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# ADMINISTRATIVE REPORT

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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

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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](http://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.

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### 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.

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- 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.

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### 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   
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)*

	<i>Agree</i>	<i>Disagree</i>
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 interred in the cemetery with a memorial, monument or wall.	308	150
Develop a fenced, off-leash dog area on the western parcel.	149	299
Keep the status quo - No changes to the existing park.	223	195

**Q2** Other ideas and recommendations:

233

**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:

213

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

411

Q11 I:

*Am A Ventura Resident.....* 450

*Live in the park's immediate neighborhood.....* 329

*I frequently use Cemetery Memorial park for my child.....* 85

*I frequently use Cemetery Memorial park for my dog.....* 159

*I frequently use Cemetery Memorial Park for recreation.....* 243

Q8 Evening Phone

143

# 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)*

	<i>Agree</i>	<i>Disagree</i>
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 those interred in the cemetery with a memorial, monument or wall	59.0%	28.7%
Develop a fenced, off-leash dog area on the western parcel	28.5%	57.3%
Keep the status quo - No changes to the existing park	42.7%	37.4%

**Q2** Other ideas and recommendations:

44.6%

**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  
78.7%

Q8 Evening Phone  
27.4%

Q9 Cell phone  
20.1%

Q10 E-mail Address  
49.8%

Q11 I:  
Am A Ventura Resident.....86.2%  
Live in the park's immediate neighborhood.....63.0%  
I frequently use Cemetery Memorial park for my child.....16.3%  
I frequently use Cemetery Memorial park for my dog.....30.5%  
I frequently use Cemetery Memorial Park for recreation.....46.6%

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

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# county of ventura

6/14/05

## Grand Jury

800 South Victoria Avenue  
Ventura, CA 93009  
(805) 477-1600  
Fax: (805) 477-1610

[grandjury.countyofventura.org](http://grandjury.countyofventura.org)

June 25, 2005

City Council  
City of San Buenaventura  
501 Poli Street  
Ventura, CA 93001

Attention: Rick Cole, City Manager

Dear City Council of the City of San Buenaventura:

Enclosed is a copy of the Ventura County 2004-2005 Grand Jury report entitled, *Public Right to Public Records and Cemetery Memorial Park*.

This report is being provided to you as the governing body of the city concerned in the above referenced report. Penal Code section 933 (c) requires that you comment on the report's findings and recommendations within 90 days of submittal of this report to you. This requirement is independent of the Mayor's requirement to comment. The requirements for required comment are set forth at Penal Code section 933.05 (a) through (c). A summary of these requirements follows:

- State whether you concur, concur in part, or disagree with the Grand Jury's *findings*.
- Explain the reasons why you disagree in whole or in part with each applicable *finding*.
- For each applicable *recommendation*, state if it has already been implemented, will be implemented (with expected date of implementation), will not be implemented (with an explanation of the reason), or requires further study.

Please send your response **in duplicate** to:

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

Sincerely,



Dawn S. Hall, Foreperson  
Ventura County 2004-2005 Grand Jury

## **Public Right to Public Records And Cemetery Memorial Park**

### **Summary**

The Ventura County 2004-2005 Grand Jury undertook an investigation into the policies, procedures and practices of the Clerk's office of the City of San Buenaventura (Ventura or City) with respect to requests for public records.

The complainant stated unequivocally (citing specific examples) that employees in the Clerk's office failed on several occasions to provide requested public documents and files concerning Cemetery Memorial Park.

After a seven month investigation the Grand Jury was unable to confirm the complainant's allegations.

However, during the investigation the Grand Jury discovered some disturbing historical information about the cemetery and actions taken by the City in the past. It is important to note that the Grand Jury found no evidence of illegal actions.

Since 1862, this site has undergone a number of significant changes, driven in part by the actions and inactions of the City. Ventura is planning additional improvements and must face the challenge of balancing the diverse needs and desires of the community. The Grand Jury recommends that the City thoughtfully consider a wide range of options that will rectify the mistakes of the past, appropriately acknowledge the historical significance of the site and those interred, and re-establish a more serene and sacred environment consistent with a cemetery.

Attachment 1 contains a brief history of Cemetery Memorial Park, including the chain of ownership, the conversion of the site from cemetery to the current dual-function cemetery and park, and the removal and disposition of tombstones and crypts. Attachment 2 shows an aerial photograph of Cemetery Memorial Park taken in 2004.

### **Background**

The Grand Jury received a citizen complaint that employees in the Clerk's office failed on a number of occasions to provide requested public documents and files concerning Cemetery Memorial Park. The allegations called into question the policies and procedures of the Clerk's office.

The California Government Code section 6250 states, "... the Legislature... finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state." Consistent with its oversight responsibilities, the Grand Jury considers a charge, if true, that a local government failed to provide access to not exempt public records, to be a serious violation of the public trust, so in October, 2004, the Grand Jury initiated an investigation.

The investigation focused on the policies, procedures and practices of the Clerk's office with respect to providing the public with requested public records. Subsequently the Grand Jury looked into the history of the property known as Cemetery Memorial Park, its conversion to its current dual-function cemetery and park and the City's ongoing improvement plan.

The Grand Jury was unable to confirm the complainant's allegations, however, during the investigation the Grand Jury discovered some disturbing historical information about the cemetery and actions taken by Ventura officials in the past.

The following six concerns deal with the conversion of the City Cemetery to its current dual-function cemetery and park and the City's current improvement plan:

- The City allowed the cemetery to deteriorate without taking appropriate remedial action, other than to build high hedges to shield the unsightly view and once each year weeded and cleaned the site. After years of neglect, the City then used the cemetery's run-down condition to justify a plan to convert the site to a dual-function cemetery and park.
- The City adopted an improvement plan for the cemetery, marketed the plan to obtain public support and then failed to perform fully to the terms of the plan.
- The City removed and stored some 500 tombstones and crypts, moving them from time to time, using some to stabilize the land beneath a golf course and ultimately discarding those remaining.
- The current dual-function site contains no signage that identifies it as an historic cemetery. It is neither fenced nor gated and therefore never closes. People allow their dogs to run freely without regard to the inevitable result.
- The City is planning to renovate the site and is currently conducting a survey to collect public input. The survey focuses on that portion of the property containing a paved parking lot and a small lawn area, representing only 19% of the total property. Although the City has stated awareness that there is significant history relative to those buried on the site, there appears to be more interest in developing a more active park with children's play area and structure, picnic area and benches as opposed to providing a more serene or sacred environment.
- Although the City acknowledges there may be bodies buried beneath the parking lot asphalt, there is no immediate plan to implement an existing proposal to verify burials. The City plans to perform the verification if and when this portion of the site is renovated.

Another concern is the lack of a deed or other definitive City action in the acquisition of two parcels, known as the Protestant and Hebrew sections, of the cemetery. The chain of ownership for these parcels is unclear and incomplete.

## Methodology

The Grand Jury conducted interviews with a number of individuals possessing pertinent information. Some of those interviewed included the complainant, a number of knowledgeable past and present employees in the City Clerk's office, the City Attorney, the Park Supervisor, a member of the Park and Recreation Commission and the City Manager.

In addition the Grand Jury collected and reviewed a wide variety of documents, maps, drawings and photographs and toured Cemetery Memorial Park.

Documents examined included deeds, letters, City Council minutes, Park and Recreation Commission minutes, agendas, a variety of reports and memoranda, applicable State statutes, Assessor records, City policies and procedures, and other information provided by the City.

## Findings

### Public Access to Public Records

- F-01. A City document titled "City of San Buenaventura; Access to Public Records," dated January 2005, states: "With certain exceptions, all records of the City are public documents to which the public is entitled access."
- F-02. Written City procedures define the fee for requested records, the expected time to reproduce and other pertinent information.
- F-03. A written request form is most often used by Clerk employees in responding to a request for records.
- F-04. Records dealing with personnel information, law suits, claims and other like matters are considered exempt from general public access.
- F-05. Information related to Cemetery Memorial Park does not fall under the category of exempt records.
- F-06. City policies demand that requests for public records be honored and processed in a timely fashion.
- F-07. No evidence of deviation from policy and procedure was found.
- F-08. No evidence of direction or request to withhold public records were found.
- F-09. The Grand Jury requested and received a number of public records from the Clerk's office.
- F-10. Employees in the City Clerk's office were cooperative and knowledgeable in the performance of their duties.



**Cemetery Memorial Park**

- F-11. Deeds transferring the ownership of the two parcels known as the Protestant and Hebrew sections of the cemetery site are not available.
- F-12. Memoranda provided by the City indicate the City acquired the Protestant and Hebrew section of the cemetery by a combination of the following actions:
- The City Cemetery was shown on an official City map in 1887.
  - The City passed Ordinance No. 41 in 1889 to provide for regulating and protecting the public cemetery.
  - The City Cemetery was shown on an official City map in 1889.
  - The City passed Ordinance No. 86 in 1896 to set up a cemetery fund.
  - The City assumed ownership under provisions of the State Political Code (currently found in section 8126 of the California Health and Safety Code).
- F-13. Memoranda provided by the City indicate that the City of Ventura acquired title to the Protestant and Hebrew sections of the cemetery site in 1889.
- F-14. The City passed an ordinance in 1944 prohibiting burials within the city limits.
- F-15. Memoranda provided by the City indicate that for many years the Protestant and Hebrew cemeteries were allowed to deteriorate.
- F-16. Memoranda provided by the City indicate that for many years the St. Mary's Cemetery was allowed to deteriorate.
- F-17. The City acquired ownership of the 1.12 acre westernmost portion of St. Mary's Cemetery in 1955 after a negotiation with the Roman Catholic Archbishop of Los Angeles, a Superior Court condemnation judgment and the payment of \$15,000 to the Archbishop (Archdiocese).
- F-18. The City acquired ownership of the 2.57 acre portion of St. Mary's Cemetery in 1965 when the Roman Catholic Archbishop of Los Angeles deeded the property to the City.
- F-19. The deed transferring ownership of the 2.57 acre portion of St. Mary's Cemetery to the City states: "Said real property is granted for cemetery use, provided, however, that if said cemetery is abandoned or no longer maintained for such purposes, the real property shall revert to the grantor."
- F-20. A memorandum to the City Council from the City Manager, dated March 22, 1963, stated there are a total of 2,298 graves on the cemetery property. Msgr. Francis J. Webber, Archivist for the Archdiocese of Los Angeles, writing in the Ventura County Historic Society Quarterly, Fall 1980, stated there are approximately 2,980 internments, but the exact number cannot be determined.

- F-21. Msgr. Francis J. Webber, Archivist for the Archdiocese of Los Angeles, writing in the Ventura County Historic Society Quarterly, Fall 1980, states "... the westernmost 110 feet of Saint Mary's Cemetery were never developed for interment purposes..."
- F-22. The cover letter to a 2005 City sponsored public survey dealing with Cemetery Memorial Park states, "According to written statements from the Catholic Archdiocese, the westernmost 110x400 feet does not contain any gravesites." The same letter states, "Various informational sources indicate that there may possibly be burials in this area."
- F-23. In 1955 the City built a youth recreation center on the southern end of the westernmost portion of St. Mary's Cemetery.
- F-24. Sometime shortly after 1955, the youth recreation center was demolished due to severe slippages and unstable land.
- F-25. Since 1944, as families of those interred moved away, private attention to the graves grew less frequent.
- F-26. Since 1944, as earlier sources of revenue such as income from sale of plots and family provided bonds were depleted, maintenance of the cemetery gradually stopped.
- F-27. Memoranda provided by the City show that there was almost no maintenance or attention to any of the graves, except the City's annual weeding and cleaning, for the twenty years prior to the City's cemetery improvement project.
- F-28. Memoranda provided by the City show that vandalism such as the pushing over breaking and carrying off of headstones was a common occurrence.
- F-29. In 1963 the City adopted a plan to improve the cemetery site.
- F-30. Memoranda provided by the City cite the Health and Safety Code of California as the legal basis giving the City the authority to proceed with the cemetery improvement plan.
- F-31. Memoranda provided by the City indicate the Health and Safety Code of California, section 7600 as the authority to remove human remains from a cemetery that has not had an interment for a period of two years.
- F-32. The cemetery improvement plan, proposed by the City Manager and adopted by the City Council in March 1963, called for the following:
- Remove all existing markers
  - Flush grade the area
  - Install walkways
  - Install benches and fountains
  - Install plantings
  - Install lawn

- In place of individual headstones, set small brass markers flush with the ground with a number keyed to a large memorial
- Two memorials, one each for the Catholic and Protestant sections may be required
- The memorials will carry the names of all those interred

F-33. The City notified the families of the deceased of the planned development by mail, sent letters to all local churches and published articles about the project in local newspapers.

F-34. A form letter (presented in its entirety in Attachment 3), sent to one particular family, dated January 3, 1964, and signed by the City Manager, states, in part, the following:

Over 90% of the graves are no longer cared for. Headstones have been broken and moved, curbing has deteriorated, and iron work has rusted away. We feel this condition should not be permitted to continue, yet the expense of putting all the plots back into original condition with proper plantings, and repairing or resetting existing monuments, would be very high. Furthermore, if this was done, maintenance would be extremely costly because of the necessity to hand-trim between plots and around monuments. Also there was no perpetual care fund provided to take care of this expense.

We propose to remove all existing markers, finish-grade the area, install walkways, benches and fountains, plantings and lawn; but rather than install individual stones, set small brass markers flush with the ground, with the number keyed to a large memorial. It will be necessary to have separate memorials for the Catholic and Protestant sections. These memorials would carry the names of all those interred, including all graves that are not now marked.

The proposed program has been explained to the Catholic Archbishop of Los Angeles and is acceptable to the Church. A deed to their property will be granted to the City, provided the work is done as outlined.

F-35. Cemetery Memorial Park does not have walkways, fountains or grave markers flush with the ground, with the numbers keyed to either a large single memorial or separate memorials for the Catholic and Protestant sections.

F-36. The City has a policy and procedure for installing grave markers for anyone interred in Cemetery Memorial Park, if requested by a family member. The City's Park Division will establish the location and perform the physical installation. The family member will bear the cost for the marker and the installation.

- F-37. Cemetery Memorial Park has had a number of flush-mounted markers installed since the cemetery was converted to a dual-function cemetery and park.
- F-38. Memoranda provided by the City indicate that 500 tombstones and crypts were removed and stored in a variety of locations during a seven year period.
- F-39. Memoranda provided by the City indicate that some tombstones and crypts were used to protect the Olivas Park and Golf Course, some destroyed and others discarded.
- F-40. Cemetery Memorial Park, located in a residential section of the city, is a well maintained passive park with trees, shrubs, a grass lawn and an unrestricted view of the ocean.
- F-41. Cemetery Memorial Park is used by individuals, families and pets.
- F-42. The City provides bags and a container for the removal of dog waste in the park.
- F-43. The City has installed signage to encourage dog owners to pick up after their pets.
- F-44. The City has installed signage requiring dog owners to obey the City's leash laws.
- F-45. There is no signage identifying the property as a cemetery.

## **Conclusions**

### **Public Access to Public Records**

- C-01. The Grand Jury was unable to find evidence that employees in the Clerk's office of the City of Ventura failed to provide requested public documents and files concerning Cemetery Memorial Park. (F-01 thru F-10)
- C-02. The Grand Jury was unable to find evidence that employees in the Clerk's office of the City of Ventura were either directed or requested to withhold public information concerning Cemetery Memorial Park. (F-01 thru F-10)
- C-03. The Clerk's office has in place appropriate policies and procedures to adequately deal with requests for public records. (F-01 thru F-10)
- C-04. Employees in the Clerk's office are knowledgeable and cooperative in the performance of their duties. (F-01 thru F-10)

### **Cemetery Memorial Park**

- C-05. The Grand Jury found no evidence of anything illegal in the acquisition of the property known as Cemetery Memorial Park. (F-11 thru F-19, F-21, F-22, F-25 thru F-28)
- C-06. The Grand Jury found no evidence of anything illegal in the conversion of the Catholic, Protestant, and Hebrew cemeteries into a dual-function cemetery and park. (F-21 thru F-34)

- C-07. The City appears to have been somewhat insensitive to those interred in the cemetery, their families, and the cemetery's historical significance. (F-15, F-16, F-25 thru F-28, F-35, F-38, F-39, F-45)
- C-08. The City allowed the Protestant and Hebrew sections of the cemetery to deteriorate without taking appropriate action. (F-15, F-25 thru F-28)
- C-09. The City failed to compel the Catholic Archbishop of Los Angeles to take appropriate action to prevent the deterioration of St. Mary's Cemetery. (F-16, F-25 thru F-28)
- C-10. After allowing the cemeteries to deteriorate the City used that deterioration as a justification for converting the site to a cemetery and park. (F-29 thru F-34)
- C-11. The City failed to install walkways, benches and fountains, and small brass markers flush with the ground, with the number keyed to two large memorials, although these specific items were promoted to gain the support of the general public and the families of those interred. (F-32 thru F-35)
- C-12. The City removed, stored, used for other purposes and ultimately discarded approximately 500 tombstones and crypts without regard to their historical significance. (F-38, F-39)
- C-13. The chain of ownership for the Protestant and Hebrew sections of the cemetery is unclear and incomplete due to the lack of a deed or other definitive City action. (F-11 thru F-14)
- C-14. Dogs roam off-the-leash through Cemetery Memorial Park. (F-41 thru F-44)
- C-15. Cemetery Memorial Park is a well maintained passive park with trees, shrubs and a grass lawn with signage requiring dog owners to obey the leash laws and pick up after their pets. (F-40 thru F-44)
- C-16. Cemetery Memorial Park is used extensively by the public. (F-41)
- C-17. The Grand Jury found no evidence that the complainant, the City or the Archdiocese acted in bad faith or with the intention of doing harm. (F-01 thru F-45)

## Recommendations

- R-01. The Grand Jury recommends that the City of Ventura thoughtfully consider a wide range of options in the on-going process to improve Cemetery Memorial Park. (C-07 thru C-12)
- R-02. The Grand Jury recommends that the City of Ventura consider improvement options that will rectify the mistakes of the past and re-establish a more serene and sacred environment more consistent with a cemetery. (C-07 thru C-12)
- R-03. The Grand Jury recommends that the City of Ventura consider improvement options that will appropriately acknowledge the historical significance of those interred on the site. (C-07 thru C-12)
- R-04. The Grand Jury recommends that the City of Ventura enforce the existing leash laws. (C-14)

## **Response**

City Manager of the City of San Buenaventura (R-01 thru R-04)

## **Attachments**

1. A Brief History of Cemetery Memorial Park
2. Aerial Photograph Showing Cemetery Memorial Park, (2004)
3. Letter from the City of San Buenaventura titled "Proposed Improvement – City Cemetery," dated 1964

## A Brief History of Cemetery Memorial Park

### Introduction

Cemetery Memorial Park, consisting of 7.09 acres, is located in the City of San Buenaventura (Ventura). An aerial photograph is presented in Attachment 2. It lies between Main Street to the south, Poli Street to the north, and is bounded on the east by Aliso Lane. It served as a city cemetery from 1862 until 1944 when the City Council adopted an ordinance prohibiting burials within the city limits. Throughout its history the property has had a number of different owners. Since 1969 it has been a dual-function cemetery and park.

Cemetery Memorial Park now consists of the following three separate parcels: (1) the westernmost 1.12 acres (110x400 feet), (2) an adjacent middle 2.57 acres (290x400 feet), and (3) an easternmost 3.4 acres (370x400 feet).

Originally the westernmost and the middle parcels were one 3.69-acre unit (400x400 feet).

Early records indicate that the easternmost portion was longer than it is today by 30 feet. To date no record was found showing what became of the 30 foot strip. However the easternmost edge of the parcel is adjacent to Aliso Lane, so the 30 feet may have been used to make the street.

### Chain of Ownership

In 1862, the two western parcels (3.69 acres) were deeded as a single unit to the Catholic Diocese of Monterey by George Wright, Henry Webb, Edmund Goold and Daniel Waterman. This land was subsequently given the name St. Mary's Cemetery.

In 1870 the San Buenaventura Commercial Manufacturing and Mining Company deeded the eastern parcel (3.4 acres) to the First Presbyterian Church of San Buenaventura. The deed identified the parcel as being east of and adjacent to the Catholic Cemetery (St. Mary's) and measured 400x400 feet. This portion of the property is often referred to as the Protestant Cemetery.

In 1876 the Presbyterian Church of San Buenaventura transferred title of the easternmost 100 feet of their property to the Hebrew Cemetery Association.

In 1955 ownership of the 1.12 acre westernmost portion of St. Mary's Cemetery was transferred to the City of Ventura after a negotiation between the Roman Catholic Archbishop of Los Angeles and the City, a Superior Court condemnation judgment, and the payment of \$15,000 to the Archbishop (Archdiocese). The City purchased the land for the purpose of building a youth center. It was completed in 1955 and had to be demolished some years later as a result of unstable land beneath the building.

In 1965 the remaining portion of St. Mary's Cemetery (2.57 acres) was deeded to the

City of Ventura by the Roman Catholic Archbishop of Los Angeles. The grant deed specifies, "Said real property is granted for cemetery use, provided, however, that if said cemetery is abandoned or no longer maintained for such purposes, the real property shall revert to the grantor."

The chain of ownership of the Protestant portion is somewhat incomplete because no deed exists transferring the property from the First Presbyterian Church of San Buenaventura to the City.

In 1940 the City Attorney advised that the City had assumed control of the Protestant Cemetery, including the Hebrew portion, as the result of four actions. In 1887 the cemetery was shown on an official City map. In May 1889, Ordinance No. 41 was passed to provide for regulating and protecting the public cemetery. In June of the same year the cemetery was once again shown on an official map. In 1896, Ordinance No. 86 was passed to set up a cemetery fund.

In a letter to the City Council in 1963, the City Manager stated the following, "Control of the Protestant portion of the cemetery, including the area deeded to the Hebrew Cemetery Association, was apparently assumed by the City under provisions of the State Political Code (currently found in section 8126 of the Health and Safety Code)." He goes on to cite Ordinance No. 41 and 86 and suggests "evidence of control is implied" in these ordinances.

In 1950, the Catholic Diocese of Los Angeles deeded a 10-foot strip of land along the north side of St. Mary's Cemetery on Poli Street for beautification purposes and future widening of the street.

In 1955, the property at 1268 Poli Street and adjacent to the westernmost portion of Cemetery Memorial Park was deeded to the City for approximately \$6,500.

### Cemetery Conversion

There have been a number of proposals and plans suggesting different usages for the land now called Cemetery Memorial Park. In 1938, the City Council proposed that the then City Cemetery be converted into a park, but this proposal was not adopted. In 1945, there was a suggestion to build a church on the St. Mary's Cemetery portion. This proposal also was never implemented. In 1949, the City Planning Commission requested the City Council to authorize a survey relative to vacating the cemetery and acquiring the property for multiple housing. This too never came to be.

In 1953 the City Council approved a plan to build a youth center on the westernmost 1.12 acres (110 foot strip) of St. Mary's Cemetery.



In 1955 the youth center was completed.

In 1962 the City approved a budget and began planning for beautification and conversion of the cemetery into a memorial park. The opening paragraph of a City Report, titled "Report – San Buenaventura Memorial Park," dated December 6, 1967, and unsigned, describes Cemetery Memorial Park prior to the conversion as, "...a source of embarrassment to all who lived there. Its tumbled and broken headstones indicated a neglect entirely uncharacteristic of this well-kept community." The report further states that City officials planted high dense hedges to hide the cemetery from view.

In a section, titled Legal Authority to Proceed, the same report states, in part, the following:

The Health and Safety Code of California gives significant authority to the City. In the exercise of the police power, the City may forbid all future burials in the City in the interest of public health and general welfare.

Under section 7600 the City may, by ordinance, compel the removal of human remains from cemeteries in which no interments have been made for a period of two years. When all such remains have been removed, the city, as the cemetery authority, may sell, mortgage or otherwise encumber the land as granted by section 7900. It is obvious that if the City is given authority to disinter and remove remains from a cemetery within a city and thereafter sell the land, the headstones can also be removed.

In 1963, in a report to the City Council, the City Manager stated, "There are a total of 2,298 graves on record in both cemeteries. Less than half of these have an existing monument." He further stated that there are approximately 600 monuments. He recommended two alternative plans for the improvement of the City Cemetery and the City Council approved the following:

Remove all existing markers, flush grade the area, install walkways, benches and fountains, plantings, and lawn, but rather than install individual stones, set small brass markers flush with the ground with a number keyed to a large memorial. It probably would be necessary to have separate monuments for the Catholic and Protestant sections. These memorials would carry the names of all those interred.

The City notified the families of the deceased of the planned development by mail, sent letters to all local churches, and published articles about the project in local newspapers. A form letter, sent to one particular family, dated January 3, 1964, signed by the City Manager and presented in Attachment 3 states, in part, the following:

Over 90% of the graves are no longer cared for. Headstones have been

Attachment (1) 3 of 5

broken and moved, curbing has deteriorated, and iron work has rusted away. We feel this condition should not be permitted to continue, yet the expense of putting all the plots back into original condition with proper plantings, and repairing or resetting existing monuments, would be very high. Furthermore, if this was done, maintenance would be extremely costly because of the necessity to hand-trim between plots and around monuments. Also, there was no perpetual care fund provided to take care of this expense.

We propose to remove all existing markers, finish-grade the area, install walkways, benches and fountains, plantings and lawn; but rather than install individual stones, set small brass markers flush with the ground, with the number keyed to a large memorial. It will be necessary to have separate memorials for the Catholic and Protestant sections. These memorials would carry the names of all those interred, including all graves that are not now marked.

The proposed program has been explained to the Catholic Archbishop of Los Angeles and is acceptable to the Church. A deed to their property will be granted to the City, provided the work is done as outlined.

A self-addressed postal card was enclosed with the letter for the family member to indicate his or her approval and comments of the cemetery improvement plan.

In 1964 the City Manager, in a letter to the Archdiocese of Los Angeles stated: "All of the families that we sent written notice to have returned cards indicating approval of our program. There were no protests filed on any of the interments within St. Mary's Cemetery.... The tomb stones are being catalogued and stored on City property so that families can take the markers if they wish."

#### Tombstones and Crypts Removal

In 1965 the City reported that the City Cemetery Tombstones and Crypts removal was completed. The City began storing them initially at Hall Canyon City Parks Yard, where they remained for about five years.

In 1969 the conversion was completed and what was once three cemeteries became a dual-purpose cemetery and park.

In a City report titled Report – San Buenaventura Memorial Park, dated December 6, 1967, a section, titled Public Relations Effort states in part:

There is no specific ordinance covering the ownership of headstones. Presumably a headstone belongs to the heir of the deceased. The stones taken from the City Cemetery were arranged in alphabetical order in the Park Department Yard and the heirs who could be located were invited to claim them.... It was decided all unclaimed stones would be kept a

minimum of five years and then disposed of by burying or dropping them into the ocean. The footings and bases have been placed on a levee which was built to protect the new Olivas Park and Golf Course.

In a memorandum from the Director of Parks, dated July 2, 1970, to the City Manager, it is stated, "Presently there are about five hundred (500) tombstones stored on city property for five years as requested by the City Attorney." The Director continues with the recommendation that they not be given to the public but rather be hauled to the levee and forgotten so as to not turn up in a backyard patio. In response to the memorandum, the City Attorney recommended they be held for seven years and then disposed of as the Director of Parks sees fit.

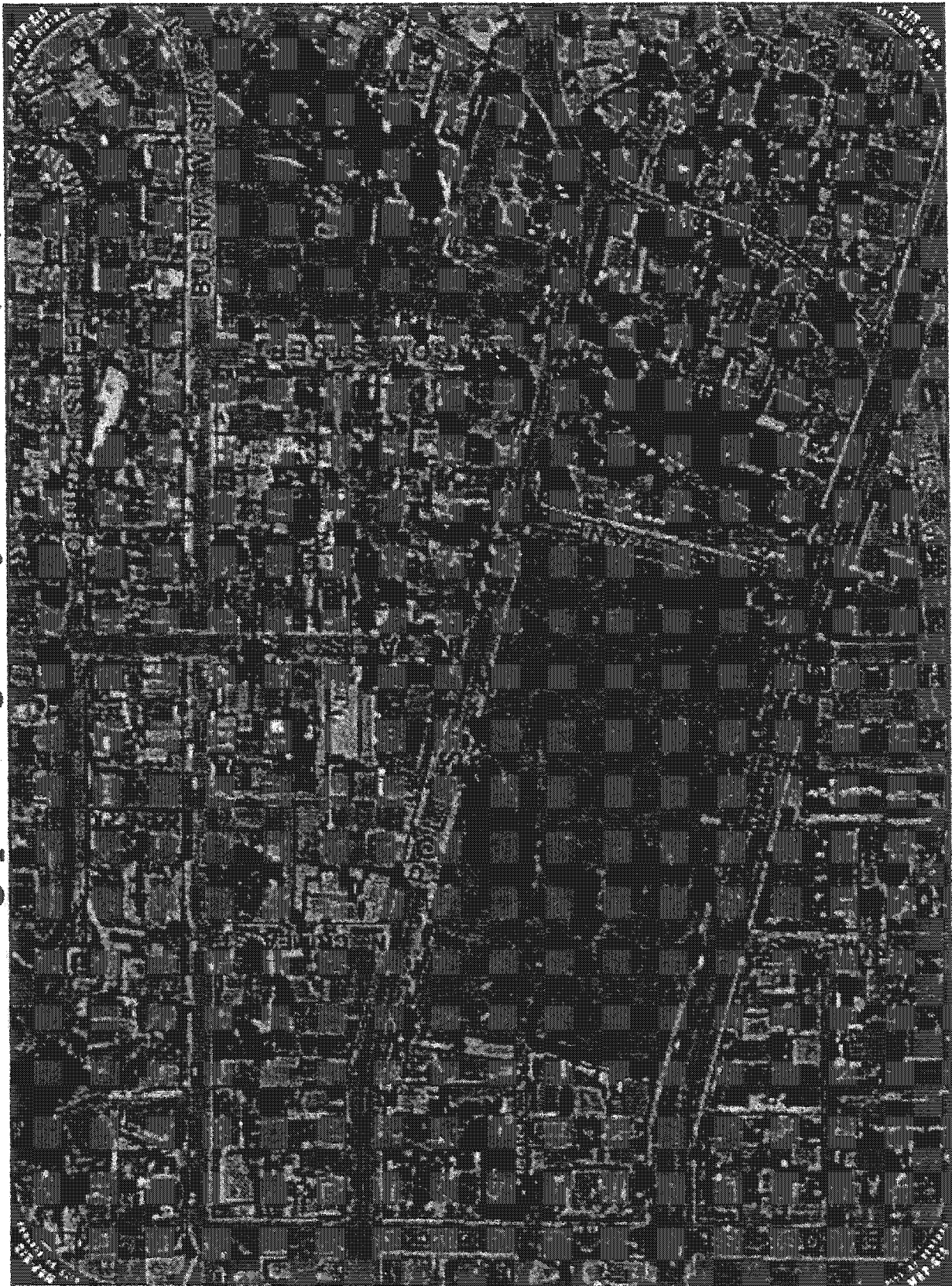
Some of the tombstones appear to have been moved to a city-owned parcel of land across from the Hall Canyon Yard and others hauled to Olivas Levee.

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May 15, 2005

This summary was prepared by the Ventura County 2004-2005 Grand Jury from information provided by the City of San Buenaventura.

**Aerial Photograph Showing Cemetery Memorial Park (2004)**



Attachment 2



## CITY OF SAN BUENAVENTURA

P. O. BOX 99

VENTURA, CALIFORNIA

MILLER 3-9911

January 3, 1964

MEMORANDUM

To: All Concerned

From: Charles W. Reiman, City Manager

Subject: Proposed Improvements - City Cemetery.

The City of San Buenaventura is planning to proceed with the proposed improvements to the old cemeteries located between Poll and Main Streets, adjacent to our Recreation Center.

We have in the City Hall the only records available that list the names of the persons that are interred, the removals, and the locations of the graves. This data is available for the Protestant, Jewish and Catholic sections of the cemetery. Existing records indicate that the following members of your family are interred:

1876 - H. Nidever ( Child )  
1913 - Mrs. Ruth Mary Nidefer

Burials within the City limits were prohibited in 1944. Over 90% of the graves are no longer cared for. Headstones have been broken and moved, curbing has deteriorated, and iron work has rusted away. We feel this condition should not be permitted to continue, yet the expense of putting all the plots back into original condition with proper plantings, and repairing or resetting existing monuments, would be very high. Furthermore, if this was done, maintenance would be extremely costly because of the necessity to hand-trim between plots and around monuments. Also there was no perpetual care fund provided to take care of this expense.

We propose to remove all existing markers, finish-grade the area, install walkways, benches and fountains, plantings and lawn; but rather than install individual stones, set small brass markers flush with the ground, with the number keyed to a large memorial. It will be necessary to have separate monuments for the Catholic and Protestant sections. These memorials would carry the names of all those interred, including all graves that

Proposed Improvements - City Cemetery

January 3, 1964

Page 2

are not now marked.

The proposed program has been explained to the Catholic Archbishop of Los Angeles and is acceptable to the Church. A deed to their property will be granted to the City, provided the work is done as outlined.

This plan is not original with this City, but has been adopted by many public and private cemeteries throughout California as a means of providing economical perpetual care to burial plots. Those buried there deserve a suitable resting place and the residents of the City deserve a more attractive memorial park.

Enclosed is a self-addressed postal card, on which you may indicate your approval and comments of the cemetery improvement plan as outlined. Your support is solicited and will contribute greatly to the over-all City beautification program.

CWR:ps



SUPERIOR COURT OF CALIFORNIA ♦ COUNTY OF VENTURA

MEMORANDUM

July 13, 2005

To: Distribution  
From: Carol Henry, Court Program Supervisor *CH*  
Superior Court Jury Services  
Subject: Responses to the 2004-2205 Grand Jury Report

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The 2004-2005 Grand Jury released its Final Report on July 1, 2005. Penal Code §933 and §933.05 outlined requirements for agency responses when requested (copy attached).

County elected agency and department heads are to file a response directly with Presiding Judge John Smiley within 60 days with a copy to the Ventura County Executive Officer. Appointed county agency heads should submit responses directly to the CEO within 90 days after a report covering that agency is issued.

All other public agencies, i.e. cities, special districts, school districts, commissions, authorities, etc., are required to submit a response no later than 90 days after a report covering that agency is issued. The governing body of the agency shall respond to the Presiding Judge of the Superior Court on the filings and recommendations pertaining to matters under the control of the governing body. A copy is to be filed with the Clerk of the agency and the Jury Services Division of Ventura Superior Court. Jury Services shall immediately forward a true copy of the report and the responses to the State Archivist.

An amendment to Penal Code §933.05 effective January 1, 1997 as printed in the Final Report of the 2004-05 Grand Jury gives more specificity to the content and format of the required response.

**When your response is completed, please prepare an original and four copies for distribution as follows:**

1. Original to the Presiding Judge.
2. One copy to be filed with the Clerk of the public agency.
3. Two copies to be filed with Superior Court Jury Services, with one copy to be forwarded to the State Archivist.
4. One copy to the currently impaneled Grand Jury where it is to be maintained for a period of five years.

For those agencies that have already submitted a copy to the Presiding Judge, please provide the additional copies as specified.

If you have not received your copy of the report to which you are asked to respond, you may wish to contact Jury Services, Carol Henry, (805) 654-2845.

Attachments (2):

Copy of Penal Code §933 and §933.05  
Copy of Report Titles/Agencies to respond

Distribution:

John Smiley, Presiding Judge of the Superior Court  
James Dekker, Foreperson, 2005-06 Grand Jury  
Kelly O'Dell, Jury Services  
John Johnston, Ventura County CEO  
Supervisor Steve Bennett, pages 07-06, 13-32, 15-4  
Supervisor Linda Parks, pages 07-06, 13-32, 15-4  
Supervisor Kathy Long, pages 07-06, 13-32, 15-4  
Supervisor Judy Mikels, pages 07-06, 13-32, 15-4  
Supervisor John K. Flynn, pages 07-06, 13-32, 15-4  
Ventura County Board of Supervisors, pages 07-06, 13-32, 15-4  
Ventura County Clerk/Recorder, page 14-9  
Ventura County Counsel, page 01-5  
Ventura County District Attorney, page 13-32  
Ventura County Executive Office, pages 07-6, 13-32  
Ventura County Health Care Agency, pages 07-6, 13-32  
Ventura County Probation Agency, pages 04-5, 13-32  
Ventura County Public Defender, page 13-32  
Ventura County Sheriff, page 13-32  
Ventura County Transit Services, page 15-4  
City of Oxnard, pages 03-9, 06-5  
City Manager, City of San Buenaventura, page 08-9✓  
Air Pollution Control District, page 11-3  
Airport Authority, page 06-5  
Oxnard School District, page 06-5



## Legal Requirements for Responses California Penal Code Section 933.05

- (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:
  - (1) The respondent agrees with the finding.
  - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) For the purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:
  - (1) The recommendation has been implemented, with a summary regarding the implemented action.
  - (2) The recommendation has not yet been implemented but will be implemented in the future, with a timeframe for implementation.
  - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
  - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) However, if a finding or recommendation of a grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.
- (d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.
- (e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon the request of the foreperson of the grand jury, determines that such a meeting would be detrimental.
- (f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

2004-05 Grand Jury  
Final Report Titles/Agencies to Respond

Bail Bonds	01-5	Ventura County Counsel
Brown Act Compliance at School Board Meetings	02-2	N/A
City of Oxnard Golf Course Management	03-9	City of Oxnard (R-01, R-04)
Court Ordered Anger Management Classes	04-5	Ventura County Probation Agency (R-01, R-02)
East County Jail Closure	05-5	N/A
Elementary School Site Selection Adjacent to Oxnard Airport	06-5	City of Oxnard (R-01)
"	06-5	Airport Authority (R-02)
"	06-5	Oxnard School District (R-03)
Mental Health Crisis Team and Behavioral Health Management	07-6	Ventura County Board of Supervisors (R-01, R-2)
"	07-6	Ventura County Executive Office (R-01, R-02)
"	07-6	Ventura County Health Care Agency (R-01, R-02)
Public Right to Public Records and Cemetery Memorial Park	08-9	City Manager of the City of San Buenaventura (R-01 thru R-04)
South Coast Area Transit	09-3	N/A
The Impact of Illegal Fireworks on Ventura County Cities	10-6	N/A
Ventura County Air Pollution Control District	11-3	Air Pollution Control District
Ventura County Fire Protection District Material and Inventory Controls	12-3	N/A
Ventura County Proposition 36: Administrative Reforms Examined	13-32	Ventura County Board of Supervisors
"		Ventura County Executive Officer
"		Ventura County District Attorney
"		Ventura County Health Care Agency
"		Ventura County Probation Agency
"		Ventura County Public Defender
"		Ventura County Sheriff
Ventura County Registration and Voting	14-9	Ventura County Clerk and Recorder (R-01, R-02)
Ventura County Transportation Commission Oversight Review	15-4	Ventura County Board of Supervisors
"		Ventura County Transit Services