

May 11, 2023

Via Email (amontescardenas@smcgov.org)

San Mateo LAFCo
c/o Angela Montes Cardenas
455 County Center, 2nd Floor
Redwood City, CA 94063

Re: Public Comment Re: Item no. 7 Broadmoor Police Protection District Update

Dear Commissioners:

Thank you for your long-overdue attention to the mismanagement and incompetence that plague Broadmoor. As a third-generation resident of Broadmoor, I am sad that my community has allowed itself to be robbed blind for decades, but heartened that LAFCo is finally attempting to hold the BPPD to account. However, I am disappointed by the BPPD's arrogant response to LAFCo's reasonable, well-researched report and recommendations. Thus, LAFCo must act to dissolve the BPPD rather than allow it to continue to leech off the residents of the district.

After its last meeting, LAFCo requested the BPPD complete a table listing its response to each of the Special Study's recommendations by May 1, 2023. Because the BPPD believes it is accountable to no one, it ignored this structured, specific request and even the deadline. On May 9, 2023, it sent a letter in which it accepts no responsibility, promises no concrete changes, and blames everyone else for its many problems, from former employees to LAFCO to the Census Bureau to state legislators to me.

To be clear, I write this and all of my correspondence about the BPPD over the prior years, not because of a vendetta against my neighbors over parking,¹ but because I care about my community and responsible, transparent government. I am concerned that the BPPD will bankrupt us and we will soon find ourselves paying more for the BPPD's special assessment than regular property taxes and with no insight or input on how the BPPD spends that money. Barring that, if the BPPD is not held to account, we might soon find ourselves with no police protection nor any money left to pay for services from adjacent communities. The BPPD must take responsibility for its problems and take steps to resolve them.

Its May 9 response demonstrates the BPPD has no intention of correcting the shortfalls the Special Study found. It blames its budget shortfalls on "mismanagement and unprecedented litigation by former

¹ I hesitate to dignify Commissioner Brizuela's defamatory mischaracterization at p. 7 of my prior comments with a response. My present neighbors, however, have only lived in their house since late summer 2022. Commissioner Brizuela and Chief Connolly know quite well my complaints about the lack of transparency date back to the BPPD's service of an "allegedly forged search warrant [that] did not have a judge's signature" on Commissioner J. Wayne Johnson in 2015 in retaliation for his "public speech critical of. . . the police department." See *Ex. A, Order On Defendants' Motion for Summary Judgment in J. Wayne Johnson v. Broadmoor Police Protection District, et al.*, San Francisco Superior Court Case No. CGC-15-547675.

employees,” but makes no promises regarding future management or improved human resources practices to avoid future litigation. It faults LAFCo for using the Census Bureau’s population figures for 2020, but cannot explain why the district’s population should have increased 63% in two years. It claims LAFCo underestimated its calls for service by a factor of eleven, but provides no source for its inflated figure of 8,203 calls nor why it did not provide this data to LAFCo in the six months since the publication of the draft report.

Finally and most disturbingly, the BPPD asserts that the Gann Spending Limit should not apply to it. That is, Commissioner Brizuela appears to contend that the BPPD should be able to spend whatever it wants and raise property taxes and special assessments arbitrarily because it is a special district that existed before 1978. In support, she cites recent correspondence addressed to the CEO of the League of California **Cities** about calculating appropriations. Nothing in that correspondence supports that the Gann Limit applies only to cities and not special districts generally. This argument is ludicrous. Section 9 of Article XIII B does not exempt certain local government entities. Rather, it carves out certain items from the Gann Appropriation Limit. To wit, section 9 excludes certain categories of appropriations “for **each** entity of government.” Contrary to Commissioner Brizuela, it does not exempt all appropriations of some entities entirely. *See, e.g. City of Sacramento v. State of California*, 50 Cal. 3d 51, 76 (1990)(“the courts and the Commission must respect the governing principle of article XIII B, section 9, subd. (b): neither state nor local agencies may escape their spending limits. . .”) Further, the Kensington Police Protection which also predates 1978, complies with the Gann Limit without question. Ex. B.

The BPPD has made no effort to respond respectfully to LAFCo’s report, let alone comply with LAFCo’s recommendations.

Sincerely,



Andrea M. Hall

Exhibit A

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2 Beau R. Burbidge (SBN 267267)
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8 Attorneys for Plaintiff J. WAYNE JOHNSON

FILED
Superior Court of California
County of San Francisco

FEB 17 2017

CLERK OF THE COURT

St. 
Deputy Clerk

9 **SUPERIOR COURT OF CALIFORNIA**
10 **COUNTY OF SAN FRANCISCO**

11 J. WAYNE JOHNSON,
12 Plaintiff,

13 v.

14 BROADMOOR POLICE PROTECTION
15 DISTRICT, JOSEPH SHERIDAN, RALPH
16 HUTCHENS, DAVID PARENTI, CHARLES
17 SMITH, ARTHUR STELLINI, and DOES 1-
18 50, inclusive,

19 Defendants.

Case No. CGC-15-547675

~~PROPOSED~~ ORDER ON
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT OR
ALTERNATIVELY SUMMARY
ADJUDICATION

Date: February 17, 2017

Time: 9:30 a.m.

Dept.: 302

Res.: 10180131-09

20 Defendants BROADMOOR POLICE PROTECTION DISTRICT, JOSEPH SHERIDAN,
21 RALPH HUTCHENS, DAVID PARENTI, CHARLES SMITH, and ARTHUR STELLINI'S
22 (together, "Defendants") Motion for Summary Judgment, or Alternatively Summary Adjudication
23 came on for hearing on February 17, 2017, at 9:30 a.m. in Department 302 of the above-captioned
24 Court. Prior to the hearing, the Court issued the following tentative ruling:

25 Defendants Broadmoor Police Protection District, Joseph Sheridan,
26 Ralph Hutchens, David Parenti, Charles Smith, and Arthur Stellini's
27 motion for summary judgment is denied and their alternative motion for
28 summary adjudication is: a) denied as to the first, second, fifth, seventh,
eighth and ninth causes of action, b) granted as to the third cause of
action as to Mr. Sheridan and Mr. Hutchens only, and c) denied as to the
third cause of action as to all defendants other than Mr. Sheridan and Mr.
Hutchens. As to the first cause of action for violation of plaintiff J.

1 Wayne Johnson's Fourth Amendment rights, Mr. Johnson has raised a
2 triable issue whether the warrant was supported by probable cause. Mr.
3 Johnson has submitted evidence that there are multiple material
4 omissions and misrepresentations in the affidavit supporting the warrant.
5 First, the declaration of Dr. Fricke states that his conversation with the
6 investigating officer was mischaracterized in the affidavit. Second, Mr.
7 Johnson presented evidence there was a reason for him to have access to
8 the photographs associated with the rape investigation, which was
9 misrepresented in the affidavit. (Johnson Dec. par. 8; Love Dec. par. 15.)
10 Third, the affidavit omits that the allegedly forged search warrant for
11 telephone records did not have a judge's signature and listed the police
12 station as the place for production thereby eliminating any connection to
13 Mr. Johnson's home. Mr. Johnson has made a substantial showing of
14 reckless disregard for the truth based on the foregoing omissions and
15 misrepresentations. There is also a triable issue whether, setting aside the
16 foregoing misrepresentations, the remaining information is insufficient to
17 establish probable cause. As to the second cause of action for violation of
18 Mr. Johnson's First Amendment rights, Mr. Johnson has submitted
19 sufficient evidence to create a triable issue whether his First Amendment
20 rights were violated. Mr. Johnson presented evidence that he engaged in
21 public speech critical of Captain Parenti and that the police department
22 subsequently engaged in conduct adverse to Mr. Johnson. Mr. Johnson is
23 entitled to the full protection of the First Amendment. (City of
24 Montebello v. Vasquez (2016) 1 Cal.5th 409, 422.) A triable issue exists
25 whether there was a substantial nexus between Mr. Johnson's conduct and
26 the adverse actions based on the timing of the statements and the
27 subsequent investigations and the offer to cease the investigation if Mr.
28 Johnson resigned. (Plaintiff's Separate Statement of UMF 1; 27-34.) The
Commissioners are not entitled to absolute immunity because they were
acting outside the scope of their legislative duties. (Defendants Separate
Statement of UMF 8, Separately Bound Evidence In Support of
Defendants' Motion, Hutchens Dec. par. 2-3.) Qualified immunity does
not apply here since police officers are liable for retaliatory conduct.
(Ford v. City of Yakima (9th Cir. 2013) 706 F.3d 1188, 1193.) Mr.
Sheridan and Mr. Hutchens are entitled to summary adjudication on the
third cause of action for deprivation of property because the undisputed
facts show that they did not participate in the undertaking or execution of
the search warrant. (Defendant's Separate Statement of UMF 28-29, 31.)
As to all other defendants, summary adjudication on the third cause of
action is denied because a triable issue exists whether there was probable
cause to support the search warrant. As to the fifth cause of action for
violation of the Bane Act, Mr. Johnson has established a triable issue
whether the defendants took coercive actions against him by promising to
drop their investigation if he resigned. (Plaintiff's Separate Statement of
UMF 27-34.) As to the seventh cause of action for false arrest, there is a
triable issue whether the search warrant was based on probable cause and
consequently a triable issue exists as to the validity of any arrest based on
evidence obtained during the execution of the search warrant. As to the
eighth cause of action for intentional infliction of emotional distress, a
triable issue exists whether the search warrant was supported by probable
cause and whether the alleged retaliatory constitutional violations
constitute outrageous conduct. As to the ninth cause of action for civil
conspiracy, summary adjudication is denied based on the viability of Mr.
Johnson's other claims.

1 Having considered all the papers filed in support of and opposition to the motion and
2 having heard oral argument on the matter, the Court **HEREBY ORDERS:**

- 3 1. The Court hereby adopts its tentative ruling in full;
4 2. Defendants' Motion for Summary Judgment is DENIED;
5 3. Defendants' Motion for Summary Adjudication of Plaintiff's First, Second, Fifth
6 Seventh, Eighth, and Ninth Causes of Action is DENIED;
7 4. Defendants' Motion for Summary Adjudication of Plaintiff's Third Cause of
8 Action is GRANTED as to defendants Sheridan and Hutchens and DENIED as to all other
9 defendants.

10
11 **IT IS SO ORDERED.**

12
13
14 DATED: February 17, 2017

By: 

Judge of the Superior Court
HON. HAROLD KAHN

Exhibit B

RESOLUTION NO. 2021-09**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
KENSINGTON POLICE PROTECTION AND COMMUNITY
SERVICES DISTRICT AFFIRMING THE ESTABLISHMENT OF
THE APPROPRIATIONS LIMIT FOR FY 2021-22**

The Board of Directors of the Kensington Police Protection and Community Services District “Board of Directors”) does find as follows:

WHEREAS, in November 1979, California voters approved a ballot proposition (Proposition 4), adding Article XIII B to the California Constitution, which limits the level of most appropriations from tax sources that the state and most local government entities are permitted to make in any given year; and

WHEREAS, and each year, a local government must adjust its Appropriations Limit for two factors: 1) the change in the cost of living; and 2) the change in population; and

WHEREAS, for the District; the prior year Appropriations Limit is adjusted by the percentage change in California per capita personal income and the change in population for Contra Costa County. The formula for adjusting the Limit is:

Prior year Appropriations Limit X Cost of Living Factor X Population Factor

A summary of the KPPCSD Appropriations Limit for FY 2021-22 is as follows:

FY 2020-21 Appropriations Limit	\$4,758,237
Annual Adjustments (prior year multipliers)	
Change in Population	1.0035
Change in California Per Capita Personal Income	1.0573
FY 2021-22 Appropriations Limit	\$5,048,492

NOW, THEREFORE, THE BOARD OF DIRECTORS DOES RESOLVE AS FOLLOWS: the Appropriations Limit for KPPCSD for FY 2021-22 is established as \$5,048,492.

PASSED AND ADOPTED by the Board of Directors of the Kensington Police Protection and Community Services District upon motion by President Hacaj, seconded by Director Sherris-Watt, on Tuesday, the 29th day of June, 2021, by the following vote to wit:

AYES: Directors Deppe, Nottoli, Sherris-Watt, and Hacaj.

NOES: None.

ABSENT: None.

ABSTAINED: None.

DocuSigned by:
Sylvia Hacaj
8C1CC334B1904A4...
Sylvia Hacaj
President, Board of Directors

HEREBY CERTIFY the foregoing resolution was duly and regularly adopted by the Board of Directors of the Kensington Police Protection and Community Services District at the special meeting of said Board held on Tuesday, the 29th day of June, 2021.

DocuSigned by:
Lynelle M. Lewis
8483B78934AA4FC...
Lynelle M. Lewis
District Clerk of the Board

DocuSigned by:
Marti Brown
9BB47FC215F248A...
Marti Brown
General Manger