

# Moraga-Orinda Fire Protection District



## BOARD OF DIRECTORS REGULAR BOARD MEETING MINUTES

May 16, 2018  
(Approved June 20, 2018)

### 1. Opening Ceremonies

The Board of Directors convened in Open Session at 5:30 P.M. on May 16, 2018 at the Sarge Littlehale Community Room, 22 Orinda Way, Orinda, California. President Barber was absent and Director Jex participated via conference call. Director Jorgens called the meeting to order. Present were the following Directors and Staff:

Director Anderson	Director Jex (teleconference)	Jonathan Holtzman, District Counsel
Director Famulener	Dave Winnacker, Fire Chief	Gloriann Sasser, Admin Services Director
Director Jorgens	Jeff Sloan, District Counsel	Christine Russell, HR Benefits Manager

### 2. Public Comment

There was no comment from the public.

### 3. Closed Session

At 5:30 P.M., the Board adjourned into Closed Session.

### 4. Reconvene the Meeting

Director Jorgens reconvened the regular business meeting of the Moraga-Orinda Fire District Board of Directors at 7:04 p.m. Present were the following Directors and Staff:

Director Anderson	Grace Santos, District Clerk	Jonathan Holtzman, District Counsel
Director Famulener	Dave Winnacker, Fire Chief	Gloriann Sasser, Admin Services Director
Director Jorgens	Kathy Leonard, Fire Marshal	Christine Russell, HR Benefits Manager
Director Jex (teleconference)		

### 5. Report of Closed Session Action

Director Jorgens 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

Craig Schlatter gave a special thank you to MOFD Engineer Dan Elbanna, Firefighter Steve Rogness, Firefighter-Paramedic Kevin Brashem, Captain-Paramedic Jon Bensley, Engineer-Paramedic Jon Ford, Firefighter-Paramedic Katy Himsl, and Battalion Chief Sean Perkins for keeping him alive on April 21, 2018.

MOFD Engineer Dan Elbanna presented additional information regarding Mr. Schlatter's incident. Dispatch time was at 9:07AM, the crew arrived on scene at 9:09AM, the paramedics attached the defibrillation pads on Mr. Schlatter and began shocking him at 9:11AM. Engineer Elbanna identified Firefighter-Paramedic Kevin Brashem as having done an amazing job. He arrived on scene, assessed the situation, attached the pads, analyzed correctly and began defibrillation within two minutes of arriving. The Lucas device was attached and utilized one minute later. The Lucas device is a device that administers compressions and frees up the paramedics so they can concentrate on one of the many other tasks.

Mr. Gordon Nathan, President of Rescue One Foundation, commented on how pleased he was to receive the news. Rescue One is pleased and proud to be able to buy specialized equipment, such as the Lucas device, through community donations. The community should be proud to have wonderful paramedic staff who is trained and know how to use this type of equipment.

### 7. Regular Agenda

#### 7.1 Public Hearing

On April 15, 2018, the District mailed approximately 13,000 notices to the owners of properties located within the District. Ordinance 16-02 requires the Board to conduct a public hearing after the notices are sent and prior to the compliance date for the purpose of receiving comments as to why

the order should not be enforced.

Director Jorgens opened the public hearing to accept comments from the public. There was no comment from the public and Director Jorgens closed the public hearing.

The Board directed staff to proceed with the exterior hazard control process.

Chief Winnacker announced that the District mailed out several thousand letters to residents located in the Very High Fire Hazard Severity Zones and to residents whose properties front the primary evacuation routes. The three-page notice included a letter admonishing them that District Fire Code Ordinance 16-02 applies to their property and a copy of the Exterior Hazard Control Standards. The mailing is based on feedback from the community that many residents are not reading the back of the postcard mailer that the District sends out each year. They look at the front of the postcard with the picture, but are not paying attention to the requirements listed on the back.

Following June 15, 2018, Fire Prevention staff will be conducting inspections, noting properties that are not in compliance and issuing 30-day violation notices to abate. The District's goal is to reduce the vegetation and risk, not to issue citations. We will work collaboratively with homeowners, working on past due efforts to get parcels up to compliance with the Exterior Hazard Abatement Ordinance. If residents are home, staff can meet with them and conduct assessments. If no one is home, the notices will be posted to their door. The inspections will begin at headquarters and make its way east and west down the main thoroughfares.

Mr. Robert Lipp asked if violation notices will only be issued to properties along the evacuation routes. Chief Winnacker explained that inspections are primarily complaint-driven. The District will receive and respond to all weed abatement complaints, and if violations exist, notices will be issued. Evacuation routes have a major impact on the community as a whole and failure to abate properties along those routes have the potential for an outsized impact on the population.

## **8. Consent Agenda**

Motion by Director Famulener and seconded by Director Anderson to approve and file items 8.1 Meeting Minutes, 8.2 Monthly Incident Report, 8.3 Monthly Check/Voucher Register, 8.4 Monthly Financial Report, 8.5 Quarterly Treasurer's Investment Report, and 8.6 Approval of Payment to Contra Costa County Fire Protection District for Dispatching and Communications Services. Said motion carried a 3-0 roll-call vote (Ayes: Famulener, Jex and Jorgens; Abstain: Anderson; Absent: Barber).

## **9. Regular Agenda**

### **9.1 Resolution 18-08 Establishing the 2018/19 Fire Flow Tax Rates for the Orinda and Moraga Service Zones**

Every year the District is required to set the rate for the Fire Flow Tax in each of the District's two service zones. In order to place the tax on the County Assessor's rolls for fiscal year 2018/19, the tax rate must be established by Board action and then levied against each parcel. The current year FY2017/18 Fire Flow Tax Rate was established at six cents (\$.06) in both Moraga and Orinda.

Director Jorgens asked to remove the sixth paragraph in the resolution that reads, "Whereas, all services provided to residents by the District are funded by the fire flow tax, proportional share of property tax revenues, ambulance transport fees, and other services fees." He feels that it is unnecessary and there has been historical controversy about it.

District Counsel Holtzman stated that there is no legal requirement that states the paragraph must be included. The language that is important to keep are those that relate to Proposition 218.

Motion by Director Jorgens and seconded by Director Famulener to strike the sixth paragraph from the resolution and adopt Resolution 18-08 Establishing the 2018/19 Fire Flow Tax Rates for the Orinda and Moraga Service Zones. Said motion carried a 4-0 roll-call vote (Ayes: Anderson, Famulener, Jex and Jorgens; Absent: Barber).

### **9.2 Resolution 18-09 Ordering Even - Year Board of Directors Election; Consolidation of Elections; and Specifications of the Election Order**

The terms of office for three members of the Board of Directors in Divisions 1, 3, and 4 will conclude in December of 2018. The Moraga-Orinda Fire District will participate in the November 2018 General District Election, as a part of the Statewide General Election.

California Elections Code requires a general district election be held in each district to choose a successor for each elective officer whose term will expire on the first Friday in December. Other elections may be held in the district and it is to the advantage of the district to consolidate.

California Elections Code also requires the governing body of any local agency to adopt regulations pertaining to materials prepared by a candidate for a Special District election, including whether a charge shall be levied against each candidate submitting a candidate statement to be sent to the voters. In past elections, the candidates have paid for the cost of their candidate statement.

Resolution 18-09 gives notice of holding a General Election, as well as specific instructions as to how such an election shall be held and conducted. The resolution also defines the filing instructions, and fee information.

The Moraga-Orinda Fire District Board has the authority to regulate how many words will be allowed in the Candidate Statement and payment for the voluntary Candidate Statement. The word count in the past has been limited to 400 words with the candidate paying the full cost.

Due to further streamlining efforts by the Elections Division, the cost of printing has been reduced, and the Contra Costa County Elections Division is recommending a 250-word limit. This is the standard used by most cities and special districts, and mandated for State elections. The minimum cost for a candidate statement is \$200. A district may elect to go over 250 words in which case the candidate statement costs will double.

The Contra Costa County Elections Division is estimating printing cost for a 250-word candidate statement to be:

- Division 1 – \$200.00
- Division 3 – \$200.00
- Division 4 – \$200.00

Statements over 250 words will double in price.

The County Registrar of Voters has determined the cost of the election to the District to be approximately \$1.25 - \$1.75 per registered voter. Per the Contra Costa County Elections Division, the total number of registered voters are:

- Division 1 – 4,150
- Division 3 – 5,410
- Division 4 – 5,517

A total of \$22,000 has been budgeted for the costs of conducting the election.

The County Elections Office requires that we decide what action is to be taken in the event of a tie vote:

- The winner shall be determined by lot at a time and place designated by this board.
- The governing board shall call a run-off election on the sixth Tuesday following the election at which the tie vote occurred.

Staff has been advised that a stand-alone election is estimated to cost about \$5.00 per registered voter.

Director Famulener stated that she would be opposed to determining the winner by a lot in the event of a tie vote and felt that a run-off election would be more appropriate. She asked if the Board could also discuss moving to a district-wide election. When the District was formed, the theory was that there would be elections by division for the first four years, then the ballot would include changing to elections by district after the four years was up. Director Famulener stated that the Board should discuss the issue to decide if it should be put on the ballot.

Director Anderson asked prior MOFD Director Richard Olsen if he could comment on the issue. Mr. Olsen stated that the intent of the group was to have two directors who would represent the City of Orinda, two who would represent the Town of Moraga, and one who would represent a split district that incorporated a 50/50 division that also included Canyon. As he recalled, the Board thought that perhaps in the future they might consider Fire District-wide elections.

District Counsel Holtzman stated that the discussion is going outside what is on the agenda and the issue needs to be properly noticed before discussions could occur.

Director Famulener stated that the Board cannot vote on the resolution as presented if they decide to change to district elections.

Director Jorgens directed staff to research what it would take to switch to district-wide elections. He would like to know what it takes to change the District's voting structure.

District Counsel Holtzman stated that staff would look into it and bring it back at a subsequent meeting for the Board to discuss.

Motion by Director Famulener and seconded by Director Jorgens to postpone discussion on Resolution 18-09 Ordering Even-Year Board of Directors Election; Consolidation of Elections; and Specifications of the Election Order. The Board also directed staff to include an item on a future agenda to discuss district-wide elections. Said motion carried a 4-0 roll-call vote (Ayes: Anderson, Famulener, Jex and Jorgens; Absent: Barber).

### **9.3 Proposed Annual Operating Budget Fiscal Year 2018/2019**

Over the past several months the proposed Annual Operating Budget for Fiscal Year 2018/19 (Budget) has been developed. Staff has developed proposed goals, projections and budget proposals based on the Strategic Plan and Business Plan. The proposed Budget was presented to the Board on May 2, 2018 in a public workshop to obtain board direction and public input. The Budget is presented tonight to obtain additional board direction and public input. The proposed Budget is scheduled for adoption on June 20, 2018.

The proposed Budget projects a General Fund surplus of \$171K, a Debt Service Fund surplus of \$241K and a Capital Projects Fund deficit of \$236K.

Based on board direction at the May 2, 2018 board meeting, there have been no changes to the proposed Budget since the May 2nd board meeting.

Mr. Richard Olsen thanked Director Famulener for including his May 1 letter to the Board and commented on the difficult decisions the MOFD Board is currently facing. The unfunded pension and OPEB liabilities are daunting and should be reasonably addressed, however, he also believed that equal and full consideration needs to be given to the value of the MOFD employees. Their experience, skills and dedication to their jobs are invaluable and Mr. Olsen urged the Board not to make any irreversible decisions that they may greatly regret.

Director Famulener stated that she has a problem putting \$1M into an irrevocable trust while in the middle of labor negotiations. She stated that President Barber believed that the money could be put into the irrevocable trust with the intent of withdrawing it later to balance the budget. Special districts are not allowed to invest money and can only put the general fund money into a bank account, that makes virtually nothing, or into an irrevocable trust for pensions. The District hired an expensive investment firm and agreed to invest the money with some serious degree of risk, and did so on the theory that the money would be in there for 20-30 years. The District cannot put the money in an irrevocable trust to make money on it and then withdraw it. It is not possible.

District Counsel Holtzman explained that if the money is deposited in an irrevocable trust, it is irrevocable and cannot be taken out of the trust, except for the purposes of the trust, such as funding, pension, OPEB, etc. By saying that you are going to budget that amount does not irrevocably devote that money to the trust until it is actually deposited into the trust.

Chief Winnacker stated that deposits are made in January, not on July 1, unless additional direction is provided by the Board.

Director Jorgens stated that he believed a special separate vote would have to be made to actually fund the trust. It does not happen during the budget process, but instead during a special annual vote to put money into the trust.

ASD Sasser stated that once the pension and OPEB contributions are appropriated in the budget, that is the authority to transfer the money, however, the transfer is not made until January. The first chunk of the money is usually received in December, and when the cash balance goes up in January, the money is transferred to PARS for the OPEB and pension.

Director Jorgens asked how much the District spends annually on its pension contributions to CCCERA, and how much is left in the balance after. ASD Sasser stated that the District spends over \$4M on its pension contributions, and less than \$1M is left in the pension trust. Director Jorgens stated that the District could use the money for the legitimate purpose of the trust to pay part of the annual contribution. ASD Sasser stated that he was correct. The money that is put into the trust must be used for pension contribution.

Director Jex stated that it was his understanding that if for any reason there was a shortfall, the District would be able to withdraw money out of the trust to pay CCCERA for the pension obligation.

Director Famulener commented that the District could use the money to pay CCCERA, but not to balance the budget. She felt that it would be an extremely inappropriate thing to do since the District is at the beginning of union negotiations. The money should be held in the general fund until new contracts have been negotiated. The District still has \$2M a year coming into its general fund in a couple years when the bond is paid off, which means even bigger deposits could be made to the pension fund at that time if the Board chooses to do so. She suggested putting \$400K into the fund right now and leave the rest in the general fund until a final union contract is negotiated.

Chief Winnacker stated that the budget as presented assumes there will be no raise next year. The only increase in salaries that were computed in the budget is the 1% raise that was due on June 1<sup>st</sup> in the current MOU. If negotiations resolve at something other than a 0% raise for the life of the contract, staff would have to present an updated and revised budget to the Board. At that time, the budget would have to be reconsidered and readopted in light of the new reality at the conclusion of negotiations, assuming that negotiations have concluded prior to January 2019.

Director Famulener stated that is the reason why she suggests budgeting a lower amount for now, and reminded everyone that the last negotiations took four years to complete.

Director Jorgens stated that the District can take whatever money it contributes to fund the necessary CCCERA obligations for this year.

Director Famulener stated that the way she reads it, the PARS contract as written by Meyers Nave, states that the District can give 30-days notice to withdraw all its money from PARS. It would have to roll over and it can all be paid in one lump sum to CCCERA. The District cannot take small amounts out of the irrevocable trust, it does not work that way.

District Counsel Holtzman commented that he has not reviewed the PARS contract, but that it would be very unusual because the whole point of a 150 trust is to be able to take some of that money out and use it to pay down pension obligations.

ASD Sasser stated that there is a withdrawal form and the District can withdraw to pay pension costs. The entire balance of the account does not have to be withdrawn – the organization can withdraw whatever amount is needed.

Director Famulener stated that information was not included in any of the paperwork she was given and feels that the District is trying to find a way to make it look as if it does not have any money for pay raises when it does. The District looks as if it is trying to hide money in the middle of labor negotiations, which is wrong. The money should be left in the general fund until an MOU has been negotiated.

Chief Winnacker stated that he would make sure Director Famulener is given the appropriate paperwork, and announced that the budget will be presented to the Board again on June 20, 2018 for adoption.

**9.4 Resolution 18-10 Adopting Amendment-1 to Employment Agreement Between Moraga- Orinda Fire District and David Winnacker**

The District entered into an Employment Agreement dated December 20, 2017 with David Winnacker with respect to the terms and conditions of employment of employee as fire chief for the District. The Employment Agreement provided for annual vacation hours and leave without pay for annual reserve military service. The Military and Veterans Code of the State of California requires the District to provide salary compensation for the first 30 days of a temporary military leave of absence for ordered active duty military training. The District and Fire Chief desire to amend the Employment Agreement to decrease annual vacation hours and to provide for 30 calendar days of paid temporary military leave of absence for ordered active duty training in accordance with California law.

Director Anderson asked Chief Winnacker if the District will have someone stand in his stead while he is out. Chief Winnacker stated that he will maintain email and telephone connectivity and return for the regular meeting on June 20.

Motion by Director Famulener and seconded by Director Anderson to adopt Resolution No. 18-10 Adopting Amendment-1 to Employment Agreement Between Moraga-Orinda Fire District and David Winnacker. Said motion carried a 4-0 roll-call vote (Ayes: Anderson, Famulener, Jex and Jorgens; Absent: Barber).

**9.5 Resolution 18-11 Establishing a Temporary Military Leave Policy**

The Military and Veterans Code of the State of California requires the District to provide salary compensation for the first 30 days of a temporary military leave of absence. District Counsel recommended the Board adopt Resolution No. 18-11 Establishing a Temporary Military Leave Policy.

Motion by Director Famulener and seconded by Director Jex to adopt Resolution No. 18-11 Establishing a Temporary Military Leave Policy. Said motion carried a 4-0 roll-call vote (Ayes: Anderson, Famulener, Jex and Jorgens; Absent: Barber).

**10. Committee Reports**

**10.1 Finance Committee (Directors Anderson and Jorgens)**

There was nothing to report.

**10.2 Pension Review Ad Hoc Committee (Directors Barber and Jorgens)**

There was nothing to report.

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

There was nothing to report.

**10.4 Audit Ad Hoc Committee (Director Jex)**

There was nothing to report.

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

There was nothing to report.

**10.6 Labor Negotiations Ad Hoc Committee (Directors Anderson and Jorgens)**

There was nothing to report.

**11. Announcements**

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

There was nothing to report.

**11.2 Questions and informational comments from Board members and Staff**

Director Famulener announced that the next County Fire Boards and Commissioners meeting will be on June 21, 2018. Someone from the Contra Costa County Office of the Sheriff will be giving a presentation on the Marine Services Unit.

### 11.3 Fire Chief Updates

Engineer Elbanna announced that the second day of the "Fill the Boot" campaign will be on May 17, 2018, in Orinda, and the Moraga "Fill the Boot" was on May 9, 2018. The campaign is to raise money for the Muscular Dystrophy Association to send children with muscular dystrophy to summer camp. The Orinda open house brought in 648 people to Station 45 and the Moraga-Orinda Professional Firefighters Association raised \$719.75 through the hot dog fundraiser, which it will present to the Alisa Ann Ruch Burn Foundation on May 21, 2018. They also raised \$500 for breast cancer research by selling pink MOFD t-shirts.

Chief Winnacker gave a brief update on the Station 43 project and reported on the dramatic drop off within the last two months on turn-out times. He also reported on the garage fire on Corliss in Moraga. It was a fully involved garage fire, and the fact that it did not get into the main structure is indicative of the good turn-out times and speed with which the crews arrived, their efficiency and skill with the hose lines and functions of firefighting that allowed them to contain it.

Director Famulener asked Chief Winnacker to provide email updates to the Board whenever major incidents such as this is happening. Chief Winnacker stated that he would make sure to do so.

Chief Winnacker announced that Berkeley Fire recently purchased MOFD's boat, which they purchased for \$20,162.00.

### 11.4 Communications Received

There was nothing to report.

### 11.5 Future Agenda Items

There was nothing to report.

## 12. Adjournment

At 8:00 P.M., Director Jorgens called for adjournment of the regular meeting.



Grace Santos, District Secretary/Clerk