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|  <p style="text-align: center;"><b>Council<br/>Communication</b><br/>Office of the City Manager</p> | <b>Date:</b> June 13, 2011   |
|  | <p><b>Agenda Item No.</b> 63</p> <p><b>Roll Call No.</b> <u>11-1051</u></p> <p><b>Communication No.</b> <u>11-393</u></p> <p><b>Submitted by:</b> Donald M. Tripp,<br/>Director of Park and Recreation</p> |

**AGENDA HEADING:**

Approve declaration of approximately 1.8 acres of cemetery land located in Glendale Cemetery as excess property.

**SYNOPSIS:**

Staff recommends declaring approximately 1.8 acres of cemetery land located in Glendale Cemetery that is anticipated to be unnecessary for lot sales for at least the next 75 years as excess property. Staff notes that the Park and Recreation Board voted 8 – 5 against declaring the land as excess property.

**FISCAL IMPACT:**

Amount: To be determined by Real Estate Division of the Engineering Department

Funding Source: To be determined

**ADDITIONAL INFORMATION:**

On May 24, 2011, the Des Moines Park and Recreation Board met to determine if 1.8 acres of cemetery land at Glendale cemetery should be determined excess. The land, along the north side of the cemetery along Franklin Avenue, was acquired for cemetery purposes in 1897. There was significant discussion and a review of a staff report that included reviews by the Park and Recreation Board’s Cemetery Advisory committee and nearby neighborhood associations. A motion was made to accept the staff recommendation to declare the cemetery property as excess property; with a friendly amendment that a condition that the revenue proceeds go back to cemetery infrastructure was included. The motion failed 5-8.

Much of the discussion by the Park and Recreation Board concerned losing the open space. Board members noted that they had observed the space being used for park and recreation purposes. Staff acknowledged that the space has been utilized as park space, even though it is technically cemetery land. A number of Park and Recreation Board members also commented that they feel that even if the City Council determines the land to be excess that a competitive process should be offered for any interested party wanting to purchase the parcel. Furthermore the Park and Recreation Board would encourage the City Council to allow any revenue proceeds to be deposited into a fund for improvements at Glendale cemetery should the parcel be sold.

Should the parcel be sold, the Community Development staff have recommended a Planned Unit Development (PUD) process. This process requires verification that the proposed PUD tract is not less than 2 acres in area, exclusive of streets and alleys including a Legal Description of the PUD Boundary prepared by Licensed Land Surveyor or Engineer including a statement of total PUD area in Acres. Staff has identified a 2 acre tract that would meet this requirement, however it is important to note that not all of the 2 acres would be determined as excess by the Park and Recreation staff. Approximately 1.8 acres is being recommended as excess, while .2 acres is not and would continue to be owned by the City under this recommendation, yet the .2 acres would be included in the PUD process to maintain the 2 acre minimum requirement. Please see attached map that describes this.

Park staff highly respects the Park and Recreation Board position on this matter and has carefully considered their action. After again reviewing the Park and Recreation Board's action and all of their comments, all of the public input, and communications from the neighborhood associations', staff continues to recommend that this land be determined as excess with the following comments:

1. Cemetery sale of lots in this location is not imminently necessary. In fact, it is projected that this land would not be necessary for cemetery expansion for at least 75 years.
2. This street location for plotting cemetery lots is situated between the Northwest Community Center to the east and residential to the west. Staff's opinion is that this not the best use for this land.
3. Staff does agree with the Board that this parcel of open space is currently utilized for park purposes; so staff further recommends that the parcel to the south and east of the community gardens in Glendale Cemetery be made available for park purposes to support use by the community gardeners and the neighborhoods. This is a particularly good location as it already contains a new Adult Playground and is away from the traffic on Franklin Avenue.
4. The Board expressed a concern about the loss of the view of open space into the cemetery on Franklin Avenue. This is a valid concern, so whomever the land is sold to should be required to provide a landscaping plan so staff can assure an appealing Franklin Avenue view.
5. Glendale Cemetery is in need of infrastructure improvements that are difficult to fund, given the precarious city fiscal position. The Park and Recreation Board have indicated a desire to use proceeds from any land sale to make infrastructure improvements in the cemetery or to add open space. The funds from the sale are recommended to return to the Park and Recreation Department for review with these two purposes in mind.
6. The Board expressed concerns that the community gardens be protected. The buyer's plans should be reviewed by city staff and the city's community gardening coordinator to assure that the gardeners are not negatively impacted. The buyer of the land must understand that the land use as a community garden must be protected. Additionally parking will need to be provided by the buyer for community gardeners, the waterline to the gardens must be also maintained and access to the gardens must be assured.
7. The Park and Recreation Board should be included in the buyers site plan review as they have concerns about how the use impacts adjacent park uses and the Franklin Avenue view to the south.
8. If the land sale is approved, the Park and Recreation Department will recommend a process to dedicate land within the cemetery's property, south of the community gardens, as dedicated green space to serve the needs of the area residents and gardeners.
9. The Park and Recreation Board was concerned that they did not have their normal two meetings to review this policy recommendation. Every effort should be made to give the Board their normal two meeting review on policy matters in the future.
10. The buyer be asked to follow and exceed the City's tree mitigation policy for City-owned land.

11. The buyer must recognize the area outside of their proposed boundaries as a public recreation open space and understand significant number of users will be in and around this location daily, including gardeners, trail users, adult exercise equipment users and additional users who may utilize recreational features to potentially be developed in the future.
12. The park shelter, trail, adult exercise equipment and community garden property must be protected during the construction process through the use of siltation fencing and other measures to control runoff and damage from construction equipment and materials.

The following reports the events leading up to the Park and Recreation Board action of May 24, 2011.

On April 11, 2011, as a part of the City Real Estate Manager's workshop presentation to the City Council regarding park land disposition guidelines, Councilmember's became aware of a pending proposal for the purchase of City property located in an area of Glendale Cemetery known as Franklin Field. This proposal was for the development of 40 dwelling units on approximately 1.8 acres of land located west of the Northwest Community Center (5200 Franklin Avenue). The parcel is bounded by Franklin Avenue on the north, single-family residences on the west, Glendale Cemetery (Franklin Field's community gardens) on the south and Northwest Community Center and parking lot on the east. It is noteworthy that the site does not include the community garden area to the south. Although the subject property is part of the original land purchased for Glendale Cemetery in 1897, the site has never been platted for burial plots, but has been utilized as Franklin Field and community gardens.

In conformance with the park land disposition guidelines, as presented to the Council at their workshop, the following actions have since been taken:

- On April 20, 2011, the developer, Curly Top LLC, John Mauro, General Partner of Franklin Field Senior Apartments, LLLP, 2611 Ingersoll Avenue, Des Moines, presented a preliminary concept plan to the Citizen Cemetery Advisory Board. The developer also presented to the Waveland Park Neighborhood Association in a public meeting that same date;
- On April 21, 2011, the developer met with the Merle Hay Neighborhood Association at their quarterly meeting to present the proposal;
- On May 10, 2011, the Park and Recreation Department sent residents living within 250 feet of the proposed site and the presidents of the Merle Hay and Waveland Park Neighborhood Associations invitations to a public meeting to be held at Northwest Community Center, on May 17, 2011, to discuss the Franklin Field senior housing proposal;
- On May 11, 2011, the Citizen Cemetery Advisory Board met to review the Franklin Field senior housing proposal and voted unanimously to approve the conveyance of the property;
- On May 17, 2011, approximately 40-50 individuals heard a presentation and discussed the proposed development at the Northwest Community Center public meeting referenced previously; the majority of those in attendance opposed any sale or conveyance of park cemetery property;
- Park staff requested from the boards of the Waveland and Merle Hay Neighborhood Associations a written communication to the Park and Recreation Board indicating any action they have taken regarding this proposal and associated sale of park cemetery property;
- On May 18, 2011, park staff received a communication from the Beaverdale Neighborhood Association that stated an "unofficial response from the BNA board based on cursory conversations with board members and residents;" the letter indicated several residents living near the boundary with the Waveland and Merle Hay Neighborhoods have expressed concern over the sale and encouraged the developer instead consider vacant and low-occupancy sites on Franklin in the Beaverdale Neighborhood;

- On May 20, 2011, park staff received a communication from the Waveland Neighborhood Association indicating that the board voted 7 yes, 1 no and 1 abstention in support of the proposed senior housing development as it was submitted;
- On May 20, 2011, park staff received a communication from the Merle Hay Neighborhood Association indicating the board voted 6 yes, 0 no and 1 no response in support of the development as it is currently proposed;
- On May 24, 2011, the agenda of the Park and Recreation Board, included consideration of approving “declaration of the approximately 1.8 acres of cemetery land located in Glendale Cemetery as excess property” (see attached summary of board, public, developer and staff commentary and input on this subject in that meeting);
- At the May 24, 2011 Park and Recreation Board meeting, representatives from each of the three neighborhood associations mentioned above addressed the board. Following are summaries of their comments:
  - Beaverdale Neighborhood Association (BNA) – President Mike Kamper stated that their letter reflected a straw poll and not an official response; the board has not met. He went on to note this is a unique opportunity for the area, which is shared by the three neighborhood associations. The BNA “message is looking at the bigger picture on development of the neighborhood with a better location for this project.” They would like consideration of other commercial areas now vacant on Franklin. When asked by Park and Recreation Chairman Galloway what the BNA’s position would be if that suggestion for space does not work out for the developer, Mr. Kamper advised that, “It would be appreciated that the effort was made and if the cemetery land is considered excess property, then that would be okay.”
  - Waveland Neighborhood Association - President Christine Pardee voiced the group’s support. She stated that approximately 50% of the group’s neighborhood area is open space and is being used by the area’s residents. She viewed the community gardens being close to a building as a positive thing.
  - Merle Hay Neighborhood Association – Representative Joanne Hanover stated their board submitted a letter in support. She cited survey results of the area that indicated a need for senior housing and the lack of diverse housing in the neighborhood.
- Following discussion at this May 24, 2011 Park and Recreation Board meeting, the motion was made to accept the staff recommendation to declare the cemetery property as excess property; a friendly amendment that a condition that the money from the sale go back to cemetery infrastructure was attached. The motion failed 5-8.

The City currently maintains and operates seven municipal cemeteries; at this time only Woodland and Sims Cemetery are presently at capacity for burials. Staff has forecasted the available cemetery burial needs at Glendale to be sufficient for the next 75 years based on annual burials and available acres remaining. Additionally, cemetery staff had not planned for burials along the frontage of Franklin Field as it would not conform to the current uses in this area, even though it was classified as park cemetery land.

Some neighborhood residents have expressed a concern regarding the loss of open space, staff and the Park and Recreation Board likewise take into account the loss of open space in the park system when these types of proposals are considered. Because recently some proposals have been submitted for consideration to sell park land, it may seem that there has been some policy shift on the part of staff to dispose of park land. A review of City land transactions over the last 20 years indicates there have been significant increases in city-owned open space and dedicated park land. Including the Franklin Field

proposal for the sale of two acres now under consideration, the reduction in park land and open space since 1993 has been limited to 148 acres, 140 acres of which were sold to the Great Ape Trust, (this land had no public access). During this same time period the amount of open space and park land acquired and made available to the public has increased by over 500 acres and includes many miles of trails, two large sports complexes, several neighborhood parks, park usage agreements with Des Moines Schools and added open space. Also, in recent months, the Park and Recreation Board has created a subcommittee which has initiated a study to develop a policy and plans for further increases of park land and open space. The goals and outline of work for this study are attached.

This proposal has been considered in accordance with the City Manager's administrative process outlined in the April 11, 2011 City Council workshop. The request was assessed as viable; since it was cemetery land, it was referred to the Park and Recreation Board; notice was provided to the public, the Citizens Cemetery Committee and neighborhood associations. As noted previously, both immediate neighborhood associations and the Citizens Cemetery committee have endorsed the proposed declaration of excess property and support the conveyance of the property, while the Park and Recreation Board defeated a motion to determine the land as excess. A third, proximate neighborhood association has indicated support would be forthcoming if consideration of other commercial areas now vacant in the Beavertdale Neighborhood on Franklin Avenue was found to not be viable for the senior housing project. This recommendation will require some work by the City's Real Estate and Legal Departments to reclassify this land. This proposal would provide a higher level of assurance of public access than currently exists for the proposed excess land that is currently classified as cemetery land.

Staff recommends approval of the declaration of this parcel as excess property, with a request that the City Council considers the issues outlined by the Park and Recreation Board and staff, listed above and supported by an accompanying letter from the Board.

**PREVIOUS COUNCIL ACTION(S): NONE**

**BOARD/COMMISSION ACTION(S):**

Board: Park and Recreation Board

Date: May 24, 2011

Resolution Number: 11-059

Action: Motion to accept the proposal by staff to declare 1.8 approximate acres of Glendale Cemetery land as excess property. A friendly amendment that the money received from the sale go back to cemetery infrastructure. Motion failed 8-5.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Consideration of land sale and development proposals

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