

**EAST CONTRA COSTA FIRE PROTECTION DISTRICT
BOARD OF DIRECTORS**

Meeting Date: January 13, 2021

Subject/Title: Adopt Resolution to Authorize the Incorporation of Sworn Peace Officers Into the Fire Prevention Bureau of the East Contra Costa Fire Protection District

Submitted by: Steve Aubert, Fire Marshal

RECOMMENDATION FOR ACTION

Adopt resolution to authorize the incorporation of sworn peace officers into the Fire Prevention Bureau of the East Contra Costa Fire Protection District (District).

STRATEGIC INITIATIVE

East Contra Costa Fire Protection District Strategic Plan 2019-2023 and Implementation Action Plan (IAP):

- Goal B – Reduce response times for emergency services throughout the District.

PRIOR BOARD ACTION

At the December 12, 2018 Board of Directors meeting, the Board adopted Resolution 2018-45 authorizing the creation of the Fire Marshal position for the District.

At the August 14, 2019 Board of Directors meeting, the Board adopted Resolution 2019-31 authorizing the addition of, among other positions, the Deputy Fire Marshal and Inspector positions to the International Association of Fire Fighters (IAFF) Local 1230 and the District.

SUBJECT BACKGROUND

Staff requests authority to confer peace officer status upon the Fire Marshal, Deputy Fire Marshal, and Fire Investigators for the District, subject to state-required training and certifications.

Under California Government Code section 830.37, subd. (a)-(b), a peace officer includes any member of an arson-investigating unit with a county fire department or district, “if the primary duty of these peace officers is the detection and apprehension of persons who have violated any fire law or committed insurance fraud,” or any member outside of an arson-investigating unit “if the primary duty of these peace officers...is the enforcement of laws relating to fire prevention or fire suppression.”

On November 1, 2018, the Contra Costa County Fire Protection District (CCCFPD) ceased providing fire prevention services in District’s jurisdiction. Since then, there have been no Fire Investigators with peace officer authority in the District’s service area. The three police agencies of Brentwood Police, Oakley Police and the Contra Costa County Sheriff’s Office currently do not have the requisite certifications to determine the cause and origin of fires or explosions. Because of the large service area of the District and the significant police and sheriff’s response times for non-emergencies in the District’s unincorporated areas, District Fire Investigators have been unable to apprehend or detain individuals suspected of violating fire laws. Conferring peace officer status upon qualifying members of the Fire Prevention Bureau will greatly improve the District’s operational readiness and overall responsiveness to fire investigations on behalf of the residents of East Contra Costa County.

1. Safety and Training Requirements for Peace Officers

All California law enforcement personnel are required to attend Peace Officer Standards and Training (POST) and maintain active status through ongoing refresher training.

The Penal Code 832 Arrest and Firearms Course (PC 832 Course) is the minimum training standard for California peace officers, as specified in Title 11 California Code of Regulations section 1005. The PC 832 course consists of two components, which total a minimum of 64 hours. The Arrest component has a 40-hour requirement; the Firearms component has a 24-hour requirement. Certified peace officers will be required to carry a District-issued firearm while on duty.

Fire Investigators transferring into to the District with peace officer status will need to maintain their active status. An individual who has let their peace officer status lapse may be required to “requalify” prior to exercising peace officer powers if they: (a) have not been employed as a California peace officer within three (3) years of the course completion date, or (b) have a three-year or longer break in service as a California peace officer.

Continued Professional Training (CPT) is also required for certain peace officer personnel who are employed by POST-participating departments. Every peace officer must satisfactorily complete the CPT requirement of 24 or more hours of POST-qualifying training during every two-year CPT cycle, based on the statewide CPT Anniversary Date of January 1st. Further, every peace officer whose primary duties are investigative shall complete, within 12 months from the date of appointment, the Regular Basic Course or the Specialized Investigators’ Basic Course.¹ The above-referenced training requirements under PC 832 and the Continued Professional Training will ensure that the District’s Prevention peace officer employees can maintain individual operational readiness and broad program effectiveness.

2. Costs

The tables below reflects the estimated one-time costs for equipment required for each peace officer, and non-recurring costs related to peace officer training and skills maintenance.

PEACE OFFICER EQUIPMENT	ONE-TIME COSTS
Glock G35 Gen4	\$ 500
Exterior Carrier with Body Plates x2	\$ 1,800
Under Belt	\$ 23
Duty Belt	\$ 110
Magazine Pouch	\$ 40
Handcuffs x2	\$ 140
Handcuff Key	\$ 16
Handcuff Holder	\$ 30
Tourniquet	\$ 30
ASP Baton	\$ 140
Weapons Holster	\$ 200
At-Home Gun Safe	\$ 250

¹ Cal. Code Regs. tit. 11, § 1005(b)(3).

Associated Pouches	\$ 200
GRAND TOTAL	\$ 3,479

TRAINING & MISCELLANEOUS	RECURRING COSTS
Weapons Qualification	\$ 4,000
Gun Range Training (every 1 year)	\$ 1,920
Advanced Officer Training (every 2 years)	\$ 2,500
Perishable skills (every 5 years)	\$ 4,000
GRAND TOTAL	\$ 12,420

The District is insured by Contra Costa County Risk Management. Staff has confirmed that there will be no increase to annual insurance premiums solely as a result of introducing peace officers to the District. As a current participant in the County's insurance program, any claims arising from peace officer liability would be investigated and settled in accordance with the District's existing insurance policy.

3. Labor Considerations

Conferring peace officer status upon Prevention employees would make them eligible for rights and protections under the Peace Officers' Bill of Rights (POBR), in addition to the rights and protections afforded to employees under the Firefighters Bill of Rights. The District will need to meet and confer with Local 1230 regarding relevant POBR protections that may be implicated by the inclusion of peace officers into the District. Specifically, Sections 5.12 (Fire Investigations Unit), 5.17 (Training and Prevention Differential), 21 (Grievance Procedure), and 33 (Employee Representation Rights) of the District's 2020-2023 Memorandum of Understanding with IAFF Local 1230 will need to be discussed. A Side Letter Agreement may be needed for any substantive changes.

All peace officer candidates are also required to undergo a Peace Officer Psychological Evaluation (POPE) to ensure that a candidate is free from any emotional or mental condition that might adversely affect the exercise of their powers as a peace officer. The District must require that new and existing Prevention employees desiring to obtain peace officer status submit to a Peace Officer Psychological Evaluation (POPE), consistent with POST certification requirements. This requirement will be written into the Minimum Qualifications for the applicable positions.

4. Policy Updates

Upon approval to incorporate sworn peace officers into the Fire Prevention Bureau of the District, Staff will create and/or update the following policies and administrative guidelines:

- Create an Administrative Bulletin explaining Government Code section 1031 expectations and requirements for peace officers employed by the District;
- Create an Administrative Bulletin outlining District procedures for leaving a handgun in a District or personal vehicle;
- Create a Safety Bulletin for all employees regarding safely securing a firearm in one's home, consistent with California Department of Justice recommendations; and

- Create an ECCFPD Weapons and Use of Force Policy.

5. Recommendation

Staff recommends that the Board authorize the District to allow interested Fire Prevention employees willing to complete state-required training and maintain active certification to become sworn peace officers in the furtherance of their duties to the District.

Attachments: Resolution

**EAST CONTRA COSTA FIRE PROTECTION DISTRICT
BOARD OF DIRECTORS
STATE OF CALIFORNIA**

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RESOLUTION NO. 2021-

AUTHORIZING THE INCORPORATION OF SWORN PEACE OFFICERS INTO THE FIRE PREVENTION BUREAU OF THE EAST CONTRA COSTA FIRE PROTECTION DISTRICT

WHEREAS, at its December 12, 2018 Board of Directors meeting, the Board adopted Resolution 2018-45 authorizing the creation of the Fire Marshal position for the East Contra Costa Fire Protection District (District); and

WHEREAS, at its August 14, 2019 Board of Directors meeting, the Board adopted Resolution 2019-31 authorizing the addition of the Deputy Fire Marshal and Inspector positions to the District's Memorandum of Understanding with the International Association of Firefighters, Local 1230, to create a fully-staffed Fire Prevention Bureau for the District; and

WHEREAS, members of the ECCFPD Fire Prevention Bureau lack legal status as "peace officers," which is required for them to arrest or detain suspects for fire-related crimes, collect evidence for possible criminal prosecution, summon witnesses or compel the production of relevant documents during the course of fire investigations; and

WHEREAS, the City of Brentwood Police Department, City of Oakley Police Department and the Contra Costa County Sheriff's Office, which serve as the law enforcement agencies within the District's service area, currently do not have the requisite certifications to determine the cause and origin of fires and or explosions; and

WHEREAS, conferring peace officer status upon the District's Fire Prevention employees who have completed state-required training and certifications will allow them to carry firearms in the execution of their duties, arrest or detain suspects for violating fire safety laws, and better serve the residents of East Contra Costa County during the course of fire investigations; and

WHEREAS, conferring peace officer status upon the District's Fire Prevention employees will serve the public interest by giving the employees all reasonable powers necessary to investigate and determine the origin of fires within the District.

NOW, THEREFORE BE IT RESOLVED that the East Contra Costa Fire Protection District Board of Directors does hereby authorize the Fire Marshal to take all actions necessary to train, certify, and equip employees in the Fire Prevention Bureau to become sworn peace officers pursuant to California Government Code section 830.37.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the East Contra Costa Fire Protection District at a regular meeting held on the 13th day of January, 2021 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Brian J. Oftedal
President, Board of Directors

ATTEST:

Regina Rubier
Clerk of the Board