

**BOARD OF DIRECTORS MEETING MINUTES**

**Thursday, August 13, 2020**

**Via Teleconference**

**Regular Meeting - 7:30 p.m.**

**CALL TO ORDER**

President Deppe called to order the Regular Meeting of the Board of Directors at 7:36 p.m. Directors Eileen Nottoli, Sylvia Hacaj, and Cyrus Modavi were present at roll call. Director Rachele Sherris-Watt was absent.

Staff present included Interim General Manager Bill Lindsay, Interim Police Chief Walt Schuld, General Counsel Ann Danforth, Finance and Business Manager Katherine Korsak, Officer Brad Harms, and Clerk of the Board Lynelle M. Lewis.

**GENERAL PUBLIC COMMENT**

The following persons provided public comment: 1) David Bergen asked President Deppe to announce the speakers' names so they are accurately recorded in the minutes; 2) Laurence Nagel reminded the Board about the evacuation drill on August 27<sup>th</sup> at 8:00 a.m. and requested that the Police Department notify residents about the phone number that will show on their phones; 3) Kevin Padian commented that residents should treat this drill as an actual event and be sure to alert neighbors. Chief Schuld noted that he had sent reminders to residents about the upcoming evacuation drill via Nixel, Facebook, Nextdoor and the KPPCSD website.

**BOARD/STAFF COMMUNICATION**

General Manager's Report. Interim General Manager Lindsay presented an update on the RossDrulisCusenbery (RDC) meeting with the Contra Costa County building official about the architectural issues related to Public Safety Building (PSB) renovation. RDC (along with their structural engineer) met to discuss the following issues: 1) an elevator/lift; 2) enclosing the exterior deck areas for use as interior space without violating the "no increase in building size" provision; 3) whether the team was using the appropriate valuation methodology for establishing the value of the building; and 4) how the County addresses cost contingencies. Mr. Lindsay reported that RDC has provided all additional background material that the County requested following that initial meeting. After the County has the opportunity to review this material, RDC will schedule a follow-up meeting with the hope that they receive conclusive direction soon thereafter. Mr. Lindsay said he would keep the Board informed of progress on this issue.

Next, Mr. Lindsay reported that staff was contacted by representatives from the California Department of Parks and Recreation Department indicating that KPPCSD had received a Proposition 68 capital grant in the amount of \$177,952 for which an application was submitted some time ago. The grant requires a 20% match, but the program is very flexible as to how the funds may be used for capital improvements to park and recreation facilities. Staff will work with the Board to determine how best to apply these funds, which are allocated on a reimbursement basis and must be spent by 2024.

In concluding Mr. Lindsay reported that KPPCSD's outside auditor, Steven Chang, expanded the scope of his annual audit to conduct a detailed review of the District's legal expenses during FY 2018-19. The final memorandum from Mr. Chang, with his analysis and recommendations, indicated that all expenses were adequately documented. The final billing for the FY 2018-19 audit work included \$3,125 in additional cost for the time spent on this additional review and analysis.

Director Modavi asked if the Prop 68 grant funds could be used for tree trimming and the tennis courts. Mr. Lindsay said these would not be eligible. Ms. Korsak pointed out that funds would have to be used for new projects. Director Nottoli requested having a standing agenda item to discuss the status of the PSB renovation because she has been hearing concerns from residents who want to know about it. In particular, residents are concerned about where the police will be located. She reported that at the Kensington Fire Protection District (KFPD) Board meeting on August 8<sup>th</sup> there was mention that the police would not be allowed to be housed at the renovated PSB unless the KPPCSD contributes its fair share of the capital costs. This could force residents to agree to a tax increase to keep the police in Kensington. Director Modavi agreed that the PSB renovation should be a standing agenda item where there can be discussion on how to fund the police relocation.

- The following person provided public comment: 1) Kevin Padian commented that no decision on financial arrangements were made at the KFPD meeting, that KFPD has been trying to discuss this issue with KPPCSD for the past 2 years, it should have been done through the 2x2 Committee, and he anticipates productive discussions in the near future.

Police Chief Report. Police Chief Schuld clarified a previous comment that employees and dependents were not eligible for lifetime medical. He said that employees and dependents are in fact eligible lifetime medical if the employee meets the retirement vesting requirements. Next, he announced the hiring of Officer Jose Fajardo, and said he anticipates hiring another police officer and a reserve officer once they complete the testing process. Next, Mr. Schuld reported that the Use of Force Policy had been updated, highlighted the changes, and said that all updated policies will be included in the Policy Manual. Chief Schuld responded to questions raised about provisions of the policy.

- The following person provided public comment: 1) Meryl Rafferty asked when the last time the Police Department had to apply use of force. Chief Schuld said he would research this.

## **CONSENT CALENDAR**

Items 1-2 were presented as Consent Calendar items for a single motion and vote.

Director Nottoli commented that her name was misspelled on page 2 of the July 9<sup>th</sup> Minutes under agenda Item 2 (tennis court resurfacing motion). President Deppe recommended changing the wording on page 2 of the Minutes under the tennis court resurfacing discussion (change Item 7 and 8 to Option 7 and 8).

- Motion by Director Hacaj, seconded by Director Nottoli, to approve the Consent Calendar with the amendments to the Minutes identified by Director Nottoli and President Deppe, carried (4-0) by the following roll call vote: AYES (Directors Nottoli, Modavi, Hacaj, and Deppe); NOES (None); and ABSENT (Director Sherris-Watt).

**1. Consider Approval of Minutes for the Regular Board Meeting of July 9, 2020.**

Item 1 was approved (as amended) as part of the Consent Calendar.

**2. Adopt Resolution No. 2020-17 Confirming Changes from the 2019 Memorandum of Understanding Relating to CalPERS Retirement Contributions.**

Item 2 was approved as part of the Consent Calendar.

**Resolution No. 2020-17** – A Resolution Of The Board Of Directors Of The Kensington Police Protection And Community Services District To Update Employer Paid Member Contribution (EPMC) For The Classic CalPERS Retirement Plan.

**BOARD DISCUSSION AND DETERMINATION**

**3. Consider Initiation of Community Review of Amended Parking Regulations Proposed by the KPPCSD Police Department, the Kensington Fire Protection District (KFPD), and Contra Costa County for Improving Neighborhood Safety.**

Interim Police Chief Schuld introduced Officer Brad Harms, commended him for his work on this project, and thanked the other partners. Officer Harms reported that the Kensington Police Department (KPD), together with the KFPD and Contra Costa County, have been working on an evacuation plan for Kensington residents. Elements of this evacuation plan include: 1) an arrangement with Sunset View Cemetery for gaining access to unlock all three gates on the property in the event of a massive evacuation; 2) installation of evacuation signs at Sunset View Cemetery; 3) replacement of the locked steel bollards near the school and the parks with removable chains; and 4) changing the parking on six streets in the first phase of the evacuation planning to allow the evacuation to be more efficient for traffic flow.

The recommendation was for the Board to consider initiating a public review process to include extensive community outreach to inform residents regarding the reason for the proposed changes. This community outreach would include preparing an educational video, distributing informational flyers, and contacting local print and social media. The estimated total cost to reconfigure parking on the six Kensington streets is \$14,900, with the cost shares among participating agencies undetermined at this time. It was noted that the Kensington Evacuation Research Project Final Report, dated January 8, 2020, was submitted for reference.

Director Hacaj asked if El Cerrito Police will have keys to the cemetery as part of a redundancy plan. Officer Harms will follow up on this. Director Hacaj suggested that a portion of the curb by the school could be painted red for improved traffic flow. Officer Harms agreed follow up on this. She asked if Contra Costa County would be providing financial support, and Interim General Manager Lindsay said they would provide some level of cost support. Director Nottoli suggested that Albany receive a key to the gate as a backup. Officer Harms also agreed to follow up on this suggestion. Director Modavi asked about the steps for the public outreach process. He also asked if the KFPD Board had bought into this effort. Chief Schuld said each respective agency will take the proposal to their boards, and he anticipated that there would be some cost sharing.

- The following persons provided public comment: 1) Kevin Padian commended everyone involved in developing the plan, praised Officer Harms for his work with the County,

suggested applying to FEMA for funding, and urged community input; 2) Laurence Nagel commented on the importance of evacuation planning and thanked Interim Police Chief Schuld and Officer Harms for their incredible cooperation on this project; 3) Meryl Rafferty commented that path maintenance should be part of the plan; 4) Paul Dorroh thanked everyone who worked on this plan and ask if the District would consider extending the plan to allow a different parking orientation on red flag days; 5) Donna Bricker Stanton commented on concerns about traffic planning that would allow cars to get out to Westminster; 6) Paul Moss commented that the plan did not mention 3 streets (Cannon Drive, Parkside Court and Plateau Court) and asked about the plan for these streets; 7) A. Stevens Delk commented that agencies should look into parking and traffic in the Baja-Kensington area; 8) Jim Watt commented that the District should work with East Bay Regional Park District (EBRPD) to thin out brush around Grizzly Peak as this area would provide fuel for fires; 9) Kevin Padian commented that this effort focuses on pre-evacuation planning, and while brush clearing is important most agencies are underfunded for this type of work.

President Deppe appointed Director Hacaj to work with Officer Harms on the community outreach efforts.

- Motion by President Deppe, seconded by Director Hacaj, that we approve the initiation of the community outreach as described in the agenda report with the addition that Director Hacaj work with Chief Schuld, Officer Harms, and relevant parties, carried (4-0) by the following roll call vote: AYES (Directors Nottoli, Modavi, Hacaj, and Deppe); NOES (None); and ABSENT (Director Sherris-Watt).

**4. Consider Approving a Contract with CPS HR Consulting to Provide Consulting Services for the Recruitment of a General Manager for a Total Cost of \$25,000.**

Interim General Manager Lindsay reported that at its meeting of July 9, 2020, the Board discussed the process to recruit and retain a permanent General Manager. Following this discussion, the Board appointed Vice-President Sherris-Watt and Director Nottoli as an Ad Hoc Recruitment Committee to oversee the details of the recruitment. On July 24, 2020, a Request for Proposal (RFP) was distributed to qualified firms for executive search services and KPPCSD received six proposals. On August 10, 2020, the Ad Hoc Recruitment Committee met (via conference call) to review and discuss the proposals. The Committee concluded that its recommendation to the Board would be CPS HR Consulting for a cost of \$25,000. There was discussion about an in house recruitment effort versus using search firm. Mr. Lindsay pointed out that the recruitment needs to be customized. Director Nottoli said the search firm has access to stronger candidate network. Mr. Lindsay noted that the Board will have input throughout the process.

- At 9:48 p.m. it was moved, seconded, and carried (4-0) to extend the meeting until 10:30 p.m.
- The following persons provided public comment: 1) Meryl Rafferty commented that before spending money on a consulting firm, KPPCSD should submit the proposal and job description to the Goldman School of Public Policy at the University of California, Berkeley; and 2) Paul (last name unknown) suggested that Mr. Lindsay should identify and pursue candidates who would be a good fit.

Director Modavi asked what cost saving efforts have been pursued. Director Hacaj commented that the recruitment activities could not be completed internally as quickly and efficiently. Director Nottoli pointed out that Mr. Lindsay's work hours are limited due to CalPERS annuitant requirements.

- Motion by Director Nottoli, seconded by Director Hacaj, that we hire CPS HR Consulting to provide consulting services for the District to recruit a General Manager for a total cost not to exceed \$25,000, carried (4-0) by the following roll call vote: AYES (Directors Nottoli, Modavi, Hacaj, and Deppe); NOES (None); and ABSENT (Director Sherris-Watt).

**5. Consider Approving a Policy for Establishing and Maintaining General Fund Financial Reserves.**

President Deppe announced that at the November 1, 2018 meeting of the Finance Committee a California Special District's Association template Reserve Policy was discussed. Subsequently, at the November 15th meeting of the KPPCSD Board the same template Reserve Policy was presented and discussed. Since then Director Sherris-Watt has worked with our legal counsel to create a specific policy. Director Nottoli recommended that the last bullet point under section 2040.1 ("maintain minimal operational sustainability in periods of economic uncertainty or unanticipated events") be moved to the first bullet point. She also recommended not using bullet points in section 2040.3 but rather use a, b, c, and d to be consistent with subsequent text that refers to desired reserve levels for a-d above.

- The following person provided public comment: 1) Jim Watt commented that the Finance Committee recommended that the District set aside 25% of the general fund for reserves, and in May 2018 the Board agreed but it never happened. He said the recommended policy does not recommend setting aside a percentage of the general fund.

Interim General Manager Lindsay pointed out that the District needs to adopt a reserve policy and then recommend the projects that might need reserves (i.e. fleet, technology, capital projects, etc.). He noted that at the July meeting, the Board set aside \$80,000 from the Community Center project for capital reserves. Director Modavi asked how the reserve policy would impact the Bayview franchise fees. General Counsel Danforth advised that franchise fees should be used for the Bayview so it might be clearer to put these in a restricted fund. General Counsel Danforth noted that the draft policy should be amended to the 5000 series rather than the 2000 series to be consistent with Resolution No. 2019-06, which renumbered the former chapter.

- At 10:14 p.m., it was moved, seconded, and carried (4-0) to extend the meeting to 10:45 p.m.
- It was moved by Director Hacaj, seconded by Director Nottoli, that the Board adopt Resolution No. 2020-18, a resolution of the Board of Directors of the Kensington Police Protection and Community Services District Adopting Policy 5040. President Deppe made a friendly amendment with three modifications: (1) move the last bullet item (maintain minimal operational sustainability in periods of economic uncertainty or unanticipated events) to the first bullet point; (2) change "for a-d above" to "for the above bullet points;" and (3) that this gets renumbered to reflect the new numbering system of our Policies and Procedures Manual. Director Hacaj accepted the friendly amendment and modifications. The motion carried (4-0) by the following

roll call vote: AYES (Directors Nottoli, Modavi, Hacaj, and Deppe); NOES (None); and ABSENT (Director Sherris-Watt).

**Resolution No. 2020-18** – A Resolution Of The Board Of Directors Of The Kensington Police Protection And Community Services District Adopting Policy 5040.

**6. Consider Authorizing the General Manager to Solicit Proposals for Financial Audit Services.**

Interim General Manager Lindsay reported that the agenda item is to determine whether or not the Board of Directors would like to direct the General Manager to solicit proposals for financial audit services. He reported that the firm of Lamorena and Chang has been providing audit services for KPPCSD for approximately fifteen years. He noted that the Government Finance Officers Association advises that governmental entities enter into multi-year agreements of at least five years in duration when obtaining the services of independent auditors, and that entities undertake a competitive process for the selection of independent auditors at the end of the term of each audit contract. Options for the Board include (1) preparing and issuing a request for proposal (RFP) for audit services for an expected five-year contract, or (2) offering an extension to Lamorena and Chang for a contract of one, or more, additional year(s).

- The following persons provided public comment: 1) Lynn Wolter urged caution in going out for a new audit firm since the last change was problematic, and the District returned to Lamorena and Chang; 2) A. Stevens Delk commented that the District had problems the last time they changed auditors in 2013, and said Lamorena and Chang was very responsive; and 3) Julie Stein supported issuing an RFP for audit services and said that it is a best practice to put this service out to bid every five years.
- It was moved by President Deppe, seconded by Director Hacaj, to authorize the General Manager to prepare and issue a RFP for audit services as described in the agenda report and to work with the subcommittee of the Finance Committee consisting of President Deppe and Director Hacaj, carried (4-0) by the following roll call vote: AYES (Directors Nottoli, Modavi, Hacaj, and Deppe); NOES (None); and ABSENT (Director Sherris-Watt).

**7. Direct that Each Board Member, Employee or Contractor of the KPPCSD and Kensington Police Department Read and Acknowledge the Health Orders Given by Contra Costa County.**

President Deppe presented the agenda report and the recommendation that would direct that each Board member, employee, or contractor of the KPPCSD and KPD read and acknowledge the health orders given by the Contra Costa County. Director Nottoli commented the health orders change periodically and suggested that the District ensure everyone receives the most current guidance from the County. General Counsel Danforth said that she will stay abreast of the current health orders and keep staff updated.

- It was moved by Director Hacaj, seconded by President Deppe, that each Board member, employee, or contractor of the KPPCSD and KPD read and acknowledge the current health orders given by the Contra Costa County; and that all Board members, employees or contractors must send an email to the General Counsel stating that they have read the orders and attachments no

later than September 1, 2020; and direct that the General Manager or the General Counsel be responsible for everyone getting a copy of this document or a copy of the link. The motion carried (4-0) by the following roll call vote: AYES (Directors Nottoli, Modavi, Hacaj, and Deppe); NOES (None); and ABSENT (Director Sherris-Watt).

**8. Authorize Additional Compensation to KPPCSD Employees, Board Members, and General Counsel While Incurring Additional Expenses During the Current Shelter-In-Place Order.**

Director Hacaj pointed out that the date in the agenda about when District property must be returned should be corrected to June 1, “2021” instead of June 1, 2020 or upon leaving the District’s employ.

- It was moved by President Deppe, seconded by Director Hacaj, to continue Items 8 and 9 to a future meeting, carried (4-0) by the following roll call vote: AYES (Directors Nottoli, Modavi, Hacaj, and Deppe); NOES (None); and ABSENT (Director Sherris-Watt).

**9. Authorize Payment of a Stipend to KPPCSD Employees and Contractors for Necessary Face Coverings Required by the Contra Costa County Public Health Order.**

This item was continued to a future meeting.

**ADJOURNMENT**

President Deppe adjourned the meeting at 10:42 p.m.

SUBMITTED BY:

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Lynelle M. Lewis, District Clerk of the Board

APPROVED: September 10, 2020

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Bill Lindsay, Interim General Manager

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Chris Deppe, President of the Board