



Agenda Date: 7/26/2005
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NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Susan Ingalls for Robert Westmeyer - County Counsel
County Counsel
REPORT BY: Susan Ingalls, Paralegal, 259-8152
SUBJECT: First Reading and Intention to Adopt an Ordinance Making the Position of Public Administrator Appointive Upon the Conclusion of the Present Term of the District Attorney-Public Administrator

RECOMMENDATION

First reading and intention to adopt an ordinance amending Chapter 2.24 of the Napa County Code relating to the office of District Attorney-Public Administrator, adding a new Chapter 2.31 to the Napa County Code relating to the Public Administrator, separating the consolidated offices of District Attorney and Public Administrator, and providing that the Public Administrator be an Appointive Office.

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

EXECUTIVE SUMMARY

The District Attorney initiates and conducts on behalf of the people all prosecutions for public offenses. The Public Administrator administers the estates of decedents where no personal representative has been appointed.

This ordinance will separate the Public Administrator and District Attorney offices. It will further provide that the Public Administrator will no longer be elected by the voters. Instead, the Public Administrator will be appointed by the Board of Supervisors. Because the position of Public Administrator presently is an elective office, this change cannot take place until the conclusion of the present term of the District Attorney and the proposed ordinance so provides. The ordinance also provides that the Director of Health and Human Services will be appointed the Public Administrator effective noon January 8, 2007.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

The purpose of the proposed ordinance is to separate the consolidated offices of the District Attorney and Public Administrator, establish the office of the Public Administrator as an appointive office, and assign all of the duties and functions of the Office of the Public Administrator to the Director of the Health and Human Services Agency (HHSA).

Chapter 2.24 of the Napa County Code, first enacted in 1969, consolidated and assigned the duties and functions of the Office of Public Administrator to the District Attorney. When the assistant Public Administrator retired in 2004 a review of where the Public Administrator should be located occurred. Because the Public Guardian had recently been moved from the District Attorney's Office to the HHSA, and the statutory requirements relating to the handling estates of conservatees and decedents are similar, it was concluded that the functions of the Public Administrator could be most efficiently performed by the HHSA.

Without special legislation at the state level, it is not possible to convert the Public Administrator from an elective to an appointive position. In 2003 Napa County was successful in having special legislation enacted into law allowing the position of Public Administrator to be converted from an elective to an appointive position. If converted, the Board of Supervisors is the appointing body. Napa County was the eighth county to receive such legislative authorization. The Board is therefore now in a position to adopt an ordinance that will transfer the duties of the Public Administrator from the District Attorney to another county department. It is recommended that the receiving department should be the Health and Human Services Agency.

Making such a change prior to the conclusion of the District Attorney's current term is not permitted without the District Attorney's consent. The District Attorney has indicated that because the people elected him to both public offices he is duty-bound to continue to serve as both the Public Administrator and District Attorney until the conclusion of his current term of office. At the same time, the District Attorney is not opposed to removing the Public Administrator responsibilities from his office with an effective date of the end of his current term as District Attorney/Public Administrator.

The Ordinance is being presented now to ensure that well before the nomination period for the office of District Attorney commences later this year, it will be clear to whomever chooses to seek the elective office of District Attorney that the position, commencing in January of 2007, will only involve functioning as the District Attorney and will no longer involve any Public Administrator duties and responsibilities.

Adoption of the proposed ordinance will separate the offices of District Attorney and Public Administrator and designate the office of Public Administrator as an appointive office. Adoption will also result in the duties and functions of the Office of the Public Administrator being transferred to the Director of HHSA as of noon January 8, 2007 unless the position of District Attorney/Public Administrator is vacated at an earlier point. While it is not expected that the position of District Attorney/Public Administrator will be vacated prior to the end of the term, the ordinance is structured to address that remote possibility.

SUPPORTING DOCUMENTS

A . Tracked Ordinance

B . Final Ordinance

CEO Recommendation: Approve

Reviewed By: Helene Franchi