

Meeting Minutes for 6/22/16

A Special Meeting of the Board of Directors of the Kensington Police Protection and Community Services District was held Thursday, June 22, 2016, at 6:00 P.M., at the Community Center, 59 Arlington Ave., Kensington, California. The Regular Meeting followed.

ATTENDEES

<u>Elected Members</u>	<u>Speakers/Presenters</u>
Len Welsh, President	Randy Riddle, Renne Sloan Holtzman Sakai LLP
Rachelle Sherris-Watt, Vice President	Deborah Russell, CPA
Patricia Gillette, Director	John Stein
Chuck Toombs, Director	Catherine de Neergaard
Vanessa Cordova, Director	Paul Dorroh
	Jim Watt
	Marilyn Stollon
<u>Staff Members</u>	John Gaccione
Interim GM/COP Kevin Hart	Mabry Benson
Lynn Wolter, District Administrator	Skye Dent
	David Spath
	Celia Concus
<u>Press</u>	Andrew Gutierrez
	Karl Kruger
	Linda Spath
	Sylvia Ellsbury
	Leonard Schwartzburd
	Mark Bell
	Linda Lipscomb
	Kay Reed
	Gloria Morrison

President Welsh called the meeting to order at 6:04 P.M.

President Welsh took roll call. He, Vice President Sherris-Watt, Director Gillette, Director Toombs, Director Cordova, Interim GM/COP Hart, and District Administrator Wolter were present.

PUBLIC COMMENTS

Mabry Benson said that crime victims, witnesses, and their families have a right to prevent the release of their confidential information or records to criminal defendants. She said that, Director Cordova, as a victim of crimes having been committed against herself by some Kensington officers, was obligated to report these to authorities. She said that some on the Board thought Director Cordova should be loyal to

the Board and, therefore, should not have reported the incident. She said that Director Cordova had been forced to recuse herself from Closed Session discussions because she was a complainant and that this constituted acknowledgement that Director Cordova is a witness and/or a victim. She said that crime victims/witnesses have a state constitutional right to prevent the release of their confidential information or records to criminal defendants. Ms. Benson said that Marsy's Law expands the rights of victims in California such that they are to be "free from intimidation, harassment, and abuse throughout the criminal justice process;" "protected from the defendant and persons acting on behalf of the defendant," such as KPPCSD Board members; and free from "disclosure of confidential information or records to the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim... or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law." Ms. Benson said that the internal investigation report was flawed and that releasing the report would put people involved at risk of retribution. She said that those who testified likely told more because they assumed their statements would be confidential under the police bill of rights and that those who testified might, therefore, be reluctant to testify in the future. She cited these as reasons why the investigation report should not be released.

Marilyn Stollon said that, if the majority Board were to vote to release the cherry-picked internal investigation, it would inspire scrutiny of the biased process and the obvious personal motivation of two Board members who appeared to be obsessed with making public, potentially slanderous, comments and erroneous information about Director Cordova, whom, she said was a victim/witness in a related criminal investigation. She said the majority Board, which had a track record of retaliating against anyone who questioned them or the police, should surprise no one. She asked if this was what they wanted their legacy to be.

The Board entered into Closed Session at 6:08 P.M.

CLOSED SESSION

- a. Public employment: Title: (General Counsel) – Pursuant to Government Code Section 54957.
- b. (1) Conference with legal counsel – anticipated litigation: Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54959.9 (1 potential case); and (2) public employee discipline/dismissal/release.
- c. (1) Conference with legal counsel – anticipated litigation: Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: (1 potential case); and (2) public employee discipline/dismissal/release.

Note: Among the issues the Board considered during Closed Session item (b) was whether to disclose publicly some or all of the investigation report regarding the October 7, 2015 traffic stop of Vanessa Cordova by Kensington police officers.

The Board returned to Open Session at 7:42 P.M.

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

President Welsh reported that the Board had taken no action and that one of the items would be discussed at the following week's meeting.

PUBLIC COMMENTS

Paul Dorroh said that he and quite a few other community members had attended the Board's May 12th meeting and that the first reading of the proposed 2016-17 Budget had been on the agenda. He said that reading had not taken place because the meeting had ended at 10:00 P.M., before the agenda item could be considered, because Vice President Sherris-Watt and Director Cordova had voted against extending the meeting past 10:00 P.M. He said that Board policy requires four votes to extend past 10:00 P.M. and that the vote in favor of extending had been 3 – 2. He said that the first reading had taken place at a June 9th Special Meeting and that this meeting had also ended at 10:00 P.M. because Vice President Sherris-Watt and Director Cordova had voted against extending, even though more business remained on the agenda. He said that, at the end of the June 9th meeting, Vice President Sherris-Watt had made the surprising statement that she and Director Cordova had gone to Fonda, a bar and restaurant in Berkeley, following the May 12th meeting, in order to discuss the District's budget, over drinks, with a single constituent. He noted that they had done this after they had left a dozen or more residents, who had attended the May 12th meeting, in the lurch: Many of them had attended the meeting to participate in the discussion of the budget agenda item. He said that Vice President Sherris-Watt's and Director Cordova's behavior was unseemly and that it raised issues of transparency and hidden agendas. He asked what made the budget discussion with this one constituent so important that the budget discussion, as a whole Board, in public, had been short-circuited in favor of that private meeting. He said that Director Cordova and Vice President Sherris-Watt had time, after 10:00 P.M., to talk District business and asked why they hadn't discussed this District business in public, and he asked if they had planned, in advance, to cut off the Board meeting so they could have this private meeting. He said the strategy, if it was that, of derailing Board meetings at 10:00 P.M. was more than unseemly: It was neglectful of the duties they had been elected to do; and it was disrespectful of the community members who had taken the time to attend those meetings, expecting to see the Board deal with the entire agenda, not just the parts that Vice President Sherris-Watt and Director Cordova felt like allowing to be discussed in public.

Skye Dent said that she had been a resident for 2 ½ years and that she had always been supportive of police departments. She said she had worked with police departments with respect to community policing. She said she wanted to thank the Kensington Police Department for being different from other departments. She said that one could tell when someone accepted diversity and that everyone she had met in the Kensington Police Department sincerely believed in diversity. She said that she had been profiled and followed and that those who had done so were people who appeared on the Kensington Next Door site. She said that, for fun, she had walked on certain streets and then gone to the Kensington Next Door site and seen participants talking about having seen the "black person" on the street. But, she said, the police made up for that because they were wonderful, and she wanted to express her appreciation.

Leonard Schwartzburd said he had not been responded to in his appeal to the Board about his case with IGM/COP Hart. He also said that Paul Dorroh's comments had been disingenuous: Mr. Dorroh had cast blame and that this was consistent with the culture of character assassination that he had seen in the community.

John Stein said that he had been a resident since 1982 and that he wanted to share something he had observed during the June 4th KPPCSD Ad Hoc Committee on Governance Option's community forum. He said that he had gone outside and that, along with President Welsh, had seen a man, sweating profusely, come out of the park. He said the man asked him and President Welsh to call 911. He said he went back into the building to get IGM/COP Hart. Minutes later, he said, they had discovered that the man had gone into the Library, where children had gathered for a program. He said the librarian had left the building to seek help: She feared the man, who had appeared distraught, posed a danger to the children. He said that, a few minutes later, IGM/COP Hart had worked to calm the man and that, soon thereafter, Officer Martinez, a ten-plus year veteran of the police department, had arrived on scene. He said that Officer Martinez dealt with the man in a professional compassionate manner and that, within seconds, he had gotten the situation under control. He said that the situation ended with the man in good hands and the children safe. He said he then returned to the forum, where one of the topics being discussed was the viability of contracting out for police services. He said how fortunate residents are to

live in Kensington and how outstanding the local Kensington Police Department is. He concluded by saying thank you to all the police officers and especially Officer Martinez.

Catherine de Neergaard said she had just returned from a serene vacation and that she had come to the meeting reluctantly to talk about the longstanding rancor, ill will, and rage that community members have had against each other. She said that there was no one single cause of it or one single person but many have been engaged in it, and it was standing in the way of progress. She said that many, including herself, had made mistakes and said things. She said that the rhetoric, threats of lawsuits, and level of blame had reached new heights since October and that it needed to stop. She said the repeating narrative of victimhood and persecution coming from Director Cordova particularly disturbed her. She said this had happened again at the end of the prior Board meeting, when according to three witnesses, President Welsh had not done anything at the restaurant – where there had been two separate parties following a meeting: Yet, there had been the accusation that President Welsh had attacked Director Cordova. Ms. de Neergaard said this was another example of the narrative of victimization and polarizing the community. She said she particularly addressed Vice President Sherris-Watt and asked that she give testimony based on her own experience, not on stories she's heard from people, before making accusation. She said was disturbed by the lack of care shown for Kensington with Director Cordova's various threats and accusations. She said she also found the threats of lawsuits from people connected with Director Cordova really scary and very disturbing, and she asked it to please stop. She said almost everyone in the room owned a house in Kensington and, therefore, had something to lose with more lawsuits and bad publicity because it could bring down property values. She said that people needed to work things out and that if someone couldn't do so, they should step down from the Board. She said she was also concerned about the residency issue: If one didn't have a place to live – to be a Director, one had to be a resident of Kensington. She said she was concerned this wasn't the case or wasn't the case all the time. She asked that one please stop making themselves the center of attention and drama with claims of victimization and asked people to be nicer to one another. Director Cordova responded by saying that Ms. de Neergaard had filed a lawsuit against the District. President Welsh interjected that this wasn't a time for conversation. Ms. de Neergaard, in response to Director Cordova's comment, said she had done so, she had made mistakes, she had done things that weren't good and, for the most part, she had apologized for them.

John Gaccione said he wanted to comment on things that had been said by Paul Dorroh, who had said it had been derailing that meetings has stopped at 10:00 P.M. Mr. Gaccione said that, prior to the meetings being ended at 10:00 P.M., there had been several meetings that had gone on until about 1:00 A.M. and that Mr. Dorroh hadn't stayed until the end of those meetings: He had left early. Thus, he said, he found Mr. Dorroh's comments ironic and disingenuous. He said there seemed to be something going on with victimhood of one of the Directors and that comments about this must have been due to the summer solstice.

Andrew Gutierrez said he had been pleased by John Stein's appreciative comments about Officer Martinez's efforts. Mr. Gutierrez said he, too, thought Officer Martinez was one of Kensington's good officers: He had not been involved in Reno; he had not been involved in the stop; and he had not been one of the people who had harassed him when he had filed a complaint. He said that, upon review of the investigation by Richmond, he had found it to be inaccurate fiction and self-serving; so when residents have complaints, they're not treated fairly or honestly. He asked what people were supposed to think of their police department. He said there had been a lot of propaganda that evening, about how great the Kensington Police Department is. He asked, if the department was so great, why people had had so many problems with it over the prior 25 years. He said the place needed to be cleaned up. He said this should begin by taking allegations and having them reviewed. He said a clique had run Kensington for a long time, and it was time to stop. He said things should be transparent and responsible. He said he did not want the review of his complaint released because it was inaccurate and it was fiction.

BOARD MEMBER COMMENTS

Vice President Sherris-Watt reported that the Park Buildings Committee would be meeting on July 6th and July 27th.

Vice President Sherris-Watt said she disagreed with most of the public comments that had been made regarding what had happened in the past and what had occurred at the restaurant in question. She said that, in March, she had told constituents she would never vote again to go beyond 10:00 P.M. but that she would gladly come to more than one meeting per month. She said the May meeting had been her fourth meeting that week for the KPPCSD. She said she wasn't unwilling to be present; she was unwilling to be present for hours on end for meetings that dissolved into mayhem and argument.

Director Gillette said that she had just returned from a vacation and that, while on vacation she had had an epiphany: The community was spending too much time talking about personal and petty grievances. She said the community's business, which included passing a budget and thinking about the District's future structure, needed to be attended to. She said that people needed to think about what the police were doing right and what they were doing wrong and that this needed to be done in a way that was consistent with the community's values. She said the community's values were that, when someone stood up to make comments, others didn't sneer or make faces. She said that 75% to 80% of the time was being spent on personal grievances instead of taking care of what needed to be done. She said that meetings needed to stop being a war of words and, instead, needed to become a time of moving the District forward with what's best for the community. She said that, if that means having to stay past 10:00 P.M., then that's what has to be done. She suggested that, perhaps, the meetings needed to start earlier and noted that there had been only one meeting that had gone until 1:00 A.M. She reiterated that she hoped that, in the coming year, the District could move forward in a positive manner.

Director Gillette said she had not been in town for the June 4th community forum. She said she had heard it had been fabulous, and expressed her thanks to David Spath and his team for their hard work.

President Welsh reiterated Director Gillette's comment that the Board needs to look at the way the meetings are structured. He said it would be helpful if public comments were kept to three minutes per person, and he noted that most people had been trying to keep their comments short. He noted that the Board Manual didn't stipulate when public comments needed to be made, so perhaps, comments could be made for 20 minutes at the beginning of the meeting and then resume at the end of the meeting. He said that he wanted to discuss this issue at the next Board meeting and that, perhaps, some changes in the Policy Manual might be in order.

Director Toombs said that serving on the Board was hard work and was made harder when criticized by the public. He said it would be better if people would pitch in. He said the Board needed to deal with the budget, Measure G, and a resolution that evening. He said it did nobody any good when the meetings were dragged out, thereby preventing the Board from taking care of business. He suggested moving the Consent Calendar to the end of the meeting in order to get to the most essential items first.

IGM/COP Hart asked the Board to consider Consent Calendar Item 6n first.

President Welsh asked if there were any Staff Comments. There were none.

Consent Calendar Item 6n. New Independent Auditor for the District.

IGM/COP Hart said that, for the prior three years, the District had used Fechter for its audits and that he and the District's CPA, Deborah Russell, recommended going back to Lamorena Chang. He noted that the Fire District uses this same auditor.

Director Toombs said he had no problem going back to Lamorena Chang: They had done a fine job in the past.

Director Cordova asked if the length of the contract would be one year and asked that IGM/COP Hart bring the item back to the Board at the end of one year. President Welsh noted that this would go to the Finance Committee within the next year. Director Toombs noted that the term of the proposed contract was three years and asked if there was a termination at will clause. IGM/COP Hart responded that the contract had a 30-day termination clause.

MOTION: Vice President Sherris-Watt moved, and Director Toombs seconded, that the Board approve Item 6n, the new independent auditor for the KPPCSD, and that the Board employ Lamorena Chang for the District's independent audit for the Fiscal Year 2016. Motion passed 5 – 0.

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

- 7a. The Board discussed and considered adoption of Resolution 2016-09, the annually permitted CPI increase to the Measure G Supplemental Special Tax for inclusion in the 2016-17 fiscal year budget. The Board also considered taking action to approve the CPI to its maximum, to an amount less than the maximum, or not to increase the Special Supplemental Tax at all this year.

IGM/COP Hart provided a history of Measure G – when it had been passed and what the prior years' amounts had been. He noted that the report, included in the Board packet, had been completed by one of the District's contractors and that the contractor had determined the cost of living. He said that the maximum cost of living increase would be less than \$5 per parcel. He explained that the Board could choose whatever rate it wanted. He reported that the Fiscal-Year 2015-16 per single family parcel amount had been \$226.28 and that, if the maximum CPI were applied for Fiscal Year 2016-17, the amount would be \$232.38 per single family parcel. He noted that, if the Board chose not to pass the increase, revenue for the Preliminary Budget would be reduced by \$13,000.

Director Toombs said he was in favor of the increase and noted that the special tax was for police services only. He also noted that an increase in Measure G would free up general fund revenue for other things, such as the Community Center renovation, park maintenance, or the office's possible move.

Director Cordova said Measure G did not carry an automatic CPI increase, which made such increases discretionary for the Board. She said that she had read Section 3 of Measure G and that it was clear to her that it had been designed to address revenue shortfalls. She asked why the increase would be needed, if IGM/COP Hart was showing a proposed budget surplus of \$111,000; so not an insufficiency.

President Welsh said his understanding was different. He said Measure G was meant to help cure a structural revenue problem created by the fact that one element of the District's revenue, a police special tax, doesn't increase with CPI: This structural revenue problem keeps the District's overall revenue from keeping pace with inflation.

Director Toombs said the intent of Measure G was to provide money for the police department. He said he was unaware of the budget shortfall aspect of the measure.

Vice President Sherris-Watt said that, based on a conversation she'd had with California's CFO, Irena Asmundson, the CPI amount of 2.695% was incorrect for municipalities to use. She said Ms. Asmundson had recommended that, for the prior year, municipalities should have used 0.3% and that, for this year it should be 1.8%. Vice President Sherris-Watt said she said she couldn't approve any more than this. She said she understood how the consultant had come up with the 2.695%, but it wasn't consistent with best practices.

President Welsh asked if there had been years in which increases had not be approved by the Board. Director Toombs responded that the documents in the Board Packet showed that increases had not been made in Fiscal Years 2011/12 or 2012/13.

Director Toombs said that there was no reason not to believe the information provided by NBS and that the CPI increase was consistent with the statute.

Director Gillette asked how Vice President Sherris-Watt had obtained the 1.8% amount. Vice President Sherris-Watt responded that this was on a website.

Jim Watt said that Board members should be open minded, prior to receiving public comments. President Welsh responded that he thought members of the public might benefit from the Board's comments, prior to making their own. Mr. Watt said he was opposed to the increase because it wasn't necessary. He said that Measure G had been passed in June 2010 and that the primary argument for its passage had been that revenues had been flat and the District had anticipated a deficit, which was projected to leave the District with just \$735,000 in unassigned cash. He said it had been said that, without Measure G, the District would quickly exhaust its reserves. He said that, even though Measure G had generated \$400,000 of revenue in its first year, it didn't improve the District's financial position. He said that, because of surging home values since 2013, the District had seen its revenues increase. He said the 2016/17 budget the Board would be reviewing later in the evening showed an unassigned cash balance of \$1,422,000 – almost twice the amount available in 2010. He also said that, although the budget showed a deficit of \$25,000, this did not reflect the anticipated receipt of the COPS \$100,000 grant or the prepayment of the District's Side Fund. He said, therefore, the District would have a surplus of \$200,000. He projected that the KPPCSD would generate \$400,000 over the upcoming four years and noted that the CPI increase in Measure G would generate only \$13,000. He reiterated that the increase wasn't needed. He said Section C of the measure stated that Measure G was to provide revenue for police services only but that any surpluses created by the measure could be used for police services or for decreasing the amount collected in a succeeding year. He said that the current per parcel amount of \$226 was a large amount for some Kensington homeowners. He said that, with budget surpluses growing, increasing the tax was not paramount and said that, Measure G needed to be considered in the context of the District's overall financial position. He asked if the District had done all it could to decrease police expenses and said he was sure Kensington voters would remember how the Directors voted, come election time.

Catherine de Neergaard said that there had been no CPI increase in Social Security payments and that she was against the Measure G increase. She said it wasn't needed, and some couldn't afford it. She said that Section 3 stated an increase would be asked for only if needed.

Linda Lipscomb said that, in the spirit of good neighborliness, she disagreed with Ms. de Neergaard. She said it would be prudent to pass the increase. Among other things, she said the District needed to put away money for its anticipated move during the Public Safety Building renovation. She said that she had been around when Measure G had been passed and that President Welsh was correct: It had been designed to help correct a structural revenue problem caused by the fact that a large part of the District's revenue – a previous special tax – couldn't, by law, be increased. She said that all the projections had indicated that revenues wouldn't be able to keep up with rising costs. She said that, by the time Measure G was approved, the law had been changed and special taxes could have a CPI factor incorporated in them. She said the budget didn't reflect the enormous sums of money being spent on legal fees – hundreds of thousands of dollars. Said the increase per month would be about five cents and would provide a little extra.

Celia Concus said she urged the Board to vote no on the increase. She said there shouldn't be an increase until there was tangible effort to cut the cost of running the police department and the District. She said the District was at least \$100,000 over budget on legal fees. She said she objected to the proposed purchase of police equipment, noting this was not Compton; it was Kensington. She said residents are repeatedly told to wait until the Ad Hoc Committee comes back with its finding before any long term decisions are made. She asked why the Board wouldn't wait on the Measure G increase, too.

She said that approximately 25% of homes in Kensington are single person households – many of them inhabited by widows, widowers, retired people living on fixed incomes, and individuals who inherited their homes and would otherwise not be able to afford to buy them on their incomes – they're house poor. She said Kensington was not the affluent community some believe it to be. She reiterated her urging the Board not to vote to increase the amount and said that every time the community allowed more funds to be available, ways were found to spend them.

Karl Kruger said he had been talking about legal fees longer than anyone else in the room. He said the only reason the District had such high legal fees was because people in the community couldn't get along. He said this was crazy.

Kay Reed said many in the room had talked endlessly about wanting to have enough money to pay for pensions, to consider the GM/COP job split, etc. She said now there was an opportunity to increase the District's revenue. She said she recognized there were people on fixed incomes, but they couldn't have it both ways. She said this would provide money for things like pensions and splitting the GM/COP position. She said that, if the KPPCSD were flush with money the way the Fire District was, this wouldn't be an issue. She added that it would be fiscally irresponsible not to pass the increase.

Director Cordova addressed the issue of compounding, with respect to the proposed increase. She said it's not just a flat \$13,000. She said it would cost more than \$13,000 over the course of the ordinance; there was a compounding aspect to the ordinance that was material to some people.

Mark Bell said he was heavily cash poor and house rich. He said that he loves living in Kensington and that he supports the increase because it was to the long-term benefit of the community. He said he understood that this would be an increase going forward. He said he trusted the Board to make decisions on behalf of the community.

John Gaccione said that, at the prior month's meeting, there had been an attempt to put some money into a fund that would be put toward big upcoming expenses, such as making improvements to the Community Center. He said his recollection was that this had been voted down. He said that, now, he was hearing comments about how it would be good to have money to pay for these things.

Director Toombs responded that no decision had been made the prior month about funds for contingencies. He said that, if there were going to be all these expenses, every nickel would need to be found. He noted that the \$13,000 to be saved by paying off the Side Fund early plus the \$13,000 to be raised by increasing the Measure G amount would equal \$26,000, and this would at least pay for a study of where to move the police department. He said he favored the increase because of upcoming needs.

**MOTION: Director Toombs moved, and President Welsh seconded, that the Board approve the Measure G increases to the fullest extent permissible under the cost of living, which would be the 2016-2017 maximum amounts shown on page 127.
Motion passed 3 – 2.**

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

President Welsh explained that he voted in favor of the motion in order to address the long-term structural revenue issue the District faces.

- 7b. The Board received a presentation from the IGM/COP regarding the 2016/17 Fiscal Year Preliminary Budget for the Kensington Police Protection and Community Services District. The Board considered adopting the Preliminary Budget after consideration and possible changes to meet the July 1 State deadline.

IGM/COP Hart asked the District's CPA, Deborah Russell, to make the presentation.

Director Cordova asked if there had been any material changes to the budget since the prior Board meeting. Ms. Russell responded that some changes had been made. Ms. Cordova said that she had just gotten her package and therefore asked Ms. Russell to summarize the changes. IGM/COP Hart directed Ms. Cordova and Ms. Russell to his memo on page 132, which provided a summary of the changes.

- Line 978 had been increased by \$21,000 for plug-and-play audio/visual equipment. There was a FY 2015-16 carryover of \$6,000. She said the KCC and KIC have pledged up to \$8,000 toward the purchase, and this was reflected in the revenue category 437.
- Line 527 (PERS for the District) had been increased by \$105,073, minus a \$10,800 discount, to pay off the CalPERS Side Fund, for a net increase of \$94,237.
- Line 594 (Community Policing) had been increased by \$12,000 to ensure that the website meets ADA requirements and becomes more community friendly.
- Line 974 (Other Park Improvements) had been increased by \$7,5999 to replace the tennis court backboard with higher quality wood and to add more playground equipment. IGM/COP Hart said he hoped the school children would enhance the backboard with a mural. Director Cordova asked that things be prioritized to ensure that repairs are made to the water faucets and that the restroom remains open for more hours. IGM/COP Hart responded that these things are ongoing. A discussion about the ongoing problem with gophers ensued. IGM/COP Hart said this, too, was an ongoing effort.
- Line 830 (Legal) – Based on Fiscal-Year 2015-16, IGM/COP Hart recommended that this should be increased by \$100,000. He reported that legal fees for the current fiscal year were approximately \$100,000 over budget. Ms. Russell noted that the budget had not been changed to reflect this recommended increase. IGM/COP Hart said that he has very little control over this line item: It is controlled largely by the Board. Director Toombs said that he was not in favor of making the change at this time. He said that the \$99,000 in the Preliminary Budget would suffice and that the Board should discuss the merits of an increase in July or August. Director Gillette she was in favor of that, as long as there was agreement that there would be a discussion about the way in which Directors are allowed to use legal counsel. She said that one or two Board members contacted legal counsel regularly. She said that the Board needed to get its legal expenses under control so that no one person was responsible for increasing or doubling the District's legal fees. Director Cordova asked who that might be. President Welsh said he didn't mind leaving the amount at \$99,000, and he had asked for an analysis of the legal costs so the Board could better determine what the costs might be in the upcoming fiscal year. President Welsh said he anticipated legal costs to remain high because the threats of litigation and accusations, each one of which has to be investigated, don't seem as though they'll abate.
- Line 835 – had been adjusted by \$10,000 to address the need for a new actuarial report, following the approval of the new MOU. IGM/COP Hart said he would like to amend that amount: That day he had received a quote to perform an actuarial an amount not to exceed \$16,500. He said he would present this to the Finance Committee. Vice President Sherris-Watt asked if the amount budgeted should be left as is until after the proposal had gone to the Finance Committee. IGM/COP Hart responded in the affirmative. Ms. Russell said she had been asked to provide the detail of what had been spent on Consulting in the past two fiscal years and asked if this had been included in the report. IGM/COP Hart responded in the negative.
- Line 966 – had been increased by \$6,000 for portable traffic warning signs that would show people's speed. IGM/COP Hart explained that he would come back to the Board for more discussion and direction at a later date. Director Cordova asked if these would be fixed. IGM/COP Hart responded that they could be moved to any street in Kensington and would be primarily for public awareness.
- Line 967 – had been increased by \$6,100 and would be for the purchase of a Live Scan device. IGM/COP Hart explained that fingerprints were needed for a variety of reasons and that, currently, residents have to go to El Cerrito for this service. He added that this is a community service other police departments offer. Vice President Sherris-Watt asked if space would be an issue. IGM/COP Hart responded in the negative. He noted that the Kensington Police Department also provided ink fingerprint services, which is something most other police

departments don't provide. He said the new device would pay for itself within a couple of years. Director Cordova said that without an analysis tracking demand she couldn't support this. She said that it wasn't a priority and that she'd rather see the money go elsewhere. Director Gillette said that she had done the math and that this indicated the machine would pay for itself in about a year.

IGM/COP Hart said that Ms. Russell had reviewed the major changes. He reported that the preliminary budget would have a \$25,000 shortfall, excluding the COPS Grant of approximately \$100,000. He noted that the budget addresses the possibility of the police department having to move out of the Public Safety Building and sets aside money for the Community Center. Ms. Russell said that she wanted to note that, on page 138, she had added a line for funds for the temporary relocation of the police department out of the unassigned funds.

Gloria Morrison asked if the Fire Department had asked anything from the KPPCSD, with respect to the public safety building work. Ms. Russell responded in the negative. President Welsh added that the Fire Board would be studying several options and that the community would hear about the results of this in August or September. Ms. Morrison questioned why \$50,000 had been incorporated into the budget for the Public Safety Building, when the Fire District hadn't asked for it. Ms. Russell responded that it had only been earmarked in the reserves; it had not been included in expenses for the upcoming fiscal year. Ms. Morrison said that she objected on philosophical grounds: She objected to giving money to anyone who's not asked for it.

Jim Watt said he wanted to compliment IGM/COP Hart for including significant money for capital improvements. He noted the budget included \$150,000 for Community Center improvements and \$50,000 for the police department's relocation. Mr. Watt said that, about a month earlier, there had been a demotion that would result in about \$13,000 in salary savings for the year. But, he said the savings weren't reflected in the budget. IGM/COP Hart responded that he recommended not changing the budget. Both Mr. Watt and Director Toombs noted that the salary spreadsheet didn't tie to the officers' salary line in the budget. Ms. Russell said IGM/COP Hart had directed her not to change the budget to match the updated salary spreadsheet. President Welsh asked IGM/COP Hart to explain his rationale. IGM/COP Hart responded by asking what would happen if there were a promotion or a reinstatement and by saying that budgets were fluid and provided a framework. Mr. Watt questioned the \$75,000 budgeted for overtime. He said that, historically, the amount spent had been \$40,000 - \$60,000 and that the current fiscal year, with its unusually high amount of overtime, had been an anomaly because so many officers had been on light duty. He noted that, with the reduced officers' salary amount the PERS amount would be less than the amount budgeted. He noted that the amount for the solid waste account 890 had been reduced from the 2015-16 budgeted \$25,000, but he questioned why \$19,000 had been budgeted for legal expenses for this account and suggested that this amount be eliminated or lowered. IGM/COP Hart responded that he needed to anticipate the unexpected, based on history, in preparing the budget. Mr. Watt questioned the set-aside account for automobiles. He said this amount should be brought back into the general fund.

President Welsh said that he agreed with many of Mr. Watt's comments but that they couldn't really be done for the Preliminary Budget.

Celia Concus suggested tracking the number of live-scan requests made in a month and noted that it would be staff time that would be spent on this service. She said this raised the same question she had about the automatic license plate readers: It would be staff time spent keeping the records. She said people weren't seeing officers on the street and their time should be spent on this, instead. IGM/COP Hart responded that non-sworn staff would do the applicant live-scans. Ms. Concus said that when public records requests are made, those making the requests had been told that, because of limited part-time staff, information couldn't be provided. President Welsh asked when District staff had failed to respond to a public records request and said that such requests consume quite a bit of time. Ms. Concus said that this had happened, but she didn't want to take up any more time. President Welsh said the District needed to respond and that, perhaps, he and Ms. Concus could discuss the matter later. Ms. Concus said she had been trying to get information about out-of-jurisdiction traffic stops but had been

told that this information couldn't be provided because of lack of staff. President Welsh responded that it was one thing to ask a question and not get an answer for documents that exist; it was another thing to ask for a study. President Welsh added that he would be happy to work with Ms. Concus.

Linda Spath said she supported the live-scan proposal. She said it would be convenient to be able to have this done at the police station, for purposed of volunteer work. She noted that people may have asked in the past and been told that live-scan wasn't available and so didn't ask again.

Sylvia Ellsbury said she, too, supported the live-scan proposal because parents volunteering at the school needed to have these. She said this was a community service that would improve quality of life. She added that the school district would pay for the fingerprinting.

David Spath said he and his wife had had to go to El Cerrito to get live-scan fingerprints in order to volunteer. He encouraged the expenditure to purchase the live-scan equipment.

Mark Bell said he supported items that would generate revenue over the long term.

Linda Lipscomb said her comment was about process. She said that, in a few minutes, the Board would be voting on whether to continue the meeting past 10:00 P.M. She said she found it shocking that a Director would commit herself to never voting to have a meeting go past 10:00 P.M. She said that she thought it was a breach of fiduciary duty and that there could be circumstances in the future that might require a meeting to go past 10:00 P.M. She said that it was the law that some meetings had to be regularly scheduled meetings for certain items to be considered. Therefore, she said, scheduling another meeting couldn't solve such things.

President Welsh said there were eight proposed changes to the Preliminary Budget and asked if there was consensus to make the changes.

Director Toombs said he disagreed with the fifth proposed change, which applied to legal fees: He would prefer to discuss this after July 1st. Vice President Sherris-Watt said she agreed with Director Toombs.

Vice President Sherris-Watt also said the Park Buildings Committee would be considering an RFP and questioned whether there should be an amount included in line 972. IGM/COP Hart said that, by September, the District should learn the status of the WW Grant application. Ms. Russell asked if Vice President Sherris-Watt's issue was different from the amount that had already been budgeted for account 972. Ms. Russell explained that the detail for account 972 showed \$100,000 for the Community Center and that the expenditure would be offset by the committed funds.

Director Gillette said she, too, was concerned by the fifth proposed change – legal fees. She said it was unrealistic to think the District would spend \$99,000 in the coming year, noting that there were complaints against the District or against the Board every two or three weeks. She said she didn't know how the District would hire a new general counsel and investigate every issue for \$99,000. She said that, perhaps, the increase didn't need to be as much as \$100,000, but it would need to be a large amount. Director Toombs responded that he wanted to ensure that the Preliminary Budget was passed in order to meet statutory requirements and that he, therefore, wanted to postpone the discussion until after July 1st. President Welsh said there would be an analysis that would enable to Board to make a more effective decision. IGM/COP Hart clarified that the amount budgeted for legal expenses was the same amount as had been budgeted for Fiscal-Year 2015-16.

MOTION: Director Toombs moved, and President Welsh seconded, that the Board adopt the Preliminary Budget as presented, except that the Board not include the extra \$100,000 IGM/COP Hart had recommended for legal fees.

Motion passed: 4 – 1.

AYES: Welsh, Sherris-Watt, Toombs, Gillette

NOES: Cordova

ABSENT:

Director Cordova said she had voted no because she was in Jim Watt's camp in thinking more refinement was needed. She said she looked forward to seeing more refinement in time for the September vote.

- 8a. The Board reviewed and considered approving Resolution 2016-11, confirming the assessment and ordering the levy for the Kensington Park Assessment District for fiscal-year 2016-17.

IGM/COP Hart reviewed the steps the Board had taken at prior meetings, with respect to the park assessment. He reported that the assessment would increase from \$15.62 in fiscal year 2015-16 to \$16.09 in fiscal year 2016-17 and that the proceeds from the assessment, which would total \$36,241.89, could be used only for the "new park." Director Toombs clarified that this was the last step of the park levy process and the fourth resolution associated with it.

**MOTION: Director Toombs moved, and Vice President Sherris-Watt seconded, that the Board pass Resolution 2016-11.
Motion passed: 5 – 0.**

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

At 9:45 P.M. President Welsh noted the time and said a motion was needed to extend the meeting.

**MOTION: President Welsh moved, and Director Gillette seconded, to extend the meeting past 10:00 P.M. if necessary to complete all business.
Motion failed: 3 – 2.**

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

**Note: Continuing the meeting past 10:00 P.M. required a four-fifths vote at 9:45 P.M.*

President Welsh suggesting continuing the meeting to a fixed time after 10:00 P.M., such as 10:30 P.M. Director Cordova responded that this wasn't permissible per the manual. President Welsh said the manual was silent as to whether this could occur. Director Cordova disagreed with him. President Welsh responded that Director Cordova had had no problem not complying with the manual's mandate to do a first reading of the budget in May and she had been quite happy to violate the manual and vote not to extend the meeting past 10:00 P.M. Vice President Sherris-Watt suggested that, while legal counsel was looking up this information, the Board could move on to the Ad Hoc Committee update.

- 7c. Update from Ad Hoc Committee on Governance

David Spath reported that the June 4th Community Forum had gone well and had been well attended. He said the Committee planned to engage the services of an editor for its final report. He reported that he had attended the Fire Board meeting and had asked if its directors would consider meeting with the Committee to discuss consolidation. He said Fire Board President, Don Dommer, had responded that he would place this on the Fire District's July agenda. Dr. Spath said that he hoped the Fire Board would attend consolidation sub-committee meeting on July 21st. He also reported that the Committee was on schedule to get the final report to the Board in early September. He said he would like to have a joint meeting of the Committee and the Board to present the final report.

Director Toombs asked if this would be a town hall meeting. Dr. Spath responded this would be his preference. Director Cordova suggested including LAFCO in the meeting. Dr. Spath added that the Fire Board could be asked to attend, as well. Dr. Spath said he would work to coordinate the scheduling.

Director Cordova raised the issue of the traveling the Committee members had been doing and asked if they had submitted requests for reimbursement. Dr. Spath responded that he didn't think they had submitted anything, though he had let them know they could do so.

Dr. Spath reported that the bifurcation sub-committee had met after the forum and that the meeting had been well attended. He reported that the contracting out sub-committee would be meeting on July 16th and that the consolidation sub-committee would be meeting on July 21st and LAFCO's Lou Ann Teixeira would be present. Director Toombs asked that the sub-committee meetings be properly noticed so that the Board and members of the public could be informed. Dr. Spath said that the K-groups had been very helpful in keeping people informed.

President Welsh thanked Dr. Spath for the Committee's presentation and said it had been very informative.

CONSENT CALENDAR

IGM/COP Hart asked if there were any minutes in the Consent Calendar that required changes.

MOTION: Vice President Sherris-Watt moved, and President Welsh seconded, that the Board approve Consent Calendar items f, g, i, j, k, l, and m.
Motion passed: 5 – 0.

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

President Welsh asked if there was an answer to the legal question that had been asked earlier. Randy Riddle cited the Manual's Section 5010.50 and said that meetings could be extended by a four-fifths vote but there was no indication of a time limit. Therefore, he said, the Board could extend a meeting indefinite period of time or to a specific time. President Welsh said there was no legal restriction and asked if this would change Director Cordova's perspective. Director Toombs noted the vote would still need to be four to one. President Welsh asked if, since pledges had been made to close down meetings at 10:00 P.M. indefinitely, this information about time would change Director Cordova's mind. Director Cordova said that she had made no such pledge and that the reason she didn't want to meet past 10:00 P.M. was because the conduct on the dais deteriorated after that hour. President Welsh said she had given a different, legal, reason earlier.

Director Toombs said he wanted to address the fact that there had been no moving citations issued by Team 2. IGM/COP Hart responded that there had been just one officer on duty and that traffic took a backseat to calls for service.

President Welsh and Vice President Sherris-Watt said the Consent Calendar items that remained for approval were items a through e and h.

Director Cordova said she wanted to pull the set of minutes in which her statement had been mischaracterized. IGM/COP Hart said this was the May 12th set of minutes, item d.

MOTION: Vice President Sherris-Watt moved, and President Welsh seconded, the approval of Consent Calendar items a, b, c, e, and h.
Motion passed: 5 – 0.

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

IGM/COP Hart said that Consent Calendar item d would return on the next agenda and announced that the next meeting would be on June 30th. He said that, at that time, the Board would consider the Appropriations Limit and some close session items. IGM/COP Hart also asked if Director Gillette and Vice President Sherris-Watt could provide an update on the park fees increase project.

Director Gillette asked if staff had been fulfilling an earlier commitment to keep Directors apprised of outstanding items for which they were responsible. IGM/COP Hart responded that staff had been doing so and that the only outstanding items were the traffic study and the park fees project.

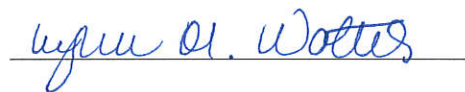
MOTION: Vice President Sherris-Watt moved, and President Welsh seconded, to adjourn.
Motion passed: 5 – 0.

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

The meeting was adjourned at 10:00 P.M.



Len Welsh
KPPCSD Board President



Lynn Wolter
District Administrator