



SOLANO COUNTY GRAND JURY
2012-13

BENICIA CITY CEMETERY

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I. SUMMARY

The 2012-13 Solano County Grand Jury investigated the Benicia City Cemetery in the City of Benicia, California for compliance with local and state laws. The Grand Jury identified a failure to track sales of plots, with supporting documentation, when sold by agencies other than the city. The Grand Jury also identified an issue with the Parks, Recreation and Cemetery Commission's failure to schedule cemetery issues as a regular agenda item during meetings. The Fee Schedule for services may be out of date. It was determined that appropriate signage related to "Nonendowment Care" is not evident.

II. INTRODUCTION

The California Legislature authorized the creation of public cemetery districts in 1909. California Health and Safety Code §8125-8137 authorize a city to operate a cemetery.

The Grand Jury elected to investigate the Benicia City Cemetery due to:

- The City Cemetery is the last of the public cemeteries in Solano County to be reviewed recently.
- The City Cemetery's long-term operational and financial stability is important to the community.

III. METHODOLOGY

The scope of the investigation focused on the governance and operation of the Benicia City Cemetery in Solano County. The Grand Jury:

- Toured the cemetery
- Interviewed Benicia City officials responsible for cemetery operation
- Interviewed members of Benicia Historical Society
- Interviewed an employee of Passalacqua Funeral Chapel, Benicia, California
- Reviewed various California Codes
- Reviewed Benicia Municipal Codes
- Reviewed Benicia City Cemetery Rules and Regulations including a plot map
- Reviewed and evaluated cemetery district fee schedules
- Reviewed City employee salaries related to cemetery operation
- Analyzed records obtained from City of Benicia

IV. STATEMENT OF FACTS

The Benicia City Cemetery was established in 1847. At that time, religious and service organizations handled cemetery operations. In 1978, the City of Benicia took over the operation and assigned it to the Parks and Community Services Department who currently maintains the cemetery plot map of gravesites.

The Benicia City Cemetery is a nonendowment care cemetery; therefore, no endowment fund is currently established for the maintenance and operation of the cemetery. All burial fees go to the maintenance of the cemetery, such as landscaping, road repair, and maintaining vaults. In the past, funds given to the Historical Society paid for special projects as needed. The present fee schedule for cemetery services, including plot fees, was set by the city council in Resolution No. 05-148 dated September 6, 2005.

The Parks and Community Services Department sells available burial plots to an individual. A burial plot must be paid for before it can be used. Appropriate paperwork is completed at the time of purchase and kept on file with the city. On occasion, purchase of a plot is made through Passalacqua Funeral Chapel. The funeral chapel does this as a courtesy to clients and contacts the Parks Department to get a statement from the city indicating name, grave location, and total cost. The city then invoices the funeral chapel for payment, however, there is no signed paperwork provided by the funeral chapel to the city for the purchase of the plot in compliance with Benicia City Cemetery Rules and Regulations Section 2.3.

There are no signs posted stating that this is a "NONENDOWMENT CARE" property at the entrance to the cemetery or at the office for sale of plots such as required by Department of Consumer Affairs Cemetery and Funeral Bureau under Title 16, Professional and Vocational Regulations, Division 23, section 2337.

The city could not provide an accurate number of gravesites in the cemetery due to missing prior operator records and missing or broken grave markers. They have opened a relatively new lawn area, which is being used for gravesites, along with an open plot of land that sits adjacent to the lawn area. This open area could be used for gravesites in the future.

Parks and Community Services Department workers, along with other assigned city workers, maintain the cemetery. Additional help is provided by volunteers and members of the Benicia Historical Society.

Pursuant to Benicia Municipal Code, Chapter 2.76, a Parks, Recreation and Cemetery Commission is appointed by the Mayor to advise the city council as to the city's responsibility in the development of recreational programs, and to develop and implement all aspects of the city cemetery program. The members of the Cemetery Commission are volunteers and receive no payment.

The Parks, Recreation and Cemetery Commission meet the second Wednesday of each month. During these meetings, issues relative to the Cemetery Commission are frequently left off the agenda unless a problem has been reported.

V. FINDINGS AND RECOMMENDATIONS

The Grand Jury found that the Benicia City Cemetery overall is operated and maintained in an excellent manner considering budget limitations. They are to be commended for their efforts.

Finding 1 – The Fee Schedule for the Benicia City Cemetery was last revised on September 6, 2005.

Recommendation 1– The Benicia City Council review the Fee Schedule to determine if any modifications are required due to present economic conditions and cost of operation of the cemetery.

Finding 2– The City is not in compliance with Benicia City Cemetery Rules and Regulations in Section 2.3 when a burial site sale is made by other than the Parks and Community Services Department, specifically local funeral chapels.

Recommendation 2 – The City of Benicia require all sales of burial sites comply with Benicia City Cemetery Rules and Regulations Section 2.3 and be sold only by the Parks and Community Services Department. When a parcel is sold by an outside agency, the agency must comply with Section 2.3.

Finding 3 – The City of Benicia is a nonendowment care cemetery; therefore, no endowment fund is currently established for the maintenance and operation of the cemetery.

Recommendation 3 – The city establish an endowment fund for the maintenance and operation of the cemetery.

Finding 4– There are no signs posted stating that this is a “NONENDOWMENT CARE” property at the entrance to the cemetery or at the office for sale of plots as required by Department of Consumer Affairs Cemetery and Funeral Bureau under Title 16, Professional and Vocational Regulations, Division 23, section 2337.

Recommendation 4 – Appropriate signage be posted.

Finding 5 –During the Parks, Recreation and Cemetery Commission meetings, issues related to the cemetery are not agendized on a recurring basis.

Recommendation 5 – The Parks, Recreation and Cemetery Commission have a specific agenda item of City Cemetery, for each meeting, to ensure that cemetery issues are addressed.

REQUIRED RESPONSES

City of Benicia, City Council

COURTESY COPIES

Mayor, City of Benicia

Benicia Parks, Recreation & Cemetery Commission

Benicia Historical Society, Inc.

California Department of Consumer Affairs, Cemetery & Funeral Bureau