



CITY COUNCIL
Staff Report

Meeting Date: April 23, 2019
To: Mayor and City Council
From: Scott Chadwick, City Manager
Staff Contact: Kyle Lancaster, Parks Services Manager
kyle.lancaster@carlsbadca.gov or 760-434-2941
Subject: Status of the Village H Property in Calavera Hills

Recommended Action

Receive a report on the status of the Village H property in the Calavera Hills neighborhood and provide direction as applicable.

Executive Summary

The City of Carlsbad is in the process of acquiring a 60.9 acre property in northeast Carlsbad known as Village H, in the Calavera Hills neighborhood. Presidio Cornerstone QC, LLC (Presidio) is transferring ownership to the city as part of a 2013 legal settlement agreement (Agreement) of an environmental lawsuit filed by Preserve Calavera challenging the Environmental Impact Report for the nearby Quarry Creek housing project. The Village H property is mostly habitat preserve area and other open space. A short segment of the city's trails system had been long planned for the southern section of the property. Under the city's development rules, the trail would have been dedicated as a city trail, concurrent with the owner developing a 3.8 acre portion of the property designated for community facilities (CF). Under the Agreement, the city is to become the owner of the Village H property; the referenced 3.8 acre portion of the property is to be restricted to open space use; and the city is to promptly allow public access to the noted trail.

Although the southern section of this property has been privately owned, signed and fenced for several years, many community members have continued to use it as a place to gather and walk with their dogs off-leash. When the City Council voted to accept the grant deed for transfer of the property on Jan. 8, 2019, it directed staff to seek input from the community on the future use of the southern section of the property, concurrent with performing the needed remedial work on the site, and then opening the trail for public use.

On March 8, 2019, city staff informed the City Council via a memorandum that the Village H property deed transfer and recordation was delayed due to terms of a restrictive, conservation easement on the northern section of the property [Exhibit 1]. As a result, the needed maintenance of the property, and the trail opening originally planned for the spring, would be postponed until the deed transfer was resolved. On March 12, 2019, the City Council approved a minute motion directing staff to return with a Village H property discussion on "leaving the trail to operate in its current status quo condition with the historical uses, until after we conduct community input, instead of changing it first and conducting community input after."

Discussion

On Jan. 8, 2019, the City Council adopted a resolution to accept the grant deed dedicating the Calavera Hills Village H property (APN 167-101-19) from Presidio Cornerstone QC, LLC to the City of Carlsbad; authorizing the Mayor to execute a grant deed dedicating a portion of Calavera Hills Village H property to the Calavera Hills Recreational Vehicle Park, a California mutual benefit corporation; and authorizing two, one-time appropriations of \$215,000 and \$45,000 to the parks maintenance operating budget and the trails maintenance operating budget, respectively, for a total of \$260,000 in improvements to the property to meet city standards (Resolution No. 2019-03). The corresponding staff report from the City Council meeting on Jan. 8, 2019, is attached [Exhibit 2].

At that time, staff anticipated recording the deed for the property within two weeks, and provided the City Council with an estimate of 60-90 days from recordation to complete the following: coordinate with the Center for Natural Lands Management to assume ongoing management responsibility of two preserve areas within the southern section of the property, and execute and administer contracts with trade firms to perform remedial work needed to address the city's preserves, open space and trails standards.

On March 8, 2019, the City Council received a memorandum from staff providing an update on the status of the Village H property transfer from Presidio Cornerstone QC, LLC (Presidio) to the City of Carlsbad. The memorandum indicated the transfer of the deed and subsequent recordation had been delayed due to the terms of a restrictive, conservation easement over the northern section of the property, which requires that 1) the property owner, Presidio, provide the conservation easement deed holder, The Center for Natural Lands Management (CNLM), a 45-day notice of the property transfer, and 2) Presidio pay CNLM a transfer fee assessed at \$10,000.

On Jan. 16, 2019, Presidio formally provided notice to CNLM of the property transfer, fulfilling the first requirement. However, Presidio took exception to the second requirement on payment of the transfer fee. In response to Presidio's exception, the City Attorney's Office prepared a concurrency demand letter. Presidio subsequently agreed to pay CNLM a transfer fee negotiated by the City Attorney's Office. Once this fee is paid, staff intends to record the deed to accept the Village H property, consistent with the City Council's previous action.

On March 12, 2019, the City Council, on a minute motion by Council Member Hamilton, seconded by Council Member Schumacher, directed staff to return to City Council within 45 days with an agenda item to discuss the outreach process and restrictions on the Village H trail. Staff understood this direction to be specific to the current informal trail within the southern section of the Village H property. The southern section of this property contains of 9.9 acres of habitat preserve area and 12.6 acres of open space.

Background

The majority of a future city trail is located within the open space of the southern section of the Village H property. This approximately half-mile trail segment is identified in the city's draft Trails Master Plan as a part of the citywide trails system.

Historically – i.e., for the last several years -- this alignment has been used by the public as an informal trail, without authorization from the owner of the private property. The following sections of the Agreement are pertinent to the Village H property and the noted trail:

Quarry Creek Investors' Obligations

In consideration of the obligations undertaken and the promises made herein by Petitioner and the City, Quarry Creek Investors hereby covenants and agrees as follows:

- b. Quarry Creek Investors will use its best efforts to acquire in fee the Village H property ("Village H"), composed of approximately 60.89 acres, Assessor Parcel Number ("APN") 167-101-19.*
- c. Quarry Creek Investors shall not be required to allow public access on existing trails through Village H during the time that it owns Village H.*
- e. Quarry Creek Investors shall transfer its fee in Village H to the City upon the completion of the following events: (1) approval by the City of the Site Development Plans or Tentative Maps for the five lots created by Tentative Map No. CT 11-04; (2) USACE approval of a Section 404 permit for the Project; (3) execution of a Section 1603 Agreement with CDFW for the Project; and (4) issuance of a Section 401 Certification by the SDRWQCB for the Project. The City agrees that this transfer of Village H shall be in "as is" condition. Quarry Creek Investors shall be responsible for releasing any loans or liens it may have placed on the property, preparing any plats and legal descriptions, and paying any fees associated with the transfer of Village H to the City.*
- f. Within 45 days of the acquisition in fee of Village H, Quarry Creek Investors shall record an open space easement or restrictive covenant on Village H (excluding the CF Site) for the benefit of Preserve Calavera, or other mutually agreed upon third party. Notwithstanding the recordation of an open space easement or restrictive covenant on Village H, Quarry Creek Investors will retain the development rights to the CF Site until the transfer of Village H to the City occurs.*
- g. Quarry Creek Investors shall record a restrictive covenant or open space easement on the CF Site for the benefit of Preserve Calavera, or other mutually agreed upon third party, prior to transferring the CF Site to the City, provided such transfer occurs consistent with the terms of this Settlement Agreement.*
- h. The form of the Village H transfer documents and open space easements and/or restrictive covenants referenced in Paragraphs 3.e through 3.g, above, shall be subject to the reasonable review and approval by the City.*

The City's Obligations

In consideration of the obligations undertaken and the promises made herein by Petitioner and Quarry Creek, the City hereby covenants and agrees as follows:

- a. *The City agrees to accept the transfer of Village H in fee from Quarry Creek Investors, or Petitioner, in "as is" condition when offered.*
- b. *Upon the transfer of Village H to the City, the City shall assume responsibility for ownership of Village H and shall promptly allow public access to the historic public use trail through Village H.*
- e. *The City shall post signage at the trailhead of the historic public use trail through Village H at the time it is opened to the public, indicating that the opening of the trail is the result of a cooperative effort between the City, Quarry Creek Investors, and Preserve Calavera.*

Completed Action

Since receiving direction from the City Council on Jan. 8, 2019, staff has completed the following:

- Met with limited members of the public who expressed concern about the pending change in ownership of the property and the opening of the trail to the public -- subject to the existing regulations for citywide trails.
- Coordinated with CNLM to assume ongoing management responsibility of two preserve areas within the southern section of the property.
- Executed contracts with trade firms to perform the remedial work to bring the property up to the city's preserves, open space and trails standards.
- Developed a plan for public outreach and involvement.

Public Outreach and Involvement

City staff is ready to begin the public outreach and involvement process. The goal of this process is to identify the community's needs, values and priorities related to the potential use of the southern section of the Village H property. Some of these identified to date include:

- The social connection experienced by community members who have used the informal trail, with and without dogs.
- Access to outdoor recreation, such as walking and jogging, for dogs and people, in a natural setting.
- Protection of sensitive habitat.
- Enhancement of wildlife corridors (land where animals can move freely from one area of open space to another, unobstructed by fences and other barriers).
- Privacy, peace and quiet, and safety of the residents immediately adjacent to the property.

Many stakeholders have already shared their views about the future use of this property with the city. To ensure the city considers input from a broad range of stakeholders, staff is planning the following activities within 90 days of the recording of the deed on the Village H property:

- Signage at the site about the change in ownership of the property; the closure of the southern section for remedial work; and the pending opening of the trail to the public -- subject to the existing regulations for citywide trails, including dogs on leash.

- Signage at the site inviting community members to a public meeting and to share input via an online survey.
- Direct mailing to residents and property owners in the area around the property with the same invitation.
- A public meeting at Calavera Hills Community Center that provides an opportunity for the community to share their needs, values and priorities related to the potential use of the site, and to learn about those of other community members.
- An online survey gathering input similar to what is sought at the public meeting.

City staff will identify common values and themes from this process and return to the City Council for direction within 60 days of its completion.

Interim Plan

Upon completion of the remedial work within the southern section of the Village H property, city staff intends to comply with Section 4.b of the Agreement, by promptly allowing the public access to the trail. Staff estimates the trail would be ready to open to the public within 90 days of the property's deed being recorded. The balance of the southern section of the property would remain a combination of preserve area and open space – i.e., 9.9 acres of habitat preserve area, and 12.6 acres of open space. The subject 12.6 acres of open space would be available for consideration of additional formalized trails and authorized recreational amenities, subject to the City Council's direction.

Regulations Related to Dogs with Parks and Trails

Dogs are not permitted within city parks, preserves or other open space, except for designated dog parks and city trails. Dogs may be on city trails, provided they are attached to a maximum 6-foot leash, in the owners' control. The related regulations are included in the San Diego County Code of Regulatory Ordinances and the Carlsbad Municipal Code, with further guidance contained in the 1989 Report of the Citizens Committee on the City of Carlsbad Open Space Plan and Programs:

San Diego County Code of Regulatory Ordinances

Title 6 – Health and Sanitation, Division 2 – Animals and Poultry, Chapter 6 – Animal Control, Article 1 – General Provisions

Section 62.602 – Definitions

The following definitions shall apply to this chapter:

c. "At large" means:

(1) Being on private property without the permission of the owner or person who has the right to possess or use the property.

(2) Being unrestrained by a leash on private property open to the public or on public property, unless a law or regulation expressly allows an animal to be unrestrained on the

property. If a leash is not being held in the hand of a person capable of controlling the animal or a person is not actually controlling an animal attached to the leash, the animal is "at large."

(3) In a place or manner which presents a substantial risk of imminent interference with animal or public health, safety or welfare.

aa. "Leash" means any rope, leather strap, chain or other material six feet or less in length, intended to be held in the hand of a person for the purpose of controlling an animal to which it is attached.

Title 6 – Health and Sanitation, Division 2 – Animals and Poultry, Chapter 6 – Animal Control,
Article 6 - Control Provisions

Section 62.669 – Restraint of Dogs Required

(1) Being on private property without the permission of the owner or person who has the right to possess or use the property.

(2) Being unrestrained by a leash on private property open to the public or on public property, unless a law or regulation expressly allows an animal to be unrestrained on the property. If a leash is not being held in the hand of a person capable of controlling the animal or a person is not actually controlling an animal attached to the leash, the animal is "at large."

(3) In a place or manner which presents a substantial risk of imminent interference with animal or public health, safety or welfare.

- a. A dog's owner or custodian or a person who has control of a dog shall prevent the dog from being at large, except as provided in subsections (b) and (d) below.
- b. A dog's owner or custodian who has direct and effective voice control over a dog to ensure that it does not violate any law, may allow a dog to be unrestrained by a leash while a dog is assisting an owner or custodian who is:
 1. Legally hunting.
 2. Legally herding livestock.
 3. On public property with the written permission of and for the purposes authorized by the agency responsible for regulating the use of the property.
- c. A dog's owner or custodian or a person having control of a dog that is lawfully on private property shall keep the dog: (1) leashed or tethered as allowed under Health and Safety Code section 122335, (2) under direct and effective control by voice or electronic pet containment system or (3) in a building or enclosure that is adequate to ensure the physical confinement of the dog and that also meets humane standards. An animal is not considered leashed if the leash is not in the hand of a person capable of controlling the animal or if the person is not actually controlling the animal attached to the leash.

- d. *This section shall not apply to a dog assisting or training to assist a law enforcement officer in the course and scope of the officer's duties.*

Section 62.669.1. – Public Protection from Dogs

- a. *A dog's owner or custodian or other person having control of a dog shall exercise ordinary care to prevent the dog, while the dog is under the owner, custodian or other person's care, custody or control from:*
1. *Attacking, biting or otherwise causing injury to any person engaged in a lawful act.*
 2. *Interfering with a person or animal legally using public or private property.*
 3. *Damaging personal property that is lawfully on public property or that is on private property with the permission of the property owner or other person who has the right to possess or use the private property.*
- b. *The owner of any unaltered dog that bites a person engaged in a lawful act shall pay the Department an altering deposit in addition to any other applicable fees the Board of Supervisors (Board) establishes. The altering deposit shall be refunded or forfeited as provided in section 62.679(c).*
- c. *This section shall not apply to a dog assisting or training to assist a law enforcement officer while that officer is executing law enforcement duties or responsibilities.*

Carlsbad Municipal Code

Title 7 - Animals and Foul, Chapter 7.08 - Rabies, Animal Control and Regulation

Section 7.08.010 - Adopted by Reference

- B. *Title 6, Division 2, Chapter 6, of the San Diego County Code of Regulatory Ordinances, as amended by Ord. No. 10036 (N.S.), effective 2/26/10, relating to animal control, is adopted by reference and incorporated as part of this code, except that whatever provisions thereof refer to a County of San Diego board, territory, area, agency, official, employee, or otherwise it shall mean the corresponding board, territory, area, agency, official, employee, or otherwise of the city, and if there is none, it shall mean that the county is acting in the same capacity on behalf of the city.*

Title 11 – Public Property, Chapter 11.32 – Parks and Beaches

Section 11.32.010 - Parks – Scope

1. *For the purpose of this chapter, parks shall include all dedicated parks, parks established by adverse uses, planted areas open to the general public, parks on leased property, trails open to the general public, planted parkways, triangles, and traffic circles maintained by the city, except parkway strips between curb and sidewalk or behind curb, along the several streets and highways of the city.*

Section 11.32.030 - Unlawful Acts

It is unlawful for any person to do any of the following mentioned acts in or upon any park or beach within the city:

- 11. To ride or lead horses, or to hitch, fasten, lead, drive or let loose any animal or fowl of any kind. Dogs are not allowed in Carlsbad's parks or on Carlsbad's beaches.
 - a. Notwithstanding any other provisions of this chapter, this section does not apply to Baticuitos Lagoon, Buena Vista Lagoon or Agua Hedionda Lagoon.*
 - b. This prohibition does not apply to a dog accompanying an unsighted person, or other person who by reason of medical necessity must be accompanied by a dog, dogs while assisting peace officers in law enforcement duties, dog parks or other areas specifically designated for dog use by the city council, or to dogs participating in shows or obedience classes authorized by the Carlsbad community services department on specified areas of parks or beaches.**
- 23. No person shall allow any dog owned by him or her or any dog subject to his or her control, custody, or possession, to enter upon any park within the city; provided, however, that this subsection shall not apply to dogs participating in shows or obedience classes authorized by the Carlsbad community services department in specified areas of parks, dog parks or other areas specifically designated for dog use by the city council. No person shall allow or permit any dog to destroy any real or personal property or to commit a nuisance on any park property. It is the duty of persons having control of a dog to curb such a dog while in a park area.*

City of Carlsbad Open Space Plan and Programs

On Sept. 12, 1989, the City Council accepted a Report of the Citizens Committee for Review of Carlsbad's Open Space Plan and Programs. This report contained the following sections related to dogs on trails.

Section V – Appendix, Volume II, B. – Committee Minutes, May 1, 1989, Use of Open Space – Subcommittee Report (#4)

The recommendations provided by this Subcommittee on the Use of Open Space are provided below. These recommendations have been categorized as they fall into several different areas of use. Also provided, following the recommendations is a discussion or justification for the inclusion of the proposed recommendations.

PASSIVE: Often provides minimal or no improvements and includes undemonstrative or subdued activities.

- 10. Establish a trail system for dogs with poop receptacles located at appropriate intervals.*

Discussion. The Subcommittee feels that a balance of open space uses is desirable in the community and that emphasis in the past has been oriented toward active recreation. Although emphasis should continue with regard to active uses, more consideration should be given to acquiring and maintaining more passive areas such as trails, viewpoints, and natural areas. These areas should be separated from active areas whenever possible. The Subcommittee feels

that passive areas may be improved but not to the extent where they could become active. For example, a trail might include a decomposed granite walkway with benches and trash receptacles located at appropriate distances along the path. The Subcommittee is recommending that no improvements take place within environmentally sensitive areas but that it may be appropriate to have trails or interpretive center located nearby.

It is being recommended that the city should take advantage of opportunities to acquire natural open space and the natural areas acquired as open space should remain in their natural state. The Subcommittee also feels that natural areas should be used to delineate the city boundaries, where possible, and separate major land uses. In addition, the Subcommittee felt that natural areas should be located to be visible from large public gathering areas such as the mall and roadways. The intent is to preserve Carlsbad's rural flavor in more urbanized areas.

Since the Open Space Committee has approved the concept of trails as an open space use and is recommending a study this Subcommittee felt that the analysis should include a discussion of liability, ownership, cost maintenance, location and types of trails including surfaces (e.g., asphalt, etc.). It was recommended that major developments proposed in the city address trails and that any trails proposed be sensitive to existing uses.

In addition to accepting this report, the City Council directed staff (Agenda Bill No. 10,239) to prepare a work program to implement recommendations. Thus, city trails have been specifically designated for use by dogs -- on leash only, in accordance with San Diego County Code of Regulatory Ordinances section 62.669.

The above regulations and open space plan and programs will apply to the Village H property, once the deed is accepted by the city. Based on those regulations, plan and programs, trails may not be used by off-leash dogs. Off-leash trails use by dogs would require not only City Council direction to pursue amendments to the regulations, plan and programs, but would also require the completion of a planning and permitting process consistent with such a process for an off-leash dog park. Therefore, only leashed dogs will be allowed on the Village H property's trails. Further, under CMC section 11.32.030, dogs will not be allowed on the balance of the Village H property that is habitat preserve area and open space.

Matters for Possible Exploration

"Historic Public Use Trail"

Some community members have ascribed significance to the term "historic public use trail" in sections 4.b. and 4.e. of the Agreement, inferring that the acknowledgement of the community's past use of this property prescribes the future use. However, all three parties to the Agreement concur that this term was not intended to reference any specific activities on the trail. Rather, this term simply describes the public's use of a segment of the Village H property as a trail. On April 15, 2019, staff received the attached letter from Preserve Calavera, stating its position on this matter [Exhibit 3].

Off-Leash Dog Park Discussions

Prior to the Jan. 8, 2019 City Council Meeting, staff met with a few members of the public who had expressed an interest in the future of this property. Those meetings included discussions about potential consideration of an off-leash dog park at the southern section of the Village H property. A couple of different off-leash dog park ideas -- ranging from linear to square configurations -- were briefly reviewed.

Linear Configuration: A "linear" configured dog park could be considered within part of the open space (but not the habitat preserve area) adjacent to the existing trail.

- This configuration may create a barrier to important wildlife corridors, restricting the free movement from one area of open space to another.
- Fencing tall and sturdy enough to keep dogs in may diminish the patrons' experience with nature.

Square Configuration: A "square" configured dog park could be considered within the 3.8 acre portion of the property formerly designated CF, which is already rough graded.

- Some proponents of allowing dogs off-leash on the trail have indicated this configuration does appeal to them because it would not involve the same walk.
- Additional fencing around this parcel may further limit the wildlife corridors
- A similarly configured dog park already exists on Carlsbad Village Drive, approximately 1 mile west of the Village H property.

These concepts have been reviewed only at a very cursory level, with just a few individuals. They could be explored further during the proposed public outreach and involvement process (which staff plans within 90 days of the recording of the deed on the Village H property).

As a recent comparison of an off-leash dog park planning and permitting effort, on Sept. 12, 2017, the City Council directed staff to explore locating an off-leash dog park at the segment of Poinsettia Community Park which was initially envisioned for a multigenerational recreation center [Exhibit 4]. Staff subsequently engaged the community on this specific concept. On Feb. 13, 2018, staff provided the City Council with the results of the public input received and the advisement of the Parks & Recreation Commission on this concept. In response, the City Council directed staff to further pursue locating an off-leash dog park at the described segment of Poinsettia Community Park [Exhibit 5].

Since that date, staff worked with a design firm to refine the schematic plans for an off-leash dog park, developed a Capital Improvement Program (CIP) project, received a City Council allocation of funding to proceed with the project, and submitted an extensive application for an amendment to Poinsettia Community Park's existing conditional use permit. Staff is currently awaiting the scheduling of a Planning Commission hearing on the matter. Presuming the amendment to the conditional use permit is approved, staff will next process an amendment to the community park's master plan, and then commence with the preparation of construction documents for an off-leash dog park. A similar work effort would be required if the City Council were to direct staff to further pursue the planning and permitting of an off-leash dog park at the southern section of the Village H property.

Options for Consideration

Staff has identified the following options for the City Council's consideration regarding the future of the southern section of the Village H property.

Options that comply with the Agreement and the existing regulations, plan and programs:

A. Action Directed by the City Council on Jan. 8, 2019

1. Open the trail as soon as practical upon completion of the remedial work, under the existing citywide trails use regulations (i.e., dogs must be on a leash).
2. Seek input from the community on potential recreational amenities, including but not limited to amenities involving dogs, upon recordation of the property's deed. Bring this community input to the City Council separately for direction.

B. Action Recommended by Staff on Jan. 8, 2019

1. Open the trail as soon as practical upon completion of the remedial work, under the existing citywide trails use regulations (i.e., dogs must be on a leash).
2. Seek input from the community on potential recreational amenities, including but not limited to amenities involving dogs, in the fall as part of the Parks & Recreation Department Master Plan update -- to allow for a more holistic approach to addressing the community's parks and recreation needs. Bring this community input to the City Council with the updated departmental master plan for direction.

C. Bypass Community Input and Pursue Planning/Permitting of an Off-Leash Dog Park

1. Open the trail as soon as practical upon completion of the remedial work, under the existing citywide trails use regulations (i.e., dogs must be on a leash).
2. Bypass community input on potential recreational amenities, including but not limited to amenities involving dogs.
3. Initiate a planning and permitting effort for an off-leash dog park like the effort currently in progress at Poinsettia Community Park. Based on that current effort, staff anticipates at least 24 months required to complete a planning and permitting effort at the Village H property.

If option C is preferred, staff estimates at least 12 additional months will be required to complete the preparation of construction documents, public bidding, and ultimate construction of the dog park at the Village H property.

Fiscal Analysis

There is no direct fiscal impact associated with the receipt of this staff report. Should the City Council select Option C, staff would develop a CIP project, and include an allocation of funding to proceed with the project in the FY 2019-20 Budget request. As a comparison, the CIP project cost estimate for the off-leash dog park at Poinsettia Community Park is presently \$1,100,000.

Next Steps

The City Clerk will record the deed and the city will take possession of the Village H property. The Mayor will then execute the grant deed for that portion of Village H property which constitutes the RV storage property and the City Clerk will secure necessary signatures and record the RV storage property grant deed. The result will be the city owning the habitat preserve areas and open space portions of the Village H property. After recording the deed to accept the Village H property, staff will schedule the performance of the described remedial work and implement the described public engagement effort, unless directed to do otherwise by the City Council.

Environmental Evaluation (CEQA)

Pursuant to Public Resources Code Section 21065, receiving this staff report does not constitute a "project" within the meaning of the California Environmental Quality Act (CEQA) in that it has no potential to cause either a direct physical change in the environment, or a reasonably foreseeable indirect change in the environment, and therefore does not require environmental review.

Public Notification

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

Exhibits


1. Mar. 8, 2019 Staff Memorandum to the City Council
2. Jan. 8, 2019 Staff Report to the City Council
3. April 15, 2019 Letter from Preserve Calavera
4. Sept. 12, 2017 Staff Report to the City Council
5. Feb. 13, 2018 Staff Report to the City Council

To the members of the:
 CITY COUNCIL
 ACM ✓ CA ✓ CC ✓
 Date 3/8/19 CM ✓ COO ✓



Council Memorandum

March 8, 2019

To: Honorable Mayor Hall and Members of the City Council
From: Chris Hazeltine, Parks & Recreation Director
Via: Elaine Lukey, Chief Operations Officer 
Re: Village H Property Transfer to City of Carlsbad

The purpose of this memo is to provide an update on the status of the Village H property transfer from Presidio Cornerstone QC, LLC to the City of Carlsbad.

Background

At the City Council Meeting on Jan. 8, 2019, City Council accepted the dedication of Calavera Hills Village H property from Presidio Cornerstone QC, LLC (Presidio) to the City of Carlsbad (City). At that time, staff anticipated recording the deed within 2 weeks of that date and provided an estimate of 60-90 days from recordation to clean up the site and open the trail.

The transfer of the deed and subsequent recordation has been delayed due to terms of a restrictive, conservation easement over the property, which requires 1) that the property owner, Presidio, provide the conservation easement deed holder, The Center for Natural Lands Management (CNLM), a 45-day notice of property transfer, and 2) that Presidio pay CNLM a transfer fee of \$10,000.

Discussion

To address 1) above, Presidio formally provided notice to CNLM on Jan. 16, 2019. Regarding requirement 2) above, Presidio has taken exception to this requirement. The city attorney is preparing a Concurrency Demand letter.

Per the Quarry Creek development settlement agreement between Preserve Calavera, Presidio and the city, Presidio is responsible for covering all costs and/or fees associated with the transfer of the Village H property to the city.

CNLM has formally approved the transfer of Village H to the city but awaits payment of the \$10,000 transfer fee from Presidio. City staff is in communication with Presidio, to help expedite the payment. Once this fee is paid, staff will promptly record the deed to accept the Village H property, so the city can take possession and begin the 60-90-day cleanup of the site.

Parks & Recreation Department

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Honorable Mayor Hall and Members of the City Council
March 8, 2019
Page 2

Next Steps

Staff will continue to monitor the transactions associated with the transfer of the property. Upon recordation of the property deed, staff will commence the approximate 60-90 day cleanup of the site.

Also, staff is working on a communication plan to engage the community about potential recreational uses of the Village H property. Staff anticipates that a community engagement meeting will take place this Spring, as well as on-line surveying opportunities. Upon completion of the community engagement, staff will report out findings and potential recommendations for City Council consideration.

cc: Scott Chadwick, City Manager
Celia Brewer, City Attorney
Gary Barberio, Assistant City Manager



CITY COUNCIL

Staff Report

Meeting Date: January 8, 2019
To: Mayor and City Council
From: Scott Chadwick, City Manager
Staff Contact: Jeremy Riddle, Development Services Manager
jeremy.riddle@carlsbadca.gov or 760-602-2785
Subject: Accepting dedication of Calavera Hills Village H property (APN 167-101-19) from Presidio Cornerstone QC, LLC; authorizing execution of grant deed dedicating a portion of Calavera Hills Village H property to Calavera Hills Recreational Vehicle Park; and appropriating related one-time funds

Recommended Action

Adopt a Resolution authorizing the City Clerk to accept the grant deed dedicating the Calavera Hills Village H property (APN 167-101-19) from Presidio Cornerstone QC, LLC to the City of Carlsbad; authorizing the Mayor to execute a grant deed dedicating a portion of Calavera Hills Village H property to the Calavera Hills Recreational Vehicle Park, a California mutual benefit corporation; and authorizing two, one-time appropriations of \$215,000 and \$45,000 to the Parks Maintenance Operating Budget and the Trails Maintenance Operating Budget, respectively, for a total of \$260,000 in improvements to said property to meet city standards.

Executive Summary

On November 25, 2013, a settlement agreement was reached between Preserve Calavera, Quarry Creek Investors and the City of Carlsbad (Agreement). This item is before City Council to authorize certain property transactions described in the Agreement. Per the Agreement, the Quarry Creek Investors has secured the granting of Calavera Hills Village H property from Presidio Cornerstone QC, LLC to the City of Carlsbad.

A portion of Calavera Hills Village H property contains an existing recreation vehicle storage area serving the community (RV storage property). Consistent with the Agreement, as the city accepts the dedication of the Calavera Hills Village H property, the city will transfer ownership of the RV storage property to the existing easement holder and current operator, known as the Calavera Hills Recreation Vehicle Park, a California mutual benefit corporation. A grant deed addressing this issue is included with the City Council Resolution.

Consistent with the Agreement, staff recommends authorizing the City Clerk to accept the grant deed for the Calavera Hills Village H property granted from Presidio Cornerstone QC, LLC to the City of Carlsbad and record the grant deed with the County Recorder's Office. Staff also recommends authorizing the Mayor to execute the RV storage property grant deed from the city to Calavera Hills Recreational Vehicle Park corporation, authorizing the City Clerk to secure necessary grantee signatures and to record the RV storage property grant deed with the County Recorder's Office.

Staff has assessed the condition of the preserves, open space and existing historic trail within the Calavera Hills Village H property against city standards for preserves, open space and trails. Staff has determined that improvements are needed to bring the preserves, open space and trail up to city standards. Therefore, additional costs for these improvements have been identified in the Fiscal Analysis section of this report and in the City Council Resolution.

Discussion

As part of the Quarry Creek development (Project), Preserve Calavera filed a lawsuit challenging the adequacy of the CEQA document for the Project. A settlement was reached with all three parties and the Agreement was executed November 25, 2013. The three signatory parties to the Agreement are Preserve Calavera, Quarry Creek Investors and the City of Carlsbad.

The Agreement identifies a means for the city to take possession of the Calavera Hills Village H property for open space/preservation purposes. The Calavera Hills Village H property (APN 167-101-19) constitutes approximately 60.9 acres. Since the Agreement was executed, Quarry Creek Investors secured the granting of the Calavera Hills Village H property from Presidio Cornerstone QC, LLC to the city. Pursuant to the terms, the developer is now granting the Calavera Hills Village H property to the city. A copy of the grant deed for Calavera Hills Village H property is included in the Resolution.

As described in the Agreement, the city has the obligation to accept the Calavera Hills Village H property. A majority of the Calavera Hills Village H property is habitat preserve and open space. However, approximately 2.3 acres of the Calavera Hills Village H property contains an existing recreational vehicle storage use. The Agreement stipulates, after taking possession of the Calavera Hills Village H property, the city is to grant RV storage property to a designated entity.

The Calavera Hills Recreational Vehicle Park currently has rights to the RV storage property via an existing easement and it operates the storage use. Therefore, staff is recommending the city grant the RV storage property to the Calavera Hills Recreational Vehicle Park, a California mutual benefit corporation. The Calavera Hills Recreation Vehicle Park is ready to accept this grant deed for the RV storage property. With these grant deeds recorded, this will conclude all of the property transactions outlined in the Agreement.

As part of the city accepting the Calavera Hills Village H property, the city would take on the maintenance obligation of the balance of the property. These costs are outlined in the Fiscal Analysis below.

Fiscal Analysis

A portion of the Calavera Hills Village H property, approximately 36.1 acres on the north side of Carlsbad Village Drive, is within the Habitat Management Plan (HMP) area and is funded for long term preserve management by an existing endowment. The city's HMP Program Manager will ensure that this portion of property continues to be managed by a preserve management firm, via funds from the existing endowment.

Two other portions of the Calavera Hills Village H property (approximately 9.9 acres) are within the HMP area, but are not funded for long term preserve management. To cover the added management costs of these preserves, an ongoing appropriation of \$35,000 to the Parks Maintenance Operating Budget will be needed. This request for appropriation will be included in the FY 2019-20 budget process. Parks & Recreation staff will then arrange for the existing management firm for city-owned preserves, the Center for Natural Lands Management (CNLM), to assume this additional ongoing obligation.

In addition, the current condition of all three preserve areas described above (approximately 46 acres total) require initial remedial work to bring them up to city preserve standards. This work will include tasks such as exotic plant trimming or removal (e.g., Eucalyptus trees), trash and debris removal, drainage ditch clearances, and basic surveys of plant life and wildlife. A one-time appropriation of \$165,000 to the Parks Maintenance Operating Budget will be needed to address this remedial work. The work will be performed predominantly by contractual forces.

Another remaining portion of the Calavera Hills Village H property (approximately 12.6 acres) is outside the HMP area, but will still be designated as open space, and will also require long term maintenance and management. Included within that approximate 12.6 acres is an approximate 3.8 acres of disturbed land on the southeast corner of Carlsbad Village Drive and Victoria Lane. That disturbed land is presently General Plan designated as Community Facilities (CF), but as part of a future General Plan update, it will be re-designated as Open Space (OS), resulting in a net gain of 3.8 acres of open space. The entire 12.6 acres of open space will be available for the city's consideration of formalized trails and other authorized recreational amenities.

Contained within this 12.6 acres of open space is the bulk of a trail alignment (approx. ½ mile) conceptually reflected in the city's draft Trails Master Plan. For several years, much of this alignment has been used by the public as an informal trail, while the Calavera Hills Village H property was privately-owned. Section 4.B of the Agreement states that "Upon the transfer of Village H to the City, the City shall assume responsibility for ownership of Village H and shall promptly allow public access to the historic public use trail through Village H."

To accommodate the assumption of these maintenance and management requirements, ongoing appropriations of \$40,000 and \$10,000 to the Parks Maintenance Operating Budget and Trails Maintenance Operating Budget, respectively, will be needed; these requests for appropriations will be included in the FY 2019-20 budget process. The long-term services to this portion of the property will be performed by a combination of contractual forces and city staff.

The current condition of the informal trail would also require initial remedial work to bring it up to city trails standards. This work would include items such as exotic plant trimming or removal (e.g., Eucalyptus trees), trail surfacing supplementation, trail delineation fence erection, trail signage, recycling/trash receptacles, and related amenities installation. Two, one-time appropriations of \$50,000 and \$45,000 to the Parks Maintenance Operating Budget and Trails Maintenance Operating Budget, respectively, and the execution of applicable trade contracts, will be needed to address this initial remedial work. The work will be performed predominantly by contractual forces.

The remaining portion of the Village H property, the RV storage property, will be granted to the Calavera Hills Recreation Vehicle Park. Once the deed is recorded, the city will have no responsibility for the maintenance costs of this property. The responsibility for the maintenance costs will lie with Calavera Hills Recreation Vehicle Park, a California mutual benefit corporation.

A summary of both one-time and ongoing costs for the Village H Property:

| VILLAGE H PROPERTY – REQUESTED APPROPRIATION: ONE-TIME/OCCURS UPON APPROVAL | |
|--|------------------|
| ITEM TO BE FUNDED | AMOUNT |
| Remedial work on ~45 acres of preserve to be brought up to city standards | \$165,000 |
| Remedial work on ~13 acres of open space to be brought up to city standards | \$50,000 |
| SUBTOTAL | \$215,000 |
| Remedial work on .5 miles of informal trail to be brought up to city standards | \$45,000 |
| TOTAL (To be appropriated from the General Capital Construction Fund) | \$260,000 |

| VILLAGE H PROPERTY – ONGOING FISCAL IMPACT: BEGINNING WITH FY 2019-20 BUDGET | |
|---|-----------------|
| ITEM TO BE FUNDED | AMOUNT |
| Management of ~9.9 acres of preserve | \$35,000 |
| Maintenance of ~13 acres of open space | \$40,000 |
| Maintenance of ~.5 miles of trail, incl. amenities and encroaching Eucalyptus | \$10,000 |
| TOTAL (Future appropriation to be requested from the General Fund) | \$85,000 |

Sufficient funds are available in the General Capital Construction Fund to accommodate the \$260,000 total one-time appropriation, via a transfer of \$215,000 and \$45,000 to the FY 2018-19 Parks Maintenance Operating Budget and the FY 2018-19 Trails Maintenance Operating Budget, respectively. Additionally, \$85,000 total in General Funds will be requested for appropriation to these operating budgets, beginning in FY 2019-20, for ongoing maintenance and management purposes.

Next Steps

The City Clerk will record the Calavera Hills Village H grant deed and the city will take possession of the property. After possession, the Mayor will execute the grant deed for that portion of Calavera Hills Village H property which constitutes the RV storage property and the City Clerk will secure necessary signatures and record the RV storage property grant deed. The result will be the city owning the habitat preserve and open space portion of the Calavera Hills Village property, excluding the RV storage property.

Staff will then coordinate with CNLM to assume ongoing management responsibility of the two described preserve areas, and initiate contracts with trade firms to perform the remedial work to address the city's preserves, open space and trails standards, and assume ongoing management responsibility of the area described. Once the historic public use trail and the adjacent open space is brought up to city standards, the trail will be opened for public use.

Environmental Evaluation (CEQA)

The proposed property transactions do not qualify as a 'project' under the California Environmental Quality Act (CEQA) per Public Resources Code Section 21065 and State CEQA Guidelines Section 15378 in that it has no potential to cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and therefore does not require environmental review.

Public Notification

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

Exhibits

1. City Council Resolution
2. Settlement Agreement
3. Location Map



April 15, 2019

To: Whom it May Concern
 From : Diane Nygaard, President, Preserve Calavera

The settlement agreement between Quarry Creek Investors, LLC, the City of Carlsbad and Preserve Calavera includes, among other provisions, the following obligation of the city of Carlsbad:

"Upon the transfer of Village H to the City, the City shall assume responsibility for ownership of Village H and shall promptly allow public access to the historic public use trail through Village H."

The intent of this language is to ensure that the public would be allowed to continue to use the trail on this site. It is referring to the physical location of the trail and to the fact that the use was public (as opposed to private use). If the phrase had said something like "allow the types of public uses previously allowed to continue," that would be a different situation. Our prior research indicated this trail had long standing public use and our intent was to ensure that use could continue.

City regulations in effect at the time the settlement agreement was executed allow dogs on leash on public trails. There was no specific discussion about allowing dogs on the trail, on or off leash. The concern was to ensure the public would be allowed to continue to use the trail.

For anyone to claim this language includes a requirement to allow off leash dogs is not consistent with the language or intent of our agreement.

Furthermore, the restrictive covenant on this site recorded on March 5, 2018 provides further clarification of allowed uses on this property. It specifies that this land will be "retained in perpetuity as open space." It further states that allowed uses are as allowed under the Open Space General Plan land use designation **and** (emphasis added) must be consistent with the "intent and purpose and all provisions of the Habitat Management Plan for Natural Communities in the City of Carlsbad." The HMP includes no provisions that would allow unleashed dogs on preserve lands. Preserve Calavera was granted the right to enforce this restrictive covenant.

It is our interpretation that neither the settlement agreement nor the restrictive covenant allows off leash dogs as part of the public use of the land referred to as Village H.

5020 Nighthawk Way – Oceanside, CA 92056
www.preservecalavera.org
 Nonprofit 501(c)3 ID#33-0955504



CITY COUNCIL

Staff Report

Meeting Date September 12, 2017
To: Mayor and City Council

From: Kevin Crawford, City Manager
Staff Contact: Kyle Lancaster, Parks Services Manager
kyle.lancaster@carlsbadca.gov or 760-434-2941

Subject Adopt a Resolution rejecting bids received for Aviara Community Park—Ph. II and Poinsettia Community Park—Ph. III Construction Projects; and directing staff to revise Poinsettia Community Park—Ph. III Construction Project plans/specifications to remove dog park, and explore relocation

Recommended Action

Adoption of a Resolution rejecting all bids received for the Aviara Community Park – Phase II and Poinsettia Community Park – Phase III Construction Projects (Capital Improvement Program Nos. 4604 and 4605); and directing staff to revise the Poinsettia Community Park - Phase III Construction Project plans and specifications to remove the dog park, and explore its relocation to the segment of Poinsettia Community Park initially envisioned for a multigenerational recreation center.

Executive Summary

The Aviara Community Park - Phase II Construction Project and the Poinsettia Community Park - Phase III Construction Project were designed together and intended to be bid as one unit. The design of the Poinsettia Community Park - Phase III Construction Project includes a dog park. During the bidding process, multiple residents, and representatives of home owners' associations, requested that the dog park not be constructed in the master planned location of Poinsettia Community Park. The predominant reason for these requests was the desire to leave that location, referred to as "the grassy bowl," as an unstructured play area.

While staff was designing and bidding the Aviara Community Park – Phase II and Poinsettia Community Park – Phase III Construction Projects, staff was also conducting a feasibility study for a master planned multigenerational recreation center at Poinsettia Community Park. A multigenerational recreation center was ultimately found to be not feasible as envisioned at this community park. As a result, the segment of Poinsettia Community Park that was master planned for a multigenerational recreation center can now be considered and studied for other potential uses.

Based on the findings of this feasibility study, and in response to the recent requests received from the public, staff recommends the Poinsettia Community Park – Phase III Construction Project plans and specifications be revised to remove the dog park. If this recommendation is approved by the City Council, staff would first seek public input on the concept of relocating the

dog park to the segment of Poinsettia Community Park initially envisioned for a multigenerational recreation center. In conjunction with the recommendation to revise the Poinsettia Community Park – Phase III Construction Project plans and specifications to remove the dog park, staff recommends rejection of all bids received for the Aviara Community Park – Phase II and Poinsettia Park – Phase III Construction Projects.

Discussion

The Aviara Community Park - Phase II Construction Project plans included in the bid documents consist of a large passive outdoor community gathering space with a stage, individual picnic areas, and a group picnic shelter that contains restrooms and a catering support room. The Poinsettia Community Park - Phase III Construction Project plans included in the bid documents consist of a dog park - with separate areas for large and small dogs, a multi-sports arena field, a new larger playground - with equipment for two age groups, and six pickleball courts. The receipt of public input occurred throughout the development of these projects, beginning with stakeholder interviews and open public meetings for these parks in 2014. This early public input contributed to the development of the Aviara Community Park and Poinsettia Community Park Master Plan Updates, from which the projects were designed.

The projects were designed together and intended to be bid as one unit, in order to take advantage of soils export/import needs associated with the respective amenities; the close proximity of the parks; and the available economies of scale in construction. On Sept. 27, 2016, the City Council approved the plans and specifications for the Aviara Community Park - Phase II and Poinsettia Park - Phase III Construction Projects, and authorized the City Clerk to advertise them for public bidding (Resolution No. 2016-199).

On October 7, 2016, the projects were advertised for public bidding. On Nov. 10, 2016, three bids were received for the projects. All three bids were subsequently determined to be non-responsive. On Jan. 10, 2017, the City Council rejected the bids and approved of staff's pending action to revise the bidding provisions/forms, extend the advertisement period, and re-advertise the projects for public bidding (Resolution No. 2017-005). On Feb. 2, 2017, the projects were re-advertised for public bidding. On March 21, 2017, seven bids for the projects were received. After the apparent lowest bidder withdrew its bid, the next lowest responsive bid received was from Western Rim Constructors, Inc., in the amount of \$6,797,556.

During the bidding process, multiple residents, and representatives of home owners' associations, requested that the dog park not be constructed in the master planned location of Poinsettia Community Park. The master-planned location is presently a grass-laden drainage detention basin, referred to as "the grassy bowl" by many of the requestors. The predominant reason for the requests to not construct the dog park in the master planned location was the desire to leave "the grassy bowl" as an unstructured play area.

While staff was designing and bidding the Aviara Community Park – Phase II and Poinsettia Community Park – Phase III Construction Projects, staff was also conducting a feasibility study for a master planned multi-generational community recreation center at Poinsettia Community Park, titled "Big Idea No. 1." On Aug. 22, 2017, the City Council accepted the findings of that feasibility study (Resolution No. 2017-172). In specific, the resolution states:

"...while a smaller facility; i.e. 35,000 square foot or less, could certainly be possible at Poinsettia Community Park, it is not recommended since it does not fulfil the intended vision of the Big Idea in serving the community's diverse needs to the greatest possible extent at this site..."

"...with Poinsettia Community Park deemed not to be a feasible site for a multigenerational community recreation center as envisioned, the same segment of the park can now be considered and studied for other potential uses..."

Based on the findings of that feasibility study, and in response to the recent requests received from the public, staff recommends revising the Poinsettia Community Park – Phase III Construction Project plans and specifications to remove the dog park, and exploring its relocation to the segment of Poinsettia Community Park initially envisioned for a multigenerational recreation center. If this recommendation is approved by the City Council, staff would first seek public input on the concept of relocating the dog park to the segment of the community park initially envisioned for a multigenerational recreation center. Should this concept receive mostly favorable input from the public, staff would prepare an amendment to Poinsettia Community Park's Master Plan, and potentially to its conditional use permit, reflecting the dog park located in this segment. In addition, staff would administer the designing, bidding and construction of a new capital improvement program project for the dog park located in this segment. These processes would be carried out separately from the re-designing, bidding and construction of the other amenities currently master planned for the Aviara Community Park - Phase II and Poinsettia Park - Phase III Construction Projects.

In conjunction with the above recommendation, staff recommends the rejection of all bids received for the Aviara Community Park – Phase II and Poinsettia Park – Phase III Construction Projects. If this recommendation is approved by the City Council, staff would re-engage the design team to revise the Poinsettia Community Park – Phase III Construction Project plans and specifications to remove the dog park. The revisions to those documents would require a period of approximately three months to complete. At the conclusion of that period, staff would return to the City Council for approval of the Aviara Community Park - Phase II and Poinsettia Community Park – Phase III Construction Projects' plans and specifications, and authorization for the City Clerk to advertise them for public bids.

Fiscal Analysis

The design team's initial efforts on the Poinsettia Community Park - Phase III Construction Project included the development of the plans and specifications for the dog park in its master planned location. The estimated cost already incurred for those design efforts is \$50,000.

If the recommended action is approved by the City Council, staff would direct the design team to revise the Poinsettia Community Park – Phase III Construction Project plans and specifications to remove the dog park. The estimated cost to be incurred with those revisions is \$20,000. In addition, staff would seek public input on the concept of relocating the dog park to the segment of Poinsettia Community Park initially envisioned for a multigenerational recreation center. The estimated cost to be incurred with seeking this input is \$10,000. Sufficient funds are available in the Poinsettia Community Park – Phase III Construction Project's Capital Improvement Program Budget to address the above items.

Next Steps

If the recommended action is approved by the City Council, staff would seek public input on the concept of relocating the dog park to the segment of the community park initially envisioned for a multigenerational recreation center. Staff would also re-engage the design team to revise the Poinsettia Community Park – Phase III Construction Project plans and specifications to remove the dog park.

Staff would embrace revising the Poinsettia Community Park – Phase III Construction Project plans and specifications to remove the dog park, and exploring its relocation to the segment of Poinsettia Community Park initially envisioned for a multigenerational recreation center. In so doing, staff would be adhering to the Parks & Recreation Department’s Mission Statement:

“To promote community health and wellness while building a culture that embraces change and continuous improvement.”

Environmental Evaluation (CEQA)

The recommended action to reject all bids received for the Aviara Community Park – Phase II and Poinsettia Community Park – Phase III Construction Projects has been determined to be exempt from environmental review per CEQA Guidelines Section 15061(b)(4); the bids will be rejected or disapproved by a public agency.

Public Notification

Public notification of this pending project occurred through the two advertisements for public bidding. In addition, this item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

Exhibits

1. Resolution rejecting all bids received for the Aviara Community Park – Phase II and Poinsettia Community Park – Phase III Construction Projects (Capital Improvement Program Nos. 4604 and 4605); and directing staff to revise the Poinsettia Community Park - Phase III Construction Project plans and specifications to remove the dog park, and explore its relocation to the segment of Poinsettia Community Park initially envisioned for a multigenerational recreation center.
2. Site Plan and Renderings of the Aviara Community Park – Phase II Construction Project
3. Site Plan and Renderings of the Poinsettia Community Park – Phase III Construction Project



CITY COUNCIL
Staff Report

Meeting Date February 13, 2018
To: Mayor and City Council

From: Kevin Crawford, City Manager
Staff Contact: Kyle Lancaster, Parks Services Manager
kyle.lancaster@carlsbadca.gov or 760-434-2941

Subject Adopt a Resolution approving plans and specifications for Aviara Community Park – Ph. II and Poinsettia Community Park – Ph. III Construction Projects, authorizing the City Clerk to advertise projects for bids, and directing staff to pursue relocation of a dog park at Poinsettia Community Park

Recommended Action

Adoption of a Resolution approving the revised plans, specifications and contract documents for the Aviara Community Park – Phase II and Poinsettia Community Park – Phase III Construction Projects, authorizing the City Clerk to advertise the projects for bids, and directing staff to pursue relocation of a dog park at Poinsettia Community Park.

Executive Summary

The Aviara Community Park - Phase II Construction Project and the Poinsettia Community Park - Phase III Construction Project were designed together and intended to be bid as one unit to achieve site efficiencies and cost savings. The initial design of the Poinsettia Community Park - Phase III Construction Project included a dog park. During the bidding process, multiple residents and representatives of home owners associations requested that the dog park not be constructed in the master planned location of Poinsettia Community Park.

While staff was administering the designing and bidding of the Aviara Community Park – Phase II and Poinsettia Community Park – Phase III Construction Projects, staff was also conducting a feasibility study for a master planned multigenerational community center at Poinsettia Community Park. A multigenerational community center was ultimately found to be not feasible as envisioned at this community park. As a result, that segment of Poinsettia Community Park became available to be considered and studied for other potential uses.

Based on the findings of the feasibility study, and in response to the requests received from the public, staff recommended revising the Poinsettia Community Park – Phase III Construction Project plans and specifications to remove the dog park, and exploring its relocation to the segment of this community park initially envisioned for a multigenerational community center. In conjunction with that recommendation, staff also recommended the rejection of all bids received for the Aviara Community Park – Phase II and Poinsettia Park – Phase III Construction

Projects. On Sept. 12, 2017, the City Council approved the above recommended actions (Resolution No. 2017-185).

Staff subsequently re-engaged the design team to revise the Poinsettia Community Park – Phase III Construction Project plans and specifications to remove the dog park. Staff is now seeking the City Council’s approval of the revised plans, specifications and contract documents for the Aviara Community Park - Phase II and Poinsettia Community Park – Phase III Construction Projects, and authorization for the City Clerk to advertise the projects for bids.

Staff also subsequently sought public input on the concept of relocating the dog park to the segment of Poinsettia Community Park initially envisioned for a multigenerational community center. Based on the results of the public input survey conducted, and the Parks & Recreation Commission’s advisement, staff is recommending the City Council provide direction to pursue relocation of the dog park as described.

Discussion

The Aviara Community Park - Phase II Construction Project plans consist of a large passive outdoor community gathering space with a stage, individual picnic areas, and a group picnic shelter that contains restrooms and a catering support room. The Poinsettia Community Park - Phase III Construction Project plans initially consisted of a dog park - with separate areas for large and small dogs, a multi-sports arena field, a new larger playground - with equipment for two age groups, and six pickleball courts.

The city sought public input throughout the planning phase of these projects, beginning with stakeholder interviews and open public meetings for the parks during 2014. This early public input contributed to the development of the Aviara Community Park and Poinsettia Community Park Master Plan Updates, which were adopted by the City Council on Dec. 9, 2014 (Resolution No. 2014-280).

The projects were designed together and intended to be bid as one unit, in order to take advantage of soils export/import needs associated with the respective amenities, the close proximity of the parks, and the available economies of scale in construction. On Sept. 27, 2016, the City Council approved the plans and specifications for the Aviara Community Park - Phase II and Poinsettia Park - Phase III Construction Projects, and authorized the City Clerk to advertise the projects for bids (Resolution No. 2016-199).

On October 7, 2016, the projects were advertised for bids. On Nov. 10, 2016, three bids were received for the projects. All three bids were subsequently determined to be non-responsive. On Jan. 10, 2017, the City Council rejected the bids and approved of staff’s pending action to revise the bidding provisions/forms, extend the advertisement period, and re-advertise the projects for bids (Resolution No. 2017-005).

On Feb. 2, 2017, the projects were re-advertised for bids. On March 21, 2017, seven bids for the projects were received. After the apparent lowest bidder withdrew its bid, the next lowest responsive and responsible bid received was in the amount of \$6,797,556.

During the bidding process, multiple residents and representatives of home owners associations requested that the dog park not be constructed in the master plan-indicated location of Poinsettia Community Park. The master plan-indicated location of the dog park is a

grass-laden drainage detention basin, referred to as “the grassy bowl” by many of the residents. The predominant reason provided to not construct the dog park in the master plan-indicated location was the desire to leave “the grassy bowl” as an unstructured play area.

While staff was designing and bidding the Aviara Community Park – Phase II and Poinsettia Community Park – Phase III Construction Projects, staff was also conducting a feasibility study for a master planned multi-generational community center at Poinsettia Community Park, titled “Big Idea No. 1.” On Aug. 22, 2017, the City Council accepted the findings of that feasibility study (Resolution No. 2017-172). In specific, the resolution states:

“...while a smaller facility; i.e. 35,000 square foot or less, could certainly be possible at Poinsettia Community Park, it is not recommended since it does not fulfil the intended vision of the Big Idea in serving the community’s diverse needs to the greatest possible extent at this site...”

“...with Poinsettia Community Park deemed not to be a feasible site for a multigenerational community center as envisioned, the same segment of the park can now be considered and studied for other potential uses...”

Based on the findings of the feasibility study, and in response to the requests received from the public, staff recommended revising the Poinsettia Community Park – Phase III Construction Project plans and specifications to remove the dog park, and exploring its relocation to the segment of Poinsettia Community Park initially envisioned for a multigenerational community center. In conjunction with that recommendation, staff also recommended the rejection of all bids received for the Aviara Community Park – Phase II and Poinsettia Park – Phase III Construction Projects. On Sept. 12, 2017, the City Council approved the above recommended actions (Resolution No. 2017-185).

Staff subsequently re-engaged the design team to revise the Poinsettia Community Park – Phase III Construction Project plans and specifications to remove the dog park. Staff is now seeking City Council approval of the revised plans, specifications and contract documents for the Aviara Community Park - Phase II and Poinsettia Community Park – Phase III Construction Projects, and authorization for the City Clerk to advertise the projects for public bids.

Staff also subsequently sought public input on the concept of relocating the dog park to the segment of Poinsettia Community Park initially envisioned for a multigenerational community center. From Oct. 31, 2017, to Nov. 30, 2017, staff solicited public input on this concept via a two question survey. The two questions in the survey were:

Q1. Do you support this possible location for a dog park?

Q2. Why or why not?

The survey was distributed to those who signed up to receive city email notifications, a list of key stakeholders, mailers to 3,249 owners and occupants living in the area around the park, and it was promoted through the city’s website and social media channels. 619 responses to the survey were received online.

Input was also solicited from park patrons and neighbors during on-site visits at Poinsettia Community Park on Thursday, Nov. 16, 2017, and on Saturday, Nov. 18, 2017. Approximately two dozen individuals provided verbal feedback to staff, and all of them were invited to respond to the survey online, or on-site. 12 responses to the survey were received on-site.

In addition to the above responses to the survey, 44 individuals' responses were received via social media and 3 responses were received via email.

A grand total of 678 responses to the survey were received. The results were as follows:

Q1. Do you support this possible location for a dog park?

| Answer | # of Responses | % of Responses |
|--------------|----------------|----------------|
| Yes | 526 | 80 |
| No | 149 | 20 |
| Total | 675 | 100 |

Q2. Why or why not?

Themes as to why support was offered for this possible location for a dog park

- Dog friendly community; dog park very welcome
- A place to help dogs learn socialization with people and their dogs
- Needs for a dog park; large population of dogs
- Much better than previous proposed location; responsive to resident input
- Close to the street and away from kids' playing areas
- Close proximity to parking lot; dogs do not need to be walked across the park
- Less impact to the whole park; not near the playground
- Near entrance and level ground; away from the grass area where children play

Themes as to why support was not offered for this possible location for a dog park

- Impossible to play in a clean park; dogs are allowed to play everywhere
- Dog park should not be in the community park; dog owners in area are irresponsible
- Posted that dogs are not allowed in the community park, but there's no enforcement
- People walk their dogs off-leash; dogs chase birds and make messes on grass/play areas
- Parking and traffic to/from community park is overwhelming, with sports and events
- Lack of parking now; dog park congestion would push traffic into local neighborhoods
- Location should be used for more pickleball courts; reserve for expansion of courts

On January 22, 2018, the Parks & Recreation Commission received a report on this item, and voted unanimously to advise the City Council of its support for the relocation of the dog park. Based on the results of the public input survey, and the Parks & Recreation Commission's advisement, staff is recommending the City Council provide direction to pursue relocation of the dog park to the segment of Poinsettia Community Park initially envisioned for a multigenerational community center. Should the City Council provide that direction, staff would next initiate the requisite environmental review, and seek any amendments needed to the community park's master plan and permits.

Along with that direction, the dog park's designing, bidding and construction would be submitted as a new project request in the FY 2018-19 Capital Improvement Program Budget. Those processes would be carried out separately from the bidding and construction processes of the other amenities presently master planned for the Aviara Community Park - Phase II and Poinsettia Community Park - Phase III Construction Projects.

Fiscal Analysis

Staff recommends bidding the Aviara Community Park - Phase II and Poinsettia Community Park - Phase III Construction Projects together in order to achieve economies of scale, operational efficiencies, and synergies related to construction of the various park components. Sufficient funding is currently available for these projects. The table below provides the engineer's estimate and the available funding for each of the projects. Funding for the Aviara Community Park - Phase II and Poinsettia Community Park - Phase III Construction Projects was approved in the FY 2015-16 Capital Improvement Program Budget. Funding for the pickleball courts was added to the Poinsettia Community Park – Phase III Construction Project in the FY 2016-17 Capital Improvement Program Budget, and is included in the available funding shown below.

| Construction Project | Engineer's Estimate | Construction Funding Available |
|---------------------------------------|----------------------------|---------------------------------------|
| Aviara Community Park – Phase II | \$ 2,710,560 | \$ 2,714,945 |
| Poinsettia Community Park – Phase III | \$ 3,618,220 | \$ 3,622,660 |
| Total: | \$ 6,325,780 | \$ 6,337,605 |

In regards to the dog park, the costs associated with initiating the requisite environmental review, and seeking any amendments would be absorbed in the Parks & Recreation Department's FY 2017-18 Operating Budget. The dog park's designing, bidding and construction would be submitted as a new project request in the FY 2018-19 Capital Improvement Program Budget, for the City Council's consideration.

Next Steps

Upon the City Clerk's advertisement of the Aviara Community Park Phase II and Poinsettia Community Park – Phase III Construction Projects for bids, staff would administer the bid process. Staff would then review the bids received for responsiveness. Staff would anticipate returning to the City Council with a recommendation for award of a construction contract in Spring 2018.

In regards to the dog park, staff would next initiate the requisite environmental review, and seek any amendments needed to the community park's master plan and permits.

Environmental Evaluation (CEQA)

On October 7, 1992, the Planning Commission approved a Conditional Use Permit (CUP 92-5) and adopted a Mitigated Negative Declaration (MND) and a Mitigation Monitoring and Reporting Program (MMRP) for the Poinsettia Community (Alta Mira) Park. On Aug. 6, 2002, the City Council approved a Conditional Use Permit (CUP 01-22) and adopted a Mitigated Negative Declaration (MND) and a Mitigation Monitoring and Reporting Program (MMRP) for the Aviara

Community (Zone 19) Park. Both projects are within the scope of the prior environmental documents for the respective parks and no further environmental documentation is required per CEQA Guidelines Section 15162. All applicable mitigation measures contained in the prior environmental document have either been satisfied previously or have been incorporated into the Aviara Community Park – Phase II or the Poinsettia Community Park – Phase III Construction Projects’ contract documents, plans and specifications.

Should the City Council provide direction for staff to pursue relocation of the dog park as noted, staff would next initiate the requisite environmental review, and seek any amendments needed to the community park’s master plan and permits.

Public Notification

The Aviara Community Park and Poinsettia Community Park Master Plan Updates underwent extensive outreach, including public participation meetings, online input and public hearings. Public notification of these pending construction projects occurred through the prior two advertisements for bids, and the prior two rejections of those bids. Staff notified the public of the possible new location for the dog park at Poinsettia Community Park through site signage, a postal service mailer, emails, the city’s website, and social media channels.

In addition, this item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

Exhibits

1. Resolution approving the revised plans, specifications and contract documents for the Aviara Community Park - Phase II and Poinsettia Community Park - Phase III Construction Projects, authorizing the City Clerk to advertise the projects for bids, and directing staff to pursue relocation of a dog park at Poinsettia Community Park
2. Site plan and renderings of the Aviara Community Park – Phase II Construction Project
3. Site plan and renderings of the Poinsettia Community Park – Phase III Construction Project
4. Post card mailer on public input survey for possible relocation of a dog park at Poinsettia Community Park (Oct. 31, 2017 – Nov. 30, 2017)