

**MINUTES OF THE JUNE 12, 2019 MEETING OF THE BOARD OF DIRECTORS
OF THE KENSINGTON FIRE PROTECTION DISTRICT**

PRESENT: Directors: Don Dommer, Janice Kosel, Larry Nagel, Kevin Padian and Julie Stein
 Staff: Chief Michael Pigoni and Manager Brenda Navellier

CALL TO ORDER:

President Stein called the meeting to order at 7:05 p.m and called roll. All Directors and staff were present. President Stein gave an explanation on the process for the meeting that will include a Special Meeting, that was posted before the 24-hour deadline, within the regular meeting. Both agendas show the meetings starting at 7:00 p.m. per counsel direction. After the Board considers Old Business and assuming it passes, the Board will adjourn to the Special meeting, then reconvene to the regular meeting after the Special meeting is completed.

APPROVAL OF CONSENT ITEMS:

President Stein called for the approval of the consent calendar (items 3, 4, 5, 6, 7, 8 & 9), consisting of approval of the minutes of May 8, 2019, approval of the May 2019 incident activity report, approval of the monthly transmittal #12, approval of the April/May 2019 financial reports, approval of Resolution 19-01 establishing the appropriations limit for FY19-20, approval of Resolution 19-02 authorizing the County to place the District's special tax on the tax roll and to collect the special tax for FY19-20, and approval of auditor recommendation and fee proposal for FY18-19. Director Nagel made a motion to approve Consent Calendar items 3, 4, 5, 6, 7, 8 & 9. Director Dommer seconded the motion. The motion passed unanimously.

AYES: Dommer, Kosel, Nagel, Padian, Stein
NOES: None
ABSTAIN: None

ORAL COMMUNICATIONS:

Director Kosel thanked the Chief for inviting all the Board members to the annual El Cerrito recognition dinner. President Stein said it was a very full agenda with lots of action items. She asked everyone to moderate their comments to the extent possible.

Lisa Caronna introduced herself and said she was representing the Kensington Pathkeepers. She handed out a copy of their new brochure that includes a map. The Pathkeepers are working with the community to raise awareness. The paths have been in ownership limbo for many, many years. The Pathkeepers now have a website, the map, a poster, and representatives from both Districts plus many K groups. They have reached out to neighboring path groups. Questions they feel are most critical are – what is the acquisition process and cost, what agency(ies) are best suited to take ownership, what is on-going cost for maintenance and liability and path improvements? The paths are a wonderful resource and the group is dedicated to this cause.

OLD BUSINESS:

Third Amendment to Agreement for Services By and Between the Kensington Fire Protection District and the City of El Cerrito: President Stein explained that there were a couple of drafting errors in the proposed amendment that was included in the packet initially. Navellier replaced that portion of the packet on the website on Monday. In addition, the original contract, first amendment from 2005 and second amendment from 2009 were added to the packet. The negotiating committee was Stein and Dommer. The approached the negotiations by thinking of it as a modern, living agreement that may be renewed for up to 15 more years without the need to amend it frequently. The committee wanted to provide forward-looking clauses that anticipate change but still facilitate compliance with operations. In talking with the City, everyone learned how to use the existing contract clauses to improve operations and some of the District/City accounting practices. The committee also had an open and flexible conversation with El Cerrito about when and how the one-year contract reserve might be addressed in the future. Stein explained that Section 1, the extension clause, is exactly what Kosel and Nagel had negotiated in December. Section 2 has to do with the District's equipment, engines and furnishings. The original list from 1995 was still being referenced which did not anticipate new capabilities. That has now been replaced with "all equipment as needed". Section 3 replaces the contact for dispute resolution from the Fire Chief to the City Manager. Section 4 addresses administrative support. The cost sharing of Navellier's position between El Cerrito and Kensington was included in the 2009 fire services amendment. The City and the committee agreed to put the cost sharing agreement

into an MOU outside of the fire services contract. Dommer then gave an overview of how and when the District contracted with El Cerrito and the how the six month set-aside was increased to one year later. The fee has increased over time so even more money is locked up with the one-year set aside. Stein explained that the discussion with El Cerrito was based on the District's possible need for money in regard to the public safety building. The District is currently looking at two extremely different approaches to the building issue and how much they would cost. El Cerrito is willing to look at dipping into that reserve but it would be a better presentation if KFPD has made its building plan and approached El Cerrito with it. El Cerrito recognizes that they too will benefit if KFPD makes the necessary repairs and renovations or builds a new building. There is no change to that section at this time. Section 5 updates Exhibits A and B to reflect El Cerrito's current accounting system and allows for those forms to be updated over time by mutual agreement. Section 6 states that all other provisions remain the same. Stein said that the change in administrative services was substantially different than that proposed in December. The 60 day notice that was proposed was more restrictive to Navellier than her MOU with the District.

Paul Dorroh asked if acquisition of capital items still requires Board approval? Stein affirmed that it did.

Director Padian made a motion to accept the third amendment to the contract as proposed. Director Nagel seconded the motion.

AYES: Dommer, Kosel, Nagel, Padian, Stein
NOES: None
ABSTAIN: None

Captain Mark Figueira, El Cerrito Fire's local 1230 representative, addressed the Board. He thanked them for their decision on the contract. There has been a level of concern and questions from staff but Figueira was hopeful that the Board would get to the decision they made tonight. Figueira added that there is no staff in the Fire Department that worked for El Cerrito only. Every single one of the firefighters all the way up to Chief Pignoni only know El Cerrito-Kensington as one organization. They are just as proud to serve at Station 65 as the El Cerrito stations. The department functions and operates as one model.

Director Nagel made a motion to adjourn the regular meeting and convene the Special Meeting. Director Dommer seconded the motion.

AYES: Dommer, Kosel, Nagel, Padian, Stein
NOES: None
ABSTAIN: None

SPECIAL MEETING:

President Stein convened a Special Meeting of the Board of Directors at 7:34 p.m. Stein explained the purpose of the one item on the agenda is to authorize the President of the Board to execute an MOU to provide administrative support to the City of El Cerrito since that agreement has been taken out of the contract the Board just voted on. The MOU needs to be ready to sign simultaneously. The El Cerrito Council will be voting on the third amendment at their 7/16/19 meeting and Stein believes they would also like to vote on the MOU at that time. There was not time for legal counsel to draft a proposed MOU for this meeting. The options were for the Board to have a Special Meeting after the MOU was drafted or for the Board to consider authorizing the President tonight to execute an MOU. Stein reviewed the staff memo that was included in the packet that was prepared by legal counsel. She clarified the conflicting dates in the memo. Director Kosel made a motion that the Board authorize the President to sign an MOU in substantially the form proposed in John Bakker's memo of 6/11/19. Director Padian seconded the motion.

AYES: Dommer, Kosel, Nagel, Padian, Stein
NOES: None
ABSTAIN: None

Director Nagel made a motion to adjourn the Special Meeting and reconvene the regular meeting. Director Padian seconded the motion.

AYES: Dommer, Kosel, Nagel, Padian, Stein
NOES: None
ABSTAIN: None

President Stein recovered the regular meeting at 7:41 p.m. All Board members were still present.

NEW BUSINESS:

El Cerrito Contract Fee Proposal for FY 2019-2020: President Stein introduced El Cerrito's Assistant City Manager, Alexandra Orogas and thanked her for attending. Orogas gave a high-level overview of the city's budget. She stated the five goals of the city's strategic plan which serves as a road map for how funds are allocated. All budget decisions are in line with those community goals. The city council adopted a mid-budget update last week to their two-year budget for 7/1/18 through 6/30/20. The city's expenditure budget totals over \$50 million. A two-year budget allows the city to perform long-term fiscal planning. Since the budget was adopted as of 7/1/18, voters approved Measure V allowing El Cerrito to become a charter city and to implement a real estate transfer tax. The City has collected approximately \$650,000 to date this calendar year. There is no historical trend to budget for this revenue. There is quite a bit of development occurring on San Pablo Ave. but the Measure V funds are volatile and rely on the real estate market. The City will add to its reserves in the spring. There is an unknown impact with the cost of living increase that is being negotiated with local 1230. Fire safety is one of the City Manager's main concerns and funds were allocated for fire prevention activities at the mid-budget update. Orogas said she was truly thankful for the agreement to provide a full-service fire department to the Kensington community. She thanked the first responders for risking their lives day in and day out and for their dedication to both communities. They respond to everything with no boundaries. Director Kosel noted that the fee is a 2.54% increase over the previous year. Pigoni explained that salaries, since negotiations are not complete, and many other line items were increased at 3%. Some line items were increased higher to allow for planned projects. The overall fire budget was increased by 6% but KFPD does not pay for some of the increased items. Any actual costs that are higher will be caught in the reconciliation in two years. Director Kosel said that KFPD has a chart showing the costs of running a fire station and Kensington is the most cost effective single station in the bay area. In large measure that is because of the win-win contract with El Cerrito. Questions from the audience followed about the El Cerrito Recycling Center. Director Kosel made a motion to approve El Cerrito's contract fee for FY19-20 as submitted. Director Nagel seconded the motion.

AYES: Dommer, Kosel, Nagel, Padian, Stein
 NOES: None
 ABSTAIN: None

Resolution 19-03 Authorizing the Purchase of a Replacement Mobile Command Vehicle: Chief Pigoni reviewed the fact that in 2009, when El Cerrito last updated the Emergency Operations Plan, it was decided to provide the shift Battalion Chiefs assigned vehicles so that command staff has the ability to return code 3 to the area for an emergency. KFPD had purchased one of the three mobile command vehicles in 2009 in the spirit of being approximately 1/3 of the operation. The not to exceed price included all equipment such as radios. That vehicle has been in service for 10 years with nearly 200,000 miles recorded. Staff vehicles are normally on the front line for 8 years and then held for a year or two in reserve. The vehicle is an asset of the KFPD. The proposed cost for a replacement is not to exceed \$60,000. There is a very small resale value of the current vehicle. Director Kosel made a motion to enact Resolution 19-03 authorizing the purchase of a mobile command vehicle not to exceed \$60,000. Director Nagel seconded the motion. Director Padian asked about leaving the equipment in the old vehicle. Pigoni said the radios are specific to the area, the command boxes were designed for ECFD, etc. Pigoni said that through the State bidding contracts, vehicles can be up to almost ½ off market price. Pigoni added that the new SUVs do get better gas mileage.

AYES: Dommer, Kosel, Nagel, Padian, Stein
 NOES: None
 ABSTAIN: None

Student Consulting Services Agreement for Preliminary Draft Report of Kensington Traffic Study: Director Padian said there are four students interested in the project but we are starting with one that is taking the lead and is available during the summer. During the fall, all of the students can record the necessary traffic data which is better timing since patterns will be back to normal. The information can then be fed into the polygon project. Having the lead person work during the summer, gives them time to communicate with the polygon consultant and data people. Stein said that the agreement is for about 1-1/2 months at an hourly rate of \$30, not to exceed \$4,000. The individual is a student but the District is engaging with the individual, not UC Berkeley. KFPD's legal counsel wrote the agreement. Navellier said she checked with KFPD's insurance carrier and the only coverage the students need is automobile insurance if they are driving their own cars. Director Padian made a

motion to accept the contract agreement as submitted in the packet. Director Kosel asked for a total estimate of the project. Padian estimates about \$16,000 but \$20,000 was put in the budget. Director Nagel seconded the motion.

AYES: Dommer, Kosel, Nagel, Padian, Stein
 NOES: None
 ABSTAIN: None

Resolution 19-04 Adopting the Preliminary Revenue, Operating Expense, and Capital Improvement Budget for Fiscal Year 2019-2020: Stein reported that a slightly different approach was used by asking the various committees to work with staff and provide budgets for their activities. Navellier and CPA Russell wrote the cover memo provided in the packet. Director Nagel said that the Emergency Preparedness Committee requested \$50,000 for a grant writer/coordinator. Nagel is hopeful that individual could also be shared with the Building Committee for grants for the public safety building project. The EPC also requested \$20,000 for the traffic study which is all part of early detection, early warning and evacuation, and will be fed into the polygon project. Director Kosel asked about spending \$15,000 for an RFP consultant to hire a \$50,000 individual. Director Padian said the \$15,000 was a black box number not knowing what real cost estimates are. KFPD will need to do quite a bit of headhunting and we will need someone to help us do that. Padian agreed that a 30% fee seems high but the District doesn't have to spend it all. Kosel suggested the \$15,000 RFP consultant be changed to \$5,000. Kosel said she had four or five items that she would call for an individual vote on. Nagel said the committee was asked to come up with the numbers in a short time frame and KFPD has not done this type of work before. The numbers are very approximate. Director Dommer said the building project is in the same position. Kosel's concern with the building project is that the District has already spent over \$200,000. She would like a written explanation on what the District got for that money and how it is going to fit in with the \$115,000 proposed in FY19-20. Kosel said the KFPD Board authorized the \$200,000 but continually asked for reports that the committee did not provide. Dommer said the amount was approved in several increments with a scope of work. Dommer gave an overview of past building activities. The EPC asked for a \$10,000 increase in the education budget and a \$5,000 increase in the CERT shed budget in anticipation of greater outreach. In answer to Stein's question, Nagel explained that the \$10,000 polygon study is different than the traffic study and how. Padian noted that the EPC committee does not have its own budget but it is broken up under several items. Kosel noted that Navellier appears to be slotted in at a 3% raise (actually 3.5) and cost of living is 3.9%. The District did a salary survey a couple of years ago showing that Navellier was significantly underpaid and made an effort to bring her up to market rate at that time. This budget would be bringing her back again if it's not even cost of living. Kosel proposed a 5% increase. Nagel agreed it should be higher than proposed in the budget. Padian asked if El Cerrito needs to approve an increase? Navellier said it would be caught in the reconciliation in two years. Kosel said the Demonstration Garden budget is for the second half of the fiscal year since there is no date for completion of the community center yet. She believes a garden at the community center will be significantly more than the initial. Eagle scouts were going to work on the initial garden. There is no site identified yet. Director Hacaj is KPPCSD's contact. Padian asked what the exact plan for the garden is? Kosel said it is unknown until KPPCSD designates the land. Padian asked how can you budget then? Without content there is no plan. Padian fully supports a demonstration garden and is happy to help with his experience with exhibits but there has to be a plan first. Stein said resident Linnea Due had made the suggestion that the concept be transferred to the community center construction project on a smaller scale which she thought the Board had shown interest in pursuing. Padian wants to see a concept before allocating any funds. Kosel said she is happy to remove the project from the budget. Navellier clarified that the \$10,000 for polygon mapping in FY19-20 should not be reflected as actual under Contingency for FY18-19. Stein asked about the cost for sensors. Kosel and staff said the District does not know when they will be available or what the cost is at this time. Pigoni said the sensors are still being refined. More discussion on sensors followed. Kosel questioned why legal fees are budgeted at \$40,000. Stein said the amount includes the contribution to the legal opinion for the park and she is open to lowering the amount. Kosel suggested \$10,000. Dommer suggested \$20,000. Stein agreed. Stein gave an explanation of the new line item "El Cerrito Contract Reconciliations" which was also covered in the staff memo. During contract negotiations, the committee found that El Cerrito is supposed to be giving KFPD budget updates if they are exceeding or underspending any line item by \$5,000. They agreed and the biggest overage has been on manpower which they do track. This will help KFPD track an estimate of what the reconciliation fee will be in two years so it isn't unexpected. KFPD's accountant believes the auditors would prefer that KFPD accrue for the reconciliation during the correct year. KFPD will set aside an amount out of the current year's budget based on reports obtained from El Cerrito during the mid-year budget review. Switching to that system entails taking a hit for three years during this year's budget. Kosel is concerned that the District cannot afford a \$450,000 contribution to the Public Safety Building Fund. Stein said available cash has dropped. She said that the Finance Committee had also asked staff to include the costs for the salary reimbursement agreement reconciliation which was left out. Navellier agreed they forgot to put it in. More discussion followed. There were no objections to changing to the new accounting method.

Kosel requested line item votes for 5 items. Linnea Due asked if the Board has given any thought or provision to provide for vegetation management on private property, specifically the Cerrito Creek area that defines the county line. She would like to see a proactive vegetation program that would be a huge benefit to residents. Kensington residents own the property. Due thinks at least \$100,000 is needed across 30 residences. Discussion of DFSC grants followed. Chief Pigoni suggested the Board consult with legal counsel since this is work on private property. The Board gave staff direction to consult legal. Director Kosel made a motion to increase Navellier's salary by 5%. Director Nagel seconded the motion.

AYES: Dommer, Kosel, Nagel, Padian, Stein
NOES: None
ABSTAIN: None

Director Kosel made a motion to reduce the Demonstration Garden to zero budget. Director Padian seconded the motion.

AYES: Dommer, Kosel, Nagel, Padian, Stein
NOES: None
ABSTAIN: None

Director Kosel made a motion to reduce legal fees to \$20,000. Director Nagel seconded the motion.

AYES: Dommer, Kosel, Nagel, Padian, Stein
NOES: None
ABSTAIN: None

Director Kosel made a motion to reduce the RFP consultant to \$5,000. The motion died.

Director Kosel made a motion that the Needs Assessment/Feasibility Study at \$115,000 be tabled until the July meeting when a written report is produced on what that amount buys and how it fits into the \$200,000 already spent. Director Nagel seconded the motion. Dommer said that the Public Safety Building is unsafe and the District needs to get going on the project. He produced a list of items for staff that the \$115,000 covers. Navellier said that as she recalls \$65,000 was for trenching but the Board decided to hold a community meeting first, legal of \$5,000 and \$20-30,000 for contingency. Discussion followed about the public education amount.

AYES: Kosel, Nagel
NOES: Dommer, Padian, Stein
ABSTAIN: None

Stein said the committee does need to get going and they will still need to bring projects to the Board for approval. Dommer will provide a spreadsheet on costs he had previously distributed.

Director Kosel made a motion to adopt the FY19-20 budget as amended. Director Padian seconded the motion.

AYES: Dommer, Kosel, Nagel, Padian, Stein
NOES: None
ABSTAIN: None

FIRE CHIEF'S REPORT:

Chief Pigoni reviewed his written report. There was a drop in medical emergencies during May. There was a structure fire on May 11th. The fire started on the outside of a shingled house and got into the wall. The fire was stopped before getting into the attic. Resources from Berkeley, Richmond, El Cerrito and Kensington all responded. Pigoni attended a PG&E meeting about public safety power shut-offs. The west county area came close to having power shut down twice last year due to the fact that the power lines go up Moeser and then across the Wildcat Canyon area. However, PG&E plans to be more aggressive this year depending on weather. If PG&E decides to turn the power to an area off, residents should plan on it being off for three days. The Public Safety Building does have a generator with three days of fuel and can always be refueled. This will be a problem for the public though, particularly those that have health related machines. PG&E has been publicizing their plan and

residents should go to their website. Resident readiness is very similar to what the Fire Department has been preaching to be ready in a disaster for 3 to 7 days. The department has completed its fire hazard abatement inspections throughout Kensington. There were 292 citations found which is about three times the normal annual amount. A contributing factor is the late rains this year but it is disturbing to have that many violations. No matter how much EBRPD works in the canyon, etc. the biggest effect will be residents taking maintaining their own homes so fire doesn't spread from house to house. The EBRPD shaded fuel break is continuing over the next couple of months. The fire department and CERT representatives will be staffing booths at the El Cerrito 4th of July fair. The fire department will not be providing generators to people during PG&E shut-downs. Pigoni discussed the potential for generator accidents. If residents have medical needs that need to be addressed, they need to make a plan. PG&E has been doing a lot of public outreach. Eileen Nottoli thinks residents don't understand the shut-downs will be for that long. Padian said he just posted the information on NextDoor and the EPC will be following up with an ad in The Outlook. Nottoli suggested communication with Ashby Village. Pigoni said it is possible to register with PG&E. The Public Safety Building generator is exempt from operating hour restrictions. Kosel asked about the recent heat and vulnerable residents. Pigoni said there was no spike in calls. Pigoni explained that cell phone towers are powered by PG&E but most have generators. More discussion followed on PG&E shut down complications.

PRESIDENT'S REPORT:

Stein reported that made a presentation at the 5/23/19 KPPCSD Board meeting requesting a bond attorney's opinion on whether there is anything prohibiting a public safety building being built in the park. At that meeting Stein read both the letter from KFPD and her comments that are both included in the Board packet. The item was not listed as an action item so there was no possibility of any action taken. There was a lot of discussion. The same item is now listed as an action item on KPPCSD's 6/13/19 Board agenda. KPPCSD's concern at the 5/23/19 meeting is that they would like to see some documentation regarding the response time issue which would probably rule out many of the site suggestions community members have made. Eileen Nottoli said she, Tony Constantouros and Stein met in late April. The public safety building is of paramount importance to both Districts. If at all possible, Nottoli would like to have the fire and police in the same building. A lot of different sites have been suggested. Has there been a criteria set for a site and then each site could be measured against that criteria. The park is sacred ground to a lot of people in Kensington. She questioned the parking lot design in one of the concepts. This is not an insignificant decision. Nottoli spoke with Jean Durham who completed a soils study in the 1970's of the park area. There are suspect faults in the park. She then brought up the Ace Hardware site and re-engineering Arlington and Amherst. There needs to be community buy-in to the park site. Director Dommer said the Fire Chief in 1995 deemed the public safety building obsolete. He and that Fire Chief drove the entire community and look at available sites. Any site chosen needs to be in the middle of town and on the Arlington for response times. The site will need to be more than ½ an acre. Nottoli said there needs to be a site analysis presentation. Dommer said KFPD's geotech firm took a cursory look at the park site which appeared much better than the existing building site. A study would need to be done. Spath suggested contacted EBMUD to see if they would even sell. Padian said a site report is needed and it needs to be independent. Response time is the only thing that matters. He asked that this be put on the agenda as an action item next month.

Stein announced she would like to appoint a temporary Organizing Committee to look at the logistical aspects of the fall public forum. She thinks that committee could organize the agenda, invitations, speakers, and written materials. This committee would be distinct from the Building Committee who will be working with the architects. Director Kosel agreed to serve on the Organizing Committee with Stein.

Stein summarized Navellier's annual performance evaluation. She received feedback from some Directors in writing and others verbally but there is consensus that Navellier does an outstanding job. She is a dedicated employee, who sets high standards for her quality of work. She has a high degree of attention to deliverables which is evidenced by the quality of minutes, agenda packages and clean audit every year. Navellier is dedicated to the District as a whole. The work load has increased and Navellier has risen to the occasion.

DISCUSSION ITEM:

Brown Act Requirements for Teleconferencing: Director Padian noted there he submitted a two-page write-up that is included in the packet. The take-away is that an individual has to fulfill all the requirements of the Brown Act as if they were physically present at the Board meeting. Any remote location has to be ADA accessible, open to the public, and a notice must be posted 72 hours in advance on site. If those rules are not followed, participation is not in compliance. Padian said his personal opinion is that until the District gets some decent audio/visual equipment, he doesn't think the Directors should be teleconferencing. It's not good enough to yell into a cell phone. Pigoni added that there also has to be a quorum physically present. The teleconferencer can't be achieving the quorum. Cyrus Modavi said a roll call vote also needs to take place.

BOARD REPORTS:

Finance Committee: The minutes of the February 27, 2019 meeting were included in the packet.

Emergency Preparedness Committee: Director Padian said he and Nagel met with the neighbors on south Lake Drive who are very organized. There is also a group on north Lake Drive that is starting to organize. The Committee would like to take these people and have them take the lead on becoming a FireWise community. A resident brought up whether EBMUD will be able to pump water to houses if the power goes out at Summit Reservoir. Padian said it is not clear and EBMUD's answer that they will bring in generators is not satisfactory. The Committee wants to look into that issue more. A copy of a car flyer from the Oakland Firesafe Council was included in the packet. Padian is proposing a similar template for the KFPD website. This is not just for fire season, emergency vehicles need to respond all year. The Committee also developed an application for residents to join the committee. They will write about both topics and put it in the Outlook for July. The Committee has talked about emergency radios for residents and fire danger signs. Someone from the Lake Drive group suggested a fire danger sign on Grizzly Peak. Padian said he, Nagel and the Chief think having a two-sided sign on the Arlington by the station is a great idea. Padian will cost that item out.

DFSC: Nagel said the DFSC is kicking-off the every 5 year review of the Community Wildfire Protection Plan. Their next meeting is in July. The CWPP does not currently address evacuation plans but may include a recommendation in an updated version. DFSC has funding again and is giving out grants.

Pathkeepers: Stein suggested that the folks that work on the path cleaning projects could submit for a juniper removal grant for the Arlington Path.

ADJOURNMENT: The meeting was adjourned at 9:55 p.m.

MINUTES PREPARED BY: Brenda J. Navellier

These minutes were approved at the regular Board meeting of the Kensington Fire Protection District on August 14, 2019.

Attest:


Board Secretary