

Meeting Minutes for 5/12/16

A Special Meeting (Closed Session) of the Board of Directors of the Kensington Police Protection and Community Services District was held Thursday, May 12, 2016, at 6:00 P.M., at the Community Center, 59 Arlington Ave., Kensington, California. The Regular meeting of the Board of Directors followed.

ATTENDEES

<u>Elected Members</u>	<u>Speakers/Presenters</u>
Len Welsh, President	Teresa Stricker, Renne Sloan Holtzman Sakai LLP
Rachelle Sherris-Watt, Vice President	John Holtzman, Renne Sloan Holtzman Sakai LLP
Chuck Toombs, Director	Craig Fechter, CPA
Patricia Gillette, Director	Jason Chin, CCC Public Works
Vanessa Cordova, Director	Jeff Pollard, PG&E
	Jim Watt
	Leonard Schwartzburd
<u>Staff Members</u>	John Gaccione
Interim GM/COP Kevin Hart	Mabry Benson
Sgt. Hui (on duty)	A. Stevens Delk
Lynn Wolter, District Administrator	David Spath
	Rich Karlssen
<u>Press</u>	Linda Lipscomb
Linnea Due	Ryan Anderson
	Karl Kruger

President Welsh called the meeting to order at 6:05 P.M. President Welsh, Vice President Sherris-Watt, Director Toombs, Interim GM/COP Hart, and District Administrator Wolter were present.

President Welsh announced that Director Gillette was on her way and would phone in for the Closed Session and that Director Cordova would not participate in the first part of the Closed Session because those items pertained to her.

PUBLIC COMMENTS

None.

CLOSED SESSION

The Board entered into Closed Session at 6:06 P.M.

- a. 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.

- b. Public Employee Appointment – Title: Interim General Manager/Chief of Police
- c. Conference with Legal Counsel – Anticipated Litigation: Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: (12 potential cases); Public Employee Discipline/Dismissal/Release.
- d. Conference with Legal Counsel – Anticipated Litigation: Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: (1 potential case); Public Employee Discipline/Dismissal/Release.

Closed session item (c) related to the Board’s consideration of whether to disclose publicly some or all of the investigation report regarding the October 7, 2015 traffic stop of Vanessa Cordova by Kensington Police Officers.

1. Director Gillette participated by telephone in the Closed Session while she drove from the San Francisco International Airport to Kensington.
2. A copy of the extension of employment contract for Kevin Hart was attached to the Board Packet.

At 7:39 President Welsh announced that the Closed Session would continue until about 8:15 P.M.

The Board returned to Open Session at 8:17 P.M.

President Welsh took roll call. Vice President Sherris-Watt, Director Toombs, Director Gillette, Director Cordova, and President Welsh were present.

President Welsh apologized for the length of the Closed Session and reported that, during the Closed Session, the Board had

- Discussed items a and b but had taken no action.
- Given direction to legal counsel on item c.
- Taken no action on item d.

PUBLIC COMMENTS

Linda Lipscomb said she had questions for Director Cordova, based on the document that appeared beginning on page 41 of the evening’s Board Packet, and said she hoped that Director Cordova would answer them in the interest of transparency and to ensure that the public would be informed. Ms. Lipscomb said Kensington’s residents deserved straight answers to the serious questions that had been raised by the document. She said the Contra Costa Times had reported that Director Cordova had said the Kensington police had come to her home. Ms. Lipscomb said the newspaper also had reported that Director Cordova had said that the officers had told her they had come in response to a 9-1-1 call and that she had said that she had denied having made such a call. Ms. Lipscomb said that, on page 55 of the Board Packet, there was a transcript of a conversation that had taken place during a visit by a Kensington police officer, in response to a 9-1-1 call, to Director Cordova’s home. Ms. Lipscomb asked if this had been one of the incidents that had been reported as an unsolicited 9-1-1 call in the Contra Costa Times.

Director Cordova responded that she wasn’t obliged to answer Ms. Lipscomb, to which Ms. Lipscomb responded that she understood. Director Cordova continued by saying that she would answer. Director

Cordova said she had had two 9-1-1 calls: One had involved Officer Ramos and another had involved Officer Hull. Director Cordova said she had discussed one of the calls with former GM/COP Greg Harman, who had looked into it, and another, which she said she believed she had discussed directly with Sergeant Hull. She said Sergeant Hull had explained to her that, even when one doesn't have a landline, everyone does have a landline. Director Cordova said she hadn't filed a complaint at the time the call had been made. She said she had just been surprised to have seen someone because she had had a courtyard with a gate and she had been folding clothes in the living room, so she hadn't made a complaint. Director Cordova said the issue had only been raised when other residents had raised it and said investigators had asked if she had had this happen to her. She said that she had responded to them in the affirmative but that she hadn't filed a complaint at the time. She said that IGM/COP Hart had approached her and that, in emails that she'd be happy to provide, it had startled her. She said she hadn't found Officer Ramos or Sergeant Hull to have been rude. She reiterated that it had been a startling thing because she hadn't had a landline and still didn't. She said that how it had been reported had been out of her control but that she had never made a complaint about the calls. She said former GM/COP Greg Harman had been quite nice about it and had explained that sometimes one had a landline, and one didn't know this. She said this was the only explanation she could or would offer.

Ms. Lipscomb began to proceed with her public comment. Vice President Sherris-Watt said that public comments were not meant to be a question and answer. Director Cordova said that Ms. Lipscomb could interrogate her. President Welsh responded that Ms. Lipscomb could proceed with her public comment. Ms. Lipscomb noted that Director Cordova had volunteered her response.

Ms. Lipscomb said that, if she read the transcript correctly, it appeared that Director Cordova believed she had accidentally set off the alarm and that this had been what had caused the police to have come. Ms. Lipscomb added that, per the transcript, Director Cordova had invited Officer Ramos into her home to look around: He had not forced his way in. She said that, if those facts were true, the report in the Contra Costa Times was incorrect.

Teresa Stricker said she wanted to intervene for a moment. She said it was not appropriate to do a question and answer, and these items had not been placed on the agenda. She said Ms. Lipscomb could make her public comment, but it was not appropriate to get into a full-blown discussion. President Welsh asked Ms. Lipscomb to continue her comments and let Director Cordova know she could respond at the end, if she wanted to do so.

Ms. Lipscomb continued by saying that it was incumbent upon someone to comment about where the reporter, Mr. Peele, might have gotten the information he had used to make an incorrect report. She said that other questions were raised by the document that began on page 41 that included statements about the registration of the car Director Cordova had been driving at the time of the infamous traffic stop. Ms. Lipscomb said it would be appropriate for Director Cordova to tell the public for how long the car's registration had been delinquent prior to that stop. Ms. Lipscomb said there also were statements about the lapse of Director Cordova's driver's license and said it would be appropriate for Director Cordova to tell the public for how long her driver's license had lapsed in the previous year. Ms. Lipscomb also said she was wondering why the community still didn't have a copy of the report. She said she hoped Director Cordova would comment and state that she would consent to the release of the report, as she understood not even the Board had seen it. She said it was time to put an end to the controversy and bring the matter into the sunlight.

Director Cordova said she agreed and that that was why the Attorney General was continuing actively to investigate this case. She said there was a lot that was unknown about this case. She said that the report should be published so people could see what the investigators would find out, in terms of criminal offenses, if any, such as unlawful access to her personal records and such as information from personnel that things might not be copasetic in the department. Ms. Cordova said she had not been stopped for a suspended license nor had she been stopped for absent registration. She said that she had been stopped for an expired tag and that she had produced the relevant DMV document. She said that was the end of the story and was all she was going to state at that time. She said Ms. Lipscomb could malign her all she wanted – suggest malfeasance or misfeasance – she didn't care. She said she knew what had happened,

and she knew there was a criminal investigation for a component of the case. She said she was patient and hopeful.

IGM/COP Hart said members of Contra Costa Public Works and PG&E were in attendance to make public comments.

A. Stevens Delk said that Kensington's zero tolerance policy had never been properly defined. She noted it had never been close to zero. She noted that, during the first four years, only 50% of traffic stops had resulted in citations and that, in the last three months, the rate had dropped to 20%. She said that, in addition, the average number of stops made each month had steadily declined, from 170 the first year, to 90 in 2014, to 30 in the last half of 2015, to 15 in the last three months. She noted that there had been 46 accidents since last June, which had been the per year average before the UC Study, and the projection for a full year was over 50% more than the average for the early years of the policy. She said that, in November, IGM/COP Hart had introduced his proposal to rescind zero tolerance, having said that he thought it was important to enforce traffic laws but the policy was not being enforced, pursuant to Board direction. She said the Board had directed IGM/COP Hart not to change the policy before he had presented his plan for consideration and approval. She said that, since November, there had been decreases in the number of stops and the percentage of stops resulting in citations. She said 50% tolerance had become 80% tolerance. President Welsh asked that IGM/COP Hart address this in his upcoming month's General Manager's Report.

IGM/COP Hart introduced Jason Chen from the Contra Costa Public Works Department, who, along with a representative from PG&E, was going to discuss changing out the lighting in Kensington. Mr. Chen said that, in the unincorporated parts of Contra Costa County, the County paid PG&E to provide lighting service, noting that PG&E owned and operated these streetlights. He reported that PG&E had a program for upgrading the streetlights and that PG&E would begin replacing existing high-pressure sodium vapor light bulbs with LED lights. He said the poles and the height of the light fixtures would not be changed. He introduced PG&E's Jeff Pollard, who reported that there was a website noted in the Board Packet to which people could go for more information on the program. Mr. Pollard showed a light fixture to demonstrate what part would be changed in 250 to 300 fixtures in Kensington. He noted that the existing light fixtures were at the end of their useful life, that the light bulbs needed to be replaced every four to five years, and that, with the new LED lenses, light would shine straight down on the streets and sidewalks – not out too far out to the sides or upward. He reported that the new lights would have a life expectancy of 20 years, would come with a ten year warranty, wouldn't dim over time, and would be similar to the lights that had been installed on Arlington Avenue. He noted that the new lights would also drive down maintenance costs. Director Gillette said she had been fond of the old lights on Arlington Avenue and said their charming appearance had been better suited to the community. She said she didn't care for the new light fixtures and asked if there were anything more aesthetic that could be installed. She noted that Berkeley had really attractive lights and asked if there could be any aesthetic control over the lights to be installed. Mr. Pollard responded that the only control the community could have would be over wattage. Rich Karlssen asked for the website. Mr. Pollard responded it was pge.com/streetlightupgrade. Jim Watt said Berkeley had installed attractive lights on Spruce Street. Mr. Pollard responded that he was unfamiliar with those lights and said that Kensington's project was restricted to changing the bulb part of the fixture. President Welsh asked that District staff make this information available on the District website.

BOARD COMMENTS

Director Cordova reported that, a few weeks earlier, the Contra Costa Special Districts Association had convened to elect a new delegate to LAFCO. She further reported that, after waiting for four hours, the group could not get the requisite number of members to achieve quorum to vote on whether to elect incumbent Mike McGill. She said, therefore, that the election would be conducted by certified mail. She said that, in the meantime, Mr. McGill would continue to serve on LAFCO.

Vice President Sherris-Watt reported that the Park Buildings Committee could meet on May 31st, at 7:00 P.M., and on June 22nd.

President Welsh reported that a tentative meeting of the Park Grounds Committee was set for May 19th.

STAFF COMMENTS

IGM/COP Hart reported:

- 184.4 pounds of prescription drugs had been collected at the April drug take-back day and would be destroyed.
- Text 9-1-1 was operational.

IGM/COP Hart said he wanted to discuss the sound system, which he said had been discussed on Kensington Next Door. He reported that the lowest responsible bid for the needed system had been \$21,000 and that the Board had approved \$6,000 for only a sound system for fiscal year 2015-16. He said that, after he had looked into it further, he had learned that the District would need more than an audio system. He said he wanted to eliminate the need for an officer to operate the system and to upgrade the system to comply with ADA audio requirements for the hearing disabled. He also reported that he was trying to develop a partnership with the K-groups and that KIC had committed up to \$5,000; KCC had committed up to \$3,000; and KPOA still had some questions. He said that he hoped to purchase and install the new system by June 30th and that he might need to ask the Board for additional funds to make up the difference. He described the system, which would have four speakers on one side and four on another and would have the Directors sitting in front of the fireplace, with a domed video camera on the opposite wall. He explained that the camera would be placed in the dome to protect it from games like Frisbee and that it would pick up staff. He reported that, with respect to proposed construction, the system would not be impacted. He said that, if the Board would not be interested in the proposed audio-video system and would only be interested in an audio system, he might need to go back to the K-groups to ask if they would be agreeable to only a sound system. Director Cordova asked why the District couldn't have a "Toyota" version of a sound system, instead of a "Cadillac" version. She also asked for a real assessment instead of a system she wasn't convinced the District needed. Director Toombs responded that the District was "driving the Toyota right now" and asked how it felt. Director Cordova responded that, when reviewing tapes of meetings, she could hear herself, but she couldn't hear Director Toombs. President Welsh asked IGM/COP Hart how he had come to the conclusion that the District needed the system he was recommending. IGM/COP Hart responded that he had made inquiries of six contractors, who had come out to look at the Community Center. He added that the bids from them had ranged from \$20,000 to \$30,000 for an audio-video system that would accommodate the hearing impaired. President Welsh asked if there had been a specifications sheet. IGM/COP Hart responded that there hadn't been; each contractor had come to the Community Center to do a walk-through in order to evaluate what was needed. He added that the "Cadillac" version was the \$30,000 proposal and that the District didn't need that. He said that what was proposed was a "Chevy" system: It would include microphones that would pick up sound, without people needing to speak so closely, a plug and play formatted system that would be locked in a secure place, and a stationary protected camera. He noted that an officer would not be needed to operate the system. President Welsh asked that this item appear on the next agenda and that, in advance, there be a written report on what the system would need to do.

Director Toombs said he wanted to comment on the earlier exchange between Linda Lipscomb and Director Cordova. He said he was embarrassed because there was an investigation going on and to have a member of the public "lay into" a Director, with any kind of allegation or vice versa, was unseemly. He said he thought the best thing the community could do was let the investigation run its course and conclude and then, if and when the report were to be released, people could make their own judgments. He said it was difficult to sit on the Board and to be "sandbagged," which he found to be unfair.

Director Gillette said she wanted to respond to comments that had been made on Kensington Next Door about Mr. Buffington's document. Specifically, she said she wanted to address the issue of Mr.

Buffington having received a copy of the report. She said that Directors had asked legal counsel about this, and they were told that Mr. Buffington had received a copy of the report because he was Sergeant Barrow's attorney: It was required and allowed for him to have a copy.

President Welsh said he hoped the District could get out the report soon because there had been some very disturbing allegations had been made in Mr. Buffington's press release. He added that the charges that had been made prior to Mr. Buffington's document that had been equally disturbing. He said the truth would make the public feel better; they would know what was going on. Director Cordova responded that IGM/COP Hart had said on numerous occasions – at least two times that she could find on video – that there were two components to the stop: an administrative investigation that had been concluded, with police having reviewed police procedures; and a criminal investigation, which was continuing. She said she thought both should be concluded before accusations were made. Director Gillette said there were many questions in the community, and the District was seeing a lot of frustration in the community because people wanted to know what was happening. She said she thought a member of the community making comments and berating a member of the Board was just as valid as members of the community berating members of the Board about other issues. She said this was just part of being a Director, as the role is currently defined in Kensington. President Welsh said the Board was working to release as much of the report as it could lawfully. He added that, if there was any way the District Attorney or FBI – both of whom he thought were interested – were going to weigh in on this, he thought they would do so sooner rather than later. Teresa Stricker said the attorney for the officers had the report because it was required. President Welsh clarified that the person against whom a complaint is made is entitled to the report and that this person's attorney could get a copy on his behalf.

OLD BUSINESS

7a. Update from Ad Hoc Committee on Governance

David Spath, Chair of the Ad Hoc Committee, reported that Kensington residents should have received postcards containing the web address so they could take the survey. He said he also placed a stack of postcards at the back of the room. He reported that the direct link was also on the District's website. He said that people could also email him, and he would provide them with the link. He said he hoped everyone would take the survey, which would take about five minutes to complete. Dr. Spath reported there would be a public forum on June 4th at the Community Center. He reported it would be the first opportunity for the three subcommittees – bifurcation of the GM/COP position, consolidating the fire and services districts, and contracting out – to present preliminary findings. He said the Committee wanted to get input from the community as a result of the presentations. He said the subcommittees would have future meetings to which the public would be invited to ask additional questions. He said the Committee had planned for each presentation to last about 20 minutes, and these would be followed by questions and interaction. He reported that Committee members would remain after the forum to answer individual questions. Director Gillette asked what the Committee's estimate was for presenting final findings. Dr. Spath responded that the Committee was targeting the end of August. He noted that the survey would prove helpful to the Committee and the Board. He also said the Committee would be asking the Board or IGM/COP Hart for an editor to assist with putting together the final document; there would be three subcommittees trying to meld their work. He said the Committee didn't think this would be an expensive endeavor. He said the Committee would put together a scope of work; it wanted someone to edit the reports, not to write them, so the document would look presentable. Director Gillette asked if the information presented on June 4th would be available to people who couldn't attend. Dr. Spath responded that the meeting would be videotaped, and the recording would be posted on the website. He said he would also have all the materials posted on the website. He added that he was available through his email address. He said he would prefer not to put anything on Next Door because it would likely migrate into something else, beyond a reasonable discussion. President Welsh thanked Dr. Spath for his report.

President Welsh said that he had skipped over the Consent Calendar and that he wanted to get to other items on the agenda because he didn't know if the Board would meet beyond 10:00 P.M., noting that some of the items had to be done that night.

NEW BUSINESS

- 8a. The Board received a presentation from Auditor Craig Fechter, regarding the Fiscal Year Ended June 30, 2015 Financial Report for the District. The Board considered voting whether to accept the report.

Craig Fechter said this was the report for the Fiscal Year Ended June 30, 2015. He reported that there had been major changes to the report due to the fact there had been a new accounting standard that had been passed about three years earlier: Government Accounting Standards Board (GASB) 68, which pertains to reporting pension liabilities. He offered to meet with the Finance Committee or to return to the Board to discuss GASB 68 in greater depth. He reported that his firm is not part of the District: It is an independent accounting firm retained by the District. He cited the government code section that requires the District to have an independent review of its numbers to ensure that the public has access to figures reviewed by someone who is not part of the District. He said that report contained some distinct sections:

- The audit report, which stated the financials were free of any material misstatement. He explained that the firm had performed a number of procedures to verify accuracy, such as confirmations with third parties.
- Management Discussion and Analysis, which was a District-prepared document. He explained that this is a document about which an auditor does not express an opinion and that it describes things that may have occurred during the year that are not financial in nature.
- Statement of Net Position (balance sheet).
- Income Statement.

Director Toombs asked about a deferred outflow of resources for \$381,774 and a deferred inflow of resources. He asked for confirmation that the deferred outflow was for a payment to CalPERS for the pension plan. Mr. Fechter responded in the affirmative and explained that the pension numbers reported, for both inflow and outflow, were based on a CalPERS report for the period ending June 2014, in accordance with GASB reporting requirements. He explained that GASB required that current year contributions be capitalized as a deferred outflow of resources and that this was like a prepaid expense. He explained that the deferred inflow of resources, which capitalized the gain, was meant to smooth out gains and losses over a period of time. He said that deferred outflows would likely be pretty consistent over time but that the deferred inflows could be a deferred outflow if the market didn't do well and prior gains were wiped out. He said the intent was to smooth out the contributions rates in the event of market volatility. Mr. Fechter explained that, with a defined benefit plan, employees are promised a specified benefit and that, no matter what happens, the employees would receive a specific amount of money once retired. He explained that assumptions are used to determine the employer's contribution amount and that, if any of the assumptions aren't met, then an employer will either have an over-funded plan or an under-funded plan. He further explained that CalPERS had, in recent years, assumed a 7.5% performance rate but that this had not been met; rather, the rate had been 3%. He said this performance delta was why the pension liability existed. He said the District had not missed any contributions to PERS, as determined by the auditor's independent verification. He offered to attend a Finance Committee meeting, if the District wanted more information about GASB 68.

President Welsh asked for a "bottom line" conclusion. Mr. Fechter responded that the financial statements were free of material misstatements. He reported that the District had had positive income for the year, for the first time in a few years. He said his firm had no specific findings to report to management or to the Board. He noted that an auditor could not look at every transaction – it's not part of what an auditor does.

Mr. Watt asked about unfunded medical liabilities. Mr. Fecheter reported that GASB 45 would require agencies to report specific information, with respect to OPEB (Other Post Employment Benefits), in two or three more years.

Linda Lipscomb asked what the offsetting pension asset was. Mr. Fecheter responded that the total liability was \$11 million, the unfunded portion was about \$2 million, and the asset – the amount the District had already contributed – was about \$7 million.

President Welsh thanked Mr. Fecheter for his presentation.

**MOTION: Director Toombs moved, and President Welsh seconded, to accept the audit report.
Motion passed: 5 – 0.**

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

- 8c. The Board considered approving a contract extension for Interim General Manager/Chief of Police Kevin Hart, with no proposed change in monthly compensation, benefits, or other terms and conditions of employment, other than the term of the contract, which was to be determined by the Board in its consideration of this item.

IGM/COP Hart left the dais.

President Welsh said he thought that the Board should extend IGM/COP Hart’s contract and that it should choose a term of nine months, which would take the Board through February. He said that, by then, the Ad Hoc Committee would have presented its report on possibilities for change. He noted that, if a new model with respect to the combined position were to be recommended, this would allow a new Board time to work on that change. He added that, if the Board wanted to, it could initiate a new search for the best possible candidate. He said that the Board should move forward and that he thought it would be a huge mistake to “change horses in mid-stream.”

Director Gillette said that she and Vice President Sherris-Watt had been appointed as the subcommittee to look at what IGM/COP Hart wanted in terms of a contract and also at what other options the Board might have. She said they had had a nice experience working together and that they had considered some other options. She said that she, too, supported the extension of IGM/COP Hart’s contract through February for the same reasons President Welsh had articulated. She said that there needed to be stability in the Department, that IGM/COP Hart had done a good job and that he had gotten things back on track with a good level of professionalism. She noted that there could be some criticisms that may or may not be valid but that, overall, he had done a good job. She said that, following the Ad Hoc Committee’s findings, the Board might choose to make changes. She said that, by extending the contract through February, the new Board, which would be seated in December, would have adequate time to make changes, if it were to choose to do so. She also noted that, if the Board chose not to make changes to the structure, it could decide whether or not to continue with IGM/COP Hart. She reiterated that the District needed stability and that she would vote in favor of extending IGM/COP Hart’s contract through February. She noted that IGM/COP Hart is an at-will employee and that, if at any point in time the Board thought he wasn’t doing his job well, he could be terminated. She also noted that the Board could choose to extend the contract past February. Director Gillette said it was important that IGM/COP Hart had accepted the contract without any additional compensation or other changes. She said she thought this had demonstrated good faith on IGM/COP Hart’s part.

Vice President Sherris-Watt confirmed that she and Director Gillette had had a good time working together, as they had done previously. She said she would not be voting for the extension of IGM/COP Hart’s contract. She said the Board was asking anyone to do a very difficult job but that the Board had not had the cultural change and emphasis on community policing that she had hoped for. She said the

Board had not achieved the balance she had hoped for between the needs of the police department and the community services.

Teresa Stricker said it was fine for the Directors to make their comments about their initial take, but they needed to keep an open mind until public comments had been completed – minds shouldn't be made up until the public had had a chance to weigh in.

Director Toombs said he was in favor of extending the contract but that he would want to extend it for a year.

Director Cordova said she had no comment at the time.

Karl Kruger said the District had put together a preliminary budget and had a contract for the officers; but if the District didn't have a contract for the manager, the District really didn't have anything. He said he was in favor of extending the contract for many of the reasons Director Gillette had given. He said the District had had better management for the last year than it had had for a number of years. He said IGM/COP Hart understood looking into the future as well as a number of management issues – things the District may not have had in the past. He said he endorsed giving IGM/COP Hart an extension, but he thought 14 holidays was too many. He suggested that IGM/COP Hart give back four of his holidays.

Leonard Schwartzburd said he had filed a complaint about the performance of IGM/COP Hart and two of the officers. He said the complaint form he had been directed to use was inadequate and needed to be redone. He said there had been an incident, which had been the latest in a long chain of incidents, of illegal entries into his home. He said nothing had ever been taken, but clear messages had been left that there had been intrusions. He said this had been an attempt to intimidate him because he was very outspoken. He said there had been an incident in December, and sabotage had been done at night to a light timer at his home. He said he had called IGM/COP Hart to say that this was a clear message that someone could get into his garage. He said people used to get into his house, too, but he had taken measures. He said he called IGM/COP Hart and asked for an officer to come out and look at this. He said he hadn't reported this earlier because he hadn't wanted to be labeled as "paranoid" because there was a tendency in the community to engage in character assassination of critics. He said he had reported it, in the past, to the FBI, but this had been the first time he had reported it to the Kensington Police Department. He said that IGM/COP Hart had told him that the only two officers he could send were Sergeant Barrow or Officer Ramos. He said that, based on Sergeant Barrow having glared at him on a number of occasions – very much like Director Cordova had described, on his adventures in Reno, and on what had happened with Director Cordova, he didn't trust Sergeant Barrow's judgment and was fearful of him. Therefore, he said, he had asked IGM/COP Hart to keep Sergeant Barrow away. He said the IGM/COP Hart told him that he could either send Sergeant Barrow and Officer Ramos at that time or he could send someone else a few days hence. Dr. Schwartzburd said that Officer Ramos had come out to his house and had then dismantled evidence of a crime and that he had this on videotape. He said it could not have happened otherwise. He said that he had filed a complaint, that IGM/COP Hart had responded in a manner that distorted the facts, and that the resulting report was extremely inaccurate. He said IGM/COP Hart was enabling the ongoing mentality and culture; that certain officers feel they're above the law. He said the interim person was supposed to come in and clean things up. He said that it was inappropriate for the interim person to have as his goal getting the job permanently and that this limited the person's ability to get things done.

John Gaccione said it was interesting that no one had mentioned the General Manager; it's always a reference to the Chief. He asked what price the Board was willing to pay for stability. He said that, when IGM/COP Hart had been hired a year earlier, it had been hoped that the community would move forward, leaving the department's past transgressions behind. He said the Board had vetted IGM/COP Hart and had assured the community that IGM/COP Hart had been the best candidate, despite the fact that he had no prior experience as a general manager or chief of police. He said IGM/COP Hart continued to hold his position as a Dublin City Councilmember. He said that, with respect to the dual position of GM and COP, IGM/COP Hart was, essentially, supervising himself and this wasn't working

out. He also said that IGM/COP Hart didn't understand the concept of transparency. He said that IGM/COP Hart had received more benefits than he had indicated when agreeing to his original contract and had requested and obtained a new police car. He said that IGM/COP Hart was in the process of shopping for a license plate reader system and for body cameras and that he had decided to this without community input or Board approval. He said that taxpayers were left to worry about the impact these expenditures would have on the budget because the GM appeared to be missing in action. He said that IGM/COP Hart's mismanagement of the Cordova traffic stop had been problematic, indicating that he had initially been dismissive of the incident and then had allowed himself to become part of the problem. He said IGM/COP Hart had engaged in unprofessional behavior and had ceded control to the Police Officers Association by not disavowing Mr. Buffington's press release. He noted that, because of some of the officers and IGM/COP Hart, the District could face expensive legal consequences and that, because of IGM/COP Hart's actions, public trust in the department had not been restored. He asked Director Gillette how she would advise a client in a similar circumstance of mismanagement. He said he did not support an extension of IGM/COP Hart's contract and said the Board should begin looking for a more qualified candidate to fill the interim position.

Ryan Anderson said he had a couple of questions and said he had concerns that the interim position might be drifting into a permanent one. He said he hoped the Board would commit to an open recruitment process in February 2017, when the proposed contract would come to an end. President Welsh responded that some Directors might not be on the Board at that time, but said he would not commit to this: he would evaluate the situation and then make a decision he thought would be in the community's best interest, in terms of the skillset the community needed and had available to it. Director Cordova and Vice President Sherris-Watt responded that they would commit to this. Director Cordova responded by saying that the way in which the initial recruitment process had been presented to the community was that there had been a contract with a three-month buffer, in the form of an extension. She added that her recollection was that the Board would have another recruitment. She said that it appeared that this was drifting toward a de facto permanent position that she hoped this wouldn't be the case because she thought an open and robust public recruitment process, particularly for a job that had a novel combination of top-down skills and more consensus building skills required that the Board cast a very wide net to find the best candidate. Mr. Anderson added that the community would be a wiser one, following the Ad Hoc Committee's report. Director Gillette responded that this assumed that the District would keep the same structure and that this explained why this was a difficult question for Directors to answer.

Mr. Anderson asked whether the six months that would pass between August, when the Ad Hoc Committee would report, and February, the proposed end of the contract, would limit flexibility. Director Toombs responded that the agreement was an at-will one that could be terminated at any time – the Board could terminate IGM/COP Hart for any reason or for no reason.

Mabry Benson asked if it the District would be legally required to advertise the position in a public manner, rather than renewing the contract, for permanent a position or positions. She said that, with respect to renewing the current contract, she was disappointed that the Board had not been exercising more oversight of IGM/COP Hart. She said IGM/COP Hart and the Board had been emphasizing the COP part of the job and neglecting the GM part. She said the Board should have been demanding more GM-type product, such as a fiscal interest over a COP who would like to have many high-tech items. She also asked when the Board had last asked for an update to his 100-Day Plan, noting that this appeared to have fallen by the wayside. She asked why IGM/COP Hart had gone to a conference, attendance for which he was to have sought Board approval. She said she was happy to know that the position was at-will and noted that IGM/COP Hart was under investigation for issues related to the traffic stop.

President Welsh interjected that it was 9:45 P.M. and that the Board was required to vote on whether to extend the meeting past 10:00 P.M.

MOTION: Director Gillette moved, and President Welsh seconded, that the meeting be extended until the Board was finished with the agenda.

Motion failed: 3 – 2*.

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

President Welsh noted that the Board would not be taking care of the District's business by not passing the motion to continue past 10:00 P.M. Vice President Sherris-Watt said she would be happy to attend another meeting, perhaps the next evening. President Welsh and Director Gillette responded that they were not available.

Ms. Benson continued her comments by asking the Board why IGM/COP Hart had allowed an officer, who was under an internal investigation, to serve as the Field Training Officer for the newest officer. She said this was inappropriate action for a Chief of Police.

MOTION: President Welsh moved, and Director Gillette seconded, to extend the Chief's contract through February, on its current terms as noticed in the agenda.

Motion passed: 3 – 2.

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

- 8e. The Board reviewed Resolutions 2016-05, 2016-06, and 2016-07, prepared by NBS, that would initiate the process of collecting the annual Park Assessment Tax. The Board considered taking action to approve the resolutions.

Director Toombs explained that approval of the three resolutions was needed in order to levy the park tax for Fiscal Year 2016-17, and he described what each of the resolutions was meant to accomplish. President Welsh asked for confirmation that the Board needed to pass the resolutions that night in order to have the legal authority to collect the park tax. Director Toombs responded in the affirmative.

IGM/COP Hart returned to the dais and noted that the increase from the current year's amount and the amount proposed for the upcoming fiscal year was \$0.47 and explained that this tax revenue paid for the maintenance of the park. Director Toombs noted that the Board's approval was required for compliance with Proposition 218. IGM/COP Hart added that the total amount per parcel would be \$16.09.

Vice President Sherris-Watt noted that the tax roll information read \$16.08 and the resolution showed \$16.09. Director Toombs responded that NBS's report explained this: it was rounding issue. Thus, he said, the resolution was fine.

There were no public comments.

MOTION: President Welsh moved, and Director Gillette seconded, that the Board adopt Resolutions 2016-05, 2016-06, and 2016-07 as prepared by NBS to initiate the process of collecting the annual park assessment tax, as listed under New Business, Item 8e.

Motion passed: 5 – 0.

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

** Note: A four-fifths vote is required, per the Board's Policy and Procedures manual, for the Board to continue its meetings past 10:00 P.M.*

- 8f. The Interim General Manager/Chief of Police presented, for Board approval, Kensington Police Protection and Community Services District Resolution 2016-08, ordering the even year Board of Directors election, the consolidation of elections, and the specifications of the election order.

Director Cordova asked if this was pro-forma every time there was an election. IGM/COP Hart responded in the affirmative. He explained that the District needed to call for an election and needed to notify the County elections office. He reported that two seats were up.

MOTION: Vice President Sherris-Watt moved, and Director Gillette seconded, that the Board adopt Resolution 2016-08.

Motion passed: 5 – 0.

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

President Welsh said he would like to propose, as a discussion item for the next Board meeting, limiting public discussion to three minutes per person in the initial public comments portion of the meeting – on matters not on the agenda – and limiting this portion to twenty minutes overall. He suggested that any remaining public comments could come at the end of the meeting. He said that, perhaps, there should be speaker cards that would be randomly selected. Director Gillette noted that, at the Board’s prior meeting, Rich Karlssen had made a great recommendation about this issue.

Leonard Schwartzburd asked about reviewing the minutes. President Welsh responded they wouldn’t be addressed because two of the Directors had voted not to extend the meeting past 10:00 P.M.

IGM/COP Hart asked the Directors to sign the resolutions that had been passed and to set a meeting to review the budget.

Director Toombs asked IGM/COP Hart to discuss the impact of the Board not reviewing the budget, which had been on the evening’s agenda. IGM/COP Hart responded that it was going to cause the District to hold a special meeting and that the budget would then have to be heard at a regular meeting. Director Toombs asked for confirmation that the budget needed to be done by the end of June. Vice President Sherris-Watt and Director Cordova responded that it would be just like the previous year.

Director Gillette said she was opposed to adjourning.

MOTION: Director Cordova moved, and Vice President Sherris-Watt seconded, to adjourn the meeting.

Motion failed: 2 – 3*.

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

The meeting was adjourned at 10:03 P.M.



Len Welsh
KPPCSD Board President



Lynn Wolter
District Administrator

**Note: Because continuing the meeting required a four-fifths vote at 9:45 P.M. the meeting was adjourned, even though three of the Directors voted not to adjourn.*