

Meeting Minutes for 8/13/15

A Regular Meeting of the Board of Directors of the Kensington Police Protection and Community Services District was held Thursday, August 13, 2015, at 7:30 P.M., at the Community Center, Kensington, California.

ATTENDEES

<u>Elected Members</u>	<u>Speakers/Presenters</u>
Len Welsh, President	Randy Riddell, Renne Sloan Holtzman Sakai LLP
Pat Gillette, Vice President	Deborah Russell, CPA
Chuck Toombs, Director	John Holtzman, Renne Sloan Holtzman Sakai LLP
Vanessa Cordova, Director	Mabry Benson
Rachelle Sherris-Watt, Director	Kay Reed
	Andrew Reed
	David Bergen
<u>Staff Members</u>	Paul Dorroh
Interim GM/COP Kevin Hart	Andrew Gutierrez
Sgt. Hui (on duty)	Simon Brafman
Lynn Wolter, District Administrator	Gail Feldman
	David Spath
<u>Press</u>	Leonard Schwartzburd
	Jim Watt
	Celia Concus
	Karl Kruger

President Welsh called the meeting to order at 7:35 P.M. President Welsh, Vice President Gillette, Director Toombs, Director Cordova, Director Sherris-Watt, Interim GM/COP Hart, and District Administrator Wolter were present.

President Welsh announced that the Closed Session, scheduled for earlier in the evening, had been cancelled.

PUBLIC COMMENTS

Simon Brafman congratulated the Board on its Ad Hoc Committee appointments and on initiating the committee, especially given the unknown outcome of the committee's work. President Welsh thanked Directors Toombs and Cordova for the hard work they had done.

Jim Watt said that the point he had been trying to make for a number of sessions had been the uncertainty of CalPERS earning its needed 7½ % rate of return. He noted that CalPERS, in the fiscal year just ended, had earned only 4½ %. He said that Director Cordova had sent to him information she'd

received from the California Special Districts Association, which had cited in a recent report that CalPERS' lesser returns would have a material effect on the financial wellbeing of Special Districts. He noted that the reasons given for CalPERS not being able to achieve the 7½% rate of return were:

- A growing number of retirees
- The increasing longevity of the retirees
- Poor investment returns
- Low interest rates
- Other economic factors

He said that, given changing actuarial data, CalPERS had said it would start to increase what it collected from participating agencies and that, as such, the District's contributions likely would increase substantially. He concluded by saying that this would probably be the District's last good year and, therefore, the Board needed to start a rainy-day fund.

BOARD COMMENTS

Director Cordova noted that longtime Kensington resident, W. C. Archie, had passed away. He had served the U.C. system in accounting for nearly 40 years, had been a member of the Faculty Club, and had been active in his church. His wife attended that night's meeting.

Director Cordova said she had been a member of the Government Affairs Committee of the CSDA since she had been seated in December. She reported that she had been re-appointed to three CSDA committees: the Formation and Reorganization Working Group, which deals with LAFCO issues; the Governance Committee, which deals with ethics, transparency and other mandates; and the Legislative Team, which deals with governance issues that impact special districts.

Vice President Gillette thanked Directors Cordova and Toombs for organizing the selection process of the Ad Hoc Committee members. She noted this would be a good opportunity for citizen input into the fact-finding necessary for a good outcome. She said the large number of highly qualified applicants impressed her. She thanked those chosen for their willingness to serve the community. She said she would not be able to attend the Board's regular meeting in September.

Director Sherris-Watt reported that the Park Buildings Committee would next meet on Thursday, August 20th, at 7:00 PM, at the Community Center. In response to Director Toombs asking if the committee was full, Director Sherris-Watt said the committee had seven members, but that the committee welcomed attendees.

Director Toombs reported that the Finance Committee would next meet on Wednesday, August 19th, at 7:00 PM, in the Main Room. GM/COP Hart noted there would be one agenda item: the preliminary review of the 2013-14 Audit.

STAFF COMMENTS

GM Hart reported that he was continuing to meet with residents. He said that he had met with a representative from POST, that the Police Department was a POST certified agency, and that it was fully in compliance. Director Cordova asked GM/COP Hart to explain what POST stood for. He responded, Peace Officers' Standards and Training and explained it was a State entity that set guidelines for police officers and police agencies. He added that Kensington is a POST certified agency. He reported that the 2015-16 Budget would be presented that night, that the Finance Committee had met on July 30th to review the Proposed Budget, and that the Committee had recommended that the Board approve it with some minor modifications that he would discuss later. He also reported that he had received a copy of the 2013-14 Draft Audit, that although late it had a clean opinion, and that he would be posting it for the upcoming Finance Committee meeting. He announced that, on August 22nd, there would be a GM/COP meet-and-greet, with a barbeque and a public forum. He said the event would start at noon, and the forum would begin at 1:30 PM. He said that all employees had signed a "cardinal sins"

document, which represented five core issues for GMCOP Hart, and that any violation of it would result in discipline. He summarized them: no lying, no drugs, no sexual harassment, no racial harassment, and no gratuities. GM/COP Hart concluded by announcing that Drug Take Back Day, for prescription drugs, would be on September 26th, from 10:00 AM until 2:00 PM.

President Welsh complimented GM/COP Hart for bringing volunteers, who had retired from another jurisdiction, to the office to help organize some of the Police Department's files and thanked him for his creativity in solving problems, at little or no cost to the District.

CONSENT CALENDAR

President Welsh asked if anyone wanted to pull items.

Director Toombs asked to pull Item i, and Director Sherris-Watt asked to pull Item b.

Director Toombs noted, with respect to Item i, that the Diablo Fire Safe Grant money needed to be spent by September 30th and that what it could be used for was restricted. He asked GM/COP Hart if the District would be able to meet the criteria. GM/COP Hart responded it would. Director Toombs thanked Jim Watt for his correspondence regarding the impact of CalPERS' performance.

Director Sherris-Watt noted that Rob Firmin's last name had been incorrectly spelled in the June 29, 2015 minutes. She asked for follow-up information about the amount that had been budgeted for Hazardous Waste in account 890. President Welsh responded that the contract was very unclear about the Hazardous Waste Fees and what could trigger an increase but that an increased fee would have to be justified. Director Sherris-Watt also asked for a follow-up on account 576 (Dues, Meals and Travel) and whether some of the money budgeted for this account would be for lunches. District Administrator Wolter responded that she had researched this and that the budgeted amount in question was for catered food for any training sessions that might be held for the Board.

MOTION: Vice President Gillette moved, and Director Cordova seconded, that the Consent Calendar be adopted.

Motion passed 5 – 0

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

DISTRICT OLD BUSINESS

1. The Kensington Police Protection and Community Services District Board of Directors reviewed and approved the Fiscal Year 2015/16 final proposed budget. The Board of Directors had reviewed and approved the proposed budget for FY 2015/16 at its regular Meeting held on July 9, 2015. This represented the second review. The Finance Committee had reviewed the proposed budget on July 30, 2015, and had recommended the Board of Directors approve the budget, with minor modifications.

General Manager's Recommendation: Review supporting budget documents, take public comment, deliberate, and approve the 2015/16 proposed budget.

GM/COP Hart said this was the second reading of the proposed budget and that there had been a reading prior to these two readings: There had been a presentation and review of a preliminary reading in June. He summarized changes that had been made subsequent to the Board's prior review.

- 504 (Compensation Cash-out) had been increased by \$10,000 because an employee had left and gone to another agency and had cashed out his unused vacation time when he left.

- 506 (Overtime) had been increased to \$60,000 (a \$15,000 increase) to reflect overtime increases that likely would result from an officer having left and not wanting service to fall below the expected level. He added that one of the officers was injured.

He said that this was, essentially, the same budget that had been presented to the Finance Committee and noted that it did not include year-end numbers for June 30th.

CPA Debbie Russell said she didn't want to issue June 30th numbers because she hadn't made year-end adjustments yet and said these adjustments were needed to ensure accuracy. She added that she usually made these adjustments earlier in the year, but instead she had used that time to help prepare the budget to ensure that the District had met its statutory requirement.

GM/COP Hart summarized the major revenue and expense amounts:

- Police Salaries and Expenses \$2,072,783
- Police Expenses \$325,268
- Recreation Salaries and Benefits \$31,147
- Recreation Expenses \$96,716
- District Expenses \$262,269
- Capital Outlay \$81,000
- Total Expenses \$2,869,183
- Total Revenues \$2,912,252
- Excess Revenue over Expense \$43,068

He noted:

- Cash Carryover 2014/15 \$1,480,663
- Estimated Carryover into 2016/17 \$1,523,731
- Total Identified Fund Balances \$371,829
- Unassigned Fund Balance Available for Contingencies \$1,151,902
- Percentage of Total Expenditures 40.15%

Vice President Gillette asked what type of insurance was paid for by account 850. Ms. Russell responded it was for liability and property insurance. Vice President Gillette asked whether there might be an opportunity to share coverage with the Fire District and obtain a reduced overall premium. She said this had nothing to do with consolidating with the Fire District.

GM/COP Hart complimented Jim Watt for having informed the District earlier in the day that the revenue detail had inadvertently been omitted from the budget. He said he had put copies of the document at each Director's place and on the table in the back of the room.

Director Cordova echoed Vice President Gillette's comment and said the District should explore opportunities to share resources with another District.

Director Cordova asked if the \$15,000 increase in overtime had been a cost shift from a Step 5 officer having resigned. Ms. Russell responded that had not been the case. Director Cordova suggested the cost should be shifted and noted that, although people don't like overtime, it's not pensionable. President Welsh asked Ms. Russell to weigh in on the matter. She explained that the budget was an approval of expenditures and said that both the Director and the Chief were of the opinion that the vacant position would not be filled immediately. GM/COP Hart said that, eventually, this position likely would be filled by a step one officer and added that, if Director Cordova wanted to make a motion to reduce the amount budgeted for account 502, she could do so.

Director Sherris-Watt asked about account 568, specifically the Children's Interview Center. GM/COP Hart explained this was a fee for a forensic child/adolescent interview services facility, based on use. She said she wanted to approve a budget based on information current as of that night not that as of June 30th.

Director Cordova said that, with respect to the patrol, she and GM/COP Hart had met about the issue for two hours and that this was an opportunity for GM/COP Hart to demonstrate prudence to the community. She said he should postpone buying a patrol car, he could sell one of the motorcycles, he should scrap the old car, and there should be more cost savings found in the budget to offset the purchase of the patrol car. She added that the Fire District had saved money in advance of purchasing its new truck.

Ms. Russell responded that the District had saved \$100,000 in a capital fund, with the intent that the District would purchase one new vehicle per year. She noted there was still money in this account and that it was labeled "Capital LAIF 134e" on page 58 of the budget. Director Cordova asked if this money was restricted. Ms. Russell responded it was intended for the purchase of vehicles. Director Cordova asked if the money to purchase a new vehicle would come out of this fund. Ms. Russell responded that it would and that the effect of this would be that this would result in a reduction of the cash carryover at the end of the year.

President Welsh asked what LAIF was. Ms. Russell responded, "Local Agency Investment Fund".

Director Cordova asked if the money budgeted for a vehicle could be used for some other purpose, such as the park buildings, Ms. Russell responded that, with a Board motion, it could.

GM/COP Hart said he had reduced the amount that would be needed for accessories from \$30,000 to \$3,000 and that he recommended the purchase of the vehicle, given the condition of the vehicle needing to be replaced. Director Cordova asked if this would be GM/COP Hart's car. He said that the vehicle he currently drove would become a District fleet vehicle and that the new vehicle would become the one to be driven by the Chief. Director Cordova asked if GM/COP Hart would be selling one of the motorcycles. He responded that he likely would not and said that police vehicles were public safety tools. He explained there would be cost offsets to the purchase of the new car: the old car would be sold and some of the equipment from the old car would be reused.

President Welsh invited public comment.

David Bergen said there were large sums of money in savings/reserves and asked if it couldn't be invested. District Administrator Wolter asked if he was suggesting that money be invested outside the LAIF account. Mr. Bergen responded there were ways of having one's money work for one. District Administrator Wolter responded that the District's money needed to be invested in the County's LAIF Account because the County required this as part of the agreement whereby the County processed the District's checks.

Gail Feldman added that the returns on LAIF accounts were low because they could only invest in certain, very safe, investment vehicles. Ms. Feldman said she had been unable to attend the Finance Committee meeting. She noted that revenues had increased because of the increase in Measure G and an increase in the anticipated ad valorem tax revenues. Ms. Russell responded that the initial versions of the budget had been prepared with a 3% increase in the ad valorem tax and that, after learning that the County was expecting a higher percentage increase than previously expected, GM/COP Hart had changed the increase to 4.5%. And, she clarified that the increase in the Measure G revenue amount was \$13,000.

Ms. Feldman said she echoed Director Cordova's comments and added that the District had not used zero-based budgeting; instead, it had built on the prior year's budget, especially with respect to overtime. Ms. Feldman suggested that officers' salaries (502) should be reduced to anticipate a step-one new hire. She also suggested keeping overtime at \$40,000. She said the budget didn't include any allowance for the MOU and that it didn't include any additional money for park management. She also questioned why money had been budgeted for the Annex when there was no money to maintain it.

Ms. Feldman also recommended that the budget include \$20,000 to \$25,000 for consultants to assist the Ad Hoc Committee that would be exploring governance options. Ms. Russell responded that the

Finance Committee had recommended approval of the budget without an amount budgeted for such consultants. GM/COP Hart added that the Board had not given any direction on this. Vice President Gillette replied that she would rather have the Ad Hoc Committee come to the Board with a request for consultants if they determined such services were needed and said she agreed with Ms. Feldman with respect to the Annex. Director Sherris-Watt said she was concerned that, if Measure WW funds weren't spent by December 2016, those funds would be lost and that, if work could be done on the Annex more quickly than work could be done on the Community Center, that could be a way not to lose the WW money. Vice President Gillette responded that, given the estimates for needed repairs on the Annex, the \$158,000 of WW funds would do very little for the Annex. Director Sherris-Watt noted that the Annex was a capital asset and the patrol car was a depreciating asset. President Welsh responded that the \$2,000 budgeted for the Annex would be sufficient to obtain an ADA evaluation. Director Sherris-Watt said the Board should express as much interest in the Park Buildings as in police services. Vice President Gillette responded that she was interested in all aspects of the District's operations. Director Sherris-Watt said she wanted money for the Annex included in the budget in order to ensure that Measure WW funds wouldn't be lost.

GM/COP Hart said that the budget's overall expenses were \$100,000 less than they had been in the prior year and that the budget didn't include COPs funding, or any possible MOU or OPEB increases. He said he anticipated mid-year adjustments.

Director Cordova said this \$100,000 savings had come at the expense of providing other community services, suggesting he had cut the amount of money going to things such as the parks buildings.

Director Sherris-Watt asked for an explanation about the Franchise Fees account. Ms. Russell explained that, as a result of earlier arbitration with the solid waste company, \$31,000 had been borrowed from the general fund. She said the Franchise Fee account needed to reimburse this amount to the general fund. She said that, once this reimbursement had been made, franchise fees would accrue to the Franchise Fee account.

Lisa Caronna said that it would cost \$600,000 to bring the Annex up to classroom quality and that it would cost \$1 million to make it possible for community use. She said that, when the Community Center had been previously evaluated, there had been available time – time when the building wasn't being used and, as such, had more capacity. She said this further begged the question of whether it made sense to spend money on the Annex. She added that it was critical to use the WW money and suggested that the net available amount could be used for needed things like park lighting.

Andrew Gutierrez asked where traffic ticket revenue was recorded. Ms. Russell responded it was in account 410. He suggested that issuing tickets, especially on the Arlington, would generate more revenue. GM/COP Hart responded that he projected approximately \$1,500 in ticket revenue but that this wasn't much of a revenue generator because the District received only about \$10 per citation issued. He said he supported Mr. Gutierrez's concerns.

Discussion ensued about traffic enforcement. President Welsh suggested discussing the topic at the next Board meeting. Vice President Gillette asked that the Board focus on the budget.

Celia Concus said she had done an analysis of overtime and that officers earned 4 hours of overtime for going to court when tickets were contested. She said citations weren't a good way to slow traffic and this approach wasn't good for the overall budget.

Jim Watt said he objected to the fact that a page of the budget, revenue projection, had been omitted. The District's legal counsel, Randy Riddle, responded that it would be included at that point. Mr. Watt said the public had been entitled to receive it within 72 hours. Mr. Riddle responded that the law was not specific on this issue. Mr. Watt said he echoed Director Cordova's concern with respect to officers' salaries. He said the District was down one officer and that this would result in \$40,000 of savings. He noted that, when this officer was replaced, he would probably be replaced with a step one officer, who would have a different pension plan. He said that overtime had been increased and that overtime was

not pensionable and questioned, therefore, whether the officer who had recently left the department needed to be replaced. He questioned whether sufficient money had been budgeted for 521R and 521T (medical retired and the OPEB Trust). He also questioned why more money had been budgeted for account 560 than had been spent in the fiscal year just ended, why the District had another vehicle designated for reserve officers, and why the District had a vehicle designated as a training vehicle. He suggested that, instead, officers should use their own vehicles for training purposes and then be reimbursed, by the District, at the prevailing federal mileage rate. He said that, in the current climate, the District should not add a new vehicle and that more money should be budgeted for a consultant for the Ad Hoc Committee.

Vice President Gillette asked Ms. Russell if the Fire District had the same medical trust issue that the KPPCSD did. Ms. Russell responded they did and that they still funded it.

Jim Watt suggested taking money out of reserves and sending it to the OPEB, where it would earn more than it would in the LAIF savings account, provided there was no downturn in the market.

Celia Concus said the Fire District didn't have the same medical benefits for its retirees. She said Fire Chief Lance Maples had told her that fire retirees received no benefits for themselves or their dependents. She said they did receive \$300 per month while in active service that went into a special fund from which they could draw to buy insurance.

David Spath responded that the recent MOU for El Cerrito firefighters said that, upon retirement, firefighters received \$300 per month for insurance and that retired El Cerrito police officers did not receive this benefit. He said active EC firefighters and their dependents were covered under the lowest cost Kaiser plan.

At 9:40 PM, the following motion was made:

MOTION: Vice President Gillette moved, and Director Cordova seconded, that the meeting be extended, with a five-minute break, until the evening's business was completed.

Motion passed: 5 – 0

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

Karl Kruger said that the District had a new GM/COP, who had been very responsive, and that he should be given a chance. He said he endorsed the budget.

From 9:42 PM until 9:51 PM, there was a break.

Director Sherris-Watt suggested that account 502 be reduced to \$955,253 (a \$40,000 reduction) and that 835 (consulting fees) be increased to \$10,000. She suggested that 962 (patrol car) be reduced to \$15,000 because she wanted to better understand the original intent of capital account 134e and that then, in September, the Board could add another \$15,000 to account 962.

Director Cordova proposed that, because the OPEB Trust produced more income over time, the District fund the trust by an additional \$75,000, with the money coming from the 2014-15 cash carryover. She suggested that 502 (officers' salaries) be reduced to reflect that a new hire should be a step one officer and that the resulting difference should be what funded the anticipated need for an increase in overtime (account 506). GM/COP Hart responded that, should an officer be hired at step-one, that officer would be at step-two within the fiscal year and suggested that the amount budgeted not be changed. Director Cordova suggested that the savings between the step-five and step-two salary be shifted to cover the anticipated increase in overtime costs. She said 962 (patrol vehicle) should be reduced from \$30,000 to \$15,000 and that the \$15,000 should be found in savings elsewhere in the budget or through grants. She said that account 835 (consultants) should be increased to between \$15,000 and \$20,000 for consultants for the Ad Hoc Committee. She suggested that these additional amounts could be obtained through grants.

Vice President Gillette suggested that money should not be budgeted for the Annex. She asked GM/COP Hart, if money were to be authorized for consultants for the Ad Hoc Committee, would the Committee need to return to the Board in order to spend that money. GM/COP Hart responded in the affirmative. She said that, with respect to the other suggestions just made, the GM/COP should not be micro-managed; that she had confidence in him and that he would not overspend. She asked Director Cordova why she wanted to budget another \$75,000 for the OPEB Trust. Director Cordova responded that the amount needed to fully fund the OPEB Trust was \$2.5 million and that the District was currently funded at just \$700,000. She said the \$75,000 would earn more interest if in the trust and, other than this, there was no basis for the amount suggested. Ms. Russell said that, while the District had not fully funded the trust, the District's trust was over-funded, based on the requirement. She added that the money could earn more if sent to the trust. She added that, once sent, the money couldn't be withdrawn. Vice President Gillette said she supported the purchase of the police car.

President Welsh said that he wanted to proceed with the budget the Chief had submitted. He said the Finance Committee had recommended the budget with minor changes and noted there would be a mid-year review.

MOTION: Director Sherris-Watt moved, and Director Cordova seconded, that the Board accept the proposed 2015-16 Budget with the following changes: that Account 502 reflect the hiring of a step-two officer rather than a step-five officer; Account 521T be increased to \$75,000, Account 835 be changed to \$15,000; Account 962 be changed to \$15,000; and Account 666 be reduced to zero. Vice President Gillette made a friendly amendment that Account 662 also be reduced to zero. Director Sherris-Watt seconded the amendment.

Motion Failed: 3 to 2

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

Vice President Gillette asked GM/COP Hart if there was a possibility of hiring an officer at a higher step. He responded in the affirmative. She also asked about sending \$75,000 to the OPEB Trust. GM/COP Hart explained that, once that money was sent to the trust, the District wouldn't be able to withdraw it.

MOTION: Vice President Gillette moved, and President Welsh seconded, that Account 502 be reduced to reflect the hiring of a Step-two officer, with the caveat that the Chief could come back to the Board for additional money if he chose to hire an officer at a higher level; that the Board wait for more information, in the form of the Actuarial Report, before making a decision to send additional money to the OPEB Trust; that Accounts 666 and 662 be reduced to zero; that \$15,000 be budgeted for consultants; and that the car be kept in the budget. Director Toombs made a friendly amendment to keep \$2,000 for the Annex.

Motion passed: 3 to 2

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

There was a discussion about the OPEB Trust. Director Toombs explained that the District had no obligation to fund a dime of the Trust. He said that, over five years, the District had gone from a balance of zero to balance of \$750,00 and that the full obligation was \$2.5 million. He added that, out of an \$11 million unfunded liability, the District had an \$8 million balance with CalPERS retirement.

Ms. Russell clarified that the District could put both the retired medical amount (the pay as you go amount) and the trust amount into the OPEB Trust at the beginning of the year and then withdraw the retired medical amount, plus any amount it might earn, at the end of the year.

2. The Kensington Police Protection and Community Services District Board discussed and considered taking action on amendments to the employment contract of the General Manager/Chief of Police to (1) reduce the annual salary from \$150,000 to \$145,000 and (2) have the District contribute to healthcare coverage.

GM/COP Hart and CPA Deborah Russell left the meeting.

President Welsh asked John Holtzman to provide the background on this item. Mr. Holtzman explained that this proposal was not technically an amendment to the contract because a contract hadn't been signed yet. He said that, initially, GM/COP Hart had thought he'd be able to continue receiving medical benefits as a member of the Dublin City Council but that an arcane PEMHCA (the health part of CalPERS) rule stipulated that an individual couldn't receive health coverage from one employer and retirement benefits through another. Rather, both types of coverage had to be provided by a single employer. He said this was an unusual circumstance and that neither he nor GM/COP Hart had any way of knowing this during earlier negotiations. He said that GM/COP Hart had agreed to have his benefits provided through a cafeteria plan and that this would mean GM/COP Hart would not be entitled to retiree health benefits upon retirement. Mr. Holtzman said, however, that a minimum required amount (\$122) would have to go to PEMHCA and the balance would go into the cafeteria plan. He clarified that the District would have to pay the \$122 PEMHCA amount. President Welsh questioned how GM/COP Hart could retire from Kensington and receive retirement benefits, which Mr. Holtzman explained: GM/COP Hart was a District employee who had been a PERS employee for the required minimum number of years. Mr. Holtzman said GM/COP Hart had said he would not take retiree health from the District and, that upon approval of the MOU, he would match the officers and the District agreed to. Mr. Holtzman said, with the salary reduction and the change in the healthcare coverage, the cost to the District, over the balance of GM/COP Hart's contract, would be \$6,595. On an annual basis, the cost would be \$11,000. Even with these changes, Mr. Holtzman noted that GM/COP Hart's total compensation would be a less expensive than that of his predecessor.

} add "per month" after "\$122"

Mr. Holtzman recommended the contract, noting it would be precedent setting, with respect to the District establishing a cafeteria plan. He noted that GM/COP Hart was losing his healthcare benefits because he accepted the position with Kensington. He said the District needed to provide healthcare; the question was whether the District or GM/COP Hart would bear the cost.

Vice President Gillette said she wanted to be sure of the math. Mr. Holtzman clarified that GM/COP Hart's salary would be reduced to \$145,000; that GM/COP Hart would pay for \$5,000 of his \$18,000 annual medical insurance premiums through his reduction in wage. He said the actual increase would be \$6,595 and that, on an annual basis, the cost would be \$11,000. Ms. Gillette clarified that the \$145,000 salary would be annualized over six months.

Director Cordova said she wanted the change to be cost-neutral and said she thought the salary should be \$140,000.

Director Sherris-Watt said she had first learned of this in June and that it was neither the District's nor GM/COP Hart's fault. She suggested splitting the difference and said the salary should be \$140,000. Director Cordova asked about the economics of establishing a cafeteria plan for one employee. Mr. Holtzman said managing the plan would not be too expansive – the District would contract out for this at a rate of about \$100 per year. He said the greater cost would be in setting up the plan, which would cost about \$5,000. Director Toombs noted that, should GM.COP Hart retire from Kensington, the cost to the community would be far greater than \$5,000 plus 100 per year.

Vice President Gillette asked if GM/COP Hart could be asked to contractually decline the lifetime medical coverage. Mr. Holtzman responded that PERS would not allow this. There was discussion about the cost of retiree health costs. Mr. Holtzman noted that a cafeteria plan would provide a way to reduce these costs and suggested that the District would need to move in this direction over time anyway.

Vice President Gillette said that GM/COP Hart was what the District needed and that he had been tens of thousands of dollars less expensive than some of the other applicants. She said that, had the Board known about this situation at the time, they likely would have said “yes” to him. She concluded by saying that she supported what was being offered, that GM/COP Hart was “right” for the community, and that the District should treat GM/COP Hart with respect for the time he’ll be with the community. She said it would be unusual for the District to hire anyone who didn’t need health benefits.

Director Cordova said she respected GM/COP Hart but that she respected the community more. She said the District and GM/COP Hart should find a way to share the burden equally. Vice President Gillette responded that she respected the taxpayers, too. She reiterated that, if the Board were to go back in time, it would select GM/COP Hart. She said this had been a legitimate mistake and the District should make him whole.

President Welsh said he disagreed with Director Cordova and agreed with Vice President Gillette. He said there was no doubt the Board would have selected GM/COP Hart.

Director Sherris-Watt asked why it had taken so long for this to get to the Board. Mr. Holtzman responded that this had been a negotiation – there had been two parties involved.

Vice President Gillette said that the job hadn’t changed and that the Board had been willing to pay \$150,000 in salary, plus benefits. She said it would send the wrong message to play “gotcha” with employees. Director Cordova said she had valued the job at significantly less than \$150,000. She had valued it at \$130,000.

Kay Reed asked if Dublin would be willing to contribute to GM/COP Hart’s healthcare. Mr. Holtzman responded that he hadn’t asked that question. Ms. Reed said spending \$5,000 to set up a cafeteria plan was a good investment. She concluded by saying the District had a new employee, and she didn’t want him coming to work thinking he was working for cheapskates and by asking the Board to think about the human aspects of the situation. She noted this represented a pretty small portion of the budget.

President Welsh said that GM/COP Hart had been working more than 40 hours per week and that he didn’t want to see a break in that enthusiasm.

Jim Watt said he had concerns about the proposal, primarily with respect to GM/COP Hart serving on the Dublin City Council, which he said appeared to be in conflict with the District’s agreement with GM/COP Hart. Director Toombs said GM/COP Hart was not in conflict with any contract because there was no signed contract. Mr. Watt said one of the things he had liked about Chief Hart had been that the District wasn’t going to have to pay his medical benefits. Vice President Gillette asked Mr. Watt what his solution to the problem would be. He said GM/COP Hart and the District should “split the baby”.

Director Cordova asked why the contract hadn’t been signed. Mr. Holtzman responded that the medical coverage problem had been discovered before the contract had been signed. He also clarified that PERS stipulated that whatever benefits were provided for active employees had to be provided for retirees.

Paul Dorroh said he wanted to advocate for a sense of proportion. He said that, against long odds, the Board had hired someone excellent and professionally well regarded. He noted that the net cost would be \$5,000 to \$6,000 and that he didn’t want to run the risk of demoralizing or losing GM/COP Hart, someone who could help “right the ship”. He suggested doing the deal and then revisiting the issue at the end of the contract.

Director Sherris-Watt said that, during the selection process, there had been many excellent candidates and that she respected Mr. Holtzman. She said the issue was that the Board never picked the less expensive option.

Director Cordova said that every dime counted.

Andrew Reed thanked Mr. Dorroh and said he agreed with him. He said Mr. Holtzman's case was strong and posed the question of what would happen if GM/COP Hart were to walk out. He said the discussion was about a 6% change, the Board should let the Chief do his job, and the Board should focus on the big picture. He noted there was a silver lining in that the District would embark on establishing a cafeteria plan. He said there were serious issues that needed attention and the Board should let GM/COP Hart get back to doing his job.

Simon Brafman asked how this had happened and said he held the Board responsible. He said the Board should have asked the right questions and caught this. Vice President Gillette responded that the Board had asked the right questions. He pointed out that the contract contained a clause prohibiting compensation without Board authorization and that the Board should have been attentive to this clause when it learned, during early discussions with GM/COP Hart, that he was receiving health benefits from the City of Dublin because this constituted a form of compensation.

Celia Concus said she was surprised that no one knew the contract had not been signed. Mr. Holtzman said there had been an agreement and that, just before GM/COP Hart was ready to sign it, the health coverage issue came to his attention. She said the Board and GM/COP Hart should split the difference, that his was a generous offer, and that this was not reflective of his performance.

Karl Kruger said he was disappointed and surprised there was no contract and said the retirement issue was big and needed to be dealt with. He said there should be a contract.

Mabry Benson suggested that the Police Chief should consider trading the police car for health benefits.

Gail Feldman said that this issue showed the District's weakness in the area of personnel administration, that the Board had a responsibility to figure out this problem, and asked Mr. Holtzman to explain. She said she appreciated the Board members who were saying the cost should be split. He explained that the required minimum payment would be paid to PEMHCA (the health side of CalPERS) and the balance would go into a cafeteria plan. Mr. Holtzman responded that, if anyone should have caught this issue, it was he. He said PEMHCA required that employers provide health coverage for its employees.

Vice President Gillette clarified that it was neither unusual nor illegal for GM/COP Hart to have begun working without a contract.

Mr. Holtzman added that post-Bell, state law required that, for certain categories of employees, compensation had to be discussed at a regular meeting of the governing agency and said this, too, had slowed the process of getting the matter before the Board.

Director Sherris-Watt asked if the District could approach Dublin. Mr. Holtzman responded that this was an interesting suggestion and that he would reach out to them. President Welsh agreed it was interesting and said that action needed to be taken that night.

Vice President Gillette suggested adding to the contract, even though it wouldn't be enforceable, a clause saying that GM/COP Hart would not seek retirement benefits through the District.

MOTION: President Welsh moved, and Vice President Gillette seconded, that the Board accept the amended contract that Mr. Holtzman presented, with the caveat that legal counsel ask GM/COP Hart to agree to a statement in the contract that he would waive the District's retirement health benefit.

Motion passed 3 to 2.

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

Andrew Gutierrez said he had confidence in Mr. Hart. He noted comments that had been made about needing to dig out of a hole and to watch pennies. He said this hadn't been done in the past, the Board was moving in the right direction, and the Board needed to pay attention to details.

GM/COP Hart returned to the meeting.

DISTRICT NEW BUSINESS

1. The Kensington Police Protection and community Services District Board of Directors reviewed and considered the adoption of Resolution 2015-07, authorizing the General Manager, District Administrator, and Certified Public Accountant to deposit or withdraw money in the Local Agency Investment Fund. General Manager's recommendation: Take public comment, deliberate, and adopt Resolution 2015-07.

GM/COP Hart introduced the item, explaining that, with the recent change in the position of GM/COP, the County had requested that the District update authorization documents for the District's LAIF accounts and that this needed to be done by way of a resolution. He said that current authorized signatures were those of former GM/COP Harman, Police Services Aide DiNapoli, and CPA Russell and that he would like two of the three authorized signatures changed to those of himself and District Administrator Wolter, while keeping that of CPA Russell, and that these signatures were incorporated in the resolution.

Director Cordova said a part time District Administrator should not be allowed to be one of the three who would sign such documents.

It was consensus of the Board that two signatures should be required, with the General Manager's being one of them.

President Welsh moved, and Vice President Gillette seconded, that Resolution 2015-07 be adopted, with the amendment that two signature be required for the withdrawal or deposit of monies in the Local Agency Investment Fund and that one of those signatures must be that of GM/COP Hart and that of District Administrator Lynn Wolter or CPA Deborah Russell.

Director Toombs noted there were two signature bars on the Delegation of Authority page and asked if there needed to be a third bar for District Administrator Wolter. GM/COP Hart responded that it didn't; that was the way the document had come from the County. GM/COP Hart noted that there were just two signatures on the form that former GM/COP Harman had signed. President Welsh asked if GM/COP Hart would ask the County if the third signature bar could be added.

President Welsh said there was a motion, with a second, on the table and called for a vote.

MOTION: President Welsh moved, and Vice President Gillette seconded, that Resolution 2015-07 be adopted, with the amendment that two signatures be required for the withdrawal or deposit of monies in the Local Agency Investment Fund and that one of those signatures must be that of GM/COP Hart and that of District Administrator Lynn Wolter or CPA Deborah Russell.
Motion passed: 5 – 0

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

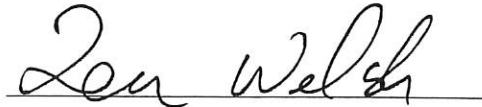
Director Toombs asked if anything needed to be signed that night. GM/COP Hart responded in the negative. He said he had some work to do on the document, that he would bring it back for the President to sign, but that the motion stood.

MOTION: Director Cordova moved, and President Welsh seconded, that the meeting be adjourned.

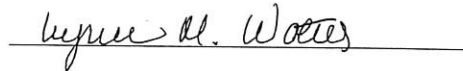
Motion passed: 5 – 0

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

The meeting was adjourned at 11:57 PM.



Len Welsh
KPPCSD Board President



Lynn Wolter
District Administrator

09/04/15

Accrual Basis

KPPCSD
Transaction Detail By Account
August 2015

20

Date	Num	Name	Memo	Split	Amount
420 · Park/Rec Activities Revenue					
427 · Community Center Revenue					
08/04/2015	264		CC Rental P...	112 · General ...	700.00
08/04/2015	3751		CC Rental P...	112 · General ...	900.00
Total 427 · Community Center Revenue					
438 · Misc Park/Rec Rev					
08/04/2015	4445		Tennis Court ...	112 · General ...	40.00
Total 438 · Misc Park/Rec Rev					
Total 420 · Park/Rec Activities Revenue					
TOTAL					
					1,640.00