

# DRAFT

## Kensington Police Protection and Community Services District Board of Directors

59 Arlington Avenue, Kensington California

### Minutes for Regular Meeting

Thursday, September 13, 2018

#### Call to Order/Roll Call 7:30 pm.

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

Staff: General Manager, Tony Constantouros

Consultants: Rob Colton, HF&H

#### Public Comments

**Linda Lipscomb** would like that the Board reconsider its implementation of the reorganization of the administrative portion of the study that was done pertaining to the police department. It seems to her a classic case of putting the cart before the horse.

Matrix has not wrapped up and we don't know what the contours are, of any contracting out, what services might be encompassed in that and it seems to her just wasteful to do that in advance of those things taking place. She is not asking to reject what has already been accepted, the report of Bob Deis, which was written as a fair report, and, pursuant to his charge. Rather that the Board retract the implementation aspect of that, hold it in advance until there is a determination on the ultimate contours of the department.

It may take re-agendizing it. She would urge the Board to recall the implementation aspect of the very unpopular action which was taken at the last meeting.

**Jim Watt** says that the best information that he finds is that we have \$1,350,000 of available funds that can be used for purposes going forward, such as redoing this building. Some of the money has already been set aside for this, but the District is probably going to have to take additional moneys out of the \$1,350,000. In fact, it's estimated, we'll have to take about \$350,000 out to meet the estimated cost to do this building, thereby bringing us down to an available balance of \$1,000,000.

Jim is on the Finance Committee where it was agreed to maintain a balance that's 25% of our annual cash and/or revenue and expenditures. That would be about \$800,000, so if funds get down to \$1,000,000,

there is about \$200,000 left to work on. It's also true that the budget that was adopted for this coming year was rather optimistic in terms of the manpower that we were going to have on our police force.

Over the first two months of this year, we've been running at a salary expenditure basis that will bring us in about \$250,000 if we continue with this rate below what we had budgeted. We had budgeted \$950,000 for the year and we're currently running at a rate of about \$700,000. On the other hand, our expenditures for overtime are running well over what we have projected. We have projected \$75,000, and we're currently running at about \$175,000 of overtime costs.

He thinks that it would be helpful if, in fact, there was an opportunity to talk about this in future meetings.

## **Board/Staff Comments**

**Director Hacaj** updated the status of the Community Center renovation project. The County required the District to go before the Kensington Municipal Advisory Council, KMAC, related to our permitted use of the Community Center. KMAC considered the project on July 31st and then made a positive recommendation to the County Planning Division to approve the permit for the project and the County did so on August 20th. There was a 10-day appeal period which ended August 31st. The County has cleared us to go forward and we are applying for our permit. The County will conduct what's called a plan check process. They will continue to review the plans in greater and greater detail just to see if there are any modification that they think they would like to require. At this time, we will need to begin to work on preparing bid documents, in addition to the construction drawings that includes the contract that would be used to let out the bid. That will be done through legal counsel and expect to hopefully have a bid for the project sometime this fall.

That process, once we announce a bid publicly which we must do, we have a required two-week waiting period, and then, there will likely be a, at least, four-week bidding period and then the bid selection process continues from there. Just best estimate is that most likely on the optimistic side, we would finish the bidding process this year and potentially, the bidding selection by the end of the year. Obviously, construction would not be able to begin until sometime in 2019.

**VP Nottoli** met with an environmental consultant that has expertise with respect to naturally occurring asbestos to look at the serpentine rock [in Kensington Park]. The consultant took samples and they messed around on the site to do a reasonable worst-case scenario of kids playing in that area.

This is to understand if there's a need to do any mitigation. That report should be available in a few weeks, and then hopefully remove the orange fence and let kids in that area if the consultant determines that there is no unreasonable risk associated with that area.

**Director Welsh** said that the Parks have dealt with this issue before. One thing they did was to isolate the area and put up a little sign and explain about the California state rock and how these things occur in various places, but the soil itself is contaminated.

**Director Welsh** responded to what Linda Lipscomb said about the administrative report. He doesn't know that it's an unpopular report. He thinks it's an excellent report that Bob Deis gave. It's long overdue. He thinks it's too quick to move forward with that restructure without knowing what we're going to do with the police and without knowing exactly what the expense burden is going to be of the seismic retrofit of this building.

**GM Constantouros** said that Measure G will appear on the ballot in November to allow the District to continue its functioning under the current appropriation limit and there is a County Counsel analysis of

the ballot measure which states that this is not an increase in taxes. It does not increase taxes. It only allows the District to continue functioning at the current level.

**Chief Hull** informed the Board that Saturday, September 15 Tri-City Safety Day down in the El Cerrito Plaza.

Recruiting that is still ongoing. The KPD has seven sworn officers and five open reserve positions. The budget is for 10 sworn officers.

He reported that the Reserve Officer is no longer with the police department. Two people are currently in background.

**Linda Lipscomb** encouraged the Board to promote Measure G and worried about it not passing.

**President Sherris-Watt** has submitted a letter to the outlook explaining Measure G. A letter from Randy Riddle will be part of the fall newsletter that is mailed to every household. She stated that the Board has continuously run this issue a year prior to the necessary election.

## **Consent Calendar**

Minutes from the May 10, 2018 meeting.

Minutes from the June 14, 2018 meeting.

**Vice President Nottoli** made a motion to approve the consent calendar.

**Director Deppe** seconded the motion.

**The Consent Calendar passed 5-0.**

**The Board will hear a presentation from HF&H Consultants regarding the results of a survey to begin weekly food compost collection by Bay View Refuse, draft regulations on additional diversion goals, and state-of-the-art practices for solid waste and compost collection.**

**VP Nottoli** introduced Rob Colton from HF&H to present. Last year on a tour of the compost facility she learned that the compost facility has some limits, largely due to odor control and the compost facility said that if we were to start food composting, they could take Kensington's waste, but we may not be able to get into that compost facility if the decision was delayed.

There are also draft regulations [in the Legislature] that are going to be putting more pressure on organic diversion from landfills and with the increasing pressure from China and other Asian countries not accepting our recyclables, she became concerned. Bay View has indicated that for a 7% increase, they would give a green waste container, a blue waste container and have green waste picked up weekly, as opposed to twice a month.

Kensington is in a high fire hazard area, picking up green waste weekly is an advantage.

**Rob Colton** said HF&H specializes in providing solid waste consulting services to public agencies. They don't work for private companies to prevent conflicts of interest that may occur from that. In September of 2016, Governor Brown signed Senate Bill 1383. It's called the Short-Lived Climate Pollutants Act and the idea of SB1383 is to reduce super concentrated greenhouse gases from the atmosphere, bad gases and particularly things like methane and the said bill focuses a lot on dairies, because of the methane they

generate and on landfills, because of the methane generated from food waste and organic waste when we put it in the landfills.

Their goal is to reduce the amount of food that we're putting in landfills by 50% by 2020, by 75% by 2025. They have 93 pages of regulatory tasks about how they're going to get there. The summary is, they want to require that every resident and every business in the state with some very limited exceptions for rural areas, have recycling service for their traditional paper materials and for organic materials, food scraps and yard trimmings. They will require that by January 1st of 2020.

When that happens, they're looking to displace about 17 billion tons a year across California out of landfills, and into either composting facilities or anaerobic digestion facilities. We need to build 245 new facilities around the state to be able to handle that much material. That also means that facilities like the one in Richmond are able to market their capacity at a premium right now. There's very limited supply of composting facilities and composting capacity out there and there's a vastly increasing demand for it.

The challenges presented for you is, there's only one composting facility in the county and that is the one that you have here in Richmond landfill. To go to another one, there's one being built up in Napa. You could go out to the Altamont in Livermore but you're going to start paying pretty high trucking costs to get the material out to those places.

The timeline for SB1383 is that all customers must have a program by January 1st of 2022, and then by January of 2024, the state will require local agencies to do enforcement on generators who fail to correctly comply the separation requirements. These are still draft regulations, but in the draft regulations, they have 10 tables of enforcement, things that you can do wrong that the state can fine you for and all of those fines go to the local agency that has solid waste authority.

The pricing that's been offered by Bay View is very favorable compared to what other communities are seeing as they're competing for the scraps, especially given that you're increasing the frequency of your collection, a 7% increase.

**VP Nottoli** mentioned, that KPPCSD did a survey and approximately 2,200 cards went out and there were 779 responses. Of the responses, it was a two-thirds to one-third favoring of this new service. This information is in the agenda and it's also was posted on the website.

Linda Lipscomb asked if there would be a restriction on the amount of green waste that can be disposed. She feels it is very important to us to have unlimited green waste here.

**Greg and Kim Christie with Bay View Refuse** said that the unlimited green waste wouldn't change. It's just a benefit that everybody enjoys. It started with the fire abatement program.

They are confident with how their rates stand up with other areas, especially the surrounding areas. When they were asked about this program, they put in a 7% offer. The carts alone are \$200,000. A new truck without a body is \$200,000. A body is \$180,000 before you have to pay the FET, so everything is expensive. Since the 7% was discussed and it's a solid number, it's not going to change, but the carts have gone up 5%.

**A. Stevens Delk** said that the tipping fee for garbage is about 20% higher than the tipping fee for green waste and as the contract goes on another 3-4 years is Bay View going to have to rewrite the contract with the Richmond facility for adding green waste plus food and a tipping fee?

**Greg Christie** said, “Yes.” Because it's a mixed commodity now, and they process it. He was told by the general manager that handles that, that there would be a difference in price once it becomes strictly food waste, or food waste mixed.

The Richmond Composting facility has two different areas. There's a food waste facility on top of the landfill that has wind rows and then they have a recovery facility. Then at the CND facility, they have a strict pile of just green waste and that's where Kensington stuff is dumped.

**Jim Watt** is concerned about that larger cans are much bigger and most Kensington homes have a five-foot clearance going down the side of their property.

**Rob Colton** said in most communities, the size of the recycling container and the size of the organic's container are standard.

Kensington only generates about eight pounds per household per week. The food isn't the piece that's going to take up the capacity, it's yards. A 32-gallon recycling cart, unless you're in a condo in San Francisco, isn't going to get the job done. These are very stable containers, they do work in hilly environments.

Almost no communities have manual collection programs anymore, it's largely gone away because of the workers' comp issues. Here, you're not going to get a fully automated service, so what you'll get is the driver can roll a cart easily up to the side of the truck into the truck and the truck tips it for them so they're not incurring that strength.

You are permitted under the regulations to have an exemption process in your community that you would manage. Folks could apply for an exemption and one of the available exemptions is a de minimis exemption such that you can generate too little of that item material to justify having a collection service. If you do your own composting in your backyard, that may apply to you, or if your gardener

**Greg Christie** said a bigger cart for recycling is needed. That's not the largest cart, that's a 65-gallon. There's a 96-gallon a lot of people use, and it gets filled up.

**Celia Concus** is finding that many people are putting boxes that are not broken down. And Kensington has very limited parking space. Where are we going to put all of these cans? Many people have a single-car garage.

Are they going to put these cans in the garage? Then they certainly have no place to put the car. We're going to have more people wanting to park on the street.

**Gail Feldman** spoke on behalf of KPOA and asked for some more detailed analysis that becomes public so that the rest of the community can see why it's 7%. There are a number of issues raised and we need to see some documentation.

It's concerning to say, "7% sounds like a good number." KPOA would like to be convinced.

The problem has been that most people are now getting the backyard service. But once you get the bigger rollaway, that makes a little bit more difficult of where you can locate it.

From her property, she has an angle that's steep, so there's no way she can roll that thing up. The District really needs to re-look at who gets the backyard service.

**Rob Colton** said the yard trimmings can go into the same can as the food waste.

Due to draft regulations, carts are being considered. One of the minimum program standards in there, it is that rigid containers of a particular color are used to collect material and it's in part a storm water concern and as part an educational concern. The state wanted it there so that when you set the containers out and it's raining, it doesn't leach into the storm water system and out to the bay and carry toxins with it. That's pretty important.

The other one is the educational analogy, which you want to make sure that wherever you go, whether it's at home or at work, that the color scheme for what goes where is consistent throughout the state so that it is not so confusing.

**Greg Christie** estimated that 50%, 60% of the community is strictly in the backyard.

**A Stevens Delk** asked to be provided with some direct information on the cost analysis and that that is actually a requirement in the franchisee. This would be called a District directed change in scope of the franchise agreement.

She requested this information in June and has not received a reply on it but it is a requirement that there be an audit or analysis of some type and before this board requires constituent residents to pay another \$100,000 dollars in refuse and recycling fees, that we deserve to see how that number was arrived at.

In 2014, the District survey found that over half of residents also take their baggage to the street each week. Kensington rates are based on Bay View picking up everybody's garbage of the back of side yards. As stated in the report, many jurisdictions do limit yard waste. One that was pointed out is Stanville, Lafayette those in other parts of the county, pay extra for a second cart beyond the 64 or 96 gallon one. The report did not mention that they can have, at no additional charge, four pick-ups anytime during the year without its 14 cans of bags each.

She feels Kensington should have unlimited or enough pick up of yard waste. Since 1991 Bay Views' rates have increased in average of 5% a year, double that of inflation.

With little increase in services, by contrast, police, park rec and District administrative costs, have increased only 3.5% a year. Garbage rates do not have to be approved by voters but the board should consider controlling them.

Her full analysis is in the monthly report package including a different set of tables for the same cities that she presented.

**Rob Colton** thinks it is important to compare ourselves to other communities that have similar topography and narrow streets and are hard to access. It doesn't make a lot of sense to compare Kensington to Danville or Walnut Creek because they're very suburban and they can do a thousand collections in a day on a track because its fully automated service and nobody is getting off.

He said HF&H works exclusively for public agencies, does some work for state governments. Other than local governments social districts but all public sector.

**Greg Christie** had never met Rob before tonight. He has dealt with a lot of this stuff before and it's a lot of work. It's a nightmare, especially taking on the challenges of making sure everybody's happy, that becomes very difficult. Whatever the Board wants to decide, sometimes when you go in and you check everything, Bay View put a 7% offer out there.

He doesn't know what the elevation grade is once you get down off the Colusa circle up to Grizzly Peak, but he thinks it's pretty high. Kensington in about 95% is hard to serve.

**President Sherris-Watt** wanted to clarify that this issue came before the Board, not because of Bay View or because of Board members, but because of community input. Coupled with the fact that information was coming forward concerning State regulations and changes in garbage services, and our relationship with China.

For a future meeting this information should be in a very clear form, so that folks are understanding that this proposal maintains backyard service, keeps unlimited green waste, cart size and all the clarifications needed. Vice President Nottoli will work with HF&H and discuss proposals and cost of service.

**The Board will review agreements with the Kensington Community Council and consider allowing use of Building E for meeting space during the proposed Community Center renovation. Discussion of the Annex and Public Safety Building for use by the District or community groups will also be considered**

President Sherris-Watt notes that the contract with KCC prevents the KCC from using that Building E anytime, or for any other use than children's recreational programs.

She wanted to clarify that the agenda has a bit of a misnomer and that the Public Safety Building is really not going to be available for use by community groups, although it may serve as a meeting space for the KPPCSD in the event of a crunch.

Building E is the building that is adjacent to Windsor Avenue and is on the meadow.

**Linda Lipscomb** said that her recollection is that the mold issue came up in the Annex because of something having to do with the preschool being running there, early childhood education and buildup of the wood chips that were around the building and the drainage was the issue. She suggested that the Board look in their files and get clarification.

**Director Hacaj** will be managing this issue.

**The Board will discuss the proposed Hazard Mitigation Plan and how to best obtain available funding during an emergency.**

**President Sherris-Watt** said the agenda contained a report that has been prepared by the Kensington Public Safety Council. The county hazard mitigation plan was adopted in April and the KPPCSD is a participating jurisdiction under this plan. However, it will be helpful for the KPPCSD to adopt our own plan because that will allow the KPPCSD to apply for grants, should there be a need after an emergency.

**David Spath** said there are 11 action items in the mitigation plan and the third one is the Community Center earthquake retrofit and one of the sources of funding at least suggest is pre-disaster mitigation. It's probably a little late, however, to try to access that money but it might be worth at least at looking at.

**President Sherris-Watt** did discuss this issue with Chief Hart at the time and he felt because there had already been plans in motion for the Community Center improvements, the KPPCSD would not be receiving grants.

**Director Hacaj** said when we pass this, we need to have a very thoughtful process led by the General Manager of the District to think about how we proceed as opposed to just starting to toss around ideas. We need to be really clear we have limited time and energy and resources to pursue and these are very large cover grants, they're not easy to apply for, they're not easy to manage, not easy to administer, they're worthwhile exploring and have already explored related to your Community Center and it's just too late for that borrowing.

**David Spath** says Action item 11 seeks to support the Kensington Public Safety Council. Educational talks with the community on disaster awareness, preparedness, mitigation, response, and recovery.

**President Sherris-Watt** said the recommendation tonight was going to be that we authorize a board member or two to work with our General Manager and the Kensington Public Safety Council and the final Board so that we pull together all the pieces that are available including that 57-page plan so that we make a recommendation for action.

**David Spath** asked on the plans and for clarification on the last item which talks about supporting the Public Safety Council. Previously, the council had put together in the policy procedure manual recommendation that as it relates to social media, that you only allow governmental agencies to use social media. I was wondering how you would support Public Safety Council which educational talks it would be again, it would be useful if you put notice of their talks on your web-page. I'm just asking for that again.

**President Sherris-Watt** said we shall see what Board members recommend. The difficulty with the relationship between the KPPCSD and outside groups is essentially oversight and liability, if the Board does not have direct oversight to groups for whom we do not have interest or understanding of how they are managed or elected or determined then it becomes a difficult.

**David Spath** said it would be nice eventually when you come to decide whether you're going to approve or not the mitigation plan, that you sort of define how you're going to support the Public Safety Council going forward.

**Peter Liddell** of the Kensington Public Safety Council wanted to point out that the mitigation plans for the Fire Board and the District are separate and each can work independently it's possible we could work together on some project but essentially it enables each entity the Fire Board and the KPPCSD to apply for funds and apply those funds for some sort of disaster mitigation.

It's already been submitted and approved by the county the state he thinks if you want to change it you'll have to wait five years to do that. I could be wrong.

**Director Welsh and President Sherris-Watt** will be working on this plan.

**General Tony Constantouros** had two community volunteers come forward, who were willing to give of their time and they proceeded on their own. The plan was initiated before I was General Manager.

**Peter Liddell** said heard from County that it was time to do this and we talked to you and my understanding was you delegated us to prepare it which we did. We worked with the consultant that the County had engaged and based this on previous versions of this plan and which were done by Greg Harmon and that's how we arrived at this.

**Director Deppe** asked if they submitted the plan to the County.

**Peter Liddell** said they submitted the plan to the County.

**Director Deppe** asked if the KPSC gave it to the Board before it was submitted.

**Peter Liddell** was not sure if we gave it to Tony or not.

**Director Welsh** said that he thinks it's something we probably should've voted on. But maybe we can still vote on it, we'll have to look into it.



**Linda Lipscomb** said that Chief Harmon, who was then Chief and General Manager did prepare a report. He was very hopeful that we could get some grants. If the fire department decides to do a partial on the building there may remain tasks there that are very expensive and these are major grants.

**Chief Rickey Hull** made an announcement on the untimely and unexpected passing of a former Kensington police officer, Officer Michael Warnock. He will be having a celebration of life event on October 12, at 11:00 AM, at the Calvary Temple located at 4725 Evora Road in Concord. That's October 12, 11:00 AM, at Calvary Temple, 4725 Evora Road and Concord for former officer Michael Warnock.

**President Sherris-Watt** said how sorry the KPPCSD Board was to hear of the passing of Leonard Schwartzberg. Very active and outspoken man, he will be missed. He was passionate about CERT and the community is thankful for his work.

**President Sherris-Watt** made a motion to adjourn.

**Vice President Nottoli** seconded the motion.

**The motion passed 5-0.**

**The meeting ended at 9:18 pm.**