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FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)  
EXECUTIVE OFFICER'S REPORT

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AGENDA ITEM NO.   7  

**DATE:** December 13, 2017

**TO:** Fresno Local Agency Formation Commission

**FROM:** David E. Fey, Executive Officer 

**BY:** George Uc, Senior LAFCo Analyst

**SUBJECT:** Consider Adoption: Municipal Service Review update and sphere of influence revision for the Oak Grove Cemetery District (continued from October 11, 2017 hearing)

**Recommendation:** Adopt the Municipal Service Review update prepared for Oak Grove Cemetery District and revise the District's sphere of influence by taking the following actions:

- A. Acting as Lead Agency pursuant to California Environmental Quality Act (CEQA) Guidelines find that the MSR prepared for Oak Grove Cemetery District is Categorically Exempt from the provisions of CEQA under Section 15306, "Information Collection."
- B. Acting as Lead Agency pursuant to California Environmental Quality Act (CEQA) Guidelines, find that the proposed SOI reduction is Categorically Exempt from the provisions of CEQA under Section 15061(b) (3), "General Rule" where it can be seen with certainty that a reduction of the District SOI will not have an effect on the existing environment.
- C. Find that the Municipal Service Review prepared for Oak Grove Cemetery District is complete and satisfactory, satisfies State law, and adopt the MSR.
- D. Find that approval of the proposed sphere of influence revision is based on sufficient evidence consistent with State Law, including, but not limited to, Fresno LAFCo Policies, Standards, and Procedures and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
- E. Pursuant to Government Code section 56425 make the required determinations for the sphere of influence:
  - a. Approve a SOI reduction coterminous with the District's service area.
  - b. Determine that the District's budget deficit described in the MSR is deleterious to the orderly and efficient operation of a public agency and direct the District to take action within the next six months to reduce its general fund deficit and manage its financial affairs in a resilient and sustainable manner;
  - c. Direct the District to report its actions in writing to the Fresno LAFCo no later than June 13, 2018.
  - d. Advise the District that failure to perform these actions—or to provide Fresno LAFCo with a record of their timely completion—may result in the commission initiating proceedings leading to the dissolution of the District or its consolidation with an adjacent cemetery district.

## Executive Summary

On October 11, 2017, the commission continued the Oak Grove Cemetery District Municipal Service Review (MSR) and sphere of influence revision, and directed staff to consult with the Fresno County Auditor-Controller/Treasurer-Tax Collector (AC/TTC) regarding the District's cumulative general fund budget deficit noted in the draft MSR. This report summarizes activities that occurred after the October hearing, staff's interaction with the AC/TTC, the District manager, and the State Controller's office (SCO) and summarizes staff's findings.

- Attachment A - Proposed Sphere of Influence Revision Map
- Attachment B – October 11, 2017, Oak Grove Cemetery District MSR staff report packet

## Oak Grove Cemetery District Discussion

The draft MSR noted that the District's audited financial statements for Fiscal Year 2014-2015 showed a recurring trend of annual budget deficits, and that the repeated annual budget deficits contributed to an overall general fund balance deficit estimated at \$353,952. Furthermore, during the preparation of the draft MSR the District failed to communicate to LAFCo any actions it would take to resolve this growing deficit.

Under Health and Safety code, all public cemetery districts are required to file annual audited financial statements with their respective AC/TTC.<sup>1</sup> The AC/TTC then informs the State Controller's Office whether the special districts have submitted annual financial audits.

The AC/TTC informed LAFCo that the District annually complies with filing audited financial statements with the AC/TTC office, consistent with Government Code section 26909.

The AC/TTC also informed LAFCo that the District also maintains funds in its Fresno County Treasury. As of October 23, 2017, the Fresno County Special Accounting Division reports that the District has \$32,196 in its Fresno County Treasury account, \$129,866 in its Endowment Care Fund account, and \$75,440 in its Pre-need Plot account. In total, the District has an approximate balance of \$237,503 in its Fresno County Treasury account.

The AC/TTC informed LAFCo that as long as independent special districts maintain a balance in their treasury accounts—even if a District's general fund balance deficit exceeds the funds in the account—the AC/TTC has limited authority to intervene in the financial affairs of a special district prior to a district reaching a \$0 balance.

In other words, the AC/TTC advised LAFCo that because the District shows a positive balance in its treasury account it has no direct statutory nexus to intervene in the District's financial management.

Because the AC/TTC reports special district annually reporting compliance to the SCO LAFCo staff met with SCO staff during the October CALAFCo Conference and learned about the SCO's limitations to resolve problems at the local level. Due to staffing and budget limitations, as well as the number of poorly performing special districts, the SCO only pursues direct involvement in special districts' financial matters when certain prescribed conditions have been met. One of those conditions is the presence of a grand jury report.

Following the October hearing, LAFCo staff contacted the District's general manager to inform her of the commission's concerns. The District manager informed LAFCo that the District board had

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<sup>1</sup> Health and Safety Code sec. 9079 (a)

already been apprised on the District's financial state, and the District took action to draft a plan addressing its reported and growing general fund deficits.<sup>2</sup>

The District has contracted a certified public accountant (CPA) to evaluate its financial practices, determine the source of the deficit(s), and develop a strategy to reduce its annual general fund deficit. On November 7, 2017, the District board received a preliminary report from the CPA that addressed the District's historical financial practices and procedures dating to 2007, which may have been the starting point of the existing general fund balance deficit.<sup>3</sup> The District has requested of the LAFCo additional time to provide its resolution plan.

In staff's opinion, the District is demonstrating a good faith effort to address draft MSR recommendation seven:

*"Encourage the District to evaluate its existing and foreseeable budget deficit, determine contributing factors, and suitably reduce its expenditures or raise its plot fees to eliminate ongoing budgeted deficits."*

LAFCo staff anticipate that the District may have a resolution plan in place by early 2018. The District informed LAFCo that the District board would be receiving a draft action plan at its December 5, 2017, meeting and the board intends to brief the commission of its final action plan. If the commission desires, draft MSR recommendation seven may be revised, at the commission's discretion, to include a formal response timeline, i.e. three months or six months. A formal response and timeline would insure that the District adheres to the MSR recommendations.

#### **Comments Received- MSR Public Review Period**

On November 22, 2017, the Oak Grove Cemetery District's MSR was recirculated and made available for 21-day public review. Staff has received general phone enquiries regarding the proposed SOI revision; however, no public comments have been received to date.

#### **Conclusion**

Though many agencies touch on the financial health of an independent special district, the sole responsibility for establishing proper administrative and internal accounting controls, fiscal management practices, and mitigation of foreseeable financial problems reside with the Board of Trustees of the Oak Grove Cemetery District.

In staff's opinion, the draft MSR presented to the commission in October effectively examined the District's finances and accurately identified the general fund deficit. Staff appreciates the AC/TTC staff's rapid attention to this matter and looks forward to continued productive and professional collaboration with County staff.

Staff's original recommendation that the commission call attention to the deficit and recommend that the District take steps to resolve this matter is consistent with LAFCo's broad powers as well as the limitations of the commission's statutory authority.

However, the commission may now consider imposing performance measures (similar to its 2015 actions with the Raisin City Water District) to establish a clear expectation that the District should take timely and effective action on the deficit.

<sup>2</sup> LAFCo and Judy Escalera, District Office Manager electronic mail communication, October 19, 2017.

<sup>3</sup> LAFCo and Judy Escalera, District Office Manger phone communication, November 9, 2017.