



Board of Directors
Kensington Police Protection and
Community Services District

Notice of Special Meeting

Thursday, August 25, 2022
4:00 p.m.

Notice is hereby given that the KPPCSD Board of Directors has called scheduled a Special Meeting for Thursday, August 25, 2022 at 4:00 p.m. via teleconference.

The next Regular Meeting of the KPPCSD Board is scheduled for Thursday, September 8, 2022.

Dated: August 23, 2022

Lynelle M. Lewis
District Clerk of the Board



Agenda

Board of Directors
Kensington Police Protection
and Community Service District

Special Meeting
Thursday, August 25, 2022
4:00 p.m.
Via Teleconference

www.kppcsd.org/2022-08-25-kppcsd-board-special-meeting

The page at the URL above will have instructions on how to join the online meetings.

On September 16, 2021, the Governor signed into law AB 361. AB 361 added Section 54953(e) to the California Open Meetings Act, California Government Code 54950 et seq. (“The Brown Act”). Section 54953(e) allows District’s legislative body, the Board of Directors, to hold meetings by teleconferences during a proclaimed state of emergency subject to the Board making findings specified in Section 54953(e)(2). The Board may continue to hold teleconferenced meetings during the state of emergency so long as at least every 30 days, the Board reconsiders the state of emergency to determine if remote meetings are warranted under Section 54953(e)(3). When holding teleconferenced meetings, the Board must comply with the notice, access, public comment and other procedure requirements of Section 54953(e)(2).

Special Meeting

Call to Order

Roll Call

Special Meeting Agenda Item Public Comments

Individuals wishing to address the Board of Directors concerning any Special Meeting agenda items on the agenda are invited to make oral comments of up to three minutes. Please raise your hand via Zoom. When you are called on by the Board President, you will be unmuted and you can address the Board of Directors. Please state your name clearly for the audio recording. You are requested to address your comments to the President and Board of Directors and not to staff and/or the audience. By state law, the Board is not permitted to undertake any action or discussion on any item not appearing on the posted agenda. If you have any documentation that you would like distributed to the Board, please mail or email it to the Clerk of the Board at 917 Arlington Ave., Kensington, CA 94707 or llewis@kppcsd.org.

1. Teleconference Meetings During State of Emergency

Recommended Action: Adopt Resolution No. 2022-22 A Resolution Of The Board Of Directors Of The Kensington Police Protection And Community Services District Making Findings And Determining A Need To Continue Holding Remote Meetings By Teleconference.

Contact: Ann Danforth, General Counsel, adanforth8@outlook.com

2. Board Correspondence

Correspondence from Arlington Community Church.

Contact: Anthony Constantouros, Interim General Manager, tconstantouros@kppcsd.org

Closed Session Meeting

Adjournment to Closed Session

3. Conference with Labor Negotiator

District designated representative: Interim General Manager Tony Constantouros

Employee organization: Kensington Police Officers Association

Unrepresented: Chief of Police, Police Lieutenant

Contact: Anthony Constantouros, Interim General Manager, tconstantouros@kppcsd.org

4. Conference with Real Property Negotiators (Government Code § 54956.8)

Agency negotiator: Interim General Manager Anthony Constantouros

Contact: Anthony Constantouros, Interim General Manager, tconstantouros@kppcsd.org

Announcements From Closed Session

Adjournment

The next regular meeting is scheduled for September 8, 2022.

General Information

- All proceedings of the Open Session will be audio and video recorded if possible.
- Upon request, the Kensington Police Protection and Community Services District will provide written agenda materials in appropriate alternative formats or disability-related modification of disabilities to participate in public meeting. Please send written request, including your name, mailing address, phone number, and a brief description of the requested materials and preferred alternative format or auxiliary aid or service at least two days before the meeting. Requests should be sent to Kensington Police Protection & Community Service District, 217 Arlington Ave, Kensington, CA 94707.
- To be added to the Board Agenda Mailing List, complete and submit the form at <https://www.kppcsd.org/agenda-mailing-list> or by notifying the Clerk of the Board at llewis@kppcsd.org.

Posted Agenda

Public Safety Building – Colusa Food – Arlington Kiosk and at www.kppcsd.org. Complete agenda packets are available at the Public Safety Building at 217 Arlington Avenue, Kensington, CA 94707.

All public records that relate to an open session item of a meeting of the Kensington Police Protection & Community Service District that are distributed to a majority of the Board less than 72 hours before the meeting, excluding records that are exempt from disclosure pursuant to the California Public Records Act, will be available for inspection at the **District offices, 217 Arlington Ave, Kensington, CA 94707** at the same time that those records are distributed or made available to a majority of the Board.



Date: August 25, 2022
To: Board of Directors
From: Ann Danforth, General Counsel
Subject: Resolution for the Board to Continue Holding Remote Meetings

Recommendation:

Review, discuss, amend (as necessary) and adopt the attached Resolution.

Rationale for Recommendation:

On September 16, 2021, the State of California adopted Assembly Bill 361, which amends the Brown Act (also known as the California Open Meetings Law) with respect to conducting remote meetings by teleconferencing. Staff believes that the present circumstances meet the criteria for continuing teleconferencing meetings, as explained below. Adoption of the resolution will authorize the Board of Directors to continue that practice.

Background, Discussion and Analysis:

AB 361, codified as Government Code Section 54953(e)(1), authorizes teleconferenced meetings during a proclaimed state of emergency under the circumstances and criteria discussed at the Board's special meeting on September 28, 2021.¹ At that meeting, the Board determined that the then-current circumstances met those requirements, adopting Resolution 2021-19.

Section 54953(e)(3) limits the duration of each such determination to 30 days. If the state of emergency remains active or state or local officials have imposed or recommended measures to promote social distancing, the Board must reconsider the circumstances of the state of emergency within 30 days and determine either that the state of emergency continues to directly impact the ability of the members to meeting safely in person or that state or local officials have imposed or recommended measures to promote social distancing. Accordingly, on October 14, 2021, the Board re-considered the circumstances of the state of emergency and adopted Resolution No. 2021-20, deciding to continue to hold meetings remotely. The Board came to a similar decision on November 11, 2021, December 9, 2021, January 13, 2022, February 10, 2022, March 10, 2022, April 14, 2022, May 12, 2022, June 30, 2022, July 14, 2022, and August 11, 2022, adopting Resolutions 2021-21,

¹ As also discussed at that meeting, the Brown Act also allows teleconferencing under Section 54954(b), but the restrictions are significantly more burdensome.

2021-22, 2022-01, 2022-02, 2022-03, 2022-04 2022-08, 2022-10, 2022-17, 2022-20, and 2022-21 respectively.

To continue holding teleconferenced meetings during the Covid 19 threat without calling special meetings when the interval between regular meetings exceeds once a month, the Board must regularly reconsider its decision to meet remotely. The attached draft Resolution 2022-17 will authorize continued teleconferenced meetings.

Contra Costa County's current Covid level is medium. <https://www.cdc.gov/coronavirus/2019-ncov/your-health/covid-by-county.html>. As of the date of this report, the CDC recommends that, in areas with high or medium levels, people reduce risk by moving indoor meetings outdoors and/or wearing masks and increasing social distance. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>. The CDC has published a list of medical conditions associated with the highest risk of serious Covid 19 illness. <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>. Merely being over 65 significantly increases the likelihood of severe disease. <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>.

Contra Costa County Health Services Department updated its Covid prevention website on June 27, 2022, recommending masks and social distancing and discouraging indoor gatherings between people of different households. The website notes that the danger of catching Covid is higher indoors when people are close to each other. <https://www.coronavirus.cchealth.org/prevention>.

The Bay Area generally enjoys a strong vaccination rate. However, as of August 25, 2022, only 54.3% of Contra Costa County residents over 5 have received the recommended additional dose. <https://www.coronavirus.cchealth.org/>. In addition, the District cannot assume that all meeting attendees are vaccinated. We do know that many Board meeting attendees are over 65 and therefore considered more vulnerable to Covid. Given all of these factors, and the fact that Governor Newsom's 2020 declaration of a state of emergency remains in effect, staff recommends that the Board continue to meet remotely.

Fiscal Impact:

There is no fiscal impact from approving the Resolution.

Exhibits

- Resolution No. 2022-22, Making Findings and Electing to Continue to Meet Remotely

RESOLUTION NO. 2022-22

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
KENSINGTON POLICE PROTECTION AND COMMUNITY
SERVICES DISTRICT MAKING FINDINGS AND
DETERMINING A NEED TO CONTINUE HOLDING REMOTE
MEETINGS BY TELECONFERENCE**

WHEREAS, the Board of Directors of the Kensington Police Protection and Community Services District (“District”) is committed to preserving public access and participation in Board of Directors’ meetings; and

WHEREAS, all meetings of the District’s Board are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code §§ 54950 – 54963), so that any member of the public may attend, participate, and watch the Board conduct its business; and

WHEREAS, Government Code section 54953(e)(1) of the Brown Act, allows a legislative body to hold a teleconference meeting, without compliance with the requirements of Government Code section 54953(b)(3), under any of the following conditions:

- A. State or local officials have imposed or recommended measures to promote social distancing.
- B. The meeting is for the purpose of determining, by majority vote, whether because of the emergency, meeting in person would present imminent risks to the health or safety of attendees
- C. The legislative body has determined, by majority vote, that, because of the emergency, meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, to meet by teleconference under Government Code section 54953(e), the Governor must have proclaimed a state of emergency under the California Emergency Services Act (Govt. Code § 8625 *et. seq.*); the legislative body must reconsider the circumstances of the state of emergency every thirty days; and the legislative body must find that the state of emergency continues to directly impact the ability of the members to meet safely in person and/or state or local officials continue to impose or recommend measures to promote social distancing; and

WHEREAS, if the legislative body does not make the above findings every thirty days, it must again determine whether the conditions specified in Government Code section 54953(e)(1) still pertain before holding further teleconferenced meetings under that subsection; and

WHEREAS, on September 28, 2021, October 14, November 11, 2021, December 9, 2021, January 13, 2022, February 10, 2022, March 10, 2022, April 14, 2022, May 12, 2022, June 9, 2022, June 30, 2022, July 14, 2022, and August 11, 2022 the Board held special meetings in which it found that then-current circumstances met the criteria of Government Code Section 54953(e)(1)(A) and (C); and

WHEREAS, on August 25, 2022, the Board reviewed the evidence in the records and determined the following by majority vote:

- A. The state of emergency proclaimed by Governor Newsom on March 4, 2020, continues to exist;

- B. State or local officials continue to impose or recommend measures to promote social distancing.
- C. Because of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
- D. The state of emergency continues to directly impact the ability of the members to meet safely in person

WHEREAS, many persons who regularly attend Board meetings are over the age of 65 and therefore considered particularly vulnerable to COVID-19; and

WHEREAS, the District provides in the public notices and agendas for all public meetings the online and telephone options for participation in public meetings, protecting the right of the public to address their local officials and to participate in public meetings, and posts this information on the District’s website, including instructions on how to access the public meeting remotely.

NOW, THEREFORE BE IT RESOLVED, that the Board of Directors has reconsidered the circumstances of the state of emergency; and be it

FURTHER RESOLVED, that the Board finds that State or local officials continue to impose or recommend measures to promote social distancing and that State of Emergency declared by Governor Newsom on March 4, 2020, continues to directly impact the ability of Board members, staff, and the public to meet safely in person; and, be it

FURTHER RESOLVED, that the Board finds that because of the aforesaid declared State of Emergency, meeting in person would present an imminent risk to the health or safety of meeting attendees; and be it

FURTHER RESOLVED, that the Board authorizes and directs the General Manager to place on the Board’s agenda, at least once monthly, reconsideration of the State of Emergency to determine whether circumstances warrant continuing to meet by teleconference under Government Code section 54953(e)(3); and be it

FURTHER RESOLVED, that the Board authorizes and directs the General Manager to take all actions necessary to carry out the intent and purpose of this Resolution including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

PASSED AND ADOPTED by the Board of Directors of the Kensington Police Protection and Community Services District upon motion by President Hacaj, seconded by Director Sherris-Watt, on Thursday, the 25th day of August, 2022, by the following vote:

AYES: Directors Deppe, Nottoli, Sherris-Watt, and Hacaj.

NOES: Director Logan.

ABSENT: None.

ABSTAINED: None.

Sylvia Hacaj
President, Board of Directors

I HEREBY CERTIFY the foregoing resolution was duly and regularly adopted by the Board of Directors of the Kensington Police Protection and Community Services District at the Special Meeting of said Board held on Thursday, the 25th day of August, 2022.

Lynelle M. Lewis
District Clerk of the Board

Anthony Constantouros
Interim General Manger

Lynelle Lewis

From: Tony Constantouros
Sent: Tuesday, August 23, 2022 9:25 PM
To: Lynelle Lewis
Subject: Arlington Church Letter 8-13-2022

From: Faith Abel <frabel1@hotmail.com>
Date: Saturday, August 13, 2022 at 5:10 PM
To: Tony Constantouros <TConstantouros@kppcsd.org>
Cc: Arlington Community Church Ucc <acc.ucc.staff@gmail.com>, Sylvia Hacaj <SHacaj@kppcsd.org>, Mike Logan <MLogan@kppcsd.org>, Christopher Deppe <cdeppe@kppcsd.org>, Eileen Nottoli <ENottoli@kppcsd.org>, Rachele Sherris-Watt <rsherriswatt@kppcsd.org>
Subject: Re: Copy of Letter to the Editor Sept. Outlook

There seems to be a misunderstanding by you as to who to contact at ACC. Protocol to arrange a follow up meeting should have involved a direct communication with me, ACC President. This was not done. This letter from you is the first direct communication from KPPCSD to me since the ACC Council met on May 11 when the District Interim GM, Rick Benson, and now current Interim GM Tony Constantouros were present. A "preliminary exploration" (Rick Benson's words) for possible sites for the KPPCSD Building were discussed, the parking lot being one of those sites. The Council made clear that ACC Council objected to that possibility as our portion of the parking lot was not for sale, lease, or a swap arrangement as it would cause a major loss of parking for the church, and others in the community.

Regarding expectations: ACC would not have expected the District to order a survey to be made of the church property and concept plans to be drawn up for its use as a police station. The architect was then requested to share his drawings at length at a public board meeting. At the same board meeting the KPPCSD directors commented on the options and were not shy about voicing their approval for the parking lot option (unofficially, but on record) and were dismissive of the other options. It is now quite clear to the public what course of action the Board favors. Why are you surprised that the Church also wants its voice heard publicly? It is truly unreasonable to think that the church would not respond publicly when the Board has done so themselves putting ACC in a position to be seen unfavorably by the community and the parking lot as the best option for the police station.

My letter to the editor of the Outlook presents the position of ACC's Council on the parking lot, which is not a space that exclusively benefits ACC, but is a community resource for: patrons of the library, Community Center program attendees, parents of the children attending the three schools housed on the Church's premises, Boy Scouts, users of the picnic area, basketball courts, tennis courts, tot lot, and other park facilities.

In short, I do not intend to ask the Outlook to return my letter unpublished. The ACC Council will continue to oppose the use of the parking lot and are not going to suggest a meeting with KPPCSD other than one at which the entire Council is present.

As indicated in the letter to the editor, we support the Police Dept., but oppose the use of the parking lot for their building.

Sincerely,

Faith Abel, ACC President

On Aug 12, 2022, at 3:21 PM, Tony Constantouros <TConstantouros@kppcsd.org> wrote:

Since I do not have email addresses, I would appreciate circulating this message to all members of the Church Council.

I was very surprised and disappointed to see President Abel's letter to the Outlook opposing any arrangement that would allow use of the Church's portion of the parking lot. I have tried to indicate an interest in a follow-up meeting with the Church Council. I would have expected Church representatives to discuss its concerns with District officials rather than take them to the press.

The District is sensitive to the Church's needs and holds the Church in high esteem as an important part of the Kensington community. We understand that parking is a valuable community resource but the District must balance a number of interests, including the community's desire to keep the Police Department in Kensington. Our options for a new location are extremely limited. Moreover, we have potential alternatives that, with some refinement, could address the concerns expressed in President Abel's letter.

This topic was not on the agenda for last night's meeting. I had hoped that I could meet with a Church representative or committee before the matter goes back to the Board. We still want to collaborate with the Church. In that spirit, I ask that you direct the Outlook to return your letter unpublished to enable us to have direct conversations.

The District will, of course, do whatever is necessary to fulfill its obligation to Kensington residents. But we believe that working together, we can achieve a better outcome for the Church and the community.

Sincerely,
Tony Constantouros
Interim General Manager

Kensington Police Protection & Community Services District

<image001.png>

510-526-4141 | Main
650-888-4025 | Mobile
510-526-1028 | Fax

From: Faith Abel <frabel1@hotmail.com>
Date: Wednesday, August 10, 2022 at 3:25 PM
To: Sylvia Hacaj <SHacaj@kppcsd.org>
Cc: Tony Constantouros <TConstantouros@kppcsd.org>
Subject: Copy of Letter to the Editor Sept. Outlook

Arlington Community Church
52 Arlington Ave.
Kensington, CA.. 94707

August 10, 2022

Dear Ms. Hacaj, President
Mr. Constantouros, Interim GM

Attached is a copy of my Letter to the Editor of the Outlook that I sent today for the September publication. I am aware that the KPPCSD meets tomorrow evening, so I wanted to send this information in time to be available for that meeting, as it deals with an issue that KPPCSD is discussing, and I want to make sure that the position of the ACC Council is clear to the Board of Directors. I am copying Tony Constantouros, Interim GM of KPPCSD on this letter.

I think you will find our letter clearly stating the position of ACC , and encourage the KPPCSD Board to consider another option.

Thank you,
Faith Abel, Arlington Community Church President

Loss of Parking for Community and ACC

Dear Editor:

Arlington Community Church (ACC) has learned that the parking lot across from ACC is considered by Kensington Police Protection and Community Services District (KPPCSD) to be the #1 remaining site option for use as a Police Building. This parking lot is co-owned by ACC and KPPCSD. ACC owns the north one-half and KPPCSD owns the south one-half of the parking lot. Although ACC Council has not been officially approached since a meeting in May with the Interim GM of the KPPCSD, ACC Council wants to make it clear that the ACC owned north one-half of the parking lot is not for sale, lease, or a swap arrangement.

The entire parking lot is used by library patrons, attendees of Community Center events, and staff and parents of the 3 schools housed at ACC. When events are held simultaneously at ACC and the other venues, which happened recently, all available parking lot spaces and those on adjacent streets are filled.

ACC regularly rents spaces for a variety of events—wedding receptions, dances, concerts, and exercise programs. ACC has even rented space to KPPCSD administrative staff and Kensington Community Council programs. Parking is a key feature for those selecting ACC for their events. ACC revenue will be significantly reduced without access to convenient parking.

Our new Pastor wishes to continue the tradition of ACC being a welcoming host for community events. ACC has hosted several events since her arrival in January and have more scheduled on a regular basis.

The entire parking lot is a community resource, not a space that exclusively benefits ACC. The damage that a sale, lease, or swap arrangement would cause ACC and the community cannot be compensated by a financial arrangement.

ACC is supportive of the Police Dept. but will vigorously oppose the use of the ACC owned north one-half of this parking lot for a Police Department Building and urges the KPPCSD Board to reconsider another option.

Faith Abel, Arlington Community Church President