

## Meeting Minutes for 6/9/16

A Special Meeting of the Board of Directors of the Kensington Police Protection and Community Services District was held Thursday, June 9, 2016, at 6:00 P.M., at the Community Center, 59 Arlington Ave., Kensington, California.

### ATTENDEES

<u>Elected Members</u>	<u>Speakers/Presenters</u>
Len Welsh, President	Randy Riddle, Renne Sloan Holtzman Sakai LLP
Rachelle Sherris-Watt, Vice President	Deborah Russell, CPA
Chuck Toombs, Director	Frank Lossy
Vanessa Cordova, Director	Barbary Steinburg
	Andrew Gutierrez
	Jim Watt
	Marilyn Stollon
<u>Staff Members</u>	John Gaccione
Interim GM/COP Kevin Hart	Mabry Benson
Sgt. Hui (on duty)	A. Stevens Delk
Lynn Wolter, District Administrator	David Spath
	Celia Concus
<u>Press</u>	Linda Lipscomb
	Karl Kruger

President Welsh called the meeting to order at 6:05 P.M. and explained that, although the meeting ought to have been a regular meeting, it had had to be changed to a special meeting, primarily to discuss the proposed budget.

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

President Welsh announced that the District's regular meeting for the month would be held on June 22<sup>nd</sup>. He explained that the Policy and Procedure Manual stated that the Board was supposed to take up the first reading of the proposed budget at its May regular meeting. He said that the Board hadn't done this at the May meeting because the Board had had to shut down by 10:00 P.M. and that, in order not to violate the Manual again – which requires the Board to adopt its budget at its June regular meeting, the Board needed to meet at this time in order to have the first reading, which he reiterated should have been done in May. He explained that, because of this, the June regular meeting was being postponed until June 22<sup>nd</sup>, at which time the Board would adopt the final budget.

President Welsh also said that there had been some Closed Session items scheduled for the night but that these had been postponed because Director Gillette couldn't attend and because most of what had been scheduled had been briefings from the attorneys, which weren't of an urgent nature. He explained that the Closed Session items would appear on the June 22<sup>nd</sup> agenda.

## PUBLIC COMMENTS

Frank Lossy said that people were still struggling with the sound system and that the Board was losing its audience. He noted that more and more people, like himself, who were hard of hearing, were giving up on coming to the meetings because they couldn't hear what was being said. He said there were legal requirements that public meetings had to have adequate systems for the hearing-impaired. He said this was an element of the Americans with Disabilities Act (ADA).

Andrew Gutierrez said he had seen that Item b had appeared on the Closed Session. He said he had been one of the people who had been reviewed in the complaint against the police department regarding police activities; specifically traffic stops. He said the presentation from the attorney, Mr. Buffington, had been the most unprofessional presentation he thought he had ever witnessed. He said he had come to the conclusion that it had been wrong and had verged on fiction. He said, therefore, that he was opposed to the release of the investigation report in any form at all. He added that, if it had been done professionally, competently, and with integrity, and all the items were to be released, he would say it would be okay to release.

Marilyn Stollon said the District had hired Public Law Group (PLG) to keep the Board within the boundaries of good governance – to be the moral compass, which people had seen repeatedly abused. She said that, while claiming to protect the District, PLG ultimately should protect the residents and not the political interests and personal interests of the majority Board. She asked for a stop to the attacks on those who criticize the police and the Board. She said that, in the late 1960's, when she had been a college student, she had had worked for Shirley Chisholm, the first African-American U.S. Congresswoman, who had been the daughter of a shoemaker. She said that, when Ms. Chisholm had been newly elected, her constituents had bought her a new wardrobe but that some in Washington D.C., who didn't want her to serve, had shredded the clothes. She said that people had also taunted and spread lies about her. She said that Ms. Chisholm had said she had been "un-bought and un-bossed" – just as Director Cordova and Vice President Sherris-Watt were. Ms. Stollon said that Ms. Chisholm had stressed standing up for one's convictions and being unafraid and that she had absorbed this lesson. She said she supported anyone who spoke out for the truth and for real change. She said the Richmond Internal Audit (IA) was clearly biased, incomplete, and worthless: It should only be publicized if every word of it were released so the public could review it and compare it, fact to fiction. She said that, if every person did not agree, as she had heard, then it should be thrown out.

Barbara Steinburg said she wanted clarity about the Richmond investigation of Director Cordova's traffic stop. She said she wanted to address the first person who had spoken and had said that Mr. Buffington had been biased. She said that Mr. Buffington was the attorney for the police, but that the investigation that had been done by the Richmond Police Department had been very separate from Mr. Buffington's comments. She said she believed that IGM/COP Hart had taken the investigation out of the Kensington Police Department in order for it to be unbiased. She said that, because there had been so many complaints about the police department from other people, the report should be released. President Welsh responded that the time to take this up would be at the June 22<sup>nd</sup> meeting.

Karl Kruger said he appreciated the notes on the financial statements that staff had been preparing for a number of months. He said he wanted IGM/COP Hart to know the notes had helped him to understand the variances. He also said he had attending the Fire District Board's meeting the previous night. He said the good thing was that he had seen eleven people in the audience; the most he had ever seen there. He said that the bad thing was that the Fire Board, without prior discussion, had authorized a 7.75% increase in fees to El Cerrito for the upcoming year. He said the KPPCSD had spent six or seven meetings talking about a 3% increase for the officers, which came with a giveback almost equal to the 3%. He noted that the Fire Board had held a meeting the prior week, at 2:00 in the afternoon, which he hadn't caught. He said that, at the prior night's meeting, he had been the only one who had objected to amount the community would be paying: 267% more than had been paid in the first year of the contract with El Cerrito. He said Kensington residents pay \$679 per house per year for fire service, while El Cerrito residents pay \$244 per house per year for fire service. He noted that Kensington residents were

paying about three times more than El Cerrito residents. He said that there were some who had attended the Fire Board meeting who had objected to the increase for the police officers but who hadn't objected to the increase in the fire service contract.

Jim Watt said he, too, had attended the Fire Board's meeting. He said the 7 ½% increase had been calculated based on the total El Cerrito Fire Department's budget, something over which Kensington had no control. He said that, in the last Board Packet, there had been a page from the Monthly Command Watch Report and that, in that report, it had said the Kensington Police Department was still working with a skeleton crew to cover patrols. He said that he wanted to recognize Sergeant Hui, Officer Martinez, and Officer Wilson for showing up and for their integrity and that he looked forward to the return of the injured officers. He asked IGM/COP Hart about the officers on light duty and when he thought they would return to duty. IGM/COP Hart responded that he didn't have an anticipated date and that, even if he had one, he couldn't tell people.

A. Stevens Delk said that the citizens had not ceded control to the elected board: It is not for public servants to decide what is good for the people to know and not to know. She said the people insist on maintaining information so they can retain control over the instruments they had created and noted that this was an element of the Brown Act. She said she had been disturbed by the May Board meeting because of the divisiveness of the Board and the community. She cited the Buffington press release as having contributed to this. She added that, after the May Board meeting had been adjourned, it had continued for another couple of hours at a local bar. She said the fuel was becoming greater; was going to explode – completely destroying Kensington; and, perhaps, by example, the fire department would save the community.

John Gaccione said that there had been waves of Board mismanagement and police department fiascos. He added that this seemed to happen with greater frequency near Board elections. He cited that the Reno incident had occurred at about the time of the last Board election and said this had exposed the District to major legal liabilities. He said former GM/COP Harman had given the officer a 30-day suspension, which the officer had covered with a combination of vacation days and days off. He said this had rendered the suspension meaningless. He said that Officer Barrow would have been fired by most police agencies, but in Kensington the Board and then GM/COP Harman indicated that this behavior would go unchallenged. He said the Board had concealed this until after the election. He said Director Gillette had said she had been in touch with Sergeant Barrow that weekend because they had been in negotiations on the officers' memorandum of understanding, but Mr. Gaccione said he found it hard to believe they hadn't discussed the Reno incident. He said citizens had learned about the incident from an article in a local newspaper. He said that, subsequently, GM/COP Harman had been fired but that, because he had already disciplined Officer Barrow, no further disciplinary actions could be taken. He noted that three of the current Directors had served on the previous Board. He said that, with the recent Director Cordova traffic stop, there was another ethically and legally challenged situation. He said Sergeant Barrow had been supervising Officer Ramos when they went on a lunch break in north Berkeley, where they pulled over Director Cordova because she hadn't had a front license plate. He said that IGM/COP Hart had said that Kensington police had been tracking the location of Director Cordova's vehicle, but that Sergeant Barrow and Officer Ramos had said it had been a random stop. He said the officers had used unprofessional and heavy-handed methods in conducting a fix-it ticket stop, which had resulted in Director Cordova pressing charges of intimidation and harassment. He said the officers' behavior during the stop indicated it was more of a personal vendetta rather than a professional law enforcement activity. He said that Mr. Buffington was leading a personal smear campaign. He said that the Alameda Court had found Director Cordova not guilty, in the name of justice and that, for their unprofessional behavior in the traffic stop, Officer Barrow had been demoted and Officer Ramos had been suspended. He said this was matched only by the low standards tolerated in the department and matched by the Board majority. He asked why Kensington continued to be plagued by problematic police work and why the Board majority continued to support that behavior.

Mabry Benson said the Board was stuck between a rock and three hard places regarding the release of the investigation: If none of the report were to be released, it could result in accusations of the hiding something and speculation, which she said the Board was used to; and that, if the Board released all of

the report, the Board would likely put people involved at risk of retribution. She said that those who testified likely told more because they had assumed their comments would be confidential, under the police bill of rights. She said this also would likely undermine any future investigations because witnesses would be reluctant to tell all they knew, if there was a chance that what they had said would be released. She said that, if the Board released only part of the report it would face both problems: people would wonder what had been hidden, speculation would abound, and confidentiality would be compromised. She said the option that would result in the least damage would be to release none of the report. She noted that aspects of the report had been criticized, such as not having talked to all the witnesses, which, she said, made the report meaningless. She said there were lots of folks in town who were intent on defending the police no matter what they'd done. She questioned issuing a ticket for an expired registration and missing license plate, rather than a fix-it ticket, though the items had been taken care of in Berkeley, and she asked why the Berkeley police hadn't taken care of this. She asked why Director Cordova hadn't been cited previously in Kensington and why others hadn't been cited for missing front license plates. She asked why the officers continued to ignore the red car, near 155 Arlington, that had a missing front license plate. She said this smacked of an intimidation stop. But, she said, because the tickets had been dismissed and the officer involved had been disciplined for improper procedures, she asked why people continued to defend the police and continued to attack Director Cordova as a dangerous criminal.

Celia Concus said that, if the report were to be released with un-redacted comments, with all the questions, and with all the interviews, then she would have no problem with the report being released. She said all the Reno IA and other investigations should also be released so residents could see what former GM/COP Harman really had done. She said she thought there were three other Internal Affairs investigations that were going on now that were being kept under wraps. She said that, if all of them were to be released, she would be happy. She questioned how anybody could think the stop of Director Cordova, in which she had been pulled over and ticketed, had made any sense. She asked when it was right for an on-duty officer to run a taxi service for his superior officer so he could buy a drink in another town. She asked if there wasn't enough to do in Kensington to keep that officer busy. She asked, if not, was he really needed. She said she had been told that the Richmond Police Department's Lieutenant Dickerson, had performed the investigation and had interviewed a relatively small number of people during the investigation. She said that, absent from the list of people interviewed, had been the occupants of the houses on Ensenada whom, she said, had witnessed Director Cordova being pulled over. She said Lt. Dickerson hadn't interviewed the smog technician but that she, herself, had interviewed him. She said Vice President Sherris-Watt hadn't been interviewed, though she had information to tell: She had been present when IGM/COP Hart had told Director Cordova that he had known the whereabouts of her vehicle. She said IGM/COP Hart had attributed this information to more than one officer. She said this suggested that Director Cordova's car had been under surveillance. She asked if any of the people, who had been alleged to have been present when Director Cordova had come into IGM/COP Hart's office following the incident, had been interviewed; but she said she doubted it. She said that IGM/COP Hart's comments had been inappropriate and that they had been made while an IA had been ongoing. She asked what questions Lt. Dickerson had asked, she asked if Lt. Dickerson had allowed people to speak freely during interviews, and she asked if interviewees had been allowed to add information they had thought might be relevant to the incident. She said she had just learned that Lt. Dickerson was no longer in charge of the Internal Affairs Investigations unit in Richmond and that all internal affairs investigations had been turned over to civilians so there was less opportunity for police to be investigating police. She noted that this had happened in medicine and law as well: Doctors didn't do a good job of investigating other doctors, and attorneys didn't do a good job of investigating other attorneys. She said she and others had been asking for information about out-of-jurisdiction tickets issued by Kensington officers. She said those asking had been told that the police department wasn't obligated to provide this information because it didn't have a report of this and because it would put undue burden on the two part-time office staff. She said that she understood from Jim Watt that there were two full-time officers on light duty and that, perhaps, they could help. She said she and others had been favorably impressed when IGM/COP Hart had prepared his list of "cardinal sins" that all police officers had been expected to sign. She noted it had said that severe discipline would be imposed on employees culpable of misconduct. She said she wanted to add to the list: The misconduct of not

bearing false witness against a neighbor. She asked that her comments be included in the record. They can be found in the June 22, 2016 Board Packet, under correspondence.

Linda Lipscomb said she wanted to address what Dr. Delk had brought up. She said Dr. Delk's comments had indicated that there had been some impropriety regarding the ending of the Board's prior meeting. She noted that the prior meeting had ended early, at 10:00 P.M. She said that, in order to continue past 10:00 P.M., a vote of the Board, with at least 4 out of 5 yeases, must pass and that, at the May meeting, the vote had been 3 to 2. She noted that there had been an exceptionally long Closed Session meeting that night and that, because of this, the Board had gotten to the budget late. She said the Board had to get to the budget within certain statutory dates. She said President Welsh had been so upset that the Board had not been allowed to get to this, due to the vote not to extend the meeting, that she had invited President Welsh to go to Fonda with her to have a glass of wine. She said that she had explained that this had not been President Welsh's fault: It had been a 3 to 2 vote. She said that he had accepted her invitation and that she, another member – not a Board member – of the public, and President Welsh had then gone to Fonda on Solano Ave. and had sat at a table. She said that, about 15 minutes later, the two Board members who had voted against extending the meeting had come in and had sat down at a separate table. She said there was no continuation of the meeting, although there had been three people, including a non-Board member, at the other table. She said the suggestion that there had been a continuation of the Board meeting was incorrect. Ms. Lipscomb said she was somewhat appalled that a very important portion of the meeting had been truncated – not to rush home to the children but to rush off to Fonda.

#### BOARD MEMBER COMMENTS

Director Cordova reported that she and Vice President Sherris-Watt had attended the California Special Districts Association's (CSDA) Legislative Days event, on May 15 – 16, in Sacramento and that they had met Senator Hancock and Assemblyman Thurmond. She said she would debrief the Board on what exactly they had discussed at the next regular Board meeting.

Director Cordova also reported that LAFCO had conducted an election by mail to re-elect Mike McGill, of the Contra Costa Sanitation District. She reported that he had been re-elected unanimously to continue to serve special districts on LAFCO.

Vice President Sherris-Watt said she had attended CSDA's Legislative Days and had brought back handouts. She said she and Director Cordova had been introduced to legislation that could impact the Park Buildings Committee. She noted that this legislation had been included in the prior Park Buildings Agenda Packet.

Vice President Sherris-Watt reported that the Park Buildings Committee had met on May 31<sup>st</sup>. She said the Public Safety Building Committee, of which she was the Chair, consisted of Dr. Aparna Dandekar, Paul Miller, Wright Sherman, and Marcus Hibser. She said the *Fire Board's Ad Hoc* committee was lucky to have an emergency physician, a former firefighter and East Bay Parks executive, and two commercial architects on the committee. She said the committee had met the prior Friday to tour the fire side of the Public Safety Building with Fire Board President, Don Dommer. She said the committee would have public meetings in the future, as the community discusses the Fire Board's work on the Public Safety Building.

Director Toombs reported that, the prior weekend, the Ad Hoc Committee's Forum had been held. He said David Spath and his committee had done a terrific job. He said that there would be another forum in the future and that the Committee's report would be presented in August.

Director Toombs said the second item he wished to discuss had to do with the traffic stop involving Director Cordova. He said he was amazed by how much information the public knew that the Directors didn't know – even though they were on the Board. He asked how members of the public had obtained all this information and asked what was to be gained by this. He said he was trying to determine the real

basis for what happened, but he had been hearing fact and fiction, spun together. He said it troubled him that there was so much energy being put into this, instead of letting the report speak for itself.

President Welsh said he echoed Director Toombs' comments and said he would speak more about this at the Board's next meeting because some of the issues would be discussed in closed session. He said that, if transparency was what it was all about, then the Board should get out as much credible information as it could.

President Welsh said that one of the things he appreciated about the Ad Hoc Committee's Saturday presentation was that the Committee approach has been one of fact-finding. He said there had been a wealth of information presented. He said that, although some Committee members had opinions, they had, for the most part, kept their opinions out of their presentations. He said he appreciated the hard work that had been done to educate community members so they could come to their own conclusions.

### STAFF COMMENTS

None.

### NEW BUSINESS

- 6a. The Board received a presentation from the IGM/COP regarding the 16/17 fiscal year preliminary budget for the Kensington Police Protection and Community Services District. The Board considered whether to direct the General Manager to make changes to the preliminary budget before the Board considers its adoption at its meeting on June 22, 2016. First reading.

IGM/COP Hart introduced Deborah Russell, CPA, who was to assist with the presentation. President Welsh asked that the presentation begin with an overview of the budget and then proceed to information about Measure G. President Welsh said Jim Watt had come up with an interesting proposal that he wanted to discuss as part of the budget presentation.

IGM/COP Hart reported that expenses for the Preliminary FY 2016/17 Budget were projected to be \$2,931,203. He noted that this would be a \$72,282 increase, or 2.5%, over the FY 2015/16 budget's expenses. He said total revenue was projected to be \$3,042,419. He noted that this represented a 6% increase above 2015/16 property tax revenue. He said this would result in an estimated surplus of \$111,216. He said that there was also anticipated COPS Grant revenue, but that this couldn't be included in the budget. He noted that the \$100,000 COPS Grant amount was quite constant and that, in recent years, the District had received more than \$100,000. He said that, with the inclusion of the COPS Grant, the surplus would likely exceed \$200,000. IGM/COP Hart summarized subtotals by the account categories:

- Police Salaries and Benefits: \$2,198,695
- Police Expenses: \$306,936
- Recreation Salaries and Benefits: \$31,407
- Recreation Expenses: \$88,416
- District Expenses, with legal expenses budgeted to be the same as the amount (\$99,000) budgeted for FY 2015/16: \$304,249

He reported that, excluding capital outlays, total expenses were projected to be \$2,929,703, and that, including capital outlays, total expenses were projected to be \$2,931,203. IGM/COP Hart noted that, in the current fiscal year, the District was already over-budget, with respect to legal expenses, and said the Board would need to address this line item during the budget process.

IGM/COP Hart reported that income in the 400 accounts was projected to be \$2,909,219; park and recreation revenue was projected to be \$68,200; and franchise fees were projected to be \$65,000, \$18,000 of which would go back into the general fund.

IGM/COP Hart reiterated that revenues of \$3,492,419 less expenses of \$2,931,203 were budgeted to result in net income of \$111,216.

IGM/COP Hart reported that the 2016/17 cash carryover was projected to be \$2,204,958. He summarized the non-spendable, restricted, committed and assigned funds, which were projected to total \$595,864 and included the addition of \$150,000 for the Community Center upgrade. He said that the remaining, unassigned fund balance was projected to be \$1,609,094, which would equal 54.9% of expenditures.

IGM/COP Hart reported that Jim Watt had proposed an idea, with respect to the District's CalPERS pension Side Fund. IGM/COP Hart reported that Mr. Watt had spoken and corresponded with Ms. Archuletta of CalPERS about the possibility of the District paying off its Side Fund early. IGM/COP Hart said that the District owed approximately \$300,000 for this fund and that, if paid off early, would save approximately \$15,000. He reported further that Mr. Watt had suggested paying the amount, which exceeded what would be due in FY 2016/17, out of reserves. He reported that the District had paid the Side Fund amount, which had been due in FY 2015/16, early, thereby saving the District about \$7,000. Deborah Russell added that she, too, had spoken with Ms. Archuletta. Ms. Russell said that the Side Fund had two years' payments left to make, totaling approximately \$200,000. Ms. Russell explained that, each year, the District made a payment to CalPERS that was comprised of two parts: the Side Fund and the Unfunded Liability, which is amortized over a long period of time. She said that, each year, the District had been paying both parts, upfront, and receiving a discount for doing so and that the rate was 7.5%. She explained that, for the FY 2016/17, the bill for both parts would be approximately \$229,000 and that, if the District were to pay this at the start of the new fiscal year, it would save approximately \$8,000. She explained that, out of the \$8,000, \$3,600 would be attributable to the portion of the Side Fund that would be due for that year. She said that Mr. Watt was suggesting that the District also pay the amount that would be due in FY 2017/18, which would be approximately \$105,000. By paying this early in the FY 2016/17, she said the District would save approximately \$10,500. She explained that the District would have to pay this amount in the following year anyway and that, because of the savings, it would make sense to pay the amount out of reserves. President Welsh asked if there was a deadline associated with doing this. Ms. Russell responded that, according to Ms. Archuletta, there isn't actually a deadline. She explained that the way CalPERS calculates this is, every two weeks, they accrue the interest: If the District were to pay the two years' Side Fund amounts plus the 2016/17 Unfunded Liability amount in FY 2016/17, the District would recognize the maximum possible savings. She explained that the paperwork did not have to be submitted by June 15<sup>th</sup>. President Welsh asked if this could wait until June 22<sup>nd</sup> for a decision. Ms. Russell responded in the affirmative.

Mr. Watt said he was handing out copies of his correspondence with Fritzie Archuletta. He said he had had numerous phone calls and emails with Ms. Archuletta. He confirmed that the CalPERS discount rate was 7.5% and said the District's LAIF fund with the County was paying almost nothing on the reserve funds it had there. He said that Ms. Archuletta had told him that the District had to submit its application to CalPERS by June 15<sup>th</sup>. He said he was happy to defer to Ms. Russell, with respect to postponing the matter beyond June 15<sup>th</sup>. President Welsh said he trusted Ms. Russell to communicate with CalPERS and thanked Mr. Watt for bringing the matter to the Board's attention.

Director Cordova asked that the item be placed on the next agenda. IGM/COP Hart responded that, if there were Board consensus on the matter, he would incorporate it into the budget and said that, upon approval of the budget, the payment could be made. President Welsh asked Ms. Russell to obtain a written commitment from Ms. Archuletta.

IGM/COP Hart continued with his presentation on the budget. He reported that total cash assets were projected to be \$1,410,174 on June 30, 2016.

President Welsh proposed going through the budget one line item at a time.

Director Cordova asked about Account 566. She said the District had routinely come in under budget for this item and wanted to know why. Staff responded that the radio contract had been a lease-purchase agreement, that the final payment for it had been made in FY 2014/15, and that, as such, no more payments would need to be made. IGM/COP Hart explained that money budgeted for this line was for equipment maintenance only.

Ms. Russell led the Board through the budget, in numerical order of the accounts. The highlights of accounts discussed were:

- 502 Director Toombs said he had had a question about the officers' salary spreadsheet and IGM/COP Hart had answered it before the meeting.
- 504 Director Toombs asked if Compensated Absences were expected to be lower than the actual amount for FY 2015/16. Ms. Russell responded in the affirmative and explained that the 2015/16 amount had been unusually high because Officer Turner had left the department.
- 506 Vice President Sherris-Watt asked why overtime had been budgeted to be \$15,000 more than the prior year, especially given Officer Martinez's return. She said she would rather go back to \$60,000. President Welsh asked IGM/COP Hart to explain the amount. He responded that the amount that had been spent year-to-date for this line item was \$55,000. He explained that, currently, there were three vacancies from patrol and that no one was available to backfill for vacation. He also explained that court time and range training usually required overtime. Ms. Russell added that the \$55,000 amount was what had been spent as of the end of February. She noted that this was the amount that had been spent at the time the budget had been put together and that the actual amount that had been spent, year to date – through May, was \$87,000. She said that the amount budgeted, \$75,000, was less than the amount that had been spent year to date. President Welsh responded that this provided him with the information he needed. Director Toombs asked if the overtime offset the fact that the District wouldn't be paying an additional officer to work the needed hours. Ms. Russell responded that, Account 502 (payroll) was under-budget. Vice President Sherris-Watt said it behooved the District to pay overtime, as opposed to paying for an additional officer. Director Cordova noted that overtime was not pensionable. Director Cordova said she had signed checks two weeks earlier and she had noted officers taking a sick day and then the next day having overtime and noted that one officer had had 36 hours of overtime in a two week period. She said she had been reading an article that said that most workers' compensation claims for police officers occurred during overtime, and she asked if the District was being mindful of the regulatory thresholds. IGM/COP Hart responded in the affirmative. He said this backfill was needed because three officers currently were not working patrol. He said his desire was to reduce overtime completely but that, with any law enforcement agency or fire department, overtime would exist. Director Cordova asked if there was a minimum period of time for an officer to be on light duty. IGM/COP Hart responded that there was now and that the policy had been changed since he had arrived. He said that, before, it had been at the discretion of the Chief and that, now, it was still at the discretion of the Chief, but he had a time limit of nine months, extendable for three months. IGM/COP Hart added that it was his desire to get people healthy sooner rather than later. He said that it had been taking longer than anybody wanted to get the workers' compensation contractor to approve needed procedures, and so, he couldn't predict when the officers would be back to regular duty.
- 508 Non-sworn personnel – Vice President Sherris-Watt asked if the budgeted CPI increase was just a possibility or a conclusion. Ms. Russell responded that it was just a possibility. Vice President Sherris-Watt said she hoped evaluations were attached to it. She asked why a CPI increase had not been included for Account 620. Ms. Russell responded that the custodian was different; he's a contractor, not an employee. Ms. Russell noted that Account 601 had the same CPI increase. Director Toombs explained that 601 accounted for the time that Ms.



DiNapoli works on the park and the rest of her time was reflected in 508. Director Toombs said that he had looked at the Fire District's budget and that their manager had been given a 5% increase. He noted that 3% didn't seem that generous, when compared to the Fire District increase. IGM/COP Hart added that he had included this in the budget, based on the POA's contract. Vice President Sherris-Watt said she had been at the Fire District's meeting and that their firefighters would be giving back 12% of their raise to PERS. Director Toombs responded that he had heard that statistic many times and explained that the firefighters had received a 17% raise and would give back 12%. President Welsh invited David Spath to comment. Dr. Spath said this issue had been raised the night before, and he had checked the firefighters' MOU. He confirmed that the firefighters' increase was 17% (8%, 4.5% and 4.5%) and that this information was available on the El Cerrito website. Fire Board President, Larry Nagel, also confirmed this information.

Celia Concus asked how overtime was assigned. She said that, when she had looked into this in the past, it had not been equally disbursed. IGM/COP Hart responded that overtime was not assigned. He explained it was driven by shift assignments and by role. He noted, in particular, that one officer had worked more overtime than other officers because his responsibilities as detective afforded him more flexibility. Ms. Russell added that not all officers want to work overtime. Director Toombs noted that one can't run a department on overtime; after a year an officer would burn out and so, he wanted to see the officers on light duty back on regular duty. President Welsh asked for confirmation that this would be back to normal by the end of the coming fiscal year. IGM/COP Hart responded that he hoped this would be the case.

- 521A Ms. Russell reported that, according to the new MOU, the officers would begin to contribute money to their medical coverage. She noted this calculation was reflected in the budget.
- 521R Ms. Russell explained that 521R and 521T went together and, combined, were meant to equal the actuarial amount and that the retired officers would also begin contributing to their medical coverage.
- 521T Ms. Russell noted that the Finance Committee had had some discussion on this. Director Toombs said there was a \$50,000 amount included as an additional contribution to the OPEB and said he thought a new actuarial report should be done, based on the new MOU, to determine a more accurate amount. IGM/COP Hart responded that an actuarial report had been budgeted. President Welsh asked if a firm had been identified and when the process could begin. Ms. Russell responded that staff had been waiting for the MOU to be approved and was now waiting for the budget to be approved. President Welsh asked if the District would return to the actuary it had used in the past. Director Toombs responded that Public Law Group had recommended someone. Jim Watt commented that the \$50,000 "plug" amount was pretty close to the amount Adam Benson had recommended. Mr. Watt reiterated that, once a new MOU had been signed, the intent had been to obtain a new actuarial report. He also noted that the price range for actuarial reports was considerable.
- 522 Ms. Russell reported that life insurance coverage had been amended per the new MOU.
- 527 Ms. Russell reported that there had been a change with PERS. She explained that there was now a two-tiered system, with existing/Classic employees continuing to pay a flat fee and with new/PERA employees contributing to their own pension. She further explained that the PEPRA employees were required to pay a greater percentage than the Classic employees and that, as a result, the employer had to contribute less. She added that, with the Classic employees, there was also a catch-up amount, known as the Side Fund. She said that the budget also included paying an amount toward the Unfunded Accrued Liability (UAL).
- 528 Ms. Russell explained that the amount reflected the changes in the amounts the District would contribute to CalPERS per the new MOU.

- 530 Ms. Russell explained that SDRMA's estimated increase of \$17,000 was included. Director Toombs asked why there was an increase. Ms. Russell responded that this was the result of one of the officers having been out on worker's compensation for a year.
- 562 Director Cordova asked what the basis of the \$3.50 per gallon gas price was and asked why the District wasn't using something analogous to what the IRS used: \$0.54 per mile. Ms. Russell responded that the amount was based on what the District actually had to pay for gasoline. Director Cordova asked what price the Fire District was using. Ms. Russell responded that El Cerrito estimated its fuel cost and then the Fire District paid a percentage of that amount. IGM/COP Hart explained that this amount was conservative and allowed for a possible increase during the fiscal year. Ms. Russell added that, for the budget, both the price per gallon and the number of gallons had been decreased. Director Cordova asked that staff research what price other agencies were using.
- 572 Director Toombs asked for confirmation that IGM/COP Hart wanted to increase the number of reserve officers. IGM/COP Hart responded in the affirmative and noted that the last reserve officer had recently resigned to take a position as a full-time officer with Pacifica. He said two officers were being explored and the department was actively recruiting.
- 581 IGM/COP Hart said it was hoped that new shelves and other work would be done on the property room during the year to make it more efficient.
- 594 Director Cordova asked why this account was \$1,000 over-budget for the current year and if the amount budgeted would support website changes that had been discussed. Staff responded that, in the current fiscal year, Aaron Gobler had been asked to do additional projects for the website. IGM/COP Hart responded that he thought the proposed work was covered in another line of the budget and that the website was a work in progress. He added that he would like to participate more in the Kensington Farmers' Market and other community projects. Director Cordova asked that IGM/COP Hart ensure that website work was included in the budget.
- 668 and 668 Jim Watt suggested that \$10,000 be added to this line – Annex Repairs. He said that, based on information gleaned the prior night, the Kensington Police Department could be looking at a long down time, beginning 2017/18. He noted that the Fire District would likely know what its plans for the Public Safety Building would be by September. He said the Fire Board might elect to tear down the building and erect a new one. Mr. Watt suggested that the police department might relocate to the Annex or to a trailer in the parking lot. Director Cordova said she had the same concern for Account 865, the lease amount. Director Toombs asked if Vice President Sherris-Watt was incorporating this into her work with the Park Buildings Committee. She responded that she thought more money should be budgeted for Annex repairs. Director Toombs said long-term use of the Annex would be fraught with peril. He said that, when the Measure L work had been done, work had been done to determine the cost of being able to use the building for childcare. He said the cost of doing this was determined to be less than what it would cost to use it for general public purposes. He added that he liked Mr. Watt's idea of using a temporary trailer in the parking lot. Director Toombs said that, to bring the Annex up to any kind of public use, would be cost prohibitive. Vice President Sherris-Watt said that she wasn't looking to go as far as Measure L and that the building could have some use. Director Toombs clarified that any work to bring the Annex up to a basic, serviceable standard for public use would be very expensive. He said this information could be found in the Muller Caulfield report. President Welsh asked for clarification that Director Toombs was suggesting that spending \$10,000 on the Annex wouldn't make the building useable. Director Toombs responded in the affirmative. Vice President Sherris-Watt said the Annex is a capital asset that's sitting empty and that money should be spent to see if it could become something the community could use. President Welsh said there seemed to be no use in reinventing the wheel and asked if the Park Buildings Committee could make a presentation, based on what's already known about the options for

that building. He added that there might be some missing information. Vice President Sherris-Watt responded that this would make sense and noted that seismic evaluations had been absent from the Muller Caulfield report. President Welsh asked if Vice President Sherris-Watt could make a presentation at the July meeting. She responded in the affirmative. IGM/COP Hart noted that he had left in this account the same amount of money as in the prior year.

672 Vice President Sherris-Watt asked about the amount that had been spent year-to-date with respect to the amount that had been budgeted. Ms. Russell and IGM/COP Hart responded that all the bills hadn't come in yet.

830 IGM/COP Hart said he had left this amount as it had been budgeted for the current fiscal year and that the detail for the account showed the formula that had been developed for the current year. President Welsh said he hoped that, by June 22<sup>nd</sup>, there would be an analysis of what had been spent in the current year so the Board could make a more informed decision. IGM/COP Hart reported that, year-to-date, \$164,000, which he thought reflected invoices through the end of March, had been spent. President Welsh said the expense likely would exceed \$200,000 for the year.

835 Ms. Russell said that, based on the discussion about changing actuaries, this amount should be amended. Director Toombs noted that the amount shown in the budget was \$2,300. Board consensus was that this amount was not sufficient. Director Toombs asked for a breakout of the consultant detail, so the Board would know what the different elements were projected to cost. Director Toombs said there would be work associated with the Community Center renovation and with the actuarial report. President Welsh said he agreed with the need for more detail. Director Cordova said she would like to see the actuarial report estimate at \$10,000. Director Toombs said he would like to use Public Law Group's recommendation. President Welsh asked for some estimates for the next meeting. IGM/COP Hart responded that he would provide this.

840 IGM/COP Hart noted that the proposed cost of the audit would be a separate agenda item later in the evening.

860 Ms. Russell reported there would be an election this year.

865 Director Cordova said that, as Jim Watt and Vice President Sherris-Watt had mentioned, the \$1.00 lease agreement with the Fire District would end June 30, 2017. She said she wanted to get a running start on allocating funds in anticipation of the Fire District's statement the prior evening that, because of so many variables, they would not likely provide the KPPCSD with a \$1.00 lease. President Welsh said that he hadn't been at the prior night's Fire Board meeting but that the last time he had spoken to Don Dommer the Fire Board would have a community meeting before making a decision. Larry Nagel said the Fire Board was exploring:

- Refurbishing the current building
- Demolishing and rebuilding on the current site
- Building in a new location

President Welsh asked if the public would be brought into the process before a decision was made. Mr. Nagel responded that there would be a public forum after all options had been examined. Director Cordova asked IGM/COP Hart for his impression of the statement that had been made the prior night. He responded that, for the upcoming fiscal year, he didn't think the Fire District would be able to do anything or ask the KPPCSD to vacate the Public Safety Building. President Welsh noted that there would be an election in November, that a statement was just that, and that a decision about the rent was pretty far off. He said it made sense to be aware that the KPPCSD might be paying rent again. Director Cordova responded that the statement made by the Director on the Fire Board was that the Fire Board might not be in a position to renew the KPPCSD lease. Director Cordova suggested that some money be allocated now to anticipate the coming change. Director Toombs asked Vice President Sherris-Watt if her committee was looking at alternative spaces for the police department. She

responded in the affirmative. She said the committee would examine the needs for the police department along with the needs for the fire department. Director Toombs for confirmation that someone was looking at options for where the police department would be located while work was being done on the Public Safety Building. He reiterated that he would never want to spend money on the Annex. He said he hadn't known about her committee that was looking at the police department's needs and said that it was important for this committee to identify a space for the police department for a year after 2017. Vice President Sherris-Watt said she agreed with Director Cordova that money should be put in this category to address the future space need. Director Toombs responded that the District couldn't accrue rent for a future year. Vice President Sherris-Watt said there could be expenses associated with things like new furniture, storage, and moving. Ms. Russell said she had a suggestion. She said it didn't make sense to put money into the current budget; rather, it made sense to identify something as an element of reserves. President Welsh said that, to Director Toombs point, the District needed to look at what the possibilities and associated costs might be. Vice President Sherris-Watt said the Finance Committee had looked at this and had suggested designating \$60,000 per year for the next two years and added that she would be happy with an amount between \$25,000 and \$60,000. Jim Watt commented that the Finance Committee had looked at what Ms. Russell had suggested. He said that, in addition to the \$150,000 that the Finance Committee had agreed to set aside for the Community Center for the coming year, his subcommittee had suggested setting aside an additional \$60,000 per year for the next five or so years. He said that decision had been tabled for further discussion. He said he thought the Board should set aside \$60,000. Mr. Watt said he agreed with Mr. Toombs about renovating the Annex because he had read the Muller Caulfield report. However, he said, it might make sense to tear down the building and use the slab for a temporary building. He said he thought \$10,000 could be used for this purpose. Larry Nagel said he wanted to comment on what had been said at the Fire District meeting the prior night. He said it shouldn't come as a surprise to anyone. He added that President Welsh had come to the Fire Board three years earlier, saying that the KPPCSD had severe financial difficulties that were going to be one time expenses – not recurring expenses. He said that President Welsh had said the KPPCSD was looking for some relief. He said that, at that time, the Fire Board had agreed to a three-year give-away, with a \$1.00 per year lease for three years, with the understanding that, at the end of three years, things would revert back to having the KPPCSD pay its fair share. He said the maintenance of the Public Safety Building was \$100,000, and the police department used 50% of the building; thus its share was \$50,000 in a lease for its space. He said that the lease, prior to the \$1.00 per year rate, had been \$30,000 per year and that the Fire Board had no idea what the maintenance costs would be for the new building – but it was expected to be much less. He also said the Fire Board might need to borrow money to build the new building. He said he didn't see why it was a surprise that this would be the case at the end of the three-year lease. President Welsh responded that it wasn't a surprise. Director Toombs added that the police department might not even have a place to stay because of the possible teardown or other work. He noted that he didn't think the officers would be able to stay in the building during renovation. Mr. Nagel said the Fire District was also going to have to figure out how to keep two fire trucks and a crew someplace in Kensington. Director Toombs responded that, when the Public Safety Building had been renovated previously, the fire trucks and crew had stayed in the fire station near Camp Herms, in El Cerrito. President Welsh said that it had been the Fire Board's decision to limit the \$1.00 rental to three years and that it had been his desire that the \$1.00 per year rent be on a permanent basis. He explained that his reason for requesting this had been that this is one community, with the money coming from the same people. He said Ms. Kosel had questioned whether the Fire District could legally give the KPPCSD the break on rent: She had been concerned that it might constitute a gift of public funds. He said he had obtained a memo for her that had concluded that it was not a gift of public funds because it was the community giving to itself. He said the ultimate decision should be what would make the most sense for the community, in terms of who bears what cost. He said he was very thankful for what the Fire Board had done, but he wanted people to keep the bigger picture in mind.

IGM/COP Hart noted that it was 9:45 P.M.

**MOTION: President Welsh moved, and Director Toombs seconded, to continue the meeting beyond 10:00 P.M.**

**Motion failed: 2 – 2**

**AYES: Welsh, Toombs**

**NOES: Sherris-Watt, Cordova**

**ABSENT: Gillette**

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

President Welsh noted that this had been the second time in a row that Vice President Sherris-Watt and Director Cordova had shut down the meeting before the District's business had been completed and asked if they had done so to go back to Fonda. President Welsh said he couldn't find anyone, in the history of the KPPCSD Board, who remembered the Board not voting to go beyond 10:00 P.M. He added that, when he had come onto the Board, the meetings regularly went beyond 10:00 P.M., and everyone assumed that was going to happen. He said Director Cordova and Vice President Sherris-Watt ran in the election because they wanted to do the District's business, and now they wanted to shut the meeting down at 10:00 P.M. because of some convenience they wanted to gain from it. He said he had a very hard time with that. Director Cordova responded that there was a Director in Italy and that she and Vice President Sherris-Watt were here. President Welsh responded that Director Gillette had been present when Director Cordova and Vice President Sherris-Watt had shut the meeting down that previous time.

IGM/COP Hart interjected that he wanted to be sure of how the Directors had voted. President Welsh asked for a roll call. President Welsh questioned Director Cordova's and Vice President Sherris-Watt's concerns with following the Policy and Procedure Manual since they had failed to abide by the District's budget policy, which stated that the Board was supposed to have a consideration of the budget at its regular May meeting. He said that, because Director Cordova and Vice President Sherris-Watt had voted to shut down the meeting, the Board had failed to meet this obligation. Director Cordova responded that there had been a 15-minute presentation on streetlights, which weren't under the District's jurisdiction. President Welsh responded that this hadn't been a fifteen-minute presentation and that either Director Cordova and Vice President Sherris-Watt wanted to do the District's business, or they didn't. He asked, again, for a roll call. Director Cordova voted no, President Welsh voted yes, Director Toombs voted yes, and Vice President Sherris-Watt voted no.

IGM/COP Hart asked if there were further questions on the budget, noting it was only the first reading. Director Cordova said that, with respect to Account 898, she had learned from the California Special District's Association that they have scholarship money available to Districts. She said no one was using it, so it would be KPPCSD's for the taking. She noted that it might be a good way to offset some of the expenses charged to this account and that there was a simple one-page application. Staff responded that the District had submitted for this scholarship in the past and had been awarded each of the two times it had applied.

Director Toombs asked why Vice President Sherris-Watt and Director Cordova wanted to end the meeting when there was work to do and said the public had a right to know. Vice President Sherris-Watt responded that, at the March meeting, the Board had met until 1:00 A.M., at which point, President Welsh started screaming at Director Cordova for past infractions. President Welsh responded that he had not screamed at her and that he resented the comment. Vice President Sherris-Watt continued by saying that the composure and behavior of the Board seemed to disintegrate after 10:00 P.M. She said that the May meeting, when the Board had gone beyond 10:00 P.M., had been her fourth meeting of the week for the Board: She said she had already agreed to speak for the Kensington Property Owners' Association; she had come to the Board's meeting; she had had a Parks meeting; and she had had a four-hour interview with the FBI regarding the behavior of the KPPCSD. Director Toombs asked if this had been about the entire Board or about one officer. Vice President Sherris-Watt responded that that was

between herself and the FBI. Director Toombs noted that was a report the Board would never see. Vice President Sherris-Watt responded that it wasn't and said the meeting had been at the FBI's request, and she had gone. Vice President Sherris-Watt added that she donated a lot of her time to the function of the District and that she had agreed, after ending the meeting at 10:00 P.M., to come back in a week – to come back in two weeks to meet. She said that, in response, Director Gillette had shouted that that was the one time of the month she could be present. Vice President Sherris-Watt said that this wasn't her problem. Vice President Sherris-Watt said she had gone to Fonda after the last meeting; she had been discussing the budget with KPOA President Gail Feldman at Fonda because Ms. Feldman was going to have to be out of the country for the Board's subsequent meeting. She said that hadn't stopped President Welsh from screaming at Director Cordova so profusely that wait staff had come over and kept asking if she were all right. Director Toombs said he was sorry he had asked the question. President Welsh said he considered Vice President Sherris-Watt's comment to be defamation.

Director Cordova said she and Vice President Sherris-Watt didn't have a majority on the vote, and so the Board would keep going.

IGM/COP Hart said he'd like to bring everyone back together to review item 6b, Measure G. He noted that the Board had done a pretty thorough review of the budget and said that, if there were any other questions, they could be answered at the next Board meeting.

- 6b. The Board discussed and reviewed the annually permitted CPI increase to the Measure G Supplemental Special Tax for inclusion in the 16/17 fiscal year budget.

IGM/COP Hart explained that this was a voter-approved special tax. He reported that the Board Packet included a summary of the history of the amounts that had been paid since the measure had been adopted. He said the maximum increase would be 2.695%. He said that he wanted the Board to provide feedback and that this was an informational item only.

- 6c. The Board received a report and discussed potentially changing its independent auditor.

IGM/COP Hart reported that the District had used the same auditor for the prior three years. He reported that, although the District had received clean audits for those years, there had been difficulty with the process of obtaining completed documents in a timely manner. He noted that the District had had to pay to have its CPA, Deborah Russell, travel to the auditor's office in Sacramento in order to ensure timely and accurate completion. He said, therefore, that he recommended returning to the District's former auditor, Steven Chang.

Director Cordova said she had a concern about this. She noted that the Fire District had just renewed its contract with Steven Chang and has been quite happy with the firm. She asked how many other auditors had been "scoped out." IGM/COP Hart responded that the Board was not required to have a RFP for its auditor. Director Cordova said that wasn't what she meant and asked how many people IGM/COP Hart had spoken with. District Administrator Wolter responded that the District had solicited bids several years earlier and had received two responses. Director Cordova responded that she wasn't asking about an RFP. District Administrator responded that this hadn't been an RFP. Director Cordova said she wanted to ask IGM/COP Hart her question: How many firms had he looked. President Welsh said District Administrator Wolter should be allowed to finish her sentence before Director Cordova cut her off. IGM/COP Hart said he had looked at only one firm. He said the Fire District and the District's CPA, Ms. Russell, had been very happy with Steven Chang. Director Cordova asked for how many years Steven Chang had performed the District's audits in the past. IGM/COP Hart responded he had gone to the "known quantity."

Celia Concus said that, at the time former GM/COP Harman had still been with the District, there had been many people who had been complaining about the fact that Lamorena Chang had been used for a long time and that it had not been in keeping with best practices to use the same firm for such a long

time. President Welsh responded that this was true, but the District had not used the firm for the prior three years. Director Toombs asked for how long the Fire District had been using Lamorena Chang. Ms. Concus responded that she had no idea. Ms. Concus said that, at that time, people had been asking serious questions about why Lamorena Chang had not caught any of the abuses of the District's credit card – the spending for personal expenses, missed receipts, and so on. She said she believed that Mr. Chang had said there had been some mistakes but that his firm didn't look at all of the receipts. She said she wasn't a finance person, but she was recommending that, if perhaps the District wasn't happy with the current auditor, it should find another one and that the District should not go back to the previous one. Director Cordova noted that this was a good point. IGM/COP Hart responded that the District's CPA, Ms. Russell, had made the recommendation to go back to Mr. Chang and that the cost to perform the audit would be the same amount for the KPPCSD as for the Fire District. President Welsh asked for how long Lamorena Chang had worked for the Fire District. Ms. Russell responded that the length of time had been between seven and ten years. Ms. Russell said that she wanted to answer the question about the credit card issue, and that she wanted to be clear about what an audit is. She explained that a financial statement audit checked to ensure that the financial statements were fairly stated and that there were no major discrepancies. She said that the credit card issue, while upsetting, had been small and that auditors had a materiality level. She said that if one wanted an internal audit for fraud, it would be a separate thing for which the Board would need to hire someone.

Director Cordova asked if this item required a vote. IGM/COP Hart responded that this had been placed on the agenda as an informational item and said he only needed direction from the Board. He added that he would like to proceed with this. President Welsh asked what the proposed cost of the audit was. IGM/COP Hart responded that it was \$13,000. IGM/COP Hart said he wanted to know if at least three of the Directors wanted him to proceed with placing the item on the next agenda. Director Cordova responded that he should do that.

Linda Lipscomb said she wanted to answer Director Toombs' question about why the May meeting had been closed at 10:00 P.M. She said that the answer he had been given was that this had been done to preserve civility, and an example had been cited of incivility on behalf of President Welsh. She said that she had been with President Welsh the entire time and that they had left together with yet another person, who was not a Board member. She said that what had been stated was absolutely slanderous and false.

President Welsh noted that it was past 10:00 PM.

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

**Motion passed: 4 – 0.**

**AYES: Welsh, Toombs, Sherris-Watt, Cordova**


**NOES:**

**ABSENT: Gillette**

The meeting was adjourned at 10:02 P.M.



Len Welsh  
KPPCSD Board President



Lynn Wolter  
District Administrator