

Appeals court dismisses Nowicki claim against MOFD

By Nick Marnell

A court of appeals has dismissed the lawsuit brought against the Moraga-Orinda Fire District by former Fire Chief Pete Nowicki, who claimed that MOFD was obligated to make up the money stripped from his pension by a county agency.

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 in January 2009, and according to the Contra Costa

County Employees' Retirement Association board, the cashed-out perks granted in 2008 improperly inflated his retirement benefit and the district board, knowing Nowicki was soon going out the door, went along with the changes. The retirement board voted to cut Nowicki's annual pension of \$241,000 to \$173,000, and ordered him to return \$585,000, plus interest, in overpayments. The cost savings by correcting future overpayments were projected at more than \$1.2 million.

Nowicki subsequently sued CCCERA and the fire district, claiming that his pension had been wrongfully reduced.

In his suit against MOFD, Nowicki claimed breach of his employment contract and breach of the duty of dealing in good faith. He claimed that if CCCERA were successful in reducing his pension, then the fire district was responsible for making up the difference. The Contra Costa County Superior Court ruled against Nowicki in 2017, failing to determine how MOFD caused CCCERA to deprive Nowicki of his due process rights by reducing his pension, and finding no breach of employment agreement between Nowicki and MOFD. Nowicki appealed, and the appeals court upheld the court ruling. (Nowicki) was required to file a timely gov-

ernment tort claim as a mandatory prerequisite to the filing of his complaint against the fire district. (Nowicki) failed to do so, and the claims are barred," read the court decision.

"We wanted the district to join with us in going after CCCERA," Nowicki said. "The district should have had a contractual obligation to defend me." The former chief said that he was disappointed that no one from the district attended his CCCERA hearing, and he offered guidance for the men and women of the district. "Don't be fooled into thinking that the district won't let you sink by yourself if you get into such a situation," Nowicki said.

Though the chief's suit against MOFD has been dismissed, the Superior Court did not dismiss Nowicki's case against CCCERA, and district counsel Jonathan Holtzman said that a hearing is scheduled for Feb. 5.

"We are loaded for the fight against CCCERA," Nowicki said. "I am defending the district's good name by myself, and I am flabbergasted that the district is not defending itself."

Holtzman, whose law firm took over as MOFD counsel in 2018, said he could not comment on what occurred prior to that date.

PG&E equipment the cause of Lafayette Tennis Club fire



Courtesy ConFire

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"It was very chaotic," Landis said. "Neighbors were fearing that the fire was headed their way. If the fire had gone up the hill to Springbrook, it would have really taken off." Lafayette Police Chief Ben Alldritt said that some 2,400 Lafayette residents were evacuated that day, mostly from Springbrook and others from an off-shoot fire south of Highway 24, near Pleasant Hill Road and Condit Road.

Fifty-six units responded to the Lafayette fire, aided by an early morning ConFire decision to hold all firefighters scheduled to go off shift that day. As a result, ConFire was able to deploy, in addition to normal staffing, a total of six fire engines, 15 wildland engines, two auxiliary support units, 14 command personnel and five support personnel. The remain-in-place order was given for

the first time in the history of the district.

Investigators determined that the downed PG&E power pole was the cause of the tennis club fire. A witness told an investigator that she was traveling on Camino Diablo and heard a loud "firecracker sound" and saw the transformer at the top of the power pole explode. "She saw sparks and flames coming from the transformer falling to the surrounding area and the pole toppled over to the ground," according to the district investigative report.

The fires were contained by mid-afternoon, no one was injured and damage to the tennis club was estimated at \$800,000. "If it had not been for the excellent weed abatement immediately adjacent to the downed pole, there is little doubt that, like the tennis club to the west, these structures would have been lost," ConFire spokesman Steve Hill said.

Fallen PG&E utility pole lies across Camino Diablo, just east of the tennis club.

Sen. Glazer named recipient of 2019 Radke Championing Advocacy Award



Photo Lamo archive

Submitted by Dave Mason

State Sen. Steve Glazer has

been awarded the East Bay Regional Park District and Regional Parks Foundation's 2019 Radke Championing Advocacy Award. Glazer was instrumental in securing \$5 million in the 2018-19 state budget for improvements at Del Valle Regional Park in Livermore, including upgrades to the park's aging water delivery system, which supplies water throughout the 4,395-acre park. Glazer was presented with the award at a celebration in Sacramento in August.

Del Valle Regional Park is one of three state parks managed by the Park District at its own cost, with no operational funding from the state. Opened in 1970, Del Valle serves three critical functions of recreation, water storage, and flood protection. The full array of recreational oppor-

tunities include swimming, fishing, hiking, picnicking, camping, boating, paddle boarding, and environmental education.

"Senator Glazer is a great champion for the environment and parks in Sacramento," said East Bay Regional Park District Board President Ayn Wieskamp, who represents the Livermore area on the Park District Board. "I am pleased that Senator Glazer has been recognized for his efforts with the 2019 Radke Champi-

oning Advocacy Award."

Glazer also introduced legislation in 2019 to ban smoking in state parks and beaches. The legislation has passed through both the Senate and the Assembly and was signed by the governor. The Park District prohibits smoking in its regional parks also.

"We appreciate Senator Glazer's leadership and advocacy in Sacramento," said East Bay Regional Park District General Manager Robert Doyle. "We value our contin-

ued partnership working together to protect land for conservation and recreation."

The Radke Championing Advocacy award is named for late Park District Board Member Ted Radke who advanced state and federal support for park funding and strengthened the Park District's ties in Sacramento and Washington, D.C. Radke served 36 years on the Park District board of directors and was the longest-serving board member in its 85-year history.

Fire District Public Meetings

Moraga-Orinda Fire District
Board of Directors
Wednesday, Nov. 20, 7 p.m.
Go to the website for meeting location, times and agendas.
Visit www.mofd.org



ConFire

Board of Directors
Tuesday, Dec. 10, 1:30 p.m.
Board Chamber Room 107,
Administration Building
651 Pine St., Martinez.
For meeting times and agendas, visit www.cccfpd.org



Public Safety

Emergency response:
Emergency: 24 Hours 911
Police Dispatch: 24 Hours
925-284-5010

Nixle: Text your zip code to 888777 or go to www.nixle.com

Lafayette Police Department:
3471 Mt. Diablo Blvd.
925-283-3680
Chief of Police, Ben Alldritt
925-299-3221

Police Department Tip Line
94549Tip@gmail.com

Police Department Traffic Issues
94549Traffic@gmail.com

Moraga Police Department:
329 Rheem Blvd., 925-888-7055
Chief of Police, Jon King ext. 7049

Orinda Police Department:
22 Orinda Way 925-254-6820
Chief of Police, David M. Cook
925-254-6820
Orindatip@cityoforinda.org

Lafayette Police Department Incident Summary Report
Oct. 20 - Nov. 2



Alarms	102
911 Calls (includes hang-ups)	17
Traffic	131
Suspicious Circumstances	8
Suspicious Subject	18
Suspicious Vehicle	21
Service to Citizen	77
Patrol Req./Security Check	24
Pubic/School Assembly Check	12
Supplemental Report	26
Welfare Check	25

Vehicle violations

Auto Burglary
3300 Block Springhill Rd.
Deer Hill Rd./Pleasant Hill Rd.
3700 Block Mt. Diablo Blvd.
4000 Block Mt. Diablo Blvd.

Dui Misd
3600 Block Mt. Diablo Blvd.
10 Block Eleven

Hit And Run Misdemeanor
3500 Block Mt. Diablo Blvd.
3700 Block Mt. Diablo Blvd.
3500 Block Terrace Way
3500 Block Mt. Diablo Blvd.
St Marys Rd./Hope Ln.
3600 Block Mt. Diablo Blvd.
700 Block Moraga Rd.

Petty Theft From Veh
10 Block Fallen Leaf Ct.
3400 Block Moraga Blvd.

Reckless Driving
1300 Block Reliez Valley Rd.
Reliez Valley Rd./Pleasant Hill Rd.
Pleasant Hill Rd./Condit Rd.
Pleasant Hill Rd./Stanley Blvd.
500 Block St. Mary's Rd.
Florence Dr./N Lucille Ln.
Stanley Blvd./Pleasant Hill Rd.
1200 Block Pleasant Hill Rd.
St Marys Rd./Rohrer Dr.
Moraga Blvd./Hawthorn Dr.
Pleasant Hill Rd./Eb Sr 24

Tc - Property Damage
500 Block Merriewood
3800 Block Happy Valley Rd.
Acalanes Rd./Marianne Dr.
600 Block Glenside Dr.
3400 Block Mt. Diablo Blvd.

Vehicle Theft
10 Block Red Bark Ct.

Other criminal activity
Burglary
1300 Block Martino Rd.

Commercial Burglary
3400 Block Mt. Diablo Blvd.

Counterfeit
3600 Block Mt. Diablo Blvd.
900 Block Carl Rd.

Fraud Credit Card
3400 Block Mt. Diablo Blvd.
900 Block Hawthorn Dr.

Fraud False Pretenses
3700 Block Mt. Diablo Blvd. (2)
3200 Block Quandt Rd.
10 Block Arbor Way

Identity Theft
Police Department
3400 Block Mt. Diablo Blvd.

Panhandling
3500 Block Mt. Diablo Blvd.

Petty Theft
3500 Block Mt. Diablo Blvd.
20 Block Leslyn Dr.
3300 Block Springhill Rd.
3400 Block Mt. Diablo Blvd.
800 Block Sibert Ct.

Petty Theft Bicycle
100 Block Lafayette Cir.

Residential Burglary
3200 Block Ronino Way
900 Block Acalanes Rd.

Shoplift
3600 Block Mt. Diablo Blvd.
3500 Block Mt. Diablo Blvd. (3)

Nuisance to the Community
Disturbance-domestic
3400 Block Moraga Blvd.
3600 Block Happy Valley Rd.

Drunk In Public
3500 Block Mt. Diablo Blvd.

Intoxicated Subject
Carol Ln./Moraga Blvd.

Loud Music
4100 Block Canyon Rd.
3200 Block Mt. Diablo Ct.

Loud Noise
Mt. Diablo Blvd./Lafayette Cir.
1100 Block Bacon Way

Loud Party
3700 Block Block Highland Rd.
Rowe Pl./Moraga Rd.
Canyon Rd./Upper Happy Valley Rd.

Public Nuisance
3500 Block Mt. Diablo Blvd. (2)
700 Block Tanglewood Dr.
3400 Block Mt. Diablo Blvd.

Vandalism
Old Tunnel Rd./Pleasant Hill Rd.
400 Block Peacock Blvd.
3200 Block Hillview Ln. (2)
3400 Block Golden Gate Way

Other

Animal Cruelty
500 Block Hunsaker Canyon Rd.

Harassment
Mt. Diablo Blvd./Oak Hill Rd.
Marine - Moving Citation
3300 Block Mt. Diablo Blvd.

Ordinance Violation
3300 Block Johnson Rd.
Oak Hill Rd./Orchard Rd.
1200 Block Rose Ln.
Acalanes Rd./Hidden Valley Rd.

Phone Harass
3300 Block Mildred Ln.
1200 Block Warner Ct.

Shoot Occupied Dwelling
10 Block Moss Ln.

Threats
900 Block Hough Ave.

Trespass
3200 Block Mt. Diablo Blvd.

Unwanted Guest
3500 Block Mt. Diablo Blvd. (2)
70 Block Bacon Ct.
3500 Block Deer Hill Rd.

Moraga Police Department Incident Summary Report
Oct. 22 - Nov. 3

Alarms	20
911 Calls (includes hang-ups)	12
Traffic	47
Suspicious Circumstances	11
Suspicious Subject	4
Suspicious Vehicle	9
Service to Citizen	52
Patrol Req./Security Check	34
Supplemental Report	7
Vacation House Check	0
Welfare Check	1

Vehicle violations
Accident Injury
Canyon Rd./Camino Pablo
Accident Property
Canyon Rd./Camino Pablo
Auto Burglary



20 Block Hour Fitness Mor
Excessive Speed
Moraga Way/School St.
2101 Donald Dr.
10 Block Buckingham Dr.
Moraga Rd./Corliss Dr. (3)
Hit And Run Misdemeanor
Moraga Rd./Campolindo Dr.
Reckless Driving
St. Marys Rd./Rheem Blvd.
Safeway
Tc - Property Damage
20 Block Hour Fitness

Other criminal activity
Identity Theft
Police Department

Nuisance to the Community
Barking Dog
1000 Block Larch Ave.
300 Block Donald Dr. (3)

Loud Music
10 Block Miramonte Dr.
Canyon Club Brewery

Loud Noise
2000 Block Ascot Dr. (3)
100 Block Ascot Ct.

Loud Party
Not Available

Other
Fireworks
Joaquin Moraga Int. School
Fish And Game
Moraga Rd./Campolindo Dr.
Public Assembly Check
Rheem Valley Shopping Center (3)
Safeway
Unwanted Guest
Canyon Club Brewery



Orinda Police Department Incident Summary Report
will be back next time