



City Council Agenda Item

City Council Meeting Date: March 16, 2021

TO: Honorable Mayor and City Councilmembers

FROM: Jim Throop, City Manager
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SUBJECT: Adoption of Resolution No. 6390(21) Declaring the City Council's Intention to Abandon an Unused Approximately 7.64-Acre Portion of Beattie Park for Transfer to the Lompoc Cemetery District and Setting a Public Hearing Regarding the Same

Recommendation:

Staff recommends the City Council:

- 1) Adopt Resolution No. 6390(21) declaring its intent to abandon an unused approximately 7.64-acre portion of Beattie Park (Attachment 1) and setting a public hearing for May 4, 2021, to consider the same; or
- 2) Provide other direction.

Background:

The Lompoc Cemetery District (District) contacted staff approximately five years ago, regarding the District's possible acquisition of an approximately 7.64-acre southwesterly portion of Beattie Park (Property) to expand the cemetery. The Property is described and shown in Exhibit A to Attachment 1. The portion of the Park, in which the Property is a part, was dedicated to the City in 1975 by Johns Manville Products Corporation at no cost to the City. That dedication did not include any restrictions for the continued use of the Property as a park.

The City can abandon a portion of a park by following the process established by the Municipal Park Abandonment Law of 1939 (Government Code¹ section 38501 *et seq.*). Those sections require the City Council to first adopt a resolution declaring its intent to abandon the park land and scheduling a public hearing to receive objections to that abandonment. Pursuant to Section 38503, the public hearing must not occur earlier than 30 days after adoption of the resolution of intent. Also, pursuant to Section 38504, a copy of the resolution of intent must be published at least three weeks prior to the public hearing (in accordance with Section 6063) and at least four copies posted conspicuously at the subject property not more than 100 feet apart.

¹ Any reference to a statute is to the California Government Code, unless otherwise indicated.

At the public hearing, the City Council must consider the following findings required by Section 38501 for the abandonment:

- The specified portion of the park has not been used by the public for park purposes;
- No public funds have been expended to improve the specified portion of the land as a park;
- No consideration has been paid for the land except by the City; and
- The specified portion of the land is not appropriate, convenient, or necessary for park purposes.

Pursuant to Section 35805, in addition, if any objections to the abandonment are made and sustained by the City Council, then proceedings shall terminate and a new resolution of intention shall not be adopted for six months. Pursuant to Section 38506, if the City Council hears and overrules all objections that may be made, then the City Council would have jurisdiction to order the park land abandoned and the land sold.

In addition, pursuant to the Surplus Land Act (Section 54220 *et seq.*) (Act), before the City can sell any property it must declare that property surplus, as defined by the Act. If the City also declares that property is “exempt surplus property,” again as defined by the Act, then some of the proceedings required by the Act need not be followed.

The Act defines “surplus property” as any property that is not necessary for the City’s use (see, Subdivision 54221(b)(1)). The Act also establishes any transfer of surplus property to another public agency is “exempt surplus property” (see, Subdivision 54221(f)(1)(D)). Pursuant to Subdivision 54221(f)(2), noticing requirements of the Act are not applicable to exempt surplus property. Also, other related provisions of the Act are not applicable to the transfer of the subject property, pursuant to Section 54222.3.

In addition, pursuant to Section 65402, before the City can sell any real property, the Planning Commission must report on whether that sale would be in conformity with the City’s General Plan.

Discussion:

Due to the location of, lack of accessibility to, and topography of the Property, although the Property was intended to be used for recreational/park purposes, it was never so used as a public park. No park improvements were made on this portion of the park, and no money was ever spent by the City in upgrading the Property to be used for park purposes. The City also has no intended future use of the Property for City purposes. Transferring ownership of the Property to the District could financially benefit the City as discussed in the Fiscal Impact section, below.

If the City Council adopts Resolution No. 6390(21) and sets the abandonment public hearing for May 4, 2021, then at that same meeting the City Council will also be asked to consider declaring the Property as exempt surplus property pursuant to the Act. Another resolution will be provided to make that declaration.

If the City Council ultimately abandons the use of the Property as a park and declares the Property as exempt surplus property, then it could authorize staff to proceed with selling the Property to the District for \$1, as requested. Staff also recommends the District be required to reimburse the City for its legal costs for processing this transaction. Those costs are estimated not to exceed \$5,000.00.

If the City Council adopts Resolution No. 6390(21), then the Planning Commission will be requested to provide a report on whether the sale of the Property to the District would conform to the City's General Plan. That consideration could be conducted during the 30-day period required for noticing the public hearing on the abandonment.

An additional benefit to the City and the public is the District's future plans will include an update to the area in consideration. This update will include possible items such as a memorial wall in which cremated remains would be interned, but also a seating area and landscaping. In essence, it would remain an open area for the public, as is the current park land. These costs and maintenance would be the responsibility of the District, not the City.

Fiscal Impact:

The District has agreed to reimburse the City for up to \$5,000 for any type of legal expenses incurred for document creation or legal reviews. The current estimate is a maximum of \$5,000 on legal costs. The transfer of the property also removes any potential maintenance costs for the City, unknown at this time, as well any potential liability from any potential claims from usage of the natural area of the park.

Conclusion:

Staff recommends the City Council adopt Resolution No. 6390(21), stating the intent to abandon the Property and scheduling a public hearing for May 4, 2021.

Respectfully submitted,

Jim Throop, City Manager

Attachment: Resolution 6390(21)