

KENSINGTON POLICE PROTECTION AND COMMUNITY SERVICES DISTRICT

AGENDA

A Special Meeting of the Board of Directors of the Kensington Police Protection and Community Services District will be held **Wednesday, October 16, 2013, at 6:30 P.M.**, at the Community Center, 59 Arlington Avenue, Kensington, California. The Board will enter into Closed Session-1- Conference with Labor Negotiators (Section 54957.6): Agency Representatives: Patricia Gillette and Chuck Toombs; Employee Organization: Kensington Police Officers Association. The Board will return to Open Session at approximately 7:15 PM. If further Closed Door Session is required, the Board will return to Closed Door Session following the end of the Open Session Meeting.

Note: All proceedings of the open session meeting will be video taped.

Roll Call

Public Comments

CLOSED DOOR SESSION

1. Conference with Labor Negotiators (Government Code Section 54957.6): Agency Representatives: Patricia Gillette and Chuck Toombs; Employee Organization: Kensington Police Officers Association.

OPEN SESSION

The Board will return to Open Session at approximately 7:15 PM and report out on the Closed Door Session.

Second Public Comments

Board Member/ Staff Comments

APPROVAL OF CONSENT CALENDAR

- a) Minutes of the Regular Meeting September 12, 2013, Page 3
- b) Profit & Loss Budget Performance for September 2013, Page 12
- c) Park Revenue & Expenses Report for September 2013, Page 18
- d) Board Member Reports- None
- e) Training & Reimbursement Reports, Page 24
- f) Correspondence, Page 215
- g) Police Department Update, Page 220
- h) Monthly Calendar, Page 236
- i) Recreation Report, Page 238
- j) General Manager's Report, Page 239
- k) KPPCSD Actuarial Study of Retiree Health Liabilities, June 30, 2013, Page 243
- l) Response to Grand Jury Report. Page 269

DISTRICT - NEW BUSINESS

1. General Manager/ Chief of Police Greg Harman will ask the Board's permission to enter into a new agreement with New World Systems to provide software maintenance support for police informational systems supplied by New World the period between 9/1/13 and 8/31/18, at a total cost of \$22,638.00. Board Action. Page 276
2. General Manager/ Chief of Police Greg Harman will request the Board accept the recommendation of the Finance Committee and make a \$22,533 correction to the 2013/14 KPPCSD Operating Budget. Board Action. Page 281
3. General Manager/ Chief of Police Greg Harman will provide an update to the traffic issues at the intersection of Arlington Avenue and Kensington Park/ Rincon. Page 297
4. General Manager/ Chief of Police Greg Harman will present the HF&H Consultant's report, "Bay View Refuse & Recycling Services Inc.'s 2014 Rate Application" and request the Board to approve the maximum rates, to be effective January 1, 2014 for solid waste collection services and direct the General Manager/ Chief of Police to mail notice of a Rate Hearing to be held in December, preferably during the December 12, 2013 regularly scheduled Board meeting. Board Action. Page 304
5. General Manager/ Chief of Police Greg Harman will ask the Board for permission to attend the 2014 Contra Costa County Police Chief's Association certified POST workshop in Carmel Valley between November 4th and November 7th. Board Action. Page 325
6. Director Len Welsh will provide an update to the path acquisition project. Possible Board Action. No documentation submitted.

(If needed, the Board will return to Closed Session following the end of the Open Session meeting.)

ADJOURNMENT

General Information

Accessible Public Meetings

NOTE: UPON REQUEST THE KENSINGTON POLICE PROTECTION AND COMMUNITY SERVICES DISTRICT WILL PROVIDE WRITTEN AGENDA MATERIALS IN APPROPRIATE ALTERNATIVE FORMATS, OR DISABILITY-RELATED MODIFICATION OR DISABILITIES TO PARTICIPATE IN PUBLIC MEETINGS. PLEASE SEND A WRITTEN REQUEST, INCLUDING YOUR NAME, MAILING ADDRESS, PHONE NUMBER AND A BRIEF DESCRIPTION OF THE REQUESTED MATERIALS AND PREFERRED ALTERNATIVE FORMAT OR AUXILIARY AID OR SERVICE AT LEAST 2 DAYS BEFORE THE MEETING. REQUESTS SHOULD BE SENT TO:

General Manager/ Chief of Police Greg Harman, Kensington Police Protection & Community Services District, 217 Arlington Ave, Kensington, CA 94707
POSTED: Public Safety Building-Colusa Food-Library-Arlington Kiosk- and at www.kensingtoncalifornia.org
Complete agenda packets are available at the Public Safety Building and the Library.

All public records that relate to an open session item of a meeting of the Kensington Police Protection & Community Services District that are distributed to a majority of the Board less than 72 hours before the meeting, excluding records that are exempt from disclosure pursuant to the California Public Records Act, will be available for inspection at the District offices, 217 Arlington Ave, Kensington, CA 94707 at the same time that those records are distributed or made available to a majority of the Board.

Meeting Minutes for 9/12/2013

AGENDA

A Regular Meeting of the Board of Directors (BOD) of the Kensington Police Protection and Community Services District (KPPCSD) was held Thursday, September 12, 2013, 6:30 PM, at the Community Center, 59 Arlington Avenue, Kensington, California.

ATTENDEES

<u>Elected Members</u>	<u>Members of the Public/Presenters</u>
Tony Lloyd, President	Ray Barraza
Patricia Gillette, Vice President	Lisa Caronna
Linda Lipscomb, Director	Barbara Dilts
Charles Toombs, Director	Katie Gluck
Len Welsh, Director	Gayle Tapscott
<u>Staff Members</u>	Peter Liddell
Gregory E. Harman, GM/Chief of Police	Celia Concus
Lynn Wolter, District Administrator	Elena Caruthers
Sgt. Kevin Hui (on duty)	Anthony Knight
Sgt. Keith Barrow (own time – KPOA Rep.)	Paul Dorroh
Rodney Martinez	Vida Dorroh
	Kathy Stein
	John Stein
	Karl Kruger
	Mabry Benson
	Rosary Matteson
	David Bergen
<u>Press</u>	Leonard Schwartzburd
Joel Koosed, Outlook	Emily Charley – Hanson Bridgett

Board President Tony Lloyd called the meeting to order at 6:32 PM and took roll call. All Directors, General Manager/Chief of Police Harman and District Administrator Wolter were present.

PUBLIC COMMENTS

None

CLOSED SESSION

At 6:33 the Board entered into Closed Session to confer with legal counsel regarding existing litigation (Subdivision (a) of Section 54956.9) Leonard Schwartzburd v. Kensington Police Protection and Community Services District.

OPEN SESSION

At 7:32 PM, the Board returned to Open Session.

President Lloyd took a second roll call. All Directors, General Manager/Chief of Police Harman, and District Administrator Wolter were present

President Lloyd reported that, during its Closed Session, the Board took no action on the Writ of Mandate, which is continuing, that the Board received a status report from legal counsel, and that the Board would continue its Closed Session at the end of the Open Session in order to discuss the ongoing negotiations with the Kensington Police Officers Association.

President Lloyd asked that the order of agenda items be changed so that General Manager/Chief of Police Harman could present a commendation to Officer Martinez. (Note: this item appeared as agenda item 1 under New Business.)

General Manager/Chief of Police Harman presented a commendation to Officer Martinez for service above and beyond the call of duty during his response to a burglary in process. Officer Martinez, at gunpoint, took a suspect into custody. General Manager/Chief of Police Harman said that this was among the very dangerous situations officers encounter that place them most at risk. Officer Martinez received a round of applause from the Directors, staff, and members of the community.

PUBLIC COMMENTS

Rosary Matteson expressed her disappointment in the Kensington Police Department with regards to an August 11th break-in attempt at her neighbor's home. She said that officer follow-up was inadequate.

Peter Liddell announced that, on September 19th, the Kensington Public Safety Council would be holding a meeting about what the community can expect from its first responders in the event of an emergency.

Mabry Benson said that she resented the accusations that she was responsible for the District's high legal costs with respect to the Writ of Mandate. She said that the Board had incurred high legal costs with respect to Bay View Refuse as well. She said that it was the Board that chose to fight and, therefore, these legal costs were a result of the Board's choice.

President Lloyd responded that it would be inappropriate for the Board to engage in a discussion about specific aspects of the Writ of Mandate but that members of the public could comment as they wished.

Anthony Knight expressed his displeasure that the Kensington Fire Protection District (KFPD) charged approximately \$30,000 rent to the Kensington Police Protection and Community Services District for space in the Public Safety Building. He said that the community, not the Fire District, owns the building. He said that negotiations between the two agencies would commence soon and that he hoped for an outcome favorable to the KPPCSD.

Director Lipscomb replied that the Kensington Fire Protection District had received a legal opinion which said that, were the KFPD to charge \$1.00 in rent, it would be considered a gift of public funds. She said that, because the KPPCSD is not a private entity, this would not be a gift of public funds.

Vice President Gillette concurred with Director Lipscomb on this point and suggested that the KFPD opinion be vetted to determine its accuracy.

David Bergen said that he was not happy with the Kensington Police Department's performance. He said that his unhappiness was the result of an officer's response to his bicycle having been stolen from his garage. He said that the responding officer's subsequent police report contained inaccurate information and that the responding officer used a disparaging term while discussing the incident. Mr. Bergen said that on other occasions Kensington officers had done good work, but he thought that their paper work needed to be improved. He concluded by saying that both the bicycle theft and the disparaging remark had occurred in October 2010.

BOARD COMMENTS

Director Welsh reported that, on August 19, he, President Lloyd, and General Manager/Chief of Police Harman met with Supervisor John Gioia to discuss Kensington's paths, hoping to get assistance with respect to managing or purchasing the paths. The group discussed selecting a well-traveled path with few problems to serve as a pilot project. He said that he would walk the paths in order to determine which path would be most appropriate.

Director Welsh reported that the Park and Recreation Committee would meet soon. He said that, at the last KPPCSD Board meeting, the Board concurred that a letter of commitment should be sent to Diablo Fire Safe so that KPPCSD could be considered for a \$15,000 matching grant. He said that the letter had been sent by mail and that it would also be sent by email.

Director Welsh reported that SB438 by Loni Hancock, which addresses Chevron chemical releases, had been submitted to the Governor and that he hoped that the Governor would sign it.

President Lloyd followed up Director Welsh's comment by saying that the County's auto-call system for emergencies is being refined.

Vice President Gillette thanked the police for their prompt response to her home. An incident, reported by her neighbors, turned out to be workmen who had been scheduled to provide a service.

Vice President Gillette asked if the Board would consider re-scheduling the October and November meetings.

Vice President Gillette announced that she would hold a Town Hall meeting at The Arlington Café on November 2 at 10:00 AM.

Vice President Gillette said that she had walked Kensington's paths and questioned the wisdom of the KPPCSD taking on this liability because so many of the paths are in poor condition.

Vice President Gillette responded to the public comment regarding the District's legal fees for the Writ of Mandate. She said that the District had been sued and, therefore, had no choice but to defend itself. She also said that the plaintiffs in the case were paying nothing in legal fees, as a pro-bono attorney was representing them.

Director Lipscomb, in response to Director Welsh's comments, said that the Board had already passed a resolution that stipulated Path 7 would be the first path to be considered for purchase and that this path was to serve as the pilot project. She complimented General Manger/Chief of Police Harman and Supervisor John Gioia for their work on this path, which resulted in the repair of a long-standing drainage problem.

Director Welsh responded that the County had confirmed that it was responsible for path drainage problems.

Director Lipscomb said that she would turn her path files over to Director Welsh.

Director Lipscomb reported that she had attended the County's September 10th cell tower meeting in Martinez. She said that AT&T made a long presentation and said that federal law was on their side. She said that approximately 30 Kensington residents attended and that each was permitted to speak for 3 minutes. She reported that the County's commission disregarded the Kensington Municipal Advisory Council recommendation that only two (one on Windsor and one on Highgate) of the requested six cell towers be permitted. Director Lipscomb said that she presented each commissioner with a copy of "Kensington Past and Present" and that she had let them know that Kensington did not

want cell towers. She concluded by saying that the commissioners had postponed the issue for one month.

Director Lipscomb reported that traffic in front of the library, at the intersection of Rincon and Arlington, was a problem. She said that Jerry Fahey, from County Public Works, would try to come up with a solution. Many children, from both the preschool located at the Arlington Community Church and the Kensington Hilltop School, and approximately 8,000 cars pass through this area daily.

Director Lipscomb reported that there would be a Kensington Improvement Club meeting on the morning of October 26th.

President Lloyd said that he had received a letter from Kensington mother, Michelle Fillingim, regarding the Rincon-Arlington intersection. He noted that there is a crossing guard stationed at the intersection and that there are lots of impatient drivers. He said that parents were asking that the KPPCSD make this intersection a high priority.

Director Toombs reported that the Finance Committee would meet on September 26th.

Director Toombs announced that there would be a blessing of the animals at the Park on September 14th, between 11:00 AM and 3:00 PM.

Director Toombs addressed Mr. Bergen's public comments and said that there was a one-year limit on disciplining officers, clarifying that Mr. Bergen's incident had happened three years ago.

Mr. Bergen responded that he had just learned that the officer, of whom he spoke during his public comments, was no longer with the department.

Director Toombs addressed Ms. Benson's public comment about recent high legal fees, with respect to Bay View Refuse. He said that, in response to Bay View Refuse's request for a rate increase, the KPPCSD offered to perform a rate review to determine if a rate increase was warranted. At first, Bay View agreed with this offer but then reneged and demanded arbitration. The District had no choice but to respond to the demand for arbitration. At the end of the arbitration, Bay View got exactly what the District had offered in the first place: a rate review.

President Lloyd reported that he had attended a meeting with Arlington Avenue business owners, who said that there was a problem with noontime parking. He said that they were hoping for 90 minute parking limits, except for disabled spaces, and for four spaces with a 15-minute limit each. He concluded that the business owners would like to make access easier, not to punish residents and that they would like to work with the Board to find a solution.

Vice President Gillette encouraged support of Kensington businesses.

Director Welsh said that there would be an animal adoption event at the Arlington Community Church on September 28th.

STAFF COMMENTS

None

MOTION: Director Lipscomb moved and Director Welsh seconded that the Board consider Vice President Gillette's earlier request to consider changing the Board's October and November meeting dates.

Motion passed 5 to 0.

AYES: Lloyd, Gillette, Lipscomb, Toombs, Welsh NOES: 0 ABSENT:

Proposed new dates were October 16th and November 6th.

Director Welsh asked about upcoming dates that pertained to a possible change in garbage rates. GM/COP Harman said that a 218 Hearing notice hearing likely would need to occur in October and that a hearing would need to occur 45 days later.

Director Welsh asked Vice President Gillette to let everyone know about her forthcoming honor, which was the reason for her requesting a change in one of the meeting dates. She replied that she had been selected to receive the Most Distinguished Award of California Lawyers by California Women Lawyers.

MOTION: Director Lipscomb moved and Director Welsh seconded that the October KPPCSD meeting be moved to October 16th at 7:00 PM, with potential for a Closed Session, and that the November KPPCSD meeting be moved to November 6th, at 7:00, also subject to a 6:30 Closed Session.

Motion passed 5 to 0.

AYES: Lloyd, Gillette, Lipscomb, Toombs, Welsh NOES: 0 ABSENT:

CONSENT CALENDAR

MOTION: Director Toombs moved to approve the Consent Calendar. Vice President Gillette seconded the motion.

Motion passed 5 to 0.

AYES: Lloyd, Gillette, Lipscomb, Toombs, Welsh NOES: 0 ABSENT:

DISTRICT NEW BUSINESS

1. Sergeant Kevin Hui presented his recommendation for contracting with Rubiconn for managed IT services and hardware upgrades for the District.

Sergeant Hui explained that the computers at the District office were old and that most of them had been handed down from West Net. He reviewed the proposals contained in the KPPCSD Board Packet. He reported that Rubiconn had received very good recommendations from references, that Supervisor Gioia's office was very happy with services provided by Nerd, and that TSG was the District's current service provider. Sergeant Hui summarized the hardware and IT services that would be provided through each proposal.

Director Welsh said that Rubiconn stood out but suggested that the computers that would be provided by them be upgraded to contain I-5 instead of I-3 processors.

With respect to the District's budget, GM/COP Harman said that Rubiconn would come in under-budget for both service and hardware.

Director Toombs asked what kind of backup service would be provided. Sergeant Hui said that all three companies specified external box backup and that the Department of Justice had determined that best practice was not to use the Cloud for backup. Sergeant Hui also said that all of the proposals included high-grade firewall protection.

Sergeant Hui reported that it would cost between \$1,000 and \$2,500 to move the router from the Fire Department's space to the Police Department's space in the Public Safety Building.

Sergeant Hui also said that the proposals included migrating files from the current computers to the new ones, that all of the new computers would be desktop models, and that the new equipment would come with one-year warranties.

President Lloyd asked that Sergeant Hui follow up with District staff to ensure that all needed software was installed.

MOTION: Director Lipscomb moved and Vice President Gillette seconded that the District enter into a contract with Rubiconn, pursuant to figures presented, and that an additional amount of up to \$5,000 be allowed to upgrade the processors from I-3 to I-5.

Motion passed 5 to 0.

AYES: Lloyd, Gillette, Lipscomb, Toombs, Welsh NOES: 0 ABSENT:

At 9:25 PM President Lloyd called for a five-minute break.

At 9:31 the meeting resumed.

2. Director Lipscomb presented, for Board approval, a recommendation from the Park Building Committee to enter into a contract with Godbe Research for a survey of Kensington voters to ascertain community willingness to support a possible future bond measure to renovate the Community Center. An amount of up to \$24,000, to fund a survey, had been approved at the June KPPCSD meeting.

Director Lipscomb reported that it would be expensive to place a bond measure on a ballot – between \$100,000 and \$150,000. Therefore, the Board had authorized funds to hire a survey firm to determine the community’s appetite for making improvements to the park buildings.

Director Lipscomb further reported that Requests for Proposals had been sent to five firms and that three responded. Subsequently, two of these firms, Godbe Research and The Lew Edwards Group, had teamed up and submitted a consolidated proposal.

Director Lipscomb said that the Park Buildings Committee had interviewed the responding companies, determined that the Godbe-Lew Edwards proposal was better, and recommended that GM/COP enter into a contract with this group. She said that the survey would take approximately eighteen minutes, that approximately 250 voters would be surveyed, and that Godbe wanted to perform the survey before the end of November.

Director Toombs and Park Buildings Committee member Lisa Coronna said that Godbe is very experienced, especially with smaller communities.

**MOTION: At 9:45 PM Director Lipscomb moved and Director Welsh seconded that the meeting continue until all items on the agenda were completed.
Motion passed 5 to 0.**

AYES: Lloyd, Gillette, Lipscomb, Toombs, Welsh NOES: 0 ABSENT:

Board discussion and public comments ensued.

GM/COP Harman shared concerns raised by Hanson Bridgett, with respect to the termination clause. The Board shared this concern and recommended that the termination clause be changed to say, “the client may terminate the contract at any time”. Board consensus was that, if Godbe wouldn’t agree to this change, the matter would need to come back to the Board.

**RESOLUTION: Director Toombs proposed the resolution that the Board direct the General Manager to enter into a contract with Godbe Research to conduct an objective statistically significant survey of registered voters to determine what is most important for park building improvements and ascertain community willingness to support a possible future bond measure to renovate the Community Center and that the funds come from the \$300,000 allocated reserves set aside for the park buildings, subject to Godbe Research agreeing to the amended termination clause. Vice President Gillette seconded the resolution.
Motion passed 5 to 0.**

AYES: Lloyd, Gillette, Lipscomb, Toombs, Welsh NOES: 0 ABSENT:

At 10:20 PM the Board went back into Closed Session to confer with Labor Negotiators (Section 54957.6): Agency Representatives: Patricia Gillette and Chuck Toombs; Employee Organization: Kensington Police Officers Association.

At 12:30 AM, the Board returned to Open Session. President Lloyd reported that the Board had continued its discussion of bargaining options in preparation for a meeting with KPOA representatives on September 26th.

The meeting was adjourned at 12:30 AM.

Memorandum

Kensington Police Department



To: KPPCSD Board of Directors

APPROVED YES NO

From: Gregory E. Harman, General Manager/ Chief of Police

FORWARDED TO:

Date: Wednesday, October 09, 2013

Subject: Consent Calendar Item B- Unaudited Profit & Loss Report

For the month of September, the Unaudited Profit & Loss Budget Performance Report is attached for review.

Variances in revenue and expenses for the month, as well as year to date fiscal projections can be found in the "Budget" portion of the General Manager's Report.

KPPCSD
Unaudited Profit & Loss Budget Performance
 September 2013

	<u>Sep 13</u>	<u>Budget</u>	<u>Jul - Sep 13</u>	<u>YTD Budget</u>	<u>Annual Bud...</u>
Ordinary Income/Expense					
Income					
400 · Police Activities Re...					
401 · Levy Tax	0.00	0.00	1,202,067.99	1,286,000.00	1,286,000.00
402 · Special Tax-Police	0.00		0.00	680,000.00	680,000.00
403 · Misc Tax-Police	0.00		66.70	0.00	0.00
404 · Measure G Suppl...	0.00		0.00		486,986.00
410 · Police Fees/Servi...	508.05	375.00	733.45	375.00	1,500.00
414 · POST Reimburse...	0.00		0.00		2,000.00
415 · Grants-Police	0.00	0.00	31,131.02	0.00	0.00
416 · Interest-Police	0.00		0.00		3,000.00
417 · Police Asset Sale	0.00		0.00	0.00	0.00
418 · Misc Police Inco...	2,905.75	1,500.00	4,899.82	4,500.00	18,000.00
419 · Supplemental W/...	0.00		0.00	0.00	0.00
Total 400 · Police Activiti...	<u>3,413.80</u>	<u>1,875.00</u>	<u>1,238,898.98</u>	<u>1,970,875.00</u>	<u>2,477,486.00</u>
420 · Park/Rec Activities ...					
424 · Special Tax-L&L	0.00		0.00		33,000.00
426 · Park Donations	0.00		0.00	0.00	0.00
427 · Community Cent...	1,190.00	2,500.00	4,660.00	8,000.00	25,000.00
428 · Building E Reven...	0.00		7,500.00		
435 · Grants-Park/Rec	0.00		0.00	0.00	0.00
436 · Interest-Park/Rec	0.00		0.00		200.00
438 · Misc Park/Rec Rev	104.00	50.00	144.00	150.00	500.00
420 · Park/Rec Activiti...	598.00		598.00		
Total 420 · Park/Rec Acti...	<u>1,892.00</u>	<u>2,550.00</u>	<u>12,902.00</u>	<u>8,150.00</u>	<u>58,700.00</u>
440 · District Activities R...					
448 · Franchise Fees	0.00		7,157.68		21,000.00
456 · Interest-District	0.00		0.00		500.00
458 · Misc District Rev...	0.00		0.00	0.00	0.00
Total 440 · District Activi...	<u>0.00</u>		<u>7,157.68</u>	<u>0.00</u>	<u>21,500.00</u>

KPPCSD
Unaudited Profit & Loss Budget Performance
 September 2013

	Sep 13	Budget	Jul - Sep 13	YTD Budget	Annual Bud...
Total Income	5,305.80	4,425.00	1,258,958.66	1,979,025.00	2,557,686.00
Expense					
500 · Police Sal & Ben					
502 · Salary - Officers	77,412.69	76,724.67	231,936.65	230,173.97	920,696.00
504 · Compensated Ab...	0.00		3,247.60	3,300.00	10,000.00
506 · Overtime	2,080.93	3,333.33	10,740.60	10,000.03	40,000.00
508 · Salary - Non-Swo...	3,936.63	4,333.33	13,152.89	13,000.03	52,000.00
516 · Uniform Allowance	666.60	666.67	1,999.80	1,999.97	8,000.00
518 · Safety Equipment	0.00	625.00	0.00	625.00	2,500.00
521-A · Medical/Vision/...	15,001.07	14,800.25	43,754.44	44,400.75	177,603.00
521-R · Medical/Vision/...	10,989.16	13,902.42	43,561.91	41,707.22	166,829.00
521-T · Medical/Vision/...	0.00		12,881.14		-21,109.00
522 · Insurance - Police	663.00	436.67	1,673.00	1,309.97	5,240.00
523 · Social Security/M...	-431.27	1,245.42	2,152.02	3,736.22	14,945.00
524 · Social Security - ...	265.16	268.67	909.57	805.97	3,224.00
527 · PERS - District P...	28,480.96	28,230.00	85,332.92	84,690.00	338,760.00
528 · PERS - Officers P...	7,027.11	6,965.25	21,054.19	20,895.75	83,583.00
530 · Workers Comp	18,673.48	11,500.00	20,604.00	23,000.00	46,000.00
540 · Advanced Indust...	0.00		290.91	0.00	0.00
Total 500 · Police Sal & ...	164,765.52	163,031.68	493,291.64	479,644.88	1,848,271.00
550 · Other Police Expen...					
552 · Expendable Polic...	60.91	125.00	60.91	375.00	1,500.00
553 · Range/Ammuniti...	0.00	250.00	-7,010.38	750.00	3,000.00
560 · Crossing Guard	503.06	1,006.10	503.06	1,006.10	10,061.00
562 · Vehicle Operation	3,929.07	5,000.00	11,268.62	15,000.00	60,000.00
564 · Communications...	17,034.56	15,000.00	32,408.11	44,460.00	154,460.00
566 · Radio Maintenance	67.62	159.09	-218.23	477.28	21,750.00
568 · Prisoner/Case Ex...	1,605.00	450.00	1,837.89	1,350.00	5,400.00
570 · Training	436.02	833.33	4,618.00	2,500.03	10,000.00
572 · Recruiting	300.00	541.67	517.00	1,624.97	6,500.00
574 · Reserve Officers	50.00	337.50	50.00	1,012.50	4,050.00
576 · Misc. Dues, Meal...	1,250.00	475.00	2,325.00	1,975.00	2,075.00

7

5:17 PM
 10/07/13
 Accrual Basis

KPPCSD
Unaudited Profit & Loss Budget Performance
 September 2013

	Sep 13	Budget	Jul - Sep 13	YTD Budget	Annual Bud...
580 · Utilities - Police	69.48	716.67	966.75	2,149.97	8,600.00
581 · Bldg Repairs/Mai...	0.00		0.00		500.00
582 · Expendable Offic...	53.02	500.00	449.05	1,500.00	6,000.00
586 · Machine Mainten...	0.00		0.00	0.00	0.00
588 · Telephone(+Rich....	822.99	712.00	2,393.90	2,136.00	8,544.00
590 · Housekeeping	402.25	333.33	940.42	1,000.03	4,000.00
592 · Publications	42.84	183.33	-84.90	550.03	2,200.00
594 · Community Polic...	240.96	500.00	-212.57	550.00	2,000.00
596 · WEST-NET/CAL I...	0.00		5,386.00	13,386.00	13,386.00
598 · COPS Special Fu...	0.00		0.00	0.00	0.00
599 · Police Taxes Ad...	831.96		1,645.02	825.00	3,300.00
Total 550 · Other Police ...	27,699.74	27,123.02	57,843.65	92,627.91	327,326.00
600 · Park/Rec Sal & Ben					
601 · Park & Rec Admi...	340.25	541.67	1,517.75	1,624.97	6,500.00
602 · Custodian	1,750.00	1,750.00	5,250.00	5,250.00	21,000.00
623 · Social Security/M...	0.00	41.42	0.00	124.22	497.00
Total 600 · Park/Rec Sal ...	2,090.25	2,333.09	6,767.75	6,999.19	27,997.00
635 · Park/Recreation Ex...					
640 · Community Cent...					
642 · Utilities-Comm...	599.37	448.00	958.92	1,344.00	5,376.00
643 · Janitorial Supp...	582.72	100.00	582.72	600.00	750.00
646 · Community Ce...	0.00		1,600.00		2,000.00
Total 640 · Community...	1,182.09	548.00	3,141.64	1,944.00	8,126.00
660 · Annex Expenses					
662 · Utilities - Annex	230.54		324.69	0.00	0.00
666 · Annex Repairs	0.00		0.00	0.00	0.00
668 · Misc Annex Ex...	0.00		0.00	0.00	0.00
Total 660 · Annex Expe...	230.54		324.69	0.00	0.00
672 · Kensington Park ...	7,238.05	7,369.33	13,055.14	22,108.03	88,432.00
678 · Misc Park/Rec Ex...	0.00		0.00	0.00	0.00

J

KPPCSD
Unaudited Profit & Loss Budget Performance
 September 2013

	<u>Sep 13</u>	<u>Budget</u>	<u>Jul - Sep 13</u>	<u>YTD Budget</u>	<u>Annual Bud...</u>
Total 635 · Park/Recreati...	8,650.68	7,917.33	16,521.47	24,052.03	96,558.00
800 · District Expenses					
810 · Computer Mainte...	1,357.00	2,292.00	12,421.00	6,876.00	27,504.00
820 · Cannon Copier C...	286.23	475.00	1,227.26	1,425.00	5,700.00
830 · Legal (District/Pe...	26,562.95	5,833.33	44,035.20	17,500.03	70,000.00
835 · Consulting	2,300.00		2,300.00		3,000.00
840 · Accounting	5,248.75	4,062.50	12,632.50	12,187.50	48,750.00
850 · Insurance	0.00		28,397.26	15,000.00	30,000.00
860 · Election	0.00		0.00	0.00	0.00
865 · Police Bldg. Lease	0.00		15,757.00	15,757.00	31,514.00
870 · County Expendit...	0.00		0.00		19,900.00
890 · Waste/Recycle	9,755.26	4,500.00	15,990.84	13,500.00	54,000.00
898 · Misc. Expenses	240.57	858.33	3,145.00	2,575.03	10,300.00
Total 800 · District Expe...	45,750.76	18,021.16	135,906.06	84,820.56	300,668.00
950 · Capital Outlay					
962 · Patrol Cars	0.00		0.00	25,000.00	25,000.00
963 · Patrol Car Acces...	0.00		0.00	10,000.00	10,000.00
969 · Computer Equip...	0.00		0.00	16,250.00	16,250.00
Total 950 · Capital Outlay	0.00		0.00	51,250.00	51,250.00
Total Expense	248,956.95	218,426.28	710,330.57	739,394.57	2,652,070.00
Net Ordinary Income	-243,651.15	-214,001.28	548,628.09	1,239,630.43	-94,384.00
Other Income/Expense					
Other Expense					
700 · Bond Issue Expens...					
710 · Bond Admin.	2,315.88		4,584.49		
Total 700 · Bond Issue E...	2,315.88		4,584.49		
Total Other Expense	2,315.88		4,584.49		

10

5:17 PM
10/07/13
Accrual Basis

KPPCSD
Unaudited Profit & Loss Budget Performance
September 2013

	<u>Sep 13</u>	<u>Budget</u>	<u>Jul - Sep 13</u>	<u>YTD Budget</u>	<u>Annual Bud...</u>
Net Other Income	<u>-2,315.88</u>	<u>0.00</u>	<u>-4,584.49</u>	<u>0.00</u>	<u>0.00</u>
Net Income	<u>-245,967.03</u>	<u>-214,001.28</u>	<u>544,043.60</u>	<u>1,239,630.43</u>	<u>-94,384.00</u>

Memorandum

Kensington Police Department



To: KPPCSD Board of Directors

APPROVED YES NO

From: Gregory E. Harman, General Manager/ Chief of Police

FORWARDED TO:

Date: Wednesday, October 09, 2013

Subject: Consent Calendar Item C- Park Revenue & Expenses

The KPPCSD Board and the Park Buildings Committee has requested a separate and detailed accounting of park revenues and expenses.

This information is obtained through our QuickBooks software. Revenue and expenses from July 1, 2013 through September 30, 2013 is attached to this memo.

5:28 PM
 10/07/13
 Accrual Basis

KPPCSD
Account QuickReport
 July 1 through October 7, 2013

Type	Date	Num	Name	Memo	Split	Amount
420 · Park/Rec Activities Revenue						
427 · Community Center Revenue						
Deposit	7/12/2013	512		CC Rental 6-...	112 · General ...	300.00
Deposit	7/12/2013	2954		July Rent fro...	112 · General ...	45.00
Deposit	7/12/2013	3005		CC Rental 7-...	112 · General ...	700.00
Deposit	8/7/2013	2132		CC Rental S...	112 · General ...	150.00
Deposit	8/7/2013	2130		CC Rental	112 · General ...	600.00
Deposit	8/7/2013	1158		CC Rental	112 · General ...	975.00
Deposit	8/7/2013	3523		CC Rental	112 · General ...	700.00
Deposit	9/5/2013	2962		Wake Up to ...	112 · General ...	45.00
Deposit	9/5/2013	1053		CC Rental 9-...	112 · General ...	1,100.00
Deposit	9/30/2013	2977		Wake Up to ...	112 · General ...	45.00
Total 427 · Community Center Revenue						4,660.00
428 · Building E Revenue						
Deposit	7/12/2013	6915		2nd half of K...	112 · General ...	7,500.00
Total 428 · Building E Revenue						7,500.00
438 · Misc Park/Rec Rev						
Deposit	7/12/2013	3898		Tennis Court ...	112 · General ...	40.00
Deposit	9/5/2013	4025		Tennis Court ...	112 · General ...	40.00
Deposit	9/5/2013	3358		Tennis Court ...	112 · General ...	64.00
Total 438 · Misc Park/Rec Rev						144.00
420 · Park/Rec Activities Revenue - Other						
Deposit	9/5/2013	1118		East Bay Coll...	112 · General ...	598.00
Total 420 · Park/Rec Activities Revenue - Other						598.00
Total 420 · Park/Rec Activities Revenue						12,902.00
TOTAL						12,902.00

19

5:29 PM
 10/07/13
 Accrual Basis

KPPCSD
Account QuickReport
 July 1 through October 7, 2013

Type	Date	Num	Name	Memo	Split	Amount
600 · Park/Rec Sal & Ben						
601 · Park & Rec Administrator						
Paycheck	7/15/2013		Di Napoli, Andrea		112 · General ...	277.25
Paycheck	7/30/2013		Di Napoli, Andrea		112 · General ...	326.00
Paycheck	8/15/2013		Di Napoli, Andrea		112 · General ...	293.00
Paycheck	8/29/2013		Di Napoli, Andrea		112 · General ...	281.25
Paycheck	9/12/2013		Di Napoli, Andrea		112 · General ...	283.25
Paycheck	9/29/2013		Di Napoli, Andrea		112 · General ...	57.00
Total 601 · Park & Rec Administrator						1,517.75
602 · Custodian						
Check	7/15/2013	14838	William Driscoll	Com. Center ...	112 · General ...	875.00
Check	7/30/2013	14864	William Driscoll	Com. Center ...	112 · General ...	875.00
Check	8/15/2013	14898	William Driscoll	Com. Center ...	112 · General ...	875.00
Check	8/30/2013	14927	William Driscoll	Com. Center ...	112 · General ...	875.00
Check	9/13/2013	14955	William Driscoll	Community C...	112 · General ...	875.00
Check	9/30/2013	14990	William Driscoll	Community C...	112 · General ...	875.00
Total 602 · Custodian						5,250.00
Total 600 · Park/Rec Sal & Ben						6,767.75
TOTAL						6,767.75

02

KPPCSD
Account QuickReport
 July 1 through October 7, 2013

Type	Date	Num	Name	Memo	Split	Amount
635 · Park/Recreation Expenses						
640 · Community Center Expenses						
642 · Utilities-Community Center						
General Journal	7/1/2013	REV ...	CCC Treasurer's Of...		210 · Account...	-668.26
Check	7/15/2013	14840	Pacific Telemanage...	Pay Phone C...	112 · General ...	78.00
Check	7/30/2013	14862	EBMUD	840 Coventry	112 · General ...	26.87
Check	7/30/2013	14873	PG&E	Community C...	112 · General ...	223.45
Check	7/30/2013	14892	Pacific Telemanage...	Pay Phone C...	112 · General ...	78.00
Check	8/30/2013	14924	PG&E	Community C...	112 · General ...	232.51
Check	8/30/2013	14926	EBMUD	2 Arlmont - C...	112 · General ...	388.98
Check	9/13/2013	14958	Pacific Telemanage...	Pay Phone C...	112 · General ...	78.00
Check	9/13/2013	14964	Olivero Plumbing Co.	Com. Center ...	112 · General ...	115.00
Check	9/30/2013	14993	PG&E	Community C...	112 · General ...	197.03
Check	9/30/2013	14996	EBMUD	840 Coventry...	112 · General ...	29.34
Check	9/30/2013	15025	Summer Rain Land...	Tree trimmin...	112 · General ...	180.00
Total 642 · Utilities-Community Center						958.92
643 · Janitorial Supplies						
General Journal	7/1/2013	REV ...	CCC Treasurer's Of...		210 · Account...	-185.23
Check	7/15/2013	14839	UBS	Janitorial sup...	112 · General ...	185.23
Check	9/30/2013	15008	UBS	Com. Center ...	112 · General ...	582.72
Total 643 · Janitorial Supplies						582.72
646 · Community Center Repairs						
Check	7/30/2013	14889	Summer Rain Land...	650 sq ft. of s...	112 · General ...	1,200.00
Check	8/15/2013	14918	Summer Rain Land...	8 yards of ba...	112 · General ...	400.00
Total 646 · Community Center Repairs						1,600.00
Total 640 · Community Center Expenses						3,141.64
660 · Annex Expenses						
662 · Utilities - Annex						
General Journal	7/1/2013	REV ...	CCC Treasurer's Of...		210 · Account...	-94.15
Check	7/30/2013	14862	EBMUD	1 Windsor (S...	112 · General ...	188.30
Check	9/30/2013	14996	EBMUD	1 Windsor - ...	112 · General ...	230.54

12

KPPCSD
Account QuickReport
 July 1 through October 7, 2013

Type	Date	Num	Name	Memo	Split	Amount
Total 662 · Utilities - Annex						324.69
Total 660 · Annex Expenses						324.69
672 · Kensington Park O&M						
General Journal	7/1/2013	NBS	NBS Government Fi...	JUL-SEP 2013	710 · Bond Ad...	1,073.29
General Journal	7/1/2013	REV ...	CCC Treasurer's Of...		210 · Account...	-1,113.80
Check	7/15/2013	14829	Summer Rain Land...	Drinking foun...	112 · General ...	85.00
Check	7/15/2013	14839	UBS	June 2013 P...	112 · General ...	432.00
Check	7/30/2013	14862	EBMUD	1 Windsor (Ir...	112 · General ...	1,363.60
Check	7/30/2013	14866	Summer Rain Land...	Park Repairs	112 · General ...	0.00
Check	7/30/2013	14889	Summer Rain Land...	July monthly ...	112 · General ...	2,050.00
Check	7/30/2013	14889	Summer Rain Land...	2 yards of ba...	112 · General ...	240.00
Check	7/30/2013	14889	Summer Rain Land...	Repair of ste...	112 · General ...	180.00
Check	7/30/2013	14889	Summer Rain Land...	removal of br...	112 · General ...	80.00
Check	7/30/2013	14889	Summer Rain Land...	trouble shoot ...	112 · General ...	140.00
General Journal	7/30/2013	CK 1...	Summer Rain Land...	For CHK 148...	112 · General ...	640.00
General Journal	8/9/2013	VD C...	Summer Rain Land...	Reverse of G...	112 · General ...	-640.00
Check	8/15/2013	14905	UBS	July 2013 Pa...	112 · General ...	432.00
Check	8/15/2013	14918	Summer Rain Land...	Irrigation rep...	112 · General ...	430.00
Check	8/30/2013	14930	William Driscoll	Park Restroo...	112 · General ...	425.00
Check	9/13/2013	14963	Summer Rain Land...	Park Monthly...	112 · General ...	2,050.00
Check	9/13/2013	14976	Kensington Home a...	Park restroom	112 · General ...	13.48
Check	9/30/2013	14990	William Driscoll	Park Restro...	112 · General ...	425.00
Check	9/30/2013	14996	EBMUD	1 Windsor - Ir...	112 · General ...	1,390.74
Check	9/30/2013	15011	NBS Government Fi...	Inv. #913000...	112 · General ...	1,098.83
Check	9/30/2013	15025	Summer Rain Land...	Park Monthly...	112 · General ...	2,260.00
Total 672 · Kensington Park O&M						13,055.14
678 · Misc Park/Rec Expense						
General Journal	7/1/2013	REV ...	CCC Treasurer's Of...		210 · Account...	-24.69
Check	7/15/2013	14844	BPXpress	Copies of Par...	112 · General ...	24.69
Total 678 · Misc Park/Rec Expense						0.00

22

5:29 PM
10/07/13
Accrual Basis

KPPCSD
Account QuickReport
July 1 through October 7, 2013

<u>Type</u>	<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Split</u>	<u>Amount</u>
Total 635 · Park/Recreation Expenses						<u>16,521.47</u>
TOTAL						<u><u>16,521.47</u></u>

23

Memorandum

Kensington Police Department



To: KPPCSD Board of Directors

APPROVED YES NO

From: Gregory E. Harman, General Manager/ Chief of Police

FORWARDED TO:

Date: Wednesday, October 09, 2013

Subject: Consent Calendar Item # E- Training & Reimbursement Reports

For the month of September, the following attached Training and Reimbursement Reports pursuant to KPPCSD Board Policy # 4030 were submitted for approval.

Acct#: 510-878 Date 9/30/13

Clk#: 15022 Amt: \$240.57

Signature: [Signature]

APPENDIX A - EXPENSE PREPAYMENT/REIMBURSEMENT FORM

Name: LYNN WOLTER

Event/Activity: CSDA CONFERENCE

Location of Event/Activity: Monterey / Training

Approved by ^{GM/COP} Board of Directors on: 8/1/2013

	<u>CSDA GRANT</u>	Prepay	Reimburse
1. Event/Activity Registration Fee	\$ <u>525.00</u>	\$ _____	\$ _____
2. Transportation			
• Airfare		\$ _____	\$ _____
• Car Rental (\$ _____ per day for _____ days)		\$ _____	\$ _____
• Car Mileage (\$ <u>5.65</u> per mile for <u>245.66</u> miles)		\$ _____	\$ <u>138.80</u>
• Taxi		\$ _____	\$ _____
• Parking		\$ _____	\$ <u>21.00</u>
3. Lodging (\$ _____ per night for _____ nights)		\$ _____	\$ _____
4. Meals (Complete information requested on next page of form)			
a. Breakfast		\$ _____	\$ _____
b. Lunch		\$ _____	\$ <u>15.50</u>
c. Dinner		\$ _____	\$ <u>65.27</u>
5. Other (Explain details of request)		\$ _____	\$ _____
Total Requested		\$ <u>525.00</u>	\$ <u>240.57</u>

Please attach all receipts documenting each expense above. This Expense Prepayment/Reimbursement Form must be submitted within 30 days after the event. All expenses reported on this form must comply with the District's Expense Policy for Board members, the General Manager/Chief of Police, and all non-sworn District employees.

Signed: Lynn Wolter

Date: 9/20/13

Approved by: [Signature]

Signed: [Signature]

Print Name: _____

Date: 09/23/13

Special District Leadership Foundation
1112 I Street, Suite 200
Sacramento, CA 95814

BANK OF THE WEST
90-078/1211

1402

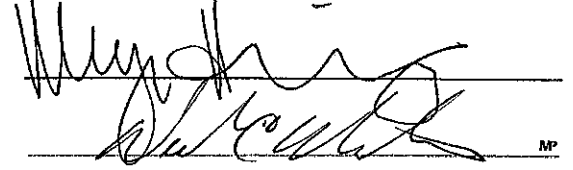
10/3/2013

PAY TO THE ORDER OF Kensington Police Protection & CSD

\$ **525.00

Five Hundred Twenty-Five and 00/100***** DOLLARS

Kensington Police Protection & CSD
217 Arlington Avenue
Kensington, CA 94707-1401



MEMO CSDA Conference Scholarship - Lynn Wolter

⑈001402⑈ ⑆121100782⑆ 170003164⑈

Special District Leadership Foundation

1402

Kensington Police Protection & CSD

10/3/2013

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
10/3/2013	Bill	Conf. Scholarship	525.00	525.00		525.00
					Check Amount	525.00

Bank of the West CSDA Conference Scholarship - Lynn Wolter 525.00

26

To: KPPCSD Directors
From: Lynn Wolter
Date: 10/7/2013

Re: Seminars attended during CSDA Conference 9/16 – 9/19/2013

1. “Best Practices in Board Protocols, Policies & Procedures”
Presented by Brent Ives

My notes:

- Start meetings on time – this sets the tone for district
- The intent of a board’s policies, procedures, and guidelines is to streamline and protect
- Good policy creates framework and boundaries with which current and future boards and staff will work
- Staff brings good policy recommendations to the board
- Guidelines reflect community’s values
- Presenter recommends using Rosenberg’s Rules of Order (not Robert’s)
- Policy should create clarity (without clarity there is ambiguity)
- Training should be provided to new board members by other board members, staff, and district’s legal counsel.
- Best practices re: communications with General Manager: Individual board members have no authority to direct the General Manager to take any action or to start any project that would take more than two hours without being so directed by the entire board. This is true during meetings and between meetings.
- Board majority is needed to direct General Manager
- Committees advise the board – they do not direct the General Manager
- Board responsible for ensuring that the General Manager has resources needed (money, staff, property, equipment, etc.) to carry out board’s goals and objectives
- Board must be clear about the General Manager and his/her use of resources (money, staff, property, etc.)
- Public is entitled to its opinion and may express it during public comments portions of meeting. Board must be consistent when dealing with public at these times (i.e. everyone allotted the same amount of time)
- Public comments that address items that are not on the agenda should be limited to 15 minutes
- Process should be optimized to address agenda items so that the public’s business is conducted
- Committees: Policies and Procedures Manual should identify, describe, and define scope of responsibility and limits
- Any time “Evaluating the General Manager” appears on agenda multiple times within a several month time frame it is a red flag that something is wrong with the board and suggests that the board is discussing something else

- All directors are co-equal
- Should be training for new board chairs
- Policy manual revisions should be tackled incrementally
- Policy manual resources: CSDA, other districts, consultants
- Acrimony on a board can make it difficult to attract qualified/good staff
- Standing committees should have scheduled meeting times
- Board is responsible for creating strategic plan, and plan should be the overall goals of the district. Some of the goals (no more than seven) should be for the General Manager. General Manager's performance evaluation should be based on GM's results and achievement relative to those goals set for him/her.
- Both the strategic plan and the General Manager's goals and objectives must be done in Open Session.
- Only the General Manager's performance evaluation is done in Closed Session
- Every vote is a good vote, even if split
- Good board work is compromise

Please see attached handout for additional information.

2. "Navigating Your Way Through Bid Protests"

Presented by Benjamin Reyes and Eric Casher (Meyers Nave)

My notes:

- If an agency has not established a pattern of accepting lowest bidder, then they don't have to accept lowest bids.
- If a bidder is known to the Board as having a poor reputation, the bidder can be deemed "not responsible", in which case the agency doesn't have to accept that bid.
- Best practice is consistency – want to avoid the appearance of favoritism.
- Best way to avoid protest is to incorporate protest process in bid documents
- Districts must develop clear process
- Agency cannot accept documents after the bid period closes.

Please see attached handout for additional information.

3. “Secret Agent: Understanding Potential Liability Exposures to Your Agency from the Acts or Omission of Employees and Volunteers”

Presented by Dennis Timoney, ARM – Chief Risk Officer, SDRMA

My notes:

- Districts face liability issues when they have volunteers
- With things like use of District vehicles, District policies must be very specific.
- For purposes of law, elected are agents/employees of District
- “Employee” designation excludes people performing voluntary service – still an agent, but not an employee.
- No benefits are conferred by the District to volunteers
- Interns are agents but not employees – so District still has liability, with respect to them.
- Worker’s Comp. coverage – When a District resolution that brings on long-term volunteers, the District confers Worker’s Comp. to them.
- Without resolution and even if volunteer signs waiver, volunteer still can file a lawsuit.
- Volunteers, even reserve officers may not file employment actions (such as discrimination). Reserve officers are provided Worker’s Comp. coverage only.
- Question: Is KPPCSD listed as an “also insured” with its independent contractors?
- If District will have volunteers, the Board needs to have a policy. This will help protect against lawsuit.
- Board should establish policy re: what constitutes Board activity
- Board should establish policy re: volunteer positions.

Please see hand out for additional information

4. “The Great Board – Best Practices for Board Development”

Presented by Brent Ives

Although time didn’t permit me to attend this session, I did get a copy of the handout, which is attached.

5. “Pay or Play – Practical Ways to Implement Health Care Reform and Avoid Penalties”

Presented by Amber Ward (Hanson Bridgett)

My notes:

- Healthcare program’s implementation and success is dependent upon \$13 billion of penalties.
- New guidelines are being issued by Dept. of Labor, Dept. of Health and Human Services, IRS, etc., on a weekly basis.
- **Caution:** District should not change from providing full coverage for actives and retirees. The moment this happens, the District could have a problem, regardless of size (fewer than 50 employees).

Please see attached handout for additional information.

6. “Can’t We All Just Get Along? - - LAFCO’s Power to Initiate Changes of Organization Affecting Special Districts”

Presented by Lou Anne Texeira (Contra Costa LAFCO), Paul Novak (LA LAFCO), Michael Colantuono (Colantuono & Levin, PC)

My notes:

- Mt. Diablo Health Care District: consolidation occurred. No tax revenue was lost in process.

There was no handout for this session.

7. “Board and Staff Roles and Relationships in Your Agency – Is it Working?”

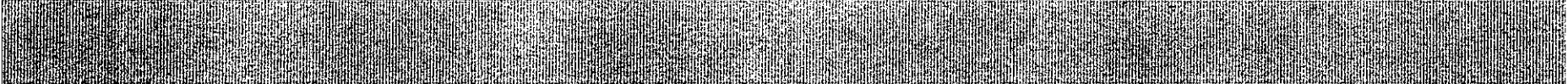
Presented by Martin Rauch (Rauch Communications)

My notes:

- Board responsible for creating Strategic Plan.
- Strategic Plan should define spending priorities.
- General Manager creates budget based on Board’s stated spending priorities.
- The Board then accepts or deletes projects based on the proposed budget.
- Neither the Finance Committee nor the Board should tell the General Manager how much to spend, line by line.
- Board’s job is governance and setting policies.
- GM, not Board, is responsible for day-to-day operations.
- Orientation for new Board members – primarily a Board responsibility.
- Board members should engage in ongoing training.

- Board's job with respect to GM:
 - a) Set direction, goals, and provide resources
 - b) Establish "ends" – what results are desired
 - c) Should not be involved in how things get done
- Re: Goals and Objectives:
 - a) These must be discussed and established in open session, even if for General Manager
 - b) These should be set for the District, as a whole.
 - c) There should be no more than 7 per year
- Board is responsible for securing resources – taxes, rates, fees etc. – that are needed to accomplish goals set.
- GM's performance review occurs in closed session (his goals and objectives must be set in open session).

Please see attached handout for additional information.



Best Practices in Board Policies, Procedures and Guidelines

Presented by:

Brent Ives, BHI Management Consulting

California Special Districts Association

Annual Conference

September 17, 2013

Who am I?

- INTRODUCTION(s)

- Brent Ives, BHI Management Consulting
- Organizational consultant to Special Districts (15 years)
 - Strategic Planning - Supervisor training – Board Dynamics – Board/manager Interactions – Executive Recruiting – many many workshops, etc.
 - Every week a different Board, or three
 - 25 years engineering manager at LLNL
 - USF - Organizational Development
- 20 years on Tracy City Council (last 6 years as elected Mayor), various local and regional Boards/Commission...



www.bhiconsulting.com

Best Practices

This session

- The intention with this seminar is to discuss how a Board can optimize their service through good governance principles
- Review some pitfalls I've observed/experienced
- Look at some example policies
- Discuss how to and not to develop/implement

24

Board Best Practices

“An Overview of Service”

When a man (or woman) assumes a public trust, he should consider himself as public property.

- Thomas Jefferson

Board Best Practices

“An Overview of Service”

When a man (or woman) assumes a public trust, he should consider himself as public property.

- Thomas Jefferson

Reason to Optimize

www.bhiconsulting.com



Board Best Practices

“*What is this briefing really about?*”

- *A Board focusing on the right things*
- *Conducting the Public's Business Efficiently*
- *Codifying Best Practices*
- *Thinking about the future – a Legacy*

EFFICIENCY!!

Board Best Practices “Policies, Procedures and Guidelines”

- *Often blended and confusing*
- *Not necessarily easy to do*
- *Easy to get hung up here*
- *The intent in these however is to streamline and protect*
- *Special Districts can be especially in need here*

Board Best Practice

“Make Good Policy”

- **Make good Policy – *it is what we do!***
 - Planning and Policy are the legacy components of a good Board
 - Budget/finance- Personnel- Operational- Administrative – Board conduct, etc.
 - Good policies create the lasting documentation of excellent Board work
 - Good policy creates the framework boundaries within which this and future Boards and staff will work
 - Policies reflect the community's values through you
- You should always ask yourself, *“IS THERE A POLICY QUESTION, IMPLICATION, ISSUE HERE?”*

Board Best Practice

“ Make Good Policy ”

- Guidelines for Board interactions and conduct
- Policy on what rules of order you use and what that means
- Policy on the definition of Board “meetings”
- Policy on Board/Manager interactions
- Policy on how we will evaluate attorney and auditor contracts
- Procedures on how we conduct our public meetings
- Policy on communicate with the public(inside and out)
- Policy on the purpose and charter of committees
- Policy for how we will properly orient our new Board members
- Policy on how we evaluate the executive
- Policy on how we populate the Board officers
- Guidelines for the Board Chair
- Policy on how the General Manager/Staff get their direction
- Policy on how we Plan in this District
- Policy on Board compensation
- Policy on how/when the Board will evaluate the general manager
- Policy on Board travel/development activities

POLICY SHOULD EXIST FOR THOSE ACTIVITIES/SITUATIONS THE DISTRICT WILL
ROUTINELY PERFORM OVER ITS LIFETIME

of

Board Best Practice

“Policy Where?”

- Guidelines for Board interactions and conduct
- Policy on what rules of order you use and what that means
- **Policy on the definition of Board “meetings”**
- Policy on Board/Manager interactions (*Issue: efficiency of time use and/or unilateral direction*)
- Policy on how we will evaluate attorney and auditor contracts
- Procedures on how we conduct our public meetings (*no basis for situations*)
- Policy on communicate with the public (inside and out)
- Policy on the purpose and charter of committees (*committees without purpose*)
- Policy for how we will properly orient our new Board members
- Policy on how we evaluate the executive (*lack of consistency or clarity in how a Board performs this function*)
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POLICY SHOULD EXIST FOR THOSE ACTIVITIES/SITUATIONS THE DISTRICT WILL
ROUTINELY PERFORM OVER ITS LIFETIME

Board Best Practice

“Make Good Policy”

- Outlines the relevance of “meetings” in this District
- Defines what is and is not a compensated “meeting”
- Can be a difficult decision for standing Boards
- Lots of opinions of what is and what is not
- Changes only by Board policy action

(Example Policy) B-60-10 Limit on Meetings. Board Members shall be compensated for up to the legal limit of six meetings per month and one meeting per day. Compensation shall apply to both Regular and Special Board meetings, Board committee meetings, meetings for organizations related to District business and professional meetings. To qualify for compensation for meetings of organizations related to District business, Board approval is required. Board members requesting attendance at meetings, including meetings of organizations related to District business, training, conference and/or seminars, shall submit their request to the entire Board at least five business days prior to a regular Board meeting.

2

Board Best Practice

“*Make Good Policy*”

- Guidelines for Board interactions and conduct
- Policy on what rules of order you use and what that means
- Policy on the definition of Board “meetings”
- **Policy on Board/Manager interactions (Issue: efficiency of time use and/or unilateral direction)**
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POLICY SHOULD EXIST FOR THOSE ACTIVITIES/SITUATIONS THE DISTRICT WILL
ROUTINELY PERFORM OVER ITS LIFETIME

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Board Best Practice

“Communications with General Manager”

■ (Example Policy) 2.1 Communications with the General Manager

- 2.1.1 Directors should go to the General Manager as the primary source for information about District operations as well as with questions, complaints and/or compliments from the public.
- 2.1.2 Individual Directors have no authority to direct the Manager to take any actions or start any projects taking over 2 hours of staff time without being so directed by the entire Board. This is true during Board meetings and in the office.
 - strive to insure clarity
 - performance evaluation specifics
 - when the Board speaks for the District versus the GM
 - how and when the GM is addressed during meetings for items not on agenda

ff

Board Best Practice

“Conducting Public Meetings”

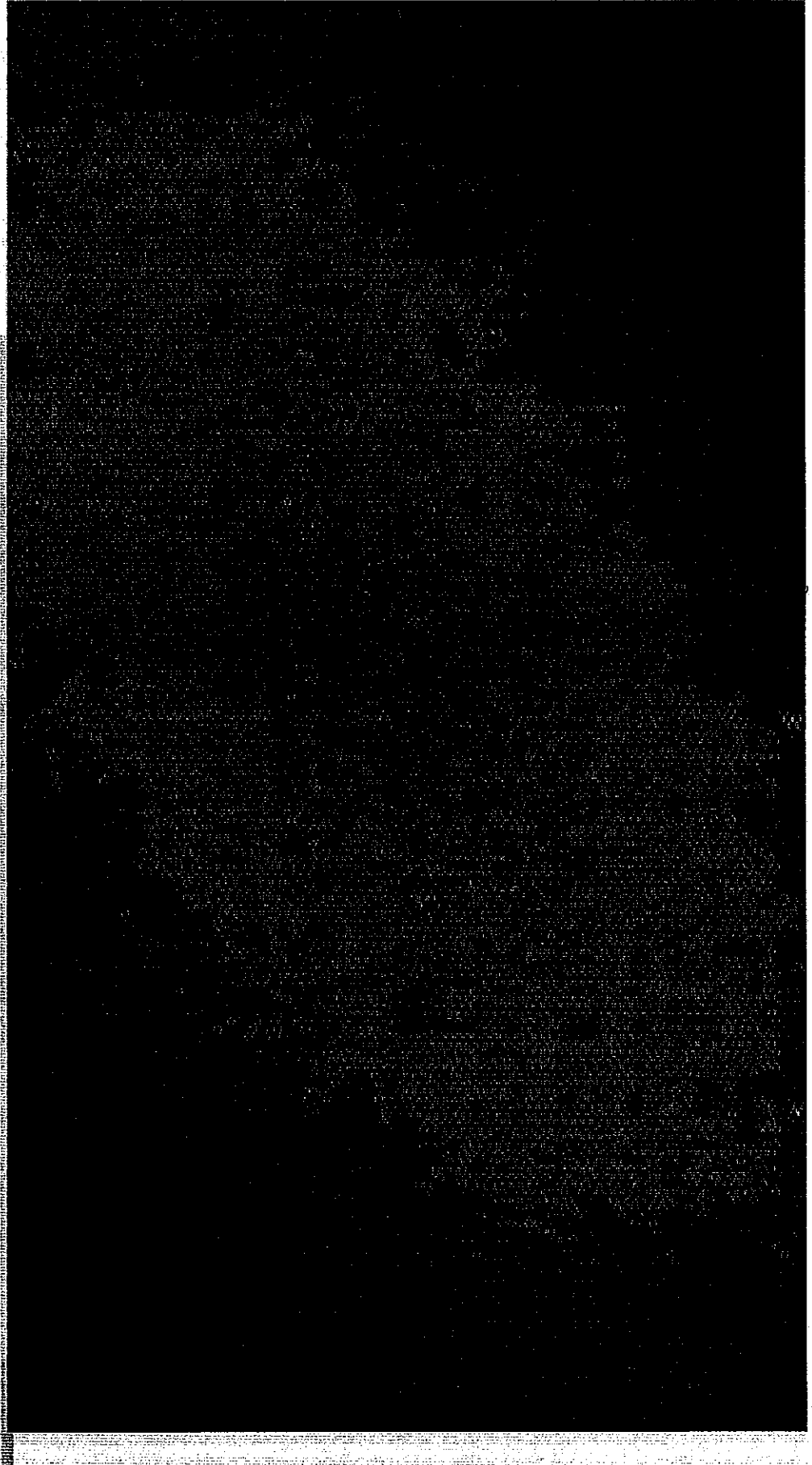
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POLICY SHOULD EXIST FOR THOSE ACTIVITIES/SITUATIONS THE DISTRICT WILL
ROUTINELY PERFORM OVER ITS LIFETIME

KS

Board Best Practice

“Conducting Public Meetings, not always easy!!”



Board Best Practice

“*Conducting Public Meetings*”

- Who sets agenda?
- What is the Chair's role?
- How is the Chair be prepared to preside?
- What does a “general order of business” look like?

The general order of business for processing agenda items will be administered by the Chair as follows:

- *Staff Report*
- *Questions from Board*
- *Public Input*
- *Staff response, if needed*
- *To the Board for discussion and action.*
- Who speaks when and through whom?
- How long do we take comment?
- How does the public interact?
- How do we handle citizen concerns?
- ETC, ETC, ETC...

27

Board Best Practice

“Committees”

- Guidelines for Board interactions and conduct
- Policy on what rules of order you use and what that means
- Policy on the definition of Board “meetings”
- Policy on Board/Manager interactions (*Issue: efficiency of time use and/or unilateral direction*)
- Policy on how we will evaluate attorney and auditor contracts
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POLICY SHOULD EXIST FOR THOSE ACTIVITIES/SITUATIONS THE DISTRICT WILL
ROUTINELY PERFORM OVER ITS LIFETIME

JK

Board Best Practice

“Committees”

- The role of committees here
- The definition of Standing versus ad-hoc committees
- What are our standing committees?
- Why do each of them exist... their Charter?
- What expectations do we have for our committees?
- How does a committee get chartered?
- Who populates a committee?

(Example Policy) B-40-20-2 Appointment of Chairperson. The Board President shall designate the ad hoc committee chairperson who shall determine the date, time, and place of each committee meeting. The chairperson shall make periodic reports to the Board on the committee's progress.

B-40-20-3 Scope of Responsibility. The ad hoc committee shall gather information, explore alternatives, examine implications, and offer recommendations to the full Board. The committee may meet with staff and/or District consultants, but shall not interfere with their duties as determined by the Board.

B-40-20-4 Limits on Authority. The ad hoc committee shall not speak or act on behalf of the Board, shall not conflict with authority delegated to staff by the Board, and shall not attempt to exercise authority over staff.

Board Best Practice

“Executive Performance?”

- Guidelines for Board interactions and conduct
- Policy on what rules of order you use and what that means
- Policy on the definition of Board “meetings”
- Policy on Board/Manager interactions (*Issue: efficiency of time use and/or unilateral direction*)
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POLICY SHOULD EXIST FOR THOSE ACTIVITIES/SITUATIONS THE DISTRICT WILL
ROUTINELY PERFORM OVER ITS LIFETIME

Board Best Practice

“Executive PA”

- Outlines the relationship between the executive to the Board Should
- States how, when and why your executive gets an annual performance evaluation
- Outlines how this will happen, who will do it and when each year
- Outlines the process for doing so, the instrument that is used and what the executive and Board members can and should expect
- Provides a general means for tying this annual action to executive compensation

(Example Policy) B-170-10 The General Manager of the District is retained and serves at the will of the Board of Directors and has general authority over personnel matters and authority to administer the District. The Board of Directors shall review the performance of the General Manager after the initial six months of service after appointment and then annually thereafter, using a process that provides for discussion and encourages feedback in the development of goals and the performance evaluation.

Board Best Practice

“Make Good Policy”

- Guidelines
- Processes
- Norms/Values/Culture
- Policies
- Procedures
- Code

Board Best Practice

“*Best Process for Considering/Adopting*”

- Board Sub-committee
- General Manager/staff
- Attorney
- Consultant
 - Someone needs to wear the target
 - Someone needs to facilitate disagreements
 - Should be done incrementally...*“bite sized chunks”*

Board Best Practice

“How/Where can you get Some?”

- CSDA
- Other like agencies
- Consultants (me)

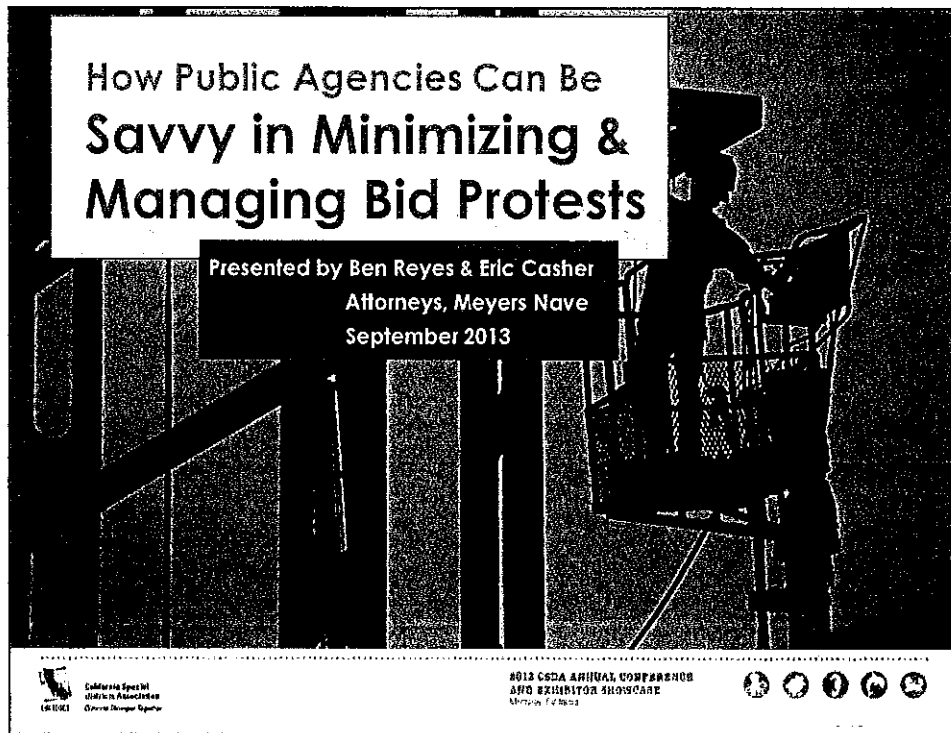
Board Best Practice

“Summary”

- It's a best practice
- Best to do this when the pressure is NOT on
- Many many examples, types needs
- Make the set you need where you are
- Incrementally, don't bite off too much
- Lots of examples out there
- Best to get some help
- It's a BEST PRACTICE!!

“It'll be worth the effort when you need them!!”

SS



How Public Agencies Can Be Savvy in Minimizing & Managing Bid Protests

Presented by Ben Reyes & Eric Casher
Attorneys, Meyers Nave
September 2013

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CSDA

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GENERAL OVERVIEW

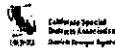
- Bid Protest and Due Process
- Waiving Bid Irregularities
- Most Common Protests
- Lessons Learned

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Bid protests are challenges made by disappointed bidders (usually, the second low bidder) against the apparent low bidder



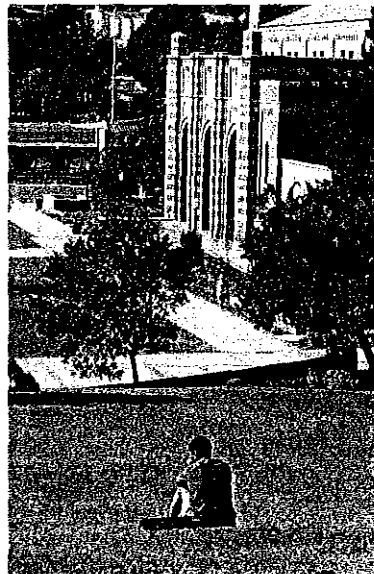
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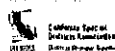
Best way to avoid protest, incorporate protest process in bid documents

Due Process

The Fourteenth Amendment provides that no state shall "deprive any person of life, liberty, or property, without **due process** of law." The California Constitution also contains due process. Cal Const. art I, §§7, 15




Districts must develop clear processes



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Key Components

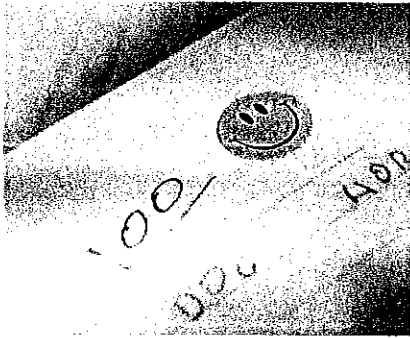
- Written and Adopted Bid Protest Procedures
- Public review of bid
- Timely and Efficient process
- Balance competing interests

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March 14-15, 2014



What Makes a Bid Responsive?




- Promises to do what bidding instructions demand
— Valley Crest Landscape, Inc. v. City Council, 41 Cal.App.4th 1432, 1438 (1996)
- Also, should be determined from the face of a bid

Agency cannot accept documents submitted after bid period closes

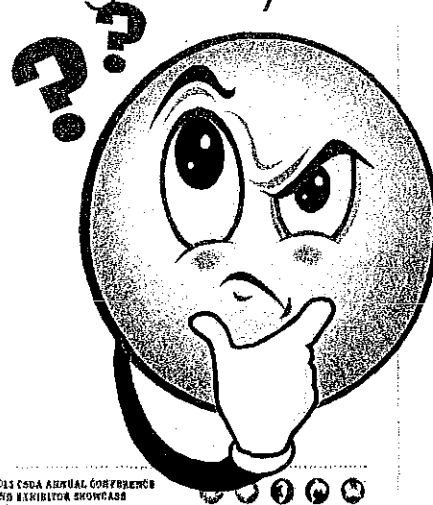
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What is a Bid Irregularity?

- Defining defects
 - Can it be waived?
- Does bid irregularity change bid value?
- Is spirit/intent of form maintained?

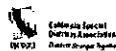
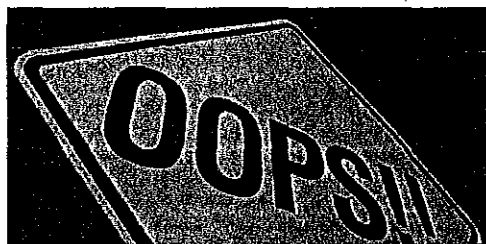


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A Bid May Be "Responsive" Even with....

Discrepancy or technical error so long as
discrepancy is **inconsequential**

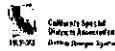


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Inconsequential Discrepancy or Error Does Not....

- Affect the amount of the bid
- Give bidder an advantage over others
(i.e., opportunity to avoid obligation to perform)
- Create potential vehicle for favoritism
- Affect ability to make bid comparisons
— *Ghilotti Construction Company v. City of Richmond*, (1996)
45 Cal.App.4th 897

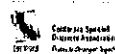
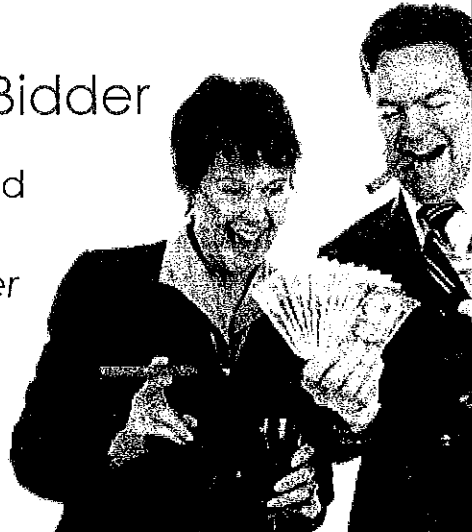


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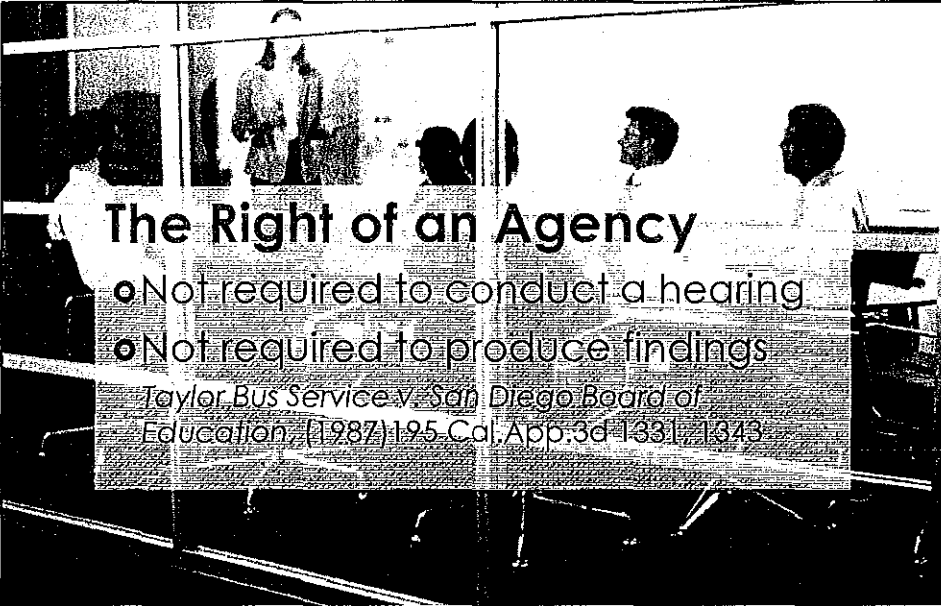
The Right of a Nonresponsive Bidder

- Entitled to be notified
- Entitled to submit materials *(in manner defined by agency)* concerning nonresponsive issue



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March 27-29








The Right of an Agency



- o Not required to conduct a hearing
- o Not required to produce findings

Taylor Bus Service v. San Diego Board of Education, (1987) 195 Cal. App. 3d 1331, 1343

 California Social Justice Alliance
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What Is A Responsible Bidder?
 Demonstrated attributes of **trustworthiness**, as well as the **"quality, fitness, capacity and experience"** to satisfactorily perform the public works contract"
 (Pub. Contract Code § 1103)

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Rejecting a Bidder as "Non-responsible"

- Can do so prior to contract award
- Finding must be supported by substantial evidence

Boydston v. Napa Sanitation District, 222 Cal.App.3d 1362 (1990)

Must have clear record of bidder's objection & verifiable.



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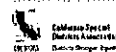
Deeming Bidders Non-Responsible

- Procedural note on rejecting non-responsible bidders
- Agency must provide "due process"
- "Notice and Opportunity to Rebut"

Must notify the bidder that they are non-responsible & must provide them due process

Bidders are afforded a level of due process

cannot be arbitrary



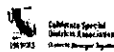
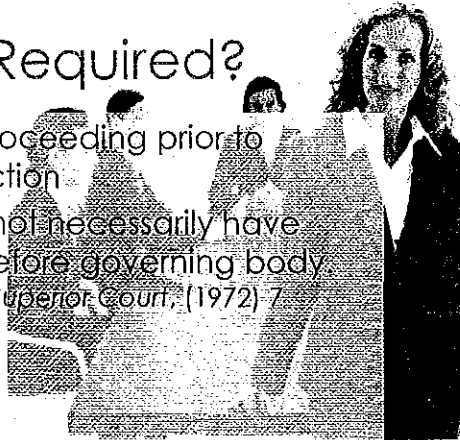
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Sometimes, bidirectional determination suits

What's Not Required?

- A quasi-judicial proceeding prior to rejecting bid rejection
- Contractor does not necessarily have right to hearing before governing body
City of Inglewood v. Superior Court, (1972) 7 Cal.3d 861

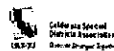


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Failure To Award To LRB

- Low bidder or any taxpayer/ratepayer can file court action to set-aside award of contract
- Disappointed low bidder can recover bid preparation costs (but not lost profits)
Kajima/Ray Wilson v. City of Los Angeles, 23 Cal.4th 305 (2000)



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Most Common Protests

Challenges to Qualifications of:

Prime Contractor

Sub Contractor



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Construction Program Support

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October 28-31, 2013



Most Common Protests, cont.



- Failure to:
 - Complete bid or schedules correctly
 - Comply with "extra" requirements
 - Execute bid or forms
 - Qualifications

California Special Projects Association
CSPA
Construction Program Support

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October 28-31, 2013



*Dept. of Public
Performance
has good pre
qual. forms and
forms.*

Local Agency Authority to Regulate Contracting Process

LEGAL BACKGROUND

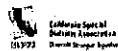


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Purpose of Competitive Bidding Statutes

- o Guard against favoritism, improvidence, extravagance, fraud & corruption
- o Secure best work or supplies at the lowest price practicable



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65

Enacted for Benefit of:

- o Property holders & taxpayers
- o Not bidders

Domar Electric Inc. v. City of Los Angeles (1994) 9 Cal.4th 161





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**Authority to enter into contracts to
 carry out necessary functions,
 including those expressly granted
 and those implied by necessity.**

Carruth v. City of Madera (1965) 233
 Cal.App.2d 688

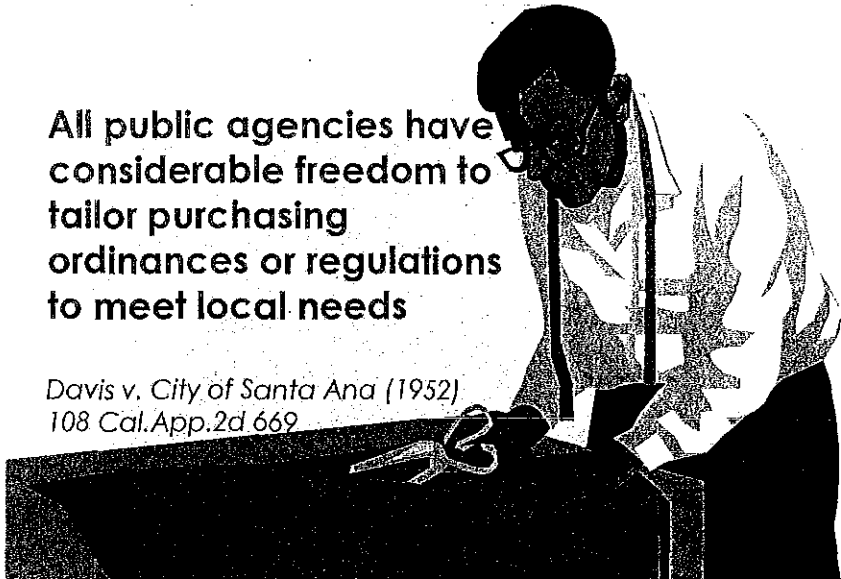

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 2013


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All public agencies have considerable freedom to tailor purchasing ordinances or regulations to meet local needs

*Davis v. City of Santa Ana (1952)
108 Cal.App.2d 669*




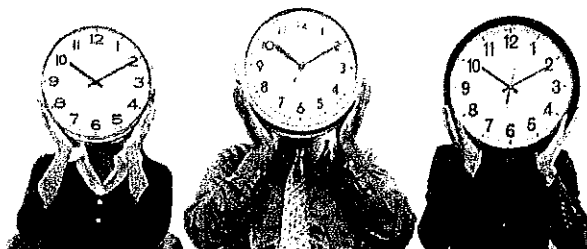
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24

Tools for Controlling Risk & Local Agency Contracting Process

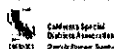
LOCAL LEGISLATION

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Local agencies may adopt bid protest procedures governing such matters as:

- 1. Deadline for submitting protests**
- 2. Mandatory info accompanying protest**
- 3. Reasonable charges for recovering bid protest administrative costs**



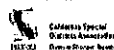
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← X = report
 any other fees
 recover \$50-\$750
 is common
 to recover
 (the...
 this process)

Sample Bid Protest Procedures

- Filed within 48 hours of bid opening or, if a Friday or day before a holiday, end of next business day
- Late protests not considered and returned without further action
 - Also waives bidders' right to further pursue bid protest



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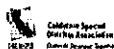


← remains to address this element
 late protests don't have to be processed

cel

Sample Bid Protest Procedures, cont.

- Agency to investigate protest and, if necessary, obtain information from low bidder within 48 hours
- Agency reserves right to extend this deadline at its sole discretion

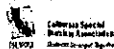


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Lessons Learned

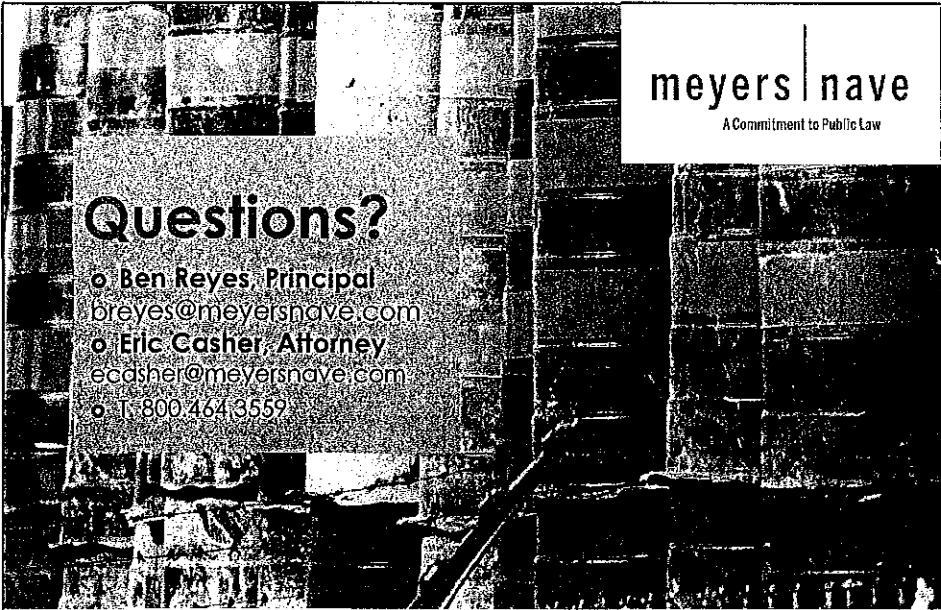
- Shorten protest period
- Require protests have specificity and are related to bid content
- Define and enforce standing of protestor
- Charge a Fee



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*Charging a fee
discourages frivolous
lawsuits*




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A Commitment to Public Law

Questions?

- o Ben Reyes, Principal
breyes@meyersnave.com
- o Eric Casher, Attorney
ecasher@meyersnave.com
- o T: 800.464.3559

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111502

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November 14-15, 2013



Thank you



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111502

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November 14-15, 2013



These kinds of protest
procedures should be
incorporated in instructions
to bidders

SAMPLE #1

21. BID PROTEST PROCEDURES: Any protest of the proposed award of bid to the bidder deemed the apparent lowest responsible bidder must be submitted in writing to the District no later than 5:00 p.m. on the second (2nd) business day following the date of the bid opening. Any Bid Protest submitted after the 2nd business day is untimely. The written Bid Protest shall be accompanied a non-refundable Bid Protest fee of \$500.00 via certified cashier's check made payable to "[INSERT NAME OF THE PUBLIC ENTITY]" to reimburse the District's costs in reviewing and investigating the Protest. Any untimely protest or protest submitted without the requisite bid protest fee will be returned to the protestor without further action.

The initial Bid Protest must contain a complete statement of the basis for the protest.

The protest must state the facts and refer to the specific portion of the document or the specific statute that forms the basis for the protest. The protest must include the name, address, and telephone number of the person representing the protesting party. The party filing the protest must concurrently transmit a copy of the initial protest to the bidder deemed to be the apparent low bidder.

The party filing the protest must have actually submitted a bid on the project. A subcontractor of a party filing a bid on this project may not submit a Bid Protest. A party may not rely on the Bid Protest submitted by another bidder, but must timely pursue its own protest.

The procedure and time limits set forth in this Section are mandatory and are the bidder's sole and exclusive remedy in the event of a Bid Protest. The bidder's failure to fully comply with these procedures shall constitute a waiver of any right to further pursue the Bid Protest, including filing of a challenge of the award pursuant to the California Public Contracts Code, filing of a claim pursuant to the California Government Code, or filing of any other legal proceedings.

The District shall review all timely protests prior to formal award of the bid. The District shall not be required to hold an administrative hearing to consider a timely protest, but may do so at the sole option of the Assistant General Manager for Planning, Stewardship and Development ("AGM"), or if otherwise legally required. The AGM shall consider the merits of any timely protests and take action thereon. The AGM has the authority to issue a final determination on all Bid Protests. In the AGM's exclusive discretion, or where legally required, the District Board may consider the protest and either accept the protest and award the bid to the next lowest responsible bidder, or reject the protest and award to the lowest responsible bidder. Nothing in this section shall be construed as a waiver of the District Board's right to reject all bids. The District reserves the right to waive any bid irregularities not affecting the amount of the bid, except where such waiver would give the low bidder an advantage or benefit not allowed to other bidders.

Disclaimer: This form is intended to provide general information on the subject and is provided with the understanding that the publisher is not rendering any legal or professional services. If you have any questions, please consult your attorney, or Ben Reyes and Eric Casher at (510) 808-2000.

SAMPLE #2

10. BID PROTEST PROCEDURES

10.1 Any protest of the proposed award of Bid to the bidder deemed the lowest responsible bidder must be submitted in writing to XXXX, no later than 5:00 pm of the second (2nd) business day following the date of the Bid opening.

10.2. The initial protest must contain a complete statement of the basis for the protest. The protest must state the facts and refer to the specific portion of the document or the specific statute that form the basis for the protest. The protest must include the name, address, and telephone number of the person representing the protesting party. The protest must be signed and submitted under penalty of perjury.

10.3. The protestor shall also submit a non-refundable fee of \$500.00 via check made payable to XXXX to reimburse its costs in reviewing and investigating the Protest.

10.4 The party filing the protest must concurrently transmit a copy of the initial protest to the bidder deemed the lowest responsible bidder. Fax copies are acceptable.

10.5. The party filing the protest must have actually submitted a Bid on the Project or have been specifically excluded from filing a Bid due to an action by XXXX. A subcontractor of a party filing a Bid on this Project may not submit a Bid Protest. A party may not rely on the Bid Protest submitted by another Bidder, but must timely pursue its own protest.

10.6 The procedure and time limits set forth in this Section are mandatory and are the Bidder's sole and exclusive remedy in the event of a Bid Protest. The Bidder's failure to fully comply with these procedures shall constitute a waiver of any right to further pursue the Bid Protest, including filing of a claim pursuant to the California Government Code or other legal proceedings.

10.7 XXXX shall review the Bid Protest and shall issue its determination within a reasonable amount of time prior to bid award. XXXX General Manager has the authority to issue a final determination on all Bid Protests.

2149864.1

Disclaimer: This form is intended to provide general information on the subject and is provided with the understanding that the publisher is not rendering any legal or professional services. If you have any questions, please consult your attorney, or Ben Reyes and Eric Casher at (510) 808-2000.

Secret Agent:
Volunteers-Understanding
Potential Liability Exposures

Wednesday
September 18, 2013
Monterey, California



DRMCA ANNUAL CONFERENCE
AND EXHIBITS ON THE LIFE
OF THE DRMA



Secret Agent

Dennis Timoney, ARM
SDRMA Chief Risk Officer

Dennis manages the Property/Liability and Workers' Compensation Claims Departments. In addition, Dennis supervises the Safety/Loss Prevention services for SDRMA.

Currently there are 468 members participating in the SDRMA Property/Liability Program and 398 members participating in the Workers' Compensation Program.



Secret Agent

Respondeat Superior

A common-law doctrine that makes an employer liable for the actions of an employee when the actions take place within the scope of employment.

Respondeat Superior in Latin literally means "let the master answer." The common-law doctrine of *respondeat superior* was established in seventeenth-century England to define the legal liability of an employer for the actions of an employee. The doctrine was adopted in the United States and has been a fixture of agency law. It provides a better chance for an injured party to actually recover damages, because under respondeat superior the employer is liable for the injuries caused by an employee who is working within the scope of his employment relationship.



Secret Agent

- The legal relationship between an employer and an employee is called "agency". The employer is called the "principal" when engaging someone to act for him. The person who does the work for the employer is called the "agent". The theory behind *respondeat superior* is that the principal controls the agent's behavior and must then assume some responsibility for the agent's actions.
- An employee is an agent for his/her employer to the extent that the employee is authorized to act for the employer and is partially entrusted with the employer's business. The employer controls, or has a right to control, the time, place, and method of doing work. When the facts show that an employer-employee (principal-agent) relationship exists, the employer can be held responsible for the injuries caused by the employee in the course of employment.



Secret Agent

In general, employee conduct that bears some relationship to the work will usually be considered within the scope of employment. The question whether an employee was acting within the scope of employment at the time of the event depends on the particular facts of the case. A court may consider the employee's job description or assigned duties, the time, place, and purpose of the employee's act, the extent to which the employee's actions conformed to what he/she was hired to do, and whether such an occurrence could reasonably have been expected.



Secret Agent


The basic test for vicarious liability of an employer is whether the employee's tort was committed within the scope of employment (a "tort" is broadly defined as a civil wrong for which the law provides a remedy). Determining exactly what constitutes conduct "within the scope of employment" is a difficult task and the subject of numerous judicially developed rules and guidelines.



Secret Agent

In determining whether an employee has departed from the course and scope of their employment a number of factors should be considered and weighed. These include, but are not limited to:

- Intent of the employee;
- Nature, time and place of the employee's conduct;
- Type of work the employee was hired to do;
- Incidental acts the employer should reasonably expect the employee to do;
- Amount of freedom allowed to the employee in performing his or her duties; and
- Amount of time consumed in the personal activity.




Secret Agent

Volunteer Liability

California Labor Code § 3351

- "Employee" means every person in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes
- (b) All elected and appointed paid public officers.




Secret Agent

Volunteer Liability

California Labor Code § 3352.

"Employee" excludes the following:

- (j) Any person performing voluntary service for a public agency or a private, nonprofit organization who receives no remuneration for the services other than meals, transportation, lodging, or reimbursement for incidental expenses.



Secret Agent

Workers' Compensation Coverage

California Labor Code § 3363.5.

(a) Notwithstanding Sections 3351, 3352, and 3357, a person who performs voluntary service without pay for a public agency, as designated and authorized by the governing body of the agency or its designee, shall, upon adoption of a resolution by the governing body of the agency so declaring, be deemed to be an employee of the agency for purposes of this division while performing such service.

(b) For purposes of this section, "voluntary service without pay" shall include services performed by any person, who receives no remuneration other than meals, transportation, lodging, or reimbursement for incidental expenses.



Horizontal lines for notes

Secret Agent

Volunteer's Are Not Employees/Agents

* In Estrada v. City of Los Angeles, the Court found as a matter of law that a longtime reserve police officer was a volunteer and not an 'employee' for purposes of filing a discrimination claim against the City under FEHA.

* In Munoz v. City of Palmdale, the trial court entered summary judgment in favor of the defendant (Palmdale) after concluding as a matter of law that the unpaid volunteer who had placed the pot of coffee on the shelf was neither an employee nor servant for the City for respondeat superior purposes.



Horizontal lines for notes

Secret Agent

California Government Code

§ 810.2.

* "Employee" includes an officer, judicial officer as defined in Section 327 of the Elections Code, employee, or servant, whether or not compensated, but does not include an independent contractor.

§ 811.2.

* "Public entity" includes the state, the Regents of the University of California, the Trustees of the California State University and the California State University, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the State.



Horizontal lines for notes


Secret Agent

California Government Code

§ 815.
 Except as otherwise provided by statute:

- (a) A public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person.


§ 815.2.
 • (a) A public entity is liable for injury proximately caused by an act or omission of an employee of the public entity within the scope of his employment if the act or omission would, apart from this section, have given rise to a cause of action against that employee or his personal representative.



Secret Agent

Volunteer Policy


- Adopt volunteer work descriptions; explicitly exempt volunteers from personnel rules and other oversight documents. Provide a volunteer handbook and basic training on how to use equipment, how the District operations work and what a volunteers obligations are.
- The definition of an 'employee' under California workers' compensation law is exceptionally broad but volunteers are exempt from automatic coverage because they do not receive remuneration.



Secret Agent

Volunteer Coverage

- **Liability Coverage Agreement:**
 SDRMA will pay on behalf of any Covered Party the Ultimate Net Loss for which such Covered Party becomes legally obligated to pay as Damages and/or Defense Costs:
 Under Coverage A because of Personal Injury or Property Damage due to an Occurrence.




Secret Agent

What is a Covered Party?

- * Covered Party means a Member, a Covered Individual or any other entity or individual added by endorsement as a Covered Party.

Covered Individual(s) means:


- * Those individuals who were or now are elected or appointed officials of the Member, including members of its governing body or any other committees, trustees, boards or commissions of the Member, while acting in the course and scope of employment with or for or on behalf of the Member.
- * Any of the Members individual Volunteers while acting within the course and scope of their service or duties as Volunteers.



Secret Agent

Defense and Indemnity


SDRMA under the terms, conditions and exclusions of the Liability Coverage Agreement will defend any claim or suit brought against the Covered Individual for alleged negligent acts that occurred while the Covered Individual was performing the duties of a VOLUNTEER on behalf of the District.



Secret Agent

Volunteer Recommendations

- * Make sure all your Volunteers are registered with your Agency;
- * Have Volunteers sign a waiver as a condition of participation;
- * Advise all Volunteers that their service does not create an employment relationship and does not confer any type of employment benefits to the Volunteer;
- * Volunteers are not eligible for Workers' Compensation benefits, unless your Board has passed a Resolution under Labor Code § 3363.5.



RESOLUTION No.

RESOLUTION OF THE GOVERNING BOARD OF
THE DISTRICT NAME,
DECLARING THAT VOLUNTEERS, WORK-STUDY, AND INTERNS SHALL BE
DEEMED TO BE EMPLOYEES OF THE DISTRICT FOR THE PURPOSE OF
PROVIDING WORKERS' COMPENSATION COVERAGE FOR SAID
VOLUNTEERS, WORK-STUDY, AND INTERNS WHILE PROVIDING THEIR
SERVICES.

WHEREAS, the District Name utilizes the services of unpaid volunteers, work-study, and interns in positions within a number of its departments; and

WHEREAS, Section 3363.5 of the California Labor Code provides that a person who performs voluntary service without pay for a public agency as designated and authorized by the governing body of the agency or its designee, shall, upon adoption of a resolution by the governing body of the agency so declaring, be deemed to be an employee of the agency for the purpose of Division 4 of said Labor Code while performing such services; and

WHEREAS, Section 3363.5 of the Labor Code defines "voluntary service without pay" to include those services performed by any person who receives no remuneration other than meals, transportation, lodging, or reimbursement for incidental expenses; and

WHEREAS, the Board of Directors wish to extend Workers' Compensation coverage as provided by State law to those persons providing voluntary services without pay, work-study, and intern services to the District.

NOW, THEREFORE, BE IT RESOLVED, that persons who perform voluntary service without pay, work-study, and interns be deemed to be employees of the District Name for the purpose of Workers' Compensation coverage as provided in Division 4 of the Labor Code while performing such service. However, said volunteer, work-study, or intern will not be considered an employee of the District for any purpose other than for such Workers' Compensation coverage, nor grant nor enlarge upon any other right, duty, or responsibility of a volunteer, work-study, and intern, nor allow said volunteer, work-study or intern to claim any other benefits or rights given to paid employees of the District.

PASSED, APPROVED AND ADOPTED this DATE by the following vote:

AYES:
NOES:
ABSENT:

Name, Chairperson
District Name
APPROVED AS TO FORM:

The Great Board - *Best Practices for Board Development*

Presented by: Brent Ives
BHI Management Consulting
California Special Districts Association
September 18, 2013

Who am I?

• INTRODUCTION(s)

- Brent Ives, BHI Management Consulting
- Organizational consultant to Special Districts (15 years)
 - Strategic Planning - Supervisor training – Board Dynamics – Board/manager Interactions – Executive Recruiting – many many workshops, etc.
 - Every week a different Board, or three
 - 25 years engineering manager at LLNL
 - USF - Organizational Development
- 20 years on Tracy City Council (last 6 years as elected Mayor), various local and regional Boards/Commission...

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The Great Board

This session

- The intention with this seminar is to review with you my experience regarding the attributes of the Best Boards I've worked with
- Examine some pitfalls I've observed/experienced that often take center stage
 - At the end, there are some next-steps for you to consider
 - Please email me for a digital copy of this or if you have questions...

The Great Board

"An Overview of Service"

*When a man (or woman) assumes a public trust,
he should consider himself as public property.*

- Thomas Jefferson

82

The Great Board "An Overview of Service"

*When a man (or woman) assumes a public trust,
he should consider himself as public property.*

- Thomas Jefferson

*It starts with our motivations,
it ends with our legacy!!*

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5

The Great Board "What is this briefing really about?"

- *Focus on and delivery of the Mission*
- *Understanding our highest calling....Public service*
- *Effectiveness in our work as Board members*
- *The Efficient Delivery of Public service...*

EFFICIENCY!!

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6

The Great Board “To them, its about Service”

- *Service above self*
- *Service the the greater public*
- *Service of the Mission*
- *Mission is why they are there and why they do what they do...*

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7

The Great Board “To them, its about Service”, so they...

- *Focus on the Mission*
- *Know their Role*
- *Make Good Policy*
- *Set Clear Direction*
- *Manage their EXECUTIVE/CHIEF well*
- *Get and Stay on Track...*

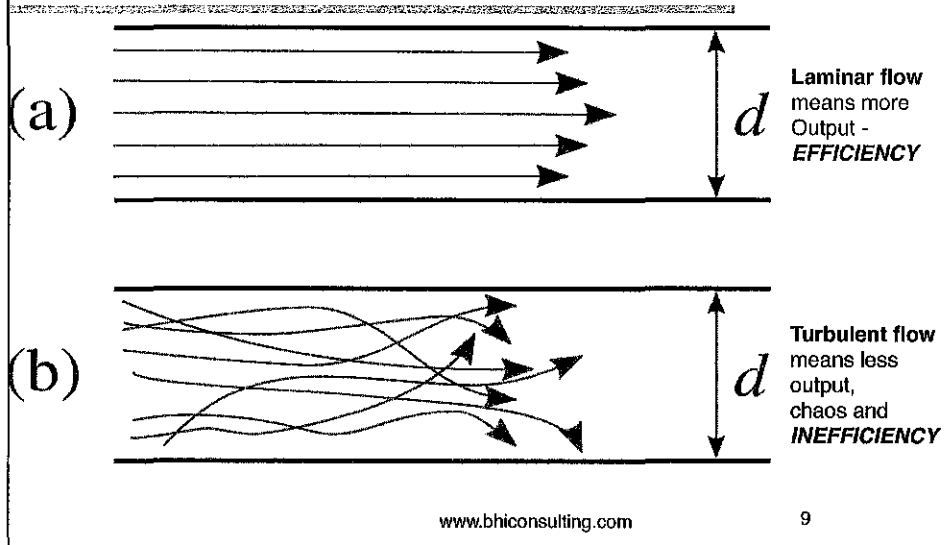
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8

The Great Board

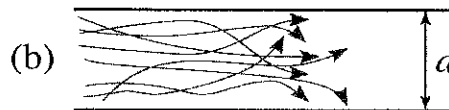
*They a void turbulent chaos at all cost—
it's INEFFICIENT!!!!*



The Great Board

“Causes of Internal Chaos in the Public Agency”

- Focus on some other cause than the Mission
- Focus on ONLY my agenda
- Reluctance to buy into the public process
- Role misunderstanding
- Distrust
- Lack of Board direction
- Lack of good policy...



The Great Board *Great Board's avoid—* **AGENCY INEFFICIENCY?**

- Destructive distrust grows
- Communications fail
- Productivity diminishes
- Agency energy is wasted
- Reactionary management
- Unwelcomed visibility
- Work group “issues”
- Compliance jeopardized
- A pervasive sense of defensiveness
- Morale suffers
- Inability to flex/change...

The Great Board *“An OVERVIEW of Service Best Practices”*

- *Focus on the Mission <<*
- *Know your Role*
- *Make Good Policy*
- *Set Direction*
- *Manage the EXECUTIVE/CHIEF well*
- *Stay on Track...*

The Great Board “Mission”

- They stay Mission focused!
 - Develop the Mission with purpose, it should be the prevailing driver for your agency
 - Take the Mission seriously
 - Make the Mission THE focus of your decision making
 - Integrate it to daily agency life
 - Link everything the District does and every decision that is made to the Mission
 - Focusing on the Mission with every action, every decision and every plan, forces good governance and right decision making...

The Great Board “The Overview of Service”

- *Focus on the Mission*
- *Know your Role <<*
- *Make Good Policy*
- *Set Direction*
- *Manage the EXECUTIVE/CHIEF well*
- *Stay on Track...*

The Great Board “Know Your Role”

- What Good Board’s do;
- What Good Board’s don’t do...

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15

Good Board Members... “Know their Role – What they Don’t Do”

- Represent “special or single interests”
 - You represent, you’re not a delegate
 - Public service is NOT about you!!
- Make service all about you
- Anything unilateral
- Make distrust their driver
- Micro-manage (What’s, not How’s)
- Disrespect your team – with dysfunctional conduct/
conflict...

You don’t know it all! ...
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16

Good Board Members... “*Know their Role – What They Do...Do*”

- *Realize your team-member Position*
- *Clearly realize and work within your constraints*
- *Respect the Process*
- *Set and plan direction for your agency*
- *Commit to a Mission Focus*
- *Account for Results*
- *Gain consensus on Efficiency*
- *Work with the Team that you've been given by the voters*
- *Keep your Passion and Ideas and Drive*
- *Respect your Board colleagues and professional staff*
- *Learn to manage accountability*
- *Be reasonable*
- *Constantly check their motivations...*

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The Great Board “*The Overview of Service*”

- *Focus on the Mission*
- *Know your Role*
- *Make Good Policy <<*
- *Set Direction*
- *Manage the EXECUTIVE/CHIEF well*
- *Stay on Track...*

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The Great Board “Make Good Policy”

- Make good Policy – *it is what we do!*
 - Planning and Policy are the legacy components of a good Board
 - Budget/finance- Personnel- Operational- Administrative – Board conduct, etc.
 - Good policies create the lasting documentation of excellent Board work
 - Good policy creates the framework boundaries within which this and future Boards and staff will work
 - Policies reflect the community's values through you...
You should always ask yourself, “*IS THERE A POLICY QUESTION, IMPLICATION, ISSUE HERE?*”

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19

The Great Board “The Overview of Service”

- *Focus on the Mission*
- *Know your Role*
- *Make Good Policy*
- *Set Direction <<*
- *Manage the Manager well*
- *Stay on Track...*

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20

The Great Board “Set Direction”

Agency Planning: turning direction into strategy

- Strong Public agencies Plan the future together
- Understanding our Mission together
- The leadership TEAM in action
- CLARITY!! – define the opposite for you...

Ask yourself:

Absent a plan, what do you EXPECT for the future?

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21

The Great Board “The Overview of Service”

- *Focus on the Mission*
- *Know your Role*
- *Make Good Policy*
- *Set Direction*
- *Manage the EXECUTIVE/CHIEF well <<*
- *Stay on Track...*

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 BHI
BIOHEALTH INSTITUTE

22

The Great Board “*Manage the Executive Well*”

- The **Situation** - the organizational realities of many Board's today is that they simply need some guidance in this area. Managing the performance of the Manager is a prime directive.
- Defined: **Performance Evaluation** - *a clear and deliberate evaluation of executive performance based on a previously developed, agreed upon, clearly delineated goals and objectives and commonly expected and referenced tasks, duties and competencies...*

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The Great Board “*Manage the Executive*”

- You need your executive to carry out your clear direction in **WHAT** needs to be done
- Too often the evaluation looks too closely at **HOW** it is being done or activities
- This blurs the roles – Policy and Professional
- Developing clear goals and objectives for your Executive that link with the overall direction is the art of this process
- At times, we do address the how but, most often, in areas of expected professional skills, ethics, confidence or judgment.
- Your Board should have a well developed system for doing this!!...

24

The Great Board “The Overview of Service”

- *Focus on the Mission*
- *Know your Role*
- *Make Good Policy*
- *Set Direction*
- *Manage the EXECUTIVE/CHIEF well*
- *Stay on Track <<...*

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25

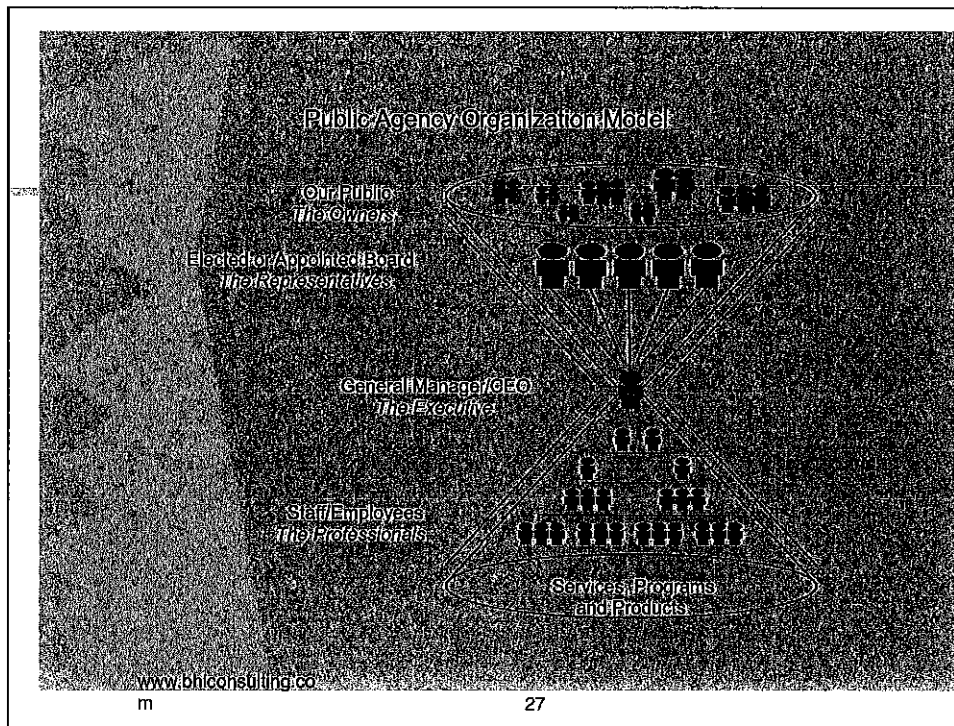
The Great Board Stay on Track – “Professional Level Board Conduct”

- *This governance structure is a source of limitless organizational variables.*
- *These “variables” or communication nodes encompass the entire organization.*
- *The Board, and its conduct, sets the tone and example for the entire organization.*
- *If you are inefficient in your role as a Board, it is difficult, if not impossible, for the agency to optimize its efficient delivery of service...*

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26



The Great Board Stay on Track - *"Disciplined Professional Board Conduct"*

- Assure your motivations align with the concept of Public Service and your Mission
- Check your personal decision making and positions against the Mission first
- Commit to the optimization of the Board team
- If there are issues here and now, they won't fix themselves
- Make something happen with this info
...don't sit on it

If you do what you've always done, you'll get what you've always got!

94

The Great Board "Stay on Track"

- ***Commit to efficiency –
the value proposition***
 - *Efficiency and the value of it depends on our
commitment to productivity*
 - *Everyone must invest here*
 - *Staff, management and Board members alike!*
 - ***Regarding Governance***
 - *Boards should commit to productivity*
 - *That means not wasting time...*

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The Great Board "Stay on Track – Red Flags"

- ***Time wasters***
 - *Intra-board haggling*
 - *Micromanaging*
 - *Too many committees*
 - *Straying from Mission*
 - *Policy poor*
 - *Lack of clarity for Executive*
 - *No Plan...*

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The Great Board "Stay on Track – Self-Monitor/Regulate"

- *Boards are best when they self-regulate*
- *Boards and individual members should remind themselves that they are committed to Mission and to productivity*
- *Don't expect staff "regulate" the Board processes and/or behavior*
- *Evolved Boards self-assess*

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The Great Board "Stay on Track – What to do??"

- *Seek Education and Training*
 - *Understand role, dynamics, how to best engage and process(BHI)*
- *Assess Your Board Performance*
 - *Find a good Board self-assessment and be willing to make some changes(BHI)*
- *Work together to Plan*
 - *Clearly your role*
 - *Creates clarity*
 - *Demands a higher level of engagement*
 - *Stems from and supports Mission*
 - *A clearly productive activity and ensure future productivity*
- *Create Board policy*
 - *New Board member orientation and annual Board training plan*
 - *A set of Board specific policies, code of conduct, etc.*
 - *Communications and process*

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The Great Board “Concluding Thoughts”




- Great Boards know their role and their place
- Great Boards insist on efficiency, and start with themselves
- Great Board can practice “*functional conflict*”
- Great Boards know what’s coming – they plan for it
- Great Board will work through their internal issues
- Great Boards continually improve
- Great Boards stay “*Mission Passionate*”


The Great Board “Recommendations”

- **Recommendation 1:**
STRATEGIC PLAN
- **Recommendation 2:**
BOARD POLICIES AND PROCEDURES MANUAL
- **Recommendation 3:**
EXECUTIVE EVALUATION PROCESS
- **Recommendation 4:**
ORGANIZATIONAL ASSESSMENT
- **Recommendation 5:**
CONTINUAL BOARD EDUCATION

	<h1>HEALTHCARE REFORM & EMPLOYER PAY OR PLAY: TIME TO ACT</h1>
<p>California Special Districts Association Monterey, California September 18, 2013</p>	
<p style="text-align: right;">Amber Ward, Associate award@hansonbridgett.com 415-995-5116 direct</p> <hr/> <p>  2013 OSDA ANNUAL CONFERENCE AND EXHIBITOR SHOWCASE Monterey, California  </p>	


*Under 50 employees
 not required to provide
 PLO. If PLO is
 provided, must be
 Agency/State/Local
 file.*

	
<h2>The Congress expected IRS to get \$13 Billion from Employer Penalties in FY 2013-2014—Implementation now delayed until FY 2014-2015</h2>	
<hr/> <p>  2013 OSDA ANNUAL CONFERENCE AND EXHIBITOR SHOWCASE Monterey, California  </p>	


 HansonBridgett


Employer Shared Responsibility under the ACA

- On July 2, 2013, the Treasury delayed until 2015:
 - Penalties for failure to offer coverage to full-time employees for 2014, and
 - Health care information reporting requirements for 2014
- Delay until 2015 intended to provide time for employers to comply with new, complex rules for 2014
 - Not all of the ACA requirements were delayed

 California Special Districts Association
Executive Director, Reporter


2013 OSDA ANNUAL CONFERENCE AND EXHIBITOR SHOWCASE
Monterey, California




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Talk To Your Lawyer

- This presentation is a general discussion based on current guidance from relevant federal agencies
- It is not legal advice
- Each entity's situation will differ and the facts for each entity will determine the particular application in your situation



 California Special Districts Association
Executive Director, Reporter


2013 OSDA ANNUAL CONFERENCE AND EXHIBITOR SHOWCASE
Monterey, California



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Treasury delayed implementation of Pay or Play until 2015— But what is NOT delayed?


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What is NOT Delayed?

ACA Requirement	Effective Date
Patient-Centered Outcomes Research Institute (PCORI) Fee	Due Date – July 31, 2013 \$1 per covered life (\$2 next year)
Exchange Notice Requirement Employers must provide notice to employees regarding availability of exchange and premium assistance tax credits	Due Date – October 1, 2013 New employees thereafter within 14 days of hire



2013 CSDA ANNUAL CONFERENCE AND EXHIBITOR SHOWCASE
Monterey, California


Handwritten notes:

The California
 2013 ACA...
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 Covered California
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Handwritten notes:


United States - account...
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What is NOT Delayed?


ACA Requirement	Effective Date
Summary of Benefits and Coverage	Due Date - 2013 Open Enrollment
Open Enrollment for Health Insurance Exchanges - begins for individuals and small employers	Starts - October 1, 2013
Health Insurance Exchange (HIE)	Starts - January 1, 2014 for individuals and small employers; July 1, 2014 for large employers

 California Special Districts Association
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 Monterey, California


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What is NOT Delayed?


ACA Requirement	Effective Date
Group health plan and insurer mandates (all plans) <ul style="list-style-type: none"> elimination of annual limits on essential health benefits (restricted limits previously applied) elimination of waiting periods in excess of 90 days elimination of pre-existing condition exclusions (previously prohibited under age 19) 	Starts - Plan years beginning on or after January 1, 2014 Note: Review any health reimbursement account plans!

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 Monterey, California


← BEFORE of HIE 10/01/13


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WHAT IS PAY OR PLAY?

 California State Auditor
Diane M. Swanson
Commissioner


2013 OSDA ANNUAL CONFERENCE
AND EXHIBITOR SHOWCASE
Monterey, California




 HansonBridgett

What is Pay or Play?

- The requirement for “large” employers to:
 - Offer qualifying health care coverage to their full-time employees and dependents (i.e., children under age 26), OR
 - Pay substantial penalties

 California State Auditor
Diane M. Swanson
Commissioner

2013 OSDA ANNUAL CONFERENCE
AND EXHIBITOR SHOWCASE
Monterey, California



Basic Questions You Need to Answer

- Are you "large" so are subject to pay or play?
- Who is a "full time" employee?
- How will you measure average hours worked for each employee?
- How will you deal with new hires in determining full time status?
- What coverage is offered to each full time employee?
- What is the value of that coverage?
- What is the cost of the coverage to each full time employee compared to his/her earnings?
- Are you subject to either of the two tax penalties?
- Are you better off from a financial standpoint paying the penalties?
- How will you report the required information to the IRS and others?

"large employer"
 defined as
 50 full-time
 employees



Are You Subject To Pay or Play?

- Every large employer – public, private, nonprofit
- Are You a "Large" Employer?
 - Considered a "large" employer if you employed an average of 50 full-time employees (or full-time equivalents) in prior year
 - Full-time if employed an average of 30 hours/week or 130/month
 - To determine if 50 or more, must count part-time to come up with number of full-time equivalents (FTEs)
 - FTEs = total of all part-time hours divided by 120
 - Employer is "common law employer"



Pay or Play Requirements

- Must offer coverage “minimum essential coverage” to at least 95% of your full-time (FT) employees (and kids under 26) or pay penalties
- Two possible penalties:
 - Penalty A (Pay) - \$2,000/year for every FT employee (minus 30) whether or not you offer coverage to any, if coverage is not offered to 95% of FTs and any FT employee receives a federal subsidy through an exchange
 - Penalty B (Play) – If offer “minimum essential coverage” to at least 95% but coverage is either not “affordable” or of “minimum value”, then employer owes penalty of \$3,000/year for every FT employee who receives a federal subsidy through an exchange
- In order for any penalty to apply, at least one employee must receive subsidy through an exchange



Either A or B Penalty May Apply

- Penalty A - Offer minimum coverage to 95% of FTs or pay
 - To employee and kids under 26
 - Minimum Essential Coverage (MEC) required
 - No limit on premium charged
 - “Pay” = \$2,000/year for every FT (minus 30)
- Penalty B - Offer “affordable”, “minimum value” or pay
 - Affordable premium = 9.5% of income
 - Minimum value = 60% of costs
 - “Pay” = \$3,000/year for every FT not offered this who gets a federal subsidy through an exchange



Examples


- The A penalty
 - 200 full time employees (determined per IRS rules)
 - You pay for coverage for 180 employees & kids (not 95%)
 - $\$2,000 \times (200-30) = \underline{\$340,000}$ penalty due to IRS
- The B penalty
 - 200 full time employees
 - Coverage is offered to 192 employees & kids
 - Coverage for 30 of the 192 is not “affordable”;
38 receive exchange subsidy
 - Penalty is $\$3,000 \times 38 = \underline{\$114,000}$ penalty due to IRS



Overriding Rule Re “Pay”


- If none of your employees gets a subsidy from an exchange, no penalties are due
 - If one employee gets a subsidy – proper or not – the IRS will contact you
 - Be prepared for the IRS, whatever your circumstances
 - There will be errors by the exchange and the IRS
 - Good records are your best (and maybe only) defense





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Who Can Get Federal Tax Subsidy?

- Subsidy available if you have income less than 4X the federal poverty level
- Single – income up to \$45,960 (2013)
- 2 person family – income up to \$62,040
- 4 person family – income up to \$94,200
- 6 person family – income up to \$126,360


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Enforced By IRS


- Report by each employer to IRS (probably annual)
 - Includes: substantial information including name, address, SSN of every full-time employee with coverage and months of coverage
- Annual information to each FT employee
- Information by Exchange to IRS
 - IRS will use as basis for penalties
 - Employer can challenge; will need records for this

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FIRST ACTIONS TO TAKE

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Your Likely Situation

- You provide health benefits now to “benefited” employees
- You do not want to both provide benefits AND pay the A penalty
- Maybe you are OK paying the B penalty
- What do you need to do?

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Take Stock of Your Current Program


- What employees have coverage?
- What employees do not have coverage?
- What coverage is offered?
- When do employees get coverage?
- When do they lose coverage?
- What do they pay for it?
- What children are offered coverage and at what cost?




Coverage and Tracking of —

- Part time
 - Temporary
 - Seasonal
 - Short service
 - High turnover
 - Former employees who return
- And what about Contractors? Staffing agency employees?





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PAY OR PLAY BOUNDARIES – FULL TIME

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Compare ACA Boundaries To Your Situation

- Pay or Play based on FT employees
- Full-time is based on hours of service, generally averaged over time
- How does your program fit with the boundaries?
- What changes are needed and can be made with the least disruption?
- No coverage required to be offered for 3 months from employment hire date, even for FT
 - No penalties during first 3 months of employment
 - Months are not calendar months but determined based on first date of service

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What is Full-Time?

- Average of 30 hours/week or 130 hours/month
- You choose the period over which averaged
 - One month
 - Longer (3 – 12 months)
- If you choose one month, employees can flip in and out of FT status and therefore in and out of coverage
- The longer the period to average the longer the subsequent coverage period
- How does measurement period fit with open enrollment?


Measurement & Stability Periods

- If you measure FT over 3-12 months, the period chosen is a “measurement period” or MP
- Each MP has a corresponding “stability period” or “SP” for offering coverage
 - *Even if the employee is not FT in the SP, coverage must be offered in that SP*
- MPs 6 months or less must have SPs of 6 months
- MPs longer than 6 months must have equal SPs


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Measurement and Administration

- If the period of coverage immediately followed the MP, there would be no time to
 - Notify the employee of coverage availability
 - Let the employee make health care elections
 - Implement payroll changes for premium deductions
- An “administrative period” or “AP” is available before coverage must be offered
 - Up to 90 days after the end of the MP
 - Can fit with open enrollment

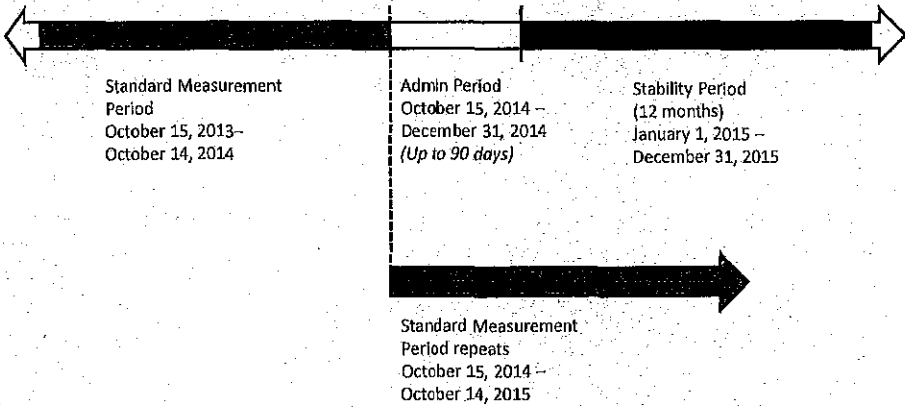

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Example – 12 Month MP




The diagram illustrates a timeline for a 12-month measurement period (MP). A long horizontal arrow represents the overall period, divided into three segments:

- Standard Measurement Period:** October 15, 2013 – October 14, 2014
- Admin Period:** October 15, 2014 – December 31, 2014 (Up to 90 days)
- Stability Period (12 months):** January 1, 2015 – December 31, 2015

Below the Admin Period, a shorter arrow indicates that the Standard Measurement Period repeats from October 15, 2014, to October 14, 2015.


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Counting Hours

- FT is an average of 30 hours/week or 130 hours/month over the MP
- Hours are counted as under ERISA
 - Each hour for which paid for service
 - Each hour for which entitled to payment, e.g., vacation, illness, paid leaves of absence, etc.
- Hourly: count hours
- Non-hourly – count hours, or 8 hours/day, or 40 hours/week

Re-Hires

- A re-hire may be treated as a new employee if
 - There are 26 consecutive weeks of no hours/service, or
 - A break in service is at least 4 weeks long and is longer than the immediately preceding period of service (e.g., 6 weeks of service, 7 weeks of break)
- If not “new”, then the individual’s MP and SP periods pre-break continue to apply as if there was no break


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DO YOU STILL WANT TO PLAY?

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What If You Do Not Play?

- No tax-free coverage for employees
- Still must keep records
- Still must report to IRS every year
- Could affect recruitment and retention
- Employees could expect more cash

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**COMPARE THE RULES TO YOUR
PROGRAM AND DECIDE ON CHANGES
(IF ANY)**

FOR "A" PENALTY

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Program vs. Boundaries


- Is it possible that more than 5% of your FT are not benefited?
 - If not, what could you change and how fast?

Do you ever hire:

- Regular part-time employees who work more than scheduled [how do you keep track]?
- For a short time project that goes longer than expected [who keeps track]?
- On call/fill-in employees who ever work 30+ hours/week?
- Contractors who are not really "independent"?

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Program vs. Boundaries


- Do you ever have a waiting period of more than 3 months from first day on payroll?
 - E.g., hire, leaves after a month, comes back after a month? What is the waiting period?
- Do you offer coverage to every child (w/in the ACA definition) younger than 26?
 - Natural children
 - Adopted children
 - Step children
 - Foster children



Possible Strategies for Change – A Penalty


- Offer to more employees
 - Does not have to be the same as to benefited, only has to be minimum essential coverage
 - Do not have to pay anything toward cost; can be totally employee paid
 - Can be targeted
 - Upside – avoid A penalty; downside – adverse selection
 - Be sure you cover kids




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**COMPARE THE RULES TO YOUR
PROGRAM AND DECIDE ON CHANGES
(IF ANY)**

FOR "B" PENALTY

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Affordable Coverage

- Self-only (employee only) is no more than 9.5% of income
 - No cap on cost for kids
- Safe harbor options – can base 9.5% on:
 - Box 1 of W-2
 - Wage rate, annualized
 - Federal poverty line (\$11,490 for 2013)

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Division Director, Registrar

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Minimum Value Coverage

- Covers 60% of costs
- HHS has provided an MV calculator, and other additional safe harbors for determining minimum value available
 - Design-based safe harbor checklists
 - Actuarial certification
- Carriers should certify minimum value
- More guidance expected

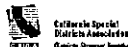


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B Penalty Strategy

- Depending on cost and HR goals, an appropriate strategy may be to
 - Avoid A penalty by expanding offering at full cost
 - Pay B penalty instead of subsidizing coverage
- For example
 - Currently you may pay non-benefited more cash and that may be best for employer and employee
 - While adjustments may be needed with the B penalty, still it may be less costly than providing subsidized coverage




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PARTICULAR ISSUES

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Independent Contractors or Employees?

- There is more at stake now re “contractors”
- The common law test is used to determine “employee” in pay or play
- A close scrutiny of independent contractor status could trigger the A or the B penalty
 - For B – in some situations; is it possible to get indemnification? And for A?
 - Use of a staffing agency may not help—anti-abuse rule under IRS regulations

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Records For The IRS

- The only way to counter an IRS claim is to have the needed records
 - Who is FT?
 - Who was offered coverage and when?
 - What was the coverage; the cost to the employee; why was it “affordable”?
- If “pay” was the decision, employer still needs to be able to show the number of FT every month
- Records are needed whether pay or play
- IRS audit—will be thorough and may be targeted at particular industries

CalWerte Special District Association
October 2013 CSDA ANNUAL CONFERENCE AND EXHIBITOR SHOWCASE
November, Cal Werts 

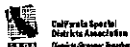
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POTENTIAL TIME LINE FOR 2015 COVERAGE UNDER ACA

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October 2013 CSDA ANNUAL CONFERENCE AND EXHIBITOR SHOWCASE
November, Cal Werts 

Key Tasks

- Take stock of your current program
- Compare to ACA boundaries/rules
- Determine risk, if any, for A or B penalties
- Decide basic strategy for program
 - E.g., Play/pay? Risk level? Risk reduction?
- Evaluate current records vs. records needed
- Implement record keeping changes
- Prepare for 2014 open enrollment



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Possible Benchmark Dates – 2014 for 2015 Coverage 12 Month Measurement Period/ 12 Month Stability Period

- Create team: Finance, HR, IT, Legal – Fall 2013
- Take stock and compare to boundaries – Fall 2013
- Determine basic strategy – Fall 2013
- Program recordkeeping – ASAP
- Measure FT – Oct 15, 2013 – Oct 14, 2014
- Determine FT eligible – Oct 15 – Oct 31, 2014
- Open Enrollment – Nov 1 – Nov 30, 2014
- First Stability Period – Jan 1 – Dec 31, 2015




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KEY MESSAGE

START WORK NOW

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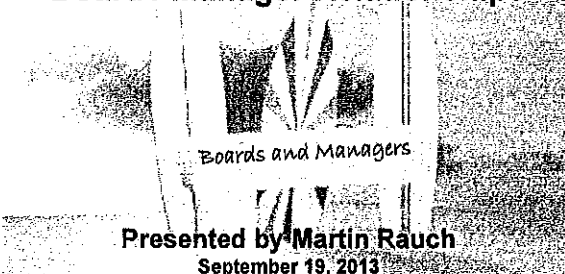


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Questions?

Email payorplay@hansonbridgett.com
Or **Amber Ward**, award@hansonbridgett.com

Building Effective Board / Manager Relationships



Boards and Managers

Presented by **Martin Rauch**
September 19, 2013

2013 CSDA ANNUAL CONFERENCE AND EXHIBITION SEPTEMBER 16-19, 2013

Building Better Board / Manager Relationships

WHERE THE PROBLEM BEGINS

2

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The Human Variable

Unfortunately Boards and Managers Are All People

3

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LET'S TAKE A LOOK AT THE PLAYERS



4

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Let's Take a Look at the Players

The Board

- ◆ Chosen at random from the community
- ◆ Widely different backgrounds
- ◆ Individual personalities, politics, financial interests -- no special bond

5

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Boards: You Get All Kinds

**Agreeable & Disagreeable
Small Minded & Big Thinkers
Hardworking & Not So Much
Some Plain Old Odd...
Any sometimes really difficult**

6

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LET'S TAKE A LOOK AT THE OTHER KEY PLAYER

I'm going to be the boss and this is my plan...

7

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The Manager

- ◆ Professionally trained
- ◆ Technical background
- ◆ Task oriented, get it done!
- ◆ One eye on staff, one on the Board
- ◆ Dedicated full time and invested

8

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Most Everything Is Under the Manager's Charge

DANGER


PERSONAL RESPONSIBILITY AREA

9

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Making this Vital Relationship Work

BOARD AND MANAGER



10

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Why the Relationship Counts

The BOARD has only one employee: the Manager

- ◆ The Board is the head, but has no hands
- ◆ The Manager actually gets things done

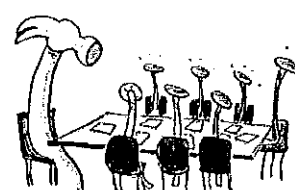
STAFF takes all direction from the Manager

The MANAGER is at the intersection of the Board and the staff

11

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Building Better Board / Manager Relationships



1. AN EFFECTIVE CHAIR

12

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124

1. BOARD SELF-GOVERNANCE
Role of the Chair

- Ensures directors fulfill governance responsibilities
 - comply with applicable laws and bylaws
 - conduct board business effectively
 - are accountable for their performance, etc.
- Guides board to meet expectations of itself
- Preside at board meetings. Develop agendas
- Appoint comte. chairs / members w/ Board approval
- Ensure performance review is carried out of GM

13

Board's Govern Themselves
Within Legal Limits

Chair or President first among equals to make this happen

- Govern through own written polices and procedures and is bound by them
 - Travel policy, compensation, how choose officers, disclosure, complaints, claims
- Appoint, change, or abolish committees of the board.

14

Building Better Board / Manager Relationships

2. COMPLETE AND EFFECTIVE BOARD POLICIES AND PROCEDURES

15

2. BOARD SELF-GOVERNANCE
Board Policies and Procedures

Board sets policies and rules and regulations

- Rules of order
- How to vote
- How to select officers
- Compensation, etc.

These should be written, reviewed by legal counsel approved and gathered in a single place for convenient reference

HANDOUT #1 & #2

16

Building Better Board / Manager Relationships

3. DEAL WITH BOARD PROBLEMS

17

BOARD MUST SELF-GOVERN

Examples:


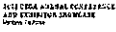




- Problem director
- Dysfunctions among members lack of effectiveness
- Board blaming manager inappropriately. Is the Board as effective and clear as it can be?


18

125

**Building Better
Board / Manager Relationships**


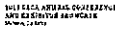




**4. ORIENT
THE NEW DIRECTOR**


 19








I move that we debate whether to vote to decide whether to discuss bringing this meeting to an end


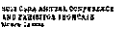




**Imagine Board Meetings For the First Timer
A BEWILDERING WORLD**

 20









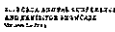




Napoleon Bonaparte

**Imagine Board Meetings For the First Timer
OR A WORLD TO CONQUER**

 21







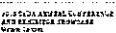




The Challenge for the New Director

<p>Typical Board Member</p> <ul style="list-style-type: none"> A doer A leader A business person A decider A person of action 	<p>Typical Board Meeting</p> <ul style="list-style-type: none"> Burdened with requirements Limits on what can be said and when Limits on authority Requirements of order Job is to make POLICY WHAT IS THAT!
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 22






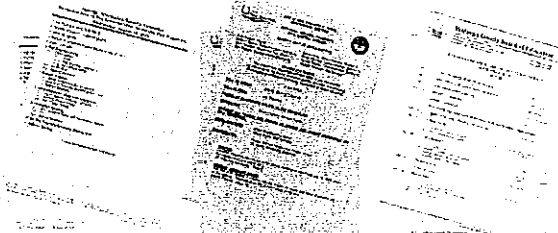
More Challenges for the New Director


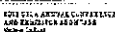




<p>With Technical Skills</p> <p>Ready to use technical knowledge in</p> <ul style="list-style-type: none"> • operations, • finance, • outreach, • engineering, etc. <p>But asked to make POLICY</p>	<p>No Related Skills</p> <p>May feel lack of understanding of</p> <ul style="list-style-type: none"> • Technical activities • Operations • Finance • Personnel, etc.
---	---

 23






So Many Unaccustomed Situations

<p>Long agenda</p> <p>Legal requirements</p>	<p>Packet full of details</p> <p>Rules of Order</p>
--	---



 24






126

HOW TO HELP THE NEW DIRECTOR



*The More I Think
The More Confused I Get*

25

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4. HOW TO HELP: Board Orientation

Primarily a Board Responsibility
With Staff Support

- ⊙ Both have an interest in welcoming and orienting new directors

Guidance on governance role and responsibilities of the Board

- ⊙ Introduction to Board and senior manager(s)
- ⊙ Roles and responsibilities of Board and senior managers

26

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4. HOW TO HELP: Board Orientation

Tour

- ⊙ Facilities, office etc.

Review (Discussion and written resources)

- ⊙ Key Issues and Items

Workshop to review key issues

Review and update strategic plan

Attend Board meetings before taking seat

27

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4. HOW TO HELP: Board Orientation App... or Binder

- ⊙ Know the people — Directors & terms, Staff, Org. chart, Bios.
- ⊙ Know the responsibilities — Description of board member responsibilities; job descriptions of the officers; all committee charters and a list of members
- ⊙ Know legal— board-related policies, liability insurance, brown act summary, AB1234 Ethics Training, etc.
- ⊙ Know the Financial — Budget, Financial Oversight, etc.
- ⊙ Know the organization —history of key historical events; mission statement; strategic plan, minutes, budgets, etc.

28

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5. ENSURE ONGOING TRAINING OF ALL DIRECTORS


29

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5. HOW TO HELP: Ongoing Board Training

CSDA trainings and others

- ⊙ AB1234 Ethics
- ⊙ Brown Act
- ⊙ Strategic planning
- ⊙ Community leadership
- ⊙ Finance
- ⊙ Board's role in human resources
- ⊙ Roles and responsibilities



30

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107

5. HOW TO HELP: Ongoing Board Training

Training and emphasis on reality of Board as a single corporate body

- ⊙ There is no I. We are each responsible to help the entire Board function as a group
- ⊙ Like being in an arranged marriage. Each director is responsible for:
 - ❑ Being respectful, sensitive to and understanding of others
 - ❑ Finding ways to bridge gaps and differences and get to consensus

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 Building Better Boards
 Board Management System
 31

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 2011

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6. CLARIFY BOARD ROLES

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 32

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 2011

Role Confusion = Governance Problems

The Carver Approach – POLICY GOVERNANCE

- Strong separation of Board and manager functions

The “Working Board” approach

- Board involved in management functions

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 33

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The Muddy Waters “Working Board”

Board engages in management:

- ◆ Public agency belongs to the public
- ◆ Board represents the public, protects public interests
- ◆ Inserts itself in operations, personnel, engineering, etc., to make sure things are done right
- ◆ Board brings its personal expertise (AND INDIVIDUAL OPINIONS) to running the agency

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 34

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 AND EXECUTIVE BOARD
 2011 R. Rauch – Page 34 of 28

Explaining POLICY GOVERNANCE

Basic concept: the Board’s role:

- ◆ Set direction, goals, provide resources
- ◆ Establish “ends,” the results desired
- ◆ Establish “limits” on what management can do
- ◆ Not involve itself in how things are done
- ◆ Sole interest: what gets done

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More About Board’s Role

- ⊙ Create a vision and strategy
- ⊙ Secure resources
 - ❖ Approve rates, charges, fees, taxes, etc.
- ⊙ Be accountable to stakeholders –
 - ❖ Appoint outside auditors and legal counsel
 - ❖ Keep public informed
 - ❖ Make decisions based on wishes and needs of constituents
 - ❖ Ensure District in compliance with law
- ⊙ Approve major actions

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 36

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 2011

28

Board	Manager	Board
Sets Policies	Implements Goals & Objectives	Checks on conformity
Adopts Plans	Lives Within Board Guidelines	Monitors Activities,
Direction: Sets Goals, Objectives	Runs all District Operations	Monitors Results Redirects if needed
Provides Resources	Uses Resources Prudently	Evaluates manager's performance
Reviews key actions	Brings appropriate decisions to Board	Votes

37

Reality: Mixing of Approaches Zone of Accommodation

- ◆ Board sets policy...but also gets involved in operations
- ◆ Manager managers...but tries to steer the Board to fit his/her interests

Causes a gray-area of overlap:

- ◆ Produces friction, misunderstandings, confusion over roles

Staying Close to Carver Approach Improves Governance

38

Building Better Board / Manager Relationships

7. CLARIFY MANAGER ROLE

39

7. Clarify Manager's role

The Board's Responsibility

- ⊙ Define clear roles and responsibilities,
- ⊙ Develop policies for Managers to implement
- ⊙ Respect that only formal action at regular and special meetings are binding on the Manager
- ⊙ Individual Directors have no authority over the GM
- ⊙ Board may request special reports
- ⊙ Establish performance benchmarks and monitor against them

40

7. Example of an Executive Limit

Financial Condition and Activities

Regarding the financial condition and activities, the Manager shall not cause or allow the development of financial jeopardy or material deviation of actual expenditures from board priorities established in policies.

Further, the Manager shall not

1. Expend more funds than have been received in the fiscal year to date unless the debt guideline (below) is met
2. Incur debt in an amount greater than can be repaid by certain otherwise unencumbered revenues within sixty days
3. Use any long-term reserves
4. Conduct Interfund shifting in amounts greater than can be restored to a condition of discrete fund balances within 60 days.

HANDOUT #3

41

Building Better Board / Manager Relationships

8. CLARIFY MANAGER / CHAIR RELATIONSHIP TO EACH OTHER

42

**8. Chair and GM
Colleagues in Adjacent Jobs**

Chair:

- ⊙ First among equals to help Board get governance job done

Chair and GM are colleagues in adjacent jobs. May voluntarily advise each other or not.

- ⊙ GM does not report to the Chair but to the entire Board as a body
- ⊙ Similarly Chair does not report to the GM but to the Board as a Body


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43

**Building Better
Board / Manager Relationships**

**9. REMEMBER, INDIVIDUAL
DIRECTORS HAVE NO
AUTHORITY OVER MANAGER.
THE BOARD IS A COLLECTIVE
BODY**

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44

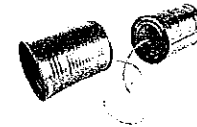
**POLICIES / PROCEDURES AND
FORMAL VOTE ARE THE ONLY
INSTRUCTIONS THAT COUNT**



Motion, Second and Vote

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45

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Board / Manager Relationships**



**10. CLOSE THE
COMMUNICATION GAP**

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46

**10. BOARD/MANAGER RELATIONS
Communications Gap #1**

- Few real communication occasions exist
 - ◆ Limited opportunity for Board members to learn about the agency
 - ◆ Board members have limited opportunity to learn about each other
- Problem:
 - ◆ How to achieve a meeting of minds on direction, operations, and personal concerns?

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47

**10. BOARD/MANAGER RELATIONS
Communications Gap #2**

Normally meet in formal settings like Board Meetings:

- ◆ Very structured
- ◆ Full agenda
- ◆ Technical issues
- ◆ Limited duration
- ◆ Carried out in Public

Not the best setting for communication

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48

10. BOARD/MANAGER RELATIONS
Better Communication is Key

- Directors should feel free to call the Manager
 - ◆ Clear up issues before meetings
- Directors have regular lunches with the Manager

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11. IMPROVE MEETING AND GOVERNANCE STRUCTURES

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11. Better Board Meetings

It is a Board meeting so it is important for the President to have a role in setting the agenda
 With collaboration of manager:

- ◆ Prepares packets
- ◆ Assures adequate amount of information
- ◆ Keeps appropriate record of meeting

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11. Best Approach to Board Committees

What is working or not working at your District

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12. EVALUATE GENERAL MANAGER

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NOW WHAT: 4. Meaningful Evaluation of Manager #1

- Many Boards uncomfortable with the Manager's performance evaluation
- Try to unload it on the President or a committee
- Prefer a mechanical, numerical method that avoids direct, personal communication
- Poor process can disturb respectful mutual relationship with Manager

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Handwritten notes:
I would like to see...
strategic...
responsibility...
numerical scores are rarely used...
GIVE OWNERS MORE...
of his/her accounts...
a year.

NOW WHAT: 4.
Meaningful Evaluation of Manager #2

- Entire Board present
- Hold annually
- Closed session in an informal style
- Agree on purpose, content and timing in advance.
- Board and Manager can fill out a form or not
 - Use as a prompt not a numerical score
- Board should consider its own performance which impacts manager.

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NOW WHAT: 4.
Meaningful Evaluation of Manager #3

1. Reflection on past performance
 - ◆ Ask the Manager for a written report: Highlights of the past year
2. Goals and Direction for coming year
 - ◆ Manager's work plan for the coming year
3. Straight talk on how board views Manager's performance: good, bad, in between

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Building Better Board / Manager Relationships

13. BUILDING INTERPERSONAL TRUST AND RELATIONSHIPS

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This is a team sport

- Relationships are built on TRUST
- TRUST is built on RESPECT
- TRUST and RESPECT Depend on openness, communication and confidentiality
- SURPRISES diminish TRUST
- PARTNERSHIP problems are solved together.

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PEOPLE: Relationships are Important to Effective Governance

- Board must do its job of providing direction
- Manager must do his/her job implementing the direction
- The "glue" that binds them is MUTUAL TRUST

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How Well is Your Board/Manager Relationship Working?

How Can It Be Improved?

Questions?

Experiences to Share?

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HANDOUT #1
Sample Table of Contents
Board of Directors Policies and Procedures

Board of Directors

B-10	Minutes of Board Meetings	5
B-20	Board Member Interaction with Staff	6
B-30	Board Meeting Agenda	7
B-40	Board Committees	8
B-50	Conferences/Seminars/Travel	9
B-60	Board Member Compensation	10
B-70	Electronic/Fax Communication	11
B-80	Authority Over Personnel	12
B-90	Appointment in Event of Vacancy	13
B-100	Board Member Benefits	14
B-110	Election of Officers	15
B-120	Duties of Board and Board Members	16
B-130	Conflict of Interest	17
B-140	Board Meetings	18
B-150	Memberships	21
B-160	Legal Counsel	22

HANDOUT #1
Sample Table of Contents
District Policies and Procedures

Finance

F-10	Budget	23
F-20	Reserves	24
F-30	Investments	25
F-40	Purchasing, Including Retaining Consultants	30
F-50	Credit Cards	31
F-60	Records Retention	32
F-70	Customer Payment	38
F-80	Disposal of Surplus Equipment and Property	39
F-90	Accounting and Auditing	40

Operations

O-10	Fixed Asset Accounting Controls	41
O-20	Environmental Practices	42
O-30	Annexations	43
O-40	Development Agreements	44
O-50	Use of District Vehicles	45
O-60	Emergencies	46
O-70	Customer Support	47

Miscellaneous

M-10	Public Involvement and Outreach	48
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HANDOUT #2

SAMPLE POLICY:

Board Member Interaction With Staff

B-20

PURPOSE: This policy establishes procedures for Board Member communication with Staff.

B-20-10 Communication Path. The path of communication shall be Board to District Manager, District Manager to staff.

B-20-20 Non-Interference With Staff. Individual Board Members shall not interfere with or direct District staff nor use District facilities in such a way that the action is unreasonable or interferes with the operation of the District.

B-20-30 Simple Information Requests. Individual Board members may make simple information requests of staff, through the District Manager. A simple information request is one that would take less than one hour for staff to complete.

Date Approved:

Name, President of the Board	Supersedes:
-------------------------------------	-------------

HANDOUT #2
Over Personnel
B-80

PURPOSE: This policy delegates to the District Manager general authority over personnel matters and authority to administer the District.

B-80-10 Personnel Matters. The Board delegates to the District Manager general authority over personnel matters involving District staff, including, evaluating, disciplining, and discharging employees, without conflicting with union agreements.

B-80-20 Appointments. With the exception of emergency appointments, appointments require the approval of the District Board.

B-80-30 Discipline. The District Manager may suspend, demote, reduce in pay, or discharge any regular employee for just cause, and will inform the Board after taking such actions.

B-80-60 Non-Interference. Individual Board members shall not interfere with the District Manager in District personnel matters.

B-80-70 Administration. The Board delegates to the District Manager, as Executive Officer of the District and for the Board, the authority to administer the District with exclusive management and control of the operations and works of the District, subject to approval of the Board, and to provide day-to-day leadership of the District. The District Manager also has general charge, responsibility, and control over all property of the District.

B-80-80 Other Duties. The District Manager shall have authority to carry out other duties specified in the District's official job description for the position.

Date Approved:

Name	Supersedes: Resolution No. xx-xxxx
President of the Board	

HANDOUT #3

Sample Responsibilities and Authority of General Manager

EMERGENCIES

1. When an emergency occurs, the General Manager has unlimited discretion and authority to take appropriate actions and expend funds to address emergencies.
2. The Manager determines that an emergency exists.
3. An emergency is defined as an event which adversely affects the ability of the district to carry out its functions, or puts district personnel or property in jeopardy, or which jeopardizes the health or safety of the community and its residents.
4. The General Manager should keep the Board informed about the emergency at the earliest practical time. The General Manager should serve as spokesperson to the press concerning the emergency, and should keep employees, or customers informed in a timely and appropriate manner.

PROPERTY

1. The General Manager is responsible for maintaining an inventory of all district real property and physical property.
2. The General Manager is responsible for safeguarding and conserving all district property in an appropriate manner. He should develop and maintain a district maintenance/repair/replacement policy regarding district-owned property, and implement it appropriately.
3. The General Manager is responsible for meeting the requirements of the law with respect to district property (licensing, inspections, and so forth).
4. The General Manager is empowered to receive property on behalf of the district. The Board of Directors is empowered to sell or otherwise dispose of district property.
5. The General Manager is responsible for informing the Board about significant occurrences, such as accidents or damage, with the respect to district property, in a timely manner.
6. The General Manager decides when district facilities or equipment have become outworn, outdated, or obsolete, and require replacement.

HANDOUT #3

Sample Policy Type: Executive Limitations

2.1. Treatment of Staff

With respect to the treatment of paid and volunteer staff, the General Manager shall not cause or allow conditions that are unfair, undignified, disorganized, or unclear. Further, the Manager shall not

5. Operate without written personnel rules that (a) clarify rules for staff, (b) provide for effective handling of grievances, and (c) protect against wrongful conditions, such as nepotism and grossly preferential treatment for personal reasons
6. Discriminate against any staff member for nondisruptive expression of dissent
7. Fail to acquaint staff with the Manager's interpretation of their protections under this policy
8. Allow staff to be unprepared to deal with emergency situations

2.2. Financial Condition and Activities

With respect to the actual, ongoing financial condition and activities, the Manager shall not cause or allow the development of financial jeopardy or material deviation of actual expenditures from board priorities established in Ends policies. Further, the Manager shall not

1. Expend more funds than have been received in the fiscal year to date unless the debt guideline (below) is met
2. Incur debt in an amount greater than can be repaid by certain otherwise unencumbered revenues within sixty days
3. Use any long-term reserves
4. Conduct interfund shifting in amounts greater than can be restored to a condition of discrete fund balances by certain otherwise unencumbered revenues within thirty days
5. Fail to settle payroll and debts in a timely manner
6. Allow tax payments or other government-ordered payments or filings to be overdue or inaccurately filed
7. Make a single unbudgeted purchase or commitment of greater than \$25,000 Splitting orders to avoid this limit is not acceptable.
8. Acquire, encumber, or dispose of real property
9. Fail to aggressively pursue receivables after a reasonable grace period

2.3. Financial Planning and Budgeting

The Manager shall not cause or allow financial planning for any fiscal year or the remaining part of any fiscal year to deviate materially from the board's priorities, risk financial jeopardy, or fail to be derived from a multiyear plan. Further, the Manager shall not

1. Risk incurring those situations or conditions described as unacceptable in the board policy "Financial Condition and Activities"
2. Omit credible projection of revenues and expenses, separation of capital and operational items, cash flow, and disclosure of planning assumptions
3. Provide less for board prerogatives during the year than is set forth in the Governance Investment Policy

2.4. Emergency General Manager Succession

To protect the board from sudden loss of General Manager services, the General Manager shall not permit there to be fewer than two other executives sufficiently familiar with board and Manager issues and processes to enable either one or both in combination to take over with reasonable proficiency as an interim successor.

APPENDIX A - EXPENSE PREPAYMENT/REIMBURSEMENT FORM

Name: GREG HARMAN
 Event/Activity: 2013 CSDA ANNUAL CONFERENCE
 Location of Event/Activity: MONTEREY
 Approved by Board of Directors on: JULY 11, 2013

		Prepay	Reimburse
1.	Event/Activity Registration Fee	\$ <u>525</u>	\$ _____
2.	Transportation		
	• Airfare	\$ _____	\$ _____
	• Car Rental (\$ _____ per day for _____ days)	\$ _____	\$ _____
	• Car Mileage (\$ _____ per mile for _____ miles)	\$ _____	\$ _____
	• Taxi	\$ _____	\$ _____
	• Parking <u>183.66</u>	\$ _____	\$ _____
3.	Lodging (\$180 per night for <u>2</u> nights)	\$ <u>367.32</u> <u>367</u>	\$ _____
4.	Meals (Complete information requested on next page of form)		
	a. Breakfast <u>2</u>	\$ _____	\$ <u>21.00</u>
	b. Lunch <u>3</u>	\$ _____	\$ <u>21.51</u>
	c. Dinner <u>2</u>	\$ _____	\$ <u>16.00</u>
5.	Other (Explain details of request)	\$ <u>48.00</u>	\$ <u>25</u> <u>40.51</u>
	<u>Parking 27, Taxi 21</u>		
	<u>\$24 = \$48.00</u> Total Requested	\$ <u>889</u> <u>940.32</u>	\$ <u>225</u> <u>40.51</u> = <u>\$114.00</u>

Please attach all receipts documenting each expense above. This Expense Prepayment/Reimbursement Form must be submitted within 30 days after the event. All expenses reported on this form must comply with the District's Expense Policy for Board members, the General Manager/Chief of Police, and all non-sworn District employees.

Signed: [Signature]
 Date: 071113

Approved by: [Signature]
 Signed: [Signature]
 Print Name: R. W. Lloyd
 Date: 071113

Memorandum

Kensington Police Department



To: KPPCSD Board of Directors

APPROVED YES NO

From: Gregory E. Harman, General Manager/ Chief of Police

FORWARDED TO:

Date: Tuesday, July 02, 2013

Subject: New Business #4 CSDA Annual Conference

The California Special District Association is holding its annual Conference & Exhibitor Showcase in Monterey, between September 16th and September 19th.

Per the KPPCSD Board Policy 4030.20 and 4030.31, I am requesting permission to attend the CSDA Conference. I had attended the CSDA Annual Conferences regularly between 2007 and 2010; however, I did not attend in 2011 or 2012.

Along with this years conference key note speakers, I would attend the following breakout sessions:

- * Mandate Reimbursements: What's Still Available and When Do You Get Paid?
- * Cellular Antennas on Special District Property: The Opportunity & the Risk
- * The New Normal: Impacts of Recent Court Decisions on Assessments
- * Getting to Yes: Gaining Voter & Community Approval to Fund Critical Projects
- * Can't We All Just get Along? LAFCO's Power to Initiate Changes of Organization Affecting Special Districts
- * Board & Staff Roles in Local Government

Per Policy 4030.31, Appendix A has been prepared and attached to this memo.

The cost of my attendance at the CSDA Conference is estimated to be \$1,111.00.

In the 2013/14 Fiscal Year Operating Budget, \$2,000 was approved to attend the conference.

The \$1,111.00 would also be the estimated cost of a director(s) attendance at the conference.

N Nichols

Mandate Reimbursements:

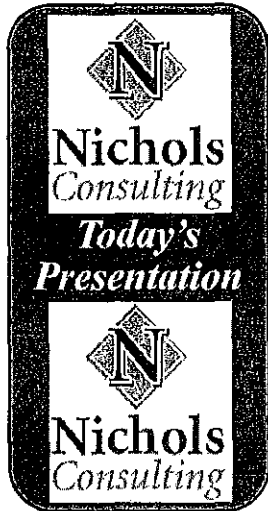
What's Still Available and When Will You Get Paid?

2013 CSDA Annual Conference

Tuesday, September 17, 2013 – 11:00 AM

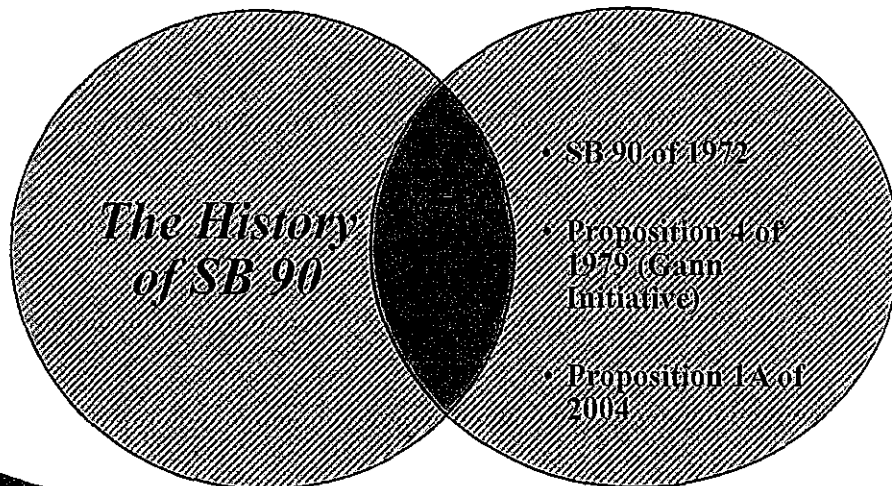
Monterey Marriott - Ferrante 2

State Mandated Costs (SB 90)



- The Origin of SB 90 - A Brief History Lesson
- The State's Budget Appropriation and Obligation
- Mandates Likely to Impact Your Special District
- Open Meetings Act / Brown Act Claim
- Local Government Employee Relations (PERB)
- New Claim - California Public Records Act
- Reasons Special Districts Do Not File

State Mandated Costs (SB 90)



Senate Bill 90 of 1972 (SB 90)

- ▶ The Property Tax Relief Act of 1972 (Senate Bill 90, Chapter 1406, Statutes of 1972), known as SB 90.
 - Limited the ability of local agencies and school districts to levy taxes.
 - To offset these limitations, the Legislature declared its intent to reimburse local agencies and school districts for the costs of new programs or increased levels of service mandated by state government

Proposition 4 (1979)

- ▶ In 1979, voters approved Proposition 4 (a.k.a. The Gann Initiative)
 - Proposition 4 added Article XIII B to the California Constitution and superseded the SB 90 legislation.
 - Article XIII B imposed appropriation limits on the tax proceeds of both state and local governments.
 - Section 6 of Article XIII B requires that whenever the Legislature or any state agency mandates a new program or higher level of service on local government. The State must provide a subvention of funds to reimburse the associated costs, with certain exceptions.

Proposition 1 A (2004)

- ▶ Proposition 1 A requires the Legislature:
 - To either suspend a mandate, or
 - Appropriate the necessary funds in the budget to reimburse local governments for all costs of complying with the mandate, including those in prior years.
 - To reimburse local governments when the state mandates that local government assume a greater percentage of the financial responsibility for a program or service previously shared with the state.

What is a Reimbursable State Mandate???

- ▶ Was the law “on the books” prior to January 1975?
- ▶ Required by the Federal Government (not the State of CA).
- ▶ Is the law a voter-approved initiative?
- ▶ Is the new law a result of a court decision?
- ▶ Does the law also apply to the Private Sector?
- ▶ Is Local Government able to charge a fee to offset costs in the normal course of business?
- ▶ By implementing the “new” law is there a cost-savings for local government?

All answers must be “NO” to be a Reimbursable State Mandate!

State Mandated Costs (SB 90)

The California State
Budget Mandate
Appropriations:
Fiscal Year
2013-2014



\$2.4 Million appropriation to
fully fund specified mandated costs
claims

No appropriation for unfunded
claims

Proposition 1A prohibited SB 90
appropriations

Are All Special Districts Eligible to File SB 90 Claims?

- ▶ The Commission on State Mandates (COSM) recently ruled that Special Districts must be subject to the taxing restrictions of articles XIII A and XIII C, and the spending limits of article XIII B, of the California Constitution whose costs for this program are paid from proceeds of taxes.
- ▶ The COSM relied on a court decision from 1991 (County of Fresno v. State of CA) for this determination.

Are All Special Districts Eligible to File SB 90 Claims? (continued)

- ▶ From 1992 through 2009, the COSM approved 36 different Test Claims and Parameters & Guidelines for Special District programs.
- ▶ In none of those 36 instances was the restrictive language related to article XIII A, B or C added to the Parameters and Guidelines.
- ▶ COSM used a State Controller's Office (SCO) Annual Report to identify more than 2,600 Special Districts (out of approximately 3,300) as being ineligible.
- ▶ SCO contacted CSDA to see if they have a report that identifies Special Districts as article XIII A, B, and C eligible.

State Mandated Costs (SB 90)

Special District Mandates

(The Most Significant Programs)

- **Open Meetings Act/ Brown Act Reform**
- **Local Government Employee Relations (PERB)**
- **California Public Records Act (CPRA)**

The Open Meetings Act/Brown Act

- ▶ The core provisions of the Open Meetings Act are not subject to reimbursement by the State of California, since their adoption occurred in 1953 as part of the Brown Act, and prior to mandate law (pre-1975).
- ▶ These core provisions require that all meetings of a legislative body of a local agency be open and public and all persons be permitted to attend any meeting of the legislative body. Because this act preceded mandate law, its provisions are not state-reimbursable mandates.
- ▶ In 1986, the Brown Act was modified to require local agencies to prepare and post agendas for public meetings.

The Open Meetings Act/Brown Act (continued)

- ▶ With the expansion of the Brown Act in 1986, all local government agencies were required to prepare a brief agenda 72 hours in advance of a regularly scheduled Board Meeting.
- ▶ In 1993, the legislature added provisions regarding closed sessions.
- ▶ The Commission on State Mandates (COSM), despite the Governor's Department of Finance (DOF) objection, found it to be a reimbursable program under Article XIII B, section 6 (State Mandated Cost).
- ▶ Claims for this new program (then known only as Open Meetings Act) were first due in May 1992 and were annually eligible each year, thereafter until July 2012 (*FY 12-13 Budget Suspension/Proposition 30*).

State Mandated Costs (SB 90)

Open Meetings Act / Brown Act Reform (Brown Act Reimbursement)

Summary: Requires that all meetings of the legislative body of a local agency must have an agenda containing a brief general description of each item of business to be transacted or discussed at a public meeting. Descriptions must adequately describe each item of business. A study agenda must be posted in locations freely accessible to the public at least 72 hours before the meeting.

State Mandated Costs (SB 90)

Brown Act Reimbursement

CLAIMING OPTIONS

- **Actual Time** > 20 minutes per an eligible Agenda Item.
- **Standard Time** Reimbursement typically ranges: \$250 to \$500.
- **Flat Rate** Minimum of \$164.98 for FY 2011-2012.

Brown Act Reimbursement Claims by Special District

Type of Special District	Number of Districts Filing FY 2008-2009 Brown Act Claims	Avg. Amount Claimed by District for One FY 2008-2009
Cemetery	87	\$2,005
Community Services	76	\$4,078
Fire Protection	68	\$2,382
Parks/Recreation	28	\$7,028
Water/Irrigation	110	\$8,435
Healthcare	11	\$4,623
Other	146	\$5,758
Total for Special Districts	526	\$5,020

State Mandated Costs (SB 90)

Brown Act Reimbursement

- Special Districts are eligible to file the Brown Act claim for Fiscal Year 2011-12 (Late Claim)
- FY 2012-2013 Budget Act Suspended and Ineligible due to "Ballot Initiative Exclusion" (Proposition 30)

State Mandated Costs (SB 90)

Brown Act Reimbursement

• Over 500 Special Districts have filed claims with the State Controller's Office, but only 110 Districts filed FY 2011-2012 claims.

• Reimbursement varies based on the number of Board/Committee meetings held annually and length of agendas.

State Mandated Costs (SB 90)

Local Government Employee Relations (PERB)

• Deduct from an employees' wages the payment of dues or service fees required pursuant to an agency shop arrangement and transmit such fees to the employee organization.

• Receive from the employee any proof of in lieu fee payments made to charitable organizations.

State Mandated Costs (SB 90)

Local
Government
Employee
Relations
(PERB)

continued

Follow PERB procedures in responding to charges and appeals filed with PERB, concerning:

- an Unfair Labor Practice,
- a Unit Determination,
- Representation by an employee organization,
- Recognition of an employee organization, or
- Election

New/First-Time Program

California Public Records Act

- ▶ 1st-Time Eligible Reimbursable Period begins with Fiscal Year 2001- 2002 through Fiscal Year 2012-2013.
- ▶ Claims are projected to be due in late-February 2014.
- ▶ Government Code sections 6253, 6253.1, 6253.9, 6254.3 and 6255.

California Public Records Act (*Parameters & Guidelines*)

▶ One-time Activities

1. Develop policies, protocols, manuals and procedures for implementing reimbursable California Public Records Act (CPRA) provisions.
2. One-time training of each employee assigned the duties of implementing the reimbursable activities of the CPRA.

California Public Records Act (continued)

▶ Ongoing Activities

1. Provide a copy of a document in the electronic format requested if it is used by the District.
2. Upon Receipt of Request for a copy of records, a District must perform one of the following:
 - a. Beginning January 2002, w/in 10 days of request, provide verbal or written notice to requestor the disclosure determination and the reasons why.
 - b. Beginning January 2002, if 10-day time limit is extended due to "unusual circumstances" the District Head (or designee) shall provide written notice with the reasons for the extension and the date of completion.

California Public Records Act (continued)

▶ Ongoing Activities *(Continued)*

- c. Beginning July 2001, if a request is denied (in whole, or in part) respond in writing that includes the reasons for the denial, including a legal review of the response, if necessary.

For a., b. and c. (above), eligible activities include:

- 1) Drafting, editing and reviewing a written notice to the requestor, setting forth the reasons for the determination.
- 2) Obtaining District head (or designee) approval and signature of written notice.
- 3) Sending the written notice to the requestor.

California Public Records Act (continued)

▶ Ongoing Activities *(Continued)*

3. When a public record request is made, the District shall:
 1. Assist the member of the public to identify records and information.
 2. Describe the information technology and physical location in which the record exists.
 3. Provide suggestions for overcoming any practical basis for denying access to the records/information.

The above listed activities include:

- a. Conferring with the requestor if clarification is needed to identify records requested.
- b. Identifying record(s) and information which may be disclosable and responsive to the request.
- c. Provide suggestions for overcoming any practical for denying access to the records or information sought.

Example of
"California Public Records Act"
Cost Calculations

- ▶ Assume four (4) eligible requests per week and 15 minutes of employee time per a request (1 Hour per week/52 hours a year).
- ▶ Average employee pay \$54,000/per year, a benefit rate of 33% and Overhead Rate of 25%.

Example: $\$54,000 / 1,800 \text{ Annual Hours} = \$30/\text{hr.}$
 $\$30 \times 33\% = \$10/\text{hr. Benefits}$; $\$30 + \$10 = \$40 \text{ hr.}$
 $\$40 \text{ hr.} \times 25\% \text{ O/H} = \$10 \text{ Indirect Costs}$

Example of
"California Public Records Act"
Cost Calculations (cont.)

- ▶ Hourly Salary Rate of \$30/hour.
- ▶ Hourly Benefit Rate of \$10/hour.
- ▶ Hourly Indirect Cost Rate of \$10/hour.
- ▶ Cumulative Reimbursable Hourly Costs of \$50/hour.

With 52 hours of activity and a Reimbursable Rate of \$50/hour, a Special District would be eligible for \$2,600 in reimbursement for one fiscal year.

Is the State Obligated to Pay Special Districts?

- ▶ There are two very important items that protect Local Government Agencies in the SB 90 Reimbursement Process
 1. The aforementioned, Article XIII B, section 6 of the California State Constitution. This section has withstood several Appellate and State Supreme Court challenges by the State of California.
 2. Government Code section 17561.5 requires the accrual of interest at the Pooled Money Investment Account rate. As the State Legislature witnessed under AB 1610, these costs grow quickly.

Can the State Legislature keep deferring payments for Claims?

- ▶ Pooled Money Investment Account (PMIA) and the Local Agency Investment Fund (LAIF).
 - As mentioned earlier, the Legislature can defer payment but the State is saddled with accrued interest for such deferrals.
 - With interest rates at historic lows, the cost to the State of California is minimal.
 - When interest rates return to their traditional averages, the burden to the State Legislature will be dramatically more.

Interest Rate Comparison

- ▶ For FY 08-09 through FY 12-13, the PMIA-LAIF Rate was 0.46%
- ▶ For FY 12-13 PMIA-LAIF Rate was 0.31% and accrued interest for Local Agencies totaled \$3.16 million
- ▶ For the previous 16 years (FY 1992-93 through FY 2007-08) PMIA-LAIF Interest Rate averaged 4.34%
- ▶ With a PMIA-LAIF Rate of 4.34% for FY 2012-13, the accrued interest would have been \$44.6 million.

State Mandated Costs (SB 90)

Why Districts Do Not File for Reimbursement?

Unaware of Eligibility	State Funding for Mandates	Claim Process is Too Complex	No Available Staff
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State Mandated Costs (SB 90)

Upcoming Deadlines

(Late) Annual Claims for FY 2011-2012
Originally Due February 15, 2013

**1st-Time Filing Opportunities - 7 Months
after Adopted Parameters and Guidelines**

**Annual Claims for FY 2012-2013 Originally
Due February 18, 2014**

Important Websites

- ▶ State Controller's Office – State Mandated Cost Programs webpage:
www.sco.ca.gov/ard_mancost.html
- ▶ Commission on State Mandates: www.csm.ca.gov
- ▶ Department of Finance – List of Suspended Programs for FY 2012-2013:
http://www.csac.counties.org/sites/main/files/file-attachments/2012-13_suspended_mandates.pdf

Closing Thoughts on SB 90

- ▶ Check and Balance – SB 90/State Mandated Cost Reimbursement provides a balance for local government agencies to unfunded State Mandated Laws and their associated costs.
- ▶ Free Ride for the State – By not filing claims, the State of California is able to pass activities onto Locals without concern for effectiveness or costs.
- ▶ Not a Favorite in Sacramento – The Governor's Department of Finance and the Legislative Analyst's Office have shown great contempt for the SB 90 reimbursement process.
- ▶ "To Pay or Not to Pay?" – When Local Government Agencies file claims, the State Legislature must choose between keeping a "law on the books" and paying the reimbursement claims, or suspending the law due to cost and possible ineffectiveness.

State Mandated Costs (SB 90)

- ▶ Your Questions for:



Andy Nichols
andy@nichols-consulting.com

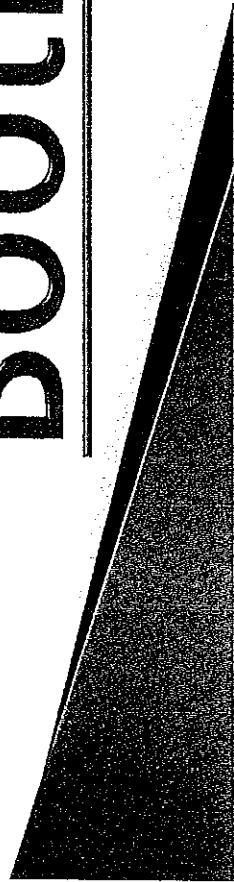
Twitter: @NicholsSB90

Thank you for attending!!!

N **Nichols**

Please Stop by

Booth #212





Cellular Antennas on Special District Property: The Opportunity and the Risk

Gail A. Karish
Matthew K. Schettenhelm
Best Best & Krieger LLP
September 17, 2013

The bottom right corner of the slide features the 'BBK Telecommunications Law' logo, which includes the letters 'BBK' and the text 'Telecommunications Law'.

Do you have any obligation to license
your property to cell-phone companies?

The bottom right corner of the slide features the 'BBK Telecommunications Law' logo, which includes the letters 'BBK' and the text 'Telecommunications Law'.

No.

The bottom right corner of the slide features the 'BBK Telecommunications Law' logo, which includes the letters 'BBK' and the text 'Telecommunications Law'.

(Or, you shouldn't.*)

*FCC rulemaking?

The bottom right corner of the slide features the 'BBK Telecommunications Law' logo, which includes the letters 'BBK' and the text 'Telecommunications Law'.


Do you "regulate" cell tower
placements?

The bottom right corner of the slide features the 'BBK Telecommunications Law' logo, which includes the letters 'BBK' and the text 'Telecommunications Law'.


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No.




You are a property owner.




It is the company's obligation to ensure that it has all regulatory approvals.




This talk will have two parts.



(1) regulatory framework



(2) how you protect yourself as a property owner



What regulations apply here?

Typically, local zoning approval

(May be easier to get zoning approval
on special-district property than
elsewhere)

47 U.S.C. § 332(c)(7)

Generally preserves local zoning
authority, subject to five limitations

1. A State or local government may not
"prohibit" the provision of service.

2. It may not unreasonably discriminate among providers.

3. Any decision to deny must be in writing and supported by "substantial evidence."

4. A local government must act within a "reasonable period of time" in light of the nature of the application.

The FCC reasonably imposed 90 and 150-day "shot-clocks"

The Supreme Court upheld the FCC

City of Arlington v. FCC,
No. 11-1545

5. The local government must not regulate based on the effects of radiofrequency emissions

47 U.S.C. § 1455

A State or local government “may not deny, and shall approve, any eligible facilities request” for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

“Eligible facilities request” is any request to modify an existing tower or base station that involves:
“(A) collocation of new transmission equipment; (B) removal of transmission equipment; or (C) replacement of transmission equipment.”

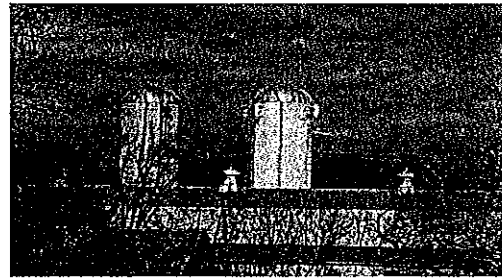
Congress left all the other key terms undefined

&

Didn't clarify if it intended to reach proprietary, or only regulatory, action

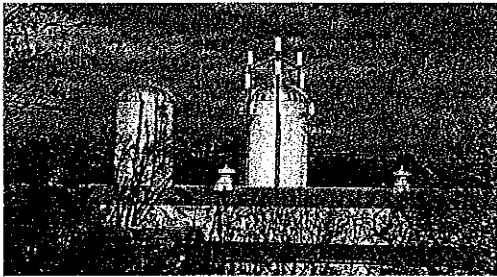
In January, FCC issued non-binding "guidance"

- Defines "substantially change" through criteria developed in a different context (historic preservation).
- no "substantial change" if an addition extends a facility less than 20 feet in any direction.



Historic Site – Post Guidance?

Illustration showing potential impact of co-location of an additional approximately 20'-high pole mounted antenna array



Stealth Site – Now

100' monopole disguised as a flagpole constructed to conceal the antenna within its structure. Located on Sightseal Road alongside I-95 in Prince George's County, Maryland.



Stealth Site – Post Guidance?

Illustration shows the potential impact of an approximately 20'-high extension to support a co-location of antennas in a typical triangular platform array (partially shown at top of frame) and smaller co-location in a flush mount attachment configuration atop the existing monopole.



IBBk Telecommunications Law

Rooftop Stealth Site – Now

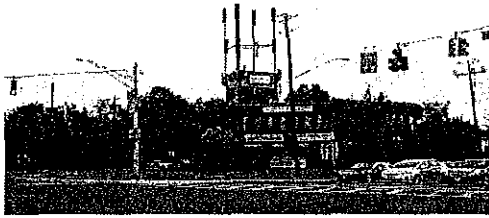
Two-story office building located on Layhill Road at Bonifant Road in Montgomery County with antennas from three carriers permitted by Special Exception and either concealed within the facade screening atop the parhouse on the roof, or painted to match the exterior of the screening or brick walls.



IBBk Telecommunications Law

Rooftop Stealth Site – Post Guidance?

Illustration of a tower-like structure constructed to support co-location antennas approximately 20' above existing antennas.



IBBk Telecommunications Law

We expect the FCC to launch a rulemaking, perhaps within the month

IBBk Telecommunications Law

Educating the FCC could be important

IBBk Telecommunications Law

Part II:
How should you structure the deal?

IBBk Telecommunications Law

1/16/16

10 points

1. Control the drafting process
2. Establish the structure (lease/license)
3. Define what you are granting
4. Establish the term
5. Set the rent
6. Address subletting and assignment
7. Forbid interference
8. Clarify removal responsibilities
9. Address termination
10. Include standard terms

(1) Control the drafting process

Company's form agreements likely will be highly slanted in their favor

Consider developing your own

(2) What are you granting the company?

Usually ok to structure as a license or a lease

(3) What access are you granting?

Define specifically what facilities may be placed, and where

Do not freely allow "improvements": require specific plans, subject to your approval.

Avoid: "approval will not be unreasonably withheld, delayed, or conditioned"

If you allow replacement of existing facilities, clarify that new equipment cannot differ in size, impact, aesthetics, etc.

Address how the company may access its facilities – and when it will do so . . .

May the provider use common areas?

Must it obtain supervised access?

Must it provide advanced notice?

May it use your access roads or obtain its own?

Are there other security risks that need to be addressed?

Address how the provider will obtain and use electricity at the site

If you have aesthetic concerns, address them directly

(4) What is the term?

Typically structured as consecutive series of 5-year terms, spanning 20 or 30 years total

Avoid "options to lease" particular sites, which may prevent you from recovering full fees for a particular location

Avoid long delivery or construction periods pre-payment; begin payments immediately

If provider requests a "due diligence" period, don't give this time away for free – and ensure that provider indemnifies you.

(5) What should you charge in rent?

Two elements:

(1) Base rent

(2) Collocation fees

Base rent for tower typically between
\$2,000 - \$5,000/month

Companies often offer low annual
escalators

Can collect collocation fees from initial
licensee or directly from later
subtenants

Address late fees (interest)
and hold-over fees
(100%-200% of then-current rent)

(6) Subletting and Assignment

Do not permit subletting/collocation
without your permission

- Have licensee waive rights under Civil Code §§ 1995.260, 1995.270
- 47 U.S.C. § 1455 *should not* affect contractual restrictions*

(7) Interference

Ensure that tenant cannot interfere with your operations – or those of any existing tenants.

Burden should be on newcomers

Be sure that it is not on you

(8) Removal

May depend on type of facility

In some cases, you might assume ownership.

In others, licensee should bear the duty to remove, at its cost.

(9) Termination

Establish events of default justifying termination:

Non-payment

Habitual late payment

Violation of any term, if not cured

Bankruptcy

Carefully define when the provider can terminate

Either prohibit volitional terminations or
requirement payment
(e.g. rent for remainder of term or 12-
24 months of rent)

(10) Standard terms

Insurance: check with risk-assessment
Typical: general liability, auto liability,
employer's liability, all-risk property,
and workers' compensation

Hazardous substances:
strictly prohibit

Require indemnification

No relocation assistance

What to do after you contract?

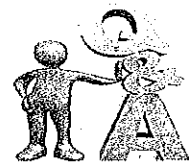
Monitor compliance, and . . .

... after you have a great deal ...

don't change it.

Be wary of offers:

- To purchase lease/license rights
- To extend agreements
- To alter terms




Thank you

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THE NEW NORMAL: IMPACTS OF
RECENT COURT DECISIONS ON
ASSESSMENT DISTRICTS

KELLY J. SALT BEST, BEST & KRIEGER LLP
CHRIS FISHER, WILLDAN FINANCIAL
CONSULTANTS




Assessments – Common Principles

- Charge on property for provision of public improvement or service
- Based on special benefit to affected properties
- Cannot fund general benefit
- Publicly-owned parcels may be subject to assessment
- Identify improvements, identify benefits, identify benefitting parcels




Assessments – Common Principles

- Prepare and submit Engineer's Report to support benefit finding and rationale for assessments
 - Improvements/services provided
 - Cost of improvements/services
 - Define benefits
 - Methodology for allocating benefit
 - Tax roll, diagram, etc
- Conduct ballot proceeding




Assessments – Common Approach

- Identify type and location of improvements, services
- Determine cost, properties to be served
- Evaluate other properties (bordering, or otherwise benefitting)
- Evaluate properties with each improvement or service separately
- Define special benefits provided to affected properties
- Reminder: special benefit is over and above benefits conferred on to general public at large

Office of Special Assessments
2013 QUESTIONS ABOUT THIS DOCUMENT
CALL 916.227.2300 


Proposition 218

- Article XIII D, § 4
 - Establishes substantive requirements: special benefit and proportionality
 - Establishes procedural requirements: majority ballot protest procedures
 - All existing, new, or increased assessments are subject to Article XIII D

Office of Special Assessments
2013 QUESTIONS ABOUT THIS DOCUMENT
CALL 916.227.2300 

Substantive Requirements

- Only special benefits are assessable
- California Constitution article XIII D, § 2(i):
"Special benefit" means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute "special benefit."
- Local agency, State, and federal properties are not exempt from assessment

Office of Special Assessments
2013 QUESTIONS ABOUT THIS DOCUMENT
CALL 916.227.2300 

Substantive Requirements

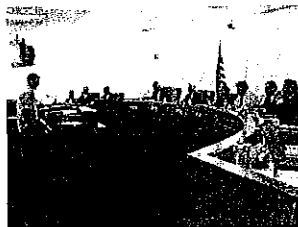
- Assessments must be supported by a detailed engineer's report prepared by a registered engineer certified by the State
- Identify all properties that receive special benefit
- Separate the general from the special benefits



FOR THE BOARD OF PROFESSIONAL ENGINEERS AND SURVEYORS



Procedural Requirements



- Hold a public hearing
- Mail notice of the public hearing to property owners at least 45 days in advance



FOR THE BOARD OF PROFESSIONAL ENGINEERS AND SURVEYORS



Procedural Requirements

- A majority protest exists if, upon the conclusion of the public hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment
- The ballots shall be weighted according to the proportional financial obligation of the affected property



FOR THE BOARD OF PROFESSIONAL ENGINEERS AND SURVEYORS



HJTA v. City of Riverside (1999)



- Pre-Proposition 218 1972 Act Assessment need not comply with Article XIII D, § 4 until increased
- Streetlights are streets within the meaning of Article XIII D, § 5



2013 OPEN SPACE ACQUISITION AND MAINTENANCE DISTRICT



Silicon Valley Taxpayers' Association v. Santa Clara Open Space Authority (2008)



- 1994 - Santa Clara Open Space Authority ("OSA") forms assessment district for acquisition and maintenance of open space



2013 OPEN SPACE ACQUISITION AND MAINTENANCE DISTRICT



Background

- 2000 – OSA needed additional funding for open space acquisition and maintenance
- OSA initiated proceedings to form a new assessment district for open space
- Assessment for all single-family residences in county set at same rate – assessment revenues will produce ~ \$8 million



2013 OPEN SPACE ACQUISITION AND MAINTENANCE DISTRICT



Background

- ❑ No parcels are identified in the report for open space acquisition
- ❑ Majority of property owners approve assessments
- ❑ Taxpayers Association challenges assessments, claims assessments:
 - ❑ Fail to satisfy special benefit requirements
 - ❑ Fail to meet proportionality requirements



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SEATTLE, WA 98101



Standard of Review – Pre-Prop 218

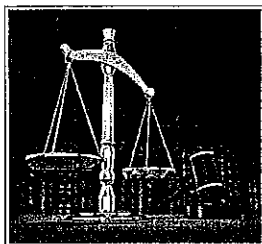
Deferential standard of review – A special assessment will not be set aside unless it clearly appears on the face of the record before the legislative body, or from facts which may be judicially noticed, that the assessment is not proportional to the benefits to be bestowed on the properties to be assessed or that no benefits will accrue to such properties.



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Standard of Review – Pre-Prop 218



- ❑ Assessments are presumed valid
- ❑ Burden is on the challenger
- ❑ Prop 218 targets deferential standard of review



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Standard of Review – Post-Prop 218

- Validity of assessments has become a constitutional question
- Courts are responsible for enforcing the provisions of the Constitution
- Independent Judgment Standard of Review - Courts must exercise their independent judgment
- Burden is on the agency



2013 CALIFORNIA GOVERNMENT & POLITICAL ORGANIZATION



Special Benefit

Court refines the meaning of special benefit:
 “[A] special benefit must affect the assessed property in a way that is particular and distinct from its effect on other parcels and that real property in general and the public at large do not share.”



2013 CALIFORNIA GOVERNMENT & POLITICAL ORGANIZATION



Special Benefit

- "Special benefits" Identified In Engineer's Report:
 - Enhanced recreational activities and expanded access to recreational areas;
 - Protection of views, scenery, other resources;
 - Increased economic activity;
 - Reduced costs of law enforcement, health care, fire prevention, natural disaster response;
 - Enhanced quality of life and desirability of area;
 - Improved water quality, pollution reduction and flood prevention; and
 - Enhanced property values

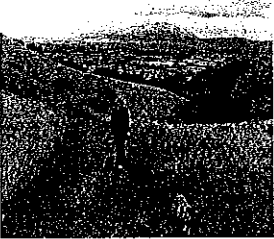


2013 CALIFORNIA GOVERNMENT & POLITICAL ORGANIZATION



Special Benefit


- All of the listed benefits are general benefits shared by everyone
- Report fails to recognize that the "public at large" means all members of the public, not just transient visitors



City of San Jose, Department of Public Works, 2013

Special Benefit

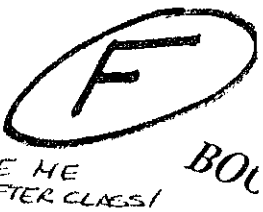
- Report fails to show any distinct benefits to parcels



City of San Jose, Department of Public Works, 2013

Proportionality

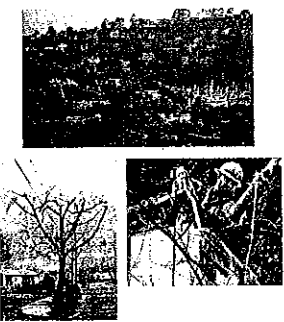
- Report fails the proportionality requirements of Article XIII D, section 4(a):
 - Failed to identify any permanent public improvements to be financed with the assessments



City of San Jose, Department of Public Works, 2013

Background

- Engineer's report identified 3 special benefits:
 - Improved aesthetics
 - Increased safety
 - Improved service reliability



City of Dallas
Public Works
2013

2013-2014 BUDGET
APPROPRIATION REPORT
2013-2014

1 2 3 4 5

Special Benefits

- Properties did receive special benefits from the improvements
- Aesthetics special benefits equally assigned to all properties was appropriate
- Almost every assessment that confers a particular and distinct advantage on a parcel will also enhance its property value

City of Dallas
Public Works
2013

2013-2014 BUDGET
APPROPRIATION REPORT
2013-2014

1 2 3 4 5

Proportionality

- Benefit zones were not based on differential benefits enjoyed within each zone, but were largely based on variances in the costs of underground utilities in each zone
- Apportionment resulted in properties that received identical benefits paying vastly different assessments
- Apportionment is a function of the total cost of the project


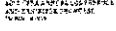

City of Dallas
Public Works
2013

2013-2014 BUDGET
APPROPRIATION REPORT
2013-2014

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
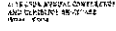

Substantive Requirements

- Assessment for non-profit entities were discounted
- Residential properties exempted from assessments
- Court held that Article XIII D, section 4(a) leaves local governments free to impose assessments that are less than the proportional special benefit conferred, so long as the discounts are not subsidized by other properties


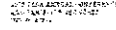

Substantive Requirements

- Court held services provided special benefits because they are over and above those already provided by the City within the PBID
- Services are particular and distinct, and are provided only to properties within the PBID, not to the public at large
- Report separated the special benefits from those already provided by the City

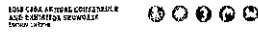
Beutz v. County of Riverside (2010)

- Assessments challenged because residential properties assessed for the entire cost of refurbishing and maintaining parks
- Costs attributable to general benefits were not deducted – i.e., general benefits were not separated from the special benefits

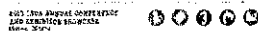
Background

- County acquired 3 parks from a park district that could not afford to maintain them
- Park district dissolved and the County took over its assets and liabilities
- County formed assessment district to maintain the parks



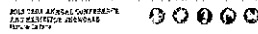
Background

- Assessment engineer's report apportioned the costs equally among all single-family residential properties
- Report concluded all other properties within the district did not receive special benefits
- Report recognized parks provided general benefits, but they were offset by the County's expenditures related to the parks




Proportionality

- Court exercised its independent judgment
- Report failed to separate the general benefits from the special benefits
- Report failed to quantify the special and the general benefits



Concerned Citizens for Responsible Gov't v. W. Point Fire Protection Dist. (2011)




- Special assessment adopted by a fire protection district did not provide special benefit to property

California State Bar Association
2013

ARTICLE XIII D, SECTION 4(a) AND SECTION 4(b) OF THE CALIFORNIA CONSTITUTION

Substantive Requirements

- Court also identified public park maintenance and library upkeep as examples of other services and facilities which provide only general benefit





California State Bar Association
2013

ARTICLE XIII D, SECTION 4(a) AND SECTION 4(b) OF THE CALIFORNIA CONSTITUTION

Golden Hill Neighborhood Ass'n v. City of San Diego (2011)

- Assessments were challenged on the basis that they did not meet the proportionality requirements of Article XIII D, § 4(a)
- Assessment challenged on the basis of the failing to comply with the procedural requirements of Article XIII D, § 4(b)

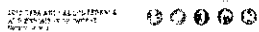



California State Bar Association
2013

ARTICLE XIII D, SECTION 4(a) AND SECTION 4(b) OF THE CALIFORNIA CONSTITUTION

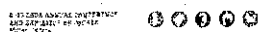
Conclusions and Recommendations

- ❑ Courts will exercise their independent judgment when reviewing the validity of assessments; burden is on the public agency to demonstrate compliance
- ❑ *Silicon Valley* decision calls into question validity of assessments imposed for broad, regional services and improvements which are determined to provide special benefit



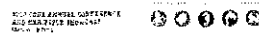
Conclusions and Recommendations

- ❑ Public Agencies must separate and quantify the general benefits from the special benefits
- ❑ Public agencies must identify with sufficient specificity:
 - ❑ The services and/or improvements
 - ❑ The special benefits that parcels will receive
 - ❑ The cost of the services and/or improvements
 - ❑ The proportionate special benefits conferred on the identified assessed parcels



Conclusions and Recommendations

- ❑ *Silicon Valley* court found that enhancement of property value is not a special benefit
- ❑ *Town of Tiburon* court recognized that almost every assessment enhances property value



Conclusions and Recommendations

- Assessments should not be based on an amount the public is willing to pay
- Assessments should not be apportioned based on variances in the costs of the improvements
- Proposition 218 continues to evolve



2012-2013 ANNUAL CONFERENCE
AND POLICY DEVELOPMENT
MAY 2012



Shifting Landscape

- More focus on addressing special and general benefit
- Clearly identify services, improvements, costs
- More scrutiny of general-type services: public safety (fire), park maintenance
- Difference in benefit vs. difference in cost
- Ensuring proportionality in assigning special benefit
- Take extra care forming new assessments
- Certain situations not suited for assessments
- Where other types of districts work



2012-2013 ANNUAL CONFERENCE
AND POLICY DEVELOPMENT
MAY 2012



General and Special Benefit

- Only special benefits assessable, must separate general from special benefits
- Must ensure special benefits are truly particular and distinct
- Must quantify special and general benefit – Silicon Valley, Beutz, Golden Hill
- Must be a methodology or basis, i.e. trip count, census, radius, proximity, etc.
- Cost associated with general benefit cannot be included in assessment



2012-2013 ANNUAL CONFERENCE
AND POLICY DEVELOPMENT
MAY 2012



More on Benefit

- Benefit to each parcel must be proportionate to it's share
- Benefit may not exceed parcel's proportionate share
- All benefitting parcels must be assessed (Bonander)
- Benefit zones permitted only where there are distinct differences in benefit, *not cost!*
 - Variances in level of service
 - Variances in improvements provided,
 - Location, etc.



PLANNING AND ECONOMIC DEVELOPMENT
10-10-2013



Consider Before Balloting

- Ongoing financial challenges causing more agencies to look at existing assessments
- Carefully evaluate feasibility of increasing or imposing new assessments on existing properties
- Determine needs
 - Analyze extent, nature and location of improvements
 - Develop thorough budget
 - Identify long-term service requirements and needs
- Consider ALL properties who might receive benefit



PLANNING AND ECONOMIC DEVELOPMENT
10-10-2013



Consider Before Balloting

- Have a clear understanding of benefit
 - Clear nexus between properties and improvements/services
 - Account for general benefit, develop methodology accordingly
- Clear, concise, easy to understand materials, ballot
- Reasonable methodology
- Take into account political factors, public perception, values, support
 - Polling may help -- but be carefull!



PLANNING AND ECONOMIC DEVELOPMENT
10-10-2013



Consider Before Balloting

- Evaluate potential alternatives
 - Level of subsidy, other revenue sources
 - Increase assessments (Including an inflationary formula?)
 - Reduce level of service
 - Out-source services (contract services)
 - When re-engineering – possible enhancements
 - Consider alternative revenue mechanisms
 - Special Tax, CFD
 - Consolidation, expansion or re-engineering

San Jose Water Department
SJD 2013 ANNUAL REPORT &
SJD EXPENSE REPORT
10/20/13

Existing Assessments

- Reports must account for latest case law – reports older than Silicon Valley should be thoroughly reviewed, maybe rewritten
- Special/general benefit requirements are more exacting
- Agencies should allow time for legal review of Engineer's Reports
- Important to track legal developments, (numerous for assessments over past five years)
- Critical in assessments for services; again, look at benefit zones
- Clear comprehensive administrative record – courts need to understand process, rationale
- Build entire administrative record to support cost of service analysis


San Jose Water Department
SJD 2013 ANNUAL REPORT &
SJD EXPENSE REPORT
10/20/13

Conclusions and Recommendations

- Assessments should not be based on an amount the public is willing to pay
- Assessments should not be apportioned based on variances in the costs of the Improvements
- Proposition 218 continues to evolve


San Jose Water Department
SJD 2013 ANNUAL REPORT &
SJD EXPENSE REPORT
10/20/13

QUESTIONS?



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APHA'S PUBLIC HEALTH ADMINISTRATION
AND EDUCATION PROGRAMS
PHOTO: JAMES

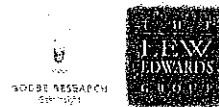


GETTING TO "YES!"

Securing Voter & Community Approval for Funding Your District's Projects



2015 CSDA ANNUAL CONFERENCE
AND EXHIBITION BREAKFAST
Monterey, California



Meet Your Panelists

• Catherine Lew, President & CEO, The Lew Edwards Group (LEG)

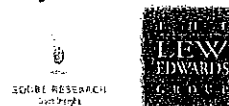
- Communications and Revenue Measure Specialists
- LEG has enacted \$30 Billion over the past 16 years
- Win rate of 95%

• Bryan Godbe, President, Godbe Research

- Public and Voter Opinion Research Experts
- More than \$25 Billion in revenue over 23+ years
- Win rate of 91%



2015 CSDA ANNUAL CONFERENCE
AND EXHIBITION BREAKFAST
Monterey, California



Types of Funding Mechanisms Commonly Used by Districts

Prop. 218 Rate Increases

- Enacted directly by a District Board following public notice and a public (protest) hearing
- In today's environment, even a small number of opponents can politicize an otherwise straightforward rate increase

Property Owner Fees or Assessments

- Voted on by property owners regardless of where they live and irrespective of whether they are registered voters
- Typically a simple majority mail ballot; number or weight of ballots can vary by Property Owner
- Number of commercial/large agency owners can affect viability



2013 CSDA ANNUAL CONFERENCE
AND EXHIBITOR SHOWCASE
Melbury, California



3

Types of Funding Mechanisms Commonly Used by Districts

Parcel Tax, CFD Tax, or Bond Elections

- Registered Voters are typically the audience
- Can opt for a Special Election or Consolidated Election
- Can be mail or poll ballots
- "one voter, one vote" but typically a two-thirds requirement threshold – a tough bar



2013 CSDA ANNUAL CONFERENCE
AND EXHIBITOR SHOWCASE
Melbury, California



4

Today's Environment

The economy is slowly recovering, affecting perceptions of need

Competition for the taxpayer dime

Anti-tax and anti-government sentiment

However, the right type of proposal can earn community support:

- Your proposal should demonstrate Fiscal Accountability
- Direct community benefits should be cited
- A simple, easy to understand Message should be used



California Special Districts Association
HHSO

2013 CSDA ANNUAL CONFERENCE
AND EXHIBITOR SHOWCASE
Humboldt, California



5

Case Study: McKinleyville Community Services District

Who: Special District in Humboldt County providing water, sewer, lighting, parks and recreation services

What: Measure B was originally adopted as a Voter Measure and needed conversion/renewal as a Maintenance Assessment District Property Owner Measure, maintaining the same rate of \$30 per single family residence, and developing rates for other property classifications.



California Special Districts Association
HHSO

2013 CSDA ANNUAL CONFERENCE
AND EXHIBITOR SHOWCASE
Humboldt, California



GODDE RESEARCH
ANALYTICS



6

Case Study: McKinleyville Community Services District

Team: To prepare for this Measure, MSCD retained LEG, Godbe Research, and Willdan Financial Services (the latter providing engineering assessment to determine appropriate property classification rates, and property owner ballot services).

Unique Considerations: Besides single family homeowners, the District was concerned about how best to engage large commercial, public agency, and nonprofit property owners



2013 CSDA ANNUAL CONFERENCE
AND EXHIBITOR SHOWCASE
Monterey, California



7

"Getting to Yes" Action Steps

1. Understand/identify current needs
2. If requiring a community vote, conduct a Public Opinion Poll*
3. Evaluate Poll results, measure viability
4. Design and implement Community Education Program focused on your District's needs and effective themes
5. As needed, re-assess viability
6. Build consensus and support on your Board

**If considering a Prop. 218 rate increase via Board vote, polling is generally not utilized.*



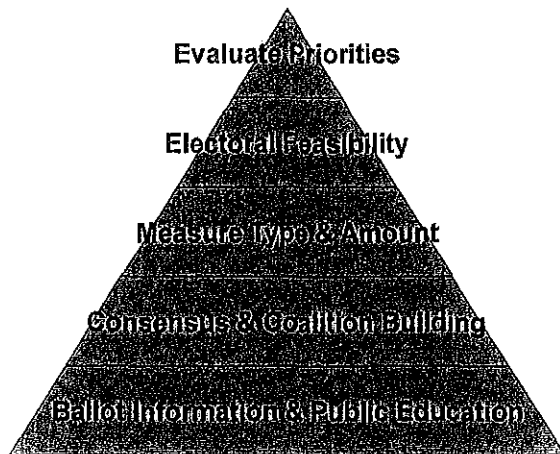
2013 CSDA ANNUAL CONFERENCE
AND EXHIBITOR SHOWCASE
Monterey, California



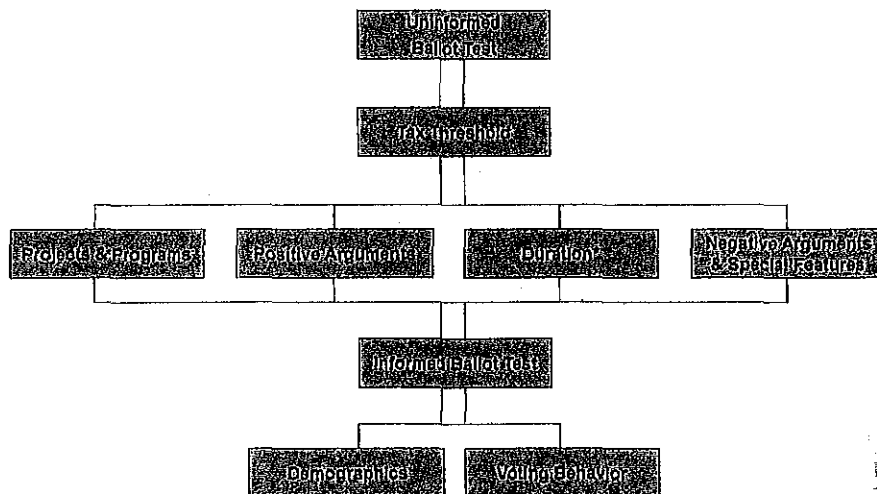
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4
199

The Value of Polling

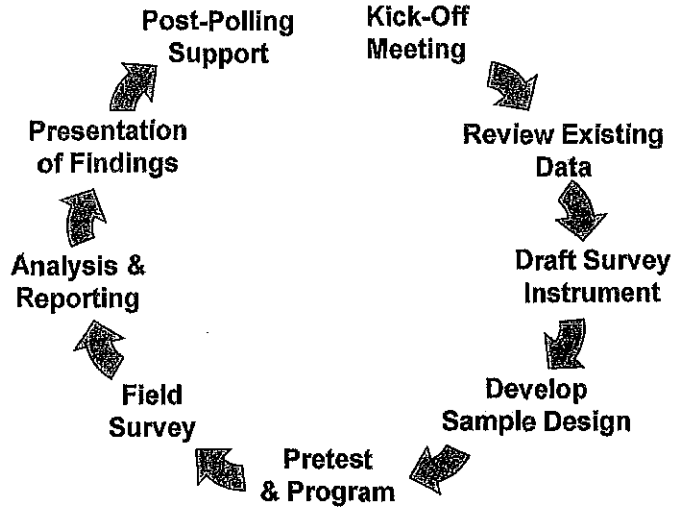


Revenue Measure Poll Format



5
 200

Polling Process



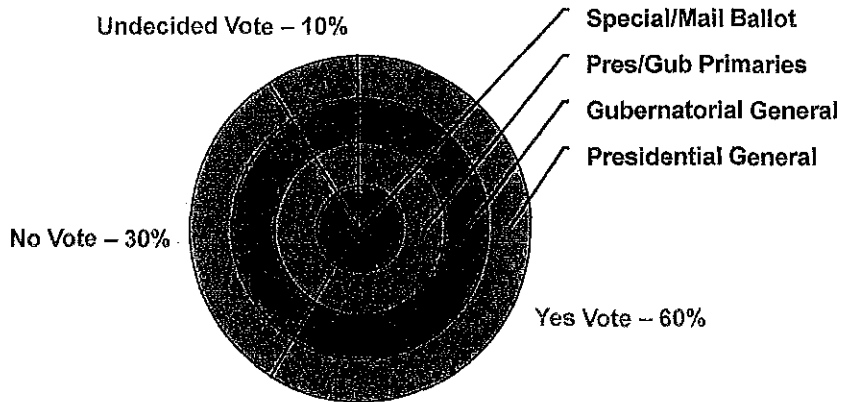
California Statewide Districts Association
 District Survey Support

2018 CSDA ANNUAL CONFERENCE
 AND EXHIBITOR SHOWCASE
 Monterey, California



GODDE RESEARCH
 California

Voter Election Cycle Considerations



California Statewide Districts Association
 District Survey Support

2018 CSDA ANNUAL CONFERENCE
 AND EXHIBITOR SHOWCASE
 Monterey, California



GODDE RESEARCH
 California

Property Owner Proceeding Considerations

- **Active vs. Passive Election – All Owners Get a Ballot**
- **Household Vote vs. Individual Voter**
 - One voter per households vs. number of voters in household
- **Election Timing is Crucial**
 - Property tax bills in hand from August, December & April
 - Election 'noise' from typical voter election cycles
- **Out of Town Property Owners Can Vote**
 - Non-resident property owners in the District are eligible to vote

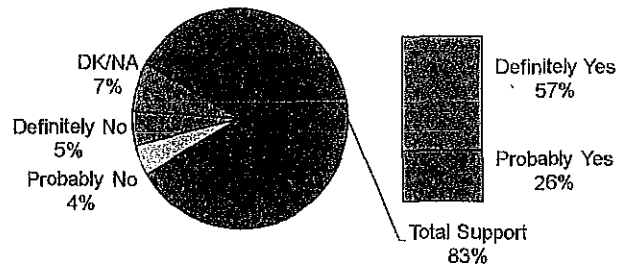


Mc Kinleyville CSD Case Study – Initial Ballot Test

McKinleyville Parks and Open Space Protection – Local Funding Maintenance Measure. To preserve quality of life by:

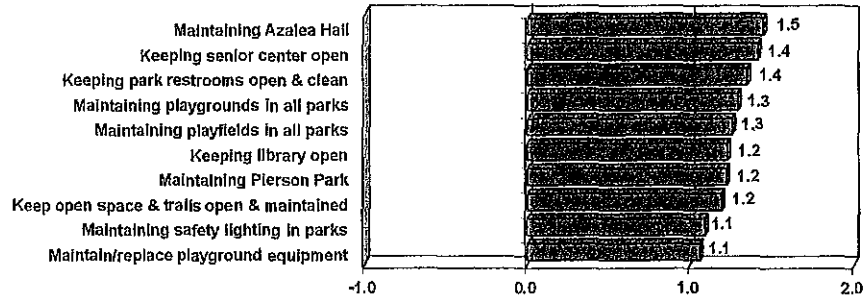
- Maintaining Hiller, Pierson and Larissa parks, including playfields, picnic areas, and restrooms;
- Preserving local open space and nature trails;
- Maintaining the library, Azalea Hall, and activity center; and,
- Establishing additional recreation facilities;

shall the McKinleyville Community Services District continue but not increase its existing annual \$30 per parcel levy, that can't be taken by the State, with citizen's oversight?



7
208

McKinleyville CSD Case Study – Projects and Programs



GODDE RESEARCH
5/21/2011

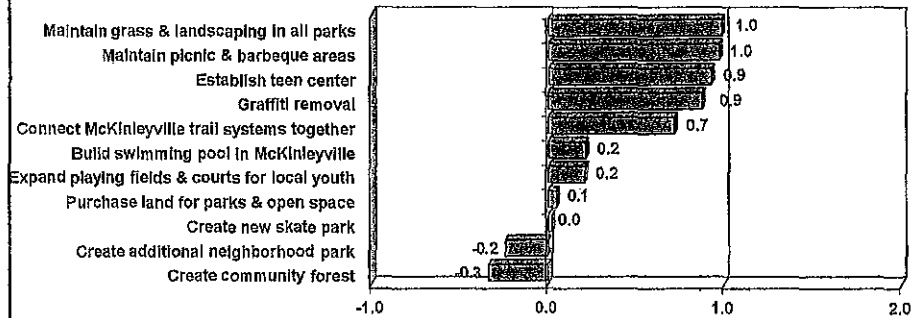


2011 CSDA ANNUAL CONFERENCE
AND EXHIBITOR AWARDS
Mercury, California



15

McKinleyville CSD Case Study – Projects and Programs



GODDE RESEARCH
5/21/2011

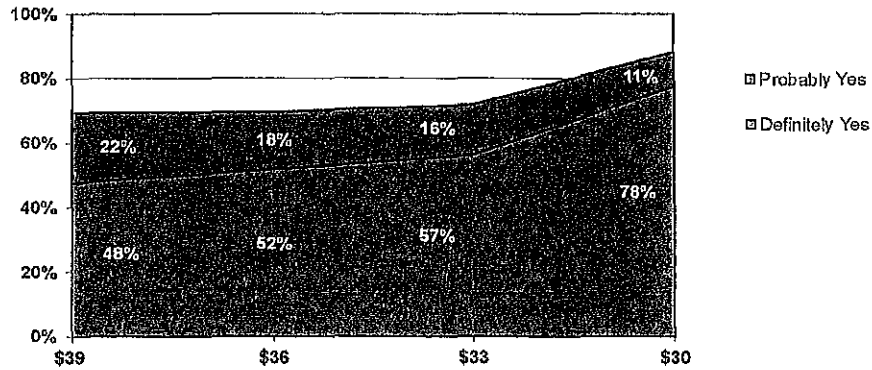


2011 CSDA ANNUAL CONFERENCE
AND EXHIBITOR AWARDS
Mercury, California



16

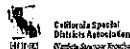
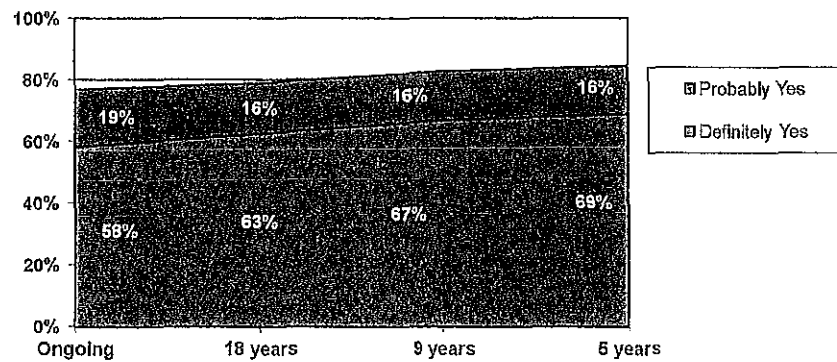
McKinleyville CSD Case Study – Tax Rate Per Parcel



2013 CSDA ANNUAL CONFERENCE AND EXHIBITION PROGRAM
Mercury, California



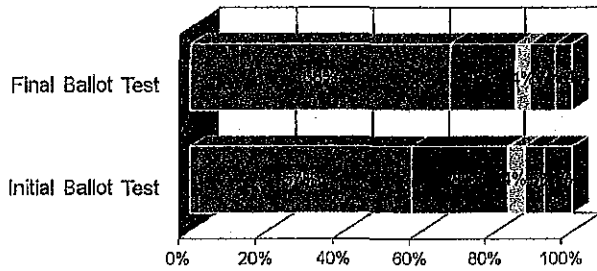
McKinleyville CSD Case Study – Duration / Sunset



2013 CSDA ANNUAL CONFERENCE AND EXHIBITION PROGRAM
Mercury, California



McKinleyville CSD Case Study – Final Ballot Test



- Definitely Yes
- Probably Yes
- Probably No
- Definitely No
- DK/NA

McKinleyville Parks and Open Space Protection – Local Funding Maintenance Measure. To preserve quality of life by:

- Maintaining Hiller, Pierson and Larissa parks, including playfields, picnic areas, and restrooms;
- Preserving local open space and nature trails;
- Maintaining the library, Azalea Hall, and activity center; and,
- Establishing additional recreation facilities;

shall the McKinleyville Community Services District continue but not increase its existing annual \$30 per parcel levy, that can't be taken by the State, with citizen's oversight?



2018 CSDA ANNUAL CONFERENCE AND EXHIBITOR SHOWCASE Monterey, California



Turning Theory into Reality... How to Message to a Winning Campaign or Board Vote



2018 CSDA ANNUAL CONFERENCE AND EXHIBITOR SHOWCASE Monterey, California



10
205

What is Legally Permissible District Communication?

Special districts are legally permitted to convey a full range of information to voters, including facts about your budget and service challenges, or information gathered from your Polling Survey.

McKinleyville CSD and our other district clients successfully utilize all of their communication vehicles, including the Internet, District newsletters, community presentations, or direct mail.

**Should not be construed as providing legal advice. Confer with your District Counsel on these matters.*



2013 CSDA ANNUAL CONFERENCE
AND EXHIBITOR SYMPOSIUM
Monterey, California



21

A District's Right to Communicate is Protected

- District-issued information cannot expressly advocate any partisan position.
- District-issued information is also evaluated within the context of its "style, tenor, and timing."
- Districts have a right to speech, within these parameters.
- Work closely with your District Counsel, and utilize common sense practices so that your Community Education Program is being implemented within your established communications practices. Getting a proactive start on your long-term community communications is essential!



2013 CSDA ANNUAL CONFERENCE
AND EXHIBITOR SYMPOSIUM
Monterey, California



22

**Should not be construed as providing legal advice.*

MCSO's Educational Outreach

- Following the completion of the community survey, results were carefully analyzed.
- A District Communications Outreach Program strategy was developed with the input of all parties: Consultants, General Manager/District Staff, and District Counsel.
- MCSO implemented a program that included:
 - Issuing internal updates to staff at all levels
 - Refining database of key Community Organizations and Opinion Leaders
 - Making community presentations
 - Meeting personally with Opinion Leaders and issuing regular Opinion Leader updates
 - Including factual information about the Measure in District vehicles such as the website and District newsletter



2013 CADA ANNUAL CONFERENCE
AND EXHIBITOR SHOWCASE
Monterey, California



23

[Sample Measure B Speakers' Bureau slide]

What is the problem?

- Due to the state budget crisis, funding for local parks and recreational programs has been severely reduced.
- Without the renewal of Measure B - community supported funding for our parks, trails and centers will expire soon:
- Without these funds there will be:*
 - No trail maintenance
 - The library may close
 - Park restrooms will be closed
 - Trash and debris will build up quickly.



24

[Sample Measure B Speakers' Bureau slide]

What is the alternative?

- We recently sought input and perspectives from community leaders and commissioned an independent community professional survey to determine whether McKinleyville homeowners want to continue local funding to maintain parks and recreation areas in our community.
- The results of the survey showed that 83% of those surveyed support the continuation of our existing assessment with no increase in taxes.

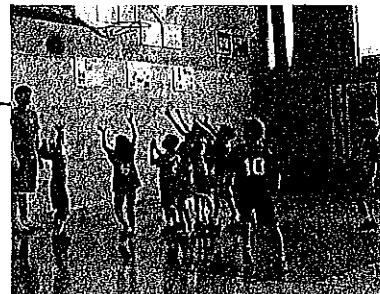


25

[Sample Measure B Speakers' Bureau slide]

What would continued funding be used for?

- Maintain Azalea Hall, and the McKinleyville Activity Center
- Keep the senior center open
- Keep park restrooms open and clean
- Maintaining playfields and playgrounds in all parks
- Keep the library open
- Keep open space, parks and trails open and maintained
- **Potentially establishing a teen-community center**



26

[Sample Measure B Speakers' Bureau Slide]
Fiscal Accountability



- Measure B will
- Simply extend the current assessment
- Sunset in 20 years unless extended by voters
- Create an oversight committee to monitor how funds are spent
- Feature annual, independent audits
- These funds can not be taken away from the

Engaging the Public

The McKinleyville CSD mailed updates to Opinion Leaders regarding their needs and community feedback related to Measure B.

Selected Personal Meetings with local Key Influentials helped to address additional questions or concerns.

The District also provided budget information to constituents through its website, print advertising, and newsletter, ensuring that the community and other property owners were properly informed and not surprised by Measure B.



2013 CSDA ANNUAL CONFERENCE
AND DISTRICTS SHOWCASE
McKinleyville, California



The Results in McKinleyville CSD

Measure B passed with 55% approval (needed simple majority)



California State District Association
Districts Represented
District Change Register

2013 CSDA ANNUAL CONFERENCE
AND EXHIBITOR SHOWCARD
Monterey, California



31

Why MCSD was Successful

- **We had fiscal credibility (promises made, promises kept)**
- **We understood the opportunities and the message, via the opinion poll**
- **We communicated facts and kept on message**
- **We used all communication vehicles available in a proactive manner**



California State District Association
Districts Represented
District Change Register

2013 CSDA ANNUAL CONFERENCE
AND EXHIBITOR SHOWCARD
Monterey, California



32

Questions & Discussion

Bryan Godbe, President, Godbe Research

650-288-3027

wbgodbe@godberesearch.com

Catherine Lew, Lew Edwards Group

510-594-0224 x216

catherine@lewedwardsgroup.com



California Social
Barista Association
Created Through Godbe

2013 CSDA ANNUAL CONFERENCE
AND EXHIBITOR ORGANIZERS
Honoring California



Appendix



California Social
Barista Association
Created Through Godbe

2013 CSDA ANNUAL CONFERENCE
AND EXHIBITOR ORGANIZERS
Honoring California



Update on Local Health and Safety Issues

Dear Neighbors

The City of San Mateo County Sanitary District is pleased to announce the release of a new and enhanced local water quality report. This report provides information on the progress of our water quality improvement program and the health and safety of our water supply. We are committed to providing you with the most up-to-date information on the status of our water supply and the progress of our water quality improvement program.

We encourage you to read this report and to share it with your neighbors. We will continue to work with you to improve the quality of our water supply and to ensure that you have the most up-to-date information on the status of our water supply and the progress of our water quality improvement program.

Thank you for your continued support and cooperation. We will continue to work with you to improve the quality of our water supply and to ensure that you have the most up-to-date information on the status of our water supply and the progress of our water quality improvement program.

Bob Williams
General Manager, San Mateo County Sanitary District

Our Essential Health, Safety, and Environment

Questions & Answers

Why is this issue important?

Though we've made repairs over time, there are portions of our system that are 30 to 60 years old and deteriorating. We must upgrade our treatment facilities to improve their capacity and to avoid dangerous spills of sewage into the Bay.

The several recent spills and ongoing complaints, the U.S. Environmental Protection Agency (EPA) has put the SMCS/D and other local agencies under a legal order requiring essential environmental, health and safety upgrades to local sewer systems.

What upgrades are being made?

There are a number of upgrades that are being made to our main treatment facility and other infrastructure throughout the District. Projects include:

- Improving the venting safety of our facilities,
- Upgrades to pump stations,
- Repairs to SMCS/D collection systems.

Additional sewer line improvements, and

Constructing major treatment plant projects to increase wet-weather capacity and to improve operations.

Why are these upgrades legally required?

Without them, our system will continue to use and deteriorate. This will result in more frequent sewage spills and potentially larger, more dangerous spills that continue to disturb our Bay environment. If SMCS/D fails to comply with the EPA order, we could face hundreds of thousands of dollars in fines, which would be impossible to pay given our budget and the economic climate.


Does the community benefit?

Absolutely. Fewer spills of untreated sewage protect the environment and the health and safety of our community, which is beneficial to all.

How will SMCS/D fund these improvements?

The SMCS/D is proposing to make these improvements by issuing bonds funded by new taxes. While state and federal governments continue to improve new regulations and requirements, unfortunately they provide no funding for these matters. All rates are legally required to be equitable as everyone pays their fair share.

No. 1 Post Office, San Mateo, CA 94401



For more information visit our website at:
www.smcsd.net

Important Community Message

TRINITY PUBLIC UTILITY DISTRICT

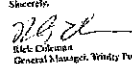
Dear Resident:

For the past several years, the fate of the only local hospital in Trinity County has been in jeopardy. Reduced revenues, mounting costs, and a lack of post-financial planning have put our hospital at risk of closure.

As a result of a local community-led campaign, the State passed a law allowing the Trinity Public Utilities District (TPUD) to intervene to temporarily run our Hospital. TPUD approved the temporary management of the Hospital, implementing essential financial reforms and keeping the Emergency Room open. This has averted a major management reform, including cutting costs, increasing revenues, and stabilizing staffing, while preserving emergency care services.

As we are a Utilities District and not a Hospital, once TPUD does step aside, if Measures P and Q pass, Mountain Community Medical Services will function as your community healthcare. Services governed by a community-elected Board of Directors. If Measures P and Q do not pass, the Emergency Room will close.

It is in the community's best interests.

Sincerely,

Rick Coleman
General Manager, Trinity Public Utilities District

For more information, please visit: www.mcmedical.org

The TRINITY JOURNAL

Published Every Tuesday

Outlook grim if hospital fails

Prediction: Hospital will close if not saved

Another step for closure:

Record Searchlight


Hospital's future hinges on election

Backers say medical center must close...

By Kimberly Rice

MOUNTAIN COMMUNITY MEDICAL SERVICES... TRINITY COUNTY... HOSPITAL... CLOSURE... ELECTION... BACKERS... MUST... CLOSE...

MCMS is YOUR Hospital - We ALL Need it!



36

APPENDIX A - EXPENSE PREPAYMENT/REIMBURSEMENT FORM

Name: KEITH BARROW

Event/Activity: OUTLAW MOTORCYCLE GANGS

Location of Event/Activity: DUBLIN 08 20 13

Approved by Board of Directors on: _____

	Prepay	Reimburse
1. Event/Activity Registration Fee	\$ <u>35.00</u>	\$ <u>35.00</u>
2. Transportation		
• Airfare	\$ _____	\$ _____
• Car Rental (\$ _____ per day for _____ days)	\$ _____	\$ _____
• Car Mileage (\$ _____ per mile for _____ miles)	\$ _____	\$ _____
• Taxi	\$ _____	\$ _____
• Parking	\$ _____	\$ _____
3. Lodging (\$ _____ per night for _____ nights)	\$ _____	\$ _____
4. Meals (Complete information requested on next page of form)		
a. Breakfast	\$ _____	\$ _____
b. Lunch	\$ <u>8.00</u>	\$ <u>8.00</u>
c. Dinner	\$ _____	\$ _____
5. Other (Explain details of request)	\$ _____	\$ _____
Total Requested	\$ <u>43.00</u>	\$ <u>43.00</u>

Please attach all receipts documenting each expense above. This Expense Prepayment/Reimbursement Form must be submitted within 30 days after the event. All expenses reported on this form must comply with the District's Expense Policy for Board members, the General Manager/Chief of Police, and all non-sworn District employees.

Signed: Keith Barrow

Approved by: [Signature]

Date: 9-9-13

Signed: [Signature]

Print Name: _____

Date: 09 23 13

Memorandum

Kensington Police Department



To: KPPCSD Board of Directors

APPROVED YES NO

From: Gregory E. Harman, General Manager/ Chief of Police

FORWARDED TO:

Date: Wednesday, October 09, 2013

Subject: Consent Calendar Item F- Correspondence

Attached is the District correspondence received for the month of September.

- Item #1- Letter received from El Cerrito Police Chief Sylvia Moir.
- Item #2- E-mail received from Leigh Marz regarding dogs running off leash.
- Item #3- Claim received from Sophia Weiner-Light, requesting payment for towing charges and the department's response to the claim.

215



EL CERRITO POLICE DEPARTMENT

10900 SAN PABLO AVENUE • EL CERRITO, CA 94530-2391

TEL (510) 215-4400 • FAX (510) 235-6618

Sylvia M. Moir, Chief of Police

September 5, 2013

Chief Greg Harman
Kensington Police Department
217 Kensington Avenue
Kensington, CA 94530

Chief Harman, 

I would like to personally thank you and your agency, especially Officer Rodney Martinez and Sergeant Rickey Hull, for responding to an incident on September 5, 2013.

The El Cerrito Police Department responded to an in progress residential burglary. Our patrol team needed extra personnel and your Department members quickly responded to assist. The personnel listed quickly came to our assistance by helping locate and detain one of the three suspects.

Your department has assisted us in this fashion many times over the years and we appreciate the effort. By working together, we are fostering an environment that promotes partnerships and respect for each other and we are truly appreciative of the help Kensington Police Department provided us during this incident.

Please express my gratitude to your agency and if we can ever be of assistance to you and your agency, please do not hesitate to let me know.

Regards,


Sylvia M. Moir
Chief of Police

Gregory Harman

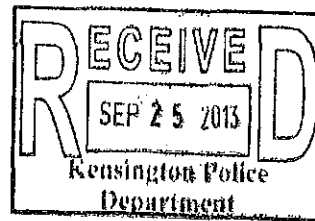
From: leigh@kensingtoncalifornia.org
Sent: Monday, September 09, 2013 8:43 PM
To: gharman@kensingtoncalifornia.org
Subject: [Chief Harman] Thank you for sending out an officer to Kensington Hilltop

Leigh Marz sent a message using the contact form at <https://kensingtoncalifornia.org/contact>.

Chief Harman,

I recently wrote you a letter about dogs off leash and our walks to school. Last week I noticed an officer at the school talking with one of the women who frequently lets her out of control dog off leash. Thank you for being so responsive to our letter. Let's hope the message is received so our kids can walk safely to school. Random check ins on this - especially on walk to school days- may help to send a clear message. Thanks a million,
Leigh

Kensington Police Department
Richmond Police Department



9/15/13

To whom it may concern:

My car was towed from 250 Stanford Avenue in Kensington on August 17, 2013, after I inadvertently parked in front of a driveway. (I had never seen such a driveway and thought it was a wooden deck.) At the time, I was babysitting to earn money, and so upon looking for my car at 11:00 PM and realizing that it was no longer there, the family for whom I had worked called the Kensington Police Department, who connected him to the Richmond Police Department. The Richmond Police Department then told him that we needed to get a release in order to retrieve my car, and that they would be able to sign it for me. So we drove to Richmond but were then told that they had given us misinformation. In fact, they said, the car was towed in an area under Kensington's jurisdiction, so I would have to go through the Kensington Police Department, and since it is a smaller department, they are not open on weekends. I then called the Kensington Police Department to confirm the hours, and the dispatcher with whom I spoke told me that I wouldn't be able to get the release until Monday at 8:00 AM.

I got a ride to the Kensington Police Station on Monday morning, taking time off from my job. At this point, after paying \$70 for the vehicle release, the officer on duty told me that I was ill advised on the phone Saturday night, and a dispatcher should have met me at the Kensington police department on Saturday night. In other words, both the Richmond Police Department and the Kensington Police Department told me the wrong thing. Besides not having access to a car, I was charged \$477.50 (\$237.50 for towing, \$80 x 3 days for storage) for keeping my car at Seidell Towing Service Saturday, Sunday, and Monday. After my father complained, they reduced this amount by \$80. Then, on the car's windshield, we found a \$35 ticket from the Kensington Police Department, and a very obscene note, presumably from the owners of 250 Stanford Avenue.

I hereby ask for the Kensington Police to reimburse me for the vehicle storage fees, because you bear the responsibility for the car having to be there longer than otherwise necessary. I could have retrieved the car immediately on the same night, but the dispatchers in both Richmond and Kensington gave me misinformation. That misinformation might well serve the towing company's bottom line, but it's not good for the citizens.

Sincerely,

Sophia Weiner Light
Sophia Weiner-Light

94595

Parking Violation #7400669

Pol. We

KENSINGTON POLICE PROTECTION AND COMMUNITY SERVICES DISTRICT

Wednesday, September 25, 2013

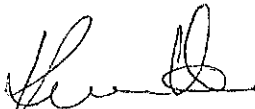
Ms. Sophia Weiner-Light

On September 25, 2013, Chief Gregory Harman provided me with your reimbursement request for vehicle storage charges incident to the towing of your vehicle that occurred on August 17, 2013 and asked me to determine if any basis existed to approve your request. In researching the circumstances pertaining to the towing of your vehicle, I did not find any basis to approve your request. The criteria I used to make my determination is based on the following information:

Your request cites that the Kensington Police Department bears the responsibility for "the car having to be there longer than otherwise necessary." You support this statement based on your interaction with two dispatchers that occurred on August 17th. You advise that you spoke with both a Richmond Dispatcher and a Kensington Dispatcher. The Kensington Police Department contracts with Richmond PD for dispatch services. If you received misinformation from a dispatcher, you may wish to contact Richmond Dispatch with your reimbursement request. Their Service/Personnel Complaint Form can be found via the following link:

<http://www.ci.richmond.ca.us/DocumentCenter/HomeView/4243>

If you have any further questions regarding this matter, please feel free to contact me. You can leave me a message on our business phone at 510-526-4141, or you may email me directly at khui@kensingtoncalifornia.org.



Sergeant Kevin Hui
Kensington Police Department

September 2013 Police Department Report

October 11, 2013

- Department Personnel
 - We are fully staffed at 10 sworn positions with two reserve officers however; we are beginning the background process on two new reserve officers candidates.
- Commendations and Correspondence
 - On September 5th, we received a thank you letter from El Cerrito Police Chief Sylvia Moir, thanking Master Sergeant Ricky Hull and Officer Rodney Martinez for their response and assistance with an in progress residential burglary in El Cerrito.
- Investigation of Alleged Misconduct
 - Citizen's Investigation 2013-002 was initiated on March 21st on an allegation that an officer intimidated the complaining party. This investigation is being conducted by Master Sergeant Hull.
- 9-1-1 / Richmond Communication Center Information.
 - The Ring Time Report for August identified 46 total 911 calls with 7 having ring times over 20 seconds. Average ring time for the month of August was 11.4 seconds.
- Community Networking
 - On Saturday, 09-07-13, Chief Harman participated in the KCC Movie Night held at the park.
 - On 09-09-13, Sergeant Barrow participated in the Arlington Parking meeting held at the Arlington Deli and sponsored by John Gioia.
 - On 09-09-13, Officer Wilson attended the Kensington Public Safety Council meeting.
 - On 09-11-13, Chief Harman attended the West County Police Chief's meeting in Hercules.

- On 09-21-13, Officer Stephanie Wilkens participated in the Tri- City Day held at the El Cerrito Plaza.
- On 09-23-13, Chief Harman attended the KIC meeting.
- On 09-25-13, Chief Harman attended the Contra Costa County Police Chief's Association meeting in Martinez.
- On Saturday, 09-28-13, Chief Harman participated in the "Kensington Animal Fair-Blessing of the Animals", sponsored by the Arlington Church and held at the Community Center.

• Community Criminal Activity

- This section of the Watch Commanders Reports are prepared by Sergeant Barrow for Team One, Sergeant Hui for Team Two, and Detective Stegman.

• Watch Commander Reports

•• **Sergeant Barrow**

TEAM #1 STATISTICS

Officer:	Ramos (K41) (0600-1800)	Wilson (K38) (1800-0600)	Wilkens (K50) (1800-0600)
Days Worked	16	16	16
Traffic Stops	29	6	20
Moving Citations	41	4	12
Parking Citations	0	7	0
Vacation/Security Checks	5	29	46
FI-Field Interview	0	0	0
Traffic Accident Reports	0	0	1
Cases	2	1	5
Arrests	0	1	0
Calls for Service	15	18	64

- BRIEFING/TRAINING:
 - Reviewed KPD Policy 323 – Fire Prevention Planning
 - Reviewed KPD Policy 322 – Search and Seizure
 - Reviewed KPD Policy 320 – Domestic Violence
 - Reviewed KPD Policy 316 – Officer Response to Calls
 - Reviewed KPD Policy 314 – Vehicle Pursuit
 - Reviewed KPD Policy 312 – Firearms

- Reviewed Warrantless Searches
- Reviewed Search Warrant to Ping a Cell Phone
- Reviewed PC 844 and PC 153 Forcible Entry, Knock and Notice
- Reviewed Salinas V. Texas, 5th Amendment
- Reviewed Qualified Immunity of Unlawful Arrest and Use of Force
- Reviewed H&S 11376.5 Medical Assistance for Person Experiences Drug regarding Overdose
- Reviewed Search Warrants for drawing Blood, for DUI's

SERGEANT'S SUMMARY:

Tis' the season for Halloween. The holiday is usually filled with good times and we hope to keep all of you safe during Trick-or-Treating and parties, again this year. Please make sure if you are out and about after dark, that you stay off the roadways and wear some kind of reflective clothing or carry flash lights. Parents stay with smaller children and check all candy before it is eaten.

There has previously been a Haunted House on Ardmore and it has been well attended. I spoke with the organizer, and there is a good chance the Haunted House will not go up *this year*, but maybe next year. Please be safe and always stay in groups and watch out for your valuables. Please report rowdy kids or any kind of graffiti and/or vandalism immediately.

The second Citizen's Academy has concluded and it was a success. There were 16 students and they all graduated on October 1st. I took note of how enthusiastic the class was and how much the students appreciated their experience. I really appreciate that the officers took a vested interest in these classes and for their participation. Stay tuned for 2015 as Officer Wilson will be looking for people to sign up for the department's third Citizen's Academy.

We have also seen an increased number of animal complaints, specifically in regards to dogs being off leash at the Kensington Park, as well as on the streets and paths. We also have seen more calls for service in regards to barking dogs and aggressive dog behavior. Please keep your dogs on leash and under control. It is the law and a citable offense.

- SIGNIFICANT EVENTS:
- 2013-4254 – On 9-2-2013, Officer Wilson and Sergeant Barrow responded to the 7000 block of Stockton Avenue to assist El Cerrito PD during a warrant arrest.
- 2013-4289 – On 9-4-2013, Sergeant Barrow responded to the 00 block of Highland Blvd for a reported identity theft.
- 2013-4460 – On 9-16-2013, Officer Wilkens responded to the 00 block of Highland Blvd for a reported non-injury vehicle collision.

- 2013-4479 – On 9-17-2013, Sergeant Barrow, Officers Wilson and Armaninio responded to the 400 block of Ocean View Avenue for a reported missing person.
- 2013-4492 – On 9-18-2013, Officer Wilkens responded to the 300 block of Colusa Avenue for a reported illegal dumping.
- 2013-4591 – On 9-23-2013, Officer Wilkens responded to the 00 block of Kerr Avenue for a reported fraud.
- 2013-4607 – On 9-24-2013, Officer Wilkens responded to the 200 block of Arlington Avenue for a reported identity theft
- 2013-4609 – On 9-24-2013, Officer Wilkens responded to the 00 block of Edgcroft Drive for a reported vandalism.
- 2013-4610 – On 9-24-2013, Officer Wilson responded to the 100 block of Highland Blvd for a reported domestic violence and an arrest was made during the investigation.

TRAFFIC STATISTICS:

Team #1 took 1 traffic collision report during the month of September.

8 moving citations were issued on Colusa Ave.
 46 moving citations were issued on Arlington Ave.
 1 moving citation was issued on Rincon Road.
 4 moving citation was issued on Westminster Ave.
 1 moving citation was issued on Eureka Ave.

•• Sergeant Hui

TEAM #2 STATISTICS

Sergeant Hui (K42)
 (1600-0400)

Officer:	Martinez (K31) (0600-1800)	Turner (K46) (1800-0600)
Days Worked	12	8
Traffic Stops	12	21
Moving Citations	10	7
Parking Citations	10	2
Vacation/Security Checks	18	21
Cases	2	1
Arrests	0	1
Traffic Accident Reports	0	0
Calls for Service	61	20

Officer Turner took six days of vacation.
Sergeant Hui recovered twelve hours of comp time.

BRIEFING/TRAINING:

- Reviewed KPD Policy 312 – Firearms
- Reviewed KPD Policy 316 – Vehicle Pursuit
- Reviewed KPD Policy 320 – Domestic Violence
- Reviewed KPD Policy 322 – Search and Seizure
- Reviewed KPD Policy 310 – Officer Involved Shooting
- Reviewed Traffic Enforcement Issues
- Reviewed Search Warrant Requirements for DUI Blood Draws
- Reviewed Qualified Immunity of Unlawful Arrest and Use of Force
- Reviewed Salinas v. Texas
- Reviewed PC 844 and PC 1531 – Forcible Entry and Knock and Notice

SERGEANT'S SUMMARY:

For this month's summary, I would like to stress the importance of calling for police services as soon as practicable. This past month, we received a call for service for a suspicious person who contacted a juvenile who was walking home from school and offered her a ride home. In this particular instance, we received the call for service approximately one week after the incident occurred.

Many of the calls for service that we receive are time sensitive. As the time frame increases from when an incident occurred to when we are notified, our ability to bring an incident to a successful conclusion decreases.

In the above referenced incident, it is unknown whether the suspicious person was simply offering the juvenile a ride home or if he was attempting an abduction. Unfortunately, due to the delay in reporting the suspicious person, our odds of locating this person are very low. If you have an incident that you believe requires a police response, please call promptly.

On a side note, I would like to recognize the work of Officer Wilkens and Reserve Officer Armanino for their work on a medical call this month. On September 7th, we received a report of an unresponsive male who was not breathing. Officer Wilkens and Reserve Officer Armanino located the subject and determined that he did not have a pulse and was not breathing. They immediately began CPR on the subject and were successful in reviving him. Nice job!

SIGNIFICANT EVENTS:

- 2013-4314– On 9/6/2013, Sergeant Hui responded to the intersection of Canon Dr and Parkside Ct and arrested a subject for an outstanding warrant.
- 2013-4385– On 9/11/2013, Officer Martinez responded to the unit blk of Kerr Ave on a report of an attempted residential burglary.
- 2013-4395– On 9/12/2013, Officer Martinez responded to the unit blk of Ardmore Ave on a report of an identity theft.
- 2013-4405– On 9/12/2013, Officer Turner responded to the unit blk of Eureka Ave on a report of a residential burglary.
- 2013-4407– On 9/12/2013, Officer Turner arrested a subject on the 300 blk of Arlington Ave for driving under the influence of alcohol.

Reserve Officer:	Armanino (K47)
Days Worked	3
Traffic Stops	7
Moving Citations	4
Parking Citations	0
Vacation/Security	2
Checks	
Cases	0
Arrests	0
Traffic Accident Reports	0
Calls for Service	7

Traffic Totals for Team 2 – includes Master Sergeant Hull

14 citations were issued on Arlington Ave
11 citations were issued on Colusa Ave
2 citations was issued on Coventry Rd
1 citation was issued on Franciscan Way

•• Detective Eric Stegman

SIGNIFICANT EVENTS:

Suspicious event

On 9/20/13 at approximately 1420 hours, a female student from the Hilltop School, was asked by a man if she wanted a ride home, as she walked down the stairs on the south side of the park after school. On 9/27/13, the incident was reported to KPD. The subject was described as a white male with a thin build and sand colored hair.

On 9/23/13, El Cerrito had a similar incident at Tehiyah Middle school involving a

white van with red writing on it.

If you have any information regarding this or similar incidents please contact Detective Stegman. Additionally, if you see any suspicious subject in or around the school, or park area, please call KPD immediately.

KPD INVESTIGATIONS INFORMATION:

13-3288 Assault (Possible Homicide/ Manslaughter)
Details are pending the conclusion of this case.

12-5354 Murder

On 8/13/12 at approximately 1145 hours, Officer Ramos responded to a welfare check for a potential fall victim (James Durkin). Shortly after his arrival Officer Ramos requested I respond to the scene. Due to the initial circumstances I began investigating the case as a homicide. During the investigation it was revealed the victim had been stabbed in the chest with a serrated kitchen knife. Later in the investigation, the suspect (Diane Sydenham), was identified. Early on 8/14/12, Sydenham was arrested for the Murder of James Durkin. On 8/16/12 the Contra Costa County District Attorney's Office formally charged Sydenham with Murder and she was arraigned.

On 8/30/12 a judge granted an increase in Sydenham's Bail from \$1,000,000 to \$2,000,000. On 9/20/12 Sydenham entered a not guilty plea. **On 8/28/13, I testified at the preliminary examination. Subsequently Sydenham was given an arraignment date of 9/20/13, in which she will re-enter a plea. The trial date is TBD.**

2011-1618 Homicide.

On 03-12-11, KPD Officers were dispatched to a possible dead body in the 00 block of Arlington Avenue. The individual was pronounced dead at the scene. This case is being investigated as a homicide.

KPD INVESTIGATIONS

- I made court runs to file cases, and retrieve court notifications.
- I updated the KPD Case Review Log.
- I reviewed the "Trak Flyer" messages and maintained the flyer board.
- I instructed the Officer Safety and Use of Force portion of the Citizen's Academy.
- I took Officer to the range and qualified him with his duty weapon.
- I assisted WestNET with a search warrant service in San Pablo.

KPD Monthly Crime Statistics

September 2013

Part 1 Crimes	Reported	Open/ Pending	Suspended	Closed	Arrest
Homicide	0	0	0	0	0
Rape	0	0	0	0	0
Robbery	0	0	0	0	0
Assault	1	0	0	1	1
Residential Burglary	2	2	0	0	0
Larceny Theft	1	0	1	0	0
Vehicle Theft	1	1	0	0	0
Arson	0	0	0	0	0

Part 1 Totals	5	3	1	1	1
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Other Crimes

Auto Burglary	0	0	0	0	0
Identity Theft	3	2	1	0	0
Fraud	1	0	1	0	0
Forgeries	0	0	0	0	0
Restraining Order Violations/ Stalking/ Criminal Threats	0	0	0	0	0
Sex Crimes (other)	0	0	0	0	0
Assault/ Battery (other)	0	0	0	0	0
Vandalism	1	0	1	0	0
Drugs	0	0	0	0	0
Warrant	1	0	0	1	1
Hit and Run Felony	0	0	0	0	0
Hit and Run Misdemeanor	0	0	0	0	0
Other Misdemeanor Traffic	1	0	0	1	1

Other Crime Totals	7	2	3	2	2
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All Crime Totals	12	5	4	3	3
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Traffic Accidents (Non Injury)	3
Traffic Accidents (Injury)	0

KPD Crime Statistics

YTD 2013

Part 1 Crimes	Reported	Open/ Pending	Suspended	Closed	Arrest
Homicide	0	1*	0	0	0
Rape	0	0	0	0	0
Robbery	0	0	0	0	0
Assault	5	1	0	4	1
Residential Burglary	23	11	8	4	1
Larceny Theft	24	3	21	0	0
Vehicle Theft	12	2	9	1	0
Arson	1	0	1	0	0
Part 1 Totals	65	17	39	9	2

Other Crimes

Auto Burglary	0	0	0	0	0
Identity Theft	26	9	14	3	0
Fraud	1	0	1	0	0
Forgeries	1	0	1	0	0
Restraining Order Violations/ Stalking/ Criminal Threats	2	1	0	1	0
Sex Crimes (other)	0	0	0	0	0
Assault/ Battery (other)	0	0	0	0	0
Vandalism	17	3	12	2	0
Drugs	0	0	0	0	0
Warrant	12	0	0	12	14
Hit and Run Felony	0	0	0	0	0
Hit and Run Misdemeanor	10	0	9	1	0
Other Misdemeanor Traffic	11	0	0	11	11
Other Crime Totals	80	13	37	30	25

All Crime Totals	145	30	76	39	27
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Traffic Accidents (Non Injury)	32
Traffic Accidents (Injury)	0

* 2011 case

•• **Chief Harman**

Early in the new school year, several concerned parents contacted the County and me regarding the dangerous intersection at Arlington Avenue and Kensington Park/ Rincon. A meeting was held on September 3rd between the parents, County representatives, and me to discuss possible solutions to make the intersection safer.

First, a bit of history on the issue. In 2009, the Kensington Police Protection and Community Services District requested that the Technology Transfer Program of the Institute of Transportation Studies at University of California, Berkeley conduct a Traffic Safety Evaluation (TSE) study for vehicle traffic and pedestrian safety issues at a crosswalk on Arlington Avenue and Kensington Park Way. A team of two traffic safety experts consisting of a traffic engineer and a traffic enforcement expert conducted the Kensington Police Protection and CSD TSE in January 2010 and prepared a report. The report focused on the specific location in the community of Kensington – the signalized pedestrian crossing of Arlington Avenue adjacent to its intersections with Kensington Park Road and Rincon Road.

The report identified that the community was concerned that vehicles speed through the intersection and fail to stop when the red indication is given during pedestrian crossings. The TSE reviewed these concerns and identified potential improvements at this location. The report's factual findings, comments, and possible options were as follows:

"The signalized pedestrian crossing of Arlington Avenue is the only traffic signal located in the community of Kensington. The pedestrian crossing provides access across Arlington Avenue to the Kensington Hilltop Elementary School, the Kensington Library, an adjacent church and preschool school, and area residences. A school crossing guard is provided during school commute times occurring weekdays from 7:45 to 8:45 AM and 2:30 to 3:30 PM. The school crossing guard reported that approximately 70 pedestrian utilize the signalized pedestrian crossing during each school commute period.

The signal is pedestrian actuated and provides a protected pedestrian phase during which vehicles on Arlington Avenue, Kensington Park Road, and Rincon Road are given a red indication. Therefore, the signal provides an exclusive pedestrian phase. Kensington Park Road and Rincon Road are controlled by both stop signs and traffic signals. The operational characteristics of the signal are summarized below.

1. When no pedestrian actuation has been received:
 - * Flashing yellow indications are displayed to both directions of Arlington Avenue.

- * *Flashing red indications are displayed to both Kensington Park Road and Rincon Road.*
 - * *A steady don't walk (upraised hand) indication is displayed at the pedestrian crossing.*
2. *When a pedestrian actuation is received:*
- * *A steady yellow indication is displayed followed by a solid red indication for both directions of Arlington Avenue.*
 - * *Solid red indications are displayed to both Kensington Park Road and Rincon Road.*
 - * *A walk (walking person) indication is displayed once the solid red indication is given to Arlington Avenue. A pedestrian clearance interval (flashing upraised hand) is then displayed.*
3. *When the pedestrian clearance interval is complete:*
- * *Flashing yellow indications are once again displayed to both directions of Arlington Avenue.*
 - * *Flashing red indications are once again displayed to both Kensington Park Road and Rincon Road.*
 - * *A steady don't walk (upraised hand) indication is once again displayed at the pedestrian crossing.*

The intent of the traffic signal control is to allow vehicles to travel through the area unencumbered when no pedestrians are present. This is accomplished through the use of flashing yellow indications on Arlington Avenue that do not require vehicles to stop. This is further accomplished by the stop signs and flashing red indications on Kensington Park Road and Rincon Road, which allow vehicles to proceed onto Arlington Avenue when it is safe to do so after coming to a complete stop.

When pedestrians are present, the solid red indications on Arlington Avenue, Kensington Park Road, and Rincon Road are intended to keep vehicles from traveling through the area. However, the juxtaposition of stop signs and signal provides slightly mixed direction to drivers.

A solid red signal means that a driver cannot proceed to make a left turn while a stop sign means that a driver can proceed when it is safe to do so.

Drivers on Kensington Park Road and Rincon Road must identify acceptable gaps in vehicular traffic on Arlington Road to safely make their turns onto that roadway. To accomplish this, adequate sight distance is required. Adequate sight distance is available for drivers on Kensington Park Road, but it is not available for drivers on Rincon Road. The primary sight distance constraint for drivers on

Rincon Road is parked vehicles along the west curb north of the intersection.

The signal system located on Arlington Avenue is out of compliance with the California Vehicle Code and the California Manual on Uniform Traffic Control Devices (CAMUTCD). The noncompliance arises from the juxtaposition of stop sign control and signal control on the Kensington Park Road and Rincon Road approaches to the intersection. California Vehicle Code section 21355(a) and CAMUTCD section 4D.01 state that stop signs shall not be used in conjunction with traffic signal control and operation. While the traffic signal system is out of compliance with these codes and standards, it does not appear to operate in an unsafe manner. Field observations revealed that drivers are not confused by the signal system and stop signs. Further, the traffic collision history indicates that drivers are able to safely travel through the area. However, to promote uniformity with traffic control device application throughout the nation and to minimize potential driver confusion, compliance with these codes and standards is recommended. This issue cannot be resolved by simply removing the stop signs and pavement legends on Kensington Park Road and Rincon Road because CAMUTCD section 4K.02 requires that a stop sign be used on all approaches to which a flashing red indication is shown. The flashing red beacon would essentially be serving as an intersection control beacon without the required stop sign, which would result in a different non-compliance issue.

A range of potential improvements were identified to assist the community of Kensington and Contra Costa County with the enhancement of safety and the resolution of the non-compliance issues. A range of potential improvements is offered because each option carries various disbenefits. Further, even though non-compliance and sight distance issues were identified, the intersection does not appear to present unsafe conditions. Therefore, the local agencies must evaluate these improvement options in conjunction with overall community needs and value and ultimately determine the appropriate course of action at this location.

Option 1 – Install a full traffic signal. This intersection could be converted to a full traffic signal by installing red-yellow-green indications for all vehicular approaches and walk-don't walk indications for all pedestrian crossings. This would require the installation of additional traffic signal poles and associated infrastructure. The stop signs on Kensington Park Road and Rincon Road would be eliminated, and the sight distance constraints for drivers turning left from Rincon Road would become less of an issue. This option would be fairly costly, and it would create traffic congestion on Arlington Avenue. Further, this location would probably not satisfy standard traffic signal warrants.

Option 2 – Remove signal control from Kensington Park Road and Rincon Road. The stop signs would remain. This would eliminate the non-

compliance issue, but it would not address the sight distance issue. This option would result in two stop sign controlled approaches within the envelope of a signalized pedestrian crossing which could create conflicts between pedestrians crossing during the signalized pedestrian phase and drivers using gaps created by red indications on Arlington Avenue to make left turns from the side streets.

- Option 3 – Remove the signal control and replace with all-way stop control. This option would eliminate the non-compliance issue and alleviate the sight distance issue. However, it would create significant congestion on Arlington Avenue.*
- Option 4 – Remove the signal in its entirety. The stop signs on the two side streets would remain. The non-compliance issue would be eliminated, but the sight distance issue would remain. This option would eliminate signal control protection for pedestrians crossing Arlington Road at this intersection, which would degrade overall pedestrian safety at this location. However, adequate sight distance and gaps would exist for pedestrians to safely cross the street, but pedestrians would need to exercise a high degree of attentiveness and judgment. This may not be a suitable option given the high number of school children who use this crossing.*
- Option 5 – Eliminate on-street parking along the west curb line north of Rincon Avenue. This option could eliminate or alleviate the sight distance issue depending upon how much parking was eliminated. It would not address the non-compliance issue. This option could be implemented in combination with any of the other four options. This on-street parking is heavily utilized and its elimination would impact area residents, and the adjacent church and preschool.*
- Option 6 – Implement enhanced traffic law enforcement. Enhanced law enforcement would probably increase compliance with traffic signal control during pedestrian crossings. This would address the primary issue that prompted the request for this TSE.*

The level of enforcement action for traffic violations, a citation or verbal warning, is left to the officer's discretion based upon extenuating circumstances and/or whether or not the violator is a local resident. This is a reality in small communities where citizen's concerns and complaints bear a significant influence on community leadership. A citation is the most effective tool to influence and change a driver's behavior leading to a raised level of compliance with traffic laws. This result is achieved by the violator remembering the incident, the resulting fine and the effect on the driver's record and auto insurance rates. An added benefit is when the violator relates the incident to friends and neighbors

who hopefully remember the circumstances when driving through that particular location to focus on driving safely. Verbal warnings are ineffective in enhancing driver safety as the violator has a tendency to forget the incident, or if the driver relates the circumstances to associates, the 'spin' most likely ends with the offender "talking the officer out of a ticket".

The Kensington Police Department knows that the probability of fatal or serious injury to a pedestrian, especially a child at the pedestrian crossing would have serious consequences in their community. It is very important that the community understands, accepts and supports the importance of a Zero Tolerance enforcement policy for the intersection and crosswalk at Arlington Avenue and Kensington Park Way.

The community of Kensington is relatively free of serious traffic problems. Measuring traffic problems is accomplished by compiling collision data; however it is impossible to measure collisions that have been prevented by police presence and traffic enforcement. Unfortunately most traffic safety and preventative programs begin after a tragedy occurs and a public outcry motivates community leaders to take action.

The problem of motorists failing stop for the red light at the signalized crosswalk on Arlington Avenue has all the elements of a tragic occurrence.

For many years motorists have believed that municipalities with a zero tolerance for traffic violations use the program as a source of generating revenue for the city. The policy also results in drivers being very careful to obey the traffic laws when traveling through a targeted area and a reduction in the number and severity of traffic collisions.

"Zero Tolerance Policy" is a more positive spin on preventing serious traffic collisions. The goal would be to inform and gain the agreement of law enforcement officers, governmental and judicial representatives, community representatives, and media support the program. It is important to keep the public informed through media of all aspects of the "Zero Tolerance Policy" program, including the purpose and goals, and to warn the public where the focused traffic enforcement would take place, and that a "Zero Tolerance Policy" would be in effect."

The above report was submitted to the KPPCSD Board for consideration in May of 2010. (The full report can be viewed on the District's website.)

The KPPCSD Board accepted the recommendations of the report at the May 2010 KPPCSD Board meeting, and directed me to implement a "Zero Tolerance Policy" throughout Kensington for traffic enforcement. Following public education and outreach, the police department went to a "Zero Tolerance Policy" for traffic enforcement in 2011.

The County Public Works Department also made changes to the intersection. They adjusted the timing of the yellow flashing light to cycle slower when turning flashing yellow, to yellow, and then to red. This resulted in far fewer drivers driving through the red light. They also increased the number of traffic lights in the intersection, increasing the visibility of the signals as drivers approached the intersection.

However, the auto/ pedestrian near misses have continued, leading to the request of the meeting on September 3rd between all parties to identify additional measures that could be taken to make the intersection safer.

On September 23, 2013, County Traffic Engineer Monish Sen sent me the following e-mail, providing me with an update to our discussions of September 3rd.

"Here's a quick update on some of the items that were discussed at our meeting at the intersection that day:

- 1. We are proceeding on adding "Stop Here on Red" (with arrow pointing to the limit line) R10-6 signs directly to the signal poles (one in each direction) to help reduce confusion as to when and where to stop (limit line when the signal turns red, activated by a pedestrian), and have issued a trim notice for the overgrown foliage at the northbound approach to the signal on Arlington (on the east side, just south of the signal).*
- 2. There were complaints about speeding and a lot of "red light running". I understand your department has been very active in enforcing the red light violators, and the new signs should help you in your enforcement efforts. Speeding in excess of the speed limit, especially during school times does not appear to be factor at the intersection.*
- 3. Request for Speed Humps on Arlington Avenue. We would not recommend installation of speed humps on Arlington Avenue, considering its designation as an arterial roadway carrying a significant volume of traffic and the winding and relatively narrow nature of the roadway.*
- 4. Request for flashing lights or beacons on Arlington Avenue at the crosswalk. We would not recommend the installation of RRFB's (Rapid repeating flashing beacons) at this location since it is already served by a pedestrian activated signal with a red light, as well as crossing guards during school drop off/pick up.*
- 5. The existing signal operates as a flashing yellow to alert drivers that a pedestrian crosswalk and intersecting roads are there. This has been mentioned as confusing. However, the signal was installed as pedestrian crossing and is activated only when the button is pressed at the*

crosswalk. It is not a fully actuated signal, with the Rincon and Library intersections operating as flashing red unless the pedestrian button is pushed and they go to red. After a delay, the signal on Arlington goes from flashing yellow to solid yellow, and then to solid red in all directions, giving the pedestrian a "walk" indication.

- 6. There has been a suggestion to modify the signal to be green on Arlington until a pedestrian pushes the button. However, this option would require a reworking of the entire signal and intersection to add detection loops and cycles for the intersecting roads, retiming and installation of additional signal equipment. A study and plans would have to be prepared with a funding source identified to implement the full signal. The existing skewed/offset intersecting roadways and the curves adjacent to the intersection make this a less than ideal location for a full signal. Also, it is not clear that a fully actuated signal at the intersection would lead to a reduction in red light violators.*
- 7. Also recommended was that the signal be made to be flashing red at all times in all the legs to slow drivers and force them to stop. We are concerned that this option would cause create traffic congestion that may impact drivers and adjacent neighborhoods, as motorists seek shortcuts away from the congestion on the Arlington. Right of way determinations at the offset intersection with limited visibility would not necessarily make pedestrian safety improved with this scenario.*
- 8. There has also been a recommendation to limit or restrict left turns to Rincon, the Library entrance, etc. We have conducted a turning movement count and are determining if the data justifies any restrictions, and how those restrictions may affect traffic further downstream of the intersection."*

As far as traffic enforcement at the intersection, during the month of September (2013), 37 traffic citations were issued by the Kensington Police Department for moving violations at the intersection.

The police department will continue to enforce traffic safety at the intersection while we wait for the County to identify possible physical traffic safety improvement devices at the intersection in their attempt to improve traffic safety.

Additionally, this topic is on the agenda for the October 16th KPPCSD Board meeting for further Board and public discussion.

October 2013

October 2013						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

November 2013						
S	M	T	W	T	F	S
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Sep 29 - Oct 5	Sep 29	30	Oct 1	2	3	4	5
			7:00pm-9:00pm Citizens Academe (CCS) 7:30pm-9:30pm *Troop 100 (CCM)		7:15pm-9:15pm EBC (CC1)		
Oct 6 - 12	6	7	8	9	10	11	12
		4:00pm-5:30pm **Brownies (CCM) 7:00pm-8:00pm *Cub-Scouts (CCM) 7:30pm-9:30pm KCC (CCS)	7:30pm-9:30pm *Troop 100 (CCM)	6:00pm-10:00pm GPFF (CCM) 7:00pm-9:00pm KFD Mtg (CCS)	7:00pm-9:00pm Park Bldg Meeting (CCM)		11:00am-5:00pm CC Rental (CCM)
Oct 13 - 19	13	14	15	16	17	18	19
		6:30pm-7:30pm KPSG (CCS) 7:00pm-8:00pm *Cub-Scouts (CCM) 7:30pm-8:30pm KARC (CCS)	Copy: Monthly Statistic 7:30pm-9:30pm *Troop 100 (CCM)	7:00pm-10:00pm KPP/CS/MA/SH (CCS)	7:00pm-9:00pm KPSG (CCM) 7:15pm-9:15pm EBC (CC1)		
Oct 20 - 26	20	21	22	23	24	25	26
	KKC Parade & Picnic (C)	7:00pm-8:00pm *Cub-Scouts (CCM)	7:30pm-9:30pm *Troop 100 (CCM)				9:30am-12:00pm Brownie H.L. Mtg (CCM) 3:00pm-9:00pm CC Rental (CCM)
Oct 27 - Nov 2	27	28	29	30	31	Nov 1	2
		7:00pm-8:00pm *Cub-Scouts (CCM) 7:30pm-9:30pm KCC (CCS)	7:30pm-9:30pm *Troop 100 (CCM) 7:30pm-9:00pm KVAE (CCS)		HALLOWEEN		

* defines non paying group/meetings

230

November 2013

November 2013						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
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December 2013						
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22	23	24	25	26	27	28
29	30	31				

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	Oct 27	28	29	30	31	Nov 1	2
Oct 27 - Nov 2							
	3	4	5	6	7	8	9
Nov 3 - 9		4:00pm 5:30pm **Brownies (CCM) 7:00pm 8:00pm *Cub-Scouts (CCM) 7:30pm 9:30pm *KFC (CCB)	7:30pm 9:30pm *Troop 100 (CCM)	7:00pm 10:00pm *KPPS/DV/HRG (CCB)	7:15pm 9:15pm EBC (CC1)		
	10	11	12	13	14	15	16
Nov 10 - 16	8:00am 8:30am Tentative Rental	6:30pm 7:30pm *KPS (CCB) 7:00pm 8:00pm *Cub-Scouts (CCM) 7:30pm 8:30pm *KFC (CCB)	7:30pm 9:30pm *Troop 100 (CCM)	6:00pm 10:00pm GPFF (CCM) 7:00pm 9:00pm *KFD Mtg (CCB)		Copy: Monthly Statistic	
	17	18	19	20	21	22	23
Nov 17 - 23		7:00pm 8:00pm *Cub-Scouts (CCM)	7:30pm 9:30pm *Troop 100 (CCM)		7:15pm 9:15pm EBC (CC1)		
	24	25	26	27	28	29	30
Nov 24 - 30		7:00pm 8:00pm *Cub-Scouts (CCM) 7:30pm 9:30pm *KFC (CCB)	7:30pm 9:30pm *Troop 100 (CCM) 7:30pm 9:00pm *KMLG (CCB)				

* defines non paying group/meetings

237

Office Report prepared by Marty Westby, Administrator
Kensington Community Council Board Meeting
October 7, 2013

KASEP:

KASEP Fall session started Monday, September 16th and runs through December 20th. The final shake-out of classes filled includes 41 KASEP with 203 seats filled and 8 KCC classes with 81 spaces filled; a total of 284 children per week. Approximately 53% of the students at Kensington Hilltop are taking classes with KCC.

There were three new classes offered this fall session: Garden Fun for kindergarten, Action Figures, and Advanced Pokemon. Good-byes to Catherine Johnson and Beth Thompson, both well-loved KASEP instructors, have moved on in their worlds.

Winter KASEP Online Registration is scheduled for Tuesday, December 3rd; 6:00pm To register, go to the website, WWW.KensingtonCommunityCouncil.Org (information will be available for viewing online after November 11th).

KCC Classes and Events:

Family Recreation Workshops – Making Felt Ornaments, Recreation Bldg- November/time and date are being finalized; Holiday Wreath Making, Friday December 13th at the Community Center, 7:00-9:00pm.

Adult Recreation: Kevin Knickerbocker continues teaching his morning Jazzercise and Body Sculpting classes, Monday – Friday. New class offered, taught by Meg McDowell, is Qi Gong, Fridays 9:30 – 10:30am at the community center. Meg will host a tea and talk on the 2nd Friday of every month.

The KCC Annual Family Parade and Picnic is scheduled for Sunday, October 20th. Parade meets downtown Kensington and marches to the community center for food, pumpkin decorating, live music and family fun activities.

KCC Administrative:

KCC donated two classes to the Kensington Hilltop Garden Party, one for Winter KASEP class and one for Spring KASEP class.

KCC Annual Fund Drive launched in September and envelopes with generous donations are being received with thanks.

The Recreation Building passed its annual fire alarm system test.

General Manager September 2013 Report

Budget

On September 26th, the Finance Committee met and one of the items on the agenda was my request for a correction to be made to the 2013/14 KPPCSD Operating Budget. The committee was provided the following information as background material.

"Directors Gillette and Toombs had requested that I prepare spread sheets showing the various scenarios of salary and benefits for the current KPOA negotiations. It was during the preparation of this document that I identified a mistake in the KPPCSD Officers Salaries Chart.

First, a little background on what has occurred. The first thing that our accountant Debbie Russell and I prepare when preparing the upcoming year's fiscal budget is the Officers Salaries Chart. We calculate what the salaries will be for the upcoming fiscal year and all other calculations, such as PERS contributions in the budget are made off this chart. Since salaries are the biggest expense in our budget, this is where the budget process begins.

Since we began this process, it has always bothered me that it appeared that the two sergeants appeared to have not been paid enough when compared to the officers and the corporal. I thought it was caused by the incentive pay received by the officers and corporal and left it at that.

However, after I began my new calculations, I happened to be reviewing the Salary document and noticed that for the two sergeants, when the calculation for "Months in Step" were made, they were assigned one step for 8.5 months and the next step at 2.5 months. This equals 11 months of salary for the two sergeants for the fiscal year.

This explains the lack of a salary differential between the two sergeants and the corporal and officers.

I checked the budget for Fiscal Year 2012/13, and the same miscalculation of months in step occurred.

The good news is that even though this mistake occurred in the budget documents, the two sergeants were properly paid, and only the budget calculations are off by the combined amount of their 12th month in salaries and associated costs.

That is also the bad news. Our Fiscal Year 2013/14 Budget is now off by the 12th

month of salaries and associated costs for the two sergeants.

What this means is that for total officers salaries, where we had calculated total salaries at \$920,695.94 for the fiscal year, the correct amount is \$936,032.76, or a \$15,336.82 increase in salary expense Chart 502.

This increase also changes the following expenses:

Chart 523 Medicare increases from \$14,945 to 15,167, for an increase of \$222.

Chart 527 PERS District increases from to \$338,760 to \$344,354, for an increase of \$5,594.

Chart 528 PERS Officers increases from \$83,583 to \$84,963, for an increase of \$1,380.

This makes a total increase in budgeted expenses related to the 12th month of salary for the two sergeants of \$22,532.82.”

The Finance Committee accepted the recommendation and motioned that the mistake in the budget's salary assumption be corrected. This should occur at the October 16th KPPCSD Board meeting.

Please note that this correction also results in the budget shortfall increasing from -\$94,384 to -\$116,917.

For the month of September, there were only two variances to note. The first one was a small variance in the officer's salaries as noted above. The \$700 increase over budgeted projections is a direct result of not taking the sergeant's 12th month of salary in the yearly budget.

The second is in the expenses for legal services for the District. For the month of September, there was \$26,563 expensed for services rendered in August. Year to date legal expenses are \$44,000, which is over half of the full year budgeted expense of \$70,000 for legal services.

District Administrative Assistant Lynn Wolter received a \$525 grant from CSDA for her attendance at the CSDA Annual Conference held in September. She also received a \$600 grant to be used by a member of our board if they wish to attend the Special District Leadership Academy being held in November.

Great job Lynn!

Kensington Park

Community Center & Annex

We are moving forward with the hire of Godbe Research to conduct the voter survey to determine the community's opinion on the remodeling of the Community Center and possible funding options.

Park Repairs

In September, there were no additional repairs to the park other than monthly maintenance.

Emergency Preparedness

The agenda and the minutes of the Public Safety Council posted are on the KPPCSD web page.

On Thursday, September 19th, the Kensington Public Safety Council presented, "Local Emergency Response To Disaster", with Fire Captain David Ciappara presenting information of the fire department's response to disasters and Officer Doug Wilson presenting information on the police department's response to a disaster.

The next meeting of the Kensington Public Safety Council will take place Monday, October 14th, at 6:00 PM at the Community Center Room #3.

It is very important for those interested in Kensington's emergency preparedness to come to the meetings.

Other District Items of Interest

Solid Waste

At the October 16th KPPCSD Board meeting, the Board will received the HF&H Consultants, "Bay View Refuse & Recycling Services 2014 Rate Application Report" and be asked to approve rates for 2014. Additionally, the board will be setting the 218 hearing on those proposed rates for December, preferably to occur during the regularly scheduled December 12th KPPCSD board meeting.

Public Works Issues

Street Lights

On July 16th, Supervisor John Gioia held the second Arlington Street Light Committee meeting with Public Works and PG&E representatives. It is

anticipated that following this second round of discussions, a public town hall meeting will be held to provide facts and options.

Paths

On August 19th, KPPCSD President Tony Lloyd, Director Len Welsh, and I had a meeting with John Gioia, his staff, and County representatives regarding the District's desire to acquire the paths. The possible process to acquire the paths was discussed, along with a commitment from John Gioia to work with us to move this exploratory process forward.

At the October 16th KPPCSD board meeting, Director Welsh will be presenting an update to the path acquisition process.

Website

The Board packets, monthly reports, minutes, recordings of the KPPCSD Board Meetings, and our Bay View – County Solid Waste contracts are available for review on our website at: www.kensingtoncalifornia.org

Drug Take Back Day

The next scheduled Drug Take Back Day will be held Saturday, October 26th, between 10AM and 2PM at the Public Safety Building.

Memorandum

Kensington Police Department



To: KPPCSD Board of Directors

APPROVED YES NO

From: Gregory E. Harman, General Manager/ Chief of Police

FORWARDED TO:

Date: Wednesday, October 09, 2013

Subject: Consent Calendar Item # K- KPPCSD 2013 Actuarial Study

Attached you will find the June 30, 2013 KPPCSD Actuarial Study of Retiree Health Liabilities prepared by Total Compensation Systems has required bi-annually by the CalPERS OPEB Program and GASB 45.

The KPPCSD Finance Committee met on September 26th, and after review and discussion, voted to accept the report and recommend to the KPPCSD Board that it adopt the report as a final document.

**Kensington Police Protection & Community
Services District
Actuarial Study of
Retiree Health Liabilities
As of June 30, 2013**

*Prepared by:
Total Compensation Systems, Inc.*

Date: August 28, 2013

Table of Contents

PART I: EXECUTIVE SUMMARY 3

A. INTRODUCTION..... 3

B. GENERAL FINDINGS..... 4

C. DESCRIPTION OF RETIREE BENEFITS 4

D. RECOMMENDATIONS..... 5

PART II: BACKGROUND..... 7

A. SUMMARY..... 7

B. ACTUARIAL ACCRUAL..... 7

PART III: LIABILITIES AND COSTS FOR RETIREE BENEFITS 9

A. INTRODUCTION..... 9

B. MEDICARE..... 9

C. LIABILITY FOR RETIREE BENEFITS..... 9

D. COST TO PREFUND RETIREE BENEFITS 10

1. Normal Cost..... 10

2. Amortization of Unfunded Actuarial Accrued Liability (UAAL)..... 11

3. Annual Required Contributions (ARC)..... 11

4. Other Components of Annual OPEB Cost (AOC)..... 12

PART IV: "PAY AS YOU GO" FUNDING OF RETIREE BENEFITS 13

PART V: RECOMMENDATIONS FOR FUTURE VALUATIONS 14

PART VI: APPENDICES 15

APPENDIX A: MATERIALS USED FOR THIS STUDY..... 15

APPENDIX B: EFFECT OF ASSUMPTIONS USED IN CALCULATIONS 16

APPENDIX C: ACTUARIAL ASSUMPTIONS AND METHODS..... 17

APPENDIX D: DISTRIBUTION OF ELIGIBLE PARTICIPANTS BY AGE 21

APPENDIX E: CALCULATION OF GASB 43/45 ACCOUNTING ENTRIES 22

APPENDIX F: GLOSSARY OF RETIREE HEALTH VALUATION TERMS..... 24

265

Kensington Police Protection & Community Services District
Actuarial Study of Retiree Health Liabilities

PART I: EXECUTIVE SUMMARY

A. Introduction

Kensington Police Protection & Community Services District engaged Total Compensation Systems, Inc. (TCS) to analyze liabilities associated with its current retiree health program as of June 30, 2013 (the valuation date). The numbers in this report are based on the assumption that they will first be used to determine accounting entries for the fiscal year ending June 30, 2013. If the report will first be used for a different fiscal year, the numbers will need to be adjusted accordingly.

This report does not reflect any cash benefits paid unless the retiree is required to provide proof that the cash benefits are used to reimburse the retiree's cost of health benefits. Costs and liabilities attributable to cash benefits paid to retirees are reportable under Governmental Accounting Standards Board (GASB) Standards 25/27.

This actuarial study is intended to serve the following purposes:

- To provide information to enable Kensington Police Protection & Community Services District to manage the costs and liabilities associated with its retiree health benefits.
- To provide information to enable Kensington Police Protection & Community Services District to communicate the financial implications of retiree health benefits to internal financial staff, the Board, employee groups and other affected parties.
- To provide information needed to comply with Governmental Accounting Standards Board Accounting Standards 43 and 45 related to "other postemployment benefits" (OPEB's).

Because this report was prepared in compliance with GASB 43 and 45, as appropriate, Kensington Police Protection & Community Services District should not use this report for any other purpose without discussion with TCS. This means that any discussions with employee groups, governing Boards, etc. should be restricted to the implications of GASB 43 and 45 compliance.

This actuarial report includes several estimates for Kensington Police Protection & Community Services District's retiree health program. In addition to the tables included in this report, we also performed cash flow adequacy tests as required under Actuarial Standard of Practice 6 (ASOP 6). Our cash flow adequacy testing covers a twenty-year period. We would be happy to make this cash flow adequacy test available to Kensington Police Protection & Community Services District in spreadsheet format upon request.

We calculated the following estimates separately for active employees and retirees. We estimated the following:

- the total liability created. (The actuarial present value of total projected benefits or APVTPB)
- the ten year "pay-as-you-go" cost to provide these benefits.
- the "actuarial accrued liability (AAL)." (The AAL is the portion of the APVTPB

Total Compensation Systems, Inc.

attributable to employees' service prior to the valuation date.)

- the amount necessary to amortize the UAAL over a period of 30 years.
- the annual contribution required to fund retiree benefits over the working lifetime of eligible employees (the "normal cost").
- The Annual Required Contribution (ARC) which is the basis of calculating the annual OPEB cost and net OPEB obligation under GASB 43 and 45.

We summarized the data used to perform this study in Appendix A. No effort was made to verify this information beyond brief tests for reasonableness and consistency.

All cost and liability figures contained in this study are estimates of future results. Future results can vary dramatically and the accuracy of estimates contained in this report depends on the actuarial assumptions used. Normal costs and liabilities could easily vary by 10 - 20% or more from estimates contained in this report.

B. General Findings

We estimate the "pay-as-you-go" cost of providing retiree health benefits in the year beginning July 1, 2013 to be \$172,817 (see Section IV.A.). The "pay-as-you-go" cost is the cost of benefits for current retirees.

For current employees, the value of benefits "accrued" in the year beginning July 1, 2013 (the normal cost) is \$59,450. This normal cost would increase each year based on covered payroll. Had Kensington Police Protection & Community Services District begun accruing retiree health benefits when each current employee and retiree was hired, a substantial liability would have accumulated. We estimate the amount that would have accumulated to be \$2,310,214. This amount is called the "actuarial accrued liability" (AAL). The remaining unamortized balance of the initial unfunded AAL (UAAL) is \$2,538,328. This leaves a "residual" AAL of *negative* \$228,114.

Kensington Police Protection & Community Services District has established a GASB 43 trust for future OPEB benefits. The actuarial value of plan assets at June 30, 2013 was \$446,519. This leaves a residual unfunded actuarial accrued liability (UAAL) of *negative* \$674,633. We calculated the annual cost to amortize the residual unfunded actuarial accrued liability using a 7.25% discount rate. We used an open 30 year amortization period. The current year cost to amortize the residual unfunded actuarial accrued liability is *negative* \$40,832.

Combining the normal cost with both the initial and residual UAAL amortization costs produces an annual required contribution (ARC) of \$188,619. The ARC is used as the basis for determining expenses and liabilities under GASB 43/45. The ARC is used in lieu of (rather than in addition to) the "pay-as-you-go" cost.

We based all of the above estimates on employees as of June, 2013. Over time, liabilities and cash flow will vary based on the number and demographic characteristics of employees and retirees.

C. Description of Retiree Benefits

Following is a description of the current retiree benefit plan:

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<u>All Employees</u>	
Benefit types provided	Medical, dental and vision
Duration of Benefits	Lifetime
Required Service	5 years
Minimum Age	50
Dependent Coverage	Yes
District Contribution %	100%
District Cap	Kaiser plan for medical

D. Recommendations

It is outside the scope of this report to make specific recommendations of actions Kensington Police Protection & Community Services District should take to manage the substantial liability created by the current retiree health program. Total Compensation Systems, Inc. can assist in identifying and evaluating options once this report has been studied. The following recommendations are intended only to allow the District to get more information from this and future studies. Because we have not conducted a comprehensive administrative audit of Kensington Police Protection & Community Services District's practices, it is possible that Kensington Police Protection & Community Services District is already complying with some or all of our recommendations.

- We recommend that Kensington Police Protection & Community Services District inventory all benefits and services provided to retirees – whether contractually or not and whether retiree-paid or not. For each, Kensington Police Protection & Community Services District should determine whether the benefit is material and subject to GASB 43 and/or 45.
- We recommend that Kensington Police Protection & Community Services District conduct a study whenever events or contemplated actions significantly affect present or future liabilities, but no less frequently than every two years, as required under GASB 43/45.
- We recommend that the District communicate the magnitude of these costs to employees and include employees in discussions of options to control the costs.
- Under GASB 45, it is important to isolate the cost of retiree health benefits. Kensington Police Protection & Community Services District should have all premiums, claims and expenses for retirees separated from active employee premiums, claims, expenses, etc. To the extent any retiree benefits are made available to retirees over the age of 65 – *even on a retiree-pay-all basis* – all premiums, claims and expenses for post-65 retiree coverage should be segregated from those for pre-65 coverage. Furthermore, Kensington Police Protection & Community Services District should arrange for the rates or prices of all retiree benefits to be set on what is expected to be a self-sustaining basis.
- Kensington Police Protection & Community Services District should establish a way of designating employees as eligible or ineligible for future OPEB benefits. Ineligible employees can include those in ineligible job classes; those hired after a designated date restricting eligibility; those who, due to their age at hire cannot qualify for District-paid OPEB benefits; employees who exceed the termination age for OPEB benefits, etc.

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- Several assumptions were made in estimating costs and liabilities under Kensington Police Protection & Community Services District's retiree health program. Further studies may be desired to validate any assumptions where there is any doubt that the assumption is appropriate. (See Appendices B and C for a list of assumptions and concerns.) For example, Kensington Police Protection & Community Services District should maintain a retiree database that includes – in addition to date of birth, gender and employee classification – retirement date and (if applicable) dependent date of birth, relationship and gender. It will also be helpful for Kensington Police Protection & Community Services District to maintain employment termination information – namely, the number of OPEB-eligible employees in each employee class that terminate employment each year for reasons other than death, disability or retirement.

Respectfully submitted,



Geoffrey L. Kischuk, FSA, MAAA, FCA
Consultant
Total Compensation Systems, Inc.
(805) 496-1700

Total Compensation Systems, Inc.

PART II: BACKGROUND

A. Summary

Accounting principles provide that the cost of retiree benefits should be “accrued” over employees' working lifetime. For this reason, the Governmental Accounting Standards Board (GASB) issued in 2004 Accounting Standards 43 and 45 for retiree health benefits. These standards apply to all public employers that pay any part of the cost of retiree health benefits for current or future retirees (including early retirees).

B. Actuarial Accrual

To actuarially accrue retiree health benefits requires determining the amount to expense each year so that the liability accumulated at retirement is, on average, sufficient (with interest) to cover all retiree health expenditures without the need for additional expenses. There are many different ways to determine the annual accrual amount. The calculation method used is called an “actuarial cost method.”

Under most actuarial cost methods, there are two components of actuarial cost - a “normal cost” and amortization of something called the “unfunded actuarial accrued liability.” Both accounting standards and actuarial standards usually address these two components separately (though alternative terminology is sometimes used).

The normal cost can be thought of as the value of the benefit earned each year if benefits are accrued during the working lifetime of employees. This report will not discuss differences between actuarial cost methods or their application. Instead, following is a description of a commonly used, generally accepted actuarial cost method that will be permitted under GASB 43 and 45. This actuarial cost method is called the “entry age normal” method.

Under the entry age normal cost method, the actuary determines the annual amount needing to be expensed from hire until retirement to fully accrue the cost of retiree health benefits. This amount is the normal cost. Under GASB 43 and 45, normal cost can be expressed either as a level dollar amount or a level percentage of payroll.

The normal cost is determined using several key assumptions:

- The current *cost of retiree health benefits* (often varying by age, Medicare status and/or dependent coverage). The higher the current cost of retiree benefits, the higher the normal cost.
- The “*trend*” rate at which retiree health benefits are expected to increase over time. A higher trend rate increases the normal cost. A “cap” on District contributions can reduce trend to zero once the cap is reached thereby dramatically reducing normal costs.
- *Mortality rates* varying by age and sex. (Unisex mortality rates are not often used as individual OPEB benefits do not depend on the mortality table used.) If employees die prior to retirement, past contributions are available to fund benefits for employees who live to retirement. After retirement, death results in benefit termination or reduction. Although higher mortality rates reduce normal costs, the mortality assumption is not likely to vary from employer to employer.
- *Employment termination rates* have the same effect as mortality inasmuch as higher termination rates reduce normal costs. Employment termination can vary considerably between public agencies.
- The *service requirement* reflects years of service required to earn full or partial retiree benefits.

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While a longer service requirement reduces costs, cost reductions are not usually substantial unless the service period exceeds 20 years of service.

- **Retirement rates** determine what proportion of employees retire at each age (assuming employees reach the requisite length of service). Retirement rates often vary by employee classification and implicitly reflect the minimum retirement age required for eligibility. Retirement rates also depend on the amount of pension benefits available. Higher retirement rates increase normal costs but, except for differences in minimum retirement age, retirement rates tend to be consistent between public agencies for each employee type.
- **Participation rates** indicate what proportion of retirees are expected to elect retiree health benefits if a significant retiree contribution is required. Higher participation rates increase costs.
- The **discount rate** estimates investment earnings for assets earmarked to cover retiree health benefit liabilities. The discount rate depends on the nature of underlying assets. For example, employer funds earning money market rates in the county treasury are likely to earn far less than an irrevocable trust containing a diversified asset portfolio including stocks, bonds, etc. A higher discount rate can dramatically lower normal costs. GASB 43 and 45 require the interest assumption to reflect likely *long term* investment return.

The assumptions listed above are not exhaustive, but are the most common assumptions used in actuarial cost calculations. The actuary selects the assumptions which - taken together - will yield reasonable results. It's not necessary (or even possible) to predict individual assumptions with complete accuracy.

If all actuarial assumptions are exactly met and an employer expensed the normal cost every year for all past and current employees and retirees, a sizeable liability would have accumulated (after adding interest and subtracting retiree benefit costs). The liability that would have accumulated is called the actuarial accrued liability or AAL. The excess of AAL over the **actuarial value of plan assets** is called the *unfunded* actuarial accrued liability (or UAAL). Under GASB 43 and 45, in order for assets to count toward offsetting the AAL, the assets have to be held in an irrevocable trust that is safe from creditors and can only be used to provide OPEB benefits to eligible participants.

The actuarial accrued liability (AAL) can arise in several ways. At inception of GASB 43 and 45, there is usually a substantial UAAL. Some portion of this amount can be established as the "transition obligation" subject to certain constraints. UAAL can also increase as the result of operation of a retiree health plan - e.g., as a result of plan changes or changes in actuarial assumptions. Finally, AAL can arise from actuarial gains and losses. Actuarial gains and losses result from differences between actuarial assumptions and actual plan experience.

Under GASB 43 and 45, employers have several options on how the UAAL can be amortized as follows:

- The employer can select an amortization period of 1 to 30 years. (For certain situations that result in a reduction of the AAL, the amortization period must be at least 10 years.)
- The employer may apply the same amortization period to the total combined UAAL or can apply different periods to different components of the UAAL.
- The employer may elect a "closed" or "open" amortization period.
- The employer may choose to amortize on a level dollar or level percentage of payroll method.

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PART III: LIABILITIES AND COSTS FOR RETIREE BENEFITS

A. Introduction.

We calculated the actuarial present value of projected benefits (APVPB) separately for each employee. We determined eligibility for retiree benefits based on information supplied by Kensington Police Protection & Community Services District. We then selected assumptions for the factors discussed in the above Section that, based on plan experience and our training and experience, represent our best prediction of future plan experience. For each employee, we applied the appropriate factors based on the employee's age, sex and length of service.

We summarized actuarial assumptions used for this study in Appendix C.

B. Medicare

The extent of Medicare coverage can affect projections of retiree health costs. The method of coordinating Medicare benefits with the retiree health plan's benefits can have a substantial impact on retiree health costs. We will be happy to provide more information about Medicare integration methods if requested.

C. Liability for Retiree Benefits.

For each employee, we projected future premium costs using an assumed trend rate (see Appendix C). To the extent Kensington Police Protection & Community Services District uses contribution caps, the influence of the trend factor is further reduced.

We multiplied each year's projected cost by the probability that premium will be paid; i.e. based on the probability that the employee is living, has not terminated employment and has retired. The probability that premium will be paid is zero if the employee is not eligible. The employee is not eligible if s/he has not met minimum service, minimum age or, if applicable, maximum age requirements.

The product of each year's premium cost and the probability that premium will be paid equals the expected cost for that year. We discounted the expected cost for each year to the valuation date June 30, 2013 at 7.25% interest.

Finally, we multiplied the above discounted expected cost figures by the probability that the retiree would elect coverage. A retiree may not elect to be covered if retiree health coverage is available less expensively from another source (e.g. Medicare risk contract) or the retiree is covered under a spouse's plan.

For any current retirees, the approach used was similar. The major difference is that the probability of payment for current retirees depends only on mortality and age restrictions (i.e. for retired employees the probability of being retired and of not being terminated are always both 1.0000).

We added the APVPB for all employees to get the actuarial present value of total projected benefits (APVTPB). The APVTPB is the estimated present value of all future retiree health benefits for all **current** employees and retirees. The APVTPB is the amount on June 30, 2013 that, if all actuarial assumptions are exactly right, would be sufficient to expense all promised benefits until the last current employee or retiree dies or reaches the maximum eligibility age.

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Actuarial Present Value of Total Projected Benefits at June 30, 2013

<i>Police Officers</i>	
Active: Pre-65	\$599,159
Post-65	\$345,769
Subtotal	\$944,928
Retiree: Pre-65	\$894,484
Post-65	\$1,011,989
Subtotal	\$1,906,473
Grand Total	\$2,851,401
Subtotal Pre-65	\$1,493,643
Subtotal Post-65	\$1,357,758

The APVTPB should be accrued over the working lifetime of employees. At any time much of it has not been "earned" by employees. The APVTPB is used to develop expense and liability figures. To do so, the APVTFB is divided into two parts: the portions attributable to service rendered prior to the valuation date (the past service liability or actuarial accrued liability under GASB 43 and 45) and to service after the valuation date but prior to retirement (the future service liability).

The past service and future service liabilities are each funded in a different way. We will start with the future service liability which is funded by the normal cost.

D. Cost to Prefund Retiree Benefits

1. Normal Cost

The average hire age for eligible employees is 34. To accrue the liability by retirement, the District would accrue the retiree liability over a period of about 21 years (assuming an average retirement age of 55). We applied an "entry age normal" actuarial cost method to determine funding rates for active employees. The table below summarizes the calculated normal cost.

Normal Cost Year Beginning June 30, 2013

<i>Police Officers</i>	
# of Employees	10
Per Capita Normal Cost	
Pre-65 Benefit	\$3,750
Post-65 Benefit	\$2,195
First Year Normal Cost	
Pre-65 Benefit	\$37,500
Post-65 Benefit	\$21,950
Total	\$59,450

Accruing retiree health benefit costs using normal costs levels out the cost of retiree health benefits over time and more fairly reflects the value of benefits "earned" each year by employees. This normal cost would increase each year based on covered payroll.

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2. Amortization of Unfunded Actuarial Accrued Liability (UAAL)

If actuarial assumptions are borne out by experience, the District will fully accrue retiree benefits by expensing an amount each year that equals the normal cost. If no accruals had taken place in the past, there would be a shortfall of many years' accruals, accumulated interest and forfeitures for terminated or deceased employees. This shortfall is called the actuarial accrued liability (AAL). We calculated the AAL as the APVTPB minus the present value of future normal costs.

The initial UAAL was amortized using a closed amortization period of 30 years. The District can amortize the remaining or residual UAAL over many years. The table below shows the annual amount necessary to amortize the UAAL over a period of 30 years at 7.25% interest. (Thirty years is the longest amortization period allowable under GASB 43 and 45.) GASB 43 and 45 will allow amortizing the UAAL using either payments that stay the same as a dollar amount, or payments that are a flat percentage of covered payroll over time. The figures below reflect the level percentage of payroll method.

Actuarial Accrued Liability as of June 30, 2013

	<u>Police Officers</u>
Active: Pre-65	\$257,788
Post-65	\$145,953
Subtotal	\$403,741
Retiree: Pre-65	\$894,484
Post-65	\$1,011,989
Subtotal	\$1,906,473
Subtot Pre-65	\$1,152,272
Subtot Post-65	\$1,157,942
Grand Total	\$2,310,214
Unamortized Initial UAAL	\$2,538,328
Plan assets at 6/30/13	\$446,519
Residual UAAL	(\$674,633)
Residual UAAL Amortization at 7.25% over 30 Years	(\$40,832)

3. Annual Required Contributions (ARC)

If the District determines retiree health plan expenses in accordance with GASB 43 and 45, costs will include both normal cost and one or more components of UAAL amortization costs. The sum of normal cost and UAAL amortization costs is called the Annual Required Contribution (ARC) and is shown below.

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Annual Required Contribution (ARC) Year Beginning July 1, 2013

	<i>Total</i>
Normal Cost	\$59,450
Initial UAAL Amortization	\$170,001
Residual UAAL Amortization	(\$40,832)
ARC	\$188,619

The normal cost remains as long as there are active employees who may some day qualify for District-paid retiree health benefits. This normal cost would increase each year based on covered payroll.

4. Other Components of Annual OPEB Cost (AOC)

Expense and liability amounts may include more components of cost than the normal cost plus amortization of the UAAL. This will apply to employers that don't fully fund the Annual Required Cost (ARC) through an irrevocable trust.

- The annual OPEB cost (AOC) will include assumed interest on the net OPEB obligation (NOO). The annual OPEB cost will also include an amortization adjustment for the net OPEB obligation. (It should be noted that there is no NOO if the ARC is fully funded through a qualifying "plan".)
- The net OPEB obligation will equal the accumulated differences between the (AOC) and qualifying "plan" contributions.

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PART IV: "PAY AS YOU GO" FUNDING OF RETIREE BENEFITS

We used the actuarial assumptions shown in Appendix C to project ten year cash flow under the retiree health program. Because these cash flow estimates reflect average assumptions applied to a relatively small number of employees, estimates for individual years are certain to be *inaccurate*. However, these estimates show the size of cash outflow.

The following table shows a projection of annual amounts needed to pay the District share of retiree health premiums.

<i>Year Beginning</i>	
<i>July 1</i>	<i>Police Officers</i>
2013	\$172,817
2014	\$179,284
2015	\$187,395
2016	\$194,888
2017	\$190,955
2018	\$199,373
2019	\$176,489
2020	\$179,762
2021	\$184,447
2022	\$188,839

PART V: RECOMMENDATIONS FOR FUTURE VALUATIONS

To effectively manage benefit costs, an employer must periodically examine the existing liability for retiree benefits as well as future annual expected premium costs. GASB 43/45 require biennial valuations. In addition, a valuation should be conducted whenever plan changes, changes in actuarial assumptions or other employer actions are likely to cause a material change in accrual costs and/or liabilities.

Following are examples of actions that could trigger a new valuation.

- An employer should perform a valuation whenever the employer considers or puts in place an early retirement incentive program.
- An employer should perform a valuation whenever the employer adopts a retiree benefit plan for some or all employees.
- An employer should perform a valuation whenever the employer considers or implements changes to retiree benefit provisions or eligibility requirements.
- An employer should perform a valuation whenever the employer introduces or changes retiree contributions.

We recommend Kensington Police Protection & Community Services District take the following actions to ease future valuations.

- We have used our training, experience and information available to us to establish the actuarial assumptions used in this valuation. We have no information to indicate that any of the assumptions do not reasonably reflect future plan experience. However, the District should review the actuarial assumptions in Appendix C carefully. If the District has any reason to believe that any of these assumptions do not reasonably represent the expected future experience of the retiree health plan, the District should engage in discussions or perform analyses to determine the best estimate of the assumption in question.

PART VI: APPENDICES

APPENDIX A: MATERIALS USED FOR THIS STUDY

We relied on the following materials to complete this study.

- We used paper reports and digital files containing employee demographic data from the District personnel records.
- We used relevant sections of collective bargaining agreements provided by the District.

APPENDIX B: EFFECT OF ASSUMPTIONS USED IN CALCULATIONS

While we believe the estimates in this study are reasonable overall, it was necessary for us to use assumptions which inevitably introduce errors. We believe that the errors caused by our assumptions will not materially affect study results. If the District wants more refined estimates for decision-making, we recommend additional investigation. Following is a brief summary of the impact of some of the more critical assumptions.

1. Where actuarial assumptions differ from expected experience, our estimates could be overstated or understated. One of the most critical assumptions is the medical trend rate. The District may want to commission further study to assess the sensitivity of liability estimates to our medical trend assumptions. For example, it may be helpful to know how liabilities would be affected by using a trend factor 1% higher than what was used in this study. There is an additional fee required to calculate the impact of alternative trend assumptions.
2. We used an "entry age normal" actuarial cost method to estimate the actuarial accrued liability and normal cost. GASB allows this as one of several permissible methods under GASB45. Using a different cost method could result in a somewhat different recognition pattern of costs and liabilities.

APPENDIX C: ACTUARIAL ASSUMPTIONS AND METHODS

Following is a summary of actuarial assumptions and methods used in this study. The District should carefully review these assumptions and methods to make sure they reflect the District's assessment of its underlying experience. It is important for Kensington Police Protection & Community Services District to understand that the appropriateness of all selected actuarial assumptions and methods are Kensington Police Protection & Community Services District's responsibility. Unless otherwise disclosed in this report, TCS believes that all methods and assumptions are within a reasonable range based on the provisions of GASB 43 and 45, applicable actuarial standards of practice, Kensington Police Protection & Community Services District's actual historical experience, and TCS's judgment based on experience and training.

ACTUARIAL METHODS AND ASSUMPTIONS:

ACTUARIAL COST METHOD: Entry age normal. The allocation of OPEB cost is based on years of service. We used the level percentage of payroll method to allocate OPEB cost over years of service.

Entry age is based on the age at hire for eligible employees. The attribution period is determined as the difference between the expected retirement age and the age at hire. The present value of future benefits and present value of future normal costs are determined on an employee by employee basis and then aggregated.

To the extent that different benefit formulas apply to different employees of the same class, the normal cost is based on the benefit plan applicable to the most recently hired employees (including future hires if a new benefit formula has been agreed to and communicated to employees).

AMORTIZATION METHODS: We used a level percent, closed 30 year amortization period for the initial UAAL. We used a level percent, open 30 year amortization period for any residual UAAL.

SUBSTANTIVE PLAN: As required under GASB 43 and 45, we based the valuation on the substantive plan. The formulation of the substantive plan was based on a review of written plan documents as well as historical information provided by Kensington Police Protection & Community Services District regarding practices with respect to employer and employee contributions and other relevant factors.

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ECONOMIC ASSUMPTIONS:

Economic assumptions are set under the guidance of Actuarial Standard of Practice 27 (ASOP 27). Among other things, ASOP 27 provides that economic assumptions should reflect a consistent underlying rate of general inflation. For that reason, we show our assumed long-term inflation rate below.

INFLATION: We assumed 2.75% per year.

INVESTMENT RETURN / DISCOUNT RATE: We assumed 7.25% per year. This is based on assumed long-term return on plan assets assuming 100% funding through CERBT. We used the "Building Block Method" as described in ASOP 27 Paragraph 3.6.2.

TREND: We assumed 4% per year. Our long-term trend assumption is based on the conclusion that, while medical trend will continue to be cyclical, the average increase over time cannot continue to outstrip general inflation by a wide margin. Trend increases in excess of general inflation result in dramatic increases in unemployment, the number of uninsured and the number of underinsured. These effects are nearing a tipping point which will inevitably result in fundamental changes in health care finance and/or delivery which will bring increases in health care costs more closely in line with general inflation. We do not believe it is reasonable to project historical trend vs. inflation differences several decades into the future.

PAYROLL INCREASE: We assumed 2.75% per year. This assumption applies only to the extent that either or both of the normal cost and/or UAAL amortization use the level percentage of payroll method. For purposes of applying the level percentage of payroll method, payroll increase must not assume any increases in staff or merit increases.

ACTUARIAL VALUE OF PLAN ASSETS (AVA): We used asset values provided by Kensington Police Protection & Community Services District. We used a 15 year smoothing formula with a 20% corridor around market value.

The following are the calculations for the adjusted value of plan assets:

<i>CERBT - Strategy 1</i>	<i>Amount</i>
(1) Market value at 6/30/13	\$473,260
(2) Accumulated contributions (disbursements) at 7.61%	\$444,609
(3) Value in (2) + 1/15 of (1) minus (2)	\$446,519
(4) Value in (3) adjusted to minimum or maximum*	\$446,519
(5) AVA at 6/30/13 adjusted to valuation date at 7.61%	\$446,519

* Minimum is 80% of market value; maximum is 120% of market value

261

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NON-ECONOMIC ASSUMPTIONS:

Economic assumptions are set under the guidance of Actuarial Standard of Practice 35 (ASOP 35).

MORTALITY

<i>Employee Type</i>	<i>Mortality Tables</i>
Police	2009 CalPERS Rates for Active Sworn Employees

RETIREMENT RATES

<i>Employee Type</i>	<i>Retirement Rate Tables</i>
Police	2009 CalPERS 3%@50 Rates for Sworn Police

VESTING RATES

<i>Employee Type</i>	<i>Vesting Rate Tables</i>
Police	100% at 5 Years of Service

COSTS FOR RETIREE COVERAGE

There was not sufficient information available to determine whether there is an implicit subsidy for retiree health costs. Based on ASOP 6, there can be justification for using "community-rated" premiums as the basis for the valuation where the insurer is committed to continuing rating practices. This is especially true where sufficient information is not available to determine the magnitude of the subsidy. However, Kensington Police Protection & Community Services District should recognize that costs and liabilities in this report could change significantly if either the current insurer changes rating practices or if Kensington Police Protection & Community Services District changes insurers.

Retiree liabilities are based on actual retiree costs. Liabilities for active participants are based on the first year costs shown below. Subsequent years' costs are based on first year costs adjusted for trend and limited by any District contribution caps.

<i>Employee Type</i>	<i>Future Retirees Pre-65</i>	<i>Future Retirees Post-65</i>
Police Officers	\$20,170	\$7,868

PARTICIPATION RATES

<i>Employee Type</i>	<i><65 Non-Medicare Participation %</i>	<i>65+ Medicare Participation %</i>
Police	100%	100%

TURNOVER

<i>Employee Type</i>	<i>Turnover Rate Tables</i>
Police	2009 CalPERS Rates for Sworn Police

SPOUSE PREVALENCE

To the extent not provided and when needed to calculate benefit liabilities, 80% of retirees assumed to be married at retirement. After retirement, the percentage married is adjusted to reflect mortality.

SPOUSE AGES

To the extent spouse dates of birth are not provided and when needed to calculate benefit liabilities, female spouse assumed to be three years younger than male.

AGING FACTORS

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<i>Attained Age</i>	<i>Medical Annual Increases</i>
50-64	3.5%
65-69	3.0%
70-74	2.5%
75-79	1.5%
80-84	0.5%
85+	0.0%

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APPENDIX D: DISTRIBUTION OF ELIGIBLE PARTICIPANTS BY AGE

APPENDIX D: DISTRIBUTION OF ELIGIBLE PARTICIPANTS BY AGE

ELIGIBLE ACTIVE EMPLOYEES

<i>Age</i>	<i>Police Officers</i>
Under 25	1
25-29	1
30-34	2
35-39	2
40-44	0
45-49	2
50-54	1
55-59	1
60-64	0
65 and older	0
Total	10

ELIGIBLE RETIREES

<i>Age</i>	<i>Police Officers</i>
Under 50	0
50-54	3
55-59	2
60-64	2
65-69	3
70-74	1
75-79	1
80-84	1
85-89	0
90 and older	0
Total	13

APPENDIX E: CALCULATION OF GASB 43/45 ACCOUNTING ENTRIES

This report is to be used to calculate accounting entries rather than to provide the dollar amount of accounting entries. How the report is to be used to calculate accounting entries depends on several factors. Among them are:

- 1) The amount of prior accounting entries;
- 2) Whether individual components of the ARC are calculated as a level dollar amount or as a level percentage of payroll;
- 3) Whether the employer using a level percentage of payroll method elects to use for this purpose projected payroll, budgeted payroll or actual payroll;
- 4) Whether the employer chooses to adjust the numbers in the report to reflect the difference between the valuation date and the first fiscal year for which the numbers will be used.

To the extent the level percentage of payroll method is used, the employer should adjust the numbers in this report as appropriate to reflect the change in OPEB covered payroll. It should be noted that OPEB covered payroll should only reflect types of pay generating pension credits for plan participants. Please note that plan participants do not necessarily include all active employees eligible for health benefits for several reasons. Following are examples.

- 1) The number of hours worked or other eligibility criteria may differ for OPEB compared to active health benefits;
- 2) There may be active employees over the maximum age OPEB are paid through. For example, if an OPEB plan pays benefits only to Medicare age, any active employees currently over Medicare age are not plan participants;
- 3) Employees hired at an age where they will exceed the maximum age for benefits when the service requirement is met are also not plan participants.

Finally, GASB 43 and 45 require reporting covered payroll in RSI schedules regardless of whether any ARC component is based on the level percentage of payroll method. This report does not provide, nor should the actuary be relied on to report covered payroll.

GASB 45 Paragraph 26 specifies that the items presented as RSI "should be calculated in accordance with the parameters." The RSI items refer to Paragraph 25.c which includes annual covered payroll. Footnote 3 provides that when the ARC is based on covered payroll, the payroll measure may be the projected payroll, budgeted payroll or actual payroll. Footnote 3 further provides that comparisons between the ARC and contributions should be based on the same measure of covered payroll.

At the time the valuation is being done, the actuary may not know which payroll method will be used for reporting purposes. The actuary may not even know for which period the valuation will be used to determine the ARC. Furthermore, the actuary doesn't know if the client will make adjustments to the ARC in order to use it for the first year of the biennial or triennial period. (GASB 45 is silent on this.) Even if the actuary were to know all of these things, it would be a rare situation that would result in me knowing the appropriate covered payroll

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number to report. For example, if the employer uses actual payroll, that number would not be known at the time the valuation is done.

As a result, we believe the proper approach is to report the ARC components as a dollar amount. It is the client's responsibility to turn this number into a percentage of payroll factor by using the dollar amount of the ARC (adjusted, if desired) as a numerator and then calculating the appropriate amount of the denominator based on the payroll determination method elected by the client for the appropriate fiscal year.

If we have been provided with payroll information, we are happy to use that information to help the employer develop an estimate of covered payroll for reporting purposes. However, the validity of the covered payroll remains the employer's responsibility even if TCS assists the employer in calculating it.

APPENDIX F: GLOSSARY OF RETIREE HEALTH VALUATION TERMS

Note: The following definitions are intended to help a *non-actuary* understand concepts related to retiree health valuations. Therefore, the definitions may not be actuarially accurate.

Actuarial Accrued Liability: The amount of the actuarial present value of total projected benefits attributable to employees' past service based on the actuarial cost method used.

Actuarial Cost Method: A mathematical model for allocating OPEB costs by year of service.

Actuarial Present Value of Total Projected Benefits: The projected amount of all OPEB benefits to be paid to current and future retirees discounted back to the valuation date.

Actuarial Value of Assets: Market-related value of assets which may include an unbiased formula for smoothing cyclical fluctuations in asset values.

Annual OPEB Cost: This is the amount employers must recognize as an expense each year. The annual OPEB expense is equal to the Annual Required Contribution plus interest on the Net OPEB obligation minus an adjustment to reflect the amortization of the net OPEB obligation.

Annual Required Contribution: The sum of the normal cost and an amount to amortize the unfunded actuarial accrued liability. This is the basis of the annual OPEB cost and net OPEB obligation.

Closed Amortization Period: An amortization approach where the original ending date for the amortization period remains the same. This would be similar to a conventional, 30-year mortgage, for example.

Discount Rate: Assumed investment return net of all investment expenses. Generally, a higher assumed interest rate leads to lower normal costs and actuarial accrued liability.

Implicit Rate Subsidy: The estimated amount by which retiree rates are understated in situations where, for rating purposes, retirees are combined with active employees.

Mortality Rate: Assumed proportion of people who die each year. Mortality rates always vary by age and often by sex. A mortality table should always be selected that is based on a similar "population" to the one being studied.

Net OPEB Obligation: The accumulated difference between the annual OPEB cost and amounts contributed to an irrevocable trust exclusively providing retiree OPEB benefits and protected from creditors.

Normal Cost: The dollar value of the "earned" portion of retiree health benefits if retiree health benefits are to be fully accrued at retirement.

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<u>OPEB Benefits:</u>	Other PostEmployment Benefits. Generally medical, dental, prescription drug, life, long-term care or other postemployment benefits that are not pension benefits.
<u>Open Amortization Period:</u>	Under an open amortization period, the remaining unamortized balance is subject to a new amortization schedule each valuation. This would be similar, for example, to a homeowner refinancing a mortgage with a new 30-year conventional mortgage every two or three years.
<u>Participation Rate:</u>	The proportion of retirees who elect to receive retiree benefits. A lower participation rate results in lower normal cost and actuarial accrued liability. The participation rate often is related to retiree contributions.
<u>Retirement Rate:</u>	The proportion of active employees who retire each year. Retirement rates are usually based on age and/or length of service. (Retirement rates can be used in conjunction with vesting rates to reflect both age and length of service). The more likely employees are to retire early, the higher normal costs and actuarial accrued liability will be.
<u>Transition Obligation:</u>	The amount of the unfunded actuarial accrued liability at the time actuarial accrual begins in accordance with an applicable accounting standard.
<u>Trend Rate:</u>	The rate at which the cost of retiree benefits is expected to increase over time. The trend rate usually varies by type of benefit (e.g. medical, dental, vision, etc.) and may vary over time. A higher trend rate results in higher normal costs and actuarial accrued liability.
<u>Turnover Rate:</u>	The rate at which employees cease employment due to reasons other than death, disability or retirement. Turnover rates usually vary based on length of service and may vary by other factors. Higher turnover rates reduce normal costs and actuarial accrued liability.
<u>Unfunded Actuarial Accrued Liability:</u>	This is the excess of the actuarial accrued liability over assets irrevocably committed to provide retiree health benefits.
<u>Valuation Date:</u>	The date as of which the OPEB obligation is determined. Under GASB 43 and 45, the valuation date does not have to coincide with the statement date.
<u>Vesting Rate:</u>	The proportion of retiree benefits earned, based on length of service and, sometimes, age. (Vesting rates are often set in conjunction with retirement rates.) More rapid vesting increases normal costs and actuarial accrued liability.

Memorandum

Kensington Police Department



To: KPPCSD Board of Directors

APPROVED YES NO

From: Gregory E. Harman, General Manager/ Chief of Police

FORWARDED TO:

Date: Friday, October 11, 2013

Subject: Consent Calendar Item # L- Response to Grand Jury Report

Attached you will find my response dated August 14, 2013 to the Grand Jury Report, "Assessing Fiscal Risk" that was filed on June 3, 2013.

The Grand Jury's report can be accessed via the Contra Costa County's website.

My response was turned into the Grand Jury on September 3rd for consideration.

I will be posting my response to the report on our website.

KENSINGTON POLICE PROTECTION AND COMMUNITY SERVICES DISTRICT

August 14, 2013

Mr. Marc Hamaji
Grand Jury Foreperson
725 Court Street
Martinez, CA, 94553-0091

Dear Mr. Hamaji,

This letter constitutes the response of the Kensington Police Protection and Community Services District ("KPPCSD" or "the District") to the Grand Jury Report No. 1311, "Assessing Fiscal Risk" ("the Report") filed by the Grand Jury on June 3, 2013. The Report sets forth findings and recommendations related to the District and this response addresses each in turn.

FINDINGS/DISTRICT RESPONSE

Finding 1

"Kensington Police Protection and Community Services District"

"In 2010, the independent auditor identified as an internal control weakness the issue of unsubstantiated credit card purchases. Subsequently, there were allegations of improper credit-card spending. The District had to incur approximately \$25,000 in costs related to an additional independent, forensic audit of the spending allegations as a result of the lack of functioning of internal controls."

Relevant Facts

The District's financial records and practices for Fiscal Year 2010 were reviewed as part of its annual audit. The auditor did not find a deficiency with respect to the District's financial practices or that the District failed to have proper internal controls related to its financial activities. In Section IX of the auditor's report, Current Year Recommendations, the auditor commented:

"Credit card expenditure receipts missing"(Constructive recommendations).

"Based on the fieldwork performed for the 2010 audit, I found several instances of the tested credit card charges not having credit receipts or proof of purchase attached to the credit card statements. *In my opinion, these credit card charges missing receipts are immaterial since they were all pertaining to training and*

small office/field supplies. However, it is always good practice to have all receipts or expense reports attached to the statements at all times. Recommend to institute more thorough review procedures for processing credit card payments to ensure all purchases and reimbursement reports are reconciled and have sufficient supporting documents before payments are made.” [emphasis added]

With respect to costs incurred by the District related to credit card accounting, two of the District directors alleged, for political reasons, a concern over credit card charges. The District conducted an investigation of the allegations. As part of the investigation, the Board directed a forensic audit of the credit card charges. In an e-mail that I sent to Mr. Webber in response to his request for the amount that has been incurred in accounting fees and legal fees related to responding to the credit card allegations, I wrote, “As far as legal fees associated with the credit card investigation, Hemming Morse was paid \$10,000 and Hanson Bridgett was paid \$14,742 in legal fees associated with that investigation.”

Hemming Morse was paid to conduct the forensic audit that was requested by our Board of Directors in response to the politically motivated allegations made by two sitting directors. The \$14,742 in legal fees associated with that investigation were related to the possible violations of District employee’s employment rights as a result of the politically motivated allegations made by the two directors.

District Response

Pursuant to Section 933.05(a) of the California Penal Code, KPPCSD disagrees with the foregoing finding.

The District’s audit report does not include any adverse findings regarding credit card charges and does not cite a failure/lack of internal controls or “internal control weakness of unsubstantiated credit card purchases.” This statement is an opinion made by the grand jury’s report writer that is contrary to and not supported by any evidence.

The report’s comments that, “The District had to incur approximately \$25,000 in costs related to an additional independent, forensic audit of the spending allegations as a result of the lack of functioning of internal controls” is similarly factually inaccurate and without evidentiary basis. Moreover, the statement is a misrepresentation of the information provided to Paul Webber on March 6, 2013. The expenditure in question did not result from a lack of internal control or failure of policy; rather, the expenditures were necessary to respond to a specious allegation, initiated for political purposes, which allegation was ultimately not sustained by the investigation. Consequently, the statement asserting that costs were incurred by the District as a result of the lack of functioning internal controls is a misrepresentation of fact and opinion which the report has no basis or fact to rely upon.

Finding 2¹

“KPPCSD has not completed a timely audit for either 2011 or 2012 due to the credit card charges allegations and investigations. Due to the inability to produce audited financial statements on a timely basis- there is deemed to be a Material Weakness.”

Relevant Facts

In the Controlled Environment Survey Questionnaire that was completed on November 26, 2012, I provided the following information in regards to the allegation of credit card misuse:

“In July of 2011, KPPCSD Directors Cathie Kosel and Mari Metcalf accused General Manager/Chief of Police Greg Harman of misuse of the District’s credit card, specifically, using the card for personal goods and services. A forensic audit was conducted by Hemming Morse following the accusations and was completed in December 2011 with a finding of no wrongdoing, however, best practices could be improved. This confidential personnel investigation is attached.”

“Following the finding of no wrongdoing by the forensic auditor, KPPCSD Director Cathie Kosel filed a complaint in January 2012 with the Contra Costa District Attorney’s Office. In October 2012, The Contra Costa District Attorney’s Office concluded their investigation with a finding of no criminal complaint.”

On February 4, 2013, at 4:28 PM, I received an e-mail from Paul Webber requesting our finalized 2011 and 2012 audits. My response to him at the time was:

“Please note that our Fiscal Year ending June 30, 2011 audited financial statement has not been completed as of this date due to a District Attorney Office investigation into credit card usage. Our auditor, Steven Chang, has scheduled December 11th and December 12th, 2012, as meeting dates in order to complete the audit.”

“Steven Chang has been retained to complete our Fiscal Year ending June 30, 2012 audit.”

Although the District Attorney’s investigation into the allegations falsely made by Cathie Kosel was completed in October of 2012, our auditor Steven Chang was unable to complete our 2011 audit until April 30, 2013. The 2012 audit could not be started until the 2011 audit was completed.

However, both the 2011 and 2012 preliminary audit reports were filed within the required time frame with the State Controller’s Office. Only the finalized audit reports were

¹ The Grand Jury report lists this issue as a legend note to a chart in the report: “Summary of Material Weaknesses/ Significant Deficiencies.”

delayed as a result of the politically motivated allegations of misuse of the District's credit card. Our preliminary audits were accepted by the State Controller, as were the reasons for the delay in filing the finalized reports.

District Response

Pursuant to Section 933.05(a) of the California Penal Code, KPPCSD disagrees with the foregoing finding.

The Grand Jury's report's finding of, "Due to the inability to produce audited financial statements on a timely basis- there is deemed to be a Material Weakness" is incorrect and contrary to the evidence. Preliminary audits for both 2011 and 2012 were filed and accepted in a timely manner with the State Controller's Office.

RECOMMENDATIONS/RESPONSE

The Grand Jury made recommendations (1, 2, 3d and 3g) as indicated below and the District responds to each in turn.

1. Financial management of the County, all cities, all school districts and all special districts remedy within 12 months the Material Weaknesses, Significant Deficiencies, and other deficiencies in Internal Controls reported by the external auditors.

Response to Recommendation #1:

The District is not required to undertake corrective action regarding this recommendation.

As stated in the response to findings section of this reply, both the 2011 and 2012 preliminary audit reports were filed within the required time frame with the State Controller's Office. Only the finalized audit reports were delayed as a result of the politically motivated allegations of misuse of the District's credit card. Our preliminary audits were accepted by the State Controller, as were the reasons for the delay in filing the finalized reports.

The District's finalized 2011 Fiscal Year audit was completed on April 30, 2013 and filed with the County Auditor's Office.

Our Special Districts Financial Transactions Report was filed with the State Controller's Office on October 9, 2012. Our finalized 2012 audit is currently being completed by Steven Chang of Lamorena & Chang, and is scheduled to be completed in September 2013.

The District is contracting with a new auditor, Fechter & Company, Sacramento, to have its 2013 audit completed by December 2013.

2. County Organizations maintain or add audit report results to appropriate financial management's performance goals to ensure that such individuals are held accountable for promptly remedying deficiencies identified in audit reports, and consider the legality of maintaining or adding such performance goals on audit reports to financial managements' evaluations.

Response to Recommendation #2:

The District's Board of Director establishes performance goals for the General Manager/Chief of Police. The District requires the General Manager/Chief of Police to manage the District's finances and accounting, including conducting an audit of District finances/records according to law and correction of any deficiencies noted within such audit. In addition, a separate goal set for the General Manager/ Chief of Police requires that he/she prepares a Quarterly Internal Audit Report for the KPPCSD Board of Directors.

The process for this Internal Audit Report provides that the KPPCSD District Administrative Assistant is to randomly select two sets of Account Payable documents for each pay period in a quarter, to demonstrate that complete documentation is provided and that proper controls have been used, prior to checks being issued. This quarterly report is reviewed by the General Manager/ Chief of Police and provided to the KPPCSD Board of Directors and is a part of the General Manager/ Chief of Police's evaluation process.

- 3d. Governing boards of special districts appoint a formal Audit Committee from among members and provide direct oversight to district operating and financial management to ensure that Internal Control deficiencies are promptly remedied. In instances where the size of the entity precludes an adequate segregation of duties, governing board members need to consider direct involvement in key financial processes.

Response to Recommendation #3d:

KPPCSD as policy has a Finance Committee as a Standing Committee of the Board of Directors. The Finance Committee is made up of two KPPCSD directors and several members of the community. The Finance Committee is concerned with the financial management of the District, including recommendations on the annual budget and major expenditures, investment policies, long range planning, comments and recommendations regarding the annual audit and our certified public accountant.

- 3g. The Board of Supervisors have the County internal audit staff report directly to the Board of Supervisors rather than the Auditor Controller. The governing boards of other County Organizations have the internal audit groups of other County Organizations maintain their independence and not report to financial

management but instead to the City Council in the case of cities and the governing boards in the case of school districts and special districts.

Response to Recommendation #3g:

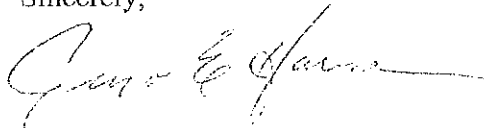
The KPPCSD Finance Committee reports directly to the KPPCSD Board of Directors. Neither the General Manager/ Chief of Police nor the District's certified public accountant is a member of the Finance Committee. They serve the Finance Committee in a staff capacity only. Finance Committee reviews of fiscal management go directly to the KPPCSD Board of Directors at a public meeting of the Board.

CONCLUSION

With this response to the Grand Jury Report No. 1311, the District requests that the Grand Jury review and reconsider its findings that the KPPCSD has not completed a timely audit for either 2011 or 2012, and that, due to the inability to produce audited financial statements on a timely basis, there is deemed to be a Material Weakness. The District also requests that the Grand Jury make the appropriate corrections to its report.

I will make myself available for any further questions or documentation that may be needed.

Sincerely,



Gregory E. Harman
General Manager/ Chief of Police

Memorandum

Kensington Police Department



To: KPPCSD Board of Directors

APPROVED YES NO

From: Gregory E. Harman, General Manager/ Chief of Police

FORWARDED TO:

Date: Wednesday, October 9, 2013

Subject: New Business #1- Contract with New World Systems

Our current contract to provide police information software service and maintenance with New World Systems expired on September 1, 2013. New World provides police software service and maintenance to the Richmond Communications Consortium, which we are a part of. There are no other bids or options at this time for this service.

The new agreement term would be from September 1, 2013 through August 31, 2018, at a total cost of \$22,638, with payments made yearly per the agreement.

I have attached a copy of the agreement to this memo for review.

I am requesting the Board approve entering into the contract extension with New World.

NEW WORLD SYSTEMS CORPORATION
STANDARD SOFTWARE MAINTENANCE AGREEMENT

This Standard Software Maintenance Agreement (SSMA) between **New World Systems Corporation (New World)** and **Kensington Police Department, CA** (Customer) sets forth the standard software maintenance support services provided by **New World**.

1. Service Period

This SSMA shall remain in effect for a period of five (5) years from (start date) 9/1/13 to (end date) 8/31/18.

2. Services Include

The following services or features are available under this SSMA:

- (a) Upgrades, including new releases, to the Licensed Standard Software (prior releases of Licensed Standard Software application packages are supported no longer than nine (9) months after a new release is announced by **New World**).
- (b) Temporary fixes to Licensed Standard Software (see paragraph 6 below). Software fixes will be delivered electronically.
- (c) Revisions to Licensed Documentation. Documentation will be delivered electronically.
- (d) Reasonable telephone support for Licensed Standard Software on Monday through Friday from 8:00 a.m. to 8:00 p.m. (Eastern Time Zone).
- (e) Invitation to and participation in user group meetings.

Items a, b, and c above will be provided to **Customer** by electronic means.

Additional support services are available as requested by **Customer** using the then-current hourly rates or applicable fees.

3. Maintenance for Modified Licensed Standard Software and Custom Software

Customer is advised that if it requests or makes changes or modifications to the Licensed Standard Software, these changes or modifications (no matter who makes them) make the modified Licensed Standard Software more difficult to maintain. If New World agrees to provide maintenance support for Custom Software or Licensed Standard Software modified at Customer's request, then the additional New World maintenance or support services provided shall be billed at the then-current hourly fees plus reasonable expenses.

4. Billing

Maintenance costs will be billed annually as detailed on the following page. If taxes are imposed, they are the responsibility of the **Customer** and will be remitted to **New World** upon being invoiced.

5. Additions of Software to Maintenance Agreement

Additional Licensed Standard Software licensed from **New World** will be added to the SSMA per the terms of the contract adding the software. Maintenance costs for the additional software will be billed to **Customer** on a pro rata basis for the remainder of the current maintenance year and on a full year basis thereafter.

6. Requests for Software Correction on Licensed Standard Software

At any time during the SSMA period, if **Customer** believes that the Licensed Standard Software does not conform to the current specifications set forth in the user manuals, **Customer** must notify **New World** in writing that there is a claimed defect and specify which feature and/or report **Customer** believes to be defective. Before any notice is sent to **New World**, it must be reviewed and approved by the **Customer Liaison**. Documented examples of the claimed defect must accompany each notice. **New World** will review the documented notice and when a feature or report does not conform to the published specifications, **New World** will provide software correction service at no charge. A non-warranty request is handled as a billable Request for Service (RFS).

The no charge software correction service does not apply to any of the following:

- (a) situations where the Licensed Standard Software has been changed by anyone other than **New World** personnel;
- (b) situations where **Customer's** use or operations error causes incorrect information or reports to be generated; and;
- (c) requests that go beyond the scope of the specifications set forth in the current User Manuals.

7. Maintenance Costs for Licensed Standard Software Packages Covered for IBM AS/

New World agrees to provide software maintenance at the costs listed below for the following **New World** Licensed Standard Software packages installed at **Customer's** location:

<u>Application Package</u>	<u>Number of Modules</u>
1. <i>Aegis</i> ® Mobile Client Laptop Software	2

ANNUAL
MAINTENANCE COST: See Below

<u>Period Covered</u>	<u>Annual Amount</u>	<u>Billing Date</u>
9/1/2013 to 8/31/2014	\$4,016	8/15/2013
9/1/2014 to 8/31/2015	\$4,257	8/15/2014
9/1/2015 to 8/31/2016	\$4,512	8/15/2015
9/1/2016 to 8/31/2017	\$4,783	8/15/2016
9/1/2017 to 8/31/2018	\$5,070	8/15/2017

Note: Unless extended by **New World**, the above costs are available for 90 days after submission of the costs to **Customer**. After 90 days, **New World** may change the costs.

ALL INVOICES ARE DUE FIFTEEN (15) DAYS FROM BILLING DATE.

8. Terms and Conditions

This Agreement is covered by the Terms and Conditions specified in the Licensing Agreement(s) for the software contained herein.

ACCEPTED BY:

Customer: Kensington Police Department, CA

Name: _____

Title: _____

Date: _____

ACCEPTED BY:

New World Systems Corporation

Name: _____

Title: _____

Date: _____

By signing above, each of us agrees to the terms and conditions of this Agreement and as incorporated herein. Each individual signing represents that (s)he has the requisite authority to execute this Agreement on behalf of the organization for which (s)he represents and that all the necessary formalities have been met. If the individual is not so authorized then (s)he assumes personal liability for compliance under this Agreement.

Kensington, CA Police Department

Licensed Application Software

At August, 2013

1. Aegis® Mobile Client Laptop Software

- LE State/NCIC via Switch 5 User(s)
- LE CAD Via Switch 5 User(s)

Memorandum

Kensington Police Department



To: KPPCSD Board of Directors

APPROVED YES NO

From: Gregory E. Harman, General Manager/ Chief of Police

FORWARDED TO:

Date: Wednesday, October 09, 2013

Subject: New Business Item #2- Correction to the 2013/14 KPPCSD

On September 26th, the Finance Committee met and one of the items on the agenda was my request for a correction to be made to the 2013/14 KPPCSD Operating Budget. They were provided the following information as background material.

"Directors Gillette and Toombs had requested that I prepare spread sheets showing the various scenarios of salary and benefits for the current KPOA negotiations. It was during the preparation of this document that I identified a mistake in the KPPCSD Officers Salaries Chart.

First, a little background on what has occurred. The first thing that our accountant Debbie Russell and I prepare when preparing the upcoming year's fiscal budget is the Officers Salaries Chart. We calculate what the salaries will be for the upcoming fiscal year and all other calculations, such as PERS contributions in the budget are made off this chart. Since salaries are the biggest expense in our budget, this is where the budget process begins.

Since we began this process, it has always bothered me that it appeared that the two sergeants appeared to have not been paid enough when compared to the officers and the corporal. I thought it was caused by the incentive pay received by the officers and corporal and left it at that.

However, after I began my new calculations, I happened to be reviewing the Salary document (Attachment A) and noticed that for the two sergeants, when the calculation for "Months in Step" were made, they were assigned one step for 8.5 months and the next step at 2.5 months. This equals 11 months of salary for the two sergeants for the fiscal year.

This explains the lack of a salary differential between the two sergeants and the corporal and officers.

I checked the budget for Fiscal Year 2012/13, and the same miscalculation of months in step occurred.

The good news is that even though this mistake occurred in the budget documents, the two sergeants were properly paid, and only the budget calculations are off by the combined amount of their 12th month in salaries and associated costs.

That is also the bad news. Our Fiscal Year 2013/14 Budget is now off by the 12th month of salaries and associated costs for the two sergeants.

What this means is that for total officers salaries, where we had calculated total salaries at \$920,695.94 for the fiscal year, the correct amount is \$936,032.76, or a \$15,336.82 increase in salary expense Chart 502. (Attachment B & C)

This increase also changes the following expenses:

Chart 523 Medicare increases from \$14,945 to 15,167, for an increase of \$222. (Attachment D)

Chart 527 PERS District increases from to \$338,760 to \$344,354, for an increase of \$5,594. (Attachment E)

Chart 528 PERS Officers increases from \$83,583 to \$84,963, for an increase of \$1,380. (Attachment F)

This makes a total increase in budgeted expenses related to the 12th month of salary for the two sergeants of \$22,532.82."

The Finance Committee accepted the recommendation and motioned that the mistake in the budget's salary assumption be corrected. That correction results in the following changes to the following pages in the 2013/14 KPPCSD Operating Budget:

KPPCSD 2013/14 Summary Budget (Attachment G)
KPPCSD Projected Revenue & Expenses 2013/14 (Attachment H)
KPPCSD Officers Salaries Fiscal Year 2013/14 (Attachment I)
Chart 502, 523, 527, & 528 (Attachment J)

If the budget correction is approved, the above listed pages need to be exchanged in your KPPCSD 2013/2014 Operating Budget document.

(Please note that this correction also results in the budget shortfall increasing from -\$94,384 to -\$116,917.)

ATTACHMENT A

8/23/2013

KPPCSD Officers' Salaries - Fiscal 2013/2014

Officer Name	Grade	Date Hired	Date in Grade	Date in Step	Months in Step	Monthly Base	Holiday Pay	Incentive	Monthly Salary	Pay Period	Hourly Base	Hourly	Longevity Pay	Annual Total
Harman, G	Chief	9/4/2007	9/4/2007	07/01/13	12.000	\$ 12,988.58		\$129.89	13,118.47	\$ 6,559.23	\$ 74.93	\$ 75.68		\$ 157,421.64
Hull, R	MS/Step 2	10/16/97	03/16/13	03/16/13	12.000	\$ 7,842.47	\$ 422.33	\$588.19	8,852.99	\$ 4,426.49	\$ 45.25	\$ 51.07	\$ 1,600.00	\$ 107,835.82
Barrow, K.	Sgt/Step 2	09/16/05	03/16/13	03/16/13	8.500	6,900.92	\$ 371.56	\$345.05	7,617.53	\$ 3,808.76	\$ 39.81	\$ 43.95		\$ 64,748.97
	Sgt/Step 3			03/16/14	2.500	7,107.95	\$ 382.76	\$355.40	7,846.11	\$ 3,923.05	\$ 41.01	\$ 45.27		\$ 19,615.27
Hui, K	Sgt/Step 2	04/17/10	03/16/13	03/16/13	8.500	6,900.92	\$ 371.56		7,272.48	\$ 3,636.24	\$ 39.81	\$ 41.96		\$ 61,816.08
	Sgt/Step 3			03/16/13	2.500	7,107.95	\$ 382.76		7,490.71	\$ 3,745.36	\$ 41.01	\$ 43.22		\$ 18,726.78
Stegman, E	Step 1	09/01/12	09/01/12	09/01/12	12.000	\$ 6,576.71	\$ 354.11	\$493.25	7,424.07	\$ 3,712.04	\$ 37.94	\$ 42.83		\$ 89,088.88
Martinez, R	Step 5	01/01/06	01/01/06	01/01/10	12.000	6,447.75	\$ 347.20	\$322.39	7,117.34	\$ 3,558.67	\$ 37.20	\$ 41.06		\$ 85,408.05
Wilson, D	Step 5	05/19/08	05/19/08	05/19/10	12.000	6,447.75	\$ 347.20	\$322.39	7,117.34	\$ 3,558.67	\$ 37.20	\$ 41.06		\$ 85,408.05
Ramos, J	Step 5	09/16/09	09/16/09	09/16/11	12.000	6,447.75	\$ 347.20		6,794.95	\$ 3,397.48	\$ 37.20	\$ 39.20		\$ 81,539.40
Turner, C	Step 4	10/03/11	10/03/11	10/03/12	3.000	\$ 6,106.39	\$ 328.81		6,435.20	\$ 3,217.60	\$ 35.23	\$ 37.13		\$ 19,305.60
	Step 5			10/03/13	9.000	6,447.75	\$ 347.20		6,794.95	\$ 3,397.48	\$ 37.20	\$ 39.20		\$ 61,154.55
Wilkins, S	Step 1	09/17/12	09/17/12	09/17/12	2.500	\$ 5,200.28	\$ 280.00		5,480.28	\$ 2,740.14	\$ 30.00	\$ 31.62		\$ 13,700.70
	Step 2			9/17/2013	9.500	\$ 5,486.30	\$ 295.40		5,781.70	\$ 2,890.85	\$ 31.65	\$ 33.36		\$ 54,926.15
							\$ 3,226.16	\$2,211.50					\$ 1,600.00	\$ 920,695.94

Total BasePay Minus Holiday, Incentive, & Longevity: \$ 913,658.28

	Mo. Base	Holiday	Mo. Total	HrlyBase	HrlyTot		Mo. Base	Holiday	Mo. Total	HrlyBase	HrlyTot
Sergeants						Officers					
Step#1	6,635.50	357.28	6,992.78	38.28	40.34	Step#1	5,200.28	\$280.00	5,480.28	30.00	31.62
Step#2	6,900.92	371.56	7,272.48	39.81	41.96	Step#2	5,486.30	\$295.40	5,781.70	31.65	33.36
Step#3	7,107.95	382.76	7,490.71	41.01	43.22	Step#3	5,788.05	\$311.64	6,099.69	33.39	35.19
Step#4	7,392.28	398.07	7,790.35	42.65	44.94	Step#4	6,106.39	\$328.81	6,435.20	35.23	37.13
						Step#5	6,447.75	\$347.20	6,794.95	37.20	39.20
Master Sgts						Corporal					
Step#1	7614.05	410.01	8,024.06	43.93	46.29	Step #1	6576.71	\$354.11	6,930.82	37.94	39.99
Step #2	7842.47	422.33	8,264.80	45.25	47.68						

288

PMcL

ATTACHMENT C

9/3/2013

KPPCSD Officers' Salaries - Fiscal 2013/2014

Officer Name	Grade	Date Hired	Date in Grade	Date in Step	Months in Step	Monthly Base	Holiday Pay	Incentive	Monthly Salary	Pay Period	Hourly Base	Hourly	Longevity Pay	Annual Total
Harman, G	Chief	9/4/2007	9/4/2007	07/01/13	12.000	\$ 12,988.58		\$129.89	13,118.47	\$ 6,559.23	\$ 74.93	\$ 75.68		\$ 157,421.64
Hull, R	MS/Step 2	10/16/97	03/16/13	03/16/13	12.000	\$ 7,842.47	\$ 422.33	\$588.19	8,852.99	\$ 4,426.49	\$ 45.25	\$ 51.07	\$ 1,600.00	\$ 107,835.82
Barrow, K.	Sgt/Step 2	09/16/05	03/16/13	03/16/13	8.500	6,900.92	\$ 371.56	\$345.05	7,617.53	\$ 3,808.76	\$ 39.81	\$ 43.95		\$ 64,748.97
	Sgt/Step 3			03/16/14	3.500	7,107.95	\$ 382.76	\$355.40	7,846.11	\$ 3,923.05	\$ 41.01	\$ 45.27		\$ 27,461.38
Hui, K	Sgt/Step 2	04/17/10	03/16/13	03/16/13	8.500	6,900.92	\$ 371.56		7,272.48	\$ 3,636.24	\$ 39.81	\$ 41.96		\$ 61,816.08
	Sgt/Step 3			03/16/13	3.500	7,107.95	\$ 382.76		7,490.71	\$ 3,745.36	\$ 41.01	\$ 43.22		\$ 26,217.49
Stegman, E	Step 1	09/01/12	09/01/12	09/01/12	12.000	\$ 6,576.71	\$ 354.11	\$493.25	7,424.07	\$ 3,712.04	\$ 37.94	\$ 42.83		\$ 89,088.88
Martinez, R	Step 5	01/01/06	01/01/06	01/01/10	12.000	6,447.75	\$ 347.20	\$322.39	7,117.34	\$ 3,558.67	\$ 37.20	\$ 41.06		\$ 85,408.05
Wilson, D	Step 5	05/19/08	05/19/08	05/19/10	12.000	6,447.75	\$ 347.20	\$322.39	7,117.34	\$ 3,558.67	\$ 37.20	\$ 41.06		\$ 85,408.05
Ramos, J	Step 5	09/16/09	09/16/09	09/16/11	12.000	6,447.75	\$ 347.20		6,794.95	\$ 3,397.48	\$ 37.20	\$ 39.20		\$ 81,539.40
Turner, C	Step 4	10/03/11	10/03/11	10/03/12	3.000	\$ 6,106.39	\$ 328.81		6,435.20	\$ 3,217.60	\$ 35.23	\$ 37.13		\$ 19,305.60
	Step 5			10/03/13	9.000	6,447.75	\$ 347.20		6,794.95	\$ 3,397.48	\$ 37.20	\$ 39.20		\$ 61,154.55
Wilkins, S	Step 1	09/17/12	09/17/12	09/17/12	2.500	\$ 5,200.28	\$ 280.00		5,480.28	\$ 2,740.14	\$ 30.00	\$ 31.62		\$ 13,700.70
	Step 2			9/17/2013	9.500	\$ 5,486.30	\$ 295.40		5,781.70	\$ 2,890.85	\$ 31.65	\$ 33.36		\$ 54,926.15
							\$ 3,226.16	\$2,211.50					\$ 1,600.00	\$ 936,032.76

Total BasePay Minus Holiday, Incentive, & Longevity: \$ 928,995.10

	Mo. Base	Holiday	Mo. Total	HrlyBase	HrlyTot		Mo. Base	Holiday	Mo. Total	HrlyBase	HrlyTot
Sergeants						Officers					
Step#1	6,635.50	357.28	6,992.78	38.28	40.34	Step#1	5,200.28	\$280.00	5,480.28	30.00	31.62
Step#2	6,900.92	371.56	7,272.48	39.81	41.96	Step#2	5,486.30	\$295.40	5,781.70	31.65	33.36
						Step#3	5,788.05	\$311.64	6,099.69	33.39	35.19
Step#3	7,107.95	382.76	7,490.71	41.01	43.22	Step#4	6,106.39	\$328.81	6,435.20	35.23	37.13
Step#4	7,392.28	398.07	7,790.35	42.65	44.94	Step#5	6,447.75	\$347.20	6,794.95	37.20	39.20
Master Sgts						Corporal					
Step#1	7614.05	410.01	8,024.06	43.93	46.29	Step #1	6576.71	\$354.11	6,930.82	37.94	39.99
Step #2	7842.47	422.33	8,264.80	45.25	47.68						

PMcL

salaries 13-14 with correction to Barrow & Hui.xls

582

CODE	CLASSIFICATION	2012/2013		2012/2013	PERCENT	2013/2014	BUDGET
		BUDGET	EXPENDITURES February 28, 2013				
POLICE SALARIES AND BENEFITS							
502	Salary - Police	\$890,107	\$609,356	\$280,751	68.46%	\$936,033	\$45,926
504	Compensation Cash-Out	\$10,000	\$3,963	\$6,037	39.63%	\$10,000	\$0
506	Overtime	\$40,000	\$38,513	\$1,487	96.28%	\$40,000	\$0
508	Salary/Non-Sworn	\$52,000	\$14,761	\$37,239	28.39%	\$52,000	\$0
516	Uniform Allowance	\$8,000	\$5,331	\$2,669	66.64%	\$8,000	\$0
518	Safety Equipment	\$6,000	\$250	\$5,750	4.17%	\$2,500	(\$3,500)
521A	Medical Insurance - Active	\$150,452	\$112,249	\$38,203	74.61%	\$177,603	\$27,151
521R	Medical Insurance - Retired	\$178,662	\$106,736	\$71,926	59.74%	\$166,829	(\$11,833)
521T	Medical Insurance - Trust	(\$32,942)	\$145,720	(\$178,662)	-442.35%	(\$21,109)	\$11,833
522	Disab. & Life Insurance	\$5,240	\$3,337	\$1,903	63.68%	\$5,240	\$0
523	Medicare 1.45% (District)	\$14,502	\$9,544	\$4,958	65.81%	\$15,167	\$665
524	Social Security(6.2%) /Non-Sworn	\$3,224	\$1,112	\$2,112	34.50%	\$3,224	\$0
527	P.E.R.S. - District	\$305,356	\$207,186	\$98,170	67.85%	\$344,354	\$38,998
528	P.E.R.S. - Officers Portion	\$80,830	\$55,307	\$25,523	68.42%	\$84,963	\$4,133
530	Workers Compensation	\$56,687	\$50,963	\$5,724	89.90%	\$46,000	(\$10,687)
540	Advanced Industrial Disability	\$0	\$0	\$0	0.00%	\$0	\$0
SUB-TOTAL		\$1,768,118	\$1,364,329	\$403,789	77.16%	\$1,870,804	\$102,686
POLICE EXPENSES							
552	Expendable Police Supplies	\$1,800	\$1,041	\$759	57.82%	\$1,500	(\$300)
553	Range/Ammunition	\$4,000	\$3,115	\$885	77.87%	\$3,000	(\$1,000)
560	Crossing Guard	\$9,866	\$5,865	\$4,001	59.44%	\$10,061	\$195
562	Vehicle Operation	\$57,200	\$36,025	\$21,175	62.98%	\$60,000	\$2,800
564	Communications	\$141,960	\$84,725	\$57,235	59.68%	\$154,460	\$12,500
566	Radio Maintenance	\$21,750	\$19,752	\$1,998	90.81%	\$21,750	(\$0)
568	Prisoner/Case Expenses/Bookings	\$6,400	\$6,633	(\$233)	103.64%	\$5,400	(\$1,000)
570	Training	\$13,000	\$5,153	\$7,847	39.64%	\$10,000	(\$3,000)
572	Recruiting	\$13,000	\$2,082	\$10,918	16.02%	\$6,500	(\$6,500)
574	Reserve Officers	\$8,100	\$156	\$7,944	1.93%	\$4,050	(\$4,050)
576	Misc. Dues, Meals.Travel	\$3,125	\$2,245	\$880	71.84%	\$2,075	(\$1,050)
580	Utilities - Police	\$8,000	\$5,717	\$2,283	71.46%	\$8,600	\$600
581	Bldg. Repair/Maint	\$1,000	\$465	\$535	46.49%	\$500	(\$500)
582	Office Supplies	\$6,000	\$3,774	\$2,226	62.91%	\$6,000	\$0
588	Telephones	\$16,620	\$5,691	\$10,929	34.24%	\$8,544	(\$8,076)
590	Housekeeping	\$4,000	\$2,826	\$1,174	70.66%	\$4,000	\$0
592	Publications	\$3,000	\$2,442	\$558	81.39%	\$2,200	(\$800)
594	Comm. Policing	\$1,500	\$2,078	(\$578)	138.52%	\$2,000	\$500
596	CAL-ID/WEST-NET	\$13,130	\$13,130	\$0	100.00%	\$13,386	\$256
598	COPS Special Fund	\$0	\$0	\$0	0.00%	\$0	\$0
599	Police Taxes Administration	\$3,200	\$2,431	\$769	75.96%	\$3,300	\$100
SUB-TOTAL		\$336,651	\$205,344	\$131,307	61.00%	\$327,326	(\$9,325)
RECREATION SALARIES AND BENEFITS							
601	Park and Rec. Admin.	\$6,500	\$4,148	\$2,353	63.81%	\$6,500	\$0
602	Custodian	\$21,000	\$14,000	\$7,000	66.67%	\$21,000	\$0
623	Social Security (7.65%) /District	\$497	\$317	\$180	63.84%	\$497	\$0
SUB-TOTAL		\$27,997	\$18,465	\$9,532	65.95%	\$27,997	\$0
RECREATION EXPENSES							
640	Community Center Expenses						
642	Community Center Utilities	\$4,696	\$4,309	\$387	91.76%	\$5,376	\$680
643	Janitorial Supplies	\$750	\$820	(\$70)	109.38%	\$750	\$0
646	Community Center Repairs	\$2,000	\$1,226	\$774	61.30%	\$2,000	\$0
650	Building E Expenses						
656	Building E Repairs	\$0	\$0	\$0	0.00%	\$0	\$0
660	Annex Expenses						
662	Annex - Utilities	\$1,500	\$0	\$1,500	0.00%	\$0	(\$1,500)
666	Annex Repairs	\$0	\$0	\$0	0.00%	\$0	\$0
668	Annex - Misc. Exp	\$0	\$0	\$0	0.00%	\$0	\$0
670	Gardening Supplies	\$1,000	\$0	\$1,000	0.00%	\$0	(\$1,000)
672	Park O&M	\$81,908	\$45,631	\$36,277	55.71%	\$88,432	\$6,524
674	Park Construction Expense	\$0	\$0	\$0	0.00%	\$0	\$0
678	Misc. Park/Rec Expense	\$1,000	(\$1,852)	\$2,852	-185.21%	\$0	(\$1,000)
SUB-TOTAL		\$92,854	\$50,135	\$42,720	53.99%	\$96,558	\$3,704

ATTACHMENT G

CODE	CLASSIFICATION	2012/2013		2012/2013	PERCENT	2013/2014	BUDGET	DIFFERENCES
		BUDGET	EXPENDITURES February 28, 2013					
DISTRICT EXPENSES								
810	Computer	\$30,869	\$20,224	\$10,645	65.52%	\$27,504		(\$3,365)
820	Canon Copier Contract	\$6,700	\$3,469	\$3,231	51.78%	\$5,700		(\$1,000)
830	Legal	\$65,000	\$86,840	(\$21,840)	133.60%	\$70,000		\$5,000
835	Consultant	\$3,000	\$2,500	\$500	83.35%	\$3,000		\$0
840	Accounting	\$30,075	\$13,081	\$16,994	43.50%	\$48,750		\$18,675
850	Insurance	\$30,000	\$24,387	\$5,613	81.29%	\$30,000		\$0
860	Election	\$6,000	\$0	\$6,000	0.00%	\$0		(\$6,000)
865	Police Bldg Lease	\$30,596	\$30,596	\$0	100.00%	\$31,514		\$918
870	County Expenditures	\$19,900	\$7,586	\$12,314	38.12%	\$19,900		\$0
890	Waste/Recycle Expenses	\$36,500	\$64,613	(\$28,113)	177.02%	\$54,000		\$17,500
898	Miscellaneous Expenses	\$10,400	\$7,421	\$2,979	71.35%	\$10,300		(\$100)
	SUB-TOTAL	\$269,040	\$260,718	\$8,322	96.91%	\$300,668		\$31,628
	Operating Expense TOTAL	\$2,494,660	\$1,898,989	\$595,671	76.12%	\$2,623,353		\$128,693
CAPITAL OUTLAY								
961	Police Bldg. Improvements	\$0	\$0	\$0	0.00%	\$0		\$0
962	Patrol Cars	\$23,000	\$0	\$23,000	0.00%	\$25,000		\$2,000
963	Patrol Car Accessories	\$10,000	\$0	\$10,000	0.00%	\$10,000		\$0
965	Weapons / Radios	\$0	\$0	\$0	0.00%	\$0		\$0
967	Station Equipment	\$0	\$0	\$0	0.00%	\$0		\$0
968	Office Furn. & Equip.	\$0	\$0	\$0	0.00%	\$0		\$0
969	Computer Equipment	\$8,000	\$0	\$8,000	0.00%	\$16,250		\$8,250
971	Park Land	\$0	\$0	\$0	0.00%	\$0		\$0
972	Park Bldgs. Improvements	\$0	\$0	\$0	0.00%	\$0		\$0
973	Park Construct. Fund	\$0	\$0	\$0	0.00%	\$0		\$0
974	Other Park Improvements	\$0	\$0	\$0	0.00%	\$0		\$0
978	Park/Rec. Furniture & Equipment	\$0	\$2,166	(\$2,166)	0.00%	\$0		\$0
	Capital Outlay SUB-TOTAL	\$41,000	\$2,166	\$38,834	5.28%	\$51,250		\$10,250
	BUDGET GRAND TOTAL	\$2,535,660	\$1,901,155	\$634,505	74.98%	\$2,674,603		\$138,943

KPPCSD
Projected Revenue and Expense
2013/2014

Budgeted Revenues 2013/2014

400 · Police Activities Revenue	
Total 400 · Police Activities Revenue	\$2,477,486
Total 420 · Park/Rec Activities Revenue	58,700
440 · District Activities Revenue	
448 · Franchise Fees	21,000
456 · Interest-District	<u>500</u>
Total 440 · District Activities Revenue	<u>21,500</u>
Total Revenues	\$2,557,686

Budgeted Expenditures 2013/2014

500 · Police Sal & Ben	
Total 500 · Police Sal & Ben	\$1,870,804
Total 550 · Other Police Expenses	327,326
Total 600 · Park/Rec Sal & Ben	27,997
Total 635 · Park/Recreation Expenses	96,558
Total 800 · District Expenses	300,668
Total 950 · Capital Outlay	<u>51,250</u>
Total Expenditures	<u>\$2,674,603</u>

Excess of Revenue over Expense 2013/2014 -\$116,917

Previously Allocated Funds

Total Allocated Funds Used 0

Excess Funding over Expenses 2013/2014 -116,917

Cash Carryovers 2012/2013 \$1,566,747

Estimated Fund Carryovers into 2013/2014 \$1,449,829

Future Allowances:

Allowance for Mandated Contingencies (10% of Total Expenditures)	\$267,460
Allowance for Est'd Vacation/Comp Liab	80,000
Allowance for Notes Payable - District Portion of Bond	92,830
Allowance for Park Bldgs Replacement (Originally Stated)	300,000
Expenditure for Annex Renovation in Current Year	<u>0</u>

Total Allowances \$740,290

Available Funds Net of Future Allowances and Allocations \$709,539

ATTACHMENT H

KPPCSD Officers' Salaries - Fiscal 2013/2014

ATTACHMENT I

Officer Name	Grade	Date Hired	Date in Grade	Date in Step	Months in Step	Monthly Base	Holiday Pay	Incentive	Monthly Salary	Pay Period	Hourly Base	Hourly	Longevity Pay	Annual Total
Harman, G	Chief	9/4/2007	9/4/2007	07/01/13	12.000	\$ 12,988.58		\$129.89	13,118.47	\$ 6,559.23	\$ 74.93	\$ 75.68		\$ 157,421.64
Hull, R	MS/Step 2	10/16/97	03/16/13	03/16/13	12.000	\$ 7,842.47	\$ 422.33	\$588.19	8,852.99	\$ 4,426.49	\$ 45.25	\$ 51.07	\$ 1,600.00	\$ 107,835.82
Barrow, K.	Sgt/Step 2	09/16/05	03/16/13	03/16/13	8.500	6,900.92	\$ 371.56	\$345.05	7,617.53	\$ 3,808.76	\$ 39.81	\$ 43.95		\$ 64,748.97
	Sgt/Step 3			03/16/14	3.500	7,107.95	\$ 382.76	\$355.40	7,846.11	\$ 3,923.05	\$ 41.01	\$ 45.27		\$ 27,461.38
Hui, K	Sgt/Step 2	04/17/10	03/16/13	03/16/13	8.500	6,900.92	\$ 371.56		7,272.48	\$ 3,636.24	\$ 39.81	\$ 41.96		\$ 61,816.08
	Sgt/Step 3			03/16/14	3.500	7,107.95	\$ 382.76		7,490.71	\$ 3,745.36	\$ 41.01	\$ 43.22		\$ 26,217.49
Stegman, E	Corp/Step 1	09/01/12	09/01/12	09/01/12	12.000	\$ 6,576.71	\$ 354.11	\$493.25	7,424.07	\$ 3,712.04	\$ 37.94	\$ 42.83		\$ 89,088.88
Martinez, R	Step 5	01/01/06	01/01/06	01/01/10	12.000	6,447.75	\$ 347.20	\$322.39	7,117.34	\$ 3,558.67	\$ 37.20	\$ 41.06		\$ 85,408.05
Wilson, D	Step 5	05/19/08	05/19/08	05/19/10	12.000	6,447.75	\$ 347.20	\$322.39	7,117.34	\$ 3,558.67	\$ 37.20	\$ 41.06		\$ 85,408.05
Ramos, J	Step 5	09/16/09	09/16/09	09/16/11	12.000	6,447.75	\$ 347.20		6,794.95	\$ 3,397.48	\$ 37.20	\$ 39.20		\$ 81,539.40
Turner, C	Step 4	10/03/11	10/03/11	10/03/12	3.000	\$ 6,106.39	\$ 328.81		6,435.20	\$ 3,217.60	\$ 35.23	\$ 37.13		\$ 19,305.60
	Step 5			10/03/13	9.000	6,447.75	\$ 347.20		6,794.95	\$ 3,397.48	\$ 37.20	\$ 39.20		\$ 61,154.55
Wilkens, S	Step 1	09/17/12	09/17/12	09/17/12	2.500	\$ 5,200.28	\$ 280.00		5,480.28	\$ 2,740.14	\$ 30.00	\$ 31.62		\$ 13,700.70
	Step 2			9/17/2013	9.500	\$ 5,486.30	\$ 295.40		5,781.70	\$ 2,890.85	\$ 31.65	\$ 33.36		\$ 54,926.15
							\$ 3,226.16	\$2,211.50					\$ 1,600.00	\$ 936,032.76

Total BasePay Minus Holiday, Incentive, & Longevity: \$ 928,995.10

	Mo. Base	Holiday	Mo. Total	HrlyBase	HrlyTot		Mo. Base	Holiday	Mo. Total	HrlyBase	HrlyTot
Sergeants						Officers					
Step#1	6,635.50	357.28	6,992.78	38.28	40.34	Step#1	5,200.28	\$280.00	5,480.28	30.00	31.62
Step#2	6,900.92	371.56	7,272.48	39.81	41.96	Step#2	5,486.30	\$295.40	5,781.70	31.65	33.36
Step#3	7,107.95	382.76	7,490.71	41.01	43.22	Step#3	5,788.05	\$311.64	6,099.69	33.39	35.19
Step#4	7,392.28	398.07	7,790.35	42.65	44.94	Step#4	6,106.39	\$328.81	6,435.20	35.23	37.13
						Step#5	6,447.75	\$347.20	6,794.95	37.20	39.20
Master Sgts						Corporal					
Step#1	7614.05	410.01	8,024.06	43.93	46.29	Step #1	6576.71	\$354.11	6,930.82	37.94	39.99
Step #2	7842.47	422.33	8,264.80	45.25	47.68						

292

Memorandum

Kensington Police Department



To: KPPCSD Board of Directors

APPROVED YES NO

From: Gregory E. Harman, General Manager/ Chief of Police

FORWARDED TO:

Date: Wednesday, October 9, 2013

Subject: New Business #3- Update on Traffic Issues at Arlington & Kensington Park/ Rincon

Early in the new school year, several concerned parents contacted the County and me regarding the dangerous intersection at Arlington Avenue and Kensington Park/ Rincon. A meeting was held on September 3rd between the parents, County representatives, and me to discuss possible solutions to make the intersection safer.

First, a bit of history on the issue. In 2009, the Kensington Police Protection and Community Services District requested that the Technology Transfer Program of the Institute of Transportation Studies at University of California, Berkeley conduct a Traffic Safety Evaluation (TSE) study for vehicle traffic and pedestrian safety issues at a crosswalk on Arlington Avenue and Kensington Park Way. A team of two traffic safety experts consisting of a traffic engineer and a traffic enforcement expert conducted the Kensington Police Protection and CSD TSE in January 2010 and prepared a report. The report focused on the specific location in the community of Kensington – the signalized pedestrian crossing of Arlington Avenue adjacent to its intersections with Kensington Park Road and Rincon Road.

The report identified that the community was concerned that vehicles speed through the intersection and fail to stop when the red indication is given during pedestrian crossings. The TSE reviewed these concerns and identified potential improvements at this location. The report's factual findings, comments, and possible options were as follows:

"The signalized pedestrian crossing of Arlington Avenue is the only traffic signal located in the community of Kensington. The pedestrian crossing provides access across Arlington Avenue to the Kensington Hilltop Elementary School, the Kensington Library, an adjacent church and preschool school, and area residences. A school crossing guard is provided during school commute times occurring weekdays from 7:45 to 8:45 AM and 2:30 to 3:30 PM. The school crossing guard reported that approximately 70 pedestrian utilize the signalized pedestrian crossing during each school commute period.

The signal is pedestrian actuated and provides a protected pedestrian phase during which vehicles on Arlington Avenue, Kensington Park Road, and Rincon Road are given a red indication. Therefore, the signal provides an exclusive pedestrian phase. Kensington Park Road and Rincon Road are controlled by both stop signs and traffic signals. The operational characteristics of the signal are summarized below.

1. When no pedestrian actuation has been received:
 - * Flashing yellow indications are displayed to both directions of Arlington Avenue.
 - * Flashing red indications are displayed to both Kensington Park Road and Rincon Road.
 - * A steady don't walk (upraised hand) indication is displayed at the pedestrian crossing.

2. When a pedestrian actuation is received:
 - * A steady yellow indication is displayed followed by a solid red indication for both directions of Arlington Avenue.
 - * Solid red indications are displayed to both Kensington Park Road and Rincon Road.
 - * A walk (walking person) indication is displayed once the solid red indication is given to Arlington Avenue. A pedestrian clearance interval (flashing upraised hand) is then displayed.

3. When the pedestrian clearance interval is complete:
 - * Flashing yellow indications are once again displayed to both directions of Arlington Avenue.
 - * Flashing red indications are once again displayed to both Kensington Park Road and Rincon Road.
 - * A steady don't walk (upraised hand) indication is once again displayed at the pedestrian crossing.

The intent of the traffic signal control is to allow vehicles to travel through the area unencumbered when no pedestrians are present. This is accomplished through the use of flashing yellow indications on Arlington Avenue that do not require vehicles to stop. This is further accomplished by the stop signs and flashing red indications on Kensington Park Road and Rincon Road, which allow vehicles to proceed onto Arlington Avenue when it is safe to do so after coming to a complete stop. When pedestrians are present, the solid red indications on Arlington Avenue, Kensington Park Road, and Rincon Road are intended to keep vehicles from traveling through the area. However, the juxtaposition of stop signs and signal provides slightly mixed direction to drivers.

A solid red signal means that a driver cannot proceed to make a left turn while a stop sign means that a driver can proceed when it is safe to do so.

Drivers on Kensington Park Road and Rincon Road must identify acceptable gaps in vehicular traffic on Arlington Road to safely make their turns onto that roadway. To accomplish this, adequate sight distance is required. Adequate sight distance is available for drivers on Kensington Park Road, but it is not available for drivers on Rincon Road. The primary sight distance constraint for drivers on Rincon Road is parked vehicles along the west curb north of the intersection.

The signal system located on Arlington Avenue is out of compliance with the California Vehicle Code and the California Manual on Uniform Traffic Control Devices (CAMUTCD). The noncompliance arises from the juxtaposition of stop sign control and signal control on the Kensington Park Road and Rincon Road approaches to the intersection. California Vehicle Code section 21355(a) and CAMUTCD section 4D.01 state that stop signs shall not be used in conjunction with traffic signal control and operation. While the traffic signal system is out of compliance with these codes and standards, it does not appear to operate in an unsafe manner. Field observations revealed that drivers are not confused by the signal system and stop signs. Further, the traffic collision history indicates that drivers are able to safely travel through the area. However, to promote uniformity with traffic control device application throughout the nation and to minimize potential driver confusion, compliance with these codes and standards is recommended. This issue cannot be resolved by simply removing the stop signs and pavement legends on Kensington Park Road and Rincon Road because CAMUTCD section 4K.02 requires that a stop sign be used on all approaches to which a flashing red indication is shown. The flashing red beacon would essentially be serving as an intersection control beacon without the required stop sign, which would result in a different non-compliance issue.

A range of potential improvements were identified to assist the community of Kensington and Contra Costa County with the enhancement of safety and the resolution of the non-compliance issues. A range of potential improvements is offered because each option carries various disbenefits. Further, even though non-compliance and sight distance issues were identified, the intersection does not appear to present unsafe conditions. Therefore, the local agencies must evaluate these improvement options in conjunction with overall community needs and value and ultimately determine the appropriate course of action at this location.

Option 1 – Install a full traffic signal. This intersection could be converted to a full traffic signal by installing red-yellow-green indications for all vehicular approaches and walk-don't walk indications for all pedestrian crossings. This would require the installation of additional traffic signal poles and associated infrastructure. The stop signs on Kensington Park Road and Rincon Road would be eliminated, and the sight distance constraints for drivers turning left from Rincon Road would become less of an issue. This option would be fairly costly, and it would create traffic congestion on Arlington Avenue. Further, this location would probably not satisfy standard traffic

signal warrants.

Option 2 – Remove signal control from Kensington Park Road and Rincon Road. The stop signs would remain. This would eliminate the non-compliance issue, but it would not address the sight distance issue. This option would result in two stop sign controlled approaches within the envelope of a signalized pedestrian crossing which could create conflicts between pedestrians crossing during the signalized pedestrian phase and drivers using gaps created by red indications on Arlington Avenue to make left turns from the side streets.

Option 3 – Remove the signal control and replace with all-way stop control. This option would eliminate the non-compliance issue and alleviate the sight distance issue. However, it would create significant congestion on Arlington Avenue.

Option 4 – Remove the signal in its entirety. The stop signs on the two side streets would remain. The non-compliance issue would be eliminated, but the sight distance issue would remain. This option would eliminate signal control protection for pedestrians crossing Arlington Road at this intersection, which would degrade overall pedestrian safety at this location. However, adequate sight distance and gaps would exist for pedestrians to safely cross the street, but pedestrians would need to exercise a high degree of attentiveness and judgment. This may not be a suitable option given the high number of school children who use this crossing.

Option 5 – Eliminate on-street parking along the west curb line north of Rincon Avenue. This option could eliminate or alleviate the sight distance issue depending upon how much parking was eliminated. It would not address the non-compliance issue. This option could be implemented in combination with any of the other four options. This on-street parking is heavily utilized and its elimination would impact area residents, and the adjacent church and preschool.

Option 6 – Implement enhanced traffic law enforcement. Enhanced law enforcement would probably increase compliance with traffic signal control during pedestrian crossings. This would address the primary issue that prompted the request for this TSE.

The level of enforcement action for traffic violations, a citation or verbal warning, is left to the officer's discretion based upon extenuating circumstances and/or whether or not the violator is a local resident. This is a reality in small communities where citizen's concerns and complaints bear a significant influence on community leadership. A citation is the most effective tool to influence and change a driver's behavior leading to a raised level of compliance with traffic laws. This result is achieved by the violator remembering the incident, the resulting fine and the effect on the driver's record and auto insurance rates. An added benefit is when the violator relates the incident to friends and neighbors who hopefully remember the circumstances when driving through that particular location to focus on driving safely. Verbal warnings are ineffective in enhancing driver safety as the violator has a tendency to forget the incident, or if the

driver relates the circumstances to associates, the 'spin' most likely ends with the offender "talking the officer out of a ticket".

The Kensington Police Department knows that the probability of fatal or serious injury to a pedestrian, especially a child at the pedestrian crossing would have serious consequences in their community. It is very important that the community understands, accepts and supports the importance of a Zero Tolerance enforcement policy for the intersection and crosswalk at Arlington Avenue and Kensington Park Way.

The community of Kensington is relatively free of serious traffic problems. Measuring traffic problems is accomplished by compiling collision data; however it is impossible to measure collisions that have been prevented by police presence and traffic enforcement. Unfortunately most traffic safety and preventative programs begin after a tragedy occurs and a public outcry motivates community leaders to take action. The problem of motorists failing stop for the red light at the signalized crosswalk on Arlington Avenue has all the elements of a tragic occurrence.

For many years motorists have believed that municipalities with a zero tolerance for traffic violations use the program as a source of generating revenue for the city. The policy also results in drivers being very careful to obey the traffic laws when traveling through a targeted area and a reduction in the number and severity of traffic collisions.

"Zero Tolerance Policy" is a more positive spin on preventing serious traffic collisions. The goal would be to inform and gain the agreement of law enforcement officers, governmental and judicial representatives, community representatives, and media support the program. It is important to keep the public informed through media of all aspects of the "Zero Tolerance Policy" program, including the purpose and goals, and to warn the public where the focused traffic enforcement would take place, and that a "Zero Tolerance Policy" would be in effect."

The above report was submitted to the KPPCSD Board for consideration in May of 2010. (The full report can be viewed on the District's website.)

The KPPCSD Board accepted the recommendations of the report at the May 2010 KPPCSD Board meeting, and directed me to implement a "Zero Tolerance Policy" throughout Kensington for traffic enforcement. Following public education and outreach, the police department went to a "Zero Tolerance Policy" for traffic enforcement in 2011.

The County Public Works Department also made changes to the intersection. They adjusted the timing of the yellow flashing light to cycle slower when turning flashing yellow, to yellow, and then to red. This resulted in far fewer drivers driving through the red light. They also increased the number of traffic lights in the intersection, increasing the visibility of the signals as drivers approached the intersection.

However, the auto/ pedestrian near misses have continued, leading to the request of the meeting on September 3rd between all parties to identify additional measures that could be taken to make the intersection safer.

On September 23, 2013, County Traffic Engineer Monish Sen sent me the following e-mail, providing me with an update to our discussions of September 3rd.

"Here's a quick update on some of the items that were discussed at our meeting at the intersection that day:

1. We are proceeding on adding "Stop Here on Red" (with arrow pointing to the limit line) R10-6 signs directly to the signal poles (one in each direction) to help reduce confusion as to when and where to stop (limit line when the signal turns red, activated by a pedestrian), and have issued a trim notice for the overgrown foliage at the northbound approach to the signal on Arlington (on the east side, just south of the signal).
2. There were complaints about speeding and a lot of "red light running". I understand your department has been very active in enforcing the red light violators, and the new signs should help you in your enforcement efforts. Speeding in excess of the speed limit, especially during school times does not appear to be factor at the intersection.
3. Request for Speed Humps on Arlington Avenue. We would not recommend installation of speed humps on Arlington Avenue, considering its designation as an arterial roadway carrying a significant volume of traffic and the winding and relatively narrow nature of the roadway.
4. Request for flashing lights or beacons on Arlington Avenue at the crosswalk. We would not recommend the installation of RRFB's (Rapid repeating flashing beacons) at this location since it is already served by a pedestrian activated signal with a red light, as well as crossing guards during school drop off/pick up.
5. The existing signal operates as a flashing yellow to alert drivers that a pedestrian crosswalk and intersecting roads are there. This has been mentioned as confusing. However, the signal was installed as pedestrian crossing and is activated only when the button is pressed at the crosswalk. It is not a fully actuated signal, with the Rincon and Library intersections operating as flashing red unless the pedestrian button is pushed and they go to red. After a delay, the signal on Arlington goes from flashing yellow to solid yellow, and then to solid red in all directions, giving the pedestrian a "walk" indication.
6. There has been a suggestion to modify the signal to be green on Arlington until a pedestrian pushes the button. However, this option would require a reworking of the entire signal and intersection to add detection loops and cycles for the intersecting roads, retiming and installation of additional signal equipment. A study and plans would have to be prepared with a funding source identified to implement the full signal. The existing skewed/offset intersecting roadways and the curves adjacent to the intersection make this a less than ideal location for a

full signal. Also, it is not clear that a fully actuated signal at the intersection would lead to a reduction in red light violators.

7. Also recommended was that the signal be made to be flashing red at all times in all the legs to slow drivers and force them to stop. We are concerned that this option would cause create traffic congestion that may impact drivers and adjacent neighborhoods, as motorists seek shortcuts away from the congestion on the Arlington. Right of way determinations at the offset intersection with limited visibility would not necessarily make pedestrian safety improved with this scenario.
8. There has also been a recommendation to limit or restrict left turns to Rincon, the Library entrance, etc. We have conducted a turning movement count and are determining if the data justifies any restrictions, and how those restrictions may affect traffic further downstream of the intersection.”

As far as traffic enforcement at the intersection, during the month of September (2013), 37 traffic citations were issued by the Kensington Police Department for moving violations at the intersection.

The police department will continue to enforce traffic safety at the intersection while we wait for the County to identify possible physical traffic safety improvement devices at the intersection in their attempt to improve traffic safety.

Memorandum

Kensington Police Department



To: KPPCSD Board of Directors

APPROVED YES NO

From: Gregory E. Harman, General Manager/ Chief of Police

FORWARDED TO:

Date: Thursday, October 10, 2013

Subject: New Business Item #4- 2013 Bay View Rate Review & Setting of the Rate Hearing

Background. Last year, the District and its solid waste collection provider, Bay View Refuse & Recycling Services, Inc. ("Bay View") entered into arbitration over certain demands made by Bay View pursuant to the Franchise Agreement, dated September 11, 1997 ("Agreement"). On April 20, 2013, the parties entered into a settlement agreement, in which (1) the parties dismissed the arbitration, (2) Bay View released all claims against the District, (3) both parties agreed to bear their own attorney's fees and costs, and (4) the District agreed to complete a 2013 rate review, (a) which would be the last rate review through the end of the Agreement term and (b) the only other rate increase would be those determined by increases in CPI ("Settlement Agreement"). The final order dismissing the arbitration with prejudice was issued on July 1, 2013.

Pursuant to the Settlement Agreement, in May 2013 the District engaged HF&H Consultants, LLC ("HF&H") to conduct a detailed review of Bay View's 2014 Rate Application ("Rate Study"). On September 13, 2013, the draft Rate Study was issued and reviewed during the next three weeks by District staff and Bay View representatives. The final Rate Study is attached for your review (Attachment 1).

Summary of Requested Board Action. At the October 16, 2013 District Board meeting, the Board will be tasked with setting the maximum proposed rates, to be effective January 1, 2014, for solid waste collection services and directing the General Manager/ Chief of Police to mail notice of a Rate Hearing to be held in December, preferably during the December 12, 2013 regularly scheduled Board meeting.

Rate Study Results. HF&H analyzed Bay View's expenses and projections by reviewing actual financial statements and work papers, and determining the reasonableness of expenses by comparing them to industry standards and actual financial data gleaned from HF&H's comparison data collected during hundreds of rate reviews. The Rate Study recommends changes to Bay View's initial rate application and identifies a targeted revenue amount of \$1,242,935, which should be sufficient for Bay View to earn net revenue in accordance with the Agreement terms. To reach this

targeted revenue rate, HF&H has provided two options for the District to consider in the setting of the rates. (See page 5 of the Rate Study.)

Option #1 is a uniform 21.8% rate increase in all service categories. This option would increase the mini can rate from \$25.20 to \$30.69 and the 32 gallon rate from \$34.29 to \$41.77 per month.

Option #2 includes a rate structure change and would increase the mini can rate from \$25.20 to \$36.50, a 44.8% increase in the rate. The 32 gallon can would be increased from \$34.29 to \$40.50, a 18.1 % increase.

Staff recommends Option #2. Setting the rates at these levels will:

1. Help mitigate future revenue erosion due to recent and projected customer "downsizing" of cans.
2. Better align rates with costs incurred to insure that mini-can customers are paying their share of the cost of service.
3. Maintain a proper financial incentive to recycle more and reduce waste going to landfills.

Comparison to Other Jurisdictions. Even though HF&H provides a customized, current analysis of Bay View's revenue requirements in 2014, some may wish to compare proposed rates to neighboring jurisdictions. In presenting this comparison, please keep in mind that every jurisdiction has a unique sold waste contract and customer composition and may be in different stages of rate adjustments. In using the Comparable Rates Chart of 27 Jurisdictions, of which 24 agencies are in Contra Costa County and 4 agencies are in Alameda County, the proposed District rates for both Options #1 and #2 are highest in the comparison. (Attachment 2)

However, a fairer comparison of rates may be made by comparing to rates for those communities that offer back door service similar to the District. The Single Family Service - Backyard Service Rate Table, prepared by HF&H, includes 7 comparison agencies. (Attachment 3) The proposed District rates for both Options #1 and #2 would be third highest in comparison, with Orinda and Piedmont having higher rates.

Mini-Can Rate Structure Change. The mini can was introduced in 2000 with the primary goal of incentivizing recycling. Option #2 proposes a rate structure change that would close the differential between the mini can and the 32-gallon can. The rate gap between these two service types has risen from a \$4.16 differential in 2000 to a \$9.09 differential in 2013.

There may be some concern that the rate structure change and relative increase in the mini can rate may trigger a consumer response to not recycle and jeopardize the District's compliance with California Integrated Waste Management Act's 50% diversion mandate. Since 2005, when single stream recycling was implemented, the District has

consistently exceeded this mandate and diverted the following percentages from landfills:

2005	58%	2006	58%	2007	58%
2008	57%	2009	60%	2010	61%
2011	59%	2012	61%		

Even with the rate structure change, it seems unlikely that mini can customers would choose to pay more, migrate up to the larger can size, and choose to reduce their recycling efforts as to create a material decrease in diversion rates.

Staff Recommendation.

Staff recommends that the Board set maximum rates, to be effective January 1, 2014, for solid waste collection services at the Option #2 rates as shown in Figure 4 of the Rate Study and below:

Mini Can	\$36.50
32 Gallon	\$40.50
2- 32 Gallon	\$81.00
3- 32 Gallon	\$121.50
2-45 Gallon Cans	\$86.50
Other	\$63.00

Staff also recommends that the Board direct the General Manager/ Chief of Police to mail notice of a Rate Hearing to be held in December, preferably during the December 12, 2013 regularly scheduled Board meeting, in order to allow for and meet the 45 day notification requirement.

Attachment 1: HF&F Consultants, LLC "Review of Bay View Refuse & Recycling Services, Inc.'s 2014 Rate Application."

Attachment 2: Comparable Rates of 27 Jurisdictions

Attachment 3: Single Family Service- Backyard Service Rate Table



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October 3, 2013

Mr. Greg Harman
General Manager/Chief of Police
Kensington Police Protection and Community Services District
217 Arlington Avenue
Kensington, CA 94707

Reference Number: S3842

Subject: Review of Bay View Refuse & Recycling Services, Inc.'s 2014 Rate Application

Dear Mr. Harman:

This report documents HF&H Consultants, LLC's (HF&H) Final findings and recommendations from our review of Bay View Refuse & Recycling Services Inc.'s (Bay View) application for a 28.5% increase to its refuse and recycling rates, effective January 1, 2014 (Application), that was submitted to the Kensington Police Protection and Community Services District (District).

BACKGROUND

Bay View's compensation for providing refuse and recycling services to Kensington residents and business is described in the District's Franchise Agreement with Bay View dated September 11, 1997 (Franchise Agreement). Services for residential and commercial customers include weekly collection of solid waste and recyclable materials utilizing a split-body truck operating 5 days a week, Monday through Friday, for approximately 2,100 customers. The split-body truck allows Bay View to reduce the number of trips on the District's streets by collecting solid waste and recyclable materials simultaneously. Additionally, Bay View operates a green waste collection route 10 days per month, providing twice monthly service. In addition, Bay View provides collection services to District and County facilities. Currently, residents are required to place their recyclable material and green waste containers at the curbside for collection, while solid waste containers are collected from the customer's back or side yard.

In a letter dated May 23, 2009, Bay View requested a 28.5% rate increase effective January 1, 2014 over the levels currently in place for 2013. The District engaged HF&H to perform a comprehensive review of Bay View's Application to determine the necessary rate adjustment, in accordance with Section 9.4 of the Franchise Agreement.



Mr. Greg Harman
 October 3, 2013
 Page 2 of 16

SUMMARY OF RESULTS

Summary of Recommended Adjustments

As summarized in Figure 1, Bay View projected a 2014 revenue shortfall (at current rates) of \$289,718, requiring a rate increase of 28.5%. Based on our review, in accordance with the scope of work detailed below, HF&H recommends reducing Bay View's 2014 projected revenue shortfall to \$222,443 (a \$67,000 reduction). The HF&H adjusted Application requires a rate increase of 21.8%.

**Figure 1
 HF&H Adjusted Rate Application**

	BAY VIEW 2014 Rate Application	Recommended Adjustments	HF&H 2014 Adjusted Application
Projected Operating Expenses:			
1	Salaries and Benefits	\$ 484,000	\$ 484,000
2	Dump Fees	100,000	100,000
3	Legal	15,000	15,000
4	Accounting	18,000	18,000
5	Debris Box Rental	17,000	18,600
6	Depreciation	4,000	4,000
7	Fuel	41,000	41,000
8	Truck Rental (Green Waste)	107,000	90,445
9	Insurance	48,000	48,000
10	Truck Licenses	3,000	3,000
11	Management Fee (executive compensation)	132,000	132,000
12	General and Administrative	16,000	16,000
13	Parts and Tires	18,000	18,000
14	Rent - Office and Yard	62,000	52,081
15	Repairs and Maintenance	65,000	37,902
16	Total Operating Expenses	\$ 1,130,000	\$ 1,078,028
17	Allowance for Profit @ 12.00%	\$ 135,600	\$ 129,363
18	Total Operating Expenses before Pass-throughs	\$ 1,265,600	\$ 1,207,392
Plus: Pass-through Expenses			
19	County Franchise Fee @ 3.00%	\$ 39,306	\$ 37,288
20	District Franchise Fee @ 2.00%	26,204	24,859
21	County Hazardous Waste Fee	11,000	11,000
22	Audit Fees	18,000	18,000
23	Total Contractor Compensation	\$ 1,360,110	\$ 1,298,538
Less: Recycling and Other Income			
24	Recycling Revenue	\$ (18,000)	\$ (21,000)
25	Debris Box Revenue	(29,000)	(31,703)
26	Other Revenue	(2,900)	(2,900)
27	Net Expenses (A) (to be raised from collection rates)	\$ 1,310,210	\$ 1,242,935
28	Projected 2013 Rate Revenue at Current Rates (B)	\$ 1,020,492	\$ 1,020,492
29	Projected Revenue Surplus/(Shortfall) [B - A]	\$ (289,718)	\$ (222,443)
30	Proposed 2014 Rate Increase/(Decrease)	28.5%	21.8%



Mr. Greg Harman
October 3, 2013
Page 3 of 16

Explanation of Projected Shortfall

As shown in the following figure, since Bay View's last detailed review (for rates effective January 2010), Bay View's Net Expenses has increased \$218,000 (Figure 2, Line 10), which is a 21.3% increase over the four-year period, or an average of 5.3% per year. While Bay View's allowable net expenses have increased 5.3% per year, Bay View's actual revenue has decreased 0.1% per year (Figure 2, Line 11) during that same time period, despite rate increases of 3.9% in 2012 and 2.8% in 2013. Over the same four-year period, the average annual increase in the CPI was 2.2%.

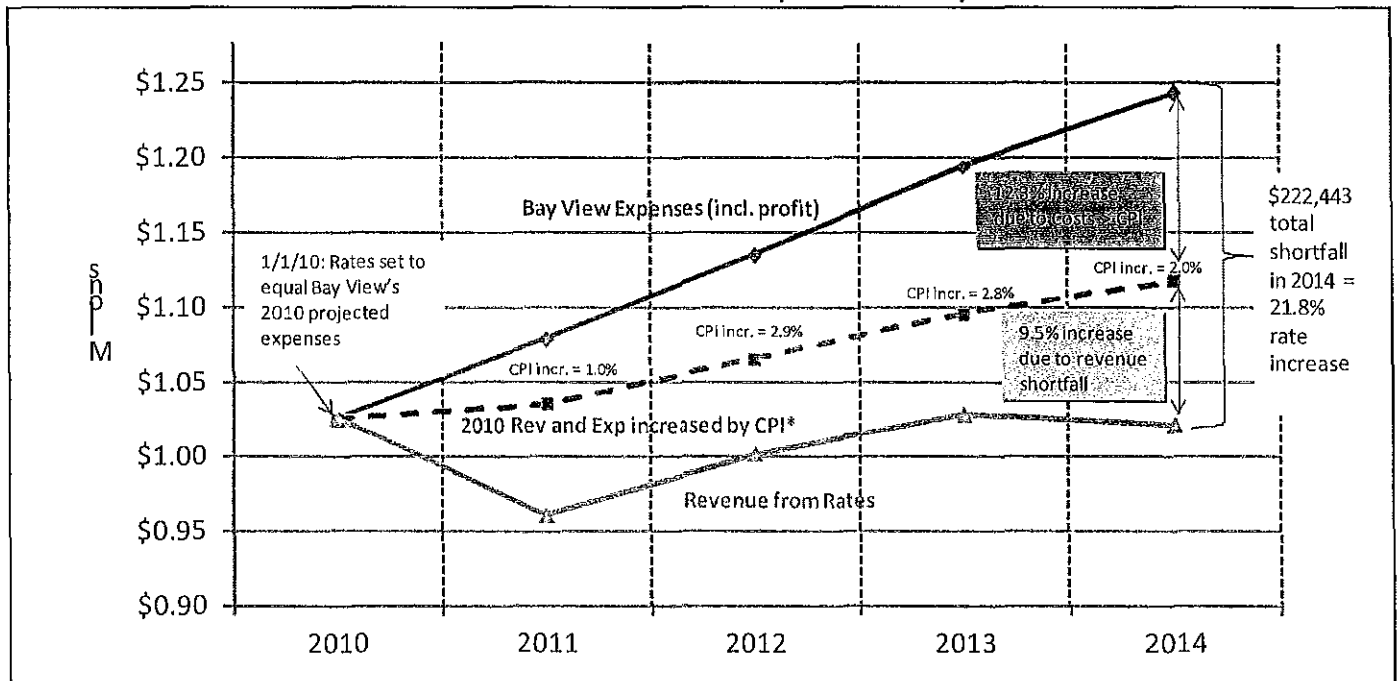
Figure 2
2010 versus 2014 Expense and Revenue Variance

	2010 Detailed Review Results	2014 Detailed Review Results	Variance	Average Annual % Change
Projected Operating Expenses:				
1 Bay View Operating Expenses	\$ 1,027,045	\$ 1,207,392	\$ 180,347	4.4%
Pass-through Expenses				
2 County Franchise Fee @	\$ 32,399	\$ 37,288	\$ 4,890	3.8%
3 District Franchise Fee @	21,599	24,859	3,260	3.8%
4 County Hazardous Waste Fee	11,157	11,000	(157)	-0.4%
5 Audit Fees	15,000	18,000	3,000	5.0%
6 Total Contractor Compensation	\$ 1,107,200	\$ 1,298,538	\$ 191,339	4.3%
Less: Recycling and Other Income				
7 Recycling Revenue	\$ (27,248)	\$ (21,000)	\$ 6,248	-5.7%
8 Debris Box Revenue	(46,252)	(31,703)	14,549	-7.9%
9 Other Revenue	(8,627)	(2,900)	5,727	-16.6%
10 Net Expenses	\$ 1,025,073	\$ 1,242,935	\$ 217,862	5.3%
(to be raised from collection rates)				
11 Collection Rate Revenue	\$ 1,025,073	\$ 1,020,492	\$ (4,581)	-0.1%

Mr. Greg Harman
 October 3, 2013
 Page 4 of 16

As illustrated in Figure 3, the significant increase is attributable to two main factors: 1) Bay View's costs to provide service (primarily fuel, union wages, health care premiums, and other insurance costs) have exceeded the average annual increase in CPI (5.3% versus 2.2%) and, 2) actual revenue has not kept pace with the CPI rate increases.

Figure 3
2010 – 2014 Revenue and Expense Summary



* This line represents the anticipated revenues and expenses during the intervening years between comprehensive reviews (conducted every four years, 2010 and 2014 in this case). In accordance with the Agreement, rates are increased during these intervening years based on the percentage change in CPI, as it was anticipated that costs would increase similarly to the change in CPI. It should be noted, rates were not adjusted in 2011; therefore, the District approved a 3.9% in 2012 (1.0% for 2011 and 2.9% for 2012).

These cost increases, which have exceeded the 2.2% average annual increase in the CPI, are driven primarily by:

- Union wage and health care cost increases (\$94,000 or a 6.0% average annual increase);
- Driver and general liability insurance cost increases (\$24,000 or a 24.4% average annual increase);
- Management fee increase (\$15,000 or 3.0% average annual increases, per the Franchise Agreement);
- Fuel cost increases (\$14,000 or a 12.6% average annual increase); and,
- Legal cost increases (\$12,000 or a 100% average annual increase), which is the result of necessary union negotiations as the union labor agreement will expire February 2014.



Mr. Greg Harman
 October 3, 2013
 Page 5 of 16

The decrease in revenues (Figure 2, Line 11), despite two rate increases during the four-year period, is largely due to the migration of customers from larger 32-gallon containers to the 20-gallon mini-can. The 20-gallon mini-can rate is approximately \$9.00 less per month.

Rate Adjustment Alternatives

In past years, the District-approved rates have increased at a uniform percentage for all service levels. As a result, the differential between the 32-gallon rate and the 20-gallon mini-can rate has increased from \$4.16 per month (when the mini-can was introduced in 2000) to a \$9.09 differential in 2013. As customers reduce their container size, less revenue is generated; however, there is not an equal reduction to the costs to drive by and collect the materials. Collection costs are the same regardless of the container size. Without an equal reduction in costs, the decreasing revenues need to be made up by increasing rates. Figure 4 presents two options for adjusting rates: Option #1 reflects a uniform 21.8% increase to all rates; and, Option #2 reflects increasing the mini can rate by a greater percentage than other service levels. Both options are projected to generate the needed \$1,243,000 in rate revenue for 2014.

We recommend Option #2, for the following reasons:

- Help mitigate future revenue erosion due to recent and projected customer "downsizing";
- Better align rates with the costs incurred (to ensure that mini-can customers are paying their share of the cost of service);
- Maintain a proper financial incentive to recycle more and reduce solid waste going into landfills.

Figure 4
 Rate Adjustment Options

Service Type	Projected Customer Count 2014	Current Monthly Rate	Est. 2014 Revenue @ Current Rates	Option #1			Estimated 2014 Rate Revenue	Option #2			Estimated 2014 Rate Revenue
				Monthly Rates (eff. 1/1/14)				Monthly Rates (eff. 1/1/14)			
				\$ Chg	% Chg			\$ Chg	% Chg		
1-20 Gallon Can	479	\$ 25.20	\$ 144,850	\$ 30.69	\$ 5.49	21.8%	\$ 176,427	\$ 36.50	\$ 11.30	44.8%	\$ 209,802
1-32 Gallon Can	1,450	34.29	596,646	41.77	7.48	21.8%	726,715	40.50	6.21	18.1%	704,700
2-32 Gallon Cans	160	68.35	131,232	83.25	14.90	21.8%	159,841	81.00	12.65	18.5%	155,520
3-32 Gallon Cans	11	102.62	13,546	124.99	22.37	21.8%	16,499	121.50	18.88	18.4%	16,038
2-45 Gallon Cans	14	84.19	14,144	102.54	18.35	21.8%	17,227	86.50	2.31	2.7%	14,532
Other	2	61.67	1,480	75.11	13.44	21.8%	1,803	63.00	1.33	2.2%	1,512
Total # of Accounts	2,116		\$ 901,897				\$ 1,098,511				\$ 1,102,104
Apartments/Commercial		\$ 9,883	\$ 118,594			21.8%	144,448			18.8%	140,890
Projected 2014 Rate Revenue (before rate adj)			\$ 1,020,492	Total (after rate adj)			\$ 1,242,959	Total (after rate adj)			\$ 1,242,994
			(Target Revenue = \$1,242,935)								



Mr. Greg Harman
October 3, 2013
Page 6 of 16

SCOPE OF WORK

HF&H determined, through review of: the Franchise Agreement; Bay View's most recently audited financial statements; and, documents provided by Bay View, that Bay View's revenues, expenses and rates were consistent with the benchmarks established in the Franchise Agreement.

To determine the reasonableness of Bay View's expenses, we compared them to industry standards based on recent competitive proposals and our benchmark database that contains actual and proposed operational and financial data collected during our hundreds of rate reviews and contract procurement projects.

The specific items were determined based on an HF&H-prepared variance analysis of expense line items from Bay View's financial statements. The detailed review of specific expense items included, but is not necessarily limited to, the following:

- Wages and Benefits
- Depreciation
- Expenses Paid to Related Parties
- Disposal / Processing Expenses
- General and Administrative Expenses

The review of Bay View's rate revenue was based on then-current rates and current customer subscription level. We calculated the actual revenues that should have been generated within the District in 2013, compared these to the reported revenues, and obtained explanations for any significant variances. We verified the calculation of projected 2014 revenues based on actual customer accounts at the current rates and Bay View's projected migration of customers from larger 32-gallon cans to the 20-gallon mini can. In recent years, residents have been reducing the size of their solid waste container as they have been placing more materials in their recycling containers.

Our review was substantially different in scope than an examination in accordance with Generally Accepted Auditing Standards, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion. However, Cowden Neale, LLP has issued an unqualified opinion of Bay View's 2012 Financial Statements.

Our conclusions are based on the review of Bay View's projections of its financial results of operations for the forthcoming rate year (i.e. January 1, 2014 – December 31, 2014). Actual results of operations will usually differ from projections, because events and circumstances frequently do not occur as expected, and the difference may be significant.



Mr. Greg Harman
October 3, 2013
Page 7 of 16

SUMMARY OF ANALYSES

Salaries & Benefits

Section 9.4 of the Franchise Agreement states "Contractor will recover its reasonable costs for furnishing all labor...necessary to perform all the services required by this Agreement..." HF&H reviewed the basis for Bay Views requested \$484,000 in Salaries and Benefits. The projected 2014 expense includes \$275,000 in wages, vacation pay, holiday pay, sick leave; \$24,000 of payroll taxes; \$54,000 workers compensation expense; \$99,000 health and welfare expense; and \$32,000 in pension expenses.

The current Collective Bargaining Agreement (CBA) between Teamsters Local 315 and Bay View is due to expire February 28, 2014. HF&H noted the driver's wages per the CBA increased 3.4% each year during the period from 2010 through 2013. The Health and Welfare expense increased an average of 9.1% and the Pension expense varied between 0.9% and 3.8%, depending on job classification, each year for the same period. HF&H reviewed current premium invoices and verified Bay View's reported expense.

Because the outcome of a new CBA is unknown at this time Bay View assumed a 4.0% increase for wages and taxes, an additional 7.4% or \$150 per month for Health and Welfare and 2.0% for Pension contributions. HF&H finds these assumptions reasonable based on recent increases experienced by other haulers in other Bay Area jurisdictions.

HF&H noted that Bay View's Workers Compensation expense increased significantly from \$18,171 in 2011 to an estimated expense of \$56,260 in 2013, an increase of approximately 90% each year. Due to accidents incurred from 2011 on involving employees of both Bay View and Bay Cities the modification rate used to calculate Bay Views premiums is high. If no other accidents occur Bay Views premiums should drop in 2014. Therefore, Bay View has assumed a 5% decrease in Workers Compensation expense compared to their actual 2013 expense.

Bay View's projected \$484,000 in Salaries and Benefits is a \$94,000 increase from the District-approved expenses in 2010. This is an average overall average annual increase of 6% which is consistent with the greater than CPI increase in HF&H noted in most of the expenses listed in this category. No adjustment is necessary.

Dump Fees

HF&H reviewed the Agreement for Landfill Services (LF Agreement) entered into March 10, 2003, between Bay View, West Contra Costa Sanitary Landfill (WCCSL) and Potrero Hills Landfill, Inc. (PHL) and noted per Section 14 of the LF Agreement, tip fees are to be adjusted every March 1 by CPI, All Urban Consumers. We further noted per Section 23 of the LF Agreement, the term of the Agreement is 10 years from the date of execution (March 10, 2013) with an option to extend an additional 10 years.



Mr. Greg Harman
October 3, 2013
Page 8 of 16

Bay View's projected dump fees are \$100,000, which is a \$1,460 decrease from the District-approved expenses in 2010. Despite annual increases in the per-ton tip fees, total dump fees have decreased over the four year period between reviews. This is consistent with the trend of customers subscribing to small collection containers (20-gallon mini cans instead of the larger 32-gallon cans). No adjustment is necessary.

Legal

Bay View projected legal costs of \$15,000, which is a \$12,000 increase from the District-approved expenses in 2010, an average annual increase of 100%. This projection was not based on actual expense incurred during 2012 (which amounted to over \$100,000). As noted in the arbitration settlement agreement between the District and Bay View, attorneys' fees and other litigation expenses cannot be passed through to the ratepayers. Therefore, we verified that the projected legal fees were not based on actual costs incurred during 2012 and adjusted for inflation.

The \$15,000 represents approximately 25 hours of legal representation, primarily for negotiations support when the current CBA between Teamsters Local 315 and Bay View expires February 28, 2014.

Accounting

Per Section 8 of the Franchise Agreement, Bay View is required to provide to the District annual financial statements compiled by an independent certified public accountant in accordance with Generally Accepted Accounting Principles. Per a discussion with the Audit firm of Cowden Neale, LLP Certified Public Accountants, currently providing this service to Bay View, approximately one half of their hours billed are for annual audit services. Annual audit services are treated as a pass-through expense in the Application (see Exhibit C of the Agreement). The remaining service is shown in the operation expenses section of the Application. Bay View is invoiced monthly for services provided for annual audits, quarterly reporting to District and ongoing monthly accounting services. The annual cost to Bay View for accounting was \$40,000 in 2012 per the Audited Financial Statement. Per Bay View's Application they are projecting \$18,000 (Figure 1, Line 22) in pass-through expenses and \$18,000 in operating expenses for a total of \$36,000. This is a decrease from 2012 and appears reasonable. No adjustment necessary.

Depreciation

Per Exhibit D of the Franchise Agreement, fixed assets are depreciated using straight line depreciation and a useful life of seven years. Bay View projected 2014 depreciation expenses of \$4,000. HF&H tied Bay View's projected depreciation expense to their independently audited Fixed Asset sub ledger without



Mr. Greg Harman
October 3, 2013
Page 9 of 16

exception. HF&H noted all fixed assets with a remaining useful life were depreciated using straight-line and seven years as their useful life.

Fuel

Bay View projected 2014 fuel costs of \$41,000, which is a \$13,723 increase from District-approved expenses in 2010, an average annual increase of 12.6%. We calculated the average annual change in the CPI for No. 2 Diesel Fuel in 2011, 2012, and YTD 2013. We found the average annual change in the CPI was 12.15% (35.77% in 2011, 3.13% in 2012, and -2.44% in 2013). Therefore, Bay View's projected fuel costs appear to be reasonable, no adjustment necessary.

Insurance

Bay View projected annual insurance costs of \$48,000, which is a \$23,733 increase from the District-approved expenses in 2010, an average annual increase of 24.4%. HF&H requested a copy of the annual invoice for the renewal policy effective 1/1/13. Bay View's actual 2013 insurance expense increased to \$47,000. The 2014 Application cost requested by Bay View represents a minor increase of \$1,000 from the 2013 policy. Bay View's projected insurance expense appears reasonable and no adjustment is recommended.

Truck Licenses

Bay View projected 2014 Truck License expense of \$3,000, a \$1,000 decrease from the District-approved 2010 expenses of \$4,000. HF&H obtained the most recent DMV Registration Renewal Notices from Bay View for the four vehicles indicated on Bay View's Fixed Asset Listing and found Bay View's projected Truck License expenses reasonable, no adjustment necessary.

General and Administrative (includes executive compensation)

Bay View projected 2014 general and administrative costs of \$148,000, including executive compensation in the amount of \$132,000. In accordance with Exhibit D of the Franchise Agreement, Bay View Refuse Inc. and Bay Cities Refuse Services, Inc., companies controlled by the sole stockholder, Louis Figone, provide executive management services to Bay View and charge a management fee in lieu of an executive salary at a rate of \$80,000 per year, commencing September 11, 1997, and adjusted every January 1 by 3.0%. HF&H verified the accuracy of the \$117,000 calculation without exception, as shown in Figure 5 below.



Mr. Greg Harman
October 3, 2013
Page 10 of 16

Figure 5
Executive Compensation

Year	Base/prior yr	CPI Increase %	CPI Increase \$	New Rate
	80,000	3.00%	2,400	82,400
1998	82,400	3.00%	2,472	84,872
1999	84,872	3.00%	2,546	87,418
2000	87,418	3.00%	2,623	90,041
2001	90,041	3.00%	2,701	92,742
2002	92,742	3.00%	2,782	95,524
2003	95,524	3.00%	2,866	98,390
2004	98,390	3.00%	2,952	101,342
2005	101,342	3.00%	3,040	104,382
2006	104,382	3.00%	3,131	107,513
2007	107,513	3.00%	3,225	110,739
2008	110,739	3.00%	3,322	114,061
2009	114,061	3.00%	3,422	117,483
2010	117,483	3.00%	3,524	121,007
2011	121,007	3.00%	3,630	124,637
2012	124,637	3.00%	3,739	128,377
2013	128,377	3.00%	3,851	132,228
2014	\$ 132,228			

Bay View's 2014 projected general and administrative costs (excluding executive compensation discussed above) are \$16,000 (Figure 1, Line 12), which equals the 2010 District-approved general and administrative costs; therefore, Bay's View's projected general and administrative costs are reasonable and no adjustment is necessary.

Parts & Tires

Bay View projected parts & tires expense of \$18,000 in 2014, which is a \$6,000 increase from District-approved expenses in 2010, an average annual increase of 12.5%. Based on discussions with Bay View and the review of recent actual tire prices, the increase is attributable to: 1) significant increase in tire prices; and, 2) the purchase of new tires in 2014 to replace the tires that can no longer be re-capped; therefore, no adjustment is necessary.

Repairs & Maintenance

Bay View projected repairs & maintenance expenses of \$65,000 in 2014, which is a \$53,000 increase, compared to Bay View's District-approved expenses in 2010. Per discussions with Bay View, the



Mr. Greg Harman
October 3, 2013
Page 11 of 16

significant increase in repairs & maintenance expenses for 2014 is due to approximately \$50,000 in capital repairs necessary for their recycling collection vehicle. The recycling collection vehicle is 8 years old and capital repairs of this nature are typical. With only 20 months remaining in the term of the Franchise Agreement, it is less costly to Bay View and the ratepayers to repair the vehicle instead of replacing the vehicle.

Bay View's significantly increased repairs & maintenance expenses are reasonable; however, the cost of the capital repairs should be amortized over the remaining term of the agreement (i.e., 20 months); therefore, we recommend decreasing Bay View's Repairs & Maintenance expenses by \$27,098 (Figure 1, Line 15). If this adjustment is not done, ratepayers would be paying the capital repair costs a second time in 2015 (as rates will be adjusted by the change in CPI on January 1, 2015, in accordance with the Franchise Agreement).

Related-Party Transactions

There are related-party transactions (amounts paid to affiliated entities to Bay View) included in Bay View's 2014 projections at rates that have been discussed and allowed by the District in previous reviews. HF&H notes the following accounts have been classified as related-party transactions because they are amounts that are paid to affiliated entities: Debris Box Rental, Truck Rental (Green Waste), and Rent (Office and Yard). In accordance with Exhibit D of the Franchise Agreement, and data from haulers with similar operations, we reviewed Bay View's related-party transactions projections for reasonableness. Presented below are the results of our analyses.

Debris Box Rental

Due to the relatively small size of the District's service area, Bay View's contracts with Bay City Refuse Services, Inc., Bay View's sister company, to provide the labor and vehicle (on a per pull basis) to collect debris boxes within the District's service area. By doing this, Bay View does not incur the entire cost of purchasing a debris box collection vehicle and employing a full-time driver to provide on average two debris box pulls per week.

Bay View has projected 2014 debris box rental expense of \$17,000, based on 57 pulls at \$304.92 per pull, which equates to \$243.94 per hour (based on the average round-trip time of 1 hour and 15 minutes). To test the reasonableness of Bay View's \$243.94 per hour rate, HF&H compared the cost per hour to proposals received for similar services in a competitive procurement process. HF&H found the competitively proposed per-hour rates ranged from \$236.27 per hour to \$308.61 per hour; therefore, Bay's View's projected debris box rental costs appear reasonable. However, during our review we found debris box activity is increasing in the District. We recommend increasing the projected number of debris box pulls from 57 to 61, which increases Bay View's Debris Box Rental expenses by \$1,600 (Figure 1, Line 5) and increases projected revenue by \$2,703 (Figure 1, Line 25).



Mr. Greg Harman
October 3, 2013
Page 12 of 16

Truck Rental (Green Waste)

Similar to debris box rental, Bay City Refuse Services Inc., Bay View's sister company, provides the green waste collection vehicle that is used 960 hours per year to provide twice monthly green waste collection services. Through out the year Bay View has found it is necessary to utilize a second truck on certain days to accommodate the allowed unlimited green waste collection. HF&H looked at the most recent twelve-month period to determine the number of days an additional truck is needed. The green waste dump statements and tonnage was used to support the estimated twenty one days or 168 hours per year (21 days X 8 hours). Two trucks are needed for the Annual Clean-up which takes place over five days or 80 hours per year. (2 trucks X 5 days X 8 hours). Additionally a different truck is needed approximately 260 hours per year to collect the two yard bins throughout the service area. In total Bay View is requesting \$107,000 compensation for an estimated 1,468 hours for truck rental for 2014. The rental expense of \$72.89 per hour (\$107,000 divided by 1,468 hours) covers depreciation, interest, repairs and maintenance, parts and tires, licenses, and insurance.

HF&H compared this rate to the District-approved hourly rate of \$56.54 during the 2010 review, escalated by the annual increase in the CPI, Figure 6. The calculated rate per this method was \$61.61 per hour or \$90,445 annually when multiplied by the 1,468 estimated truck hours. Therefore, we recommend decreasing Bay View's Green Waste Truck Rental allowable expenses by \$16,555 (Figure 1, Line 8).

Figure 6
Green Waste Truck Rental Hourly Rate Calculation

Year	Hourly Rate in Current Year	CPI Increase % YOY June	CPI Increase \$	Hourly Rate for Following Year
2010 Approved	\$ 56.54	1.07%	\$ 0.61	\$ 57.15
2011	57.15	2.43%	\$ 1.39	58.53
2012	58.53	2.64%	\$ 1.54	60.08
2013	60.08	2.56%	\$ 1.54	61.61
2014	\$ 61.61			

Rent – Office and Yard

HF&H notes the allowable monthly rent at the commencement of the Franchise Agreement in 1998, in accordance with Exhibit D, was \$2,823.56 (made up of \$1,462.55 per month for office and yard space plus \$1,361.01 per month for allocated mechanic salary and benefits expenses based on 8 hours per week). To test the reasonableness of Bay View's 2014 projections we compared their monthly rent expense projection of \$5,167 per month to the allowable expense in accordance with Exhibit D of the Franchise Agreement adjusted annually by the percentage change in the CPI. As shown in Figure 7 below, increasing Bay View's agreed-upon rent expense in 1998 (the commencement date of the current Franchise Agreement) by the annual change in CPI results in a rent expense of \$4,340 in 2014, or \$827



Mr. Greg Harman
October 3, 2013
Page 13 of 16

less than Bay View's projected rent expense; therefore, we recommend decreasing Bay View's allowable related-party rent expense by \$9,919 (\$827 x 12 months; Figure 1, Line 14).

It should be noted that the Franchise Agreement is silent with regard to reasonable related-party rental expense after the first year of operations (which was 1998). Due to the uniqueness of the property (therefore no comparable rental rates are available) and absent specific agreed-upon escalators in the Franchise Agreement for future allowable rental expense, we relied on an inflationary index published by the Bureau of Labor Statistics. Actual market rates may vary. This same analysis was conducted during our review of Bay View's 2010 rate application and Bay View's requested 2010 rental expense of \$4,000 was within \$17/month of the index-based calculation.

Figure 7
Rent – Office Yard

Year	Monthly Rent		CPI Increase % YOY June	CPI Increase \$	Monthly Rent for Following Year
	in Current Year				
1998	\$ 2,824		3.44%	\$ 97	\$ 2,921
1999	2,921		3.81%	111	3,032
2000	3,032		4.25%	129	3,161
2001	3,161		6.59%	208	3,369
2002	3,369		1.20%	41	3,409
2003	3,409		1.60%	55	3,464
2004	3,464		1.38%	48	3,512
2005	3,512		1.11%	39	3,551
2006	3,551		3.93%	139	3,690
2007	3,690		3.36%	124	3,814
2008	3,814		4.19%	160	3,974
2009	3,974		0.23%	9	3,983
2010	3,983		1.07%	43	4,026
2011	4,026		2.43%	98	4,123
2012	4,123		2.64%	109	4,232
2013	4,232		2.56%	108	4,340
2014	\$ 4,340				

Profit

Per Section 9.3 and 9.4 of the Franchise Agreement, Bay View is allowed a benchmark pre-tax profit margin of 12% of Bay View's reasonable reimbursable costs. HF&H recalculated the profit based on the recommended adjustments described above and included in Figure 1, which results in a decrease of \$6,321 (Figure 1, Line 17).



Mr. Greg Harman
October 3, 2013
Page 14 of 16

Pass-Through Fees

Franchise Fees

In accordance with Section 23 of the Franchise Agreement, County franchise fees and District franchise fees are calculated at 3% and 2%, respectively, of Bay View's compensation. As a result of the recommended reductions to Bay View's compensation discussed above and summarized on Figure 1, Bay View's projected franchise fee obligation was overstated.

As a result, HF&H recommends decreasing Bay View's County franchise fee obligation (and therefore their 2014 compensation) by \$2,043 (Figure 1, Line 19) and Bay View's District franchise fee obligation by \$1,362 (Figure 1, Line 20).

County Hazardous Waste Fee

Bay View projected 2014 Hazardous Waste Fees of \$11,000, which is a \$157 decrease from the District-approved expenses for 2010; the last year Bay View's expenses were audited. Bay View's projected Hazardous Waste Fees payable to the County appear to be reasonable; we do not recommend an adjustment.

Revenue

Recycling Revenue

Bay View's 2014 projected revenue (\$18,000) from the sale of recyclable materials collected from the District's residents and businesses was based on the average of actual revenues received in 2010, 2011, and 2012, the same methodology used in prior applications. During our review, additional analysis revealed the average was understated by \$3,000. As a result, HF&H recommends increasing (therefore decreasing net expenses to the District) Bay View's projected revenue from the sale of recyclable materials by \$3,000 (Figure 1, Line 24).

Debris Box Revenue

As discussed above in Debris Box Rental expense, our review found the number of debris box collections have trended higher over the past couple a years and anticipate this trend to continue. Bay View's application did assume some increase in debris box pulls; however, using year-to-date actual for 2013, it appears debris box pulls will increase even greater than Bay View projected. As a result, HF&H



Mr. Greg Harman
October 3, 2013
Page 15 of 16

recommends increasing (therefore decreasing the net expenses to the District) Bay View's projected revenue from debris box pulls by \$2,703 (Figure 1, Line 25).

Other Revenue

Consistent with past rate applications, Bay View projected Other Revenue (i.e., container rental, extra pickups, etc.) based on the average actual revenues received in 2010, 2011, and 2012. No adjustment necessary.

Collection Revenue

Bay View's projected revenue from collection rates was based on customer subscriptions levels as of May 2013 adjusted for assumed migration (during 2014 and 2015) of customers from larger containers (one or multiple 32-gallon cans down to the smaller 20-gallon mini can). Such migration to the smaller mini can has been happening steadily since 2007, as residents are recycling more material and less is being placed in their solid waste container.

**Figure 8
Single-Family Residential Service Levels**

Service Level	Customer Count as of		
	May 2013	Projected 2014 - 2015	Variance # of Accts
1-20 Gallon Mini-Can	432	479	47
1-32 Gallon Can	1490	1450	(40)
2-32 Gallon Cans	165	160	(5)
3-32 Gallon Cans	13	11	(2)
45 Gallon	14	14	-
50 Gallon	2	2	-
Total	2,116	2,116	-

Based on current rates and the residential customer service level assumptions summarized above, Bay View's projected 2014 revenue before a rate increase of \$1,020,492 are reasonable; no adjustment necessary.

Mr. Greg Harman
 October 3, 2013
 Page 16 of 16


**Figure 9
 Collection Rate Revenue Projections**

Service Type	Projected Customer Count	Current Monthly Rate	Est. 2014 Revenue @ Current Rates
Residential Single-Family			
1-20 Gallon Can	479	\$ 25.20	\$ 144,850
1-32 Gallon Can	1,450	34.29	596,646
2-32 Gallon Cans	160	68.35	131,232
3-32 Gallon Cans	11	102.62	13,546
1-45 Gallon	14	84.19	14,144
Other	2	61.67	1,480
Total # of Accounts	2,116		\$ 901,897
Apartments/Commercial		\$ 9,883	\$ 118,594
Total Projected 2014 Rate Revenue (before rate adj)			\$ 1,020,492

* * *

We would like to express our appreciation to Bay View management and staff for their assistance. In addition, we express our appreciation to each of you for assistance and guidance during the course of the review. Should you have any questions, please call me at 925-977-6957.

Very truly yours,
 HF&H CONSULTANTS, LLC


 Richard J. Simonson, CMC
 Vice President

cc: Colleen Costine, HF&H Consultants
 Louis Figone, Bay View Refuse and Recycling Services

COMPARABLE RATES AS OF JULY 2013

Jurisdiction	20 Gallon	Jurisdiction	32/35 Gallon	Jurisdiction	64 Gallon	Jurisdiction	96 Gallon
Kensington	\$ 36.50	Kensington	\$ 40.50	Kensington	N/A	Kensington	N/A
El Cerrito	\$ 27.09	El Cerrito	\$ 38.10	El Cerrito	\$ 74.57	El Cerrito	N/A
Castro Valley	\$ 23.17	Castro Valley	\$ 35.93	Castro Valley	\$ 62.40	Castro Valley	\$ 88.91
Orinda	\$ 28.20	Orinda	\$ 32.52	Orinda	\$ 62.51	Orinda	\$ 93.50
Pinole	\$ 26.96	Pinole	\$ 31.82	Pinole	\$ 56.58	Pinole	\$ 82.08
Pittsburg	N/A	Pittsburg	\$ 31.05	Pittsburg	\$ 37.95	Pittsburg	\$ 42.55
El Sobrante	\$ 25.50	El Sobrante	\$ 31.01	El Sobrante	\$ 59.42	El Sobrante	\$ 88.50
Pleasanton	N/A	Pleasanton	\$ 30.59	Pleasanton	N/A	Pleasanton	\$ 36.30
Richmond	\$ 24.97	Richmond	\$ 30.51	Richmond	\$ 58.19	Richmond	\$ 86.68
Hercules	\$ 25.08	Hercules	\$ 29.94	Hercules	\$ 52.94	Hercules	\$ 76.69
Oakley	N/A	Oakley	\$ 29.10	Oakley	\$ 40.70	Oakley	\$ 46.15
San Pablo	\$ 23.49	San Pablo	\$ 29.02	San Pablo	\$ 55.23	San Pablo	\$ 82.28
Martinez	\$ 19.35	Martinez	\$ 27.73	Martinez	\$ 30.91	Martinez	\$ 64.95
Livermore	\$ 17.61	Livermore	\$ 27.51	Livermore	\$ 53.34	Livermore	\$ 86.21
Lafayette	\$ 23.40	Lafayette	\$ 26.74	Lafayette	\$ 50.45	Lafayette	\$ 75.68
Concord	N/A	Concord	\$ 26.40	Concord	\$ 35.60	Concord	\$ 43.60
Antioch	\$ 22.47	Antioch	\$ 26.39	Antioch	\$ 42.61	Antioch	\$ 50.04
Benecia	\$ 22.16	Benecia	\$ 26.18	Benecia	\$ 32.73	Benecia	\$ 45.13
San Ramon	\$ 20.94	San Ramon	\$ 25.89	San Ramon	\$ 44.95	San Ramon	\$ 71.82
Clayton	\$ 23.70	Clayton	\$ 25.08	Clayton	\$ 36.44	Clayton	\$ 39.70
Moraga	\$ 21.18	Moraga	\$ 24.46	Moraga	\$ 48.91	Moraga	\$ 73.37
Danville	\$ 21.18	Danville	\$ 23.81	Danville	\$ 40.89	Danville	\$ 60.70
Pleasant Hill	\$ 20.19	Pleasant Hill	\$ 23.36	Pleasant Hill	\$ 31.88	Pleasant Hill	\$ 47.81
Brentwood	N/A	Brentwood	\$ 22.71	Brentwood	\$ 33.76	Brentwood	\$ 40.52
County	\$ 18.98	County	\$ 21.55	County	\$ 41.04	County	\$ 61.56
Dublin	N/A	Dublin	\$ 20.31	Dublin	\$ 37.31	Dublin	\$ 54.30
Walnut Creek	\$ 16.26	Walnut Creek	\$ 19.29	Walnut Creek	\$ 36.87	Walnut Creek	\$ 55.32

Single Family Service - Backyard Service

	<u>County</u>	<u>Danville</u>	<u>Lafayette</u>	<u>Moraga</u>	<u>Orinda</u>	<u>Walnut Creek</u>	<u>Piedmont</u>
20-gal minicart	28.44	30.64	32.86	30.64	37.66	25.72	52.31
32-gal cart	31.01	33.27	36.20	33.92	41.98	28.75	57.58
64-gal cart	50.50	50.35	59.91	58.37	71.97	46.33	not offered - cu
96-gal cart	71.02	70.16	85.14	82.83	102.96	64.78	not offered - cu

324

Memorandum

Kensington Police Department



To: KPPCSD Board of Directors

APPROVED YES NO

From: Gregory E. Harman, General Manager/ Chief of Police

FORWARDED TO:

Date: Thursday, October 10, 2013

Subject: New Business #5 Contra Costa County Police Chief's Association 2013 Workshop in Carmel Valley

The Contra Costa County Police Chief's Association 2013 Workshop will be held at the Carmel Valley Lodge, November 4th through November 7th.

Per the KPPCSD Board Policy 4030.20 and 4030.31, I am requesting permission to attend the POST certified workshop. I have attended the workshops regularly between 2007 and 2010; however, I did not attend in 2011 or 2012.

The agenda for the workshop is attached to this memo.

Per Policy 4030.31, Appendix A has been prepared and attached to this memo.

The cost of my attendance at the workshop is estimated to be \$466.31. However, POST reimburses the department \$256.00 of the \$287.10 lodging expense and \$138.00 of the \$179.21 pre-paid meal expense. This would make the cost of my attendance at the workshop \$72.31. POST also reimburses mileage at \$.565 a mile, at 258 miles round trip, for a reimbursement of \$145.77. My attendance at the workshop would be completely paid for by POST.

325

Acct#: 570 ✓

Date: 10/15/10

Ck#: _____

Amt: \$287.10

Signature: _____

APPENDIX A - EXPENSE PREPAYMENT/REIMBURSEMENT FORM

Name: GREG HARMON

Event/Activity: CHIEFS FALL WORKSHOP

Location of Event/Activity: CARMEL VALLEY

Approved by Board of Directors on: _____

	Prepay	Reimburse :
1. Event/Activity Registration Fee	\$ _____	\$ <u>POST TO PREPAID</u>
2. Transportation		
• Airfare	\$ _____	\$ _____
• Car Rental (\$ _____ per day for _____ days)	\$ _____	\$ _____
• Car Mileage (\$ <u>.565</u> per mile for <u>258</u> miles)	\$ _____	\$ <u>145.77</u>
• Taxi	\$ _____	\$ _____
• Parking	\$ _____	\$ _____
3. Lodging (\$ <u>143.55</u> per night for <u>2</u> nights)	\$ <u>287.10</u>	\$ <u>256.00</u>
4. Meals (Complete information requested on next page of form)		
a. Breakfast	\$ _____	\$ _____
b. Lunch	\$ <u>77.64</u>	\$ _____
c. Dinner	\$ <u>101.57</u>	\$ _____
		} <u>138.00</u>
5. Other (Explain details of request)	\$ _____	\$ _____
	Total Requested	\$ <u>466.31</u> \$ <u>- 394.00 =</u>

Please attach all receipts documenting each expense above. This Expense Prepayment/Reimbursement Form must be submitted within 30 days after the event. All expenses reported on this form must comply with the District's Expense Policy for Board members, the General Manager/Chief of Police, and all non-sworn District employees.

TOTAL COST TO DISTRICT
\$72.31
- 145.77

- 73.46

Signed: _____

Approved by: _____

Date: _____

Signed: _____

Print Name: _____

Date: _____

* Issue 2 checks & mail both
* make check payable
\$287.10

to Carmel Valley Lodge
8 Ford Rd., Carmel Valley, CA. 93924

* make check payable
\$179.21
to the Police Chiefs' Association



CONTRA COSTA COUNTY POLICE CHIEF'S WORKSHOP

Carmel Valley Lodge
November 4-7, 2013 (24Hours)

Monday, November 4, 2013 (4-hrs)

1200-1300	Lunch	
1300-1700	Introduction/Association Survey Review	Lee Shuff/Facilitator
1800-2100	Dinner Provided	

Tuesday, November 5, 2013 (8-hrs)

0800-1200	Healthy living & Stress Management	Dru Mattimoe/Fitness instructor
1200-1300	Lunch	
1300-1700	Building a Good Team Dinner on your own	Jim Tunney/NFL Referee

Wednesday, November 6, 2013 (8-hrs)

0900-1200	Leadership	Howard Putnam/CEO Southwest Air
1200-1300	Lunch	
1300-1700	Powerful Communication	Pat Fripp/Communication specialists
1800-2100	Dinner Provided	

Thursday, November 7, 2013 (4-hrs)

0800-1000	Legal Updates	Jim Fitzgerald/Attorney
1000 -1100	Workshop Review/ Action Items	Lee Shuff/Facilitator
1100-1200	CCPCA Business Meeting	
1200-1300	Lunch	