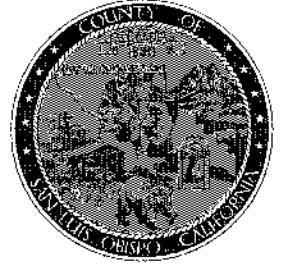


**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Administrative Office		(2) MEETING DATE August 11, 2009		(3) CONTACT/PHONE Nikki Schmidt (805) 781-5496	
(4) SUBJECT Request to approve recommended response to the 2008-2009 Grand Jury report titled "Cemetery Districts – Digging for Answers".					
(5) SUMMARY OF REQUEST The 2008-2009 Grand Jury prepared a report that examined Cemetery districts within the County. The Grand Jury requested that various Cemetery District Boards response to the recommendations and findings. The recommended Board of Supervisors to Findings 1-2 and Recommendations 1 a/b and 2 are included in this item.					
(6) RECOMMENDED ACTION It is recommended that your Board adopt the recommended responses to the Grand Jury report titled "Cemetery Districts – Digging for Answers" and transmit this response to the Presiding Judge of the Superior Court, with copy to the Foreperson of the Grand Jury by September 24, 2009.					
(7) FUNDING SOURCE(S) N/A		(8) CURRENT YEAR FINANCIAL IMPACT N/A		(9) ANNUAL COST N/A	
(10) BUDGETED? ☐ No ☐ Yes ☒ N/A					
(11) OTHER AGENCY INVOLVEMENT/IMPACT (LIST): The Administrative Office prepared the Board of Supervisors recommended response. The Department of Public Works formulated their responses with input from the Administrative Office.					
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? ☒ No ☐ Yes, How Many? _____ ☐ Permanent ☐ Limited Term ☐ Contract ☐ Temporary Help					
(13) SUPERVISOR DISTRICT(S) ☐ 1st, ☐ 2nd, ☐ 3rd, ☐ 4th, ☐ 5th, ☒ All			(14) LOCATION MAP ☐ Attached ☒ N/A		(15) Maddy Act Appointments Signed-off by Clerk of the Board ☒ N/A
(16) AGENDA PLACEMENT ☒ Consent ☐ Hearing (Time Est. _____) ☐ Presentation ☐ Board Business (Time Est. _____)			(17) EXECUTED DOCUMENTS ☐ Resolutions (Orig) ☐ Contracts (Orig + 3 Copies) ☐ Ordinances (Orig) ☒ N/A ☐ Email Resolution and Ordinance to CR_Board_Clerk (in Word)		
(18) NEED EXTRA EXECUTED COPIES? ☐ Number: _____ ☐ Attached ☒ N/A			(19) BUDGET ADJUSTMENT REQUIRED? ☐ Submitted ☐ 4/5th's Vote Required ☒ N/A		
(20) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) _____			(21) W-9 ☐ No ☐ Yes		(22) Agenda Item History ☒ N/A Date N/A
(23) ADMINISTRATIVE OFFICE REVIEW 					

County of San Luis Obispo

COUNTY GOVERNMENT CENTER, RM. D430 • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5011



JIM GRANT
INTERIM COUNTY ADMINISTRATOR

To: Board of Supervisors

From: Nikki J. Schmidt, Administrative Analyst

Date: August 11, 2009

Subject: Responses to 2008-09 Grand Jury Report – “Cemetery Districts – Digging for Answers”

RECOMMENDATION

It is recommended that your Board adopt the recommended responses to the 2008-09 Grand Jury report titled “Cemetery Districts – Digging for Answers” and direct the Clerk of the Board to forward the responses to the Presiding Judge of the Superior Court and the Grand Jury by September 24, 2009.

DISCUSSION

The Grand Jury issued a report on June 30, 2009 based upon their investigation of the governance and operation of the eleven public cemetery districts in San Luis Obispo County.

The Grand Jury report contains a total of seven (7) findings and six (6) recommendations. The Board of Supervisors is required to respond to Findings 1-2 and Recommendations 1a/b and 2.

Finding #1:

Some of the public cemeteries in the county are generally well operated while others have problems.

Recommended Board of Supervisors Response:

The Board of Supervisors agrees with this finding.

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Finding #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.

Recommended Board of Supervisors Response:

The Board of Supervisors partially agrees with this finding. A recent review of the Maddy Book appointments, which is maintained by the County Clerk-Recorder's Office, indicates that all three (3) board positions for the Templeton Cemetery District are filled. The Maddy Book information relating to the Estrella Cemetery District showed that there was one (1) filled position, one (1) expired position, and one (1) vacancy. Relating to the expired position, the Maddy Act allows for an incumbent in an expired position to continue until replaced or reappointed so essentially that board position was filled. However, on August 3, 2009, Supervisor Mecham reappointed the incumbent which brought the Estrella Cemetery District board up to two (2) filled positions.

Recommendation #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.

Recommended Board of Supervisors Response:

Implementation of Recommendation 1a has been in place for several years as the Board appoints new board members when requested. Recommendation 1b was implemented by the passage of the Maddy Act ((Section 54970 of the Government Code) which defines the process by which appointments are made. Additionally, each Board member has a process by which they are notified of vacancies of those organizations that are within their specific districts requiring such appointments.

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Recommendation #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.

Recommended Board of Supervisors Response:

The recommendation will not be implemented as it is not warranted. While Health and Safety Code, Section 9026, allows a board of supervisors to adopt a resolution declaring its intention to appoint itself as the board to a cemetery district, this policy decision is not required at this time. As noted above, a reappointment has been made and the last vacant position is in the process of being filled as the vacancy has been posted in accordance with the Maddy Act.

The Board recognizes the difficulty of filling cemetery district boards. Since 2006, the problem and a potential resolution have been identified in the County's approved Legislative Platform. Specifically, the Platform reads:

- A. **Problem:** The ability for a Community Services District board to serve also as a Cemetery District Board without it being an incompatible office. Further, current statute prohibits an individual from serving on a Board without district boundary lines being coterminous.

Resolution: Seek an amendment to state law to allow a Community Services District to serve as a Cemetery District Board without it being an incompatible office and allow the Community Services District Board to serve a district without coterminous boundaries as the governing board of that district.

Proposed amendments to Section 61040 of the Government Code, and Section 9022 of the Health and Safety Code to allow community service district boards to serve as cemetery board members were unsuccessful as those suggested amendments did not pass the Senate Local Government Committee and essentially were shelved.

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OTHER AGENCY INVOLVEMENT/IMPACT

The County Administrative Office formulated the recommended responses.

FINANCIAL CONSIDERATIONS

Costs for preparing this response are included in the current department budget.

RESULTS

This response will meet the legal requirements and time frames for responding to a Grand Jury report with findings and recommendations.

Attachments:

Grand Jury Report titled: Cemetery Districts: Digging for Answers