

**Mayor**  
Lois Wynne  
**Mayor Pro Tem**  
Jeff Chedester  
**Council Members**  
Ray Madrigal  
Eddie Neal  
William Siegel



**Public Works/  
Planning Services  
Department**  
711 W. Cinnamon Drive  
Lemoore, CA 93245  
Phone (559) 924-6740  
Fax (559) 924-6708

## Staff Report

ITEM NO. 4-5

**To:** Lemoore City Council

**From:** David Wlaschin, Public Works/Planning Director

**Date:** January 15, 2015 **Meeting Date:** January 20, 2015

**Subject:** Chain Link Fence with Barbed Wire at Lemoore Cemetery

### Discussion:

The City Manager and myself met with the Lemoore Cemetery District Board on Tuesday, January 13, 2015 to discuss alternatives to the chain link fence recently installed with my permission at the west end of the cemetery property. The Cemetery District has experienced an increase in trespassing and vandalism of cemetery property, partially due to the failure of adjoining fences on the west side of the cemetery.

The Cemetery District Manager contacted me prior to installing the 7ft. chain link fence and I authorized it without requiring a building permit, because Section 105.2 of the 2013 California Building Code (Exhibit A) modified the requirement to exempt "fences not over 7ft. high". At the time, the City's zoning code had also been revised and was awaiting codification. The information available at that time did not lead me to believe that the 7 ft. fence was non-conforming. A 7ft. chain link fence was then installed by the Cemetery District with three 3 strands of barbed wire at a 45 degree angle toward the cemetery property with the intent to plant jasmine or similar vine along the fence line.

Soon after the fence was installed, an adjacent property owner expressed concern about the fence by sending a letter (Exhibit B) to the Planning Commission and the Cemetery Board. The Planning Commission discussed the concerns during the "Commissioners Request for Information" portion of a regular meeting held November 10, 2015. The Planning Commissioner then sent a response letter (Exhibit C) to the property owner. The Cemetery District also responded by resetting the barbed wire to a 90 degree angle so that it would be less visible to the adjoining property owners, with the intent to further accommodate residents by planting vines that would detract visibility of the chain link completely.

The adjacent property owner is not satisfied with the change and sent a letter (Exhibit D) to the City Council requesting the fence be lowered to a maximum of 6ft. and the barbed wire removed. Attached as Exhibit E, are the invoices paid by the Cemetery District thus far to install the existing fence and reposition the barbed wire to accommodate residents. A quote to lower the fence height and add conventional 45 degree barbed wire is also attached as Exhibit F.

The options available today are:

1. Remove barbed wire and issue building permit for existing 7ft. fence
2. Remove barbed wire and 7ft. chain link material. Replace with 6ft. chain link fence

**Budget Impact:**

A maximum of \$10,400 from the General Fund

1. Removal of barbed wire \$1,850
2. Lower fence height to 6ft. \$8,550

**Recommendation:**

That the City Council provide staff with direction.

## SCOPE AND ADMINISTRATION

shall be forwarded to the enforcement agency for review and approval.

The instruments shall be interconnected for common start and common timing. Each instrument shall be located so that access is maintained at all times and is unobstructed by room contents. A sign stating "MAINTAIN CLEAR ACCESS TO THIS INSTRUMENT" shall be posted in a conspicuous location.

The Owner of the building shall be responsible for the implementation of the instrumentation program. Maintenance of the instrumentation and removal/processing of the records shall be the responsibility of the enforcement agency or its designated agent.

## SECTION 105 PERMITS

**[A] 105.1 Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

**[A] 105.1.1 Annual permit.** In lieu of an individual permit for each alteration to an already approved electrical, gas, mechanical or plumbing installation, the building official is authorized to issue an annual permit upon application therefor to any person, firm or corporation regularly employing one or more qualified tradespersons in the building, structure or on the premises owned or operated by the applicant for the permit.

**[A] 105.1.2 Annual permit records.** The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building official shall have access to such records at all times or such records shall be filed with the building official as designated.

**[A] 105.2 Work exempt from permit.** Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

### Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area is not greater than 120 square feet (11 m<sup>2</sup>).
2. Fences not over 7 feet (2134 mm) high.
3. Oil derricks.
4. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or IIIA liquids.

5. Water tanks supported directly on grade if the capacity is not greater than 5,000 gallons (18 925 L) and the ratio of height to diameter or width is not greater than 2:1.
6. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route.
7. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
8. Temporary motion picture, television and theater stage sets and scenery.
9. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 24 inches (610 mm) deep, are not greater than 5,000 gallons (18 925 L) and are installed entirely above ground.
10. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
11. Swings and other playground equipment accessory to detached one- and two-family dwellings.
12. Window awnings in Group R-3 and U occupancies, supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.
13. Nonfixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

### Electrical:

**Repairs and maintenance:** Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

**Radio and television transmitting stations:** The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for a power supply and the installations of towers and antennas.

**Temporary testing systems:** A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

### Gas:

1. Portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

### Mechanical:

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.

**John W. Gordon**  
**P.O. Box 798**  
**Lemoore, CA 93245**  
**(559) 924-3876**

September 25, 2014

Lemoore Planning Commission Members  
119 Fox Street  
Lemoore, CA 93245

RE: Barb wire fence in residential area

Dear Planning Commission Members

On August 15, 2014 the Lemoore Cemetery District constructed a chain link fence of greater than eight feet with three strands of barb wire at the top of it. The fence abuts the single family homes on Antelope Drive between Hazelwood Drive and Spruce Avenue. The fence also abuts one house on Hazelwood Drive and one house on Spruce Avenue. The number of single family homes affected is eleven. This fence was erected without any notice to the affected property owners.

This unilateral decision by the Lemoore Cemetery District shocked the property owners who feel that the chain link fence with barb wire atop of it is outrageous. The fence interferes with the property owners' use and enjoyment of their backyards and many of them think that their backyard now looks like a penitentiary. My family has talked to seven of the eleven property owners and the only one that was not negatively affected by it was a house bound gentleman that cannot utilize his backyard.

I have looked into the decision making of the city and of the cemetery district regarding the construction of the fence. The cemetery district manager, Joyce Bautista, believes that people are breaking into the cemetery through the cemetery's West fence. This belief is a little surprising because most of the property owners in the area are very mature in age. In addition, there is soft dirt along the fence line that would allow the cemetery to discover where the trespassers were coming from and address those areas specifically. It is unconscionable to devalue eleven properties for the supposed bad actions of one or two individuals. The second rationale, Ms. Bautista gives is that the resident at 1480 Antelope Drive does not keep his dogs in his backyard. That property owner, Eric, tried to work with Ms. Bautista to repair the fence but Eric found her to be "rude and uncooperative" when he tried to work with her to repair the fence.

The cemetery board made their decision to put up the fence on August 12, 2014 and the construction started on August 15, 2014. This, also, is alarming. A fence of over seven feet in height is supposed to have a permit from the city and barb wire fencing cannot be put up in a residential area without a site plan review and an architectural review process. Given the timeline of construction, it is unlikely that proper procedure was followed. My second hand

understanding is that Ms. Bautista gave David Wlaschin, her personal friend, a phone call and he gave her the okay over the phone. David Wlaschin's rationale, second hand to me, is that he okayed the construction because the city had allowed the cemetery district to put up chain link fencing with barb wire on the East end of their Spruce Avenue property line. This rationale is thin at best.

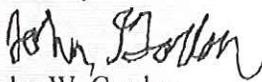
The fencing on Spruce Avenue does not have any adjacent property owners as it abuts a sidewalk. Further, the majority of barb wire is covered by mature vegetation which mitigates much of the public blight. Finally, the permission to put a chain link and barb wire fence on Spruce Avenue came after David Wlaschin, Jeff Laws, and Police Chief Darrell Smith all visited the site and gave it a thorough examination before moving forward with that fence.

I bring this poor decision making to your attention because the Planning Commission is the body that develops the policies and development standards for our city. The citizens of Lemoore rely on your service to protect their property values and the use and enjoyment of their homes. Ms. Bautista brought forward a heavy handed solution for her perceived problem and Mr. Wlaschin used poor judgment in allowing this construction to move forward. I sincerely hope that these eleven homeowners were not the victim of the good 'ole boy system and that your governing body will legitimize the function of Lemoore City government.

Please find attached a picture of the backyard located at 1440 Antelope Drive. The newer fence on the left side separates two homeowners. It is approximately seven feet tall and was constructed cooperatively between the two homeowners. The dark fence in front of the barb wire and chain link fence is the existing divider between the residence and cemetery. Please note the newly constructed chain link and barb wire fence in the picture.

The homeowners look for a solution where they do not have to view the fence which makes it appear as though they live in an unsafe neighborhood. Many more facts are available concerning this ongoing concern but we do not want to overwhelm the Planning Commission with information in our initial communication. We look forward to your response as a body or individuals within the earliest feasible timeline.

Sincerely



John W. Gordon



Mayor  
Lois Wynne  
Mayor Pro Tem  
Willard Rodarmel  
Council Members  
Ray Madrigal  
Eddie Neal  
William Siegel



**Public  
Works/Planning  
Services**

711 W. Cinnamon Dr.  
Lemoore □ CA 93245  
Phone □ (559) 924-6735  
FAX □ (559) 924-6708

November 20, 2014

John W. Gordon  
P.O. Box 798  
Lemoore, CA 93245

Re: Inquiry into fencing around the Lemoore Cemetery

Mr. Gordon:

Thank you for your correspondence to the Lemoore Planning Commissioners regarding the installation of the chain link fencing bordering the Lemoore Cemetery and area residents, dated September 25, 2014.

I relayed your concerns to the Staff of the Lemoore Planning Department and we discussed this issue at our most recent Planning Commission Meeting held on November 10, 2014.

Mr. Steve Brandt and Mr. David Wlaschin both explained to us that the Lemoore Cemetery District is a public agency, much like the school districts are. As such, the City works with these public agencies to protect both interests. We negotiate regulations to avoid conflicts and achieve common public goals.

In addition to cooperation between the City Staff and the Cemetery District, the Zoning Ordinance allows for chain link fences to be installed in rear and side yards and barbed wire is allowed atop fencing in open space. (Section 9-5B-5-F-2,3). This barb wire was realigned to be parallel with the ground and over the cemetery's open storage area. The fence is in compliance with the Zoning Ordinance and Uniform Building Code, which allows a 7 ft. high fence.

Ms. Baustita, did in fact reach out to City Staff in an effort to disclose her intent to install fencing and associated barbed wire to deter theft and loitering which had become an increasing concern to the Lemoore Cemetery Board. Again, being that they are a public agency, they did work with the City of Lemoore to approve their project.

I would encourage you and any interested neighbors to contact the Lemoore Cemetery District Board of Trustees with your concerns. I am sure that the Lemoore Cemetery District will engage your concerns and work to achieve a result that will be mutually beneficial.

If I or any of the Lemoore Planning Commissioners can be of any further assistance, please do not hesitate to contact us.

Respectfully,

  
Jeffrey Garcia, O.D.  
Chair, Lemoore Planning Commission  
559 924-4417

Municipal Code Section 9-5B-5-F-2, 3

F. Fence and Wall Design Standards:

1. Fencing Materials: Fences and walls shall be constructed of long lasting materials. Unless approved as a condition of approval or in conjunction with another planning permit or entitlement, fences or walls of sheet or corrugated iron, steel, or aluminum are prohibited, with the exception of ornamental fences.
2. Barbed Or Concertina Wire Fencing: Barbed or concertina wire fencing shall not be constructed or placed on top of a fence except in agricultural, open space, or industrial zones. The planning director may approve barbed or concertina wire fencing in a commercial zone upon finding that there is a special need for security and that the fencing will be unobtrusive or shielded from public view.
3. Chain link Fences: Chain link fences taller than forty two inches (42") are prohibited in the front and street side yards of residential property.

John W. Gordon  
P.O. Box 798  
Lemoore, CA 93245  
(559) 924-3876

December 16, 2014

Lemoore City Council  
119 Fox Street  
Lemoore, CA 93245

RE: Chain Link Fence with Barb Wire in Residential Area

Dear Council,

On August 15, 2014 the Lemoore Cemetery District began construction of a chain link fence that has barb wire atop of it. The fence is greater than 8' in height which requires a permit per the City of Lemoore's zoning code. In addition, barb wire fences are not allowed in residential zones per the Zoning Code. This concern was brought to the Planning Commissioners on August 26, 2014 and I received a response on December 5, 2014. The Chairman of the Planning Commission, Jeff Garcia, provided a letter (dated November 20, 2014) that was unresponsive to these concerns.

The November 20, 2014 letter stated that the issue was addressed at the November 10, 2014 Planning Commission meeting. The issue was brought up at the 45-minute mark in the recorded audio of the meeting. The Chairman gave David Wlaschin an open forum to explain his understanding of the issue. During his explanation he stated that the Cemetery District does not have to comply with City Zoning Ordinances. This statement is completely false. Unfortunately, none of the Commissioners challenged Mr. Wlaschin's assertions and Steve Brandt nor any other staff corrected Mr. Wlaschin.

The citizens of Lemoore must be able to trust city staff and rely on citizens commissions to provide oversight rather than ceremonial activities.

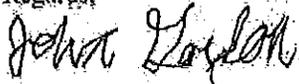
The Planning Commission Chairman suggested that I communicate directly with the Lemoore Cemetery District. I have spoken with Cemetery Board Member Gene Ornelas and my Father, James C. Gordon, has spoken with Lemoore Cemetery Board Member John T. Camara prior to contacting the planning commission. The board members decided to firmly rely on the Lemoore Cemetery District Manager, Joyce Bautista for their source of information. My Father also spoke with Mrs. Bautista after a dogged effort to contact her. I did not contact her because she stopped returning my calls in April 2014. In April 2014 I contacted her because of her involvement with the Billy Siegel Recall effort. The recall group printed false information about myself and others and I attempted to supply Mrs. Bautista with documentation showing the fraudulent nature of some of the recall group's information.

There are many other facts that lead me to believe that there are unclean hands concerning the actions of David Wlaschin and Joyce Bautista. I do not want to muddy the waters in this letter but I will ask you to

request any and all documentation (notes, memo's, emails) that are addressed to or penned by Mr. Wlaschin, Mr. Brandt, and other city staff relating to this issue. Jeff Garela emailed me on September 26, 2014 and on October 22, 2014 stating that he would have staff look into this issue and specifically mentioned Steve Brandt in his October 22, 2014 email. City Ordinances must apply to all in order to have a legitimate governing body and staff must be accountable for their actions to maintain credibility.

Attached is my letter to the Planning Commission to provide background information.

Regards,



John W. Gordon

**Petition Concerning the Chain Link/Barb Wire fence installed at the West End of the Lemoore Cemetery.**

By signing this petition the residents listed below ask that the City Council require the Lemoore Cemetery District to comply with city zoning ordinances (Code Section 9-5B-5; Paragraphs C1 and F2). The residents request that the barbed wire be removed and that the chain link fencing be modified to a height of no greater than 6 feet.

Print Name:	Address:	Signature:
<u>JAMES C GORDON</u>	<u>1440 ANTELOPE DR.</u>	<u>[Signature]</u>
<u>Sharon O GORDON</u>	<u>1440 Antelope Dr</u>	<u>[Signature]</u>
<u>JOHN W. GORDON</u>	<u>1440 ANTELOPE DR</u>	<u>[Signature]</u>
<u>ANDY Dever</u>	<u>1480 ANTOLOPE</u>	<u>[Signature]</u>
<u>Juan Sabinera</u>	<u>1386 Antelope Dr.</u>	<u>[Signature]</u>
<u>Rennie Steinhilber</u>	<u>191 W. Spruce</u>	<u>[Signature]</u>
<u>Wendy K Atteiny</u>	<u>191 W. Spruce</u>	<u>[Signature]</u>
<u>Ryan Hatfield</u>	<u>270 W. Hazelwood</u>	<u>[Signature]</u>
<u>MAC Hotacker</u>	<u>1315 Antelope Dr</u>	<u>[Signature]</u>
<u>Tom F Hotacker</u>	<u>1315 Antelope Dr</u>	<u>[Signature]</u>
<u>Judy Barnett</u>	<u>1352 Antelope</u>	<u>[Signature]</u>
<u>Dennis W. LYONS</u>	<u>1344 Antelope Dr.</u>	<u>[Signature]</u>
<u>Linda L. Lyons</u>	<u>1344 Antelope Dr.</u>	<u>[Signature]</u>
<u>Joe Dias</u>	<u>1428 Antelope Dr</u>	<u>[Signature]</u>
<u>Joe Dias, Jr.</u>	<u>1428 Antelope Dr</u>	<u>[Signature]</u>
<u>Nancy Stormont</u>	<u>1450 Antelope Dr</u>	<u>[Signature]</u>
<u>Thomas Stormont</u>	<u>1450 Antelope Dr</u>	<u>[Signature]</u>
<u>Beatrice Lopez</u>	<u>1394 Antelope Dr.</u>	<u>[Signature]</u>



**Nick Champi Enterprises, Inc.**

615 North Tenth Avenue  
Hanford, CA 93230

**Invoice**

Date	Invoice #
10/15/2014	13720

Bill To

**Lemoore Cemetery District**  
**P.O. Box 244**  
**Lemoore, CA 93245**

P.O. No.	Terms	Due Date	Rep
		10/15/2014	SC
Description	Qty	Amount	
Furnish and install approximately 668 linear feet of seven foot high chain link fence plus three strands of barbed wire	668	21,750.00	
Sales Tax		0.00	

It is our policy to turn over unpaid accounts of more than 90 days to our Collection Agency.

<b>Total</b>	<b>\$21,750.00</b>
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Phone #	Fax #
559-584-8272	559-584-0758

6-2-14  
**Nick Champi Enterprises, Inc.**

615 North Tenth Avenue  
Hanford, CA 93230

# Invoice

Date	Invoice #
10/15/2014	13721

Bill To

**Lemoore Cemetery District**  
**P.O. Box 244**  
**Lemoore, CA 93245**

P.O. No.	Terms	Due Date	Rep
		10/15/2014	SC
Description	Qty	Amount	
Reposition barb wire on 668 fee of 7' fencing		1,025.00	
Sales Tax		0.00	

**It is our policy to turn over unpaid accounts of more than 90 days to our Collection Agency.**

**Total \$1,025.00**

Phone #	Fax #
559-584-8272	559-584-0758

# Nick Champi Enterprises Inc.

(CA Small Business 2978)



License# 416859: A ( General Engineering) B (General )C-7( Low Voltage) C-8 (Concrete)C-10( Electrical) C-13 (Fencing) C-27( Landscaping) C-29 (Masonry) D-28 (Doors, Gates, and Activating Devices)

615 North Tenth Avenue  
Hanford, CA 93230

[www.champifence.com](http://www.champifence.com)

145 North Sixth Street  
Coalinga, CA 3210

559.584.8272

~ office ~

559.935.1700

559.584.0758

~ fax ~

559.935.1777

13 January 2015

To: City of Lemoore  
Attn: David Wlaschin  
Pn: 924-6737  
Subject: Lemoore Cemetery

David:

This is to confirm our price to remove the barbed wire from the west fence line at Lemoore Cemetery.

The total price to remove the barbed wire and arms is \$ 1,850.00

Option 1 – Lower Fence Height

The total price to lower the fence height to 6' high is \$ 8,550.00

Option 2– Add conventional 45 degree barbed wire on top of the 6' high fence

The total price for Option 2 is \$ 1,400.00

Items Accepted: \_\_\_\_\_ Accepted by: \_\_\_\_\_

This price is good until February 15, 2015

We appreciate the opportunity to submit a price for your project.

Nick Champi Enterprises, Inc.  
Onan Champi – President

*Diamond Core Drilling Custom Fabrication Access Control Systems Excavation Temp/Rental Fencing  
Wholesale and Retail Material Sales – State and Federal Projects*

