

DRAFT

**Kensington Police Protection and Community Services District Board of
Directors**

59 Arlington Avenue, Kensington California

Minutes for Special Meeting

Thursday, December 13, 2018

KPPCSD Board: Director Deppe, Director Hacaj, Director Modavi, Vice President Nottoli,
Board President Sherris-Watt

Director Hacaj joined the meeting at the beginning of the Closed Session.

Staff: General Manager, Tony Constantouros; Interim Chief of Police, Rickey Hull; Ann
Danforth, General Counsel

Transcription: GoTranscript, <https://gotranscript.com/>

Closed Session:

Call to Order/Roll Call 6:00 pm.

a. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Government Code
Section 54956.9(d)(1). Name of case: Unspecified because disclosure would jeopardize existing
settlement negotiations.

b. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Name of Case: Fahid
Saba and Chih Lin v. KPPCSD et. al.

c. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: The Board will
discuss whether, based on existing facts and circumstances, an additional closed session item is
authorized under Section 54956.9(d)(2).

d. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION Significant
Exposure to litigation under 54956.9(d)(2) and (e)(1): 1 case. The Board will remove this item
from the agenda unless it first finds in the affirmative for item Section 54956.9(d)(2).

e. PUBLIC EMPLOYEE PERFORMANCE EVALUATION: Government Code Section
54957(b). Title: General Manager f. CONFERENCE WITH LABOR NEGOTIATORS: Agency
representative: General Manager Anthony Constantouros and Jon Holzman Employee
organization: Kensington Police Officers Association

Regular Meeting:

Call to Order/Roll Call 7:40 pm.

President Sherris-Watt reported out from closed session. On Item C, the board decided by a vote that item D was not affirmed and would not be discussed. Item E was tabled. For Item F direction was given to our labor negotiators.

Oath of Office - General Manager Tony Constantouros administered the oath of office to newly elected board members Christopher Deppe, Cyrus Modavi, and Rachelle Sherris-Watt.

Public Comments:

Ann Forrest, President of the Kensington Community Council, presented the KPPCSD with a check for \$465,000 for renovations to the Community Center. Director Hacaj, Chair of the Parks Committee, accepted on behalf of the Board.

Mabry Benson: In past years, there've been many occasions where Board members had been texting while the meeting was in session. I think this activity is totally inappropriate. These are public meetings and the public is entitled to hear all that you have to say, whether it is to another Board member or to a member of the public. If the public needs to communicate to a Board member during the meeting, that should be heard by the public.

I don't know whether the Brown Act open meeting laws allow texting to or from board members during meetings. If it isn't, I suggest that the board adopt a policy where board members agree toward no texting to or from board members during meetings. In the spirit of making all board commentary and board meetings that openly, the board can adopt such a policy or board members can announce that personal behavior should no texting during meetings.

Pat Gillette: It is really nice to see K-groups working together, and we hope too, that as we move forward with the new term of this Board that we'll see more of that kind of cooperation between all the boards including the fire board and the police board. Hopefully, now it is something that you all strive for.

I have a few things that I'd just like to mention. One, I'm unclear of how things get on the agenda under these Board's direction.

Secondly, I understand that there's been a settlement, at least the court records have been processed, with the settlement case under review versus the District, as of November 30th. I requested a copy through the public records dept. That settlement agreement, I was told by your general counsel, doesn't exist yet.

I think when it is completed that it should be posted on website perhaps or at least the public should be informed, which is exactly they have a right to know. What the amount of settlement was and perhaps you could explain the reasons for the settlement. As a mediator now, I

understand the case is settled for a number of different reasons, but it will be helpful for us to know why and what the amount was.

Since that was on November 30, I would expect an agreement to be completed sometime in the next month, it doesn't take very long to get the kind of stuff and agreement done. Third, I'm really curious whether the Board intends to search for a permanent chief of police.

We've lived for two years with an interim chief of police. If in fact, the board feels that Interim Chief Hull is the best person to do the job then perhaps we should post the position, let him apply, of course. At least they'll know either we're going to have a permanent chief of police or not. If you intend not to do that, it will be really helpful to the public for us to know what. Why are we going on our second, third year of not having a permanent chief? Thank you very much.

General Counsel stated there was a mandatory settlement conference and a tentative agreement was reached to certain terms. However, not all terms have been settled and the agreement is not complete.

Carol ---- said my major concern is I really do not understand the structure of Kensington. We seem to have quite a lot of disparate groups with disparate budgets and we're doing a lot of projects. I would really love an overview of what the structure is? What is possible and what is not possible in terms of change?

Specifically in relation to the police department and the Matrix study, I read that study and then I look every month in the Kensington Outlook of what the police do and it seems to me that about 90% of what our police do could be handled by private groups of social service workers and that they aren't really police issues at all. The idea of hiring extra staff and increasing our police force seems like we are moving in the direction that doesn't really fit our community.

I'm also having our own special group to take care of the needs of our citizens, but I'm wondering if it really needs to be the Kensington Police force. I'm just hoping that we'll be able to discuss those issues in a way that we can best use our resources. Thank you.

Linda Lipscomb: I'll just say one thing, there is in fact in the policy and procedures manual of which we do a precious little out of this task support, a methodology for getting things on diligently. I believe it says that any director may propose a topic to be on the agenda that a citizen may propose a topic to a director or to a general manager to be on the agenda. There should be no mystery about this whatsoever.

Board/Staff Comments

Director Modavi: This year Kensington, as far as its turn out for voting, was higher than both the state, the country, and the county level in terms of people who turned out. It's clear everyone really cares and is very engaged in our community in many ways. I just hope that we can continue that even as we move past elections and to our normal day to day operations.

a. General Manager Report

i. Matrix Police Study

ii. Emergency Services

iii. Financial Services Contract

General Manager: my goal would be to present to the board in January a process to move forward to finalize the report and put the board in a position to decide which path to take. In January, we'll discuss it in more detail.

Then I've received some comments about the town of Ross any of comparison agency to Kensington. It's generally not a good idea to compare just one agency because there are areas that are similar and areas that are different.

Ross is, in my opinion, not a very good comparison to Kensington. If you've been to Ross it probably speaks for itself, it's a more rural setting. Kensington is much more diverse in its population residents. Both communities have a little crime rate, but I've spoken to the city manager in Ross and I hope I don't get into trouble there, but they have problems assigning that work for their police officers.

I also did some research on emergency services which has gotten considerably more attention after the fires in wine county, both in terms how they were managed and how the citizens were evacuated. The fire was so rapid that the public safety and the citizens were unprepared. I believe that we're going to learn a lot from what happened there and so it going to change a lot of the ways that the community will act and evacuate.

In Kensington, we have three different government agencies that are involved in emergency planning. We have a police district, we have a fire district and then there's an unincorporated area of the county who are subject to the Emergency Services Department of the county, which is part of the sheriff's office. They're actually in-charge of most emergency services in unincorporated areas when there isn't a fire department or a police department present. I think that it would be important to get the three agencies together to work together and to develop both evacuation plans and communication plans.

I spoke to Meredith Gerhardt who is our emergency planning coordinator for Kensington. She works at Sheriff's Department who handles emergency services for the unincorporated areas in the county.

I think for our next step really should be, together with the fire department and county emergency services and see what can be done here.

Interestingly enough, the City of Berkeley which is a neighbor but is another county has just completed, they have a draft form of their own evacuation plan. The draft Wildfire Evacuation Plan is what they call it. They have their own departments, they're own departments assisted in the plan. They have the public works department and police department also assisted the fire department in coming up with a plan.

Consent Calendar

- a. Approve minutes of October 4, 2018, Board meeting.**
- b. Approve minutes of October 25, 2018, Board meeting.**
- c. Approve minutes of November 28, 2018, Board meeting.**

President Sherris-Watt made a motion to accept the Consent Calendar.

Director Deppe seconded the motion.

The motion passed 5-0.

Old Business

- a. The Board will consider and possibly approve bids for tree removal in Kensington Park.**

Vice President Nottoli presented bids for tree removal.

Vice President Nottoli made a motion to authorize the General Manager to execute a contract with Elite for tree removal.

President Sherris-Watt seconded the motion.

The motion passed 5-0.

- b. The Board will consider and possibly approve amendments to the Glass & Associates contract for the Community Center renovations.**

General Counsel: The April 27th, 2017 contract with Glass Associates to provide architectural and construction management services in connection with the upgrades to this building expired on November 30th, 2018, so this is to extend that agreement through December 2019, which will be more than adequate to accommodate construction.

In addition, to the extension, expenses should be increased because the initial contract did not compensate such hidden costs as Glass Associates going out to bid, which is essential part of the project. Lastly, there is an increase with consultant compensation, and this would be simply to cover the increase in price for the electrical work. It would be a pass-through compensation.

The staff further recommends that the board authorize the General Manager to negotiate non-substantive changes to the amendment subject to the approval as of the form by the General Counsel.

Director Hacaj made a motion to authorize the extension of the contract with Glass and Associates, Inc., through December 2019 and allow increased compensation as

recommended by the General Counsel and allow the General Manager to negotiate changes.

President Sherris-Watt seconded the motion.

The motion passed 5-0.

New Business

a. The Board will consider and possibly approve a Funding agreement with the Kensington Improvement Club

Director Hacaj make a motion to approve and authorize the General Manager to execute the KIC funding agreement.

Director Deppe seconded the motion.

The motion passed 5-0.

The Board thanked KIC for their generosity.

b. The Board will discuss and possibly approve a contract amendment to the employment agreement of the ICOP.

General Manager: The original agreement with the Interim Chief commenced in February of 2017, and the agreement was for a six-month period originally, and was extended. At that time, the Interim Chief of Police was also the Acting General Manager.

I was hired as General Manager and it was decided at that time that we wanted to maintain the current structure of the KPD, with our Interim Chief of Police, while the Matrix study was being completed.

The study has been going, has taken a little longer than the original time frame. We're hopeful, as I indicated earlier, that in 2019, this will be completed and a direction forward will be decided.

We're just recommending continuation of the current situation until we receive Board direction. The Chief of Police position now reports to the General Manager.

The Matrix study has to be wrapped up before the permanent path forward is decided. With that in mind, we're asking for an extension to June 30th of 2019.

Pat Gillette: Tony, do I hear it correctly that you think Rickey Hull is the best possible candidate to being Interim Chief right now? Is that your judgment?

General Manager: I think it's for the immediate future it's important that we have a stable situation as we make a decision on what's new in the future. We're going through a transition phase. When that's completed, then I think we should fill the position permanently. It's painful to

go through transitions. We want to make the best decisions, a key for the future, that's what we will have focused on.

President Sherris-Watt made a motion to agreeing with the General Manager to the amendment to the employment agreement for the Interim Chief of Police.

Director Deppe seconded the motion.

Director Modavi: I don't oppose but I feel I should explain myself out. That this is purely on a process level it has nothing to do with personnel.

I really have been watching as a resident, of this whole two years of extension. that really is not in the best practices. We have been essentially living in this limbo for such a long time. In light of what I have been hearing, reading and everything else that I able to acknowledge of, I cannot remove confidence on a vote, yes on this is, especially in the absence of the full background check. I'm those with no here.

The motion passed 4-1.

Director Modavi voted no.

c. The Board will discuss and possibly approve a contract amendment with General Counsel

General Manager: Mrs. Danforth has served the district for 20 months. She came to the District after retiring from a 19-year tenure with the town of Tiburon. Mrs. Danforth's hourly rate will still be well below the market with this proposed amendment.

Vita Doorah: I noted for the last two meetings that legal counsel has been producing staff reports and I think even tonight making staff recommendations. Then my experience legal counsel to a board of directors generally does not perform staff or operational functions. I was just wondering if you might be able to clarify why the board's legal counsel is also producing staff reports.

General Manager: It's largely that there isn't staff available in some of these areas and the legal counsel is assisting in producing some of the reports especially we review of contracts which would be renewed by the legal counsel. We're working on a new administrative structure to address that.

President Sherris-Watt made motion to approve the amendment to the retainer agreement with General Counsel, Ann Danforth.

Director Deppe seconded the motion.

The motion passed 5-0.

d. The Board will discuss and consider adopting Resolution 2018-11, a Resolution of the Board of Directors of the Kensington Police Protection and Community Service District Authorizing Investment of Monies in Local Agency Investment Fund.

President Sherris-Watt made a motion that the Board adopt Resolution 2018-11, a resolution of the Board of Directors the Kensington Police Protection and Community Services District authorizing investment of moneys in the local agency investment fund (LAIF).

Vice President Nottoli seconded the motion.

The motion passed 5-0.

e. Pursuant to KPPCSD Board Policy 5010.60, the Board will elect a President and Vice President for calendar year 2019.

President Sherris-Watt thanked the Directors, attorneys, Interim Chief of Police, General Manger and community members who had made her tenure as Vice President and President of the Board so worthwhile.

President Sherris-Watt made to nominate Director Hacaj to the role of Vice President of the Board for 2019.

Director Deppe seconded the motion.

The motion passed 5-0.

Len Welsh spoke in favor of Vice President Nottoli becoming Board President based on his time working with her during his tenure as Board President.

Director Hacaj made motion to make Vice President Nottoli, President of the Board for 2019.

President Sherris-Watt seconded the motion.

The motion passed 5-0.

President Sherris-Watt made motion to adjourn the meeting.

Director Deppe seconded the motion.

The motion passed 5-0.