

Lee County Board of County Commissioners
Agenda Item Summary

DATE CRITICAL
Blue Sheet No. 20020258

1. **REQUESTED MOTION:**

ACTION REQUESTED: Motion - none. Information requested by the Board of County Commissioners (BOCC) with respect to proposed expansion of the Alva Cemetery by the Trustees of the Alva Cemetery Association.

WHY ACTION IS NECESSARY: To provide the BOCC with requested information on the status of the project.

WHAT ACTION ACCOMPLISHES: Provides the BOCC with information on the status of the project.

2. **DEPARTMENTAL CATEGORY:**
COMMISSION DISTRICT #5

5:05 #2

3. **MEETING DATE:**

03-26-2002

4. **AGENDA:**

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:
5 Minutes

5. **REQUIREMENT/PURPOSE:**
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER BOCC Request

6. **REQUESTOR OF INFORMATION:**

- A. COMMISSIONER
- B. DEPARTMENT County Attorney
- C. DIVISION Land Use
- BY: John J. Fredyma
John J. Fredyma, Asst. County Atty

7. **BACKGROUND:**

The Alva Cemetery Association, an unincorporated civic association (the "Association") has applied to Lee County for a Development Order (DO) for the purpose of expanding the Alva Cemetery. The Association seeks to expand the existing cemetery (642 plots on 5.3± acres) by adding an additional 1,423 plots on 4.91± acres, resulting in a total of 2,065 plots on 10.21± acres. The application for development was first filed in September of 1999 for this purpose and, as of April of last year, all of the application requirements appear to have been resolved except, (1) platting, and (2) the assurance of permanent maintenance of infrastructure, including both surface water management and roads - these two requirements are discussed in greater detail below:

(Continued on Page 2)

8. **MANAGEMENT RECOMMENDATIONS:**

9. **RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
					OA	OM	RISK	GC	
N/A	N/A	N/A	N/A	<i>[Signature]</i>	CA 3/14/02	AS 3/14/02	JP 3/14	MS 3/14/02	<i>[Signature]</i> 3-14-02

10. **COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

CO. ATTY.
FORWARDED
TO CO. ADMIN.
3-14-02 9AM

RECEIVED BY
COUNTY ADMIN.
3/14 9:00
COUNTY ADMIN.
FORWARDED TO:
3/14 4:00

Platting Issues: The County requires any subdivision of land, as defined under Lee County Land Development Code (LDC) Chapter 10, to record a plat of the proposed subdivision and resulting development. The proposed cemetery expansion fits the LDC definition of "subdivision" and would, therefore, require the expansion to be platted. State Statutes do not appear to specifically require a cemetery to plat the individual grave sites or plots; however, as a "subdivision," the County's regulation would require the cemetery expansion to be platted. Consequently, the Association may wish to consider applying for relief from the County's platting requirement by filing a request for a variance from LDC Chapter 10. The Association will have to present their variance request to the Lee County Hearing Examiner, who will consider the request and render a decision.

Should the Association still wish to record a plat of the proposed cemetery expansion, they will be required to comply with the technical requirements of Florida Statutes Chapter 177, including the mandatory monumentation of all lot corners and changes of direction depicted on the plat. The Association has highlighted this requirement as a major expense, estimated by their surveyor (Johnson-Prewitt & Associates) to cost the Association in excess of \$27,000.00 to set the remaining 2,800 or so lot corners. The County cannot grant a variance from the statutory requirements.

Permanent Maintenance Issues: County regulations require all developers to provide the County with appropriate documentation to assure the permanent maintenance of project infrastructure, including the surface water management system (drainage) and roads. During the past year, the County Attorney's Office has corresponded with the Association's legal counsel to assist him with the production of appropriate documents in order to meet this requirement. To date, this task has not been completed. Unlike the platting requirement referenced above, the Association cannot obtain a variance from this LDC requirement. The Association must do the same as all other developers and provide an assurance of infrastructure maintenance.

The infrastructure maintenance issue has been intertwined with the request to have the Association provide the County with proof of either a State registration or State license as a cemetery with the Florida Department of Banking, Bureau of Funeral & Cemetery Services. The Association was advised last year the proof of State registration or licensure, and compliance with the State's requirements could be accepted by the County as substantial compliance with the County's requirement to assure permanent maintenance of infrastructure. Unfortunately, while the Association is finally registered with the Bureau of Funeral & Cemetery Services, they obtained an "exempt" status such that the County's required assurance of permanent maintenance of infrastructure is not addressed or otherwise satisfied.