



Moraga-Orinda Fire District
BOARD OF DIRECTORS
REGULAR BOARD MEETING MINUTES
January 17, 2024
(APPROVED FEBRUARY 21, 2024)

1. OPENING CEREMONIES

The Board of Directors convened Open Session at **6:01 p.m.** on **January 17, 2024**, at the Sarge Littlehale Room, 22 Orinda Way, Orinda, California 94563. This meeting was conducted in a hybrid format with in-person and remote options for public participation. The meeting included teleconference participation from Board Member Greg Hasler from Craig, Colorado. President Roemer called the meeting to order, requested an attendance roll call, and Pledge of Allegiance. Present were the following Directors and Staff (present in person unless noted with asterisks):

Board Member: Director Steven Danziger, Director Greg Hasler** (arrived 6:17 p.m.), Director John Jex, Director Craig Jorgens, and President Mike Roemer

Staff: Fire Chief Dave Winnacker, Administrative Services Director Gloriann Sasser, Human Resources Manager Christine Russell, District Clerk Marcia Holbrook

District Counsel: Renne Public Law Group Founding Partner Jonathan Holtzman and Senior Analyst Luke Jensen

Consultant: Bryce Consulting Shellie Anderson

2. PUBLIC COMMENT – CLOSED SESSION ITEMS (audio 00:01:24)

There were no requests to address the Board.

At 6:02 p.m., the Board adjourned to Closed Session.

3. CLOSED SESSION

3.1 Conference with Labor Negotiator - Local 1230, IAFF

(Government Code Section 54957.6)

Employee Organization: Local 1230, International Association of Firefighters IAFF

Agency Designated Representative: Luke Jensen

3.2 Conference with Labor Negotiator – MOFCOA

(Government Code Section 54957.6)

Employee Organization: Moraga-Orinda Fire Chief Officers' Association

Agency Designated Representative: Luke Jensen

3.3 Conference with Labor Negotiator - Unrepresented Employees

(Government Code Section 54957.6)

Employee Organization: Unrepresented Employees

Agency Designated Representative: Luke Jensen

At 7:12 p.m., the Board adjourned the Closed Session.

4. RECONVENE THE MEETING (audio 00:02:42)

President Roemer reconvened the Moraga-Orinda Fire District Board of Directors regular meeting at **7:14 p.m.** Present were the following Directors and Staff (present in person unless noted with asterisks):

Board Member: Director Steven Danziger, Director Greg Hasler**, Director John Jex, Director Craig Jorgens, and President Mike Roemer

Staff: Fire Chief Dave Winnacker, Administrative Services Director Gloriann Sasser, Fire Marshal Jeff Isaacs, Battalion Chief Lucas Lambert, Finance Manager Mary Smith**, Human Resources Manager Christine Russell, District Clerk Marcia Holbrook

District Counsel: Renne Public Law Group Founding Partner, Jonathan Holtzman

5. REPORT OF CLOSED SESSION ACTION (audio 00:03:19)

President Roemer reported on January 16, 2024, Special Agenda, Closed Session Item 3.1, Liability Claim - Pete Nowicki. The Moraga-Orinda Fire District denied Pete Nowicki's claim on the grounds of timeliness and merits. There was no reportable action on January 16, 2024, Special Agenda, Items 3.2, Existing Litigation, and 3.3 Public Employee Performance Evaluation. In addition, there was no reportable action on January 17, 2024, Regular Agenda, Items 3.1-3.3.

6. PUBLIC COMMENT - ITEMS NOT ON THE AGENDA (audio 00:04:16)

Jonathan Goodwin, Canyon resident (attended via Zoom), expressed dissatisfaction with the Board's handling of the Pete Nowicki claim. Mr. Goodwin expressed disappointment in the District's treatment of Mr. Nowicki and highlighted Mr. Nowicki's service to the District.

Mr. Goodwin supported the petition for a writ of mandate filed against the District (Sandia Pearson and Anita K. Pearson v. Moraga-Orinda Fire District). He referenced an article by David Winnacker, written two months before the Board voted on the Ordinance, which questions the effectiveness of shaded fuel brakes where there is no vehicular access and engaging in performative acts to create a sense of safety without practical benefits. Mr. Goodwin opined this is what the Ordinance does. Mr. Goodwin reiterated that before passing the Ordinance, a board member asked three times about other agencies using similar exemptions, and the legal staff's colleague's response was, "I believe so, yes; yes, I believe so; and then finally, a third time, answered yes." Mr. Goodwin challenged the Board's basis for their decisions and looks forward to hearing the judge's opinion.

There were no additional requests to address the Board.

7. ANNOUNCEMENTS (audio 00:08:12)

7.1 Brief information only reports related to meetings attended by a Director at District expense (Government Code Section 53232.3(d)). Director Danziger attended a LAFCO meeting on January 10, 2024. There were no items to report. There were no expenses associated with this meeting.

7.2 Questions and informational comments from Board members and Staff. No Report.

7.3 Communications Received. Two (2) communications were acknowledged. One from Saint Mary's College recognizing the Fire Prevention team for issuing a timely permit related to the basketball gym and another from the BART General Director commending the collaborative response to a train derailment with multiple injuries in the District on New Year's Day.

7.4 Fire Chief Updates

f. Operations -Out of Order

Fire Chief Winnacker requested an adjustment to the order of the agenda and the presentation of the Operations Report due to the presenters being on Shift. The Board expressed no objections. Battalion Chief Lambert proceeded to present the report, attached to these minutes, as item 7.4(f). Key points discussed during the presentation included:

- **Residential Structure Fire on Miner Rd (January 13, 2024):**
 - Significant efforts required due to construction challenges.
 - Special recognition given to the Communication Support Volunteers for their contributions.
- **BART Train Derailment Incident (January 1, 2024):**
 - MOFD response to a BART train derailment and fire.
 - Evacuation of the train and declaration of a Multi-Casualty Incident.
- **Structure Fire on Overhill Rd (December 26, 2023):**
 - Crews praised for their successful response.
- **Controlled Pile Burn (December 28, 2023):**
 - Conducted to mitigate wildfire risk on a privately owned 18-acre parcel.

Battalion Chief Lambert welcomed five new Firefighter/Paramedic recruits. Probationary Firefighter/Paramedic Cotter demonstrated the new Self-Contained Breathing Apparatus (SCBA) gear purchased with a Federal grant. The Board asked questions, and discussions ensued about its application and challenges. Director Danziger asked about the ventilation process for a metal roof. Fire Chief Winnacker explained that ventilating a metal roof requires specialized training and tools and described the different saws used by the District and their various applications. Director Danziger raised considerations that may need to be made about the evolving home technologies, such as charging stations and batteries. Fire Chief Winnacker acknowledged the challenges and suggested exploring potential ordinance actions outside the fire code. Director Jorgens suggested an educational approach rather than mandatory requirements for safety measures like sprinklers and smoke detectors. Fire Chief Winnacker encouraged homeowners to install sprinklers and a rate-of-rise smoke detector in their attics.

a. Finance Report

Finance Manager Mary Smith presented the status of Office of Emergency Service (OES) reimbursements, the financial status for the Tunnel East Bay Hills Fuel Break, and Treasury Bill updates, attached to these minutes, as item 7.4(a). Director Jorgens asked about the fourth-quarter expenses that had not yet been billed. Finance Manager Smith explained the delay in billing was attributed to the necessity of completing the amendment process with CAL FIRE. She explained that this amendment has been approved, and moving forward, bills will be submitted monthly. Director Jorgens inquired about the decline in ambulance revenue reported in the financial documents. ASD Sasser addressed this concern by explaining that the reports only included data through November 30, 2023. A full mid-year review, encompassing activity through December 31, 2023, will be presented at the February 2024 board meeting.

b. Human Resources

Human Resources Manager Christine Russell provided an update on recruitment and employment changes within the District.

- **Firefighter Paramedic Trainee:** Five trainees- Kyle Byrd, Edward Epperson, Sean Fox, Tyler Groom, and Christopher O'Leary, commenced training at the Academy on January 8, 2024.
- **Fuels Mitigation Specialist:** The position is fully staffed with new employees Phillip Davis, who started on November 20, 2023, and Tyler Opdycke, who started on January 2, 2024.
- **Promotional Fire Engineer/Fire Engineer Paramedic II:** This position's final filing deadline is April 7, 2024. The examination is scheduled for April 9, 10, and 11, 2024.

c. Fire Marshal

Fire Marshal Isaacs presented the 2023 Fire Prevention statistics (included in the board packet), comparing inspections, plan reviews and chipping data with 2021 and 2022. Director Jorgens noted the drop in inspections and attributed it to a shift in inspection methods, with increased systematic and detailed approaches. Additional discussion ensued regarding the decrease in the chipping numbers. Statistical data was provided for the Home Hardening Grant Program highlighting its success. Fire Marshal Isaacs reviewed the Fire Prevention goals for the 2024 year which will focus on employee training, inspections, enforcement, community outreach, fuel break, pile burning, and other initiatives outlined in the report. Director Jorgens inquired about the bamboo and juniper removal progress. Fire Marshal Isaacs shared that Staff has been working on public education efforts and the distribution of door hangers.

Fire Marshal Isaacs reviewed the administrative citations report which detailed fines, including a notable \$50K owed from Saint Mary's College. Director Jex asked if there were any fees left from 2022, and additional questions arose from the Directors about the delinquent collections and fee-waiving processes.

Fire Marshal Isaacs presented the Residential Inspection maps for the 2023-2024 years, focusing on priority areas and strategies for fire prevention. The yellow areas on the maps were discussed, emphasizing the need for compliance in the high-risk areas. Fire Marshal Isaacs reviewed a CAL FIRE Subdivision Survey which was completed by CAL FIRE in Bollinger, El Toyonal, and Canyon as mandated by Assembly Bill 2911. Corrections and comments to the Survey were discussed, and Fire Chief Winnacker highlighted the importance of the District's involvement to ensure the Survey reflects accurate information for the community. Questions were addressed about the advantages of identifying parcels and the inclusion of relevant regulations for PRC 4290 greenbelts and fuel break standards.

d. Tunnel East Bay Hills Fuel Break Project

Fire Chief Winnacker provided updates on the progress of the fuel break, attached to these minutes, as item 7.4(d). He highlighted favorable late fall weather conditions and the use of Con Fire Crew 12 during their winter hiatus, funded by the East Bay Hills Fuel Break project. Photos of controlled burns near homes were showcased, emphasizing the challenges and effectiveness of this strategy. The strategic burning aims at reducing thick vegetation, minimizing the risk of fire spread, and enhancing subsequent goat grazing efforts. Fire Chief Winnacker commended the cooperation of the Canyon Community Association and praised the Fire Prevention team's monitoring efforts for safety and project execution success. Fire Marshal Isaacs concluded the report by sharing photos of ongoing work, including approximately 7 acres and 100 piles burned near the community of Canyon. The goal is to complete the entire project by December 2024.

e. Home Hardening Program

Fire Chief Winnacker provided an update on the distribution of the second order of Gutter Glove material. Positive feedback has been received from the community. A photo was shared showcasing a successful installation and functionality.

President Roemer opened Public Comment.

Jonathan Goodwin, Canyon resident (via Zoom), conveyed the community of Canyon is more concerned about fires spreading from house to house during fire season than a runaway fire up in an area accessible for helicopter drops. Mr. Goodwin stressed the importance of creating documentation for historical reference on all the areas the District has been concentrating on inspections and why those areas are important. Mr. Goodwin recommended the public listen to the board meetings to stay informed about mitigation requirements. Mr. Goodwin inquired about the burn project on private property involving 18 acres in Orinda and was curious about the policy for collaboration with the John Muir Land Trust.

Fire Chief Winnacker answered the work was carried out by the resident of the large Orinda property with private funding. The District provided resources to burn the piles and explained the factors involved when determining when the District will assist in pile burning. The John Muir Land Trust and the Coastal Conservancy grant is targeted to sustain previous work for wildfire risk reduction and training. The project involved clearing out thatch accumulated over 15 years.

There were no additional requests to address the Board.

8. CONSENT AGENDA (audio 01:48:40)

- 8.1 Meeting Minutes –September 20, 2023 (special)**
- 8.2 Meeting Minutes – November 15, 2023**
- 8.3 Monthly Incident Report – November and December 2023**
- 8.4 Monthly Check/Voucher Register – November and December 2023**
- 8.5 Monthly Financial Report – December 2023**
- 8.6 2024 Listing of Board Assignments**
- 8.7 Approve the Annual Comprehensive Financial Report as of the Fiscal Year Ended June 30, 2023, Memorandum on Internal Control for the Year Ended June 30, 2023, Required Communications for the Year Ended June 30, 2023, and Independent Accountant's Report on Applying Agreed-Upon Procedures for Appropriations Limit Calculation For the Year Ended June 30, 2023**
- 8.8 Approval of Salary Schedule Unrepresented Employees Effective January 1, 2024**
- 8.9 Authorize the Fire Chief to Enter into an Agreement with Contra Costa County Fire Protection District for Firefighter Training in the Amount Not to Exceed \$165,000**

President Roemer opened Public Comment.

Jonathan Goodwin, Canyon resident (via Zoom), stated that he had his hand raised to comment on the Announcements and was not recognized. In addition, Mr. Goodwin requested to pull item 8.1, attachment B, from the Consent Agenda. President Roemer replied that only a Director can pull an item from the consent calendar. District Clerk Holbrook referred to the Rules of Procedure that any member of the public may request any board member to withdraw a Consent agenda item from board consideration. Mr. Goodwin contested that he believed the rule violated the Brown Act.

Mr. Holtzman advised that the public has the right to comment on any item in the Consent Agenda but does not have the right to demand that an item be pulled. The public may ask that a Director pull an item or otherwise give a comment during the public comment period. Mr. Goodwin sought recognition to comment on the Announcements before addressing the Consent Agenda.

President Roemer reopened public comment for the Announcements. (see announcements public comment for Mr. Goodwin's comment)

President Roemer re-opened Public Comment for Consent Agenda items.

Jonathan Goodwin, Canyon resident (via Zoom), expressed concerns about the letter from CCCERA (Contra Costa County Employees' Retirement Association) responding to a citizen's queries Item 8.1, attachment B. Mr. Goodwin points out that the information in the letter raises numerous questions, especially regarding the ratio of active safety employees to retirees. Mr. Goodwin urged the Directors to pay close attention to the information presented in the letter.

President Roemer appreciated the awareness brought to these problems and reassured Mr. Goodwin that he was aware of the demographic issues discussed. All Directors acknowledged that they read the letter from

CCCERA. Director Jorgens commented that CCCERA Actuaries track the data and use the information to perform mathematical calculations to determine the present value of assets and the future value of obligations. Director Jorgens acknowledged that MOFD has twice as many retirees as active employees. The situation is a factual reality and comes with certain financial implications.

There were no additional requests to address the Board.

Motion by Director Jorgens and seconded by Director Jex to approve Consent Agenda items 8.1 through 8.9. Said Motion carried a 5-0 roll call vote (Ayes: Danziger, Hasler, Jex, Jorgens, and Roemer; Noes: None; Absent: None; Abstain: None).

9. REGULAR AGENDA

9.1 Investment Advisory Services (audio 02:02:39)

Administrative Services Director Sasser provided the report. Optimize Investment Partners is a firm that provides investment advisory services to California municipalities. Robert Mitchell and David Bilby, representatives from Optimize Investment Partners attended the meeting via Zoom to present information on potential improvements to the District's investment portfolio, presented information on their services and how they are able to enhance the District's investment strategy, attached to these minutes, as item 9.1.

Mr. Bilby provided a brief background on his experience working with local governments in California, managing an investment portfolio of \$400M and how he utilizes cash flow modeling to enhance the portfolio performance and compliance. Mr. Bilby referenced government code 53600, and the Prudent Investor Standard to safeguard principal, ensure liquidity, and achieve high rates of return. Mr. Bilby recommended focusing on low-risk options and investing for up to 5 years to achieve higher rates of return. Mr. Bilby outlined three ways to improve the District's investments:

1. Creating a custom cash flow model
2. Identifying investment selections
3. Ensuring compliance with the District's investment policy

Mr. Bilby presented potential annual revenue projections of \$820K and stated their fee structure was competitive, with a 10-basis point fee based on assets.

Director Jorgens inquired about the projected earnings compared to the District's current earnings. ASD Sasser stated current year projects are \$700K - \$750K. Director Jorgens opined that the District is already performing similar analyses and services. Fire Chief Winnacker stated the purpose of the agenda item was for information only. The intention was to allow the Board to understand the services available for potentially gaining higher returns on the District's investments. Fire Chief Winnacker discussed the complexity of the investment process, noting that Staff were not investment professionals, and the District was not structured for such tasks. Staff wanted to ensure the Board was aware of options beyond the current strategy, mainly if the interest rates on treasuries were to decrease significantly. The presentation was intended to give the Board an understanding of available services and professional investment opportunities should the Board decide to explore other avenues.

Director Jex inquired about the reporting requirement. ASD Sasser confirmed that the District meets this requirement with the quarterly Treasurer's Report. ASD Sasser then discussed the forecasting timeline, noting that the District's current investments only extend to six months, and expressed discomfort going beyond six months. Optimize Investment Partners could provide a longer-term portfolio with a 2 to 3-year maturity and improve the District's strategic positioning so when interest rates decrease, the longer investments will yield higher rates and reduce the portfolio's overall risk. Director Jex expressed discomfort with extending investments to 2 or 3 years because of the capital projects, and most of the long-term money would be needed to fund these capital projects. Fire Chief Winnacker acknowledged.

Director Jorgens highlighted the importance of considering the fees and the additional returns gained, especially when the District is already engaging in the forecasting activities. Director Jorgens pointed out that investing in treasuries is, by definition, the least risky option, and that the differences in returns among various investment options are generally trivial. The District could achieve significant financial gains without a substantial increase in workload. He suggested a hands-on approach to forecasting and adjusting investments, emphasizing the potential for greater returns with a modest amount of additional effort. Director Danziger agreed with Director Jorgens and Director Jex's statements. It is working well, and unless it burdens the Staff, supports the current process.

Fire Chief Winnacker issued a cautionary note, stating that the current approach by the staff is effective. However, if the Board is inclined to explore more ambitious investment initiatives in the future, especially with the prospect of declining interest rates, that may surpass the capacity of already fully subscribed Staff. Director Danziger responded at that point, it might become a problem. Fire Chief Winnacker emphasized the purpose of the presentation, which was to provide the Board with an understanding of the options and services offered by potential service providers. This information would be valuable if the Board decides to explore such services in the future and issue an RFP. Director Jorgens added to the discussion, pointing out that with a 10-basis point fee and a 5% return on investments, the fee is reasonable. However, when the return on investments decreases to 2%, the management fee becomes a more significant percentage of the earnings.

Mr. Bilby replied that the average fee of \$15,000 per year could be justified by generating income three to four times that amount in additional revenues. He reiterated their commitment to alleviating the workload of the district staff. Mr. Bilby expressed gratitude for the Board's time and consideration, noting their willingness to explore potential areas of interest for the District.

President Roemer opened Public Comment.

Jonathan Goodwin, Canyon resident (via Zoom), emphasized the complexity of small district operations, where a limited staff handles tasks like those in larger districts but with fewer resources. Mr. Goodwin proposed that the impact of removing some workload might extend beyond just numbers, influencing the fluidity and efficiency of the organization. He encouraged the Board to consider the potential significance of alleviating staff workload, suggesting that it could contribute to the overall effectiveness and efficiency of the organization.

There were no additional requests to address the Board.

9.2 Overview of the District's Information Technology Infrastructure (audio 02: 26:32)

Administrative Services Director Sasser provided the report. The District contracts with Definitive Networks, Inc. (DNI) for information technology services. David Parnell, a DNI representative, attended the meeting to share information regarding the District's information technology infrastructure, technology deployed throughout the District, cybersecurity, and HIPAA technology requirements. The presentation emphasized DNI's efforts to protect the District from cyber-attacks, support ongoing operations, and manage costs (attached to these minutes, as item 9.2).

Mr. Parnell provided an overview of DNI's two high-availability, high-capacity certified data centers (certified by the Department of Justice). He explained the importance of backups, redundancy, and management capabilities, with DNI having multiple resources and a backup facility in Los Angeles. Director Jorgens asked why having a data center is better than Microsoft or Amazon. Mr. Parnell answered that DNI customizes everything in their data centers specifically for the fire service industry. When buying through Microsoft or Amazon, you are buying their hard drive space and a certain amount of bandwidth. DNI customizes the cloud and provides a person to staff those infrastructures. In addition, the San Jose facility has its own power plant and generates its own electricity. Overall, DNI data centers are more hardened.

Director Jorgens questioned why the two data centers are in the same state. Mr. Parnell explained the rationale for maintaining the data centers within the same state. Director Danziger asked about the measures in place to protect employees from potential risks or threats. Mr. Parnell shared some information about security protocols and policies but stated that more specific details would need to be discussed in a closed session if the Directors required additional information. Fire Chief Winnacker added that an infiltration test was conducted by OES on the District's systems. The report, though not intended for public release, affirmed the District's compliance with best system security, firewalls, and segregation activities. The District plans to conduct these tests periodically to stress-test the system and ensure ongoing compliance with high standards.

Director Jorgens inquired about the process of keeping all the District's devices up to date. Mr. Parnell provided examples and explained the process. He emphasized that one of DNI's key responsibilities was to establish a reliable and secure virtual workforce. The utilization of cloud technology plays a pivotal role in achieving these objectives. Mr. Parnell further explained how DNI employs comprehensive monitoring practices, utilizing sophisticated tools for this purpose. Additionally, DNI has worked with Staff to minimize and reduce the number of devices, which was a strategic approach to streamline and enhance the efficiency of the overall monitoring and management of systems.

Mr. Parnell provided an example of the total number of alerts that are generated in a month, and explained how the alerts are generated by their IA (Intelligent Automation) system and investigated. Mr. Parnell presented an example of an email chart, indicating that 25%-30% of emails are rejected daily. He explained that DNI subscribes to the Department of Justice databases and other resources to construct a whitelist for email filtering. Emails remain the District's greatest vulnerability and advised the District (within the constraints of the Brown Act) to limit the publication of email addresses and minimize the use of emails when possible.

Mr. Parnell addressed the importance of the Disaster Recovery Plan, pointing out that there is a significant amount of data (3.5 terabytes) backed up every hour. He acknowledged that some of this data might be considered dead or unnecessary and highlighted future efforts to address this through the records retention policy because keeping unnecessary data costs money. The implementation of Office 365 is expected to change the District's approach to managing the data.

A discussion ensued between Director Jorgens and Mr. Parnell about data storage and its associated costs. Mr. Parnell explained that data that is not worth saving becomes clumsy to index and clumsy to search, and recommended the District move to a more thoughtful approach in managing the life cycle of data. Fire Chief Winnacker concurred that the District did not have a smooth well thought out transition to the digital age. When a search is performed, a single file that is no longer relevant can exist in multiple places. Staff is working on best practices and records retention requirements to bring the District into better records management.

Director Jorgens commented that the district has a two-year retention policy. As mentioned before, this is not the correct approach. Mr. Parnell explained that the record retention requirement for documents varies; for example, there is a 20-year record retention requirement for patient care records that pertain to any child, and those records must be kept until the child turns 18. Fire Chief Winnacker added another example, such as Board Meeting Minutes, which are permanent records. In addition, Mr. Parnell provided another example of how the storage for an iPad is more expensive than that of other devices. Fuels Mitigation Manager Graham improved that process by deleting the photos taken with the iPad once uploaded to the case file, reducing the iPad's cost by 20%-30%.

Mr. Parnell concluded his presentation by highlighting the District's use of multiple and redundant backups for data protection. He stressed the significance of staff training as the primary defense for data security. Mr. Parnell recommended implementing Two-Factor Authentication (TFA) for all staff members, regardless of location, as an additional measure against potential compromises. Director Jorgens complimented DNI on their commendable work.

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

9.3 First Reading and Introduction of Ordinance No. 24-01 Revising a Schedule of Fees for District Services (audio 02:56:05)

Fire Marshal Isaacs provided the report. The revised Fee Schedule is based on the annual change in the Consumer Price Index (CPI) Urban Wage Earners, San Francisco-Oakland-Hayward, CA region, which increased 2.8% effective October 2023 (most recent). Twelve additional fees have been added to the fee schedule for services related to processing Hydrant/Fire Service Forms, Plan Reviews, and Inspections for Energy Storage Systems, Solar Photovoltaic Power Systems, Environmental Plan Review Services. Staff recommended the Board introduce and waive the first reading of Ordinance No. 24-01, adopting a revised schedule of fees effective March 25, 2024.

Director Jorgens questioned why the increase did not cover the labor contract amount for tasks that involve only labor. Fire Chief Winnacker responded that the current procedure is to base the fee increase on the San Francisco Consumer Price Index (CPI). The latest fee study was conducted in 2013, establishing the original fees. Staff could research whether connecting fee increases to labor costs is permissible and bring the findings back to the Board for consideration.

Director Jorgens stated that costs have increased at a different rate than the fees. He suggested that fees should be increased to better align with rising labor costs, which is reasonable. Mr. Holtzman advised that under Proposition 218, the District needs to either conduct a fee study or have a clear justification for the increase, such as the Consumer Price Index (CPI). He explained that many districts and cities are conservative when they are in between fee studies to avoid the risk of fees being challenged. Mr. Holtzman suggested another fee study should be conducted in the future. He offered to review the fees and explore the matter further, emphasizing the potential challenges if the District deviates from its usual approach to revising the fee schedules. Director Jorgens stated that adjusting fees to

reflect the actual increase in labor costs is a reasonable course of action since labor costs have increased more than 2.8% cumulatively. Mr. Holtzman acknowledged that the current approach is conservative, and the challenge arises when considering a more aggressive stance if a fee study is needed.

Fire Chief Winnacker referred to Section 5 of Proposition 218, highlighting its purposes of limiting local government revenue and enhancing taxpayer consent. He noted that the section was written to limit the growth of fees while considering taxpayer perspectives. Fire Chief Winnacker conveyed the need for additional research and stated that Staff would return with more information. President Roemer inquired whether the CPI has consistently been at 2.8% in the past. Fire Chief Winnacker responded that the CPI fluctuates yearly.

Mr. Holtzman inquired about the expiration status of the current fee schedule. ASD Sasser responded that the current fee schedule does not have an end date. Mr. Holtzman emphasized the importance of avoiding significant delays, which could result in financial losses. He assured the Board that Counsel would conduct further research and provide an update at the next regular meeting. President Roemer inquired about adopting the first reading of the Ordinance No. 24-01. Mr. Holtzman suggested the Board adopt and waive the first reading.

President Roemer opened Public Comment. There were no requests to address the Board. President Roemer opened Public Comment on the Motion. There were no requests to address the Board.

Motion by Director Jorgens and seconded by Director Danziger to Introduce and Waive the Reading of Ordinance No. 24-01, An Ordinance of the Moraga-Orinda Fire District of Contra Costa County Revising a Schedule of Fees for District Services, and the revised Fee Schedule effective March 25, 2024. Said Motion carried a 5-0 roll call vote (Ayes: Danziger, Hasler, Jex, Jorgens, and Roemer; Noes: None; Absent: None; Abstain: None)

9.4 Adopt Resolution 24-01 Approving an Investment Policy for District Funds (audio 03:06:27)

Administrative Services Director Sasser presented a report. The Investment Policy requires annual review by the Board. Staff recommended one change and that was to update who is responsible to complete the quarterly treasurer's report. No other changes were recommended. There was no discussion by the Board.

President Roemer opened the Public Comment. There were no requests to address the Board. President Roemer opened the Public Comment on the Motion. There were no requests to address the Board.

Motion by Director Danziger and seconded by Director for discussion Jex to Adopt Resolution 24-01 Approving an Investment Policy for District Funds. Said Motion carried a 5-0 roll call vote (Ayes: Danziger, Hasler, Jex, Jorgens, and Roemer; Noes: None; Absent: None; Abstain: None)

9.5 Receive a Proposed Resolution 24-02 revising Rules of Procedure for Board Meetings addressing voting requirements, rules for public comment, removal of the Board Officer positions of Secretary and Treasurer, and other issues; discuss and consider additional changes regarding conflicts of interest and disruptive conduct (audio 03:08:04)

Mr. Holtzman provided the report and reviewed the proposed revisions. Amendments include clarifying voting requirements (Section 1.4) and clarifying rules for public comment. Public comment on consent calendar items will be provided during the general public comment period (See Section 2.1.1, 2.6, and 2.7). Board Officer positions of Secretary and Treasurer were removed (see Section 11) to reflect that the duties of these positions are carried out by MOFD staff. The amendment created the position of Second Vice President to identify the succession of officers in the absence of the President. The amendment also precludes officers from holding the office of President or Vice President in subsequent years. A legislative red-line version (Attachment A) and a non-redline version (Attachment B) were included in the packet.

Mr. Holtzman highlighted two additional substantive provisions for the Board's consideration that were not included in the red-line version but outlined in the staff report. The first involved a suggested revision to the Conflict of Interest (Section 4.7), limiting the ability of Board members to vote on matters where they have received campaign contributions from parties benefiting from the matter. The other items pertained to Sections 4.4 and 4.5, addressing concerns about "zoom bombing" in hybrid meetings. Director Jorgens requested a review of the changes in the legislative red-lined attachment A. Mr. Holtzman reiterated, given the document's importance, that the item is not up for approval since Directors

have not had the opportunity to review the changes. The item is on the agenda for the Board to discuss and provide direction to Staff.

Director Danziger was surprised to see the item on the agenda and would have preferred to have had an opportunity to present changes. He supported adding Section 4.5 regarding disruptive conduct but expressed significant concerns with the Conflict of Interest (Section 4.7) and Election of Officers (Section 11). Director Danziger was not prepared to take any immediate action, emphasizing the need for further review. President Roemer inquired whether Director Danziger would like to elaborate on the major concerns raised regarding the proposed changes. Director Danziger stated the Conflict of Interest (Section 4.7) presented numerous issues, had concerns with the legality, and would delete that entire section. Additionally, he disagreed with a portion of Election of Officers (Section 11).

Fire Chief Winnacker stated the staff report outlines the District Counsel's recommendation, in addition to the red-line version, to comply with the Brown Act and best practices, such as removing disruptive individuals by the Fire Chief (acting as Sergeant of Arms) to suit the hybrid setting. Fire Chief Winnacker commented that the update to the Rules of Procedure is long past due and the Board needed to bring the rules into compliance with new laws and emerging best practices associated with the move to hybrid meetings. He acknowledged that the additional proposed changes outlined in the staff report go beyond the legal requirements, are discretionary, and subject to input from the Board.

Mr. Holtzman referred to the recommended changes that were proposed several years ago. Counsel reduced those changes and included minimal changes in the red-line document in order to bring the Rules of Procedure up to speed. Director Danziger replied that he had no problems with any of those changes.

Director Jorgens questioned why, in section 2.2, Delivery of Agenda For Regular Meetings, on page 4, "reports and other documentation related thereto" was deleted. He requested to change the word Friday to Wednesday, citing practical difficulties of dealing with so much material on Friday evenings when people may have other commitments. Director Jorgens stated he would move to have the documents ready on Wednesday instead of Friday.

The Agenda for each regular meeting of the District Board, and reports and other documentation related thereto, shall be delivered to the Board Members and made available to the public on the Wednesday ~~Friday~~ preceding the Wednesday board meeting to which it pertains.

Fire Chief Winnacker explained the deletion of "reports and other documentation related thereto" was to reflect the current process. Items that are more ancillary and related to operations are not included. Items are often updated as late as the day of posting the packet due to pending information or situations out of the District's control. Director Jorgens replied that the Operations report would not have been included in the packet anyway. Fire Chief Winnacker agreed, which is why striking that language would bring the rules of procedure into accordance with how the District is currently operating.

Director Jorgens preferred receiving the information in smaller increments rather than all at once on a Friday (items that can be prepared in advance, like the financial reports). Mr. Holtzman suggested the language say, "reports and other documents related thereto, to the extent available, shall be delivered." Director Jorgens did not feel the language would produce the desired result to receive the reports earlier. Fire Chief Winnacker highlighted the challenges of preparing comprehensive board packets. Preparing the board packet involves many inputs dependent on factors beyond the Staff's control. Many elements are contingent on external reports or inputs, making it challenging to adjust timelines.

Mr. Holtzman commented that Section 2.2(b) anticipates the possibility that a report might not be available at the time of publication, it mitigates the other language, therefore the language could be left in. Mr. Holtzman asked Director Jorgens how he felt about that language. Director Jorgens responded it is okay if Staff does not make it a regular practice.

President Roemer asked Director Hasler if he had any comment. Director Hasler requested more time to review the document.

President Roemer commented that a lot of the changes in the legislative red-lined document are non-controversial, and things that need to be acted on with a certain amount of dispatch and recommended adding the item to the February meeting agenda for adoption. The Conflict of Interest provision is something that needs to be considered very carefully and the community should be invited to provide input. President Roemer recommended making the Conflict of Interest provision a separate agenda item for deliberation to be able to consider the legal, financial, enforcement and policy implications. Director

Danziger agreed. Director Jex expressed concern about conflicts of interest and reflected on his experience as an accountant.

Mr. Holtzman acknowledged agreement among the Board to reintroduce Section 4.7, Conflict of Interest, as a separate agenda item. President Roemer, Director Jorgens and Director Hasler agreed. Director Jex opined that the entire document should be considered rather than each section individually. President Roemer agreed but felt the Conflict of Interest section raised issues that the other sections did not.

Fire Chief Winnacker pointed out that the red-line and clean documents in the staff report did not include the proposed conflict of interest language to deliberate and gather direction from the Board. Fire Chief Winnacker stated the rules of procedure as written do not include elements of section 4.7 from the staff report but do include the elements for Disruptive Behavior and other minor changes. Staff recommended moving forward with the revised rules of procedure as written.

Director Jorgens suggested having two discussions. The first would cover the red-line document, attachment A, as written, and the second would focus specifically on Section 4.7, Conflict of Interest. Director Jorgens requested additional background information be provided by Counsel (insights into how others have approached similar matters, details about the legal aspects, and comparisons with practices in other jurisdictions) for the Conflict of Interest.

Mr. Holtzman explained that a confidential memo with a preliminary analysis was issued to the Board which explained that an in-depth analysis would depend on the Board's level of interest. Fire Chief Winnacker requested additional direction regarding Resolution No. 24-01 as it is currently written (attachment b) and Section 4.7, Conflict of Interest.

Director Danziger opposed the changes to Section 11, which pertained to the Election of Officers, but agreed with everything else in the red-line version. He questioned why the language ended up in the document without allowing all board members to provide input. Director Danziger proposed alternative language to state that "if a majority of the Board wants the President to serve again," it should be allowed.

Mr. Holtzman clarified that, in accordance with the Brown Act, he is prohibited from polling the Board. Despite these constraints, he made an effort to formulate a document in an attempt to reach consensus.

Director Jorgens shared his perspective on the evolution of the board election process, which has always been similar to the City of Orinda, where the slate moves up one position yearly. Director Jorgens favored keeping the election process where a slate of candidates moves up one position each year.

Mr. Holtzman stated it is a policy question for the Board to decide whether to incorporate this historical practice or leave it as an unspoken tradition. There is no legal component involved in this decision.

President Roemer acknowledged the time (10:55 p.m.) and observed the other pending matters on the agenda to discuss. Director Jorgens proposed changing the word 'may' to 'shall' in Section 2.6, item (g), which currently reads:

A member of the public who wishes to make a public comment ~~may~~ shall be asked to state their name for the record. Providing such information is voluntary and not a condition of public comment.

Mr. Holtzman responded that the change was legally permissible as long as the second sentence clarifies that stating one's name is not required. President Roemer favored the change.

Fire Chief Winnacker expressed concern stating that 'shall ask' implies a requirement for the Board to request the speaker's name before allowing them to speak, even if the person's name has already been shared. The current wording, 'may be asked,' provides the option to ask for the name, gives flexibility for circumstances, and removes the requirement. Director Jorgens suggested an alternative wording to say, "would appreciate it if you would, but you are not required."

Fire Chief Winnacker reiterated his concern, emphasizing that if the wording is 'shall,' the Board would be obligated to ask for the speaker's name, even if it has already been stated. Director Jorgens clarified that the proposed language never requires anybody to ask the public speaker. If a public speaker stands up and nobody states their name, there is no obligation for the Board to ask them.

Director Jorgens proposed saying "the Board has to ask for the speaker's name if it hasn't been voluntarily stated". Mr. Holtzman suggested a middle-ground solution by proposing the addition of the word

“typically”. This addition conveys that speakers are typically asked to state their names, creating a general expectation while emphasizing that individuals still have the right to speak even if not asked.

Director Danziger requested the addition of language regarding board members' attendance requirements. His request was prompted by past attendance issues and emphasized the need to discuss how such rules could be included in the document. Mr. Holtzman pointed out the challenges related to attendance, specifically when individuals are ill. He highlighted the difficulty in ascertaining the nature of illnesses and handling such situations.

Director Jorgens suggests incorporating a "best efforts clause" into the procedures. Fire Chief Winnacker highlighted that the topic had been thoroughly discussed in the past. He cautioned the Board by stating that removing an elected official is a decision best left to the voters, who can utilize the recall mechanism if they feel unrepresented.

Director Jorgens favored the removal of Section 5.5 “The Board shall invite comments or questions from the public relative to that Motion. A limitation of three (3) minutes may be imposed upon each person desiring to address the Board”. President Roemer and Director Jex agreed. Fire Chief Winnacker requested clarification of the direction provided by the board.

President Roemer proposed separating the discussions to include the non-controversial matters, Section 4.7 Conflict of Interest rules, and Section 11 regarding whether a person can serve consecutively as President or Vice President over two consecutive years. Mr. Holtzman agreed and proposed removing the successorship item and having separate discussions on Successorship, Conflict of Interest, and the rest of the changes in the clean version.

President Roemer proposed addressing the controversial matters at the March meeting. Director Jorgens requested that the items be addressed at the February meeting. Mr. Holtzman recommended discussing the rules early in the year. Mr. Holtzman asked if there were any other items. Director Danziger expressed the intention to present language related to attendance.

President Roemer opened Public Comment.

Jonathan Goodwin, Canyon resident (via Zoom), recommended that District Counsel develop guidelines to encourage the presiding officer to expedite meetings when they extend for too long. Mr. Goodwin expressed apprehension about the Conflict of Interest provision and asked if it had been addressed or if there were ongoing discussions. Mr. Holtzman answered that the item will be returned at the next meeting for further discussion.

There were no additional requests to address the Board.

10. COMMITTEE REPORTS (audio 03:54:02)

10.1 Standing Audit Committee (Directors Jex & Hasler).

ASD Sasser announced that the interim phase of the audit is scheduled for the week of March 11 and inquired if the Audit Committee would like to meet before the interim audit work starts. Director Jex and Hasler responded that a meeting was not necessary.

10.2 Ad Hoc Committee Joint Fire Prevention w/City of Orinda (Directors Jorgens & Roemer).

No report.

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

11. ANNOUNCEMENTS (audio 03:55:42)

11.1 Future Agenda Items.

No additional future agenda items were requested.

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

Director Danziger adjourned the meeting in honor of Martin Luther King Jr and his legacy, which promoted equity and justice for all.

12. ADJOURNMENT

At 11:08 p.m., Director Danziger motioned and seconded by Director Jorgens to adjourn the meeting. Said Motion carried a 5-0 voice vote (Ayes: Danziger, Hasler, Jex, Jorgens, and Roemer; Noes: None; Absent: None; Abstain: None)