



Livermore Area  
Recreation and Park District  
*An independent special district*

**LIVERMORE AREA RECREATION AND PARK DISTRICT  
SPECIAL MEETING of the BOARD OF DIRECTORS**

**DRAFT MINUTES**

**FRIDAY, SEPTEMBER 1, 2023**

**1:00 p.m.**

**ROBERT LIVERMORE COMMUNITY CENTER  
4444 East Avenue, Livermore, California  
Sycamore Room**

**DIRECTORS PRESENT:** Directors Jan Palajac, Philip Pierpont  
Vice Chair David Furst, Chair James Boswell

**DIRECTORS ABSENT:** Director Maryalice Faltings

**STAFF MEMBERS PRESENT:** Mathew Fuzie, Linda VanBuskirk

**OTHERS PRESENT:** None

**1. CALL TO ORDER – ROLL CALL – PLEDGE OF ALLEGIANCE:**

Chair Boswell called the meeting to order at 1:05 p.m. All Directors were present, except Maryalice Faltings. Chair Boswell led the Pledge of Allegiance.

**2. PUBLIC COMMENT:** None.

**3. REQUEST FOR PROPOSALS FOR PROFESSIONAL LEGAL SERVICES**

The Board reviewed a draft Request for Proposals (RFP) for Professional Legal Services. An Ad Hoc Committee consisting of Directors Palajac and Pierpont was created to collaborate with Staff to develop this proposal. Board members expressed positive views, with Director Furst commending the thoroughness of the proposal and expressing readiness to proceed. Director Palajac had a question about the previous attorney's contract but had no comments on the RFP. Director Pierpont mentioned that concerns were addressed during the proposal's development. Chair Boswell thanked the Ad Hoc Committee for their work and praised the document's comprehensiveness. Some Board members, who had attended the CSDA Annual Conference in August, noted the interest of several law firms there and expressed confidence in the proposal's ability to fulfill their needs for the RFP.

**MOTION:**

Moved by Director Pierpont, seconded by Director Boswell, approved the Request for Proposals for Professional Legal Services, and directed the General Manager to distribute the final version, by the following roll call vote:

AYES: *Directors Furst, Palajac, Pierpont, and Chair Boswell (4)*  
NOES: *None (0)*  
ABSTENTIONS: *None (0)*  
ABSENT: *Director Faltings (1)*

**4. AGREEMENT BETWEEN LIVERMORE AREA RECREATION AND PARK DISTRICT AND COLANTUONO, HIGHSMITH & WHATLEY, PC FOR LEGAL COUNSEL SERVICES**

The Board reviewed and provided input on a draft interim agreement between LARPD and Colantuono, Highsmith & Whatley, PC, for Legal Counsel Services. General Manager Fuzie presented the draft agreement and led a discussion which highlighted several revisions:

1. Page 1, Item III. Administrator of Agreement: "for and on behalf of the Board of Directors" was added.
2. Page 2, Item VI Compensation and Manner of Payment at C: It was suggested to remove "in arrears" and add "Board of Directors" instead of "general manager" in the last sentence.
3. BSM Schneider had suggested a termination clause, which allows termination of the agreement by written notice to legal counsel 30 days before the termination date.
4. On page 6, XVII Equal Opportunity: Questions were raised about the use of the word "creed" and suggestions were made to consider including "sexual orientation" and "identity" and using more modern language.
5. Further discussion ensued about the use of the word "color" in the Equal Opportunity section.
6. In Exhibit A, Scope of Services: It was recommended that the law firm should provide a timeframe for written updates on pending and recently signed federal, state, and local legislation.
7. Questions were raised about records retention management with a query about how to transfer LARPD's documents from Neumiller & Beardslee over to Colantuono, Highsmith & Whatley's office.

GM Fuzie proposed that the Board could approve the resolution pending these suggested changes and their subsequent approval. Alternatively, they could wait for the changes to be made, but this would necessitate another meeting. Fuzie recommended having a conversation with the law firm to address these concerns and report back to the Board, potentially allowing for the agreement's signing in the next meeting. The decision would depend on the outcome of this conversation.

**RESOLUTION:**

Moved by Director Furst, seconded by Director Palajac, adopted Resolution No. 2794 authorizing the General Manager to enter into an agreement with Colantuono, Highsmith & Whatley, PC for Legal Counsel Services pending identified changes to be rectified, by the following roll call vote:

AYES: *Directors Pierpont, Palajac, Furst, and Chair Boswell (4)*  
NOES: *None (0)*  
ABSTENTIONS: *None (0)*  
ABSENT: *Director Faltings (1)*

**5. BOARD LETTER IN SUPPORT FOR ASSEMBLY CONSTITUTIONAL AMENDMENT 13**

The Board reviewed information provided by the California Special Districts Association (CSDA) and a draft letter in support of Assembly Constitutional Amendment (ACA) 13. ACA 13 aims to protect local control and communities throughout California by preserving the majority vote, preventing a smaller percentage of statewide voters from overruling local decisions on various essential services (water, parks, health, public safety) and infrastructure matters.

GM Fuzie expressed that ACA 13 had come to his attention recently and discussed its potential impact on the District's ability to raise revenue and provide services. He explained that the opposing California Business Roundtable (CBRT)-sponsored item could limit LARPD's ability to charge fees above the cost of providing certain programs and services. While not offering a specific recommendation, he expressed concerns about the potential consequences of ACA 13 not passing.

Chair Boswell shared insights from conversations with Marcus Detwiler, Legislative Analyst with CSDA, who clarified the intent of ACA 13 was to prevent another bill from passing that could restrict the District's ability to raise revenue. He explained that ACA 13 would require a two-thirds majority vote on the other bill, effectively stopping it from passing and safeguarding the District's revenue streams. Director Pierpont expressed concerns about ACA 13 forcing the District into accounting games to calculate costs for services and programs, potentially making them less affordable. He emphasized the importance of providing services to the community without getting tied up in accounting complexities. Director Palajac echoed the concerns about the impact on subsidized classes and services, emphasizing the District's mission to offer affordable programs. Chair Boswell agreed with Director Pierpont's perspective, expressing frustration about needing ACA 13 to prevent the negative effects of another unrelated bill. Director Furst had no further comments.

**RESOLUTION:**

Moved by Director Palajac, seconded by Director Furst, adopted Resolution No. 2795 authorizing the Board Chair to sign a letter on behalf of the Board of Directors of the Livermore Area Recreation and Park District to the California State Assembly in support of Assembly Constitutional Amendment (ACA) 13, by the following roll call vote:

AYES: *Directors Pierpont, Furst, Palajac, and Chair Boswell (4)*  
NOES: *None (0)*  
ABSTENTIONS: *None (0)*  
ABSENT: *Director Faltings (1)*

**6. ADJOURNMENT:** Chair Boswell adjourned the meeting at 2:19 p.m.

APPROVED,

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James E. Boswell  
Chair, Board of Directors

ATTEST:

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Mathew L. Fuzie  
General Manager and  
Ex-officio Clerk to the Board of Directors

/Lvb