

# NEW BUSINESS

#6 - Discussion for possible adoption an Initiative Ordinance intended to ensure that no action can be taken to disband or eliminate the District's independent police department, or to subcontract, assign or delegate the District's police protection and law enforcement responsibilities, without prior voter approval. Board Action.

## Memorandum

**TO:** Board of Directors  
**FROM:** Michael N. Conneran  
**DATE:** October 1, 2009  
**RE:** Initiative Measure

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As you know, an initiative measure requiring voter approval of any “contracting-out” of police services was submitted to the District on August 27, 2009. Stephanie Fries, the district’s Election Official, has determined that a sufficient number of valid signatures were submitted and that, in all other respects, the petitions have satisfied the requirements of the Elections Code. Therefore, at its meeting on October 8, 2009, or within 10 days after that meeting, the Board, pursuant to Elections Code Section 9310, must decide whether to adopt the ordinance without holding an election or to order that a special election be held.

Should the District decide to call an election, such an election must be held “not less than 88 nor more than 103 days after the date of the order of election.” [Elections Code Section 1405.] Elections must be held on a Tuesday, and can not be held on the day of, or the day after, a state holiday. Therefore, if the election were to be ordered at the meeting of October 8th, it would need to be held on either January 5th (89 days) or January 12th (96 days), as the 19th of January (103 days) falls on the day after a state holiday (Martin Luther King, Jr. Day). However, this gives us little time to prepare the required resolution calling the election, which must be adopted no later than 88 days prior to the election. (The County elections office has requested the opportunity to review any such order before its adoption.) It is therefore suggested that if the Board is inclined to order a special election, that a special meeting be called at which the required documentation to approve the election could be presented. That special meeting must occur within 10 days of October 8th. This would allow the election to be scheduled for January 26th and allow us time to prepare the election resolutions, obtain their approval by the County and adopt them at least 88 days prior to the election date.

The County has also presented an estimate of the costs of holding a special election. According to the County, on 9/23/09, the District has 3,723 registered voters. The County estimates that an election would cost the District \$6.50 per registered voter, or \$24,199.50. A mailed ballot election is estimated to cost \$5.50 or \$20,476.50. I am told that this estimate is somewhat generous, but that in no event would an election likely cost less than \$3.00 per voter.

In case the Board decides to adopt the ordinance on the 8th (or at a follow-up meeting), we have prepared a form ordinance containing the text of the measure for action by the Board.

Date: October 2, 2009

To: Board of Directors

From: Stephanie Fries, District Elections Official

Re: Certification of Initiative Measure

As the Election Official for the Kensington Police Protection and Community Services District ("District"), it is my duty to review and certify the petitions for an initiative measure within the District.

A set of petitions was submitted to this office on August 27, 2009. On June 23, 2009, our office had received a Proof of Publication, indicating that the Notice of Intention to Circulate an Initiative Petition had been published on June 18, 2009 in the *West County Times*, a newspaper of general circulation. In addition, on the same day, we also received an "Affidavit of Posting and Publication" certifying the copies of the Notice of Intention to Circulate an Initiative Petition had been posted in three places within the District.

I submitted the petitions for verification of signatures to the Elections Division of the County Clerk/Recorder's office and have been informed that a sufficient number of valid signatures were submitted to qualify the measure. Therefore, I am certifying to you that the initiative petitions are valid and that the Board is now required, under Elections Code Section 9310, to either adopt the initiative in the form presented to the District or to call a special election, which must be held within 88 to 103 days of its being called. The District's legal counsel has suggested that, in order to provide sufficient time for the election resolutions to be prepared and approved by the County, that any action to call an election be taken at a subsequent meeting, to be held within 10 days of the October 8th meeting.

Sincerely,

Stephanie Fries  
District Secretary

# KENSINGTON POLICE PROTECTION AND COMMUNITY SERVICES DISTRICT

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## BEFORE THE BOARD OF DIRECTORS OF THE KENSINGTON POLICE PROTECTION AND COMMUNITY SERVICES DISTRICT OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA

### Initiative Ordinance

WHEREAS, a set of petitions proposing the adoption of an initiative measure was presented to the District on August 27, 2009; and

WHEREAS, the District's election official has certified that the petition has been signed by a sufficient number of registered voters and in all other respects satisfies the legal requirement for such a measure; and

WHEREAS, under applicable law, the Board of Directors must decide either to adopt the measure in the form presented or call for a special election; and

WHEREAS, the Board of Directors has decided to adopt the measure in the form presented.

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the Kensington Police Protection and Community Services District as follows:

#### Section I FINDINGS AND PURPOSE.

The maintenance of an independent police department staffed by peace officers, including a Chief of Police, employed directly by the District is in the best interests of the District and its residents. This ordinance is intended to ensure that no action can be taken to disband or eliminate the District's independent police department, or to subcontract, assign or delegate the District's police protection and law enforcement responsibilities, without prior voter approval.

#### Section II POLICE PROTECTION AND LAW ENFORCEMENT SERVICES; VOTER APPROVAL.

A. No ordinance by which the District would divest itself of its police protection and law enforcement power shall be adopted by the Board of Directors, and, except as provided in paragraphs B and C of this Section II, no contract or other arrangement between the District and any other agency of government, or non-governmental entity, pursuant to which all or any substantial part of the District's police protection and law enforcement functions would be performed by peace officers employed by the other agency or agencies or entity, shall be executed or become effective for any purpose, unless such ordinance, contract or other arrangement has first been approved by a majority of the votes cast in a duly called and conducted special or general election in which the ordinance, contract or other arrangement is submitted for voter approval.

B. Section II.A. does not apply to contracts or other arrangements for police protection and law enforcement support services such as, but not limited to, communications, information technology, and forensic science services, nor to any contract of employment between the District and any individual peace officer.

C. Section II.A. does not limit the Board's authority in case of emergency to accept temporary assistance from, or provide temporary assistance to, any other police agency pursuant to a contract or other arrangement for such temporary emergency assistance, provided, however, that the financial condition of the District shall not be considered to constitute an emergency.

D. Section II.A. does not limit the District Board's authority to determine appropriate levels of full-time, part-time and reserve staffing for the police department.

**PASSED AND ADOPTED** by the Board of Directors of the Kensington Police Protection and Community Services District at a regular meeting thereof held on the 8<sup>th</sup> day of October, 2009, by the following vote, to wit:

AYES:

\_\_\_\_\_  
Chuck Toombs, President

NOES:

\_\_\_\_\_  
Patricia M. McLaughlin, Vice President

ABSENT:

\_\_\_\_\_  
Bill Wright, Director

\_\_\_\_\_  
Cathie Kosel, Director

\_\_\_\_\_  
John Stein, Director

I HEREBY CERTIFY that the foregoing ordinance was duly and regularly passed and adopted by the Board of Directors of the Kensington Police Protection and Community Services District, at a regular meeting of said Board, held on Thursday, the 8th day of October, 2009.

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District Secretary