

Approved, as amended, on 12/10/15. Amendments are highlighted in yellow.

Meeting Minutes for 11/12/15

A Special Meeting (Closed Session) of the Board of Directors of the Kensington Police Protection and Community Services District was held Thursday, **November 12** (date changed from October 8), 2015, at 6:30 P.M., at the Community Center, Kensington, California. A Regular Meeting, in Open Session, followed.

ATTENDEES

<u>Elected Members</u>	<u>Speakers/Presenters</u>
Len Welsh, President	Randy Riddell, Renne Sloan Holtzman Sakai LLP
Pat Gillette, Vice President	Jonathan Holtzman, Renne Sloan Holtzman, Sakai LLP
Chuck Toombs, Director	Adam Benson, Renne Sloan Holtzman Sakai LLP
Rachelle Sherris-Watt, Director	Gregory Wallace, Structural Engineer
Vanessa Cordova, Director (title had been missing)	Chris Deppe
	Catya de Neergaard
	Celia Concus
<u>Staff Members</u>	Gloria Morrison
Interim GM/COP Kevin Hart	Jim Watt
Sgt. Hui (on duty)	Peter Liddell
Lynn Wolter, District Administrator	Peter Conrad
	Marilyn Stollen
<u>Press</u>	A. Stevens Delk
Linnea Due	David Spath
	David Bergen
	Simon Brafman
	Karl Kruger
	Mabry Benson

President Welsh called the meeting to order at 6:31 P.M. President Welsh, Vice President Gillette, Director Toombs, Director Cordova, Director Sherris-Watt, Interim GM/COP Hart, and District Administrator Wolter were present.

PUBLIC COMMENTS

None.

CLOSED SESSION

The Board entered into Closed Session at 6:34 P.M.

Approved, as amended, on 12/10/15. Amendments are highlighted in yellow.

Closed Session:

- a. Conference with Legal Counsel – Public Performance Evaluation (Government Code Section 54957). Title: General Manager/Chief of Police.
- b. Conference with Labor Negotiators (Government Code Section 54957.6). Agency designated representative: Jonathan Holtzman, Renne Sloan Holtzman Sakai LLP. Employee organization: Kensington Police Officers Association.

The Board came out of Closed Session at 7:54 P.M., and began its Open Session.

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

President Welsh reported that, during Closed Session, the Board had addressed Item b first. President Welsh reported that, although GM/COP Hart had entered into Closed Session with the Board, he had left the Closed Session, before the Board began its discussion of Item b, in order to avoid any perceived impropriety. The Board gave guidance to the negotiators.

President Welsh reported that, with respect to Item a, GM/COP Hart had rejoined the Board's Closed Session for this item and that the Board had taken no action.

PUBLIC COMMENTS

President Welsh solicited comments for items not on the agenda.

Chris Deppe commented on the Petition Ordinance, which, he said, addressed contracting out and which had been deemed illegal at the prior Board meeting. He noted that it had been decided that the ordinance wouldn't affect the Ad Hoc Committee's work. He said it was strange that only one of the options that the Board asked the Ad Hoc Committee to consider was treated differently from the rest and asked that the Board rescind the Ordinance. President Welsh responded that it was premature to discuss the matter. Mr. Deppe responded there was no ordinance for merging with the Fire District or for splitting the position of GM/COP without a vote of the public. President Welsh noted that this was Mr. Deppe's opinion and that all proposed options faced hurdles. Mr. Deppe asked how the rest of the Board felt about the matter. GM/COP Hart reminded the Board that this was a time for the public to address the Board: The item was not for exchange or deliberation because it wasn't on the agenda.

Catya de Neergaard said she had come with a series of questions about the 2009 ordinance/Petition Initiative. She said there was confusion, following Randy Riddle's critique that had been given the prior month. She said she wanted it clarified that the ordinance was still law. Mr. Riddle replied that this item wasn't on the agenda and this time was for public comment only. He said that he could address this further only if the Board asked for this item to be on the agenda in the future. Ms. de Neergaard asked the Board to consider hers a request to place the item on the agenda so that the community could understand that the ordinance was still standing law. She said the community was exposed to litigation and that a lot of people had speculated how litigation could occur – at any time. She said that the ordinance was still a barrier to contracting out for police services and that it could take two to three years to litigate. She said she had spoken to an attorney who had indicated that the Board could go to court to have the ordinance repealed or voided. Or, she said, a citizen could take the matter to court. She said she wanted the ordinance laid to rest so it would no longer be a barrier.

Ms. de Neergaard asked Director Cordova about comments that had appeared online and that had been attributed to her. Ms. de Neergaard said that Director Cordova had reported that credible threats had been made to her personal safety and that the FBI had told her to temporarily relocate outside Kensington, where she had resided for over 15 years. Ms. de Neergaard went on to say that the FBI had offered to act as the liaison with State and County agencies to ensure that Director Cordova could

Approved, as amended, on 12/10/15. Amendments are highlighted in yellow.

continue to fulfill her duties as an elected Kensington representative while displaced. Ms. de Neergaard asked Director Cordova if, in fact, she had left Kensington. Director Cordova responded that she had spent five days out of the District to run a 200-mile race and to spend time in the Sierra Nevada.

Ms. de Neergaard asked the Ad Hoc Committee to start generating data.

Celia Concus questioned why GM/COP Hart had dropped the term "Interim" from his title and said that doing so conveyed a sense of permanence and that this was inaccurate. She cited past issues of the Outlook and GM/COP Hart's agreement, in which the title of GM/COP had been cited as interim, and she cited examples of other professionals who included words in their titles that indicated that their positions were temporary in nature. She said the Board could direct the GM/COP to change his title to include the word interim or explain to the community any assumptions about GM/COP Hart's employment. Ms. Concus provided copies of her comments to members of the Board and to staff. Staff has included this document, under correspondence, in the December Board Packet.

Gloria Morrison commented on the recent incident involving police officers and asked how the matter would be decided. She said the Board and the GM/COP might start losing the confidence of the community, especially when one officer was involved in mishaps. She noted that the Richmond Police Department was investigating the matter and she questioned how much time the Richmond Police Chief would be able to spend on the matter, as he would likely be leaving the department soon. She said that she was waiting for results of the investigations, that she hoped they would be fair and legal for everyone, and that they would restore the community's confidence.

Jim Watt said the Closed Session agenda had included a discussion of goals and objectives for the GM/COP. He said that he had reviewed the Interim GM/COP's employment agreement and that it contained provisions which, to the best of his knowledge, the Board had failed to perform. He specifically cited section 6b of the agreement, which addressed the Board setting its own goals and objectives and then setting those for the GM/COP. He said he encouraged the Board to set these and use them to conduct a performance evaluation of GM/COP Hart. Mr. Watt also said that GM/COP Hart served as a councilman for the City of Dublin and that section 1b of his employment agreement said he was not to hold any such position without the prior written consent of the District. He questioned where, in the event of an emergency, GM/COP Hart would devote his attention: Dublin or Kensington. He concluded by saying that the Board needed to let the community know why it didn't feel there was a conflict of interest in this situation.

A. Stevens Delk said the minutes of the September meeting were incorrect, with respect to what they indicated she had said: she had said that, in 2013-14, the Fire District had received \$3.2 million in ad valorem taxes and that the KPPCSD had received \$2.5 million in total taxes. She said these taxes were for total taxes, including special taxes. She said this was just for clarification; she was not asking for the minutes to be amended. She said the full text of her comments could be found on pages 36 and 37 of the October Board Packet. She said the take-home lesson was that, for the average property owner, the out of pocket costs for all KPPCSD services were \$1,800 for 2013-14 and that KFPD out of pocket expenses were \$1,500.

Marilyn Stollen said the Chief was into the sixth month of his interim term. She encouraged the Board to consider splitting the position of GM/COP. She noted that Kensington Next Door had indicated that the Board needed to wait for the Ad Hoc Committee to address this issue, and she said that the Committee was taking too long to do so. She said that others had suggested that the Board put this on the agenda **eight** (changed from "several") times in the past and that having the combined position created a conflict of interest. She concluded by saying that, in other communities, the position was split – Kensington was the only small town with the combined position – and that by not having the position split in Kensington could create situations that could put the District at risk.

Peter Liddell announced that the Kensington Public Safety Council would hold a meeting on Saturday, November 14th at 10:00 A.M., to discuss the heavy rains predicted by the National Weather Service. He

Approved, as amended, on 12/10/15. Amendments are highlighted in yellow.

said the meeting would include discussions about storm drains, sandbagging, and how to protect one's home and property. He said that Cheryl Miller, of Diablo Fire Safe, would discuss the wildfire danger associated with heavy vegetation and that she would discuss Diablo Fire Safe grant that might be available to homeowners to assist with abating unsafe vegetation conditions. He concluded by saying that the meeting would be held at the Community Center.

Chris Deppe said he had been trying to do research by using the District's website and said that doing so was difficult because of the PDF format used by the District. He asked that textual PDFs be used for the District agendas instead. GM/COP Hart said the District was working on this.

Peter Conrad asked the Board to move New Business, Item d, to the top of the agenda so that Mr. Wallace would not have to be kept late. Director Sherris-Watt said she supported the request. President Welsh and Director Sherris Watt said this would be taken up following the Consent Calendar.

BOARD COMMENTS

Director Sherris-Watt reported that the Park Buildings Committee had met, for the eighth time, on Monday and that, at that meeting, Mr. Gregory Wallace, seismic engineer, had presented his seismic study. She reported that the Committee had also completed an ADA study on the building and that she hoped the architect, Gilda Puente Peters, who had performed this analysis, would be able to make a presentation at the Board's December meeting. She concluded by reporting that the Committee would meet again the following Tuesday and on December 16th. Director Cordova noted that the Library had a section for documents such as the ADA analysis.

Director Toombs reported that there had been a Finance Committee meeting in October. He reported that the District normally received an annual evaluation from CalPERS in October but that, because of the implementation of GASB 68, the report was late in being issued and the District likely wouldn't receive it until late November. He said that the Committee had discussed a five-year plan and beginning to determine what kind of reserve policy to put into effect. He said that, during the discussion of the five-year plan, there was discussion about what would happen if CalPERS were to change its discount rate from the current 7 ½ %, which, Director Toombs noted, the entity had failed to meet for some time. He reported that the Finance Committee also had discussed a variance report to include with the monthly finance statements.

Director Cordova reported that, during the month of October, she had taken five days away from the District and that she looked forward to spending the holidays with her parents in Orange County. She reported that she had completed AB123 certification, which had a due date of December 5th. She noted that had completed this by way of the Attorney General's website at no cost. She reported that, during the month, she had met with residents of the Colusa Circle and Franciscan Way areas and that she would share the details of the meetings when the traffic issue came up later in the evening's agenda.

Vice President Gillette reported she was glad to be back, following some vacation time in September and a family wedding in October that had caused her to miss those two Board meetings.

President Welsh reported that, in addition to the Kensington Public Safety Council meeting, there would be two other events on Saturday, November 14th: the Library's 50th anniversary celebration (in the afternoon) and the Fire District's pasta feed and toy drive (in the evening).

STAFF COMMENTS

GM/COP Hart reported:

- He was continuing to work on the sound system and was exploring adding a loop system, which would improve the audio quality for those with hearing impairments, and that the

Approved, as amended, on 12/10/15. Amendments are highlighted in yellow.

Kensington Improvement Club (KIC) had offered to contribute \$5,000 to the sound system and, thereby, to share in its use.

- The commercial part of the tree-pruning project had been completed, and the citizen part of this was continuing.
- The Citizen's Academy was continuing on Wednesday evenings.
- A toy drive barrel had been placed in the lobby of the Public Safety Building.
- That, on the day after he had been sworn in, he had promised to issue a press release regarding an incident that had occurred in 2014. He reported that the audit of the incident, which he had committed to have performed, had been completed by an outside agency and that he was working with legal counsel on how to release as much information as possible in order to rebuild the community's trust. He said he hoped to release something within the next two to three weeks.

President Welsh asked if the possible change of Richmond's Chief of Police – something that had been raised earlier in the evening – would have an impact on the report. GM/COP Hart responded that it would not: The Chief was only one individual at the department and that, in fact, a Lieutenant had been assigned the internal affairs investigation.

Legal Counsel Randy Riddle reported that he wanted to address the role of the Board with respect to the disciplinary process. He said that, under the Government Code sections that have to do with community services districts, it makes clear that that responsibility lies with the General Manager.

AD HOC COMMITTEE REPORT

David Spath reported that the Committee was doing well, that it had had three meetings to date, and that GM/COP Hart would make a presentation on police services at the Committee's fourth meeting, on November 16th. Dr. Spath reported that this meeting would take place at the First Unitarian Church, from 7:00 PM until 9:00 PM. He said the public was invited to attend and said he and other members of the Committee had been disappointed by the small number of people attending its meetings. He reported that the Committee had begun to work on the first task that the Board had assigned – assessment of the current structure. He said the Committee had created five sub-committees to look at statutory/regulatory issues, financial issues, services provided, and public perception of services provided. He reported that a public forum, at which information would be shared and public input would be sought, would take place on Saturday, January 23rd, from 10:00 AM until noon. Dr. Spath thanked the Board for allocating two hours of Randy Riddle's time and said the Committee had used this time to better understand Kensington's responsibilities, as an unincorporated area and a community services district, to provide police services. He also reported that the Committee had created a document page on the District's website.

Dr. Spath asked if the Board should provide for Committee reports on a regular monthly basis. President Welsh responded that, for the time being, it would make sense to have this appear as an ongoing agenda item but that, if there were to be something specific for which the Committee wanted to ask, the language be provided to GM/COP Hart to include in the agenda.

Vice President Gillette said that she would like the Committee's work to be completed by the spring and asked Dr. Spath what deadline he anticipated. He responded that he would provide expected deadlines information to the Board at its December meeting.

Director Cordova suggested sending email updates and suggested that people contact District Administrator if they wanted to receive such updates.

Vice President Gillette thanked the Committee members for everything it had been doing.

Approved, as amended, on 12/10/15. Amendments are highlighted in yellow.

Director Sherris-Watt asked Dr. Spath if the Committee needed more time with Public Law Group. Dr. Spath responded that the Committee had used the two hours already allocated and that he didn't see a need for more time.

Dr. Spath reported that it was proving difficult to find meeting space and that the Outlook had asked the Committee to provide updates for future issues.

David Bergen read a letter, about separating the position of General Manager/Chief of Police, which had been written by Jan Behrsin. In his letter, Mr. Behrsin asked that this matter be addressed sooner rather than later, cited that GM/COP Hart's contract would expire in 100 days, and stated that it was a conflict for the GM to supervise himself in his role as COP. Mr. Behrsin's letter said that, even if legally permissible to combine the two positions, the Community's history over the prior seven or so years demonstrated that the Board was unwilling to supervise the GM/COP thus, there were no checks and balances that were consistent with the government codes that required each special district to have a general manager to hire, supervise, discipline, and fire all district employees. The letter said there was no requirement for special districts to have chiefs of police. The letter concluded by saying that using the term "interim" was a sham and an attempt to deceive the public until the November 2016 election and that a lot of work needed to be done to ascertain whether the GM/COP position should be separated or remain as it is. David Bergen said he seconded almost everything that Jan Behrsin had written.

NEW BUSINESS

8d. The Board received a presentation from Gregory Wallace about the seismic analysis he had completed on the Community Center.

Director Sherris-Watt introduced Gregory Paul Wallace, seismic engineer, and thanked him for coming.

Gregory Wallace said he had conducted a structural analysis of the building. He reported that the building had been built in the 1950's and that there had been renovations in the 1980's. He said that, as was typical for buildings constructed in the 1950's, it had some structural deficiencies. He noted the attachments between the walls and the ceiling needed to be improved. He reported that this would help hold the building together so that it would shake as a unit in the event of an earthquake. He said the back portions of the building, which were built in the 1980's, were in better structural shape and that the front and side walls of the building, which were partial height, were most susceptible and were most in need of work. In particular, he said the front wall could tip away from the rest of the building. He reported that needed structural work could be incorporated into other building improvements.

Director Sherris-Watt reported that architect Bart Jones, who had done the addition to the Community Center in 1988, had provided some additional drawings to Mr. Wallace on Friday and that these motivated Mr. Wallace to perform more testing, which had been done earlier in the day by Consolidating Engineers. She reported that these test results would be incorporated into Mr. Wallace's numbers and that the tests showed that the rebar was 24 inches on center. He went on to explain that only those cells containing rebar contained grout; the other cells were hollow.

Director Sherris-Watt said that the Park Buildings Committee had hoped the Community Center could serve as an essential services building but that, because of the structural deficiencies, it probably couldn't. She said the building might, however, be able to serve as a life safety building.

Vice President Gillette asked if it was worth doing this work on the building. Gregory Wallace responded in the affirmative. He did say, however, that, even with the recommended basic work, parts of the building would likely sustain damage and would not be able to be used following a major earthquake on the Hayward fault. He noted that the safest parts of the building were the kitchen and the small meeting rooms.

Approved, as amended, on 12/10/15. Amendments are highlighted in yellow.

Peter Conrad, a Park Buildings Committee member and architect, said that the front wall was the most vulnerable part of the building and that, if it failed, the roof would collapse. He added that steps could be taken to render the building capable of standing well enough to enable everyone to exit safely, following an earthquake.

Mr. Wallace noted that, if structural work were to be done on the roof, it could be re-roofed and insulated in conjunction. President Welsh asked about solar panels. Mr. Gregory responded that the roof could accommodate solar panels.

Director Sherris-Watt said that Mr. Wallace had provided an estimate of the seismic work of \$300,000 and of the roof replacement of \$50,000.

Director Toombs noted that the \$300,000 did not include architectural costs for anything more than steel posts reinforcing the front wall. He said it would be nice to address some aesthetic issues at the same time seismic work was done. He asked about accessibility issues. Director Sherris-Watt responded that this would be addressed at the December meeting. She said the Committee would then look for someone to marry the seismic and accessibility reports.

Director Cordova asked about WW Grant money. Director Sherris-Watt responded that the Committee planned for submission in the spring of 2016. She reported that everything would need to be completed by December 31, 2018.

Chris Deppe asked if research had ever been done to determine what it would cost to tear down the Community Center and build a new one. Director Toombs responded that the prior Parks Buildings Committee had looked at this and had determined that this would cost \$2.5 – \$5 million. Director Toombs noted that a complete report on the costs to repair, improve, and demolish the building was on the District website. Mr. Deppe said it seemed silly to spend \$500,000 on the building and still have it look the way it does.

The Board thanked Mr. Wallace for his presentation and President Welsh thanked Director Sherris-Watt for her work.

GM/COP Hart asked the Board to consider New Business Item 8 c next.

- 8c. The Board received a presentation from the General Manager and considered taking action on having the General Manager, with assistance from the District's CPA, Deborah Russell, and Renne Sloan's consultant, Adam Benson, prepare an updated five-year plan.

GM/COP Hart reported that, at the October 31, 2015 meeting of the Finance Committee, there had been a motion passed to recommend to the Board that the District update the five-year plan with assistance from Adam Benson and the District's CPA Deborah Russell. He reported that Adam Benson was in attendance to answer questions.

Adam Benson noted that while the building costs just discussed could be incorporated into a five-year plan, a big piece of the analysis - the labor contract - was still an unknown. Director Toombs asked GM/COP Hart how much it would cost to perform the updated analysis with assistance from Mr. Benson and Ms. Russell. Mr. Benson responded that the prior plan had been prepared for under \$5,000. He said that, because the framework had already been created, it likely wouldn't be as expensive to prepare an updated report. Director Cordova responded that, even though the amount was under the GM/COP's limit, she was concerned about the amount. She said that, although she would support this, she would need estimates for anything with a fiscal impact.

Vice President Gillette asked what GM/COP Hart was looking for from the Board. GM/COP Hart replied that he was seeking confirmation from the Board that it understood that there would be a cost to proceeding with updating the five-year plan.

Approved, as amended, on 12/10/15. Amendments are highlighted in yellow.

Director Cordova said that the Board would need a motion but that she wanted it to include that the cost would not exceed \$5,000.

MOTION: Director Cordova moved, and Vice President Gillette seconded, that GM/COP Hart move forward with a five-year projection, hiring Adam Benson and Deborah Russell as needed, for an amount not to exceed \$5,000 without returning to the Board.

Motion passed: 5 – 0.

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

Jim Watt added that the Finance Committee's motion had included a recommendation to the Board that the five-year plan provide separate scenarios for circumstances in which CalPERS might not meet its target return rate, which it used for calculating the contributions from the District for its police officers. Mr. Benson said he could include two scenarios based on his understanding of CalPERS' recently revised flexible glide paths.

CONSENT CALENDAR

Karl Kruger asked the Directors to pull Item b. The Directors pulled Items a, c and d.

Director Toombs asked to discuss Item a. He noted that the minutes indicated that there were agenda items that were to be carried over to the November meeting. He asked that GM/COP Hart and staff go back over the minutes and get those items back on the agenda, such as action minutes. GM/COP Hart responded that action minutes would not be coming back to the Board until the audio equipment issue was resolved.

With respect to Item b, Karl Kruger said that he thought the variance report would include only current month issues. He said the report commented on items discussed the prior month and on items in the current month's Profit and Loss Report. He said the variance report should match the month's P&L Report contained in the Board Packet.

Jim Watt asked about the police officer who had been injured about a year earlier and about two other officers who also were injured. He asked how this might impact the workers' compensation costs to be included in the five-year forecast. He said he would like a written explanation of what might be the anticipated costs. He noted that, year-to-date, the District had spent \$45,000 on workers' compensation and the amount budgeted for the year was \$50,000. District Administrator Wolter responded that she could not answer the question about the future but that the \$45,000 spent year-to-date had been the annual workers' compensation premium charged by the Special District Risk Management Association. (SDRMA). She explained that the premium was usually paid once, early in the year and then, at the end of the year, there was a reconciliation.

President Welsh asked GM/COP Hart to provide information to the extent that he could without violating anyone's personnel rights or privacy.

Vice President Gillette noted that the District had to have workers' compensation insurance but that she understood Mr. Watt's concern that the District consider possible increases when setting the budget.

Director Sherris-Watt noted that, for Account 643 (Janitorial Supplies), the District had exceeded the amount budgeted for the year.

Approved, as amended, on 12/10/15. Amendments are highlighted in yellow.

Director Cordova pulled Item c, the Variance Report. She said it wasn't something she had been expecting. She asked why certain accounts had been written about.

At 9:45 PM the Board noted the need to make a motion to extend the meeting.

MOTION: Vice President Gillette moved, and President Welsh seconded, to extend the meeting until the Board completed its business.

Motion passed: 5 – 0.

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

District Administrator Wolter responded that, with GM Hart's authorization, she had prepared the Variance Report. She said she had gone through the Profit and Loss report and identified things that stood out, relative to amounts budgeted for the month and or year-to-date, and addressed items that had been questioned by the Board at the prior month's meeting. President Welsh noted that this report was something that Karl Kruger had been asking for.

Director Cordova said that she appreciated the report as a support document but that she still wanted percentage variances to appear in a column on the P&L Report. She indicated she would meet with GM Hart to discuss the matter further.

Director Sherris-Watt asked about the Park and Recreation administrator's salary. She noted that Ms. DiNapoli performed a variety of duties and wondered if all her salary had been charged to account 602. District Administrator Wolter responded that 75% of Ms. DiNapoli's hours were charged to District Administration and 25% to Park and Recreation.

MOTION: Director Cordova moved, and Director Sherris-Watt seconded, that the Consent Calendar be approved.

Motion passed: 5 – 0.

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

The Board took a two minute recess and resumed its meeting at 9:59 P.M.

OLD BUSINESS

- 7 a. The Board received a presentation from the General Manager and considered rescinding the Board Adopted Zero Tolerance Policy from the UC Berkeley Traffic Safety Evaluation previously adopted by Board action on May 13, 2010.

GM/COP Hart provided a background summary. He said that the Traffic Safety Evaluation had been conducted in 2010 and that, subsequent to the study, the Board had adopted the Zero Tolerance Policy. He reported that, since he had started as GM/COP, he had heard complaints about the policy. He said that, although traffic and pedestrian safety were paramount, statistics suggested that the Zero Tolerance Policy hadn't really been enforced. He said that, in addition, the policy's title had a negative connotation. He said he also had learned that some in town were of the opinion that, if one were a Kensington resident, one wouldn't be cited. GM/COP Hart said he wanted to have the officers use discretion either to give someone a warning or a citation, instead of having zero tolerance. He said he would return to the Board in January with specific guidelines about traffic and pedestrian safety, but he did not recommend retaining zero tolerance because it was not good public policy.

President Welsh said there was a misunderstanding about the Zero Tolerance Policy. He said it had always been directed at traffic and pedestrian safety, but it hadn't meant that any infraction would

Approved, as amended, on 12/10/15. Amendments are highlighted in yellow.

automatically result in a citation: It was meant to provide strict enforcement where safety was known to be an issue. He said education needed to be an important component of enforcement.

Director Toombs said he was on the Board when the policy was adopted and that it passed unanimously because traffic was so awful. He said the reason for putting it in place still existed – public safety. He said that, if zero tolerance wasn't wanted, he would want something as good or better.

GM/COP Hart added that he had asked the County to conduct a study of the speed of traffic on Franciscan Way and that it showed that, although there were some spikes, the average speed was less than the posted speed of 25 miles per hour. He said that a challenge with Franciscan Way was the difficulty of operating radar there; regardless, the Contra Costa Traffic Engineer was opposed to making any traffic changes to the area.

Director Cordova responded that this was a sample. She said that she had been on Franciscan and spoken to neighbors and that she was in agreement with Director Toombs. She said that Zero Tolerance shouldn't be rescinded unless and until a meaningful replacement was already in place. She said the community had a speeding problem.

GM/COP Hart responded that removing Zero Tolerance didn't mean that the officers wouldn't enforce speed limits or other violations. He suggested looking into traffic calming and other options as part of a new approach to solving traffic problems.

Director Cordova suggested installing zero tolerance traffic zone signs, on streets such as Franciscan and the Arlington and near the school, so that drivers would know that, if caught speeding, they would receive a ticket. She said she would like to continue the item and, in the meantime, for GM/COP Hart to develop something with which to replace it. She said she didn't disagree with GM/COP Hart's philosophy.

Director Sherris-Watt thanked GM/COP Hart for bringing the matter to the Board and said there was a lot of work to do on it and a need to update it. She said that Zero Tolerance was an awful name and that it didn't convey what the District was trying to accomplish, which was to enforce the traffic laws and slow down drivers.

Vice President Gillette said she agreed with GM/COP Hart on the matter but said that something else needed to replace it. She said she thought enforcement was the answer. She said the item should be tabled until there was something to replace it.

Chris Deppe thanked Director Toombs for his work on traffic problems and said he agreed that the policy shouldn't be replaced until there was something to replace it. He noted that, between March and November 12th, there had been about 300 traffic stops, with 120 tickets issued. He said the Zero Tolerance Policy wasn't currently being followed; therefore he questioned whether a new policy would be followed. He said he would prefer to see the current policy followed and questioned what was currently being done. GM/COP Hart responded that discretion was being used. Mr. Deppe questioned what discretion meant and whether it meant that one person might get a ticket while someone else might not. He clarified that, with discretion, one didn't know what the rules were; whereas, with zero tolerance, they did. Mr. Deppe said that his understanding was that part of the reason for the Zero Tolerance Policy was that Kensington drivers thought that they wouldn't get tickets, no matter what they did. He said he thought it needed to remain that Kensington drivers wouldn't just get warnings – they should be treated like all other drivers.

President Welsh clarified that there was a difference between arbitrariness and discrepancy, and that he didn't think there should be arbitrariness but there should be some discretion. He said that, if the policy were to be rescinded, the Chief would then direct the officers to enforce, based on the Chief's direction.

Approved, as amended, on 12/10/15. Amendments are highlighted in yellow.

Director Cordova said that many communities had published traffic protocol, including ways for residents to report traffic problems to the police department.

Vice President Gillette said she agreed with Mr. Deppe – that if you didn't have zero tolerance you had discrimination. She said this was an issue of trusting the officers to enforce the law as they saw fit. She reiterated that she didn't want to rescind the policy without knowing what would replace it.

Director Cordova suggested using the Outlook to educate the community about specific problem areas.

GM/COP Hart responded that the Directors had identified many of the elements he planned to incorporate into what he would recommend as replacement options but that he thought Zero Tolerance was bad public policy. He said he felt strongly about the perceptions associated with Zero Tolerance and with the notion that Kensington residents didn't receive citations. He said he wanted to start over, from scratch.

Director Sherris-Watt expressed that the Board had hired GM/COP Hart to do a job, that he felt constrained by this policy, that he would like to command his officers, and that he would like to construct a new program.

Vice President Gillette asked GM/COP Hart what he would do next, if the Board rescinded the Zero Tolerance Policy. GM/COP Hart responded that the replacement would be about public safety, pedestrian safety, focusing on key areas in the community, and discretion. He said he had received a number of emails about Zero Tolerance and that it was a point of contention among many in the community. He said that, in an effort to contribute to healing the community, he wanted to eliminate the policy and replace it with something else.

Director Cordova said she disagreed with the notion that the Board was preventing the Chief from doing his job. She said she thought this was a community policing issue and that there would be nothing to prevent GM/COP Hart from imparting his philosophy to his officers on how to handle infractions. She asked how long it would take for GM/COP Hart to get on paper his ideal policing model.

Vice President Gillette said that the Chief was trying to rescind Zero Tolerance and replace it with a set of other models and that putting all on paper would be impractical. GM/COP Hart agreed with this observation. Director Cordova said she wanted to continue the matter.

Chris Deppe said that warnings weren't effective and that citations were the only thing that worked. GM/COP Hart responded that discretion was an important element of policing. He said that, with respect to traffic there were only two musts: One was that the cited individual must sign the bottom of the citation. He said that other than the two "musts" other elements of the vehicle code were at the discretion of the officer. Mr. Deppe responded that Zero Tolerance had come about because there had been arbitrariness.

Simon Brafman expressed concern about crosswalks being violated by drivers, whether speeding or not. He wanted to know what could be done to make the crosswalks safer.

Karl Kruger said that not every stop required a citation. He said the officers should be allowed to use discretion.

A. Stevens Delk said that the UC Berkeley study had concluded that zero tolerance was an effective tool for reducing traffic accidents. She said that the GM/COP's Board Packet memo reported there was a perception that Zero Tolerance was a revenue generator and that the former GM/COP had reported at Board meetings that citations generated only about \$10 apiece for the District. She suggested an Outlook article that would explain where the components of a \$200 citation go. She noted that the memo also reported that, since the enactment of Zero Tolerance, there had been fewer citations though the GM/COP did not explain why this might have been so and that the policy hadn't been followed. She

Approved, as amended, on 12/10/15. Amendments are highlighted in yellow.

observed that, perhaps there were fewer citations because there were fewer violations and that the policy might be working as intended. She said what was important was whether there had been fewer accidents, in particular serious ones involving bodily injury. She said that, from posted police reports, there had been 19 (about six per year) accidents involving bodily injury during the three years prior to enactment and that, in the four years following enactment there had been 11 (about three per year) and that this was a 50% reduction. She said the policy should be enforced uniformly and fairly. She noted that there had been cars parked illegally at a recent event on Coventry Road that hadn't been cited.

Mabry Benson questioned the rationale for not issuing 180 citations out of 300 stops and for issuing only 120 citations. GM/COP Hart responded that the officers had used their discretion.

David Bergen said Zero Tolerance had to do with more than just speeding, reckless driving, and endangering pedestrians – it appeared to have an effect on things such as parking and equipment failures. He noted that, with respect to crosswalks, there were LED lights for them that could be installed and that were effective. He said that, with respect to speed limits, something that might be effective would be changing the limits to an odd number, such as 19 or 23 miles per hour.

President Welsh said that, when Zero Tolerance was adopted, its intent was much clearer: it was about hot spots for pedestrian safety and traffic. He noted that, over time, it had mutated and that GM/COP Hart wanted to take the District back to the original intent of Zero Tolerance. He suggested that, when next discussed, GM/COP Hart fill in some of the blanks that had been mentioned during the evening's discussion and that he also include elements of officer discretion. He added that discretion could not be taken away from police officers. He noted that Kensington was the only area in which he had never received a warning; he'd only received tickets. He said he wanted to ensure that the Board wouldn't be rescinding something without knowing what it would receive in its stead.

Board consensus was that the item should be tabled. GM/COP Hart responded that it would be on either the December or January agenda.

MOTION: President Welsh moved, and Director Cordova seconded, to table the item until the December or January meeting, at the Chief's discretion.

Motion passed: 5 – 0.

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

8a. The Board received a presentation from the General Manager and considered taking action on revising fees for certain police records and services charged by the District.

GM/COP Hart briefed the Board on the item. He reported that fees for police records and services had last been revised in 2001. He summarized the chart of proposed new fees, said he had a responsibility to bring such items to the Board for consideration, and recommended they be adopted so that Kensington's fees would be similar to those of other agencies. He said that, if the Board wished to proceed, he would return with a resolution for the Board to consider.

Vice President Gillette said the Board needed to look at this. She questioned the charge of \$0.15 per page for copies. GM/COP Hart responded that there was a government code that regulated this amount.

Director Cordova said she thought the fee amounts were out of step. She said that, with respect to electronic records fees, she thought there might be a more effective way to handle these. She asked that, when the item came back to the Board, GM/COP Hart provide information about how many of each of the items had been completed in the prior year. She questioned if this was an issue of revenue generation. GM/COP Hart answered in the affirmative.

Approved, as amended, on 12/10/15. Amendments are highlighted in yellow.

Vice President Gillette said that, for Kensington's small department, these were costly services to provide and so the District should charge for them. She said that what GM/COP Hart had proposed was good, in terms of increases, that it seemed reasonable, and that she saw no reason not to adopt the proposed increases.

President Welsh said he agreed and asked that the Board take up the item again at the next meeting for a final reading.

Gail Feldman said that she didn't think it was a bad idea to look at the fees but that she did have a question about one of the fees: for police reports. She said Kensington's fee, at \$20, looked higher than that for other jurisdictions. She said that obtaining a report, for a situation in which someone had been a victim, the District shouldn't charge that much, unless there were justification for doing so. GM/COP Hart responded that the cost of living had been another element of consideration with respect to the proposed fees. President Welsh asked how many requests for these reports the Department received. GM/COP Hart responded that the Department received no fewer than half a dozen requests per week. He added that the fees reflected staff time required to complete the requests.

Director Sherris-Watt said that fingerprinting was required for things like working at the school and she asked if live-scan was required for this. GM/COP Hart responded in the affirmative. She noted that live-scan appeared to be expensive. Director Cordova commented that the agencies usually picked up this cost.

Vice President Gillette said that the Board should give GM/COP Hart some leeway and said she didn't think the Board should question, in detail, everything he brought to the Board. She said she trusted his judgment and that asking him to provide information about how many of each of the items had been done seemed like micro managing.

Director Sherris-Watt said she agreed with Ms. Feldman – that the fee for police reports seemed high – and reiterated that she thought the fees for fingerprinting seemed high. Director Cordova said she agreed.

Director Toombs suggested that GM/COP Hart return to the next meeting with a resolution containing the proposed fees.

Celia Concus said that she had a neighbor whose car had been hit, that the neighbor had gone to the police department three times to get the report, and that when she received it the report was incorrect. She said that, for the department to charge the woman \$20 for this seemed punitive. She said that, from her own point of view, she had asked for Public Records Act requests and the amount she was charged for the records was too costly. She said she had been charged \$0.15 per page and that it didn't cost that much to prepare the document. Director Toombs said the District couldn't charge, on a per page basis, more than it cost to prepare each page.

GM/COP Hart said that his understanding was that there wasn't Board consensus about specific fees proposed and that, therefore, he would bring back to the Board a resolution containing the proposed fees. Director Cordova responded that she wished GM/COP Hart would reduce the fee for police reports. Director Toombs said she would have an opportunity to make that point when the resolution came before the Board. President Welsh and Vice President Gillette asked GM/COP Hart to take into consideration the comments that had been made and then revise the amounts if he thought doing so seemed appropriate.

- 8b. The Board was to receive a presentation from the General Manager and consider taking action on revising the rental fees and other charges for use of the District facilities.

Approved, as amended, on 12/10/15. Amendments are highlighted in yellow.

Director Sherris-Watt said she hoped to table the item until the next meeting. Board consensus was to do so.

Director Cordova asked that, when discussed at the next meeting, the GM/COP could provide information about whom he had spoken with about revising the fees. In particular, whether had he spoken with the K-Groups. Director Sherris-Watt responded that the proposed fees were for party rentals, not fees for K-Groups.

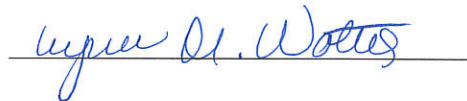
MOTION: Vice President Gillette moved, and President Welsh seconded, to adjourn the meeting. Motion passed: 5 – 0.

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

The meeting was adjourned at 11:06 P.M.



Len Welsh
KPPCSD Board President



Lynn Wolter
District Administrator