

CITY OF SAN BUENAVENTURA

RECEIVED
VENTURA COUNTY SUPERIOR COURT

CITY COUNCIL

September 13, 2005

SEP 21 2005

Brian Brennan, Mayor
Carl E. Morehouse, Deputy Mayor
Bill Fulton, Councilmember
James L. Morehouse, Councilmember
Sandy E. Smith, Councilmember
Christine Weir, Councilmember

Honorable John R. Smiley, Presiding Judge
Superior Court of California, Ventura County
Hall of Justice, #2120
800 South Victoria Avenue
Ventura, CA 93009

OFFICE OF THE
PRESIDING JUDGE

VENTURA SUPERIOR COURT
FILED
SEP 22 2005

MICHAEL D. PLANET
Executive Officer
Clerk and Jury Commissioner
BY: _____, Deputy

Honorable Judge Smiley:

We received the Grand Jury report and have carefully reviewed the conclusions and recommendations. As you will note, the Grand Jury recommendations are answered in the actions of the attached July 25, 2005 City Council report and City Council actions. Here are the responses to the four recommendations to the Grand Jury Report entitled, *Public Right to Public Records and Cemetery Memorial Park*.

R-01

Improvement of Cemetery Memorial Park has been an ongoing process to gain a consensus between the various park users and families who have relatives interred there. The City's Parks & Recreation Commission has conducted several public meetings, a site tour, and an on-site meeting. As the City Council report illustrates, the City is in Step 2 of the approved public engagement process to determine the most appropriate improvement of the historic cemetery/park.

R-02 & R-03

Improvement options will be considered through a process that includes participation of a wide range of stakeholders, pursuant to actions of the City Council on July 25, 2005. As noted in the Council report, there will be a public art component to include an experienced artist to unify all the historic elements that embrace this very important site.

R-04

On July 25, 2005, the City Council directed the enforcement of the leash law in Cemetery Memorial Park and all City parks be considered as a separate enforcement matter.

We thank the Grand Jury for the time and dedication in considering this most important matter. We concur with the conclusions and are waiting to establish a memorial park that will continue to provide an appropriate resting place for those interred there.

Sincerely,

A handwritten signature in black ink that reads "Rick Cole". The signature is written in a cursive, flowing style.

Rick Cole, City Manager

Attachment:

City Council Administrative Report
City Council Minutes



ADMINISTRATIVE REPORT

Date: July 20, 2005

Agenda Item No.: 3

Council Action Date: July 25, 2005

To: RICK COLE, CITY MANAGER
From: RONALD J. CALKINS, PUBLIC WORKS DIRECTOR
Subject: CEMETERY MEMORIAL PARK

RECOMMENDED ACTION

It is recommended that the City Council:

1. ratify recommendations a) through e) from the Parks and Recreation Commission on the future policy and development of Cemetery Memorial Park; and
2. adopt budget adjustments to decrease appropriations and revenues \$229,627 in Park and Recreation Improvement Fund 18 for the Cemetery Memorial Park Renovation project 92880 and increase appropriations and recognize use of fund balance in General CIP Fund 04 in the amount of \$230,000 for the Cemetery Memorial Park project.

SUMMARY

Forty years after its conversion, "Cemetery Memorial Park" has generated new interest in its future. A number of proposals and ideas have recently emerged. One was to convert the Western 110 feet into a privately developed grouping of relocated "heritage buildings." A growing group of advocates has come forward insisting on the complete restoration of St. Mary's Cemetery. Funding for some improvements to the park (initially focused on the western section) was available. It became clear that a focused effort should be undertaken to seek a community consensus.

This report does not comprehensively address the tangled and controversial history of how the "cemetery memorial park" came into existence. That painful past must be

recognized, understanding that there are deep divisions about what did or did not happen and why and that some facts and decisions will remain forever in dispute. What is indisputable, however, is that the site contains 3000 graves whose existence have not been fully acknowledged and respected. That can, and should, be addressed.

The organization, "Restore St. Mary's" maintains that the city acted unlawfully in the past and that any park use of the site is unlawful today. A recent grand jury investigation failed to substantiate these claims (full report is attached - Exhibit E - although the City does not accept all of its content, particularly its mischaracterization of current efforts to address the future of the cemetery memorial park.) According to the website (www.restorestmarys.org) their goals are:

- Installing appropriate signage indicating: names, historical significance; locations; directions to aforesaid cemeteries
- Determining the location of the 3,000+ deceased in the cemeteries and acknowledging them accordingly
- Retrieving, so far as possible, all historic headstones
- Installing 24 cast iron lamp posts rescued from city salvage

This perspective, along with the views of other Ventura residents, including nearby neighbors, were addressed by the Parks and Recreation Commission and staff in an effort to develop these recommendations. This was done through a four-step public engagement process (outlined below) that was developed and approved by the Commission.

The Commission and the staff believe that the recommendations outlined offer the opportunity to create a new recognition of the sacred and historical heritage of the site and to ensure a unique, memorable and meaningful "cemetery memorial park" to serve our community for generations to come.

ALTERNATIVES

1. Do not ratify the Parks and Recreation Commission Recommendations.
2. Postpone a determination at this time in order to gain more information relative to concerns expressed by the City Council.
3. Ratify selected recommendations and postpone and/or revise to meet policy that the City Council wishes to add and/or develop.

FISCAL IMPACTS

The improvement project for Cemetery Memorial Park is included in the 2005-2010 Capital Improvement Projects Plan (#92880). The Plan identifies Park Tax revenue as a source of funds for the construction of a project that includes typical neighborhood park amenities (i.e., tot lot, picnic grounds and tables and barbeques). The project amendment, if adopted by the City Council, would instead focus on more passive uses including the developing of a memorial; repairing and replacing the damaged portions of the rock wall and steps; adding landscaping; and adding bench seating in appropriate locations.

If the City Council affirms the recommendations, the project funding source and FY 2005-06 CIP budget will need to change from Park Tax (Fund 18) to General CIP (Fund 04). There is adequate General CIP unallocated fund balance to cover the estimated \$230,000 project costs. The existing Park Tax revenue dedicated towards the Cemetery Memorial Park will remain in the Park Tax fund balance and be available for appropriation for other park improvement projects through the upcoming 2006-2011 CIP Plan and FY 2006-07 CIP budget process. Administrative Services will assign the appropriations and revenues to the proper programs and accounts.

Public Art funds (\$25,000) are committed to development of a public art element at the Cemetery Memorial Park. The Public Art funds are currently appropriated in the FY 2005-06 Public Art budget.

Regarding recommendation d) outlined below, the City's cost of replacing headstones requested by the families would be approximately \$300 each for a total of \$900,000 if all 3,000 graves are identified and headstones are placed. It is estimated that initial requests may be for 50 grave headstones, or a cost of \$15,000 that is included in the \$230,000 budget for the CIP project. Subsequent requests are estimated to be 10 a year, for an annual cost of \$3,000 that will be absorbed in the City's General Fund annual park operating budget. No additional operating appropriations are necessary.

DISCUSSION

The Park and Recreation Commission unanimously recommended that the City Council ratify the following items a) through e):

- a) The Parks and Recreation Commission recommend that the City Council affirm that Cemetery Memorial Park continue as a cemetery and passive-use park and that the area not be exclusively designated for either one of these uses; that any future and/or additional uses be for the purpose of preserving or enhancing the

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view as well as the passive and quiet nature of the area as a cemetery/park; and that this policy pertain to the entire park including the western 110 feet.

- b) In such affirmation in Item a. above, that Capital Improvement Project (CIP) Number 92880, Cemetery Memorial Park Project Description be amended to state the following:

Design and construct improvements that respect those who are deceased and buried there and that improvements be for the purpose of maintaining or enhancing the tranquility, quiet and passive nature of the cemetery/park. The project shall be designed in collaboration with the City's Public Art program wherein a Landscape Architect and Artist would be retained to prepare a preliminary design for the cemetery/park that would be limited to and include the future construction of a befitting memorial or a commemorating public art enhancement, including identification and directional signage; enhancing the Veteran's memorial flagpole area; repairing the rock wall and stairways; replacing and adding new perimeter landscaping and irrigation; adding benches in selective locations; repaving and reducing the size of the parking lot; establishing method(s) of vehicular speed control in the adjacent alley and initial headstone replacements in accordance with the adopted policy. That the preliminary plan include cost estimates and identify priorities in the event future improvements must be completed in phases. Public input will be sought during the development of the Preliminary Plan.

- c) The Parks and Recreation Commission recommends to the City Council that as part of the future improvements to the cemetery/park, the flagpole and plaza area be officially dedicated as a Veteran's memorial. While known as the "Veterans' Memorial Flagpole" there is no record that the area has been formally dedicated.
- d) The Parks and Recreation Commission recommends to the City Council that the current policy (Exhibit A) on the placement of markers in memory of the deceased be established as an official policy. The Commission requested one exception: that the City bear the cost of a 6-inch by 12-inch granite marker if requested by the family of the deceased (\$300 per stone). There are over 2,000 unmarked gravesites. Staff concurs with the recommendation. Even though there is a financial impact, staff believes that there is a responsibility on the City's part to provide for the deceased in light of the commitment made when the headstones were removed in the 1960s.

- e) The Parks and Recreation Commission recommends to the City Council that the other proposed uses (e.g., the restoration of St. Mary's Cemetery, sale of the property for private development of a heritage restoration site, tot lot, relocation and restoration of the Saticoy Church, perimeter lighting) be acknowledged as potential uses; but be declined at this time.

Public Engagement Process

The planning process began with the establishment of a CIP in the CIP Plan. However, the proposed project description did not address many of the issues brought forth by various individuals, residents and descendants of those buried there. Also, it did not address the entire property – only the western 110 feet. A separate public art capital project was included in the CIP Plan. The Cemetery Park Public Art Project was developed to enhance the park through temporary wood sculptures carved from the old Monterey Pine trees removed from the site. This project was conceived before the community outreach process occurred. The tree stumps are stored. The selected artist will be asked to consider the stumps as part of the project.

In response to the apparent needs, the Park and Recreation Commission on October 20, 2004, approved the public engagement process (Exhibit B). The process included four primary steps. We are now at the end of Step 1.

Step 1 is designed to develop community consensus through survey results and public discussion. The public engagement process included a site tour attended by the public and Park and Recreation Commission; the preparation, distribution and review of a citizen survey; and the formulation of a recommendation on the future of the cemetery/park to the City Council.

As part of the public engagement process, the Commission conducted a site tour and heard from the public both on-site and at City Hall on April 20, 2005. The site tour was well publicized and attended by approximately 50 residents and interested persons. Residents and park users expressed concern about excessive speed in the adjacent alley and on Poli Street; they debated the need for a tot lot and talked about how to commemorate those buried there. Most significantly, they discussed the complexity of how to strike a balance between those who use the area for socialization through their dogs and how to respect the fact that loved ones are buried beneath the area they use. The general consensus was to leave the park as it is; that the people who use the park and live around it cherish the high level of maintenance and the passive use nature of the site.

The Park and Recreation Commission approved a survey on December 15, 2004. The survey had a wide circulation of 1700 surveys distributed, plus the survey was available

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to all residents via the City's website. Responses were received from 520 people - a 30.6% response rate of those mailed. The survey results in Exhibit C were reviewed and discussed by the Parks and Recreation Commission on May 18, 2005. The overwhelming response was to keep the cemetery/park as it is. A large number (not a majority) felt that a monument commemorating those buried there should be erected. The majority felt that the site should not be returned to a cemetery. A very small number felt that a fenced area for dogs should be provided. The larger majority felt that dogs should be allowed on leash or eliminated entirely. Also, a very small number felt that the western 110 feet should have a tot lot and picnic/play area.

At the May 18, 2005 Parks and Recreation Commission meeting there were approximately 13 people who appeared at the hearing who expressed a heartfelt desire that the site be returned to a cemetery and that the City should see to it that the formerly removed headstones be returned to the site. There were representatives from various "stakeholders" who expressed their requests, including a representative from the Breast Cancer Foundation who suggested that the Saticoy Church be relocated to this site and be occupied by fund raising activities to benefit breast cancer research. The stakeholder list is included in Exhibit D. Other than the requests to return the area to a cemetery, none of the stakeholder proposals received majority support either from the survey or at the public meetings.

It was the overriding consensus, evidenced by the survey results and public input, that any future improvements be designed to inform, interpret and recognize the area as a historic cemetery; but not restrict the public's ability to use the area for passive recreation; that activities that include dogs be on leash and that no off-leash areas be established. It was further considered that the public art component be integrated into plan development to assure creativity in capturing the unique significance of the history and importance of the area.

Step 2 in the process would begin after the City Council's endorsement of the Park and Recreation Commission and Staff Recommendations. This step would include the selection and retention of an experienced professional team to develop a preliminary design, cost estimates and phasing plan.

Step 3 includes progress reviews throughout the planning process at the Parks and Recreation and Public Art Commissions and forwarding the plan and recommendations to the City Council.

Step 4 includes project implementation and funding.

Public Art Component

The Public Art Commission has formally considered Recommendation a). The Public Art Commission has endorsed the plan of a partnership with the Landscape Architect to develop a plan and program that includes an Artists' perspective. It was thought that an experienced Artist would do much in unifying all of the historic elements that embrace this very important place. In reference to this, the Public Art Commission is recommending through their process that \$6,000 be allocated to the retention of the Artist for the program and \$19,000 for implementation.

Exhibits:

- A. Headstone Replacement Policy
- B. Public Engagement Process
- C. Survey Results
- D. Stakeholder List
- E. Grand Jury Investigation Report

Prepared by: Mike Montoya, Parks Manager *MM*
for



Ronald J. Calkins
Public Works Director

Reviewed as to fiscal impacts



Kaye Mirabelli
Interim Administrative Services Director

FORWARDED TO THE CITY COUNCIL



Office of the City Manager

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Exhibit A
Headstone Replacement Policy

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**Cemetery Memorial Park
Policy for Installing Markers**

1. ~~Family members~~ The City will bear the cost of inscription, the marker, and the cost for installation. A family member(s) must make the request.
2. The marker can be either granite or bronze (or other durable material designed for this purpose). The marker shall not exceed 18" x 24" and will be flush to the ground. No monuments or other above ground features are allowed.
3. The marker will be delivered to the City Park Division to coordinate placement.
4. The marker site will be located and marked by the City Engineering Surveyor and installed by the Facilities Maintenance Division.
5. Once in place, the Park Division will notify the City Clerk's office. A picture will be taken of the marker in place and family member(s) requesting placement of the marker will be notified.

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Exhibit B
Public Engagement Process

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Cemetery Memorial Park – Community Design Process

October 2004

1. Parks & Recreation Commission approval of process and verification of project scope (October 20, 2004 meeting):

Approval Process:

- Prepare and distribute citizen survey (Parks and Recreation Commission approval of questionnaire)

Neighborhood within 3 blocks (1500 feet)
Neighborhood Councils
Website
 - Parks & Recreation Commission site visit

Invite public and notice (conduct on-site question and answer session on the process, history of the park and importance to the community)
 - Parks and Recreation Commission meeting(s)

Presentation from stakeholders
Present survey results
Provide relevant history and background
Public input and participation
 - Parks and Recreation Commission formulate recommendations and identify priorities (June 2005)
 - Request City Council endorsement and approval of Park and Recreation Commission recommendations and authorization to proceed with the RFQ/P process to retain the consultant (July/September 2005)
2. RFQ/P and selection process to retain consultant for preparation of the preliminary design and phasing plan including the identification of priorities pursuant to Parks and Recreation Commission and City Council direction (City Council approval of consultant contract)
 3. Parks and Recreation Commission progress review(s) and approval of plans – forward plans and recommendations to the City Council for approval.
 4. Include projects in CIP and/or budget (on-going until plan implemented).

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Exhibit C
Survey Results

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CEMETERY MEMORIAL PARK SURVEY

City of Ventura - Parks Division

Q1 What improvements would you like to see or not see in Cemetery Memorial Park? (please check the options you prefer)

	Agree	Disagree
Develop more active park uses such as a children's play area/structure, picnic area, benches, plaza and necessary parking on the western parcel	142	315
Commemorate those who died in the cemetery with a memorial monument or wall	305	58
Develop a fenced, off-leash dog area on the western parcel	149	299
Keep the status quo. No changes to the existing park	223	65

Q2 Other ideas and recommendations:

Q3 Besides repair of the perimeter stone wall, what other improvements would you like to see in the park overall:

More trees and landscaping 167 More benches 219 More lighting 120

Q4 Other suggestions:

In order to tally the results fairly, we ask that each person complete only one survey and profile, supplying your name and contact information, so that the City of Ventura can keep you informed and receive updates on this issue, including notices of future meetings on this topic.

Q5 Name

512

Q9 Cell phone

105

Q6 Mailing Address (street/city/zip)

508

Q10 E-mail Address

260

Q7 Daytime phone

Q11 I:

frequently use Cemetery Memorial Park for recreation 45
frequently use Cemetery Memorial Park for recreation 47
frequently use Cemetery Memorial Park for recreation 48
frequently use Cemetery Memorial Park for recreation 50
frequently use Cemetery Memorial Park for recreation 52

Q8 Evening Phone

43

CEMETERY MEMORIAL PARK SURVEY

City of Ventura - Parks Division

Q1. What improvements would you like to see or not see in Cemetery Memorial Park? (please check the options you prefer)

	Agree	Disagree
Develop more active park uses such as a children's play area/structure, picnic area, benches, plaza and necessary parking on the western parcel.	27.2%	60.3%
Commemorate historic women and place a cemetery with memorial monuments on a hillside.	53.6%	
Develop a fenced, off-leash dog area on the western parcel.	28.5%	57.3%
Keep the status quo. No changes from existing park.		

Q2. Other ideas and recommendations:

4.6%

Q3. Besides repair of the perimeter stone wall, what other improvements would you like to see in the park overall:

More trees and landscaping 32.0%
 More benches 42.0%
 More lighting 23.0%

Q4. Other suggestions:

40.8%

In order to tally the results fairly, we ask that each person complete only one survey and profile, supplying your name and contact information, so that the City of Ventura can keep you informed and receive updates on this issue, including notices of future meetings on this topic.

Q5 Name

98.1%

Q6 Mailing Address (street/city/zip)

97.3%

Q7 Daytime phone

77.75%

Q8 Evening Phone

27.25%

Q9 Cell phone

20%

Q10 E-mail Address

46.8%

Q11 I:

Amateur Member Resident	86.2%
Amateur Member Non-Resident	5.0%
Frequently Use Cemetery Memorial Park or my child	26.2%
Frequently Use Cemetery Memorial Park or Recreation	26.5%
Frequently Use Cemetery Memorial Park or Recreation	46.8%

Exhibit D
Stakeholder List

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**City of Ventura
Parks and Recreation Commission**

**Cemetery Memorial Park
Stakeholders List**

June 8, 2005

Heritage Park Proposal. Developer Todd Habliston wishes to purchase the ±1 acre western parcel and develop it into a Heritage Park by moving historic homes from Ventura and vicinity, restoring them, and utilizing space for commercial, office, community meeting, museum, and residential purposes. Property would be opened to public and connected with Cemetery Memorial Park. Interpretation would be provided at each restored building.

Public Art Proposal. The public art component could run concurrently with any plan and could include one to several projects. The most current proposal is to utilize the trunks and stumps of the dead Monterey Pines in conjunction with a local artist to create a temporary or permanent creation commemorating the history of the site. Note that several of the removed stumps are being stored.

Return the Site to a Cemetery and Add Old Light Fixtures Around the Perimeter of the Site. Various interested persons and resident Steven Schleder are proposing that the City return and maintain the property as a cemetery. He is proposing that the City request the old headstones returned and affix them back to their original locations. There are some old street lighting fixtures stored at the City Yard. He is requesting that the City restore these fixtures and place them around the perimeter of the cemetery. (Note: These fixtures were not originally located within the cemetery.)

Move the Historic Saticoy Church to the Western Parcel and Open to Non-Profit Fundraising. Resident Lisa Barreto would like the City to move the old Saticoy Church and restore it on the western parcel. She is proposing that the City offer the square footage to the Breast Cancer Fund to sell merchandise to raise funds.

Establish a Formal Memorial. Resident Candace Dubeau Earle is an artist who prepared a drawing of her interpretation of a befitting memorial. She would like to see the Memorial Park remain as it is with the addition of a monument.

Establish an Off-Leash Area for Dogs. The park currently has a loosely organized group of local residents who regularly meet at the park with their dogs. Dogs are permitted in all City parks on leash. However, this group enjoys taking their dogs off leash to run free. No specific proposal has been provided to date. Dog Owners Group (D.O.G.) proposed this at the time two off-leash areas were approved at Arroyo Verde and Camino Real Parks. The Cemetery Memorial site was excluded due to two separate incidents occurring where dogs got away from their owners and were hit by automobiles on Main Street.

Establish a Children's Play Area and Plaza. After the City Recreation Center was removed in 1972, a conceptual plan was developed for the western parcel. This plan was included in several capital programs over the years and was never funded. The "Terrace Park" plan included a small children's play area and structure, restrooms, lawn, passive seating area, and smaller parking lot.

Leave Park As It Is. At the site visit on April 20, 2005, many expressed the desire to keep the park as it is. Make no change.

Exhibit E
Grand Jury Investigation Report