

Moraga-Orinda Fire Protection District



BOARD OF DIRECTORS BOARD MEETING MINUTES

April 18, 2018

(Approved May 16, 2018)

1. **Opening Ceremonies**

The Board of Directors convened in Open Session at 6:06 P.M. on April 18, 2018 at the Sarge Littlehale Room, Orinda, California. Vice President Jex called the meeting to order. President Barber was absent. Present were the following Directors and Staff:

Director Anderson	Director Jorgens	Jon Holtzman, District Counsel
Director Famulener	Dave Winnacker, Fire Chief	Patricia Edwards, Interim District Clerk
Vice President Jex	Gloriann Sasser, Admin Services Director	

2. **Public Comment**

There was no comment from the public.

3. **Closed Session**

At 6:07 P.M., the Board adjourned into Closed Session.

4. **Reconvene the Meeting**

Vice President Jex reconvened the regular business meeting of the Moraga-Orinda Fire District Board of Directors at 7:01 p.m. Present were the following Directors and Staff:

President Barber (by telephone)	Director Jorgens	Jon Holtzman, District Counsel
Director Anderson	Dave Winnacker, Fire Chief	Patricia Edwards, Interim District Clerk
Director Famulener	Gloriann Sasser, Admin Services Director	
Vice President Jex		

5. **Report of Closed Session Action**

Vice President Jex reported that there was no reportable action taken on items: 3.1 Conference with Labor Negotiator (Local 1230); 3.2 Conference with Labor Negotiator (Local 2700); 3.3 Conference with Labor Negotiator (Employee Organization: Moraga-Orinda Fire Chief Officers Association); and 3.4 Conference with Labor Negotiator – Unrepresented Employee.

6. **Public Comment**

There was no comment from the public.

7. **Consent Calendar**

Motion by Director Famulener and seconded by Director Jorgens to approve and file items: 7.1 Monthly Meeting Minutes for March 15, 2018 (special), March 21, 2018 (regular), March 21, 2018 (special), and April 4, 2018 (regular); 7.2 Monthly Incident Report for March 2018; 7.3 Monthly Check Voucher/Register; 7.4 Monthly Financial Report; 7.5 Surplus Apparatus and Equipment. Said motion carried a unanimous 5-0 roll call vote (Ayes: Anderson, Barber, Famulener, Jex, and Jorgens).

8. **Regular Agenda**

8.1 **Long Range Financial Forecast**

Chief Winnacker provided the report. Staff prepared an updated Long Range Financial Forecast based on input from the March 15, 2018 public workshop. The update was published on the District's web site. There were no comments from the Board members. Chief Winnacker noted that this is a staff product and is not adopted via Board resolution. Vice President Jex opened the public comment. There was no public comment.

8.2 **Approval of Salary Schedules Effective June 1, 2018**

Chief Winnacker provided the report. Effective June 1, 2018, all employee classifications covered by Memorandums of Understanding (MOU) shall receive a 1% salary increase. The District also has employee classifications that are unrepresented and not covered by an MOU. Staff recommends unrepresented employees (except the Fire Chief) receive the same salary increase as represented employees. This is consistent with previous fiscal years. Director Famulener asked who is included

in the unrepresented classification. Chief Winnacker stated that this category includes the Administrative Services Director, Fire Marshal, Human Resources Benefits Manager, and the Fire Inspector/Plans Examiner. Vice President Jex opened the public comment. There was no public comment. Motion by Director Famulener and seconded by Director Jorgens to approve the Salary Schedules was unanimously approved. Said motion carried a unanimous 5-0 roll call vote (Ayes: Anderson, Barber, Famulener, Jex, and Jorgens).

8.3 Adopt Resolution No. 18-07 A Resolution of the Moraga-Orinda Fire District Adopting a Board of Directors Expenditure and Expense Reimbursement Policy

District Counsel Jonathan Holtzman stated that this is a revision of a previous policy. Chief Winnacker noted that, in the absence of a policy, the District is open to the potential that reimbursement requests could be received after the fact that are not in compliance with the way payments are processed. The intent of the policy is to adopt a best practice in advance of an issue and provide direction on how Board members receive reimbursement. Director Jorgens asked if the proposed policy is relatively standard. Counsel Holtzman added that the proposed policy is the best example of an expense reimbursement policy. Vice President Jex opened the public comment. There was no public comment. Motion by Director Jorgens and seconded by Director Famulener to adopt Resolution 18-07 approving a Board of Directors Expenditure and Expense Reimbursement Policy was unanimously approved. Said motion carried a unanimous 5-0 roll call vote (Ayes: Anderson, Barber, Famulener, Jex, and Jorgens).

8.4 Approve MOFD Special Events Fee Waiver Policy for Non-Profit Organizations

Chief Winnacker stated that Fire Prevention staff was directed by the Board of Directors to create a policy that would allow a fee waiver for recognized non-profit organizations based within the District (Orinda, Moraga, Canyon, areas of unincorporated Contra Costa County within the boundaries of the District) who apply for a special event permit from MOFD. Fee waivers will be limited to special event operational permits only and not apply to building plan review or other permitted construction projects. Special event permits that are granted a fee waiver must comply with all codes, ordinances and regulations. Violation of any codes during the event or pre-event inspection are subject to the revocation of the operational permit and cancellation of the event by the fire chief or designee. Approval of a fee waiver does not alter other requirements by the Fire District. Vice President Jex opened the public comment. There was no public comment. There were no comments from the Board. Motion by Director Famulener and seconded by Director Jorgens to approve the MOFD Special Events Fee Waiver Policy for Non-Profit Organizations was unanimously approved. Said motion carried a unanimous 5-0 roll call vote (Ayes: Anderson, Barber, Famulener, Jex, and Jorgens).

8.5 Completion of the Official Property Owner Ballot Town of Moraga Stormwater Fee

Chief Winnacker provided the report. The District recently received an Official Property Owner Ballot to vote regarding the Town of Moraga Stormwater Fee. Ballots were sent to property owners in the town. The proposed fee would be used to upgrade and maintain the town's storm drain system and is subject to independent audits and citizens' oversight. The District would be subject to the new proposed fee. The fee is \$1,505 for Station 41 and Administration and \$1,035 for Station 42 for a total fee per year of \$2,540. The proposed fee is subject to an annual increase based on the change in the Consumer Price Index (CPI) not to exceed 3% per year. There is no pre-determined end date for this fee. The Town Council must take action each year to review the stormwater needs and the CPI before setting the rates for the following year. All properties in the town are subject to the fee except for parcels that do not include impervious surfaces. The District's options are: Vote yes – approve the proposed annual stormwater fee; Vote no – do not approve the proposed stormwater fee; or Abstain – do not complete and return the ballot. The District's vote will count for two votes based on the number of owned property parcels.

Cynthia Battenburg, Town Manager for the Town of Moraga, noted that the Town identified the storm drain needs for the past four years. The consultant prepared the 2014 Storm Drain Master Plan which estimated that repairs would cost \$29 million. The Town's annual budget is \$8.6 million. The Rheem sinkhole created a major problem for the community. A community survey determined that repairing the storm drains was a high priority for the community. The proposed rate will address high priority capital projects which are estimated to cost \$9 million. The fee is intended to cover the high priority projects and includes an operations and maintenance plan and clean water needs. The Measure will raise \$785,000 per year. Utilizing the Prop 218 process enables the people who pay the fee to vote on whether or not they want the service. Everyone who benefits from the system needs to pay the fee. Moraga will need to pay an annual \$14,500 fee. Director Anderson asked for

clarification on the repairs and why there is no sunset clause. Ms. Battenburg responded that repairs and replacement are included. She added that these are ongoing needs but the Town can vote to reduce the fee to what is needed. Moraga Town Councilmember Kymberleigh Korpus stated that there is no sunset clause because the maintenance of storm drains goes on forever and there will be more aging pipes and other future issues. About \$250,000 of the \$785,000 will be used for ongoing maintenance. Funds will still be needed for repairs after the major areas are done. Director Jorgens asked what percent is needed for the Measure to pass. Ms. Battenburg replied 50% of the voting property owners plus one. Director Anderson noted that a student who rents will not vote. Ms. Korpus stated that, in her opinion, property owners have the greatest investment and that non-property owners have different priorities. Registered voters who are not property owners will not vote on the Measure. One downside to the Prop 218 format is that no exceptions are allowed. The Prop 218 process allowed for the fairest decision to be made. Director Jorgens noted that Orinda has a similar problem and utilized a bond issue process so the MOFD does not pay. His challenge is whether the MOFD should pay Moraga for fees for the same problem which it does not pay to Orinda. Ms. Korpus noted that it is an interesting challenge and replied that it is the Board's decision. The Town of Moraga owns 12 properties and also had to decide how to vote on this Measure. She added that the Council's vote was 4 to 1. Director Jorgens clarified that the voting options are: yes, no, or abstain. Director Jex questioned if the Town had raised funds for this purpose which were not used for this purpose. Ms. Korpus stated that Measure K funds were initially intended to fix pavement and storm drains. However, the final version was passed to fix pavement and storm drains to the extent that these storm drains needed to be fixed simultaneously under the repaired pavement. Ms. Battenburg added that Measure K improved the Town's Pavement Management Index up to 70 but there is not enough funding to support other infrastructure needs. Moraga receives 5.32% of the property tax base and Orinda receives 7.8%. Ms. Korpus handed out a FAQ for the Moraga Stormwater Fee Measure Ballot Procedure. Vice President Jex opened the public comment.

Richard Olsen stated his support for the Measure. He reviewed the history of the Moraga Revenue Enhancement Committee of which he was a member. The Committee's report noted that there were no funds available for significant future infrastructure needs. The sales tax increase funded street rehabilitation. He noted that the storm drain cost was not available at that time. He discussed the Prop 218 process. The pipes are 50-60 years old and need to be repaired or replaced. He distributed a picture of a Los Angeles city fire department engine in a sink hole. He believes that this is cheap insurance and demonstrates that the Board are good stewards of the MOFD's money. He mentioned the sinkhole on Miner Road in February 2017 which was reported by Engine 45. Director Jorgens stated his challenge that Orinda received no funds from the MOFD to solve any of its infrastructure problems. Director Famulener stated that the District is grateful to Orinda for protecting the three MOFD fire houses in Orinda. She added that this Measure provides a way to protect the two fire houses in Moraga. Mr. Olsen noted that sinkholes have had a profound impact on response times. Director Famulener noted that the cost is about \$200 per month for both stations. Director Jex expressed concern that the Town of Moraga knew about the problem but did not develop adequate reserves to cover the associated risks. When Moraga adopted the policy to proceed as they did, it is different from the sister city's approach in addressing their problems. He would prefer that the MOFD Board abstain. Director Jorgens stated that abstaining leaves the decision to the remaining voters and may be more appropriate.

Director Jorgen's motion for the MOFD to abstain from voting was seconded by Director Jex. The Board discussed the motion. Director Famulener supports the Town of Moraga and the storm water fee. The cost is not significant. The need is tremendous. It will make a big difference to our firefighters. The problem will only get worse. She agrees with Director Jex that Moraga should have saved money over the years to prepare for this but they did not. The problem will not go away and something needs to be done. The work needs to be done for safety. Director Jorgens asked if the MOFD votes for the Measure, if MOFD would also send \$2,500 to Orinda every year. Director Famulener said no that Orinda has financed it in another way. Director Jorgens stated that the members should vote as a fiduciary for MOFD and not as a citizen. MOFD should not pay taxes to one entity that it does not pay to a different one for the same purpose. Director Famulener stated that it is a fee and not a tax. Director Jorgens said that was semantics. Director Anderson stated that his Division is in both Orinda and Moraga. Although he lives in Orinda, he supports the Measure because it is inexpensive insurance. He recommends a yes vote by the District. President Barber asked for clarity on a yes vote on this motion. Director Jorgens said the motion is on hold till the discussion is completed. Director Anderson stated that the District's ballots will be marked yes, no, or abstain. President Barber stated that both Orinda and Moraga are deficient in infrastructure. The

interest of the District in having streets which are well able to service its vehicles is important to the District. If the question before the District to pay to the two municipalities to do something which the District urgently needs, the answer could be justified as yes. However, the question before the District is should MOFD pay a nominal amount to one municipality and not to another for comparable service. Additionally, should by MOFD's actions, we tell the voters of Moraga or should we vote that they be required to do so as well. This puts MOFD in an awkward fiduciary situation. The Board members are acting both on their own behalf and as a resident of the District and are requiring the residents of one of the municipalities to pay an enhanced tax. This is a difficult issue. He asked if the District could pay an amount without a 'yes' vote. Director Jorgens stated that the Measure will pass with a 50% plus 1 vote and that the MOFD's vote will influence the outcome. He added that abstaining is not a 'no' vote and abstaining does not effect the outcome. He asked if people from Orinda should influence the outcome when they don't live in Moraga. Director Famulener stated that it was important to support the fire district and the two fire houses in Moraga. Director Jex noted that there are three fire stations in Orinda and that they pay more for the service. Director Anderson clarified that the issue is if the District wants to pay \$2,540 a year to help insure the roads are capable of handling the fire engines whether they are responding in Moraga or Orinda. President Barber disagreed that that is the issue. He supports the fee being paid to Moraga but MOFD's vote will mean that the District and the residents of Moraga will pay the tax. He is not comfortable voting to increase a tax for a jurisdiction in which he does not reside.

Director Jorgens motion to abstain from voting on the Ballot was seconded by Director Jex. Said motion failed with a roll call vote of 2-2-1 (Ayes: Jorgens and Jex; Noes: Anderson and Famulener; Abstain: Barber).

Director Famulener's motion to support the Town of Moraga and support the Stormwater Fee (a yes vote on the Ballot) was seconded by Director Anderson. Said motion failed with a roll call vote of 2-2-1 (Ayes: Famulener and Anderson; Noes: Jex and Jorgens; Abstain: Barber).

Director Famulener asked if the Board needed a separate motion to approve payment of \$2,500 annually. Counsel Holtzman stated that if the Measure passes, the MOFD will have to pay the fee. If the Measure fails, the District could pay. Chief Winnacker noted that, in the absence of direction from the Board, the MOFD will not return the ballot.

9. Committee Reports

9.1 Finance Committee (Directors Anderson and Jorgens)

The Committee has not met.

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

The Committee has not met.

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

The Committee has not met.

9.4 Audit Ad Hoc Committee (Director Jex)

The Committee has not met.

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

The Committee has not met.

9.6 Labor Negotiations Ad Hoc Committee (Directors Anderson and Jorgens)

The Committee has not met.

10. Announcements

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

There was nothing to report.

10.2 Questions and informational comments from Board members and Staff

There was nothing to report.

10.3 Fire Chief Updates – February 2018

10.3.1 Monthly Update by Engineer Jon Ford

Chief Winnacker informed the Board that Engineer Jon Ford was unable to attend the meeting. He asked the Board to hear Captain Gehling's report on a significant incident at the Orinda Country Club. Captain Steve Gehling provided a report on the response of Medic 45 and Engine 43 on April 11, 2018 of an 85-year-old woman who fainted at the Orinda Country Club. Before site staff could utilize an AED, the firefighters were on scene and

performed CPR and got the pulse back. In the ambulance, in the process of securing the airway, the firefighters determined that there were pieces of meat stuck in her throat. They were removed with forceps and an ET tube was inserted. She arrested a second time but the firefighters were able to get her back before they arrived at the hospital. He did not have an update on her current status. Chief Winnacker noted that the response time was six minutes between the time that the 911 call came in and the firefighters were on scene. In spite of a chaotic situation, he noted that the team management was tremendously efficient in accomplishing everything they did between the time they arrived on scene and left in the ambulance (13 minutes). The Board thanked Captain Gehling for his presentation.

Chief Winnacker provided an update on Station 43. The surveyor staked the site on April 17, 2018. They are confirming the surveyor's results and laying the framework. Sixteen submittals were received from Sausal and they are being handled by SKA for review with a request for expedited processing. With continuing good weather, progress will continue.


10.4 Communications Received

Chief Winnacker reported that the District received three communications which complimented the District on its professionalism, timeliness, and politeness. He noted that the District's goal is to provide a high quality of service on a daily basis.

10.5 Future Agenda Items

There was nothing to report.

At 7:59 P.M., Vice President Jex called for adjournment of the regular meeting.



Interim District Secretary/Clerk