

Meeting Minutes for 9/20/16

A Special Meeting (Closed Session) of the Board of Directors of the Kensington Police Protection and Community Services District was held Tuesday, September 20, 2016, at 5:30 P.M., at the Community Center, 59 Arlington Ave., Kensington, California. The Board continued its Special Meeting in Open Session at 7:00 P.M.

ATTENDEES

<u>Elected Members</u>	<u>Speakers/Presenters</u>
Len Welsh, President	Leonard Schwartzburd
Rachelle Sherris-Watt, Vice President	Mabry Benson
Chuck Toombs, Director	Celia Concus
Patricia Gillette, Director	
Vanessa Cordova, Director (by phone)	
<u>Staff Members</u>	
Interim GM/COP Kevin Hart	
<u>Press</u>	

President Welsh called the meeting to order at 5:30 P.M. President Welsh, Vice President Sherris-Watt, Director Toombs, Director Gillette, Interim GM/COP Hart, were present. Director Cordova was not physically present, but President Welsh announced she would participate in the Open and Closed Sessions by phone from Italy.

While Vice President Sherris-Watt attempted to make phone contact with Director Cordova, Celia Concus asked, with respect to Closed Session Agenda Item a, if she could have more information on the item. President Welsh responded that the Board was looking for a new general counsel.

PUBLIC COMMENTS

Mabry Benson said that, last January, CalPERS had issued a public agency review for the KPPCSD. She said she found it curious that no mention of it had been in the General Manager's reports in the ensuing months nor had it appeared on the District's website. She asked if the Directors were aware of the audit. Director Gillette responded that public comments at this time were only for items on the Closed Session Agenda. Ms. Benson said that, more relevant to the performance evaluation of IGM/COP Hart, was the response he'd given to item five: The positions of GM and COP are enmeshed, so there's no way to determine how much time is spent on the two roles. She said that, in providing information to the Ad Hoc Committee, IGM/COP Hart had estimated that he spent 85% of his time on police business and 15% on General Manager business. She said IGM/COP Hart had recently asked Lisa Coronna to change the allocation to 95% and 5%, respectively, in the Committee report. She said these percentages had been rejected at the September 15th meeting. She said she and others were

skeptical of the 85%/15% allocation. Ms. Benson said that IGM/COP Hart shouldn't be making such ridiculous claims and that he should be able to make accurate estimates of his time allocation. She said she thought CalPERS thought this was very important and said she thought the answer was pension spiking. She said that, when the Board evaluated IGM/COP Hart's performance, it needed to consider why he hadn't publicized this report and why he'd made these time allocations. She said that, if there were to be an MOU with IGM/COP Hart, it should include an allocation of his time, bearing in mind that he had a vested interest in keeping his public safety allocation as high as possible. She also asked the Board to question why IGM/COP Hart had allocated non-sworn to two half-time positions when the budget showed the hours for these positions totaled 1.15 positions and why non-sworn staff had received a 3.1% CPI increase when the Bay Area CPI increase between June 2015 and June 2016 had been 2.47%. She also noted that the figures contained in the budget had been from February. She requested that IGM/COP Hart receive no medical benefits.

Leonard Schwartzburd asked if the meeting was being recorded. President Welsh responded in the affirmative and said that District Administrator Wolter would prepare the minutes from the recording. Dr. Schwartzburd said the community needed a procedure for appealing a decision made by the Chief of Police. He asked whom or what was supervising those un-reviewed decisions, as had been made in the case of his complaint that a Kensington officer had destroyed evidence of a crime. Director Gillette asked if this was related to the Closed Session items. He responded that it was related to the Chief's performance. Dr. Schwartzburd said IGM/COP Hart's treatment of his complaint had been based on the specious argument that set screws on the timer in his garage had become loosened without the intervention of a human hand and then disabled the lever and then reset themselves so tightly that he couldn't loosen them with his bare hands – though Officer Ramos could do so, and this was on video tape. He said that there had been clear destruction of evidence of a crime, that IGM/COP Hart had said to him that those kinds of things loosen themselves, and that IGM/COP Hart had dismissed the whole thing. He said that if IGM/COP Hart believed this, he was incompetent in his job. He said this was dishonest and that he didn't trust IGM/COP Hart because of this. Dr. Schwartzburd said that IGM/COP Hart then shut down the complaint and that this was not the kind of behavior he expected from the Chief of Police. Dr. Schwartzburd said that he was angry and that IGM/COP Hart had treated him like he was some kind of fool. He also said he couldn't believe that IGM/COP Hart had done this. Dr. Schwartzburd said he wanted to say things about IGM/COP Hart's refusing to answer the question given him by A. Stevens Delk at the September 8th meeting. He said IGM/COP Hart had sent a letter to Director Cordova, outlining certain things, which she then revealed – which had taken it out of the realm of private and had made it public information. He said that IGM/COP Hart had refused to answer questions on the grounds that it was covered by the privilege and that it hadn't been. He said he had serious questions about IGM/COP Hart's performance in the interim capacity and in any consideration of his becoming a permanent Chief of Police.

President Welsh responded that, for the record, there was no consideration of an MOU with IGM.COP Hart at that time.

The Board entered into Closed Session at 5:51 P.M.

CLOSED SESSION

- a. Public employment: Title: (General Counsel) – Pursuant to Government Code Section 54957.
- b. Public Employee Performance (Government Code section 54957(b) Title: Interim General Manager/Chief of Police.)
- c. Conference with Labor Negotiators (Government Code section 54957.6) Agency Designated Representatives: Jonathan Holtzman/Randy Riddle, Renne Sloan Holtzman Sakai LLP: Unrepresented Employee: General Manager/Chief of Police.

Director Cordova participated in both the open and closed sessions by phone, from the location of Lungarno Guicciardini 9, Florence, Italy.

The Board came out of Closed Session and into Open Session at 7:00 P.M.

Roll call: President Welsh, Vice President Sherris-Watt, Director Gillette, and Director Toombs were present. President Welsh reported that Director Cordova had telephoned from Italy to participate in the Open Session.

President Welsh reported that no action had been taken on any of the three Closed Session items.

OLD BUSINESS

- 5a. The Board discussed a legal opinion it recently had received and considered waiving its attorney-client privilege. The opinion was regarding whether the Board could amend a variety of the rules set forth in its Policy and Procedures Manual by simple majority vote. Policy 1010.20 currently stated that a 4/5 vote of the Board was required to adopt a new policy or amend an existing Board policy. The Board considered voting to release the attorney-client privileged memorandum.

Director Gillette said she saw no reason not to release the document: She thought it was important for the public to see it.

Director Toombs said he agreed with Director Gillette. He noted that people argued for transparency in government and that it was important for people to see the opinion from legal counsel.

Vice President Sherris-Watt said she would be in favor of releasing the document.

Director Cordova said she had no opposition to its release.

President Welsh said the Board was unanimous.

Leonard Schwartzburd asked which attorney had written the opinion. The Board responded it had been Teresa Stricker of Public Law Group.

MOTION: Director Gillette moved, and President Welsh seconded, that the Board release the memo.

Motion passed: 5 – 0.

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

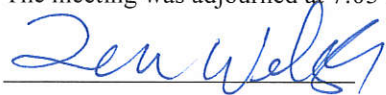
President Welsh said the memo would be posted on the website the following day.

MOTION: Director Gillette moved, and President Welsh seconded, to adjourn the meeting.


Motion passed: 5 – 0.

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

The meeting was adjourned at 7:05 P.M.



Len Welsh
KPPCSD Board President



Lynn Wolter
District Administrator