

Meeting Minutes for 7/14/16

A Special Meeting (Closed Session) of the Board of Directors of the Kensington Police Protection and Community Services District was held Thursday, July 14, 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	Peter Liddell
Chuck Toombs, Director	Linda Lipscomb
Patricia Gillette, Director	John Gaccionne
Vanessa Cordova, Director	Jim Watt
	Celia Concus
<u>Staff Members</u>	Art Lake
Interim GM/COP Kevin Hart	Simon Brafman
Lynn Wolter, District Administrator	Andrew Gutierrez
	Mabry Benson
<u>Press</u>	Trisha Mindel
	Rick Artis
	Paul Dorroh

President Welsh called the meeting to order at 6:02 P.M. President Welsh, Vice President Sherris-Watt, Director Toombs, Director Gillette, Interim GM/COP Hart, and District Administrator Wolter were present. Director Cordova was not present for the Closed Session: She arrived at 7:26 P.M.

PUBLIC COMMENTS

There were no public comments regarding the Closed Session agenda items.

The Board entered into Closed Session at 6:03 P.M.

CLOSED SESSION

1. Public Employment: Title: (General Counsel) – Pursuant to Government Code Section 54957.
2. Public employee Discipline/Dismissal/Release.
3. Conference with Labor Negotiator – Pursuant to Government Code Section 54957.6: Agency designated representative: Jon Holtzman. Employee organization: Kensington Police Officers Association.

The Board returned to Open Session at 7:50 P.M.

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

President Welsh reported that the Board had addressed Item b but had nothing to report and that the Board had not taken up Item a or Item c.

PUBLIC COMMENTS

Peter Liddell announced that there would be a Kensington Public Safety Council presentation on August 6th, at 10:00 A.M., and that the title was “Wildfires: ‘Tis the Season.” He said wildfires were a danger this year and encouraged residents to attend the presentation. He reported that Mike Bond, from the El Cerrito Fire Department; a member of the Sierra Club; IGM/COP Hart; and Ciara Wood, a member of the Diablo Fire Safe Board, would be making presentations. He noted that IGM/COP Hart would discuss a possible scenario for evacuation, should it be necessary, and that Ms. Wood would provide information about grants that might be available to homeowners.

Linda Lipscomb said she wanted to talk about two things. She said that most attendees had probably seen a letter she had submitted to the Outlook. She said the letter was about the conflict of interest Director Cordova had by not having a valid driver’s license during the period she was on the Board. She said that, although the letter had been published, an important paragraph of it had been omitted and that the editor had explained she had not included the paragraph because of space limitations. Ms. Lipscomb reiterated that Director Cordova had a conflict interest and that the omitted paragraph had cited the relevant law. Ms. Lipscomb read the paragraph.

“In discussing common law conflict of interest of a local official, a California Court of Appeal opinion stated: “The Public is entitled to have its representatives perform their duties free from any personal or pecuniary interest that might affect their judgment...(W)whenever a public official, by reason of personal interest in a matter, is placed in a situation of temptation to serve his or her own purposes, to the prejudice of those for whom the law authorizes that official to act... an individual member ordinarily cannot vote on a matter in which that member... is interested.”

Ms. Lipscomb said she had looked into the law and that this had been what she had found. Her complete letter is included in the August 11, 2016 Board Packet, under correspondence.

Ms. Lipscomb said that, on June 23rd, she had written to the Board to discuss the early termination of the meeting that had occurred and the pledge that had been made by a Director never to vote for an extension of a meeting and its effect, in relation to the Brown Act and in relation to the public interest. She said all the Directors had a copy of the email. She said that, because this policy allowed the termination of the public discourse and the Board discourse relating to items on the agenda at 10:00 P.M., perhaps discussion of this policy should be expedited. She said revision of the Policy and Procedure Manual had long been delayed because many other matters had taken the Board’s time. A copy of the email is included in the August 11, 2016 Board Packet, under correspondence.

John Gaccione said he had a list of five questions:

- Why do we have another new law firm advising the Board? He said that, with all the legal talent on the Board, there had been so much turnover in legal counsel. He said he thought legal counsel had departed because the Board had failed to heed its advice.
- Why would anyone choose to run for a position on the Board? He asked what current Board members might be saying to potential candidates and asked if potential candidates were being told that, if they agreed with the Board majority, there would be a place for them. He also asked if potential candidates were being told that, if they didn’t agree with the Board majority, they should be prepared to have their lives turned “hellish.” He said that, if history were to be the gauge, this would be especially so if one were an independent woman. He asked how many had been hounded off the Board so far.

- Why doesn't the Kensington Police Officers Association (KPOA) get a seat on the Board? He asked, since the Board had ceded disciplinary issues to the KPOA, why not give them a seat on the Board. He said that way their work would take place in public, instead of in back rooms.
- What does a person make of an esteemed Kensingtonion "going feral." He said the scientific mind at work was a wondrous thing to behold, but when one saw an esteemed local member of the academic community go off the public rails in a digital public format, espousing many of the same ugly impulses the current political dialogs employed, one had to wonder if that person had spent too much time listening to the echo chamber.
- Isn't the Board President setting and maintaining the proper civic tone for the Board meetings? He said that, every month and more frequently now, the Board President's tone lapsed into hostility, bordering on vindictiveness. He said the pattern now was that, as meetings progressed, hostile sounding comments were being made to other Board members and to members of the audience. He said the likely time for this to occur was close to 10:00 P.M. He asked why the meetings couldn't end at 10:00P.M. and have tone of the meetings remain civil.

President Welsh said, for the record, that he rejected every single one of these allegations made against him. He said people could look at the tapes and make up their own minds.

Jim Watt said this would be the last meeting he would be able to attend until October. Therefore, he said, he wanted to discuss several important financial issues that he thought should be the focus of the Board over the coming three months:

- He believed there were errors in the 2016-17 Budget regarding set-asides for capital expenditures. He said that, if these were corrected, they would significantly change the District's estimated year-end balance and the amount of money that would remain in the reserve account. He added that he had sent an email to IGM/COP Hart three weeks earlier in which he had summarized these issues and that IGM/COP Hart had responded that he and Deborah Russell would look into the matter. He said he hadn't received a response yet, and so, he said, he would provide a copy of his email. A copy of this email is included in the August 11, 2016 Board Packet, under correspondence.
- A new actuarial report should be performed to determine the entry amounts for Fiscal-Year 2016-17. He noted that, when the MOU had been approved earlier in the year, the Board had indicated there would be a new report done to reflect the changes. He said that IGM/COP Hart had indicated that the cost of the study would be about \$10,000. He said this might be the cost if the District were to use Bartle and Associates but that the cost likely would be less if the District were to use Nicolay Consulting, which did the OPEB report for the Fire District for \$3,400. He said this information was needed to determine the amount to be budgeted for Account 521T.
- Legal costs were expected to exceed \$250,000 for Fiscal-Year 2015-16. He noted this was the third year in a row that legal costs had exceeded \$200,000. He said the legal costs appeared to have been caused by legal wrangling brought about by personnel issues and the Board's use of legal counsel to validate every Board decision. He said that, as a taxpayer, he was upset to see his tax dollars squandered in this way.
- A five-year budget was needed to look at the long-term cost of running the District, especially in light of the upcoming work needed for the Community Center and the Public Safety Building. He noted that such projections were necessary in anticipation of the upcoming MOU negotiations and of the findings of the Ad Hoc Committee. He also said this was needed because of CalPERS' failure to meet its 7.5% investment target. He said this would result in higher costs for government agencies. Specifically, he said that if these poor returns continued, it could increase KPPCSD's costs by several hundred thousand dollars annually, from the current annual cost of approximately \$450,000.
- While impressed by the amount of work done by the Ad Hoc Committee, he said an important element was missing: A survey of residents about the level of service they believe are needed and affordable. He said residents should be asked to select from a number of alternatives, using cost-benefit comparisons.

BOARD COMMENTS

Director Toombs thanked Director Sherris-Watt, Jim Watt, and the Park Committee for securing the \$158,000 of WW Grant money and for their work on the RFP.

Director Gillette said that she had attended the Kensington Community Council (KCC) meeting and that one of the things discussed had been what the KCC's contribution to the Community Center would be. She said the KCC had clarified that it was willing to contribute to the building but that it wouldn't commit a specific amount until there was a plan. She said KCC wanted it known that the KPPCSD should not assume that the KCC would make a contribution at any level – it would depend on the plans and the ultimate cost.

Director Gillette said she also wanted to address the questions that had been raised about legal fees. She said that, in her opinion, the reason the fees had gone up was because more time was spent by some members of the Board talking to the attorneys about things that were personal – not related to the District, petty, and paranoid. She said the costs had increased because of the number of issues that had been raised to the attorneys, some of which should be raised but most of which should not, and because of the many investigations the Board had been asked to conduct. She said it was not that the Board had failed to follow the advice from counsel. She said the cost had to do with the use and misuse of the attorneys by certain Board members.

Director Gillette said those in attendance should take a moment to think of the people in Nice, France. She said a man driving a truck had driven into a crowd of people there, in what might have been an act of terror. Rick Artis and Vice President Sherris-Watt said the number killed exceeded 70 people. President Welsh noted this had occurred on Bastille Day and was very disturbing.

Vice President Sherris-Watt congratulated the Park Buildings Committee and IGM/COP Hart for all their work. She named the members of the Committee: Paula Black, Peter Conrad, Gretchen Gillfillan, Katie Gluck, Tod Hodson, Jim Watt, and Ciara Wood. She reiterated what Director Toombs had said – the District was \$158,000 closer to the “starting line.” She announced that the next Committee meeting would be on July 27th at 6:00 P.M.

Vice President Sherris-Watt announced that the Public Safety Building Committee would be meeting in August and the date would be announced in the future.

Vice President Sherris-Watt also thanked Sergeants Hull and Hui for helping the Boy Scouts with their annual rifle shooting event.

Vice President Sherris-Watt said that, with respect to investigations, they're authorized by a vote of the Board. She said she believed that, although investigations were Closed Session items, the votes regarding them could be released. Randy Riddle responded that personnel items were protected by law but that, if the Board wanted to disclose an action that occurred in Closed Session that the Board was not otherwise required to disclose, it was up to the discretion of the Board. He said the Board would probably want to place this on the agenda. Director Gillette responded that she hadn't been referring just to formal investigations but to emails that were sent constantly to the District's legal counsel, asking them to do something, to consider something or just complaining. She added that the attorneys were required to read all such emails and then decide if they needed to take any action. She said this took time, and the District was billed for that time.

Celia Concus said that a number of people had said that the audio system was a hardship, and she asked when the new one would be coming. President Welsh said he would respond, but first he wanted Director Cordova to have a chance to speak.

Director Cordova said she was happy that the subject of legal fees had come up because she had had an exchange with Randy Riddle about legal fees and who had been responsible. She said Director Gillette was correct – a lot of legal fees were incurred by conducting business by daily email. She cited a specific example in which she had written to IGM/COP Hart to ask for clarification about the language of an agenda item. She said that, when he had replied, IGM/COP Hart had copied two attorneys and then each of the two attorneys had replied directly to her, with two different interpretations of the language. She said, therefore, a lot could be said about refining protocol on the client side and on the attorney side. She said she also had asked about the audit on fees for Fiscal-Year 2015/16 that had been under discussion. She said the law firm did not attribute legal fees by Director, so one couldn't "pull up" Director Cordova's legal fees or those of any of the other Directors. She said, therefore, that to assume that the fees fell on the shoulders of one was unfair and irresponsible and said she rejected that. She said that, with regard to the stop, the fees were \$15,000. She said she didn't know what the entire legal bill was for Fiscal-Year 2015/16; she would let IGM/COP Hart provide this information but that the bulk of the cost – almost six figures – was for General Counsel services. She said that, if someone were to suggest that she carried the responsibility for every investigation, there had been four other investigations during the year that had nothing to do with her. She said that, if those investigations were initiated by the Board in Closed Session, it should be known who voted to initiate them and who didn't. She said that, with respect to legal fees being attributable by Director, she had that response in writing. Director Gillette responded that, just because the fees couldn't be attributable didn't mean that one or two people weren't more responsible than others.

President Welsh said he had asked for a breakdown of the legal bills. He said he wanted to put an analysis of this on the agenda for the next meeting. He said that the breakdown was by category, not by Director, and that an analysis was needed so the Board could figure out how to reduce the cost.

Director Gillette said that, in general, other law firms with similar practices place limits on whom can contact counsel and when. She said this provides a way to contain costs.

President Welsh announced there would be a Park Grounds Committee meeting on July 19th at 3:00 P.M.

President Welsh reported that, with respect to the sound system, IGM/COP Hart was ready to get a new sound system: He had obtained an estimate, and then some residents came to him and said the system was going to be too costly. President Welsh said IGM/COP Hart had been working with them, but there hadn't been as much progress as had been hoped for. He said that, given this, perhaps it made sense for IGM/COP Hart to purchase what had been planned a couple of months earlier. President Welsh apologized for this having taken so long. He said this was a complex thing because the sound needs of the room weren't typical. Director Cordova suggested that this be placed on the agenda, under Old Business, until completed.

STAFF COMMENTS

IGM/COP Hart reported that, on July 5th, S.F. Gate had reported that Kensington is the seventh safest community in California and the 778th safest community in the nation. He explained this number had come from monthly crime statistics reported to the Department of Justice. He said this was something of which to be proud.

IGM/COP Hart said he would like to schedule a Special Meeting for some time in late July or early August for the Board to respond to a grievance that had been submitted to him from the Police Officers Association, in his capacity of Chief of Police. He said that, in his capacity of General Manager, he had forwarded it to the Board. He said that the grievance was about the new policy for standardizing weapons and that the officers wanted to appeal this to the Board.

IGM/COP Hart announced he wanted to schedule a Finance Committee meeting for August 9th. He said that Rob Firmin had a report to present on budgeting and projection and that the Committee would need to review a proposal for a new actuarial report.

Director Cordova said that the Finance Committee meetings had not been recorded and asked if audio recordings could be made. She said the meetings were very helpful, but she couldn't always attend them. IGM/COP Hart responded in the affirmative.

IGM/COP Hart said that, with respect to the new sound system, he would be meeting with a seventh contractor the next day at 3:00 P.M. He welcomed anyone who wanted to join him. He said this company had been recommended by Myers Sound Company, another company that had been recommended. He clarified that Myers doesn't provide the specific service the District needs. Director Cordova asked if she could attend. IGM/COP Hart responded in the affirmative.

Randy Riddle said this would be his last meeting and said he wanted to thank everyone, collectively and individually, for having had PLG represent the District for the prior year. He said the community had been very kind and understanding. He received a round of applause.

President Welsh said IGM/COP Hart wanted to move an agenda item up because someone had come to make a presentation. IGM/COP Hart responded in the affirmative and said this was Agenda Item 7b.

- 7b. The Board received a presentation from the Interim General Manager and considered revising the Zero Tolerance Policy, from the U.C. Berkeley Traffic Safety Evaluation, previously adopted by Board action on May 13, 2010.

IGM/COP Hart said that Zero Tolerance had been an issue in the community since it had been approved, but it had provided a good foundation and a good review of traffic in the community. He said the community had concerns about pedestrian safety, traffic, and vehicle speed. He said there had been a misunderstanding of what the Traffic Study had stated: it had been only about the intersection at the Library – not about the entire community. IGM/COP Hart said he didn't like the negative connotation of the term "Zero Tolerance" and suggested eliminating it. He said he wanted to change the term to "Maximum Enforcement," a term consistent with that of the CHP. He added that using this term could enable the District to qualify for grants from the State's Office of Traffic Safety.

IGM/COP Hart said he wanted to post new signs at the entry points into Kensington. He explained that these would be stationary signs that would serve as a caution to residents and to the "transient" drivers who come through Kensington. He said these signs, which would be reflective, would cost about \$150 apiece, and he suggested purchasing between eight and ten signs. IGM/COP Hart pointed out a sample sign he had brought with him.

IGM/COP said the budget included the purchase of two portable traffic speed signs that would be attached to fixed poles, perhaps six of them throughout the community. He said that moving the signs would increase awareness. He introduced Art Lake, who had brought a sample sign. IGM/COP Hart explained that each sign was battery powered and each battery charge would last several days.

IGM/COP Hart said another element he recommended for traffic enforcement was the purchase of a new motorcycle. He explained that the District had had two motorcycles in poor condition that would have cost about \$5,000 to bring back to a state of good condition. He said the Harley had been sold for about \$5,000 and the BMW likely could be sold for about the same amount. He explained that this income could be used to offset the purchase of a new motorcycle that would be equipped with radar. He said that a motorcycle would be able to respond and maneuver quickly in traffic and that a motorcycle would be able to get into small places on streets like Franciscan.

He said his last traffic recommendation would be selective enforcement. He explained that members of the police department would focus on specific vehicle code violations, such as failing to stop at a stop

sign, having expired registration, yielding to pedestrians, or using a cell phone while driving. He cited the intersection of Arlington and Amherst and Colusa Circle as being of particular interest. He said the community would receive advanced notice when such events were to take place.

Director Toombs asked what would prevent someone from stealing the speed signs and said he liked the concept of "Maximum Enforcement." But, he said, he didn't want to purchase a motorcycle at this time; He would rather put the money into the Community Center and into addressing the upcoming changes with respect to the Public Safety Building. He did, however, say that, if funds were available in the future, he would consider the purchase.

IGM/COP Hart responded that, with respect to the signs, they had locks that secured them to the stationary posts. Art Lake, with Lake Traffic Solutions, said the signs came with heavy-duty police locks. President Welsh asked what the rate of vandalism was for the signs. Mr. Lake responded that it was very low.

Director Cordova said that what she liked about IGM/COP Hart's proposal was his having noted that a warning could be an effective tool in compliance. She asked if the police would be entrapping anyone as part of the proposed efforts. IGM/COP Hart responded in the negative. She asked if people would receive a warning or a citation. IGM/COP Hart responded that this would be about changing behavior and enforcing the law; it would depend on the egregiousness of the infraction. Director Cordova said she had asked the question because of the disparity of the Watch Commander's Report, in which one officer had issued one citation others had issued more. Therefore, she said, the term "Maximum Enforcement" didn't give her a warm feeling about community policing. She said she was sure the term was optional and that IGM/COP Hart would be willing to work on it. IGM/COP Hart responded that the report spoke about officer discretion and added that there were very few areas of the law that didn't allow for some officer discretion. He said he wanted it to be policy that there be traffic enforcement, and Director Cordova responded that she agreed with that. She said that, if there was to be an increase in citations, the community deserved to receive some notification.

Director Cordova asked how many of the traffic signs would be in the community at any one time. IGM/COP Hart responded two, in addition to the stationary sign already installed on Arlington Avenue. She asked if IGM/COP Hart would be working with the homeowners in front of whose homes the signs would be installed, indicating the light from the signs could pose a problem. IGM/COP Hart responded in the affirmative. He also noted that there were specific areas where the signs would be of greatest value. He cited Franciscan Way and Colusa Circle, and Director Cordova cited Berkeley Park. Director Cordova asked if the signs came with solar power and if the poles came in the color green. Mr. Lake responded that solar models were available and that the poles did come in colors.

President Welsh asked what the price difference was between the solar powered and the battery-powered signs. Mr. Lake responded the difference was about \$800. Vice President Sherris-Watt asked what the cost of a battery was. Mr. Lake responded it was \$300 and noted that the batteries were rechargeable and had a life-span of about three years. IGM/COP Hart said he hadn't recommended the solar powered version because these would be more difficult to move.

Director Cordova said she wanted to hold off on purchasing a motorcycle. She said she was interested in using foot patrols and mountain bikes and asked IGM/COP Hart if he had considered this. He responded he hadn't yet done so, noting that he wanted to work on the current proposals first. He also said that, given the community's geography, mountain bikes would be difficult to use effectively but they weren't "off the table."

Director Cordova asked that IGM/COP Hart add Ardmore, just below Arlington Ave., to the list of hot spots. She noted that the stop sign at Colusa Circle seemed low. She asked IGM/COP Hart to ensure that all the stop signs were at the optimal level. IGM/COP Hart said he would check on this and follow up with the County as needed.

Vice President Sherris-Watt posed a question to Director Toombs about whether he had voted for “Zero Tolerance” for only the one intersection. He responded that he had voted for it for the community because he thought it was important for people to obey the law. He said it had been his intent for this to apply to the entire community, not just the intersection of Arlington and Rincon. He said it was imperative that the District provide safe streets for all the children. He said that, when he was 12 years old, he had been hit by a car while crossing a street.

Vice President Sherris-Watt said she supported the signs and the poles. She said she understood that implementing mountain bikes would require special training and accreditation, which would make using them difficult. She said she, too, had reservations about the motorcycle. IGM/COP Hart said that, if he’d known the Board was going to be opposed to the motorcycle he wouldn’t have gotten rid of the Harley. He said not having a motorcycle would tie his hands, with respect to providing the mobility needed for maximum enforcement. President Welsh asked if IGM/COP Hart would look at purchasing a used motorcycle. He responded that he could do so. He said that he anticipated getting about \$10,000 from selling both of the old bikes and said that a new one would cost about \$20,000 and would last for years. He clarified that the net cost would be about \$10,000 and noted that the department already had all the additional equipment. Director Sherris-Watt asked how many officers were trained to drive a motorcycle. IGM/COP Hart responded that two were. He added that this was about deterrence and changing people’s driving habits.

Director Gillette said that she agreed with the term “Maximum Enforcement” and that she agreed that officers should have discretion. But, she said, she could not support the motorcycle. She added that the one thing that would be a compelling argument for her was that a motorcycle could access areas that cars couldn’t in the event of an earthquake. She said she had concerns about the proposal of having people in crosswalks as part of an enforcement program. IGM/COP Hart said this wouldn’t be necessary – there were plenty of people walking in the crosswalks already.

President Welsh said he liked what IGM/COP Hart had proposed, overall. He said he would prefer the phrase “Maximum Compliance.” He said that, from his background, compliance and enforcement were different things. Compliance meant someone would actually comply with the law and enforcement conveyed a sense of “whacking” someone. He added that enforcement was an element of compliance. He said IGM/COP Hart was making a wonderful effort in trying to address a number of problems in a holistic manner. He noted that IGM/COP Hart was bringing a coherent approach that was desperately needed. He said it was great that the department was coming out of the period during which so many officers had been out so that there was a greater police presence and more citations were being issued. He suggested moving forward with the more traditional things and getting them working well and then adding in other elements.

Director Cordova said she, too, preferred the term “Maximum Compliance.” She said she had a problem with the aesthetics of the sign and suggested having a graphic artist assist with it. IGM/COP Hart responded that traffic-warning signs had specific requirements that were outlined in the Vehicle Code. Director Gillette said she didn’t think the Board should be involved with this detail. President Welsh said he agreed.

Linda Lipscomb said she didn’t agree with this level of micromanaging IGM/COP Hart. She asked if using the term “Maximum Enforcement” would assist the District in qualifying for additional funding or grants and if using the term “Maximum Compliance” would diminish this. IGM/COP Hart responded that the reason he had used this term was because it aligns with the CHP traffic safety council’s terminology, which would increase the likelihood of additional funding. He said it could be possible that the chances of funding could be diminished by using the term “Maximum Compliance” instead.

Simon Brafman said there was an understanding that, if tickets were challenged, the police officers didn’t go to court to defend them. IGM/COP Hart responded that, if a court hearing occurred while an officer was on duty, it was difficult for the officer to leave Kensington and to go to Richmond or Martinez. Mr. Brafman said that issuing more citations wasn’t necessarily going to yield greater compliance. President Welsh asked if the District had statistics on how many tickets were appealed.

IGM/COP Hart responded in the negative. President Welsh said it would be good to know this, and he added that every department lost a certain number of citations because the officers couldn't always get to court.

Anthony Knight asked IGM/COP Hart whether, in the case of a divided crosswalk – such as the one in front of the gas station – the law required that a driver wait until a pedestrian had finished crossing the crosswalk, on the far side of the road, before driving through that crosswalk. IGM/COP Hart responded that, technically, that was correct. But, he added that most officers would not issue a citation unless the pedestrian had to break stride. President Welsh noted that IGM/COP Hart had said, all along, that officers should have discretion.

Andrew Gutierrez said he was pleased with some of the discussion. He said this was the first time in 20 years that there had been an open discussion of these issues in this forum. He said there were about 10,000 transient drivers going south through Kensington. He said the Arlington sign recorded drivers' speeds as they go past the sign, but if the sign recorded the speed as drivers first approach it, the drivers would be recorded as speeding. He said he was one who insisted that tickets should be issued. He said it would be better to issue citations as a part of El Cerrito because then officers would only have to go to El Cerrito's courts to defend tickets. He also noted that someone wanting to contest a Kensington ticket would have to go to Martinez. He said Kensington received only about \$10 per ticket, and he asked why officers wouldn't issue tickets. He said many communities had devices that photographed license plates. He said that, in Kensington, photos should be taken of rear license plates, because many cars in Kensington didn't have front license plates, and that citations should be issued on that basis. He said that speeding was rampant and that many people were using Kensington as a thoroughfare to get from one place to another.

John Gaccione said that, if safety were taken in a bigger realm – he said he was involved in CERT – he didn't think a motorcycle, with all its gear, would be able to navigate any of the paths or hills in the event of a fire or earthquake; thus, couldn't support money being spent on this. He also said that motorcycles were noisy. He said that he was a designer and that there was too much information on the proposed sign. He also indicated that the lettering needed to be bigger – at least three inches high.

Mabry Benson said she thought motorcycles were very useful in Kensington because of the narrow streets. She said that she'd like to see more enforcement on Franciscan and that there was no way for a car to turn around in that location. She also suggested posting one of the proposed signs on Arlington, southbound, at Sunset and noted that she, too, thought the sign needed to contain fewer words. She also suggested that the digital traffic sign turn red, past a certain speed.

Jim Watt cited the sign on Marin Ave., just past the freeway off-ramp. He said that this sign flashes a driver's speed and then flashes a sign of "slow down" in red. He said that, although he liked the signs, he had reservations about them being posted at all the entries to Kensington – he said this seemed like a "battle zone" approach. Mr. Watt also noted that the 2010 report had compared Kensington to six other communities and it showed that Kensington had the lowest incidence of traffic accidents. He said a zero tolerance approach sometimes has the reverse effect, citing the fact that he had received warnings, instead of citations, when he had been pulled over for speeding. He said a zero tolerance approach would make people angry, especially at a time when the community needed healing – between the citizens and their police department. However, he said he believed the laws should be enforced – it was just how one went about doing it.

Celia Concus said that, if the goal was to educate people so that they're better drivers, it would be good to educate people about the vehicle code with articles in the Outlook. She also suggested signs at crosswalks, reminding people that the pedestrian has the right of way. She said that she wanted things to be done incrementally and that starting with just the digital traffic signs would be a good idea.

Trisha Mindel said that she appreciated Director Cordova's comments about the aesthetics of the sign and that she understood there were specific requirements for the signs. She said she didn't think the signs would create a "battle zone" effect; rather, it made her feel safer. She asked if there were any

special requirements for foot patrol. IGM/COP Hart responded in the negative, but officers on foot would not be able to respond to calls for service or for traffic enforcement as quickly as they could if they were in their patrol cars. She said that, at the coffee with the detective, concerns had been expressed that, if individuals make comments about traffic issues on the website, there's no acknowledgment of receipt. IGM/COP Hart responded that he was aware of this issue and was working to fix it. She said she preferred the term "maximum compliance" and asked about it in relation to grants; specifically, she asked if grants would enable the District to purchase more digital speed signs. IGM/COP Hart responded that both terms would probably work and that he would look into whether the term "compliance" would limit the District's ability to qualify for grants. He added that he preferred the word "enforcement," as the word "compliance" seemed "softer" to him.

Director Toombs suggested that, because this was the first reading of this matter, IGM/COP Hart should bring back a more refined version for the next meeting. IGM/COP Hart said he had heard the various comments and would work to address them.

Andrew Gutierrez asked if the County could contribute to the cost of the signs, since the roads belong to the them. He also suggested that the signs be solar. IGM/COP Hart responded that it would be hard to get money out of the County

Director Toombs asked if the District needed to get County permission to install the signs. IGM/COP Hart responded that the County didn't have a problem with this, but he would be working with them.

Vice President Sherris-Watt suggested, and Board consensus was, that the Board direct IGM/COP Hart to purchase the two digital signs and six poles from Lake Traffic Solutions for the amount of \$7,000, as had been approved per the budget.

- 8a. The Board reviewed and considered approving revisions to Board Policy 5010.10, changing the start time of all regular meetings of the Board of Directors from 7:30 P.M. to the new start time of 6:00 P.M. First reading.

Director Gillette suggested that, because of recent objections to going past 10:00 P.M., the meetings begin at 6:00 P.M. instead of 7:30 P.M. so the District's business could be taken care of. She said there had just been a good, lengthy discussion, and she didn't want to have to limit discussion because of meetings being brought to an early close. She clarified this would mean that Closed Sessions would begin at 5:00 P.M.

Vice President Sherris-Watt said that she didn't object to a 6:00 P.M. start time but that a 5:00 P.M. start time might mean that those who weren't retired or who didn't have a flexible schedule might not be able to attend or have dinner prior to the meetings. She said a meeting lasting longer than five hours would likely result in tempers flaring. Director Gillette responded that Kensington was not the only community whose meetings went past 10:00 P.M. She said the District had had only one meeting that had gone until 1:00 A.M. She said that, given the amount of participation the District had, which, she said, was great, the Board needed to find a solution. She added that, if two of the Directors were going to continue to vote not to go past 10:00 P.M., regardless of anything that's on the agenda that needs to be taken care of, the Board needed to find a solution. She said the Board was elected to serve and to get the public's business done. She said the artificial limit of 10:00 P.M. was ridiculous. She said there might be another solution – removing the 10:00 P.M. limit from the existing policy.

Vice President Sherris-Watt referred to a letter she had written, which had been included in the Board Packet on pages 72 through 74. She said that Albany's and El Cerrito's meetings ended at 10:00 P.M. and 10:30 P.M., respectively. She said that Piedmont didn't have a set ending time but the average length of its meetings was just over two hours. She said Richmond and Berkeley had longer meetings, but they have larger populations. She said she would prefer to have a second meeting per month, as needed, or the occasional Special Meeting. But, she said she appreciated the idea of starting earlier in order to get business done.

Director Gillette responded that there would be a greater burden placed on people to attend two meetings per month, especially for those with families and other obligations. She said that the start and stop information about other meetings wasn't relevant because, among other things, it was unknown for how long public comments were allowed, what kinds of limitations there were for public comments, or with what kinds of issues the other agencies were dealing.

Director Cordova said the reason El Cerrito ends its meetings at 10:30 P.M. was that they feel that decorum on the dais is attenuated by late meetings and that judgment and conduct "go south." She noted that Kensington was no exception. She said that the Fire Board President was at the podium and that his Board's meetings were a pleasure to attend. She asked him how that Board does this. Larry Nagel responded that he wanted to suggest another option: to continue a meeting. He said that would mean that, at 10:00 P.M., the Board could vote to continue its meeting until some time the next day. He said no additional notice would be required other than putting up a piece of paper on the door saying the meeting would be continued at a specific time.

Linda Lipscomb said there wasn't much law on the subject. However, she said it had been cited in the Schwartzburd et al vs. KPPCSD case, in which the 10:00 P.M. meeting cutoff time had been at issue. She said that, in that opinion, which held that there was "no there there," a case had been cited: the Holbrook case. She explained that the Holbrook case involved two city council members who had brought a lawsuit to force council meetings to close by 11:00 P.M. She said the case focused largely on "standing," but there had been lengthy discussions about the Brown Act requirements of public access. She quoted from the Holbrook opinion:

"The very remedy the councilmen seek, the limit on the opportunity of members of the public to address the city council runs counter to the Brown Act's mandate of providing an opportunity for the public to directly address legislative bodies on matters of interest to the public that are within the body's subject matter jurisdiction, before or during the body's consideration of that matter. The councilmembers' demand that the city council be commanded to adjourn and complete their meetings prior to 11:00 P.M. and enjoin from holding any meeting which stays in session beyond 11:00 P.M. We (the Court of Appeals) are unable to reconcile these demands with the councilmembers' assertion that their claims do not in any way curfew city or councilmembers' speech or petition. How may the city freely exercise its first amendment rights, or anything else after 11:00 P.M. under this claim, while at the same time it is be compelled to conclude all meetings by 11:00 P.M.?"

Ms. Lipscomb said the Court of Appeals denied the councilmembers' request. She said this had arisen because there was one Director who had pledged never to vote for an extension of a meeting. She explained that, under the District's current policy, a super-majority of four Directors was needed to continue a meeting past 10:00 P.M. She said there had been a situation in which the public discussion had been cut off so the discussion could be continued afterward with a private taxpayer about subject matter that had been on that meeting's agenda. She clarified that this had been an admission by a member sitting on the Board. She said that, based on the research she had done, it seemed clear that it was a violation of the Brown Act to cut off the public discussion.

Celia Concus said it would be prudent to have more than one meeting per month because it was clear it wasn't getting done by 10:00 P.M. She added that she didn't want people not to participate because of an early start time. She said it was important for people who run for the Board to be able to get home from work and have time for dinner.

President Welsh said he wanted to be clear: The Board was already meeting more than once per month – closed session meetings, special meetings, and subcommittee meetings.

Mabry Benson said that the Policy and Procedures Manual specifies 10:00 P.M. because that's a reasonable hour for many of the community's senior citizens. She added that this time was important enough that it calls for a 4/5th vote to extend a meeting. She said that starting at 6:00 P.M. would be too

early but that 6:45 P.M. or 7:00 P.M. would give the Board a little more time in which to discuss its business.

Rick Artis said that, as a member of the Ad Hoc Committee, he had supported going as late into the night as needed to get the job done and that not doing so had caused the Committee's work to be extended. But, he said, the Committee had still managed to get its work done. On the other hand, he said a previous Board meeting had stopped at 10:00 P.M. and that, because of this, the Board had failed to accomplish its most important function: passing a budget. He said he found that appalling. He said he would have a much easier time with one meeting per month and staying until it was done. He said he would rather that the commitment be on the part of the Board to get the job done. He said he understood it could be difficult for some people who, like himself, needed to get up early the next day to go to work. He said it would be harder for him to find a second, random, day in the month to come to another meeting than it would be for him to make arrangements for a single day to come early or stay late. He said he hoped the recalcitrance, in the face of the Board having a lot of work to do, wouldn't persist.

Director Cordova said that, when the Board had been voting on the MOU, there had been a Board member who had wanted to cut off public comment to catch a flight. She said she was not going to be admonished for exercising vote she was authorized to exercise as a Board member. She said that, when meetings ended at 10:00 P.M., they were much more collegial. She said that, at 9:30 P.M., it started to unravel and that she didn't want to be subjected to that kind of hostility. She said there were too many distractions. She said that this evening had been productive and that the traffic discussion had been excellent. She said this was a matter of agenda management, Board meeting management, and ensuring that public comments moved along. She said she didn't fault anyone for having to go to work or on vacation, but she wouldn't stay until 1:00 in the morning and be berated by another Board member or members of the public when she was trying to do her job. President Welsh responded that he didn't think she had ever been berated. Director Cordova responded that this was "right on cue." President Welsh let Director Cordova know that he had been considering putting some of her emails into a Board Packet so that the public would know what he had been talking about. Director Cordova responded that this was exactly what she had been talking about.

Anthony Knight said he thought Larry Nagel's suggestion was very reasonable. He said he had noted that the District's legal counsel had nodded when Mr. Nagel had made the suggestion, indicating that this would be legal. He asked how the Board felt about this. President Welsh responded that the problem he had with this was notice to the public – when people came to meetings thinking an agenda item would be discussed, then didn't get discussed, and was then put off until the next day – then, members of the public might not be able to attend the following day. Mr. Knight said that he had been waiting for an agenda item, in which he was interested, for three meetings, and he kept coming back. Mr. Knight asked how many votes it would take to change the meeting start time. Director Gillette responded that it would take three votes. Director Gillette said that another drawback to continuing meetings to the next day was that some arranged, in advance, things for the day after Board meetings that would prevent them from being able to attend. She added that all the Directors worked hard to find a time when they could meet. Vice President Sherris-Watt responded that the Board could schedule meetings for the second and fourth Thursday of each month and then cancel the fourth Thursday meeting if it weren't needed.

Paul Dorroh said that, by custom, the Board had about 12 more minutes before it would have to take a vote on whether to continue the meeting past 10:00 P.M. He added that, assuming the meeting would not be extended, it seemed clear that the Board would not be able to address everything on the agenda. As such, he said he wanted to urge the Board to identify which agenda items it would discuss and then get on with the meeting.

President Welsh said this had been the first reading of this proposal and that the Board would proceed. He noted that, because it was unlikely that the Board would go beyond 10:00 P.M., he recommended going to Item 8b. Director Cordova suggested taking Item 8c first. Director Gillette responded that she didn't think there would be enough time to discuss it. Vice President Sherris-Watt said it would be okay with her to wait on Item 8c.

President Welsh said there had been a suggestion made at a prior meeting that the Board should move public comments to the end of the meeting. He noted that the Policy and Procedure Manual seemed to be silent, with respect to when public comment was taken, but it did say that comments were to be limited to five minutes per person, with an overall limit of 20 minutes per agenda item. He said he thought it would be good to limit initial public comment to 20 minutes at the beginning of the meeting and then, if people still wanted to comment on matters not on the agenda, the rest could be made at the end of the meeting, after all the business has been completed. He said he wanted to give priority to public comments related to items on the agenda.

Director Gillette said that people come to meetings expecting that the agenda items will be discussed and that it was critical that the Board focus on those things noticed on the agenda. She said she agreed with the idea of putting public comments that are general in nature at the end of the meeting. She said she also agreed with allowing for 20 minutes for public comments at the beginning of the meeting and enforcing that time limit.

Director Toombs said he and Vice President Sherris-Watt were trying to locate sample language in the Board Packet so they would know what the proposal would look like. He said that, without sample language, there couldn't be a first reading. He said he liked the idea of rearranging the agenda so the Board could address the crucial issues.

President Welsh said he wasn't proposing a change in the Policy and Procedure Manual, which would require a first reading. Rather, he said, he wanted to have a discussion of the issue at this meeting to see if the Board would adopt the practice. He said he wanted to give advance notice to the public that the Board was thinking about this and to get input from the Directors and the public.

Randy Riddle said that the Policy and Procedures Manual says that the agenda is set by the Board President in conjunction with the General Manager. He said that if the practice of taking public comments were to change, after having been done a certain way for a long time, it made sense to discuss it. He clarified that there was no legal requirement to have two readings. He added that there could be an issue if it were 9:50 P.M. and, under the Brown Act, members of the public were to be able to comment. He said, therefore, the Board might want to say that remaining public comments would be taken at 9:30 P.M.

Director Toombs said that the Board couldn't close down a meeting at 10:00 P.M. if, at 10:00 P.M., public comments were still ongoing. He said this would be a violation of the Brown Act. Mr. Riddle confirmed this. Mr. Riddle added that he thought 20 minutes at the beginning of the meeting plus 30 minutes at the end of the meeting should be sufficient time for public comments. He noted that, if a person were still commenting at 10:00 P.M., the Board would need to accommodate that speaker. Director Toombs responded that the Board has had public comments go on for two hours and that, under those circumstances, the agenda was compressed to zero. He said he was supportive of public comments but asked how it could be managed. Mr. Riddle responded that, for most places, the approach is that, if there are 30 speakers, the organization will reduce the amount of time to two minutes or one minute per speaker. He said there were lots of options to resolve the issue. President Welsh noted that a change, such as this, would require two readings.

Celia Concus said the Board needed to have discretion over how many people over how long a period of time it would allow people to speak. She said that, if the Board had 150 people wanting to speak, all of them enraged over what's happened, it would be a time to put aside what the Board had on the agenda. She said that people who come to attend meetings are trying to express their opinion and to have an opportunity to influence how the Board operates. Director Toombs responded that he appreciated Ms. Concus' comment but that the Board then has an artificial cutoff at 10:00 P.M. and the "meat" of the agenda doesn't get addressed. He and President Welsh said they agreed that the Board needed to have discretion. Ms. Concus said she didn't like the idea of putting off to the end those speakers who didn't get to make their comments at the beginning of the meeting.

Director Cordova said there was a lot of discussion about the Board having a lot of business to take care of. She said that part of how she does her job is to sit a listen to what people have to say. She said that, if attendance dropped off as time progressed, she would be looking at an empty room at 11:30 P.M. She said she thought two meetings per month would provide more opportunity for people to participate and for a Director, like herself, to make better-informed decisions. She said she needed feedback. She also said she wouldn't mind starting meetings at 7:00 P.M.

Anthony Knight said that having a split public comment period would result in acrimony: Those unable to speak during the first 20 minute period would be angry and wouldn't want to have to wait until the end of the meeting.

At 9:45 President Welsh noted it was time for the motion to extend the meeting.

**MOTION: Director Gillette moved, and President Welsh moved to extend the meeting until the proposal and all the other items on the agenda have been addressed.
Motion failed: 3 – 2.**

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

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

Director Toombs resumed comments on the public comments agenda item. He noted that there were two things that were essential to managing the meetings. He said it would be very hard for anybody to to commit the time that would be needed to come to two meetings per month. He said the Board had done so the prior few months because it had had no choice. But, he said that the Board did have a choice over how it managed its time, communications, and agenda and that he had been working hard to be efficient with those in order to get the business done. He noted that at this night's meeting the Board would not get to the Request for Proposal (RFP), which, he said, was the most crucial thing he had come to take care of. He said this wasn't going to happen. He said the Board needed to be cognizant of what its obligations were. He said that Director Cordova had commented on people leaving meetings at 9:00 P.M. and that this suggested that the meetings should begin at 6:00 P.M., which he said he supported. He said that the Board needed to get the District's business done and that there couldn't be artificial limits on when that business was done or the business wouldn't get done. He added that it was hard to stay late: It was even harder not to take care of the District's business.

Director Gillette said she wanted to build on Director Toombs comments. She said that, because the meeting would end at 10:00 P.M. and the Board wouldn't get to the RFP, work on the Community Center would be delayed yet again. She noted that this was a building in which children were playing and that the Board knew there were issues regarding the Building's safety. She said it was astounding that people were willing to let this continue – month after month after month.

Director Cordova said that she had asked to arrange the order to finish up business with the action items that were on the agenda. She said the President had disagreed with her. Director Gillette noted that Vice President Sherris-Watt had, too.

Vice President Sherris-Watt suggested moving on. She said that she was the Committee Chair of this and that, for months after Measure L, nothing had been done on the building until she had taken it over last March. Director Cordova said there had been more progress with Vice President Sherris-Watt manning parks projects than had ever been done in the community. Director Toombs responded by saying that this had been a real "dig" at him and that he found it insulting. He said that, for two years, people had worked diligently to pass Measure L so the community would have a decent building. He said that, if the measure had been passed, they'd be in a different building right now. He said that for someone to say that this work was now discounted – he and his committee had worked diligently for the better part of three years. He asked not to be given this kind of insult and said he resented it. Director Cordova responded by saying she hadn't meant to insult him; she had no idea who had been in charge of the parks.

President Welsh asked if the Board could make any progress on this item.

Vice President Sherris-Watt reported that the draft RFP was in the Board Packet and that it had been approved by the Park Buildings Committee and vetted by Randy Riddle. She said the RFP was seeking proposals for completion of architectural drawings and construction documents for the improvement of the Kensington Community Center. She said it was hoped that the District would begin sending out the RFP to interested parties the following day and that the closing date would be Wednesday, August 31, 2016. She said that all proposals would be sent to IGM/COP Hart, that the requirements and the scope of the project were listed on page 2, and that anyone interested in touring the facility should contact her. She noted that the proposals would come before the Board and needed to adhere to all provisions listed on page 4.

Director Cordova asked for confirmation that this had been approved by counsel. Vice President Sherris-Watt responded in the affirmative. She added that it had been amended and approved by the members of the Park Buildings Committee.

Director Gillette said she had some questions. She asked what the project total of \$1 million or less meant. Vice President Sherris-Watt responded that this would be for everything listed. Director Gillette asked how Vice President Sherris-Watt had come to this conclusion, when the previous committee had said that just to do very little would cost \$750,000. She said she was asking about this because it had come up at the KCC meeting. Vice President Sherris-Watt responded that it was because the Committee would be doing modifications based on the seismic analysis, the ADA report, with three alternate considerations. But, she said, the Committee was hoping that the costs had been projected at around \$650,000 with the additional idea that there would be about 35% in soft costs added to that amount. She added that under \$1 million was the budget the Committee thought... Director Gillette interjected by asking on what this amount had been based. Vice President Sherris-Watt responded that it had been based on the \$207,000 that the KPPCSD had set aside, plus the \$158,000 WW Grant funds. Director Gillette asked if the number had been reached by working backwards or if it was the anticipated cost of the project. Vice President Sherris-Watt responded that the Committee had started with the essential things that had to be done to make the building safe and to continue with usage. She said that, in addition to the ADA and seismic issues, the Committee was working with Environmental Health in Contra Costa County to figure out what modifications could be made to the kitchen. She said the Committee wanted to let the architects know that \$1 million was the limit. She said the goal of the Committee was not to go before the community with a bond; the Committee was hoping to fund everything based on the funds the District already had. Director Gillette said something that had been discussed by the KCC had been that to make the kitchen into a commercial one would cost hundreds of thousands of dollars, based on the work that had done by the prior park committee. She asked if Vice President Sherris-Watt had looked at the previous estimates and then made a reasonable, not a wishful, decision that the work could be done for \$1 million. Vice President Sherris-Watt responded, both yes and no. She said that, with the additional documents, the Committee wants the architects to examine the Muller Caulfield report. She added that the notion that the kitchen had to be turned into a commercial one wasn't necessarily true, that she was having conversations with Amy Leach at Contra Costa Environmental Health, and that it was hoped she would come to tour the facility. She said the Committee was not going for a full commercial kitchen, noting there probably wasn't sufficient space for one and there wasn't a need for one. She said this was how the Committee had come to the \$1 million amount. She said that, until there was information from an architectural firm, the Committee wouldn't have all the answers. She said she didn't want anyone coming into the project thinking this would be a \$3 million deal. Director Gillette asked for confirmation that the Committee had worked backwards to establish the limit and that the Committee would see what the architects would propose within the \$1 million limit. Vice President Sherris-Watt responded in the affirmative.

Director Toombs asked if Vice President Sherris-Watt had explained to the Board what the recommendations of the Committee were so the Board could weigh in on them. Vice President Sherris-Watt responded that the ADA report and the seismic analysis had been presented to the Board. Director Toombs asked specifically about the western wall. Vice President Sherris-Watt responded that the

issues with the western wall were intrinsic to the seismic upgrades. She added that the Committee was looking for beautification and strengthening of the building and noted that Bart Jones, the architect for the building's 1989 addition, had sketched some drawings. She said that it was hoped that whichever architect was chosen would come with his/her own fresh perspective. Vice President Sherris-Watt said the seismic analysis, the ADA report, and the Muller Caulfield report would be in the drop-box.

Director Toombs asked how the RFP would be distributed. Vice President Sherris-Watt responded that the Committee had identified about a dozen firms that the Committee was interested in approaching. She said it also would be on the District's website, along with any other recommended social media. She said that the Committee hoped for three or four participants and that that the RFP called for the architect(s) to come to meetings and make presentations.

Director Gillette said that more specification was needed and that, because of this, she wasn't prepared to vote on the item. She said she wanted more information about the architects to whom the documents would be sent and about the scope of services and how they had been derived. Vice President Sherris-Watt responded that the Committee looked at standardized writing for RFPs; that a member of the Park Buildings Committee was a commercial architect, who had reviewed the documents; Committee member Jim Watt had sent the documents to firms that reviewed the scope and gave suggestions. Director Cordova noted that legal counsel had also reviewed the documents.

IGM/COP Hart noted that it was 10:00 P.M., that he had mentioned having a Special Meeting, and that, perhaps, completing the discussion of this item could be on that meeting's agenda.

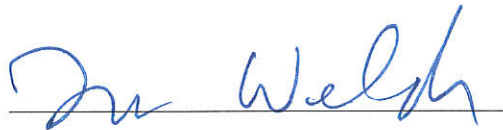
IGM/COP Hart thanked Randy Riddle for his assistance, thanked David Spath for manning the camera for the meeting, and announced the deadline for applications to run for the KPPCSD Board.

Director Gillette also thanked Mr. Riddle and said he had done a really good job and had given very good advice. President Welsh echoed these sentiments.

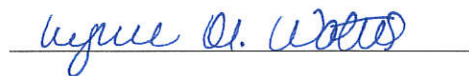
MOTION: President Welsh moved, and Director Toombs seconded, to adjourn the meeting. Motion passed 5 – 0.

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

The meeting was adjourned at 10:01 P.M.



Len Welsh
KPPCSD Board President



Lynn Wolter
District Administrator