



Moraga-Orinda Fire District  
**BOARD OF DIRECTORS**  
**REGULAR BOARD MEETING MINUTES**  
September 18, 2024  
(APPROVED OCTOBER 16, 2024)

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**1. OPENING CEREMONIES**

The Board of Directors convened an Open Session at 5:32 p.m. on September 18, 2024, at the Orinda Library Auditorium, 26 Orinda Way, Orinda, California 94563. This meeting was conducted in a hybrid format with in-person and remote options for public participation. Board Member Mike Roemer participated via teleconference from Naperville, Illinois. Vice President Hasler called the meeting to order, requested an attendance roll call, and led the Pledge of Allegiance. The following Directors and Staff were present (in person unless noted with asterisks).

**Board Members:** Director Steven Danziger, Director Greg Hasler, ~~Director John Jex~~ (absent), Director Craig Jorgens, 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, Of Counsel Rubin Cruse, Jr.\*\*, Senior Analyst Luke Jensen

**Special Counsel:** Downey Brand LLP Executive Partner Kathryn Oehlschlager (arrived at 6:11 p.m.)

**2. PUBLIC COMMENT – CLOSED SESSION ITEMS (audio 00:01:55/video 00:02:30)**

There were no requests to address the Board.

**At 5:33 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

**3.4 Conference with Labor Negotiator - Fire Chief**

(Government Code Section 54957.6)

Name of Case: Keith Larson v. Moraga-Orinda Fire District

Unrepresented Employee: Fire Chief Dave Winnacker

Agency Designated Representative: Jonathan Holtzman

**3.5 Public Employee Appointment**

(Government Code Section 54957)

Position to be Filled Title: Interim Fire Chief

**3.6 Conference with Legal Counsel - Existing Litigation (Pearson)**

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

Name of Case: Sandia Pearson and Anita K. Pearson v. Moraga-Orinda Fire District

Case No. N23-2201

**3.7 Conference with Legal Counsel - Existing Litigation (Nowicki)**

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

Name of Case: Peter J. Nowicki v. Contra Costa County Employee' Retirement Association, Moraga-Orinda Fire District, and Does 1 - 25 inclusive

Case No. Case No. MSC17-01266

**3.8 Conference with Legal Counsel - Existing Litigation (Larson)**

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

Name of Case: Keith Larson v. Moraga-Orinda Fire District, permissibly self-insured, adjusted by ATHENS ADMINISTRATORS, Defendants

Adjudication Number: ADJ17881925

At 6:45 p.m., Fire Chief Winnacker, ASD Gloriann Sasser, and HR Manager Russell departed the closed session meeting

At approximately 7:05 p.m., the Board adjourned the Closed Session.

**4. RECONVENE THE MEETING (audio 00:03:05/video 01:36:29)**

Vice President Hasler reconvened the Moraga-Orinda Fire District Board of Directors regular meeting at 7:07 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~~ (absent), Director Craig Jorgens, President Mike Roemer\*\*

**Staff:** ~~Fire Chief Dave Winnacker~~ (excused), Deputy Fire Chief Lucas Lambert, Administrative Services Director Gloriann Sasser, Fire Marshal Jeff Isaacs, Finance Manager Mary Smith\*\*, Human Resources Manager Christine Russell, Prescribed Fire Program Manager Dennis Rein, and District Clerk Marcia Holbrook

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

**5. REPORT OF CLOSED SESSION ACTION (audio 00:03:52/video 01:37:15)**

District Counsel Holtzman reported on the appointment of Jeff Isaacs as Interim Fire Chief, effective December 31, 2024, pending contract negotiations, item number 3.5, Public Employee Appointment. A closed session will be held for contract approval, and an Ad Hoc Committee will be formed to conduct the negotiations.

**Vice President Hasler opened Public Comment. There were no requests to address the Board.**

**6. PROCLAMATION**

**6.1 Town of Moraga 50th Anniversary Proclamation (audio 00:05:26/video 01:38:33)**

The Board congratulated the Town of Moraga on its 50th anniversary. Vice Mayor Steve Woehleke was in attendance; the Board presented a proclamation in recognition of this significant milestone.

**Vice President Hasler opened Public Comment.**

Vice Mayor Woehleke, Town of Moraga (attended in person) expressed gratitude for the proclamation and thanked the Board and Staff for their continued support.

**There were no additional requests to address the Board.**

**7. ANNOUNCEMENTS (audio 00:08:08/video 01:41:30)**

**7.1 Brief information only reports related to meetings attended by a Director at District expense (Government Code Section 53232.3(d)).** None reported.

**7.2 Questions and informational comments from Board members and Staff.** None reported.

**7.3 Communications Received.** None reported. Director Jorgens inquired about communications received, noting that some may already be part of the record due to being submitted early. District Clerk Holbrook confirmed that all received communications are included in the packet as written public comments and will be recognized under the relevant agenda items or for items not listed on the agenda.

**7.4 Fire Chief Updates**

**a. Finance Report**

Finance Manager Smith provided a finance report, beginning with updates on strike team reimbursements, including an outstanding receivable for FY2024 that has decreased to \$20K after a recent \$30K payment. For FY2025, the District has an outstanding receivable of \$651,963 with no payments received yet. Finance Manager Smith also provided a financial update on the Tunnel East Bay Hills, with a budget of \$6.3M and \$2.9M invoiced to Cal Fire, leaving an outstanding receivable of \$641,998. The District has invested \$15.1M in Treasury Bills, with maturities listed in the presentation. The presentation is attached to these minutes (item 7.4(a)). Additional updates included the FY24 audit, a \$518K payment to Motorola for radios funded by a FEMA grant, and the start of a fee study by Matrix Consulting. An Audit Committee meeting is scheduled for September 24, 2024, at 4:00 p.m.

**b. Human Resources**

Human Resources Manager Russell provided a recruitment and promotion update. The Battalion Chief recruitment is open until October 30, with exams in December 2024. Interviews for the Office

Specialist - Fire Prevention position are scheduled for next week. Battalion Chief Lucas Lambert was promoted to Deputy Fire Chief, leading to several other internal promotions listed in the presentation. The presentation is attached to these minutes (item 7.4(b)). The Board extended congratulations to all those who were promoted.

**c. Fire Marshal**

Fire Marshal Isaacs reported that Staff is completing last year's inspections and progressing to the second and third rounds of target area inspections. School inspections have been finalized, with open violations addressed in meetings with school district officials. Upcoming inspections will focus on apartments and dorms at St. Mary's College. Director Danziger inquired if any schools had fully passed their inspections at this point. Fire Marshal Isaacs responded that none had passed. Vice President Hasler asked about common violations found during inspections. Fire Marshal Isaacs explained and reviewed the common issues, such as the requirement for school staff to sign off on the back of fire extinguisher cards monthly and the 30-day checks on exit signs and lighting.

**d. Tunnel East Bay Hills Fuel Break Project**

Fire Marshal Isaacs reported that the fuel break project is on schedule and under budget. The second crew will conclude work on Friday, October 4. In October, a detailed plan outlining the remaining work through fall and into winter, including pile burning with the CONFIRE Crew 12, will be presented to the Board. Fire Marshal Isaacs provided slides showing the crews' progress, highlighting work in areas four, five, and six. The presentation is attached to these minutes (item 7.4(d)). Director Jorgens inquired about the possibility of the state changing its approach to follow-on grants for maintaining fire breaks and whether the District has a plan to apply for such grants for areas already completed. Fire Marshal Isaacs confirmed that the District plans to apply for maintenance grants in the next available grant cycle. He explained that after a few years of regrowth, the District will reapply for grants to maintain these areas.

**e. Home Hardening Grant Program**

Prescribed Fire Program Manager Rein provided the update highlighting that approximately 650 grants have been awarded since its inception in September 2023. The implementation of direct shipping for the Gutter Glove product has reduced staff workload, with 85 new grant applications and 52 orders fulfilled. The program has spent \$43,976 so far this year, with additional funds available to meet ongoing demand. Director Jorgens acknowledged the progress, noting that nearly 700 homes have benefited from the program

**f. Station 45 Remodel**

Deputy Fire Chief Lambert provided a brief update on the remodel of Station 45, stating that the District is still evaluating construction process options for selecting architects and contractors and is working with legal Counsel to finalize contract options. A more detailed update is expected at the next meeting. Director Danziger requested that this item be left on the agenda for next month so that further updates can be received.

**g. Operations**

Deputy Fire Chief Lambert provided the monthly operations report. On August 27, MOFD, along with Berkeley Fire, Contra Costa County Fire, Cal Fire, and East Bay Regional Park District responded to a vegetation fire near Inspiration Point and Wildcat Canyon Road. Crews established incident command and, with the use of ground and air resources, contained the fire to approximately four acres. Deputy Fire Chief Lambert presented an after-action review of the incident, emphasizing the importance of interagency collaboration and lessons learned. The review focused on evaluating what was planned, what occurred, and how to correct weaknesses and sustain strengths for future incidents. Deputy Fire Chief Lambert also highlighted the large-scale response due to the fire's location in a high-risk area and the critical fire conditions present at the time. The report concluded with a focus on continuous improvement through post-incident evaluations. The presentation is attached to these minutes (item 7.4(g)).

Director Danziger inquired about who was in charge of the vegetation fire, given its location between Orinda, Oakland, and East Bay Regional Park. Deputy Fire Chief Lambert explained since the fire was located in State Responsibility Area (SRA) within the Fire District, it ultimately fell under Cal Fire's primary responsibility for the prevention and suppression of fires excluding structures. Once they arrived on the scene, the fire was turned over to them, with support from local government resources.

**h. Upcoming Calendar and Events - (next 30 days)**

District Clerk Holbrook announced the Moraga Pancake Breakfast, the next Board of Directors meeting, and the Tri-Agency meeting on October 21. Director Danziger added that while it is slightly outside the 30-day window, on November 1, the City of Orinda and MOFD will co-sponsor a blood drive. Information will be circulated in newspapers to encourage participation. District Clerk Holbrook also noted the Town of Moraga's 50th Anniversary Celebration Parade on September 28.

**Vice President Hasler opened Public Comment.**

Marc Evans, Orinda resident (attended in-person), shared that in collaboration with MOFD, the Moraga-Orinda Firewise Network, and Fire Safe Moraga-Orinda will be partnering for outreach efforts at the upcoming Pear Festival.

Director Jorgens inquired about the date of the Pear Festival, to which Vice Mayor Woehleke responded from the audience that it would take place after the parade on Saturday, September 28, 2024.

**There were no additional requests to address the Board.**

**8. PUBLIC COMMENT –ITEMS NOT ON THE AGENDA (audio 00:29:19/ video 02:02:39)**

The District received four written comments from Nick Waranoff, Orinda resident, and one written comment from Jonathan Goodwin, Canyon resident. The public comments received prior to the posting of the Board packet were included in the packet, forwarded to the Board of Directors, and posted on the District's website at [www.mofd.org/agenda](http://www.mofd.org/agenda) under the September 18, 2024, board meeting documents public comment section. The public comments after the publication of the Board packet were forwarded to the Board of Directors and posted on the District's website at [www.mofd.org/agenda](http://www.mofd.org/agenda) under the September 18, 2024, board meeting documents public comment section and attached to these minutes.

Director Danziger referenced comments made by Nick Waranoff regarding a case the City of Orinda lost related to evacuation planning. He acknowledged the issue, noting that while it is primarily a City of Orinda matter, MOFD would respond if requested. Director Danziger also acknowledged the receipt of comments from Jonathan Goodwin, thanking him for providing them to the Board.

**There were no additional requests to address the Board**

**9. CONSENT AGENDA (audio 00:31:40/video 02:05:00)**

- 9.1 Meeting Minutes - August 21, 2024 (regular)
- 9.2 Monthly Incident Report - August 2024
- 9.3 Monthly Check/Voucher Register - August 2024
- 9.4 Monthly Financial Report - August 2024
- 9.5 Approval of Deputy Fire Chief Right of Return Side Letter of Agreement Between Moraga-Orinda Fire Protection District and Moraga-Orinda Fire Chief Officers' Association
- 9.6 Waive the Reading and Introduce Ordinance No. 24-03, an Ordinance of the Moraga-Orinda Fire Protection District, Amending the Purchasing and Contracting Procedures and Authorities; Review Draft Resolution 24-12 Establishing Contracting Procedures for Special Services Contracts.

**Vice President Hasler opened Public Comment.**

There were no requests to address the Board.

Director Danziger requested that item 9.5 Approval of Deputy Fire Chief Right of Return Side Letter of Agreement Between Moraga-Orinda Fire Protection District and Moraga-Orinda Fire Chief Officers' Association be pulled from the consent calendar.

Director Danziger requested item 9.6, Waive the Reading and Introduce Ordinance No. 24-03, an Ordinance of the Moraga-Orinda Fire Protection District, Amending the Purchasing and Contracting Procedures and Authorities; Review Draft Resolution 24-12 Establishing Contracting Procedures for Special Services Contracts be pulled from the consent calendar.

**Motion by Director Jorgens and seconded by Director Danziger approved Consent Agenda items 9.1-9.4. The motion carried a 4-0-1-0 roll call vote (Ayes: Danziger, Jorgens, Roemer, and Hasler; Noes: None; Absent: Jex; Abstain: None).**

**Item 9.5, Approval of Deputy Fire Chief Right of Return Side Letter of Agreement Between Moraga-Orinda Fire Protection District and Moraga-Orinda Fire Chief Officers' Association.**

Director Danziger expressed support for Item 9.5, the approval of a side letter, but raised concerns about language under Item 3 in the letter. He suggested that instead of limiting the District to fund a 40-hour Training Battalion Chief position in the event there is no Battalion Chief vacancy, the language could be broadened to

allow for other positions as deemed necessary. Director Jorgens noted that the Board could always make changes in the future if needed. District Counsel Holtzman clarified that the side letter represents a negotiated agreement, but changes could be proposed and agreed upon by the parties through amendments to the relevant MOU at a later date. With that understanding, Director Danziger was satisfied with the current wording.

**Item 9.6, Waive the Reading and Introduce Ordinance No. 24-03, an Ordinance of the Moraga-Orinda Fire Protection District, Amending the Purchasing and Contracting Procedures and Authorities; Review Draft Resolution 24-12 Establishing Contracting Procedures for Special Services Contracts**

Director Danziger questioned why the Emergency Preparedness Office Specialist was granted authority to contract amounts up to \$10,000, stating that this amount seemed high for the position. ASD Sasser explained that this position, formerly the Emergency Preparedness Coordinator, regularly handles purchasing within its \$40,000 budget. All expenses are reviewed by finance staff to ensure proper approval and budget allocation. Director Danziger also inquired about the authority granted to the Prescribed Fire Program Manager and asked for clarification on this position's role within the organization. ASD Sasser confirmed that the position reports directly to the Fire Chief and acknowledged that it had been omitted from the organizational chart, an oversight that would be corrected. Director Danziger requested a job description for the Prescribed Fire Program Manager be added to the next agenda.

**Motion by Director Jorgens and seconded by Director Danziger approved Consent Agenda item 9.5 and item 9.6. The motion carried a 4-0-1-0 roll call vote (Ayes: Danziger, Jorgens, Roemer, and Hasler; Noes: None; Absent: Jex; Abstain: None).**

**10. REGULAR AGENDA**

**10.1 Draft GASB 75 OPEB Valuation Report as of June 30, 2024, and Approval of OPEB Funding Policy (audio 00:40:31/video 02:13:51)**

Administrative Services Director Gloriann Sasser provided the report. The District's Other Post-Employment Benefits (OPEB) actuarial evaluation as of June 30, 2024, has been completed. The Board previously reviewed the District's OPEB funding policy at the August regular board meeting and directed the use of a 6.25% discount rate, which has been applied in the draft report. Roger Burton, Consulting Actuary with GovInvest Incorporated, was introduced to review the draft actuarial valuation.

Mr. Burton provided an overview of the District's Other Post-Employment Benefits (OPEB) actuarial valuation report as of June 30, 2024. The report highlighted key financial figures, including a slight increase in the total OPEB liability and a decrease in the net OPEB liability. Mr. Burton explained that the report reflects the Board's decision to use a discount rate of 6.25%, which was deemed a conservative estimate. He also reviewed the service cost, interest cost, and other factors contributing to the OPEB liability increase, as well as the amortization of the net liability over 20 years. Mr. Burton projected that the District's contributions will increase over the next 11 to 12 years as the net liability is paid off, after which the District's contributions will primarily cover service costs, administrative expenses, and interest. He concluded by inviting any questions from the Board. The Board had no questions or discussion.

**Vice President Hasler opened Public Comment.**

Dan Elbanna, L1230 Union Representative (attended via Zoom), asked for clarification regarding interest in the OPEB calculations, the accounting for actual returns earned in the market, and whether that factored into payment projections.

Roger Burton explained that the 6.25% discount rate is used to calculate the present value of future benefit payments and determine the amount needed in the trust fund. He clarified that the asset fund is separate from the benefit payments, although the goal is for the assets to equal the liability. The asset fund grows based on its rate of return, which could be 7.6% or 7.8%, as estimated by the asset managers. The net liability would be reduced if the assets grow at this faster rate, lowering the actuary-determined contribution (ADC) and the amount the District needs to contribute to the trust fund. The interest from the asset fund does not impact the expected benefit payments but influences the growth of the District's assets.

**There were no additional requests to address the Board.**

**Motion by Director Jorgens and seconded by Director Danziger to approve the OPEB Funding Policy as written. The motion carried a 4-0-1-0 roll call vote (Ayes: Danziger, Jorgens, Roemer, and Hasler; Noes: None; Absent: Jex; Abstain: None).**

**10.2 Establish Interim Fire Chief Recruitment Ad Hoc Committee and Appoint Two Directors to the Ad Hoc Committee for Interim Fire Chief Recruitment. (audio 00:55:18/ video 02:28:40)**

Administrative Services Director Sasser provided the report. Fire Chief Winnacker informed the Board of his decision to end his employment with the District in December 2024. Following past practice, as seen with the previous Fire Chief's retirement, the Board will appoint an Interim Fire Chief in accordance with District Policy 11. Staff recommended that the Board establish an Interim Fire Chief Recruitment Ad Hoc Committee to negotiate the Interim Fire Chief's contract and appoint two directors to serve on the committee. Director Jorgens volunteered to serve on the Interim Fire Chief Recruitment Ad Hoc Committee. President Roemer recommended Director Hasler for the second position. Director Danziger favored the recommendation.

**Vice President Hasler opened Public Comment.**

The District received one written comment from Jonathan Goodwin, a Canyon resident. The public comment was forwarded to the Board of Directors, posted on the District's website at [www.mofd.org/agenda](http://www.mofd.org/agenda) under September 18, 2024, board meeting documents public comment section, and attached to these minutes.

Director Danziger commented that the District has had Interim Fire Chiefs in the past, noting that Battalion Chief Jerry Lee served as Interim Fire Chief for approximately three months before Fire Chief Winnacker was hired. This information was provided to Mr. Goodwin and the Directors for reference.

Vincent Wells, Local 1230 President (attended via Zoom), requested that a Local 1230 member be involved in the committee to select both the interim and full-time fire chiefs.

Director Jorgens clarified that the current ad hoc committee is focused on negotiating the contract for the already chosen interim fire chief, not selecting a full-time chief. Mr. Wells reiterated his request for Local 1230 to have input in the selection process for both the interim and permanent fire chief positions. He noted that Local 1230 has been involved in similar processes with other agencies and requested the same level of involvement moving forward.

District Counsel Holtzman clarified that under the Brown Act, an ad hoc committee cannot include members from outside the Board, although consultation remains possible. He also noted that the Board had already selected Jeff Isaacs as the Interim Fire Chief, with the remaining task being the negotiation of his contract.

Mr. Wells reiterated the Union's request to be involved in the selection process for the permanent Fire Chief. He expressed concern about missed opportunities for involvement in both interim and permanent fire chief selections, emphasizing that Local 1230 has historically been part of such conversations. Mr. Wells requested that the union be included in the decision-making process moving forward.

Director Danziger acknowledged that the decision regarding the interim fire chief had been finalized. He suggested that the Board consider involving union representatives in the future recruitment process for the permanent fire chief. Director Jorgens added that in previous instances, input was provided by senior members of the department, possibly including union representatives, and expressed openness to receiving similar input during the selection process for the permanent fire chief.

**There were no additional requests to address the Board.**

**Motion by President Roemer and seconded by Director Danziger to Establish Interim Fire Chief Recruitment Ad Hoc Committee and Appoint Director Hasler and Director Jorgens to the Ad Hoc Committee for Interim Fire Chief Recruitment. The motion carried a 4-0-1-0 roll call vote (Ayes: Danziger, Jorgens, Roemer, and Hasler; Noes: None; Absent: Jex; Abstain: None).**

**10.3 Quarter Four Financial Update and Budget Review FY2024. (audio 01:04:18/ video 02:37:38)**

Administrative Services Director Sasser provided the final financial report for the 2024 fiscal year, noting that all accounting entries have been completed and the results are final. The original budget projected a general fund deficit of \$633K, but the actual results show a general fund surplus of \$2.4M. The surplus was driven by higher-than-expected revenues from property taxes, investment earnings, and ambulance fees, while most expenses were under budget.

The District's general fund unrestricted fund balance increased to \$20.4M, exceeding the policy minimum of 40% and the goal of 50%, reaching 58.53% at year-end. The Capital Projects Fund ended the year with a surplus of \$3M, primarily due to a \$3.1M transfer from the general fund, bringing its total fund balance to \$11M. The Debt Service Fund had a balanced budget. The Tunnel East Bay Hills Fuel Break Fund ended with a surplus of \$297,000 and a fund balance of \$348,000. The Fire Risk Reduction Grant Fund, which supports two Fuel Mitigation Specialists, ended with a surplus of \$35,000 and a fund balance of \$36,000.

Director Danziger inquired about the Professional Services category in the budget, asking for more clarity on what services are included. ASD Sasser explained that most of the expenses in this category are for services such as auditors and the actuary. ASD Sasser agreed to provide more details on professional services in future reports.

Director Danziger noted that there was no volunteer recognition event in the 2023/24 fiscal year and acknowledged that staffing challenges may have contributed to this. He expressed hope that, with the new Office Specialist in place, this event could be reinstated, emphasizing the importance of recognizing volunteers and partners as it is included in the next fiscal year's budget.

**Vice President Hasler opened Public Comment. There were no requests to address the Board.**

**10.4 Consider Options for District Investments held in Section 115 Trust with Public Agency Retirement Services (audio 01:09:48/video 02:43:17)**

Administrative Services Director Sasser presented an analysis of alternative investment strategies for the District's pension and OPEB trust funds held at PARS. The Board previously directed Staff to explore the possibility of changing to a directed trustee option, allowing the District to self-direct investments or choose a different registered investment advisor. If this option is chosen, the District would assume fiduciary liability. ASD Sasser conducted an analysis comparing potential earnings using the Vanguard 500 Index Admiral Fund against the District's current returns over the last five years, attached to these minutes. Trustee fees would decrease under the directed trustee approach. ASD Sasser highlighted the California government code limits permissible investments for all public funds outside a Section 115 trust. Investment options are unlimited for public funds within a Section 115 trust. Staff requested board direction.

Director Jorgens stated the consideration is whether the District or PARS should manage the District's investment and provided historical context on market fluctuations, noting that while the currently managed fund aims to minimize risks, the District's returns in comparison to the S&P 500 had underperformed the S&P 500. Director Jorgens pointed out that over the past five years, the District could have earned an average of 6% more with the Vanguard Fund, which would have amounted to roughly \$3M in additional funds. ASD Sasser confirmed that the investment returns were reported gross of fees, meaning the fees were not included in the calculations, which would have further increased the projected returns. Director Hasler emphasized that the returns were shown on an annual, not compounded, basis. Director Jorgens referenced Warren Buffett's advice to invest in the S&P 500 for long-term gains, arguing that the District could take less risk while earning significantly more by moving away from a managed fund.

Director Hasler agreed based on these numbers and commented on the risk. The District would be accepting the risk of investing its own money, which is currently shown as a negative risk because currently the managed fund underperformed compared to potential self-directed investment options. ASD Sasser answered that if the Board chooses to move to a self-directed investment option, the District would assume fiduciary liability for the management of the funds. Director Jorgens emphasized that the District will ultimately need to fund its pension liabilities and noted that, by underperforming in its current investment strategy, the District has had to come up with approximately \$3M more than it otherwise would have. This year alone, the District had to generate an additional \$1.3M to address its unfunded pension liabilities. Director Jorgens argued that by not investing more appropriately, the District is failing to fulfill its fiduciary duty.

President Roemer expressed concern about the phrase assuming fiduciary liability and sought clarification on its practical implications. District Counsel Holtzman recommended preparing a memo to the Board to thoroughly address the issue of fiduciary liability related to the Board's potential decision on investment strategies. Mr. Holtzman noted key components to be covered in the memo, including who would have standing to challenge the decision and how such a challenge might work, as well as the potential increase in liability for the Board. While the factual arguments presented seem sound, Mr. Holtzman suggested that it would be prudent for the Directors to request the memo from Counsel.

President Roemer agreed with Director Jorgens' argument and opined that the Board's fiduciary obligation remains, even if it is delegated to an underperforming intermediary. He questioned whether relying on an underperforming manager might constitute a violation of the Board's fiduciary responsibility. District Counsel Holtzman affirmed President Roemer's point regarding the Board's fiduciary obligation, stating that by entrusting the funds to a management entity, the Board is fulfilling its fiduciary duty. While the management entity also carries fiduciary responsibility, the Board retains its obligation to assess both the risks and the potential benefits of the investment strategy.

President Roemer emphasized the importance of creating a record, similar to previous cases that led to litigation, to support the Board's decision-making process. He agreed that while the investment strategy seems like a clear choice, the Board has to consider potential downsides. President Roemer also suggested that the analysis should include whether the District's Directors and Officers (D&O) insurance policy would provide defense and indemnification in such a scenario.

Director Jorgens requested that District Counsel provide a memo to the Board of Directors explaining whether this would be a reasonable strategy for the Board to pursue or not. Director Hasler added that the memo should also address the associated risks. President Roemer agreed. District Counsel Holtzman noted the memo request demonstrates the Board's exercise of due caution. Director Jorgens requested that the item be placed on the agenda for approval at the next meeting.

Director Danziger expressed no objection to further exploring the issue or having Counsel prepare a memo. However, he opposed moving to a self-directed option and believed it was the Board's fiduciary responsibility to continue with the discretionary trustee. He also questioned whether Staff would be responsible for managing such investments. Director Jorgens clarified that it would involve investing in a single S&P 500 fund. Director Danziger concluded by stating he was not ready to decide at this time but was open to further discussion.

Director Jorgens requested historical return data from PARS to compare their performance with the S&P 500 over a longer period, such as 20 years, to include both strong and weak market downturns. This broader view would provide a more comprehensive assessment of the investment strategy. President Roemer added that this analysis should be part of the record, noting that Warren Buffett's bet, which was based on extensive research comparing index funds to actively managed funds, also supports this line of thinking. President Roemer stated that given the potential to earn millions, the cost of a few thousand dollars for the detailed memo expenditure is justified. All directors agreed—no further discussion.

**Vice President Hasler opened Public Comment. There were no requests to address the Board.**

**10.5 Authorize Insurance Brokerage Service Agreement with Loveland and Smart Insurance Services, Inc. (audio 01:27:07/video 3:00:14)**

Administrative Services Director Sasser provided the report. ASD Sasser provided an update on the District's insurance coverage through the Fire Agency Insurance Risk Authority (FAIRA), a joint powers authority with approximately 94 public agency members, primarily in California. The District's insurance premiums have increased significantly over the past five years. San Ramon Valley Fire Protection District recently left FAIRA and obtained coverage through VFIS, a company providing insurance to emergency services organizations across the U.S., spreading property risk nationwide.

ASD Sasser explained that VFIS does not work directly with districts and requires clients to utilize an insurance broker. Loveland and Smart, the broker used by San Ramon Valley, would provide services including obtaining three insurance quotes, reviewing and analyzing the District's 10-year loss history and current claims, and comparing coverage limits, deductibles, and services. The cost for these services would be \$6,000 for the period from January 1, 2025, to June 30, 2025, which is within Staff's spending authority. ASD Sasser sought the Board's direction before leaving FAIRA.

ASD Sasser noted that FAIRA has restrictive withdrawal requirements, including 12 months' advance notice and a 10% premium payment. Staff recommended that the Board authorize entering into an insurance brokerage service agreement with Loveland and Smart for \$6,000. Staff requested Board direction.

Director Jorgens asked about the penalty for not providing FAIRA with the required 12 months' notice of withdrawal. ASD Sasser explained that the District would likely have to pay FAIRA the full premium and the premium for the new insurance provider. Director Jorgens asked about the amount of the premium. ASD Sasser answered that FAIRA calculates the premium annually through an actuarial valuation, which is why the 12-month notice is required.

Director Hasler inquired about potential savings. ASD Sasser responded that Loveland and Smart projected a 20% reduction in premiums. Director Danziger favored proceeding. Director Jorgens asked what percentage of the new contract Loveland and Smart would receive as their broker fee, staff did not have that information.

Director Jorgens questioned why the District should pay the \$6,000 upfront for brokerage services when the broker stands to earn a commission from the insurance provider if a new policy is secured. He suggested structuring the agreement so that the \$6,000 fee is only paid if the District does not proceed

with the broker's recommendations, as the broker would otherwise receive compensation through commissions.

Director Jorgens noted that while he supported proceeding, he questioned the upfront \$6K payment. He emphasized his support for exploring potential savings but suggested reviewing the contract's terms and the terms for breaching the contract. District Counsel Holtzman suggested inquiring whether the broker would be willing to credit the \$6,000 fee if the District proceeds with their services. Director Jorgens agreed. District Counsel Holtzman sought clarification from the Board on whether they wished to proceed with the agreement regardless of the broker's response. Director Jorgens confirmed he supported proceeding with the agreement regardless of the outcome.

Director Jorgens asked whether a formal motion was required for the proposed action or if the Board needed to provide approval. ASD Sasser clarified that the purpose was to receive Board direction and confirmed she had received the necessary direction to proceed.

**Vice President Hasler opened Public Comment. There were no requests to address the Board.**

**10.6 Adopt Resolution 24-13 Authorizing a Service Contract Amendment for Legal Services with Downey Brand in an Amount Not to Exceed an Additional \$75,000 for litigation Under the California Environmental Quality Act (CEQA) from Sandia Pearson and Anita K. Pearson Challenging the Approval of Amended Fuel Break Ordinance No. 23-08. (audio 01:33:48/video 03:07:03)**

District Counsel Holtzman provided an update on the ongoing litigation in the Sandy Pearson matter, a CEQA challenge to the District's fuel break ordinance. The case is progressing through the courts, with a trial anticipated in February 2025. He explained that various activities, including preparation of the record, settlement discussions, and other related matters, have taken more time than expected. As a result, the initial contract allocation of \$95,000 has been exhausted. District Counsel Holtzman requested an additional allocation of \$75,000 to continue with the litigation.

Director Danziger expressed regret that Ms. Pearson is suing the District but emphasized the importance of proceeding with the litigation to uphold the District's fire prevention efforts. He noted that the original ordinance had already been amended and affirmed support. Director Jorgens agreed, stating that the fuel break ordinance is a crucial component of the District's fire prevention strategy and must be defended. Directors Roemer and Hasler also expressed their agreement.

**Vice President Hasler opened Public Comment.**

The District received one written comment from Jonathan Goodwin, a Canyon resident. The public comment was forwarded to the Board of Directors and posted on the District's website at [www.mofd.org/agenda](http://www.mofd.org/agenda) under September 18, 2024, board meeting documents public comment section and attached to these minutes

**There were no additional requests to address the Board.**

**Motion by Director Jorgens and seconded by Director Danziger to Adopt Resolution 24-13 Authorizing a Service Contract Amendment for Legal Services with Downey Brand in an Amount Not to Exceed an Additional \$75,000 for litigation Under the California Environmental Quality Act (CEQA) from Sandia Pearson and Anita K. Pearson Challenging the Approval of Amended Fuel Break Ordinance No. 23-08. The motion carried a 4-0-1-0 roll call vote (Ayes: Danziger, Jorgens, Roemer, and Hasler; Noes: None; Absent: Jex; Abstain: None).**

**11. COMMITTEE REPORTS (audio 01:36:42/ video 03:09:56)**

**11.1 Standing Audit Committee (Directors Jex & Hasler).**

The next meeting is Tuesday, September 24, 2024, at 4:00 p.m.

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

Director Jorgens reported the discussion was focused on expanding the "Zone Zero" defensible space from two feet to five feet. A Tri-Agency meeting with Moraga Town Council, Orinda City Council, and MOFD, is scheduled for October 21, 2024, at 6:00 p.m.

**Vice President Hasler opened Public Comment. There were no requests to address the Board.**

**12. REQUESTS FOR ITEMS ON FUTURE AGENDAS (audio 01:39:13/video 03:12:27)**

Director Danziger requested an agenda item to include the job description for the Prescribed Fire Program Manager and the revised organizational chart reflecting the two new positions. He noted that while the job description for the Office Specialist—Emergency Preparedness position has already been received, he would

like to see how both positions fit within the organizational chart and review the job description for the Prescribed Fire Program Manager.

Director Hasler requested a policy for handling funds as the District begins to meet its investment goals. Director Jorgens agreed, noting that the District currently lacks a policy regarding when or under what circumstances funds should be withdrawn from PARS. He recommended placing this item on the next agenda to develop such a policy. District Counsel Holtzman asked if there were specific materials the Board would like for the session. Director Jorgens requested a draft policy for discussion, suggesting that the fund be used as a last resort and that a cap, possibly at 110%, be established to prevent overfunding. Any excess earnings could be returned to the general fund. District Counsel Holtzman confirmed that the direction would be for Staff to prepare materials for the discussion.

**13. ADJOURNMENT**

**At 8:47 p.m., Director Jorgens motioned and seconded by Director Roemer to adjourn the meeting. The motion carried a 4-0-1-0 roll call vote (Ayes: Danziger, Jorgens, Roemer, and Hasler; Noes: None; Absent: Jex; Abstain: None).**

/s/ Marcia Holbrook  
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).*

### **Public Comments**

These comments were received prior to the posting of the Board Packet and were included in the board packet. See packet for comments or [www.mofd.org/agenda](http://www.mofd.org/agenda) under the September 18, 2024, board meeting documents public comment section

1. Nick Waranoff
2. Nick Waranoff
3. Nick Waranoff
4. Jonathan Goodwin

**Holbrook, Marcia**

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**From:** Nick Waranoff <waranoff@comcast.net>  
**Sent:** Friday, September 13, 2024 10:49 AM  
**To:** Info  
**Subject:** additional public forum comment - LTE Lamorinda Weekly published Sept. 11, 2024

Orinda Should Not Re-Adopt the DPP

<https://www.lamorindaweekly.com/archive/issue1815/pdf/Page%2011.pdf>

Nick Waranoff

## Holbrook, Marcia

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**From:** jonathan@sojourningsoul.net  
**Sent:** Monday, September 16, 2024 11:10 AM  
**To:** Holbrook, Marcia  
**Subject:** Comment on MOFD Agenda Item 10.2, Sept. 18, 2024

Conventionally, when a fire chief retires, a new fire chief is hired. There has never been a case in the history of this agency where an interim chief was selected after a chief retires. To fail to give an explanation for this deviation in standard protocol in the staff report is outrageous, I would aver. It smacks of scheming.

Recently the MOFD Board hired a Deputy Chief by the following process. One day the position opened, the next day it closed and the day after that the sole applicant was hired. Meaning no disrespect whatsoever to Chief Lambert, this was not a proper hiring process where various applicants were interviewed and then the best was selected. Why the scheming instead of a transparent process?

From your staff report I deduce that, again, there will be no legitimate hiring process for this Interim Chief position.

How sad it is that this board once again falls conspicuously short of professional standards of conduct. I find this abundantly disappointing because this fire district deserves the best possible candidate available in the current market, in my view. Apparently, you see things differently. Sad, indeed.

~Jonathan Goodwin  
Canyon, Calif.

## Holbrook, Marcia

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**From:** jonathan@sojourningsoul.net  
**Sent:** Monday, September 16, 2024 12:13 PM  
**To:** Holbrook, Marcia  
**Cc:** Sasser, Gloriann; Jon Holtzman; jairola; Jill Ray; candace.andersen@bos.cccounty.us; gjjury@contracosta.courts.ca.gov; Susann Bradford; jblome@greenfirelaw.com; jill.cowan@nytimes.com; kevin.yamamura@nytimes.com; demian.bulwa@sfchronicle.com; local@bayareanewsgroup.com; jaya@lamorindaweekly.com; editor@theorindanews.com; Winnacker, David  
**Subject:** At MOFD the Costly Concatenation of "Care-Free" Conduct Continues

To: The Moraga-Orinda Fire District Board of Directors  
Re: Public Comment ion Item 10.6, Sept. 18th, 2024 Board Meeting

After all the information I have presented on this topic, you are now set up to accept another staff report with serious flaws.

1. It hides the actual cost of the lawsuit by concealing the ~\$49k taken by Renne Public Law Group-- which describes itself two times now as **unqualified to do the work** and unavailable. (This is clearly a dodge, in terms of being unavailable.) Who's to say how much these costs will rise? You consistently ignore this self-interested and odd presentation of the facts, and this is striking because you are so diligent with funding future pension costs and so picayune with staff about how budgetary information is presented. How is that you now sleepwalk through the costs of this particular item? Any other agency board would want to know the full financial impact of a proposed action and would not accept the presentation of actual costs being misrepresented. But then, you have your own ways with things, such as approving a likely retired annuitant working half time for a budgeted \$350,000 this year in local and State funds.
2. Also, it comes out now that it was Downey Brand that wrote this indefensible ordinance (or did something in that time frame to bill you \$16,200), and now they are poised to rake in up to \$170,000 to defend it in court. ...or rather, not defend it. ...or maybe they will defend it eventually? Your legal staff chose not to inform you that, so far as I can tell from the public record, for nearly \$100,000 in billing over the past 11 months, Downey Brand has met briefly twice with the judge and plaintiffs and filed a long series of continuances rather than do any actual work. Very sadly, we find that this board is incapable of providing reasonable oversight.
3. It gives no context for the costs. What justifies expenditure of well over \$200,000 to fight for an ordinance that you rushed through, despite the City of Orinda asking for more time for discussion? Is this ordinance really worth that much public money? When it was first disputed, staff said repeatedly that the most controversial portion of your ordinance would apply only to a very small number of parcels in the District, so why are you willing to pay up to \$220,000 for it (with no cap on the funds collected by Renne Public Law Group)? Surely, a word of discussion is called for here to justify the large cost of this action.
4. There is no alternatives analysis. What would be the result if the Board declined to pass the resolution? Some political bodies prefer to be informed on such things...why not you? What would be the consequence if this matter were abandoned? What other ends could the money be put to, such as hiring someone to fly over the District and see where PG&E is in compliance with their vegetation management and where they are not?

I recently spoke with a local fire person who once dubbed me some years ago a "Senior Local Expert" (SLE) in wildfire mitigation. I learned that your legacy of numerous wildfire prevention activities has largely disappeared from view. We can begin with those fancy sensors you believed would automatically report fires. They turned out to be infeasible. The fuel you spent something like 13 Million Dollars clearing with your big fuel break grants has mostly regrown, exactly as I told you it would five or so years ago. Your efforts to twist the arms of public agencies to their clear fuels to your liking has failed for the

most part. And what might surprise some people most, in local neighborhoods where the fire chief<sup>07</sup> has spent years giving scores and scores of talks to local groups, the rate of compliance with the fire code is just the same in these places as in other places that had no personal contact. Likewise, the District now contains some 40 Firewise Communities and the rate of compliance in those areas is also no better than non-Firewise areas. You spent something like \$200,000 giving away gutter guards, and this has had no effect on rates of compliance. The only method proven to be effective is strict enforcement, and I'll tell you a secret about that. This also is not a sustainable policy because people eventually rebel against it in expensive ways. (How many hundreds of thousands more of tax payer funds will you spend fighting with your neighbors?)

In sum, while there are successes here and there, what is overwhelming to the eye is the massive failure of your chosen policies.

Clearly, new ideas are needed. But I would guess that the quality of mentation you are applying to this lawsuit indicates that real and sustainable improvement in wildfire safety in this fire district will never *even be imagined* while we are governed by the quality of leadership such as this board is capable of offering.

And, alas, there is no mechanism for accountability. The voters don't understand this, the press is too emaciated to stand up and explain it and powers with jurisdiction over the District such as LAFCO and the Civil Grand Jury won't likely take an interest in such small potatoes. So, you guys win, allowing you to enjoy your hollow triumph.

Happy Trails.  
~SLE Goodwin  
Canyon, Calif.

PS: In a prior email I observed incorrectly that the Secretary to the MOFD Board was made by senior staff to lie, saying that my email which opened up this discussion was not received. Having discovered that senior staff's prestidigitation had located acknowledgement of said email just prior to closed session, I wish to say that I truly regret having cast any shadow over the integrity of junior staff and I regret any internal dissonance this may have caused.



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

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**Finance Report**  
**September 18, 2024**

1

Strike Team Reimbursement - OES

- Strike Team Receivable Update:

	Actual <u>2023-2024</u>	Estimated <u>2024-2025</u>
OES Strike Team Receivable	\$748,115	\$651,963
OES Payments Received	\$ <u>697,539</u>	<u>\$0</u>
<b>Net Receivable Outstanding</b>	<b>\$ 50,576</b>	<b>\$651,963</b>

- Latest payment received on 9/13 for two FY24 invoices
- FY25 represents estimated Strike team activity to date

2

Tunnel East Bay Hills - Financial Update

- Tunnel East Bay Hills Financial Update:

<b>Project Budget</b>	<b>\$6,380,563</b>
Invoiced to Cal Fire through 6/30/24	\$2,935,936
Payments Received from Cal Fire	<u>\$2,293,938</u>
<b>Outstanding Receivable – 2Q24 Invoice</b>	<b>\$ 641,998</b>
<b>Expenses Paid but Not yet Invoiced</b>	<b>\$1,591,914</b>
<b>Total Expenses Outstanding</b>	<b>\$2,233,912</b>

- Invoice for 2Q24 was submitted to Cal Fire on 7/30/24 – approved and pending payment
- Total Expenses to date are \$4,527,850 which is 70.96% of Total Budget

3

Treasury Bill Update:

- The District now has \$15,115,000 invested in Treasury Bills
- Treasury bill maturity:
  - \$2,815,000 matures 10/3/24 @ 5.346%
  - \$2,500,000 matures 10/31/24 @ 5.35%
  - \$2,500,000 matures 11/29/24 @ 5.309%
  - \$5,100,000 matures 12/26/24 @ 5.195%
  - \$2,200,000 matures 1/23/25 @ 5.031%
- Staff will project cash flows to determine amount of reinvestment available when treasury bills mature

4

Other Items

- FY24 Audit took place the week of August 26<sup>th</sup>
- On 9/4, MOFD paid \$518k to Motorola for radios partially funded by a FEMA Grant. MOFD received \$414k from FEMA on 9/10/24.
- Contracted with Matrix Consulting to complete a fee study – work has begun
- Audit Committee meeting on September 24, 2024 at 4:00pm

5



## Moraga-Orinda Fire District Board of Directors

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*Human Resources Update – September 18, 2024*

### **RECRUITMENT UPDATE**

- Battalion Chief – Internal Only
- Office Specialist – Fire Prevention

### **EMPLOYMENT CHANGES**

- Employee Promotions
  - Deputy Fire Chief, Lucas Lambert
  - Battalion Chief, Jon Bensley
  - Fire Captain, Anthony Grgurevic
  - Fire Engineer Paramedic II, Thomas Schwedhelm

# TUNNEL EAST BAY HILLS FUEL BREAK

## Work Area 3



# TUNNEL EAST BAY HILLS FUEL BREAK

## Work Area 4



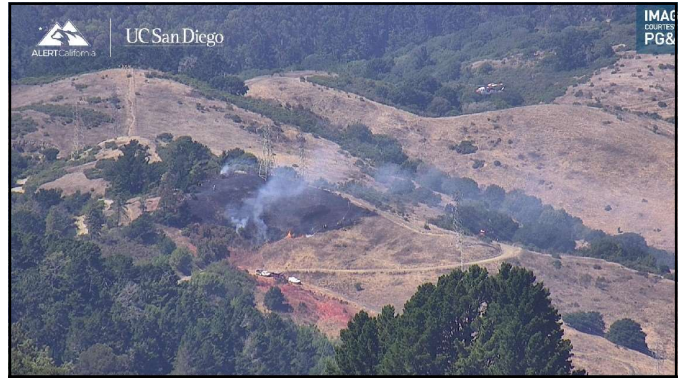
# TUNNEL EAST BAY HILLS FUEL BREAK

Work Area 5 & 6

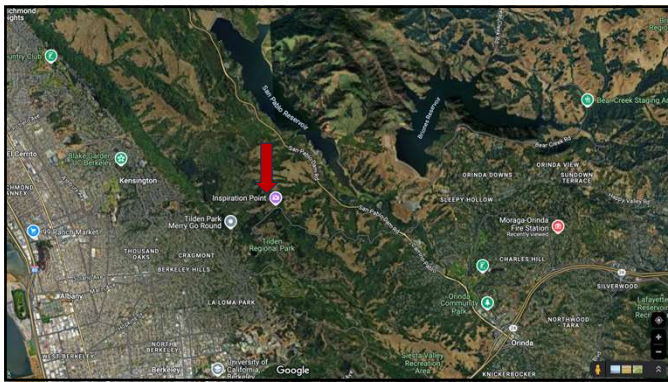




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2



3



4

**Ground Rules:**  
 Mute your audio if you are not speaking  
 Speak in order of arrival  
 Raise your hand if you have a question

1. What was planned?
2. What actually happened?
3. Why did it happen?
4. What can we do next time?

Why do we conduct After Action Reviews?  
**Purpose:** to analyze the management or response to an incident by identifying strengths to be maintained and built upon, as well as identifying potential areas of improvement. NOT to assign blame or point fingers. The purpose of an AAR is to learn and improve.  
 CORRECT WEAKNESSES/ SUSTAIN STRENGTHS

**QUESTIONS BEFORE WE BEGIN?** IRPG XIII

5

**Wildcat Incident Responses  
 Orinda, CA**

**Units Assigned on 1<sup>st</sup> Alarm Contra Costa County**  
 E-345, E-16, E-43, E-355, E-315, CREW 12, BC 4, BC 5, BC 64

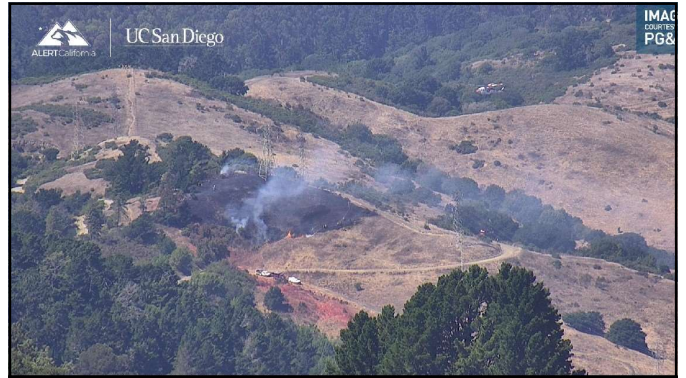
**Units Assigned 1<sup>st</sup> Alarm from Berkeley FD**  
 E-7, E-305, E-4, E-6, E-2, BC-8, TRN-1, WUI-1, C-1

**Units Assigned from CAL Fire CA-SCU0-06603**  
 E-1569, E-1476, E-1664, E-1684, E-1666, E-1676, E1695, MT CRW1,  
 MTC CRW2, TD-1644, TD-1445, BC 1616, AA 140, T-86, Copter 613

6

1. What was planned?
2. What actually happened?
3. Why did it happen?
4. What can we do next time?

7



8



9



# Moraga-Orinda Fire District Board of Directors

Year	OPEB Return	Pension Return	Vanguard Return	Difference	Potential Additional Earnings
2024	17.29%	17.30%	24.51%	7.21%	\$1,294,512
2023	13.31%	13.52%	19.54%	6.02%	\$815,794
2022	-13.66%	-13.89%	-10.66%	3.23%	\$311,481
2021	30.34%	29.94%	40.76%	10.82%	\$923,064
2020	5.08%	4.92%	7.47%	2.55%	\$128,070

- California Government Code limits permissible investments for District funds outside Section 115 trust (CGC Section 53601)
- Section 115 trust investment options are unlimited

Discretionary Trustee Fees	Directed Trustee Fees
0.35% on the first \$5M	0.05% on the first \$25M
0.25% on the next \$5M	0.04% on the next \$25M
0.20% on the next \$5M	0.03% on the balance of assets
0.15% on the next \$35M	\$10 per transaction processing fee
0.10% on all over \$50M	