

GM/GOP Conflict of Interest

by Marilyn Stollon

The law offices of HB and PLG refer to the 3 areas when discussing incompatibility of offices doctrine, I will cover "clash of duties" or loyalties.

HB states it is incompatible when the following occurs:

*****Based on the powers and jurisdiction of the offices there is a possibility for a significant clash of duties or loyalties between the offices.

Conflict of Interest /Clash of Duties

While I understand for special districts there is no law against combining the jobs, it is clearly not done in other towns that are the size of Kensington where there are legal preclusions against combining them.

As HB pointed out, there are no other CSDs (special districts) with combined positions that are comparable to us. Of the 13 CSDs HB surveyed, many of these are gated, high end estates, retirement, or full service communities, with one police protection district, Broadmoor, currently in the midst of scandals.

All of the CSDs have separate GM, COP functions, or contract out to avoid issues, regardless of their size ... I question whether modified policy and procedures can address the inherent conflict of interest issues that have come up in the past, or will come up in the future when a board member, employee, or resident has an issue with the GM/COP and has no where to go, except to go to the board, with whom she/he could have a problem with as well. This is not do-able. Are we going to outsource all investigations?

This would be unnecessary if there was a town manager. The town manager of Colma said it was necessary that there be an “impartial” individual “without a vested interest in the outcome of any disputes”. ‘How could that occur if the COP/GM tries to respond to even the most minor of issues?’

In the Sept 11, 2014 board meeting Ms. Gillette stated there should be a “hierarchy” of who is doing the investigating when someone is investigating another person of a higher level.

October 9, 2014, a resident raised the issue of retaliation for bringing an issue to the GMCOP, and wanted an independent party to investigate. Mr. Toombs cited costs and said that the process presently is “neat and elegant” and the person can “always go to the board”, and later said, if the person does not like it they “can file and go to court”. He did not see changing the policies to provide “oversight”, nor was it deemed “necessary”.

Ms. Gillette, in the November 11, 2014 board meeting minutes regarding changes to Policy and Procedures 1030, said she was “conflicted and uncomfortable” with the process, particularly if the complaint brought to the chief was about the chief.

She expressed concerns about the process, that it was “potentially a problem” and “conflict of interest”, when the chief of police “has to investigate himself”.

Clash of duties and loyalties between the 2 jobs: Clash meaning, conflict, disagreement, to be at odds.

While I agree that policies need to be in place to provide for outside investigations, it does not absolve us of the dilemma of having one person performing 2 jobs that require 2 sets of skills, 2 different management styles (paramilitary and business management), 2 sets of competing loyalties, and questionable public policy considerations that should concern any tax paying citizen of this town.

A combined position creates a conflict between the officers and the chief, because the chief/GM has a clash of duties/loyalties: to advocate

for his staff, to promote loyalty to his staff, to want the best for his staff in terms of wages, benefits, & to look out for and protect his staff from investigations etc.; this is in contrast to his GM role which is to manage the financial/budgetary issues of the town.

The General Manager role requires looking at the bigger picture of the town's operations, of which the police department is only a part - the GM needs to deal with the needs of the whole town comprised of his responsibilities for the refuse contract, police, and parks and rec, and staff management.

The GM needs to advocate for budgetary constraint to meet the needs of the town, yet the Chief of Police wants a car, and has to choose between a car and office improvements vs. the needs of the board/public for an improved sound system. Well we know the \$30k car was approved, and we still do not have a sound system one year later.

This is just one instance where there is a clear clash of duties, clash of loyalties that makes in practice having a combined position untenable, and prevents the board from ensuring there is good fiscal management now and in the future.