



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: CEO
Department No.: 012
For Agenda Of: 3/25/08
Placement: Set Hearing
Estimated Tme: 15 minutes on 4/1/08
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Michael F. Brown, County Executive Officer
Director(s) Daniel Wallace, County Counsel
Contact Info: Terri Maus Nisich, Assistant County Executive Officer, 568.3400
Michael Ledbetter, Senior Deputy County Counsel, 568.2950
SUBJECT: Membership of Public Cemetery Districts

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence:

Recommended Actions:

Set a hearing (estimated 15 minutes) for April 1, 2008 to receive a report on the benefits of increasing the membership of public cemetery districts' board of trustees from three members to five members.

On April 1, 2008, receive and file report from staff and direct staff to take action as necessary.

Summary Text:

There are seven public cemetery districts that operate within the County responsible for maintaining public cemeteries and providing burial services, as noted in the table below.

| District | Formation Date | Membership |
|--------------------------------------|----------------|------------|
| Carpinteria Public Cemetery District | 1914 | 5 |
| Goleta Cemetery District | 1910 | 3 |
| Guadalupe Public Cemetery District | 1920 | 5 |
| Lompoc Cemetery District | 1909 | 5 |
| Los Alamos Cemetery District | 1920 | 3 |
| Oak Hill Cemetery District | 1914 | 3 |
| Santa Maria Cemetery District | 1920 | 3 |

Since these districts were created prior to the enactment of legislation governing open meetings of local government bodies, specifically the Ralph M. Brown Act enacted in 1953 and codified within Government Code Section 54950-54963, the districts comprised of three members of a board of trustees are inherently challenged with Brown Act compliance. For example, two members need to be present to

constitute a quorum. The inability of members to either attend a meeting or achieve a majority consensus on an issue being deliberated may inherently delay the board of trustees from taking action on items of a business necessity. Conversely, the chance meeting of two members constitutes a quorum and may lead to an unintentional violation of the Brown Act. While a board of trustees comprised of five members may be better equipped to comply with the Brown Act, another benefit of expanded membership may be characterized as representational democracy. A five member board of trustees enables two additional members of the public to participate in decisions that affect the local community, which may be particularly advantageous in larger-sized and growing communities. While arguments against the expanded membership may include the difficulty in finding additional interested candidates to serve on the board, larger-sized communities and/or communities with populations active in local issues may not perceive the increased membership to be problematic.

Background:

This item is on the Board's agenda to receive a report on possible avenues to increase the membership of the public cemetery district's board of trustees. Currently, three of the seven cemetery districts have a five member board of trustees. In order for all of the cemetery districts to be consistent in terms of its governing structure, the membership would need to be increased within four of the cemetery districts. There are several options for either increasing or changing the membership, including:

- (a) Under California Health & Safety Code § 9025, a cemetery district's board of trustees may adopt a resolution requesting the board of supervisors of the principal county to increase or decrease the number of members of the board of trustees.
- (b) A proposed change in existing law may allow the board of supervisors of the principal county to propose a resolution to increase or decrease the number of members of the board of trustees (does not require the board of trustees to initiate the request to change the membership).
- (c) Under California Health & Safety Code § 9026, the board of supervisors of the principal county may appoint itself to be the board of trustees of a district, increase the number of directors to five, and make new appointments to the board(s).

The Board of Supervisors adopted the County's 2008 legislative platform on January 15th, 2008, which included the pursuit of legislation to amend the Health and Safety Code to allow a county's board of supervisors to increase the number of trustees for public cemetery districts from three to five without needing a request from that board of trustees. As such, legislation (Senate Bill 1453) was introduced by Senator Maldonado on February 21, 2008 to amend Section 9025 of the Health and Safety Code to allow this practice. SB 1453 awaits its first hearing before the Local Government Committee.

Fiscal and Facilities Impacts:

Fiscal Analysis:

Staffing Impacts:

Legal Positions:

FTEs:

Authored by:

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