



## **STAFF REPORT**

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### **Resolution Approving Response to Recommendations of the San Mateo County 2003-2004 Civil Grand Jury Workplace Relationship Policies Report**

Honorable Mayor and Council Members

#### **Summary**

The San Mateo County 2003-2004 Civil Grand Jury filed a Workplace Relationship Policies report that contains findings and recommendations pertaining to the City of Belmont. The City must respond to the comments in the report no later than August 10, 2004. Staff has prepared responses on behalf of the City, which responses must be endorsed by the City Council.

#### **Background and Discussion**

The Civil Grand Jury is empanelled each year in each County in the State; their charge, under State Law, is to review local governmental operations and make recommendations for improvements.

The San Mateo County 2003-2004 Civil Grand Jury has filed a Workplace Relationship Policies report that contains findings and recommendations that are directed (among others) to the City of Belmont. All of the recommendations relating to the City of Belmont have been directed to the City Council, so the Council is required to officially respond. The Grand Jury requires a response no later than August 10, 2004.

Staff has prepared responses to the recommendations, which are incorporated in the attached Resolution. Following Council adoption of the Resolution, the responses will be officially transmitted to the Superior Court Judge who is presiding over the Grand Jury.

In general, the responses indicate no particular required action on the part of the City, but include a detailed description of the policies the City currently has in place.

#### **Fiscal Impact**

There is no fiscal impact.

#### **Recommendation**

Staff recommends that the City Council adopt the attached Resolution Approving the Response to Recommendations of the San Mateo County 2003-2004 Civil Grand Jury Workplace Relationship Policies Report.

**Attachments**

1. Resolution

Respectfully submitted,

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Deirdre C. Dolan  
Human Resources Director

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Jere A. Kersnar  
City Manager

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT APPROVING RESPONSE TO 2003-2004 SAN MATEO COUNTY CIVIL GRAND JURY REPORT ON WORKPLACE RELATIONSHIP POLICIES

WHEREAS, the San Mateo County 2003-2004 Civil Grand Jury has filed a Workplace Relationship Policies report on May 12, 2004 which contains findings and recommendations pertaining to the City of Belmont; and,

WHEREAS, the City of Belmont is required to respond to findings and recommendations in said report; and

WHEREAS, the City of Belmont has prepared appropriate responses and wishes to transmit them, as required by State law, to the Presiding Judge of the Civil Grand Jury.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Belmont as follows:

1. The responses to findings and recommendations of the San Mateo County 2003-2004 Civil Grand Jury Workplace Relationship Policies report pertaining to the City of Belmont, attached hereto and made a part hereof, are hereby accepted.
2. The City Manager is hereby authorized and directed to transmit said responses to the Presiding Judge of the San Mateo County 2003-2004 Civil Grand Jury, in accordance with State law.

\* \* \* \* \*

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on July 13, 2004 by the following vote:

AYES, COUNCILMEMBERS: \_\_\_\_\_

NOES, COUNCILMEMBERS: \_\_\_\_\_

ABSTAIN, COUNCILMEMBERS: \_\_\_\_\_

ABSENT, COUNCILMEMBERS: \_\_\_\_\_

\_\_\_\_\_  
CLERK of the City of Belmont

APPROVED:

\_\_\_\_\_  
MAYOR of the City of Belmont



**City of Belmont's Response to  
2003-2004 San Mateo County Civil Grand Jury Report on  
Workplace Relationship Policies**

Following are the City of Belmont's responses to the 2003-2004 Grand Jury report filed on May 12, 2004.

***Findings/Conclusions***

1. *Some cities have a substantial discrimination/sexual harassment liability risk because they do not have adequate discrimination/sexual harassment policies, and they do not provide regular employee awareness and supervisor training.*

The City of Belmont wholly disagrees with this finding as it pertains to our city. The City of Belmont has a comprehensive anti-harassment and discrimination policy that was most recently updated in November 2003. Anti-harassment training is provided at least once every two years to all employees, including supervisors. The most recent training was provided in January 2004.

2. *Not all city policies reflect current state and federal laws and recommendations of the EEOC, the DFEH and legal and professional personnel specialists.*

The City of Belmont partially disagrees with this finding as it pertains to our city. In November 2003, the City of Belmont implemented an updated anti-harassment policy that reflects current law; conveys strong disapproval (zero tolerance) of discriminatory behavior against anyone in the workplace; expresses strong disapproval of retaliatory behavior; defines harassment and provides examples of prohibited conduct; describes obligations and responsibilities of employees and supervisors; and stresses prevention of harassment through training and dissemination of the written policy. In addition, the policy contains a comprehensive complaint procedure which covers how and with whom to file a complaint; alternative points of management contact for the initial complaint; the requirement that the Human Resources Director be made aware of all complaints; the manner in which data will be gathered and facts determined; remedies and discipline that might be applied; when and how findings and recommended actions will be communicated to the complainant and the accused; and follow-up procedures. The current policy does not include specific timelines for filing and/or responding to a complaint; provisions for an informal resolution of a complaint (but employees are advised in training sessions to report incidents immediately); information on alternative filing options with the EEOC and DFEH; procedures for appealing findings and decisions; or how the records of the investigation and outcomes will be maintained. (See response to Recommendation 6 for further explanation).

3. *Regular reviews of harassment policies and practices are not made by all cities in the County.*

The City of Belmont agrees with this finding. The City's anti-harassment policy was reviewed and revised in November 2003. Prior to 2003, however, the City's policy had not been updated since 1989. The City is committed to keeping the current policy up-to-date and in compliance with current laws and practices.

4. *Neither the County nor all cities have developed a comprehensive single document covering discrimination/sexual harassment. Many cities do not provide training at regular intervals.*

The City of Belmont wholly disagrees with this finding as it pertains to our city. The City has had a comprehensive sexual harassment policy in place since 1989. This policy was updated in November 2003, broadened in scope to cover all forms of harassment, and modeled after other city policies identified in the Grand Jury report as comprehensive. In recent years the City has provided comprehensive training at two-year intervals (2002 and 2004).

5. *Some city policies and practices are not likely to encourage employees to report incidents of harassment or discrimination.*

The City of Belmont wholly disagrees with this finding as it pertains to our city. The City's former policy, current policy, and employee training all encourage employees to report incidents of harassment or discrimination.

## **Recommendations**

1. *By July 1, 2004, review and update all policies related to discrimination/sexual harassment, taking into consideration recent court decisions and new State laws.*

The recommendation has been implemented. The City's anti-harassment policy was updated in November 2003 in order to bring it into compliance with recommended personnel practices. The policy was reviewed and approved by the City Attorney to insure its' compliance with current laws. The updated policy was modeled after the City of San Carlos and City of Foster City policies, which were identified in the Grand Jury report as examples of comprehensive anti-harassment policies.

2. *Before September 1, 2004, adopt policies to provide, if current policies do not already do so, annual policy reviews; harassment training for all employees within six months of hire and not less than three years thereafter; and harassment response training for supervisors within six months of hire and not less than two years thereafter.*

The recommendation will not be implemented because it is not warranted. The anti-harassment policy states that training will be provided to all employees and supervisors, although it does not specify timeframes for the training. Nevertheless, the City of Belmont has a practice of providing anti-harassment training to employees and supervisors on a regular basis. Most recently, employees and supervisors received training in two-year increments (January 2002 and January 2004). New employees receive training on the anti-harassment policy by the Human Resources department staff as part of new hire orientation,

which occurs during the first week of employment. The anti-harassment policy is reviewed in preparation for employee trainings as well as when new legislation is enacted. The City does not feel that inclusion of timeframes for policy review and employee training is necessary or warranted in light of our practices.

3. *Include the date of creation of any revision on each page of its harassment policies.*

The recommendation will not be implemented because it is not warranted. Revisions to the policy are made by City Council resolution, and a record of the date and content of such resolutions are kept in the City Clerk's office. The anti-harassment policy is contained within the City's Personnel Rules and Regulations, and the effective date of such Rules and Regulations appears on the first page of the document. In our view it is not necessary to include an effective date on each page of the Personnel Rules and Regulations.

4. *Include a requirement that employees be notified of all substantive changes in any harassment policy within 30 days of the effective date of the change.*

The recommendation will not be implemented because it is not warranted. As part of the Personnel Rules and Regulations, changes to the anti-harassment policy are subject to the meet and confer process with the employee associations. Following City Council adoption of changes to the anti-harassment policy, the new or revised policy is distributed to all employees, and employees then receive training on the new policy. In light of our established practice for revision and distribution of policies, it is not necessary or warranted to include a written requirement specifying timeframes for notification.

5. *Before September 1, 2004, formalize into written policy any unwritten, informal expectations and practices related to nepotism and romantic relationships.*

The recommendation will not be implemented because it is not warranted or reasonable. While it is appropriate to inform and "warn" employees of the potential liabilities and employment difficulties associated with romantic relationships between supervisory and subordinate employees or coworkers in the workplace, it is not appropriate or practical to have a written policy that prohibits or regulates such relationships. Should such a situation occur that is detrimental to the workplace, the City Manager has the ability to take action as necessary to correct the problem (e.g. transfer, reassignment, or specific restrictions). In addition, the City has a nepotism policy that enables the City Manager to determine if a family relationship would adversely affect the efficiency or mission of the City, and to deny employment and/or work assignments in situations that may pose difficulties for supervision, safety, security, or morale. In addition to the above, supervisors receive specific training to identify problems that can arise from personal relationships with employees that report to them.

6. *Before September 1, 2004, to the extent not presently in existing policies, consider incorporating explicit language into current discrimination/sexual harassment policies that reflect the "best practice" recommendations referred to in this report, particularly those that*

*promote trust and lessen anxiety and provide employees reason to believe that complaints will be handled promptly and fairly.*

This recommendation has been implemented. The current policy, implemented In November 2003, reflects the majority of “best practice” recommendations referred to in the Grand Jury report. It is compliant with current law; conveys strong disapproval (zero tolerance) of discriminatory behavior against anyone in the workplace; expresses strong disapproval of retaliatory behavior; defines harassment and provides examples of prohibited conduct; describes obligations and responsibilities of employees and supervisors; and stresses prevention of harassment through training and dissemination of the written policy. In addition, the policy contains a comprehensive complaint procedure which covers how and with whom to file a complaint; alternative points of management contact for the initial complaint; the requirement that the Human Resources Director be made aware of all complaints; the manner in which data will be gathered and facts determined; remedies and discipline that might be applied; when and how findings and recommended actions will be communicated to the complainant and the accused; and follow-up procedures.

The current policy does not include specific timelines for filing and/or responding to a complaint; provisions for an informal resolution of a complaint; information on alternative filing options with the EEOC and DFEH; procedures for appealing findings and decisions; or how the records of the investigation and outcomes will be maintained. However, this information is provided to employees as part of the anti-harassment training program and/or during the complaint investigation and resolution process. This information will be included in the policy at the time of the next revision of the anti-harassment policy.