



Moraga-Orinda Fire District  
**BOARD OF DIRECTORS**  
**SPECIAL BOARD MEETING MINUTES - BOARD WORKSHOP**  
February 7, 2023  
(APPROVED MARCH 15, 2023)

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**1. OPENING CEREMONIES**

The Board of Directors convened in Open Session at 3:02 p.m. on February 7, 2023, at the Sarge Littlehale Room, 22 Orinda Way, Orinda, California 94563. The meeting was available for in-person attendance only. President Jex called the meeting to order, requested an attendance roll call, and led the pledge of allegiance.

President Jex	Dave Winnacker, Fire Chief	Gorden Graham, Fuels Mitigation Manager
Director Danziger	Steve Gehling, Battalion Chief	Christine Russell, Human Resources Manager
Director Hasler	Lucas Lambert, Battalion Chief	Mary Smith, Finance Manager
Director Jorgens	Jerry Lee, Battalion Chief	Jonathan Holtzman, District Counsel
Director Roemer	Jeff Isaacs, Fire Marshal	Mariam Morley, District Counsel
	Gloriann Sasser, Admin. Services Director	Marcia Holbrook, District Clerk

**2. PUBLIC COMMENT - ITEMS NOT ON THE AGENDA (audio 00:01:27)**

President Jex opened Public Comment. There were no requests to address the Board.

**3. SPECIAL AGENDA**

**3.1 Board Orientation (audio 00:01:40)**

Fire Chief Winnacker reviewed the purpose of the orientation. Staff provided an orientation to the Board of Directors to include a District Overview and Legal Review. Fire Chief Winnacker reviewed the District's Organizational Structure and Staff introductions. The following Staff presented a brief overview of their responsibilities, which are attached to these minutes.

- Steven Gehling—C-Shift Battalion Chief
- Lucas Lambert—A-Shift Battalion Chief
- Jerry Lee—B-Shift Battalion Chief
- Dennis Rein—Emergency Preparedness Coordinator (virtual attendance). *At 3:31 p.m. Mr. Rein lost connection. Fire Chief Winnacker completed the presentation.*
- Jeff Isaacs—Fire Marshal
- Gorden Graham—Fuels Mitigation Manager
- Gloriann Sasser—Administrative Services Director
- Mary Smith—Finance Manager
- Christine Russell—Human Resources Manager
- Marcia Holbrook—District Secretary/District Clerk

Director Danziger inquired about the peer support program. Battalion Chief Gehling described the program and Captain Jon Bensley's role on a County Committee. Director Danziger asked if other members within the District are trained in the program. Battalion Chief Gehling stated the goal is to have three members on each shift. Eight are currently trained. President Jex inquired about apparatus equipment and if the District shares equipment with other fire departments. Battalion Chief Lambert confirmed via mutual and automatic aid service.

Director Roemer inquired about the EBRCSA (East Bay Regional Communications Systems Authority) transceivers or radios. Battalion Chief Lambert explained that EBRCSA is an interagency communication system that allows agencies to communicate with each other. Staff continually reviews the system and updates it as required. Fire Chief Winnacker added EBRCSA is a standalone JPA. Director Danziger asked if Alameda County works the same way as Contra Costa County. Battalion Chief Lambert confirmed.

Director Danziger inquired about supply chain issues with EMS supplies and equipment. Battalion Chief Lee answered no issues with EMS supplies but a delay for equipment. Director Jorgens asked if the portable communication systems had battery backups. Fire Chief Winnacker confirmed that the systems are specifically built for an extended power outage. Director Jorgens commented that the devices are reliant on the cellular network. Fire Chief Winnacker confirmed and reviewed the procedures for a failed cellular network.

Director Jorgens recommended the District offer welcome packages to new buyers in the area to inform them of the District's fuel mitigation requirements. Director Jorgens also asked if the District's data differentiated between the types of inspections. Fire Chief Winnacker confirmed the data is broken out by the roadside, in-person, property transfers, and complaints. President Jex asked about the types of compliance issues for property transfers. Fuel Mitigation Manager Graham answered the most common issue is the 2-foot non-combustible zone.

Director Danziger inquired about the annual physicals. Human Resource Manager Russell answered the District allows employees to go to Kaiser, Stanford Valley Care, or a personal physician. Director Danziger asked if employees performed their annual physicals off-duty. Human Resource Manager Russell stated employees could schedule them on or off duty.

Jonathan V. Holtzman, Partner with Renee Public Law Group, and Mariam Morley, Of Counsel with Renee Public Law Group, provided a Legal Review and presented information about Government Ethics and Open Government, attached to these minutes. Below are the topics reviewed, with questions, answers, and discussion ensued.

- Ethics Laws (AB 1234) - laws, including the Political Reform Act, which governs conflicts of interest, laws limiting public officials' receipt of gifts, and laws against bribery, misuse of public resources, and acceptance of honoraria set minimum standards to ensure that public officials act in the public entity's interest.
- Powers and Duties of Board Members
- Powers and Duties of the Fire Chief
- District Policy #11
- Powers and Duties of District Counsel
- Brown Act
- Public Records Act
- Duty to Maintain Confidentiality
- Quasi-Judicial Hearings
- Conflicts of Interest

Director Roemer inquired about the line of communications and if there are any legal restrictions regarding communications with the Staff. District Counsel Holtzman explained that the Board could not direct Staff. District Counsel Holtzman encouraged the Directors to contact legal counsel if there are legal questions about the agenda or potential conflicts of interest. Fire Chief Winnacker also encouraged the Board to reach out to the Fire Chief if there are questions about the Board packet before the meeting so Staff can be prepared with well-researched and thoughtful answers. Director Jorgens inquired if it was possible to receive Board Packets sooner. District Counsel Holtzman answered he would confer with Staff. Director Jorgens asked if the public has to see the information simultaneously as the Directors receive the information. District Counsel Morley confirmed. Director Jorgens asked about Ad Hoc Committee meetings and if a third Board Member can attend to observe but not participate. District Counsel Holtzman stated he would provide information about the limits and restrictions of a third Board Member attending an ad hoc committee meeting.

Director Jorgens talked about public comment and how the public is only allowed to address the Board, not individual Board members or Staff. District Counsel Holtzman confirmed. President Jex inquired about public comment time limitations. District Counsel Holtzman explained public comment is allowed on each agenda item. Fire Chief Winnacker referred to Resolution 11-03, Section 2.1 of the Rules of Procedure. Director Hasler suggested adding a timer on the screen. Fire Chief Winnacker concurred.

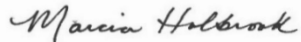
Director Jorgens inquired about the penalties for disclosing confidential information obtained during Closed Sessions. Director Counsel Holtzman answered the Board would censure the person. Director Roemer asked if that person would be removed from the Board. Director Counsel Holtzman answered recall is the only mechanism for removing a Director. District Counsel Morley stated the Brown Act bars individuals from disclosing information acquired during the closed session unless the Board voted to disclose that information.

Director Roemer inquired about the quasi-judicial hearings and asked if a Board Member is allowed to view the property independently. Director Counsel Morley reviewed Due Process and stated that discussing the alleged violations with the property owner, making a public statement about the property's condition, or conducting a site visit is not allowed.

Director Danziger inquired about the anti-harassment training. District Counsel stated the training is not required but highly recommended. Director Jorgens asked if the District indemnifies the Directors. District Counsel Holtzman confirmed. Director Roemer asked if the Board had Directors and Officers liability insurance. Administrative Services Director Sasser confirmed. Director Danziger inquired about personally attending public meetings and making public comments. District Counsel Holtzman recommended if a Board Member attends a public meeting, make a statement that you are not speaking for the Board when making a personal public comment.

**4. ADJOURNMENT**

**At 6:04 p.m., Director Danziger motioned and seconded by Director Hasler to adjourn the meeting. Said motion carried a voice 5-0 vote (Ayes: Danziger, Hasler, Jorgens, Roemer, and Jex; Noes: None; Absent: None; Abstain: None).**



District Secretary/District Clerk

*For an audio recording of this and other Board meetings, please visit the MOFD District Board Meeting at [www.mofd.org/agendas](http://www.mofd.org/agendas).*

**Moraga-Orinda Fire District**  
Board of Directors

Welcome to the Moraga-Orinda Fire District

**Special Board Meeting**  
**\*\*Board Workshop\*\***  
February 07, 2023  
3:00 P.M. Open Session  
(No Closed Session)

To join the Meeting: In Person Only      Location: Sarge Littlehale Room, 22 Orinda Way, Orinda, CA 94563

**Moraga-Orinda Fire District**  
Board of Directors

**ITEM 1**  
**OPENING CEREMONIES**

- Call the Meeting to Order
- Roll Call
- Pledge of Allegiance

To join the Meeting: In Person Only      Location: Sarge Littlehale Room, 22 Orinda Way, Orinda, CA 94563

**Moraga-Orinda Fire District**  
Board of Directors

**ITEM 2**  
**PUBLIC COMMENT IS OPEN**  
**Items Not on the Agenda**

At the beginning of each regular District Board meeting, any member of the public may address the District Board concerning any item not on the Board's agenda but within the subject matter jurisdiction of the Board. Speakers will be limited to three (3) minutes unless otherwise specified by the Presiding Officer. The public will be given an opportunity to speak on each agenda item as the item is called. The Board may discuss and/or take action regarding any or all of the items listed below. Once the public comment portion of any item on this agenda has been closed by the Board, no further comment from the public will be permitted unless authorized by the Board and if so authorized, said additional public comment shall be limited to the provision of information not previously provided to the Board or as otherwise limited by order of the Presiding Officer or the Board.

**IN-PERSON Comments**

- Complete the Public Comment Card located in the foyer
- Hand the Public Comment Card to the District Clerk
- When your name is called to speak, approach the public speaker podium and give your name (optional) and city of residence (optional) for the record.
- If you do not wish to speak, say "pass" when your name is called and your submitted comments will be part of the record.

**WRITTEN Comments**

- Comments may also be submitted by e-mail during the meeting up until the closure of the public comment period on the relevant agenda item. These will be read into the record by staff at their normal cadence and will be limited to a maximum of 3 minutes.
- Email at [info@mofd.org](mailto:info@mofd.org).

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**Moraga-Orinda Fire District**  
Board of Directors

**ITEM 2**  
**CLOSE PUBLIC COMMENT**

**Public Comment for**  
**Items Not on the Agenda**  
**is CLOSED**

To join the Meeting: In Person Only      Location: Sarge Littlehale Room, 22 Orinda Way, Orinda, CA 94563

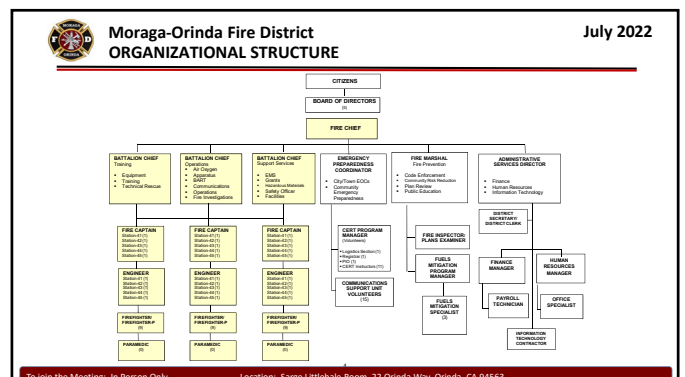
**Moraga-Orinda Fire District**  
Board of Directors

**SPECIAL AGENDA**

**3.1 Board Orientation**  
Staff will provide an orientation to the Board of Directors to include a District Overview and Legal Review.

Staff Recommendation: 1) No action required; for informational purposes only.

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 Moraga-Orinda Fire District

**Steven Gehling—Battalion Chief**

- C-Shift Battalion Chief
- Programs
  - Training
  - Peer Support
  - Uniforms
  - Telestaff
  - Prescribed Fire Projects




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 Moraga-Orinda Fire District


**Lucas Lambert - Battalion Chief**

A-Shift Battalion Chief

- Operations
- Apparatus
- Communications




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 Moraga-Orinda Fire District

**Jerry Lee - Battalion Chief**

- B-Shift Battalion Chief
- Emergency Medical Services (EMS) Division
- Support Services
- Grants




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 **Emergency Preparedness Programs**  
Dennis Rein/ Emergency Preparedness Coordinator


- Community Emergency Response Team (CERT)
- Communications Support Unit Volunteers
- Coordination with Lamorinda Agencies and Stakeholders
- Prescribed Fire
- Other

To join the Meeting: In Person Only Location: Sarge Littlehale Room, 22 Orinda Way, Orinda, CA 94563

 **Emergency Preparedness Programs**  
Dennis Rein/ Emergency Preparedness Coordinator


- Lamorinda Community Emergency Response Team (CERT)
  - CERT holds two basic training classes/year
    - Classes run from 7:00 PM to 9:30 PM for 9 weeks and include a full scale exercise.
  - Monthly update meetings via Zoom and in-person on a variety of topics. [www.lamorindacert.org](http://www.lamorindacert.org)
- MOFD is Lamorinda CERT's Sponsoring Agency
  - Much of CERT funding is through the Lamorinda CERT Foundation (501c3).
    - The foundation raises money via donations and Emergency Water Drum sales to the community
  - The District owns and maintains a portion of CERT Equipment

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 **Emergency Preparedness Programs**  
Dennis Rein/ Emergency Preparedness Coordinator

- Communications Support Unit Volunteers
  - Fully staffed at 25 volunteers (currently 23 members)
  - Meet first Saturday of every month
  - Have a diverse and unique skill set
    - HAM radio licenses
    - Provide logistical support for the District's Firefighters
    - Electrical engineering and design
      - Designed and maintain the Lamorinda GMRS radio repeater system


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 **Emergency Preparedness Programs**  
 Dennis Rein/ Emergency Preparedness Coordinator

- Communications Support Unit Volunteers (continued)
  - Structural Engineering
    - Survey private bridges and structures within MOFD
- Communications
  - Operate the Communications Unit within the MOFD Department Operations Center
- Special Projects
  - Monitor & Maintain MOFD's RAWs, EBAM, Community Radio Cache, etc.
  - sUAS Pilots (currently training 10 for Part 107 certification)




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 **Emergency Preparedness Programs**  
 Dennis Rein/ Emergency Preparedness Coordinator

- Coordination with other Agencies and Stakeholders
  - Lafayette, Orinda and Town of Moraga Police Departments
  - Lafayette Emergency Preparedness Commission
  - Parks & Rec and Agency Maintenance Staff for Rx fire projects
  - East Bay Municipal Utility District Watershed Division
  - Bay Area Air Quality Mgmt. District (Smoke Management Plans)
  - CAL Fire permitting for Rx fire projects within MOFD but outside municipal boundaries (SRA)
  - UC Berkeley forestry staff
  - Contra Costa County- OES, GIS/Mapping, etc.
  - Community and HOAs (Canyon, Bear Ridge. . . )
  - Others- Google Research Team, EPA, UC Berkeley research, etc.


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 **Emergency Preparedness Programs**  
 A partnership with MOFD Fire Prevention and Fire Operations


- Prescribed Fire
  - Pile Burning
- Broadcast/Understory Burning
  - Maintenance of the North Orinda Shaded Fuel Break




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 **Emergency Preparedness Programs**  
 Dennis Rein/ Emergency Preparedness Coordinator

- Other
  - Liaison Officer on CWCG IMT 14
    - Expenses plus admin fee reimbursed via California Fire Assistance Agreement via CAL OES
  - Fire Danger Sign Volunteers



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 **Moraga-Orinda Fire District**

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Jeff Isaacs/ Fire Marshal

- Purpose
  - Fire Prevention has historically been broken into three functional areas or disciplines (Education, Engineering, and Enforcement.)
- Staffing
  - Fire Marshal (1)
  - Fuels Mitigation Program Manager (1)
  - Fire Prevention Specialist (3)

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 **Moraga-Orinda Fire District**

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Jeff Isaacs/ Fire Marshal

- Education
  - Enhance the community education and outreach related to the Wildland Urban Interface Risk Assessments. Expand the District website and the availability of web-based wildland risk information.
  - Implement programs for Fire and Life Safety, including FirewiseUSA, FAC-A
  - Update all Risk Education information for the District website
  - Provide community fire prevention/education outreach activities during the annual Open House events
  - Educate property owners about grant-funded opportunities, defensible space, vegetation maintenance requirements, and potential wildfire risk threats and vulnerabilities within the District
- Engineering
  - Code adoption and Ordinances for Fire Safety
  - Monitor legislative changes to California Fire Code, Government Code and Wildland Urban Interface codes
  - Assist the City of Orinda and Town of Moraga staff with fire hazard planning
  - Identify and plan for future fuel reduction projects
  - Coordinate the District Chipping Program and track deliverables
  - Collect and analyze fuel reduction statistics and data
  - Collaborate with partner agencies regarding funding opportunities for fuel reduction projects
  - Maintain and update the District Community Wildfire Preparedness Plan

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### Moraga-Orinda Fire District

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**Jeff Isaacs/ Fire Marshal**

- Enforcement/ Inspections
  - Administer the Exterior Hazard Abatement Program to control vegetation that poses a fire hazard
  - Conduct quality assurance of the Exterior Hazard Inspection Program annually
  - Conduct state-mandated annual code enforcement inspections of multi-family residential, educational, and institutional occupancies, including Saint Mary's College
  - Investigate fires and track causes to ensure that trends are identified and addressed during fire code updates
  - Review plans and conduct inspections for fire protection systems and construction projects to assure compliance with all codes and regulations within the District's scope of authority
  - Conduct hearings and administer and track collection of fines.
- Grants/ Fuel Reduction Projects
  - Tunnel East Bay Hills (Grant)
  - Pinehurst (CAL FIRE Funded)
  - John Muir Land Trust Grazing Grant (Coastal Conservancy)

To join the Meeting: In Person Only Location: Sarge Littlehale Room, 22 Orinda Way, Orinda, CA 94563



### Moraga-Orinda Fire District

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**Gorden Graham / Fuels Mitigation Manager  
March 16 2020**

- Fuels Mitigation Program:
  - 3 Fuels Mitigation Specialist
  - Community Outreach
  - Exterior Hazard Inspections and Enforcement
  - Property Transfer Inspections
  - Complaints
  - Community Chipping
  - Pile Burning

Exterior Hazard Inspections totals:  
2020: 2997  
2021: 1986  
2022: 3556

Property Transfer Inspection totals:  
2020: 64  
2021: 716  
2022: 523

To join the Meeting: In Person Only Location: Sarge Littlehale Room, 22 Orinda Way, Orinda, CA 94563



### Moraga-Orinda Fire District

Administrative Services  
Finance, Human Resources and Information Technology

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**Giornani Sasser, Administrative Services Director**

Finance

- Annual Operating Budget
- Audit and Annual Comprehensive Financial Report
- Long Range Financial Forecast
- Quarterly Financial Updates
- Grant management
- Financial information for labor negotiations
- Purchasing compliance


Human Resources

- Labor negotiations
- MOU implementation and administration
- Legal issues

Information Technology

- Contract with Definitive Networks, Inc. (DNI)
- Hardware additions, deletions and replacements
- Software licenses
- Mobile devices

To join the Meeting: In Person Only Location: Sarge Littlehale Room, 22 Orinda Way, Orinda, CA 94563



### Moraga-Orinda Fire District


#### Finance

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**Mary Smith/Finance Manager**

- Accounting
  - General Accounting – MIP accounting system
  - Bank Reconciliations
  - Monthly financial statements
  - Monthly Actual to Budget reports for Program Managers
  - Cash Management
  - Audit support
- Accounts Payable/Accounts Receivable
- Strike Team tracking
- Supervise Payroll Technician and review bi-monthly payroll
- Other projects/analysis as needed

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### Moraga-Orinda Fire District

#### Human Resources

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**Christine Russell, Human Resources Manager**  
Human Resources Staff: Confidential Office Specialist, Mona Bereska, PT with HR (shared with Fire Prevention)


Human Resources Functional Areas:

- Employment recruitment, selection and onboarding
- Benefit administration for active and retired employees
- Labor laws and legal compliance
- Management of the workers' compensation program
- Labor and employee relations
- Day-to-day administration of the Human Resources office

Current Employment Statistics as of 2/7/23

- Safety Personnel (does not include BC's):
  - 57 budgeted personnel
  - 5 current Firefighter Paramedic vacancies
  - 2 personnel currently in the LP Fire Academy
- Non-Safety Personnel:
  - 12 budgeted personnel
  - 2 current vacancies
    - 1 Fire Inspector/Plans Examiner
    - 1 Fuels Mitigation Specialist (candidate currently going through background)

To join the Meeting: In Person Only Location: Sarge Littlehale Room, 22 Orinda Way, Orinda, CA 94563



### Moraga-Orinda Fire District

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**Renne Public Law Group (RPLG)**  
**Mariam Morley**  
**Of Counsel**

**LEGAL REVIEW**

To join the Meeting: In Person Only Location: Sarge Littlehale Room, 22 Orinda Way, Orinda, CA 94563



**Moraga-Orinda Fire District  
Board of Directors**

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**ADJOURNMENT**

*Thank you for participating!*


To join the Meeting: In Person Only

Location: Sarge Littlehale Room, 22 Orinda Way, Orinda, CA 94563



**Moraga-Orinda Fire District  
Training for New Board Members**


Jonathan V. Holtzman  
Mariam Morley



### Introduction


This presentation is intended as a quick primer for success. It is not intended as full AB 1234 training.

This training is designed to inform you of the main things you need to know starting out as a Board member.




### Elected Office – A Public Trust

**"A public office is a public trust created in the interest and for the benefit of the people. Public officers are obligated to discharge their responsibilities with integrity and fidelity."** City Council v. McKinley (1978) 80 Cal.App.3d 204, 213.)




### Elected Office – A Public Trust

- **Duty of loyalty to the District** - You must act in the District's best interest. You may not put personal interests ahead of the District's interests.
- Laws, including the Political Reform Act, which governs conflicts of interest, laws limiting public officials' receipt of gifts, and laws against bribery, misuse of public resources, and acceptance of honoraria set minimum standards to ensure that public officials act in the public entity's interest.




### Powers and Duties of Board Members




### Powers and Duties of Board Members


- The Board enacts laws (ordinances) governing members of the public, e.g., standards for fuel mitigation.
- The Board sets policy (by resolution) and directs the Chief to carry out that policy.
- The Board approves the annual budget, approves certain large expenditures, and approves contracts that exceed the limits set in the District's Purchasing Ordinance.
- The Board hires and fires the Fire Chief, reviews the Chief's performance annually, and hires District Counsel.


**Powers and Duties of Board Members** 

- Individual Board members have no authority. The Board as a whole has authority, but only through action taken at a public meeting by a majority vote (Brown Act). Individual Board members may seek information from the Chief but may not give the Chief (or District staff) orders or instructions.
- The Board can delegate certain tasks to individual Board members, but the Board must authorize this delegation.


  
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**Powers and Duties of the Fire Chief**




**Powers and Duties of the Fire Chief** 


- The Fire Chief carries out the direction of the Board but uses his discretion to determine how best to do that.
- The Fire Chief hires, fires, and disciplines District staff, and has exclusive authority to manage and give direction to all employees of the District under his jurisdiction.
- The Fire Chief negotiates contracts for goods and services. The Fire Chief approves those contracts that fall under the limits outlined in the District's Purchasing Ordinance.
- The Fire Chief is responsible for supervision of labor negotiations with the two unions that represent District employees. However, the board determines the District's position on labor issues except those that directly impact operations.

**District Policy 11** 

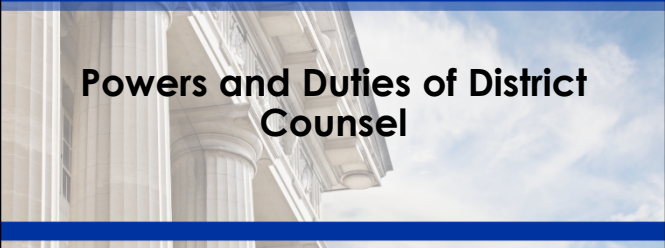
- **III. FIRE CHIEF**
- **A. General Responsibilities**  
The Fire Chief shall be the administrative and operational Chief Executive Officer of the District under the direction and control of the District Board. The Fire Chief shall be responsible for the efficient effective administration of all the affairs of the District, which are under the Fire Chief's control. In addition to general powers as Chief Executive Officer, and not as a limitation thereon, the Fire Chief shall have the duties and powers set forth within this Policy.
- **B. Enforcement**  
It shall be the duty of the Fire Chief to enforce or cause to be enforced all ordinances, resolutions and other measures of the District and to see that all contracts, permits and privileges granted by the District Board are faithfully observed.
- **C. Authority Over Employees**  
The Fire Chief shall have the exclusive authority to manage, order and give directions to all employees of the District under the Fire Chief's jurisdiction.


**District Policy 11** 

- **D. Appointment and Removal of District Employees**  
The Fire Chief shall approve the appointment, removal, promotion or demotion of all District employees subject to all applicable labor contracts, personnel laws, rules and regulations.
- **E. District Employment Contracts**  
It shall be the duty of the Fire Chief to be responsible for the negotiation of all District fulltime represented and unrepresented employment contracts. When directed by the District Board, the Fire Chief may contract with a professional negotiator to assist with employment contract negotiations. The Fire Chief shall consult and confer with the District Board to determine acceptable parameters of all employment contract negotiations. The Fire Chief shall bring all permanent fulltime employment contracts to the District Board for ratification. Part-time, at-will contracts do not require Board approval if the positions have been approved and budgeted. After the District Board ratifies the contract, it shall be the duty of the Fire Chief to administer the contract and determine that its provisions are carried out.

  
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**Powers and Duties of District Counsel**




**Powers and Duties of District Counsel** 

- District Counsel provides legal advice to the Board, the Chief, and other District employees. Counsel's ultimate client is the District itself, not the Chief or individual members of the Board.

  
Renne Public Law Group




**Brown Act**

**Brown Act** 


**The Brown Act governs:**

- (1) When, where, and how a quorum (majority of the Board or majority of a Board committee) can communicate.
- (2) Remote attendance at Board meetings.
- (3) Content and posting of meeting agendas.
- (4) Public comment at Board meetings.
- (5) Closed sessions.
- (6) Enforcement of its provisions.

**Brown Act** 


**The key Brown Act requirements are:**

- (1) The Board cannot discuss or act on items not on the agenda.
- (2) A quorum of the Board cannot discuss, deliberate, or take action outside of a public meeting.

**Brown Act** 

**The Brown Act bars private in-person meetings, and seriatim meetings. A seriatim meeting can be :**

- (1) Sequential: A talks to, emails, or texts B, and B communicates to C; or
- (2) Simultaneous: A, B, and C have a joint conversation by phone, email, or text rather than in person.


**Brown Act** 

**The Brown Act restricts Board members' use of social media:**

- (1) Board members **may** communicate on social media to answer questions, provide information to the public, or solicit information from the public.
- (2) Board members **may not respond directly** to any communication that is made, posted, or shared by any other Board member if the post is regarding a matter within the subject matter jurisdiction of the body.
- (3) A quorum of Board members **may not** use an internet-based social media platform to "discuss among themselves" business within its subject matter jurisdiction.
- (4) A quorum of Board members **may not** "discuss among themselves" any communication made on a social media platform, including comments or digital icons.






## Public Records Act




### Public Records Act

- All District records are open to the public unless there is a specific exemption. The exemptions are read narrowly.
- Use your MOFD email for all official communication. Communications on your personal email or cell phone relating to MOFD business are subject to disclosure. Don't use them.
- When sending any written communication regarding MOFD business proceed as though that communication will be made public.





## Duty to Maintain Confidentiality



### Duty to Maintain Confidentiality


- There are two major types of confidential information that you will be privy to as a Board member – the content of a discussion held in closed session under the Brown Act, and legal advice protected by the attorney-client privilege.



### Duty to Maintain Confidentiality

**Closed Sessions:**

- The Brown Act bars individuals from disclosing information that has been acquired due to their presence at a closed session unless the Board, by majority vote, authorizes disclosure of that information.
- Note: But the Brown Act requires that certain actions taken in closed session, for example a vote to employ or dismiss a public employee, must be reported in the public session following the closed session.




### Duty to Maintain Confidentiality


**Attorney-Client Communications:**

- Communications between an attorney and client are confidential. The "client" holds the privilege to refuse to disclose the communication. (Evid. Code Sections 952-954.) When District Counsel provides advice to the Board via an attorney-client privileged memorandum or in closed session, the privilege can be waived only by action of the Board as a whole. An individual Board member does not have authority to waive the privilege.
- An individual Board member may waive the attorney-client privilege with respect to privileged advice given to the individual Board member only. However, consult with District Counsel before disclosing such advice so that we can inform you of possible adverse consequences to the District of such a waiver.




**Quasi-Judicial Hearings** 

- The Board conducts a quasi-judicial hearing in two situations -- when an individual appeals from MOFD's issuance of a citation for failure to comply with the Fire Code or with MOFD's fuel mitigation or fuel break requirements, or when MOFD declares a property to be a nuisance due to such failure.
- Due process, or fair process, principles require that the decision that the Board makes following a quasi-judicial hearing be made based on the evidence presented at the hearing. Board members may not prejudge the facts and must be free of prejudice against or for any party.


**Quasi-Judicial Hearings** 

- Activities such as discussing the citation or the alleged violations with the property owner, making public statements about the condition of the property, or conducting a site visit of the property, may provide the basis for a claim by the property owner that the hearing was not fair because a Board member was biased or prejudged the facts. Please contact us if you have questions generally, or in a particular situation, about what conduct on your part may be problematic with respect to your ability to act as an unbiased and unprejudiced decisionmaker.




**Conflicts of Interest** 

- You were required to fill out your Form 700 – Statement of Economic interests – within 30 days of assuming office. This document will serve as a guide to assist you in identifying situations in which you might have a conflict of interest. Please contact District Counsel immediately if you suspect that you might have a conflict with respect to a matter to be heard by the Board.


**Conflicts of Interest** 

**Conflicts of interest are governed primarily by three areas of law:**


- (1) Govt. Code § 1090, which prohibits participation in a contract in which you or your family have a financial interest.
- (2) The Political Reform Act, which prohibits participation in a decision in which you or your family have a financial interest.
- (3) "Common law" conflict of interest. The common law prohibits participation in a decision in which you have a divided duty of loyalty.

**Conflicts of Interest** 


Conflict of interest laws are complicated. District Counsel is always available to provide advice about whether you have a conflict of interest with respect to a matter, whether legislative or quasi-judicial, that will be heard by the Board. Please contact us immediately if you become aware that:

**Conflicts of Interest** 

- (1) You, your family members, your business, or a source of income to you could be impacted by a decision that the Board will make.
- (2) You are related to or close friends with the property owner or other interested party, or you have advocated for or against the matter to be heard or the party that will appear before you.

**Conflicts of Interest** 

- The above rules have a variety of exceptions, including, generally, when decisions of the Board affect all residents.
- If you have a question about the application of these rules, please consult with District Counsel

**Conflicts of Interest** 

- If you have a conflict of interest you must refrain from **any** participation in the matter, including asking questions about the matter in public or private, discussing the matter with staff, the Chief, or your fellow Board members, or voting on the matter. During the meeting at which the matter is heard you must announce your conflict and absent yourself from the room until the hearing on the matter is concluded.

  
Renne Public Law Group®

**Questions?**

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