

## Meeting Minutes for 12/17/16

A Special Meeting (Closed Session) of the Board of Directors of the Kensington Police Protection and Community Services District was held Saturday, December 17, 2016, at 8:00 A.M., at the Public Safety Building, 217 Arlington Ave., Kensington, California. A Special Meeting (Open Session) followed at 9:00 A.M.

### ATTENDEES

<u>Elected Members</u>	<u>Speakers/Presenters</u>
Len Welsh, President	Amara Morrison
Rachelle Sherris-Watt, Vice President	Linda Lipscomb
Vanessa Cordova, Director	Mabry Benson
Sylvia Hacaj, Director	Skye Dent
Eileen Nottoli, Director	Lori Trevino
	Donna Stanton
	Dakota McKenzie
	Pat Gillette
<u>Staff Members</u>	Chris Hall
Rickey Hull, Master Sergeant	Catherine de Neergaard
	Paul Haxo
<u>Press</u>	David Spath
	Karl Kruger
	Leonard Schwartzburd
	Kevin Fitzsimmons
	Trish Mindel
	Ciara Wood
	Celia Concus
	Mary Korn
	Marilyn Stollon
	Melissa Holmes Snyder
	Andrew Gurierrez
	Jim Watt
	Gayle Tapscott

President Welsh called the meeting to order at 8:00 A.M. President Welsh, Vice President Sherris-Watt, Director Hacaj, and Master Sergeant Hull were present. Director Cordova participated by phone from Italy, and Director Nottoli participated by phone from Texas.

### PUBLIC COMMENTS

Mabry Benson said she didn't think it was gracious for President Welsh to claim he was still President of the Board now that Vice President Sherris-Watt had been elected President. She asked about Item 2b, public employment, and whether it had to do with hiring an IGM/COP. Amara Morrison responded that it had to do with the parameters of the positions. Ms. Benson asked why there was an insistence on

getting an IGM/COP immediately, said that vacancies happened all the time, and cited that Mr. Hart had said the GM portion of his job had taken very little time.

Vice President Sherris-Watt said she wanted to address Ms. Benson's comments about the Presidency: This had been a mutually agreed-upon situation with President Welsh – there was no rancor or animosity. Director Hacaj noted that somewhere it was noted that officers served by calendar year.

Ms. Benson said the community deserved to hear why the position needed to be filled immediately.

Skye Dent said she didn't think someone who was under investigation should be considered for the position of GM/COP: It was going to put a taint on any cases that might come out of the Kensington Police Department. She noted that the candidate had held up her case for four months and that this had created the impression that the police department had condoned this. She said Master Sergeant Hull's appointment shouldn't proceed until her case was concluded.

At 9:05 A.M., the Board entered into Closed Session.

### CLOSED SESSION

- 2a. Conference with legal counsel – anticipated litigation: The Board was briefed on matters involving significant exposure to litigation pursuant to CA Government Code Section 54956.9(d)(2).
- 2b. Public employee employment, discipline, or dismissal: The Board was briefed on personnel matters pursuant to Government Code Section 54957(b)(1).

The Board returned to Open Session and President Welsh took roll call. President Welsh, Vice President Sherris-Watt, Director Hacaj, and Master Sergeant Hull were present. President Welsh reported that Directors Cordova and Nottoli were present by phone.

President Welsh asked the District's Legal Counsel, Amara Morrison, to report on what had occurred in Closed Session. Ms. Morrison reported that, with respect to Closed Session item 2a, the Board voted unanimously to appeal the CalPERS letter of December 6<sup>th</sup>. Thus, she said the District would be submitting an appeal letter to that determination. With respect to Item 2b, Ms. Morrison reported that there had been no reportable action taken.

- 6. The Board reviewed and considered approving Resolution 2016-19 "Approving Interim Appointment of Kevin Hart to Interim General Manager/Chief of Police Pursuant to Government Code Section 2122(h)." Compensation for such appointment, if made, was to be discussed at the January 12, 2017 regular open session of the Board.

President Welsh said he had made a motion at the Board's last meeting to hire Kevin Hart on an interim basis but that motion had failed for lack of a second. He said a number of people had subsequently written and asked that the Board take up the matter again. Thus, he said he had placed the item on the agenda again.

Vice President Sherris-Watt said she wanted to address a question that had come up about who was currently serving as Board President. She noted that there was a difference between the Policy and Procedures Manual and what had been printed in the agenda and that the Manual was very vague. She said that there was no conflict between President Welsh and herself and that he was chairing the meeting. She said she would assume full presidential duties on January 1<sup>st</sup>. President Welsh said he and Vice President Welsh were working together.

Linda Lipscomb said that the prior meeting of the Board indicated why it was so important to have an experienced GM appointed immediately. She said that, without pointing a finger at any one person, the Board's prior meeting had been disorganized and had accomplished little. She asked how, without administrative guidance, it could have been otherwise. She said that, when she had started on the Board in 2010, the GM/COP had met with the new Board members on a Saturday morning and had provided each new member with a Board book containing a copy of the Policy and Procedures Manual, excerpts of laws that applied to the District, samples of agendas, and general information about the Directors' duties. She said that one of the things former Directors Kosel and Gillette had agreed upon was that the GM position should be separated from the COP position. Regardless, the GM needed to be someone with experience. She said that the last Board meeting demonstrated what happens when no one is serving as the chief executive officer: Chaos. She said she didn't think chaos had been the objective of any one of the Directors. She said Kevin Hart was experienced, had served the District ably, and was willing to return and serve on an interim basis. She noted that Mr. Hart was familiar with every aspect of the District's governance, such as dealing with: police complaints; citizen complaints; compliance with district, county and state laws; and administrative matters such as insurance, routine and special personnel matters, and board compliance. She said that he'd had many years of experience with municipal governance and with police procedures and compliance and that it was a rare thing to have experience in both areas. She said that, following the last election, the community had heard various Directors and citizens call for the healing of the community, and she urged the Board to move beyond personal bias in considering the reappointment of Mr. Hart. She said that, if the Board were to hire Mr. Hart back, it would ensure the coverage the citizens deserved. And, she said that hiring Mr. Hart would afford the Board the time it would need to research separating the GM/COP position, which would require a revision of the Policy and Procedures Manual, and then finding candidates. She said that the Board had a duty to find someone to fill this role who had the necessary experience and that the Board's failing to do so would put residents at risk of failure of public safety and the competent governance they deserve. She said she was submitting copies of her statement to each of the Directors and asked that it be included in the minutes.

Mabry Benson said that it was presumptuous to offer to adopt or not to adopt the resolutions on the agenda and asked if it wouldn't tie the Board members' hands. She said they didn't allow for any alternate course of action. She cited that this wouldn't allow for finding a solution on which all could agree. She said she had addressed Items 6 and 7 before the Closed Session – she had asked why there was an insistence on getting a GM immediately and she asked legal counsel to address this. President Welsh responded that there would not be a response now but that there might be one when the Board got to the agenda items. Ms. Benson said she hoped the Board had begun the process of recruiting a qualified GM and said she'd like to see some candidates identified by the first week in January, have them presented by January 7<sup>th</sup>, and voted on at the January 12<sup>th</sup> meeting. She said that whomever the Board appointed now should be a placeholder for a short time. She noted that residents had been told that the District would be at risk if it didn't have a GM and that this interpretation of the government code was absurd. She said the whole process could have been started sooner, but President Welsh had "put all his eggs in one basket" and hadn't considered other alternatives when he'd learned Kevin Kyle was leaving. She said that Public Management Group's hiring service and other temporary services would probably have candidates. She asked why the new Board should be pressured into acting immediately, when the process had already been delayed by President Welsh and said that decisions made in haste were often later regretted.

Lori Trevino said that she wanted to address the proposal to rehire Mr. Hart and that he had proven himself to be an unacceptable candidate for the GM position. She said his actions related to the CalPERS audit were illustrative: He had failed to tell members of the Board he'd responded to the audit with information that was in conflict with the District's best interests and that benefitted him personally. She said she had obtained records from CalPERS and had provided them to the Board. She said that Mr. Hart had told her that these records didn't exist or needed to be reviewed by legal counsel. She said that he had invoked a 14-day period for release, that this period had passed, and that the District was now in violation of the Public Records Act. She said that she knew the records existed because CalPERS had said so and that Mr. Hart had asked CalPERS not to provide them. She added that, just as Mr. Hart had renegotiated his contract 18 months earlier to get medical benefits at the District's

expense, he had left the District in the lurch when he left on October 31<sup>st</sup> out of his own personal self-interest to get benefits. She said she saw no reason why the Board should reward Mr. Hart by rehiring him or trust that he would have the District's interests in mind. She said that, if the Board wanted to proceed with hiring Mr. Hart, she would recommend ensuring that he really was a CalPERS retired annuitant because she wouldn't want to find the District having to renegotiate with him in a month to ensure that he wouldn't lose some pension or health benefit.

Donna Stanton said that she'd been a resident for about 20 years and that she'd been watching what had been happening for the last five years. She said Ms. Trevino had done a good job presenting information. She said that a vote had already been taken in the prior month and that she didn't favor the Board considering the item again. She said the new Board should have its own slate to begin its work. She said the community knew the facts about Mr. Hart, and he made his decision to leave the District. She said the District then hired someone else who had stayed two weeks. She said that bringing back someone who had made the decision to leave and who had problems with his retirement would not be acceptable to her. She said that the prior Board had had problems making decisions that would benefit the community and that the community had been a mess for the past few years. She reiterated that the new Board should be allowed to make its own decisions.

Dakota McKenzie said she was in favor of bringing back Mr. Hart. She said that she cared about public safety and that she'd had experience living in a community that didn't have adequate police protection – even though it had been an affluent one. She said she'd left that community because she had been afraid for her own safety. She reported that, while she was living in that community, she had had to call 911, when her personal safety had been at risk, and that the responding officers had taken 45 minutes to arrive. She said that residents were very safe in Kensington and that it made sense to rehire Mr. Hart while the Board figured out what it wanted to do next.

Pat Gillette said there was a practical problem: The District needed to have someone to take the place of the former IGM/COP. She said the easy solution would be to bring back Mr. Hart. She said that there had been a lot of misinformation about Mr. Hart and that she would encourage people to read the letter Mr. Spath had written, which had been included in the Board Packet and posted on Next Door. She said Mr. Hart's prior contract had had a February expiration date for the purpose of providing a new Board with the opportunity to determine what it wanted to do, with respect to possibly separating the GM/COP position and then searching for the best candidate. She said the Board probably would have been at this point had Mr. Hart not resigned and Mr. Kyle had not resigned after four days. She said that the practical thing would be to have Mr. Hart return, at a reduced rate for a couple of months, while the Board considered what it wanted to do next, with a measured and reasoned process. She said the community and the Board should have the opportunity to think about what the next iteration would be for the long term. She said this would be responsible, from a financial and administrative standpoint, and that this would also be a practical and easy solution. She said that, if the Board didn't want to hire Mr. Hart, then another easy solution would be to leave things be as they are: Let Master Sergeant Hull continue to operate, in the capacity in which he had been, as acting chief until the first meeting in January; by then there would be a process in place to select an interim person, which would allow the Board to move forward with its long-term solution. She said that appointing Master Sergeant Hull as IGM/COP didn't make any sense and that she would address that when that when it came up on the agenda.

Chris Hall said he'd been a resident for 28 years. He said he was not in favor of bringing back Mr. Hart. He said his performance had been inconsistent; he had been gone for periods of time; and he had taken advantage of the Board by coming back to ask for more money, especially when he had been collecting about \$300,000 in pensions from other sources. He said Mr. Hart had also had a second job as a City Council Member in Dublin. President Welsh clarified that the Board had known this at the time it had hired Mr. Hart. Mr. Hall responded that he hadn't known this. He said it didn't make sense to bring back someone who hadn't been loyal to the citizens of Kensington. He said Mr. Hart had taken trips to San Diego and Monterey on the District's dime. He said he wanted to see someone in the job who took responsibility for the District's finances. He said he'd heard that Mr. Hart had asked for \$20,000 more for medical coverage. He said that there was a lot of misinformation and that he wanted to know the

truth. He noted that Lori Trevino had covered a lot about Mr. Hart's inconsistencies and the CalPERS issues. He said that Mr. Hart's leaving before the end of his contract was reflective of his inconsistent performance. He also noted that Mr. Hart had said he was retiring to spend more time with his family: That being the case, why would he have the time to return?

Catherine de Needgaard said it was wonderful to see so many people present at the meeting and caring about Kensington and its police department. She said she wanted to make four points:

- Now was a good time to give a trial run and have two interim people fill the positions. She said an interim GM could help identify what a GM would do in the long run. She said there were a lot of talented people in Kensington who could do the GM job.
- She said she was in favor of rehiring Mr. Hart, for a brief period of time, because he had served Kensington well and he had possessed something the community needed: an upright moral quality of honesty and integrity. She said that, without that kind of person at the helm, things would revert to chaos.
- She asked Director Cordova to recuse herself from this vote because of her well-known disputes with former IGM/COP Hart, all of which had been resolved in his favor.
- It's important to have an upright honest person, and former IGM/COP had been very generous with his time. She said that Mr. Hart had invited everyone to come to his office and that his wife had come and worked at the District office for free. She said Mr. Hart loved Kensington and its people and wanted to help the community. She said the main thing was to get an upright moral person at the helm of the police department.

Paul Haxo said he had been involved in Kensington politics for 20 years, had served on the Board for ten years, and had served on the Finance Committee for eight years. He said that, during that time, he had worked with several GM/COPs. He said that Mr. Hart was the strongest GM/COP he'd ever worked with: He had brought both police experience and government management experience to the job. He said he'd also had the misfortune of being on the Board when the District had gone without a GM/COP, following GM/COP Garfield's departure. He said that he had been the Board President and that there had been many complex issues facing the Board. Mr. Haxo said that he had spent about 40 hours per week at the District office, working as a de facto GM, and that this had put him in a difficult position because Board members aren't supposed to be involved in management issues. And, he noted that the Board had had to meet twice a week during that time. He said that, when the Board doesn't have a strong GM helping to guide it through a complex process, such as the one in which the Board was now, it would be easy for the Board to make mistakes. He said that there would be issues with creating job descriptions and that, to get it through the Board there would need to be several drafts. Then, he said, the attorneys would need to become involved, and the Board would have to interview people. He urged the Board to bring back former IGM/COP Hart, on an interim basis, to assist the Board with moving things forward as efficiently and smoothly as possible.

Dave Spath said he strongly recommended that the Board bring back Mr. Hart because he had the managerial experience on both the Kensington and the state level. He noted that people seemed to forget that Mr. Hart had been the Chief Enforcement Officer for the State Department of Hospitals and that, in that capacity, Mr. Hart had been responsible for overseeing five state hospitals and three mental health institutions. He said Mr. Hart had also overseen 700 personnel, the budget, personnel matters, etc. He noted that Mr. Hart had a significant and strong background. He said that hiring Mr. Hart would give the Board the opportunity to make a decision whether it wanted to bifurcate the GM/COP position and that, without Mr. Hart, the Board would be without strong managerial capacity. He urged the Board to move forward with rehiring Mr. Hart on an interim basis and then to decide whether it wanted to bifurcate the position and whether it wanted to make the GM position a full-time one, if there were the financial resources to do so.

Rich Karlsson said he had been a resident of Kensington for 34 years. He said he agreed with Ms. Benson. He said that, although Mr. Hart was qualified to do the job, the opinions of him within the community were very divided. He said it was time for the community to become unified again. He said that, for Master Sergeant Hull, there would be conflicts – as there would be conflicts for any member of the police force – to serve as the IGM/COP. He recommended asking the Public Law Group to help

find a replacement. He noted that there were lots of retired police chiefs in the area and that it would serve the community well to find a third choice. He said there were some difficult GM issues that would be coming up such as the negotiation of the contract and pending disciplinary matters. Therefore, he suggested looking for a third alternative for the interim. He said that, although Master Sergeant Hull had done a fine job, he would have conflicts moving forward if he were to be in the interim position for very long.

Karl Kruger said he had lived in Kensington for 25 years, had served on the Finance Committee for a number of years, and had attended a lot of the Board meetings. He said that, in August of 2015, Jim Watt had called him to invite him to go with him to meet the new GM/COP. He said that Mr. Hart had spent about an hour meeting with them – a lot of time for a manager to give. He said they'd talked about finances – something about which Mr. Hart knew a lot, patrol cars, and motorcycles. He said he'd been surprised when Mr. Watt had said that Mr. Hart hadn't answered questions for people he hadn't liked. Mr. Kruger said Mr. Hart must have liked him a lot because he had answered every question he'd ever posed to him. He noted that Vice President Sherris-Watt had said that Mr. Hart had been very responsive to the Park Buildings Committee – he had attended every meeting of that committee. He said that, with Mr. Hart there had been ongoing Finance Committee meetings – a change from what had been a committee that had previously met only twice a year. He said that President Welsh had gotten the Committee going and that Mr. Hart had been very responsive to the Committee. He said the prior GM/COP had not known finances, but Mr. Hart had. He said he strongly endorsed bringing back Mr. Hart.

Leonard Schwartzburd said the issue of Mr. Hart was symbolic of deeper issues in the community. He noted that he could talk negatively about his personal experiences with Mr. Hart and about his suitability to be the GM. He said it would not be suitable to bring back Mr. Hart. He said he wanted to talk about the dynamics of Kensington at this time in its history. He said the voters had decided to have new people, who were not part of the old guard, come in and restructure the community that would enable the community to get past the bitter divisions and dysfunction that had existed in the past. He said he thought Mr. Hart had contributed to the continuation of this. He said the new Board had been elected to do things differently. He asked the new Board not to be determined in its actions by what was fundamentally a political movement. He said the old guard was needed to work cooperatively with the new group and to give it an opportunity to do the restructuring that the community voted them in to do. He said the rehiring of Mr. Hart would be a regressive step.

Skye Dent said she'd lived in Kensington for three years and had been well represented by Kevin Hart during her domestic abuse situation. She said that, as a result of the investigation of what had been going on in her household, there was something else that needed attention: Elder abuse. She said that there had been three people, over the age of 60, who had lived in the house in which she was now living, who had been shoved out on the street. She said that one of them had been there when she had arrived and that he'd been shoved out so quickly that his personal belongings were still in the house. She said three elders had been abused, and it wasn't being investigated. She said she had been told this really wasn't a police issue, but it was going to become one if someone were to die. She said she thought Mr. Hart would be someone who would help her and others to find out who the vulnerable elders were in the community.

Kevin Fitzsimmons said he'd been a resident for five years and had come from an affluent neighborhood in Oakland. He said that, while living there, word had gotten out that the police weren't around. He said Kensington wasn't that different – it could become like Montclair quite easily. He said that the Board members had a lot of big decisions before them and that he supported Kevin Hart.

Trish Mindel said she wanted to address the comment that Mr. Hart had spoken only to people he liked. She said Mr. Hart's door had always been open to her, and he'd always been willing to discuss her concerns. She said this assessment of him was unfair, though she understood he was a divisive person for the community. She said she had made it very clear to Mr. Hart that she didn't support the combined GM/COP position. She said she was sick of hearing the term "old guard" because it was dismissive of an entirely new group of people in the community who might agree with things said by

some. She said she didn't fit into any guard – old or new: She was concerned about her home, her family, and her friends.

Ciara Wood said she agreed with Ms. Mindel; it was important for people to stop speaking dismissively. She said that this was apparent on Next Door; that there were other ways to communicate with people, such as in person; and that people needed to be more careful with their words. She said hiring Mr. Hart would be a step backward and wasn't in the interest of the community. She noted that the Board had to figure out the hard work that needed to be done and that it needed to take its roles seriously. She noted that some GMs had managed the Board more than the Board had managed the GM and asked the Board not to rehire Mr. Hart.

Celia Concus said many people had spoken about why Mr. Hart should not be reappointed, and she concurred with it. She asked the Board if it could tell her whether there was any precedent for retaking a vote that hadn't passed and noted there had been no second to the motion. She said that, in all the meetings she had attending during the prior seven or so years, she had never known there to be a retaking of a vote for something that hadn't passed earlier. Vice President Sherris-Watt responded that Robert's Rules of Order allowed for this because there hadn't been a vote. Ms. Concus said she saw no reason to revisit this.

Mary Korn said she wanted to refer the Board to an Outlook interview with Mr. Hart from November 2016. She said she wanted to use Mr. Hart's own words to explain why she didn't want Mr. Hart to be rehired. She read a passage in which Mr. Hart had said there were no catastrophic problems, he had righted the ship, and could leave Kensington knowing he'd been successful. She read further in the article that Mr. Hart had said that too much weight had been placed on the GM part of the job; the weighted part of the job was that of the COP. He'd said the budget reflected that functions outside the police function were only 10%. She asked why the community would want to bring back someone as the GM when he had minimized that aspect of the job. She asked the Board to take Mr. Hart's words into consideration.

Gail Feldman said she was speaking on her own behalf. She said that, during Mr. Hart's tenure, there had been a number of issues that had come up and that she didn't know whether he'd thoroughly looked through these to determine how they would affect his employment with the District: His healthcare coverage, which had ended up costing more than had been negotiated with the District; and his resignation with 30 days notice. She said that no one in a management position – she noted she'd worked in government for over 25 years – would resign with just 30 days notice because there was no way the position could be filled. She said that Mr. Hart knew he didn't have someone trained to backfill him, other than Master Sergeant Hull and that this had been the “final blow” for her with Mr. Hart. She said he didn't have the integrity the community needed. She said the community needed to move on and that the District needed to do the work started by the Ad Hoc Committee. She said she understood the concerns of the community, that Mr. Hart had done a disservice to the community, and now the Board had spent several months running around hiring a new person and having that person leave. She said the community didn't need to go through that again. She said she was in favor of the Board bringing on someone to help the Board look at the Ad Hoc Committee's work and to get something done. She said this didn't mean it needed to be Master Sergeant Hull as GM.

Marilyn Stollon said she was not in favor of rehiring Mr. Hart. She said there had been an election to move the community in a different direction. She said she would like to see, from here on in, people who are honest, professional, and have integrity. She said that there had not been people working in the community who had integrity and that she supported the new Board going in a different direction.

Melissa Holmes Snyder said she didn't agree with everyone present, and it broke her heart to see what was happening on Next Door. She said that Directors Nottoli and Hacaj had been elected having said that the community needed a model of civility and good behavior. She said this meant that members of the community could disagree but not be disagreeable. She said there was not an old guard and a new guard, which she said was divisive and needed to stop. She said the Directors, especially the new Directors, needed to know and understand their policy manual. She said she supported bringing in Mr.

Hart for a short period of time. She noted that Director Nottoli had said the District was required to have a GM. But, she said that person didn't need to be full-time. Ms. Holmes Snyder said that Mr. Hart wouldn't need to come back on a full-time basis and that his hourly rate would be between \$60 and \$70 per hour. She urged the Board to consider that.

President Welsh said he was impressed with the two new Board members and with Rachelle and the way in which the Board had tried to develop consensus. He said he hoped that, when Directors disagreed, they could do so civilly and respectfully. He said this was the second time he had placed this item on the agenda, asking the Board to consider rehiring Kevin Hart on an interim basis. He said that there was no legal reason why he could not do this and that he had done so because there had been a lot of people who had not expected a lack of support for rehiring Mr. Hart at the prior Board meeting. President Welsh said he'd received a lot of emails asking the Board to place this back on the agenda. He said that he was fairly certain his motion would not be seconded, yet again, and that would be the last time he would bring up the issue. He said many of the comments he'd heard at the meeting suggested some thought the Board might be rehiring Mr. Hart permanently. He clarified that he was trying to do this for the benefit of the community and, most importantly, for the benefit of the new Board members and Master Sergeant Hull. He said he thought it was unfair to place Master Sergeant Hull in this position without a phase-in period, which he would have if Mr. Hart were here. He said that the Board was asking for a lot more work and that this decision would make things harder on the District's new legal counsel. He said that whatever the Board decided, he would fully support.

Before the vote was taken, the phone connection with Director Nottoli was lost.

**MOTION: President Welsh moved, and Director Hacaj seconded, to adopt Resolution 2016-19. Motion failed: 1 – 3.**

**AYES: Welsh      NOES: Sherris-Watt, Hacaj, Cordova      ABSENT: Nottoli**

Director Hacaj explained that she had seconded the motion so there could be a vote on it. She thanked the community for coming out and said she wanted to echo what Trish Mindel and Ciara Wood had said. She said she didn't have the magic answer to how to heal the divisions in the community, which she said she thought went back many years. She asked everyone to examine their own actions, comments, and assumptions, to de-personalize things, and to recognize that the Directors were all doing their best. She said she believed everyone's intentions were good; they just had different ideas about what was best for the community. She said the new directors had been seated just a few days ago and now they had to dig out of a hole that had been years in the making. She said the Board needed to be more actively involved in setting leadership and in overseeing and managing both the police function and the GM function. She said that she was taking the long view for the community and that she did not take the police function without seriousness: This was the major function of the District. She said that it would be very expedient and easy to rehire Mr. Hart and that this would please people on both sides of the aisle. She said that this had been the solution the old Board had chosen when it had rehired Mr. Hart in September and that it wasn't responsible to let the District drift. She noted that, in May, the Board had extended Mr. Hart's contract as IGM/COP by a 3-2 vote and that much of the rationale given then was the same as the rationale that had been offered at this meeting. She said the instability, in which the Board now found itself, was the result of Mr. Hart not having fulfilled the commitment he'd made just four months earlier. She noted that, in his Outlook interview, Mr. Hart had said that his resignation had not been a sudden decision. She said this had been the second time Mr. Hart had broken his word to Kensington in order to get things on his own terms. She noted that, when Mr. Hart had first been hired, he had told the Board that he wouldn't need medical benefits and then changed his mind; the District then set up a separate medical plan for him. She read the last sentence of Mr. Hart's letter of resignation: "If you're not moving forward, you're falling back." She said that for these reasons, she had opposed the resolution.

7. The Board considered adopting Resolution 2016-21 "Approval of the Appointment of Master Sergeant Rickey Hull as Interim General Manager/Chief of Police." Compensation



for such appointment, if made, would be discussed at the January 12, 2017 regular open session of the Board.

Vice President Sherris-Watt said that the compensation for such an appointment would not be discussed at this meeting because it must be discussed at a regular Board meeting, the next of which she said would be on January 12, 2017. She asked for public comments.

An unidentified speaker said that Master Sergeant Hull was the kind of guy who could do the job on an interim basis and that he was in favor of that. He said he thought the Board could get some insights from someone who had worked within the police department for a number of years.

Mabry Benson said there were problems with having Master Sergeant Hull serve as GM. She noted that the conflicts had already been mentioned. She said that, if the Board decided to proceed with this appointment, there should be restrictions placed on him – because of the inherent conflicts of interest. She said he should have no access to the personnel files, should make no decisions on discipline, and should make no major decisions without consulting with the Board.

Lori Trevino said the Board didn't have to fill this position at this time. She said her comment wasn't specific to Master Sergeant Hull: She was concerned the Board would be going down the same road it had been down before of putting a police officer in the GM position. She said that Section 200 of the Police Policy Manual states, "The Chief of Police exercises command over all personnel in the Department. During planned absences of the Chief of Police, the Chief will designate a Sergeant to serve as the acting Chief of Police. Except when designated as above... it is the Sergeant with the most seniority and rank." She said, therefore, the Board didn't have to appoint Master Sergeant Hull as the Interim COP during this period of there not being one. She said that, if the Board wanted to compensate Master Sergeant Hull for the additional responsibilities, the MOU with the Police Officers' Association already provided the District with the ability to do so, without making him the IGM or ICOP. She reiterated that she was concerned that the Board would be hiring a police officer for the IGM/COP role. She noted that the combined position had been the root of many problems, especially during the past two GM/COPs' tenures. She said state law did require the District to have a GM, but nothing prevented a position from being vacant. She said this was an opportunity to leave the position vacant and to contract with an independent contractor who could provide the GM skills the District needs. She noted that there were many high priority projects and that to hire a police officer to prepare the budget and other administrative tasks, such as helping with agendas and packets, didn't make sense. She said that she had read through the resolution for hiring Master Sergeant Hull as the IGM/COP and that she was concerned that the Board was considering asking him to forego the civil service protections provided under the KPOA MOU for a temporary at-will position. She said she also thought this would put Master Sergeant Hull's public safety pension at risk in light of the CalPERS determination that the District needed to identify the portion of the GM/COP position that was pensionable. She urged the Board to find an independent person.

Skye Dent said it would be a conflict of interest for the department and the community to hire Master Sergeant Hull as the IGM/COP because he was under investigation for concealing her file; not interviewing the person who had assaulted her; giving that person advice on how to evict her; and failing to do what his superior had directed him to do, which was to deliver a case to the DA's office. She asked how the Board could hire someone who didn't respect or fulfill the law, and she said the DA's office said it still hadn't received her case. As a result, she said she couldn't move forward with victim's compensation or anything else. She also said she didn't understand why the GM position had to be filled by a police officer. She said that, when the GM position was vacant, there was one person who worked harder, cared more about the community, lived in the community, and was the face of the community. She said District Administrator Wolter should be considered. She said District Administrator Wolter did everything and held the department together when there was no GM and the COPs were getting credit for it. She said that, if one took away District Administrator Wolter, the police department and the District wouldn't run and that she should be paid more.

Pat Gillette said she wanted to address President Welsh's comment that, no matter what decision the Board might make, he would support it. She said this was something that hadn't been heard for two years, she commended him for it, and said this was the way Boards were supposed to operate. She said that it made no sense to put Master Sergeant Hull into the GM/COP position and that it would set him up for failure. She noted that numerous legal issues would need to be address, such as his status, and it would unnecessarily complicate the District's current situation. She said it might cause the Board to take too long to make a decision about the GM/COP position. She said that, if PLG could do what it said it could – which was to find candidates for an interim position, this would be the best solution given that the Board had decided not to rehire Mr. Hart. She said that the community had heard nothing about Master Sergeant Hull's qualifications to serve as GM and that she had no confidence he would be able to meet the requirements of the GM position, either in terms of the administrative skills needed or the community services skills involved. She said she would rather have him doing what he did well and not doing things for which he was not qualified. She said that, if Master Sergeant Hull did want this position, she hoped he would provide the community with the rationale for his decision. She said the community deserved to know why Master Sergeant Hull was qualified to serve in the position. She said that, if members of the Board had personal relationships with Master Sergeant Hull, it should be disclosed and/or they should recuse themselves: Those people knew who they were.

Catherine de Neergaard said she wanted to second Ms. Trevino's comment – she wanted to know why Master Sergeant Hull should be hired for this position when at least three or four times in the past he had been senior officer and de facto acting chief when there hadn't been a chief. She noted that this is how things had been handled for 20 years – the community didn't rush to hire someone immediately. She said the community had gone through a hiring process, and she recommended that it be done this time, too. She said it seemed better to search for people to serve as COP and GM separately to ensure leadership and expertise. She said she understood that there were candidates and hoped people would come forth quickly. She said that she had filed a formal complaint against Master Sergeant Hull, which she said the Directors had received that morning, and that at least one other person had also filed a complaint. She said that, because of these complaints, which involved civil rights violations, she didn't see how the Board could consider him for a position of greater responsibility. She said that, if the Board were to hire Master Sergeant Hull, it could result in an expensive legal liability for the District. She encouraged the Board to hire a GM who could work on things like the budget, policies, and controls.

Andrew Gutierrez congratulated the Board on the election and said he'd been a resident of Kensington for about 20 years. He said that, during that time, the face of the Kensington Police Department had always been Master Sergeant Hull and that he'd always been a gentleman. He said he supported him as a gentleman and as a police officer. He said that, currently, there were six officers. He noted that two officers were on medical leave and one was on administrative leave. So, he said that the notion that Kensington was the fifth safest community in California was a myth that it was attributable only to police services. He said, instead, it was due to Kensington's location and the composition of its community. He said he was grateful for Ms. Trevino's clear-minded and factual presentation about the two proposed appointments. He noted that many of the comments had addressed the separation of the GM/COP position and that there was another viable alternative. He noted that the meeting was being held in the fire building that had been "farmed out" to El Cerrito for 20 years, which had provided the community with good service. He said that Master Sergeant Hull should be compensated and that he'd stepped in on other occasions when there had been COP absences and had done it competently.

Paul Haxo said he'd had the honor of serving with Master Sergeant Hull when he had been the interim acting GM/COP about ten years earlier. He said that, at that time, the Board had had to be far more involved than usual and that the current Board would need to be far more involved with Master Sergeant Hull taking on the GM duties. He encouraged the Board to find someone a little less "interim" as soon as possible and concluded by saying it would be helpful for Master Sergeant Hull to get back out on the street as soon as possible.

Dave Spath said he wanted to agree with Ms. Trevino and Ms. Gillette on some of their comments. He said he hoped the Board would find someone to serve as the GM who could address the Ad Hoc

Committee's findings. He said that Peter Kampa would be able to provide the Board with assistance and that, although he (Dr. Spath) didn't know much about PLG, they might have access to consultants or retirees who might be able to serve as GM. He said he had concerns about having Master Sergeant Hull serve as both GM and COP on a longer-term basis: He would no longer be able to patrol the community. He noted that the November report showed Master Sergeant Hull had been on duty 18 days, with each shift lasting ten hours. He said that, with his proposed change in status, there would be one less officer on patrol – even though there would still be crime and the need for officers to respond to it. He said that Master Sergeant Hull should serve in this capacity for a very short term and that the Board should hire someone very quickly as an IGM and find the ultimate solution with regard to bifurcation.

Jim Watt said that he was concerned about Master Sergeant Hull's appointment, that he wanted the appointment to be as short as possible, and that he wanted the Board to be looking for a person as soon as January. He said also said he hoped the needed changes would be made to the Policy and Procedures Manual so there could be full-time people in the positions.

Vice President Sherris-Watt said she would answer some questions that had been presented by Ms. Trevino and Ms. Feldman in the next item and asked for forgiveness if they weren't answered directly. She said that, as Kensington looked forward, it needed to recognize the overwhelming ripple effect of the past. She said that, over the past several years, there had been swirling action and non-stop drama but that, in the midst of all the surprises, there had been an absence: The absence of direction and leadership. However, she said she didn't mean this in reference to President Welsh – rather on a Board-wide basis. She said that the KPPCSD Board had been acting in a reflexive manner, with hastily scheduled meetings and doubling down on dubious choices and that, on this day, they were beginning again. She said this Board was not present to visit old dramas: It was here to make policy, administer the business of the District, and create a work environment for officers and staff that's the envy of other communities. She said this didn't require endless resources but a clear-eyed focus on hiring. She said that among her priorities were a well-administered budget that would take care of current needs and long-term interests, a communication and information distribution system to keep citizens aware and involved, and a professional staff that engages the community with pay-it-forward policing utilizing the talent and commitment that staff demonstrated daily. She said her ultimate goal was to make Kensington boring again and to set the bar so high and the standards so consistent that golf on TV would be more exciting than attending KPPCSD meetings. She said she was announcing her support for appointing Master Sergeant Rickey Hull to the position of IGM/COP. She said he had been a police officer for Kensington for 28 years, with nineteen of them serving Kensington. She said that, throughout his tenure, he had been thrust into the role of acting COP but never officially appointed. She noted he had first served in 2006, following the departure of former GM/COP Barry Garfield, and later following the departures of Greg Harman and Kevin Hart. She said sympathy with his always-ambivalent status wouldn't compel her to appoint him to a job he couldn't or wouldn't perform with excellence. She said that what compelled her was Master Sergeant Hull's unique character. She said it was no secret that a divided Board had failed to communicate vital information to its newest members. She said this had not been the case with communication with Master Sergeant Hull. She said that he had brought forth, to her first – before she had heard it somewhere else, every compelling or unflattering issue that had involved him. She said he took ownership for his actions and admitted his deficiencies. She said she thought this made him unusual among employees and also among human beings. She said he was willing to expand his education. She said he had expressed a keen interest, years ago, in representing Kensington on a task force that had been created by Assemblyman Tony Thurmond that had not been in the interest of the then COP. She added that he had researched the dispatch issues Kensington currently faced and noted that he had preexisting and positive relationships with the Kensington Fire Department, the El Cerrito Police Chief and officers, and with the officers of Albany and Richmond. She said his long tenure meant he knew the community, its residents, and some of the issues the community was facing. She noted that none of this implied that he was perfect or that the challenges he faced wouldn't be trying. She said Master Sergeant Hull and the Board shared the common goal that the survival of the District should come before self-serving needs and that adherence to, and clarity about, policy would make the District more effective, that good work was more important than personal grievance, and that people must work together to achieve goals.

Director Cordova said she appreciated Vice President Sherris-Watt's comments and shared some of her sentiments however, as someone who had served in an interim position at a local level, she was disappointed by the public process that did not consider introducing the two other candidates and that did not include interviews with the candidates, more resumes, or letters of interest from candidates to Board members. She said this put her in a difficult position of having to evaluate the feasibility of appointing either of the two candidates. She said she also thought there was a third option, as Ms. Benson, Mr. Karlsson, and Ms. Gillette had highlighted. She said community division told her that neither of the candidates should be appointed to this position. She said she would not support Master Sergeant Hull. However, she said would support Vice President Sherris-Watt's efforts, should the vote carry.

President Welsh said that Item 7 was closely related to Items 8 and 9. He said he did support, fully, the action being taken. But, he said the Board should be moving as quickly as possible toward a more permanent solution. He said the thought this would be easier on everyone involved, including District Administrator Wolter, who had been working more than full-time for several weeks. He said a GM needed to be put in place, and the Board needed to decide whether Master Sergeant Hull should be COP permanently. He said that, at the Board's January meeting, the Board would be able to vote on whether to have a second regular meeting each month – there had been a first reading at the December meeting – and that this would give the Board flexibility to take action. He said he hoped that, at the January meeting, there would be a first reading of giving the Board the option of separating the GM and COP positions, because the Policy and Procedures Manual currently showed them as one position.

At some point prior to this motion, the phone connection with Director Nottoli had been reestablished.

**MOTION: Vice President Sherris-Watt moved, President Welsh seconded, that the Board adopt Resolution 2016-21 and appoint Master Sergeant Rickey Hull as the Interim General Manager/Chief of Police, with compensation to be determined at a regular meeting. Motion passed: 4 – 1.**

**AYES: Welsh, Sherris-Watt, Hacaj, Nottoli      NOES: Cordova      ABSENT:**

8. The Board discussed possibly setting a date, or dates, by which the appointment of a new interim or permanent Chief of Police and/or new interim General Manager might be made.

Vice President Sherris-Watt said that she would move that the position begin immediately and that the Board was addressing the questions. She said that the Board had had competent legal advice on the ongoing situations, which wouldn't be provided to the public, and that the Board was confident, going forward. Amara Morrison interjected that this agenda item was setting forth the timeframe for the interim appointment. Vice President Sherris-Watt said the Board was anticipating that this process would take approximately 45 to 60 days. She said that, the day after Kevin Kyle had resigned, she had already been in discussions with Public Law Group, looking for candidates who could fill the District's vacant position. She said that, currently, there were no candidates. Thus, she said that this would be an ongoing process and that, with the next item, she hoped the Board would be selecting two Directors to prepare separate job descriptions. She noted that the Board was relying on the expertise it was receiving from outside sources and that she didn't believe the Board needed to take action on this item today. Ms. Morrison responded that, by consensus, the Board could indicate agreement about the process. President Welsh said he hoped the Board could move more quickly than this.

Gayle Tapscott asked for a summary of what the Board had just voted on because it had moved into another phase. President Welsh responded that the Board had voted to make Master Sergeant Hull the IGM/COP. Ms. Tapscott asked, "Until when?" President Welsh responded that this was what the Board was now discussing.

Pat Gillette said she was disappointed that the Board had not addressed why it thought Master Sergeant Hull was qualified to do the GM position. She said there were a number of legal issues that had been raised that the Board hadn't clarified. She asked what Master Sergeant Hull's status was: Would he go back to being a police officer after holding this position? She also asked if he would:

- Be an at-will employee now?
- Have access to disciplinary actions now?
- Be involved in investigations?
- Negotiate the officers' contract, if the Board was unable to select another person?
- Return to the bargaining unit afterward?

She said that she, Julie Stein, and Ms. Trevino had raised numerous legal issues and that she would appreciate it if the community could get some explanation. She noted that Director Cordova had at least explained her position. She said Vice President Sherris-Watt's explanation had been, what a "great guy" Master Sergeant Hull was, which hadn't told her he was qualified to be the GM, nor had it addressed any of the legal issues. She said that she hoped, in the spirit of community involvement and transparency, which had been a buzzword for many people on the Board, that the community would get some explanation of some of these critical issues. She said she also wanted to emphasize Ms. Benson's and President Welsh's point, which was that this process needed to be done quickly. She urged the Board to have someone in place by the end of January, to serve in the interim GM/COP position, until the Board could figure out what the split might look like. She urged the Board to select someone who was truly qualified to do each of the jobs. She said this rush to put someone unqualified into the position and then not to have a deadline made no sense to her.

President Welsh responded that some of the things about which people had asked were private, so the Board couldn't talk about it. He said he thought Master Sergeant Hull was sufficiently qualified to be IGM/COP on a short-term basis. He said the District needed someone in the GM position to sign things, such as payroll documents and to carry out other administrative things in order not to "burn up" District Administrator Wolter, who had been trying to fill the gap. He said he also didn't want vice President Sherris-Watt to have work to fill the gap, once she became President. He said that, because the Board had not selected Kevin Hart, the only other option was to use existing resources.

Amara Morrison, the District's legal counsel, said she appreciated Ms. Gillette's and Ms. Stein's observations, comments, and legitimate concerns about this temporary appointment. She said she and the Board were working with outside labor counsel to address concerns. She said some things entailed private and confidential information related to Master Sergeant Hull's appointment. She said that she and the Board were cognizant the legal issues and were taking steps to address them immediately.

Vice President Sherris –Watt made a correction: From this moment, he was Interim Chief Hull, and she congratulated him. She added that police departments promoted from within all the time, that she was confident with the Board's legal advice, and that the Board had taken all these issues into account. She said she would not have done this had she not been very comfortable.

Skye Dent said that she'd asked questions that had privacy concerns but that hers was the only privacy that would be violated. She said she didn't understand why she hadn't received responses to the many emails she'd sent to the Board. She said she'd spoken to Officer Ramos the prior week about a second assault on herself, which she said would not have happened if the first case had been sent to the DA's office. She said the DA had told her that he couldn't provide her with a copy of the report about the most recent incident until IGM/COP Hull had signed off on the report. But, she said there was a conflict of interest because IGM/COP Hull was one of the people about whom she had complained. She said she had repeatedly asked the Board what it was going to do about this, but she'd received no answers. She asked if she would be able to get the report on the most recent assault, as promised, or, now that IGM/Cop Hull had other duties, would he not get to it. President Welsh responded that the Board would talk with its attorney about this and then answer her questions. She asked when that would be. President Welsh responded that it would be as soon as possible. Ms. Dent said that IGM/COP Hull had reported, on December 6<sup>th</sup>, that he'd finally sent the report to the DA's office.

Linda Lipscomb urged the Board to provide the proper safeguards to secure personnel records. She said:

- Generally speaking, the COP was not a member of the police union.
- When a complaint comes in, the Board needed to consider seriously the manner in which the complaint is handled so as not to violate confidentiality. She noted that complaints could come from citizens as well as from members of the union. She said she hoped the Board would consider this, especially in light of what she considered to be an imprudent action.
- She hoped the Board would think in terms longer than making this convenient move.

Mabry Benson said that any employment agreements, with any employees, were public information. She said that the earlier date the Board set as a goal, the more likely the event would occur. She said the Board should get a real GM by January 26<sup>th</sup> – someone who knows budgets, negotiations, etc. – and that IGM/COP Hull could continue as COP.

Gayle Tapscott said that she was very concerned about the costs associated with overseeing the conflicts and that these would be legal costs. She said that, what the community had seen – with Skye Dent speaking to the Board, a regular GM would have been able to step in. She said the community had witnessed a conflict of interest that hadn't been handled well – no one could say anything. She said this would happen on a regular basis.

President Welsh said the Board would table Item 8.

9. The Board considered the process by which a job description for interim GM/COP would be considered and considered utilizing an ad hoc committee to manage bringing candidates to the Board for interviews.

Vice President Sherris-Watt said she hoped there would be two Board members willing to work on this issue and bring forth the potential for splitting the position, job descriptions and candidates to interview. Director Nottoli and Vice President Sherris-Watt volunteered. Vice President Sherris-Watt said she would work with Director Nottoli on bringing candidates forward. Vice President Sherris-Watt asked if a motion was needed for this. Ms. Morrison indicated that consensus was sufficient.

Mabry Benson asked if members of the public would be working on this endeavor. Vice President Sherris-Watt responded in the negative and added that she had meetings scheduled for Monday.

David Spath asked if the job description would be for the GM/COP. Vice President Sherris-Watt responded that it would and that the Board would begin looking at what would need to happen if the position were to be split or remain combined. Dr. Spath said he was seeking clarity because the Board had been discussing the IGM/COP.

Melissa Holmes Snyder said she would appreciate it if all five directors would be present. She said calling in by phone was out of line: No one in the audience could hear it. She noted Vice President Sherris-Watt had to waste breath earlier in the meeting. She said that she appreciated that Directors Cordova and Nottoli were somewhere else but that this wasn't right: The Directors needed to be here and be present or not, as long as there's a quorum. She said that, as far as the appointment, she was concerned about the conflicts. President Welsh responded in Director Nottoli's defense: This had been the only time she'd not been able to attend physically. Director Nottoli added that her trip had been scheduled before the election.

Andrew Gutierrez said he had made a suggestion on Next Door: There was Wi-Fi in the building and that, with this, the image of anyone, absent for valid reasons, could be projected on a screen.

Director Cordova said she was stuck in Italy because of a pulmonary embolism – not once, but twice. Therefore, she said she couldn't get on a long-haul flight. She added that "they" couldn't get the clotting under control and that she couldn't be in a pressurized cabin for longer than three hours. She

said she had contacted the County Registrar as well as an attorney with the League of Cities: She's allowed to participate by phone in accordance with Government Code 1700 and that it was not an absence. She said it wasn't ideal and wasn't a lot of fun for her with these 4:00 A.M. calls. She said that, if she had a pulmonary embolism in Kensington, she would probably phone in because she felt really crummy.

**MOTION: President Welsh moved, and Director Hacaj seconded, to adjourn.**

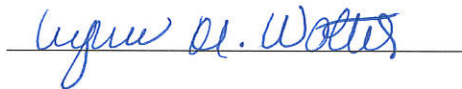
**Motion passed: 5 – 0.**

**AYES: Welsh, Sherris-Watt, Hacaj, Nottoli      NOES: Cordova      ABSENT:**

The meeting was adjourned.



Len Welsh  
KPPCSD Board President



Lynn Wolter  
District Administrator