

September 18, 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: Items no. 5 re Broadmoor Police Protection District Update

Dear Commissioners:

I write to supplement the account of the Broadmoor Police Protection District's fiscal insolvency and mismanagement accompanying item no. 6 on the September 20, 2023 LAFCo meeting agenda.

Item No. 6's account ends before the BPPD's September 12, 2023 regularly scheduled meeting. It suggests that the department has decided to forgo the protections of the Bankruptcy Code and will instead seek to finally operate within its means. Nothing could be further from the truth, and I must insist LAFCo continue to monitor the BPPD's fiscal situation at its November 2023 meeting.

Even as it claims it lacks adequate funds to operate, the BPPD cannot reign in its spending. In the week since the September 12, 2023 meeting, the BPPD noticed a special meeting for 11 a.m. on Monday, September 18, 2023. See Exhibit A. During that meeting, the BPPD Commission approved a \$75,000 retainer agreement with a bankruptcy attorney. It did so with the express purpose of shirking its legal obligations to CalPERS and its own retirees.

Cheating your creditors is not the point of bankruptcy. Rather, the Bankruptcy Code seeks to "reliev[e] the *honest* debtor from oppressive indebtedness and permit[ ] him to start afresh." *Wright v. Union Cent. Life Ins. Co.*, 304 U.S. 502, 514 (1938) (emphasis added.) The BPPD are far from honest. It should not be permitted to start afresh while its retirees live in penury. There is no reason to believe the Police Commission will not continue to enact unbalanced budgets and steal from its constituents. Former Chief David Parenti's blatant theft from CalPERS has undoubtedly created much of the District's current shortfall. But he still worked there in 2019, alongside current members of the department and the Commission who aided and abetted that theft. Chief Connolly was himself a commissioner between 2016 and 2019 when former chiefs Parenti and Stellini were still employed with the district. Commissioner Hutchens has been on the Commission since 2007 and has lived in Broadmoor for five decades. Commissioner Kucharszky has been on the Commission since May 2019. Chief Connolly himself was convicted of ethics violations just two years ago. Nothing suggests that the District is "honest" in any sense of the word. It should not be allowed to continue to cheat its retirees and its constituents.

Further, contrary to the District's apparent beliefs, a bankruptcy stay for a government entity under Chapter 9 is hardly the panacea it can be for individual debtors. Government Code section 53760 *et seq.*

strictly governs municipal bankruptcies in California. The BPPD Commission cannot simply yell “We declare bankruptcy!” and wish CalPERS away. Under section 53760.5, the District must also declare a fiscal emergency and adopt a resolution at a noticed public hearing explaining why it believes the protections of Chapter 9 are necessary. It has not done so. Indeed, it has provided no details into why, after years of shortfalls, its situation now suddenly requires the protections of the Bankruptcy Code.

Under section 53760.3, the District and CalPERS must also engage in a formal neutral evaluation process with a trained evaluator with “[a]t least 10 years of high-level business or legal practice involving bankruptcy or service as a United States Bankruptcy Judge” and “[p]rofessional experience or training in municipal finance. . .” Given that the department barely has money to operate, it is unclear why it believes paying a neutral evaluator and a bankruptcy attorney is a wise use of its limited funds.

At the September 18, 2023 meeting, the District also decided to pay \$10,000 to retain the law firm Best Best & Krieger (“BBK”) to advise it on drafting a ballot measure to increase parcel tax levied on the District’s residents. First, as I have explained in my previous correspondence, I believe that tax may violate the state constitution and government code. I intend to challenge it along with the District’s claim that the Gann Act does not apply to it in a declaratory relief action.

Second, BBK has represented the District against CalPERS and is thus the source of the legal fees Chief Connolly claims are literally bankrupting the department. It seems that the department could not pay BBK’s fees unless it increases the parcel tax. Little wonder then that BBK is advising the BPPD to increase the amounts its residents pay. Its bills will go unpaid if such a measure does not pass. This is not just unseemly. It may also violate the California Rule of Professional Conduct 1.8.1 prohibiting business transactions between attorneys and their clients. *See, e.g. Ferguson v. Yaspan*, 233 Cal. App. 4th 676, 684 (2014) (“The law accordingly takes a jaundiced view of business transactions between attorneys and their clients.”); *BGJ Assocs. v. Wilson*, 113 Cal. App. 4th 1217, 1229 (2003) (transactions between attorneys and their clients are disfavored “particularly where it required the client to give up something of value which would benefit the attorney. . .”) Because BBK will be enriched by more than just its \$10,000 retainer by its work on the ballot measure, it appears to have a conflict which should preclude said ballot measure work. *See* 86 Cal. Op. Att’y Gen. 138 (2003) (“forbidden financial interests may be indirect as well as direct, and may involve financial losses, or the possibility of losses, as well as the prospect of pecuniary gain.”)

In sum, the District has known for years that it was spending beyond its means, but failed to take any action to improve its fiscal outlook. It now seeks a bail-out from the Bankruptcy Code and taxpayers. But there is no reason to believe its management will improve now and it will not find itself back in the same position in just a few years. LAFCo must hold the BPPD accountable for its theft from the County’s taxpayers.

Sincerely,



# **Exhibit A**



**NOTICE OF SPECIAL MEETING OF THE  
BOARD OF POLICE COMMISSIONERS OF THE  
BROADMOOR POLICE PROTECTION DISTRICT**

**Pursuant to Government Code § 54956(a) the Chair has called a Special Meeting of the Board of Police Commissioners that will be held on**

**Monday, September 18, 2023, at 11:00 a.m.**

**at the District offices of the  
Broadmoor Police Protection District at  
388 88<sup>th</sup> Street  
Broadmoor Vlg., California 94015**

**NO FOOD OR BEVERAGES WILL  
BE PERMITTED IN THE MEETING ROOM**

**NO ANIMALS EXCEPT REGISTERED SERVICE ANIMALS  
WILL PERMITTED IN THE MEETING ROOM**

**RULES OF ORDER AND DECORUM SET FORTH  
IN RESOLUTION 2022/23-07 WILL BE ENFORCED**



BROADMOOR COMMISSIONERS  
Hon. James Kucharszky  
Hon. Ralph Hutchens  
Hon. Marie Brizuela

## AGENDA

(Government Code §54956(a))

# SPECIAL MEETING

September 18, 2023

Special meeting called by the Chair to be held:

**Monday, September 18, 2023, at 11:00 a.m.**

**Broadmoor Police Department  
388-88<sup>th</sup> Street  
Broadmoor, Vlg., California 94015-1717**

*Meetings are accessible to people with disabilities. Individuals who need special assistance or a disability-related modification or accommodation to participate in this meeting, or who have a disability should contact Lisa Hernandez, [Administrative Assistant of the Police Department], as soon as possible prior to the meeting, at (650) 755-3840 and/or lhernandez@pd.broadmoor.ca.us. Notification in advance of the meeting will enable the district to make reasonable arrangements to ensure accessibility to this meeting and the materials related to it. Attendees to this meeting are reminded that other attendees may be sensitive to various chemical-based products.*

**NO FOOD OR BEVERAGES WILL  
BE PERMITTED IN THE MEETING ROOM**

**NO ANIMALS EXCEPT REGISTERED SERVICE ANIMALS  
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1. **PLEDGE OF ALLEGIANCE**
  
2. **ROLL CALL**
3. **CLOSED SESSION**

- (a) Discussion with district counsel and special bankruptcy counsel for potential litigation under Chapter 9 of the United States Bankruptcy Code. [Government Code §§54954.5(c) and 54956.9(a)] (Action possible.)

**4. OPEN SESSION**

- (a) Report any reportable action taken in Closed Session.
- (b) Further discussion on increasing the special tax (parcel tax), effective fiscal year 2024/25 above the 5% annual increase currently allowed without voter approval. A ballot measure would appear on the March 5, 2024, general election for voter approval. Discussion to include retaining Best Best & Krieger as consultant (fee not to exceed \$10,000) on a potential ballot measure. (Action possible.)

**5. ADJOURNMENT**

Motion to adjourn.

POSTED AT: WWW.BROADMOORPOLICE.COM  
BROADMOOR POLICE DEPARTMENT  
COLMA FIRE DEPARTMENT  
BROADMOOR COMMUNITY CENTER

***MEMBERS OF THE PUBLIC ARE WELCOME TO ATTEND***