

DRAFT

Kensington Police Protection and Community Services District Board of Directors

59 Arlington Avenue, Kensington California

Minutes for Regular Meeting

Thursday, June 14, 2018

The Board opened public comment at 6:30 pm. As there were none, they adjourned for Closed Session and reconvened at 7:30 pm.

Call to Order/Roll Call 7:35 pm.

Present: Director Deppe, Director Hacaj, Vice President Nottoli, Board President Sherris-Watt

Absent: Director Welsh

Staff: General Manager, Tony Constantouros; General Counsel, Ann Danforth; Bill Zenoni, Financial Consultant from Public Management Group

Before Public Comments, Board President, Rachelle Sherris-Watt introduced Evan Garrison, Charles Meacham and Thomas Franaszek, Kensington's newest Eagle Scouts. They began with Kensington Pack 82, as Cub Scouts, and this past year, as members of Troop 104, they completed the requirements to become Eagle Scouts. Director Deppe presented certificates recognizing the scout's outstanding contributions to civic life and gratefully proclaiming our gratitude and appreciation.

Public Comments

Mabry Benson said knowing that many residents in Kensington think the world of our police officers and like the personalized service provided by these officers, and knowing that these would be crucial features in any contracting arrangement, the contracting group of the Ad Hoc Committee asked departments whether they would hire our existing officers, assign officers dedicated to patrolling Kensington, and replace any

assigned officers who do not fit well with the community. This last feature of replacing officers at our request, gives us control to replace poorly behaving officers.

All the agencies said yes to all these points, though, our officers would have to go through the agency's own hiring process to meet their standards. This is for retaining our current officers. If our officers would not be hired by other departments, why do we want them here?

John Gaccione asked the legal counsel, Ann Danforth, a few questions concerning litigation issues and how they relate to board members. With regard to legal action, such as the [REDACTED] case how does this work legally? When a board is in a suit with a mix of directors, some being new and some who are no longer serving on the board, who pays for whom? Have any directors been deposed? Is any member of the board recusing themselves as a result of pending litigation?

Ann Danforth replied that she normally doesn't give legal views or updates about pending litigation in public session. It is a matter of universal practice that the district would pay for the defense. Regardless of who is on the board now and who was on board when the incident in question happened, the matter is covered by our risk management plan.

Board/Staff Comments

GM Constantouros commented about the extension of the Interim Chief of Police contract. The General Manager is the supervisor of that position. He informed the Board that the contract was extended through the summer, possibly longer. He noted that it is a common practice of local government that the chief receives the same pay adjustment, compensation adjustment, as the Police Officers' Association, so his intent is to go ahead and apply that same compensation adjustment to the Chief of Police.

Consent Calendar

Linda Lipscomb spoke about the taking of minutes. She thought that it was Board policy, (5060) that minutes should be taken by the staff and certain items should be included. She had not had an opportunity to review the minutes.

President Sherris-Watt made a motion to approve the minutes with highlighting of item C, on page five.

Vice-President Nottoli seconded the motion.

The motion passed 4-0.

Park Assessment. Resolution 2018-05 A Resolution of The Board of Directors of the Kensington Police Protection and Community Services District, Confirming

the Assessment and Ordering the Levy for the Kensington Park Assessment District for Fiscal Year 2018/19 (Item 9a)

GM Constantouros described this item as it relates to the collecting the park tax assessment and the Landscaping and Lighting Act of 1972. It's a two-step process. The first step was accomplished at the last meeting of the Board with a passage of three resolutions; resolution 2018-01, which initiated the proceedings for the levy and the collection of assessments, resolution 2018-02, which approved the annual report for the Park Assessment District, and resolution 2018-03 with the board declaring its intent to levy and collect the assessments.

Part of the process requires that that last resolution, 2018-03, be published in the local newspaper at least 10 days prior to the meeting and that resolution was published in the East Bay Times on March 29, 2018. The total assessment is expected to raise a levy of \$38,841.40. Final step in this process would be the adoption of the resolution 2018-05, which authorizes proceeding with the levy.

President Sherris-Watt made a motion that the Board adopt resolution 2018-05.

Director Hacaj seconded the motion.

The motion passed 4-0.

Budget Approval. Resolution 2018-06 A Resolution of The Board of Directors of the Kensington Police Protection and Community Services District adopting the budget for fiscal year 2018-19 (Item 9b)

GM Constantouros said that proposed budget was originally presented to the Board of Directors at the May 10th Board meeting. The Finance Committee reviewed the budget in two meetings, one on May 1st and one on May 30th. At the last meeting, the Finance Committee did approve the proposed budget, subject to the allowing the change of in any accounts. The Finance Committee recommended that there be consideration to change any accounts when the information becomes available. You'll see that in the budget message, that's the same recommendation.

The first item is the Community Center project, which currently, the estimated cost is \$1,649,000 and funding has been identified at \$1,295,320, which is short of the estimated cost. We don't know the actual cost until there's bidding and then, based on the bid, some financing plan would have to be recommended to the board to make up that difference. The Finance Committee did discuss that and had some creative ideas on that financing, also.

Until we have the actual number, we really can't budget effectively or know the exact number. The second item is the increased retirement and OPEB costs. Kensington being a smaller community, needs to pay particular attention to these and follow these

costs and budget appropriately. This will likely continue for five to 10 years in the foreseeable future. It isn't something that's just for one year. The next item is the, Gann appropriations limit. The district is required to pass the Gann appropriations resolution and identify the numbers applicable to the appropriations limit, that is included in the budget on the last page. Before the board can adopt that, however, it requires an advertised public hearing, at least 15 days before the board action.

That action will likely take place at the July meeting, but the information is available and it is in the budget.

The next item is the public safety building. The Fire Board is the lead agency in this project but the project will have tremendous impacts on the police district because that's where the police are located. As soon as there's more costs and location information available, we will analyze that as provided by the Fire Board. The next item is the police services study that is being conducted by Matrix, which really will set the direction of the future for the police department. This study will probably be done by September.

I'm trying to work on getting it done a little earlier than that but hopefully, by the end of summer, the board will be in a position to consider options with all the information available, the financing and the operational issues, and other issues related to the police. Also, examine, compare having a standalone department as there currently is, versus the cost of contracting with the neighboring jurisdiction. We should have that information available at that time. We can't budget for it at this time because we don't have that information available completely; we have only pieces of it. The administrative study is largely invisible to the public but it's not invisible to the general manager. It's really the support system to get everything done. It's really the foundation of a good organization. What is the work that needs to be done and who's doing it?

Currently, this staffing probably needs some re-allocation. The board has been doing a lot of the work in helping out and doing some of the staff work because there is no one available to do it. This study will address that. It's possible that this study could be presented at the next board meeting if it's complete. I wanted to note, also, the policy and procedures manual, which is, everyone knows is out of date and there is a small committee working on that to move it forward, probably, in the early part of the next fiscal year.

A couple of other items of interest in this budget is a crossing guard services, which used to be reimbursed by the school district, will no longer be reimbursed by the school districts. This budget includes the \$14,000 cost to provide for crossing guard services. We've also included money for four park benches and five garbage containers at various locations, mostly along Arlington, at an estimated cost of \$40,000. That's also included in this budget.

We've tried to be realistic in these projections and we've gone over these numbers. It's close but it does show a positive number at the end, which is where we want to be. On page 20, the authorized staffing part of the budget, shows what the staff is for each function in the organization, mostly in the police, parks, and recreation.

We've also broken out the district administration separately. This is just numbers of positions and approximately how much time they work. For example, the general manager is listed as a half-time employee. Also, new to the budget (page 21) is a 5-year financial forecast.

Bill Zanoni said the Finance Committee has met twice had really gone through this budget. It's a balanced budget, not dipping into reserves. It's based on realistic information that is available at this time.

He noted assumed increases in CalPERS' costs every year and OPEB funding and that our actuarial study, where OPEB contributions are determined, happens every two years.

President Sherris-Watt thanked GM Constantoros and Bill Zanoni. She noted that the Finance Committee approved this budget on May 30th and that the Board is asked to do a midyear budget review, no later than November 1, 2018. That motion passed 5-0. Currently, missing from this document, is an investment policy, a reimbursement policy, and a salary schedule.

Jim Watt said that he missed that Finance Committee meeting on the 30th. He wanted to point out that some of the numbers appear to be an error. Looking at [page 25 of the agenda under, "Capital Outlay", item 972] it showed in 2017-18, there was a budget of \$307,000 for the improvements of the Community Center. Over on the second page, 307 doesn't appear in the year 2017-18 but appears near 2016-17. He stated that he would chat with Bill Zanoni and they could clarify if the numbers were transferred correctly.

Marilyn Stollon thanked Tony Constantouros for creating an incredibly professional budget that exceeded expectations. Many didn't know what was missing until viewing this budget, that lays out our financial liabilities, now and in the future. It educates and informs. She asked if this budget represented any monetary settlements paid out to employees or complainants? What line item or category are settlement payments represented, as they are ultimately paid for by the taxpayers? Did we pay more for an employee claims or outside complaints? How much money is budgeted for consulting? With a RICO trial scheduled for September 2019, she thought taxpayers should know what has been paid and what was the worstcase scenario for future claims.

General Manager Constantouros said that one of the problems we've had is identifying the legal costs and allocate into the proper accounts and the proper

departments. Legal costs have been high for the last couple of years. One possibility would be to separate the legal cost completely and identify which departments or what categories those costs are going to, whether they're consulting, whether they're related to litigation. That would give us a running history and identify where the bulk of those costs are.

Since they weren't done in the past, they weren't separated that way, it's very difficult to go back and figure that out.

Ann Danforth agreed that it's difficult to separate out what expenses before she and Mr. Constantouros joined the district. Over the past year, the expenditures and settlements have been fairly limited. There have been workers' comp covering settlements. Those are covered by our premiums. There have been some payouts that come out of our risk management, our special district risk management program and again, they cover those costs. We pay a premium and that premium is reflected in the upcoming year's budget.

In years past, there have been quite high legal fees, a quarter of a million dollars. Those would have been litigation matters that were not covered by the risk management policy and the bills for that can get very high, which is why we like to have as broad insurance coverage as we can. It doesn't cover all bases.

Bill Zanoni said on page 23 and 24 in the budget is line item detail. For example, workers' compensation, the District's workers' compensation insurance premiums are account number 530, halfway down on page 23. The premium and any claims payments. The District is insured through the special district risk management authority. Claims payments would be paid by them. These insurance premiums are reflected in this budget.

Vice-President Nottoli asked where we find the premiums for SDMRA?

Bill Zanoni said workers comp, is on account 530.

GM Constantouros wanted to note that insurance is good. Paying the funds for insurance is a good sign. Paying it for claims and litigation is not good. The District's claims were running historically high. The good news is that we seem to be doing better and trending down. It's extremely high for such a small entity, for the claims. Most local governments have almost no costs for litigation; that's how high it is. That's where we're trying to move to, that's where we want to be.

Ann Danforth wanted to reassure the board that there have been no litigation fees of that kind [item 850, page 25] since she started here.

A. Stevens Delk was thankful for the inclusion of solid waste in the final report. On page 18, the first paragraph, she thought that it should be indicated that Bay View also

provides a recycling service. Recyclables account for about 30% of our waste. Under accomplishments, you have yard waste at 207 tons per month. It was actually 83, about 25% less than garbage, not 70% more. The diversion rate is for yard waste plus recyclables, based on a combined 153 tons.

As you know, the state has revised its original 75% recycling goal and established a new goal that is not based on percent diverted, but on the amount disposed of in landfill on a per capita basis. For 2020, it is set at no more than 2.7 pounds per person, per day, PPD.

In 2017, we were at 1.5. As great as that is, both our annual landfill disposal and diversion have been basically the same for the last 10 years. Any food composting may reduce disposal to 1.2 PPD and increase diversion from about 60% to 65%. She has copies of the 2017 Bay View quarterly reports for review and a spreadsheet that shows you the data from 2005.

Linda Lipscomb offered a side comment. If there is a lawsuit that does not seek damages, such as in the recent past, writ proceeding, but instead seeks injunctive or administrative relief of that kind, it does not fall under the insurance that we have. She didn't know if it does today and that is what accounted for the extremely high legal expenses, some quarter of a million dollars. Mainly, it was that writ proceeding because it was not covered by SDRMA, unfortunately.

She noticed that on page 21, in the five-year financial forecast for 2017 and 18, there is no mention of a COPS grant.

President Sherris-Watt said that was a change. Now we are budgeting for the COPS grant. In 16-17 we didn't budget for the COPS grant. This fiscal year has been changed to reflect the grant. It is not consistent with past budgets.

Bill Zanoni pointed out that Fiscal Year 2016-17 Budget is actual revenue and 2017-18 is what was in the adopted budget.

Bill Zanoni: What we decided was, since we had received that, we tend to receive that revenue every year that going forward, we would budget it. That's why it's showing in the budgeted column but as far as the adopted budget for 17-18, it was not an approved budget.

Paul Dorroh thanked the staff and the Board for putting together the most intelligible budget yet for this District. It's really great leap forward. Kudos to you for that. One other development he would certainly urge in the presentation of the monthly financials, is a variance report.

Last night, the Fire Board reported on their proposed contract with El Cerrito. The increase in personal cost there is 9% this year, following a 10% increase last year.

Although, I don't think he's here tonight, our good friend Karl Cardell objected vociferously to the Fire District accepting back-to-back, almost 10% increases and the point was, "What are you going to do about it?" That's one of the things to think about as you consider contracting.

Director Hacaj said that the variance piece is important and that there was agreement about that.

President Sherris-Watt made a motion to approve resolution 2018-08 for adopting the budget for fiscal year 18-19.

Vice-President Nottoli seconded the motion.

The motion passed 4-0.

Resolution 2018-07 A Resolution of the Board of Directors of the Kensington Police Protection and Community Services District Establishing the Annual Supplemental Special Tax for Police Protection. (10a)

GM Constantouros said this item was approved by the voters on June 18, 2010. It is the Measure G Supplemental Special Tax. These funds are to be used directly for police protection services, and no other reason. The current supplemental tax per person is shown in a four-year history in the staff report where it started that approximately \$220 for a single family residential, and is in 2017-18, \$241. There are other categories: multifamily, commercial and miscellaneous property.

The board can increase the tax, which becomes the new tax, or the new maximum tax by the consumer price index, which for year fiscal 2018-19 the CPI was 3.217%. Applying the CPI increase increases it to \$248.94.

Vice-President Nottoli mentioned that the District cannot recapture this and our officers have a 3% increase. We have an additional healthcare liability based on the calculations of the unfunded liability

President Sherris-Watt made a motion that the board adopt resolution 2018-07, establishing the annual supplemental special tax for police protection and increasing that maximum tax, by the increase in the consumer price index which is 3.217%.

Director Hacaj seconded the motion.

The motion passed 4-0.

In anticipation of renovations of the Kensington Community Center, the Board will discuss a timeline for construction and review and vote on a contract with the Arlington Community Church for meeting space. (10b).

Director Sylvia Hacaj shared that the East End Regional Park Board met on May 15th and passed a blanket extension for WW grant funds. The update as far as the renovation process is that the architects have yet to meet with the county. They've been trying to get a meeting.

There is no use permit [for the Community Center] on file either at the District or the County. The architects are just going to argue that there should be no delay. It normally can be a 4-6-month process. They're going to argue that there's no need to do an amendment.

That meeting has not yet occurred, but based on adjusting the timeline that they've been using all along, the earliest imagined construction date now - it could be November 1st. Everything's been pushed back.

President Sherris-Watt asked that staff alert users of the Community Center that it might not be available for use after October 31, 2018. She asked that staff notify the County that the building would not be available for elections on November 6, 2018.

President Sherris-Watt made a motion that the General Manager, after consultation with legal counsel, enter into a contract with the Arlington Community Church for meeting space for the District beginning in October of 2018.

Vice President Nottoli seconded the motion.

The motion passed 4-0.

Vote to grant Director Christopher Deppe authority to vote on the election held by Contra Costa LAFCO re Nominations to Appoint an Independent Special District Representative to the countywide Redevelopment Agency Oversight Board.

President Sherris-Watt made a motion that Director Deppe be given authorization to vote for the District in the LAFCO election.

Vice President Nottoli seconded the motion.

The motion passed 4-0.

District Options for Policy Governing District Website and Other Social Media (General Counsel)

Ann Danforth brings this issue forward as directed by Director Deppe at the May 10th meeting. (Please see Staff Report).

Director Deppe said the sample manual states that separate departments should not have their own social media platform.

Ann Danforth said that whatever goes on our website -- that is an official district website -- should have someone monitoring it to ensure it is presenting the district's message, and not an individual's message.

Director Deppe asked should the police department also have a separate website?

Director Hacaj said there is a difficulty when staff move on, or only staff have credentials and then they are no longer here. If it's not maintained department-wide or by the GM, it creates problems.

ICOP Ricky Hull clarified the status of the Facebook page that while we did have one in the past it's no longer being maintained.

Director Hacaj stated it is not active, but still exists.

ICOP Ricky Hull mentioned that Lexipol updates the [Police social media] policy according to Federal law and State law and they continue to send us updates.

Mabry Benson felt it would be useful for a district presence on Nextdoor, be it just to announce, "Hey, we're having a board meeting tonight." People read Nextdoor and here again it could be just a General Manager, doing a posting. Call it a public service announcement, and close it so there's no public reaction to it.

Dave Spath stated with regards to the criteria for posting hyperlinks, it seemed somewhat narrow. One example he would give is the Kensington Public Safety Council, which has a mission that ties in with the district and he hoped that the District would broaden consideration of the posting of agencies that aren't quite local governmental agencies.

That's one issue. The other issue is Nixle considered a social media under this policy?

Director Hacaj clarified that Nixle is an emergency communication. It's not social media.

ICOP Ricky Hull said the Nixle platform is operating under three different tiers. There's an advisory; there's a community and then there's the emergency section that Nixle incorporates.

Linda Lipscomb said she has seen members of a board commenting on Nextdoor. It seems to be the problem we run into there is a violation to Brown Act, potentially. There are essentially two models, for the people who don't know. You have to have a certain period of time before you announce public meetings and you can't have a serial meeting amongst several members which a conversation on public media might constitute. You can't invite commentary by saying one thing and having others respond to that. There's a number of ways to violate the Brown Act.

It might help to simply designate one person who can be the person, one staff person to put on any notices, just as an ancillary -- almost like advertising without opinion, without argument without any embellishments. You simply say, "We're having meeting," or, "The agenda is now available," or "is in discussion over here on our website," and just use it as a point rather than commenting on it.

Marilyn Stollon thought that on Nextdoor, agencies could have their own account. There's no discussion. It's just an announcement.

Director Hacaj said it is a staffing issue. Other agencies have a public information officer, so that's one reason why you'll see Board members posting informational things. She is happy to fill the outreach role until we designate someone else.

President Sherris-Watt would like to make the move to using Nixle as our community communication and having folks who want to be notified, sign up for that service.

She stated the Board had been cautioned by the attorney about being very careful not to open the door to anyone outside government agencies from being linked on the website.

President Sherris-Watt made a motion to request that Director Hacaj and Director Deppe work with Counsel Ann Danforth to come up with a complete policy.

Vice-President Nottoli seconded the motion.

The motion passed 4-0.

Calendar of Summer Meetings (item 11)

President Sherris-Watt made a motion for a special meeting on July 17th.

Vice President Nottoli seconded the motion.

The motion passed 4-0.

President Sherris-Watt made a motion for a single Board meeting in August, August 9th.

Director Hacaj seconded the motion.

The motion passed 4-0.

President Sherris-Watt made a motion to cancel the regular meetings for July: Thursday, July 12th, and Thursday, July 26th.

Director Hacaj seconded the motion.

The motion passed 4-0.

President Sherris-Watt made a motion to adjourn.

Vice-President Nottoli seconded the motion.

The motion passed 4-0.

The meeting concluded at 9:24 PM.