



**NOVATO FIRE DISTRICT BOARD OF DIRECTORS
SPECIAL BOARD MEETING AGENDA
FEBRUARY 27, 2024**

Time: 1:00 pm

Location: Novato Fire District Administrative Office
95 Rowland Way
Novato, CA 94945

Website: www.novatofire.org

ATTENTION: This will be an in-person meeting of the Board of Directors due to the expiration of Executive Order N-29-20 on February 28, 2023, however any interested member of the public may participate virtually and/or telephonically by utilizing the Zoom meeting information and/or the dial-in information printed on this agenda. If any member of the public has a request for a reasonable modification or accommodation for accessing this meeting due to a disability, they should contact Jennifer Crayne at jcrayne@novatofire.org.

The Board meeting agenda and all supporting documents are available for public review at 95 Rowland Way, Novato, CA, 24 hours in advance of a special board meeting. A fee will be charged for additional copies of board meeting documents. District facilities and meetings comply with the Americans with Disabilities Act. If special accommodation is needed, please contact the District Administrative Services Manager as soon as possible prior to the meeting.

ROLL CALL

President Lj Silverman

Director William Davis
Director Shane Francisco

Director Bruce Goines
Director Michael Hadfield

OPEN TIME FOR PUBLIC EXPRESSION

(Please observe a three-minute time limit.)

This is an opportunity for any member of the public to briefly address the District Board on any matter that does not appear on this agenda. Items that appear to warrant a lengthier presentation or Board consideration will be placed on the agenda for discussion at a future meeting.

CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION

Government Code Section 54956.9(d)(2)

Significant exposure to litigation: 1 case

ADJOURNMENT

Zoom Conference Information
Join at Zoom.com

Meeting ID: 232 811 1856
Password: 959595

Join the Zoom meeting and then dial in if you need audio by telephone
+1 669 900 6833 US (San Jose)

Join by telephone only:
+1 669 900 6833 US (San Jose)

For clarity of discussion, the Public is requested to MUTE except:

During Open Time for public expression item

Public comment period on agenda items.

You may use the "raise hand" zoom feature or press *9 if connecting only by phone.



Novato Fire Chief Officers Association

95 Rowland Way ~ Novato, CA ~ 94945

~ EDN 87-3488912 ~



President Kyle Dague ~ Treasurer Erich Mesenburg ~ Secretary Jeff Whittet

December 22, 2023

John Dicochea
Deputy Fire Chief
Novato Fire District
95 Rowland Way
Novato, CA 94945
Email: jdicochea@novatofire.org

Re: Novato Fire Chief Officer's Association Step 1 Grievance: Denial of the use of two Floating Holidays
Chief Dicochea,

As you know, the NFCOA made a request to meet with the District on Thursday, December 21st to clarify which documents are being used by the District as the source for decision making and to reach resolution on the denial of clearly defined benefits to our members. Unfortunately, there was no resolution achieved between the NFCOA and the Fire District.

In an additional step to reach resolution informally, later on December 21, 2023, the Novato Fire Chief Officers Association (NFCOA) wrote to Chief Tyler asking the District to reconsider and to authorize the use of two floating holidays for two of our members as clearly outlined in the Chief Officer's Memorandum of Understanding (MOU) Section 5.1.10, page 20, dated, January 1, 2020-June 30, 2025.

The NFCOA communicated to the District that our members, Battalion Chief Dan Peters and Battalion Chief Lynne Osgood submitted their request to use "two floating holidays" to the District on December 18th, 2023 to exercise their negotiated benefit in an effort to be with their families during the Holiday season which is now upon us. The aforementioned request was subsequently denied in writing on December 22, 2023 in an email from Fire Chief Bill Tyler to the Novato Fire Chief Officer's Association clearly in violation of our MOU.

Fire Chief Bill Tyler stated in his email correspondence, ***"the District will approve floating holidays for B/C Peters (1 for 8 hours) and B/C Osgood (2 for 16 hours total) on the dates they requested"***.

Both B/C Peters and B/C Osgood work 10 hour days. The District's denial of a day off, as our MOU clearly outlines, requires our members to work additional hours to receive a full 10 hour day off, in violation of the clear language of our MOU.



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Furthermore, in the email response from Chief Tyler on December 22, 2023, the Fire District acknowledges the Non-Sworn Administrative Staff (NSAS) MOU side letter dated July 20, 2022 is ***“not expressly binding on NFCOA”***, yet refers to stipulations of the NSAS MOU side letter in regards to ***“New hires”*** with NSAS as binding on newly promoted Battalion Chiefs which are NOT ***“New hires”*** and are members of the NFCOA which is an entirely different labor group with a different MOU.

1. There was never any discussion whatsoever regarding the stipulations of the NSAS side letter during the most recent negotiations between the Fire District and the NFCOA nor was the side letter ever presented. The only discussion that took place between the District and the NFCOA was surrounding ***“observed”*** holidays and which ***“observed”*** Holidays would be listed in our MOU as contained in Section 5.1.10, page 20. At the in person meeting on December 21, 2023, Fire Chief Bill Tyler and Deputy Chief John Dicochea acknowledged the NSAS side letter had never been shared with the NFCOA to their knowledge.
2. The NSAS side letter makes reference to ***“New hires”*** and makes no reference to date of promotion.
3. The NSAS letter has never been presented to the NFCOA until the week of December 18, 2023.
4. The NSAS side letter is signed by Fire Chief Bill Tyler and Lauren Galli only.
5. The NSAS side letter is irrelevant to the NFCOA MOU.

Additionally, in the email correspondence from Chief Tyler on December 22, 2023, he states, ***“The District believes that 8-hour floating holidays are what was intended by the parties when they agreed, in Section 5.1.10, of the NFCOA MOU, that “Day B/Cs will observe holidays in accordance with the administrative staff”***. How can 8 hour days be intended by the parties when the NSAS side letter document was never shared with the NFCOA?

NFCOA MOU clearly states in Section 5.1.10, page 20, ***“Holidays observed by Day BCs are: New Years’ Day, Martin Luther King Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Veteran’s Day, Thanksgiving, the Friday following Thanksgiving, Christmas Eve, Christmas; and two floating holidays for all BCs.”***

The verbiage, ***“Day B/Cs will observe holidays in accordance with administrative office staff”*** is in the context of the listed ***“observed”*** Holidays. There is no mention of the ***“accrual of hours”*** nor is there mention of how many floating holidays ***“New hires”*** would receive in the NFCOA MOU.

There were no questions raised on the NFCOA MOU verbiage at the time of negotiations because both parties understood that Day BCs and administrative staff would ***“observe”*** the same holidays as listed in our MOU, hence the verbiage, ***“Day BC’s will observe Holidays in accordance with the administrative office staff”***.



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The District's HR Director issues a list of holidays on an annual basis and which calendar day they will be "observed". The Holidays are listed with their associated weekday observance when on occasion the Holiday falls on a weekend. At the end of the document it further describes the holidays and the days they will be "observed" and then states, "*Refer to the applicable MOU or Employment Agreement for further information*" which makes a very clear distinction between the different recognized labor groups with their associated MOUs.

In conclusion, at the present, B/C Osgood is authorized by the Fire District for 2, 8 hour days and B/C Peters is authorized for 1, 8 hour day when they were both promoted at the same time.

NFCOA does not understand why there is a difference in the time off authorized by Chief Tyler for each NFCOA member when they both have the same MOU.

Proposed Resolution:

The District immediately grant the two 10 hour floating holidays to BCs Peters and Osgood prior to the end of 2023 on their requested days and that they are notified of that approval ASAP with a CC sent to the NFCOA.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "Kyle Dague".

Kyle Dague, President, Novato Fire Chief Officers Association

Cc: BC Erich Mesenberg, NFCOA

BC Jeff Whittet, NFCOA

BC Dan Peters, NFCOA

BC Lynne Osgood, NFCOA



NOVATO FIRE DISTRICT

95 ROWLAND WAY, NOVATO, CA 94945 415.878.2690 - FAX 415.878.2660
WWW.NOVATOFIRE.ORG

January 4, 2024

Kyle Dague
President, Novato Fire Chief Officers Association

**Re: Novato Fire Chief Officers Association (“NFCOA”) Step 1 Grievance
Dated December 22, 2023**

Dear Chief Dague:

This is in response to the NFCOA Step 1 grievance dated December 22, 2023. I disagree with your contention that the NFCOA MOU entitles Day B/Cs to two 10-hour floating holidays per year.

Section 5.1.10 of the NFCOA MOU provides that, “Day B/Cs will observe holidays in accordance with the administrative office staff.” The parties disagree about the meaning of this phrase, “in accordance with the administrative office staff.” To resolve this disagreement, the parties should look to the intent of the parties, which is reflected in the following sources: (1) the way in which floating holidays are taken by administrative office staff; (2) the applicable MOU language from the NSAS contract; (3) the past practice of the parties; and (4) the parties’ notes from the bargaining table.

- (1) In the District’s view, the parties intended that Day B/Cs would receive two 8-hour floating holidays per year, in the same fashion as administrative office staff. Administrative office staff, whose holidays are governed by the NSAS MOU, receive two 8-hour floating holidays per year.
- (2) Pursuant to the NSAS Side Letter dated July 20, 2022, “a holiday shall be considered eight hours.” That same Side Letter stipulates that, if a member works a flexible schedule such as a 4/10 or 9/80, they shall use accrued leave to make up the additional one or two hours needed for the holiday, or they can work additional time in the same pay period, with supervisor approval.

Thus, on December 22, 2023, “in accordance with” the custom and practice of the “administrative office staff,” as reflected in the NSAS MOU, the District approved floating holidays for B/C Peters (1 for 8 hours) and B/C Osgood (2 for 16 hours total) on the dates they requested, with the remaining hours covered by additional hours worked in the same pay period.

- (3) The District's position, that floating holidays are 8-hour days, is consistent with the longstanding and accepted practice of the parties, for NPFA, NSAS and NFCOA administrative/day staff on 4/10 schedules. This practice has been fixed, clear and understood by the parties for many years.
- (4) Chief Tyler has spoken to the members of the District's bargaining team and they all recall discussion at the bargaining table on this issue, specifically, that floating holidays for Day B/Cs would be granted in the same manner as the NSAS unit. To illustrate this point, I have attached Board Member Hadfield's hand-written notes from the bargaining table. In particular, he noted, on three separate versions of the MOU proposals, as follows:

"HOLIDAY IS 8 HRS. IF B/C WORKS 4 10's HOLIDAYS WILL BE 8 HRS." (Notes from parties' 11/22/22 discussions regarding NFCOA's last, best and final offer)

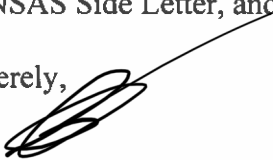
"ADMIN HOLIDAYS TAKE EQUIVALENT TO 8 HRS. TOTALING 16 HOURS" (Notes from parties' 2/13/23 session with mediator David Weinberg)

"10 HOUR WORK DAY = 8 HOUR HOLIDAY" (Notes from parties' 2/13/23 session with mediator David Weinberg)

Please note that, in the 11/22/22 last best and final offer, with the Messing Adam and Jasmine logo at bottom, NFCOA proposed that "Administrative BC's will receive 20 hours of floating holiday time annually to be used at the members discretion." Of course, that proposal did not make it into the final version of the MOU. Instead, the final MOU provided that floating holidays would be provided "in accordance with the administrative office staff."

Director Hadfield's notes should put this disagreement to rest. The District's bargaining team understood, and noted contemporaneously, that Day B/Cs would receive two 8-hour floating holidays per year. This understanding is consistent with the custom for all administrative staff, the NSAS Side Letter, and the past practice of the parties, including NSAS, NPFA and NFCOA.

Sincerely,



Deputy Fire Chief John Dicochea