

Approved 7/9/15,  
with requested  
attachments

### Meeting Minutes for 3/12/15

A Special Meeting (Closed Session) of the Board of Directors of the Kensington Police Protection and Community Services District was held Thursday, March 12, 2015, at 6:00 P.M., at the Community Center, 59 Arlington Avenue, Kensington, California.

A Regular Meeting (Open Session) of the Board of Directors of the Kensington Police Protection and Community Services District followed.

### ATTENDEES

<u>Elected Members</u>	<u>Speakers/Presenters</u>
Len Welsh, President	Kim Manolius, Hanson Bridgett
Pat Gillette, Vice President	Deborah Russell, CPA
Chuck Toombs, Director	Craig Fechter, CPA/Auditor
Vanessa Cordova, Director	Leonard Schwartzburd
Rachelle Sherris-Watt, Director	Catherine de Neergaard
	Celius Concus
	Melissa Holmes Snyder
<u>Staff Members</u>	Jan Stensland
Master Sgt. Rickey Hull (on duty)	David Bergen
Sgt. Hui (on duty)	Linda Lipscomb
Lynn Wolter, District Administrator	Brian Eckler
	Paul Dorroh
<u>Press</u>	Chris Hafner
	Kevin Padian
	Bill Stanton
	Maria Ling
	Haig Harris
	Andrew Gutierrez
	Peter Conrad
	Sandy Waters
	Gloria Morrison
	Donna Stanton
	Ryan Anderson
	David Spath
	Gail Feldman
	Sylvia Hacaj
	Kate Dragolovich
	A. Stevens Delk
	Rick Ardis

Ms. Lipscomb said money should be collected and that the Board should not be held hostage in the future, and that the fundamental first amendment right should be protected. Ms. Lipscomb cited section 1020 of the District's Policy and Procedures Manual, with respect to conflicts of interest, and said that Directors with close relationships to petitioners should not be involved.

Brian Eckler said it was hard for an outsider to understand what had happened and asked if the Board could prepare something simple that would provide an explanation.

Paul Dorroh congratulated the petitioners on a good turnout. He assured the Board that many more members of the community were of the opinion that the Board should and must pursue recovery of legal fees. He said the lawsuit was over and that the Court of Appeals had rendered a unanimous decision that it was wrong to sue individual Board members because of the First Amendment. He said that, with respect to the lawsuit brought against the District, the case had lacked merit and the petitioners had lost. He said that Section 425.16(c) of the California Civil Procedures said that a prevailing defendant on a special motion to strike shall be entitled to recover attorney's fees and costs. He said the Board had a legal obligation to recover the maximum amount of money that had been spent to fight a legal attempt at intimidation.

Chris Hafner said the Board should drop the matter, it shouldn't spend more money, and the petitioners should be thanked.

Kevin Padian said watershed action was going to occur at the meeting, the Board should heal the community, the Board shouldn't continue to pursue the matter, and that the Board shouldn't incur more cost.

Bill Stanton said the Writ of Mandamus process existed so that the powerless could be heard. He said the current situation was a cockamamie thing that had been cooked up by Hanson Bridgett to silence the petitioners. He said the petitioners didn't want money; they had just wanted the Board to take a re-vote and to allow an extra month so that people could have known that the GM/COP's contract was to be discussed.

Maria Ling said that some citizens had sued the Board and lost because their case had lacked merit, that Kensington had spent money to defend itself, and it was only fair for Kensington to get this money back.

Haig Harris said he didn't represent all the petitioners. He said he represented Cathie Kosel, whom he cited as the one individual who should have been let off; that she had not been a party to the litigation. He said she had had her name removed initially because she had changed her mind. He asked the Board to instruct its attorneys that Cathie Kosel was not part of the litigation.

Andrew Gutierrez said the Board could have settled the matter with a re-vote and the only winners were Hanson Bridgett.

#### BOARD MEMBER COMMENTS

None

#### STAFF COMMENTS

None

### BOARD MEMBER COMMENTS

President Welsh spoke about the last agenda item, the District Transparency Certificate, noting that Director Cordova had asked that this be on the agenda. He also said that, longer-term, he wanted the Board to consider law enforcement's CALEA certification. He said he acknowledged that there were strong feelings among members of the community. He said that the police department was functioning well, it was in excellent shape, and the service it provided was excellent – even with recent events.

Director Cordova said that, in January, she had met with the United States Postal Service (USPS) about putting a satellite post office back in Kensington and about re-siting mailboxes. She said the USPS wanted to improve service.

Vice President Gillette thanked everyone for attending and said she appreciated the comments that had been made on both sides. She thanked volunteers who had stepped up and thanked Master Sergeant Hull and District Administrator Wolter for taking on additional responsibilities.

Direct Sherris-Watt said Tony Thurmond had invited her to join him in a leadership effort on how to improve police service without the use of deadly force. She said she would gather information and bring it back to the Board.

### STAFF COMMENTS

None.

### CONSENT CALENDAR

Leonard Schwartzburd asked the Board to amend the minutes to reflect the complete statement he had made so that the meaning of his statement would be conveyed. District Administrator Wolter read what Mr. Schwartzburd had said, verbatim. The Board asked that the minutes be amended to include what Mr. Schwartzburd had said, verbatim, and asked that this replace the summary comment that had originally appeared.

**MOTION: Director Toombs moved, and President Welsh seconded, that the Consent Calendar be adopted, with the minutes as amended.**

**Motion passed: 5 to 0**

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

President Welsh reported that the Chief was not at the meeting because he had the flu and asked that Agenda Item 5 be considered at this time.

### DISTRICT NEW BUSINESS

5. Craig Fechter presented the Independent Auditor's Report for the Year Ended June 30,2013.

Craig Fechter reported that the KPPCSD financial statements were in accordance with GAAP and that they fairly presented the financial position of the KPPCSD. He said he had reviewed allegations regarding the credit card, noting that he had reviewed these documents for a four-month period and found no irregularities. He said that Management's Discussion and Analysis, which was produced by the District, provided highlights. He said that the two statements with the most meaning were the Statement of Net Position, which reported the District's assets, liabilities, and change in net position; and the Statement of Revenues, Expenditures, and Changes in fund Balance Budget and Actual, which reported that the District had a shortfall of \$28,626 for the fiscal year 2013.

Linda Lipscomb said that the Board should take a comprehensive view of the position, while, at the same time, studying whether the jobs of GM and COP should be separated. She said that the Board needed an Interim GM/COP until, if, or when there was a new structure.

Vice President Gillette said that the Board had done a large salary survey and therefore had information that would be needed for the search.

Gloria Morrison asked if there was a budget. Vice President Gillette said there wasn't.

At 9:45 President Welsh interrupted the meeting to ask if there was a motion to extend the meeting.

**MOTION: Vice President Gillette moved, and President Welsh seconded, that the meeting be extended beyond 10:00 PM.**

**Motion passed: 5 to 0**

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

Peter Conrad said that the head of the Police Department had to be a manager and that, because the budget would be modest, the Board likely would find a retired senior member of a police department.

Simon Braufman suggested that Board coordinate the two committees. Vice President Gillette responded that the Board needed to address the immediate need.

Catherine de Neergaard suggested that the Board reach out to all communities, especially women. Vice President Gillette responded that affirmative action was still in effect.

Director Cordova said that the next steps should be to identify sources of candidates and to establish a job description and that significant progress be made by the next meeting.

Andrew Gutierrez said the Board should "farm out" police services to El Cerrito. President Welsh responded that, in the long term, the community needed to re-examine this option but that it shouldn't jump into this option quickly.

David Spath asked if the Board was looking only for an interim person. Vice President Gillette responded that, if the Board found the right candidate and that candidate was interested in a long-term position, the Board would consider this.

President Welsh said he hoped there would be lots of candidates from which to choose.

3. The Board received an update on the formation of a committee to research and report back to the Board on possible alternatives to the current General Manager/Chief of Police position and other issues related to the District.

President Welsh introduced the agenda item.

Vice President Gillette said that she would like to open nominations up to lots of people and that, out of a large pool of candidates, each Director would choose two people so that the resulting committee would include ten community members. She said she thought this would be a more transparent process.

Director Cordova said that she would like there to be fresh members and that people serving on other committees should not be included. Vice President Gillette said people shouldn't be disqualified just because they were serving on other committees and there were some wonderful people serving on other committees. Vice President Gillette said that she envisioned a pool of 20 to 25 people from which to select ten for the committee.

were very good and that the differences in these statistics showed why contracting out with El Cerrito would be a bad idea and that doing so would be a mistake.

President Welsh said the Board was going to have to revisit contracting out because there were many people who wanted to do this.

Linda Lipscomb noted that Kensington had experience with contracting out through the Fire Department. She said that Kensington had pre-paid \$2.3 million to El Cerrito for fire service, that Kensington paid 30% of El Cerrito's Fire Department's budget, and that this contracting out hadn't worked out well.

President Welsh said there would be two issues that would need to be addressed: quality of service and cost. He said that contracting out needed to be re-examined because the last time it had been explored had been in 2009 and that there were a lot of questions in the community about it. Director Cordova said there were no "sacred cows".

Gail Feldman suggested that the Board keep the subject matter broad and that looking at things like contracting out would be good. She said this was a great opportunity to, perhaps, even look at why things may not have worked out with the fire contract. With respect to the selection, she said that the Kensington Property Owners' Association (KPOA) would be holding its annual meeting on May 3<sup>rd</sup> and so broadcasting the opportunity to apply could be included in the information the KPOA would send out to the community and could occur at the meeting itself. Ms. Feldman recommended that applicants bring some sort of experience to the committee. She added that she had served on the Park Advisory Committee with Director Toombs and that the work of that committee would not have happened if there hadn't been some professional planners and architects on the committee. She concluded by saying that not everyone would need to be a professional but that some key people would be needed.

Vice President Gillette said there should be a minimum of items into which the committee should look:

- Current structure
- Splitting the GM/COP position
- Contracting out
- Consolidating with the Fire District

She said that the Board should leave it open to the committee to decide if other things should be studied.

President Welsh said two Board members were needed to shepherd the process. Directors Toombs and Cordova agreed to do so.

A. Stevens Delk asked that the Directors speak into the microphones more directly. President Welsh said the Board was working on a new system. Ms. Delk said she wanted to correct one thing that she thought had been misstated at the prior month's meeting about the Brown Taylor Report on contracting out with El Cerrito. She said a salient feature of Taylor's task was that the high quality of service then provided to the Kensington community was to be the minimum planning threshold; there would be no reduction in service, contrary to what Director Toombs had said.

**MOTION: Director Cordova moved, and Vice President Gillette seconded, that an ad hoc committee be formed and that President Welsh appoint Director Toombs and herself to that ad hoc committee to research and report back on the possible change in structure to the General Manager/Chief of Police position and other structural items.**

**Motion passed: 5 to 0**

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

Director Sherris-Watt offered to make an examination of best practices, to approach the Fire Board and talk to them, and to bring to next month's meeting a synopsis of her findings, along with some recommendations for service providers and a description of the scope of work.

President Welsh said that, although the Fire Department and the Police Department shared the same space, the Police Department maintained a lot of sensitive records to which Fire personnel should not have access.

Director Cordova suggested that Director Sherris-Watt work with Sergeant Hull or Chief Harman and suggested contacting El Cerrito and other agencies to find out what they were doing.

Rick Ardis said a technology expert would be needed and that attacks occur even when professional were engaged. He added that computer security and back up/retrieval were important, and that any small company would have to go outside to find expertise.

President Welsh said that talking to other police departments made sense, as other agencies may have gone through security reviews recently.

Director Toombs suggested that, in addition to the items discussed, the police cars and their computers be considered in the security review.

Vice President Gillette summarized that the Board should have Director Sherris-Watt look into what other police departments are doing and that Rick Ardis and Ryan Anderson should volunteer to help the Board define the scope of work and vet possible consultants.

**MOTION: Director Cordova moved, and President Welsh seconded, that the item be continued to the next meeting, pending further information from Director Sherris-Watt.**  
**Motion passed: 5 to 0**

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

6. The Board discussed and considered entering into the process of obtaining a District Transparency Certificate of Excellence from the CSDA Special District Leadership Foundation.

Director Cordova provided the background information on this item. She reported that the District participates in programming offered by the California Special Districts Association (CSDA). She said there were over 3,000 special districts in California and that 33 of them are police protection districts. She said the CSDA has a foundation arm, called the Special District Leadership Foundation (SDLF), that offers Directors, General Managers, and District staff the opportunity to hone their skills and earn certificates. She noted that Chief Harman had earned a certificate in management from the SDLF and that the Fire District was known as a District of Distinction for their transparent operation. She said that, if one went to the Fire District's website, one would find a budget, three years of audits, and biographies on its Directors and that these limited the public records requests that Fire District Manager, Brenda, received.

Director Cordova said she had spoken with four other Special Districts in Contra Contra County that had earned this excellence in transparency and that the District was already doing many of the items required for consideration. She said this could be consolidated with things the Board was already considering, such as a reserve policy. She noted that the Board Packet contained specific information that would be required for the application and that the cost to the District would be minimal. She indicated that this would take a lot of time and that it would take some staff time. She said that, in the long run, this would be cost neutral because it would reduce the number of inquiries to which District Administrator Wolter would have to respond.

Director Toombs asked if Director Cordova would be willing to manage the process. Director Cordova said she would. President Welsh asked Director Cordova if she could provide a timeframe. She

**Lynn Wolter**

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**From:** Lynn Wolter  
**Sent:** Tuesday, May 12, 2015 9:42 AM  
**To:** 'Cathie Kosel'  
**Cc:** Haig Harris  
**Subject:** RE: Revised 5/14/15 Agenda Packet Posted

Thank you for your email.

**From:** Cathie Kosel [mailto:cathie@koselco.com]  
**Sent:** Monday, May 11, 2015 9:58 PM  
**To:** Lynn Wolter  
**Cc:** Haig Harris  
**Subject:** Re: Revised 5/14/15 Agenda Packet Posted

Please make the following correction to minutes of March 12, 2015, page 5: Strike - "Haig Harris said that Cathie Kosel had initially had her name removed because she changed her mind."

He did not say that.

He said that I had never agreed to be a petitioner, that I had been included erroneously, and asked that my name be removed.

Thank you.  
Cathie Kosel

On 5/11/15, 4:52 PM, "Lynn Wolter" <[lwolter@Kensingtoncalifornia.org](mailto:lwolter@Kensingtoncalifornia.org)> wrote:

The Revised 5/14/15 Agenda Packet has been posted on the District's website here  
<<http://www.kensingtoncalifornia.org/download/board-agenda-packets/2015-board-agenda-packets/2015-05-14%20Revised%20Agenda%20Packet.pdf>> .

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Per 300 Request, attach to 3/12/15 minutes

IMPORTANT/CONFIDENTIAL: This message is intended only for the individual or entity to which it is addressed. It contains information which may be privileged, confidential and exempt from disclosure under law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended

## Lynn Wolter

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**From:** Catherine de Neergaard <cadeneergaard@gmail.com>  
**Sent:** Thursday, July 09, 2015 4:16 PM  
**To:** Lynn Wolter  
**Cc:** Len Welsh  
**Subject:** Resend Re: Correction to the minutes of March 12, 2015

Lynn,  
I'm emailing you again with my corrections to my comments at the March 12th Board meeting. I would like the record to reflect what I said or alternately not say anything on page 4 of the July 9 meeting.

I would also like the minutes to reflect what Haig Harris actually said. I listened closely when he was speaking. What the minutes represented as his speech is grossly inaccurate. First of all, he didn't say who his client is. Secondly, he didn't say that she [Cathie Kosel] had changed her mind. Nor did she change her mind. She wasn't with us as a petitioner to start with. Haig and Cathie have both written the board asking you to correct the gross inaccuracies in the representation of Haig's speech. Please do so on page 5 of the July 9 meeting.

Minutes regarding my speech should now read:

Catherine de Neergaard said she was responding to the previous speakers and concerned about allegations that the Petitioners didn't try to settle. She said she tried extensively to settle and will show the proof in the near future. She said she went before a judge in January to get herself removed from the case. The judge affirmed that she isn't a party. She said she studied the case and read almost all the papers. [The remaining three sentences starting with "She said there were good legal points ..." is OK as is]

Catherine de Neergaard  
Kensington in the North Berkeley Hills, CA  
phone (510) 525-5779  
[best times to reach me are Mon., Weds., Thurs., & Fri. 9 AM to noon]

*"Nature is not a place to visit. It is home."*  
-Gary Snyder

On Thu, May 14, 2015 at 4:52 PM, Catherine de Neergaard <cadeneergaard@gmail.com> wrote:  
Hi Lynn and Len,



As you know, the first roughly two-thirds of the minutes of March 12 were very unfortunately not recorded.

I came before the board at its regularly scheduled meeting of April 9th to ask for a correction to my comments of March 12th.

I said on March 12th much more than was written .

Len, I asked you on April 9 as the simplest solution to remove the first two sentences attributed to me in that they poorly reflected what I actually said. You declined.

You, Len, said to send in my corrections and that they would be put in. This is a hassle to do, but in that I really dislike being misquoted here is a correction, not an attempt to put everything I said in. BTW, the corrections are from a written outline.

Cross out the first two sentences, the second of which is meaningless and the first of which is untrue.

Minutes should now read: '

Catherine de Neergaard said she was responding to the previous speakers and concerned about allegations that the Petitioners didn't try to settle. She said she tried extensively to settle and will show the proof in the near future. She said she went before a judge in January to affirm she isn't a party which the judge so ordered. She said she studied the case and read almost all the papers. [The remaining three sentences starting with "She said there were good legal points ..." is OK as is]

Thanks in advance for these corrections,

Catherine de Neergaard

Kensington in the North Berkeley Hills, CA

phone (510) 525-5779

[best times to reach me are Mon., Weds., Thurs., & Fri. 9 AM to noon]

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