



KENSINGTON FIRE PROTECTION DISTRICT BOARD OF DIRECTORS SPECIAL MEETING MINUTES

DATE/TIME: April 24, 2023, 7:00PM

LOCATION: Kensington Community Center, 59 Arlington Avenue, Kensington, CA 94707
(and hybrid)

PRESENT: Directors: President Alexandra Aquino-Fike, Director Cassandra Duggan, Director Sylvia Hacaj, Vice President Sarah Gough, Director David Spath, President Julie Stein, Director Don Dommer, Director Daniel Levine, Director Larry Nagel, Director Jim Watt
Staff: Legal Counsel John Bakker/Meyers Nave, GM Mary Morris-Mayorga, Fire Chief Eric Saylor

1. CALL TO ORDER/ROLL CALL

President Alexandra Aquino-Fike of the KPPCSD Board of Directors opened the special meeting at 7:20 p.m. and noted there were 60 participants on the Zoom call. Board Clerk Lynelle Lewis confirmed the roll call for KPPCSD.

Director Julie Stein of the KFPD called the special meeting to order at 7:21 p.m. and confirmed the roll call for KFPD.

Directors welcomed and thanked Executive Director Lou Ann Texeira of the Local Agency Formation Commissions (LAFCO) for her participation and provided opening remarks.

2. PUBLIC COMMENT

President Aquino-Fike announced the board would take public comment after agenda item 3.

3. PRESENTATION ON CONSOLIDATION OF DISTRICTS BY LOCAL AGENCY FORMATION COMMITTEE CHIEF EXECUTIVE – Lou Ann Texeira (00:06:37)

LAFCO Executive Director Lou Ann Texeira gave a presentation on the potential consolidation of KFPD and KPPCSD.

She provided the history and organizational background of LAFCO. She reviewed and provided answers to previously submitted questions by Kensington Board of Directors and residents. (See supplemental document)

Directors asked the following questions: (00:16:22)

- Can you describe the difference between consolidation and reorganization?
- Do districts lose tax revenue if they reorganize?
- If dissolution occurs, does KPPCSD have to propose to expand the board?
- Does the Board of Supervisors have a negotiating role with regards to the district's property taxes?
- Is it true that whether there is consolidation or a reorganization that for a period of time

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the districts would automatically have 7, 9 or 11 board members? Is there a reason Contra Costa LAFCO has completed hundreds of reorganizations and only a few consolidations?

- Is there any functional difference between consolidation and a dissolution/annexation?
- Are there any boundary issues associated with a consolidation or a dissolution?
- Do you have a recommendation as to how many board members there should be?
- Do you recommend the same firm conduct the fiscal analysis and municipal services review?
- Are you aware of any community service district that runs both a police and fire department?
- What would happen to the existing contracts held with each district?
- Do you see any downsides to consolidation or reorganization?
- How long will this process take to complete?

Executive Director Texeira provided further explanation and answers to the above questions.

4. PUBLIC COMMENT (00:38:49)

Members of the public commented on the presentation and on consolidation in general, and asked the following questions:

- Does consolidation require a fiscal review? How much time and what are the costs associated with hiring a consultant? If the boards were not able to fund consolidation from their general funds, could the community fundraise to pay for the process?
- Does the money received by the county change? Does either process require residents to vote? Which process takes longer and costs more? If all directors stay, how many years will it be until new board members are elected?
- How many community service districts are there in Contra Costa County?
- Should the KFPD and KPPCSD search for general managers be put on hold while consolidation is under consideration?
- Is it correct that if the two boards chose to consolidate, FICA must approve unless there is a 25% petition filed by voters? If the boards choose to reorganize, is there a corresponding provision that would allow for a public vote?
- How do you intend to assess community approval of consolidation? Is a ballot measure or referendum necessary? Should CALPers benefits be standardized?
- How long does it take for the protest petition to be generated and what form does it take? Does the petition need to be complete by the first LAFCO hearing?
- Do current directors have the time to manage both boards?
- Is the process of consolidation and reorganization the same?
- Should there be an advisory committee for outreach and education?

Executive Director Texeira and board members provided further explanation and answers to the above questions. Executive Director Texeira noted that questions about taxes should be directed to the auditor's office. Director Levine shared information he received from the auditor controller's office in this regard. Director Stein asked if the Ad Valorem taxes would go into one general fund to be used for any purpose in the districts or if the tax revenues would remain for the purpose it was originally voted on? Director Levine confirmed the latter. Executive Director Texeira provided more information about the general process and timing of completing a LAFCO application that includes providing a fiscal analysis, a plan for services, and, preferably, resolutions from both districts. Director Watt asked how LAFCO would evaluate a negative financial analysis of the districts. Executive Director Texeira noted this would be of concern and recommended fiscal viability be confirmed prior to submitting an application to

consolidate/reorganize.

Director Spath noted the community can review the Ad Hoc Committee for Governance and Operations Structure report on the KPPCSD website.

5. ADJOURNMENT TO REGULAR MEETING

President Aquino-Fike adjourned the special meeting at 8:51 p.m.

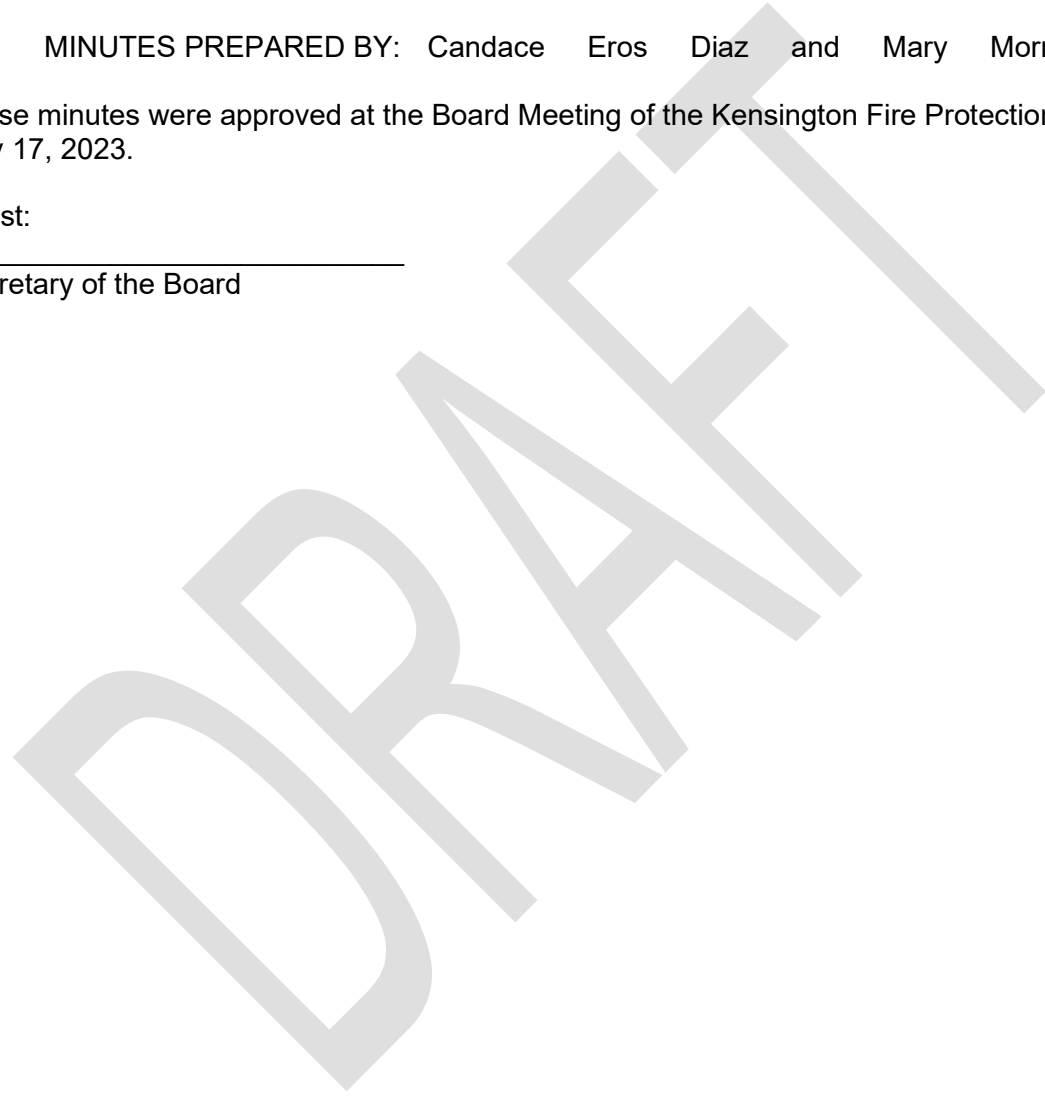
The next KFPD Board of Directors meeting will occur on May 17, 2023.

MINUTES PREPARED BY: Candace Eros Diaz and Mary Morris-Mayorga

These minutes were approved at the Board Meeting of the Kensington Fire Protection District on May 17, 2023.

Attest:

Secretary of the Board



Short Answers (see below for long, fuller answers)

What is LAFCO?

The agency which approves or denies consolidation or reorganization applications

What is “consolidation” vs “reorganization”?

A consolidation and a reorganization are functionally equivalent but use two different processes. In the former, a new CSD is formed from combining the two districts. In the latter, the existing CSD is used to combine the two districts. Throughout CA, the latter is much more common.

What does LAFCO perceive as the benefits to consolidation/reorganization?

Economies of scale, including board members, staff, operational efficiencies

What happens to the boards?

The existing boards would be combined and run the new district together.

What is the timeline for the election of new board members in the event of consolidation or reorganization?

As terms expire, one seat will be up in the next election until the board has 5 members. No current director will serve longer than their current elected term without facing re-election.

What happens to existing contracts (such as the KPPCSD with KCC and the KFPD with El Cerrito Fire)?

The successor district would assume all contracts and liabilities of the predecessor districts. The contracts would be unchanged.

What happens to the tax revenue from the districts? Would the consolidated/reorganized district keep at least the same revenue as the two districts separately?

Yes, they would probably be combined in full in the new district.

Are there any restrictions on how the combined district could spend its funds?

Yes, for legal and contractual reasons, a combined district (whose annual revenue would be ~\$10M), would need to spend at least \$4M/year on fire service and at least \$1.38M/year on police services.

Are there any boundary issues since the KPPCSD and the KFPD differ slightly in boundaries?

No, it's one unoccupied parcel (the EBMUD reservoir on Grizzly Peak Blvd).

Are there other CSDs that provide fire and police in CA? in Contra Costa County?

Yes, Mountain House CSD and Lake Shastina CSD. None of the other 5 CSDs in Contra Costa County do.

What does LAFCO require for an application to consolidate/reorganize?

A Plan for Services (how service will be provided) and a financial analysis (showing fiscal viability).

How long is consolidation/reorganization process?

6-12 months once the application is made.

What is the process for protesting a consolidation/reorganization?

After the districts submit their application to LAFCO, there is a hearing where any landowner or voter may protest. If there is a protest, then a second hearing approximately 30-60 days later occurs. In the interval, protest signatures are collected. If more than 25% of voters or landowners protest, there is a special election to determine the outcome.

What are checkpoints during the process when the consolidation/reorganization can be stopped?

Besides the protest process, there are certain points in the reorganization process where the application can be withdrawn. This includes after the transfer of property taxes to the new district was confirmed.

If the Kensington districts would like to continue investigating consolidation/reorganization, what is the next logical step?

Get the financial analysis for the hypothetical combined district.

Long Answers

What is LAFCO?

The Local Agency Formation Commission is a group created by state law to manage local governments throughout the state. Each county has its own LAFCO. Contra Costa LAFCO is the agency which approves or denies consolidation or reorganization applications from Kensington special districts.

What is “consolidation” vs “reorganization”?

A consolidation and a reorganization are functionally equivalent but use two different processes. In both cases, the current two Kensington special districts would become one Community Service District (CSD) providing fire, police, parks, and trash service. In both cases, the current set of directors of both boards would become the directors of the new district and the same process is used to combine the tax revenue of both districts into the successor district.

“Consolidation” would mean the combination of the two districts into a **newly created** special district and the old KPPCSD and KFPD would be dissolved. A “Reorganization” would mean the combination of the two districts into the **already existing** CSD. This would involve the annexation of the KFPD by the KPPCSD and the dissolution of the KFPD.

In the history of Contra Costa LAFCO (since 1963) there have been 9 consolidations with the last in 2002. In contrast, there have been 100s of reorganizations and that last was last year. According to Lou Ann, consolidation is rare statewide. Consolidation is a bit longer of a process and few are familiar with the details. Lou Ann and consensus of the other county LAFCO Executive Officers thinks consolidation is “antiquated”. Since the outcomes of the two processes are functionally equivalent, Lou Ann gently promotes reorganization as “more common”, but leaves the decision to the boards.

What does LAFCO perceive as the benefits to consolidation/reorganization?

Lou Ann suggests that there are “economies of scale, including board members, staff, operational efficiencies”. When asked about downsides, Lou Ann suggested that was a question for the community but that recent reorganizations have been very successful.

What happens to the boards?

Once consolidated/reorganized the board of the directors of the successor district will be expanded to 7, 9, or 11 directors as needed. Thus, all current board members would become directors of the new, combined district.

What is the timeline for the election of new board members in the event of consolidation or reorganization?

This is governed by GC 61030. All the current directors have 4 year terms and this would be unaffected by consolidation/reorganization; all directors would continue their terms on the combined board. Four directors terms expire in 2024, six in 2026. As to how elections would work once the districts are combined:

If consolidation/reorganization takes effect between now and election day 2024, the terms of the four directors whose terms expire in 2024 will expire, leaving 6 directors on the board. Since this is more than

5, the size of the board would be 7 and one seat would be up for election in 2024. If consolidation/reorganization takes effect between election day 2024 and election day 2026, six directors terms will expire, leaving four directors and the size of the board will be 5. One seat will be up for election in 2026.

What happens to existing contracts (such as the KPPCSD with KCC and the KFPD with El Cerrito Fire)?

The successor district would assume all contracts and liabilities of the predecessor districts. The contracts would be unchanged.

What happens to the tax revenue from the districts? Would the consolidated/reorganized district keep at least the same revenue as the two districts separately?

Director Levine reached out to the County Auditor-Controller's office on this topic. They indicated that, in the hypothetical consolidation or dissolution/annexation combining the KFPD and KPPCSD, the property taxes could be transferred to the successor district, whether that is a new CSD or the existing CSD. If the CSD is assuming the fire response liability from KFPD, under Government Code section 57500 "The consolidated district succeeds to all of the powers, rights, duties, obligations, functions, and properties of all predecessor districts". The County can negotiate if they choose, but assuming the County does not push back the property tax allocation would be transferred in full. Informal conversations with Supervisor Gioia indicate his support for the taxes being transferred in full.

Are there any restrictions on how the combined district could spend its funds?

There are two kinds of tax levies that fund Kensington's special districts: ad valorem property taxes (the taxes that are based on the value of the property) and special/parcel taxes (these are the same for all Kensington single family homes). The former taxes are unrestricted but the latter are. Kensington has a few major special/parcel tax levies that are earmarked for the purpose that the voters approved the tax for, the largest being: a fire service special tax (about \$200k/year which must be used for fire services), two police special taxes (about \$1.38M/year which must be used for police services). These special taxes must continue to be used for these services in a combined district.

The remaining tax revenue (the KFPD's total annual revenue is about \$5.5M and the KPPCSD's is about \$4.5M) would enter a General Fund and be nominally unrestricted. However, the El Cerrito contract for Fire Services, which would automatically be assumed by the combined district, is currently about \$4M/year. As such, the combined district would be contractually obligated to spend at least ~\$4M/year on fire service (and maintain a ~\$2M reserve per the EC contract). That is, in a combined district, whose annual revenue would be ~\$10M, at least \$4M/year must be spent on fire service and at least \$1.38M/year must be spent on police service. As a note, based on the 2023 budgets on the respective districts websites, the KPPCSD currently spends about \$3.1M on police services and the KFPD spends about \$4M on fire services (not including contributions to reserves for either district).

Are there any boundary issues since the KPPCSD and the KFPD differ slightly in boundaries?

No, it's one unoccupied parcel (the EBMUD reservoir on Grizzly Peak Blvd). Lou Ann does not think this would present any difficulty in reorganization/consolidation.

Are there other CSDs that provide fire and police in CA? in Contra Costa County?

At least two CSDs which provide both fire and police services are known: Mountain House CSD (just over the border from Contra Costa County) and Lake Shastina CSD. None of the other 5 CSDs (soon to be 4, as Knightsen CSD is in the process of dissolving) in Contra Costa County do.

What does LAFCO require for an application to consolidate/reorganize?

LAFCO requires a Plan for Services (explaining what services will be provided by the combined district and how those services will be provided) and financial analysis (to check for financial viability of the combined district). A shortlist of consultants that have worked with Contra Costa LAFCO in the past has been provided to the districts for doing the financial analysis (the Plan for Services is comparatively simple). Lou Ann does not think a full Municipal Service Review (MSR) would be required.

How long is consolidation/reorganization process?

6-12 months. This does not include time to carry out financial analyses or prepare application package, only the time from when the complete application is presented to LAFCO.

What is the process for protesting a consolidation/reorganization?

After the districts submit their application to LAFCO, there is a hearing. If any landowner or voter protests at that hearing, there is a second protest hearing approximately 30-60 days later. In the interval between these hearings, protesters may collect signatures from district voters/landowners. If more than 25% of one of those groups protest via this process, there will be a special election with this question placed on the ballot (the election is paid for by the Kensington districts).

What are checkpoints during the process when the consolidation/reorganization can be stopped?

Besides the protest process, there are certain points in the reorganization process where the application can be withdrawn. This includes after the transfer of property taxes to the new district was confirmed.

If the Kensington districts would like to continue investigating consolidation/reorganization, what is the next logical step?

Undertaking the financial analysis is both required for LAFCO application and would help inform discussion about the value of consolidation to Kensington. Obtaining this detailed financial analysis should be the next step.