



## Agenda Item No. 14.

### Staff Report

**Date:** January 9, 2014

**To:** Mayor P. Beach Kuhl and Council Members

**From:** Rob Braulik, Town Manager

**Subject:** Review of Ross Valley Fire Joint Powers Agreement (JPA) and approval of Second Amendment to Amended and Restated Joint Powers Agreement

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#### Recommendation

The Council approve the proposed JPA amendment regarding the addition of a Management Committee and the conduct of closed sessions with the member agencies.

#### Background and discussion

The Ross Valley Fire Board approved this amendment at their December 11<sup>th</sup> meeting. Legal Counsel has indicated each JPA member governing Council must approve the attached amendment for it to be effective. Each JPA member is in the process of approving this amendment.

The Board requested this Second Amendment to Amended and Restated Joint Powers Agreement to address several issues including:

1. **Executive Officer** – Currently the Fire Chief reports to the Board through the Executive Officer. The Executive Officer is responsible to provide Fire Chief administrative direction. The appointment of Executive Officer is for a two year term and rotates between the three JPA Town Managers. Now there are three municipalities in the JPA. Thus, the Town Managers have recognized the need to keep all three Town Managers updated on a regular basis. And the managers are meeting regularly to ensure quality Fire Department communications. The formation of a Management Committee would formalize the role of the three Town Managers in the JPA. It is anticipated the Executive Officer would continue to rotate between the three Towns, but the Management Committee would meet monthly (and as needed) to review the Board agenda and other current issues. The Executive Officer would chair the Management Committee.
2. **Closed Session** – The Government Code has a specific section dedicated to disclosure of closed session information to local agency members of a JPA, as follows:

§54956.96. Disclosure of specified information in closed session of joint powers agency; Authorization of designated alternate to attend closed session; Closed session of legislative body of local agency member

(a) Nothing in this chapter shall be construed to prevent the legislative body of a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, from adopting a policy or a bylaw or including in its joint powers agreement provisions that authorize either or both of the following:

(1) All information received by the legislative body of the local agency member in a closed session related to the information presented to the joint powers agency in closed session shall be confidential. However, a member of the legislative body of a member local agency may disclose information obtained in a closed session that has direct financial or liability implications for that local agency to the following individuals:

(A) Legal counsel of that member local agency for purposes of obtaining advice on whether the matter has direct financial or liability implications for that member local agency.

(B) Other members of the legislative body of the local agency present in a closed session of that member local agency.

(2) Any designated alternate member of the legislative body of the joint powers agency who is also a member of the legislative body of a local agency member and who is attending a properly noticed meeting of the joint powers agency in lieu of a local agency member's regularly appointed member to attend closed sessions of the joint powers agency.

(b) If the legislative body of a joint powers agency adopts a policy or a bylaw or includes provisions in its joint powers agreement pursuant to subdivision (a), then the legislative body of the local agency member, upon the advice of its legal counsel, may conduct a closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the joint powers agency pursuant to paragraph (1) of subdivision (a).

An amendment to the JPA agreement incorporating the above language will allow the member agencies to discuss closed session issues with individual Town/District legal counsel, his/her alternate, and other members of the full legislative body of the specific member in closed session when there are direct financial or liability implications for the member, as outlined in the Brown Act.

#### **Fiscal, resource and timeline impacts**

This action will enable the member JPA members to stay better informed on financial and other issues before the Board. It will assist Board representatives from each Council to obtain policy input and guidance from their colleagues on financial and legal matters. Members will be able to represent to the Board the collective policy guidance from their respective governing Council.

#### **Alternative actions**

None recommended

#### **Environmental review (if applicable)**

N/A

#### **Attachments**

- Second Amendment to Amended and Restated Joint Powers Agreement

**SECOND AMENDMENT TO AMENDED AND RESTATED  
JOINT POWERS AGREEMENT**

This Second Amendment to the Amended and Restated Joint Powers Agreement (“Second Amendment”) is entered into as of \_\_\_\_\_, 2014 (the “Second Amendment Effective Date”), and is made by and among the Town of Fairfax, a municipal corporation (“Fairfax”), the Town of San Anselmo, a municipal corporation (“San Anselmo”), the Sleepy Hollow Fire Protection District, an independent special district of the State of California (“Sleepy Hollow”), and the Town of Ross, a municipal corporation (“Ross”), each a “Member,” and collectively referred to as the “Members.”

**RECITALS**

A. Fairfax, San Anselmo and Sleepy Hollow entered into that certain Amended and Restated Joint Powers Agreement dated as of July 1, 2010 (the “Agreement”). All capitalized terms used herein without definition shall have the same meanings assigned to them in the Agreement.

B. The Agreement governs the operations of the Ross Valley Fire Department (the “Authority”).

C. The Member parties entered into the First Amendment to the Amended and Stated Joint Powers Agreement (“First Amendment”) in order to (i) include Ross as a Member of the Authority; (ii) modify the composition of the Board; (iii) revise the Members’ cost sharing and ownership rights; and (iv) address certain other issues agreed upon among the Members.

D. The Member parties now desire to enter into this Second Amendment to (i) establish a Management Committee and (ii) implement the provisions of Government Code § 54956.96, permitting the disclosure of certain closed session information in an authorized closed session of a Member.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members agree as follows:

**AGREEMENT**

1. The Recitals above are hereby declared to be true and correct, and are hereby incorporated into this Amendment as if fully set forth below.

2. Section 5, **Personnel**, is modified by the addition of new Section 5.2, **Management Committee**, as provided below. Existing Sections 5.2 and 5.3 are renumbered 5.3 and 5.4, respectively.

**“5.2 Management Committee.** A Management Committee comprised of the Town Managers of Fairfax, San Anselmo and Ross is hereby formed. The Executive Officer shall serve as the Chair of the Management Committee. The Management Committee shall meet monthly to review the Board agenda and any other current issues. The Management Committee will also provide a forum for discussion and coordination of Ross Valley Fire Department issues. The Management Committee shall undertake other activities as determined by the Board that are not inconsistent with this Agreement. In the spirit of Recital E to the Agreement, decisions of the Management Committee, if any, should be made by consensus, whenever possible. While the Management Committee may advise and comment on such matters, the Executive Officer individually retains the authority, duties and responsibilities under Section 5.2, **Fire Chief**, Section 6.3 **Budget Process** and Section 6.4 **Control and Accounting**. Except as otherwise expressly provided, the Executive Officer individually retains any other assigned authority, duty or responsibility, such as, without limitation, those involving civil service or personnel rules, regulations, policies, agreements and procedures or other Ross Valley Fire Department rules, regulations, policies, agreements and procedures.

3. Section 2.3, **Meetings of the Board of Directors**, is modified by the addition of new Section 2.3 e, **Disclosure of Closed Session Information**, as follows:

**“e. Disclosure of Closed Session Information.** A Director, including an alternate designated pursuant to Section 2.2, who is a member of the legislative body of a Member Agency may disclose information obtained in a closed session of the Board that has direct financial or liability implications for the Member Agency that appoints that Director, in accordance with Government Code Section 54956.96. A Director may also disclose such information to legal counsel for the Member Agency for the purpose of obtaining advice on whether the matter has direct financial or liability implications for the Member Agency. The legislative body of a Member Agency is authorized to meet in closed session, upon advice of legal counsel, to receive, discuss and take action concerning information obtained by its Director(s) or designated alternate in a closed session of the Board in accordance with Government Code § 54656.96.”

Except as expressly modified by this Second Amendment, all other terms and conditions of the Agreement, as amended by the First Amendment, shall remain in full force and effect and binding on the parties.

*[Signatures appear on next page.]*

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date first written above.

TOWN OF SAN ANSELMO, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

TOWN OF FAIRFAX, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

SLEEPY HOLLOW FIRE PROTECTION DISTRICT, an independent special district of the State of California

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

TOWN OF ROSS, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk