

**Meeting Minutes for 8/1/16**

A Special Meeting (Closed Session) of the Board of Directors of the Kensington Police Protection and Community Services District was held Monday, August 1, 2016, at 5:00 P.M., at the Community Center, 59 Arlington Ave., Kensington, California. A Special Meeting of the Board of Directors, in Open Session, followed.

**ATTENDEES**

<u>Elected Members</u>	<u>Speakers/Presenters</u>
Len Welsh, President	Jeff Sloan, Renne Sloan
Rachelle Sherris-Watt, Vice President	Celia Concus
Chuck Toombs, Director	Simon Brafman
Patricia Gillette, Director	Trisha Mindel
Vanessa Cordova, Director	Andrew Gutierrez
	Kevin Padian
	Nick Beaucage
<u>Staff Members</u>	Catherine deNeergaard
Interim GM/COP Kevin Hart	Linnea Due
Lynn Wolter, District Administrator	Mabry Benson
<u>Press</u>	
Linnea Due	

President Welsh called the meeting to order at 5:03 P.M. President Welsh, Vice President Sherris-Watt, Director Toombs, Director Gillette, Director Cordova, Interim GM/COP Hart, and District Administrator Wolter were present.

**PUBLIC COMMENTS**

Mabry Benson said that the Police Officers’ Bill of Rights prohibited the release of anything except the three verdicts about an internal affairs investigation. She asked why the Board hadn’t been saying that it would be illegal to release the report. She asked why the Board was risking litigation, especially when the public had been complaining about the high legal costs. She asked what was to be gained by releasing the report and said that transparency was a “phony answer.” She said the stop had been a vendetta against Director Cordova because she had been a critic of the police department. She noted that this hadn’t been a major crime. She also said that this was an expensive vendetta, for which the Board expected the taxpayers to pay. She asked why the Reno investigation wasn’t being released. She asked why the Board thought it was okay to violate the promised confidentiality of witnesses and what was so important to risk compromising future investigations.

Celia Concus said she, too, wanted to address the Closed Session issue about releasing all, or partially redacted, versions of the Internal Affairs Investigations – she understood that there were two of them, resulting from the October 2015 Director Cordova traffic citation. She said that no previous Internal Affairs Investigations had been released and asked to be corrected, if she were wrong. She asked why these investigations should be different. She said a number of people involved in the investigations were

opposed to releasing them and noted that everyone who had been interviewed had been told his or her comments would be held in confidence. She asked if releasing the report wouldn't pose a dangerous precedent. She said that Kensington was a small community and had a small police department. She said that, if the reports were to be released, there was good reason to be concerned about retribution. She said it appeared that personal vendettas were being played out in the public arena at the Board meetings and on Next Door. She said the Directors were all professionals and residents, elected to serve the best interests of the community, and she urged them not to release the investigations unless all the parties involved agreed to the release – a full and un-redacted release.

Simon Brafman asked how a resident would find out if he/she had been named in one of the investigations.

Andrew Gutierrez said that he was in favor of transparency and that, if these two reports were going to be released, then all the investigations should be released, un-redacted. He asked if IGM/COP Hart approved and agreed to the release of the investigations. IGM/COP Hart responded that this was not a time for dialog. Mr. Gutierrez said there were a number of cases that should be released, starting with those of former GM/COP Harman. He said that there was a toxic environment on the Board, that it was personal and deep-seated, and that some of it was directed at Director Cordova. He said he didn't know what the legal implications were with respect to this release, if it were to occur. But, he said, it would open a floodgate of litigation against this community and against Director Cordova because of anything she had given during the investigation. He said her comments, which had been confidential, could be used against her. He urged the Board not to release the reports. He said that he had been mentioned in the Peele article and that he, too, had filed a claim of harassment against the Kensington Police Department. He said the review of his case had been a fabrication, noting that his witnesses had never been interviewed. He said this was indicative of the level of competency of those conducting the internal investigations. He urged the Board not to open this floodgate and said he would contribute to any legal defense fund that Director Cordova would request, and he would organize others to contribute.

Trisha Mindel said that she had previously come to a Board meeting to announce that she would be holding a new residents meeting at her home and asking IGM/COP Hart to come, too. She noted that three families had expressed concern about coming to the meeting because they were concerned about retaliation if they were seen as being critical of the police. She said she understood there were concerns with respect to Director Cordova, and she asked that one replace Director Cordova with any other individual. She said she was concerned that someone would feel as threatened as Director Cordova had felt during the traffic stop. She said this shouldn't be taken lightly. She said there were many new young residents who wanted to know how this had played out. She added that one of the questions most asked at her gathering had been, what does one do if one has a complaint about a police officer. She said this was a case that had implications on the community and on ensuring that the community had safety from the police department. She asked the Board to consider her point of view.

The Board entered into Closed Session at 5:15 P.M.

#### **CLOSED SESSION**

- a. Public employment: Title: (General Counsel) – Pursuant to Government Code Section 54957.
- b. Conference with legal counsel – anticipated litigation: Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9 (1 potential case).
- c. Conference with labor negotiator – Pursuant to Government Code Section 54957.6:  
Agency designated representative: Interim General Manager/Chief of Police Kevin Hart,  
Employee organization: Kensington Police Officer Association

Among the issues the Board considered during closed session item (b) was 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. In addition, the Board considered discussing whether to disclose publicly the investigation report regarding a complaint filed by Vanessa Cordova against Interim Police Chief Kevin Hart.

The Board returned to Open Session at 6:07 P.M.

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

President Welsh reported that the Board had taken no action on Item 2 a, that the Board hadn't discussed Item 2 c, and that, with respect to Item 2b, the Board had taken a vote and had decided to release the independent Richmond Internal Affairs Investigation of the Cordova stop, subject to redactions for any witnesses who had not waived their confidentiality. He noted that Director Cordova's comments would not be redacted. Director Cordova responded that she had been assured confidentiality by the Kensington Police Department; by the El Cerrito Police Chief, Sylvia Moir; and by Richmond investigator Lt. Dickerson. She said she was just making sure she understood.

Director Cordova asked for a roll call of the vote. President Welsh responded that Director Gillette, Director Toombs, and he had voted for the release and that Vice President Sherris-Watt had voted not to release it.

President Welsh said there had been some confusion. To clarify, he said that, at the previous meeting, the Board had voted to release the Karen Kramer report, but it had wanted to ensure that conditions attached to the release of that report were acceptable to the attorneys. He said the inquiry had been made, and it had been determined that it was lawful to release the report, subject to the condition that it be made public. He said the vote to release it had actually been made at the prior meeting: Thus, this report would be released, in addition to the Richmond investigation.

Director Cordova said that the report done by Ms. Kramer had been done based on allegations that had been made by residents at an event she hadn't attended. So, she said, she hadn't been present when the statements had allegedly been made. She said the information had been reported to two newspaper outlets and then reported to her. She said that she then contacted the District.

President Welsh said the report spoke for itself and the community could come to its own conclusions.

Vice President Sherris-Watt asked for a roll call vote on the Kramer report. President Welsh responded that it was the same as for the Richmond report: Director Gillette, Director Toombs and he had voted to release that report, and Vice President Sherris-Watt had voted not to. President Welsh was asked if any confidentiality issues had been raised with respect to the second report. He responded in the negative.

Andrew Gutierrez said he found the proceeding shameful and asked if all prior Internal Affairs Reports would be released. Director Cordova asked that the Reno report and the audit of that IA be released. Director Toombs responded that these items weren't on the agenda, so he said they shouldn't be discussed at this time. Mr. Gutierrez responded that this was a lot of legal mumbo-jumbo. He said that the release of the IAs was discriminatory, was a vendetta, and showed the Board's lack of judgment.

Mr. Gutierrez asked if IGM/COP Hart had been in favor of releasing the report. President Welsh responded that IGM/COP Hart had waived his rights under the Police Officers' Bill of Rights (POBAR). He explained that these same rights had made it so that the Board could not release the Reno investigation – those officers hadn't released their rights. President Welsh further clarified that, with respect to the Richmond investigation, officers' comments would not be released if they hadn't waived their POBAR rights.

Director Gillette asked how much the Kramer investigation had cost. IGM/COP Hart responded that, for the Kramer investigation alone and not for any other related costs, the cost had been a little less than \$6,700.

Vice President Sherris-Watt asked what the roll call vote had been to conduct the Kramer report. IGM/COP Hart responded that he thought the vote had been 4 – 0. He noted that Director Cordova had not been present when the vote had been taken.

Director Cordova said that she had reported the statements to the Public Law Group after they had been published in a newspaper – interviews by two residents who alleged that statements had been made at an event that she had not attended. Thus, she said, she had advised the District to be very careful about how it framed the Kramer investigation. She said that she had not been present at the newcomers' meeting but that two newcomers had gone to the newspaper. She said that, when informed of the first article, she took action.

Celia Concus asked how many officers did not waive their right to release the IA and how many of their statements would be redacted. After consulting with legal counsel, President Welsh reported that one current officer and one former officer had declined to waive their rights. However, he noted that the names of those individuals would not be redacted, as their names weren't confidential. Director Gillette added that the names of all those interviewed were not confidential.

### NEW BUSINESS

The Board reviewed and received presentations from the IGM/COP and Kensington Police Officer's Association regarding a grievance filed by the Kensington Police Officer's Association about a change in the Firearms Policy and resolved the grievance.

IGM/COP Hart introduced the subject and reported that he wanted to change the firearms policy. He noted that officers currently can bring their own weapon to work, but he recommended that the District issue the same firearm to each of the officers. He clarified that the District would own the weapons. He said the proposed weapons would also have accompanying new holsters, ammunition, and attached lights. He said this was about standardization and professionalism. He reported that he had worked with the POA to select the appropriate weapon and that the choice of weapons had been narrowed down to two. He noted that the Range Master had been involved in the selection process and that he would be addressing the Board about the POA's perspective. IGM/COP Hart reported that the POA had filed a grievance – something to which the officers have a right – about the proposed change. IGM/COP said he had denied the POA's grievance and, thus, it needed to be heard by the Board. He said that Corporal Stegman, the police department's Range Master, would present the POA's perspective and answer questions.

Director Cordova said she wanted to point out that Corporal Stegman was present as the POA's vice president. IGM/COP Hart responded that he didn't believe Corporal Stegman was the vice president: He was present as the department's Range Master, at the request of the POA.

Corporal Stegman thanked IGM/COP Hart and the Board for giving him the opportunity to speak. He confirmed that he was present in his capacity as Range Master. He said he'd been the Range Master for six years, a firearms instructor for eight years, and a member of the department for over a decade. He said he wanted to present some of the officers' concerns:

- Not one firearm fits everyone.
- Changing this might not benefit the District in the long run.
- The risks associated with the possible increased chance of accidental/negligent discharge because of changing to an unfamiliar weapon, especially during stressful situations.
- Currently, officers purchase weapons with their own money. Why spend the \$15,000 - \$20,000 on new weapons?
- They'd rather see money spent on things such as body cameras or ALPRs.

IGM/COP Hart said he wanted to clarify two things.

- The two weapons had the option of three different sized grips.
- This was about training, and training would address issues of becoming familiar with new weapons.

IGM/COP Hart also cited that different kinds of ammunition currently needed to be purchased and that standardized ammunition would save money because it could be purchased in bulk. He reported that, if an officer were to be involved in an officer-involved shooting, that weapon would need to be confiscated promptly for a number of tests, which would leave the officer without his/her own weapon. Thus, the officer would need to be provided with a replacement weapon. This, he said, was a reason the District would need some extra weapons. He also noted that, if there were to be an incident involving more than one officer and one of the officers ran out of ammunition, another officer could provide him/her with ammunition, if they were using the same weapon with the same ammunition. IGM/COP Hart said it was the officers' preference to select their own weapons, but, he said, he thought the officers could be trained to be very proficient with new standard-issue firearms.

Director Cordova said that the community hadn't forgotten about the Reno incident and that the problem with that had been that it had been an officer-owned weapon, not a standardized department-issued weapon. She asked if the POA recognized the difference in liability of one versus the other. Corporal Stegman responded in the affirmative and noted that all the officers supported responsible gun ownership. He said this issue was not about that: It was about on-duty weapons. Corporal Stegman said he carries his personal weapon all the time. He said that, having a standardized duty firearm would not change anything, with respect to off-duty weapons.

Director Cordova asked how many incidents of negligent discharge there had been since Corporal Stegman had been with the department. He responded there had been no such incidents. Director Cordova asked how many times Corporal Stegman had discharged a weapon in the line of duty. He responded that he had never done so. She asked about the statistics for the rest of the department. He responded that there had never been any negligent or intentional discharges.

Vice President Sherris-Watt said that, having shot guns; she was sympathetic to the issue of fit. She asked if a phase-in program could be considered and said she understood that a big training program would need to be undertaken, in the event of the change. She asked if phasing in the program would be too onerous, given the size of the department. She also noted that Corporal Stegman would need to work more overtime while overseeing the training. Corporal Stegman responded that the department would likely incur more overtime with training because he didn't want to send someone out without sufficient training. IGM/COP Hart said that the transition needed to be all or nothing: The officers needed to be trained and then needed to move on. He added that officers carry weapons everyday, that they're proficient, and that, if they're not proficient, they're not out on the street. IGM/COP Hart also clarified that an officer wouldn't discharge a firearm unless it was absolutely necessary, and he reiterated that this was about standardization and professionalism.

Corporal Stegman said that another one of the POA's concerns was that the change might disproportionately affect some of the officers because of different sizes of hands. And, he said that, if someone couldn't qualify because of the change in weapons, that officer could lose his/her job. IGM/COP Hart responded that this was a leap. He added that, during his career, he had changed weapons, by departmental direction, four times and it hadn't been a problem.

Director Cordova said it was typical of a department to change the type of weapon issued. IGM/COP Hart said that most departments evaluate their weapons policies every ten years. Director Cordova said that the District, then, wasn't asking something unusual of its officers. Corporal Stegman responded that most West County agencies had a standard issue duty weapon, with the approval to carry a different firearm from the Range Master or Chief of Police. He clarified that El Cerrito PD, Hercules PD, Richmond PD, and Pinole PD have a standard issue weapon, but that most of the officers were carrying a different weapon, with which they were more comfortable, at their own expense. Corporal Stegman

clarified that, now, every officer had his/her own preferred weapon, and that what was under consideration was going to a single weapon only. Director Cordova asked if, for these other agencies, the non-standard weapon was the primary or a secondary weapon. Corporal Stegman responded that it was a primary weapon, carried as an exception to the standard.

Director Toombs asked about the range of guns being carried now. Corporal Stegman responded that there were a handful of Glocks, a handful of Sigs, three 1911's, and one cz. Director Toombs also asked if it was Corporal Stegman's job, as Range Master, to ensure that the officers were trained on any weapon they used. Director Toombs asked about training on shotguns. Corporal Stegman responded that he thought there should be standard issued shotguns, but that officers currently purchased their own rifles. Director Toombs asked if there were District issued shotguns Corporal Stegman responded that there were some; they had been purchased a long time ago. He added that, when Sandy Hook had happened, there had been a push to purchase rifles, but there had been no budget for them. Thus, he said, then-Chief Harman had said the officers could purchase their own rifles and put them into service.

Director Cordova asked how many shotguns the department had in service, and she asked if a shotgun and a rifle were the same thing. Corporal Stegman responded that the two weapons were different, and he said there were four shotguns and five rifles in service. Director Cordova asked if officers were required to fire warning shots. Corporal Stegman responded that officers do not fire warning shots.

President Welsh asked how many of the officers would be affected by the mandatory change. Corporal Stegman responded that he didn't know to which models IGM/COP Hart had narrowed the choice. IGM/COP Hart responded that the two brands had been identified but the caliber hadn't. President Welsh said he was trying to identify how much of a change this would be, relative to what the officers were already using. Corporal Stegman noted that there were 43 different patterns of Glock right now.

IGM/COP Hart reported that there had been two meet and confer sessions with the POA. He also complimented Corporal Stegman for his research on the project. He said that there had been four weapons selected for test firing and that, if the District were to move forward with this, Corporal Stegman likely would be happy with either of the two final choices.

President Welsh said he wanted come back to the issue of best practices; the response that had been given had to do with best practices of Contra Costa County. He asked if IGM/COP Hart had done a best practices survey of other jurisdictions, such as Oakland, San Francisco, or Berkeley. IGM/COP Hart responded that every department would have a standardized weapon issued. But, he added, that there were some chiefs that would allow options. President Welsh asked if the options approach was considered best practice. IGM/COP Hart responded that this was an issue of preference. Director Cordova clarified the question: Was being able opt out considered best practice or was it rare? IGM/COP Hart responded that, where he came from, officers had not been allowed to opt out, unless they were involved in a specialized operation or group. Director Cordova asked how much research had gone into the liability issue of an officer-purchased weapon versus a department-issued weapon. Corporal Stegman responded that officers don't usually carry their duty weapon off duty: Those are usually kept someplace safe between the times the officers are on duty. IGM/COP Hart clarified that most of the off-duty weapons tend to be smaller. He added that he has a duty weapon that he wears while in uniform and that, when in civilian clothes, he wears a smaller weapon.

Director Gillette asked whether, in addition to the standardized weapon, the officers could carry a second off-duty weapon. IGM/COP Hart and Corporal Stegman responded in the affirmative. IGM/COP Hart clarified that he would expect the officers to carry the standardized weapon for on-duty purposes.

Director Gillette also asked if the Glock and Sig were the best and most versatile options for the officers. Corporal Stegman responded that he would not have suggested them had they not been the best for everybody.

Andrew Gutierrez asked if the weapon that had been lost in Reno had been an on-duty or an off-duty weapon. IGM/COP Hart responded that he would not discuss the Reno issue. Mr. Gutierrez asked if

there was greater liability associated with one versus the other. IGM/COP Hart responded that both have a similar level of liability.

Kevin Padian asked why this issue could be aggrieved. IGM/COP Hart responded that it was not something that could be aggrieved but that the Board had voted to hear this out of respect for the POA. Director Gillette added that this approach had been chosen, in order to avoid having this wind up in litigation.

Linnea Due asked if the District would be standardizing rifles. IGM/COP Hart responded that the approach would be one step at a time; the entire policy was being reviewed. He clarified that the rifles purchased by the individual officers do conform to the laws.

Mabry Benson said she would have liked more information on the agenda item. She noted that safety equipment allowance money augmented the officers' money to purchase weapons: The officers hadn't paid the entire amount. She said that officers are professionals, they should be expected to learn to use equipment provided to them, and they should be able to get up to speed quickly.

Director Cordova said the weapons were not the officers' because they were using tax dollars. She asked, if the District were to maintain the status quo policy and the officers were to purchase their weapons with their safety equipment allowance, who would own the weapons – the District or the officer. IGM/COP Hart responded that it would be the officer. She further asked who would own District issued weapons. IGM/COP Hart responded that those would be owned by the District.

Nick Beaucage asked if there would be a verification process as part of the new weapon training and asked about the caliber of the proposed weapons. Corporal Stegman responded that, of the four weapons the department had reviewed, two had been 9 millimeter and two had been .45 caliber, with one Glock and one Sig of each caliber.

Catya de Neergaard asked how much this transition would cost to implement. IGM/COP Hart responded that it would be about \$26,000, with most of the money coming from asset seizure forfeiture funds. He added that the expenditure had already been approved. Ms. de Neergaard said that, in a perfect world this would be great for a big department to undertake this change. She questioned whether the change was needed for Kensington and whether there might be some room for compromise so the officers could be happy with the guns they like – there could be more selection.

President Welsh noted that, if the guns were standardized, the ammunition would be too, and he asked if this would translate into long-term savings. IGM/COP Hart responded in the affirmative.

In response to questions that had been raised earlier, Corporal Stegman noted that there were very few instances when officers had had to use their partners' weapons.

Nick Beaucage asked questions about assault rifles. IGM/COP Hart responded that there was no money in the budget for rifles and that six rifles had been purchased by and were owned by the officers. Mr. Beaucage also asked for confirmation that rifles remained locked in a trunk until needed. IGM/COP Hart responded that they were locked in a trunk or locked up at the station.

Director Cordova said this was a lot of firepower. She noted that IGM/COP Hart had been a law enforcement officer for many years and asked how many times he had discharged his weapon in the line of duty. IGM/COP Hart responded that he had never done so. She asked if he had ever had a negligent discharge. He responded in the negative and said that most officers were proud to say that.

IGM/COP Hart said that this was about providing safety for the community and for the officers. He noted that most officers go through their entire careers without ever discharging their weapon. He added that he wanted to provide the officers with the best weapon the District could afford. He reiterated that he wanted to standardize and professionalize the department.

Corporal Stegman said that, although the officers don't discharge their weapons, it doesn't mean they don't draw them and point them with some degree of frequency. He said the officers don't want to make mistakes under these circumstances: They want to do the right thing.

Director Toombs asked about the current policy on storing weapons so they would not be stolen from a car. IGM/COP Hart responded that he had changed this policy within his first 30 days with the District. Corporal Stegman added that on-duty weapons were locked in safes or in trunks. Director Toombs responded that there had been stories about officers' weapons being stolen from their vehicles and said this was why he wanted to know about the policy. Corporal Stegman responded that the policy was that officers were to store their on-duty weapons in a reasonable way. IGM/COP Hart added that there is a double-locking system in all the cars: the vehicle itself is locked and each patrol car has a lockable device in which all firearms are to be placed. He added that he believed that the recent instances reported in the press had involved weapons locked only in the trunk. Director Toombs asked for confirmation that the safes had been installed in the trunks. IGM/COP Hart responded in the affirmative.

Andrew Gutierrez asked whether the cost would be needed, if the community were to decide to out-source its police services. Director Toombs responded that, even if the District were to out-source police services, it would still need to provide weapons; only personnel would be out-sourced. He clarified that the District would need to provide the cars, the uniforms, and everything else that would go with that officer. President Welsh noted that this might be negotiable and said the District doesn't know what it's going to do in the future.

President Welsh asked if Corporal Stegman wanted to make a closing statement. Corporal Stegman responded by thanking the Board for its time.

**MOTION: Vice President Sherris-Watt moved, and President Welsh seconded, that the Board deny the grievance brought forward by the Kensington Police Officer's Association – and she thanked them for their service and their time – but that the Board adopt the standardization policy recommended by Chief Hart for a service weapon to be selected in conjunction between Chief Hart and the KPOA.**

**Motion passed: 5 – 0.**

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

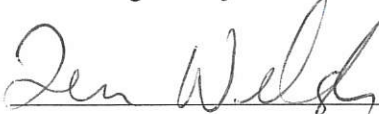
President Welsh thanked Corporal Stegman and IGM/COP Hart.

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

**Motion passed: 5 – 0.**

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

The meeting was adjourned at 7:10 P.M.



Len Welsh  
KPPCSD Board President



Lynn Wolter  
District Administrator