

A REPORT ON THE COSTS, OPERATIONS, PERFORMANCE AND FINANCES OF THE MORAGA-ORINDA FIRE DISTRICT (MOFD)

by

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Section I - Overview

WHAT SHOULD WE THINK OF SOMEONE WHO NEVER ADMITS ERROR, NEVER ENTERTAINS DOUBT BUT ADHERES UNFLINCHINGLY TO THE SAME IDEAS ALL HIS LIFE, REGARDLESS OF NEW EVIDENCE? DOUBT AND SKEPTICISM ARE SIGNS OF RATIONALITY. WHEN WE ARE TOO CERTAIN OF OUR OPINIONS, WE RUN THE RISK OF IGNORING ANY EVIDENCE THAT CONFLICTS WITH OUR VIEWS. IT IS DOUBT THAT SHOWS WE ARE STILL THINKING, STILL WILLING TO REEXAMINE HARDENED BELIEFS WHEN CONFRONTED WITH NEW FACTS AND NEW EVIDENCE.

DIANE RAVITCH

THE DEATH AND LIFE OF THE GREAT AMERICAN SCHOOL SYSTEM

This report was prepared by an independent group of Orinda Citizens following three years of attempts to get the City to audit how adequately its residents are being served by their emergency services provider, the Moraga-Orinda Fire District (MOFD). This report was prepared with no assistance by MOFD itself. The individuals preparing the report do not include professionals in the field of emergency services; did not have the cooperation of MOFD to provide professional advice on various topics; and did not have the resources to hire outside consultants. The individuals do, however, have expertise in the fields of finance, accounting, engineering and business and are able to provide statistical analysis on several aspects of MOFD's operations and finance pertinent to the provision of emergency services to the residents of Orinda.

MOFD is an independent agency formed in 1997 by the residents of Orinda and Moraga to be a locally controlled, highly professional, financially viable emergency service provider. From Orinda's perspective, the driving incentives for withdrawing from the service provided by the county's fire department (ConFire), were (1) desire for a higher level of emergency medical service including locally sited paramedic ambulance fire engines and (2) keeping Orinda tax dollars for service in Orinda, not elsewhere in the county. (Exhibit I-1)

To the best of our knowledge, no audit of MOFD has been made by the City of Orinda in the 15 years since the District was formed to fully assess its performance.

This study was done to provide Orinda with a perspective of how MOFD is serving it after 15 years. It is accompanied by a website www.OrindaTaskForce.org.

This report is in six parts that relate to MOFD operations:

Section I – **Overview**

Section II - **Organization of the District** - Formation, governance, elections, citizen involvement and meetings.

Section III - **Incidents Served by MOFD** - What services does MOFD provide to the residents of Orinda? What are the nature of the incidents; the staff available to respond to these incidents; the results (limited to a response-time analysis)?

Section IV - **Operational Costs** - What does MOFD cost, where does the money come from, and what are the projections for the future?

Section V - **Tax Funding Allocation** - Are Orinda taxpayers paying their fair share of property taxes to support MOFD? This was one of the prime drivers for Orinda taxpayers to form MOFD.

Section VI - **Financial Stability** - Every government agency that provides its employees with a fixed-benefit retirement plan appears to be in distress. In what condition is MOFD in?

Summary

The Task Force believes that MOFD does a credible job for the majority of the community and its service employees appear to be highly skilled. However, there are gaps in service, aspects of the District's operations which the community is not knowledgeable of, and the Task Force has concerns over the District's management of the public's funds.

As opposed to the City of Orinda and the Town of Moraga, the District has no citizen oversight committees or commissions to provide accountability, no "watch-dog" capability. The District often "slips under the radar" of the regional media (Contra Costa Times), and the local media is not designed to provide "investigative" or "confrontational" reporting. If MOFD reports something; the media accepts it at face value. So, for instance, when MOFD reports in its annual financials that it has \$11 million in net assets, that is what gets reported in the press (although this report will show that the District has upwards of several hundreds of millions of dollars in future liabilities in excess of offsetting assets.) This report aims to look objectively at our emergency services provider with no intention to denigrate those who literally do, at times, put their lives on the line.

The Task Force concludes that MOFD could continue to avoid difficult financial decisions for years, or even decades, with no apparent ill effects. It is not on the verge of bankruptcy as some public agencies are. However, it is financially unstable and, depending on circumstances, that instability could become apparent in the not-too-distant future, negatively impacting service. At best, if we ignore the situation, we will pass a huge obligation onto future generations of Orindans and Moragans.

In addition, the service provided by MOFD is marginal in some respects (40 percent of its response times to critical emergencies in Orinda exceed industry standards) and the costs are staggering (no other community the Task Force is aware of spends more than 50 percent of its local resources on emergency services).

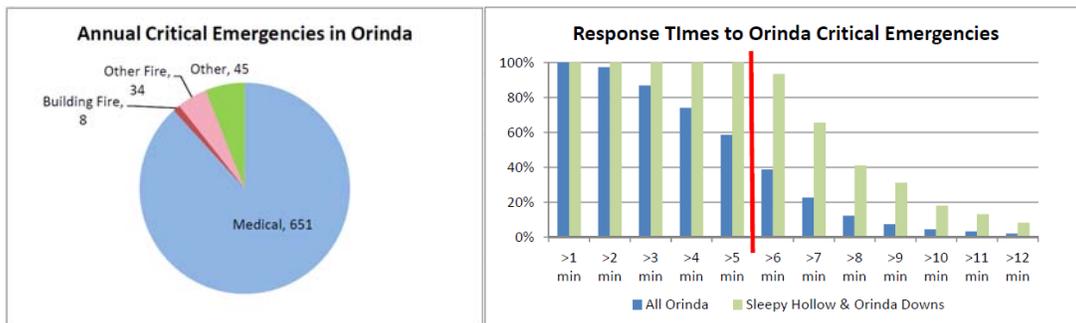
Finally, Orinda taxpayers are paying \$1 million per year in excess of their fair share of MOFD's expenses. This is not what Orindans were told would be the cost-sharing with Moraga when MOFD was formed.

The community, including both the Orinda and Moraga Councils, needs to reassert itself in the long-term oversight and operation of its emergency services provider.

Incidents Served (Section III)

The vast majority of incidents that MOFD serves are medical: 80 percent of all incidents and almost 90 percent of all "critical" incidents (these are called code-3 and are responded to with lights and sirens.) Only 5 percent of code-3 incidents are fires and only one in a hundred are structure fires that might involve loss of life. The chance of loss-of-life is even more skewed toward medical emergencies, not fires. And yet, to look at annual reports or the District's Web site, one would think it was one fire after another. It is more exciting to see pictures of a building in flames. However, for every burning building there are more than 100 people on stretchers. The reality is that MOFD's major function is providing emergency medical care.

What does it take to answer a medical emergency? Virtually all of the medical calls serviced by MOFD involve a single victim. However, MOFD does need to be prepared to handle multiple-victim emergencies. Is it necessary, reasonable or optimal to concentrate MOFD's 19 emergency responders into five stations? Does Orinda really require four times the firefighters per capita as serve the ConFire area? MOFD records show that the average number of responders to a code-3 medical incident is 5.5 firefighters, and that the average MOFD firefighter responds to four incidents per week. Is this the most efficient way to use personnel, each costing more than \$200,000 per year?

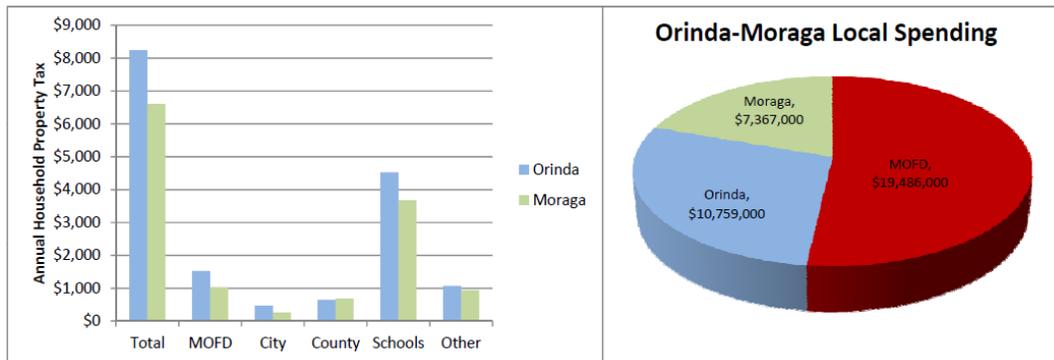


The most disturbing fact the Task Force discovered was that almost 40 percent of all code-3 incidents in Orinda were not answered within the 6-minute time frame guiding the industry. In some areas, like Sleepy Hollow and Orinda Downs, close to 100 percent of the responses do not

meet performance standards. If more stations could get responders closer to the incidents, thus reducing response times, and it only takes one or two first responders (with backup) to deal successfully with most medical emergencies, why are our firefighters concentrated four to a station? The Task Force believes that while this may be an appropriate "fire" model; the vast majority of life-threatening emergencies are not fire related. The District and the Firefighters Union may be more concerned with the well being of the employees than the health and safety of the community -- a harsh accusation but the facts appear to so indicate.

Operational Costs (Section IV)

MOFD has an annual budget of almost \$19 million for the 19 firefighters on each shift -- \$1 million per firefighter. This exceeds the budgets of Orinda and Moraga combined (and the Task Force is unaware of any other community that spends over half of its resources on emergency services.) However, we do have a "spread out" community which requires more service providers than most to attempt to give the community appropriate response times.



But how did so much money get directed to MOFD? Was this the community's plan? The Task Force notes that in the 15 years since the District was conceived, property tax revenues allocated to emergency services have increased from \$7.6 million in 1997 to \$16.3 million in 2012. That is a 5.2 percent annual increase, almost twice the rate of inflation in that time period. If we had held expenses to the rate of inflation, the MOFD tax bill would be \$11.4 million today and we would have \$5 million to spend on infrastructure needs. But such is not the case, and MOFD has figured out how to spend it all. Moreover, it has accumulated millions of dollars of unfunded liabilities.

The community needs to exert more rigorous oversight of its emergency services provider. Orinda and Moraga effectively formed MOFD by recommending that action to voters in 1997. They could have brought the fire department "in house" or been more active in the process by forming a Joint Powers Authority as opposed to handing the responsibility to an independent agency. But they still own the responsibility of confirming that residents are getting, and will continue to receive, adequate and cost-efficient emergency services. Based on what the Task Force has discovered, none of this is a given.

In analyzing MOFD's long-range financial projections with projections of MOFD's employee benefit liabilities, the Task Force believes some very hard decisions are in order, and soon. These need to be community decisions, not just MOFD's. The longer the delay, the worse the problem will become and the greater the liability will increase.

Tax Funding Allocation (Section V)

Paying a fair amount for emergency services was one of the main incentives for Orinda taxpayers to join with Moraga to form MOFD in 1997. At the time, the County was spending \$700,000 per year received from Orinda's property taxes to subsidize emergency services in other parts of Contra Costa County. Orinda taxpayers thought this reason enough to leave the County emergency services system and form their own district. Orinda taxpayers dedicate significant funds to emergency services. In fiscal year 2011-12 Orindans will give \$11.1 million tax dollars to MOFD - \$10.5 million in property taxes plus \$600,000 in a special parcel tax. It's reasonable to conclude that Orinda taxpayers expect this money to be spent on services in Orinda.

Orindans are served mainly by the 11 MOFD firefighters stationed in Orinda. These firefighters represent 58 percent of the MOFD's total force of 19. However, Orinda taxpayers currently provide 64 percent of MOFD's \$17.4 million tax revenue needs. This results in a \$1 million mismatch between what Orinda residents pay and the cost of the service they receive.

MOFD claims the \$1 million difference represents service provided by Moraga-based units within Orinda. This \$1 million represents 14 percent of the tax revenue allocated to the eight firefighters stationed in Moraga. However, Orinda residents do not get 14 percent of the service provided by these Moraga-based units. Net of service that Orinda-based units provide in Moraga, Orinda residents receive 3 percent of Moraga's total operations. This service comes from the Moraga-based ambulance, with 50 percent of that cost covered by fees paid by users for hospital transport. The net cost for this service is a de minimis adjustment to a straight-forward expense allocation by firefighters stationed in each city.

Therefore, the claimed \$1 million funding inequity is real and should be addressed before it splits the District, as Orinda taxpayers have shown they will not tolerate subsidizing other cities, even their next-door neighbors.

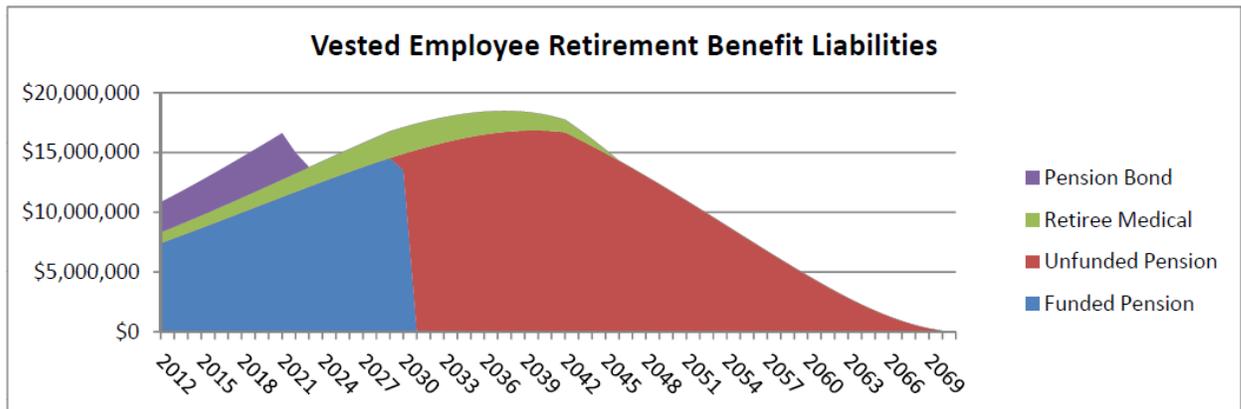
Financial Stability (Section VI)

At the end of the Orinda City Council meeting in June 2011, where 220 Orinda residents presented a petition to the Council asking for the creation of this Task Force under the auspices of the Orinda Council, Mayor Smith made the following statement: "We are extremely lucky that we are not in Con-Fire as some had previously requested that we make that change or look at receiving services from them because that agency unfortunately is close to bankruptcy and will be browning out stations." She then said there was no need for Orinda to create a task force and did not bring the issue to a vote.

The Task Force's findings indicate Orinda may not be "extremely lucky," and in fact may be in exactly the same condition as ConFire. Orinda's five-station fire department, whose tax revenues have grown from \$9 million to \$17 million over 15 years (a total of \$200 million), has somehow accrued \$700 million in future employee benefits liabilities and currently only has \$120 million in assets to cover those liabilities. Even if those assets could grow nearly 8 percent annually, which the pension plan administrator assumes, they would cover only \$300 million of these existing liabilities. Right now, in addition to paying \$1.5 million annually for newly vested pension benefits each year, the district is paying \$3 million annually for unfunded liabilities. This \$4.5 million **is almost 50 percent** of what the district pays in total salaries (base plus overtime). And that \$4.5 million might have to be doubled if the shortfall is not be passed onto our grandchildren.

Will stations have to be "browned out," or closed, to pay off the debt as other communities are experiencing? The Task Force does not believe so, but serious measures need to be taken soon to prevent it. This is the job of the entire community, not just the MOFD board. The Task Force believes the MOFD board needs community assistance.

In putting together this report, the Task Force asked the MOFD one question: "What are your pension and post-retirement medical liabilities." MOFD President John Wyro said: "You have all the data we have and I am not prepared to ask staff to develop more information at this time. Know that we are well aware of the obligations."



The Task Force concludes that MOFD has significant financial problems. It is not going bankrupt, and because Orinda and Moraga are currently served by four times the firefighters per capita as the rest of the county, MOFD will be able to weather the storm without service cuts, but only if appropriate action is taken. The Task Force recommends the community needs to become more involved, and that includes the Orinda and Moraga Councils, in order to make certain it receives the service that it needs.

Background on this Task Force

In 2008, following the defeat of two bond measures designed to provide funds for the repair of Orinda's crumbling infrastructure, The City created a Revenue Enhancement Task Force (RETF). The RETF was tasked with exploring all revenue possibilities for reconstructing Orinda's infrastructure.

One of the taxes the RETF focused on was Orinda's property tax. The total annual property tax paid by Orinda's property owners was four times Orinda's total budget. Only 7 percent of that tax came back directly to the City of Orinda; half went to the state for the funding of schools; 10 percent went to the county; 9 percent to an assortment of 12 independent agencies ranging from BART to the Alamo Lafayette Cemetery. But the single largest portion after schools, 22.6 percent, was dedicated to emergency services provided by MOFD. Total tax revenues for emergency services, when supplemented by an additional parcel tax paid to MOFD, was about \$10.4 million, which is more than the city's entire budget.

Upon further investigation, four other aspects of this tax came to light:

1) Since the formation of MOFD, it had been growing at a rate of 7.1 percent while inflation was only 3.1 percent (this was in 2008).

2) The Wilder development was projected to add an additional \$1 billion to the Orinda tax base, which would generate an additional \$2 million for MOFD with no anticipated increase in service to Orinda or cost to MOFD. 3) Orinda's \$10.4 million of MOFD's \$16.4 million total tax revenue represented 63.4 percent of MOFD's total tax revenue while Orinda was served by 11 (57.9 percent) out of MOFD's 19 on-duty firefighters. The RETF queried "if Orinda taxpayers were served by 57.9 percent of MOFD's staff, why weren't they paying 57.9 percent of its tax revenue (\$9.5 million)?" This \$900,000 difference could double Orinda's road budget.

4) Tax law not only allowed Orinda control over the taxes going to MOFD (which is how MOFD was formed; Orinda detached from ConFire and formed MOFD with taxes previously dedicated to ConFire being transferred to MOFD), it also allowed MOFD to transfer taxes back to Orinda, if it so desired, in order to eliminate any funding allocation mismatch between Orinda and Moraga).

In December 2008, the RETF presented its findings to the City Council. It presented a plan of combined revenue sources, including a reallocation of property taxes going to MOFD. The reallocation would have resulted in some property tax revenue being transferred back to Orinda, a transfer made possible by MOFD constraining its growth to 4.5 percent. Not surprisingly, MOFD rejected any such transfer. The City Council's reaction to the RETF report was to immediately disband the RETF. It did this before the RETF could hold its final meeting and officially adopt its final report. Consequently the report never became part of the official City record. This report can be found on the Task Force Web site as Exhibit I-2.

Nowhere in the RETF report were MOFD's current expenditures, methods of operation or long term finances questioned. The RETF simply questioned the allocation of tax resources.

Following the dissolving of the RETF, the Orinda City Council did request of MOFD and Moraga to form a Tri-Agency Committee to air the RETF findings, namely that Orinda taxpayers

were overfunding MOFD. However, the Committee proceedings consisted solely of MOFD presenting its own analysis of the matter. Not surprisingly perhaps, that analysis concluded no funding inequity existed.

The Orinda representatives to the Tri-Agency meetings took these findings back to the Council in April 2009. The full Council accepted the report but then voted to allocate funds to hire a consultant, in conjunction with MOFD and Moraga, to do an independent evaluation. In other words, the majority of the Orinda Council did not believe the MOFD analysis. Not surprisingly, MOFD and Moraga refused to participate in a consultant-led analysis and the independent evaluation was never performed.

At this same time, Contra Costa LAFCO was preparing its quinquennial report (available at www.contracostalafco.org/municipal_service_reviews/fire_and_emergency_medical_services/CoCo_Fire_MSR_Master_FINAL.pdf) on the status of the county's emergency service providers, including MOFD. Following the denial by MOFD and Moraga to participate in a neutral, consultant-led study, the City Council deferred any further action until LAFCO issued its findings.

In October 2009, the final LAFCO report, determinations and recommendations were released. For MOFD, the report's 27 "determinations" included:

- * Service demand levels are average in the District, with 80 incidents annually per 1,000 people compared with the countywide average of 79 incidents per 1,000.

- * MOFD's staffing level of 1.9 sworn staff per 1,000 people is substantially higher than the countywide average (0.8), as well as the Bay Area median for urban fire providers (0.9).

- * In Orinda, there are water mains that need to be upgraded and hydrants in some areas have low pressure and capacity.

- * The District identified service challenges in the Orinda area due to decayed roads and lack of street maintenance and access challenges on steep, windy, narrow roads, particularly in the El Toyonal area.

- * The District would benefit from benchmarking its costs against comparable service providers to explore cost savings and promote efficiency.

LAFCO's one "recommendation" to MOFD was "Encourage agencies (*meaning MOFD and Orinda*) to communicate regarding road/water infrastructure challenges and report back to LAFCO within 12 months." (This never happened.)

To the best of the Task Force's knowledge, this information was never formally presented to the Orinda City Council. The LAFCO determinations and recommendations are on the Task Force Web site as Exhibit I-3 and the portion of the LAFCO report pertaining to MOFD is included as Exhibit I-4.

In January 2010, the grass roots group FAIR (Fire And Infrastructure Renewal), formed by former RETF members, approached the Council with a proposal. In discussions with ConFire, it appeared that ConFire would and could provide service to Orinda, equivalent to the service provided by MOFD, at a cost significantly less than the property tax revenue then going to MOFD from Orinda taxpayers. This service would be by contract and thus not tied to property taxes. While FAIR did not think Orinda would get any service benefits from a contract with ConFire, it presented this option to the Council as a strong indication that MOFD was charging Orinda more

than its fair share of MOFD operating expenses. It also believed that the City would be open to service-by-contract, as that is how the City provides many of its services, including police service from the County Sheriff's office. Locally controlled services by the regional service provider (probably using the same firefighters which were already serving Orinda), with major savings to the taxpayers/city, and with pension liabilities shifted back to the County, sounded like something the City might consider. MOFD strongly rejected such a plan, as did some Orinda citizens who believed that ConFire, which had overcharged and underserved Orinda a decade and a half earlier, would do so again.

The Orinda City Council's response was to call for another series of Tri-Agency meetings. These proceedings once again, were mostly presentations by MOFD to the Committee, including the same funding equity analysis provided the previous year. However, FAIR was allowed to present its analysis as was another group, OrindaCARES. These presentations were never discussed by the Committee. It languished by allowing itself to be dragged into the November 2010 election season. The Committee Chair, Orinda Mayor Tom McCormick, was unsuccessful in his bid for re-election to the Orinda Council and the Council did not appoint a successor. In April 2011, the Committee, without issuing any report or conclusions, dissolved itself.

The one remaining Orinda representative to the 2010 Tri-Agency, Councilmember Worth, went back to the Orinda City Council at its June 7, 2011, meeting, gave a three-minute verbal report of the Committee's actions, and suggested to the Council that the City set up its own Citizens Emergency Services Task Force to investigate issues that the Tri-Agency Committee had not. At the same meeting, a petition was presented to the Council, signed by 220 Orinda citizens, including former Mayor McCormick, also calling for a Task Force.

At this Orinda City Council meeting, MOFD President John Wyro gave a short address stating: "We welcome and encourage public participation. We need public participation to fully function and I am hoping that out of this that those who have concerns about the operations of the department come share them with us and work together with us to improve it." Following this statement, three of the Council members said it was not in their "purview" to get involved in the business of another agency (even though that agency was responsible for the health and safety of every individual in Orinda) and directed the citizens to take their issues directly to MOFD. No vote was held on the formation of a Citizens Emergency Services Task Force.

On July 20, 2011, Orinda resident Vince Maiorana, one of the petition signers to the Orinda Council asking for creation of a Task Force, told the MOFD board at its regular meeting that a group of citizens was forming a Task Force; that they hoped that MOFD would cooperate; and they would bring their findings to the Board upon completion. There was no response from any member of the Board, either immediately or since. The only response was from MOFD Chief Bradley, who said he would like to be involved.

On July 22, 2011, Steve Cohn, a member of the Task Force, presented a request for information to Chief Bradley. Specifically, he asked for MOFD's long term employee benefit liabilities, both pension and post retirement medical benefits. The only public information then available were values that represent the present value of these liabilities, not the absolute year-by-year values. These requested values, which are the basis for the publicly available "present values,"

are derived by the District's actuary and the District's pension plan administrator's (CCCERA) actuary. The response from the District to this request was that they did not currently have the information. They did not respond to a further request that they might obtain the information from their actuary. CCCERA responded likewise. Requests directly to the MOFD Board and to CCCERA's Board of Trustees were never answered.

No further requests for information, other than the District's audited financial statement of December 9, the day following its formal adoption by the Board, was requested from the District by the Task Force. All other information used in this Task Force report was obtained by other means or prior to the formation of the Task Force.

Thus, with virtually no assistance from either the City of Orinda or the Moraga-Orinda Fire District, the Citizens Emergency Services Task Force has attempted to compile the equivalent of a grand jury investigation or a service audit of the Moraga-Orinda Fire District, specifically as to how it relates to service in Orinda. Actual data will be noted in the sections of this report as will any assumptions the Task Force has made in the absence of data.