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**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Executive Office

SUBMITTAL DATE:
July 14, 2009

SUBJECT: 2008-09 Grand Jury Report: Palo Verde Cemetery District

RECOMMENDED MOTION: That the Board instructs the County Executive Office – within 30 days – to draft of the Board’s response to the findings and recommendations of the Grand Jury. The Executive Office will finalize the Board’s response to items that are pertinent and submit a response to the Board within 60 days.

BACKGROUND: The attached report has been issued by the Grand Jury.

Section 933 (c) of the Penal Code requires that the Board of Supervisors comment on the Grand Jury’s recommendations pertaining to matters under the control of the Board, and that a response be provided to the Presiding Judge of Superior Court within 90 days.

Departmental Concurrence

Attachment

GARY M. CHRISTMAS
Chief Deputy County Executive Officer

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FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget: Budget Adjustment: For Fiscal Year:
	Current F.Y. Net County Cost:	\$	
	Annual Net County Cost:	\$	

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY:
Jay E. Orr

County Executive Office Signature

- Dep't Recomm.: Consent Policy
- Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.: _____ District: _____ Agenda Number: _____

3.11



RIVERSIDE COUNTY GRAND JURY

(951) 955-8990 OFFICE • (951) 955-5989 FAX

June 18, 2009

Palo Verde Cemetery
Board of Trustees
10700 Tenth Avenue
Blythe, CA 92225

Subject: 2008-09 Grand Jury Report: Palo Verde Cemetery District

Dear Board Members:

Please note that Penal Code Section 933 et seq., specifies that you respond within ninety days. Further, it specifies that this report be kept **confidential for a minimum of two working days** prior to public release. The contents of this report will be made public after the close of business **June 22, 2009**.

Sincerely,

Nikki L. Harris, Foreperson
2008-09 Riverside County Grand Jury

NLH:gs
Attach.

2008-2009 GRAND JURY REPORT

Palo Verde Cemetery District

Background

The Palo Verde Cemetery was incorporated as a non-profit organization in 1897. It converted to a cemetery district in January 1951, under provisions of the California Health and Safety code. The Palo Verde Cemetery District, located in Blythe, is one of the largest public cemetery districts in California, serving 1,033 square miles in the southeastern portion of Riverside County.

This district is an independent political subdivision governed by a three-member board of trustees, appointed by the Riverside County Board of Supervisors. (A special district must conform to democratic safeguards such as the Ralph M. Brown Act, the Public Records Act, and the Political Reform Act.) The district relies on funding from burial fees and a property tax allotment. Burials now number approximately 85 per year.

At the time of its founding the district owned a developed ten-acre cemetery site. The district purchased an additional 25 acres in 1956 and developed five acres of that land in 1998, bringing the total to 15 developed acres.

Findings

1. Prior to September 2008, district trustees were negligent in their oversight of the financial affairs of the district. The trustees failed to demand financial accountability from the general manager, who signed blank checks and permitted improper expenditures of district funds. No formal orientation and training program for trustees exists. Testimony from former trustees revealed they were unaware of their basic fiduciary responsibilities. Minutes of their meetings were either incomplete or reflected inadequate decision-making for a governing body.

2. The prior general manager of the district failed in his basic management responsibilities to the district, by:
 - a. not providing appropriate orientation and training to the trustees
 - b. making questionable expenditures for personal use from district funds
 - c. improperly borrowing funds from the district endowment fund to finance operating expenses
 - d. using poor record keeping practices, he ignored recommendations from the outside auditor.
3. The Riverside County Board of Supervisors, as the appointing authority for district trustees, failed to provide instruction to trustees in their areas of responsibilities and fiduciary obligations.
4. Over several years the district faced a shortage of revenue to meet increasing operating costs. In an effort to correct this deficit, the board of trustees and general manager borrowed more than \$253,000 from the endowment fund principal. This was a violation of California Health and Safety Code Section 9065(e), which states: "The board of trustees shall not spend the principal of the endowment care fund." The fund is nearly depleted. The fund establishes in perpetuity the care and maintenance of the cemetery.
5. The district does not have a policies and procedures manual. This absence of written policies and procedures allowed for the careless implementation of financial and other decisions, which resulted in arbitrary and inappropriate actions taken by the prior general manager. An outdated card system identifying burial plots and financial records contained many errors. Burials were sometimes reserved for plots already occupied.
6. The prior general manager failed to increase revenue or reduce operating costs over a six-year period, thus leaving the district in a vulnerable financial position. In June 2008, the district placed Measure "I" on the election ballot. This proposition called for an increased property tax assessment of \$100 per parcel from voters in the district in order to finance district operations. The measure was defeated by nearly 86 percent of those voting.
7. Financial records are kept in a manual format, thus leading to difficulties in documentation and reconciliation between bank balances and the general ledger.

8. The district has a long-term bonded indebtedness, incurred in 1999, and financed through the Palo Verde Cemetery Financing Authority. According to a recently prepared advisory report from the Riverside County Auditor-Controller, "the district is facing a risk of not meeting its bond obligations. Financing will be required to facilitate the district's recovery and prevent defaulting on forthcoming bond payments."
9. California Government Code Section 23010 (a) allows the County of Riverside to provide a loan to the Palo Verde Cemetery District with certain provisions.
10. Since September 2008, the district has been governed and maintained by three newly appointed trustees and a corps of Blythe community volunteers. Their efforts over these months of financial uncertainty should be commended. According to testimony, three employees should be placed on staff when it is financially able to do so, as volunteerism may not be sustainable.
11. Provisions of the Ralph M. Brown Act were ignored. This act guarantees the rights of members of the public to attend and participate in meetings of local governmental entities, including special districts.

Recommendations

**Riverside County Board of Supervisors
Palo Verde Cemetery District Board of Trustees
Blythe City Manager
Blythe Redevelopment Agency**

1. The district should immediately establish an orientation and training program for trustees to include proper handling of finances, fiduciary responsibilities, management hiring practices and employee benefits.
2. The district should seek recoupment of funds improperly paid to and/or by the former general manager, including but not limited to: vacation time, compensatory time, sick leave, cell phone expenses, gasoline allotments and other inappropriate expenditures.
3. The Riverside County Board of Supervisors should improve its vetting process for potential district trustees and provide them with written basic instructions on their fiduciary responsibilities.

4. The district board of trustees should cease any further borrowing from the endowment fund, and establish a repayment program to replenish it with currently available revenue.
5. The district should develop written policies and procedures for the cemetery's business affairs, particularly financial items. This should include a computerized, updated burial plot-mapping plan.
6. The district should prepare a realistic detailed budgeting plan to provide for revenue and expense to be more balanced. An allotment for repayment to the endowment fund should be included.
7. Financial records should be computerized with an accounting program, thus permitting easier tracking and reconciliation of district financial affairs and correlation with the plot mapping system.
8. The district should request assistance from the Blythe Redevelopment Agency to meet part or all of the cemetery district's ongoing bonded indebtedness.
9. District trustees should ask the Riverside County Board of Supervisors to provide a bridge loan to help the district recover from its financial distress.
10. Hire a maximum of three employees (an office manager/bookkeeper, two maintenance personnel) as soon as financial arrangements are made, thus alleviating the burden on community volunteers.
11. Trustees should adhere to the provisions of the Ralph M. Brown Act, thereby communicating the problems of the district to the Blythe community.

Report Issued: 06/18/09
Report Public: 06/22/09
Response Due: 09/16/09

**Requirements in Responding to Grand Jury Recommendations
Pursuant to Section 933.5 of the California Penal Code**

To further clarify the requirements for the organizational responses to recommendations made by the grand jury, the following are the applicable sections of the California Penal Code:

§933.05. Response to Grand Jury Recommendations-Content Requirements; Personal Appearance by Responding Party; Grand Jury Report to Affected Agency.

- (a) For purposes of subdivision (c) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding.
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

- (b) For purposes of subdivision (c) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not been implemented, but will be implemented in the future, with a timeframe for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

- (c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.
- (d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.
- (e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.
- (f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report. Leg.H. 1996 CH. 1170, 1997 ch. 443.