

**LOCAL AGENCY FORMATION COMMISSION  
COUNTY OF SAN BERNARDINO**

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**DATE: JUNE 1, 2009**

**FROM: MICHAEL TUERPE, LAFCO Analyst**

**TO: LOCAL AGENCY FORMATION COMMISSION**

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**SUBJECT: Agenda Item #8: Request for Clarification of Commission Direction on Filing with Grand Jury Related to Municipal Service Review for Barstow Cemetery District**

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**RECOMMENDATION:**

Staff recommends that the Commission:

1. Clarify the Commission's direction regarding the financial concerns raised during the municipal service review and sphere of influence update for the Barstow Cemetery District and its direction to the Executive Officer to request that the Grand Jury review the Barstow Cemetery District's financial matters.
2. Direct the Executive Officer to file the Confidential Citizen Complaint Form with the Grand Jury requesting a formal review of the Barstow Cemetery District.

**BACKGROUND:**

At the October 15, 2008 hearing, the Commission considered the municipal service review as required by Government Code Section 56430 and the sphere of influence update as required by Government Code Section 56425 for the Barstow Cemetery District (District). The resolution was placed on the consent calendar for the November 19, 2008 hearing and the Commission adopted the resolution. The action of the Commission, memorialized in its resolution, assigned a zero sphere of influence for the District and directed staff to refer the concerns regarding the District's financial matters to the County Auditor Controller-Recorder to determine if they would be able to resolve them. If this avenue was unsuccessful, the Commission directed staff to refer the matter to the District Attorney's Public Integrity Unit, with notification to the Grand Jury of the Commission's findings.

Staff informed the Commission at the January 21, 2009 hearing that the County Auditor Controller-Recorder had responded that it could not assist further in this matter based upon its discussions with County Counsel. In addition, staff outlined its referral of the matter to the District Attorney Integrity Unit, with notification to the Grand Jury. To date, staff has not received a response from the District Attorney Integrity Unit, and staff does not anticipate a response in the near future given their current level of activity.

In its adoption of its resolution of determinations, the Commission recommended that dissolution of the District take place with the successor agency being either the formation of a County Service Area or the City of Barstow if special legislation were successful to allow the transfer of the District to it. In March staff met with City representatives to discuss the City assuming operations of the District, which would require the special legislation to operate a cemetery in excess of the current five acre limit. In April staff met with County representatives from the Special Districts Department and County Administrative Office – Public and Support Services Group to discuss the possibility of the County assuming operations of the District through the formation of a County Service Area. To date, staff has not received a formal response from either the County or the City regarding acquisition of the operation of the District.

In addition, in April staff spoke with the superintendent of the District regarding the lack of communication from the District during the municipal service review and his concerns with certain items in the staff report. This was following newspaper articles indicating a misunderstanding by the District of LAFCO's information needs and concerns. A copy of the staff memo summarizing the conversation and the LAFCO staff comments is included as Attachment #2 which outlines continuing concerns on the financial reporting of the District.

Given these discussions it appears the Commission has two options related to the Barstow Cemetery District:

1. Direct staff to file a formal request for review by the County Grand Jury citing its ongoing concerns with the financial operation of the District; or,
2. Direct staff to maintain a watch over the District until its next mandated Municipal Service Review in five years.

It is the staff's position that the only mechanism to bring resolution to the Commission's concerns is through the Grand Jury. The Grand Jury has acknowledged receipt of the documents submitted by staff; however, they have indicated that an official complaint needs to be filed in order for the Grand Jury to review the District. LAFCO staff requests that the Commission clarify its position regarding the District and its intent that the Grand Jury review the District based upon the financial issues raised in the LAFCO Municipal Service Review. Therefore, staff recommends that the Commission direct the Executive Officer to file the Complaint Form with the Grand Jury (included as Attachment #1) outlining the Commission's concerns raised during the municipal service

review, provide a listing of the officials and agencies contacted in order to bring resolution to its concerns, and outline the Commission's request to have the Grand Jury bring about resolution of the financial issues raised during the review.

KRM/MT

Attachments:

1. Confidential Grand Jury Citizen Complaint Form
2. Memorandum dated April 20, 2009 from Michael Tuerpe, LAFCO Analyst, to Kathleen Rollings-McDonald, LAFCO Executive Officer, Regarding Phone Conversation with Frank Lopez, Superintendent of Barstow Cemetery District
3. LAFCO Resolution 3039 for LAFCO 3034 for the Barstow Cemetery District, October 15, 2008 Hearing Minutes, and Excerpts from Staff Report Dated October 7, 2008 related to the Barstow Cemetery District