



## **Cemetery Stakeholders Meeting Notes**

June 30, 2011

Northwest Recreation Center

2913 Northland Drive

6:00pm - 7:30pm

Project Lead: Gilbert Hernandez

Facilitator: Larry Schooler

Note taker: Paulina Sosa

### **Introduction:**

### **PowerPoint Presentation:**

### **Question and Answer Session:**

**Citizen Comment/Question:** Interested in the audit process. What system do you use to audit the contract?

**City Staff Response:** InterCare is required to make an annual audit by a CPA (IND Auditor). That was initiated as part of the 2006 contract. They audit all the financial statements. Go through the county system. Surveys of county records. They go on-site.

**Citizen Comment/Question:** Do you have a beginning inventory to know how many plots are selling out there?

**City Staff Response:** Will find out.

**Citizen Comment/Question:** The RRE are the expenses, but doesn't it always go up? Expenses and management fee? It never goes down, doesn't it?

**City Staff Response:** That is correct.

**Citizen Comment/Question:** What happens if it doesn't pass- if there is no agreement? What are the practical implications?

**City Staff Response:** What happens if we go back to the table, with the input from the stakeholders and come up with an agreement, but they don't agree? But we sure hope they do agree so we can move forward. If we don't reach agreement- and it is a term or condition that the city deems as unacceptable,

then we can terminate the contract for cause, or we can terminate the contract without cause. But at this point, we are not there. We are hoping that the contractor will consider what the public wants and considers. If he doesn't, then we'll offer the council some agreement, that hasn't been agreed on without cause.

**Citizen Comment/Question:** We're talking audit on a yearly basis, what about the past years that it was required?

**City Staff Response:** We have '08,'09,'10. All audits since '06 are on record.

**Citizen Comment/Question:** a. The audits that we have received by our internal auditor, there were no concerns brought by our internal auditor. There was no compliance issue. b. Submit a request on this information.

**Citizen Comment/Question:** MBE/WBE issues outstanding. Need provisions, language, exhibit and enforceability. Section 1. Designation of key personnel: the contractor is identified by name; city side is not identified by name. City staffing for maintenance is a fairly recent creation. But give more thought to the person who inspects.

**City Staff Response:** Pilar Pena is charged of inspections and citizen complaints.

**Citizen Comment/Question:** Contract officer vs. project officer. Whoever these people are need to be identified in the contract. Identify the positions and put strong language in there.

**Citizen Comment/Question:** Citizen has visited the cemetery and has said that certain things need to happen as according to the rules. Has called 311, to file a complaint. But they will send complaint to another person, and has had to call the 311 over and over without getting much done.

**City Staff Response:** Fairly recent creation at 311. System used to have people call the office- but was hit and miss. The value for us is that we have a single pt of contact at 311 gatekeeper at PARD that get all these complaints and concerns- and they decide how office deals with these concerns. There have been missteps didn't get certain calls in time. But when Pilar is unavailable at 311, it is harder to fill that position. We are committed to fixing those kinks in the process. The 311 system has been in place with the city for many years. Everyone calls this one certain number and staffers have determined where all the calls go to. All calls, concerns, complaints go into a certain database- and from there it is sent to where it is to go. From there we will determine who the best person to fix issue is. What other departments have done: they have someone that receives complaint; have someone go out to respond to that complaint. But we are new, still getting there. There is certain cost that it takes to run that system. What did it cost the contractor or us to get that concern done? So we can know the true cost to run the cemetery. But we are working on that- so we can know how to get back to you so you can know what is going to happen. Let's try to come back next time so we'll have an answer to the 'what if it doesn't get done. When you make that first 311 call- a certain case number is given to you...so you can call up again with that number and follow up directly with the Parks Department staff.

**Citizen Comment/Question:** These are the rules you gave me- so why are other people not following up. But InterCare has said that they don't want to upset other people by not making them follow the rules. How will that be enforced? Called 311- it has taken a certain amount of time- up to 15 min- but sometimes they are not taking certain complaints and concerns.

**City Staff Response:** There is a meeting set up to make sure that all 311 staff is aware of all the dept (including cemeteries).

**Citizen Comment/Question:** More suggestions: Cemeteries are historic resources. They are eligible for recognition under state law. Include language specifically addresses the issue. Attachment H. Texas Historical Commission should state which cemeteries are historic. B. Evergreen is a historic, African-American cemetery. Urge you to strengthen language stating this. Not discriminate. Recognizes that majority are African-Americans, and for a reason which deals w/ history of Austin.

**Citizen Comment/Question:** Agreement: exhibit A is weak. An absence of transparency- will be sent through email. What is the cost of an early termination of a lease agreement? What language is in the existing agreement for damage with termination without cause?

**City Staff Response:** The same.

**Citizen Comment/Question:** S. not confident that the contractor has enough expertise to take care of cemeteries. The forestry manager needs to be aware of certain regulations. Work more on the trees-(will give to us in writing as well)

**City Staff Response:** Taken what InterCare wants and have substantially changed 2006 contract. (Will explain in writing specifics). From 651 thousand to 41 million- there had to have been more than what was shown. You must rebid that contract- 41 million.

**Citizen Comment/Question:** A contract is today- but what are we doing about the water issue since Tuesday. Straighten stones,- you need to abide by the state law (since April) said that didn't have to abide by state law because of lack of enforcement- but this is not an excuse.

**Citizen Comment/Question:** Issue with the headstones and leaning of headstones. In contract it is very waxy language. Lots of 'mights'. Needs to be stricter, cant wait until the head stones fall over completely. Need to clarify the process and stronger language.

**City Staff Response:** Should there be numeric language.

**Citizen Comment/Question:** Yes.

**City Staff Response:** Is InterCare responsible that graves are sunken?

**City Staff Response:** Grave leveling- there is language that the contractor must always maintain the leveling. Enforcement issue. Headstone- contractor's responsibility to wait till it is a safety hazard. But it is requested to further define and clarify this.

**Citizen Comment/Question:** Are these enforcement issues? But shouldn't this be enforced either way?

**City Staff Response:** It is an ongoing issue because the new health and safety code and its language is not the same as in the contract. Monuments remain the property of the owners- so we do not have the right to level the headstones unless it is a public safety threat. Addresses monuments specifically. Have required InterCare to monitor the levels.

**Citizen Comment/Question:** But if the graves are leveled then the headstones would be leveled.

**Citizen Comment/Question:** Enforcement and policy and contracts. We can't talk about them all. Want

to talk about the contract and how it says enforcement is possible, and so who is in charge of enforcement. What of these things can we expect to be followed in the future? What terms of the contract? Will it always be followed?

**City Staff Response:** The whole purpose of this effort is to develop terms and conditions that are enforceable. The dept understands responsibility- didn't used to have resources. But now we are trying to commit to that. We have the resources to keep the contractor on track.

**Citizen Comment/Question:** Once we get the contract written- are we going to enforce it?

**City Staff Response:** This is our intent to enforce it. We didn't have staff, did have obligation. Now we are new and on board- now with the new contract, we intend to enforce everything in the contract.

**Citizen Comment/Question:** Is their good faith in the contractor though?

**City Staff Response:** We want to make sure this is clearly enforceable. To the contractor and City. This is why we are slowing down enough to tweak this- measurable and enforceable. There are some things that will have a fiscal impact, but when we sit with contractor- he will tell us what the implications will be, and we'll say whether this is best for city. We can't promise what exactly will happen right now- but we are moving forward.

**Citizen Comment/Question:** Transparency- should this be put on a website so we can know when routine maintenance and any other things that occur with cemetery. So the public can know all this.

**Citizen Comment/Question:** Prior to executing any agreement, damage to city property- dying trees- removal by InterCare (\$100,000). They should be liable for this. Then the replacement of trees- cost. Tree population- needs reinvigoration. Some city staff should start looking at what a real cost would be for replacement. This should happen before agreement is made.

**Citizen Comment/Question:** When we do a master plan- consider planting trees. Consider where they will go, type of trees.

**Citizen Comment/Question:** Overriding theme- entrusted our loved ones in these cemeteries that are run by the city- and yet the city continues to use the same contractor- who performs so lowly, and yet he continues getting raises. Why same contractor? Not performing.

**City Staff Response:** Spec performance issues: forwarded in email.

**Citizen Comment/Question:** Every suggestion should be placed on the website- true transparency.

**Citizen Comment/Question:** Trees in Oakwood Cemetery. Watched for last 5-8 years, tree pop has died off- water had a lot to do w/ it. A lot of trees are really old as well. Tree ordinance says that you cannot disturb the tree roots- area. But families want plot right by the trees- but this is what makes it hard to make trees maintained. Trees are in family space- but the trees are dying off because of the plots that are placed. Should be addressed in master plan. Why grave sinking? We only level graves. Contractor is responsible of all "acts of God"- so does the contractor respond to every sort of damage?

**Citizen Comment/Question:** As far as 311 process- talk to the contractor- so the staff each has a sheet of codes. So this will help the process. Name of caller, name of person buried. Work with contractor to get spec language- so it won't be hard to know what caller wants. A person should call you within 3 days to confirm receiving of complaint and follow up with any questions.

**Citizen Comment/Question:** leveling of graves- some of your higher end cemeteries do not have the same soil. Sometimes you have to go back 3-4 times to put the soil in, so lets do it right the first time. @ Salt Lake City- only reviewed 2x/year.leave language adjustable, because need to be able to clarify.

**Citizen Comment/Question:** In regard to trees dying because of family plots. Not true that all trees are dying because of this. Some trees are dying- drought, smaller roots...

**Citizen Comment/Question:** Damage on the headstones by contractor: provision in contract that when contractor damages they have to fix?

**City Staff Response:** That language is in this. Follow up with this to confirm.

**Citizen Comment/Question:** Monitor the activities throughout the year- does InterCare provide you with monthly report of expenses and receipts?

**City Staff Response:** Quarterly revenue reports- of all sales that occurred/quarter. Then the annual audit.

**Citizen Comment/Question:** American youth works. Morgan. East Austin – We have a big amount of people that do work on maintenance trees in areas. Offer help w/ these services.

**Citizen Comment/Question:** What is the city's timeline?

**City Staff Response:** Have commitment w/ InterCare to get this in place as soon as possible. Do have to comply with City's purchasing- still a commitment. Will find out how want computer system to function- will get public input.

**Citizen Comment/Question:** Comment on headstones being unlevelled. People who put in headstones did not put in concrete base that they were supposed to- but don't know who would be responsible for fixing that issue w/that spec staff.

**City Staff Response:** Work with the memorial companies to come up with a standard. Develop a base standard that will handle the unlevelled. Having a standard is more enforceable. We should do this. If we can find the family to tell them how we can level the headstone. Come up with the agreement. But at this moment we have no definition (numerically) on when this issue becomes a public safety issue.

Email address. [cemeteries@ci.austin.tx.us](mailto:cemeteries@ci.austin.tx.us) Send to all email addresses that were not even to make it here tomorrow.

**Meeting adjourned at 7:30 p.m.**