

Timeline: Nov 2008-2015

Composed of research of board minutes. Legal costs are higher than reported since what was reported was in the budget at the time, not billed or paid items etc.

2008

2008 Board Members

Cindy Kimball President, resigned in 2009

Joan Gallegos

Pat McClaughlin

Paul Haxo

Bill Wright

Nov 2008

Mr. Toombs is elected to the board for a term expiring December 2012 and during that term he was President of the Board.

Dec 2008

Citizens harassed: Metcalf and Kosel

Dec 2008

MOU accepted, with 2 yr. contract, raise of 6%, first yr., second 4%, retroactive to 7/08

2008 elected; 2009

Bill Wright , President

Chuck Toombs , VP

Cindy Kimball

Cathie Kosel

Pat McClaughlin

2009

Jan 2009 BOD Mtg

2 hostile work place investigations completed. False report allegation, officer failed to prepare for court, failed to report a traffic collision, failed two reform duties, action unbecoming an officer.

New business task force was formed

Revenue Committee ... Pat M and Cindy
 Expense Reduction...Wright, Toombs
 Annex, Cathie
 Consolidation, Wright

Feb 2009 BOD Mtg

Hostile Work Environment Investigation alleged by police officers.

Toombs and Wright are on the executive Committee (Pres. and VP) to discuss personnel matters, including compensation of GM/COP Harman.

Joan Gallegos asks board in mtgs. for access to materials to make informed decisions.

Mar 2009 BOD Mtg

Kosel announces all directors are fiduciaries, issues come up re personnel investigations, Harman was investigating and could not report.
 Harman had certain goals to meet, personnel, conflict resolution, budget etc.
 Reserve officers not paid

Other considerations, issues (If there had been internal affairs, or separate GM/COP, would have been different.)

Issue with Outlook and press releases with John Field.

Apr 2009 BOD Mtg

LAFCO MSR Rpt.

Expense reduction task force report Toombs and Wright

Considered reducing police officer on graveyard shift would save \$155k per officer.

Save 301k if contracted out, quick estimate from EC similar to arrangement with KFD.

Cut other expenses, 48k

Discussions with agencies, sheriff's dept. would cost \$211k more

Special meeting, KFPD and CSD combine recommendation

Harman's review goals

Goals for Harmon performance mar - jun eval.

- Improve district accounting function

- Improve statistical reporting, timeliness of reports

- Improve system of personnel evaluations

Sgt. Escobar asked for a meeting with the board re Harmon, refused and was referred back to Harmon.

Henry Schiff, a resident raises concern about chain of command with the combined position. Board discussed having agenda item for the next board meeting re splitting the GM/COP position. (Does not happen.)

General liaison committee formed to hire, review, determine salary of the GM/COP. Included pres. and VP of board.

Stein suggests a survey of the community to an idea of how community feels about merger etc.

Closed session, police staff are dismissed in April

May 2009 BOD Mtg

Taylor is to be used to review Harman's ability and see if he could improve.

Anticipated litigation with counsel

Proposed consult with Brown Taylor who was here in 2007, before Harman was hired.

June no records

Jul 2009 BOD Mtg

Discussion of policies, salaries, being fair to police. When there is a deficit budget Harman showed various versions of board policy proposals and showed the board manual showing changes of policy in passing a budget with deficit with a 4-1 vs. 3-2. Ok ultimately to pass 3-2 deficit budget.

Aug 2009 BOD Mtg

[Kimball resigns, cites lack of progress to deal with budget and GM/COP split.](#)

Cindy Kimball in her resignation letter, states that

"We have failed to move on critical fiscal and community issues, which include reviewing our budget for accuracy, and the increased legal, consultant and turnover costs, reviewing the general manager chief of police contract with a potential split of the position, exploring all options for exceptional police services, bringing up the annex building back to a revenue producing status and evaluating the newest Bay View Refuse and Recycling proposal for district benefits."

Cindy Kimball documented that she attempted to counsel and train Harman in mgmt. techniques but that he was unresponsive. She did not recommend him for contract renewal.

2009 Ordinance Development

Sept 2009, BOD Mtg

John Stein announced at the board meeting that some residents were getting signatures for an ordinance (to prevent disbanding the PD or contracting out.) no discussion in the minutes.

Oct 2009 BOD Mtg

The ordinance was presented to the board, John Stein said they could accept the initiative, or make a decision within 10 days to hold a special election. There were 2 public comments Dorroh and Stein's wife. [Dorroh said he wrote the initiative.](#) They voted to approve it, 4-1. Kosel dissented.

Ordinance

[Letter from Hanson Bridgett , Fries reports set of petitions was submitted on Aug 27](#)
[June received proof of publication in WCC times, Affidavit of posting published,](#)
[Submitted to election div of city](#)

2009 Contracting Feasibility Study

Brown Taylor, at that time continues to complete his contracting proposal, and it moves from draft to final form with a final presentation in Dec 2009. He mentions the new ordinance for a public vote and that it would delay the process 4-6 months but they could still get a final bid from EC.

Draft and final information and analysis as developed, was reviewed by a project steering committee, comprised of 2 district board members, (Toombs, Wright) a community member (Wolter) and the GM/COP Harman, they aren't named, but it is clear that the conclusions did not match up to what Brown Taylor was indicating in his earlier report.

****What changed was that the savings to contract out became smaller because, Brown Taylor was presumably asked to include Harman's \$274k full time salary and benefits package, and the inclusion of a part time detective, about total \$350k additional costs.**

This, even though Brown Taylor said... per Industry standards, that for investigative unit staffing there is "one core investigative detective for every 400 Part I offenses!

With 4 core detectives the annual projected workload is 379 Part 1 offenses per investigator... for the combined work load of Kensington & EC, therefore no additional personnel are required to support the additional average workload of 127 offenses by Kensington".

So, he reports that due to the requirement to "maintain current level of investigative services" and KPD services as it stood, the costs went up.

He said that the detective and GM/COP were to be retained, as part of the feasibility study.

So he worked at the direction of the board ... He presented 19 positive reasons for contracting, and 7 negative ones. He pointed out that both EC and Kensington were contracting for forensics, dispatch, animal control and joint records mgmt.

To demonstrate how little the board really valued this expensive research project, it was #6 on the Oct 2009 agenda. On another month it was #5 on the agenda ... No discussion or action was taken.

[Brown Taylor draft final report presented, says retaining GM and staff "in same capacities" Last page of chapter 1 intro to study says](#)

Nov 2009 BOD Mtg

Proposed KCC model, LAFCO review for msr, bay refuse increase
Brown Taylor presents draft for contracting out, discussion of Harman researching ballot measure for assessment.

Dec 2009 BOD Mtg

[Harmon asks for higher compensation, in spite of deficit](#)

Harman was tasked with coming up with a dollar amount for a special police assessment and for a timeline to put it on the June 2010 ballot.

[Kosel asks that splitting the GM/COP be on the next agenda. \(it wasn't\)](#)

In December, Brown Taylor presented his final report with one interesting addition, not discussed in his earlier reports. [Brown Taylor presents report, thanked and dismissed.](#)

Presented: Contract services for a 12 hour day rather than 24hr with an estimated savings, \$543k. From 8 am - 8 pm would not be contracted, use KPD police. *** In the evening, they become part of the ECPD beat structure for general patrol and response. For the hours of 8pm - 8am. Brilliant! But fell on deaf ears, Service demand for this period, he said represents 73.3% of all calls, per the 2007 study.

Calls during the evening average about 2 calls per day. No transition costs, equipment or vehicles costs. No action on it, that I could see, fell on deaf ears because the board was moving to the goal it had always intended to which was the assessment tax to keep the "status quo".

In the board election, Dorroh, Lipscomb and Lloyd post on their Internet blog about Measure G ... how the district had a \$364 deficit for 2009-10, and was using reserves. They said the tax could go down in some years!! Only alternative's listed was to "raise revenue or cut patrols", ... no contracting, not even in partial (\$500k savings) was mentioned.

Consolidation with the Fire District was raised but said the FD was opposed, and that it might lead to less revenue, they said. They added that in the election materials.

"An independent consultant determined that the cost of outsourcing was close to, and in some cases higher than, retaining our own locally-controlled Kensington Police Department. Absent an increase in the supplement, the only option that bridges the deficit would be to shrink the police department and eliminate patrol shifts."

This was just NOT true, only the sheriffs dept. was deemed too expensive. The key word that popped out for me was Locally Controlled KPD, and Control seems to be the operative word in these past developments, and the style of this and previous boards for many, many years, with little public input and education of the public.

Dec 22, 2009 special meeting, Harmon's salary

Keep at current level
Remodeling KCC proposal

Dec 2009:

2010-2012 board
Chuck Toombs, President
Bill Wright
Cindy Kimball
Mari Metcalf
Pat McClaughlin

2010

Jan 7, & 14 2010 BOD Mtg

Discussion of the \$200 parcel tax with CPI, 5 yr. financial forecast with deficits, building site plan for park, annex remodeling update,

Board has a discussion of wages and benefits for PD. Board comments "benefits are the same for public employees and determined by CalPERS. Board also commented that Kensington is not going to lead the nation in changing the benefits structure of public servants. Kosel in response to the Ralph Ander study thought that K was paying 20% premium for KPD. She indicated that the decision was being made on paltry data.

Feb 11, 2010 BOD Mtg

Brown Taylor annual goal setting and performance appraisal process and procedure amendment.
Parcel tax proposed resolution, Harman

March 11, 2010 BOD Mtg

Hanson Bridgett Memo says that by law have to have a public vote on property tax, and ordinance 2010-01 to have the vote is a board majority. Specifies specifics of CPI increases etc.

Annual Goal Setting and Performance Appraisal, for GM/COP.

April 8, 2010 BOD Mtg

Collect park assessments, prefund post emp. Benefits thru CalPERS discuss

April 20 closed session

GM performance, KPOA negotiations

May 13, 2010 BOD Mtg

Levy and collect assessments, park, clarification of funds going into CalPERS, traffic safety evaluation submitted

June 2010 BOD Mtg

VP stein, status of the community center remodeling project

Proposal to hire Kopp for salary research for KPD contract negotiations

Budget

July 2010 BOD Mtg

Budget, other services, software maintenance etc.

Aug 2010, BOD Mtg

Closed session re KPOA, Toombs and wright

Bay View Refuse increase

[Kosel believes unethical behavior is taking place and wants a special meeting, \(no details in the minutes\)](#) budget

Board votes to extend Harman contract, Kosel opposes.

64% voters pass G

Sept 9, 2010 BOD Mtg

Board President Toombs signs a contract with Mr. Harman, extending Mr. Harman's contract through June 30, 2012. That contract was for Mr. Harman's joint services as General Manager of the District and also Police Chief.

.....

**this was in spite of the fact that he had certain goals to meet, personnel conflicts that were not explored, budget issues.

Oct 14,2010 BOD Mtg

Labor negotiations, closed

Financial audit presented
Nicolay contracting for actuarial report for 2010-2011

Kosel raised comment that conflict of interest existed inherent in requiring a complaint against the police to be submitted to the police chief. Toombs said citizens had to deal with PD, appeals taken to the board

Suggestion to have a new park advisory committee discussion regarding options

Kosel raises again concerns regarding combined GM/COP position due to conflicts of interests and suggests the new board should decide this issue. Harman contract approved

Nov 2010, BOD Mtg

Lipscomb, Metcalf, Lloyd elected, Toombs, Kosel,
Koff presents salary survey
Board Initially wanted to keep the study private, decided to disclose it, per brown act.
Koff report is in the packet.

Krammer reports on Koff report. Stated 3 cities surveyed have a 3% at age 55 retirement structure. [Said in the long term the current structure is not sustainable.](#)
Toombs said that in this public forum these issues could not be addressed at this time.

Harman got a donation of motorcycle for KPD, from P. Hill, lot of discussion re use of it for traffic enforcement.

Dec 2010,BOD Mtg

Traffic issues, paths, RFP for parks buildings
Issue raised about Outlook, Koosed and that Kosel will address editorial position, public comment on biased views of the Outlook.

2011

Jan 13, 2011, BOD Mtg

Issues with website, not posted, not working etc.
Question about \$100k garbage franchise fees
Traffic, speeding, radar sign
Paths maintenance

Feb 11, 2011

Labor negotiations, Toombs

Parks bldg. RFP

Feb 2011, BOD Mtg

Budget review, conflict of interest code 2011-02
Traffic,

March 10, 2011 BOD Mtg

Closed: threat of litigation
Traffic, pathways, KCC and KPPCSD
Hiring of female P.O.

April 14 2011 BOD Mtg

Bay view 6% increase, Kosel resolution to correct gender imbalance in KPD, Toombs presents alternate resolution

May 14, 2011 BOD Mtg

Purchase of car recommended
Brown Taylor to help with goal setting and performance appraisal for GM/COP

June 9, 2011 BOD Mtg

Bay View, budget, Measure G police tax, WestNET, Grand Jury report on Ethics and Transparency Issues in CC County,

July 2011, BOD Mtg

BOARD COMMENTS

Director Kosel discussed democracy and checks and balances. She expressed a concern about the [need for improved checks and balance in a democracy given the unusual set up we have in Kensington specifically as it pertains to the joint General Manager/Chief of Police \(GM/COP\) role.](#)

With that particular role set up Director Kosel wants to ensure the BOD is fulfilling its oversight role of the GM/COP as a check and balance as it is vital and necessary.

As an example, she cited that she had made a request to GM/COP Harman to meet with Debbie Russell, Kensington Police Protection and Community Services District (KPP & CSD) CPA last month and that her request was denied by both GM/COP Harman and President Toombs. She said there is a BOD policy that forbids this.

Director Kosel said she subsequently requested that Ms. Russell either participate in a conference call or attend a KPPCSD Board meeting so that she and other BOD members could ask questions directly about policy. Director Kosel said that GMICOP Harman told her that Ms. Russell charges \$65/hr. for her professional services and that this was cited as one of several reasons her request was denied. Director Kosel stated

that she simply wanted to speak with Ms. Russell regarding KPPCSD policy, and that she would gladly pay herself for 10 - 20 minutes of Ms. Russell's time.

Director Kosel said that federal, state, special district, and city policies everywhere require these checks and balances be in place and for whatever in Kensington we don't seem to exercise those checks in balances on a regular basis or not at all.

Director Kosel read, and ultimately presented, a document she authored (copy attached and referenced as Attachment 1) dated May 12, 2011 in which **she requested copies of all monthly statements of Premier credit cards held and or controlled by Gregory Harman and Andrea DiNapoli** and paid by the KPPCSD from the date of Mr. Harman's first employment with KPPCSD to this present time.

Director Kosel reminded GM/COP Harman that laws require him to provide the data requested within 10 days. GM/COP Harman accepted the written document. KPPCSD District Secretary Gardyne's responses to the request were submitted to Director Kosel on May 26, 2011 and May 31, 2011, respectively.

Director Kosel asked the BOD to review the policy that puts them in a do loop to review everything that comes back to the position of GM/COP. She concluded by saying that there are 3 or 4 things on the agenda this evening that violate the checks and balances requirements and that she will cite them as they occur. She expressed a hope that by the end of the evening the entire BOD will agree with her that the policy should be revised.

Status on parks bldg. RFP, design groups

Director Kosel referred to page 25 of the BOD agenda package regarding Department **Investigation #10-003 a complaint against GM/COP Harman that is being investigated by GM/COP Harman**. She cited this is an example of the lack of checks and balances that she referred to earlier in the meeting. She reiterated her concern that she believes this is inappropriate and that **she will encourage the BOD to look at dividing the GM and COP** position so that there are some checks and balances in this agency. President Toombs asked if an outside investigator be hired and Director Kosel responded no and reiterated her belief that the GM and COP functions should be divided so the GM could investigate the COP.

Catya's claim "That there is no fair, impartial, and reasonable police review procedure".

Aug 2011, BOD Mtg

General Manager/ Chief of Police Greg Harman will request that the Board hire Attorney Lee Ann Wallace to investigate the complaint made by Catherine de Neergaard in November 2010.

Sept 2011, BOD mtg

Director Metcalf expressed surprise that Bay View had made an offer and was surprised to learn that it was turned down without consulting the BOD. President Toombs responded that no written offer was tendered and that an informal discussion between Bay View's and the District's attorney had occurred. He said he did not believe this informal discussion warranted any BOD action.

Director Kosel reminded all that she had publicly requested and been provided [credit card charges](#) from GM/COP Harman and Police Services Specialist Andrea Di Napoli. She and Mari Metcalf had spent hours pouring over the transactions. She found some of the results troublesome She cited:

• •

A March [3/1/09 trip from Oakland to Burbank](#) with GM/COP Harman and his wife. A [March 3/28/11 a round trip with air and expenses from Oakland to San Diego](#). The District paid for Mrs. Harman's airline ticket and expenses. Director Kosel asked if Mrs. Harman was on official district business.

President Toombs interrupted Director Kosel several times and pointed out that she was asked to speak about Measure G. He said that no one had seen the information and that she was throwing it out as if it were the truth. He said that Director Kosel was asking questions that are misleading and inappropriate and that she had never asked GM/COP Harman if he had reimbursed the district.

Director Kosel said that was untrue and she did not want what she was doing mischaracterized. Director Metcalf passed out copies of a document

Director Kosel asked if it was ever proper for a district employee to make personal charges on the district credit card and then reimburse the district. She said that she [wanted to see two reimbursement checks](#) from GM/COP Harman to the district showing his reimbursement. She said that she wanted to see the dates and amounts.

Director Metcalf said that during GM/COP's trip to San Diego, his expenses averaged \$160/day. She referenced a [\\$200 meal in Coronado](#). GM/COP Harman explained that POST reimburses the district for his expenses and reiterated that he reimbursed the district for Mrs. Harman's expenses. He also said that he had charged Mrs. Harman's expenses in the past, reimbursed the district, and this had not been an issue. Director Metcalf asked if someone had given him permission to use the credit card to pay for personal expenses.

President Toombs then interjected that Directors' Kosel and Metcalf point was well taken and told GM/COP Harman to use his personal credit card to pay for personal expenses and then to seek reimbursement from the district.

Director Kosel inquired about GM/COP Harman's [co-payments when visiting Kaiser Medical Center](#). She asked GM/COP Harman if he had ever used the district credit card

to pay for his medical payments. GM/COP said yes. Director Metcalf asked if that was for his personal medical payments. GM/COP explained that he did so when it was related to his Workers Comp and the district was obligated to pay the co-pay.

Secretary Gardyne suggested to President Toombs that the BOD expand her internal review to include a review of those items credit card items contained in the document that Directors Kosel and Metcalf were reading from. President Toombs, Director Metcalf and Kosel agreed.

Director Metcalf then said she had other charges for Secretary Gardyne to include in her review. She then asked GM/COP Harman about a [\\$176 charge at CVS](#) and asked if he had ever used the company credit card to pay for a personal prescription or to buy alcohol. GM/COP Harman said that he had not used the company credit card to pay for a personal prescription but said that he had [used it to purchase alcohol](#). He said that he had purchased wine with dinner when he was in San Diego with Mrs. Harman. Director Metcalf then asked if he had used the credit card to purchase alcohol at the CVS store. GM/COP Harman then asked Director Metcalf, "What are you accusing me of?"

In response, Director Kosel said that it was her privilege to speak on the subject of credit cards as there were a number of trips taken at 4, 5, 6, and 8 nights that the residents of Kensington had paid for. She said she did not know if Kensington was any safer because of these trips taken. [She spoke of restaurant receipts and said that \\$16,000 had been spent on this credit card.](#)

President Toombs and Director Kosel engaged in an exchange and then told Director Kosel that she was disrupting the meeting and that he would end the meeting if necessary. Director Kosel said that she had questions and that people who pay their taxes want answers as to how their money is spent. She said that neither she nor Director Metcalf had accused GM/COP Harman of anything.

She said that under GM/COP Harman's tenure that the district had lost 11 employees and that one more, who was currently on administrative leave, was about to leave. Kosel wanted to have exit interviews to evaluate the GM/COP and amend the evaluation procedure.

Actuarial Study dated 2011 is in the packet. Recommends keeping a database of retirees' information, records of all medical expenses for retirees and keeping it separate from non retirees.

Retiree Benefits as of 2010

Med, dental, vision, lifetime, required service 5 yrs., min age 50, dependents covered, district pays 100% Kaiser plan

Oct 13,2011, BOD Mtg

Paths, wild areas, updating policy manual

Nov 10, 2011, BOD Mtg

Closed, Toombs and Lipscomb, KPOA

Paths drainage, ad hoc committee policy manual, capers member/district contributions, restroom project,

[Hemming Morse, CPA use of district credit card funds audit](#)

Board will release the salary compensation survey

Dec 2011

Closed, discipline, dismissal of employee, lasted 4 hours.

Dec 8, 2011 BOD Mtg

Discussed minutes and lack of detail, Kosel raised concern over loss of employees, female ones too.

Paths, garbage increase

MOU for 2008-June 2010 in the packet

Extension from July 1, 2010 - June 30, 2013 in packet

[In Jan 2012, added classifications of Master Sgt., \\$7614.05, step 2, \\$7842.47; and Corporal to the structure @ \\$6576.71 no steps](#)

2012

Jan 12, 2012 BOD Mtg

Director Kosel said she understood that the [forensic audit](#) has been completed and that she is eager to see it. She said she also understood that this forensic audit is being held by the District's attorneys in its San Francisco office. She said that she does not know why it went to the Attorney's office and not the BOD. She went on to say that she was told by the District's attorneys that BOD members must travel to their San Francisco office to read the report and be watched by a paralegal while they read it. She said she found this highly unusual since both the forensic auditor and the attorney are employed by the BOD and the BOD members are elected officials of Kensington. She said if the forensic audit is ultimately boring, then these unusual restrictions are unnecessary at best. She also said if the audit will require complex, controversial, sensitive or difficult decisions by the BOD, then BOD members need to **see** the audit report soon and unhampered by restrictions by one group employed by the BOD on the product of another consultant of the BOD. At a minimum, she said, the audit needs to be provided to the Board for review and discussion in a closed session. She ended by asking President Toombs if he knew when the BOD would be able to review the long awaited audit.

President Toombs responded that this was a privacy concern for the Chief and went onto say that someone made a complaint to yet another public agency about this report

so until that public agency resolves that person's report, the BOD simply can't review the audit. He said that he hoped to make the audit report a part of Chief's evaluation but since another public agency is now involved, that can't occur until that agency completes its process. He said he did not know when the BOD would review the audit.

Director Metcalf sought clarification as to which other agency was involved. President Toombs responded that someone had contacted the Contra Costa District Attorney's office about this report and that they are investigating this now. He said that he did not know who had called the DA but that he had not. He said that until the DA has completed its investigation, the BOD cannot move forward with its audit review.

Director Metcalf then asked President Toombs why he had not notified the BOD that this contact had been made by the DA.

President Toombs repeated that this was a privacy concern with the Chief and that it belongs to the Chief to distribute and not him. President Toombs said he had no excuse why he had not notified the BOD about this and that this is just how it came out. He later said that he became aware of the DA's involvement around January 5, 2012. Director Metcalf commented that had she not just asked her questions, this BOD may not have been aware of the DA's involvement. President Toombs responded that he may not be sure about that.

President Toombs said that he did not want to go any further into the substance of the report except to say that it will be past of a closed session. He said there will be provisions made to make it a part of the evaluation process. He said that is all he is prepared to say about the audit this evening.

Director Kosel commented that the BOD was eight month's late with the Chiefs performance evaluation and asked where the BOD was in that regard. President Toombs said that the plan was to move forward with the evaluation process last fall but that the process could not go forward with an audit pending as the audit impacted the outcome of the appraisal.

Director Metcalf asked President Toombs if he agreed with Directors having to go into San Francisco to view the audit. President Toombs responded that this was a closed door matter and that he did not want to go into this any further.

Director Kosel said that limiting access by BOD members to important information is not a closed session matter. She said she thought this would be of concern to every Kensington resident. President Toombs said that she had her opinion and he had his and right now he had the gavel.

In response to a question from the public, President Toombs explained that every year GM/COP Harman is entitled to an evaluation as a part of his contract.

Feb 9,2012 BOD Mtg

District biz

Director Metcalf moved to strike the final sentence of the paragraph that reads, "With all director's having heard the evidence, but not being able to come to a majority vote, no action was taken." and replace it with, " Two Directors voted to sustain the dismissal, two Directors voted against sustaining the dismissal, and one Director abstained." Director Kosel seconded the motion.

Regarding Jan 2012 minutes, [Director Kosel said it has been very difficult to oversee spending of District Funds due to lack of transparency](#). She said there is an ongoing challenge of accessing District financial data, whether it is access to officer salary data or District credit card information, and that not having access to this data makes it difficult for her to be accountable to her constituents. She reminded all that at the January 2012 BOD meeting she asked how much has been spent on recent personnel actions beyond legal fees. She said she would not vote to increase legal fees until: 1) she can be assured that legal Funds already spent are accounted for and that these funds were reasonably spent, and 2) she knows which budget items will be reduced to balance out the \$15,000 overage in legal expenses. Director Kosel then motioned that the Chief's request for a mid year budget adjustment be tabled until her two questions referenced above are answered.

Kosel suggest changing law firms

President Toombs said he thinks that Hanson-Bridgett's fees are reasonable, their legal advice is good, and he trusts them. He said he would not support using the same legal counsel as KFD because of the potential for conflict of interest.

Public commenters etc. did not want to change firms.
Closed session to review GM/COP's performance.

Mar 8, 2012 BOD Mtg

Closed session to discuss GM/COP performance
Master plan report by Muller and Caulfield architects,
Consider how to fund it

Renewed Harman contract, absent Kosel and Metcalf

Apr 12, 2012 BOD Mtg

Garbage, rate study
Kosel requesting a change of auditor, grand jury rec. every 4-5 yrs.

Asked about the promotions mentioned in the MOU and what effect they will have on pension obligations. Other board members responded it was part of the MOU and essentially not unreasonable.

There was an error in crime stats reported by Harman.

May 2012, BOD Mtg

budget

anticipated litigation

June 14, 2012 BOD Mtg

Closed mtg. re performance, etc.

Budget

Measure G, establish annual tax

July 12, 2012 Harman's Compensation Increased BOD Mtg

Toombs, Lloyd, Kosel, Lipscomb, Metcalf

Kruger:

Commented that PD got raises by getting advanced to another step. Raised concern of unfunded liabilities, and potential of overspending. Stockton and Vallejo cited as examples.

New Business: raised by Tony Lloyd, salary compensation package for Harman, for July 2012-2014. He and Lipscomb were on the Performance Evaluation and Comp committee.

Specifics of performance could not be disclosed by the majority of BOD gave a rating of completely satisfactory/meets.

Harman no raise since 2008

"He said, (Lloyd) when the job was filled; most of the emphasis appears to have been on the police side of the equation. However, in the past few years, the general manager function has received more emphasis.

Vice President Lloyd said unique elements of the GM/COP position include no opportunity for promotion as a means to salary increase, no authority to approve or recommend his own wage package, an administrative body that may lack authority and expertise in administering compensation and a BOD body in which members may change every two years resulting in a reduced opportunity to build a relationship with his bosses as might occur in the private sector.

Lipscomb reports on comparables

She said her opinion is that our GM/COP is significantly underpaid and has performed outstandingly well. She said a few of his accomplishments during her tenure on the BOD include the: Park Restroom completion, drainage repair other Kensington Path at County expense, enabling Kensington to receive grants and commitments of moneys related to Prop 1A securitization and Measure WW, attending the County's Disaster Mitigation Plan as a steering Committee member, launching the Citizen's Police Academy, attending LAFCO meetings as District representative, acting as CSDA legislative representative for our District, and providing a constant presence at many K group and other meetings like Emergency Preparedness, Policy Review Committee, Solid Waste as well as others.

She said our District is in good shape and she said Stockton and Hercules are in trouble because they are over extended by tens of millions of dollars and that Kensington is not in that situation.

Lloyd gives out the recommendation document which was not provided earlier to the public or the board. Discusses increases that were not given and what salary would have been. Then says:

Lloyd said they were going to deal with the base salary, and the benefits are going to be what they are going to be, as what matters is what you take home in your pay check.

President Toombs asked Vice President Lloyd to confirm his recommendation is for GM/COP Harman to receive a one time true up of \$16,754 to a new base of \$148,441 effective July 1, 2012. In response, Vice President confirmed they are recommending an increase in base salary from \$134,500 to \$148,441 effective July 1, 2012. Next, President Toombs asked questions related to GM/COP's proposed salary treatment for 2012, 2013 and 2014 as detailed on lines 9, 10, and 11 of Attachment A.

Director Kosel said she questions the appropriateness of considering this issue at all this evening given the [short and incomplete notice given to the public](#) to consider this matter. [She said open meeting laws require, and the public expects, full and complete information on agenda items before KPPCSD BOD meetings. She said the public is interested in in-depth information about agenda items. She said there were no supporting documents in the agenda package on this matter.](#) She said tonight's BOD package was available 72 hours in advance of tonight's meeting which does meet the legal requirement but was not consistent with the tradition of providing the Board package the Friday before the KPPCSD meeting. She said the Attorney General's Office has defined what constitutes a brief, general description of an agenda item as, "... [it] should be sufficient to inform an interested member of the public about the subject matter under consideration so that he/she can determine whether to monitor or participate in a meeting of the body."

Director Kosel said in this case, there are no documents for the GM/COP's current compensation package available for the public to review in the agenda package and she could not find a public record of the GM/COP's current compensation package for the public to review such as on the District's website. She said the public was given no comparables to study, no global information about pay cuts being implemented across the state, or the impact to pension and other costs.

She said she believes the total lack of information with the agenda package violates the open meeting laws and she moved to table this item. Director Metcalf said she seconded this motion.

Director Lipscomb said she did not know but that it was clear that tonight's discussion was about giving GM/COP Harman a raise.

Director Kosel said tonight's agenda was not to give GM/COP Harman a raise but rather to determine compensation. Director Kosel said 5% decreases in compensation have happened all over the state.

Director Metcalf said she thinks it is insufficient to be given this information just now and with no preparatory materials. She said she is calculating that the recommendation on the table is to increase GM/COP Harman's salary to \$157,422 by 2014 which reflects a 17% increase plus an undefined benefits increase.

Public Comments:

Public comment of bullying by Toombs, not enough prior info to make a decision, no methodology used to come up with the recommendation other than reviewing comparables for PD and county website. Salary increases for the future without consideration of performance. Or long term costs, state cutting salaries not increasing them.

[Karl Kruger](#) said the GM role is as or even more important than the police function. He recommended salary increases based on CPI if goals are met. He said he was [concerned about unfunded liabilities for pensions, vacation accruals, comp time accruals, sick leave etc.](#) President Toombs said the BOD has spent a lot of time looking at short and long term pensions and obligations. He said this issue has not been ignored at all and the BOD looked at it as a part of contract negotiations with the KPOA.

Director Kosel said in her opinion, the District could choose to hire a half time GM and a Lieutenant to run the police department.

Harman's base goes to \$148,441 with 5% increase, plus \$16,754 payment

July 25, 2012 BOD Mtg

Board President Toombs signs a contract with Mr. Harman, extending Mr. Harman's contract through June 30, 2014. That contract was for Mr. Harman's joint services as General Manager of the District and also police chief.

August 2012, BOD Mtg

They also gave Harman a retroactive raise, calling it a "true up" that was a "gift of public funds" in violation of the CA constitution, and it was not noticed in the agenda as required by the Brown Act.

[Joan Gallegos stood and said they were violating the Brown act.](#)

Jan Behrsin's notes: Mr. Toombs, as President of the Board, permitted a Board action which technically was taken beyond the permissible time set by the Board's own policies for Board action. This eventually resulted in Kensington residents bringing suit against the Board and the Board bringing a counter suit against the plaintiffs. Many residents believe these unnecessary costs (financial and emotional damage to the community) could have been reasonably avoided by following the Board's own procedures, rather than acting out of a sense of entitlement. Cost to the community: \$200k plus.

Oct 5, 2012 Reference to Supervision of GMCOP

Jan Behrsin's notes: In response to a constituent's inquiry about the apparent conflict of interest in having Mr. Harman serve District as both its legally required General Manager and discretionary employee "police chief," Board president Toombs writes (with a cc to the Office of Supervisor Gioia):

"This performance of these multiple duties by one person is entirely legal and permissible. There is no conflict of interest in having one person perform a number of different duties pursuant to an employment agreement, where that person reports to the District Board. "Board President Toombs adds:"The Board provides all necessary oversight to the general manager/chief of police's operations of the District functions.

"While lawyers may disagree in their legal opinions interpreting the law (and, with due respect for Mr. Toombs' opinion, I disagree with him that it is "legal and permissible" under the California Government Code requirements at 61050 et seq for a District to have the same person fulfill the requirement that a District have a "general manager" to supervise all District employees, while at the same time also serving as the District's employee police chief)... Jan Behrsin's chronology and comments.

Mr. Toombs, on behalf of the Board, accepted the responsibility for "all necessary oversight to the general manager/chief of police's operations of the District functions."

Unfortunately for the community, as facts have come to light, the Board failed in this acknowledged responsibility of oversight of Mr. Harman.

November 1, 2012

Correspondence with Board counsel confirms that Mr. Toombs, as President of the Board, was one of the only two Kensington officials who had access to legal counsel paid by the community—the other person being Mr. Harman. Other members of the Board requested access to “Board” counsel and claimed they had been denied access even though the counsel was “counsel to the Board.” Jan Behrsin’s notes.

Nov 8, 2012 BOD Mtg

Toombs, Lloyd, Lipscomb, Metcalf

Complaint about Harman’s raise, and credit card usage
DISTRICT - NEW BUSINESS #2 -V ice President Tony Lloyd provided a Policy Committee status report regarding the draft revision of the Expense Reimbursement provisions of the KPPCSD Board Policy Manual. (use of credit card)
Toombs adjourns the meeting, ends discussion

(never found a vote on this and assume it is in the manual)

Nov 2012

Mr. Toombs is elected to a second 4-year term. That current term expires with the election of November 2016. Pat elected too. Len was appointed after Mari left, citing bullying that some at that time thought was implausible, and Len was appointed to replace her. He was quickly made president, and so he was at the helm for fighting with the writ, for fighting with Bay View, for fighting the harassment claim, when Wolter was hired as district secretary to replace the harassed previous secretary who had an MBA from Cal and had reputedly been harassed because she asked for receipts.

Dec 13, 2012 BOD Mtg

Toombs, Gillette oath, Gillette elected

Gillette plans to organize town hall meeting in coming months, but doesn’t.

Andrew Gutierrez stated he was concerned about the General Manager/ Chief of Police being one position...not discussed

Closed session to discuss,

Bay Refuse, demand for arbitration

Charges against GM, another personnel investigation, funds authorized to complete Hemming Morse Audit, Board authorized the COP to resolve the matter.

No progress on the policy for credit card use.

Dec 20, 2012, special meeting: lloyd, gillette, lipscomb, toombs

Fill position vacated by Metcalf

Harman talks about benefit of a detective solving cases and reports on Stegman (not Barrow) and how after 4 yrs. it has paid off.

Metcalf resigns in Dec

2013

The last actuarial report was in 2013, and included no information on vested officers (I believe the number is 10) who no longer work here, but who qualified for 100% lifetime and inheritable medical/dental/vision at no cost at all at age 50 before quitting, even BART employees have to pay 90 bucks, and there are ten current retirees as well as the current officers, all of whom have 100% lifetime benefits at age 50 after working here five years.

Jan 10,2013 BOD Mtg

Mabry Benson stated that she did not think the General Manager and Chief of Police positions should be held by one person stating that they should be two separate positions.

Swartzburd the again asks why the Hemming-Morse report was not available. Harman said he would decide whether to waive his rights to privacy or not after it is done.

Swartzburd questioned Director Lipscomb on the status of the reimbursement policy in the Policy Committee. No answer??

Vice President Gillette asked why it was taking so long to complete the Internal Affair Investigations listed in the Police Department Update. Master Sergeant Hull stated that there have been other priorities being addressed at the department. Vice President Gillette then stated she believed the investigations should be moved to the top of the priority list.

Director Toombs moved to adopt the recommendation of the Park Building Committee in that, "The Park Buildings Committee requests that the Board accept the findings and presentation prepared by NHA Advisors. The Committee further requests that based on the findings of the Park Buildings Master Plan and the financing options, the Committee be empowered to publicize to the community the recommendations in the Master Plan and collect information on the level of community interest park building improvements and the range of financing options and return to the Board for further discussion.

Jan 30,2013 BOD Mtg

Writ served

KPOA, Pat and Chuck agree to negotiate

Welsh elected to fill seat

Feb 11, 2013

Closed session regarding litigation: bay refuse, charges against cop, workers comp, Anita G, potential litigation, anticipated litigation, existing litigation, Gillette, talk to a board member meeting to be set up , isnt.

Feb 14, 2013 (Lloyd, Gillette, Lipscomb, Toombs, Welsh) BOD Mtg

Andrew Gutierrez said he tried to publish a letter in The Outlook but it was too long. In the letter, he mentioned there has been a mixing of the responsibility between the position of Chief of Police and General Manager. He wants to bring that issue to the community's attention because there have been a lot of problems in the past. No response.

GM/COP Harman commented on Item D. He said in the General Manager's report, he mentioned the District legal expense, Line Item #830, the year-to-date expenses were \$75,000 and the budget for the year was \$65,000. The expense for the legal fees associated with the garbage contract, Line Item #890, year-to-date was \$34,000 and the budget for the year was \$36,000. The \$35,000 year to date doesn't reflect the December billings for the legal costs associated with the arbitration costs associated with garbage contract.

Vice President Gillette suggested we should have meetings on different dates and time from these normally scheduled Board meetings, like on Saturdays, so we can attract more people in the community to attend these "Board Talk" meetings. After a brief board discussion, Vice President Gillette stated that she would take the lead and set up scheduling to hold these meetings quarterly.

Feb 27, 2013

Policy review committee, 4030 expense, and, policy 5020

March 14, 2013 BOD Mtg

Closed session, same legal issues

Director Lipscomb stated that the Policy Committee met February 2 to finalize the expense/ reimbursement policy in order to send it off to our attorneys for review. Once reviewed, it will be presented to the Board for the first reading.

April 11, 2013 BOD Mtg

First reading to policy expense policy, 4030, pg 68, by Harman

Contract for forensics with sheriffs dept. proposed and approved
Adopted 3 resolutions for levy and collect assessments for park

May of 2013, Grand Jury Letter

Grand Jury report titled: [Managing Fiscal Risk: Who is minding the store, came out with the finding that the police department lacked adequate internal controls](#). He (Len) was president when the District refused to follow the requirements, which included directors spending time in the public safety building providing direct oversight, with the claim that it was 'politically motivated.

May 1, 2013 Wolter hired district admin asst.

May 9, 2013 BOD Mtg

Closed- Performance review cop, KPOA negotiations,

2nd reading of expense policy, pg. 45

Gillette to hold quarterly board community mtg. planning for one in June, not held, rescheduled for Nov, held by KIC

May 28,2013 closed

Performance evaluation of GM/COP Harman

Same, no info

June 4, 2013 policy review committee meets, no info

June 13,15,2013 BOD Mtg

COP performance Review, KPOA, litigation, garbage, writ

Parks bldg. ... committee master plan, surveys, bond measure in 2014 as a possibility

In July packet

Garbage, accepted a settlement

Schwartzburd will ask for PRA legal fees, also asked about used of police car for commute.

Mabry raises suggestion of officers paying their PERS amt.

Expenses over by \$150k, prop taxes under, have \$1.3M in reserves at that time, 10%

Asked for new patrol vehicle

June 27,2013

Same as May, and writ, continued from June 15 closed session GM performance review

In July packet

July 11, BOD Mtg

KPOA

Writ petitioners spoke up re costs and reasons, measure g increase

August 8,2013 BOD Mtg

Writ, KPOA,

Minutes July, and 9/13 agenda packets

Change of auditor to Fechter

August 19, 2013, Closed session same issues
August 26 special session, writ

Sept 12, 2013 Board Mtg.

Closed session, litigation

Comments on cost of litigation, upgrade computers, using a service
 Survey for bond to have measure on ballot for parks building.

***Actuarial Study of Retiree Health Liabilities is published and is in the 10/16/13
 agenda packet

**Also the response to the grand jury findings, letter from Harman

Oct 10, 2013 BOD Mtg

Bay View Rate Review hearing etc.

October 16, 2013 special meeting, labor negotiations

Closed session

[Mabry requested records of chief's reimbursement, denied,](#)

Garbage rates

Nov 6, 2013, special meeting

Writ, GM performance objectives, complaint against GM, KPOA

Dec 12, 2013 BOD Mtg

KPOA

GM 1% raise, 2012-2013

Gets a 5% raise, plus a 1% merit raise. Board completed evaluation 2012-2013,
 \$148,441 signed by Toombs, July 2012, benefits 3% at 50 formula
 Includes his performance expectations for 2014

2014-2015

Mr. Toombs and Ms. Gillette negotiate police service contract with Sergeant Barrow. It is not known when it was that Mr. Toombs learned that the person with whom he was negotiating the police services contract for Kensington, had been placed under investigation by Mr. Harman.

Overly generous terms of the MOU would have extensive and costly benefits for the community over the long term. If passed it would have increased salaries which are pensionable, with no giveback for several years, and then a small minimal contribution to PERS to fund retirement. Lifetime healthcare benefits for PD and dependents, with no limit on dependents. PD can retire at 50 increasing potential costs for healthcare benefits.

May 2014

A former Secretary for the district won her harassment case against the KPD.

A Grand Jury named the KPPCSD in an investigation titled: "Assessing Fiscal Risk", and required the District provide oversight in the police department and the District refused.

May 23, 2014

Sgt. Barrow has incident with prostitute and loses his gun, handcuffs, ammunition, and badge to prostitute.

June 2014

Residents attended the June 2014 KPOA meeting to demand that they negotiate with Bay View. Len was president in October of 2014, when Barrow was named in a lawsuit over a Marin County drug raid.

July 2014

Harman writes in a July report to the Board that he was investigating an incident involving an off-duty officer for alleged dereliction of duty.

July 2014 thru January 2015

Harman continued to report the investigation was ongoing. Apparently, neither Mr. Toombs (who was negotiating the police contract with Sergeant Barrow) nor the rest of the Board, appears to have inquired as to the progress of the 9 month investigation.

Dec 2014, BOD Mtg

Len brought the surprise MOU to be voted on. Barrow and Lipscomb, who was no longer a Director, expressed their anger that it wasn't passed, with the idea the officers had waited long enough, and that it wasn't up to residents, we'd elected directors to decide for us.

2015**Jan 2015**

Wolter was promoted to Enhanced District Secretary and got a salary increase from \$25 an hour to \$45 an hour.

Feb 8 2015

News story reports Sergeant Barrow's prostitute incident of May 23, 2014.

Feb 2015

Mr. Harman announces that Sergeant Barrow had been suspended January 12, 2015, prior to the news report.

Feb 2015 BOD Mtg

Board terminates police chief. Mr. Toombs was the only no vote on the board to terminate Mr. Harman.

April 2015

Ms. Gillette reports to a constituent that they will not recruit 2 people for the job of GM and COP until a study is completed, in spite of the community's expressed desire to separate the 2 positions.

Mr. Welsh states in public meetings and interviews that they will be considering splitting the position but not necessarily.

June 2015 Finance Committee Meeting

Len Welsh states that the escalator to increase the prop G increase would be discussed at the July board meeting, but a hastily scheduled meeting was called to vote on passing it, on June 29.

Attempt to limit public comment to 20 minutes total.

June 29, 2015 Special Meeting: notes

Only two board members made suggestions to reduce the budget, others appeared to go along with the proposed expenditures. No attempt at cost savings, and proposed legal budget is very high, \$175k

No vote was taken on increasing Measure G, after much protest by the public. Concerning Measure G, the CPI increase will add \$13k, but this is not one a time increase, but will carry over each year with compounding. If you were to calculate a net present value on this stream of payments we are probably talking about a long term impact on the taxpayers of \$150,000.

Donna Stanton, crying, protested police treatment, in particular by Barrow, of her and her husband both before his death and at his funeral

Current Board

There are 5 members of the Board. Mr. Toombs has been on the Board and as President of the Board, over the past 7 years and his current term expires with the election of November 2016— 21 months from now. (Ms. Gillette was elected in November 2012, Mr. Welsh was appointed in 2013 and elected in November 2014, and Ms. Sherris-Watt and Ms. Cordova