

### Meeting Minutes for 3/10/16

A Special Meeting (Closed Session) of the Board of Directors of the Kensington Police Protection and Community Services District was held Thursday, March 10, 2016, at 6:00 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	Randy Riddle, Renne Sloan Holtzman Sakai LLP
Rachelle Sherris-Watt, Vice President	Adam Benson, Renne Sloan Holtzman Sakai LLP
Chuck Toombs, Director	John Holtzman, Renne Sloan Holtzman Sakai LLP
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 Wizelman
Lynn Wolter, District Administrator	Linda Lipscomb
	Chris Deppe
<u>Press</u>	Leonard Schwartzburd
Linnea Due	Garen Corbett
	Gail Feldman
	Celia Concus
	A. Stevens Delk
	Marilyn Stollon
	Rich Karlssen
	Mabry Benson
	Rick Artis
	John Gaccione
	Trisha Mindel
	Vebika Elliott
	Lori Trevino
	Lisa Caronna
	Gloria Morrison
	Barbara Stienburg

President Welsh called the meeting to order at 6:02 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 asked why the Board would be considering an MOU with the officers prior to the Ad Hoc Committee completing its work. She said:

- The proposed MOU was worse than the one the District had considered in November 2014.
- The Board should retain the right to dismiss officers.
- The Board should retain the right to disband the police department or contract out for services.
- It was good that employees make a modest contribution to their healthcare.
- Health coverage into retirement should not be continued.
- Dependents should not receive coverage.
- There should be an amount provided for the change in the way life insurance would be provided.
- Vacation accruals were generous.
- Salaries were bad, especially the one time payment of \$1,000 to make up for the absence of salary increases during prior years.
- The MOU was not a good deal for the District.

## **CLOSED SESSION**

The Board entered into Closed Session at 6:11 P.M.

- a. 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.
- b. Public Employee Discipline/Dismissal/Release (Government Code section 54957(b)).
- c. Public Employee Discipline/Dismissal/Release (Government Code section 54957(b)).

The Board returned to Open Session at 7:28 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 all three items, there was nothing reportable.

Director Cordova said she had recused herself for items b and c.

President Welsh announced that he wanted to move some of the agenda items. In particular, he wanted to move the MOU to the beginning of the agenda because the attorneys were present and would need to leave, once that item had been completed. He said that he also wanted to change the order in which several other agenda items would be considered and explained that the final agenda item had been placed at the end of the agenda because it had been submitted late.

## **PUBLIC COMMENTS**

Barbara Steinberg reported that a possible site had been identified for a Kensington post office. She said that Director Cordova had been negotiating with the Post Office and had said that she thought community letters could stand in the way of those negotiations. Director Cordova responded that she had not been negotiating on the District's behalf and said that the Post Office was trying to make it financially feasible for a merchant to have a village post office. Director Cordova said that the identified

possible location might require the relocation of some of the community's fixed mailboxes and that the Post Office recognized that there is a need for a site in Kensington.

Mabry Benson said that it had recently come to her attention that some of the officers used their safety equipment allowance to purchase guns. She said that, although the allowance amount of \$250 didn't cover the entire cost of each gun, the District had a part interest of each gun. She said, with respect to her participation on the Ad Hoc Committee, she wanted to say something. She noted that this was recent information that had not yet been dealt with by the Committee and thus, she was making the comment on her own behalf. She said that El Cerrito and Albany had suggested the District ask POST Management Studies to do a study of the District's policing needs. She said that the three Committee members who were asked to study contracting out were not at all qualified to gather the needed information for that kind of study. She noted that because the Brown Taylor report was eight years old, current information was needed. She asked that the District authorize such a study.

Lori Trevino said she wanted to discuss something disturbing that she had learned. She said she believed that President Welsh and Director Gillette needed to recuse themselves from any discussion or action related to discipline of Sergeant Barrow because they had demonstrated an inability to objectively deliberate on any matter involving him. She said she had received copies of District phone bills for the period May 2014 that showed that, just after the Reno incident, the first person Sergeant Barrow called was former GM/COP Harman and that the first person former GM/COP Harman called was President Welsh and the second was Tony Lloyd. She noted that, on the following day, former GM/COP Harman had called Sergeant Barrow and another Reno phone number before calling Sergeant Barrow and President Welsh again. She added that subsequently, Director Gillette had called Sergeant Barrow and spoken with him for half an hour. Ms. Trevino said it appeared that both President Welsh and Director Gillette had been informed of the Reno incident immediately after it had occurred. She suggested that this was an effort to help Sergeant Barrow avoid discipline. She noted that Sergeant Barrow started using his personal cell phone for District business soon after IGM/COP Hart arrived. She noted that IGM/COP Hart receives an allowance for a cell phone but that he had indicated that he did not use this allowance because he didn't want to carry two phones. She said IGM/COP Hart actually did have two phones: There was one number on his business card and another, which appears on District phone bills, that he uses to call others. She said the IGM/COP Hart had told people at a recent community gathering that Sergeant Barrow had texted him following the traffic stop involving Director Cordova. She said the District had no record of those texts.

Gloria Morrison said she wanted to be sure that the report from IGM/COP Hart, involving claims of harassment, would be discussed. She said this report covered the crazy things people believe when they think they're being harassed. She said she thought the report was an excellent explanation of what had happened and she thanked IGM/COP Hart because public confidence in the police department and its chief was essential.

Marilyn Stollon read a letter from Cathie Kosel about IGM/COP Hart's report. Ms. Kosel's letter said:

- IGM/COP Hart's comments about claims of harassment, made by three women, had been dismissive and offensive.
- IGM/COP Hart's investigation into claims made by Director Cordova, Laura Chick, and Ms. Kosel was shoddy, incomplete, and unworthy of his position.
- IGM/COP Hart could have reported that he didn't have access to records involving Ms. Kosel.
- Former GM/COP Harman had delivered several boxes of documents to the Fire District for shredding during his final three months in office.
- IGM/COP Hart had not contacted Ms. Kosel for any information she could have provided. Instead, IGM/COP Hart had taken a public shot at undermining Ms. Kosel's credibility and this raised questions about his own credibility.
- She questioned whether IGM/COP Hart would find evidence of abuse in the District's annals, adding that bad guys didn't keep records of their misdeeds.
- She had kept perfect records, including boxes of documents, in case she decided to sue the District for harassment.

- She had provided proof of the incident to Thomas Peele because he had demanded proof.
- Thomas Peele's reputation for good journalism was well known, as he did not report anything that had not been supported by evidentiary proof.
- Had IGM/COP Hart asked, she could have provided a copy of a June 2010 email from Kurt Franklin in which he stated that he referred to the allegations of one exposing oneself that had been made by officers.
- She had a copy of an invoice from attorney Lee Anne Wallace, who had been hired by former GM/COP Harman to investigate allegations that had been made against Ms. Kosel.
- There were additional documents associated with the incident, and her attorney and Mr. Peele had copies of them.
- Harassment had been used in Kensington to silence those who had questioned KPPCSD expenditures and police interactions with citizens.
- IGM/COP Hart's report was an attempt to cover-up inconvenient truths about rogue officers.
- The report coincided with the desperate attempt, by the majority Directors, to silence Director Cordova by proposing an unlawful policy restraint on her first amendment rights as well as the rights of all whistleblowers.

Ms. Stollon cited documents that had been attached to Ms. Kosel's letter.

Jim Watt suggested that, when the Board had such a long agenda, it should schedule two meetings in the month and asked that the Board consider adding another meeting two weeks hence.

Celia Concus said she wanted to address IGM/COP Hart's attempt to discredit Peele. She said that IGM/COP Hart reported that he had reached out to all those mentioned in Peele's article and had obtained records related to the claims of harassment. She questioned whether he had reached out to Laura Chick. President Welsh responded that he, himself, had reached out to Laura Chick and had asked her what had happened. Ms. Concus responded she had reached out to Ms. Chick, too. President Welsh said he had told Ms. Chick that it had been a 9-1-1 disconnect that had resulted in the police coming to her house: Mr. Peele had reported that the police had shown up for no good reason at all. President Welsh also said that he had asked Mr. Peele on which day the incident had occurred and that Mr. Peele had responded, sometime in 2012. President Welsh added that he had asked IGM/COP Hart to research this matter but that the article had been written without IGM/COP Hart's information. President Welsh concluded by saying that Ms. Chick had told him that Mr. Peele had misrepresented what she had said.

Ms. Concus responded that she, too, had spoken with Ms. Chick and that Ms. Chick had told her that police officers had arrived and asked her if she had made a 9-1-1 call and that Ms. Chick had said she hadn't. Ms. Concus said the officers then asked Ms. Chick if anyone else was in the house who had made the call and Ms. Chick had responded that there was a sleeping child. Ms. Concus said Ms. Chick was furious that the report indicated that she had misdialed because she had not misdialed and had not made the call. Ms. Concus said that Ms. Chick was emphatic that the officers had lied when they had filled out their report on the incident. She said the responding officers had been Sergeant Barrow and Officer Ramos and she questioned whether this had been a rehearsal for the Director Cordova traffic stop. Ms. Concus said she next wanted to address Cathie Kosel, but that this had already been addressed. Ms. Concus asked if IGM/COP Hart had contacted Director Cordova or Joanne Garvey, whose number had been used to dial the call. Ms. Concus said Ms. Garvey could not have made the call because she had died six months before the call had been made. Ms. Concus said the call had not been made from that house. President Welsh responded by asking Ms. Concus if she thought the District was making up that there had been a 9-1-1 disconnect and if she thought that the records IGM/COP Hart had obtained were false. He said that 9-1-1 disconnects happen frequently: A call goes through, Richmond Dispatch picks up the phone call, and then police respond to that with higher priority because it could mean that someone with bad intentions was pulling the phone out of the caller's hand in the midst of their emergency call for help. He said that, although it is unknown why the call had been made from Ms. Chick's residence, there was a record of it at Richmond Dispatch. He clarified that the police had come to Ms. Chick's home because of a 9-1-1 call and that, as such, they had gone there for a legitimate reason: It was in the records.

Lisa Caronna said she that, when she read IGM/COP Hart's report, she was grateful that he had looked at the actual call record. She said that Richmond was where all the community's 9-1-1 calls went. She said that, were she to call 9-1-1 or her burglar alarm were to go off, she hoped that someone would come to her door. She said she was relieved that the logs had shown that these had been 9-1-1 calls because there had been so much controversy surrounding the allegations that officers had shown up without there having been calls. She said this was a relief and she appreciated the research that had gone into that side of the story.

Andrew Gutierrez said he was one of the people who had been included in Mr. Peele's article as someone who had been intimidated. He said IGM/COP Hart's summary was, basically, the same as former GM/COP Harman's had been. He said there had been a discrepancy between former GM/COP Harman's version and his own of the traffic stop written about by Mr. Peele. He described former GM/COP Harman's version and his own version. He said it was not dark and that Officer Turner had tailgated him. He said the incident did not happen on the Arlington, it had been on Norwood. He said that, prior to his being on Norwood, the officer had caught up with him on Arlington Ave. and had tailgated him all the way to the Foudas's home on Norwood, where Mr. Gutierrez said he had gone to pick up the Foudas to take them to an event. He said there had been one officer and former GM/COP Harman had said there had been two officers and that it had been dark. Mr. Gutierrez reiterated that neither had been the case. He said that former GM/COP Harman's letter said the officer did not give him a ticket because Mr. Gutierrez was a known critic of the police department. He said the officer parked behind him for quite some time but didn't get out of his car and that the officer let him go back out onto the street with a broken taillight. He said it spoke of low character that the police department didn't issue a ticket to him because he was a known critic. He said the police department had been problematic for the 25 years he had lived in Kensington. He said it was unprofessional not to have told him about the broken taillight because it could have put his, and others', safety in jeopardy. He said the officer pulled away when he saw the Foudas come out of their home. He said former GM/COP Harman had said he had interviewed everyone who had been involved but that neither his wife nor the Foudas had been interviewed. He said just about everything in former GM/COP Harman's report had been in error. Mr. Gutierrez said he had written to former GM Harman about his reporting and handling of the case. He cited this as a conflict of interest because he had been writing to the person who was his own boss. He said that the idea that a dysfunctional group, like the Kensington Police Department, and amalgamate it with a functioning group, like the Fire Department belied any common sense. He handed out copies for everyone and said he wondered how much of the information would be found in former GM/COP Harman's records. A copy of this handout is included in the April 2016 Board Packet, under correspondence.

Rich Karlssen said that he had served a lot of professional boards and that this was the first board he had known to take public comment before the meeting began. He said that the problem with this was that the business part of the meeting was starting forty minutes late. He said the purpose of the Brown Act was for the community to be informed of the order in which the Board would be considering agenda items. He said the Boards he had represented had taken public comment at the end. He said he came to District meetings to hear what action the Board would be taking and to participate in those discussions. He asked the Board to consider moving public comments to the end or the middle of its meetings. Director Cordova asked for clarification that Mr. Karlssen was referring to general public comment for items not on the agenda. Mr. Karlssen responded in the affirmative. President Welsh responded that this was an excellent suggestion and said he would put this on the agenda for the next meeting.

David Bergen asked how the agendas were generated; specifically who writes it, who decides what's to be included, and who decides the order. President Welsh responded that any Board member could request that an item be placed on the agenda and that he and IGM/COP Hart put together the agenda. He added that, if someone wanted to have something placed on the agenda, it needed to be submitted by the Thursday before the Board meeting. He said a member of the public could also make a request for the President to consider. He added that the attorneys are also consulted because there were things that could and could not be said.

## BOARD COMMENTS

Directors Toombs and Cordova said they had no comments.

Director Gillette said she didn't appreciate Lori Trevino having accused her of being a liar during public comments. She said that, during the time Ms. Trevino had cited in District phone records, she had been in the midst of negotiations with the police department, that both she and Sergeant Barrow had been on the negotiating team, and that she believed that had been the topic of the phone conversation. She said the innuendo that she had spoken to Sergeant Barrow about something, of which she knew nothing at the time, was inappropriate and she didn't appreciate it.

Director Gillette said had an update on community outreach and that she would place the item on the next month's agenda. She reported her ideas to date:

- A column in the Outlook, in which two Directors would issue a report related to the Board's work.
- Something related to new residents – perhaps a welcome letter containing information about what the District does.
- An annual meeting hosted by two Directors to welcome new residents to the Community.
- National Night Out – assign one or two Directors to attend separate events.
- Fall Barbeque – an informational table staffed by Directors, with other Directors assisting on the food line and in other ways.
- PTA Meetings – one or two Directors attending to talk to parents about the District and its current projects.
- Online chat opportunity.
- Coffees at people's homes for local input.

She asked people to email her if they had additional suggestions or had objections to what she had suggested.

Vice President Sherris-Watt reported that the Park Buildings Committee would be meeting on Monday at 7:00 PM. She reported that she, Jim Watt, and Tod Hodson, members of the Park Buildings Committee, had attended the KCC meeting the past Monday. She said the KCC had hired a new KASEP Coordinator, Kari Tindol, who was currently serving as PTA President of Kensington Hilltop School. She said current coordinator, Marty Westby, would be leaving in December and would be sorely missed.

Director Cordova said she wanted to acknowledge the services of Ms. Westby and said she was a phenomenal administrator. President Welsh also thanked Ms. Westby for her service, and she received a round of applause.

## STAFF COMMENTS

IGM/COP Hart reported that Officer Wilkens' peers had selected her to be Officer of the Year and that 9-1-1 text service was now available. He said that officers would respond to this and that there would be written documentation in the computer system of such calls for help.

IGM/COP Hart said that he wanted to address some of the things that had been said about his report regarding things that had been written in Thomas Peele's recent article. He addressed Lori Trevino and said he had never said at the public meeting she had referenced that Sergeant Barrow had sent him a text message during the Director Cordova traffic stop. He stated: That did not happen. He said he was not a liar. He said he did not have two cell phones. He said that, to save the District money when he came on

board the prior year, he had Google assign a second phone number to his personal cell phone such that his personal cell phone now has two numbers associated with it. He said it was not his intent, in his report, to discredit anyone, but it was his intent to put out accurate information based on the records he could find. He said members of the Board and the community had asked him to respond to Mr. Peele's article to ensure that the facts were provided.

IGM/COP Hart reported that Public Works would be in the community to keep drains clear during periods of heavy rainfall.

IGM/COP Hart responded to earlier comments about agenda items: He said that items that are to appear on the agenda need to be submitted by the Thursday before the Board meeting. He said items appearing at the end of the agenda have usually been submitted late, after the rest of the agenda has already been prepared.

District Administrator Wolter reported that IGM/COP Hart had introduced identity theft booklets and that copies of these were available on the table at side of the room. She reported that three Directors still needed to submit Forms 700, which would be due on April 1<sup>st</sup>, and that the Transmittal Form would need Director signatures the next day.

Director Cordova asked IGM/COP Hart to see if the Outlook could accommodate something about Text 9-1-1.

#### NEW BUSINESS

- 8a. The Board received a presentation from the Interim General Manager/Chief of Police about offering a \$15,000 reward for information leading to the arrest and conviction of the suspect(s) of an unsolved homicide that occurred in Kensington in March 2011.

IGMCOP Hart introduced the item, saying that homicide victim Eric Elliott had been killed in Kensington Park in the early hours of March 12, 2011. He said that he had been meeting with the victim's sister, Kensington resident Vebika Elliott, every month, he was trying to breath new life into the investigation, there were some potential suspects, he hoped a \$15,000 reward for information leading to the arrest and conviction of the suspect(s) would help solve the crime.

Vebika Elliott spoke about and provided photos of her brother, who had grown up in Kensington and who had been killed at 50 years of age. She said she had come to advocate for a reward leading to the arrest of the people who had killed her brother. She said that, ever since IGM/COP Hart had let her know that the District's legal counsel had said it would be legal to offer a reward, it had been a difficult time for her. She described Kensington as a rural community when she and her family had moved to Kensington in 1963, that, as children, she and her brother had roamed throughout the area and so knew it well, and that it was a different world then. She said that her brother had been camped out in the park, at the time he was killed, because the community had been his home. She said her experience with former GM/COP Harman had not been good but that she had kept in touch with Sergeant Barrow, who had been really good. She said her mother had been heartbroken by the murder of her son and had died soon thereafter. She said that, when she had heard that the District was going to hire a new General Manager/Chief of Police, she had emailed the Board to encourage them to hire a good detective. She said it wasn't the 1970's anymore: There was real crime occurring. She said that, in the Kensington Police Department there had always been good officers and unpleasant ones. She said you fix what's broken. You don't just throw it out. She said that, with a real Police Chief, the Board could fix what was broken and evolve. She said she had been pleasantly surprised when she had learned that the Board had hired someone who had been a homicide detective, had experience in forensics, and had been in charge of a homicide unit. She said people would never appreciate the Kensington Police, motley crew that they are, until one's brother has been killed in the Kensington Park. She said that former GM/COP Harman seemed to have been ruined by the administrative part of his job and that, because of this,

maybe there was too much crime for the GM and COP positions to be combined. She said IGM/COP Hart had been promptly responsive to her phone calls, he had contacts with the press, and, with all he had done, he was her hero. She concluded by saying that her brother deserved the reward and that there was real crime and the community wasn't immune to it.

Vice President Sherris-Watt said she was concerned about just putting out a reward without getting information out to the community. She said the District had not done a good job of getting the story out: There had been just a small square devoted to it in the Outlook. She said she would like to know that there was a targeted plan to bring people to justice. President Welsh asked IGM/COP Hart how he would get out the word. IGM/COP Hart responded that there would be a press conference and press release letting it be known that police departments were looking for information leading to the arrest and conviction of the suspect(s) regarding a homicide. He said that, because the homicide had occurred five years earlier, it was considered a "cold case." He said that, based on the video he had seen, he believed there were people out there who may have information about the case. President Welsh said that he didn't see any harm in offering the reward because it could help solve the crime but that, if it didn't help solve the crime, the District wouldn't be out any money. IGM/COP Hart said he wanted to be very direct: He was looking for a murder, he needed to get out information, and people would pay attention to a \$15,000 reward. He said it could, potentially, be years before the District would have to pay the reward. He said, if one had ever seen a dead body, it had a dramatic impact.

Director Cordova asked if IGM/COP Hart could provide the Board with more detail about the case in a Closed Session. He responded in the negative. Director Toombs reiterated that there would be a press release that would coincide with the announcement of the reward.

Sandy Waters said she had heard that, at the time the body had been discovered, the crime had initially not been determined to be a homicide and that it hadn't been investigated well. IGM/COP Hart responded that there might be some semblance of truth to that: It initially had not been determined to have been a homicide; it had been determined to have been so only after an autopsy had been performed. Ms. Waters asked for clarification that the Kensington Police Department had been the one to determine that it had been a homicide five years earlier. IGM/COP Hart responded in the affirmative.

Mark Bell said he would welcome information about this, as he was the parent of two children who use the park all the time. He said many other families do as well and thus, there were a lot of eyes on the park. IGM/COP Hart said he welcomed information from anyone who had been in the park on March 12, 2011, between the hours of 1:00 A.M. and 6:00 A.M.

Director Cordova asked if the money would come from the general fund or elsewhere. IGM/COP Hart responded that, ultimately, the money would come from the general fund.

**MOTION: Director Toombs moved, and Director Gillette seconded, that the Board offer the \$15,000 reward for information leading to the arrest and conviction of the suspects regarding the unsolved homicide and that, as part of that, a press release would explain the circumstances behind the death and the relationship of Mr. Elliott to Kensington, and that this reward is pending on the arrest and conviction of the perpetrator or perpetrators.  
Motion passed: 5 – 0.**

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

8b. The Board Received a report regarding a proposed contract between the Kensington Police Officer's Association and the Kensington Police Protection and Community Services District. The Board reviewed the terms and conditions of the contract and decided whether to place the contract on the April 2016 agenda for possible approval.

John Holtzman and Adam Benson provided the background information for this item. Mr. Holtzman said he had been the lead negotiator for the tentative agreement with the POA and that Mr. Benson had



been on the negotiating team with him. He said that Mr. Benson had done a lot of cost analysis that had led to the agreement. Mr. Holtzman said the negotiating team had been Mr. Benson, Director Toombs and himself. He said that negotiations with the POA had re-commenced in around July 2015 and that there had been numerous meetings. He said the Board had decided that the prior tentative agreement had contained a number of shortcomings – among them: The four-year term; the cost of a 17% wage increase with the officers giving back 12% for pension contributions (when one adds to wage, one has to pay pension on that amount – a 1% wage increase would actually cost 1 ½%, while the 1% give back was just 1%); and the absence of getting employees to pay a portion of their medical costs, which also affected the hidden costs associated the retirees.

Mr. Holtzman explained that the major elements of the new tentative agreement:

- An expiration date of December 31, 2017. He explained that this was about as short an MOU as one would want – because of the costs associated with negotiations – and that, given the short term, new negotiations would need to begin in about one year.
- There would be no wage increases between the time the current MOU expired and March 1, 2016.
- A 3% across the board increase on March 1, 2016 as well as a \$1,000 lump sum payment, upon the initiation of the agreement and a second 3% across the board increase on March 1, 2017. He noted that this was less than the 17% increase that had been proposed in the prior tentative agreement. He said the purpose of the \$1,000 payment was: a) that it enabled the District to avoid having to make retroactive payments, which, he explained, was difficult to calculate because it affected overtime and every other component of pay; b) it was not costly because it didn't add to base pay and; c) it would not be pensionable.
- Offsetting the wage increases would be: A 4% give-back on the part of the employees to begin paying for their pension, which he said was less than the 12% give-back that had existed in the prior tentative agreement; and an \$85 per month give-back by the employees for medical coverage, beginning January 1, 2017, with another increase to \$125 per month on June 30, 2017. Mr. Holtzman explained that this change would apply to retirees as well.
- The grievance procedure: He explained that the current MOU gave the impression that the Chief and the Board could initiate discipline against police officers. Mr. Holtzman explained that, under the Government Code, only the Chief could initiate discipline against officers. He said this also was a due process issue because the Board would need to serve as the appellate body to consider discipline. He said the tentative agreement clarified this language.

Mr. Benson spoke about cost aspects of the tentative agreement. He said that there were supplemental documents about this in the Board Packet. He described the documents:

- A compensation comparison that showed wage and benefits data, as of June 30, 2015, for a number of jurisdictions; Albany, Berkeley, El Cerrito, Moraga, Piedmont, Richmond, Broadmoor Police Protection District, Central Marin Police Authority, and East Bay Regional Park District. He said that, when he looked at just wages, Kensington's top step officers' salaries were 15% - 20% below the average. He said that, when benefits were factored in, Kensington's top step officer total compensation was about 6% below the average. When he compared Kensington only to other Special Districts, the data showed that Kensington was somewhat ahead.

He said he had also looked at the compensation for an El Cerrito firefighter, which the Board had asked him to do.

Mr. Benson said the tentative agreement would total a net increase of less than 1% per year. He said the tentative agreement was better than what had been negotiated in other nearby communities. He said the labor market was improving and that the current tentative agreement was consistent with what he and Mr. Holtzman had seen several years ago, when agencies were in much worse shape. He said that, as the economy was improving, they were starting to see wage increases consistent with CPI, in the 2% - 3% range. He said Kensington's tentative agreement was similar to that of Ross.

- A cost analysis that included the tentative agreement, step increases, longevity pay, and a placeholder for a tenth officer. He said there would be less than a 1% increase in the overall budget for FY 2015/16; about a 4.32% increase in total compensation in the following fiscal year, which would be due, in large part, to the addition of the tenth officer for the full year; and another 2.91% for fiscal year 2017-18. He noted that this did not include possible changes in the ARC amount and said that this would be close to cost neutral. With respect to the District's overall revenue, Mr. Benson said that a 1% increase in property taxes would bring in about \$15,000, not including supplemental taxes under Measure G; a 2% increase would be likely, and a 3% increase would be possible.
- A comparison between the old tentative agreement and the new one to show the timing differences and the total impact.

Vice President Sherris-Watt asked about the comparison between the compensation for a Kensington police officer and an El Cerrito firefighter and whether it included retirees' benefits. Mr. Benson said it only captured the value current active members' salary and benefits information during one year of service; it did not capture future benefits.

Director Gillette asked what would happen if the District did nothing and kept the current MOU for the next 2 ½ years. Mr. Benson responded that PERS and healthcare would be key drivers, but that, if the District were to adopt the tentative agreement, it would net out to about the same if the District were to do nothing. He also noted that the officers had received only one 3% increase in the prior six years and that the agreement would begin to address pent-up labor demand. He said benefit costs would continue to increase, and the agreement would begin to address this. Director Gillette responded by thanking Mr. Holtzman and Mr. Benson and by saying she was pleased about the healthcare contribution and the minimal overall impact, while still giving the officers a wage increase.

Jim Watt said he disagreed with Mr. Holtzman and Mr. Benson. He said he had done his own compensation analysis, using Clayton, Moraga, Tiburon, Ross, and Belvedere. He said that he had concluded that Kensington officers' wages were similar. He said the real differences were in the benefits. He said that, with benefits, the difference between Kensington and the other five communities was about \$25,000 per officer, or \$250,000 per year based on 10 officers. He said he had hoped the proposed MOU would address the officers' generous benefits, but it did not. He said, if ratified, the MOU would increase officers' pay by 3%, effective March 1, 2016, and by another 3% a year from now for a total increase of 6%, or about \$50,000 total salary increase for nine officers. He noted that the net salary increase, after the giveback, would be about \$17,000. He said that the \$50,000 salary increase would be pensionable and the District's pension obligation was about 45% of total salary. He said this would result in an annual increase of \$23,000 in District cost; thus, the increase in salary and pension costs would be about \$40,000 per year. He said that the healthcare contribution, on the part of employees and retirees, would equal \$33,000. He said this would also lower the District's ARC contribution by about \$7,000. He said medical cost decreases would equal about \$40,000, while the salary increases to the officers would equal about \$40,000. He said the drawback to this was that the officers' contributions were fixed but medical and pension costs would continue to increase. He said there would likely be a \$25,000 increase in medical costs and a \$25,000 increase in PERS costs. He said that, based on this, the officers would have improved their position by about \$28,000 and the District's costs would have increased by \$50,000 by the end of the tentative agreement. He noted that, during the same period of time, the retired officers would be \$25,000 worse off. He said this was not a contract of which to be proud because the officers would be the winners, not the District. He advised the Board to go back to the bargaining table.

Gail Feldman read a statement on behalf of the Kensington Property Owners' Association (KPOA). She said that the KPOA appreciated the work that had been done but that the KPOA advised caution, with respect to the long-term costs of the tentative agreement. She said that Kensington was behind with respect to its employees' and retirees' contributions; Kensington taxpayers would still be picking up 90% of the benefits costs. She said that cost containment was needed now, a long-term strategy was needed, and she asked Mr. Benson for any cost analyses he had not included in the Board Packet.

Linda Lipscomb said that she was in favor of the agreement, that it was wonderful, and that it had been a long time in coming. She said the officers had been very patient and that the Board's committees had worked very hard. She noted that the District had lost a couple of officers and that she was sure salaries had played a major part in this. She said she had small packet of salaries in neighboring jurisdictions: El Cerrito, Berkeley, Albany, and Richmond. She said that, contained in her packet was an article about the Sheriff's Department that cited that department was losing deputies because of salaries. He said people could talk all they wanted about benefits, but that, when a young man came into a community, he would be looking for how much pay he could get. Ms. Lipscomb thanked all involved for reaching a proposed agreement and said she and many other Kensington residents were happy and relieved that the officers, upon whom the resident rely in daily life, would finally have a contract. She said she had looked at the contract and had concluded it was a terrific deal for Kensington taxpayers and said it addressed the need for officers to earn a comparable wage. She said she had not included Clayton in her analysis because it was not comparable – it was located out in the valley and was not comparable to the kind of service Kensington's officers give. She noted that, in the first year of the contract, the officers' base salaries would be 26% lower than those of the surrounding communities of Albany, El Cerrito, Berkeley, and Richmond. She said that, in the second year, officers' salaries would be 24% less than the base salaries in the same surrounding communities. She said the same would be true of Sergeants' base salaries, which would be 23% lower than those of surrounding communities in the first year and over 20% less in the second year. She said that, to those who thought that contracting out to El Cerrito would be a viable idea, she noted that the proposed salaries for Kensington's officers would be 21% lower than those of El Cerrito's officers in the first year and 19% lower in the second year. She noted that, in her review of published information, raises for sworn employees ranged from 2% in Berkeley to 4½ % in Albany. She thanked the negotiating team for including employee participation in both medical and pension contributions.

Rick Artis said he had brought his computer to the podium so that he could refer to a graph. He said he was cautiously optimistic about the tentative agreement. He said that, in the end, the issue was revenue and expense. He said he had presented this data at the previous town hall meeting – he showed the Board and audience a graph on his computer, which he said was available on the District's website – and said that the historical revenue and expense lines were very close together. He said he would like to see how those lines would extend by incorporating the data of the tentative agreement into the graph, but that it looked as though the tentative agreement would contain the rise of the police side of costs to within the rising slope of revenue. He said the nasty increases for the District hadn't been from police costs; they had been from other areas. He said the proposed agreement sounded good, he was encouraged by the structural change, and the District seemed to be heading in the right direction. He concluded by saying that an entry-level police officer did not make a particularly high salary, based on what was in the proposed MOU: His gardener and his housekeeper, on an hourly basis, make about 75% of what the District would be paying an entry-level police officer in Kensington. He said this did not seem to be an outrageous salary but noted there were benefits that contributed a lot. He said that there had been discussions during the evening's meeting about the value of officers and about crime in the community and that people should ask themselves if a police officer was worth just a little bit more than a gardener. He concluded by saying he supported this proposal.

At 9:40 the Board stopped to make a motion to continue the meeting past 10:00 P.M.

**MOTION: Director Gillette moved, and President Welsh seconded, that the Board continue the meeting past 10:00 P.M.**

**Motion passed 5 – 0.**

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

Garen Corbett said he was not speaking as a member of the Ad Hoc Committee or as a Kensington Property Owners' Association member. He said he was cautiously optimistic about the proposed MOU. He said he was a former benefits consultant, and he had spent a lot of time thinking about various

aspects of benefits and their projected costs. He said this seemed like a very reasonable and good deal for the community. He said he thought the District should start thinking now about where it would be in a year and to begin thinking about those negotiations, in terms of: structure; the community's priorities; the optimal size of the police department; and the services we want to be providing. He said the long-term obligations were large and scary. He said the progress regarding health and pension contributions was the right one. He noted this had likely been difficult to negotiate, especially in light of the pent-up salary pressure. He concluded by saying he supported the agreement.

Karl Kruger thanked the people who had negotiated the contract. He said he was happy there was a proposed contract because the community's police officers should not have gone without a contract for the time that they had. He said he endorsed what was in the contract. He said he liked the fact that the vacation accrual would be capped and said he hoped the IGM/COP Hart would not allow officers to build up vacation. He said he thought that fourteen holidays was excessive but that, in total, he supported the contract.

Mabry Benson said that the officers would be paying only a 2% contribution to PERS in the first year and that the 4% contribution wouldn't take effect until the second year. Adam Benson confirmed that was correct. She said that, in the earlier version of the MOU, the officers were going to end up contributing 9% and that the tentative agreement amount was not close to this and, thus, was not a good deal. Mr. Benson said the prior deal would have brought the officers up to 12%, but it would have given the officers a 16% salary increase at the same time, which really would have cost 1.5 times that amount. Ms. Benson said she thought the officers needed to start contributing to PERS and the pay raises, near the middle, were too high. She said she didn't think this job was anywhere near as hard as the job in Richmond and Berkeley, which were near the top. She said it was nice that everyone would be making a health contribution but asked if medical would continue for retirees. Mr. Benson responded that the current requirement, in the government code, was that whatever an agency paid for active employees, it must pay the same for retirees. He said the District could move away from that by adopting a cafeteria plan, but it could not get there as part of the current negotiations. Ms. Benson responded that paying for retirees' health costs had been a major part of budget discussions and that she was disappointed that these costs would continue. She asked how much the life insurance would cost annually. Director Toombs responded about \$200 per officer. Mr. Benson said the District would be changing the approach on this: Instead of reimbursing each officer the amount of the premium, the District would provide coverage through a group policy, which should be less expensive. She questioned the vacation accrual calculation. Mr. Benson responded that some of the officers had accrued vacation that exceeded the amount allowed under the current agreement: The new agreement would implement a cap of 200 hours prospectively. He said that, because of staffing needs, officers often couldn't take vacation, which created a problem from an accrual standpoint.

Lisa Caronna thanked everyone who had worked on the agreement. She said this was an improvement over the prior tentative agreement. She noted this would be the first time the officers would be contributing to their healthcare and this was a good step. She said that negotiations were a process. One didn't get everything the first time. She said things moved forward incrementally to make a community more sustainable for the long haul. She said this contract would end in December 2017, which meant that negotiations would need to start somewhere around June 2017. She reiterated that this was a process and that more issues would be addressed in future negotiations, which were right around the corner. She concluded by saying that she supported the MOU as proposed.

David Spath said he echoed Mr. Corbett's and Ms. Caronna's comments. He said this was an excellent first step in improving the District's position, as well as giving the officers a modest raise, particularly in comparison to those jurisdictions around Kensington. He said that the officers in the jurisdictions cited by Mr. Watt in his analysis, had been given larger raises. He said that, for El Cerrito, the officers were being granted raises of 16%, through 2018, with a give back of 12%; but, as Mr. Watt had noted, this 16% increase would be pensionable. He said that, with the proposed Kensington contract ending in 2017, he hoped that medical costs could be further reduced with a cafeteria plan. He said KPPCSD was in a strong position because, according to PERPRA, they would have considerable bargaining power to impose a significant increase in the officers' contributions, all the way up to 9%. He said he thought the

negotiators had done a good job. He noted that new officers coming into the department who weren't already members of PERS would suffer considerably, in comparison to the existing employees. He said that was why the District had lost one of its new officers: That officer had to pay significant pension contributions, with very little salary paid to him. He said that officer went to another agency where, although he still had to make the same pension contributions, his salary was considerably higher. He said he applauded the negotiators for the efforts.

President Welsh asked Mr. Benson if he had more he wanted to say. Mr. Benson responded that benefit cost pressures were something that the District would need to monitor. He said the tentative agreement made an important first step in this regard. He added that, because the District was in a risk pool for agencies with fewer than 100 officers, the District's PERS rate would not actually grow anymore. He added that PERS rates of 45%, in which a 1% salary increase translated into a 1.45% cost increase, were based on the old way of doing things. He said that PERS had actually carved out the Unfunded Accrued Liability (UAL) in the side fund. He said those were hard dollars that made up most of the prior 45%. He added that the normal cost was the only piece applied to salary: Now 1% increase in salary would translate into a 1.19% increase in cost to the District. Mr. Benson said that he had looked at Mr. Watt's analysis, that he didn't agree with Mr. Watt's selection of comparable agencies, and that El Cerrito was a very relevant comparable. Mr. Benson added that in his own comparison, he had used a Step 4 to a Step 4 comparison because using a top step comparison was most commonly used. Vice President Sherris-Watt asked if Mr. Benson had used any other steps for comparison. Mr. Benson responded that he hadn't because there wouldn't be much variation in the conclusion.

President Welsh noted that comments had been completed and that the tentative agreement would appear on the April agenda. He thanked everyone for their hard work and for the presentation.

### CONSENT CALENDAR

President Welsh asked if anyone wanted to pull something from the Consent Calendar. Director Toombs said that, given the hour and the number of items remaining on the agenda, he would not pull anything.

Gloria Morrison said she was interested in IGM/COP Hart's report, especially because the Outlook had given the community some information about the status of the review by the Richmond Police Department on the so-called harassment. President Welsh responded that this was an item on the agenda.

Chris Deppe said he wanted to comment on the February Police Department Statistics. He asked if there had been 15 stops but only two traffic citations issued in February. IGM/COP Hart responded in the affirmative. Mr. Deppe said this was the opposite of Zero Tolerance and indicated that the Police Department wasn't doing its job. IGM/COP Hart responded that citations were not a gauge of whether the department was doing its job. IGM/COP Hart said he would like to see more citations issued but only if people deserved citations. He added that he wanted to give officers the discretion to warn, as well as to cite. Mr. Deppe said he couldn't believe that there had been only two instances, in all of February, that had warranted citations. He said he paid his tax dollars to have the Police Department do its job. He said he didn't think the Police Department was doing its job, that he didn't think the Board was doing its job either, and that IGM/COP Hart wasn't hearing him. Director Toombs responded that he had planned to pull this report but hadn't, in the interest of time. Director Toombs said two citations in one month didn't seem like many, and he really wanted scofflaws to be cited. Vice President Sherris-Watt said that, technically, the Board hadn't rescinded Zero Tolerance. IGM/COP Hart responded that Zero Tolerance, as passed by the KPPCSD, had really been only for the signal light in Kensington: It had not been for across-the-board traffic enforcement. He said the negativity about Zero Tolerance was what he wanted to get rid of, but he did want to address pedestrian safety and speed. He said to Mr. Deppe that he did hear his comments.

A. Stevens Delk said that she had spoken about Zero Tolerance months earlier and that IGM/COP Hart had made it clear that Zero Tolerance didn't work. She said that, just before IGM/COP Hart had come to Kensington about 50% of stops had resulted in a citation. She said that, once IGM/COP Hart had come, the number of citations relative to the number of stops had decreased to about 30% and, now, the rate had dropped further. She said she agreed that the study that had resulted in Zero Tolerance had been focused on just the traffic light intersection and that the study had been completed at no cost to the District. She said, possibly, people were driving better and that was the reason for fewer citations.

IGM/COP Hart noted that one of the traffic officers had just returned to duty after having been on medical leave for several months and he encouraged everyone to obey the speed limit. Director Cordova said IGM/COP Hart was always welcome to take over traffic, as former GM/COP Harman had often done this when the Department had been short on resources.

Leonard Schwartzburd said, with respect to traffic stops, he took a wider view. He said he wasn't soft on the way the Police Department was being run. He said that he had been driving from Berkeley into Kensington for 25 years, that there didn't used to be stop signs on the Colusa Circle, and that, after they had been installed, he had driven through them because he had had a lot on his mind and his head had been in the clouds. He said that, when he had done this, a Kensington officer, who he said was no longer with the department, had stopped him and spoken with him quite seriously about his having driven through the stop sign. He said the officer had used his discretion and had let him go. He said that, a month or two after that, his mind had been in the clouds and he drove through the stop sign again. He said that the same officer had stopped him and been really angry with him but did not issue a ticket. Dr. Schwartzburd said that this was the kind of law enforcement that was effective, that it was an example of how relationships with officers could change behavior, and that he had not driven through the stop sign since then. The purpose wasn't to issue more citations; it was to make people safer.

President Welsh asked IGM/COP Hart to provide an analysis of the drop in citations within the next couple of months.

Andrew Gutierrez said he lived just north of "dead man's curve" on the Arlington. He said he had invited IGM/COP Hart to observe the activities on that part of the Arlington. He said the County actually determined the signage on Kensington's roads. He said that, if tickets were issued, the officers would have to go to Martinez to defend them. He said that Arlington Avenue had become a thoroughfare because of the clogged freeways. He said things were likely going to get worse, and there already were 6,000 – 7,000 cars traveling the Arlington on a daily basis. He said he thought there needed to be a more aggressive attitude about giving tickets and let those receiving citations go to Martinez if they want to challenge them.

Barbara Steinberg said her assumption was that the officers were trying to educate people. She said this took a much better officer than one who only issued tickets.

President Welsh said both approaches – issuing citations and educating people – were needed. He added that there was a difference between compliance and enforcement and that some people needed to get a ticket to change their behavior. He reiterated his desire to see an analysis.

**MOTION: Director Toombs moved, and President Welsh seconded, to adopt the Consent Calendar.**

**Motion passed 5 – 0.**

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

## OLD BUSINESS

7 a. David Spath provided an Ad Hoc Committee on Governance update.

David Spath reported that there were three subcommittees:

- Contacting of services – This subcommittee had contacted jurisdictions that had contracted with the Sheriff's Department, and it had contacted Albany, El Cerrito, and Richmond about the possibility of providing service. He said that the subcommittee also planned to talk to UC Berkeley and to EBRPD and that it had done a lot of work in just one month.
- Bifurcation of the General Manager/Chief of Police position – He said there had been discussions with the City of Berkeley and the Albany Police Chief to get a sense of how they operate and what they do, with respect to budgets, and what their disciplinary limits are, vis a vis the General Manager and the Chief of Police. He said the subcommittee would be looking at a variety of jurisdictions that have half-time general managers and some that have half-time police chiefs. He said they were also looking at jurisdictions that had had the combined position in the past and then split it as well as jurisdictions that currently have combined general manager/chief of police position. He said they were also going to look at a fire districts because, the law did not require fire districts to have a general manager and so fire chiefs often serve in the capacity of both general manager and fire chief. He said the sub-committee had made a lot of progress.
- Consolidation of the Fire District and the KPPCSD – He said this subcommittee was looking into what consolidation meant, how it would come about, and what it would look like. He said that the subcommittee intended to meet with the boards of both districts to discuss the boards' views of consolidation and to look at agencies with separate and with combined police and fire services governing boards.

Dr. Spath reported that the Committee intended to hold community forums on June 4<sup>th</sup> and June 11<sup>th</sup> and that he had spoken with the librarian about creating a file of Ad Hoc Committee documents for the library. He said the committee was planning to make a survey to get from the public a sense of what the public thinks of current services. He reported the committee would like to conduct the survey in April, that it would be a web-based survey but that, for those who did not want to do an online survey, he hoped there would be an opportunity for them to participate in some other way – perhaps at the library. He said the committee wanted to send postcards to all residents to notify the community in the Outlook about this survey. He said he would return to the Board to seek permission regarding the cost of such a mailing and asked that this appear on the April agenda. President Welsh asked if Dr. Spath had an estimate. He responded that he didn't and that he would speak with District staff to try to obtain this information. President Welsh said the Board would be willing to entertain such a request.

Director Gillette asked if the survey would include questions about what specific services people like and don't like. Dr. Spath responded that the committee had a list of different services that are provided and that the committee would be asking people to rank them. He added that the survey questions had been developed, based on input from members of the committee and members of the public who had been attending the meetings. He encouraged members of the public to attend the meetings. He announced that the next meeting would be on April 7<sup>th</sup> at 7:00 P.M. and said people could contact him by email. Director Cordova encouraged people to attend the committee's meetings and said Dr. Spath was an excellent moderator. Director Gillette asked when he thought the committee would have something to report. Dr. Spath responded he hoped sometime in July, depending on what the Board wants. Vice-President Sherris-Watt said she had received complimentary feedback from Albany about the committee.

Director Cordova asked how the Committee was doing on legal funds. Dr. Spath responded that they were doing fine. He said he had been providing a copy of the committee's agendas to Randy Riddle, and he assumed Mr. Riddle had been reviewing these gratis.

Director Gillette, in response to Dr. Spath's earlier question, said she wanted to see a complete report, rather than receiving serial information, in order to see information in a way that would enable her to compare and contrast. Dr. Spath responded that one of the more challenging aspects of the committee's work was determining the services the community wants in terms of structure, such as whether the community wanted 24/7 patrolling. He said this really should be left to professionals to determine. President Welsh asked if the committee would want a consultant. Dr. Spath said this was something the committee would likely address at its April meeting.

President Welsh thanked Dr. Spath for his report and suggested taking a five-minute break. At 10:34 P.M. the Board took a break.

At 10:42 P.M. the meeting resumed. Vice President Sherris-Watt proposed changing the agenda to address some of the remaining items and then to address the remaining items at a subsequent meeting no later than two weeks hence.

Director Cordova said she supported Vice President Sherris- Watt's proposal and supported meeting every two weeks until the Board got ahead of the workload. She said many of the items were time-sensitive. IGM/COP Hart said that it would be fine if the Board wanted to have a Special Meeting in the future but that, if it wanted to set regular meetings every two weeks, it would have to be an agenda item. Following discussion, Board consensus was that it would work through the evening's agenda.

- 8c. The Board received a report from the Interim General Manager on the status of the investigation regarding a traffic stop conducted on October 7, 2015.

IGM/COP Hart read a statement. He reported that, in connection with a traffic stop of Director Cordova, serious allegations had been made against police officers. He said that, because of this, Richmond Police Department's Lieutenant Brian Dickerson had conducted a full, fair, and independent investigation of the incident. He said the report was currently under review. He reported on next steps, which, he said, would include a deliberative process and could include disciplinary measures. He said that the law required police departments to maintain strict confidentiality and that he expected to conclude his work in this endeavor within the following two weeks. He concluded by reporting that one of the two officers involved in the traffic stop had been placed on administrative leave with pay but that "administrative leave with pay was neither a disciplinary action nor an indication of wrongdoing."

President Welsh said he had a question for legal counsel: Could an actual change in status be revealed? Mr. Riddle responded in the affirmative. President Welsh added that, should that occur, no other information could be revealed.

Gloria Morrison asked that IGM/COP Hart's report be posted on the website. She asked if the names of the police officers would be revealed. IGM/COP Hart responded that Officer Ramos was on paid administrative leave. Ms. Morrison asked for confirmation that the other officer was still the head of the police officers' association. IGM/COP responded in the affirmative and added that he had no control over that. Ms. Morrison said she objected to individuals reading other people's letters during public comments. She said people should come and read their own letters, or if time doesn't permit, send it to the Board and the IGM/COP so it could be part of the packet. She noted that the reading of other people's letters was a little suspect.

Leonard Schwartzburd asked if Officer Ramos had been placed on administrative leave in connection with the traffic stop. IGM/COP Hart responded that he could not say.

Garen Corbett said he appreciated the need for sensitivity and due process with respect to this matter and asked that it be resolved expeditiously. President Welsh responded that, because the District needed an independent investigation performed by an outside agency, the District could not push for a speedier completion of the process.



Trisha Mindel said that reading letters as part of public comments was strange but was, sometimes, unavoidable. President Welsh responded that a letter could just as well be delivered so that Board members could read them for themselves. Vice President Sherris-Watt said she disagreed: The agenda hadn't gone out until Monday, a person might be ill and, if sent, a letter wouldn't appear in the record until the following month. She added that, putting a damper on letters could pose a difficulty for the elderly or infirm.

Directors Toombs and Gillette asked to get back to the agenda.

Linnea Due asked if the community could find out the names of the twelve witnesses. IGM/COP Hart responded, "Not at this time."

Celia Concus said that, in the prior month's Outlook, there had been an interview with IGM/COP Hart. She said it had been reported that he would first be releasing the information from the internal affairs investigation to the complainant and that it appeared not to be happening. She asked why the information was being put forth at a public meeting. IGM/COP Hart responded that nothing was being put forward: This was the process. He noted that the complainant had not been officially notified. He added that he had reported only on process and that he had made no report on findings. He clarified that he was still reviewing findings and determining what course of action to take. Ms. Concus asked if IGM/COP Hart would notify the complainant once he had all the findings. IGM/COP Hart responded in the affirmative: He said that the law required this and that he had told this to the complainant.

John Gaccione said that before a rush to judgment, the facts should be determined. He said that the community was going to have to wait a lot longer and that the longer it took the more the community would be at a loss to figure out what was going on. He asked what people should believe, what was real, what had happened, and said there was great frustration.

Andrew Gutierrez asked how long the officer would be on administrative leave and how many officers were actively engaged. IGM/COP Hart responded that the officer on administrative leave would remain on leave until IGM/COP Hart could make a determination whether any policies or procedures had been violated. He added that the District was maintaining minimum staffing levels on the street and that the residents were protected. Mr. Gutierrez asked if this was on overtime. IGM/COP Hart responded that, in some cases, it was. Mr. Gutierrez asked for more detail. IGM/COP Hart responded that there was one vacancy, two officers were on medical leave, and one on administrative leave.

- 8e. The Board considered changing the starting time of the April 14, 2016 regular meeting of the Board from 7:30 P.M. to 6:00 P.M.

President Welsh reported that this had been a request made by Director Gillette. Director Gillette said she needed to leave the April meeting by 9:30 P.M.

**MOTION: Vice President Sherris-Watt moved, and President Welsh seconded, that the Board move the April 14, 2016 regular meeting of the KPPCSD Board from 7:30 P.M. to 6:30 P.M. Motion passed 5 – 0.**

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

- 7b. The Board received a report from the Park Building Committee on a Measure WW Grant application for the Kensington Community Center facility improvements. The Board considered taking action to approve the application and subsequent submittal to the East Bay Regional Parks District for possible funding.

IGM/COP Hart provided the background for this item and said the Board had seen this item once before. He said that WW funds were available from East Bay Regional Parks and that Vice President Sherris-Watt and Jim Watt had worked hard on preparing a preliminary grant application for submittal in the amount of \$158,358. He said there had been no decision yet on what the funds would be spent but the indication was that some ADA work would be done on the parking lot and possibly on the bathroom and kitchen. He said the details would be discussed later; under discussion for the evening was a review of the application.

Director Gillette asked for confirmation that the application would be for ADA upgrades to the property and asked if the District would be bound to that scope of work – could the Board change its mind and do something else. IGM/COP Hart responded that, if the District did any construction, it would, by law, have to do the ADA required work. He noted that the Park Building Committee had determined that it wanted to tackle first the work that had to be done. He said that other funds – from reserves and possibly from other Kensington groups – could be tapped for additional work, but the WW funds would be used for ADA issues.

Director Cordova said that, although a scope of work had to be identified at the time of the grant submission, the scope could be expanded at a later point in time.

Vice President Sherris-Watt said that the grant application had to show that the KPPCSD could afford to do the work proposed because the WW funds would be granted as a reimbursement only after the District had paid for the work. She noted that the District currently had \$207,000 set aside for improvements on the building and the grant proposal was for \$158,358. She added that the seismic work estimate exceeded the set-aside amount and so wasn't a good project for the grant proposal.

Director Toombs said he had gone on the WW website and seen that there was a lot of information that needed to be submitted along with the application. IGM/COP Hart responded that everything required had been included, except for a Board resolution, which EBRPD already had on file from 2009, when the park restroom had been done. Director Toombs asked, if the District received the money this year, would the District have to spend it before the end of the WW period. Vice President Sherris-Watt responded that the work would need to be completed before December 31, 2018 and that, if everything wasn't turned in by then, the District would not be reimbursed.

Vice President Sherris-Watt noted that, once the threshold of \$148,000 of construction cost was reached, ADA work must be done.

**MOTION: Director Cordova moved, and President Welsh seconded, that the Board take action to approve the application and subsequent submittal to the East Bay Regional Park District for funding of Measure WW grant monies.**

**Motion passed: 5 – 0.**

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

- 7c. The Board considered approving a proposal from the Interim General Manager/Chief of Police to increase the FY 15/16 Budget – 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.

IGM/COP Hart provided the background on this item. He reported that this agenda item had been discussed at the prior Board meeting. He said Asset Forfeiture Funds, in the amount of \$18,526 had been received. He reported that the \$10,000 that had originally been budgeted for weapons and their associated add-ons (including holsters, lighting equipment, ammunition, and training) would not be enough money. He said that, by adding the \$18,000 of Asset Forfeiture Funds to the \$10,000 that had already been budgeted, there would be sufficient funds for the weapons and their associated add-ons plus bulletproof vests. He noted that a speaker at the prior month's meeting had said there was a \$300

vest and added that, yes, there was such a vest, but it was very uncomfortable and could not be worn underneath clothing. He noted that a sample of the \$300 vest and of the vest he was recommending (it breathes, is custom-fit, and would be worn by officers at least 12 to 14 hours per day) were on display on the side table. He said it was not his recommendation to spend the least amount of money on a vest. IGM/COP Hart said the current process was that officers bring their own firearm to work and can elect whether or not to wear a vest. He said he saw these as flaws in current procedures.

IGM/COP Hart reported that Asset Forfeiture Funds could not go into an agency's general fund; they could be used only for specific things – among them, weapons and training. He said he was proposing that the budget be increased by \$18,525 to be placed into a specific line item. He said the money did not have to be spent all at one time; funds not spent could be carried over for use another year. He reported that he had provided quote detail, as requested by the Board, which showed the vests at \$698 apiece and showed two different weapons – he said he had not yet made a final decision on which weapon he would select. IGM/COP Hart said that, at the Board's prior meeting a speaker had recommended purchasing refurbished firearms but that he was recommending the purchase of new firearms, which would be warrantied for a number of years.

President Welsh said he wanted to make clear that the vests were to be worn under the uniform, as opposed to the over-the-uniform \$300 version that had been suggested by a speaker at the prior Board meeting. He said he supported everything IGM/COP Hart had recommended.

Director Cordova asked for confirmation that there was still a safety allowance in the proposed MOU. IGM/COP Hart responded in the affirmative and said that each officer would receive \$250. She wondered why the District wouldn't look a "Toyota" model of a vest and then allow the officers to upgrade, using their safety equipment allowance. She also said she didn't understand why the District needed to procure 15 of everything. IGM/COP Hart responded that he was recommending buying 15 weapons and ordering only as many vests as were needed. He explained that the department needed at least ten weapons for officers, two for reserves, and at least two more in case weapons were being repaired.

Director Cordova said these were not the only Asset Forfeiture Funds that had been received from the WESTNET operation. IGM/COP Hart responded that this \$18,525 was the first asset forfeiture disbursement and that it would take years to adjudicate the related cases. He noted that he had been the one to push for the disbursement and that it was the first of what he thought would be additional disbursements.

Vice President Sherris-Watt said she supported purchasing and standardizing weapons. She noted that only one of the quotes was still valid and said that pricing could have changed. IGM/COP Hart responded it could have, but only slightly, and said that he was asking for a not-to-exceed amount. She said she wanted to see fresh quotes. She said she would approve purchases for ten officers and three reserves but would not approve 15 of each item.

President Welsh said he didn't want to second-guess the Chief's judgment with respect to extra equipment he would need to have on hand to guaranty service. IGM/COP Hart clarified that he planned to purchase 15 weapons and only as many vests as there are officers.

Director Toombs said he thought the Board was expressing a desire that IGM/COP Hart get the best bargain possible on the needed equipment. IGM/COP Hart responded that he was recommending what he thought it was the best course of action.

Director Gillette asked, if the Board were to move the additional funds into the account with the restriction that IGM/COP Hart could buy a certain number of guns and vests and there were money left over, what the District could do with the remaining funds. IGM/COP Hart responded that the \$18,525 of Asset Forfeiture Funds were restricted and could be used only for law enforcement training and equipment but that the other \$10,000 were not restricted. He added that, ideally, he would spend the \$18,525 first because the \$10,000 had no such restrictions.

Jim Watt said he was concerned with the cost. He noted that both the Sig Sauer and the Glock guns were equipped with special features, including night lighting. He said that the extra features were not common among most police agencies and that they added another \$3,500. He said he agreed with Director Cordova; the officers' safety equipment allowance should be used to offset the purchase of this equipment. He said \$3,000 remained in Account 553 Range/Ammunition Supplies and that this should be used for the ammunition part of the proposal. He said these changes would reduce the total being requested.

President Welsh asked IGM/COP Hart to respond to the issues raised by Mr. Watt. IGM/COP Hart responded that the lighting was attached to the firearm itself so that, when an officer went into a dark area – even during the day – and didn't have a flashlight, the officer would always have a flashlight. He said this was a safety issue. He said that, with respect to the reserve officers, he was trying to enhance the reserve program. He said he would like to add three to five more reserve officers, though it was becoming hard to do so, given the improving economy. He said that, once a firearm was assigned, it became officer specific, because things like the sights were set to each officer's preference and because each officer qualified with a specific weapon.

Director Cordova asked if the reserve officers carried weapons while on patrol. IGM/COP Hart responded in the affirmative.

President Welsh said that, in the State of California, when any employer decided a certain type of safety equipment was needed, that employer had a legal obligation to provide it without cost to the employee. He said that, under the law, the District couldn't provide less than adequate safety equipment and then ask the officers to upgrade using their safety allowance. Director Cordova said she disagreed with this perspective and cited a conversation she had had with the California Peace Officers' Association, which said the District's legal obligation was met with the \$250 safety equipment allowance per the MOU.

Mabry Benson asked if the District owned the weapons officers had purchased with safety allowances. President Welsh, IGM/COP Hart and Randy Riddle responded that guns purchased with safety allowances belong to the officers. It was clarified that the District would own the new guns. Ms. Benson asked if the new car had been ordered. She said IGM/COP Hart had been more interested in purchasing a new car than in purchasing safety equipment for the officers.

A. Stevens Delk said that, for a number of years the District had not been issuing service weapons, though the policy manual said it would; instead, the District had been providing a safety allowance, which the officers could use to help them buy a weapon. IGM/COP Hart responded that the District did not issue service weapons, nor was it required to do so per the policy manual.

Gail Feldman said there were two issues:

- The appropriation of \$18,000, which would give authority. Vice President Sherris-Watt responded that this had been done at the Board's prior meeting.
- The budget issue.

**MOTION: Director Gillette moved, and President Welsh seconded, that the Board approve the proposal from the Interim General Manager/Chief of Police to increase the FY 15/16 Budget Capital Outlay Item 965 by \$18,000, with the explicit instruction that the IGM/COP not spend any more than he has to in order to outfit the current officers with vests and not to buy more than 15 guns.**

**Motion passed 3 – 2.**

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

Following the motion being made and seconded, Vice President Sherris-Watt and Director Cordova said they would not approve more than \$10,000. When Director Gillette asked why, Vice President Sherris-Watt said she had done the math on 13 vests and 15 weapons and that she was uncomfortable because she knew the quotes weren't valid. IGM/COP Hart responded that this total of \$20,000 wouldn't cover the \$24,500 cost of just the body armor and the weapons, as shown on his cost summary.

- 8g. The Board reviewed a report and discussed taking action regarding succession planning for the Interim General Manager/Chief of Police position.

IGM/COP Hart stepped away from the dais.

President Welsh introduced the item, noting that Director Cordova and Vice President Sherris-Watt had jointly submitted the item and the corresponding memo included in the Board Packet. Vice President Sherris-Watt said that she and Director Cordova wanted to begin the discussion about what would occur in the future: Was the District going to consider separating the positions or write a new contract for an interim GM/COP position, noting that the Board needed to negotiate a new contract with someone by June 2, 2016. She said the three-page summary outlined a number of approaches for planning.

President Welsh described possible options:

- Negotiate a new short-term contract with the incumbent.
- Initiate a new open recruitment for an Interim GM/COP.
- If not negotiating a contract with the incumbent, go back to finalists from last interview process to see if they're interested.
- Split the GM/COP position.

Randy Riddle noted there was nothing in the Government Code that would restrict how the Board could search for a new GM/COP. Mr. Riddle also noted that he had recommended that IGM/COP Hart not participate in the discussion and noted that IGM/COP Hart had left the dais.

Director Gillette said that Mr. Spath had indicated that the Ad Hoc Committee would likely be providing the Board with its findings by the end of summer. She said she had not made up her mind whether splitting the position was a good or bad idea. She asked why, at the end of June – if IGM/COP Hart weren't coming back, the Board would pre-empt the Ad Hoc Committee's study of whether splitting the position would be a viable solution. She said that the memo had identified this as a "proof of concept opportunity" and that she didn't think this was necessary. She said that she was opposed to putting the police department back into chaos and to getting rid of a general manager who understands the District. She added that she didn't understand the logic of doing so.

Director Cordova responded that this would just be a short-term option. She said there was a very short recruitment window before the Board needed to execute on June 1<sup>st</sup>. She said it was a unique position, combining two skillsets, for which there was not a huge market. She added that the Board might be forced to patch something together. She noted that Vice President Sherris-Watt had had a conversation with John Holtzman about what would happen, worst-case scenario, if the Board couldn't find someone. She said that Public Management Group, for which Adam Benson works, also has city managers that work on a contract basis and that John Holtzman had offered a variety of scenarios that included tapping into PLG's consulting division, with which the District already had a relationship.

Vice President Sherris-Watt said that a trial run of splitting the position might offer some real world experience. She said she wasn't trying to pre-empt the Ad Hoc Committee.

Director Cordova said that one option was to execute a contract with the incumbent. Another option would be to open up the recruitment. A third was to look back at the other qualified candidates who had been interviewed previously. And, another option was to break apart the position, because time was short, and work with PMG. She said she wasn't advocating any one option; she was advocating taking action so the Board wouldn't end up without any options. President Welsh responded that he agreed that

the Board either needed to extend the contract with the current IGM/COP or find a new IGM/COP but that he wasn't prepared to go to a different model until the Board had some data from the Ad Hoc Committee; he didn't want to make guinea pigs out of the citizens of Kensington by experimenting with something that it had never done before. He said there might be a better way to do it, but he didn't want to move to it until there were data to support it. He said that he would support exploring a new contract with the current IGM/COP.

Director Gillette thanked Vice President Gillette and Director Cordova for putting thought into the issue. She said that, perhaps, the Board should give direction to its attorneys to enter into negotiations with the current IGM/COP to see if he was interested in continuing and that, if he were not to be interested, this would eliminate one of the options.

Vice President Sherris-Watt suggested putting the options in the following order:

- a) Negotiate with the current IGM/COP.
- b) Negotiate with the previous finalists.
- c) Ask Mr. Holtzman to advise on the availability of a per diem IGM/COP.

President Welsh asked about opening up recruitment. Director Gillette said she wouldn't favor going to PMG: Her preferences were options a and b. She said she didn't favor having Public Law Group put any effort into this effort; nor did she support option c, unless options a and b failed.

Director Cordova said that she would not support negotiating with the current IGM/COP but that the Board could explore it.

Director Toombs said he agreed with Director Gillette. He said he wanted to maintain the status quo, with respect to keeping the GM/COP position combined, because there might be a whole new model and he wanted to wait and see what facts the Ad Hoc Committee would bring to the table about the benefits and drawbacks of separating the position. He said he would favor entering into a short-term contract with the current IGM/COP and noted that the other finalists may have already taken other positions. He added that there was a short window for the number of hours those finalists could work because they were PERS retirees. Directors Cordova and Gillette responded that the term would be short.

Director Gillette said that, at the appropriate time, perhaps Dr. Spath could speak with the PLG to see what a split GM/COP position would look like, from a cost perspective.

Director Gillette suggested that the Board authorize PLG to explore a short-term contract with IGM/COP Hart to determine what that would look like and what it would cost, as well to determine what IGM/COP Hart's interest might be. And, she suggested that the Board simultaneously determine the availability of the prior finalists. She said that if neither proved viable then the Board should initiate recruitment for a new IGM/COP. She suggested that all those things should happen within the next month. Mr. Riddle suggested that the Board have a committee to address the suggestions.

Linda Lipscomb said that, as she understood, the Board was going to push forward and explore some form of contract extension with the current IGM/COP. She said that, without that, the Board would be crazy not to understand the stability that IGM/COP Hart had brought to the community in the wake of all the machinations that had followed the prior administration. She said it was important to understand the talent the District had with IGM/COP Hart's General Manager and Chief of Police skills. She added that this was a rare skillset and that the community would be grateful if IGM/COP Hart would accept an extension of his contract. She said that this was a difficult community to serve and that the City Manager of El Cerrito had a salary of \$200,000.

Mabry Benson said that IGM/COP Hart's contract expires on June 1<sup>st</sup> and that, because of the short timeframe, the Board should first ask IGM/COP Hart whether he's interested but that the Board should keep all options available, including how a part-time General Manager and a part-time Chief of Police would work. She said that the Board's advisors should work on option a first and that the response to

that would likely be quick and that if that didn't work out then the other options should be pursued because the Board only had two months.

Gail Feldman asked that, with respect to the direction the Board would be giving Mr. Holtzman, it determine a contract term. She said that, whether the contract would be with the incumbent or with a new person, the Board needed to think about what would be occurring in the coming months. In particular she asked the Board to respect the process to which it had agreed with the Ad Hoc Committee. She said many of the Committee members were putting in a lot of time. She added that the group that was looking at splitting the position was doing a phenomenal job and that they would be done within the next couple of months. She reiterated that it was important to let the process play out, in accordance with what the Board had established. She said there would be an election coming up and that, whether or not there was a new Board in place, it might want to bring in its own person. She said the Board should get the report from the Ad Hoc and allow time to put into place whatever might come of that work. She said not doing so would be disrespectful of the community and was really unnecessary. She concluded by saying that it was good that the issue had been brought forward and that the Board needed to define what it really needed and to give direction to Mr. Holtzman.

Director Gillette thanked Ms. Feldman and said she agreed with her. Director Gillette said the Board needed to look at a contract that would probably go to the end of the year, if not beyond, because, by the time the Ad Hoc Committee came back, a decision was made, and a new Board was put in place in December, it would not be good for a new Board to be without a GM/COP. She said a contract would probably need to go through to January or February of the following year.

Vice President Sherris-Watt suggested that she and Director Gillette form a committee to meet with Mr. Holtzman. Director Cordova said she wanted to state her preference for term: that it be in three-month increment extensions. She said she would not support a six-month contract. Director Gillette responded that she thought the Board should vote on the matter because she did not support three-month extensions. She said doing so would be unfair to IGM/COP Hart or whomever would take the position. She added that the Board wouldn't be ready three months hence. President Welsh suggested another nine-month contract with a three-month extension. He added that he didn't want the IGM/COP to be expiring just as a new Board was coming in. He said that, if the Board were going to go to a new model, there would need to be time to figure out the transition. President Welsh clarified that nine months would take the contract through January.

Director Cordova responded that she would not support a nine-month contract with an option for a three-month extension.

Marilyn Stollon said that some creative and business-wise options had been presented. She said the District had access to a consulting firm that had experts in both areas who could step in. She said this could be very cost-effective because there would be fewer benefits. She said the Board was closed and stuck in looking at only one path. She said the Board had a real opportunity to look at something more viable. Director Gillette responded that the Board was not looking at just one option and that Ms. Feldman had put it best: The Board had authorized and empowered the Ad Hoc Committee to look at several different options, and the Committee members had invested time in that. She said Directors were saying the Ad Hoc Committee should do its work and not be preempted. Ms. Stollon said that the Ad Hoc Committee report wouldn't be ready until the end of summer and that, rather than waiting for all the options to be presented at one time, the GM/COP piece should be looked at ahead of the other options.

Dr. Spath confirmed that the Ad Hoc Committee's findings for all the options would likely be ready at the end of summer, even though the framework had indicated November. He said the Committee had been asked to work more quickly, which it has done. Dr. Spath added, stepping aside from his role with the Committee, that he thought Ms. Feldman had made some very good points. He said the upcoming forum would be a perfect vehicle for public comments about the different options, which could give the Board a sense about how the community feels about the available options.

Director Cordova said that she wasn't preempting anything and that what had inspired the packet's document had been, what would happen on June 1st if the Board hadn't done anything.

Dr. Spath responded that this was prudent and that option a would be the first one the Board would want to examine. He said this would give the Committee the opportunity to present all the options to the community.

Rick Artis said the discussion had been a lot of "useless thrashing." He said the logical way to proceed was for the Board to maintain the status quo until – with reason, discipline, and facts – the community figured out what it wanted to do. He said the most respect that could be shown to the community, the Committee, and the current IGM/COP would be to nail this down in a logical way that would allow the community to proceed in order. He said President Welsh's suggestion had been a good one and noted that Director Cordova had said she wouldn't support that suggestion. He reiterated that maintaining the status quo, until the Ad Hoc Committee had determined its findings, was the logical way to proceed. Vice President Sherris-Watt responded that the Board could not leave itself beholden to one particular employee and that, by having fallback positions, the Board would have negotiating power. Mr. Artis responded that the Board did have negotiating power but had failed to use it and that that was the problem because not everyone wants to use that negotiating power for the simplest outcome.

David Bergen said that the idea of trying out a per diem COP and a per diem GM was a good idea and that this wouldn't preempt the Ad Hoc Committee's work because it wouldn't be permanent. He said that, when one didn't know what the outcome would be, one ran an experiment and that that's what this would be.

Director Toombs said that whenever there was a negotiation, getting the best outcome was most important. He noted that the term of a GM/COP contract needed to be of sufficient term so that, should a new model be adopted, someone would be running the ship during the time of transition.

**MOTION: Director Gillette moved, and President Welsh seconded, that the Board authorize the Public Law Group to explore a new contract with IGM/COP Hart that would last from June 1st through February 28<sup>th</sup> and that, if IGM/Cop Hart is not interested in that, then she and Vice President Sherris-Watt, in conjunction with the Public Law Group, would simultaneously explore the availability of the candidates the Board interviewed previously and identified as good candidates for this particular District and explore open recruitment, and then bring that information back to the Board at its April meeting.**

**Motion passed 5 – 0.**

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

During the Board's discussion of the above motion, Ms. Stollon said it was a disservice to the community for the Board to make such an important decision at such a late hour. She said many others would have stayed to give feedback and that the Board should address unimportant agenda items late in the evening and address the important ones early. She said the decision was being rammed through. Director Toombs responded that, if one wanted to attend a long meeting, one should go to a Berkeley City Council meeting and that they still did good things. He said the Board was there to finish its job.

IGM/COP Hart returned to the dais.

- 8d. The Board discussed and considered approving a resolution to require a board member who becomes aware of possible misconduct by a District employee to report that conduct to the Board President or General Manager, and to encourage the Board member to inform the Board President and /or General Manager and General Counsel before speaking to reporters or other media sources.

Director Gillette, who had asked for this item to be placed on the agenda, said that this was not a first amendment right infringement and asked to continue the item. Director Toombs noted that this would



be asking people to follow the law, with respect to employees' rights. Director Gillette said this was not a restraint, it was recognizing the responsibility the Directors had to themselves, to the Board, and to the community. She reiterated that she wanted to continue the item to the next meeting.

- 8f. The Board considered appointing Chuck Toombs as the Kensington Police Protection and Community Services District Liaison to LAFCO.

Director Cordova asked if the item could wait until the next meeting. Director Toombs responded that the Board needed to act on the item that night. Director Gillette asked for someone to explain to the community what this meant. President Welsh responded that LAFCO was the agency that regulated special districts like the KPPCSD and the Kensington Fire District. He said LAFCO had a Board of Directors for which there was currently an open seat. He added that it was critical that the appointment be made promptly because of the timing of the election. He said there was one candidate for that seat and that, if the Board designated Director Toombs as the liaison, he could vote "yes" or "no" for that person. He said Tony Lloyd had previously served as the District's liaison.

Vice President Sherris-Watt said that Director Cordova was the Board's Intergovernmental Coordinator and so didn't understand why she hadn't been considered for the position. Director Cordova added that she attended LAFCO meetings monthly anyway. President Welsh responded by asking why Director Cordova hadn't brought the election matter to the Board. He noted that the election had been percolating for several months and asked why she hadn't done anything with it. Director Cordova responded that she couldn't make appointments and asked why President Welsh hadn't made the appointment. President Welsh responded that Director Cordova was the Coordinator and hadn't said a thing about the matter and that he had found out about the election by accident. He added that, because of his experience, he thought Director Toombs would be better suited for the liaison position.

Director Cordova said that she and Vice President Sherris-Watt had been attending LAFCO meetings. She said that LAFCO'S Executive Director, Lou Ann Texeira, contacted two people: the General Manager and the President of the Board. Director Cordova added that she didn't feel comfortable having one Board member speaking on behalf of the entire body. Director Toombs responded that he agreed with her, saying that whoever held the position should not speak for him/herself: Rather, the appointee was to speak only with the Board's direction on the Board's position. He added that no one was to go the LAFCO meetings, or any other group's meetings, and speak unless the Board had authorized them to do so, with a specific agenda. He said he thought his role would be not to act unless the Board had provided him with direction. He reiterated that anyone appointed to any such position was to act only at the direction of the Board.

Vice President Sherris-Watt said she had respect for how hard Director Toombs worked, but she believed the position should go to Director Cordova because it was within her purview and that, therefore, she would oppose Director Toombs' appointment.

Director Cordova added that she sat on the statewide CSDA Formation group.

President Welsh asked to table the item for the next meeting. IGM/COP Hart reminded the Board that it would miss the election window.

David Bergen said that Director Cordova should be appointed to the position because of her position, her interest in LAFCO, and her connections.

Director Gillette asked if there was a reason why President Welsh didn't want to appoint Director Cordova. President Welsh responded that it wasn't a matter of not wanting to appoint Director Cordova; he thought Director Toombs would do a better job for this particular situation.

Director Cordova said she wanted to point out that only the President could make appointments and that she had no committee appointments, either in the current year or in the prior year. She said she had one

role: Intergovernmental Coordinator, which she said she had done and built upon in a very limited capacity. She added that she considered this to be a marginalization. She said that former Board members held more committee positions than she did. She said she was the only one who had worked in local government, she had worked in LAFCO within the context of redevelopment during the heyday, she had worked for a park special district, and she wasn't "off the turnip truck."

Director Gillette asked Director Toombs why he thought he might be better for the position. Director Toombs responded that he didn't think he would be better or worse than anyone else would. He said that, apparently, LAFCO had to have somebody formally noticed, subject to subsequent Board approval; that his name had surfaced as the person who would go out to LAFCO; and now this was a matter of ratification of something that had occurred earlier in the week. Director Toombs added that he had worked with LAFCO, had been on the Board for seven years and had been to LAFCO meetings, had read LAFCO's reports, and had some understanding of what LAFCO managed. He said it was not a matter of ego for him and that the decision lay with the Board. He said he didn't have any reason why Director Cordova should hold the position, any more than he should. He said that circumstances had led to himself being the designee and that, now, it was a matter of ratifying that position. Director Cordova responded by thanking Director Toombs for clarifying that he had been noticed and that she hadn't been.

John Gaccione said there was some talk about the KPPCSD looking to consolidate with the Fire District and that, as he understood, LAFCO would be making those kinds of decisions. He asked whether Director Toombs had a position about consolidation and said that was a concern. Director Gillette responded by asking if Mr. Gaccione would have that question for both Director Toombs and Director Cordova. Mr. Gaccione responded, saying that Director Cordova hadn't been appointed, so it applied only to Director Toombs. Director Toombs responded that Mr. Gaccione had missed the point: Director Toombs would only take direction from the Board in situations where he represented the District.

Director Toombs said he wanted to read something that had been written about Measure G, which he said was always "shoved down his throat." He read two statements that had been written about the measure. The first: "The Services District voted against consolidation with the Fire District, which would have provided additional tax revenues to support all public safety services in Kensington, without new taxes." Director Toombs then read a second statement: "The Fire District cannot legally transfer any of its tax revenue or reserves to the Police District. Fire District funds must be expended for fire services or returned to taxpayers." He read further, "Combining the two Districts is a lengthy complicated legal process. Moreover, there is no assurance a single combined District would receive as large an allocation from the County of general property taxes as the two separate Special Districts now receive. The combined District could have less total revenue than the two existing Districts, a result that could compound the problem." He asked Mr. Gaccione who had written each statement. Mr. Gaccione responded that he had no idea. Director Toombs responded that Celia Concus and her group had written the first statement, saying that a merger was a good idea to save money and that he, Director Toombs, had written the second one. Celia Concus responded that the statement had been given to her by Gail Feldman to sign. Mr. Gaccione asked Director Toombs what had been the point of this. Director Toombs apologized for having put Ms. Concus on the spot and said that the point he was trying to make was that the statements had been written in 2009/10 and that people's opinions evolved. Director Toombs said he had been "tarred and feathered" over his statement many times. He said he wouldn't do anything now, unless the Board had told him what they wanted.

Director Cordova said this wasn't a commentary on Director Toombs; it was a commentary on the way it had been handled. She said the Board should have discussion about who was interested in the position and then come to a decision instead of presenting it in the way it had been – it hadn't been in the spirit of consensus.

Mabry Benson asked who had asked Director Toombs to take the position. President Welsh responded that he had. She said it was rude of President Welsh not to have asked Director Cordova. Director Cordova noted that neither Director Gillette nor Vice President Sherris-Watt had been asked either. President Welsh responded that he brought the matter to the Board to seek its approval.

Director Gillette said that she had concerns and that she didn't understand the reasons articulated for not having Director Cordova hold the position. She said that, if the person who served in this role only did what the Board told that person to do, then it didn't really matter who held the position. She reiterated that the appointed person could only follow the direction of the Board. She added that the Board was creating an issue where one didn't need to exist. She said that not appointing Director Cordova would create problems over something that wasn't that significant. She said that if the only thing that person could do was be a mouthpiece for the Board and the rest of the Directors could go and ensure that was all that was happening, she didn't see why the Board was having a protracted discussion. Director Toombs responded that he agreed. He said that he and Director Cordova were competent to take on the position and that, if Director Cordova was selected, it was with the caveat that she was there as the Board's representative: Her personal opinions were not to go to the fore.

Director Gillette asked if Director Cordova could do that. Director Cordova responded in the affirmative and said it would be her honor to do so – she didn't get to do much else. Director Toombs said Director Cordova would be going to LAFCO as the Board's spokesperson; would need to keep the Board informed about what LAFCO was doing, regardless of her personal opinions; and would need to bring back issues for the Board to take into consideration.

President Welsh asked Director Cordova to make him one promise: The next time he goes to a Fire Board meeting that she would not send him text messages telling him "he was foaming at the mouth," "making a fool of himself," "he was embarrassing the District," and all the other things she had done when he had gone to the Fire Board meeting to ask for a joint finance meeting. Vice President Sherris-Watt said the Board should not devolve into this. President Welsh continued by saying he had never read anything less professional from a grown human being. He said he didn't think Director Cordova was fit to be a liaison to other agencies because of the way she sometimes communicated. He said that, if she wanted him to put those communications in a Board Packet, he would do so and that, if the Board wanted to appoint Director Cordova to the position, it could do so.

**MOTION: Vice President Sherris-Watt moved, and Director Gillette seconded, that Director Cordova be the KPPCSD LAFCO representative.**  
**Motion passed 4 – 1.**  
**AYES: Gillette, Toombs, Sherris-Watt, Cordova    NOES: Welsh    ABSENT:**

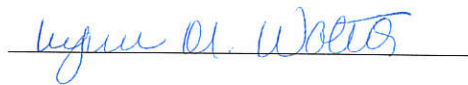
Vice President Sherris-Watt thanked Director Toombs, and Director Cordova thanked Director Gillette.

**MOTION: Vice President Sherris-Watt 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 12:59 A.M.



Len Welsh  
KPPCSD Board President



Lynn Wolter  
District Administrator