

Meeting Minutes for 10/1/16

A Special Meeting (Closed Session) of the Board of Directors of the Kensington Police Protection and Community Services District was held Saturday, October 1, 2016, at 8:30 A.M., at the Community Center, 59 Arlington Ave., Kensington, California. The Board continued its Special Meeting in Open Session at 10:00 A.M.

ATTENDEES

<u>Elected Members</u>	<u>Speakers/Presenters</u>
Len Welsh, President	Celia Concus
Rachelle Sherris-Watt, Vice President	David Spath
Chuck Toombs, Director	Lisa Caronna
Patricia Gillette, Director	Tim Snyder
Vanessa Cordova, Director (by phone)	Rick Artis
	Gail Feldman
	Donna Stanton
<u>Staff Members</u>	Catya de Neergaard
Interim GM/COP Kevin Hart	Anthony Knight
	Maria McCauley
	Don Dommer
<u>Press</u>	Nina Harmon
Linnea Due	

President Welsh called the meeting to order at 8:30 A.M. President Welsh, Vice President Sherris-Watt, Director Toombs, Director Gillette, Interim GM/COP Hart, were present. Director Cordova was not physically present, but she participated in the Open and Closed Sessions by phone from Italy.

PUBLIC COMMENTS

Celia Concus said she was reading Mabry Benson's comments, which had been sent to the Board, because Ms. Benson was out of town. Ms. Benson had written that:

- As a follow-up to her Closed Session comments at the prior meeting, she had reviewed the 2007 Brown Taylor Audit for time spent on the General Manager and Chief of Police roles.
- On pages 50 and 51, the report had said that the General Manager (GM) part of the job was 35% of the time, and the Chief of Police (COP) was 65%.
- Part of the COP time had been listed as serving as the GM and that many of the duties listed were clearly those of the GM.
- When the Board considered any GM/COP contract, it should insist that the GM/COP time at least be split 40% as GM and 60% as COP, if not more for the GM.
- The Board should make CalPERS aware of this time allocation.
- She wanted this added to the record of the September 20th meeting or for the next Board meeting.
- After she'd heard of IGM/COP Hart's resignation, she had added that Mr. Hull should oversee the police department and that one of the service firms should provide a temporary GM.

Ms. Concus said Ms. Benson had spoken at the Board's last Closed Session and had then posted something on Next Door:

- It had come to her attention that CalPERS had issued, in January 2016, a Public Agency Review of the KPPCSD.
- She had found it curious that there had been no mention of it in the GM's report, from November 2015 through May 2016.
- She asked why it hadn't been made public.
- She was of the opinion that CalPERS' interest in the issue had to do with pension spiking.

Ms. Concus added that, when the Board considered Mr. Hart's performance, it needed to take into consideration why he hadn't made the report public and why he couldn't make an allocation. Ms. Concus asked if this was another "Reno-gate," when it had taken eight months to find out that the report had existed. She said she thought an explanation was due. She concluded by saying she would give the Board Ms. Benson's comments, a copy of the Brown Taylor report, and a copy of the comments Ms. Benson had posted on Next Door.

David Spath responded that Ms. Benson had posted on Next Door that IGM/COP Hart had told one of the Ad Hoc Committee members, Lisa Caronna, that he'd spent 95% of his time on police services. Dr. Spath said the Committee had had a discussion at a previous meeting, with regard to the allocation of time as it had been stated in its report. He said that, what IGM/COP Hart had told the Committee was that he had estimated that he spent 80 – 85% of his time on police services. He said that IGM/COP Hart had then read the report and had spoken with him – indicating he, IGM/COP Hart, didn't feel this allocation was accurate because he felt it was difficult to separate out the time that he spent as General Manager and that he spent as Chief of Police. Dr. Spath said he had brought this to the Committee's attention, and the Committee had decided on the allocation of 85% to 90%. Dr. Spath said that, if one listened to the audio recording of that Committee meeting, he had brought to the Committee's attention IGM/COP Hart's request not to provide figures. Dr. Spath added that, with respect to the CalPERS Public Agency Review, this had been a standard review done on all agencies that contracted with CalPERS and that Kensington, along with a number of other agencies, had been up for review. He clarified that, over a period of time, all agencies that contract with CalPERS undergo such a review and that, because CalPERS didn't have the staff, it spread out these reviews. He said that at issue was that KPPCSD had listed the GM/COP position as a safety position with CalPERS but that, when CalPERS had read the job specifications, it had found that the position also contained miscellaneous duties for the General Manager. Thus, he said, CalPERS had asked for clarification, and IGM/COP Hart had provided it. He said the review then indicated there should be discussions with the District to try to reconcile what portion was public safety and what was General Manager. He explained there was an issue with regard to pension: for a safety officer the pension was 3% at 50 and, for a miscellaneous position, it would be different. He said that he had had a conversation with Ms. Benson about this and that he had asked her to go back and listen to the tape so she could clarify on Next Door that it had not been IGM/COP Hart who had asked for a 95% time allocation for police services. President Welsh thanked Dr. Spath for the background and asked if there had been any documentation of the communication among Dr. Spath, IGM/COP Hart, and CalPERS. Dr. Spath responded that he hadn't had any communication with CalPERS: He had just read the record after Ms. Benson had indicated there had been this Public Agency Review. He said he had also done a bit of research on why the review had been done. He said that Ms. Benson's comments seemed to imply that this had been a special review: It hadn't been a special review – it had been part of CalPERS' ongoing oversight of agencies with which it had contracts. He added that his conversation with IGM/COP Hart had been separate.

The Board entered into Closed Session at 8:52 P.M.

CLOSED SESSION

- a. Public employment: Title: (Interim General Manager/Chief of Police) – Government Code Section 54957.

- b. Conference with Labor Negotiators (Government Code section 54957.6) Agency Designated Representatives: Unrepresented Employee: General Manager/Chief of Police.

Director Cordova participated in both the open and closed sessions by phone, from the location of Via Ghibellina 42, Florence, Italy.

The Board came out of Closed Session and into Open Session at 10:00 A.M.

Roll call: President Welsh, Vice President Sherris-Watt, Director Gillette, and Director Toombs were present. President Welsh reported that Director Cordova had telephoned from Italy to participate in the Open Session.

President Welsh reported that no action had been taken on any of the Closed Session items. However, he reported, people may have seen that the Board had been interviewing Kevin Kyle for the possible position of Interim GM/COP. President Welsh noted that Mr. Kyle had been one of the finalists the last time the District had interviewed for the position. He reiterated that the Board hadn't taken any action but that the interview had gone well.

President Welsh announced that the Board wouldn't be taking public comments: The purpose of the meeting was to receive a brief summary of the Ad Hoc Committee's work, which would be followed by a question and answer period. President Welsh asked the Committee members to introduce themselves. Present were Simon Brafman, Gail Feldman, Rick Artis, David Spath, Lisa Caronna, Tim Snyder, Committee Chairman David Spath reported that four committee members hadn't been able to attend: Garen Corbett, Chris Deppe, Mabry Benson, and Charles Reichman.

President Welsh announced that IGM/COP Hart would be in the back of the room handling the recording and would be available to answer questions as needed.

Vice President Sherris-Watt said she wanted to thank the Committee for its wonderful work and for donating its time. The Committee received a round of applause. She also asked people to express their thanks to IGM/COP Hart for the time and effort he had put into the District, trying to make it better. She thanked him, and he received a round of applause.

President Welsh said he wanted to second everything Vice President Sherris-Watt had said. He also said the quality of the report was fabulous. He complimented the Committee's depth of information gathering and its having gotten it all down on paper in a clear and concise manner.

Director Gillette said the report was one of the best she'd seen on a difficult set of issues. She thanked the Committee and its Chairman, David Spath, who, she said, had had to maneuver through difficult issues on all sides and had done so with grace and expertise. Another round of applause followed.

Director Toombs thanked IGM/COP Hart for his service during the past sixteen to eighteen months and thanked the Committee for all the work it had done.

NEW BUSINESS

- 5a. The Board received the Ad Hoc Committee on Governance and Operations Structure's Final Report. The Committee provided the Board with a brief presentation on the Report's findings including:
 - i. Bifurcation of the General Manager/Chief of Police Position
 - ii. Contracting of Police Services
 - iii. Consolidation with the Fire District

The Committee responded to questions from the Board and the public regarding the findings.

David Spath provided background information on the Committee's work:

- The Committee of ten volunteers had been appointed by the Board and had begun its work in August 2015.
- Its work had been ongoing for a year.
- It had produced a report of findings.
- The members had had differing opinions but had come to consensus.
- It had been asked to look at three different issues: 1) bifurcation of the GM/COP position; 2) contracting out of police services; and 3) consolidation with the Kensington Fire Protection District.

Dr. Spath reported that the Committee had also done a survey on police services to get a sense of the community's perspective – what was good and what was not so good – and that this had been posted on the Committee's webpage on the District's website. He said the report contained a summary and an analysis of this survey, which had been compiled by Committee member Simon Brafman.

Dr. Spath said the report was long – over 200 pages. He said that the Committee had researched the three areas, which the Board had asked it to: The report did not contain an analysis of the research. Rather, he said, the report provided findings, along with pros and cons of each of the findings. He urged people to review the document and said the Board needed to focus on the issue of bifurcation of the GM/COP position because it would need to address the position(s) in the near future.

He reported that the Committee would begin its presentation with a summary of findings on the bifurcation of the GM/COP position. He said that Lisa Caronna had been the lead member of the subcommittee studying this part of the Committee's work and that she should be applauded for all the work she had done on this subject and for having served as the scribe for the Committee. She received a round of applause.

Lisa Caronna reported that the subcommittee had examined the job requirements, contacted 15 comparable agencies and seven professional associations, met with community members, and developed global findings that included pros and cons. She said the committee had prepared a spreadsheet of the agencies contacted, had looked at base salaries for the positions, and had developed conceptual organizational charts. She said that there weren't too many agencies with the combined position of GM/COP but that Kensington and Broadmoor did. She reported that the subcommittee also looked at fire districts: For all fire districts, the fire chief was also the top executive/administrative officer – as such, it was a combined position: The fire chief was responsible for the board, the budget, and the other responsibilities of the general manager. She said the distinction was that a community services district's general manager could be responsible for a variety of areas, whereas a fire district could be responsible only for fire service. She said the subcommittee had looked at an agency that had had a shared position for eight years and then moved away from it (Sutter Creek) and had looked at agencies that had split positions but provided similar services. She said the subcommittee also had looked at agencies with similar services that had split positions of general managers and police/fire chiefs and had looked at other agencies that had part-time general managers.

Ms. Caronna reported on the global findings:

- The separation of GM/COP is a preferred organizational structure, but it meant the budget had to be able to afford the additional position.
- The more services a district provided, the greater the need for a separate GM.
- Disciplinary grievance investigation processes required clearly defined processes: Where the positions were combined, a separation of these duties was needed.
- Police chiefs often had dual roles (usually if a general manager left), and the additional responsibilities had lasted from between a few months to a couple of years.
- The skillsets for GM and COP were not the same. The COP would come up through a command structure, be a police officer, organize and respond to emergencies, and participate in more structured training. The GM would, more typically, come with a background in public

administration, broader community activities, budget, finance, and other areas that might be different from those that a police officer/COP might have as his/her educational/training background.

- It can be challenging to find a person with both skillsets to fill the dual role of GM/COP.
- A part-time GM would require a clear role and sufficient staff. A community would need to recognize that the person wouldn't be there full-time, which could pose challenges when prompt decisions needed to be made.
- A part-time COP is not recommended, under any circumstances. Kensington is primarily a police district. The COP must be on call 24/7 and must oversee and provide leadership for the police force. This was not recommended by anybody.

Ms. Caronna said that, when the subcommittee looked at the criteria for a part-time GM, some of the things that came out of that process were that there be clear policies, defined goals, and measurable objectives. There would need to be sufficient staff when that person was not available. For Kensington, a GM would have to have a strong knowledge of police services.

Ms. Caronna reported that there were challenges of having a dual role of GM/COP: There could be questions in terms of the budget development and whether services were being provided equitably; and there also could be challenges with respect to grievance processes and investigations. She said members of the community might be reluctant to file a complaint because of fear of retribution. She said that there could be questions about how to provide adequate oversight and that the police officers could be resentful if the COP wasn't working only on police matters.

Ms. Caronna reported that the subcommittee looked at six options for organizing the structure:

- The current structure with the joint GM/COP position.
- A part-time GM and retaining the full in-house police force.
- A full-time GM and retaining the full in-house police force.
- A part-time GM and contracting out police services.
- Consolidation with the Fire District, where the community retained its in-house police force.
- Consolidation with the Fire District and contracting out police and fire services.

Ms. Caronna said that, when a community had a part-time GM, it was a decision about how much community involvement there was; the part-time GM would not have as much time to do things like attend all committee meetings, attend community activities, and coordinate with other agencies. She said that, when a community contracted out police services, it would have to define the scope of those services, and this could affect the issue of part-time or full-time GM.

Ms. Caronna reviewed some of the costs associated with having a full-time or a part-time GM. She explained that the amounts did not include benefits: For a part-time GM, the salary would be \$63,000 and \$97,000, and for a full-time GM, the salary would be \$95,000 and \$200,000. She said these salaries were for small agencies in Kensington's area. She reported that COP salaries were between \$61,000 and \$147,000 and that benefits would add another 30% for both the GM and COP positions. She said the subcommittee also had looked at retirees who might not need benefits and could work for salary alone.

Tim Snyder said he had worked on the subcommittee that had looked at contracting out police services. He said that Charles Reichman, who had been the head of the subcommittee, and Mabry Benson had served with him. Mr. Snyder reported that his subcommittee had talked with surrounding communities – Albany, El Cerrito, Richmond, Berkeley, UC Berkeley PD, East Bay Regional Park District, and the Sheriff's Department. He said the subcommittee had had one or more discussions with most of these agencies. He said that the East Bay Regional Park District and Berkeley had declined and that the Sheriff's Department would be willing to consider discussions, but didn't want to enter into them until there was an official authorization or more formal process. He reported that the subcommittee had had discussions with cities that utilized the Sheriff's Department's services to get a benchmark on how that structure might work: Orinda, Lafayette, Oakley, and Blackhawk. With all the entities, the

subcommittee discussed the options for services. He also reported that the identity of Kensington and a presence in Kensington were considered important factors. He said organization; command structure; placement of officers; handling Kensington's special programs, such as vacation watch and the key program, which are unique; willingness to provide services to Kensington; and willingness of entities to hire Kensington's existing officers. He reported that one of the things the subcommittee discovered quickly was that there were limitations to what it could find out, especially with respect to detailed and accurate cost comparisons. He said this would be dependent upon very formal processes and detailed descriptions of services sought. He said that, while the subcommittee got a sense of the other departments, it didn't go very deeply into the quality of the other agencies' departments or perform due diligence into the management of those communities, which, he said was a very important factor. He explained that others entities' service would be only as good as their management. Thus, he said, there were limitations to what the subcommittee could do.

Mr. Snyder reported that those cities interested in contracting included Albany, El Cerrito, Richmond, UC Berkeley Police Department, and the Sheriff's Department. These agencies all said they would be willing to support Kensington's identity with respect to uniforms, cars, dedicated personnel, and a presence in the community. Most of these agencies said the most logical structure would be to add Kensington as an additional beat to their existing beats. He reported that these agencies indicated they would want contracts of between three and five years, because of the costs involved with developing a contract. He reported there would be no guarantee for existing officers, in terms of direct transfers: The other agencies all have the own criteria and all officers seeking a lateral transfer would need to apply.

Mr. Snyder reported that at least two of the agencies said that costs could be less than Kensington's current costs for providing police services and that most of that would be related to economies of scale. He said that Kensington's department was predicated upon providing coverage 24/7 and that such coverage requires the size force Kensington has. He reported that, if the force sizes were to be equaled by the other entities, there would not be much difference in overall cost.

Mr. Snyder said there were some costs to which attention needed to be paid:

- Substantial transition costs associated with making the change. He explained there would need to be coverage provided during the shutdown phase and start-up costs associated with a new department. Further feasibility studies and due diligence would also be related to transition costs.
- Costs associated with meet-and-confer responsibilities, associated with existing officers.
- Costs associated with the RFP process and negotiations.
- CalPERS responsibilities associated with unfunded liabilities. Based on a recent CalPERS report, there would be a \$230,000 per year cost: This would exist even if Kensington contracted out for police services.
- Retiree medical obligations also would continue, even if Kensington were to contract out. This would be for those officers already retired and for those who would retire from Kensington, prior to dissolving the department. This cost would be approximately \$170,000 per year.
- Kensington's current unfunded pension liability with CalPERS was about \$2.5 million, based on a 7.5% rate of return assumption. CalPERS' rate of return for the prior two years had been about 2.2% and 0.6%. If those rates of return were to be used instead of 7.5% Kensington's unfunded liability would be greater. Regardless, this unfunded liability would exist, whether Kensington were to contract out or not.

Mr. Snyder reported that the pros for contracting out were:

- Potential economies of scale associated with being part of a larger entity.
- Kensington could change its services – labor was the predominant cost. Most of the entities have the same kinds of pay structures as Kensington and are part of CalPERS. Many of the agencies have the same kind of unfunded liability issues as Kensington.
- There would be limitation on legal liabilities for police activity – this would be borne by the entity with which Kensington would contract.
- Staffing would be maintained in the event of illnesses.

- There would be access to a broader range of special services that larger departments have.
- The ability to change out officers who don't fit into the community.
- Access to more supervision because of larger departments. Someone with supervisory capacity would always be on shift.
- Fewer human resources issues because the contracted agency would do all the hiring and firing.
- Opportunity to restructure might be easier.

Mr. Snyder reported that cons associated with contracting out would be:

- Kensington would lose control over a large number of items.
- Once Kensington contracted out, its department likely would never be reconvened because it would have to go through the same kinds of transition costs associated with contracting out.
- Kensington would no longer have direct control over negotiating salaries and benefits. It would be dependent upon the entity with which it chose to contract.
- There would be no direct control over day-to-day operations.
- Possible loss of identity – the community would no longer be patrolled by its own officers.
- The Board and the management of this would have to become different – entering into contracts, performing due diligence, and performance monitoring would be a different set of skills than currently needed.
- There would be no guaranty that Kensington's current officers would be able to transfer to a contracting agency.

Mr. Snyder concluded by saying that, depending on structure, there might be cost savings with contracting out and that contracting out would be a big step. He said that what the subcommittee learned was that there was a lot more to learn.

Rick Artis presented information on behalf of the consolidation subcommittee, which looked at consolidation with the Fire District. He said that the other members of the subcommittee were Gail Feldman and Chris Deppe. Mr. Artis explained that the notion of consolidation had come to Kensington from the outside from Contra Costa County's Local Agency Formation Commission, which had suggested that consolidation could be a way to obtain a more efficacious delivery of services. He said this recommendation had first appeared in a 2007 Municipal Service Review of Kensington's Fire District.

Mr. Artis explained that merging the Districts would mean a change in government, but it would not mean a change in services. The Districts would be merged into a single entity that would be responsible for the current scope of services of both the KPPCSD and the KFPD. And, he said that, by law, the surviving entity would need to be a community services district, like the KPPCSD, because they're empowered by the government code to provide fire service: However, fire districts could not take on the scope of services provided by community services districts.

Mr. Artis reported that LAFCO had the power to combine the KPPCSD and Fire District boards. He also explained that what would result would be a temporarily expanded board – likely of seven or nine members, which would be a combination of existing members of the Fire District and the KPPCSD Boards. He said that, afterward, the Board would decrease back down to five.

Mr. Artis said the subcommittee had provided a detailed and fairly lengthy description in the report of what likely would be a long process. He reported that the bottom line was that, regardless of how one were to start and what path one might take, the two Districts would be rolled into one new entity: Revenue, assets, contracts, etc.

Mr. Artis said there had been concerns about the transfer of revenue as part of the consolidation process. He reported that the subcommittee had spoken with a lot of people and with the Fire District and that the Auditor Controller and LAFCO's Executive Officer Lou Ann Texeira had been particularly

informative. Mr. Artis said that the chance of revenue loss from initiating consolidation was, essentially, zero. Thus, he said, the revenue issue appeared to be a “red herring.”

Mr. Artis reported that his subcommittee had compiled a rather extensive list of pros and cons about consolidation and that these were provided in the report.

Mr. Artis said there was something essential for the community to understand in assessing the pros and cons of consolidation as well as the other areas studied by the Committee: The finances of the KFPD and the KPPCSD. He reported that the subcommittee had used the audited financial reports from the last twenty years and had consulted with Deborah Russell, the accountant for both Districts. He said that there was now a spreadsheet of all the raw data and that this, along with the relevant government codes, would be part of the archive the Committee was compiling. Mr. Artis explained that, following passage of Proposition 13, the final distribution of revenue for Special Districts hadn't been known until almost the mid-1990s, that this had resulted in an increase in revenues for the Fire District and a decrease in revenues for the KPPCSD, and that this had caused a widening gap between the two districts. Currently, he said, the Fire District received about 30% of the Ad Valorem Tax revenue and the KPPCSD received about 13%. This translated into about \$3.26 million for the Fire District and about \$1.48 million for the KPPCSD. He reported that, in addition, there were two special taxes: about \$500 per parcel for the KPPCSD and a little over \$80 per parcel for the Fire District.

Mr. Artis explained that, in 1995, which marked the beginning of the group's financial analysis, revenue and operating expenses for the two districts had been almost identical. He said that, between 1996 and 2006, the cost of providing fire service had increased at about twice the rate of police services: fire service costs had just about doubled in that time period, which marked the first ten years of the contract with El Cerrito for fire service. He said this might be interesting to consider in the context of future discussions. He noted that, since 2006, expense trend rates had been just about the same for both districts. On the revenue side, he said that, because of the doubling of property values during the late 1990s, the significant cost increases for the Fire District had been mitigated. He said trying to determine future expenses was outside the group's scope but needed to be analyzed in a thorough manner.

Mr. Artis said the group also looked at modeling the two districts as a single district – what the finances would look like if the two districts were consolidated. He said that, for a modeled consolidated district, revenues would have exceeded expenses by about \$400,000 and there would have been a fund balance of about \$7.4 million.

In conclusion, Mr. Artis said he hoped the report would help community members understand the financial challenges that the community is facing through its two districts. He clarified that these are the community's funds and assets, which are managed through the elected boards. He noted that, with respect to future capital expenditures, there had been a lot of discussion about remodeling the Community Center and that work being discussed for the Public Safety Building dwarfed those. He said he hoped the report would prepare the community well for discussion it would need to have.

President Welsh opened the meeting up for questions from members of the Board and the Committee and asked people to keep their comments concise because of time limits.

Donna Stanton introduced herself as a resident and the wife of one of the people who had filed the writ against the KPPCSD. She said she was happy that it appeared that there were pro comments about the separation of the GM and COP positions. She said the idea of a part-time manager made sense to her because, at this time, the COP needed to spend so much time on that part of the job, and the GM part of the position seemed to require very little time. She said the bigger issue she had was why the KPPCSD had any reason to be discussing consolidation with the Fire District without including the Fire District in that discussion. She said it seemed like a takeover. She noted that the expense of the writ, which had been a prideful situation, could have been handled within the first couple of weeks: Her husband had told her it would take just that long. She said that the writ had cost hundreds of thousands of dollars and that, as far as she could see, the cost of various litigations in which the KPPCSD had been involved had

nothing to do with the Fire District. She said the KPPCSD Board had made poor decisions and therefore wanted to attach itself to another organization that had made better decisions and had more money.

President Welsh noted that this was an informational meeting and an opportunity to learn from people who had spent an enormous amount of time compiling information and that, at a later time – when the Board entered into the decision making phase – it would make more sense to express opinions. He encouraged people to ask questions.

Director Toombs asked if someone wanted to answer the question about why the Fire District hadn't participated in the consolidation subcommittee's work. Vice President Sherris-Watt responded that the Fire District Board's President was present and could address this. Rick Artis responded that he could address the question from the Committee's point of view: After the consolidation subcommittee had been formed, he had gone to the Fire District Board's meeting, in March, and asked the Fire Board to consider how it wanted to engage with the subcommittee. He said the Board had responded that it would place the item on its April agenda. He noted that, when he had received the April agenda, the agenda had indicated that the Fire Board would not engage: Instead, it had asked the subcommittee to submit written questions. He said the Fire Board had refused to meet with the subcommittee and had refused to select a point person to speak with the subcommittee. He said that the responses to the questions had been given at a Fire Board meeting, that the Fire Board had had a discussion and decided that this was all the subcommittee would get. Gail Feldman added that, during the process, the subcommittee had corresponded numerous times with a Local Agency Formation Commissioner and that, at some point during that process, El Cerrito Fire Chief Lance Maples had requested that all communications between the consolidation subcommittee and LAFCO be shared with him. She noted that the KPPCSD Director Vanessa Cordova had asked for the same information. Thus she said that, during the entire process all such communications with LAFCO had been shared with the Fire Chief and Director Cordova. Mr. Artis added that the Fire Board had decided to form its own ad hoc subcommittee, which had been referred to by Fire Board members as the "anti-consolidation subcommittee." He said this subcommittee had met with the KPPCSD consolidation subcommittee a few weeks earlier so that the Fire Board subcommittee could express its opinions about the KPPCSD's Ad Hoc Committee's report a few days before the Ad Hoc Committee was to begin finalizing its last copy of the report. Thus, he said, the Committee had received the Fire Board's opinions in that private meeting and then again a few days later at the last public meeting: This meant that the subcommittee had received Fire Board's comments late in the game.

President Welsh asked if Fire Board Director Nina Harmon wanted to speak. Ms. Harmon said she wanted to explain her board's perspective. She said the Fire Board's ad hoc subcommittee had met with Gail Feldman and Rick Artis and that Mr. Artis had said the KPPCSD Ad Hoc Committee had invited the Fire Board members to come and sit with them. She said she wanted to summarize things from the beginning. She said that she had read the KPPCSD's agendas and that one of them had said the KPPCSD Board was going to take action on what turned out to be the Ad Hoc Committee to discuss merger. She said that she was stunned and that, when she had told the other Fire Board members about this, they used stronger words than this. She said that she had come to the KPPCSD Board meeting the night after this and had conveyed what her Board had said it had wanted to her say, which was that it was surprised it had not been consulted or given any kind of courtesy of involvement because it was a pretty big issue. She said she had had to reach out to the KPPCSD – there had been no Board invitation. She said the invitation to be a part of the process should have come from the KPPCSD Board; the Ad Hoc Committee should not have been the requestor. She said that the Fire District had not heard from the KPPCSD for a long time and that, although the Fire District Board members knew they could attend meetings of the Ad Hoc Committee, it was not the Fire District's committee. She said there were many things the Ad Hoc Committee was going to discuss, but the only aspect of the Committee's work that was of concern to the Fire Board was merger. She said that Rick Artis had come to a Fire Board meeting and let the Fire Board members know that the entire Ad Hoc Committee wanted to speak them but that the Fire Board had been surprised that only one person had come. She noted that the consolidation subcommittee had submitted questions to the Fire Board, and that Mr. Artis had invited the Fire Board to sit in with the subcommittee. However, she said that she'd had to be reminded of this

because she had not heard it as an invitation and that the Fire Board had not felt invited to the table. She said that being asked to sit in and listen was not the same as being asked to be part of a process that could result in information that would dissolve the Fire District. She said that, since that time, she didn't think the Fire Board had been reached out to. She said that the Fire District had formed a committee, that she and Janice were the members of that committee, and that they had reached out to the Ad Hoc Committee. She said the Fire Board was passionate in its views on consolidation and that there was an agreement to disagree. She said she had told Gail Feldman that Ms. Feldman had been pro-merger long before this issue had come up. She reiterated that the invitation should have come from the KPPCSD Board because its members are the peers of the Fire Board members. She said that because she had not perceived the Committee's invitation as an invitation the Fire Board had not participated but that the Fire Board had not intended to "snub" the Committee.

President Welsh said he had not felt particularly welcome whenever he'd asked for dialog on issues related to this. He said that he and Director Gillette had attended a Fire Board meeting a year earlier – in June – and that he had asked the Fire Board about having a joint Finance Committee meeting so the Boards could go over, together, what the financial picture looked like. In response, he said that, at the Fire District's June meeting, he and Director Gillette had been told "thank you, but no thank you." He reiterated Mr. Artis' comment that the Fire Board had said the subcommittee should submit questions, and they would answer them. He said no one had intended to hurt anyone's feelings. Ms. Harmon said the Fire Board member's feelings weren't hurt – its members were concerned. President Welsh said the members of both boards were leaders, they all served the same constituents, and he asked why they didn't all work together to get the information. He said a decision making process hadn't begun yet: Members of the Ad Hoc Committee were presenting information only. He said he thought Ms. Harmon would want to get information before coming to an opinion.

Director Gillette suggested moving on because she had questions.

Vice President Sherris-Watt said she knew the Board wanted to move along, but she did have to apologize to the Fire Board because, from the very beginning, the KPPCSD had not approached them. She said that, when she had been campaigning, she had been told it was shameful that the KPPCSD hadn't had a presence at Fire Board meetings. She said she had then started to attend them and had attended regularly for the prior two years. She said that it had been very helpful and that the Fire Board had been very helpful to her, as a special district member. She said that she had been at the meeting to which President Welsh had referred and that, at that time, it had not been a welcome invitation – in her opinion – from her Board. She said it had been an accusation about the accuracy... President Welsh interjected that this was not true. He said that he and Fire Board President Nagel had spoken beforehand about going to that meeting, that it had been a totally cordial affair, and that there had been no hostility whatsoever, except from Vice President Sherris-Watt and Director Cordova.

Director Gillette reiterated her request to move on. President Welsh said he agreed.

Catya de Neergaard asked each of the subcommittees if they were in favor of further exploring change and asked what the next steps for Kensington were. She said that she understood that LAFCO could force a merger of the two Districts and that she had heard, many times, that the Fire Board did not want its District merged. She asked what the next steps would be if consolidation were to be considered.

Lisa Caronna responded by saying she had neglected to thank her fellow subcommittee members, David Spath and Simon Brafman. Ms. Caronna said that, on the issue of bifurcation, the biggest challenge would be resources, which she said translated into finding the funds in the existing budget or possibly deleting services. She said the needed resources would be between \$100,000 and \$200,000. She said the community also needed to evaluate what its needs were to determine whether a part-time general manager would be adequate. She noted that it would be important to have a strategic plan, clear direction, good management in place, and good policies in place so that that person could do the job and succeed in a part-time position. She said there would be a lot of steps before that decision could be determined. President Welsh asked if Ms. Caronna had suggestions about how to go about getting at those issues. She responded that the Board would have to go through a strategic planning process and

would have to ensure clear direction from the Board so that person could actually carry out those duties. She added that this direction would need to come from a unified entity.

Tim Snyder responded that, with respect to contracting out, one of the things that had become abundantly clear was that the Committee didn't really have a good grasp on the will of the community in terms of what it wants in the way of police services. He said this had significant bearing on how one would determine whether to maintain the local department or to contract out. He said the Board needed to serve the collective will of the community – not just those who occasionally showed up. He said that, in order to do that, one would need to think about how to find this out. Perhaps, he said, this could be done with a well-done, truly random survey. He said that, for this process, one would hope the public would be well informed about the current services. He noted that most people probably don't think about this – until they have a problem. He said more feasibility studies would be needed, to start getting accurate cost comparisons. He recommended due diligence of entities the District might consider for contracting – the community would need to know and understand exactly how potential entities manage their forces because we would be signing this over. He said this due diligence would need to extend beyond each entity's police department and how it was operating: It would need to include the management of that community and to determine whether that management would be moving in a positive direction.

President Welsh said that some had indicated that, to get more information, the District should put out an RFP and said that it sounded as though Mr. Snyder was of the opinion the District needed to do more fact-finding/due diligence before it engaged in the RFP process. He asked Mr. Snyder to clarify this. Mr. Snyder responded in the affirmative and said the Committee didn't know enough, at this point, to put together a specific enough RFP; more worked needed to be done information about exactly what services the community wanted before one could get to the RFP step.

Rick Artis said that, as part of the financial analysis, the Committee had compiled a lot of data, primarily through LAFCO, on the per capita cost of services for police and fire. He said that, for fire service, the community's per capita cost was far and away the highest in Contra Costa County. He said that, for police services, the per capita cost was in the middle of the pack. He said that the next step with the consolidation issue, both pros and cons, would be public education. He said there had been "commentary that had been adrift from the facts" about consolidation and that LAFCO had the statutory authority to do quite a number of things, including forcing a consolidation. He said that, sometimes, when a District was poorly run, LAFCO would force a consolidation. However, he said this was not the case in Kensington. He added that LAFCO Executive, Lou Ann Texiera said LAFCO would not be inclined to force a consolidation in Kensington: Instead, this would be for the community to determine. Mr. Artis said that there were pros and cons and that there were financial reasons why this was an issue. He said that the community needed to decide what it wanted its future governance to look like and that, if the community were setting things up today, it would never set up two boards willingly.

Gail Feldman added that, with respect to next steps for consolidation, the community needed to look at projections for the next five to ten years to understand what's going to happen in the community from a revenue and expenditure perspective. She added that there were a lot of things that could be done to project the status of both Districts to determine whether the community could afford to maintain the status quo.

Vice President Sherris-Watt said that the District's Finance Committee member, Rob Firmin, and the Finance Committee as a whole were working on a five-year projection model.

David Spath said the community needed to engage. President Welsh said the District was trying to engage the community at this meeting but wasn't getting a huge turnout. He said ways were needed to get information to the community. He noted that a survey wasn't always the best way to go, though this – done through a professionally conducted survey – had worked well in finding out what the community wanted in its garbage contract. Thus, he said this could be one of the tools used but not the only one.

Peter Conrad said that the report was lacking information, upon which a lot of decisions would depend. He said he wanted to know “what now?” Specifically, he asked what the Board’s role would be and how decisions would be made. He asked how the Board would move forward knowing that the Fire Board was unanimously opposed to consolidation. He also suggested that a summary of the report be published in the Outlook.

David Spath responded that the Committee had been asked only to provide findings, pros, and cons.

President Welsh responded that the report was “crying out” for next steps. He said that, to him, the next steps would include another phase of fact-finding to obtain more detail, and he suggested doing this in conjunction with getting a sense about how the community feels about these issues. He noted that the Board should have that discussion at its next regular Board meeting.

Linnea Due said that Lou Ann Texeira had called for the Board to conduct a survey that would have bullet points of pros and cons and that this would engage people further. She asked if the Board would appoint another committee to do this community engagement on the issues or if the Board would do this. President Welsh responded that he would suggest that the Board begin this discussion at its next meeting in October. He said that there also was an election coming up and that this was something the new Board should tackle.

Sylvia Hacaj said she had a question for Tim Snyder. She said she had been talking to a lot of people door-to-door and had heard there was a lot of fear about what contracting out could mean. She said this was unfortunate because the community was still in the phase of trying to understand how it could provide additional value for Kensington. She asked Mr. Snyder why the subcommittee hadn’t talked to the Fire District about its experience with contracting. She said she understood it was a different type of service, but the community had had a twenty-year experience with contracting. Mr. Snyder said his subcommittee had been in an exploratory stage of trying to engage with specific surrounding entities and agencies to determine their willingness, but it hadn’t gotten to the point of determining the actual structure of a contract. He said the subcommittee had also wanted to engage with entities that had had experience contracting with the Sheriff’s Department.

President Welsh said that Ms. Hacaj’s question was a good one and that, as the KPPCSD moved forward, it should look at how contracting had worked for the Fire District. He asked if the Fire District would like to engage in that conversation. Nina Harmon responded in the affirmative.

Mr. Snyder said this would fall into the “next step” category. He said that it would need to be determined if contracted service would be configured on a percentage or a flat rate and that there were examples of both. He said the subcommittee had not gotten into the nuances of what a contract should look like: That was something to be done in the future.

Celia Concus said that, with respect to bifurcation and contracting out, pros and cons had been provided but they had not been provided for consolidation. She asked why it would not be good to consolidate. Director Gillette and Rick Artis responded that pros and cons could be found on pages 72 and 73 of the report. President Welsh asked Mr. Artis to provide quick summary of these. Ms. Concus said she wanted to hear the reasons for keeping an independent Fire District because Mr. Artis had given ample reasons for not keeping one. Mr. Artis responded that the number one con was that, before the Committee framework had even been developed, the entire Fire Board – when he and Leonard Schwartzburd had been present in the audience – had said it was irrevocably opposed to consolidation. He said this was the number one con because the Fire Board had said this before any facts had even been established and had been based largely on assumptions. He said once someone’s mind is already made up, a rational discussion wouldn’t follow. President Welsh asked what some of the other cons were. Mr. Artis said there were some who liked the segregation of fire services, away from the “froth, tension, and chaos” of KPPCSD Board meetings. He said, indeed, Fire Board meetings were rather simple: Revenue wasn’t largely “offended” by a Fire District decision, nor was expenditure. He said there was a question of whether disturbing this simplicity might be to the detriment of fire services. Ms. Concus responded that Mr. Artis hadn’t answered her question to her satisfaction. She reiterated that

she wanted to know why it would be good to maintain an independent Fire District. David Spath noted that the report was on the District's website and recommended that she read the list of all the pros and all the cons for herself. He said others had questions and there was a meeting end time because of a wedding that had been booked for the Community Center. Celia noted that she had attended almost all the Ad Hoc Committee's meetings. Dr. Spath commended and thanked her for this.

Anthony Knight said that, when the community had come to a contracting arrangement for the fire department, part of that arrangement had been to have a local firehouse. He said the Public Safety Building was staffed with individuals and so people could go there and talk to someone. He noted there also were computers, files, and fire engines there. He asked, if the community were to contract out for police services, whether there would be a station in Kensington that would be staffed by police officers and whether the files, cars, etc. would be there as well. He said the reason he was nervous about this was because, when the subcommittee had approached other surrounding entities, the arrangement conveyed was that Kensington would be just another beat. He noted that just one beat officer covered the Berkeley hills area for every eight-hour period. He said that, under that arrangement, a citizen could not go down and talk to an officer or feel that service was close by. He said that this issue had not come up during the presentation and that he hoped there would be some clarity about it.

Tim Snyder said this had been something his subcommittee had discussed with all the entities with which it had spoken: Albany, El Cerrito, Richmond, and UC Berkeley PD. He said that they had discussed the issues of identity, officers, and cars and that all the agencies had been willing to engage in that. He said they would have specific individuals assigned to Kensington and would have a physical presence there. Mr. Knight responded that he wanted to hear the words "station house." Mr. Snyder said that contracted officers would treat the Public Safety Building as their "branch office." President Welsh said that what he'd gotten from the report was that the various entities would do just about anything Kensington would want – within reason – as long as Kensington was willing to pay for it. President Welsh added that, if this were an important issue to the community, the District would have to figure out how much that service would cost.

Vice President Sherris-Watt said that, as someone with two years left in her term, she was willing to say that, if the District moved forward with looking at contracting out, she would absolutely want a physical presence in Kensington. She said she was going on record: She wanted residents to be able to go to the Public Safety Building during specific hours and contact an officer. She said she didn't want a "drive-by" for her family or for her neighborhood. She also said she really liked the Kensington Police patch. She noted that, because the Kensington Police Department was the sponsoring agency for Boy Scout Troop 100, her sons and husband wore the patch on their uniforms. She reiterated that, wherever the service was to come from, she wanted a presence in Kensington.

A resident asked if a copy of the report would be available at the District office. Vice President Sherris-Watt said she would ensure that a copy was at the library. The resident asked if copies would be available for citizens to pick up. IGM/COP Hart and President Welsh responded that a small number could be made available at the office.

Donna Stanton said she wanted to echo what Vice President Sherris-Watt had said. She said that, a couple of weeks earlier at about 3:00 in the morning, someone had rung her doorbell and that, because she was alone, it had scared her badly. She said she had called 9-1-1, that Sergeant Barrow had responded, and that afterward she had called back to 9-1-1 to ask Sergeant Barrow to follow up with her to let her know what had happened. She said she had learned it had been a "drunk" who had been left on her block and who had also rung her neighbor's doorbell. She said knowing the community has a police presence was very important to her.

Director Gillette asked in what kind of bargaining position the District would be with respect to contracting out – both initially and then three to five years into the contract. She said she didn't want to get into a "bait and switch" situation. Tim Snyder responded that the entities with which his subcommittee had spoken would not be interested in entering into a "bait and switch" either. He said all the entities had talked in terms of an initial contract needing to be at least three years, if not longer, to

make the transition costs feasible. He said, however, that the entities that contract with the Sheriff's Department are on a year-to-year basis and that the Sheriff's Department presents a price each year of every position and every level, every service, every item, and it's presented as a "take it or leave it." It was not negotiable. He said the only choices those entities had was to start their own departments or to stay with the contract.

President Welsh asked if the subcommittee had been able to get a sense on how prices had changed over time. Mr. Snyder responded that it was variable. He said Orinda, Lafayette, and Danville had done a collective study in 2009 because they had heard significant cost increases were likely. He said the study let those communities know it would be better for them to move away from the Sheriff's Department and establish their own departments. He added that those communities chose not to do that because of complexities with pensions.

Director Gillette said she was concerned about this because of how much a variance can mean, given the KPPCSD's limited budget. Thus, she said, if the KPPCSD was suddenly at the whim of another entity that decided to give a big increase to its police officers – one that the KPPCSD would never have agreed to, the District would be stuck because the cost of reinstituting Kensington's own police force would be prohibitive. She said the community needed to be considering that it would suddenly lose control over something that had been at the heart of the District's issues: The unpredictability of the budget from year to year.

Director Toombs said that, once the community contracted out, it would lose leverage: It couldn't say it didn't want a 10% increase. He noted that the Fire District had just had a 7½% increase in its contract with El Cerrito.

Maria McCauley said that savvy professional negotiators would make a difference, if the decision were made to contract out. She said such negotiators could set parameters in a long-term contract that would dictate how much costs could increase.

Tim Snyder said that, with respect to the negotiation of salaries and benefits for any of the communities with which the subcommittee had spoken, those communities "were going to do what they were going to do." He explained this was why due diligence was so important in choosing the business partner.

Fire District President Don Dommer said the Fire District was a "living example." He said this was a discussion about labor – whether it was outsourced or in-house. He said that, if the KPPCSD were to make a contract, like the Fire District had done with El Cerrito, that entity was just as concerned about its costs as the Fire District. He said El Cerrito based its increases on a means type of scale that included 20 – 30 fire departments, which places El Cerrito halfway between the lowest and the highest. He said he would ask Brenda Navellier to give the KPPCSD the Fire District's 20-year record. He said El Cerrito gets an economic benefit of contracting – Kensington is paying about one-third of El Cerrito's fire budget. He said it would be good to have a workshop on outsourcing. President Welsh said the Fire District had been doing this for about twenty years, so the KPPCSD should look at it.

Director Gillette said that, if the KPPCSD had paid Kensington officers what other agencies had paid their officers, it would not have been feasible.

Director Cordova said the Ad Hoc Committee had not been charged with producing a financial analysis for each proposed structure. It was just to produce findings, pros, and cons.

President Welsh asked about the estimate of the \$230,000 per year continuing liability the KPPCSD would have if it did contract out for police services and asked for how long this would continue. Tim Snyder responded that it would continue indefinitely and that it would be directed at paying off unfunded liabilities. He clarified that this would be only for the CalPERS pension liability. President Welsh asked when the liability would be paid off. Mr. Snyder responded that it would continue as long as the current employees and their dependents lived. President Welsh said that, whatever the cost of a contract for police service, the community would need to take this additional cost into consideration.

Mr. Snyder said that the CalPERS document was an interesting one and that the increase to the KPPCSD's unfunded liability had been about \$800,000 in the prior year. He noted that the KPPCSD had paid about \$200,000 during that year. Thus, he said, the liability had increased at a rate four times greater than the amount that had been paid – which indicated the liability would last a very long time and could be very large.

Director Gillette asked Lisa Caronna, Tim Snyder, and Rick Artis how long it would take to do the kind of analyses needed to take next steps to evaluate bifurcating, contracting and consolidation. Ms. Caronna said it would take time to define what this person would do, to determine whether the person would work full-time or part-time, and to find the money to afford this separate position. She said that these things might take about six months to complete. Tim Snyder said that the study done by Orinda and Lafayette was a benchmark, that it had been about an eight-month study, and that it had cost about \$900,000 to complete. Rick Artis said that, for consolidation, it would depend on when the community was ready to be surveyed, but he really didn't have an answer for how long it would take. He that said it was important to understand how the two Districts were funded and run and that consolidation should not be looked at as a financial band-aide for the KPPCSD. He said there needed to be a discussion about the community's buildings, and he encouraged the Fire Board to be public about the studies it was doing on the Public Safety Building.

Director Toombs said he had looked on the Fire District's website, and there was nothing about past structural reports for the Public Safety Building. He said he'd like to see those posted. He said he had submitted a Public Records Act request to Don Dommer, who had passed it on to the Fire District's General Manager. He said he wanted to see what the Fire Board was working on now, with respect to discussions underway about the Public Safety Building renovations and asked if there was some reason the community couldn't see this. Mr. Dommer responded that it was complicated: The Fire Board was looking at a number of different options, but it didn't have any cost estimates yet. Vice President Sherris-Watt said she was the conduit for information on this: She was the Chair of the Public Safety Building Committee. She said that, as soon as she had the Fire District's report, she would share it with everyone. Director Toombs asked where the Fire District was on the process and said the Fire District had said it would have a Town Hall meeting on this before the election, but this had been postponed. He asked if the Fire District had received a draft report. Mr. Dommer responded that the Fire Board did not have a draft but that it had given Director Toombs a copy of the structural report.

President Welsh thanked the Ad Hoc Committee.

MOTION: Director Gillette moved, and Vice President Sherris-Watt seconded, to adjourn the meeting.


Motion passed 5 – 0.

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

The meeting was adjourned at 12:00 P.M.



Len Welsh
KPPCSD Board President



Lynn Wolter
District Administrator