

Chowchilla Cemetery District

(A PUBLIC CEMETERY DISTRICT)

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January 21, 2014

Hon. D. Lynn Jones
Presiding Judge
Madera County Superior Court
209 West Yosemite Ave.
Madera, CA 93637

Madera County Grand Jury
P. O. Box 534
Madera, CA 93639



Re: Response to 2013-2014 Grand Jury Report

Dear Judge Jones & Members of the Grand Jury:

The Board of Trustees of the Chowchilla Cemetery District thanks the 2013 – 2014 Madera County Grand Jury for its review of the District, and appreciates its recommendations for improvement. The Board notes that many of the conditions reported by the Grand Jury were recognized prior to the issuance of the Grand Jury's report, and many remedial actions are already underway.

The Board herewith respectfully submits its responses to the Findings and Recommendations of the 2013-2014 Madera County Grand Jury.

Responses to Findings

1. *The employees lack professionalism in their manner of dress which could be offensive to the public.*

The District has purchased uniforms for its employees, such as those which are used in many other cemeteries. In addition, the District is currently recruiting for a new District Manager, one of whose duties will be to improve the appearance, professionalism and service-orientation of all employees.

2. *The Cemetery has plans for additional facilities which will include Americans with Disabilities Act (ADA of 1990) compliant rest rooms that will be available to the public during hours of operation.*

The Board of Trustees approved architectural plans for the new restroom facility.

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Those plans are current with an engineering firm to provide cost estimates for the construction of the project.

3. *The curbs, gutters, sidewalks and asphalt are in need of repair for the safety of the public.*

A preliminary maintenance and repair plan for curbs, gutters, sidewalks and asphalt is currently being developed, and will be further developed and implemented by the District's new Manager. However, those areas in the worst state of repair and with the most unsafe conditions are being repaired as soon as possible.

4. *Cemetery district is not in compliance with Cal/OSHA requirements.*

The District has, indeed, been cited by Cal/OSHA for several violations. The Cal/OSHA inspector has identified those unsafe conditions that must be corrected, and those are being rectified at this time. For example, one of the violations was the lack of shoring in graves to prevent side walls from collapsing on workers. Shoring, such as that utilized by the Madera Cemetery District, is currently being acquired; in the meantime, employees are not permitted to be physically in a grave being excavated.

5. *The Employee handbook of policies and procedures is outdated.*

The Board is unsure which Employee Handbook the Grand Jury reviewed. There are several handbooks which have been superseded, but the District had a totally new Employee Handbook prepared in 2006. Although it remains almost entirely up-to-date, the District's counsel is currently reviewing and updating it as necessary.

6. *Employee job descriptions are outdated and do not reflect current employee duties.*

Most employee job descriptions were rewritten in 2013. Those job descriptions are currently being reviewed and will be revised as necessary.

7. *Signage for entry of the cemetery is small and difficult to see from the street.*

The Chowchilla Cemetery has a sign inside the fence at the entry. Following the Grand Jury's comment, the Board of Trustees is reviewing existing signage and what additional information might be placed on a sign or signs.

8. *Tools and equipment are in need of upgrading and/or replacement.*

Tools and equipment have historically been provided upon the request of the District Manager, and responsibility for maintaining, repairing and accounting for such tools and

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equipment was the responsibility of the Manager. When the District Manager left the District's employ after 30+ years of service in late 2013, he asserted that most of the tools were his personal property and took them with him. Therefore, the District is currently purchasing replacement tools and equipment, and establishing policies for the care and maintenance, as well as inventory control of same.

9. *Salaries are less than comparable positions in other cemetery districts.*

The Board respectfully disagrees with this Finding. The Board of Trustees reviewed salaries for comparable public cemetery district employees in comparable cemeteries, in terms of numbers of employees and interments conducted, from across California. Salaries for Chowchilla Cemetery District employees are in the approximate mid-point of those of other comparable districts. Nonetheless, the Board has taken action to increase salary scales.

10. *Staffing levels are insufficient to provide adequate maintenance.*

Staffing levels are generally determined by the number of interments conducted annually by a public cemetery district. By that measure, the Chowchilla Cemetery District has been staffed comparably with district who perform a similar number of interments. However, other factors must be considered in determining appropriate staffing levels: (1) the number of cemeteries in the District, and their distance from the main location; (2) the number of whole-body interments versus cremations; (3) the condition of the cemetery grounds and facilities and the amount of deferred maintenance; (4) the functions of each position; (5) the use of seasonal temporary employees, etc. For example, nearly all other cemetery districts of comparable size and activity have working District Managers—the most recent District Manager of the Chowchilla Cemetery District was not a working manager. Staffing levels will be reviewed when a new District Manager is hired, and with his or her recommendations.

11. *The current Hillside Chamber niches are sold out. An architect has been selected to design an additional Hillside chamber, a public restroom building and a gazebo for ceremonial use.*

Architectural drawings have been completed and approved by the Board. The project is currently with an engineering firm for cost estimates. This project will be moved forward as quickly as possible.

12. *Fees and service charges are low compared to other cemeteries of the same size.*

The issue of fees and charges is a subject of frequent discussion. For example, the Legislature mandated that public cemetery districts “provide for the respectful and cost-effective interment of human remains to meet the cultural, economic, religious, and social

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needs of California's diverse communities." (Gov. Code § 9000.) That mandate requires a district to be mindful of the "economic" demographic of its residents and to provide "cost-effective" services. Therefore, the size of a cemetery district is rarely a significant factor in setting fees and charges. Nonetheless, the Board of Trustees adjusted its fees and charges effective January 1, 2014, and will continue to review its pricing structure in order to provide a range of options for the citizens of the District.

13. *The lack of acceptance of credit cards may inconvenience the public who require the Cemetery services.*

The Chowchilla Cemetery District now accepts credit cards.

Responses to Recommendations

1. *Trustees should require that employees dress appropriately for serving the public by following Madera County dress code requirements.*

The District has purchased uniforms for its employees, such as those which are used in many other cemeteries. In addition, the District is currently recruiting for a new District Manager, one of whose duties will be to improve the appearance, professionalism and service-orientation of all employees.

2. *A long term maintenance plan for the repair of curbs, sidewalks and asphalt surfaces be created and implemented as soon as possible.*

A preliminary maintenance and repair plan for curbs, gutters, sidewalks and asphalt is currently being developed, and will be further developed and implemented by the District's new Manager. However, those areas in the worst state of repair and with the most unsafe conditions are being repaired as soon as possible.

3. *An emergency eye wash station and shower be added for employees in the workshop.*

A temporary eye-wash facility will be provided. The new restroom facility will have showers and a permanent eye-wash station for employees.

4. *The Employee Handbook should be brought up to date.*

The District believes that its current Employee Handbook is largely up to date. However, the District's counsel is currently reviewing and updating the Handbook.

5. *Employee job descriptions should be revised to reflect current employee duties.*

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New employee job descriptions have been prepared. However, job descriptions are under continuing review and will be revised throughout the coming year.

6. *Clear signage should be provided at the entry to the Cemetery stating hours of operation.*

The Chowchilla Cemetery has a sign inside the fence at the entry. Following the Grand Jury's comment, the Board of Trustees is reviewing existing signage and what additional information might be placed on a sign or signs.

7. *A list of current condition and useful lifespan of tools and equipment should be prepared and a plan for replacement be maintained by the Trustees.*

An inventory of existing tools and equipment is being conducted; additional tools and equipment are being purchased. A program of care and maintenance, as well as inventory control, will be implemented.

8. *Salaries of employees be reviewed and brought up to date with comparable size cemeteries in the state.*

The Board of Trustees reviewed salaries for comparable public cemetery district employees in comparable cemeteries, in terms of numbers of employees and interments conducted, from across California. Salaries for Chowchilla Cemetery District employees are in the approximate mid-point of those of other comparable districts. Nonetheless, the Board has taken action to increase salary scales.

9. *Staffing levels be reviewed to ensure the grounds are maintained and made presentable to the public.*

See response to Finding #10 above.

10. *Construction of the Hillside Chamber, public bathrooms and pagoda be completed as soon as possible.*

Architectural drawings have been completed and approved by the Board. The project is currently with an engineering firm for cost estimates. This project will be moved forward as quickly as possible.

11. *Review and update charges and fees made to the public to meet the needs of current cemetery cost of operation.*

Fees and charges were revised and become effective January 1, 2014. (Also see

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response to Finding #12 above.)

12. *The Cemetery begin accepting credit card usage for public convenience.*

The Chowchilla Cemetery District now accepts credit cards.

13. *The Trustees should receive training regarding the requirements of the Brown Act.*

The Board of Trustees have recently attended training on the Brown Act. In addition, the Board receives ongoing training and advice from the District's counsel who reviews agendas and descriptions prior to posting, attends Board meetings and provides Trustees guidance on Brown Act compliance.

14. *The Board of Supervisors and the Trustees consider that the Cemetery be joined with Madera County Cemetery District.*

Neither the Board of Supervisors nor the Madera County Cemetery District have discussed consolidation with the Chowchilla Cemetery District, and the District's Board of Trustees have given this matter no consideration at this time. Instead, the Board's focus and energies currently are devoted to improving all aspects of the operation and maintenance of the Chowchilla Cemetery District.

Response to "Facts"

The Board of Trustees of the Chowchilla Cemetery District wishes to respond to several of the purported "Facts" found by the Grand Jury and cited in its report.

1. *The Grand Jury reported as a "Fact" that the Board failed to follow the Brown Act, citing two specific claims.*

This Board is unaware of any meeting of the Board being conducted with no notice or improper notice. An allegation was made that two Board members meet and discuss District business each morning at the local MacDonalds. In fact, those Board members meet with other members of the American Legion and have never discussed District business. Moreover, two Board members do not constitute a quorum and, therefore, no meeting occurs.

The allegation that a lawn mower was approved improperly in closed session is erroneous. In fact, the minutes from that meeting reflect that there was a motion and a second made in Open Session for the purchase of the lawn mower. Indeed, a vote was taken and approved by the Board, but the minutes inadvertently omitted the actual vote.

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2. *Trustees have made purchases on behalf of the cemetery without first obtaining Trustees' approval and were later reimbursed by the Cemetery.*

Indeed, Trustees have made emergency purchases for tools, parts and equipment necessary to conduct repairs, maintenance and operations of the District. These purchases have generally been necessary to protect the District or its employees. Nonetheless, the District has taken action to formalize its purchasing practices, as well as reimbursements:

- The District adopted a Purchasing & Contracting Policy formalizing how items are purchased, how large and small construction projects are contracted for, how professional services are obtained, how surplus property is disposed of, dollar limits for all of these matters, and so forth.
- The District has also been presented a draft Expense Reimbursement Policy which will be adopted in the near future.

3. *The Board of Trustees have not been following procedures and policies in the Employee Handbook, including not conducting written performance evaluations on a regular basis, and there is no clear organizational chain of command.*

In fact, the District Manager is the senior manager of the District, and all other employees (either 3 or 4) report directly to that position. The District Manager serves at the pleasure of the Board of Trustees. The District Manager is responsible for conducting written performance evaluations in accordance with the Employee Handbook, and the Board evaluates the District Manager. The District Manager is responsible for maintaining all files and records of the District, including personnel files on each employee. In fact, evaluations were performed in 2013, but those evaluations disappeared from the District's office at or about the same time as the District Manager's termination of employment.

Additional Comments

The Board of Trustees of the Chowchilla Cemetery District has taken a number of steps to bring more professionalism and regularity to the operations of the District. In addition to those actions addressed in the Responses above, the Board made a decision to bring new management to the District. The Board of Trustees has also:

- Retained the legal services of Robert W. Hunt, of Hunt & Jeppson, LLP to assist and advise the Board and the District in bringing necessary improvements to its operations. Mr. Hunt has represented over 100 public cemetery districts throughout the State of California and is a recognized expert in public cemetery district law in California. Mr. Hunt regularly gives seminars on public official ethics, sexual

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harassment, Brown Act, cemetery law, employee relations, and so forth.

- Adopted or soon will adopt:
 - A new set of Bylaws for the governance of the District,
 - A Purchasing & Contracting Policy,
 - An Ethics Code for the District,
 - A Conflict of Interest Policy,
 - An Expense Reimbursement Policy,
 - A Public Records Policy, and
 - Adopting Job Descriptions.
- Opened recruitment for a qualified District Manager.
- Addressing Cal/OSHA issues.

The Board of Trustees appreciates this opportunity to address those issues raised by the Grand Jury, and to provide you with an update of actions taken and activities underway to bring the Chowchilla Cemetery District to a new level of professionalism and service to its constituents. Please don't hesitate to contact the Board of Trustees should you require further information.

Very truly yours,

CHOWCHILLA CEMETERY DISTRICT



Duff Bryant, Chair,
Board of Trustees

cc: Madera County Board of Supervisors
200 West 4th Street
Madera, Ca 93637