

WATER AND CEMETERY DISTRICTS: Do Special Districts Need Watching?

SUMMARY

Residents turn on the tap and expect drinkable water. They flush and expect the sewage to leave their property and get responsibly treated. When there is a fire, residents expect someone useful to come running. They expect that when they have to bury their loved ones, a well-maintained place will be available. Most people assume these things are provided by departments within county and city governments. They're not. Many of these services are provided by over 30 "special districts," government entities that operate separately from Federal, State, county and city governments.

The Grand Jury investigated the Goleta Cemetery District's handling of a manager's retirement. The Grand Jury found misplaced trust, board actions taken on whim and in known opposition to written policy, profound misunderstanding of responsibilities, and an absence of oversight. When the Grand Jury then looked to see if similar conditions exist in independent cemetery districts in general, it found that they do. The Grand Jury compared cemetery district business practices to those of water districts. For cemetery districts especially, general managers tend to be the gatekeepers for nearly all the information that reaches the governing boards, and run the district with sparse board meeting documentation and even less in the way of internal procedures.

Key to respondents

BOS = Board of Supervisors
 CVWD = Carpinteria Valley Water District
 LCD = Lompoc Cemetery District
 MWD = Montecito Water District
 OHC = Oak Hill Cemetery
 LA = Los Alamos Cemetery District
 GC = Goleta Cemetery District
 Carp = Carpinteria Cemetery District
 SM = Santa Maria Cemetery District
 Guad: Guadalupe Cemetery District
 GW: Goleta Water District

Recommendation 1: Water and cemetery district Board members should receive training, by January 1, 2007, in all subjects mandated by Assembly Bill 1234 (for example, ethics), public agency accounting, how to read balance sheets and statements of activities, budget management, employment law, conflict of interest, and law relevant to district operations (for example, Brown Act Open Meetings Law).

Responses:

CVWD: ... has not been fully implemented but will be within 6 months.

LCD: ... implemented.

MWD: ... implemented

OHC: ... will be implemented.

LA: District agrees.

GC: ... Being implemented.

Carp... will be implemented by October 2006.

SM: This is being implemented.

Guad: Three of 5 Trustees have received ETHICS training through the California Association of Public Cemeteries (CAPC).

GW: ... implemented.

Recommendation 2: Water and cemetery district *general managers* should receive training, by January 1, 2007, in all subjects mandated by Assembly Bill 1234 (for example, ethics), public agency accounting, how to read balance sheets and statements of activities, budget preparation and management, employment law, conflict of interest, and law relevant to district operations (for example, Brown Act Open Meetings Law).

Responses:

CVWD: ... implemented.

LCD: ... Board members and the Manager are waiting for the next ethics training course offered in our area.

MWD: ... implemented relevant portions of this recommendation.

OHC: ... will be implemented.

LA: The District does not have a general manager.

GC: ... implemented.

Carp: The recommendation ...will be implemented by October 2006... .

SM: This recommendation is being implemented.

Guad: Office Manager attended manager sessions of CAPC January seminar...

GW: ... implemented.

Recommendation 3: County Supervisors in whose territory a special district lies should either attend a minimum of two meetings per year of those special districts or send a designee and have the designee brief the Supervisors in writing on the special district meetings.

Responses:

BOS: ... will be implemented at the discretion of each member of the Board of Supervisors.

Recommendation 4: Public noticing of water and cemetery special district board meetings should meet or exceed Brown Act requirements, and the time and place of *noticing* should be explicitly printed on the meeting agenda.

Responses:

CVWD: ... implemented.

LCD... will note time and place of the noticing on agenda.

MWD: District agrees ...

OHC: ... implemented.

LA: The District agrees ...

GC: ... will be implemented as of next month's agenda.

Carp: ... implemented.

SM: ... implemented ...

Guad: Each meeting notice now includes date and place of posting.

GW: ... implemented.

Recommendation 5: Water and cemetery special districts should have fax numbers and e-mail addresses, and should check their e-mail daily.

CVWD: ... implemented.

LCD:... district maintains a fax and an e-mail address and is responsive to communication.

MWD: District agrees ...

OHC:... will not be implemented. ... new forms of communication technologies [are] limited due to fiscal restraints.

LA: The District agrees ...

GC: ... implemented.

Carp: ... implemented.

SM: ... implemented for over 10 years.

Guad: ... Fax number is E-mail and telephone messages are checked throughout the work hours.

GW: ... implemented.

Recommendation 6: Water and cemetery special districts should develop written policies on complaint processing, expenditure processing, board action, employment, record retention, and, for cemetery districts, removal of board members for cause.

Responses:

CVWD: ... has not yet been implemented in full, but will be within 6 months.

LCD: ... will review its written policies and will consider their enhancement.

MWD: District agrees...

OHC: ... will be reviewed for possible implementation.

LA: The District disagrees ... will consider enhancement of its written policies.

GC: ... implemented.

Carp: ... will be implemented by December 31, 2006.

SM: The District already has many of these in place, but will review current policies and implement any changes necessary.

Guad: Policies are constantly in review for revision or updating, one or two per meeting with oversight by Counsel.

GW: ... implemented.

Recommendation 7: Water and cemetery special districts should keep minutes of all board meetings, and the minutes should state at least:

- 1) board member, staff and counsel attendance, by name;
- 2) number of attendees that are not board, staff or counsel; and
- 3) for each agenda item or other subject discussed,
 - a) a description of the item,
 - b) the action taken,
 - c) the facts on which the action is based, and
 - d) for each item that cannot be acted upon at the meeting, the issues that must be resolved *before* action can be taken and the person who is assigned to obtain the information needed to resolve the issue.

Responses:

CVWD: ... implemented.

LCD: ... retains all meeting agendas and meeting minutes.

MWD: District agrees ...

OHC: ... been keeping minutes since 1883.

LA: District agrees.

GC: ... implemented.

Carp: ... implemented.

Guad: ... Minutes contain the recommended items, and 3) d) will be included in future recordings.

GW: ... implemented.

Recommendation 8: Water and cemetery special districts should contact their CPAs and attorneys annually and ask to be briefed on changes in the laws and other requirements applicable to their districts.

Responses:

CVWD ... implemented.

LCD: ... will consider a scheduled periodic meeting with its Attorney and CPA.

MWD... may receive further consideration.

OHC: The District has a CPA under contract. The district seeks legal counsel as needed.

LA: The District agrees ...

GC: This recommendation has been implemented.

Carp: The recommendation ... will be implemented by December 31, 2006.

SM: The recommendation has been in effect for over 15 years.

Guad: ...does not employ a CPA. Pro Bono Counsel is available on a limited basis.

GW: This recommendation has been implemented.

Recommendation 9: For each action requested of a district board by the general manager, the board should require its general manager to state in writing the facts on which to base a reasonable conclusion that the request should be granted.

Responses:

CVWD: ... has been implemented.

LCD: ... Implementation will be considered during the next ... Board meeting.

MWD: District agrees ...

OHC: ... will be implemented as necessary.

LA: The District does not have a General Manager.

GC: This recommendation has been implemented.

Carp: The recommendation is currently operational as follows. When the general manager requests action of the Trustees at a district board meeting, it is at that point that the board discusses the matter and asks the general manager to state the facts on which to base a reasonable conclusion that the request should be granted, or asks the manager to bring back to the board more information regarding the matter or request. This will all be set down in the minutes of the meeting. Please take in to consideration that we are a small two employee district.

SM: The recommendation has already been implemented.

Guad: Office Manager, with staff input, will be asked to present in writing requests for action by the Trustee Board and the facts listed for consideration of the request(s).

GW: This recommendation has been implemented.

Recommendation 10: Cemetery districts should assess, using an independent third party consultant, the advantages and disadvantages of consolidation with adjacent cemetery districts, and cemetery district boards should make a specific decision to pursue or not pursue consolidation with each cemetery district with which it shares a boundary.

OHC: ... will be considered.

LA The District disagrees with this recommendation.

GC: This recommendation will not be implemented because it is not warranted. ... Because of the overriding importance of local control, accessibility of this public and community identity with a local cemetery district...

Carp: The recommendation will not be implemented because it is not warranted or reasonable. The district board has made a decision not to pursue consolidation because the district does not share a boundary with any other public cemetery district.

SM... The District thanks the Grand Jury for its recommendation, but it will not be implemented because it is not warranted. This issue has been discussed in the past at several board meetings, but because of the importance of local control and public assess to members of the board and the district manager the district cannot support this recommendation.

Guad: Perhaps the Board of Supervisors could provide a construct on which to base a review of the need and/or benefits of consolidation. The Guadlaupe Public Cemetery District is nearly 100 years old. Many clients are not English speaking. If the office was not local and with Spanish speaking staff, fewer clients would be able to access services. Consolidation could increase rather than decrease costs to clients/users.

It will not be implemented because it is not warranted.

Recommendation 11: County Supervisors should have a written policy on what constitutes misconduct in, and triggers removal of, board members of independent special districts with appointed boards.

Response: The recommendation will be implemented in the following manner: During calendar year 2006, the Board of Supervisors will consider adopting the National Association of Counties' (NACo) Code of Ethics for County Officials (copy attached) or a similar code of ethics as determined by the Board. In addition, to the extent allowed by law, the Board will consider applying whatever code of ethics it may adopt to the boards, commissions, committees and special districts whose members are appointed by the Board.