parklands is very sensitive. The EBRPD has the staff and experience with contractors to conduct this work. The EBRPD does not charge an administration fee.

President Danziger opened the public comment. There were no requests to address the Board. President Danziger closed the Public Comment.

Motion by Director Jorgens and seconded by Director Donner to Authorize the Fire Chief to Amend the Cooperative Funding Agreement Among the East Bay Regional Park District and the Moraga Orinda Fire District for Fuels Management in an Amount Not to Exceed \$313,000. Said motion carried a 5-0 voice vote (Ayes: Baitx, Jex, Jorgens, Donner, and Danziger; Noes: None; Absent: None).

Chief Winnacker added that the District submitted a request for \$1.3M on November 11, 2019 to the state and that he expects one more payment request to be filed.

9. COMMITTEE REPORTS

9.1 Audit Ad Hoc Committee (Director Jex) (and Director Danziger – pending approval under Item 8.3)

Director Jex noted that the MOFD audit is done.

9.2 Finance Committee (Directors Danziger and Jorgens)

No report.

9.3 Facilities Station 41 Ad Hoc Committee (Directors Baitx and Donner)

Director Baitx reported that they met with the Chief. Director Donner added that there are very few sites available for the station. He encouraged the Chief to speak with the School District.

9.4 Long Range Financial Forecast Ad Hoc Committee (Directors Donner and Jorgens)

No report.

9.5 Fire Chief Performance Evaluation Ad Hoc Committee (Directors Baitx and Donner)

The Board met and discussed this item in the Closed Session portion of the meeting.

10. ANNOUNCEMENTS

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

(Government Code Section 53232.3(d))

No report.

10.2 Questions and informational comments from Board members and Staff

President Danziger reported that he graduated from the Community Emergency Response Team (CERT) training. He commended the volunteers and instructors who coordinate the training.

10.3 Fire Chief Updates

10.3.1 Human Resources Update

Chief Winnacker reported that 33 oral interviews were conducted for the firefighter/paramedics positions. Eighteen will move on to the paramedic skills assessment in early December. He stated that 81 applications were received for the MOFD Clerk positions and that 13 interviews are scheduled for December 12, 2019. The Fire Marshal position opened on November 8, 2019 and will close on November 29, 2019. To date, eleven applications have been received.

10.3.2 Delivery of New Apparatus

The Type VI vehicle and one air light unit were received by the District. One old ambulance will be retired. The District took delivery of the two utility vehicles (Dodge 2500). The District is moving toward standardization of the fleet. The BC vehicle is expected shortly.

10.3.3 Holiday Party

President Danziger asked about a party after the December Board meeting. Chief Winnacker recommended light refreshments and no alcohol. Director Jorgens asked if this item was budgeted. Chief Winnacker stated that the Board allocated \$1,000 last year. President Danziger suggested cookies and punch. The Board concurred.

10.3.4 North Orinda Shaded Fuel Break Update

Chief Winnacker stated that \$1.76M has been reimbursed to date with \$1.3M pending and one more reimbursement request to file. A financial summary will be provided to the Board at the project's closeout. The District will net a 12% administration fee on the \$4.25M. He recommends keeping the account open as other state projects may become available. He is submitting another 20-mile grant proposal for continuing the fuel break. The District used the Teeter Plan in the months of September, October, November, and early December. Director Jex recommended planning for the Teeter Plan next year for billing, recovery, and the impact on the District's cash flow.

The District conducted three prescribed burns: Painted Rock and two within the NOSFB project. Additional burns are planned in the San Pablo Dam area. They will be visible to the community.

10.4 Communications Received

Chief Winnacker reported that a letter was received from David and Ellen Long commending the two firefighter/paramedics who provided exceptional assistance.

10.5 Future Agenda Items

Director Jorgens noted that the revenue from the Fire Flow Tax previously was disbursed into the Capital Reserves. He requested this item be placed on the next agenda. Director Jorgens requested the next agenda include an item to discuss paying off the debt issued for Station 43. President Danziger requested a discussion of the Fire Flow Tax be included on the next agenda. He also requested that the discussion of the third ambulance response and staffing model be agendaized.

11 ADJOURNMENT

At 8:44 p.m., Director Jorgens motion to adjourn the meeting was seconded by Director Donner. Said motion carried a 5-0 voice vote (Ayes: Baitx, Jex, Jorgens, Donner, and Danziger; Noes: None; Absent: None).