

Ad Hoc Committee Report on Reorganization/Consolidation

Executive Summary

- The Committee finds that the benefits to Kensington of combining the Kensington Police Protection and Community Services District with the Kensington Fire Protection District are substantial and recommend that the board consider doing so
- The Committee recommends a reorganization via annexation/dissolution over a consolidation.
- The Committee recommends that all board members from both current districts be transferred and serve on the combined board, with 3 seats up for election in 2026 and 2 in 2028.
- The Committee recommends that both districts include a commitment to continue to maintain and seek to improve the services currently provided by both districts in any consolidation or reorganization resolution.
- The Committee recommends adopting the staffing structure agreed to by both boards at the June 5, 2024 Joint Meeting.
- The Committee recommends that the KFPD, the City of El Cerrito and other interested parties be notified at least 21 days prior to a vote on applying to LAFCO for reorganization.
- The Committee suggests the name of the combined district be the Kensington Community Services District or the Kensington Public Safety and Community Services District.
- The Committee makes further recommendations about operating details in the combined district in the following report.

Considerations related to combining the districts

- Financial savings: a professional third-party analysis of combining the districts indicated savings of ~\$120,000-300,000 per year, totaling over \$1.8m over 9 years
- Improved staffing support: the combined district would support multiple full-time positions, including General Manager and Finance Manager, focused exclusively on Kensington, allowing for more efficient and greater service, more robust responses to issues
- Organizational resilience: the vast majority of both districts' management is reliant on one individual. Having multiple staff members with distributed responsibilities allows the organization to better accommodate turnover in staff or absences
- Improved government access: rather than multiple, separate local governments, members of the public would have one local government to bring concerns to and hold to account. Unclear jurisdictional boundaries are removed.

- Improved board efficiency: local government decisions can be adjudicated with respect to all local municipal services, without the need for intergovernmental liaising. There is one ultimate authority for decision-making.
- Increased board scope: the board will be responsible for more services in the combined district, requiring either more time or less individualized attention
- Reduced budgetary pressure: currently, only the KPPCSD is faced with budgetary constraints and tight fiscal management (third-party analysis indicates it has been successful), while KFPD has greater fiscal flexibility. In a combined district, that budgetary pressure is alleviated. However, fiscal responsibility still must be maintained via good governance.
- Increased budgeting flexibility: the combined district would be able to allocate funds to local needs as determined by the board of directors (consistent with public priorities); this may result in a different breakdown in spending from current levels although spending on current services would be expected to be maintained.

Consolidation vs. Reorganization

There are two functionally equivalent processes whereby the KFPD and KPPCSD can be combined into one organization. In either case, the resulting agency will be a Community Services District (CSD) (the only kind of special district with the statutory authority to carry out diverse municipal services) and all current board members from both boards would serve equally on the resulting board:

- 1) Consolidation - Both districts are dissolved and their functions, services, assets, liabilities, contracts, boards of directors, etc. are transferred to a newly created CSD
- 2) Reorganization (Dissolution/Annexation) - The KFPD is dissolved and annexed by the KPPCSD with all of its functions, services, assets, liabilities, contracts, boards of directors etc. transferred to the KPPCSD

Note: Reorganization is defined in statutes governing LAFCO as any process with multiple, simultaneous changes. The term is used in this document to mean the process of dissolution and annexation.

While both processes result in a CSD serving all functions of the previous two, there are some slight differences. Contra Costa LAFCO and this committee recommend the districts pursue a reorganization, rather than a consolidation, for the following reasons:

- 1) The reorganization route is a much more frequently employed process and Contra Costa LAFCO has extensive experience on dozens of reorganizations. There has not been a consolidation in Contra Costa County for more than 20 years.
- 2) Reorganization is somewhat simpler in that a new district does not have to be set up from scratch, as in a consolidation; rather the KFPD would be merged into the KPPCSD.

- 3) It is anticipated that legal costs would be less for a reorganization as the assets, liabilities, contracts, etc. of only the KFPD need to be transferred to another organization, as opposed to both the KFPD and KPPCSD.
- 4) While the district that results from consolidation would inherit the KPPCSD's CalPERS contract in the short-term, CalPERS will require the consolidated district to make a new contract to replace the KPPCSD's contract in the long-term. This is not expected to increase any costs due to CalPERS, but will require additional legal costs and staff time. In a reorganized district, no new contract would be required.

On the other hand, there are arguments for pursuing a consolidation over a reorganization:

- 1) While the directors currently serving on the KFPD and KPPCSD would serve equally in the reorganized district, the initial organizational structure will be that of the KPPCSD, modified as required by the reorganization process. A consolidated district would be a true "clean slate" from which to start.

Name of combined district

Per GC61061(b), the words "community services district" must appear in the name of the combined district. To avoid an unreasonably long name, this committee recommends that the newly combined district be: Kensington Community Services District (KCSO). It is worth noting that this is the former name of the KPPCSD from 1953-1995. Note that several CSD's provide police services without having "police protection" in the name, e.g. Bear Valley CSD, Stallion Springs CSD, and Lake Shastina CSD. As of 2002, GC 53060.7 explicitly guarantees that the KPPCSD, among others, is eligible for grants and state funding as a provider of police services. Whatever the district's name is changed to in a reorganization or consolidation, this law should be updated. GC 30061 should also be updated. As a result of these explicit guarantees and similarly named peer districts, we do not anticipate that the district's name would have any effect on the receipt of police protection funds.

Services in the combined district

Under reorganization, pursuant to GC56886, the KPPCSD would be designated the legal "successor district" to the KFPD and would "step into the shoes" of the KFPD. All KFPD contracts (such as the KFPD contract with El Cerrito for fire services) would transfer to the KPPCSD. Under consolidation, pursuant to GC57500, the resulting new CSD would be designated the legal "successor district" to the KFPD and KPPCSD. The new CSD would thus "step into the shoes" of the KFPD and KPPCSD. All contracts (such as the KFPD contract with El Cerrito for fire services or the KPPCSD memorandum of understanding with the Kensington Peace Officers Association) would transfer to the new CSD. In either process, no changes in the provision of services are thus anticipated. A plan for services must be provided as part of a consolidation or reorganization application to LAFCO, this committee recommends that the plan

for services consist of the combination of the two separate districts. Since there is no overlap in services, no changes would be included in the plan for services.

This committee recommends that both districts include a commitment to continue to maintain and seek to improve the services currently provided by both districts in any consolidation or reorganization resolution.

Board of Directors in the combined district

Initial composition

As noted above, this committee recommends that the combined district's board of directors be expanded to 11 members under GC61030. This would include all currently serving directors from both boards. The 10 directors would then select an 11th member via the normal vacancy process as specified in GC1780 (i.e. by board appointment or calling a special election). This 11th board member would serve until the next even-year general election.

Note that for a board of 11 directors, 6 is required for a majority, 8 is a two-thirds majority, and 9 is a four-fifths majority. Per the Brown Act, which limits board director contact outside of a public meeting to less than a majority, at most five directors may communicate with each other outside of a public meeting. Committees of the board (ad-hoc and standing) may also have up to 5 board members.

This committee recommends that the combined district has at least two standing committees: a finance committee and an emergency preparedness committee.

Elections in the combined district

If the districts are combined prior to the 2026 election, and the committee's recommendation that all board members serve on the combined district as described above, then the board will consist of 11 members (alphabetically by term expiration):

Terms expiring in 2026:

Alexandra Aquino-Fike
Cassandra Duggan
Sarah Gough
Daniel Levine
Jim Watt
KFPD Board member to be appointed
New 11th board member

Terms expiring in 2028:

Rick Artis
 Sylvia Hacaj
 Danielle Madugo
 David Spath

Pursuant to GC61030, as board members' terms expire, the board will shrink until it has 5 members. The 2026 election would therefore elect three directors to replace the seven whose terms are expiring, resulting in a 7 member board. After the 2028 election, which will be for two directors, replacing the four directors whose terms are expiring, there will be five board members as required by GC61040.

| Post-reorganization/consolidation | 2026 election | Post-2026 election | 2028 election | Post-2028 election |
|---|---------------|---|---------------|---|
| Rick Artis (KFPD) Alexandra Aquino-Fike (KPPCSD) Cassandra Duggan (KPPCSD) Sarah Gough (KPPCSD) Sylvia Hacaj (KPPCSD) Daniel Levine (KFPD) Danielle Madugo (KFPD) David Spath (KPPCSD) Jim Watt (KFPD) KFPD appointee (KFPD) Board member 11 (KCSD) | Vote for 3 | Rick Artis (KFPD) Sylvia Hacaj (KPPCSD) Danielle Madugo (KFPD) David Spath (KPPCSD) 2026 Elected 1 (KCSD) 2026 Elected 2 (KCSD) 2026 Elected 3 (KCSD) | Vote for 2 | 2026 Elected 1 (KCSD) 2026 Elected 2 (KCSD) 2026 Elected 3 (KCSD) 2028 Elected 1 (KCSD) 2028 Elected 2 (KCSD) |

If reorganization occurs after the 2026 election, then a similar course of electing three directors in the 2028 election and two directors in the 2030 election will lead to a board of directors which will be 11 members to 9 members to 5 members.

Numerical changes due to an expanded board

The expanded board will result in the following numerical changes to typical board parameters:

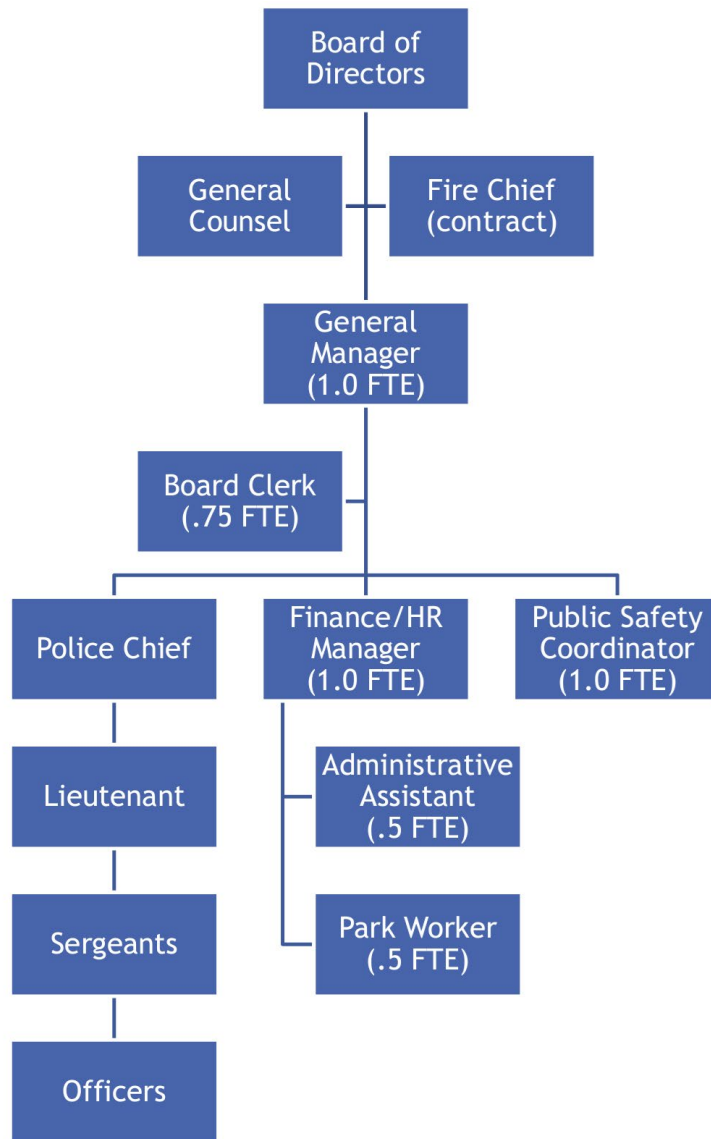
| | 11 members | 9 members | 7 members | 5 members (typical) |
|--|------------|-----------|-----------|---------------------|
| Votes needed to constitute a majority/quorum | 6 | 5 | 4 | 3 |
| Largest number of directors who may discuss matters outside of a public meeting (Brown Act limitation)/largest number of | 5 | 4 | 3 | 2 |

| | | | | |
|-----------------------------|---|---|---|---|
| directors on a committee | | | | |
| $\frac{2}{3}$ supermajority | 8 | 6 | 5 | 4 |
| $\frac{4}{5}$ supermajority | 9 | 8 | 6 | 4 |

Governance in the combined district

Staffing structure

At the joint board meeting on June 5, 2024, both boards indicated support for the following staffing structure:



As such, this committee recommends this structure for the combined district.

Standing committees

This committee recommends that the combined district continue the existing standing committees of the individual districts, that is, a finance committee and an emergency preparedness committee. As noted above, when the board has 11 members as would be the case initially, up to 5 directors may serve on a committee. When the board reduces to 7 members, that reduces to 3.

Finances of a combined board

Tax revenue

Discussions with Contra Costa LAFCO, the County Auditor's office, and Kensington's County Supervisor John Gioia indicate that all expect the combined district to receive the sum of the two individual districts, no more or less. This will be concretely set during the consolidation or reorganization process. This occurs after the districts apply to LAFCO; LAFCO will obtain confirmation of the tax transfer and include it as part of the findings that LAFCO will consider at the first hearing on the matter. In such case that the amount of tax revenue would be reduced relative to the individual districts, the consolidation or reorganization process can be halted at that point and the districts would remain separate.

As described in detail in the fiscal analysis of Ridgeline Municipal Services, the majority of both districts' revenue is due to *ad valorem* property taxes, which is not restricted to any specific purpose (a General Fund). Special taxes for police, fire, and parks services will continue to be dedicated to those services in the budget of the combined district. All district services (with the exception of solid waste in the KPPCSD) require funding from their district's General Fund and that will continue to be the case in a combined district.

Ridgeline Municipal Service's analysis indicates that the combined district is expected to spend between \$121,000 and \$292,000 annually less than the districts individually over the course of the next nine years, with a total savings of approximately \$1.82 million over that period.

Reserves

Both districts currently have multiple reserve funds for various purposes and this committee recommends that all of these funds continue in the combined district, funding as they are in the individual districts. There are several specific funds that deserve special mention:

- KFPD Rolling Stock Fund - The KFPD currently sets aside money annually to support the replacement of the district's fire engines every 15 years and the district's battalion chief vehicle every 8 years. This fund would be transferred in its entirety to the combined district and continue to be funded at a level to maintain this replacement schedule, as is the case in the KFPD currently.

- KFPD El Cerrito Contract Reserve - The KFPD's contract for services with the City of El Cerrito requires a reserve fund containing 6 months of the annual contract fee. As this contract will be continuing in the combined district, this fund shall be transferred in its entirety to the combined district and maintained at the required funding level as is required by the contract and is the case in the KFPD currently.

OPEB Trusts

Both districts currently have Other Post Employment Benefit (OPEB) trusts which are more than 100% funded, though neither have OPEB trust policies governing the usage of such funds. Currently, the KFPD uses its OPEB trust to fund the medical, dental, and vision benefits of the closed pool of beneficiaries from when the district employed firefighters directly, while the KPPCSD presently does not utilize its OPEB trust to cover retired police officers medical benefits. As indicated by Ridgeline Municipal Services, these trusts may or may not be merged in the combined district. In either case, this committee recommends that, since the KFPD's beneficiary pool is closed and ~160% funded, in the combined district's OPEB trust policy, the current beneficiaries of the KFPD's pool are always paid first from the OPEB trust before any other use of the OPEB trust funds. This ensures the KFPD's commitments to its firefighters continue to be honored in the combined district.

Transition

Board Officers

After a reorganization, this committee recommends that the current KPPCSD Board officers (President and Vice President) resign so that the full board may elect the Board officers for the remainder of the calendar year in which reorganization occurs. After a consolidation, the board will hold an election for board officers immediately, as there would be no currently serving board officers.

Staff

As it is recommended that the combined district have a full-time general manager, a new contract for a GM will be needed since both districts currently have part-time GM staff. It is recommended that, as soon as reorganization or consolidation is approved, the districts begin staffing searches for a full-time GM, full-time finance/HR manager, and full-time public safety coordinator.

In the case of reorganization, the current GM (or interim GM if no GM has been appointed) of the KPPCSD would continue as the combined district's GM (or interim GM). After consultation with the KFPD's current GM, it is this committee's recommendation that the GM of the KFPD would be appointed as a consultant for the combined district at substantially similar hourly rate

to their current position to assist in the transition until a full-time GM can be hired. The KFPD executive assistant/board clerk would also continue in the combined district, providing supplementary services as required on a contract basis until a new permanent board clerk position can be finalized. The committee confirmed that this is acceptable to the current KFPD board clerk.

Process for combining districts

Initial application

To initiate either a consolidation or a reorganization, both boards would approve “substantially similar” Resolutions of Application. These resolutions would indicate the process being followed (i.e. consolidation or reorganization) and any terms or conditions of the process (e.g. initial board composition, timing of elections, etc.). All of this is submitted along with the fiscal analysis (already completed by Ridgeline Municipal Services) and a Plan for Service.

The Plan for Service indicates how services will be provided in the combined district and this committee has been advised by Contra Costa LAFCO Executive Officer Lou Ann Texeira that this document can be readily prepared by district staff without outside consultants needed. Since the two districts provide entirely different services and all services are merely being combined under one organization, the most recent Municipal Service Reviews (MSRs), which detail how services are currently being provided in Kensington, can be combined to produce the Plan for Service.

In a reorganization, the KPPCSD will be activating its latent power to provide fire services. As such, per GC 56824.12(c)(1), the KPPCSD must publish a notice 21 days in advance of adopting a resolution to activate that power.

Notice of the application for reorganization or consolidation must be sent to all affected local agencies (this committee believes that includes El Cerrito). This can either be done by the districts at least 21 days before adopting Resolutions of Application (GC 56654(c)) or LAFCO will send notices and hold the application for 20 days (GC 56658(b)(1) and (d)(2)).

After the application is sent to LAFCO, they will notify the County Auditor and County Assessor, who will send a report to the County Auditor of the total assessed value of property in the affected area. The Auditor will then indicate the proportion of the property taxes are attributable to the affected area. The Board of Supervisors, in consultation with the boards and the GMs, will then negotiate the property tax transfer. As noted above, all of these parties have indicated that all current property tax revenue would be transferred in whole. The boards will be notified of the results of the tax transfer negotiation and could act to amend or withdraw the application. The tax transfer plan will be included as part of the packet at the first LAFCO hearing on the matter.

LAFCO Hearing Process

Once the application has been submitted to LAFCO, LAFCO will contact the County Auditor, Assessor, and Board of Supervisors as required to ascertain and ensure all of the details of the proposed application, as described above. LAFCO will make an announcement of a first hearing in the local paper of general circulation at least 21 days in advance (GC 56660-56661). According to EO Teixeira, this newspaper would be the *East Bay Times*. This committee asked if the *Kensington Outlook* could also be included and she agreed that additional notice locations are permitted, but they would be unofficial and the responsibility of the districts. Contra Costa LAFCO typically meets monthly on second Wednesdays. At least five days before the hearing, the Executive Officer must prepare a report on the application, including a recommendation on the application, and must give a copy of the report to the affected districts and other local agencies requesting the report. The commission will receive the report from the LAFCO Executive Officer and will hear oral and written protests and evidence, though Executive Officer Teixeira has also indicated that, if both agencies have filed “substantially similar” resolutions requesting the process, then GC56853(a) requires that LAFCO shall approve it. Executive Officer Teixeira has advised that, regardless of whether or not protests are received at the hearing, she will recommend LAFCO hold a protest hearing (she has recommended this course of action in past reorganizations).

Protest process

After this first LAFCO hearing, LAFCO will notice a second (protest) hearing, also at least 21 days in advance. Lou Ann Teixeira indicated that this is typically held at the following month’s LAFCO meeting. LAFCO will accept written protests up until the conclusion of that hearing on LAFCO’s official protest form. If fewer than 25% of registered voters (as of the Nov 2024 election, there are 4,414 registered voters in Kensington, so 25% is ~1,104 voters) or 25% of landowners protest, then the commission will approve and order the reorganization. If between 25% and 50% of voters or landowners protest, then a special election will be called and the outcome will determine if the reorganization proceeds (a simple majority in favor will order the reorganization and a simple majority against will terminate the proceedings). If more than 50% of voters or landowners protest, then the process is terminated.

Note of clarification about “voters or landowners”. In the process, two lists are drawn up. Every protest is either a voter, a landowner, or both. The list of voters protesting is sent to the County Election Board to verify that each protestor is a voter in Kensington. The list of landowners is sent to the County Assessor’s office to verify that person is a landowner in Kensington and what the value of their land is (the landowner list is required to have both 25% of landowners (i.e. the fraction of persons) owning at least 25% of the assessed value of land in Kensington to meet the 25% threshold). If either the voter list or the landowner and assessed value list meets the above thresholds, the threshold is met.

LAFCO Calendar:

Feb 12, March 12, April 9, May 14, June 11, July 9

21 days before:

Jan 22, Feb 19, March 19, April 23, May 21, June 18

KFPD meetings:

Jan 15, Feb 19, March 19, April 16, May 21, June 18

January -

The KPPCSD presents the ad hoc committee's preliminary findings and says:

- 1) We want to get community input scheduling a town hall for Mar 1 and invite the KFPD ad hoc committee to join
- 2) We approve moving forward with a draft resolution for Feb

The KFPD presents the ad hoc committee's preliminary findings and says:

- 1) We accept the invite of the KPPCSD for the town hall
- 2) We would like to pursue a consolidation
- 3) We would like to have legal counsel weigh in on draft resolution language

Feb

KPPCSD: here's draft resolution, get board and public feedback, bring it back in Mar

KFPD: same, but schedule a special meeting?

Mar 1: Town hall

Mar 13: KPPCSD regular meeting