



## KNIGHTSEN TOWN COMMUNITY SERVICES DISTRICT (KTCS D)

### REGULAR MEETING MINUTES

Thursday, February 2, 2023

The meeting was called to order at 7:00pm at the Knightsen Garden Club, 3067 Knightsen Avenue, Knightsen, CA.

Members Present: Chairperson Bello-Kunkel, Vice Chair Somerhalder, Treasurer Matteri, Director Caldwell and Director de Fremery.

Members Absent: None.

Audience Members: 38

1. CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE – Chair Bello-Kunkel thanked everyone for coming to the meeting and called the roll. Director Matteri led the pledge of allegiance.

2. APPROVAL OF AGENDA

**It was moved by Director Somerhalder and seconded by Director Matteri to approve the agenda for the February 2, 2023, regular meeting.**

**Motion carried by a vote of 5 – 0. Ayes: Directors Caldwell, de Fremery, Matteri and Somerhalder, Chair Bello-Kunkel; Noes: None; Absent: None; Abstain: None.**

3. PUBLIC COMMENT (3 MINUTES PER SPEAKER) – None.

4. AGENCY REPORTS – REPRESENTATIVE OF THE KNIGHTSEN TOWN ADVISORY COUNCIL (KTAC)

KTAC Council member, Karen Reyna, stated that she was not present at the last KTAC meeting, so she had nothing to report. She encouraged people to attend the KTAC meetings. The next scheduled KTAC meeting date is Tuesday, February 21, 2023.

5. CONSENT CALENDAR

A. Approve minutes of the December 1, 2022, regular meeting.

**It was moved by Director de Fremery and seconded by Director Somerhalder to approve the minutes for the December 1, 2022, regular meeting.**

**Motion carried by a vote of 5 – 0. Ayes: Directors Caldwell, de Fremery, Matteri and Somerhalder, Chair Bello-Kunkel; Noes: None; Absent: None; Abstain: None.**

6. CORRESPONDENCE – Chair Bello-Kunkel asked if anyone present had any questions regarding the correspondence on the agenda. There were no questions.

- A. 12/1/22, email from Olga Hernandez, County Elections, re: certification of election results.
- B. 12/15/22, emails from/to Dawn Morrow, Contra Costa Special Districts Association (CCSDA) re: directory listing.
- C. 12/20, 12/21, 12/27, 12/28, 12/29/22, 1/5/23, emails to/from Mayra Hernandez & Daren Griswold, Walter Mortensen Insurance/INSURICA, re: insurance renewal.
- D. 12/20/22, emails to/from Pauline Sanguinetti, Croce, Sanguinetti and Vander Veen, re: 2021/2022 financial statements.
- E. 12/23/22, 1/4, 1/18, 1/19/23, emails to/from Laura Mandler, Fair Political Practices Commission (FPPC), re: status of FPPC complaint.

- F. 1/16, 1/18/23, emails from/to Knightsen constituent, Lori Abreu, regarding request for special meeting.
- G. 1/19, 1/20/23, emails from/to Olga Hernandez, County Elections, re: 2023 Elected Officials Guide.
- H. 1/20, emails from/to Pauline Sanguinetti, re: 1099 forms needed for 2022.
- I. 1/24/23, email from Eric Akeson, Contra Costa Special Districts Association, re: 30<sup>th</sup> anniversary slideshow.
- J. 1/26, 1/27/23, emails from/to Michael Meyer, California Special Districts Association (CSDA) re: 2023 renewal dues.

7. TREASURER'S REPORT – Treasurer Matteri presented the Treasurer’s report. Chair Bello-Kunkel asked if anyone present had any questions regarding the Treasurer’s report. There were no questions.
  - A. Bills Paid: US Postal Service for 6-month post office box rental fee \$83; Jarvis Fay LLP for legal services \$2,052 & \$76; Insurica for annual district insurance \$2,670.62; and California Special District Association for annual membership fee \$215.
  - B. Checking account balance after above bills paid: \$192,062.65
8. CHAIRPERSON'S REPORT – Chair Bello-Kunkel presented the Chairperson’s report.
  - A. Form 700’s due for 2022 calendar year. Chair Bello-Kunkel noted this is the conflict-of-interest report that board members are required to complete each year.
  - B. KTCSO’s historical timeline and highlights. Chair Bello-Kunkel said copies of the timeline were prepared for the meeting. She said the timeline is a high-level summary. Additional information regarding the timeline was posted in the room for attendees to read before and after the meeting. Chair Bello-Kunkel said the documents include information that the Local Agency Formation Commission (LAFCO) provided to the District, including attorney communications. Chair Bello-Kunkel said the information would be posted on the KTCSO website. She said the information explains where the District has been, what the District has done, what the District has tried to accomplish and where the District is today. She said the documents include important information from LAFCO about the viability of the District.
  - C. Other. None.

9. ITEMS FOR ACTION AND/OR DISCUSSION

- A. Discuss and adopt Resolution 2023-1, A Resolution of Application by the Board of Directors of the Knightsen Town Community Services District requesting the Contra Costa County Local Agency Formation Commission (LAFCO) to dissolve the Knightsen Town Community Services District (AGENDA PACKET).

Chair Bello-Kunkel said copies of the resolution were made available to meeting attendees. Director Caldwell read the resolution aloud.

Chair Bello-Kunkel opened public comment on agenda item 9A.

Discussion:

- Jerry Z. asked whether there have been any reports since the 2002 Feasibility Assessment Report. Chair Bello-Kunkel said there was a stormwater report prepared for the District that was reviewed by the board and community members. That report was nullified and voided because it did not accurately describe how water flows. That stormwater report was initiated by the District in January 2017 and nullified in February 2020.

Jerry Z. asked when it was determined that “the majority of Knightsen residents do not have significant drainage or flood control problems.” Chair Bello-Kunkel said that was determined by talking to residents, and the District conducted a survey in September 2021, that asked people whether they have a flooding problem.

Jerry Z. asked if the survey was sent out to everyone. Chair Bello-Kunkel said the survey was sent to every voter and every parcel owner if they were not registered to vote in Knightsen. Jerry Z. said he never received the survey. Chair Bello-Kunkel and Director de Fremery responded that Jerry Z. was sent a survey.

Jerry Z. noted the survey was sent out before the latest rain event this Winter. There was discussion about the source of flooding. Chair Bello-Kunkel noted that some problems were caused by water discharging from irrigation district facilities. Jerry Z. said that was not the case on his property or on Eagle Lane.

Carolynne S. said she lives on Eagle Lane and a neighbor had water come from an irrigation district canal that flooded their property. Jerry Z. said water was coming down the ditch along Byron Highway and it backed up. Carolynne S. said she observed water flowing from the irrigation district canal onto her neighbor’s property and down along the railroad tracks. Chair Bello-Kunkel said that several people observed water coming from irrigation district facilities in the same way it was reported in 1998 when there was a lawsuit against the irrigation district and County Public Works. Carolynne S. said the Eagle Lane irrigation ditch collapsed and water diverted to the East Bay Regional Parks property and caused water to back up on Delta Road.

Jerry Z. asked how the resolution can say no one complained about flooding. Chair Bello-Kunkel said the resolution does not say no one complained, it says that a “majority” of Knightsen residents do not believe there is a flooding problem. She said that doing enhanced drainage projects would not benefit the community as a whole.

Jerry Z. said that Chair Bello-Kunkel did not live in Knightsen in 1998. Chair Bello-Kunkel said she has family who lived here then. Jerry Z. said Chair Bello-Kunkel did not live in Knightsen when Curlew Connex flooded. Chair Bello-Kunkel said that happened in 1983 and at a previous meeting, a member of community explained how that event occurred.

Jerry Z. said he understood the District was formed to control flood water in Knightsen. Chair Bello-Kunkel said the District was formed to provide enhanced drainage, not to take over County’s responsibilities. She said the District looked at proposed projects and determined that the community does not have the financial resources to do the projects, and also determined the projects would not provide sufficient benefit to the community.

Jerry Z. said the board never intended to do flood control projects. Director Caldwell said the board looked at the proposed projects very carefully and evaluated what the District could do and realized the District does not have the necessary funding resources. He said the District’s survey revealed that only one respondent was willing to spend the money necessary.

Jerry Z. asked whether the District could contact the County and get them to clean the ditches. Chair Bello-Kunkel said it is not the role of the District, or a justification for the District’s existence to “watch dog” the County. The County has a mobile app that residents can use to report problems and she suggested that residents use the app to report them.

- A meeting attendee asked what the survey response rate was. Chair Bello-Kunkel said there were 101 respondents out of over 1,000 surveys sent out. The attendee said he has heard that people did not receive the survey. Director Caldwell said everyone on the list was sent a survey. Who actually received the survey is unknown. The attendee said that is less than a 10% response rate. Director Caldwell said that response rate was three times better than the response rate the Knightsen school district had on a survey they conducted.

Chair Bello-Kunkel said it is unfortunate more people didn't respond to the survey, and it is also unfortunate that so few people typically attend KTCSD meetings. She pointed out that the survey results regarding willingness to fund the District and the Measure R election results almost matched. There was only a 1% difference between the survey results and the election results.

Karen R. said it is unfortunate that only about five specific people regularly attend KTCSD meetings. Most people don't seem to care.

- A meeting attendee asked what the District was formed to do and what board members think their responsibilities are. Chair Bello-Kunkel said the District was formed to provide enhanced flood control and water quality. The District was not formed to replace any County services. The District evaluated the feasibility of doing projects to provide enhanced benefits and realized costs exceeded the community's ability to fund them to construct and maintain.

The attendee asked about the District's financial records. Chair Bello-Kunkel said all that information is on the District's website.

Director Somerhalder said that when the District was established many people, including himself, thought it would prevent Oakley and Brentwood from annexing Knightsen and that's why people wanted the District. The District does not have the power to do that.

- Lori A. asked whether the District decided to dissolve before the studies were done. Chair Bello-Kunkel said the prior board hired a consultant (ESA) to do a \$50,000 study. When the current board took office the number one priority was to receive the overdue study results. The current board forced ESA to satisfy their contractual obligations and complete the study. Dissolution was not discussed until after the study was received and the District reviewed all the proposed projects.

Lori A. said her property doesn't flood and her neighbors' properties don't flood, but she is concerned about properties that do flood. She said the District doesn't do any reports to track water except water from the irrigation district. She said the District did a feasibility study that gives a board member \$250,000 and an assistant \$50,000. Director Matteri asked what Lori A. was referring to? Lori A. said those numbers are in the District's feasibility study. Paul K. said that Lori A. misquoted the feasibility study. He said the study estimated the manager's pay would be \$100,000. Lori A. asked why the District would need to pay a manager. Paul K. said to have a District that actually operated, there would need to be paid staff.

Chair Bello-Kunkel suggested that Lori A. re-read the feasibility study. Lori A. asked why the District would need a \$100,000 manager and an assistant. She said the CSD has never had those employees. Chair Bello-Kunkel said a functioning CSD would need a general manager and a manager would cost money. She said Bethel Island has a small district and their manager is compensated \$180,000 and there are other employees as well.

Chair Bello-Kunkel suggested that Lori A. also look at salaries that are paid to employees in the Discovery Bay CSD. Lori A. said the community's "culture" has always been to use volunteers. She questioned salary numbers for employees that have never existed. Chair Bello-Kunkel said the company that did the feasibility study, SCI, has 35 years' experience doing these studies. They were hired to help the District

identify costs to operate a functioning district. Chair Bello-Kunkel said you cannot rely on volunteers to operate a functioning district.

Lori A. said it is unfair to attribute flooding to the irrigation district. Chair Bello-Kunkel said that water emanating from irrigation district facilities has been reported and observed.

Lori A. said that the CSD in the past has made mistakes. She said East Bay Regional Parks District is a partner that is willing to take the community's water. She said the parks district pumped water while the CSD did nothing. Chair Bello-Kunkel said the CSD does not have a discharge permit.

- Frank D. asked how it was determined that a "majority" of Knightsen residents don't have significant drainage or flood control problems. Chair Bello-Kunkel said that was determined by the number of parcels and where those parcels are located. She said it was also determined from the survey results. Frank D. asked what is a "majority." Chair Bello-Kunkel said a majority is over 50%. She said that drainage problems are localized.
- Carolynne S. noted that the CSD can only address drainage issues on public property. The District cannot rent pumps and go onto private property to pump water, besides, where would the water be pumped to? Karen R. said it is illegal to pump water from your property onto someone else's property. Carolynne S. said renting pumps is out of the question, plus if a pump was provided to one property wouldn't the District have to provide pumps to all 600 properties? She said that provisioning pumps for private individuals would present a liability issue. She said Knightsen residents are the CSD. If there is a legal issue and a person decides to sue, they are suing the rest of us. The County owns the ditches and has liability. If the District enhanced the ditches, the community assumes the liability. The community should not put this liability on themselves. Carolynne S. said the latest rainfall event happened everywhere. Even major cities had problems.

Chair Bello-Kunkel noted that the District has copies of internal County communications that show that when the District was formed, shifting liability from the County to the community was a factor in the County's decision to form the District.

Carolynne S. said she has attended every meeting and the current board has done a wonderful job guiding the community through the process and getting input from the community. However, she said that if the District had done projects, she would not want a volunteer board responsible for operating and maintaining multi-million-dollar projects. Someone who has the required knowledge would need to be hired.

Carolynne S. said it would not have made sense to build improvements along Byron Highway when it is known that the County has road improvement projects planned that would have torn out and replaced those improvements. Another attendee commented that those improvements may not happen for decades.

- Director Caldwell said that the community should take the lead as a "watchdog" to ensure the County does what they are supposed to do. We don't need is a governmental agency with thousands of dollars of administrative overhead to perform that role. We have political clout as private individuals working together.

Chair Bello-Kunkel said this role should be assumed by KTAC since they are supposed to represent the community's interests in an advisory capacity to the County.

Directory Caldwell said the community should determine who serves on KTAC.

- Barbara D. said there is not enough money from parcel owners to sustain the District. She said it is second grade math to add up the costs and the revenues.

- A meeting attendee asked for more information about the studies that were done and who held the consultants accountable. Chair Bello-Kunkel explained that the 2002 study was done before the District was formed to put together a business case for the District. Another study was not commissioned until 2017. That study was flawed.

Director Somerhalder said that when the community and the board prepared a lengthy response to the study, the consultant wanted another \$50,000 to correct the study. The board sealed the report and declared it null and void, because of the problems with the report and because the consultant was starting to reference it for other studies. Chair Bello-Kunkel said the board has the interests of the community in mind. There are only 602 parcels, under 1,600 population and little population growth. The board does not want to bankrupt the community.

The meeting attendee asked for clarification about the County removing improvements constructed by the District. Chair Bello-Kunkel explained that the County has a plan for road improvements including Byron Highway and Delta Road where the consultant proposed that the District implement drainage improvements. County Public Works said that when they improve the roads they would remove and replace those improvements. Chair Bello-Kunkel said it didn't make sense for the taxpayers of Knightsen to pay for culverts that the County was later going to remove and replace. Why should the community of Knightsen pay for roads to be widened so that outside traffic can be added to our roadways?

- Al B. said that many of the properties that flood are at low elevations were sold at very low prices because people knew they had flooding problems. People bought these inexpensive properties and now they want the rest of Knightsen, 90%, to pay for drainage improvements for these properties.

Al B. said that regarding past flooding at Curlew Connex, that happened because of water that came from an irrigation district standpipe. He said that water originated in the Brentwood area.

- Chester H. said he moved to Knightsen in 2008 and started attending meetings. He said that a prior board had received a proposal from an engineering firm that if the District approved giving them a contract, they would arrange financing. They never produced a feasibility analysis. Chester H. said one year he received his tax bill and saw the KTCSO tax had increased. He thought that was unusual because he hadn't heard anything about it, and he hadn't voted for a tax increase. When he asked about the tax increase, the board said they increased the tax, "because we can." From that point on, he said he has not been in favor of the CSD.
- A meeting attendee said he understands that the board cannot afford to do improvements, but going forward what is the District's responsibility? Chair Bello-Kunkel said the board is seeking to dissolve the District. She said that since the District was created, \$496,000 has been collected, yet the District cannot afford to do anything that will benefit the community. She said that in the past, District meeting attendance has peaked when the District discussed the tax. People have made it clear that they don't want to pay the tax.

The KTCSO special tax was repealed so that if the District dissolves, the County cannot take over the tax. In 2020, the District sought to dissolve after completing the review of proposed projects and realizing that the District could not afford the projects. The County said they would be able to continue the tax. The District withdrew the application to dissolve and then did a survey. The survey showed that people did not want to pay the taxes necessary to fund projects. With the tax now repealed any successor agency will not have the ability to reinstate the tax. With the tax repealed, conditions for dissolution have been met.

- Maria J. asked about other CSD's in the area. Chair Bello-Kunkel said there are CSD's throughout the State that do different things. Maria J. asked whether it is possible for KTCSO to pivot and do something different. Chair Bello-Kunkel said the problem remains the cost of operating a district. She said the District did look at other options, but the problem remains the administrative costs of operating a CSD.

Maria J. asked what the administrative costs are. Chair Bello-Kunkel said, a general manager with the necessary skills, a clerk or staff person, operation of a website, annual audit, attorney fees, insurance, etc.

Maria J. asked about the past tax rates. There was discussion about the tax having been \$50 per developed parcel, but that was not the maximum tax authorization. Chair Bello-Kunkel said that previously, the maximum tax amount did not generate enough revenue to provide enough funding for the District to do anything.

Carolynne S. said the District does not have the ability to pivot to another function. The District was established for flood and water quality. If the community wants another CSD to do something else, it needs to go to the voters and the voters need to approve it.

- Lori A. asked what happens to the District's remaining funds when the District dissolves. Chair Bello-Kunkel said there are still bills to pay until dissolution is completed. She said that legally, any funds remaining must be used to serve the community. Chair Bello-Kunkel said a successor agency will be assigned and they will have to use the money for the purpose it was collected. It is unlikely that much will be accomplished with the limited funds turned over to the County. Director Caldwell pointed out that when the District sought to dissolve in 2020, and Public Works was assigned as successor agency, they proposed to spend thousands of dollars on administrative costs to be the successor agency.

Gail M. said she doesn't want any money to go to the County.

Carolynne S. said that in 2020, the KTCSO board proposed that any remaining funds be refunded to property owners, but the County would not allow that to happen.

- Barr E. said he has lived in Knightsen for 35 years. He thanked the board for their hard work and thanked everyone for coming to the meeting regardless of whether they are for or against dissolution. He said when he first came to Knightsen the community was known for being a very small community with a very loud voice and the County listened. He said if people want to make a difference, they need to attend meetings.
- A meeting attendee said he recently moved to Knightsen and asked about how to volunteer. It was suggested that the meeting attendee discuss volunteer opportunities with KTAC. Chair Bello-Kunkel said KTAC has used volunteers for garbage collection and downtown beautification.

The meeting attendee asked how soon dissolution will happen. Chair Bello-Kunkel said that LAFCO will hold a public hearing and they will make the decision on dissolution. Originally KTCSO had sought to have both dissolution and the repeal of the tax on the ballot. LAFCO said only LAFCO has the power to dissolve the District. A lower court judge agreed to have the dissolution on the ballot, but the appeals court sided with LAFCO. Chair Bello-Kunkel said she understands it will be 4-5 months before there is a public hearing which will take place in Martinez. She said she didn't know if it will be a hybrid in-person and remote access hearing, or whether it will only be held in-person.

Someone asked who is on the LAFCO board. Chair Bello-Kunkel said there are representatives from the County, cities, and special districts.

- A meeting attendee asked what the impacts will be when the District dissolves. Chair Bello-Kunkel said since the District has provided no services, has no facilities and has no debt, there is no impact.

**It was moved by Director Somerhalder and seconded by Chair Bello-Kunkel to approve Resolution 2023-1.**

**Motion carried by a vote of 5 – 0. Ayes: Directors Caldwell, de Fremery, Matteri and Somerhalder, Chair Bello-Kunkel; Noes: None; Absent: None; Abstain: None.**

- B. Discuss and take action regarding continuing the practice of sending a KTCSO representative to Knightsen Town Advisory Council (KTAC) meetings.

Chair Bello-Kunkel said that KTCSO began sending a representative to KTAC meetings and KTAC began sending a representative to KTCSO meetings when a resident suggested it. However, since the District will now be seeking to dissolve and there won't be any activities, she suggested no longer sending a KTCSO representative to KTAC meetings.

**It was moved by Chair Bello-Kunkel and seconded by Director Caldwell to discontinue sending a KTCSO representative to KTAC meetings.**

**Motion carried by a vote of 5 – 0. Ayes: Directors Caldwell, de Fremery, Matteri and Somerhalder, Chair Bello-Kunkel; Noes: None; Absent: None; Abstain: None.**

- C. Election of officers for 2023: Chairperson, Vice Chair and Treasurer.

Chair Bello-Kunkel said officers are elected every year. She proposed that since the District is going through the dissolution process, the current officers be retained for 2023. All three officers expressed a willingness to retain their offices.

**It was moved by Director de Fremery and seconded by Director Somerhalder to reappoint Director Bello-Kunkel as Chairperson, Director Somerhalder as Vice Chair and Director Matteri as Treasurer for 2023.**

**Motion carried by a vote of 5 – 0. Ayes: Directors Caldwell, de Fremery, Matteri and Somerhalder, Chair Bello-Kunkel; Noes: None; Absent: None; Abstain: None.**

- 10. FUTURE AGENDA ITEMS – Chair Bello-Kunkel said the only future agenda item is to adopt a budget for fiscal year 2023-2024 since the District will likely remain in existence into the next fiscal year.

11. ADJOURNMENT

- A. The next scheduled regular meeting: TBD.

**It was moved by Director Caldwell and seconded by Director Matteri to adjourn the February 2, 2023, regular meeting.**

**Motion carried by a vote of 5 – 0. Ayes: Directors Caldwell, de Fremery, Matteri and Somerhalder, Chair Bello-Kunkel; Noes: None; Absent: None; Abstain: None.**

The meeting adjourned at 8:35pm.