


Mayor Ledford opened the Public Hearing, there was testimony and the Public Hearing closed with no objections. A motion was made and carried unanimously to adopt Resolution No. CC 2006-196.


Victoria L. Hancock, CMC
City Clerk

DATE: August 2, 2006

SUBJECT: Resolution No. CC 2006-196 Declaring the Abandonment of the Palmdale Cemetery as a Place of Future Interment.

ISSUING
DEPARTMENT: Office of the City Attorney

SUMMARY

Issues:

Shall the City Council adopt Resolution No. CC 2006-196 declaring the abandonment of the Palmdale Cemetery as a place of future interment?

Recommendation:

It is recommended that the City Council open and conduct a hearing on the adoption of the proposed resolution, take testimony from the property owner and the public, and consider all the evidence presented. If the City Council finds, based on its consideration of the evidence presented in this staff report and the testimony and comments received during the hearing, that the evidence warrants the findings necessary for the abandonment of the Palmdale Cemetery as a place of future interment, then staff recommends that the City Council adopt Resolution No. CC 2006-196 and direct staff to proceed with the necessary actions required under California Health and Safety Code Section 8825 et seq.

Fiscal Impact:

Should the City Council adopt Resolution No. CC 2006-196, an initial cost of approximately \$220,000 would be incurred to secure the Palmdale Cemetery and remove all hazards therein that are found to be a threat or danger to the health,

safety, comfort, or welfare of the public. Thereafter, the City would be obligated to maintain the cemetery in perpetuity. Annual maintenance costs are currently estimated at \$30,000. Unknown future costs may be incurred if the City Council decides, at a later date, to erect a central memorial at the cemetery. The fiscal impact of that project would be based on the nature and scope of the work to be done.

BACKGROUND

In 1886, a Lutheran Church set aside 20 acres, located on what is now known as 20th Street East just north of Avenue S, for the purpose of establishing a cemetery. For the next 100 plus years, two and a half acres of that land was used as an active cemetery, commonly referred to as the "Palmdale Cemetery." The land known as the Palmdale Cemetery and its surrounding acreage has an ownership history that can best be described as clouded. According to various sources, the following individuals or entities have held title, legally or otherwise, to the Palmdale Cemetery: Zion Lutheran Church, the State of California, the County of Los Angeles, Donald C. Morill and Marilyn M. Franklin, and George Harold Jones. It is generally accepted, and verified by title report, that the current owner of the Palmdale Cemetery is Donald Jones. The 17.5 acres surrounding the cemetery has an equally colorful title history. Media reports indicate that the County of Los Angeles obtained title to this property along with the 2.5-acre cemetery as a result of "tax proceedings." The county later claimed that it did not own the 2.5-acre cemetery and sold the majority of the surrounding acreage to Craland, Inc. The County of Los Angeles once again obtained title to this property in 1983 and recently, transferred this land to the City of Palmdale for use as a passive park.

The cemetery itself has had its own share of record keeping issues. Media reports and testimony by the public revealed that the Palmdale Cemetery was closed to future burials on at least two occasions for failure to maintain adequate records. In 1979, the cemetery was closed by the county Department of Health Services. It was reopened in 1981 but, according to the owner and the Palmdale Cemetery Preservation Team, was again closed to future burials in March 1999. Staff has requested information regarding any enforcement actions from the Department of Consumer Affairs, Cemetery and Funeral Bureau, but has not yet received a response. Mr. Jones has not allowed any burials at the Palmdale Cemetery since March 1999.

Over the past several years, the Palmdale Cemetery has been neglected and is currently in a state of dilapidation. Public testimony and staff investigation has revealed several health, safety and welfare concerns at the Palmdale Cemetery. The ground cover at the cemetery has become overgrown and poses a tripping hazard. In the summer months, this unkempt vegetation becomes dry and presents a fire hazard. The copings and fixtures located at the cemetery, such as headstones and plot markers, have been vandalized, buried, broken, stolen or removed. The deteriorated markers

add to the above-mentioned fire and safety hazards and further complicate the efforts to maintain records of those interred at the Palmdale Cemetery.

In addition to the general decay created by years of neglect, human influences have added to the problem. Use of off road vehicles at this site has expedited the decaying process of time. Also, individuals have used the cemetery grounds as a dumping site for garbage and other unwanted refuse. This has provided a food source and safe haven for vermin. The existence of vermin at the cemetery presents a health risk to the surrounding neighborhood.

The Palmdale Cemetery serves as a final resting place for several of Palmdale's early residents. However, its clouded ownership and general neglect have left this cemetery in a state of disrepair. In this state, the cemetery poses a risk to the health, safety, comfort and welfare of the citizens of Palmdale.

FINDINGS

Pursuant to California Health & Safety Code 8825, the City Council may declare the abandonment of the Palmdale Cemetery as a place of future interment if the City Council makes the following findings:

- A. The Palmdale Cemetery is a "nonendowment care cemetery" within the city of Palmdale;
- B. No more than 10 human dead bodies have been interred within the Palmdale Cemetery for a period of 5 years from the date of this resolution of abandonment; and
- C. The Palmdale Cemetery threatens or endangers the health, safety, comfort and welfare of the public.

A. Nonendowment Care Cemetery

According to the Cemetery and Funeral Bureau, there is no record of an endowment care fund for the Palmdale Cemetery. Further, the Cemetery and Funeral Bureau provided the City with a partial directory of "nonlicensed cemeteries," dated March 25, 1988, which identifies the Palmdale Cemetery as a nonendowment facility. These documents are attached as Exhibit "A".

B. Recent Interments

Media reports indicate that the last interment at the Palmdale Cemetery occurred in February of 1999. According to the legal owner of the cemetery, Don Jones, there have been no burials at the Palmdale Cemetery for the past five years. See Letter from Don Jones attached as Exhibit "B". Further, the property owner and public testimony has indicated that the Department of Consumer Affairs has prohibited interment in the

Palmdale Cemetery since March 1999. Based on this information, it is clear that no one has been interred in the Palmdale Cemetery within the last five years.

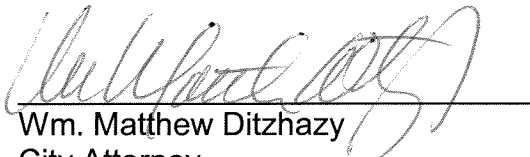
C. Threat to Health, Safety, Comfort and Welfare

There are several "threats" to the "health, safety, comfort and welfare" of the citizens of Palmdale at the Palmdale Cemetery. While several volunteer groups have organized "clean-ups" of the Palmdale Cemetery, regular maintenance and upkeep of the cemetery has been nonexistent over the past several years. As a result, the cemetery fixtures have become dilapidated and covered by overgrowth. The hidden fixtures are tripping hazards and the dry overgrowth constitutes a substantial fire hazard to the cemetery and the surrounding community.

In addition, the cemetery lacks an adequate fence to keep out unwanted individuals. Over the past several years there have been numerous reports of vandalism and attempted pet burials at the cemetery. As a result, it is difficult to determine who or what is buried where. In addition, the lack of adequate burial records makes it impossible to have responsible future interments. As a result, the Department of Consumer Affairs prohibited future burials at the Palmdale Cemetery. The above-mentioned concerns are sufficient to support a finding that the Palmdale Cemetery is a "threat" to the "health, safety, comfort and welfare" of the citizens of Palmdale.

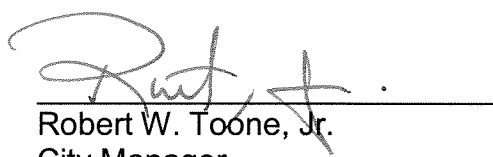
Staff recommends that the City Council adopt Resolution No. CC 2006-196 declaring the abandonment of the Palmdale Cemetery as a place of future interment and the further actions related thereto.

Submitted by:



Wm. Matthew Ditzhazy
City Attorney

Reviewed by:



Robert W. Toone, Jr.
City Manager