

Meeting Minutes for 4/9/15

A Special Meeting (Closed Session) of the Board of Directors of the Kensington Police Protection and Community Services District was held Thursday, April 9, 2015, at 6:00 P.M., at the Community Center, 59 Arlington Avenue, Kensington, California. A Regular Meeting, in Open Session, followed.

ATTENDEES

<u>Elected Members</u>	<u>Speakers/Presenters</u>
Len Welsh, President	Teresa Stricker, Public Law Group
Pat Gillette, Vice President	Adam Benson, Public Law Group
Chuck Toombs, Director	Rich Carlson
Vanessa Cordova, Director	Sandy Waters
Rachelle Sherris-Watt, Director	Ron Wiselman
	Mabry Benson
	Marilyn Stollon
<u>Staff Members</u>	Catherine de Neergaard
GM/COP Gregory Harman)	Donna Stanton
Lynn Wolter, District Administrator	Chris Hall
	Bill Stanton
<u>Press</u>	David Bergen
	Kevin Padian
	Kathy Stein
	Barbara Steinburg
	Peter Liddell
	Simon Brafman
	Karl Kruger
	Tony Lloyd
	Peter Conrad
	Ryan Anderson
	Anthony Knight
	Gail Feldman
	Jim Watt
	Linda Spath
	Celia Concus

President Welsh called the meeting to order at 6:10 PM and took roll call. President Welsh, Vice President Gillette, Director Toombs, Director Cordova, Director Sherris-Watt, and District Administrator Wolter were present.

President Welsh solicited public comments on the Closed Session agenda items.

PUBLIC COMMENTS

Rich Carlson said he had practiced law for thirty-three years, that he had worked with the Public Law Group, and that it was one of the best, if not the best, public law firms he had worked with. He said Louise Renne had been San Francisco's City Attorney, that she had won numerous awards, and that she had founded the firm. He said he highly recommended the firm.

Sandy Waters said she didn't know the District had been looking for a new law firm and wanted to know if the search had been put out to bid. President Welsh said a decision had not been made yet and that the process had not been put out to bid. He said that the firm was being considered because it was one of the best.

Ron Wiselman said he understood that the officers needed a raise, but the negotiation process had been tainted by GM/COP Harman and Sergeant Barrow. He said the officers should be given a 1 – 2% raise now, but the current MOU was not a good document.

Mabry Benson said there had been a change made between the old MOU and the proposed MOU: The old MOU contained a provision that allowed for the GM/COP and the Board to fire any police officer for cause; but the proposed MOU would grant this authority only to the Chief. She said the Board should retain the ability to do so.

Marilyn Stollon said that the new law firm proposed transparency, inclusiveness, and a budget for all members of the Board to contact them, whereas in the past only the Board President had been allowed to contact the District's attorneys. She asked if the Board would reach agreement on this point. President Welsh said he supported the proposal and clarified that past practice had not been such that only the Board President had been allowed to contact the attorneys. He said that the Closed Session would be where the Board would deliberate the law firm's proposal.

Mabry Benson said she supported the full Board having access to legal counsel.

David Bergen asked if Hanson Bridgett was still working for the District. President Welsh responded that there were items the District was still finishing up with the firm. Mr. Bergen asked why the Board wasn't considering at least two other law firms and said he hoped that legal fees wouldn't continue to be so high. Mr. Bergen said he didn't think it was a good idea to continue with the proposed MOU without a good understanding of the District's financial situation.

Kevin Padian said it was good to have new legal counsel and asked what was the role and function of legal counsel. He said he hoped that new legal counsel would advise the Board strictly on legal matters and not on political ones. With respect to the MOU, Mr. Padian said a realistic budget – one that would account for highs and lows – would be needed for the next five years. He said he thought forecasts had been cobbled together to pay for the MOU and that, without a budget, the community couldn't evaluate the kind of police force it would really need. He suggested that even the short-term search for the GM/COP position should be based on the position being split because the Chief shouldn't oversee him or herself. He noted that such a change would require a change in the Policy and Procedures Manual.

Catherine de Neergaard thanked the Board for searching for new general counsel. She said it didn't seem like the right time to proceed with the MOU and that, instead, the Board should continue with the current contract on a month-to-month basis because there were ongoing problems with the police department.

Donna Stanton said there should have been more notice about the District looking for new legal counsel and that the decision about this law firm should not have been made among just the five Directors. She said

a few firms should have been pursued for the community to consider. She said the community felt it was not being heard.

Chris Hall said the District should put the law firm selection process out to bid. He said he thought the legal fees had been high.

Bill Stanton said the positions of GM and COP should be separate. He said the transparency issue was not being fully dealt with and that coming with just one law firm didn't show much due diligence.

The Board entered into Closed Session at 6:34 PM.

1. Pursuant to California Government Code Section 54957, the Board entered into Closed Session to discuss the possible engagement of the Public Law Group as General Counsel.
2. Pursuant to California Government Code Section 54957.6, the Board entered into Closed Session to discuss the status of the MOU with the Kensington Police Officers' Association.

The Board came back into Open Session at 7:44 PM.

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

President Welsh reported that no action had been taken on either item during Closed Session but that action would be taken in the Open Session.

President Welsh said he would like to address New Business Item 1, engaging Public Law Firm as General Counsel, instead of addressing Old Business first.

President Welsh addressed the lack of a sound system and that he and Director Sherris-Watt were checking on the legality of accepting contributions from K-groups for a new system.

PUBLIC COMMENTS

Kathy Stein said that she understood that there had been a posting on Next Door claiming that the District had not made its payment to CalPERS for Other Post Employment Benefits (OPEB) in 2013. She said she had attended the prior month's meeting at which the auditor had reported that the District's fiscal year 2013 audit had been clean. She said she didn't understand how the audit could have been clean if the OPEB payment hadn't been made and then asked if the payment had, indeed, been made. GM/COP Harman replied that the payment had been made. President Welsh asked GM/COP Harman to explain what OPEB was. GM/COP Harman explained that this was a mechanism to ensure that there would be sufficient money to meet future retiree medical benefits, and he confirmed that the District had funded 2012, 2013, and 2014 and that the District was fully funded based on the District's actuarial report.

Barbara Steinburg said she had read about possible re-structuring and that she had appreciated the police services throughout the years. President Welsh noted that this was an item on the agenda and asked Ms. Steinburg to hold her comments until then.

Peter Liddell announced that the Kensington Public Safety Council would present a program by Barbara Morita on disaster triage on Thursday, April 16th at 7:00 PM.

Simon Brafman commended Officer Turner for helping to resolve a safety issue with cars parking on a certain section the Arlington, such that the cars were blocking crosswalk visibility. He said that Officer Turner had contacted the County and that, in response, the County would be painting the curb red in this area.

Karl Kruger said that, at the prior month's meeting he had noted that most of the questions asked of the auditor had to do with trust. He wondered where the lack of trust had come from and how the District was going to get its fiscal house in order.

Catherine de Neergaard said she wanted to mourn the passing of her pug dog that was kicked to death at the Kensington School. She said she was very disappointed that there had been no investigation. She said there was a need for a citizens' advisory commission to review complaints against the police department. President Welsh replied that he was so sorry about Ms. de Neergaard's dog. She said it wasn't her dog; it was someone else's.

*Amended.
See attachment.*

Tony Lloyd said that Next Door had been used to conduct District business. He said the Board needed to develop a policy about social media to avoid potential legal exposure. He noted that, because only a small percentage of Kensington residents participated in certain social media sites, there was a lack of transparency. Vice President Gillette responded that using limited social media might not be sufficient for communicating with the community because not everyone participated. She said the Board might need some direction from legal counsel on the matter with respect to what's appropriate and what's not. President Welsh said more information should be available on the District's website. Director Cordova said the District should employ a multi-channel approach to communication and that messages communicated should be consistent.

David Bergen noted that Next Door had a thousand participants, that many in the community were not on the Internet, and that many did not see meeting notices that were posted throughout the community. Mr. Bergen said he had questions about the new District Administrator position. He said that, in the absence of a hiring policy, the District needed to follow State guidelines. President Welsh said that the District Administrator had always held that title and that the title had not been changed. Mr. Bergen asked why the District Administrator's salary had been increased. President Welsh responded that this had been the Chief's decision and that it had been within his purview. Vice President Gillette and President Welsh noted that the salary increase had been included in the budget. Mr. Bergen said this didn't look transparent.

Mr. Bergen questioned Directors' use of private email for District business and questioned GM/COP Harman's use of Directors' personal email as well. President Welsh said he would have a discussion with the attorney about the matter. He said this was a volunteer position and that those serving on the Board had limited time in which to accomplish all that needed to be done. He said that if it this proved not to be legal, he would change. He said he had nothing to hide; his use of private email was a matter of efficiency. Director Cordova noted that the District's current system didn't allow Directors to send emails from their District email addresses. Director Sherris-Watt said the IT team felt the problem could be addressed and that, in the near future, Directors would be able to send outgoing email from their District addresses. GM/COP Harman said he used only his District email address.

Marilyn Stollon asked if the two new Directors were being kept in the loop. Director Cordova said all could do better and that the on-boarding process had not been easy. She said Director Toombs had been cordial and responsive and that there were opportunities to build better relationships. Director Sherris-Watt said she had not feel part of the loop and that she was disappointed in the continuation of some un-helpful behaviors. She said she wanted information before it appeared on the agenda and that she was looking forward.

At this time, GM/COP left the meeting to respond to a call for police service.

Vice President Gillette said that the transition had been more difficult than it might otherwise have been because it had been a difficult time. She noted that there had been a familiarity among the former Board members because they had worked together for a long time. She said she hoped the Board and the community could move forward, treating everyone with respect and without the assumption of bad intention. She said her goal was to begin working together as a team. She said the worst thing that could happen was a return to the Board that preceded 2012. She said she looked forward to building collaboration, transparency, and rebuilding trust.

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he had repeated back to another person what it was that person had said. He said that, under normal circumstances, such a transgression would result in a written reprimand. He noted that his contract was not being renewed and that probably took care of the matter.

Catherine de Neerdaard asked that the April 9th minutes be amended. It was not her dog that had been killed; it was a pug named Mei Fun and Stephanie had been the dog's owner.

MOTION: Director Cordova moved, and Vice President Gillette seconded, that Item a) be continued to the next meeting.
Motion passed: 5 to 0
AYES: Welsh, Toombs, Gillette, Cordova, Sherris-Watt NOES: 0 ABSENT:

MOTION: Vice President Gillette moved, and President Welsh seconded, that the Board adopt the Consent Calendar with the amendment to the April 9th minutes as requested by Ms. de Neerdaard.
Motion passed: 5 to 0
AYES: Welsh, Toombs, Gillette, Cordova, Sherris-Watt NOES: 0 ABSENT:

DISTRICT OLD BUSINESS

1. The Board received an update on the formation of a committee to research and report back to the Board on possible alternatives to the current GM/COP position and other issues related to District structure and mission statement. This item was continued from the April 9th meeting.

Director Toombs commented that he and Director Cordova were working on a position paper laying out the

President Welsh said he accepted some responsibility for lack of communication and that there was no bad intention on anyone's part. He noted that the Brown Act limited the extent to which Board members could communicate and said he hoped the Board could work together as a team.

BOARD MEMBER COMMENTS

Director Sherris-Watt reported that the Park Buildings Committee would meet on at the Community Center's Room 3 on Wednesday, April 29th at 7:00 PM and tentatively on Wednesday, May 27th. She reported that the Policy and Procedures Committee would meet at the Community Center's Room 3 on Monday, May 18th, from 7:00 – 8:00 PM. Director Sherris-Watt said that, in the wake of Measure L not passing, the Park Buildings Committee needed to determine what would be done to move forward with possible improvements to the Community Center. President Welsh added that he had asked former Park Buildings Committee members to continue to serve, he asked others to let him and Director Sherris-Watt know if they would like to volunteer to be on the committee, and he confirmed that Peter Conrad had been appointed to the committee.

Director Cordova reported that, at the last meeting, President Welsh had introduced the idea of earning accreditation with CALEA (Commission on Accreditation for Law Enforcement Agencies). She noted that the Kensington Police Department had previously earned this certificate in the late 1990s. She reported that the regional contact for CALEA was Mark Mosier and that she had been in contact with him. She noted this would need to be a longer-term project. Director Cordova also reported that she worked on the CSDA Legislative Committee and that there has been much discussion at CSDA about Assembly Bill 237 (Daly), which had to do with notification of parcel taxes. She said that AB 237 would require special districts to increase notification procedures and noted that many special districts would like to see the option of email notification in order to reduce cost.

Vice President Gillette said that many people had "taken shots" at District Administrator Wolter and her increase in pay. She said that District Administrator Wolter brought much to the community and that she was a highly qualified individual, in terms of her background, training, and the job she did for the District and the community. She noted that District Administrator Wolter did lots of work that no one saw, thought about, or understood but that had to be done and that it had been done without complaint. She said District Administrator Wolter was being fairly compensated and that the salary increase had been budgeted. Vice President Gillette said that District Administrator Wolter had brought organization and professionalism, with respect to communication among the Board, with the community, and with the officers. She thanked District Administrator Wolter for her service. President Welsh said he agreed.

Director Sherris-Watt said she shared the enthusiasm for District Administrator Wolter's skill, but that questions had come to her about the salary adjustment. She said that, because of the level in increase, people were worried that the Board may have violated some legal obligations as a civil employer. She said this had constituted a change in job classification and that brought with it the possibility that, when an employee's salary was increased by a large amount that one was expecting greater output. She said people were concerned that should be an open process. She said she didn't think people had been critical of the job District Administrator Wolter did and she supported what Pat had said. She said people were seeking clarification on being open. She said the increase in the May agenda's budget had been for only one employee. President Welsh said there had been an increase for another non-sworn staff member, Police Services Aide di Napoli. District Administrator clarified that these had been salary adjustments, which President Welsh confirmed.

Tony Lloyd said it was unprofessional to have had District Administrator Wolter's background and credentials discussed on Kensington Next Door. Mr. Lloyd said he had known District Administrator for some time and that she had worked for the District as a part-time employee trying to do the equivalent of a full-time job. He said the Board had been miserly in asking District Administrator Wolter to work for wages significantly below those paid for a similar position in the Fire District. He noted that wages paid to the non-sworn staff had not been adjusted for several years and that District Administrator Wolter was

being asked to do significantly more than what the job description had called for when she had been hired. He said the discussion of this issue on Next Door failed to address the real issues.

Fire District President Larry Nagel said the Fire District did not have a District Administrator; it had a General Manager and that this person worked part time for the Fire District.

Sandy Waters said that no one was denigrating District Administrator Wolter; people were complaining about a lack of transparency and that the Board had made a mistake.

Vice President Gillette said that, with respect to transparency, the salary increase had been included in the budget. President Welsh said that the Board had a business to run, and it couldn't run every decision by the community. He said this had been an administrative decision the Chief had been entitled to make, the Chief had consulted the Board about it, it was contained in the budget, and said that District Administrator Wolter's duties had increased in amount and complexity.

President Welsh noted there were some hard feelings about some precipitous changes that had occurred over the prior months; the Police Chief wouldn't be present for much longer, the editor of the Outlook was gone, and the community would be looking at a possible new structure. He said that there also would be a new law firm because the Board had been fired by its law firm. He said that, despite these changes, this was a time of opportunity. He said there was a lot of opinion in the community but not enough data. He noted that there was a need to identify a short-term GM/COP, what should be the next structure, and how the KPPCSD budget compared to that of the Fire District. He said these decisions needed to be based on data and that the Board needed to set its priorities.

STAFF COMMENTS

District Administrator Wolter reported that, at its March 12th meeting, the Board had unanimously approved pursuing the District Transparency Certificate of Excellence. President Welsh interjected that Director Cordova had suggested this. District Administrator Wolter said that staff had made progress on completing related tasks. She reported that the 2013 Audited Financial Report had been posted to the website, which had brought the total number of Audited Financial Reports posted to four, exceeding the certificate's requirement of three. She reported that the District's Reimbursement Policy and a map of the District's service area had also been posted on the website.

District Administrator Wolter reported that GM/COP Harman, Police Services Aide di Napoli, and she and attended the Special District Risk Management Association's Safety Day, which had been held in Sacramento on March 24th. She said staff had attended informative training sessions and had earned several Credit Incentive Points (CIP). She reported that each CIP reduced the District's annual premium by \$130, and that the maximum number of CIPs a District could earn was 18. She said that Board members had earned four CIPs, and that, as of March 31st, the District had earned a total of 12 CIPs, which had reduced the District's annual insurance premium by \$1,552. District Administrator Wolter also reported that she had attended a governance training session in which she learned that either the Board President or District management should provide "on-boarding" for new Directors.

District Administrator Wolter reported that all but one of the Directors had submitted the required disclosure Form 700, which had been due on April 1st. Director Cordova responded that she was the one who had not submitted her form to the District but that she had filed the report with the County online.

DISTRICT NEW BUSINESS

1. The Board discussed, for possible approval:
 - a) A proposal to engage Public Law Group as General Counsel for the Kensington Police Protection and Community Services District, as well as to provide other legal services to the District, as requested by the District Board.

- b) A proposal for Retention of Services to Review the KPOA MOU and Financial Analysis.

President Welsh asked Vice President Gillette to brief the Board. Vice President Gillette provided the background that had led to the item being on the agenda. She said that, last summer, the prior Board began looking to replace Hanson Bridgett as outside counsel for a number of reasons. She reported that she and former director Linda Lipscomb had conducted a search and had interviewed various firms. She said that the search had been put on hold for several months but that this had been an ongoing discussion. Vice President Gillette reported that when Director Cordova joined the Board she had indicated she knew Jon Holtzman, one of the attorneys associated with Louise Renne's firm and that she recommended this firm. Vice President Gillette said that one of the things that was unique about this firm was that it was comprised of a group of attorneys and a group of non-attorneys. She reported that she had spoken with Jon Holtzman then had let President Welsh know that the firm seemed like it might be a good fit given the work the firm had done, the resumes of its members, its non-attorney group, and the District's needs. She reported that her own billing rate of \$925 per hour was what large firms charged and that the Public Law Group's proposed rates, for highly skilled attorneys who were known to provide exceptional service, were far below what the firm normally charged and lower than what Hanson Bridgett had charged. She concluded by saying this proposed change had been a culmination of things over a period of time, not a reaction to any one thing and that it had been precipitated by Hanson Bridgett telling the District that it thought it was appropriate to cease providing service to the community and saying it would terminate its relationship with the District on March 31st. She noted that since that date, the District had been without counsel and that was dangerous for the community.

President Welsh introduced Teresa Stricker from the Public Law Group.

Teresa Stricker said that Louise Renne, a former City Attorney for the City and County of San Francisco, had founded Public Law Group. She said that Randy Riddell, who would be taking the lead with the District, was out of the country at that time. She reported that Mr. Riddell had worked in the City Attorney's Office with Ms. Renne, was a former City Attorney for Richmond, and had worked for the Secretary of State. She said Jon Holtzman had also worked for the City Attorney's office and had worked for Mayor Brown. She said that Mr. Riddell specialized in general government law and that Mr. Holtzman was both a labor and a general government lawyer. Ms. Stricker said she also had come from the City Attorney's Office. She said that the firm's area of expertise was government law and in providing timely advice and that its role would be in assisting the Board with policy, decision-making, and transparency issues. She said that any board member who called the firm would receive the same advice and that advice provided would allow the Board to operate better and in a legally safe manner.

Ms. Stricker introduced her colleague, Adam Benson, a non-attorney consultant with the firm. Ms. Stricker said rates for Mr. Benson's work would be lower than the rates charged for attorney work. Mr. Benson said his background was in public finance and labor relations. He noted that, for municipal budgets, about 70% was allocated to personnel costs and that evaluating those costs required a good understanding of benefits, including PERS. He said he had performed a number of budget forecasts, evaluated how revenues and expenditures had grown, and had ensured that adequate reserves existed.

President Welsh said the Board Packet contained a proposal to engage the Public Law Group as General Counsel, which would be a different relationship than the District had had with Hanson Bridgett: In a General Counsel relationship, there would be one or two attorneys who would become familiar with the District's issues and would be the attorney(s) to whom any Board member could go with questions. President Welsh noted the proposal was for a four-month trial period for both general counsel and other services.

Ms. Stricker said the four-month trial period would enable both sides to ascertain whether the relationship would work well on both sides.

President Welsh invited public comments.

Peter Conrad asked if the firm would be serving the community or the Board. Ms. Stricker responded that the firm would be serving the District and that the Board and staff would have access. She explained that the District was a government entity and that the District, comprised of policy-maker Directors and staff, would be the client. She said the firm wouldn't represent any one Director: Its loyalty would be to the District. Mr. Conrad said there had been issues between members of the community and the Board that had recently been resolved. He asked what the firm's role would be if members of the community were fighting with the Board, about possible conflicts, and if the law firm would represent the community or the Board. Ms. Stricker replied that the firm would represent the government entity: the District.

Karl Kruger asked what Public Law Firm's billing cycle would be, citing that past attorneys' invoices had lagged and so hadn't matched the District's monthly financial reports. Ms. Stricker replied that the firm billed monthly.

Ryan Anderson asked if the firm had experience with policies and procedures. Ms. Stricker responded in the affirmative and explained that some of this would fall under the consultants' side and some would fall under the attorneys' side. She said the firm could help put systems in place that would allow Board members to do their jobs better.

Simon Brafman asked why the Board had been fired by its former legal counsel and said that he didn't want this to happen again. He asked what the change in law firms was really about. President Welsh responded that, in one of his final conversations with the former law firm, one of the attorneys said that the District should seek general counsel services with its next law firm. President Welsh noted that he had found this suggestion odd because Hanson Bridgett had not suggested this relationship for itself. President Welsh explained that, with a general counsel relationship, one or two attorneys would develop a relationship with the District and develop a good understanding of what its unique needs would be. He added that, with a general counsel relationship, the service would be better and at a lower cost. Ms. Stricker described the general counsel relationship as being similar to that of a corporation's in-house attorney; that attorney ascertains whether or not another attorney with more expertise might be needed for a given issue.

Anthony Knight said he had assumed that Hanson Bridgett has operated as the District's general counsel. President Welsh responded that Hanson Bridgett had operated more on a case-by-case basis; they had never offered a general counsel relationship. He added that, over time, communication had deteriorated with Hanson Bridgett and the same problems kept recurring. Vice President Gillette said that there had been no mistakes made by Hanson Bridgett, rather it had been an issue of service, creativity, strategy, and responsiveness.

Gail Feldman said Public Law Group was well respected in the municipal services world and that she had had interactions with them in her professional life. She asked Ms. Stricker if the firm served other special districts. Ms. Stricker responded in the affirmative.

Mabry Benson asked if the public would have access to legal opinions given by the law firm. Vice President Gillette responded no; that would be protected by attorney-client privilege. Ms. Stricker clarified that the government entity was the client, not the constituents. Ms. Benson asked who determined what would remain confidential. President Welsh replied that the Board did.

Chris Hall noted that it had been a Hanson Bridgett partner who had worked with the Board and that he had billed at a high partner's rate. He said he was glad the new firm would be billing at a discounted rate. President Welsh clarified that Hanson Bridgett had billed at different rates, depending on the work. Mr. Hall noted that it had been the community that had been paying the large legal bills.

Peter Conrad asked who would be the District's primary contact at Public Law Group. Ms. Stricker responded this would be Randy Riddell.

GM/COP Harman returned to the meeting at this time.

A member of the public commented that some members of the community had an antagonistic relationship with some members of the Board. She asked how much the general counsel could help the Board with the issues of transparency and open communication. Ms. Stricker said there were many laws on the books that helped ensure transparency and that it was important for the Board to be educated about how to operate within the established parameters. She added that there were practical procedures that the law firm could help put in place that would enable everyone to feel informed and that would enable the Board to work properly as a team.

President Welsh solicited Board comments.

Director Cordova said that she had had spoken with Jon Holtzman and that she felt that he and Ms. Stricker understood the challenges the Board faced. She said she was fairly confident they would be responsive, especially to the new Board members, and would help the Board establish a better method of communication. She said she had no doubts about the firm's legal prowess and that the Board would be lucky to have them.

Director Sherris-Watt said she had had the pleasure of speaking with some of the firm's references and that the comments she had received from the Richmond City Manager were very positive. She said she had a lot of confidence in the proposal.

Vice President Gillette, President Welsh, and Director Toombs made supportive and favorable comments about the firm.

**MOTION: Vice President Gillette moved, and President Welsh seconded, that the Board adopt the proposal to engage Public Law Group to serve as general counsel for the KPPCSD as well as to provide such other legal services to the District as requested by the District for a four-month period and endorse the rate of \$5,000 per month for 20 hours of service and the hourly rates for other legal services as proposed.
Motion passed 5 to 0.**

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

President Welsh said the Board would discuss Item 1 b, which was a proposal for the retention of services to review the Police Officers' Association's MOU. He said the proposal was from Public Law Group for work to be done by its financial consulting group in order to review the MOU and determine its impact on the budget. He said this would involve some legal review of the MOU itself and a focus on the short term and long-term fiscal impacts. He said this would be an objective analysis and that this analysis would address concerns some had had that previous financial forecasts had been biased toward wanting to implement the MOU. He indicated that, once the analysis was complete, the Finance Committee could review it.

Vice President Gillette said that Public Law Group had proposed a generous flat fee and, given that, the Board should be careful not to add more work. President Welsh said the Board should wait to see how it would proceed, once the analysis was completed.

Director Sherris-Watt added that this would not be forensic accounting in any way. Instead, numbers presented by various community groups would be taken into consideration in the analysis.

President Welsh invited Public Law Group's Adam Benson to comment. Mr. Benson said that the \$5,000 flat fee was a low amount for the work that would be performed. He said the firm would have to rely on data provided, such as the District's budget and audited financial reports. He said this information would be used to develop forecasts for revenues and would incorporate the parameters of the MOU in order to determine whether the District would operate with a deficit or a surplus. He said the firm would then look at the District's fund balances to see if reserve levels were sufficient.

Ryan Anderson said that the data sources mentioned by Mr. Benson didn't include those from other community groups. Director Cordova cited analyses that had been done by the Kensington Property Owners' Association and by Jim Watt.

Mr. Benson said he would not give any one analysis more weight, rather it would be an independent review done by someone who didn't have a stake in the results.

Jim Watt said that Item 1 b was two-fold: a review of the MOU and a financial analysis. He asked for clarification of the process. He said that, in the past, Vice President Gillette and Director Toombs had negotiated the MOU and that he had had questions about how that MOU had been presented in November. He said he would like to be involved in the process and that he would like the community to be involved. President Welsh responded that the first step would be to look at the MOU, primarily from a fiscal point of view, to determine the fiscal impact of that proposal during the coming years. He said that, if the results were positive, there could be discussion about adoption and, if the results weren't so positive, there would have to be discussion about possible changes. President Welsh said an objective analysis was needed.

Mr. Watt questioned whether there might not be a better MOU. Director Cordova said that she and President Welsh served on this committee and that there was waning confidence in the proposed MOU and its fiscal impact. She said she fully supported this approach and that various District and community documents had been compiled. Director Cordova said she felt positive about this objective process. Gail Feldman asked if Mr. Benson could provide information about his background and said she was happy that Public Law Group would be looking at the proposed MOU. She said issues that had been raised by the Kensington Property Owners' Association had been the franchise fees and whether they were to be considered general-purpose revenue and what the policies were about how reserves should be accounted for.

Mr. Benson said that, before he joined Public Law Firm, he had been a senior management consultant at Public Financial Management, which specialized in working with state and local governments, was the largest public financial advisor in the country, and managed \$70 million governmental assets. He said he had worked in the firm's strategic consulting practice, which had been a national group of about 25 people who had performed long-range financial forecasting, turnaround plans, and financial analyses in preparation for bargaining. He said this background would work well with the District's needed financial and MOU analyses and the District's financial forecasts.

At 9:45, President Welsh noted that the Board needed to take a vote on whether to extend its meeting beyond 10:00 P.M.

MOTION: Vice President Gillette moved, and President Welsh seconded, that the meeting be extended beyond 10:00 PM.

Motion passed 4 to 1.

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

President Welsh said he thought discussion on the item should be closed.

MOTION: Vice President Gillette moved, and President Welsh seconded, that the Board adopt the proposal for the retention of services to review the KPOA MOU and financial analysis by Renne Sloan Holtzman Sakai law firm.

Motion passed 5 to 0.

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

The Board thanked Ms. Stricker and Mr. Benson.

CONSENT CALENDAR

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

Vice President Gillette asked to pull Item j, Director Sherris-Watt asked to pull Item c, and Director Cordova asked to pull Item h. Item e was also pulled for Karl Kruger.

President Welsh asked to hear about Item c. Director Sherris-Watt said that, on page 24 of the Minutes for the Regular Meeting on March 12th, she had reported that her salary proposal should read as 3% more than the second step Master Sergeant salary plus an additional \$10,000 and then an additional \$1,000 per month for the General Manager, which would put the total at \$121,564 per year. District Administrator Wolter apologized for the inaccuracy, citing that there had been no recording for that part of the meeting. Director Sherris-Watt asked whether, because of the absence of a recording, approval of these minutes should be held over to the next meeting to allow time for other members of the community to make sure their comments had been correctly reported.

Director Cordova commented that some members of the community hadn't seen their comments recorded in the minutes.

Catherine de Neergaard said she wanted to make a correction to the minutes.

Director Toombs questioned how anyone's comments could be verified without a recording.

Director Sherris-Watt noted that everything else in the minutes was present and correct. Director Cordova said she wanted to let people weigh in on their comments. District Administrator replied that the minutes were not a verbatim transcript; rather they were a summary of what happened, leading up to a Board decision.

Catherine de Neergaard said she'd like to have two sentences removed from her comments, stating that she had not made the statements and they weren't true. Director Sherris-Watt read aloud the initial part of public comments attributed to Ms. de Neergaard, starting with "Ms. de Neergaard said she'd gone before a judge in January". Ms. de Neergaard reiterated that these two sentences didn't reflect what she had said and that they weren't true. The Board noted that these comments appeared on page 20. District Administrator sought confirmation that Ms. de Neergaard wanted the first two sentences removed. Ms. de Neergaard responded in the affirmative and said maybe she would email a correction. Director Toombs asked, "Catherine, didn't you say that?" Vice President Gillette remarked to Ms. de Neergaard that she had said what had been recorded in the minutes. Ms. de Neergaard said that she had gone before the judge in January and had asked and gotten an order clarifying that she was not a party and not under the jurisdiction of the court. She said this was what the order had stated. She said she already was not a party. Director Toombs asked if she had a copy of the order. Ms. de Neergaard responded in the affirmative and said she had sent the order to all the proper people, that Hanson Bridgett had it, and that she had it on her computer. President Welsh suggested that Ms. de Neergaard send an email of her proposed correction for consideration at the next month. Director Cordova recommended continuing Item c to next month's meeting.

Karl Kruger said he still didn't understand why income was so favorable as compared to what had been budgeted. He said there was a large number of items, beginning with accounts 521 A and 521 R, that were substantially different from budget. He said that if there was a variance of 10% for a line item, there should be comment describing why that was and, with respect to income, if there was a variance of more than 5%, it deserved a comment because it was substantial. GM/COP Harman responded that, with respect to revenue, there would be a \$100,000 variance every month because COPS funding of about \$100,000 couldn't legally be included in the budget. Mr. Kruger replied that there should be a comment about this. Mr. Kruger said that property tax revenue was greater than what had been budgeted. GM/COP Harman responded that this variance had been addressed in the next report in the Board Packet. President Welsh noted that, perhaps, variances should be noted within the monthly financial report itself.

Mr. Kruger cited that the Worker's Compensation amount was different from the budgeted amount. GM/COP Harman explained this was because Worker's Compensation premiums were paid four times a year. Mr. Kruger said the same problem existed for Accounts 562 and 566. CM/COP Harman noted that Mr. Kruger asked the same questions at every meeting. GM/COP Harman explained that, with respect to one of these accounts, Richmond Police Department's billing was delayed. Mr. Kruger said there should be a comment to explain this. President Welsh said that, perhaps, comments or footnotes should appear within the report for those things having recurring variances. District Administrator Wolter asked what the Board considered to be a material percentage variance and should, therefore, be included in a variance report. She asked the Board to provide guidance, with respect to percentage. Director Cordova asked if the District's CPA, Deborah Russell, could run a variance report as an added column on the monthly P&L Report. District Administrator Wolter said that a policy or guidelines, about what the Board considered to be material, would be helpful. Mr. Kruger suggested posing this to the Finance Committee. Director Toombs noted that year-to-date actual income was more than \$391,000 ahead of what had been budgeted. He said there were some big numbers that needed to be explained. President Welsh concluded by saying this would be a Finance Committee assignment.

Director Cordova asked to discuss Item h. She asked GM/COP Harman to provide an update on coverage at the Hilltop School. She asked if an officer was there everyday and for how many hours. GM/COP Harman responded that the Department was currently short-staffed and, therefore, hadn't been able to have someone at the school every day for drop-off. He said coverage was being provided during the regular course of the day and that officers tried to sign in with the school at least twice a day and walk the property. He said the officers were continuing to provide security checks at night.

Barbara Steinburg commented that she had lived in Kensington for decades and that she'd always been very appreciative of the police service. She said she was concerned about what she'd been hearing: that there would be a restructuring of the police department and contracting out with El Cerrito. She said that would change our service and she was very concerned about that. She said the police department's short response time was very important to the good quality of service. Ms. Steinburg said that people noted there weren't many criminals in Kensington and that this was so because criminals knew they would be caught here. She said that, if there were fewer patrols and longer response times, the criminals would find out. She urged the Board to keep the police department intact.

Director Toombs said he wanted to make it clear that what was being proposed was a 12 to 18 month study of what level of service people wanted and that a study of contracting out would be part of that endeavor. President Welsh said he wanted to confirm that Ms. Steinburg appreciated the service she was getting. He said he appreciated it, too. Ms. Steinburg said she appreciated the service of the Board, too.

President Welsh asked for discussion of Item j. Vice President Gillette said she believed that the only Director who submitted correspondence was Director Sherris-Watt. Vice President Gillette noted that Board packets didn't include correspondence she had received and that, therefore, this shouldn't be called correspondence because it gave a skewed impression of the correspondence that had been received. She suggested that it be called correspondence submitted specific Directors. Director Sherris-Watt responded that she submitted emails that had been copied to other Directors and that she had verified with the senders that they had intended their emails to be submitted as correspondence. Vice President Gillette said that, in the interest of transparency, such submissions should reflect which Director has submitted them. President Welsh said that, if someone wanted to submit something for correspondence, it should be submitted to District Administrator Wolter. District Administrator Wolter noted that, in the past, correspondence had gone to the District office in the form of letters delivered by mail but that, with email correspondence now being a regular method of correspondence, the Board should consider establishing a policy for this method of correspondence. Vice President Gillette said she thought this was unnecessary and noted that the inclusion of numerous emails made Board Packets unwieldy and implied that these were the only emails that had been received by the District. Linda Spath suggested that the Board pose this question to the newly hired legal counsel. Board consensus was that correspondence to be included in Board Packets should be submitted to District Administrator Wolter.

MOTION: Director Toombs moved, and President Welsh seconded, that the Consent Calendar be approved, with the exception that the Board carry over Item c to the next meeting and that Item j be identified as correspondence submitted by Director Sherris-Watt.
Motion passed 5 to 0.

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

Board President Welsh called for a 15-minute break.

DISTRICT OLD BUSINESS

1. The Board received an update on the formation of a committee to research and report back to the Board on possible alternatives to the current General Manager/Chief of Police position and other issues related to District structure and mission statement. This item had been carried over from the March 12th meeting.

Director Toombs provided background information. He said that he and Director Cordova had developed a committee application form and that he checked the minutes of the prior meeting but there was not a unified message from the Board about what the goals and objectives should be. He said that he wanted the Board to look at the application and to establish five to six goals and that he and Director Cordova would present a more detailed report at the Board's May meeting.

President Welsh recommended the Board hire a consultant for this, given that so many issues were in play: the GM/COP position; the two-District issue; the long-term fiscal health issue; contracting out; etc. He suggested that a consultant perform an objective review of the District's community service needs: what would work best in terms of the number of officers; and assuming that the District kept a police force, what would work best; whether the GM/COP position should be split; and what it would cost to contract out with El Cerrito. Director Cordova said she agreed with President Welsh and offered up the names of possible consulting firms. President Welsh referred to the study on contracting out that had been done in 2009 and said he wasn't sure it had been objective and said he didn't think the community could afford to contract out with El Cerrito, even if it wanted to. Director Sherris-Watt asked what the timeline would be. President Welsh responded it would be soon and said the most urgent thing would be to hire an Interim GM/COP, noting the May 31st deadline. He said the Board should spend a lot of time on the structure issues and that a consultant should guide the process.

Larry Nagel suggested that the California Special Districts Association might be a possible resource for information about organizational structure and that this might be a cost-effective approach.

Vice President Gillette said she wasn't comfortable with using a consultant, citing the possibility the consultant might not be objective because there were many different agendas surrounding this issue. She questioned if the role of the consultant would be to make a recommendation or to provide an analysis and suggested there be a citizens' committee to ascertain what the community's interests were and then have that be the focus of an in-depth study. President Welsh added that a poll of the community might be helpful. Vice President Gillette said this was a complicated issue and, given this, questioned how a poll could be structured. President Welsh said the first thing needed would be a fiscal analysis, noting that there were many people saying the community should contract out with El Cerrito, something he said he didn't think would be fiscally feasible. He said there were astronomical PERS contributions that would need to be made and such fiscal aspects might cause the community to cease discussions about contracting out. He noted that this was good reason to have an objective consultant look at this. He said that, if contracting out were not feasible, he would want someone to advise the District about how many officers it should have on duty. He said that if having its own police force was the community's only affordable option, it needed to know that.

Gail Feldman said establishing a citizens' committee and then having a consultant at some point during the process would be a good approach. She said a citizens' committee could help the Board define the scope of

work for a consultant. She noted that consultants worked for the client and so their work really wasn't objective. She recommended that the Board develop a timeline for the committee.

President Welsh said he really wanted to integrate the community into the process. There was Board consensus that having a conversation with CSDA would be a good place to start.

Gail Feldman added that the Board might need a facilitator for the committee.

Director Toombs said he would be happy to integrate a professional consultant into the timeline/framework that he and Director Cordova had been developing. Director Cordova noted that she and Director Toombs had developed a roster of other agencies that had undergone a change in governance. President Welsh asked that Directors Cordova and Toombs provide a timeline at the next Board meeting.

Ryan Anderson recommended, with respect to a consultant: a phased approach; that the Board identify whether the mandate would be to provide data or a recommendation; scope of work; exploring with the CSDA; and benchmarking to other communities.

The Board concluded that no action was needed.

Director Sherris-Watt said she wanted to make a correction to the minutes concerning letters that had been submitted. She noted that she had not submitted all the letters that had appeared under correspondence. She said she would send an email to District Administrator Wolter letting her know which letters she had submitted.

3. The Board considered the appointment of an expert to look into security issues at the police department. This item was carried over from the March 12th meeting.

Director Sherris-Watt reported that she, Ryan Anderson, Rick Artis, and Sergeant Hui, had met to discuss physical, informational, data, and internet security issues at the police department. She said she wanted to present findings at the next Board meeting and to meet with the Fire Board. She said those who met were not concerned about the department's security with respect to the areas mentioned. She said that most of the Department's sensitive data was handled in Richmond.

President Welsh said that, when he first raised this issue, he might have unwittingly cast aspersions on the Fire Department. He said he was only trying to point out possible security weaknesses; he was not trying to impugn the Fire Department.

Rick Artis noted that Sergeant Hui had been holding down the fort with respect to many of the security issues.

Director Toombs asked about Richmond's security. Ryan Anderson responded that DOJ had no issues with it.

President Welsh concluded by saying the Board would hear more on this topic at the next meeting and that he wanted to ensure that security was state-of-the-art.

2. The Board discussed the Interim Chief of Police selection process. This item was carried over from the March 12th meeting.

Vice President Gillette reported that the job posting included in the Board Packet had been released too soon. She noted there were some things that needed to be corrected and that it needed to be reviewed by a lawyer. She said there were elements, such as term, salary, and benefits that the Board needed to decide; there were problems with the job description and essential job duties; and there was a process that would need to be approved by the Board. She proposed that she and Director Sherris-Watt would review the applications and develop a short list of three to five candidates, there would be a meeting at which the

candidates would appear, and the Board and the public would be allowed to pose questions. She said that, after that, the Board would make a decision at its May 14th meeting.

Director Sherris-Watt proposed a quicker timeline because background checks would take time. She proposed posting the job April 19th, setting an application deadline of May 1st, and holding a public forum on May 6th.

Vice President Gillette proposed posting the job on April 13th, setting an application deadline of May 4th, having herself and Director Sherris-Watt conduct an initial screening on May 8th, conducting open interviews on May 11th, and conducting finalists' interviews at the Board's May 14th meeting.

President Welsh asked who would perform the background checks. Vice President Gillette said the job could be contingent upon passing a background check, so a background check wouldn't need to be performed ahead of time. In response to a question from David Bergen, Vice President Gillette said that she and Director Sherris-Watt anticipated a combined position for a period of about six months. David Bergen questioned whether having one person fill both positions was a conflict. President Welsh responded that, if this were a conflict of interest, the community had been living with it for a long time and that separating the positions might prove to be expensive. Director Sherris-Watt said she appreciated Mr. Bergen's comments but that, because of budgetary constraints, it made sense to keep the position combined during the interim period.

Director Cordova said the timeline was very tight. She suggested advertising for the combined GM/COP position and concurrently advertising for a COP alone. She also suggested that, in order to buy some more time, the Board consider putting through a per diem with the Sheriff's Department or another agency. Director Sherris-Watt said she appreciated the value of this proposal but that the District was legally required to have a GM. Vice President Gillette responded that, as ambitious as the timeline was, this would be easy and there would be a lot of people wanting to apply for the position. She said that, if a sufficient number of people didn't apply, perhaps the Board could consider an alternative.

Director Toombs noted that April 13th was the recommended posting date, but the Board hadn't yet discussed salary. He noted that the previous Interim GM/COP's rate of pay had been quite high.

Jim Watt asked if the Board had considered a consultant for the position, as this might be a way to avoid paying benefits. He noted that a CalPERS retiree could work 980 hours in a year and that the interim position was intended to last six months. Vice President Gillette responded that the job description, as presented in the Board packet, indicated there would be benefits but that this description wasn't necessarily correct.

Gail Feldman suggested that the posting could indicate that salary would be dependent upon experience. Director Cordova responded that it wasn't just salary; it was total compensation, and this would be the total cost to the District.

Director Cordova asked Vice President Gillette to provide changes she wanted to recommend. Vice President Gillette recommended:

- Delete the reference to "old fashioned community".
- For duties - use the job description contained in the District's Policy Manual because the Board had adopted it.
- Remove requirement for degrees because such a requirement would be illegal. Instead, indicate that a degree would be preferred.

Director Sherris-Watt noted that the Policy Manual stated that a Bachelor's degree was required and a Master's degree was preferred. Vice President Gillette responded that this would need to be addressed.

Vice President Gillette continued with her recommended changes:

- Salary would be negotiable

Celia Concus suggested that the position be separated because the skill set required for each part was different, specifically with respect to budgets, and that the combination of the two positions had been a serious problem. Director Toombs responded that individuals at the Chief level were responsible for budgets. Vice President Gillette thanked Ms. Concus for her input but said that, at this time, it would be better to keep the roles of GM and COP combined for the time being.

Vice President Gillette further recommended:

- The Board allow the changes that had been discussed.
- Legal counsel review the proposed posting.
- The job be posted by April 13th.
- The Board pursue the proposed schedule
- There be a forum on May 11th.

Board consensus was that the process should proceed based on these recommendations.

DISTRICT NEW BUSINESS

2. General Manager/Chief of Police Gregory Harman requested the Board approve extending the agreement with All City Management Services for crossing guard services for the 2015-2016 school and fiscal year. The cost of extending the contract for Fiscal Year 2015-2016 would be \$10,829.70.

GM/COP Harman asked the Board to approve a proposed amendment to the agreement with All City Management Services (ACMS) for providing crossing guard services at the intersection of Arlington Avenue and Kensington Park Road for fiscal year 2015-2016. He reported that the District had entered into this agreement in 1995 and that ACMS was requesting a 3% fee increase, from \$16.69 to \$17.19 per hour. He said this would increase the current budgeted annual amount of \$10,515 to an amount not to exceed \$10,829. He reported that, on July 1, 2015 and per the passage of AB 1522, employees would begin to be paid or accrue sick leave at a rate of one hour for every 30 hours worked. GM/COP Harman noted that the District was entering into its second year of an agreement with the West Contra Costa Unified School District though which the School District was reimbursing the District for the cost of the crossing guard. He said that the crossing guard was an important part of the District's traffic safety efforts.

GM/COP Harman reported that, last year, the Board had asked him to research if there were other firms interested in bidding on the contract. He said he had identified two other firms, but neither of them offered service in the Bay Area.

Director Toombs said this would be about a \$300 per year increase.

Director Cordova noted this would be cost-neutral because of the agreement with the School District.

**MOTION: Vice President Gillette moved, and President Welsh seconded, that the Board adopt the extension proposed by the Chief.
Motion passed 5 to 0.**

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

3. General Manager/Chief of Police Greg Harman requested the Board adopt Resolution 2015-01, a resolution of the Board of directors of the Kensington Police Protection and Community Services District approving the Annual Report for the Kensington Park Assessment District for Fiscal Year 2015-2016.

GM/COP Harman reported that, every year, the Board needed to approve resolutions prepared by NBS that initiated the process of collecting the park tax assessment, pursuant to the Landscaping and Light Act of 1972. He said the first step would be to approve Resolution 2015-01, the approval of the Annual Report for the Kensington Park Assessment District for Fiscal-Year 2015-2016. He noted that the corresponding Engineer's Report was in the Board Packet.

Director Toombs said this was for park maintenance and this process had been in place since 1994.

MOTION: President Welsh moved, and Vice President Gillette seconded, that the Board approve Resolution 2015-01.

Motion passed 5 to 0

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

4. General Manager/Chief of Police Greg Harman requested that the Board adopt Resolution 2015-02, a resolution of the Board of Directors of the Kensington Police Protection and Community Services District initiating proceedings for the levy and collection of assessments for the Kensington Park Assessment District for Fiscal-Year 2015-2016.

GM/COP Harman reported that this was the second step of the process needed to initiate proceedings for the levy and collection of the assessments for the Kensington Park Assessment District for the upcoming fiscal year.

MOTION: President Welsh moved, and Director Sherris-Watt seconded, that the Board approve Resolution 2015-02.

Motion passed 5 to 0

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

5. General Manager/Chief of Police Greg Harman requested the Board adopt Resolution 2015-03, as resolution of the Board of Directors of the Kensington Police Protection and Community Services District declaring its intention to levy and collect assessments for the Kensington Park Assessment District for Fiscal-Year 2015-2016.

GM/COP Harman reported that this was the third step in the process and that, by approving Resolution 2015-03, the Board would be declaring its intention to levy and collect assessments for the Kensington Park Assessment District for Fiscal-Year 2015-2016 and setting the public hearing for Thursday, May 14th, at 7:30 PM. He reported that, once Resolution 2015-03 was passed, staff would need publish it in the local paper at least 10 days prior to the May 14th public meeting. He said that the assessment would increase from \$15.24 to \$15.62 per year, that 2,188 parcels would be assessed, and that the total levy would be \$35,191.60. He clarified that this money could only be used for park maintenance and asked that the Board approve the resolution.

MOTION: Vice President Gillette moved, and President Welsh seconded, that the Board approve Resolution 2015-03.

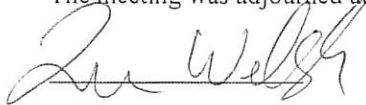
Motion passed 5 to 0.

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

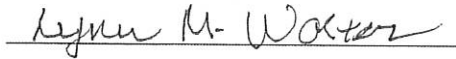
MOTION: Director Toombs moved, and President Welsh seconded, that the meeting be adjourned.
Motion passed 5 to 0.

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

The meeting was adjourned at 11:26 P.M.



Len Welsh
KPPCSD Board President



Lynn Wolter
District Administrator