

Future of EPSCA Summit

Friday September 27, 2019

Time: 1:00 – 4:00 PM **Location:** Redmond City Hall

Invitees: CEOs of the Five EPSCA Principals

Staff: Scott Hatfield, EPSCA Exec. Director Karen Reed, Consultant

Summit Objectives:

- *Review a set of options for EPSCA's future as the PSERN Operator assumes responsibilities for EPSCA's functions in the near future, but there is ongoing responsibility of the EPSCA Principals to appoint a Member to the PSERN Operator Board of Directors.*
- *Provide direction on a preferred option for EPSCA's future.*
- *Provide initial input on some of the issues that will be involved in any transition of EPSCA.*
- *Agree upon next steps*

Proposed Agenda

1. Welcome and Introductions (3 min.)
 2. Review of Meeting Purpose, Agenda (3 min.)
 3. Context for Today's Discussion (30 min.)
 - a. EPSCA and PSERN: Overview
 - b. PSERN Timeline as it relates to the future of EPSCA
 - c. Draft PSERN Operating Period ILA issues as it relates to EPSCA, EPSCA Principals
 - d. EPSCA ILA issues relevant to future of EPSCA
 4. *Discussion:* EPSCA Board Values & Interests (25 min.)
 - a. Thinking about the **future of PSERN**, what are the primary interests of your jurisdiction?
 5. *Review & Discussion* of Options for the Future of EPSCA (45 min.)
 - Can we reach consensus today on a preferred option? If not, what additional work is needed? If so, what is the preferred option?
 - Preferred timeline for implementing the preferred option?
- break (10 min.)--
6. *Review & Discussion:* Governance and Operating Issues to be Resolved (45 min.)
 7. Next Steps: Direction from group, timing. (15 min.)
 8. Adjourn

Overview: EPSCA and PSERN

September 2019

EPSCA – The **Eastside Public Safety Communications Agency** is one of four owners of the current emergency radio communications system in King County (the other three are ValleyCom, Seattle, and King County). EPSCA is formed as a separate nonprofit corporation whose members are the five cities of Bellevue, Issaquah, Kirkland, Mercer Island and Redmond (the “Principals”). EPSCA was originally formed by Interlocal Agreement (ILA) between Bellevue, Kirkland Mercer Island and Redmond in 1992; Issaquah joined in 1993.

EPSCA’s primary responsibilities are to maintain the 800 MHz radio system in the north and east King County area, and to maintain the handheld radio sets and public safety dispatch consoles that communicate via that system. The EPSCA portion of the 800 MHz system is interoperable with the Seattle, County and ValleyCom portions, but maintenance decisions are separately controlled by the four owners.

The current system was initially funded by a 1993 county wide property tax levy.

Governance: Each of the five Principals has a seat on the Executive Board which has all final decision making authority on policy issues and oversees the work of the Executive Director. The Board strives to operate by consensus. Routine decisions require a simple majority vote. Major decisions (including adopting the budget; acquiring assets valued at over \$0.5M; admitting new Principals; appointing or removing the Executive Director; most amendments to the EPSCA ILA; amending the bylaws; and terminating, dissolving, consolidating or merging the Agency all require an 80% weighted vote of the Principals. Each Principals’ weighted vote is based on the relative number of system 800MHz radios used by the Principal as compared to all five Principals. Current Executive Board Members are:

Bellevue – Brad Miyake
Issaquah - ?
Kirkland – Kurt Triplett
Mercer Island – Jessi Bon (interim)
Redmond – John Marchione

EPSCA also has an Operations Committee composed of Police and Fire Chiefs from the Principals, or their designees. The Operations Committee is advisory to the Executive Board.

Service Area: EPSCA serves the north and east King County area.

Customers: EPSCA has 32 customers, including a wide range of local governments and others with needs to communicate over the 800 MHz system (for example, school districts and private ambulance carriers). A list of EPSCA’s customers is provided at Attachment A.

Finance: EPSCA’s primary source of revenue is user fees on the 800 MHz radios. The 2019 budget is \$802,942.

Employees: EPSCA has 1 loaned employee (Kale Fong), and 2 contract employees (Mark Hagreen and Scott Hatfield)

Facilities: EPCA has 7 cell towers and 10 radios. It owns no real property: all cell towers are placed on leased property from a combination of local municipalities, and commercial vendors. The 2723 Mobile and Portable 800 MHz radios maintained by EPSCA are the separate property of each user.

PSERN – Puget Sound Emergency Radio Network is the successor to the current emergency radio communications system. Instead of four separate public owners, a single public owner/operator will be created--the “PSERN Agency”-- which like EPSCA will be a nonprofit corporation whose members are local governments (cities and the County).

The new PSERN system is currently under construction. Construction is being managed by King County under terms of the “*PSERN Implementation Period ILA*” to which all five EPSCA Principals are party. Other parties to the *Implementation Period ILA* include the County, Seattle, and the five city owners of ValleyCom (Auburn, Federal Way, Kent, Renton and Tukwila). EPSCA and ValleyCom are not parties to the *Implementation Period LA*.

The new system will operate on the 800 MHz spectrum. Motorola is building the new system and providing the new radio technology. Motorola will no longer maintain the 800MHz system technology used in the current radio system, which was a major impetus for the PSERN project.

PSERN was approved by nearly two-thirds of King County voters in April 2015. The project cost is \$273 million, or 7 cents per \$1,000 in assessed property value over nine years.

The new PSERN system is expected to be fully operational sometime in mid-2022, but this could be delayed by a year or more. The new PSERN Agency will assume ownership and control of the new system at the point the new system is accepted (“Full System Acceptance”), at which point EPSCA’s system will no longer operate: it will be fully replaced by the countywide PSERN system. PSERN will be responsible for decommissioning the existing EPSCA system and other portions of the current system.

The PSERN Agency does not yet exist. It is proposed to be created one year before anticipated “Full System Acceptance” of the new system. The current project schedule anticipates creation of the PSERN Agency in August 2020, but again, several months delay of that date is possible. The PSERN Agency will be structured, funded and governed in accordance with the “*PSERN Operations Period ILA*.” The parties to the *Operations Period ILA* are proposed to be the same entities that are party to the current *Implementation Period ILA* (again excluding EPSCA and ValleyCom, but including their component cities). The basic terms of the *Operations Period ILA* were approved back in 2015 as part of the negotiations to fund the new system. The *Operations Period ILA* terms are now being finalized; the EPSCA Principals and other Parties will be asked to approve the *Operations Period ILA* before March 2020.

Governance:

- Implementation Period ILA (now in place)

A Joint Board makes budget decisions, setting policy, and overseeing the project schedule. King County owns the project while it is in construction and is managing the contracts with the private sector firms building the system.

The Joint Board has 4 voting members: King County, Seattle, an EPSCA cities representative (Kirk Triplett) and a ValleyCom representative. In addition, there are two non-voting board members: a police representative and a fire representative. Each voting board member has one vote; all board members must agree to approve any action item. There is an “impasse” process in the event consent of all members cannot be secured. The process involves prompt mediation followed if necessary by referral to an Elected Executives Committee (no decision making requirements are prescribed for that committee). The Joint Board is not a separate legal entity.

- Operations Period ILA (scheduled for City/County approval by March 2020—language in draft form and subject to change)

The new PSERN Agency will be governed by an Executive Board with similar membership to the current PSERN Joint Board. There will be four voting members, each with one vote. All voting members must agree for the Board to act, with limited exceptions (acting in event of repeat unexcused absence of a Board member; removing a Board member; calling for development of a plan to dissolve the agency).

The four Executive Board members are (1) the Mayor of Seattle or his/her designee, (2) King County Executive or his/her designee, (3) “a mayor or city manager representing the [five EPSCA Principal Cities] or his/her designee, selected in a manner agreed to by all EPSCA Cities”, and (4) a mayor or city manager representing the five ValleyCom cities or his/her designee, selected in a manner agreed to by all ValleyCom cities. There will continue to be two non-voting PSERN Executive Board members, one appointed by the King County Police Chiefs Association and one selected jointly by the King County Fire Commissioners’ Association and King County Fire Chiefs Association. Each appointing agency is also responsible for providing the name of an alternate board member.

Powers of the PSERN Agency Executive Board will be similar to those of the EPSCA Board.

Service Area: PSERN will serve the entire County.

Customers: All current radio system customers of EPSCA, ValleyCom, Seattle and King County etc. may become be customers of the PSERN Agency. Customers will need to sign new user agreements. User agreement terms are being finalized this fall; agencies will be asked to sign in Spring 2020. Payment of fees under this new agreement is proposed to start up in 2022.

Finance: The new radio system is being constructed with proceeds from the 2015 levy (expires in 2024). PSERN’s primary operating source of revenue will be user fees starting in 2022. PSERN may be stood up as early as August 2020; Motorola is responsible to pay all operations cost for the first 2 years of the system; however, County staff have expressed some concern about a gap in initial operating funds for PSERN. The operating budget for the new agency is not yet set.

Employees: The goal is to hire an Executive Director for the PSERN agency by the end of 2020. The number of employees needed for the new agency has not been established; current County staff estimates are around 20-22 FTE.

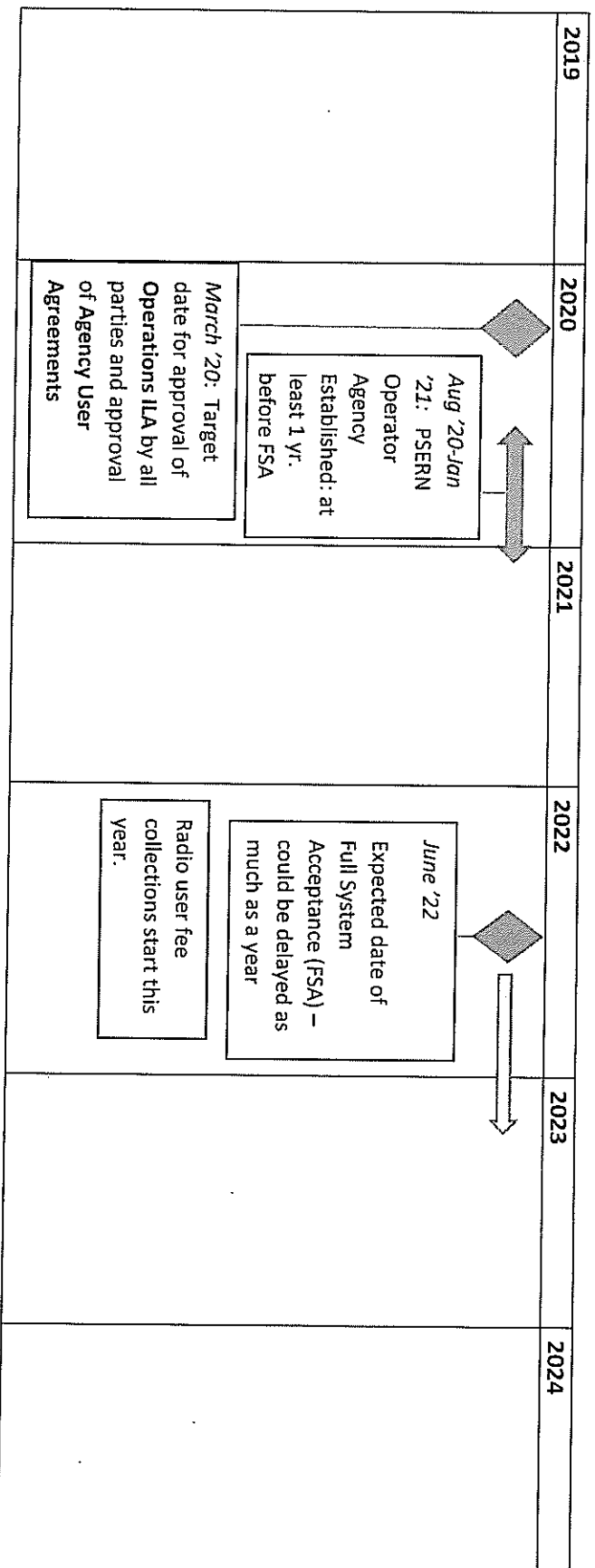
Facilities: The new system will be comprised of 61 different radio sites & towers. New system radios are anticipated to be issued to users as early as April 2021 (for final system testing). The initial radios will be levy funded.

Attachment A

**List of Current EPSCA Customers and
the number of radios each has on the 800 MHz system**

Customer	Total
Bellevue	926
Redmond	452
Kirkland	344
Mercer Island	118
Issaquah	92
Bothell	225
Shoreline Fire	111
Woodinville Fire	69
Lake Forest Park	60
Bellevue Schools	46
Northshore Fire	45
Shoreline-city	43
Norcom	39
Eastside Fire & Rescue	27
Medina Police	21
Clyde Hill Police	20
Evergreen Hospital	13
Woodinville	12
Shoreline - utility	11
Eastside Hazmat	10
Overlake Hospital	6
Newcastle	7
Northshore Utility	5
Swedish Hospital	4
Kaiser Permanente	3
Mercer Island Schools	3
Northshore Schools	3
American Medical Response	2
Issaquah Schools	2
WA Department of Health	2
Fairfax Hospital	1
Tri-Med Ambulance	1
TOTAL	2723

Agenda Item 3.b Draft Timeline Related to PSERN Operator and EPSCA



- Dates based on information from PSERN staff as of August 2019.
- When the PSERN Operator Agency stands up, the project remains under King County's control per terms of the Interim Period ILA until Full System Acceptance occurs (FSA).
- When Full System Acceptance (FSA) occurs, the new Radio System is fully operational and EPSCA's system is no longer in use.
- Each EPSCA City will be asked to approve the Operations ILA later this year. Negotiations of this ILA are in final stages.
- Each EPSCA City and all other radio users will be asked to approve Agency User Agreement with PSERN governing use and payment for radios on the System. This agreement has been circulated to Users. It is also in near final form.

Agenda Item 3.c

DRAFT Operations Period ILA issues relative to future of EPSCA (subject to change)

Process notes:

- ILA is still a draft document and may change before it is approved.
- Schedule currently is to have the agreement terms finalized this fall and approved by Parties no later than March 2020. If your legal counsel hasn't reviewed the latest draft, they may wish to.

Key Points on Governance:

- 4 Member Executive Board: Seattle, King County, EPSCA Cities' rep, ValleyCom Cities' rep. Each member has 1 vote; all 4 votes are equal in weight.
- A quorum is all 4 Board members.
- Board has very similar scope of authority over PSERN as EPSCA Board has over EPSCA: approves budget, oversees ED, establishes rates, charges, agreements, etc.
- Board acts by unanimous vote—all 4 must agree. *Exceptions allowing action by 3 Board members:*
 - Non-participation by an individual member for 2 meetings in a row, unexcused, then the other 3 members may take action on items
 - Initiating dissolution of the agency
 - Removing a Board member for cause
 - Deferral of measures before Board.
- Board member must be a "mayor or city manager" representing all five EPSCA cities, "or his/her designee, selected in a manner agreed to by all the EPSCA Cities" An "authorized representative" of the EPSCA Cities must provide written notice of their initial (and replacement) Board member and an alternate to the PSERN Board Chair under the *Implementation Period ILA*.
 - The five cities together have the power to appoint the member and alternate, but arguably not the *designee* of the primary member.
- Except as noted below, there are no rules about how the EPSCA (or ValleyCom) cities must act to approve their Board Member, or what requirements the Cities may place on that Board Member (the term of office / process / etc.) But this could be limited in some ways in PSERN

Bylaws to be adopted by the Executive Board when the PSERN Operating Agency is established. The limitations in the current draft Operations Period ILA include:

- "An authorized representative of the EPSCA Cities" must "promptly replace any vacancy in its Board of Directors member or alternate" and if this does not happen, "the chief executive officer of one of the cities in that group shall attend all meetings until one of the vacancies is filled." This is ambiguous in a few respects.
 - PSERN Board may remove a Board Member for cause ("Cause for removal may include, but is not limited to, failure to act in good faith in participating in the Board of Directors and willful, arbitrary failure to perform the Board member's obligations as set forth in this agreement".)
 - No City may assign its right under the ILA w/o approval of the PSERN Board.
 - EPSCA itself—not the EPSCA cities—is given the responsibility under the draft Operations Period ILA to determine what constitutes legislative approval or disapproval from member cities on any amendment to the ILA requiring legislative body approval. This creates some ambiguity.
 - EPSCA is currently defined as being formed pursuant to Ch. 39.34 and 24.06 RCW, and no successor agency is included. This may be construed to require PSERN Board approval of any successor agreement governing the EPSCA cities' responsibilities under the ILA. The Kirkland City Attorney is following up on this item.
- A party—individual city-- may withdraw from the PSERN Agreement. A minimum of two years' advance notice is required. The withdrawing party is liable for its share of obligations up to that point and forfeits all rights to PSERN property unless Board agrees otherwise.

Agenda Item 3.d

EPSCA ILA Issues relative to future of EPSCA

- Five member Board. Routine issues require majority; major issues require supermajority weighted vote -- 80% weighted vote of Board.
- Amending EPSCA ILA can be done by supermajority vote except for core items that may not be delegated to Board (indemnification, board structure, termination, withdrawal, scope of service: these issues require approval by all 5 city councils).
- EPSCA Dissolution requires 80% weighted vote.
- Dissolution is effective not less than 1 year after it is approved.
 - Wrap up activities if EPSCA is dissolved include terminating all lease and other agreements, and selling/apportioning all assets, providing for records retention, etc.
- All property, net of liabilities distributed based on ratio of radio use charges over preceding 5 years.
- EPSCA has 3 radios today for agency use.

Agenda Item 5: Sample List of Future Options for EPSCA

(v.9.23.19)

Option #	Brief Description	Pros/Cons/Implications
1	Status Quo: Retain current separate legal entity status for EPSCA, with additional terms in ILA as appropriate given end of EPSCA operational role and to address issues related to the new board appointment responsibility	<ul style="list-style-type: none"> Will need ongoing license/tax filings as a separate nonprofit agency Will need designated staff director, finance support More than is needed ILA changes would need to be negotiated, approved (would likely require consent of all principals legislative bodies)
2	Revert to simple joint board status under a new ILA; dissolve EPSCA as a nonprofit corporation	<ul style="list-style-type: none"> Requires negotiation of new ILA terms Requires dissolution of EPSCA (1 year lead time, 80% weighted vote) Simpler structure focused solely on role of Member agencies in selecting/direction PSERN Board Rep. Less expensive than maintaining current structure
3	Assign responsibility of PSERN Board appointment to NORCOM; dissolve EPSCA	<ul style="list-style-type: none"> May require amendment of PSERN Operating Period ILA to add NORCOM as a party EPSCA principals would be moving to share authority on this issue with the NORCOM board EPSCA would be dissolved May require NORCOM ILA amendment to assume/clarify how the new role would be exercised More complicated; risk/time/expense associated with opening ILAs
4	Create a PSERN subcommittee of the EPSCA Principals to oversee selection of PSERN Board Member, provide direction to that Board Member; dissolve EPSCA	<ul style="list-style-type: none"> Could possibly done through PSERN Bylaws, which must be adopted unanimously under current draft of Operations Period ILA. Arguably, a change to PSERN Operating ILA would be required. Would be unable to change structure without consent of other PSERN Board members Risk that PSERN ILA could be amended in future years to eliminate the unanimous consent requirement Shifts responsibility for facilitating this continued City role to PSERN Less expensive than Option 1 or 2 but less control

Options requiring support of other agencies (3, 4) are higher risk and require quicker start to negotiation since they may require amending the PSERN ILA and/or NORCOM ILA. Options in control of the Principal Cities (1, 2) are lower risk and these options may be commenced later. Options may also be sequenced, for example, begin with option 1 and shift to option 2 over time.

Agenda Item 6:

Governance and Operating Parameters of the Preferred—or any—Option

Part 1: Initial Draft List of Issues that should be considered under any option

Scope of control by parties

- Do the EPSCA Member Cities wish to retain oversight/approval of their PSERN Board Representative votes on certain key issues? If so, which issues are key? What level of approval from all Cities is desired?
- Do the member Cities want control over selection of the designee as well as the alternate?
- Requirements for approving an amendment of the PSERN ILA referred to legislative bodies: will consent of all five be required?

Process issues

- Process/timeline/term of office for selection of PSERN Board Member
- Process/timeline/grounds for removing PSERN Board Member by EPSCA Cities
- Process/timeline for filling any vacancies
- Process/requirements for alternates and primary member designee: who can be appointed?
- Periodic meetings/briefings with all 5 EPSCA Exec Board Members?
- Issues requiring notification of all 5 members/ other means to keep group informed / duties of EPSCA's selected PSERN Board Member to communicate/notify other EPSCA Cities
- Advisory input from NORCOM or others?
- Is there likely to be ongoing interest in having the Operations Committee or an equivalent provide input on PSERN related issues to the EPSCA Board or its successor?

Other

- Implications if a Member withdraws from PSERN – and / or from EPSCA?

- Indemnification for actions by Member Cities, Board Members
- If new RFAs are created involving any of the EPSCA principals, what happens?
- Does the possibility of further PSAP consolidation – or de-consolidation – impact the answers to any of these questions?

Part 2: Additional issues if the option involves a new agreement/process (Options 2, 3, 4)

- Who will represent each City?
- Level of agreement to confirm appointment (unanimous or less? Weighted vote?)
- All other basic ILA terms: length of agreement, conditions for amending agreement, etc.
- Will there be a reason to keep an Operations Committee equivalent?