

Meeting Minutes for 4/27/16

A Special Meeting (Closed Session) of the Board of Directors of the Kensington Police Protection and Community Services District was held Wednesday, April 27, 2016, at **6:00 P.M.**, at the Community Center, 59 Arlington Avenue, Kensington, California.

ATTENDEES

<u>Elected Members</u>	<u>Speakers/Presenters</u>
Len Welsh, President	Randy Riddle, Renne Sloan
Rachelle Sherris-Watt, Vice President	Linda Lipscomb
Patricia Gillette, Director	Barbara Steinberg
Chuck Toombs, Director	Andrew Gutierrez
Vanessa Cordova, Director	Mabry Benson
	John Gaccione
<u>Staff Members</u>	
Lynn Wolter, District Administrator	
<u>Press</u>	

President Welsh called the meeting to order at 6:01 P.M. and took roll call. President Welsh, Vice President Sherris-Watt, Director Gillette, Director Toombs, Director Cordova, and District Administrator Wolter were present.

PUBLIC COMMENTS

Linda Lipscomb said she urged the Directors to enter into at least a two-year agreement with IGM/COP Hart. She said that neither IGM/COP Hart nor the community deserved the instability that they'd had since they'd had serial interim agreements with IGM/COP Hart. She said IGM/COP Hart was a gentleman and a consummate professional – both in his attire and in his manner. She said that she had never heard him raise his voice, that he always came in and took control of the situation, and that he always presented the image that Kensingtonians like to see. She said he projects the kind of image that most Kensingtonians believe should be reposed in their GM/COP. She noted that he attends most K-group functions in order to do community outreach. She said that he contributes to the stability of the police force, which, she said, is the backbone of Kensington's government and contributes far more service than police service. She noted that the police department delivers many social services. She said that IGM/COP Hart understands the issues the community has right now, including litigation and investigations. She said there would be a huge waste of public resources – in time, money, and community energy – if the District had to start all over with a new GM/COP. She noted that the position of GM/COP should not be like a carousel that would project a sense of instability, which the community

had not had, except in the last few years. She said that this was very disturbing to most of her neighbors and that she read this in some of the letters she'd seen. She said people want stability. She asked the Board to ask IGM/COP Hart to sign a new genuine GM/COP two-year agreement. She said it should not be a renewal of an interim agreement. She concluded by thanking the Board for its service.

Barbara Steinberg said she wanted to add to what Ms. Lipscomb had said. She said her impressions of IGM/COP Hart were that he was always available and that she could drop in to see him. She said she agreed that a two-year agreement would be excellent. She said she also wanted to speak to items 4 and 5. She said she really believed that the charges regarding the October 7th traffic stop were of such a nature that the community needed to hear a report of it. She said that, if the report were not to be released, it would undermine the trust of the police department, which, she said, would be terrible. She said she pleaded with the Board that the results of the investigation be made public.

Andrew Gutierrez said he wasn't there to criticize IGM/COP Hart. He said it should be recognized that having the combined position had caused conflict, pain, and confusion in the past. He said it meant that the person occupying the position had to be a saint and be able to separate out the two conflicting positions when something arises. He said the IGM/COP could hide under the policeman's bill of rights or he could be the GM. He said the District had a committee that was looking at, among other things, whether the community should outsource its police. He said that, even to consider having an extended agreement with IGM/COP Hart, would not be wise until the District had received the recommendations of that committee. He said IGM/COP Hart should continue on "temporary," if he wished. He said that, if not, somebody else could be appointed GM/COP and handle the business of the village. He said that, since he had been here – nearly 30 years – the police force has not been the backbone of the community; it has been the source of conflict, scandal, and dissension in the community. He said that the community paid top dollar, that it should expect to have a high quality police force, and that it did not have that now. He concluded by saying the District should decide in which direction it was going to go and then decide whether or not to retain IGM/COP Hart.

Mabry Benson said there were several reasons why IGM/COP Hart's contract should not be renewed. She said that, as GM, there had been several instances where the agendas had not been posted in a timely manner. She said the latest Finance Committee agendas were one example. President Welsh said that had been his own mistake. Ms. Benson responded that IGM/COP Hart should have caught it. President Welsh responded that IGM/COP Hart hadn't wanted to do it and that he, President Welsh, had pressed him, IGM/COP Hart, to do it. She said the Finance Committee posting had not been listed under "Latest News." She said the GM should be on top of it. She said that, shortly after the last Board meeting, at which license plate readers had been postponed, IGM/COP Hart had posted a policy on the matter, even though public discussion had been required, and he had given no reason or explanation for the posting – until there had been an outcry. She said that, as a COP, IGM/COP Hart had not been able to solve the problem of officers who behave in a totally inappropriate manner. She said IGM/COP Hart had allowed Officer Ramos to continue as a Field Training Officer after he was under an internal investigation, which she said was not appropriate in the police world. She said that, alone, showed poor leadership. She said there were conflicts between IGM/COP Hart acting as both Police Chief and General Manager, which pointed to the need to separate the two positions. She said a GM would oversee a budget that would ask the police to live within the community's means; instead, there was a COP who asked for more toys – new cars, new license plate readers, and new body cameras. She said he had asked for a budget for new guns and then used the money he had already allotted. She said Jim Watt had already alerted the Board to the fact that the District may need to spend significant funds for the public safety building. She said that this was not the time to spend more money and that a GM would point that out. She said that this was the first time she had heard that there was a two-year contract in the works and that this was not on the agenda. Director Gillette responded that a two-year contract was not on the agenda – that idea had been a public comment. Ms. Benson said that, on lots of issues, the Board has said to wait for the Ad Hoc Committee's reports and that the Board should be waiting before making a permanent position. She said that, because she didn't think the current person was working, the Board had a chance to try a separate GM, whether the Board hired a separate COP or let Sergeant Turner manage that. She said Public Law Group could get temporary candidates.

John Gaccione said that what is needed is a rebuilding of trust, with regard to the police force, and greater transparency in governance. He asked why the IGM/COP was engaging in actions that undermined both. He said one could only conclude that he was tone-deaf to Kensington's important issues. He said that an example was the "weasily" way the ALPR boilerplate language had been slipped into the policy manual and then inserted into the budget, under the heading "Police Traffic Equipment." He said he suggested that the IGM/COP get a dictionary to look up the word "transparency." He noted that this might be the way things were done in Dublin but that it didn't pass muster in Kensington. He said he was sure he was going to hear that this had been some sort of misunderstanding with scheduling and legal requirements. He said there was a failure to understand how deep the level of mistrust was. He said this also failed to understand the financial implications of the traffic equipment item. He said that, if Kensington were to have a separate GM and COP, the GM would be instructing the COP to manage the department's budget and stop letting the KPOA run the department; the GM would be handling the personnel issues, thus avoiding the very expensive legal costs Kensington has experienced; and there would be a checks and balances helping to prevent the continuing series of fiascos seen now. He said the Board needed to face up to its responsibilities and provide management. He said, based on the issues to be discussed during the Closed Session, it seemed the Board had much room for improvement. He said he opposed the approval of a contract with IGM/COP Hart for the position of IGM/COP because, during his time in Kensington, he had shown he was not qualified for either position – never mind the combined position and the over-rich benefits packaged.

BOARD MEMBER COMMENTS

Director Cordova said she wanted to speak because she would be recusing herself from items 4 and 5. She said she was going to read a statement. She reiterated that she would be recusing herself from items 4 and 5 and said she wanted to take the opportunity to make public comment for the Board's consideration. She said that, recently, a longtime resident had dropped her a note in which the resident had generously compared Director Cordova to the god Sisyphus; rolling the boulder uphill, sometimes high enough to see the horizon, only to have it roll back down again. Director Cordova said that, like herself, Sisyphus had grown up devoutly Catholic and had been educated in the Ignatius spirituality of the Jesuits. She said he had proposed a Jesuit notion that captured her sentiments about this unfortunate situation succinctly: He wrote, "The purpose of an elected official is to conquer the weaknesses in oneself and to regulate one's work in such a way that no decision is made under the influence of any inordinate attachment to the spoils of hubris." She said that she was sharing this because many had asked what victory looked like to her and that she didn't quite know how to answer because, for some on both sides of the aisle, discipline was beginning to smell like vengeance, not justice. She said that, while she understood the feelings that informed that sentiment, vengeance was an investment with little spiritual return for her. She said she had better ways to spend her emotional bandwidth – taking care of a dying parent being one of them. She said she had always believed the traffic stop was just another symptom of a longstanding unregulated dysfunction within the District. She said it was one of the reasons she had never commented on the level of discipline that was administered and asked how would she know when the professional standards institutionalized within the department were as woefully low as the community's expectations that the Board would finally feel compelled to address them. She said that it wasn't until she had been pulled over that she fully understood the frustration of the more vocal critics within the community – the ones who bravely expose the penchant for political kabuki; the ones whom the Board is beholden to promise that bad cops are still better than contracting with out of town cops. She said that her Board colleagues are fundamentally good people, so she wondered why she was routinely dismissed as an interloper, a "crazy," a crony, a troublemaker, and sometimes worse and often by members of the Board and their political supporters. She said that, as she was slowly learning, it seems like every few weeks Kensington loved to have a new villain. She said that when she sat on the dais and looked out on both sides of the aisle it reminded her of her wedding day – her people here and his there – and she gets a sinking feeling that this is never going to work. But, she said, the fear of that was not enough for her to give up her position or to cower in the face of criticism. So, she said, she was rolling the boulder uphill – not because she believed she had the power to make any meaningful change but because she believed the Board, as a whole, did. She said that it might not happen that night or during her term but that she did believe that the police department could be reformed by leaders who recognized the opportunity to do so.

Director Cordova said this brought her to the issue of the IA. She said that, even if she weren't standing before the Board as the complainant, her opinion would be the same: When it comes to addressing the allegations of police misconduct, there was no halfway. She said it had to be an all or nothing proposition. She said few, including herself, would accept a document that had been cherry-picked and published in part and with an irrefutable bias that unfairly implicated the Board in politicking from the dais. She said that, if the Board was truly committed to releasing the IA, she implored them to consider releasing the entire package: that would mean un-redacted witness testimony; audio recordings; transcripts; and all related documents from every witness interviewed. She said this would allow residents to learn who was interviewed and what investigators asked. She added that this would allow her, the complainant, to request more witnesses be interviewed, like the Ensenada residents – an opportunity afforded to her by Chief Hart in writing. She said that, if every witness had told the truth under oath, there should be little concern about whether their statements could withstand legal scrutiny by herself or any other interested parties. She said releasing the information from only a few witnesses or from only a few police officers or from those the District deems relevant would not only raise more claims of prejudice, it would further damage public confidence, which would be a grave disservice to everyone. She thanked the Board for its consideration and for its service.

Director Gillette asked Director Cordova if, to the extent she had any privacy right in the internal investigation report, she was releasing any right to privacy and if she had no objection to the release of the report. Director Cordova responded that she was not stating that and that, as she had told Randy and John, they could speak to Director Cordova's attorney about that. Director Cordova added that privacy was something that was only afforded to police officers under the police officers' bill of rights. Director Gillette responded that what Director Cordova had said wasn't clear and asked if Director Cordova wanted the report released and wanted to release her rights. Director Cordova responded that she had no rights. President Welsh asked if he could pose the question in a different way because he wanted to be clear. Director Cordova responded that she was represented by counsel. The District's legal counsel said this was fine. President Welsh responded, "fair enough."

Barbara Steinberg asked the Board to repeat what had just happened, as Director Gillette had just asked if the report would be released. Ms. Steinberg asked what Director Cordova's response had been. Director Toombs asked that the conversation come to an end because it was a confidential matter for all concerned.

Linda Lispcomb said that Director Cordova had said to talk to her lawyer. Director Cordova responded that she had not said that and added that she had no rights afforded by POBAR. Director Cordova said she had no rights to waive.

President Welsh announced that the Board was going into Closed Session.

The Board entered into Closed Session at 6:22 P.M.

Closed Session Agenda

3. Public employee appointment (Government Code section 54957(b)) Title: Interim General Manager/Police Chief.
4. Conference with legal counsel – anticipated litigation: Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) Section 54956.9: (12 potential cases).
5. Public employee discipline/dismissal/release

The Board entered into Open Session at 7:47 P.M.

President Welsh reported that all items had been discussed and that no action had been taken.

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

Motion passed: 5 – 0.

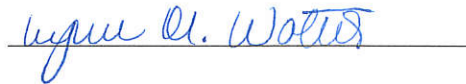
AYES: Welsh, Toombs, Gillette, Cordova, Sherris-Watt NOES: 0 ABSENT:

The meeting was adjourned at 7:48 P.M.

After the meeting had concluded, District legal counsel, Randy Riddle, asked that the record reflect that Director Cordova had recused herself from Closed Session items 4 and 5.



Len Welsh
KPPCSD Board President



Lynn Wolter
District Administrator