

## CEMETERY DISTRICTS: DIGGING FOR ANSWERS



### SUMMARY

The Grand Jury reviewed the governance and operation of the eleven public cemetery districts in San Luis Obispo County. While routine operation ranged from poor to excellent, some districts had incomplete boards of trustees, some had no accessible interment records and some had serious problems with their financial records and reporting. Public cemetery districts are independent districts responsible to neither another agency nor an electorate.

## BACKGROUND

Special districts are entities, similar to cities, which have prescribed boundaries that typically form both the region of service and the tax base. The most well known are the community service districts. There are both independent and dependent districts. The independent districts such as the Cambria Healthcare District have, within their restricted realm of operation, the same degree of independence that a city does – no supervising agency and, absent criminal activity, no external interference beyond enforcement of relevant state code provisions. Dependent districts are subject to supervision and governance by the Board of Supervisors or a city council. Most independent districts are governed by a board elected by residents of the district and the recourse, should problems arise, is to elect different board members. An exception to that arrangement is the public cemetery district which by state law, while independent, is governed by a board of trustees appointed by the Board of Supervisors.

Each of the eleven public cemetery districts in San Luis Obispo County operates a single cemetery. Most of these districts are supported by property tax and by fees. Maps showing the districts can be found in the Local Agency Formation Commission’s “Directory of Local Agencies – 2008” at [www.slolafco.com](http://www.slolafco.com). It provides information on the cemeteries as well as boundary definitions of the districts, although some of the data, particularly regarding the regularity of board meetings, is out of date. These districts each have the responsibility of operating and maintaining its cemetery. These obligations are spelled out in Division 8, Part 4 of the State Health and Safety Code. They include, along with the day to day operation of the cemetery, a number of requirements as follows: (Health and Safety code section noted):

- The board shall have at least three members with the Board of Supervisors responsible for filling vacancies by appointment. Section 9020.
- Board meetings subject to the Brown Act shall be held at least once every three months. Section 9029.
- The district shall maintain accurate and current records of all remains interred. Section 8111.

- The board shall operate an endowment care fund with a legally defined minimum payment to that fund for each interment. The investment of the fund is regulated. The principal of that fund may not be spent with income from the fund used exclusively for care of the cemetery. Sections 9065-9067.
- The board shall adopt an annual budget no later than August 30 of each year. Section 9070.
- The district will provide for a regular audit. Section 9079, also Government Code 26909.

The Treasurer of the county serves, without compensation, as treasurer of each district.

Other governing state code sections include:

- The Ralph M. Brown Act – sections 54950 of the Government code governing the conduct and notice of meetings and agendas.
- The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 – sections 56000 et seq. of the Government Code governing any reorganization of a district. As described in the Code, any consideration of reorganization by LAFCO is in response to a petition of property owners or registered voters.



## METHOD

The Grand Jury did the following:

- Visited each of the eleven cemeteries.
- Requested and reviewed budgets/audits and minutes from 2006-2008 from all cemetery districts.
- Reviewed the Local Agency Formation Commission (LAFCO) “Sphere Of Influence Report” and “Functions of Cemetery Districts”, and 2002 “Sphere of Influence Update”
- Interviewed County Supervisors, Cemetery Trustees, LAFCO employees, County treasury employees and Cemetery Managers and employees.
- Reviewed relevant sections of the California Health and Safety Code.

## NARRATIVE



The Grand Jury undertook an investigation of the Public Cemetery Districts because (1) they had not been looked at for many years, (2) because they are very low profile districts only rarely needed by residents and with boards not subject to election, and (3) their continuous, very long term, responsible operation is of great importance to the community.

All eleven Public Cemetery Districts were examined. In addition to the general condition and facilities of the property, the Jury looked at the districts’ compliance with each of the bulleted items above. A summary of those findings, along with other characteristics, are shown as Appendix A, and a description of each is included in Appendix B.

The cemeteries range widely in number of internments – from 2 to 192 per year – and their general condition and facilities reflect that range. The problem areas of greatest concern to the Grand Jury were (a) number of board members and regularity of board meetings, (b) quality and availability of the burial register, (c) quality and transparency of the financial records, d) presence or absence of an adequate endowment care fund and (d) adequate liability insurance. (While liability insurance is not required by code, the long term survival of the district would seem to call for that.) The cemetery districts with particular problems in these areas are the two with the lowest number of interments – only a few per year. These two are the Adelaida and Estrella-Pleasant Valley districts. The San Luis Obispo Local Area Formation Commission (LAFCO) lists the Estrella-Pleasant Valley Cemetery as “currently inactive,” and its operation is complicated by restrictions related to the donation of the land and its lack of any revenue source, including property tax revenue. These issues remain of concern for that district as well, because of the need for continuous maintenance and the fact that it maintains a list of persons eligible for future burial. The Adelaida District also received no property tax.

The Grand Jury’s interest in governance, endowments, records and finances of the cemeteries lies in the special concern for long term continuity. If these facilities were simply parks and for some reason the only persons responsible dropped the ball or became unavailable, even if some deterioration occurred, the park could be restored by a new governing board. Of great interest to the relatives – both currently living and yet to be born – is the continuity of governance and records of the cemetery and that is best assured by a responsible board large enough to guarantee that continuity.



Because the Boards of Trustees of these Public Cemetery Districts are not elected, the residents and tax payers of the district have little say in these operations. While boards may accept or even encourage comments from the public, they are not legally responsible to an electorate. Because most also have few occasions to visit the cemetery or inquire as to their condition, there is little awareness of that condition. Also, because these districts are independent districts under the law, there is no active supervision of those operations. The only means of assuring quality is in the appointment of board members and that responsibility rests with the San Luis Obispo Board of Supervisors. That responsibility is laid out in State of California government codes.

Health and Safety Code section 9024 (c) states:

Any vacancy in the office of a member appointed to a board of trustees shall be filled promptly pursuant to Section 1779 of the Government Code. Any person appointed to fill a vacant office shall fill the balance of the unexpired term.

Section 1779 of the Government Code states:

A vacancy on any appointed governing board of a special district shall be filled by the appointing authority within 90 days immediately subsequent to its occurrence. If no action is taken for a period of 90 days immediately subsequent to a vacancy on such a board, the board of supervisors of the county in which the larger portion of the district is located shall have authority to fill the vacancy by appointment.

The Board of Supervisors clearly has a responsibility to assure that the cemetery boards of trustees have their full compliment of required members. That function has been regularly carried out in the case of most of the cemeteries but appears to be failing in the case of a few.

In addition, Health and Safety Code Section 9026 provides:

(a) The board of supervisors of the principal county may appoint itself to be the board of trustees of a district and the board of supervisors may divest itself of that authority, pursuant to this section.

(b) In the case of a district that has a board of trustees appointed by the board of supervisors, the board of supervisors may adopt a resolution declaring its intention to appoint itself to be the board of trustees of the district. In the case of a district where the board of supervisors has appointed itself to be the board of trustees, the board of supervisors may adopt a resolution declaring its intention to divest itself of that authority. Thus, in the case of major problems or, for example, to facilitate mergers of districts, the Board of Supervisors can appoint itself as the board of trustees of a cemetery district.

Finally, in the case of non-endowment care cemeteries with few interments, the Board of Supervisors can “declare the abandonment of the cemetery as a place of future interment” and establish on the site a pioneer memorial park as provided in the Health and Safety Code, sections 8825-8829.

The Grand Jury did not find evidence of irresponsible operation of any of the cemeteries but did find, as indicated, that some of the smaller cemeteries were operating with an informality which was felt to jeopardize the long term continuity and integrity of the cemetery.



## **CONCLUSIONS**

The majority of the county cemetery districts are operated professionally and meet all the state requirements for cemetery management. The staff is trained, the boards of trustees function as they should, budgets are on time and transparent, and services are rendered for the public good. However, some cemetery districts need improvement. Regulations are not followed, budgets and audits are late and at times inadequate and questionable, and the public is ill-served in various ways.

Because they are independent districts without an electorate, there is little opportunity for external control should things go wrong except for legal proceedings by the state. The one area of local external authority is the responsibility of the Board of Supervisors to name trustees - including the possibility of appointing the Board of Supervisors itself as the board of trustees of a cemetery district.

The Board of Supervisors should consider systematic tracking of vacancies on cemetery district boards of trustees so that supervisors can make timely appointments of well informed and responsible persons to those cemetery boards.

## **FINDINGS**

1. Some of the public cemeteries in the county are generally well operated while others have problems.
2. Two of the districts have fewer than the required minimum of three board members. Those districts are the Estrella-Pleasant Valley and Templeton districts.
3. One of the districts, Estrella-Pleasant Valley, has no endowment care fund.
4. Two of the districts, Adelaida and Estrella-Pleasant Valley, have fewer than the minimum four board meetings per year.
5. Three of the districts, Estrella-Pleasant Valley, Santa Margarita and Templeton, do not have an accessible burial register.
6. One of the districts, Estrella-Pleasant Valley, does not have an annual audit.

7. Two of the districts, Adelaida and Estrella-Pleasant Valley, do not carry liability insurance.

## **RECOMMENDATIONS**

1. The San Luis Obispo Board of Supervisors should (a) appoint new cemetery district board members, knowledgeable of the relevant law and responsibilities, to fill the vacancies noted in Finding 2 and (b) set up a system whereby vacancies and term expiration on these boards will be brought to its attention promptly.
2. In the event the Board of Supervisors finds it is not practical or feasible to appoint new cemetery district board members for the Estrella-Pleasant Valley Cemetery District due to the apparent inability of this cemetery district to operate independently without any source of revenue, The Board of Supervisors should appoint itself as the board of trustees of this cemetery district.
3. The Board of Trustees of the Adelaida Cemetery District should (a) hold a minimum of four meetings per year with published agendas and publicly available minutes and (b) acquire liability insurance.
4. The Board of Trustees of the Estrella-Pleasant Valley Cemetery District should (a) hold a minimum of four meetings per year with published agendas and publicly available minutes, (b) promptly establish an endowment care fund adequate to provide income for perpetual maintenance, (c) provide for inspection of the burial register for the cemetery and (d) arrange for an annual audit and (e) acquire liability insurance.
5. The Board of Trustees of the Templeton Cemetery District should provide for inspection of the burial register for the cemetery.
6. The Board of Trustees of the Santa Margarita Cemetery District should provide for inspection of the burial register for the cemetery.

## **REQUIRED RESPONSES**

The Board of Supervisors shall respond to Findings 1 and 2 and Recommendations 1a, 1b and 2.

The Board of Trustees of Adelaida Cemetery District shall respond to Findings 4 and 7 and Recommendations 3a and 3b.

The Board of Trustees of Estrella-Pleasant Valley Cemetery District shall respond to Findings 1-7 and Recommendation 4a, 4b, 4c, 4d and 4e.

The Board of Trustees of Templeton Cemetery District shall respond to Findings 1, 2 and 5 and Recommendation 5.

The Board of Trustees of Santa Margarita Cemetery District shall respond to Findings 1 and 5 and Recommendation 6.

The responses from the San Luis Obispo Board of Supervisors shall be submitted to the Presiding Judge at the San Luis Obispo Superior court by September 24, 2009. Please provide a copy of all responses to the Grand Jury as well.

The responses from the Adelaida, Estrella-Pleasant Valley, Santa Margarita, Shandon and Templeton Cemetery Districts shall be submitted to the Presiding Judge at the San Luis Obispo Superior court by August 25, 2009. Please provide a copy of all responses to the Grand Jury as well.

The mailing addresses for delivery are:

| <b>Presiding Judge</b>                                                                                              | <b>Grand Jury</b>                                                               |
|---------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| Presiding Judge Martin Tangeman<br>Superior Court of California<br>1035 Palm, Room 385<br>San Luis Obispo, CA 93408 | San Luis Obispo County Grand Jury<br>P.O. Box 4910<br>San Luis Obispo, CA 93403 |

## APPENDIX A

| Characteristics of Public<br>Cemeteries of San Luis<br>Obispo County | Adelaida | Arroyo Grande | Atascadero | Cambria | Cayucos | Estrella-Pleasant Valley | Paso Robles | San Miguel | Santa Margarita | Shandon | Templeton |
|----------------------------------------------------------------------|----------|---------------|------------|---------|---------|--------------------------|-------------|------------|-----------------|---------|-----------|
| <b>Interments/year</b>                                               | 2        | 192           | 90         | 40      | 48      | 3                        | 130         | 10         | 24              | 5       | 25        |
| <b>Required features</b>                                             |          |               |            |         |         |                          |             |            |                 |         |           |
| <b>No. board members (min 3)</b>                                     | 3        | 3             | 3          | 3       | 3       | 1                        | 5           | 5          | 3               | 3       | 2         |
| <b>Board meetings/year (min 4)</b>                                   | 1        | 4             | 13         | 12      | 12      | 0                        | 12          | 12         | 12              | 4       | 12        |
| <b>Endowment care fund</b>                                           | no       | yes           | yes        | yes     | yes     | no                       | yes         | yes        | yes             | yes     | yes       |
| <b>Accessible burial register</b>                                    | yes      | yes           | yes        | yes     | yes     | no                       | yes         | yes        | no              | yes     | no        |
| <b>Audits and budgets</b>                                            | yes      | yes           | yes        | yes     | yes     | no                       | yes         | yes        | yes             | yes     | yes       |
| <b>Rules of procedure</b>                                            | no       | yes           | yes        | yes     | yes     | no                       | yes         | yes        | yes             | yes     | yes       |
| <b>Optional management items</b>                                     |          |               |            |         |         |                          |             |            |                 |         |           |
| <b>Cemetery Manager</b>                                              | no       | yes           | yes        | yes     | yes     | no                       | yes         | no         | no              | yes     | no        |
| <b>Board Stipends</b>                                                | no       | no            | yes        | yes     | yes     | no                       | yes         | yes        | no              | no      | yes       |
| <b>Office</b>                                                        | no       | yes           | yes        | yes     | yes     | no                       | yes         | yes        | no              | no      | no        |
| <b>Liability Insurance</b>                                           | no       | yes           | yes        | yes     | yes     | no                       | yes         | yes        | yes             | yes     | yes       |
| <b>Board minutes available</b>                                       | no       | no            | yes        | yes     | yes     | no                       | yes         | yes        | no              | yes     | yes       |
| <b>Cemetery facilities</b>                                           |          |               |            |         |         |                          |             |            |                 |         |           |
| <b>Benches</b>                                                       | no       | yes           | yes        | yes     | no      | no                       | yes         | yes        | no              | yes     | yes       |
| <b>Vaults required</b>                                               | no       | yes           | yes        | yes     | yes     | no                       | yes         | yes        | yes             | yes     | no        |
| <b>Restrooms</b>                                                     | no       | yes           | yes        | yes     | yes     | no                       | yes         | yes        | yes             | no      | yes       |
| <b>Canopy for services</b>                                           | no       | yes           | yes        | yes     | yes     | no                       | yes         | yes        | yes             | yes     | yes       |

## **APPENDIX B**

### **Brief Descriptions of the Cemetery Districts**

#### **Adelaida**

Adelaida is the quintessential historic “old country cemetery”, and that is the way Adelaida’s lone trustee perceives it. It is not supported by property tax. The community meets once a year, on Memorial Day weekend, for a cleanup day – their annual meeting day. When the Grand Jury visited Adelaida Cemetery we called ahead to make sure the gate would be opened for us. It had been padlocked due to a series of Halloween thrill seekers looking for a fright.

Adelaida Cemetery comes in two parts. The lower, or bottom half, at the base of a pine and oak clad hill, is the “new” section. The older, more historic part sits on top of the hill at the end of a dirt road. Both parts are left to the “natural state” of California oak grassland. To some this means charm. To others it means weeds, collapsing graves, gophers and decrepit outbuildings.

Many older graves were never recorded. Vaults are not used here. Although there is money in the endowment fund, capital improvements are non-existent. The fencing at the front of the cemetery is dilapidated. A brick storage building leans dangerously, a victim of the 2003 earthquake, and has not been demolished or repaired. Gopher problems have led to holes going into graves, and in 2007 a finger bone with a wedding ring was found beside a grave with a gopher hole leading into it.

There are no rules of procedure, no minutes, and an accounting system dating to the 1940’s. There is no outside audit. The cemetery has no liability insurance despite the frequent visits of thrill seekers and wine-country tourists.

#### **Arroyo Grande**

South San Luis Obispo County’s only public cemetery is a large cemetery, with 16 acres of developed land and 192 interments a year. Its 25 acres of undeveloped land will make expansion possible. It does annual professional budgets and audits which were readily sent to the Grand Jury. Arroyo Grande has three trustees on its board, they receive no stipend, and that they meet quarterly.

### **Atascadero**

Located on a gently wooded hillside, Atascadero's Pine Mountain Cemetery has expanses of green lawn and roaming deer. It experiences between 90-100 interments a year. The three member board usually meets monthly but meets twice in June to prepare the budget. Members are paid a stipend of \$100 per meeting. The management is adamant about training, with its staff having 100% attendance at both the Public Cemetery Alliance and California Association of Public Cemeteries meetings. Copies of the budget/audits and minutes were promptly sent to the Grand Jury when requested.

### **Cambria**

Perched on top of a mountain, this cemetery is in a pine forest overlooking Cambria. The philosophy of this unique cemetery is posted on a wooden sign at the entrance - a celebration of life and individuality. This reflects the cemetery as a whole. Many grave sites are gardens of flowers, sculptures, meditation areas, bird feeders, and mementos of life. There is a gazebo for memorial services, two restrooms, an office with posted minutes of board meetings and a burial register. The three-member board meets monthly and is paid a \$100 per month stipend. All minutes, budgets and audits were sent to the Grand Jury as requested.

### **Cayucos/Morro**

This cemetery stretches up the hillside on the eastern slope of Cayucos off Highway 1. Once up the hillside of this historic cemetery there is a vast ocean view. Many older gravestones date far back into the 1800's. It is a professionally run cemetery with an on-site office, a full time manager, and a groundskeeper who has been working there for 19 years. All minutes and budget/audits were readily sent to the Grand Jury. The three-member board meets monthly and each member is paid a stipend of \$1,088 per year. The average year sees between 80-90 burials. The cemetery space is limited and future expansion seems questionable.

## **Paso Robles**

This is a sprawling, shaded expanse of lawn at the western edge of Paso Robles. It has a columbarium and a mausoleum, and a large, attractive chapel for services. The office is open five days a week with a full time staff who go to training annually. Board meeting agendas are posted, along with a burial register, outside the office. With 130 interments per year and room to expand, this is San Luis Obispo's second largest Public Cemetery. Its five board members each receives a \$1200 yearly stipend. All information requested from the Grand Jury was sent promptly, both minutes and budgets being professional and transparent.

## **Estrella - Pleasant Valley**

This very small (1 ½ acre) cemetery is the one of the two cemetery districts to receive no property tax revenues or service fees to finance operations. The plots are provided at no cost due to deed restrictions stipulated by a landowner who granted the property for a cemetery. It still remains an active cemetery, with 2-3 interments a year.

It is a well-maintained cemetery taken care of voluntarily by the owners of the adjacent winery. Maintenance involves weed and pest control, and cleanup done by the owner's son. The only apparent trustee is the winery owner although there is a second named trustee who has never been located. The sole trustee receives no stipend, creates no minutes and has no meetings, goes to no training and has never been told that there is any training available. There are no rules of procedure, but records are maintained. No board vacancies have ever been advertised.

## **San Miguel**

This is a rather arid cemetery on the western side of Highway 101, with posted signs warning of rattlesnakes. There are expansive paved parking facilities and a well-kept office area with public- accessible burial register. The budget/audits are done annually, and the minutes were commendably transparent and thorough. This cemetery averages around 10 interments yearly and has adequate space for expansion. The board has five members and they meet monthly with a stipend of \$1,200 per year plus mileage.

## **Santa Margarita**

This cemetery has an air of neglect about it. Although there are many shade trees, the grounds need maintenance and weed abatement. There is only a part-time groundskeeper, and other services are subcontracted. The cemetery is almost full. Although the board is hopeful that it can acquire land that would allow it to double the size of the cemetery, this is not a certainty. Average yearly interments are around 24.

There is no office or office manager, and the only on-site facilities are a portable outhouse and a rundown gazebo in need of paint. No burial register or plot map exists. The board consists of three members who receive no stipend, but do get a \$25 travel allotment.

Grand Jury request for budgets and audits eventually produced the requested documents.

## **Shandon**

Located at the far eastern end of Shandon, this small cemetery is neat and well maintained. There is a groundskeeper and a secretary, and the three trustees receive no stipend. The budget/audits are professionally done and were handed over to the Grand Jury upon request, as were the minutes. The board meets quarterly at the cemetery “around the back of a pickup truck.” There is no cemetery office. Staff and trustees attend no training and the new secretary was given no directions, merely handed a bundle of paperwork. There were 2 new burials as of October of 2008.

## **Templeton**

Templeton Cemetery District has had some of the greatest problems of any of the County public cemeteries. It has an endowment of \$70,000 (as of 2008) yet has the appearance of having spent very little on improvements. It is a sand and dirt covered plot of land. It has no office or manager. The only buildings on site are a portable outhouse and a faded cargo container. Parking space is unpaved. There have been no capital improvements in over two years, although in early 2009 ground was broken for work on a long-planned columbarium. An office and restroom facility have been discussed for several years, but never constructed.

There are only two board members; the third position has been vacant for over a year. It was anticipated that advertising for the vacancy to be filled would happen in the spring of 2009. According to one trustee, the vacancy was not filled for fear that a third person would interfere with projected construction. Board members receive \$50 per meeting and meet monthly.

Templeton has a checkered history with its accounting and audits according to the County Auditor's office. Board members attend County Ethics Training annually, but past cemetery managers have had to be let go due to budget and accounting shortfalls. There have been three managers in the past few years. Now the Templeton Community Services District manages the cemetery under contract with the cemetery district.

There is no burial register and Templeton has had major problems with burial records. In September 2007 burial records were "misplaced," and 15 grave sites were impacted. New graves being dug were found to be encroaching on adjacent graves. In March 2008 there was a plot mix-up on Block C Plot 30. A burial was found to be in the wrong spot, resulting in a husband and wife not being able to be buried side-by-side as they had paid to be. A Geovision ultrasound probe eventually cleared up the plot confusion. Records are being straightened out, and a burial register is expected to be available within approximately one year.