

**Meeting Minutes for 2/11/16**

A Special Meeting (Closed Session) of the Board of Directors of the Kensington Police Protection and Community Services District was held Thursday, February 11, 2016, at 6:30 P.M., at the Community Center, 59 Arlington Ave., Kensington, California. The Regular meeting of the Board of Directors followed.

**ATTENDEES**

<u>Elected Members</u>	<u>Speakers/Presenters</u>
Len Welsh, President	Teresa Stricker, Renne Sloan Holtzman Sakai LLP
Rachelle Sherris-Watt, Vice President	Adam Benson, Renne Sloan Holtzman Sakai LLP
Chuck Toombs, Director	Mabry Benson
Patricia Gillette, Director	David Bergen
Vanessa Cordova, Director	Andrew Gutierrez
	Simon Brafman
	David Spath
<u>Staff Members</u>	Karl Kruger
Interim GM/COP Kevin Hart	Jim Watt
Sgt. Hui (on duty)	Ron Weisman
Lynn Wolter, District Administrator	Linda Lipscomb
	Shea Wolfe
<u>Press</u>	Leonard Schwartzburd
	Richard Freeman
	Andrea Lingenfelter
	Celia Concus
	A. Stevens Delk
	Marilyn Stollon
	Rich Karlssen
	Kay Reed
	Andrew Reed
	John Gaccione
	Trisha Mindel

President Welsh called the meeting to order at 6:31 P.M. President Welsh, Vice President Sherris-Watt, Director Toombs, Director Cordova, Director Gillette, Interim GM/COP Hart, and District Administrator Wolter were present.

**PUBLIC COMMENTS**

Mabry Benson said that, after the Cordova incident, she had drawn the conclusion that IGM/COP Hart had little control over the police department and that certain officers were determined to show IGM/COP Hart that they could do whatever they wanted. She cited the Police Manual's ride-along

policy and asked who had approved Sergeant Barrow to ride along with Officer Ramos when the Cordova incident occurred. She asked what disciplines were in place to deal with policy violations. She said this was relevant to IGM/COP Hart's performance.

### **CLOSED SESSION**

The Board entered into Closed Session at 6:34.

- a. Conference with Legal Counsel – Anticipated Litigation. Considered whether to initiate litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9: One potential case.
- b. Conference with Labor Negotiators (Government Code Section 54957.6) Agency designated representative: Jonathan Holtzman, Renne Sloan Holtzman Sakai LLP. Employee organization: Kensington Police Officers Association. The Board was to receive an update in contract negotiations.
- c. Public Employee Performance Evaluation (Government Code Section 54957(b)) Title: Interim General Manager/Chief of Police.

The Board returned to Open Session at 7:33 P.M.

President Welsh took roll call. Vice President Sherris-Watt, Director Toombs, Director Gillette, Director Cordova, and President Welsh were present.

President Welsh reported that

- With respect to Item a, the Board had conference with legal counsel about anticipated litigation, had given guidance to legal counsel, and that legal counsel would proceed to implement that guidance.
- With respect to Item b, the negotiator, Adam Benson, had been the negotiator and that no action had been taken.
- With respect to Item c, no action had been taken.

### **PUBLIC COMMENTS**

President Welsh said he had been receiving complaints about the meetings going too long and so people were leaving before the meetings were over. Thus, he would be limiting public comments to five minutes per person.

Karl Kruger said he had been one of the people who had left the prior month's meeting before its end. As a result, he had not been present for the discussion of the six-month financial report. He said the thirteen footnotes had been helpful, and he complimented management for providing them. He said that he was happy there was an active Finance Committee, that it met regularly, and that this was important. President Welsh said he concurred and that its members offered helpful expertise.

A. Stevens Delk said a flyer had been included in the most recent Bay View Refuse bills, and it indicated that the list of items that could be recycled had been expanded. She noted that garbage cans were being left on the street too long and suggested that the Board or the IGM/COP contact Bay View to ask the company to include a flyer in its next bill asking residents not to leave cans on the street after a certain time. She noted that the Board recording sound quality had improved but said she couldn't see who was sitting at the staff table in the video recordings. She asked that this be remedied. Ms. Delk handed out a copy of her comments, and this appears in the March Board Packet, under correspondence.

John Gaccione said that, when IGM/COP Hart had come to Kensington, he had met with some of Mr. Gaccione's neighbors and that among the things discussed were the troubling stories about police misconduct and how it was seen as unacceptable behavior. He said that, given the recent police issue,

IGM/COP Hart lacked the skillset needed to handle sensitive personnel matters. He noted that, at a recent CSDA conference in Monterey and in the presence of general counsel Randy Riddle, Vice President Sherris-Watt, and two Fire District members, IGM/COP Hart had told Director Cordova that more than one Kensington police officer had recently reported to him the location of her car. He said Director Cordova had expressed concern about this to IGM/COP Hart but that he had been dismissive of her comments. He said that, eight days later, Director Cordova had been pulled over by Kensington police officers in Berkeley. He said that, rather than staying in the District to manage this alleged misconduct, IGM/COP Hart told Director Cordova not to tell anyone, and he left Kensington to go to another conference, despite Director Cordova having told him that she was being targeted by Kensington police officers. Mr. Gaccione went on to say that, as a result, Director Cordova sought assistance from the District Attorney's office, which advised her to file a report with another law enforcement agency. Mr. Gaccione said that, four months later, IGM/COP Hart had still not filed Director Cordova's fix-it ticket with the court – instead IGM/COP Hart appeared to be playing politics with a Director who didn't support his spending policies. He said IGM/COP Hart was using this experience to suit his own interests and those of his officers. Mr. Gaccione added that the officers' due process rights appeared to be more important than Director Cordova's constitutional rights. Mr. Gaccione said that Director Cordova had been in full compliance to operate her vehicle and that she should be able to contest the charges in a courtroom: Instead, she was being strung along by an internal investigation where police were investigating police. He said that, for these reasons, he could not support an extension of the IGM/COP Hart's contract. Mr. Gaccione provided staff with a copy of his comments, and this appears in the March Board Packet, under correspondence.

Jim Watt said that, for the past nine months, he had been warning the Board about CalPERS and its lower than expected returns: CalPERS' expected return had been an unrealistic 7.5%. But, its actual rate of return had been 4.2% last year, and its current year-to-date return had been negative 10%. He said that the actual returns would result in the District having to contribute \$200,000 more per year to cover medical and pension benefit costs and that, because the District currently ran a balanced budget, this added expense would have to come from the District's \$1.1million of reserves. He said the District should cut costs and build reserves by making major changes in the operation of the police department, such as reducing the number of vehicles.

Chris Deppe said his comments were based on some articles he had read about the Cordova traffic stop. He said that there had been a quote from IGM/COP Hart, indicating that citations were not typically given to Directors and that this implied the police might give preferential treatment to Directors. He said this could use some clarification. He asked what the timing was for the completion of the investigation of the Cordova incident. He said the larger issue had to do with recent articles and editorials that said that residents were being harassed by officers, which he found troublesome and hard not to believe. He said he also found quotes attributed to President Welsh and IGM/COP Hart troublesome because they indicated that they found it hard to believe that the officers might harass people. He said that, if neighbors were worried about the police, it made financial concerns pale in comparison. He said that it made things difficult if people were afraid to speak out about the police and that something needed to be done about this.

Mabry Benson repeated comments she had made earlier in the evening, before the Board went into Closed Session. She re-read Section 410.2.3 from the Police Policy Manual regarding peace officer ride-alongs and asked who had approved Sergeant Barrow to ride along with Officer Ramos when the Cordova incident had occurred. She asked what procedures and disciplines were in place to deal with any department policy violations. She also read Article 12 Section B of the MOU, violation of orders, which states that certain violations were sufficient cause for discipline – including demotion, discharge or penalty – and that the Board and the Chief of Police had the power to discharge an officer. She said that officers hiding behind the Officers' Bill of Rights only increased suspicion that they were engaging in retaliatory behavior and that this was not in the department's long-term best interests.

Celia Concus said she had a question for IGM/COP Hart: Could he estimate the number of citations that had been issued for a car with a missing front license plate by Kensington officers – inside of Kensington and outside of Kensington. IGM/COP Hart responded that he could not estimate. Director

Gillette and President Welsh interjected that, because of the ongoing investigation, it would not be appropriate to answer. Ms. Concus said that, in walking and driving around Kensington, she had noticed many cars without front license plates. She questioned whether the California Vehicle Code had been selectively applied in the case of Director Cordova. She also questioned whether Kensington's officers were routinely enforcing the Vehicle Code outside of Kensington and whether they didn't have enough to do inside Kensington. She said she would submit a PRA Request for six months worth of evidence that would show such citation data. She said that, when she had suggested to IGM/COP Hart that his officers were harassing people, he had responded that his officers did not harass anyone. She questioned whether Kensington officers had, in fact, harassed Director Cordova. She said that very little information was going to come from the investigation because it involved police officers.

Linda Lipscomb said that she had received a ticket for a missing front license plate and that she had been a Director. She said people should not believe everything they read in the newspaper because it had been one-sided. She said she appreciated the police giving residents the kind of community that enjoyed a lower crime rate than any of the surrounding communities. She added that she had also received a citation for having a frame around her back license plate that had obscured part of a letter.

Andrew Gutierrez said that he had been one of the people quoted, that the Directors all had access to his complaint against the police department, and that former GM/COP Harman had been dismissive of it in his response to it.

Trisha Mindel thanked IGM/COP Hart for attending a meeting of newer residents she had hosted at her home for the purpose of discussing ideas and concerns. She said that, of about 20 residents invited, most of whom have lived in the community five years or less, three households had declined to attend because they feared police retaliation. She said she had been a beneficiary of police service, but the issue of fear was important to address. She said her group had also planned to discuss the number of complaints that had been claimed but not substantiated. She said that there had been questions raised about former GM/COP Harman's investigative process and that perhaps there might have been problems with complaints that had been made to him. But, she said, things happening today should not be based on what had happened with the former GM/COP.

Andrew Reed said that he had heard the words "wonder" and "suspicion" on the part of some people earlier in public comments but that these did not equate to reality or guilt. He said some were getting ahead of due process: There was an investigation that had not yet been completed, but some people had already made judgments. He said that the evening sounded like a kangaroo court and that this was a shame. He said he was tired of the same 10 to 14 people dominating the discussion with the words "suspicion" and "wonder" instead of facts. He said that, if the community were so concerned about money, much of it could be saved if due process were allowed to go forward.

Andrea Lingenfelter asked about due process with respect to an officer's conduct in Reno and said this hadn't worked out very well. She introduced herself as a new resident from whom the Board had not heard before. She said that it had been a year since the Reno incident, and that residents had had to read about it in the newspaper. She said she was disappointed by how that investigation had gone. She said that she knew that IGM/COP Hart was doing his best to create a healthier culture. She said that she believed the officers had a great deal of protection and that she wanted to be protected. She said that, for those officers who were well intentioned, those protections were warranted. She said that things were not right yet and that she believed that all lawful remedies had not yet been exhausted. She asked the Board to come up with something.

Ron Weisman said that, with respect to Director Cordova having been pulled over, he had left a voice mail message for IGM/COP Hart saying that he had been harassed, too. Mr. Weisman added that he had not heard back from IGM/COP Hart.

## BOARD COMMENTS

Director Toombs reported that there had been a Finance Committee meeting on February 1<sup>st</sup> and that, at that meeting, the following had been discussed:

- A windfall of cash and how it might be spent
- Establishing a reserve policy subcommittee
- The Actuarial Report for the OPEB and whether or not more money should be contributed to the trust
- The cost of extending IGM/COP Hart's contract by three months: The consensus of the Committee and the consultants was that this would have no additional cost, as it had already been budgeted.

Director Toombs said he couldn't let the meeting go by without making comments about Mr. Peele and Mr. Borenstein. He said he took exception to the quality of the reporting that had been done by them. He said that, if one were to make such allegations, they had better have facts with which to back them up. He said there was an absence of real hard-core information. He said an investigation was ongoing and he preferred to see that due process was allowed to be completed, as this would be fair to all concerned. He said he was a firm believer in due process. He said that, if anyone had a complaint about the police, they had to tell the Chief so he could deal with it: Sitting on it and coming back five years later would not do anyone any good – it would be too late if action against an officer were warranted. He reiterated that, if any officer or member of the staff aggrieved anyone, they needed to let the Chief know promptly. He said he believed that State law was that people had a year in which to file complaints against officers. He added that people shouldn't wait two years and then tell a reporter: They should report complaints to the Chief right away. He concluded by saying that he didn't want to live in a community in which he felt threatened by anybody.

Director Cordova said she sat on the Formation and Reorganization Expert Working Group of the California Special Districts Association. She said this was a group of statewide fiduciaries who convened to discuss issues related to the dissolution and formation of special districts. She said that the working group had been examining an amendment to the Government Code Section 56877 and that this related to Kensington and the work of the Ad Hoc Committee. She reported that, due to the water crisis, many underperforming water districts had been forced to consolidate with larger ones. She said there also was a statewide trend of rogue annexations of special districts by cities. She explained that LAFCO currently had a process that required either a vote of the electorate or a protest proceeding. She said that the working group, along with other local government special interest organizations, had been working on language to add to Government Code Section 56878 to specify that, when a change of organization or a reorganization of a special district involved a dissolution of a special district and the governing board of the district proposed to be dissolved submitted a resolution of objection, the LAFCO Commission might determine, as a condition of approval of dissolution, that the change of organization or reorganization should be subject to a confirmation by a vote in an election to be held and conducted in the territory of the District subject to dissolution. She said this could impact the Ad Hoc Committee's research on the feasibility of consolidating the Fire District and the KPPCSD. President Welsh asked if this had a bill number. Director Cordova responded that she would keep him posted on that. She added that the language had received statewide support, with respect to water districts and annexations by cities.

Vice President Sherris-Watt reported that, on the prior evening and in her role of the Public Safety Building Coordinator, she had attended the Fire District Board's monthly meeting. She said that the Fire District was beginning a needs assessment of the Public Safety and that it would include the KPPCSD in the process. She thanked them for this.

Director Gillette said that, as Community Outreach Coordinator, she had been reaching out to members of the community by phone to get ideas from people about what they considered to be effective methods of reaching out to the community. She said she hoped to have a report at the Board's next meeting.

Director Gillette reported that she also had responsibility for the Policy Manual, which former Director Lipscomb had worked on, and that she had some radical ideas for the Manual that she hoped to share the following month. She thanked Delk for her very thoughtful letter, which contained suggestions to consider for the Manual.

Director Gillette said she planned to make an official request that the April meeting start at 6:00 P.M. or 6:30 P.M. because she had to take a red-eye flight to Chicago that evening. President Welsh asked legal counsel, Theresa Stricker, if the Board would need to vote on this since the 7:30 PM start time had been set by the Policy Manual. Ms. Stricker responded it would be good to poll the Board to do this. Consensus was that this would appear on the March agenda.

Director Gillette said she wanted to echo some of the things that had been said by Director Toombs. She said she was disappointed, but not shocked, by the information that had appeared in the Contra Costa Times. She said that her experience with reporters was that one often did not get what one was looking for, in terms of in-depth or accurate reporting. She said she hoped everyone would keep an open mind and not praise or condemn anyone without knowing all the facts. She said she hoped the community would wait until it had all the facts on the issues. She said that, if Mr. Deppe had read IGM/COP Hart's monthly report, he would have seen that the IGM/COP had begun an inquiry into things that had been written in the article and that information on the investigation would likely be available by the Board's next meeting. Director Gillette said she continued to be concerned about the community and its rush to judgment. She said to the new residents that she had lived in Kensington for 38 years, that she had had only positive experiences with the police, but that she understood that might not have been their experience. She said her friends in Kensington also trusted the police. She added that this didn't mean that mistakes hadn't made or that there were people whose rights were protected and, therefore, about whom the Board couldn't do anything. She reiterated that many people had had only positive experiences with the police and echoed what Ms. Lipscomb had said: She too had received a fix-it for having the little sticker come off her car; something she had not realized until she had been cited. She said these things happened. She said that everyone was required to follow the law and that, if Board members were being treated differently by the Chief of Police, she hoped that would stop immediately. She added that, if she were driving without registration, without a driver's license, or without a front license plate, she expected to be ticketed the same way anyone else would. She said she hoped this had not been the police department's policy in the past or was so in the present.

President Welsh said he understood why people might be afraid of the police right now – because there were so many allegations within the community and because of what had been reported throughout the country. He addressed the article that had been referred to earlier in the evening. He said there was a lot of misinformation in the article and said he would put allegations made in it on the March agenda so that as many of them as possible could be cleared up. He said he had been misquoted as having said he hadn't care about the past. He said that was not true. He said he had looked into one past incident, the reporting had been completely wrong, and that this would be discussed at the next meeting. He said the community should wait for the objective report from the Richmond Police Department, which had no "skin in the game" with respect to what has gone on in Kensington. He added that there were other things that had been alleged in the Contra Costa Times and that these would be looked into as well.

President Welsh said that he had attended the memorial service for Tony Lloyd and that it had been a wonderful service. He said that Mr. Lloyd had served as a KPPCSD Director who had attended meetings right up until the end. He noted that amazing stories about Mr. Lloyd's many accomplishments had been shared at the service. He thanked the church for its wonderful service and for getting out the story on this amazing man's life.

#### **STAFF COMMENTS**

IGM/COP Hart reported:

- He and Officer Wilkens had attended a safety meeting in San Pablo to learn what its process and capabilities were, with respect to automated license plate readers of all vehicles coming into and out of that city. He added that each of these license plates was automatically "run." He

said the Board might be interested in considering this and added that San Pablo attributed solving five homicides to these cameras. He said that Piedmont had the same system and that El Cerrito was considering implementing it.

- FBI was accepting applications for its 2016 FBI Teen Academy, which would be a one-day class for anyone, under the age of 18, interested in learning what the FBI does.
- That Text 9-1-1 had been implemented. If, in the event of an emergency, one entered 9-1-1 as a text message, one would be connected to a dispatcher. He added that calling was the preferred method but texting was now an option.
- He had been briefed on the status of the Richmond investigation a couple of days earlier and had learned that the report likely would be delivered to him the following Tuesday.
- He said that he, too, had read the paper and that he would be conducting an inquiry into the allegations made in it. He said it should be ready before the Board's March meeting.
- Officer Armanino had left to go to another agency, and he thanked him for his service.
- He said he planned to include visibility of the staff table with the new video system.
- That he and Ron Weisman had talked with one another twice since October and that Mr. Weisman had never mentioned anything about Sergeant Barrow. He said he didn't remember having received a voicemail from Mr. Weisman but that, because of the newly installed phone system, it was possible that the voice mail message may have been lost. He invited Mr. Weisman to come to his office to discuss his concerns.

IGMCOP Hart said that, because Adam Benson was present, he hoped the Board would consider Item 9f first. He also asked that the Board consider 9i because a mother, who needed to get home to a child, was in the audience and wanted to comment on it. President Welsh responded that the Board would consider 9i first.

- 9 i. The Board considered approving proposed Resolution 2016-04 of the Kensington Police Protection and Community Services District, showing support for the study of the formation of a countywide community choice aggregation (CCA) entity and inclusion of stockholders from unincorporated communities in the county's future CCA formation planning.

President Welsh thanked Director Cordova for placing the item on the agenda and preparing the resolution.

Director Cordova introduced the item and described this as a pooling of consumer electricity demand within a specific region and providing the consumer with a provider choice, usually at a lower cost. She said many counties were exploring this. She said Contra Costa County was a bit late in coming to the table on this. She said Kensington was often not included in such County-wide discussions because it didn't have a city council. She said she had brought this before the Board so that it could support the County in its efforts to investigate the feasibility of community choice and so that it could have a seat at the table if there were to be a planning phase to CCA. She explained that the resolution only provided support of the County Supervisors. Vice President Sherris-Watt thanked the Kensington Green Group, which brought together speakers and community members to discuss community choice.

Richard Freeman said he was proxy for Shoshana Wexler, a member of the Green Group who could not attend the evening's meeting. He read a statement from Ms. Wexler in which she:

- Thanked President Welsh and Director Cordova for sponsoring the resolution.
- Noted that the Board of Supervisors would be meeting on February 29<sup>th</sup> to discuss this issue and the inclusion of unincorporated areas in County-wide planning.
- Urged the KPPCSD Board to vote yes on its resolution.

Shea Wolfe said she had been living in Kensington for about eight years, and she thanked the Board for moving this item up on its agenda. She said that she was a scientist on climate change, that she was concerned about the effects of climate change, and that she was in favor of community choice energy. She said that she supported a feasibility study for Contra Costa County and that she believed Sonoma

and Marin Counties already had such programs. She explained that this option would make lower rates and energy mix choices available to consumers. She said communities needed to move away from fossil fuel and to renewable energy sources because of climate change. She said it was important for Kensington to be included Contra Costa County's feasibility study.

Vice President Sherris-Watt said she wanted to make a correction with regards to the notation that there would be no fiscal impact resulting from the Board's approval of the resolution: she said that KPPCSD's electric bills were over \$800 per month and this could be reduced with a CCA program. Director Cordova responded that the reason there would be no fiscal impact was because approval of the resolution was pro-forma, although Director Sherris-Watt's comment was a good one.

**MOTION: Director Gillette moved, and President Welsh seconded, adoption of Resolution 2016-04.**

**Motion passed 5 – 0.**

**AYES: Welsh, Gillette, Toombs, Sherris-Watt, Cordova    NOES: 0    ABSENT:**

9 f. The Board considered increasing the FY 15/16 budget in order to increase the Annual Required Contribution (ARC) for Retiree Health Liabilities.

President Welsh asked that Adam Benson assist with this agenda item.

Adam Benson reported that, at the February 1<sup>st</sup> Finance Committee meeting, there had been a 5 – 5 vote on whether to increase, above the recommended minimum, the amount of money the District should contribute to the OPEB Trust; as such, there had been no recommendation. He reported that, at the Board's request, he had examined the Actuarial Report and its assumptions, and he had prepared a memo about orders of magnitude to test different assumptions.

Director Cordova said the Board had asked Mr. Benson to assist the IGM/COP with a five-year plan, and she asked him to help her integrate these two efforts. Mr. Benson responded that this was not related to the five-year plan: The five-year plan would be done later, once a new MOU was adopted.

Vice President Sherris-Watt said she had asked for this to be on the agenda, following the Finance Committee's meeting, because she believed that the District should put a larger amount of money into the OPEB Trust, based on Mr. Benson's analysis. She noted that the actuarial report's medical trend rate was low, based on industry standards, and that Mr. Benson's analysis used a higher trend rate that resulted in a higher contribution amount. She added that moving \$20,000 into the OPEB Trust made sense because the longer the District waited, the more money it would have to contribute.

Director Toombs said that, once the District passed a new MOU, it would have to do another actuarial report and that this might happen in the next two to four months. He said there been discussion about the medical trend rates, the implied subsidies, and the mortality rates, but the Board needed to bear in mind that the District was also paying as it went. He said the Trust was meant to be funded over a limitless horizon and that the ARC would be revised perpetually because the District was required to do an actuarial report every two years. He said that moving \$20,000 today, from reserves into the Trust in a diminishing stock market, could result in the \$20,000 declining to a lower amount. He noted that Mr. Watt had said the Board needed to increase its reserves. He said it made no sense to move money to satisfy a political objective. He projected that the ARC would likely increase by \$30,000 to \$40,000 once the new MOU was adopted.

President Welsh noted that once money was put into the Trust, the District could not withdraw it.

Vice President Sherris-Watt said that the District needed to fund the officers' benefits and that putting the additional funds into the Trust was prudent. She added that it seemed odd to go against Mr. Benson's recommendation. Director Toombs responded that Mr. Benson had said that, if the District



was just going to move money out of reserves and put it into the Trust, doing so didn't make sense. He said that, if the money were to come from operating expenses that would be different, but no one was saying from where that would come.

Trisha Mindel said that actuaries had to go through a great deal of training and that, as such, the actuarial report had merit.

Mr. Benson said that actuaries use long-range averages and that many elements go into an actuarial report to derive the ARC. He said he had been asked to use different, more conservative assumptions in preparing his memo. He noted that his memo did not include a recommendation.

Director Gillette asked what was the advantage of contributing an additional \$20,000 to the OPEB and if there was some urgency to do so. Mr. Benson responded that there was no urgency to contribute more, the District was not at risk of not being able to fund the benefit, and that the District had already set aside \$600,000 in the Trust managed through CalPERS. He noted that contributing the \$20,000 would not make a difference in the District's future ability to afford the benefit. He added that, if, on the other hand, the Board thought that the assumptions used were not conservative enough, then setting aside just the ARC was not enough.

Director Gillette asked Director Toombs to confirm that he had said the District would be doing another actuarial report within three months and asked if that was the normal schedule for doing so. Director Toombs responded that actuarial reports needed to be done every two years – the normal time frame – or whenever there was a major change in the structure of an organization that affected benefits, such as the adoption of a new MOU or a cafeteria plan for the GM/COP. He added that the cost of doing an actuarial report was expensive: between \$6,000 and \$8,000. President Welsh reiterated that the District would probably be doing a new report in three to four months.

Director Gillette asked Vice President Sherris-Watt why she felt it was more prudent for the District to make an increased contribution right now when the Board would have to re-evaluate its position three or four months from now. Vice President Sherris-Watt responded that the report to be done four months from now would not show that the District was going to owe less, so why not start now. She said the medical trend rate was too low. She noted that Mr. Benson had provided an additional set-aside range of between \$19,541 and \$39,041. Director Cordova added that this had been raised at the time the budget had been set, and the intent had been to re-visit it at mid-year.

Jim Watt said that the Board's January 14, 2016, decision to accept TCS's Actuarial Report as presented had the caveat that the ARC be revisited to consider adding more to the account. He said that, subsequent to this, there had been discussion about having Mr. Benson prepare an order of magnitude analysis. He said Mr. Benson had completed this analysis, and it showed the District probably should add \$20,000 to \$40,000 to the \$199,000 currently shown in the budget. He said he thought \$40,000 was more realistic. He said \$20,000 would be acceptable if it were to be included in the 2015-16 budget. He said there had been jokes at the Finance Committee meeting about actuaries not being able to predict the future with any degree of accuracy. He said economists, such as himself, had correctly predicted nine of the last five recessions. He added that the actuarial report needed to be done correctly and that Mr. Benson had made needed corrections. He said that he hoped the Board would unanimously agree to increase the OPEB funding by \$20,000, that not to do so would make a mockery of the process the Board had agreed to follow, and that it would be a waste of time and money to have had Mr. Benson prepare his report.

Karl Kruger said he had the opposite view of this. He said that the actuarial report had come to the Finance Committee in December and that the Committee knew it had a problem. He said the Finance Committee then had come to the Board to ask that Mr. Benson analyze the numbers, and the Board said it was willing to spend another \$5,000. He said he had been so disgusted that he had walked out. He said Director Toombs had already stated most of his own arguments, and he reiterated that the Board should wait until after the MOU process was completed to do another actuarial report. He said the

Board had an active Finance Committee and, if it didn't want to listen to its suggestions, why have the Committee.

Leonard Schwartzburd said he had a question about actuaries: If insurance companies had actuaries, why was the insurance industry one of the most profitable if actuaries were so hapless? Director Toombs responded that this was a good argument for accepting the actuarial report. He added that different actuaries could have different points of view and still be right.

Paul Dorroh said that he had worked with some very fine actuaries during his years in the business and that actuaries were employed to serve different purposes and that, as such, they used different sets of assumptions. He asked, assuming the Board were to decide to set aside an amount now – \$20,000 – and then, three or four months down the road there were a new actuarial report and it showed the new ARC amount of \$40,000 higher, if there would be credit for the \$20,000. Mr. Benson responded in the affirmative, as long as the amount was applied to the same fiscal year.

Director Gillette said this seemed to be an issue of timing – whether more money should be put aside now or in a few months. She said that it appeared that the actuarial report might not be the best and that, if the District were to do another report, it might elect to use a different actuary.

Director Cordova asked Teresa Stricker if the matter required two readings. Ms. Stricker responded in the negative.

Kay Reed said she was looking for facts. She asked, of other well-managed municipalities, how Kensington was doing, with respect to funding. Director Cordova responded that the Fire District was fully funded, and the KPPCSD was at its legal minimum. Ms. Reed said the Fire District had its own unique over-funding problems. Mr. Benson responded by clarifying that what was under discussion was the funding of retiree medical benefits through a CalPERS trust and that, on the pension benefits side, the KPPCSD was about 75% funded, which was similar to that of most other agencies. Mr. Benson said that, on the OPEB (Other Post-Employment Benefits) side, the KPPCSD was about 30% funded. He added that, before the 2008 recession, many agencies had established policies to fund the full ARC amount to amortize the unfunded liability over a reasonable period of time. Then, when the recession hit, these agencies could not fund the amount; instead they opted to fund on a pay-as-you go basis. Mr. Benson said the KPPCSD had a good policy of funding the ARC and of paying-as-it-goes. He said the District provided a rich benefit of paying 100% of medical for retirees. He noted that, with respect to the Fire District, it had a closed plan, meaning it had no new retirees joining – so a different situation from that of the KPPCSD.

**MOTION: Vice President Sherris-Watt moved, and Director Cordova seconded, that the District contribute \$19,541 into the OPEB Trust for the 2015-2016 Fiscal Year.  
Motion failed 2 – 3.**

**AYES: Sherris-Watt, Cordova    NOES: Welsh, Gillette, Toombs    ABSENT:**

Director Gillette noted this was a timing issue, the Board would revisit it once the MOU was received, and that was her reason for voting in the negative.

- 9 a. The Board considered approval of a three-month extension for the contract with Interim General Manager/Chief of Police Kevin Hart, with no change in monthly compensation, benefits, or other terms and conditions of employment.

IGM/COP Hart asked Adam Benson to remain to assist with this agenda item and then excused himself from the meeting.

President Welsh introduced the item, saying that, under consideration pursuant to the terms of the IGM/COP's existing contract, the Board would consider whether or not to extend the contract three months. He said the cost of the extension had been included in the budget.

Director Toombs clarified that the existing nine-month contract included an option to extend by three months. He said he thought it would be prudent to extend because the Board was waiting for a number of parallel actions to occur, and it needed a GM/COP to manage the process going forward for at least the next three months.

Director Gillette said she wanted to speak in favor of IGM/COP Hart, noting that he had come in and done a wonderful job taking control of a department that needed more supervision. She added that he had done a terrific job during the short time he had been here and that he had faced some difficult challenges. She said she had a lot of confidence in him and his ability to do the job for another three months. She added that she wasn't sure what the District would do if it didn't extend the contract. She concluded by saying she was in favor of extending the contract.

President Welsh that said IGM/COP Hart had spent a lot of time reaching out to the community: he had had an open-door policy; he had attended meetings at people's homes; and he had done many things to take the pulse of the community.

Vice President Sherris-Watt said she had been thinking about this issue for a long time. She noted that she had been reading a book about Dwight Eisenhower and that the biographer had written about Eisenhower's view of Douglas McArthur: He had no respect for McArthur because he valued the man over the institution. She said that, if she were to vote for an extension, she would be valuing the man over the institution, and the man she would be valuing was herself because she would be voting for her own comfort. She said, because she had seen what a good job IGM/COP Hart had done, she had come to think the job was too much for one person. She said this was not to supersede the Ad Hoc Committee's work, but the job of the IGM/COP was overwhelming. She said the District needed a General Manager and a Chief of Police and, for this reason, she would not be voting in favor of the three-month extension.

Director Cordova said there was a difference between the appointment and the extension of the contract, noting there had been a unanimous decision when the Board hired IGM/COP Hart. She said she had been disappointed that IGM/COP Hart had been unwilling to share in the burden of the richness of his medical benefits, and thus she had no interest in extending a contract she didn't support initially for this reason.

Marilyn Stollon responded to Director Gillette's commenting that she didn't know what she would do if the contract weren't extended. Ms. Stollon said that the District could go to recruiting firms for temporary General Managers and Chiefs of Police or combinations of the two. Director Gillette responded that the District was just regaining stability, that IGM/COP Hart had been primarily responsible for this, and that not to extend the contract by three months was unbelievable and would be irresponsible. She added that this IGM/COP was more conciliatory than anyone who had held the position in the past, that he was trying to repair what had gone wrong in the community, and that he had brought order to the Department. She said that not to extend the contract, because someone disagreed with the money – when there would be no impact on the budget, would be irresponsible. She added that the Board had a responsibility to the District and questioned how it would make sense to take this man out and have no one or to put a temporary person in the job for three months.

Vice President Sherris-Watt said she had initially thought she would vote to extend the contract but then wondered what she would do at the end of the contract in June: How would she explain then not to have another extension – would this become a permanent position because she lacked the courage to do the hard work. She said she had promised the community this would be a temporary position while the community decided what it needed. She said that she could see what good work had happened but that the Board needed to figure out the best long-term structure, regardless of the individual. Director Gillette responded by asking if Vice President Sherris-Watt wanted to split the GM/COP position. Vice

President Sherris-Watt responded that the role was completely overwhelming. Director Gillette asked what Vice President Sherris-Watt thought things would look like the next day.

Director Cordova responded that the District had a succession plan: The highest-ranking officer would take over, as he had before, for a limited period of time.

Director Toombs said that the Ad Hoc Committee had a responsibility to explore whether to split the job and that he would not trump that. He added that the Board had voted unanimously to have the Ad Hoc Committee research splitting the position as part of its fact-finding and that he wasn't going to consider splitting it because someone had philosophically decided the job was too big. He said this was a three-month extension, not a three-year extension.

Mabry Benson said that Director Gillette sounded as though this was a permanent position and that it was not. She said there was no reason to extend the contract. She suggested having a temporary General Manager and having the highest-ranking officer serve as the Chief of Police, and she said that this would not interfere with the work of the Ad Hoc Committee. Director Cordova responded that this could be an opportunity to test-drive this concept.

Karl Kruger said that the community was waiting for the Ad Hoc Committee but that, if it weren't for them, he'd recommend asking IGM/COP Hart to sign a two-year contract. He said this was the most professional management the District had had since he had been in Kensington: 25 years. He said that the District had someone who had an understanding and that he hoped the day would come that the Board could offer a two-year contract, at a minimum.

Chris Deppe said it was bothersome that Board members had said it would have no options if it didn't extend the contract. He said that he hoped this wasn't the Board's decision-making process and that it wasn't a good reason to extend the contract. Director Gillette responded that her comment about not knowing what the Board would do if it didn't extend the contract had been a flippant one. Mr. Deppe asked what the Board's contingency plan was. President Welsh responded that, when the Board hired IGM/COP Hart, it didn't know how he would work out. He said that the three-month extension had been included in case IGM/COP Hart hadn't worked out but that he had worked out fabulously.

President Welsh said that IGM/COP Hart was one of the most professional people to hold the position – perhaps, ever. He asked why, given this, the Board wouldn't extend the contract. Mr. Deppe asked what the contingency plan would be if the Board did not approve the extension. President Welsh responded that the Board would do the same thing it had done before: There would be another search, and Master Sergeant Hull would have to help out. He said there were options, but they weren't needed because IGM/COP Hart was working out well.

Celia Concus said that, at the Board's Closed Session earlier in the month, she had given a number of reasons why IGM/COP Hart was not working out well. She noted that the District was required to have a General Manager but not required to have a Chief of Police. She said that the District had not had a General Manager and that, when it had been time to replace former GM/COP Harman, there had not been enough time to seek two separate positions. She said that IGM/COP Hart self-identified as Chief. She said that, when IGM/COP Hart attended Board meetings he was in civilian attire and so attended in his capacity as General Manager. She said his background had always been as a police officer and so was, first and foremost, a Chief and serving as General Manager secondarily. She said it was time to try having a General Manager in charge of the police department. She concluded by asking that the Board not extend the contract but, instead, find a General Manager and another way to lead the police department.

The Board noted that it was 9:45 P.M.

**MOTION: Director Toombs moved, and President Welsh seconded, to extend the meeting until the evening's business was concluded.**

**Motion passed: 5 – 0.**

**AYES: Welsh, Gillette, Toombs, Sherris-Watt, Cordova    NOES: 0    ABSENT:**

Leonard Schwartzburd said that the opinion expressed that IGM/COP Hart was better and more professional didn't require a very high bar and that he supported what Ms. Concus had said. He said that IGM/COP Hart had minimized some important issues, that he had done so for political reasons, and that he hoped the Board would take a different course.

Simon Brafman said the Board was not taking responsibility. He said that, having a six-month period, would have allowed for a search for the right person. He asked why the medical insurance issue hadn't been caught sooner and why the law firm hadn't been asked to bear responsibility for its cost. He said the Board didn't understand what it meant to hire someone who was employed in another city.

Rich Karlssen said that a committee had been appointed to look at the GM/COP position and that the community should wait for the committee's findings. He said the Richmond Police Department was conducting an investigation that was almost complete and that he saw this as a serious matter. He said the Board should allow IGM/COP Hart complete the investigation process and then go forward. He said that he had seen Daniel Borenstein and had talked to him about his editorial and that Mr. Borenstein had indicated that he needed feedback from either the Board or IGM/COP Hart. He said the community needed to give IGM/COP Hart time to see where he was going, how he was going to do it, and what he was going to do with the investigation. He said IGM/COP Hart had been part of the command staff in Alameda County and that it had been very successful in its disciplinary actions. He asked the Board to let IGM/COP Hart do the job he had been appointed to do.

John Gaccione said he liked IGM/COP Hart as a person but that he presented himself as a Chief, not as the Interim Chief of Police. He said IGM/COP Hart didn't relate as the General Manager. He said the Board needed to give clear direction to the police department about the Board's expectations. He added that he had had a conversation with one of the officers and that the officer had said that he needed to hear what it was that the Board expected of him and looked to the Board for direction. He said that, with respect to a succession plan, when there was no Chief, it went to the highest ranking officer. He said it was not a legal requirement to have a Police Chief, but it was a legal requirement to have a General Manager. He noted that a strong police department was one that had the trust of the community and one that had strong morals.

Ron Weiselman asked what the Board was going to do in three months and said it appeared that the Board was going to "kick the can down the road."

A. Stevens Delk said she had sent two emails to IGM/COP Hart regarding police reports posted on the website and that IGM/COP Hart had addressed the issue raised in the first one: monthly police reports, which had been restored to the website. However, the issue of identifying officers in various reports had not been resolved. She added there had been no posting of police activities. She said Sgt. Hui was assigned posting police documents on the website and that this was not the best use of his time. She noted that Brown Taylor's report had suggested a police specialist position and that this might be a way to take care of making such website postings. Instead, she said, the person holding this position had been assigned to the investigations unit. She said the Taylor report listed nine officers but the police reports mentioned only some by name and she questioned what the others did and how the department was being run. She said that the Board wanted to earn a certificate of transparency but that the police department, the District's main component, had become less transparent. She said she didn't think that IGM/COP Hart was doing an excellent job as Chief of Police.

Linda Lipscomb said the Board's job was to hire a CEO of the town, currently defined as the General Manager/Chief of Police. She said it appeared that, if the contract were not renewed on some philosophical grounds in order to drive a wedge between the two positions, was ridiculous. She said that

the Board had a fiduciary responsibility to stabilize the community and that it could do so by continuing the contract. She added that she had heard nothing that would prevent the Board from doing this, other than sophistry. She said it was important to recognize the circumstances IGM/COP Hart had come into: a situation of chaos. She said there was a group that wanted chaos, and she asked the Board not to bow to that. She said she had objected to the use of the term “interim” because it had no legal significance: It was used in situations such as when there had been no full recruitment. She noted that IGM/COP Hart had been fully recruited, he was fully qualified, and he had done a spectacular job in the face of the dissension within the community to calm the waters and to present himself as a fine CEO for the town. She said the Board should finish its discussion and take its vote.

Andrew Reed said he agreed with what Mr. Karlssen and Ms. Lipscomb had said. He said the District should get the facts and reports, be patient, and let the Board do its job. He said that, with respect to the issue of General Manager/Chief of Police position and whether it should be split, the Committee was working on it. He said that there was an idea that the District could have both a Chief of Police and a General Manager on its budget, but that he couldn't see how that could be fiscally possible. He said, however, there was discussion in the community now about the potential of merging the Fire and Police Districts. He noted that there had been a letter in the Outlook outlining the fiscal aspects and benefits to the whole community of joining the two districts. He said he wanted an efficient, well run organization; one for which there was a single board of five to seven people managing fire and police and saving the community hundreds of thousands of dollars. He said that then the community could afford a general manager and a leader of the police. He said that he disagreed with the notion of having one of the sergeants leading the department and that the department needed a real leader. He said the community had not had a person like IGM/COP Hart in the position before, that he was great, and that the community would be foolish to let him go.

**MOTION: Director Toombs moved, and President Welsh seconded, that the Board extend Interim General Manager/Chief of Police Kevin Hart's contract for the three-month term called for under the current agreement with him.**  
**Motion passed: 3 – 2.**

**AYES: Welsh, Gillette, Toombs    NOES: Sherris-Watt, Cordova    ABSENT:**

- 9 b. The Board received a presentation and considered approving Resolution 2016-03, fixing the employer contribution at the equal amount for employees and annuitants under the Public Employees' Medical and Hospital Care Act.

Adam Benson introduced the item, noting it had come from CalPERS and would allow the District to establish a cafeteria plan for IGM/COP Hart. He said this established the District's healthcare contribution to CalPERS at the PEMHCA minimum of \$125 per month. He said there was a cafeteria plan document from a broker that would allow the District to contribute the remainder healthcare contribution, per IGM/COP Hart's contract, to the cafeteria plan.

Director Toombs asked for clarification of his understanding that the resolution would be in line with the notion that the District had a healthcare arrangement wherein the District would pay the minimum, and the savings that IGM/COP Hart had given back under his contract would go towards the cafeteria plan. He also asked for confirmation that this would also set up the model for future possible use of a cafeteria plan. Mr. Benson responded why the Board would do this: It would separate the active and retiree healthcare contributions, which would establish that, in retirement, the GM/COP would only be eligible for the PEMHCA minimum, which was required by CalPERS regulations. Mr. Benson added that any future GM/COP would negotiate his own healthcare as part of the compensation package.

Director Cordova asked for clarification that this had effectively been approved when the Board had approved the original contract. Mr. Benson responded that was correct, but it had just taken some time to get the actual legal documents and to get the resolution from CalPERS. He added that, with the

Board's approval, this would go back to CalPERS, and then the cafeteria plan would be operational by March 1<sup>st</sup>.

**MOTION: Director Cordova moved, and President Welsh seconded, that the Board pass Resolution 2016-03, pursuant to the Board's original approval of the this contract.  
Motion passed: 5 – 0.**

**AYES: Welsh, Gillette, Toombs, Sherris-Watt, Cordova    NOES: 0    ABSENT:**

IGM/COP Hart returned to the meeting.

#### 6. Update from Ad Hoc Committee

David Spath provided the Directors with a progress report document. It is included in the March Board Packet's Consent Calendar.

David Spath thanked Director Cordova for having pointed out the government code issue earlier in the evening. She responded by letting Dr. Spath know that CSDA would be willing to assist the Ad Hoc Committee with its research.

Dr. Spath said the progress report summarized what the Committee had done to date, including holding a forum. He said that there had been about 185 forum attendees, 41 of whom had completed a questionnaire. He said that there were three subcommittees and that these would have public forums. He said the public had poorly attended the Committee's regular meetings; only five people and one Director had attended the Committee's last meeting. He urged people to attend and noted that the meetings had been announced in several ways.

Dr. Spath said the subcommittee members would be travelling to conduct the Committee's business and asked if they could be reimbursed for the mileage, parking, and bridge tolls. The Board and staff responded that the District had a reimbursement policy and that this should be followed.

Director Cordova suggested it would be good for the Committee to develop an FAQ page for the Committee's website page. Dr. Spath concurred and added that the Committee had created a new website page for documents received from members of the public that related to the Committee's work.

Director Gillette thanked Dr. Spath and the Committee and said she had faith in the Committee's ability to accumulate all the facts the Board would need to make decisions about the future of the District. She said this made her not want to preempt any decision. She added that this was work the Directors could not have accomplished, given their own workloads. She said the Committee had shown itself to be objective, straightforward, informative, and valuable to the community.

Director Toombs said he echoed Director Gillette's comments. He said the reason he didn't attend the Committee's meetings was that he didn't his presence to bias the Committee's work. Director Cordova said that she did attend and that she did speak and ask questions. Dr. Spath responded that he didn't think the Committee members were intimidated by anyone. President Welsh noted that Dr. Spath was hoping for more community attendance to find out what residents thought.

Rich Karlssen asked where the Committee meeting notices were posted. Dr. Spath responded that they were posted on the District's website. Board consensus was that the meeting notices should be sent to the same people who received the Board's agendas. Celia Concus said she didn't think this was an appropriate use of this list because those individuals had not asked to receive anything other than Board agendas. President Welsh suggested that staff send an email to all recipients of the Board's agenda asking if anyone wanted to opt out of receiving notices of committee meetings

**CONSENT CALENDAR**

President Welsh asked if anyone wanted to pull an item from the Consent Calendar.

Director Toombs said that, given the late hour he would not pull the financial report, although he would have liked to.

Director Cordova said she had a request for a change to the minutes. She said that Intergovernmental External Issues was actually Board Coordinator position and asked that this be included. President Welsh asked that the minutes reflect what was in the Policy Manual. District Administrator Wolter suggested tabling this set of minutes and then revisiting them after she had gone back and listened to the tape.

Director Cordova asked if the appointments appeared on the website and added that she thought this was on the CSDA Transparency checklist. President Welsh concurred that it would be nice to have Mr. Gobler add this to the website.

**MOTION: Director Toombs moved, and President Welsh seconded, adoption of the Consent Calendar, with the exception of the January 14, 2016 Minutes.**

**Motion passed: 5 – 0.**

**AYES: Welsh, Gillette, Toombs, Sherris-Watt, Cordova    NOES: 0    ABSENT:**

- 8 a. The Board considered approving proposed Resolution 2016-02 of the Kensington Police Protection and Community Services District, amending Board policy governing the preparation of the budget to ensure consistency with state law provisions governing the budget process.

Director Cordova asked for clarification that there was a discrepancy between the KPPCSD Policy Manual and state code, with respect to approving a budget, and that this would reconcile the discrepancy.

Director Sherris-Watt asked for a minor change: to change the language under Section 3020.2 to be gender neutral; specifically changing the word “his” to the word “the.”

**MOTION: President Welsh moved, and Vice President Sherris-Watt seconded, to approve Resolution 2016-02, as amended.**

**Motion passed: 5 – 0.**

**AYES: Welsh, Gillette, Toombs, Sherris-Watt, Cordova    NOES: 0    ABSENT:**

At 10:32 P.M., the Board took a five-minute break.

- 9 c. The Board considered a proposal from the Interim General Manager/Chief of Police to increase the FY 15/16 Budget for Capital Outlay Item 965 by \$18,000. This amount would be offset by new revenue, in the amount of \$18,526, of Asset Forfeiture Funds.

President Welsh introduced the item and asked IGM/COP Hart to provide the background on it.

IGM/COP Hart said the District had received its first installment of asset forfeiture funds, in the amount of \$18,526, from WESTNET as a result of the Kensington Police Department’s participation in that program. He said he didn’t know the full amount the District would receive, but the total would be divided among several agencies. IGM/COP Hart said the budget called for \$10,000 to be spent for



weapons in order to standardize the force. He said that research had shown that the total for weapons, holsters, ammunition pouches, and equipment lighting would exceed the \$10,000. He said the officers currently did not have body armor issued to them, which, as the employer, the District was required to provide, pursuant to the government code. He suggested adding the \$18,000 of asset forfeiture funds to the amount budgeted for safety equipment in order to cover body armor, the weapons, and related weapon equipment. He explained that the proposed increase to \$28,000 was a not-to-exceed amount. IGM/COP Hart recommended that the Board authorize him to accept the asset forfeiture funds and to authorize the expenditure for body armor and weapons. He said there might be an opportunity to receive grant money to cover the bulletproof vests.

Director Cordova said she had had a conversation with the range master and that he had told her that the service weapons being used were varied among the officers. She noted that the ammunition for these weapons also was varied. She said the officers, not the District, had purchased the weapons. She said this caused her concern, given the Reno incident. She asked IGM/COP Hart to explain his recommendation, from a policy standpoint, with respect to the District's legal exposure. IGM/COP Hart responded that, historically, the officers had been allowed to bring their own guns and that this meant that the range master had had to purchase ammunition for these various weapons. IGM/COP Hart said he was proposing one kind of weapon and one kind of ammunition, which would enable the District to purchase ammunition in bulk and would standardize both the weapons and ammunition.

Director Cordova asked if IGM/COP Hart's intention was to issue one gun or two, with the second as a backup. IGM/COP Hart responded, one weapon would be issued to each officer.

Vice-President Sherris-Watt asked about the lighting feature. IGM/COP Hart responded that none of the officers' weapons currently had this feature but that this feature was now routine for most departments. He said he was recommending a state-of-the-art weapon, which would include the light feature on the weapon itself.

Director Cordova asked if the weapons would be semi-automatic. IGM/COP Hart responded in the affirmative.

Vice President Sherris-Watt said that she supported the concept of standardized weapons and body armor but that she would like more financial detail. IGM/COP Hart responded that he hadn't decided on what specific weapon he would get, though it was down to two. He added that the cost would be approximately \$14,000 for the weapons and about \$10,000 for the body armor. Director Cordova said she wanted to see an itemized list. Director Cordova noted that, years ago, IGM/COP Hart had owned a police equipment business and said she wanted to ensure that there were no ties between the source of this expenditure and IGM/COP Hart's prior life. IGM/COP Hart responded in the negative.

Vice President Sherris-Watt asked what the length of a warranty for body armor was. IGM/COP Hart responded that manufacturers usually provided a warranty of five years.

Director Cordova asked to table the item until more detail was provided. IGM/COP Hart asked that the Board approve everything in general and then, prior to the actual expenditure, he would provide this detail. He said he didn't want to move forward unless he knew that the Board supported the funding source and the concept of the expenditure.

Director Toombs asked for confirmation that, once the District purchased body armor, the officers would be required to wear it. IGM/COP Hart confirmed this. Director Toombs also asked for confirmation that, once the District purchased the weapons, the officers would be required to carry them. IGM/COP Hart confirmed this.

Director Cordova asked what would happen to the weapons the officers were currently carrying and for which the officers had been reimbursed. IGM/COP Hart clarified that the District had not reimbursed the officers, rather the officers, in accordance with the MOU, had received a weapons allowance. Director Cordova asked for confirmation that each officer's gun was his/her personal weapon.

IGM/COP Hart responded in the affirmative. Director Cordova said she wanted to revisit this because she was unclear about it. Director Gillette responded by asking Director Cordova what she wanted clarified. Director Cordova responded that the policy change needed to be clearer and that she wanted an itemized list of what IGM/COP Hart would like.

Jim Watt said he and Karl Kruger has spoken about this item and the two of them were in agreement about what he was going to say. He said he wanted to mention what had happened at the Finance Committee meeting – IGM/COP Hart had asked the Committee to consider recommending an increase in the amount that had been budgeted for legal expenses by \$80,000 because it had become clear that the amount budgeted would be exceeded. He said that, by a unanimous vote, the Committee had declined to make that recommendation. He said the Committee had agreed that the final amount expended should speak for itself, as compared to the amount that had been budgeted. He said he thought the same thing should be done with this item.

Mr. Watt said he had reviewed the budget, going back to 2007, and the District had expensed over \$100,000 during this eight-year period on WESTNET costs. He said it was good news that the District would be receiving \$18,000 for its involvement in WESTNET, but he didn't think the money should be used for police-related items; instead, it should go into the general fund. He added that, if the expenditure for weapons exceeded the \$10,000 budgeted then this should be reflected in the year-end financial report. He said the community had not been provided with the details to support the purchases of the safety equipment. He said he had spoken to a friend who told him that a Glock 22 plus a holster and an ammunition clip would cost about \$6,000 for ten officers. He said that this would leave another \$4,000 for training and extras, and that the total for these would come within the \$10,000 budgeted. He there was no backup to support the \$10,000 amount cited for body armor. He said that his friend had directed him to a website that showed a level 3-A bullet-safe vest, capable of stopping a 44 magnum bullet, could be purchased for \$299 and that, therefore, the total for body armor should not be more than \$5,000. He said that the vests would have a lifespan of about three years and that because of this lifespan, the vests would be an ongoing expense. He concluded by saying that, given the anticipated benefits costs, the District needed to pay greater attention to controlling costs and that more detail was needed for Board approval.

Leonard Schwartzburd said he had a question about the flashlight on the gun: would an officer need to pull his gun to use a flashlight. IGM/COP Hart responded that an officer would not pull out a gun just to use a flashlight: Officers carried separate flashlights. President Welsh asked if the flashlight would be detachable from the gun. IGM/COP Hart responded in the affirmative.

President Welsh asked IGM/COP Hart about the cost differences cited by Mr. Watt. IGM/COP Hart responded that there was no way that the items, suitable for police use, were available for the prices that had been cited by Mr. Watt. IGM/COP Hart said the vests he had looked at were more than \$700, and this price had been discounted from \$1,200.

Director Gillette said she was surprised by Mr. Watt's comments. She said that the District paid IGM/COP Hart for his expertise.

IGM/COP Hart noted that the funds coming from WESTNET were restricted: They could only be used for police training or equipment and, therefore, could not go into the general fund. He said that most agencies would be using this money to provide 21<sup>st</sup> century policing and that he was trying to achieve this with his recommendations. He said that body cameras were among the 21<sup>st</sup> century policing recommendations and that he hoped to come to the Board about these in the future.

President Welsh asked that, because Mr. Watt had taken the time and trouble to come up with his recommendations, IGM/COP Hart take a look at them. IGM/COP Hart said that he would do so and that his job was to get the best deal for the District.

Director Gillette said that, given the issues that had been raised, it would be a good idea to itemize exactly what the costs would be and then bring the item back to the Board.

Celia Concus asked if it was standard to have two proposals and suggested that this would be a good thing to do. IGM/COP Hart responded that the department had obtained multiple proposals and that the department knew from experience that there were certain vendors that provided the best prices for law enforcement. He said that the guns would, tentatively, come from LC Action and the vests from Adamson Police and that both these suppliers were well known.

Director Gillette asked if the Board needed to accept the \$18,000 that evening. IGM/COP Hart responded that the check had been deposited into the District's account, and he recommended that the money be allocated to safety equipment.

**MOTION: Director Cordova moved, and Director Gillette seconded, that the Board continue the item.**

**Motion passed: 4 – 1.**

**AYES: Welsh, Gillette, Sherris-Watt, Cordova    NOES: Toombs    ABSENT:**

Vice President Sherris Watt noted that she wanted a breakdown for the equipment.

Director Toombs noted that he had voted in the negative because he wants the officers to have body armor now. President Welsh added that it was the law that employers must provide the safety equipment and enforce its use.

9 d. The Board received a presentation from the Interim General Manager and considered taking action on revising the rental fees and other charges for use of the District facilities.

IGM/COP Hart provided the background on this item and a summary of the proposed rates. He noted that the rates had not been increased for a number of years and recommended that the Board approve the proposed rates. He said the proposed rates were consistent with rates charged in other communities and noted that a goal of the District was to raise fees. He said this was the Board's second look at this: It had seen proposed increases at a prior meeting. He said, however, that this would constitute a first reading and that, with Board approval, he would return to the next meeting with a resolution.

Director Gillette said that a resident had expressed concern about the proposed hourly rates for residents to rent the Community Center. She said that, if one were to add up all the hourly rates for the different parts of the Community Center, the total would be about \$350 per hour and that this amount seemed really high.

Director Cordova said that the picnic table reservation rate of \$73 was too high. She said that such funds should be intended to improve facilities and that Kensington had one small park that served its residents. She said parks should provide universal access, she didn't have children, but she couldn't imagine having to spend \$73 to reserve a table: The most it should be was \$20 per hour, with a minimum. She said the District had not made improvements to the Community Center to justify a sharp increase in those fees.

Director Toombs said his concern was that the District was trying to restore the building and that it needed the revenue to help pay for the cost of this. He added that an individual didn't have to spend \$73 to use the picnic tables, only to reserve it if one wanted it for a specific time.

Vice President Sherris-Watt said she had put this issue out to the parent community, which said the amounts for the picnic tables were too expensive and they were already paying taxes. She added that they had said \$10 per hour, with a minimum, would be more reasonable and that they didn't want to use the tables for a whole day.

IGM/COP Hart said that he was trying to raise revenues and that he was open to amendments. He recommended increasing fees to stay current, to cover daily expenses, and to ensure that the District didn't lose money when it rented out the facility.

Vice President Sherris-Watt proposed that she and Director Gillette meet to discuss amendments. Director Gillette responded that she would do so.

Celia Concus asked that these fees be considered in the context of the recently increased police fees, which, she said, some people found offensive.

David Bergen asked how picnic table reservations would be enforced and said that, for \$75, he could buy a table and bring it to the park.

- 9 e. The Board received a report from the Parks Building Committee on a Measure WW Grant application for the Kensington Community Center facility improvements.

Vice President Sherris-Watt said the Park Buildings Committee had begun a preliminary project application for Measure WW Grant money. She said the Committee had submitted the information to the East Bay Regional Park District because they had hoped they would get some feedback on what the Committee was proposing to do before it actually submitted the grant. She said the Committee had not heard back yet. She said that the window for applying was between 2/1 and 3/31/16 and that, if this year's window was missed, the District would have to wait another year. She said the District would be asking for \$158,000 of grant money, the maximum amount available. She said they would submit the application for the ADA upgrades to the building, which came in with an estimate of approximately \$180,000. She added that the Board had designated about \$207,000 for building improvements, and she asked if the Board would like this item to come before it in March.

Director Cordova said that, because she wrote park grants she would like to review the document.

President Welsh asked for confirmation that the deadline was March 31<sup>st</sup>. Vice President Sherris-Watt confirmed this. President Welsh responded that this would allow the Board to review the document at the Board's next meeting.

Director Toombs asked for confirmation that this would appear on the March agenda. President Welsh confirmed this.

- 9 g. The Board received a report on negotiations with Conterra Ultra Broadband to authorize Conterra to construct, operate, and maintain an underground conduit under Kensington Park Road to provide broadband services to Kensington Hilltop Elementary School.

IGM/COP Hart explained that 50 miles of fiber optic cable was being installed for the WCCUSD, ranging from Richmond to Kensington. He said that the boring for the section of the cable installation affecting the KPPCSD would begin on Rincon Road, which was County-owned, and then proceed up Kensington Park Road, part of which is owned by the KPPCSD, to the school. He said the installation would be accomplished by boring underground to accommodate a two-inch pipe and added that a stub-out would be installed to accommodate any possible future wi-fi installation at the Community Center. He said he had contacted the District's law firm to ascertain what would be needed to complete the process.

The District's legal counsel, Teresa Stricker, explained that a license agreement would be needed with Conterra and that the Community Center stub-out would be a bonus. She noted that she was in the process of getting the license agreement in place and that Conterra would then go to the County to obtain an encroachment permit.

Director Toombs asked about insurance coverage. Ms. Stricker responded that the agreement would contain all the needed indemnity provisions.

Director Cordova asked if the work would initiate CEQA. Ms. Stricker responded in the negative.

Vice President Sherris-Watt asked if IGM/COP Hart would be notifying the library and the Kensington Community Council. He responded in the affirmative.

Jim Watt asked if the work, especially the proposed stub-out in one of the planter boxes four feet from the Community Center, would conflict with the work related to re-grading for ADA compliant parking places. IGM/COP Hart responded that the line would be between 36 and 40 inches deep, so this would be unlikely.

David Bergen asked what size the stub-out box would be. IGM/COP Hart responded that it would be two feet by three feet and would be at the surface. He asked, if the District were to provide wi-fi at a later date, would the District be limited in its service provider. He added that he would like to see wi-fi added to the Community Center.

Director Cordova asked if construction documents would be available for review. IGM/COP Hart responded in the affirmative.

IGM/COP Hart said the Board did not need to take action on this item.

- 9 h. The Board received a report from the Finance Committee about forming a subcommittee comprised of five members of the Finance Committee to develop a Budget Reserve Policy Informational item.

President Welsh introduced the item and explained that the Finance Committee needed authorization from the Board to establish a subcommittee of five members. Director Toombs noted that the subcommittee, because of its size, would be exempt from the Brown Act.

IGM/COP Hart said the staff report named the five individuals recommended by the Finance Committee. President Welsh provided the names: Jim Watt, Gloria Morrison, Rob Firmin, Karl Kruger, and Paula Black.

**MOTION: Vice President Sherris-Watt moved, and Director Cordova seconded, the formation of the subcommittee.**

**Motion passed: 5 – 0.**

**AYES: Welsh, Gillette, Toombs, Sherris-Watt, Cordova NOES: 0 ABSENT:**

IGM/COP Hart noted that he had failed to mention under his General Manager's Report that he was trying to identify a time and date for the Board workshop. He said that he had sent the name of a consultant and a scope of work to the Directors and that this had been budgeted. March 12<sup>th</sup> was identified as a proposed date for which three of the Directors had said they were available. President Welsh and Director Gillette said they would reply to IGM/COP Hart.

President Welsh said that, earlier, he had let Leonard Schwartzburd know he could make a comment at the end of the meeting. Dr. Schwartzburd said he wanted to know, once the Richmond investigation was out, what level of it could be released to the public. IGM/COP Hart said that, once he received it, he would forward it to Public Law Group and ask the firm to review it to ascertain what could be legally released.

Director Cordova asked, based on the findings, if it would be Richmond that would sustain or not sustain the allegations and not IGM/COP Hart. IGM/COP Hart responded that, ultimately, Richmond would make findings, but the Chief of Police would sustain or not sustain. President Welsh asked for confirmation that this would be IGM/COP Hart. IGM/COP Hart confirmed this. Director Cordova responded that this was different from what had been explained to her. She said she understood that Richmond would sustain, partially sustain, or not sustain the allegations, that this would then be forwarded to IGM/COP Hart, at which point IGM/COP Hart would review the report and the recommendation – she said she understood there was one, and that IGM/COP Hart would be responsible for any further action. IGM/COP Hart said he would have to concur or not concur with the recommendations.

Director Toombs said this was a possible violation of the Brown Act and so there shouldn't be any further discussion.

**MOTION: Director Gillette moved, and President Welsh seconded, that the meeting be adjourned.**


**Motion passed: 5 – 0.**

**AYES: Welsh, Gillette, Toombs, Sherris-Watt, Cordova    NOES: 0    ABSENT:**

The meeting was adjourned at 12:01 A.M.



Len Welsh  
KPPCSD Board President



Lynn Wolter  
District Administrator