



Independent, locally owned and operated!

www.lamorindaweekly.com 925-377-0977

Published September 23rd, 2015

Former MOFD Chief Stripped of \$1.2 Million

By Nick Marnell

The Contra Costa County Employees' Retirement Association board Sept. 9 lowered former fire chief Peter Nowicki's pension by \$1.2 million after it established that his retirement benefit was improperly increased by his own actions. The board determined that the former chief of the Moraga-Orinda Fire District engineered retroactive changes to his contract that resulted in improper retirement benefits and the district board, knowing Nowicki was soon going out the door, went along with the changes.

Nowicki signed on as MOFD fire chief in July 2006, and the district added amendments to his contract in February 2008 and December 2008, allowing the chief to sell back vacation leave, administrative leave and holiday pay. The chief retired Jan. 30, 2009, and according to CCCERA, the cashed-out perks granted in 2008 improperly inflated - "spiked" - his retirement benefit. "That was not the intent," said Nowicki, who spoke to and answered questions from the CCCERA board members for nearly three hours. "It was not my decision to grab and run out the door. It looks bad from your side, but from my side, I needed to get out."

Harvey Leiderman, fiduciary attorney for CCCERA, saw it otherwise. "We have the authority to correct errors if the member improperly caused the benefit to be increased or overstated at the time of retirement," he said. "There is no question the member actively engineered these retroactive benefits." Leiderman also said that the fire district board conducted the Nowicki negotiations in closed sessions, in violation of the Brown Act, and he blamed the MOFD board for being slow to respond to a records request for the hearing.

"This is between CCCERA and Nowicki," said MOFD board president Alex Evans. The district did not send a representative to the hearing.

"As to Brown Act issues, I should note that the agreements with Mr. Nowicki were presented and approved in open sessions so I have to disagree with suggestions that the MOFD board operated without openness," said Fred Weil, the only current MOFD director also on the board in 2008. "Mr. Leiderman, whose theories are based on suppositions, never attended any of those meetings, so it is difficult to understand how he can properly comment on what went on, who attended what meetings, what was said, or what the MOFD board should have done."

Former MOFD director Brook Mancinelli attended his first district meeting as a board member in December 2008. "I was assured by members of the board that Nowicki's contract was a long time in the works," he told the CCCERA board. "I don't agree with the fact that it was done maliciously. And I had no idea the chief would be retiring."

Nevertheless, the retirement board voted to cut Nowicki's annual pension of \$240,923 to \$172,818, and ordered him to return more than \$600,000 in overpayments. The cost savings by correcting future overpayments was projected at over \$1.2 million.

Had the MOFD rank and file been at the CCCERA meeting, they may have jumped to the ceiling.

"I'm glad it happened to Nowicki," said district union representative Mark DeWeese. "The retirement board hearing and ruling validates our union's consistent belief that there was improper behavior from both our board at that time and Nowicki."

As the ruling means that Nowicki has exhausted all of his administrative remedies through CCCERA, it is likely that his pension reduction will be subject to litigation.

Neither current MOFD chief Stephen Healy nor Contra Costa County Fire Protection District chief Jeff Carman may sell back unused, accrued vacation time.

Reach the reporter at: nick@lamorindaweekly.com

[back](#)

Copyright © Lamorinda Weekly, Moraga CA