Belmont Fire Protection District Agenda # _____
Meeting of April 12, 2011

Staff Report

UPDATE REGARDING PROVISION FOR FUTURE FIRE SERVICES FOR THE BELMONT FIRE PROTECTION DISTRICT STAND-ALONE FIRE DEPARTMENT AND FURTHER CONSIDERATION OF THE MEDIATION PROCESS WITH THE CITY OF SAN CARLOS

Honorable President and Board Members:

Summary

This report serves to update the Board on work being done since the last reporting on providing fire services in the Belmont Fire Protection District ("District") without the Belmont-San Carlos Fire Department (BSCFD), a joint powers authority (JPA). Given the JPA is only a two-party agreement and with the expected dissolution date of October 12, 2011, the District has determined that it will re-establish fire services as an independent stand-alone department.

Background and Discussion

At the January 25th meeting, the Board requested information on the detail work and timeline commitments necessary to implement the Board's preferred option of re-establishing a stand-alone Belmont Fire Protection District department. The timeline was last reviewed by the Board at the March 22, 2011 meeting and will be updated for Board review for the next Board meeting on April 26, 2010.

There are two main work plans proceeding in parallel – the dissolution of the current Belmont-San Carlos Fire Department Joint Powers Authority (JPA), and the work required to establish a stand-alone Belmont Fire Protection District department. This special update focuses on the proposed mediation process with the City of San Carlos.

Summary

Mediation

At the March 22, 2011 District meeting, the Board agreed to participate in mediation with San Carlos and selected Board Members Lieberman and Wozniak to represent the District in the mediation process. Because the District chose two members who are also Fire Department Commissioners to participate in the mediation, and San Carlos chose two of its members who are a Fire Department Commissioner and a Fire Department Alternate Commissioner; the mediation will involve a majority of the Fire Department Commission. This raises questions under the Brown Act which will be addressed in the "Options" section below.

Options

The following options have been identified by the District's legal counsel:

1. Do not pursue the mediation.

2. Conduct the mediation in public. If there is a desire to meet in public, it would be better to consider it a facilitated meeting rather than mediation. Under those circumstances, a skilled facilitator, rather than a retired appellate justice or another lawyer, might be considered.

3. Select different representatives. If Belmont selected a mediation representative who was neither a Fire Department Commissioner nor a Fire Department Alternate Commissioner and San Carlos did the same, the Brown Act issue would not arise, because the four representatives would not constitute a majority of the Fire Commission.

4. Select only one Board member to represent the District. If each City selects only one member of its Board to represent it in mediation along with non-Board members (such as the City Manager, Attorney, Finance Director, etc.) no Brown Act issue will arise.

5. Pursue the mediation with the current representatives. This option requires addressing the Brown Act issue. One option would be for the Belmont-San Carlos Fire Department (BSCFD) to post an agenda as though the mediation were a meeting of its Commission, allow public comment before the mediation begins, conduct in public the portions of the mediation in which both agencies' representatives meet jointly with the mediator, and conduct caucuses in private. Those caucuses will not be subject to the Brown Act because they will not involve a majority of any local government body. The caucus could then explore the potential for actions by Belmont and San Carlos regarding choices for fire service after the October 12, 2011 service termination date. Moreover, any proposals that might be suggested at the mediation cannot be acted upon without a properly agendized discussion by BFPD Board, the San Carlos City Council, or both.

Comments on mediation

Mediation of a public policy dispute between two elected bodies such as the BFPD Board and the San Carlos City Council is unique. The representatives do not have the power to make decisions which bind; but they can try to speak for each entity, and identify ideas for further discussion. The mediator has no authority whatsoever, but can serve as a neutral, professional outsider to help the parties identify and clarify their own concerns, understand each other's needs, and seek creative solutions. While mediation is a powerful dispute-resolution tool, in the public-agency context it is only the first step of a process and not the end of one.

Comments on a facilitated public meeting

Good facilitators have skills to assist public discussions of contentious issues. They can

establish ground rules, create an atmosphere in which people can express their views and create a collective understanding of the range of views, issues and concerns. This format, however, has limitations as applied to dispute resolution and may be of limited utility in identifying options for San Carlos and Belmont that require collaboration between the two agencies.

Voluntary Efforts

Entering into Mediation is a voluntary effort. The parties, at any time, can agree to an alternative dispute resolution process, stop mediating, agree to continue, or take some other action. The District can reserve all its rights and remedies.

Status of San Carlos Proposals

On April 1, 2011, San Carlos closed their RFP process for the provision of fire services and at this point it appears that they have two proposals:

- **Wackenhut Services Inc. (WSI)**
  WSI is a private sector firm based in Florida that has provided fire and emergency services to a number of commercial, federal and local governments for over 50 years.

- **City of Redwood City**
  The City of Redwood City is completing a proposal to the San Carlos for a Hybrid Option. This would involve providing Command, Management, Specialty and Administrative Services to the City of San Carlos.

Fiscal Impact

There are no new fiscal impacts at this time. Staff will do what work it can internally, either technically or to capacity availability. Where we lack staff capacity or expertise, we will continue to use the Fire Team specialty consultants already under contract at time and materials rates.

Public Contact

Posting of City Council Agenda.

Recommendation

1. Consider and select an option for mediation which allows the mediation process to be in compliance with the Brown Act.

Respectfully submitted,

Thomas Fil
Finance Director

Greg D. Scoles
Executive Director

Staff Contact:
Thomas Fil, Finance Director, (650) 595-7435, tfil@belmont.gov