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AGENDA REPORT

TO: HONORABLE CITY COUNCIL

FROM: Deanna J. Santana,
City Administrator

SUBJECT: Permanent Regulations for Crematories

DATE: September 12, 2013

COUNCIL DISTRICT: Citywide

RECOMMENDATION

Staff recommends that the City Council take no action regarding:

An Ordinance, as Directed by City Council under Emergency Ordinance No. 13158 C.M.S., to Amend the Planning Code to Establish Permanent Regulations Pertaining to Crematories within the City of Oakland

ANALYSIS

At its meeting September 11, 2013, the Planning Commission considered a recommendation from staff for Planning Code Text Amendments to establish a crematorium as an industrial activity type and only allow them upon the granting of a Major Conditional Use permit within industrial zones, with a further prohibition if located within 1,000 feet of a zone that permits permanent residential activity types. The Planning Commission took no action on staff's recommendation.

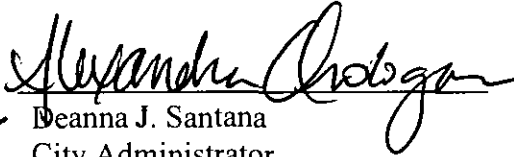
The Office of the City Attorney advises staff that the City Council may not consider the proposed permanent Planning Code amendments regarding crematories without first receiving a recommendation from the Planning Commission. Specifically, Planning Code Section 17.144.020 states that the City Council shall not rezone any property, change the text of any provision of the zoning regulations (which is the current proposal), or establish, amend, or delete any development control map or designate landmark or landmark site until after it has received a recommendation and/or findings from the City Planning Commission. The Planning Commission did not make a recommendation (or findings) on September 11, 2013. Rather, they continued the item for future consideration, with direction to staff about providing further information.

Due to the lack of a Planning Commission recommendation, there is not sufficient time for the City Council to adopt permanent controls for crematories prior the expiration of the Emergency Ordinance. The first Emergency Ordinance was adopted on May 12, 2012 and set to last for one year. On May 7, 2013 was extended by the Council for an additional 180 days, meaning that the current Ordinance expires November 3, 2013.

Item: _____
CED Committee
September 24, 2013

If the Council desires to extend the Emergency Ordinance to so that the Planning Commission has more time to complete its work, it can be done as a later, separate agenda item under Section 213 of the Charter (i.e., with one reading upon findings for an emergency and 6 votes of the Council), with full ten-day agenda noticing prior to the expiration of the current Emergency Ordinance on November 3.

Respectfully submitted,

for 
Deanna J. Santana
City Administrator