

**Meeting Minutes for 3/9/17**

A Special Meeting (Closed Session) of the Board of Directors of the Kensington Police Protection and Community Services District was held Thursday, March 9, 2017, at 6:30 P.M., at the Community Center, 59 Arlington Ave., Kensington, California. A Regular Meeting (Open Session) followed.

**ATTENDEES**

<u>Elected Members</u>	<u>Speakers/Presenters</u>
Rachelle Sherris-Watt, President	A. Stevens Delk
Eileen Nottoli, Vice President	Simon Brafman
Sylvia Hacaj, Director	David Bergen
Len Welsh, Director (departed at 8:26 P.M.)	Mabry Benson
	Jim Watt
	Frank Lossy
	Leonard Schwartzburd
<u>Staff Members</u>	
Rickey Hull, IGM/COP	
Lynn Wolter, District Administrator	
<u>Press</u>	
Linnea Due	

President Sherris-Watt called the meeting to order at 6:32 P.M. President Sherris-Watt, Vice President Nottoli, Director Welsh, Director Hacaj, IGM/COP Hull, and District Administrator Wolter were present. President Sherris-Watt announced that Director Cordova would not be joining the meeting.

**CLOSED SESSION PUBLIC COMMENTS**

None.

The Board entered into Closed Session at 6:32 P.M.

**CLOSED SESSION**

- a. Conference with legal counsel – anticipated litigation: The Board was briefed on matters involving significant exposure to litigation pursuant to California Government Code Section 54956.9(e). Two items.
- b. Public Employee, discipline, or dismissal: The Board was briefed on personnel matters pursuant to Government Code Section 54957(b)(1). Three items.

The Board returned to Open Session at 7:34 P.M.

President Sherris-Watt took roll call. President Sherris-Watt, Vice President Nottoli, Director Welsh and Director Hacaj were present. President Sherris-Watt announced that Director Cordova would no be joining the meeting.

President Sherris-Watt reported that the Board had amicably separated from its legal representation with Wendel Rosen and would begin negotiations for new legal representation. She also reported that, in the interim, PLG would help with any matters that couldn't wait.

### PUBLIC COMMENTS

David Bergen provided guidelines on how to use the new microphones: speak five to six inches away from the microphone, and if anyone had trouble hearing, they should advise the speaker.

A. Stevens Delk said it was hard for her, or anyone else, to know how loudly she was speaking because she heard the sound of her own voice, not the sound from the speakers. She said the audience would need to provide feedback after listening to recordings of the meetings.

Simon Brafman said he's sent photos of the tennis courts, taken the day after it had rained, to President Sherris-Watt. He said the courts weren't draining properly, which prevented play, and that the pooling water could cause damage to the courts. He said he would send the photos to IGM/COP Hull and District Administrator Wolter.

Mr. Brafman said he'd heard conflicting information about whether the committees had been closed to new members. President Sherris-Watt responded that the Board was not engaging in dialog, but he could speak with the Directors, individually.

A. Stevens Delk said that, at the last Board meeting, President Sherris-Watt had reiterated that the Board wouldn't interact with members of the public about things not on the agenda because doing so would be a Brown Act violation, according to several lawyers. Dr. Delk noted that the Brown Act said that members of the Board or staff "may briefly respond to statements made or questions posed" ... "may ask a question for clarification, make a brief announcement, provide references to staff, take action to place a matter on a future agenda," etc. Therefore, she said a brief comment would not be a Brown Act violation. She noted that the District's policy said, "The Board shall not discuss or take action on such matters." Dr. Delk said that, after the directive had been announced in January, she had written to each Director, stating that, by not including the rest of the Brown Act, the District's policy could be used to limit public access to basic information by "playing the not-on-the-agenda card." She said it appeared that the policy was being applied selectively and preferentially, depending on content or speaker. She said she appreciated the desire to keep meetings short, focused, and legal but she asked that the Board consider an alternative: According to the Brown Act, Directors could provide a simple, brief comment or answer, when appropriate.

Mabry Benson urged the Board to get started on contracting out. She said she understood the Board wanting to wait until it had a GM in place and realized it had many items on its plate. She said the Board needed to start the process because it would take time and that a citizen/Board committee could get started by drafting a plan of needed action and timelines and by gathering information. She said the Board should authorize this committee to interact with possible agencies. She noted that the Ad Hoc Report for contracting out had contained items for moving forward and that Jim Watt had written a three-page document about the approach to outsourcing, which would be useful.

Jim Watt said he had wanted to direct his comments to General Counsel, but he acknowledged that there was no General Counsel present. Thus, he directed his comments to the Directors. He said his comments had to do with the March 3<sup>rd</sup> meeting, which had been a Closed Session meeting during which certain items had been discussed and which had been posted with a 24-hour notice. He said he hadn't attended the meeting and that, even if he had, he might not have stayed until the end because nothing was ever reported at the end of Closed Sessions anyway. He noted that this Closed Session had

included four items, three of which appeared to have been in accordance with the 24-hour notice but one of which had not: It referred to Government Code Section 54957 but didn't seem to fall into the subjects covered by the code. He said this item stated that the Board would be "briefed on matters involving impact on future budgets" with Adam Benson. He said that, as a member of the Finance Committee, he would like to hear what Adam Benson had to say and would like to ask him questions. He asked the Board if there had been anything that had come out of that Closed Session and what Adam Benson had told the Board. President Sherris-Watt responded that there had been no reportable action from that meeting and that she could not share any of the information from the Closed Session. Mr. Watt asked what a matter involving the budgets had to do with a Closed Session.

#### **BOARD COMMENTS**

Director Welsh announced he would need to leave the meeting at 8:30 P.M. for a call with attorneys in Japan.

President Sherris-Watt announced that the Finance Committee would meet on March 22<sup>nd</sup> and that Vice President Nottoli and IGM/COP Hull would be presenting information about the dispatch issue.

#### **STAFF COMMENTS**

None.

President Sherris-Watt announced that, because Director Welsh would need to leave early, the Board would address Item 7b first.

- 7b. The Board reviewed and considered approving Resolution 2017-06 to Amend Appendix A of Policy #2000 of the District Policy and Procedures Manual to create job descriptions for i) District Chief of Police and ii) District General Manager and considered directing District staff to conform implementing policies (Policy #2000.25) to reflect these two separate job descriptions.

**MOTION: Director Welsh moved, and Vice President Nottoli seconded, to adopt Resolution 2017-06.**

**Motion passed: 4 – 0.**

**AYES: Sherris-Watt, Nottoli, Welsh, Hacaj    NOES:    ABSENT: Cordova**

#### **CONSENT CALENDAR**

Director Hacaj asked to pull Item d, the February 9, 2017 Minutes, and Karl Kruger asked to pull Item f, Unaudited Profit and Loss Performance Report for February 2017.

With respect to Item d, Director Hacaj clarified that the full title for the Park Planning Committee is Park Planning and Recreation Committee and said a correction needed to be made to the minutes on page 39: She, not President Sherris-Watt and Director Welsh, was the chair of the Emergency Preparedness Committee.

Dr. Lossy spoke about the microphones, the distance between the speakers and the microphones, and the impact this has on people with hearing problems, like himself: too close made the speaker's voice too loud, and not close enough made the speaker's voice inaudible.

A. Stevens Delk made a general comment about referring to items by their letters only: Items should be identified by their names during meetings and should be so identified in the minutes, too. She also noted that, with hearing loss, high frequency sounds became difficult to hear; thus, certain letters, alone, were hard to distinguish.

Frank Lossy said there had been a meeting of the Technology Committee, which he'd been unable to attend. Vice President Nottoli responded that a report on this would be given later in the meeting.

Karl Kruger had asked to pull Item f, the Unaudited Profit and Loss Budget Performance Report for February 2017. Mr. Kruger said that he missed the notes on the statements and that he understood this was an issue of available time. But, he said the notes on the statements saved time, because he didn't need to ask about line items at the Board meetings. He said there also should be notes because the GM should look the reports and say an item is not on budget.

Mr. Kruger said that there had been complaints about overtime but that he didn't complain about this. He said that, when one looked at payroll and it was \$29,000 below budget for the year, overtime didn't make any difference from a dollar amount standpoint. He said the GM needed to staff his people, and if he didn't have sufficient people, he needed to use overtime. He said it concerned him that officers were working very long hours, and they had use of the District's car and a gun. He said there ought to be a limit to how many hours officers should be working per day.

Mr. Kruger said he was concerned about the District's legal fees, which were \$48,000 over budget. He said that he knew there were a lot of issues but that, if the District continued at this rate for the next four months (he noted that he didn't know where the District was with billing), legal fees would be between \$180,000 and \$220,000 by the end of the fiscal year. He asked everyone to try to get along without legal fees because it was a waste of money. He noted that, were it not for legal fees, the District would have a good operating statement and could take the money and put it into the Community Center. President Sherris-Watt responded that the Directors "felt his pain" and would be discussing this issue.

**MOTION: Director Welsh moved, and Vice President Nottoli seconded, to adopt the Consent Calendar, with the February 9, 2017 minutes as amended by Director Hacaj. Motion passed 4 – 0.**

**AYES: Sherris-Watt, Nottoli, Welsh, Hacaj    NOES:    ABSENT: Cordova**

#### OLD BUSINESS

- 7a. The Board received an update from the Interim GM/COP regarding the status of negotiations for the provision of dispatch, RMS, and records management services to the District.

IGM/COP Hull reported that the District had spoken with all seven West County agencies and had narrowed the choices down to two agencies that would be either a combination between the Sheriff's Department and El Cerrito or the Albany Police Department. He explained that Kensington had been receiving dispatch, records department, and RMS services from the Richmond Police Department, but that relationship would be ending on June 30<sup>th</sup> and that, in addition to this relationship, Kensington had a separate contract with a software vendor. He explained that RMS (records management system) was the computer-generated record stored on a computer hard drive and that the records department was a brick-and-mortar building with a records clerk. He reported that, if Kensington were to stay with Richmond, the cost of these three services would increase from \$119,000 to \$128,000 per year.

IGM/COP Hull reported that Richmond's costs were going to increase for other agencies as well; thus, these agencies – Hercules, Pinole, and San Pablo had created their own, new consortium for dispatch, records, and RMS, and this would leave El Cerrito and Kensington without dispatch service.

IGM/COP Hull said the most important aspect of this process was officer safety, which meant that Kensington PD needed to be on the same radio channel with one of Kensington's adjacent cities: El Cerrito, Albany, or Berkeley. He reported that Berkeley's Chief had said his department couldn't provide any service to Kensington and that El Cerrito would be contracting with the Contra Costa Sheriff's Department, for dispatch only. He said this situation could create a problem with making entries into CLETS, some of which need to be made within a two-hour time period. He said that, if officers were out in the field and unable to make such entries themselves, the Sheriff's Department would be unwilling to do so, unless there were exigent circumstances. IGM/COP Hull said that, if Kensington were to enter into a relationship with the Sheriff's Department, it also would need to enter into a relationship with El Cerrito because that city would provide records department services and RMS. This option would necessitate contracts with El Cerrito, the Sheriff's Department, and with a software vendor.

IGM/COP Hull directed everyone to a spreadsheet that summarized projected two-year costs of Kensington's options. He reviewed the details of the report and concluded that the total cost of selecting the Richmond-El Cerrito option would be \$164,231 in the first year and said that the software to be used with this option would be Tiburon. He reported that Albany used software called RIMS, which was what most police agencies were trending toward because it's user-friendly, and that Kensington could obtain this software for \$85,000, an amount that could be amortized. He summarized the other details of the Albany option, which would include all three services (dispatch, records, and RMS) and concluded that this option would cost between \$202,673 and \$207,673 in the first year. IGM/COP Hull explained that the department was currently spending about \$8,000 per year, in officer and Police Specialist time producing Uniform Code Reports (UCR) because it was difficult to extract information out of the program: RIMS would make this easier.

IGM/COP Hull said that, with respect to El Cerrito, it would likely move from Tiburon to RIMS within two years. Therefore, he said that, if Kensington were to select the El Cerrito-Sheriff's Department option, Kensington would have to pay to be compatible with El Cerrito's current system (Tiburon) and then pay again, at a later date, for the conversion to RIMS, which would come with a price tag of between \$125,000 and \$139,000 and an additional cost of \$16,000 for vehicle computer upgrades. He reported that Kensington would probably have to convert to RIMS anyway: Therefore, he would rather not spend \$164,000 to be compatible with a vendor for a couple of years and then have to pay almost \$216,000 (\$90,859 needed system total, plus \$125,000 for switching to RIMS, plus \$16,000 for vehicle computer upgrades) later in order to follow the trend of moving to the RIMS program.

In closing, IGM/COP Hull said that, based on the available information and his analysis, he didn't think it was reasonable to select the El Cerrito option because of the costs associated with switching from Tiburon to RIMS. Therefore, he said he hoped the Board would seriously consider contracting with Albany.

President Sherris-Watt said that a three-year projection would be prepared for the Finance Committee meeting and would appear on the Board's March 23<sup>rd</sup> meeting agenda. She said the Board would like to provide the community with more time to consider this issue, but there was a time constraint: AT&T and its 9-1-1 switch over lead-time was normally 90 to 100 days. Director Hacaj asked for the date of the Finance Committee meeting, and President Sherris-Watt responded, March 22<sup>nd</sup>. Director Hacaj encouraged interested members of the public to attend that meeting.

At 8:26 P.M., Director Welsh announced that he had to leave the meeting.

Mabry Benson noted that Kensington PD had many calls to and from El Cerrito because the two communities shared a large border. She asked, if Albany provided dispatch – assuming it's on a different frequency, how Kensington's and El Cerrito's officers would communicate with one another. IGM/COP Hull responded that Albany was on a different frequency but that both Albany and El Cerrito were on EBRCS (East Bay Radio Communications System), which would enable Kensington officers to switch the channel on their radios to communicate with one another. Ms. Benson noted that, if El Cerrito were to go with the Sheriff's Department, it would be on a different channel from the



consortium. IGM/COP Hull responded that she was correct and that the Sheriff would create a separate channel for the West County, which would include Rodeo, Crockett, West County Sheriffs, and maybe one other department. He added that El Cerrito would be on this radio channel, as would Kensington, should it contract with the Sheriff's Department. Ms. Benson asked for clarification about which departments would be included in the consortium. IGM/COP Hull responded that it would include the Hercules, Pinole, and San Pablo Police Departments. Ms. Benson said she thought that Albany was going to be part of another consortium that would include Berkeley. President Sherris-Watt responded that Berkeley had its own dispatch. IGM/COP Hull explained that the EBRCS system would enable all departments to communicate with one another, should the need arise. Vice President Nottoli added that all the departments would not be listening to each other's calls. She explained that, if Kensington went with the Sheriff's Department and El Cerrito, Kensington would be listening to all the calls on the channel created for the west part of the County and that if Kensington went with Albany, then Albany and Kensington would listen to each other's calls.

### NEW BUSINESS

- 8a. The Board reviewed and considered acceptance of the Actuarial Valuation of Post Employment Medical Benefits and the GASB 45 Valuation concerning Retiree Medical and OPEB Plans prepared by Nicolay Consulting. This document had been reviewed and recommended for Board approval by the Finance Committee on February 22, 2017, by a vote of 5 – 0.

President Sherris-Watt reported that the Finance Committee had reviewed this document and had recommended that the Board approve it, by a vote of 5 – 0, on February 22<sup>nd</sup>.

President Sherris-Watt summarized the background for this agenda item:

- Last summer, the Board had reviewed the OPEB actuarial valuation report that had been prepared by TCS (Total Compensation Systems).
- It had been determined that the numbers contained in that report weren't as up-to-date as the Board would have liked.
- TCS had underestimated the amount the Board should be contributing to the OPEB Trust.
- The Board requested a new actuarial valuation, which Nicolay Consulting prepared.

President Sherris-Watt said that the Board would be considering whether to approve the document and that the Finance Committee had determined it would not be ready to make a recommendation, based on the numbers, until it had seen the Fiscal-Year 2017-18 Budget.

Jim Watt said he was on the Finance Committee and that he wanted to let people know that this was a "big deal" because, if the District accepted the recommendation made by Nicolay Consulting, this would increase the cost the District would need to set aside by \$195,000 annually. He said this would have a big impact on the budget and explained that this increase had resulted from changes made in the report's assumptions. He noted that some people had decided that the prior actuarial report had underestimated the amount that needed to be set aside and that the new report recommended that the Board set aside \$421,000 to meet its medical obligations for its existing and retired officers. He said that, in addition to this and beginning in June of 2017, the District would be required to show on its balance sheet the total amount of its unfunded medical cost liability: \$3.1 million, according to Nicolay. He said the District currently had funded the OPEB Trust Fund at about \$800,000, which equaled a funding ratio of about 25% of the full obligation amount. By comparison, he said the Fire District was 100% funded – though, he noted that this District had been funding its Trust over an extended period of time and that very few agencies were fully funded. He said the KPPCSD pension liability was unfunded by an additional \$3 million. Thus, he said the community had an unfunded liability for its police department of about \$6 million.

President Sherris-Watt said there had been changes in GASB and in three of the Nicolay report's assumptions:

- The medical trend rate had been increased from 4% (TCS's amount) to 8%.
- More current mortality tables, which show longer life expectancies.
- Inclusion of implicit subsidies (TCS's report hadn't included), which accounts for younger people, who use less healthcare and thereby subsidize older people, who tend to use more.

**MOTION: Director Hacaj moved, and Vice President Nottoli seconded, to accept the Nicolay Report.**

**Motion passed: 3 – 0.**

**AYES: Sherris-Watt, Nottoli, Hacaj    NOES:    ABSENT: Cordova, Welsh**

7b. The Board discussed meeting minutes from the Technology Committee meeting March 3, 2017 and discussed the development of a Wi-Fi Policy.

Vice President Nottoli reported that the Technology Committee had met Friday, March 3<sup>rd</sup> and thanked David Bergen, Simon Brafman, and A. Stevens Delk. She said that the Committee had worked on Frank Lossy's suggestion that the microphone was more the problem than anything else and that it had addressed the Wi-Fi. She reported that the Wi-Fi was active and was provided by a satellite system. But, she said the Board would not be revealing the password until it had developed a policy about whether to have the system always on or to turn the router on and off for different users. She asked that, if any members of the public had views on what the policy should say, they should let the Board know.

Vice President Nottoli also reported that there was a cable that comes to the Community Center, though it wasn't clear where the cable ended and whether it was usable. She said that one possible option, in lieu of the satellite and would be less expensive, would be to use AT&T U-Verse. She reported that Mr. Brafman would be meeting with AT&T to identify the cost of that option. Director Hacaj asked about the term of the satellite contract. Vice President Nottoli responded that it was a two-year contract, with about a year-and-a-half remaining.

David Bergen, a member of the Technology Committee, said he thought the satellite contract could be cancelled, but there would be a penalty. He added that, if U-Verse could be made available, it would make sense to keep the satellite until it was known that U-Verse worked. Mr. Bergen noted that the Kensington School had installed fiber-optic cable for its Wi-Fi, and it had had to go through the KPPCSD's park: As part of the installation process, the KPPCSD had negotiated the installation of a cable that came just to the end of the Community Center. He said the Committee was exploring what it might entail to have this cable connected.

IGM/COP Hull made a public safety announcement: There was a resident in the area of Wellesley and Oberlin Avenues who had a large black German Shepherd dog that had gotten loose and had been displaying aggressive behavior. He urged people to be careful going back to the cars after the meeting.

Leonard Schwartzburd said this had been the most delightfully boring Board meeting he'd ever attended.

**MOTION: Director Hacaj moved, and Vice President Nottoli seconded, to adjourn the meeting.**

**Motion passed: 3 – 0.**

**AYES: Sherris-Watt, Nottoli, Hacaj    NOES:    ABSENT: Cordova, Welsh**

The meeting was adjourned at 8:44 P.M.

R Sherris Watt

Rachelle Sherris-Watt  
KPPCSD Board President

Lynn R. Wolter

Lynn Wolter  
District Administrator