

**GREENWOOD CEMETERY ADVISORY BOARD  
MEETING AGENDA  
FRIDAY, SEPTEMBER 11, 2015 AT 8:30 AM  
MUNICIPAL BUILDING, ROOM 205, 151 MARTIN**

**I. CALL TO ORDER**

George Stern, Chairperson

**II. ROLL CALL**

Cheryl Arft, Deputy Clerk

**III. APPROVAL OF MINUTES**

- A. Approval of meeting minutes of June 5, 2015
- B. Approval of special meeting minutes of June 19, 2015
- C. Approval of special meeting minutes of August 3, 2015

**IV. UNFINISHED BUSINESS**

**V. NEW BUSINESS**

- A. City Clerk's Office Update
- B. Review of Recommendations Checklist

**VI. CONTRACTOR REPORT**

- A. Second Quarter Report

**VII. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA**

**VIII. ADJOURN**

*Greenwood Cemetery Advisory Board:*

*The powers and duties of the Greenwood Cemetery Advisory Board is to provide the following recommendations to the City Commission:*

1. Modifications: *As to modifications of the rules and regulations governing Greenwood Cemetery.*
2. Capital Improvements: *As to what capital improvements should be made to the cemetery.*
3. Future Demands: *As to how to respond to future demands for cemetery services.*

*Section 34-30 (g) of the Birmingham City Code*

*NOTICE: Individuals requiring accommodations, such as mobility, visual, hearing, interpreter or other assistance, for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice), or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.*

*Las personas que requieren alojamiento, tales como servicios de interpretación, la participación efectiva en esta reunión deben ponerse en contacto con la Oficina del Secretario Municipal al (248) 530-1880 por lo menos el día antes de la reunión pública. (Title VI of the Civil Rights Act of 1964).*

**GREENWOOD CEMETERY ADVISORY BOARD  
MEETING MINUTES  
FRIDAY, JUNE 5, 2015 AT 8:30 AM  
MUNICIPAL BUILDING, ROOM 205, 151 MARTIN**

**I. CALL TO ORDER**

George Stern, Chairperson, called the meeting to order at 8:30 AM.

**II. ROLL CALL**

Present: Kevin Desmond  
Pamela DeWeese  
Darlene Gehringer  
Linda Peterson  
Laura Schreiner  
George Stern  
Barbara Thurber

Administration: Clerk Pierce and Deputy Clerk Arft

Guests: Cheri Arcome of Elmwood Cemetery

**IV. NEW BUSINESS**

**A. APPROVAL OF MINUTES FROM MAY 1, 2015**

**MOTION:** Motion by Gehringer, seconded by Desmond:  
To approve the Greenwood Cemetery Advisory Board minutes of May 1, 2015, as corrected.

VOTE: Ayes: 7  
Nays: None

**III. UNFINISHED BUSINESS**

**A. MAINTENANCE AND PERPETUAL CARE  
(Recommendation Checklist Item #4)**

Ms. Pierce noted the changes made at the May meeting, specifically in Section IV. Maintenance and Perpetual Care and Section VI. Monuments, Grave Markers and Foundations. If those sections are completed today, the rules and regulations can be brought before the City Commission on June 29, 2015.

Ms. Pierce presented the language suggested for damaged historical markers in Section IV: "The City may maintain the integrity of damaged historical markers through the perpetual care fund." Ms. DeWeese commented that she would prefer the word "may" be changed to "will" or "shall". She suggested that a list of historical markers could be made for the city. It is unlikely family is around to maintain those markers any longer. Ms. DeWeese believes that there are about 15-16 at this time.

The Board agreed the sentence should read "The city shall maintain the integrity of damaged historical markers prior to January 1, 1875 through the perpetual care fund."

Mr. Stern shared his concern that the fund does not currently have a great deal of funds.

In Section V., Item c., Ms. DeWeese suggested that the words "injurious to the appearance of the cemetery" are an aesthetic judgment. She suggested that the phrase be changed to "is injurious" or "posts a hazard". Ms. Gehringer suggested it should read "The city shall have the right to remove from any lot any objects including flower pots and benches, etc. that are damaged."

Ms. Schreiner said Item d. covers the injury and maintenance and repair, but Item c., covers the appearance of the cemetery.

Ms. Gehringer suggested that the second sentence should read "the city shall have the right to remove any trees or shrubs that are diseased or pose a hazard."

Mr. Stern concern is that someone has to make the decision about removing a tree. Ms. Schreiner stated the superintendent needs some discretion.

Ms. Arcome noted that tree work is very costly and is not done arbitrarily. She said the cemetery has been maintained well over the last 20 years.

Ms. Gehringer is not comfortable leaving Item c. as is. Her concern is that in the event the city hires a different contractor, they may wish to arbitrarily remove trees and shrubs.

Ms. Schreiner suggested we need to give leeway to address the then current issues. Changes to the rules and regulations can be made at any time if a future board feels that need. She suggested the following revision: "The City Manager shall have the right to remove from any lots any objects including trees, shrubs and flower pots that, in the opinion of the superintendent, are not in keeping with the appearance of the cemetery." The Board agreed to the change.

Mr. Stern asked for any other comments under Section IV. He suggested adding the word "drainage" after water system. The revised sentence would read "The City and/or its Contractor shall be responsible for the maintenance and repair of the driveways, buildings, water system, drainage and fences."

Mr. Stern expressed concern about the second paragraph in Section IV. He believes it is in contradiction to the contract between the City and Elmwood which gives Elmwood the right to sell flowers. Ms. Schreiner suggested add "Further," to the beginning of the second sentence.

The revised sentence will read, "The City and/or its Contractor shall not be responsible for any special care of any particular section, lot or burial space or for the maintenance or repair of any monument, marker or planting placed by the owner. Further, the City and/or its Contractor shall not contract or agree to give special care to any section, lot or burial space except as above provided. The City may maintain the integrity of damaged historical markers through the perpetual care fund."

Ms. DeWeese noted that the language approved during the previous meeting appeared to be omitted in Section V, Item h., and asked that it be included.

Section VI.  
Monuments

Ms. DeWeese asked if we should include a reference prohibiting monuments in flush areas wherever monuments are referred to. Ms. Schreiner suggested that we may want to include something in the definitions, or do a global search throughout the documents.

Ms. Pierce suggested adding Item e., "No monuments will be allowed in flush sections."

Ms. Gehringer requested changing the reference to "him", to "him/her" in Item d.

Discussion followed about the change made at the last meeting permitting a monument on two adjoining graves under one ownership, and orientation. Mr. Stern asked why are we placing a restriction on the width of a monument.

Ms. Pierce suggested the Board could change the language to two adjoining side-by-side graves.

Ms. Schreiner noted that monument size impacts the appearance of the cemetery. Mr. Desmond suggested that if a monument was requested in a non-flush section for a single grave, a beveled marker could be used. Mr. Desmond confirmed for Ms. Thurber that monuments may be custom-made, but are costly. Most monuments sold are standard dimensions.

Mr. Stern noted that markers have been defined in the Rules and Regulations as 18" in height, 16" in width and 24" inches in length. Monuments are defined as anything larger than a marker. Objects, such as statues are permitted.

Ms. Gehringer requested a change in Item d., changing "workmen" to "workers".

### Markers

Mr. Desmond asked for clarification in Item c. as to whether the City must approve the size, material and design or does the contractor approve. Ms. Schreiner suggested the "City or its designated contractor" be used.

Mr. Stern asked to remove Item b. entirely and specify that markers must have a concrete foundation. Ms. Pierce clarified that monuments are required to be set on a concrete foundation. She noted that repairing concrete foundations is difficult and costly. Those costs are passed on to the family. Markers not set on concrete are easier and less expensive to repair. Ms. Arcome noted that Greenwood is on sandy soil, so settling occurs here much more often in that condition.

Mr. Valentine noted that changes to the rules and regulations can be made in the future as needed.

Ms. Schreiner asked about the reference to memorial in Item c. Ms. Arcome said that the word "memorial" encompasses markers and monuments.

Ms. DeWeese suggested adding a definition for memorial. "Memorial shall refer to marker or monument."

Flush Memorial Section – F North only

Ms. Schreiner would like the references to the "City" in Item c be changed to add "or its designated contractor".

Ms. Pierce noted for Ms. Schreiner that both bronze and granite markers have traditionally been permitted in this section. Ms. Arcome added that bronze is very costly and is subject to theft, and this area is located at the front of the cemetery. Ms. Pierce said if the Board chooses to add bronze to the section plotted after January 1, 2015, it may do so.

Flush Memorial Section – Areas Plotted after January 1, 2015

In Item b., Ms. Thurber suggested that bronze markers be offered as well as granite markers, with the stipulation that the customers are told about the specific issues relative to bronze. The Board agreed to add the language "acceptable bronze or" before the word "granite"

The words "or its designated contractors" are to be added throughout the rules and regulations where the word "City" appears.

Section VII.

Funerals, Interments and Disinterments

Mr. Stern said he knows of no funeral director or vault company who installs a casket. Discussion followed on this practice as it relates to Greenwood Cemetery. It was emphasized that Greenwood does not sell vaults, therefore, a contractor is hired for the installation of a casket.

Mr. Stern wants the language clarified to read that the cemetery installs the casket. Ms. Gehringer pointed out that the City does not own equipment to install caskets. Ms. Arcome added that Greenwood does not sell vaults, and that the vault company or the contractor installs the casket.

MOTION: Motion by Gehringer, seconded by Desmond, to add the word "then" between "container" and "shall".

Ms. Schreiner suggested that might result in a timing issue, and suggested two sentences. Ms. Gehringer withdrew her motion.

Ms. Schreiner confirmed with Mr. Desmond that at Greenwood the funeral director has always handled the installation of the casket. Mr. Desmond stated that it is standard practice for the family to purchase the vault from the funeral home.

MOTION: Motion by Gehringer seconded by Peterson:  
To amend the language as follows: In all full burial interments, the casket shall be enclosed in a permanent outside container. The container shall be installed by the funeral director, vault company or the city's designated contractor.

VOTE: Ayes: 4

Nays: 3 (Desmond, DeWeese, Thurber)

MOTION: Motion by Gehringer, seconded by Peterson  
To schedule a special meeting on Friday, June 19, 2015 at 8:30 AM

VOTE: Ayes 7  
Nays None

Ms. Pierce stated that the terms expire for Ms. Peterson, Ms. Schreiner and Mr. Stern on July 5<sup>th</sup>. Applications should be submitted to the Clerk no later than July 8th at noon. Interviews will be held at the July 13<sup>th</sup> City Commission meeting.

The meeting was adjourned at 9:57 AM.

/ca

DRAFT

**GREENWOOD CEMETERY ADVISORY BOARD  
SPECIAL MEETING MINUTES  
FRIDAY, JUNE 19, 2015 AT 8:30 AM  
MUNICIPAL BUILDING, ROOM 205, 151 MARTIN**

**I. CALL TO ORDER**

George Stern, Chairperson, called the meeting to order at 8:30 AM.

**II. ROLL CALL**

Present: Kevin Desmond  
Pamela DeWeese  
Linda Peterson  
Laura Schreiner  
George Stern  
Barbara Thurber

Absent: Darlene Gehringer

Administration: City Manager Pierce, Clerk Pierce and Deputy Clerk Arft

Guests: Cheri Arcome of Elmwood Cemetery

**III. APPROVAL OF MINUTES**

**IV. UNFINISHED BUSINESS**

**A. Review of the Rules and Regulations  
(Recommendation Checklist Items #4 & #7)**

Mr. Stern said this meeting is needed today to complete the rules and regulations as people are trying to buy space in the cemetery.

Ms. Pierce noted that a definition for memorials was added on page 1 and the Board agreed with the definition. On page 6 under Section VII, Interments, two paragraphs were combined into one for continuity, and a sentence was added to the end of another paragraph on that page.

Ms. Schreiner suggested the following change to language in the Disinterment section of Section VII:

Disinterment of a burial shall be facilitated by a Michigan licensed funeral director. Said funeral director shall obtain a permit for such removal from the local health officer of Oakland County. Said funeral director shall complete the removal form as required by the City or its designated contractor. Disinterment shall not commence until after issuance of the Oakland County permit is presented to the City or its designated contractor, approval for removal is granted by the City or its designated contractor, and all applicable fees are paid. Such interments shall only be scheduled between June 15<sup>th</sup> and October 15<sup>th</sup> each year. The grave space where the disinterment occurred shall immediately be returned to a safe condition.

Mr. Stern asked for any objections to adding the words unless approved by the City, at the end of the sentence, "Such interments shall only be scheduled between June 15<sup>th</sup> and October 15<sup>th</sup> each year". There were no objections.

Ms. Pierce explained that under Section VIII, Burial Rights Policy, the allowed number of occupants per grave was broken out for clarity. The Fee Schedule will need to be amended by the City Commission for this section as there is space for graves that could hold one or two remains.

Mr. Desmond noted that is a generous policy to include up to three interments at time of purchase. It is a very common practice to have to purchase a second or third right of interment for additional urns. Ms. Pierce clarified that this applies to only graves purchased after October 1, 2014. Lots purchased prior to that date require purchasing additional rights of interment.

Mr. Stern would like to add the word "each" for clarification in the section regarding full graves purchased prior to October 1, 2014. Ms. Schreiner suggested a change to read "must purchase ~~a second right of interment~~ each additional right of burial in the grave." It was agreed to add the language to the cremation portion as well.

Ms. Pierce stated Section IX, Lot Resale Policy, limits the sale of new available graves to immediate family according to the Rules of Consanguinity. Mr. Valentine offered that it might be helpful to the administrative process to add with supporting genealogical documentation.

Ms. Schreiner suggested limiting the number of transfers within so many years. Ms. Arcome noted that there has only been one transfer within a family since she has been with Greenwood. Usually just permission is given. Mr. Desmond agreed.

The difference between transfers of graves and permission to be buried in a grave was explained.

Mr. Stern asked if we need to define the word "immediate" when referring to immediate family and define the concept of authority or assignment, because we have said we are only restricting transfers and not restricting permissions to be buried. He believes it may put the City in an untenable position because it is not specified or defined.

Ms. Schreiner agrees that the word "immediate" should be removed and add "with supporting documentation". Adding "permissive use" might create more confusion. Mr. Desmond reminded that the section discusses lot resale policy. Ms. Thurber said permissive use cannot be limited.

Mr. Stern asked what the City receives in writing regarding permissions. Ms. Arcome and Ms. Pierce said that we usually receive a letter from the owner. Elmwood Cemetery has a form for permissions with ownership verification.

Ms. Pierce stated that Section X, Schedule of Fees and Charges are contained in the Schedule of Fees, Charges, Bonds and Insurance. These are reviewed by the City Commission on an annual basis.

Mr. Stern suggested a future discussion on restriction of sales to residents and non-residents, stating that it is quite common to have a non-resident fee schedule as well.



Mr. Stern asked if the Board wanted to consider multiple lot purchases and placing limits on them. Ms. Pierce suggested amending today's agenda to add a discussion of the Grave Interest list at the end. She said the Board may then wish to revisit the Rules and Regulations after that discussion.

**MOTION:** Motion by Ms. Schreiner, seconded by Mr. Desmond:  
To adopt the Rules and Regulations as discussed.

Mr. Stern suggested three grammatical changes for continuity:

Under Section II, Conduct of Persons, change Section e to, Bring any dog or animal into the cemetery grounds, unless in compliance with applicable leash law.

Eliminate the word "use" in Section h, and change sentence to, No person shall advertise on cemetery grounds, unless permitted by the City.

In Section VI, Monuments, change Section e to read, No monuments shall be allowed in the flush sections.

Mr. Stern believes the City does handle the casket(s) referred to in the second paragraph of page 6, under Section VII, Funerals, Interments and Disinterments, Interments. Mr. Desmond stated the vault company comes to the cemetery to install the vault and lower the casket into the vault.

Mr. Stern believes the cremated remains container is installed by the contractor or the vault company, not the funeral director. Mr. Desmond suggested any statement not be too restrictive in order to permit the family to install the container when requested, and asked if the City needs some kind of policy. Ms. Arcome suggested that the statement should remain. Mr. Stern suggested adding the word "contractor" to the sentence.

Mr. Stern said he thought requiring 10 hours was too long for notification to prepare the grave for burial. Ms. Arcome and Mr. Desmond did not see this as an issue. Mr. Valentine suggested that this language was inserted when the city personnel handled the burials. It was suggested changing the word "will" to "may" regarding overtime charges.

Ms. Arcome said, as a practical matter, overtime is rarely charged. Mr. Valentine said there are ways this situation can be addressed without being problematic. Mr. Desmond said he has not experienced this. Ms. Pierce added calls have been received after office hours from a funeral director asking for a burial the next morning, and city personnel had to be called in early to prepare the grave.

Ms. Schreiner expressed concern about the word "may", because it may create a situation for favoritism. Since it is been this way for a long time, we should leave it as is. It can be dealt with in the future if needed. The consensus was to leave the statement as it is.

VOTE: Ayes: 6  
Nays: None  
Absent: 1 (Gehring)

Ms. Pierce asked that the agenda be amended to add the discussion of the Grave Interest List.

**MOTION:** Motion by Ms. DeWeese, seconded by Ms. Schreiner:  
To amend the agenda to discuss the Grave Interest List.

Ms. Pierce referred to the May 29, 2015 report, and explained it details the process for selling graves. The first 20 individuals on the list would be contacted by mail and appointments would be scheduled after receiving a response. Then the next 20 individuals would be contacted in the same manner. The contractor has paid for the Ground Penetrating Radar service in the green space of Sections B, C, D, K, L and O, and we are waiting for the final report.

She suggested this would be the time to discuss limiting the number of grave spaces that may be purchased.

Mr. Stern asked if we have to wait for the City Commission to approve this. Ms. Pierce stated that on June 29<sup>th</sup>, the Commission will consider the Rules and Regulations, an amendment to the Fee Schedule for the sale of the cremation spaces, and the sale of the grave spaces. The administration will send the letters as described in the report.

Mr. Stern clarified that the motion is to recommend sending letters to the individuals. He asked if the City is prepared to explain the difference between an interest list and a reservation list, since the public was never notified by the City that they had to be on the interest list to purchase graves in the future.

Ms. Pierce stated that it was made very clear to the public that the list was an interest list. Ms. Schreiner asked that when the people respond, are they simply confirming their location on the list. Ms. Pierce explained that we will make appointments to discuss with them the purchase of a grave(s), not just to determine whether or not they wish to remain on the list.

Mr. Stern asked whether the City is committing to sell a grave or whether the City is committing to sell a specific grave. Reselling graves would not be permitted.

Ms. Pierce suggested that the Board consider whether to limit the number of graves that a family or individual may purchase. She stated that the City hopes to begin selling graves on July 1<sup>st</sup>. She explained the suggested resolutions.

Mr. Valentine noted that the constraints already in place, and also advising prospective purchasers of the new regulations that prohibit the sale of the spaces, may or may not deter someone from purchasing multiple spaces with the intent of reselling graves.

**MOTION** by Mr. Desmond, seconded by Ms. DeWeese:

To recommend that the City send letters to the individuals on the Interest List, as of May 31, 2015, once grave space is available and to follow the proposed schedule to sell the new graves.

VOTE: Ayes: 6  
Nays: None  
Absent: 1 (Gehringer)

Ms. Pierce asked that the meeting scheduled for July 10<sup>th</sup> be moved to either July 24<sup>th</sup> or 31<sup>st</sup>. It was agreed that the next meeting will be held on July 24, 2015.

Mr. Valentine recognized Elmwood for its action to arrange and pay for the Ground Penetrating Radar service.

**VIII. ADJOURN**

The meeting was adjourned at 9:58 AM.

Respectfully,

Cheryl Arft  
Deputy City Clerk

DRAFT

**GREENWOOD CEMETERY ADVISORY BOARD  
SPECIAL MEETING MINUTES  
MONDAY, AUGUST 3, 2015 AT 10:30 AM  
MUNICIPAL BUILDING, ROOM 205, 151 MARTIN**

**I. CALL TO ORDER**

George Stern, Chairperson, called the meeting to order at 10:30 AM

**II. ROLL CALL**

Present: Kevin Desmond (arrived 10:33 AM)  
Linda Peterson  
Laura Schreiner  
George Stern  
Barbara Thurber

Absent: Pamela DeWeese  
Darlene Gehringer

Administration: City Manager Valentine, City Clerk Pierce, Deputy City Clerk Arft

Guests: Cheri Arcome of Elmwood Cemetery

**III. APPROVAL OF MINUTES**

**IV. UNFINISHED BUSINESS**

**V. NEW BUSINESS**

**A. Discussion on City Commission Request**

- 1. Number of graves per inquiry**
- 2. Arrangement of graves to be sold in sections B & C**
- 3. Resident v non-resident rate schedule**

Chairperson Stern provided a brief synopsis of the July 27, 2015 City Commission meeting and cemetery tour which was prior to the meeting. He explained that the cemetery tour was conducted to give the City Commission an opportunity to visualize the current green space proposed to be made available for sale as grave space.

Mr. Stern stated that what the City has is the problem of allocation of a limited supply of available grave space. There are three things to look at: supply, demand and allocation. The Board's concern thus far has been about allocation. He said Commissioner Hoff questioned supply, and how big supply can be expanded.

Mr. Stern noted that the new cemetery reclamation law was questioned, and that City Attorney Carrier stated that he would have to study the law to confirm whether it applied to municipal cemeteries in order to inform the Commission and the Board what supply would be within a time frame so that the Commission could make better decisions on allocation. Mr. Stern believes that while the Board is ready to proceed with allocation, the City Commission is not ready to allocate.

Ms. Pierce explained that the City Commission made a motion that was postponed. They did limit the number of graves in Sections B & C to be sold initially from 480 to 240, and that the Commission would revisit selling the remaining 240 after the initial supply of graves are sold.

**Item #1.** Ms. Pierce explained that the Commission requested the Board recommend a number of grave sites per inquiry to be used as a guideline when selling the gravesites. She asked the Board to consider defining "per inquiry". She also asked for the Board to discuss how soon and how frequently after purchasing graves an individual could add their name to the interest list.

Ms. Peterson asked how many graves are available for sale. Mr. Stern responded that was Commissioner Hoff's point, who felt the number was actually 800, including reclamation. Mr. Stern pointed out that Ms. Gehringer has been in favor of doing reclamation first.

City Manager Valentine responded that the objective of this Board is to identify a number that could accommodate those on the interest and the potential for demand going forward. Ms. Pierce noted that there are 151 entries on the interest list. Ms. Peterson asked where the 82 graves came from. Mr. Stern responded that the contractor identified through the city records those spaces as being plotted and never sold. 26 were full graves and the remainders were cremation graves. Mr. Valentine added that the process was at the conclusion of the prior committee's work. Initially, Elmwood identified 40 spaces, and as they continued that process, they identified a total of 82 gravesites. Mr. Valentine said 82 and 530 are definitive numbers. The numbers on reclamation are still speculative and unknown. He said Ms. Pierce has a sheet with all of the numbers on it which will be made available to everyone.

Ms. Schreiner reminded that no matter what we decide here and what the numbers actually are, eventually we will have a supply/demand issue again. We are setting down a process for how we want to sell the current inventory.

Ms. Pierce described the table which she will provide everyone by email. She stated there are 530 graves, give or take a few due to existing trees or shrub, which are located in the green space. Ms. Pierce noted that of the 82 newly identified graves, 17 have already been sold for burials.

Mr. Stern asked if the Board wishes to confirm if people on interest list can purchase more graves than what they initially signed up to purchase. Ms. Pierce pointed out that each grave can hold one full burial and two cremains, or three cremains. She explained that with the City Commission's action to reduce the number of green space graves to be sold in Sections B & C, the Commissioners requested the Board to recommend a number of graves each individual can purchase. Ms. Pierce asked that the Board define the term "inquiry". For example, would a married couple be counted individually, or as one couple.

Mr. Stern asked if the Board wished to restrict the number of graves to the number they originally put on the interest list, or the number they now desire. Ms. Peterson thinks if we satisfy the original inquiry on the interest list and they are added back on the interest list, a problem could be created when a family wants to be in the original section purchased and it may no longer be available.

Ms. Schreiner believes that facts and circumstances may have changed in a family from the time a family signed up to be on the interest list. She believes that economics will govern what people can buy.

Ms. Pierce noted that of the 27 communities surveyed, only one community limits the number of graves someone can purchase.

Mr. Desmond stated that we have eliminated the problem of private sales to others for exorbitant amounts. He does not want to penalize big families. Ms. Thurber agreed that the lot resale restrictions proposed for lots purchased after October 1, 2014 will be effective.

**MOTION:** Motion by Mr. Desmond, seconded by Ms. Schreiner:  
To recommend the number of graves allowed to be sold per inquiry not be limited.

VOTE: Ayes: 5  
Nays: None  
Absent: 2 (DeWeese, Gehringer)

Mr. Stern thinks it is important to contact everyone on the interest list to determine how many graves they wish to purchase.

**Item #2:** Ms. Pierce stated that at the City Commission meeting a suggestion was made by a resident to stagger the arrangement of graves in Sections B & C and sell only half of the graves within a row to reduce the visual impact of the markers. The Commission suggested that the Board consider this suggestion, and she presented scenarios for the Board to discuss.

Ms. Pierce confirmed for Ms. Peterson that the new lots will be flush markers. Potential purchasers will be advised of that fact and that restriction will be included on the deed.

Ms. Arcome stated a letter will be sent to funeral directors and major monument companies that serve Greenwood about the flush marker restriction so they are aware and will not sell a family a monument in this section. A layout of the marker/monument must also be provided for approval by the City before installation. She stated that the restriction is intended to be strictly enforced by the City.

Mr. Stern said the basic assumption was the way it was laid out it looked like a path and in order to break up the look of the path, staggering a pattern would avoid that. It was also assumed that there would not be as much demand for space in the old sections so we could lay out the framework over time. It was further assumed that many people would want one or three graves at a time, and not many would want two graves at a time, or parallel graves. He noted that Commissioner McDaniel asked how we could do this without knowing what the demand for graves is, and how can we design patterns without knowing if there are people who want single spaces.

Ms. Schreiner commented that there is a disconnect between the time of sale and when the markers are placed. She said there are graves in Greenwood that were sold many, many years ago without markers on them. She said we are talking about the order of sale, not the order of interment. Mr. Stern agreed.

Mr. Desmond said this does not sound practical in terms of management and being able to serve people. Ms. Schreiner said we should not stagger and sell them all. Mr. Desmond asked Mr. Stern to clarify the assumption that most people would not purchase two graves. He thinks trying to get to that goal of preserving the look will upset purchasers who will not understand. He added he believes a pair of graves will be most common. Ms. Schreiner stressed that we

are talking about a non-emergency sale which is different from when the markers go in. Ms. Thurber says the decision should be at the discretion of the Clerk.

Ms. Arcome said if the intent is to sell these spaces, a pattern means nothing because all the spaces will be sold eventually. She continued that the staggering pattern will happen naturally over time. She said selling a grave today does not mean there is going to be an interment and a marker to follow. Marker installations are the final piece, with many installed years later. She thinks a situation could develop when families are split in location. Also, the City may run into unhappy people who were told they could not purchase in a certain row because no graves or not enough graves to satisfy their request were available at that time, and then six months later, the City opens up the remaining graves for sale.

**MOTION:** Moved by Mr. Desmond, seconded by Ms. Schreiner:  
To recommend to not stagger the graves in Sections B & C.

VOTE: Ayes: 5  
Nays: None  
Absent: 2 (DeWeese, Gehringer)

Mr. Stern opened the discussion of selling only half of a row first, does the Board wish to restrict what is being sold in any manner, or do we wish to leave it to people to choose and purchase as many as they wish.

Mr. Desmond stated that people will want to buy pairs together and not one after the other down a row. He believes that all of the restrictions we are discussing are creating unintended consequences and will cause more issues. Ms. Arcome agreed.

Mr. Stern stated his understanding of the Board's consensus is that the 240 graves to be offered initially in Sections B & C should not be restricted in any way.

**Item #3:** Mr. Valentine noted that the City Attorney confirmed that restrictions cannot be placed on who may purchase gravesites. The Board's discussion should be about a two-tier fee structure for residents and non-residents.

Ms. Pierce stated we currently have a flat rate fee schedule. Staff surveyed 27 communities, and found that 16 communities have a two-tier schedule for residents and non-residents. Those rates ranged from 20%-70% more for non-residents. She suggested the Board discuss the definition of residency, length of residency and property owner versus resident status. One of the definitions of a resident staff found during its survey was "any person who pays real or personal property taxes to the city and any person who is a qualified elector of the city". She noted that if a separate fee schedule is agreed on, that it only be on the sale of grave, not burials, transfers, or foundations as the cost to perform those services are the same whether or not you are a resident.

Ms. Thurber believes that the attachment is to the area, not just the City, and she does not think it is fair to restrict purchases.

Ms. Schreiner favors making the resident definition reasonably broad. If a non-resident wants to be buried in the cemetery, they must have some connection to Birmingham. She suggested a non-resident fee should not be exorbitant. Mr. Desmond stated that the cost of a grave in Greenwood is high compare to the communities surveyed.

Mr. Stern does not know how we consider this question without knowing demand. Ms. Schreiner said we will sell everything we have, and we need to move forward. Mr. Stern said we could find out quickly what demand is before we start selling. Ms. Schreiner stated we already know there is a good demand. Mr. Desmond asked what value there is to that analysis. Ms. Pierce pointed out that regardless of demand, we need to focus the discussion on the fees and whether to have a tiered schedule. Ms. Schreiner said we are making fees for the surrounding area and this space, not because we want to price them so high that individuals are eliminated by virtue of the cost.

Ms. Pierce confirmed for Ms. Peterson that many on the interest list are outside of Birmingham.

Mr. Stern noted that private sales are in the range of \$10,000. It makes sense that non-residents fees should be at least double that for residents, and that we should double all of the other fees for non-residents in order to take care of our Birmingham residents first and not worry about the greater world.

Mr. Desmond believes \$6,000 for one grave is exorbitant. Mr. Stern said if people are paying \$10,000, then \$6,000 is a bargain.

Mr. Desmond believes Service fees should remain the same regardless of their residency. Mr. Stern said you never penalize someone by charging what the market will bear. Mr. Desmond asked if we are trying to squeeze every single dollar possible, or are we trying to operate a historic cemetery. Ms. Schreiner said we are trying to set fees to cover the city's costs and become self-funding.

Ms. Arcome said she has received many calls and heard comments that the City is only concerned about money. Many Birmingham residents she has heard from are concerned about the city's image over this. Operationally, enforcement would be a problem.

Mr. Valentine noted it is helpful to know that implementation of a two-tier fee schedule would be challenging. He asked then is the Board comfortable recommending a second tier and if so, what should that be.

Ms. Schreiner stated she sees pros/cons to both sides. We have the economics of getting more, the image problem and the problem of defining a resident for the efficient administration of the cemetery. Based on what she has heard, she is unsure it is in our best interests to have a two-tier fee schedule.

Ms. Peterson does like a two-tier system, but not necessarily doubling the fees for non-residents.

**MOTION:** Moved by Peterson, seconded by Stern:  
To recommend a two-tier system for residents and non-residents.

VOTE: Ayes: 2 (Peterson, Stern)  
Nays: 3 (Desmond, Schreiner, Thurber)  
Absent: 2 (DeWeese, Gehringer)

Motion fails.



Mr. Valentine suggested that the Board try to reach some affirmative recommendation for feedback to the Commission.

**MOTION:** Moved by Desmond, seconded by Ms. Thurber:  
To recommend the fee schedule remain the same for residents and non-residents.

VOTE: Ayes: 3 (Desmond, Schreiner, Thurber)  
Nays: 2 (Peterson, Stern)  
Absent: 2 (DeWeese, Gehringer)

Motion fails.

Mr. Valentine asked that the Board set a date for the next meeting, and if there is a lack of agenda items, the meeting can be cancelled. Mr. Stern would like to discuss the additional items at a future meeting.

Ms. Pierce noted that September 4 falls on Labor Day weekend. It was agreed to meet instead on September 11 at 8:30 AM.

Mr. Desmond suggested that we discuss again the fee schedule for residents and non-residents at the September 11 meeting, contingent upon what action the City Commission takes at their next meeting.

<b>VI. CONTRACTOR REPORT</b>
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<b>VII. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA</b>
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<b>VIII. ADJOURN</b>
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The meeting was adjourned at 11:43 AM.

Cheryl Arft  
Deputy City Clerk



# MEMORANDUM

City Clerk's Office

**DATE:** September 4, 2015  
**TO:** Greenwood Cemetery Advisory Board  
**FROM:** Laura M. Pierce, City Clerk  
**SUBJECT:** City Clerk's Office Update

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The GCAB recommendations regarding the sale of graves and revisions to the Rules and Regulations were presented to the City Commission at the June 29<sup>th</sup>, July 13<sup>th</sup>, July 27<sup>th</sup>, and August 10<sup>th</sup> meetings.

The Commission approved the following motion:

*To amend the Greenwood Cemetery Operational Procedures, Conditions and Regulations as recommended.*

*-and-*

*To amend the Schedule of Fees, Charges, Bonds and Insurance, Greenwood Cemetery to add a fee for the sale of grave spaces accommodating one or two cremated remains.*

*- and -*

*To follow the proposed schedule to sell the new grave spaces in Sections B, C, D, K, L, O and newly identified grave spaces in Sections E, G, H, and O.*

*- and -*

*That the new grave spaces in Section B & C be initially limited to 240 and that the GCAB be chartered with figuring out the correct arrangement of those and that it be revisited when 200 are sold.*

## **SALE OF GRAVES**

Once the City Commission approved the sale of graves, revised fee schedule and the revised Rules and Regulations, the City authorized the Contractor to begin contacting individuals on the Interest List and offer the graves for sale.

The City Commission reduced the number of graves for sale in Sections B & C from 480 to 240 graves. This reduction was due to concerns with the visual impact that 480 markers may have on the area. Once 200 graves in Sections B & C have been sold, the GCAB and City Commission will revisit the discussion on the remaining 240 graves in those Sections.

The City Commission requested the GCAB monitor the location of the grave sales in Sections B & C. As of date, 25 sales have been finalized with approximately one dozen sales pending receipt of signed paperwork and payment. Cheri Arcome, Elmwood Cemetery, will provide an update on the sale of graves and locations at the September 11<sup>th</sup> GCAB meeting. Future GCAB meetings will include a review of the map showing the grave sale locations.

## **RULES AND REGULATIONS**

The City Attorney and I discussed the Lot Resale Policy and agreed that it needed clarification as to what degree of the Rules of Consanguinity would be allowed to transfer a grave. The GCAB previously discussed the various levels of the Rule of Consanguinity at their meeting, therefore the following sentence was administratively added:

*"For the purpose this policy, immediate family shall mean the immediate family of the purchaser(s) – spouse, children, grandchildren, parents, siblings, nieces/nephews, grandparents, aunts/uncles."*

As individuals purchase graves, they are given a copy of the Rules and Regulations and are required to sign an Acknowledgment of the Lot Resale Policy form (attached). In addition, the flush marker only restriction is stated on every deed.

## **FEE SCHEDULE**

At the direction of the City Commission, the GCAB discussed whether to offer a separate fee schedule for residents and non-residents. The GCAB was unable to obtain a consensus. The Commission approved the originally proposed fee schedule which does not distinguish between residents and non-residents.

A comparison had been made to the resident v non-resident rate at the golf courses. The fees at the golf courses are used to offset the tax payer dollars used to support the golf courses. There are no tax payer dollars currently being used to maintain the cemetery as the contractor performs the maintenance; therefore the City cannot have a tiered fee schedule. If the City were to begin contributing tax dollars, this item could be revisited. The funds from the sale of graves, paid by residents and non-residents, are placed in the Perpetual Care Fund which will be used for future capital projects.

## **REVIEW OF THE GCAC RECOMMENDATIONS CHECKLIST**

The Recommendations Checklist has been updated to show the items that have been completed to date. Staff recommends that the GCAB review the outstanding items on the list to determine the priority in which the Board would like to complete each remaining item.

Staff recommends the next meeting of the GCAB be held on December 4<sup>th</sup> due to the November election. This will give staff adequate time to begin the research on the prioritized items. In addition, the GCAB will review a draft of the annual report to be submitted to the City Commission.

**CITY COMMISSION MEETING MINUTES  
JUNE 29, 2015**

**06-137-15                    GREENWOOD CEMETERY  
                                      RULES AND REGULATIONS AND FEE SCHEDULE AMENDMENT**

Commissioner Rinschler suggested removing the cut-off date in the process to sell graves and require anyone who wants to purchase the graves to add their name to the Interest List.

**MOTION:**     Motion by Rinschler, seconded by Dilgard:  
To amend the Greenwood Cemetery Operational Procedures, Conditions and Regulations as recommended.

AND

To amend the Schedule of Fees, Charges, Bonds and Insurance, Greenwood Cemetery to add a fee for the sale of grave spaces accommodating one or two cremated remains.

AND

To remove the cut-off date from the proposed schedule and then following the schedule to sell the new grave spaces in Sections B, C, D, K, L, O and newly identified grave spaces in Sections E, G, H, and O.

Commissioner Hoff expressed concern with this item and suggested it be moved to July 13<sup>th</sup>.

MOTION WITHDRAWN

**MOTION:**     Motion by Rinschler, seconded by Dilgard:  
To move this item to July 13<sup>th</sup>.

VOTE:            Yeas, 5  
                      Nays, None  
                      Absent, 2 (Moore, Nickita)

**CITY COMMISSION MEETING MINUTES  
JULY 13, 2015**

**07-149-15**

**GREENWOOD CEMETERY  
RULES AND REGULATIONS AND FEE SCHEDULE AMENDMENT**

Ms. Pierce presented the proposed revisions to the Greenwood Cemetery Rules and Regulations and fee schedule. She explained that the Greenwood Cemetery Advisory Board (GCAB) discussed the potential to use the green space in the cemetery for additional burials. After review by the Historic District Commission, the GCAB recommended that the City offer the graves in the green space in Sections B, C, D, K, L and O for sale, limiting to flush markers only to maintain the visual landscape, set a lot resale policy and pending the results of ground penetrating radar. She explained that the contractor agreed to do the ground penetrating on the green space at no cost to the City. Ms. Pierce explained that the lot resale policy would require individuals who purchase the new graves and later wish to sell them, to sell them back to the City for 50% of the purchase price. However, the new graves could be transferred to family with supporting genealogical documentation. Ms. Pierce explained the process to be used to sell the new graves would be based off the Interest List. Individuals interested in purchasing graves would have to add their name to the Interest List through the City or the contractor.

City Manager Valentine confirmed for Mayor Pro Tem Hoff that he authorized the contractor to move forward with the ground penetrating radar as there was no cost to the City. In addition the timeframe for its completion coincides with the recommendations coming before the Commission to move this process forward. He noted that there are over 100 individuals on the Interest List and others in the community interested in obtaining a grave at Greenwood.

In response to a question from Mayor Pro Tem Hoff, Mr. Valentine explained that the recommendation would use existing unsold, unidentified spaces that have not been utilized where the reclamation process would affect previously sold graves.

Commissioner McDaniel questioned if the layout is unusual. George Stern, chairperson of the GCAB, explained that the more modern era designed cemeteries were designed without natural features such as walking paths and nature features.

Ron Buchanan, 1280 Suffield, expressed concern with the visual impact in Sections B and C when fully implemented. He also expressed concern with the orientation of the graves. He suggested eight graves per row be left vacant to enhance the green space.

Pam DeWeese, 932 Purdy, agreed with Mr. Buchanan. She noted that the GCAB has two goals which include finding graves for people and preserving the aesthetics and historic integrity of the cemetery.

Darlene Gehringer, 1108 West Maple, stated that the reference to the designated contractor in the Rules and Regulations is not needed. She stated that she still wants ground penetrating radar done on the entire cemetery. She agreed with Mr. Buchanan.

In response to a question from Commissioner Dilgard regarding ground penetrating radar on the entire cemetery, Mr. Valentine explained that the recommendation from the GCAB was to do ground penetrating radar for these sites and the entire cemetery and remains the same.

Commissioner Rinschler expressed support of the additional space. He stated that the phase in idea is not a bad idea until we see how fast the graves are being sold.

Mayor Pro Tem Hoff expressed concern and stated that Sections B and C should be left as it because it is historic. The other sections would get us started. She stated that the City is not in dire need of money. We could always go back and add some in B and C.

Commissioner Nickita pointed out the balance between an aesthetic issue with accommodating all the people waiting on the Interest List. He noted that the drawings do not show the actual aesthetic impact.

Commissioner Rinschler noted that there would not be 500 markers immediately. He stated that if there was a phase in plan, it could be modified. He stated that he would not want to move forward with less than a couple hundred graves.

**MOTION:** Motion by Hoff, seconded by Moore:  
That the Commission set a time to meet at the cemetery to visualize the proposed changes.

The following individuals expressed support of the motion:

Darlene Gehringer

Pam DeWeese

George Stern

The Commission agreed to meet at the cemetery before the next City Commission meeting at 6:30 PM.

VOTE: Yeas, 7  
Nays, None  
Absent, None

**CITY COMMISSION MEETING MINUTES  
JULY 27, 2015**

The City Commission met at Greenwood Cemetery to view a mock layout of the green space proposed to be used for new graves in order to gain an understanding of the visual impact of using the space. Members of the Greenwood Cemetery Advisory Board were in attendance as well.

**07-161-15                      GREENWOOD CEMETERY  
RULES AND REGULATIONS AND FEE SCHEDULE AMENDMENT**

Mayor Pro Tem Hoff commented that the Historic Cemeteries Preservation Guide focused on the preservation and conservation of historic cemeteries, not the expansion. She pointed out that the standards in the guide refer to minimal change to materials, features, spaces, and spatial relationships. She expressed concern that the proposal will change the spatial relationship. She noted that there is no reference to new burials in the Greenwood Cemetery Advisory Committee recommendations. She stated that it is her understanding that the reclamation process has changed from what the Commission was initially told. She suggested that the graves identified be used when there is need for a burial and to begin the reclamation process under the clerk's supervision and that the Historic District Study Committee could be utilized to assist in the process.

Commissioner Rinschler found that the visual impact of the proposed graves did not change the character of the cemetery as the markers will be flush with the road. He stated that the City has a historic cemetery that it wants to preserve the character of and this proposal does not alter the character. He commented that the reclamation would not be an overnight availability of the graves as there would still be a legal process to go through and it is not a task that would be given to volunteers. He expressed support of the original proposal to sell the 82 graves plus the 530 graves, but phasing in the sale of the graves.

The Commission questioned the reclamation process. George Stern, chairperson of the Greenwood Cemetery Advisory Board (GCAB), explained that HB 4890 was enacted effective January 1, 2015 and is a process of 120 days plus 60, and then the graves are yours. It is about a six month process by the time it is done.

Commissioner Nickita commented on the visual impact and how it would affect the green space. He suggested in the initial implementation, to recommend a more staggered orientation in a less dense condition and slowly it will be more integrated over time.

Commissioner McDaniel agreed with phasing in the sale of graves in Sections B & C and agreed that the visual impact is minimal. He pointed out that the object is to develop a perpetual care fund over time.

Pam DeWeese, 932 Purdy, expressed support of staggering the graves. She noted that funds from the perpetual care fund could be used for a columbarium as well as maintenance. She expressed support of starting with the sale of half of the graves.

Ron Buchanan, 1280 Suffield, suggested a proviso be set up for Sections B & C that 12 or 20 graves in each green space row remain vacant so that green space is infused into each one of those rows. Random patterns would be established based on what the sales were.

George Stern, 1090 Westwood and chair of the GCAB, asked to coordinate with the City Commission on procedure. He stated that his impression is that there is a great deal of demand for graves in the cemetery. He noted that there is no limit to the number of graves an individual can purchase. He expressed concern with the restriction of sales according to the lot resale policy.

Commissioner Rinschler questioned Mr. Stern's comment on restricting the number of graves that could be purchased. He suggested the GCAB be tasked with determining this number.

**MOTION:** Motion by Rinschler, seconded by McDaniel:

To amend the Greenwood Cemetery Operational Procedures, Conditions and Regulations as recommended.

-and-

To amend the Schedule of Fees, Charges, Bonds and Insurance, Greenwood Cemetery to add a fee for the sale of grave spaces accommodating one or two cremated remains.

- and -

To follow the proposed schedule to sell the new grave spaces in Sections B, C, D, K, L, O and newly identified grave spaces in Sections E, G, H, and O.

- and -

That the new grave spaces in Section B & C be initially limited to 240 and that the GCAB be chartered with figuring out the correct arrangement of those and that it be revisited after all 240 are sold.

- and -

To charge the GCAB to recommend a number of grave sites per inquiry for the Clerk to use as a guideline for the initial selling.

Commissioner McDaniel commented on reserving graves for current and former residents with some flexibility as appropriate. City Attorney Currier stated that the sale of graves cannot be limited to residents only.

Mr. Stern noted that other cemeteries have separate rate schedules for residents and non-residents. He requested direction on whether the GCAB should study a separate rate schedule for residents and non-residents. The Commission suggested the GCAB explore this option.

Mayor Sherman commented on the reclamation process. City Attorney Currier explained that the Cemetery Regulation Act is the Act that was amended by HB4890. He noted that there was no modification to the public cemetery section of the statute. He noted that Section 456.530 of the Cemetery Regulation Act states that this Act does not apply to municipal corporations. He stated that he would like to do more research on this item. The Commission agreed to request a legal opinion for this item.

**MOTION:** Motion by Rinschler, seconded by McDaniel:

To postpone the motion.



VOTE:

Yeas, 7

Nays, None

Absent, None

**CITY COMMISSION MEETING MINUTES  
AUGUST 10, 2015**

**08-174-15                    GREENWOOD CEMETERY RULES AND REGULATIONS  
FEE SCHEDULE AND SALE OF GRAVE SPACES**

Mayor Sherman noted that the Commission received information from the City Attorney explaining that the statute in question on the reclamation does not apply to municipal cemeteries.

City Clerk Pierce explained that the Greenwood Cemetery Advisory Board (GCAB) held a meeting in August to discuss the requests from the City Commission. She explained that the Board recommended that the number of graves allowed to be sold per inquiry not be limited. Members of the Board felt that by limiting the number of graves allowed to be purchased would unintentionally penalize large families. In addition, the Board did not want to limit the number of graves allowed to be purchased to the number originally requested when added to the Interest List as circumstances may have changed for that individual.

Ms. Pierce explained that the GCAB also recommended that there not be a staggering pattern. There are many graves in the cemetery that were sold many years ago and still do not have markers on them. It was noted that the staggering pattern of the markers would naturally happen as burials occur over time.

Ms. Pierce explained that the GCAB was split as to whether a flat rate or tiered fee schedule should be implemented. Some members did not want to penalize non-residents and some were concerned with adding an additional fee on top of the high cost for a grave. Other members thought the fee should be doubled for non-residents. She noted that staff has found that there would be a procedural difficulty in determining who is actually a resident as there are many variables to consider.

The Commission discussed the recommendations from the GCAB. Commissioner Rinschler expressed support of the recommendation to not limit to the number of graves allowed to be purchased. Commissioner Nickita stated that his concern is the potential for speculation and noted that it is problematic to restrict a large family.

Mayor Pro Tem Hoff stated that she does not object to not limiting the number of graves to be sold. As far as the stagger pattern in Sections B & C, she maintained her position that she is not in favor of selling graves in Sections B & C.

Commissioner Nickita commented on the organic nature of the cemetery and noted that once the cemetery is completely filled, there would be no stagger pattern to the markers, it would be rigidly laid out.

Commissioner Rinschler agreed with the GCAB recommendation to not do the stagger pattern. He suggested the sale should be limited to 240 to have some break and a review point. Commissioner Dilgard concurred.

Commissioner Moore commented on resident versus non-resident fees. He stated that the question is whether there are costs incurred by taxpayers that are not incurred by non-resident who either own or will own plots in the cemetery. Once the perpetual care fund is established, everyone pays into that fund and there should not be discrimination or difference. If there are no costs or if they are diminimus, then there should not be a two-tiered system. Commissioner Moore stated that it is a minor issue because the contractor is taking care of the day to day maintenance of the cemetery.

George Stern, 1090 Westwood and chair of the GCAB, commented that this is a classic business problem of allocation of demand under conditions of limited supply. He expressed concern with an allocation formula. He suggested that the law on reclamation exempts both religious institutions and municipalities. He stated that he is a member of an association of religious institutions who voluntarily waived the exemption in order to reclaim plots in the timeframe in the bill and suggested the Commission may want to look at this in the future.

Ron Buchanan, 1280 Suffield, suggested a stagger pattern of selling only 12 of the 24 graves per row to minimize the visual effect of this.

Mayor Sherman suggested not waiting until all 240 graves are sold to revisit this. It should come back for review after selling 200 graves, with 40 left to sell.

**AMENDMENT TO MAIN MOTION:** Motion by Rinschler, seconded by Dilgard:  
To amend the original motion to change 240 to 200 "revisited when 200 are sold" and to eliminate the final "and" which is the resolution relative to a number of grave sites per inquiry.

Mayor Pro Tem Hoff stated that there are 132 other spaces that have been identified and she would like to see those sold before Section B & C. She expressed opposition to selling graves in Sections B & C. She expressed concern that money is a big factor in this decision. She expressed concern that the final report of the GCAB does not include a recommendation to find new spaces. The Committee had recommended that the City identify the unsold unused burial spaces and to commence with reclamation.

In response to a question from Mayor Pro Tem Hoff, City Manager Valentine confirmed that the perpetual care fund has been established. The money resulting from the sale of graves to date is in the perpetual care fund. He confirmed for Mayor Pro Tem Hoff that the City has received a legal opinion that the Cemetery could not be classified as a park.

Mayor Sherman noted that in the GCAC report, one of the directives to the Committee was to prepare recommendations regarding whether or not to plan for the development of new burial spaces within the existing cemetery and if so the best method for doing so. The GCAB recommendations included the closing of the roadway and the installation of columbaria. The green space in Sections B & C was not identified until after the Committee had met. It would have been contemplated in the original report if the space had been identified at that point.

**VOTE AMENDMENT TO THE MAIN MOTION:**

Yeas, 5

Nays, 1 (Hoff)

Absent, 1 (McDaniel)

**MAIN MOTION:**

To amend the Greenwood Cemetery Operational Procedures, Conditions and Regulations as recommended.

-and-

To amend the Schedule of Fees, Charges, Bonds and Insurance, Greenwood Cemetery to add a fee for the sale of grave spaces accommodating one or two cremated remains.

- and -

To follow the proposed schedule to sell the new grave spaces in Sections B, C, D, K, L, O and newly identified grave spaces in Sections E, G, H, and O.

- and -

That the new grave spaces in Section B & C be initially limited to 240 and that the GCAB be chartered with figuring out the correct arrangement of those and that it be revisited when 200 are sold.

**VOTE ON THE MAIN MOTION:**

Yeas, 5

Nays, 1 (Hoff)

Absent, 1 (McDaniel)

Commissioner Rinschler noted that he is comfortable that there could still be an open discussion on whether there is a need for a limit based on what the Clerk sees in terms of demand. The Commission directed staff to continue studying the number of graves.

Commissioner Dilgard and Commissioner Rinschler expressed their comfort in leaving the fees the same for residents and non-residents. Mayor Sherman agreed. Commissioner Nickita expressed that he wants to be sensitive to residents, but the circumstance of residents changes quite a bit. He suggested it be monitored and if it starts to omit residents or becomes a problem, then it should be reviewed. City Manager Valentine stated that this information will be included with the annual report of the GCAB.

Mayor Sherman stated that emails have been received regarding reclamation. He noted that this is not reclamation. The City looking to provide burial spaces for people who would like to be buried in Greenwood while protecting the rights of the current owners. The overriding concern is preserving the rights of the owners.

## TIMELINE FOR SALE OF GRAVES

1	GCAB recommendation to the City Commission	June 19, 2015
2	Staff to present the GCAB recommendation to the City Commission	June 29, July 13, July 27, August 10, 2015
3	If approved by City Commission, begin sending letters sent to the individuals on the Interest List to schedule appointments to purchase graves.	August 11, 2015
4	Appointments scheduled with individuals on the Interest List who are interested in purchasing graves.  Individuals can register to be on the Interest List by logging on to <a href="http://www.bhamgov.org/cemetery">www.bhamgov.org/cemetery</a> . Click on the link "add your name to the Interest List".	August 11, 2015 - ongoing

**CITY OF BIRMINGHAM  
SCHEDULE OF FEES, CHARGES, BONDS, AND INSURANCE  
GREENWOOD CEMETERY FEES**

**Greenwood Cemetery (126-26)**

Grave space accommodating one full burial or three cremations	\$ 3,000.00
Additional Rights of Burial for cremated remains, each	\$ 750.00
Grave space accommodating two cremated remains	2,000.00
Grave space accommodating one cremated remains	1,000.00
Administrative fee for transfer of grave ownership	\$ 150.00
Interment and disinterment fees:	
Cremation	\$ 750.00
Full Burial	\$ 1,200.00
Foundation charges for markers & monuments:	
Foundation Installment - per linear foot	\$ 125.00
Marker or monument resets:	
Foundation installation charge as per above schedule, plus an hourly charge for removal of old foundation	
Weekend, holiday, and overtime interments. This fee in addition to the normal interment fee charged during regular working hours.	\$ 400.00



**ACKNOWLEDGEMENT OF THE LOT RESALE POLICY  
TO BE SIGNED UPON THE PURCHASE OR TRANSFER OF A GRAVE**

**City of Birmingham - Greenwood Cemetery Rules and Regulations  
Section IX. LOT RESALE POLICY**

*"All graves sold by the City after October 1, 2014 can only be returned to the City. Such graves cannot be transferred from the original purchaser to an unrelated third party. Graves can only be transferred to family according to the Rules of Consanguinity with supporting genealogical documentation (as identified below).*

*All graves returned to the City shall receive 50% of the original purchase price from the Greenwood Cemetery Perpetual Care Fund. Upon return of the graves, the City may resell the graves."*

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By signing below, I/we acknowledge that I/we have read and understand the City of Birmingham Lot Resale Policy as stated in the Greenwood Cemetery Rules and Regulations.

- Graves cannot be transferred/sold to an unrelated third party.
- Graves can only be transferred to immediate family. For the purpose this policy, immediate family shall mean the immediate family of the purchaser(s) – spouse, children, grandchildren, parents, siblings, nieces/nephews, grandparents, aunts/uncles.
- Graves can only be sold back to the City of Birmingham for 50% of the original purchase price.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

**CITY OF BIRMINGHAM  
GREENWOOD CEMETERY OPERATIONAL PROCEDURES,  
CONDITIONS AND REGULATIONS**

**I. DEFINITIONS:**

The following words and phrases, for the purposes of these sections, have the meanings respectively ascribed to them, except in those instances where the context clearly indicates a different meaning.

- a. "Cemetery" shall mean Greenwood Cemetery.
- b. "Superintendent" shall mean the City Manager or his/her designee.
- c. "Marker" shall mean a stone or object denoting the location of a grave and which does not exceed eighteen (18) inches in height, sixteen (16) inches in width, and twenty-four (24) inches in length.
- d. "Monument" shall denote a memorial stone or object of a size in excess of that of a marker.
- e. "Permanent outside container" shall be a container which encloses a casket. The following are considered permanent outside containers: concrete boxes, concrete, copper or steel burial vaults.
- f. "Department" shall mean the Department of Public Services.
- g. "Memorial" shall mean monuments or markers.

**II. CONDUCT OF PERSONS**

Every person entering the cemetery shall be responsible for any damage caused by such person while within the cemetery. No person under eighteen years of age shall enter the cemetery grounds unless accompanied by an adult responsible for his/her conduct, or unless permission has been granted by the Superintendent.

No person shall:

- a. Enter the cemetery except through an established gate, and only during the hours from 8:00 A.M. to sundown.
- b. Deposit or leave rubbish and debris on any part of the cemetery grounds.
- c. Pick, mutilate, remove, or destroy any living plants or parts thereof, whether wild or domestic, on the cemetery grounds, except in the work of maintenance by City employees or its designated contractor.



- d. Break, injure, remove, or deface any monument or marker on the cemetery grounds.
- e. Bring any dog or animal into the cemetery grounds, unless in compliance with applicable leash law.
- f. Bring or discharge any firearm on the cemetery grounds, except in the conduct of military funerals.
- g. Carry intoxicants into the cemetery grounds, or consume such while in the cemetery.
- h. Advertise on cemetery grounds unless permitted by the City.
- i. Conduct her/himself in any other than a quiet and respectful manner while on the cemetery grounds.

### **III. TRAFFIC REGULATIONS**

All traffic laws of the City of Birmingham that are applicable to the operation of vehicles in cemeteries shall be strictly observed. Every person driving a vehicle into the cemetery shall be responsible for any damage caused by such vehicle.

No person shall:

- a. Drive a vehicle within the cemetery at a speed in excess of ten (10) miles per hour.
- b. Drive or park a vehicle on other than established driveways except for the purpose of maintenance or construction.
- c. Turn a vehicle around within the cemetery except by following established driveways.
- d. Use a cemetery driveway as a public thoroughfare.

### **IV. MAINTENANCE AND PERPETUAL CARE**

The City and/or its designated Contractor shall be responsible for the maintenance and repair of the driveways, buildings, water system, drainage and fences. The City and/or its designated Contractor shall also cut and maintain the grass areas, remove the leaves, trim and remove trees and shrubs, apply fertilizer as necessary, and in general maintain the cemetery as a place of natural beauty devoted to the burial of the dead.

The City and/or its designated Contractor shall not be responsible for any special care of any particular section, lot or burial space or for the maintenance or repair of any monument, marker or planting placed by the owner. Further, the City and/or its

designated Contractor shall not contract or agree to give special care to any section, lot or burial space except as above provided. The City shall maintain the integrity of damaged historical markers, prior to January 1, 1875, through the perpetual care fund.

## **V. OPERATIONAL REGULATIONS**

The following operational regulations shall apply to all areas within the cemetery:

- a. Corners of all lots will be marked by the City, or its designated contractor, with permanent markers set flush with the ground surface, and these shall not be disturbed.
- b. The erection of any fence, railing, wall, coping, curbing, trellis, or embankment, or the planting of any hedge, on any lot or grave is prohibited. No cutting of paths shall be permitted.
- c. The City, or its designated contractor, shall have the right to remove from any lot any objects, including trees and shrubs and flower pots that are not in keeping with the appearance of the cemetery.
- d. Ironwork, seats, vases, and planters shall be allowed on lots, providing that the same shall be kept in good repair and well painted. If not kept in good repair and painted, the Superintendent shall have power and authority to remove same from cemetery, and shall not be liable for any such removal.
- e. Planters of iron or granite for the planting of flowers will be removed from lots and put in storage if not filled by July 1<sup>st</sup>. Planters so removed will be sold for cartage and storage charges, or destroyed, if not claimed within a period of one year.
- f. No person shall plant, cut down, remove, or trim any tree, shrub, or plant within the cemetery except by permission of the Superintendent, or a person authorized by him/her to act in his/her stead in matters pertaining to the cemetery.
- g. The planting of flowers on any lot, or otherwise disturbing the sod, shall release the City or its designated contractor from all obligation to resod without extra charge therefore. The planting of spirea, rose bushes, peonies, or shrubs that grow over three feet in height, will not be permitted.
- h. As soon as flowers, floral pieces, potted plants, flags, emblems, etc., used at funerals or placed on grave at other times, become unsightly or faded, they will be removed, and no responsibility for their protection will be assumed, except for special groups upon notification to the City or its designated contractor.
- i. The Superintendent reserves the right to remove from beds, graves, vases, planters, or other containers, all flowers, potted plants, or other decorations, that are set out and then not kept properly watered, trimmed and free from weeds, and to do so as soon as they become objectionable.

## **VI. MONUMENTS, GRAVE MARKERS AND FOUNDATIONS**

### **MONUMENTS**

Monuments will be permitted only on two adjoining side by side graves under one ownership. No more than one monument shall be erected on any lot.

The erection of all monuments shall be subject to the following conditions:

- a. Each monument shall be supported on a concrete foundation not smaller than the base of the monument it supports. Such foundation shall be constructed only by the City or its designated contractor after payment therefore has been made. Foundations will be installed April to November, weather dependent, as determined by the Superintendent. Requests received after November 1<sup>st</sup> will be held until conditions allow for installation.
- b. Designs for monuments must be submitted to the Superintendent or to a person designated by him/her to act in his/her stead, when application is made for construction of foundations. A form with the size, material and design must be submitted to the City or its designated contractor for approval and all installation fees must be paid in full prior to delivery of the memorial.
- c. No monument of artificial stone, sandstone, limestone, or soapstone will be permitted.
- d. All contractors and workers engaged in setting monuments shall be under the supervision of the Superintendent or a person designated by him/her, and they will be held responsible for any damage resulting from their negligence or carelessness. No work of setting monuments shall be started that cannot be completed by the end of the day following the start of such work.
- e. No monuments shall be allowed in the flush sections.

### **MARKERS**

- a. Markers shall not exceed 1 ½ feet in height and shall have a minimum horizontal dimension at the base of not less than half of the height. All markers shall be in one piece, and shall be dressed on the bottom at right angles to the vertical axis. These measurements do not apply to government issue markers.
- b. Individual markers can be sod set without a concrete foundation.
- c. A form with the size, material and design must be submitted to the City or its designated contractor for approval and all installation fees must be paid in full prior to delivery of the memorial. Installation will not occur between November 1<sup>st</sup> and March 31<sup>st</sup> unless weather permits.

## **FLUSH MEMORIAL SECTION - F-NORTH ONLY**

- a. No structures shall be placed or constructed by anyone other than employees of the City or its designated contractor in the area of Greenwood Cemetery designated as the "Flush Memorial Section".
- b. Bronze or granite markers only, set flush with the turf, will be permitted in this section. No structures which would extend above the ground level shall be permitted.
- c. A form with the size, material and design must be submitted to the City or its designated contractor for approval and all installation fees must be paid in full prior to delivery of the memorial. Installation will not occur between November 1<sup>st</sup> and March 31<sup>st</sup> unless weather permits.

## **FLUSH MEMORIAL SECTION – AREAS PLOTTED AFTER JANUARY 1, 2015**

- a. On grave spaces in Sections B, C, D, K, L, and O, all memorials on new lots plotted after January 1, 2015, must be installed at lawn level. Memorials can be individual markers measuring 24" x 12" x 4" or 16" x 24" x 4" or companion memorials over two (2) graves measuring 48" x 12" x 4".
- b. The memorials must be made of acceptable bronze or granite material and set at lawn level.
- c. A form with the size, material and design must be submitted to the City or its designated contractor for approval and all installation fees must be paid in full prior to delivery of the memorial. Installation will not occur between November 1<sup>st</sup> and March 31<sup>st</sup> unless weather permits.

## **VII. FUNERALS, INTERMENTS AND DISINTERMENTS**

### **INTERMENTS**

No lot or burial space shall be used for any purpose other than the interment of human remains and the erection of appropriate memorials to the dead.

No interment shall be made in Greenwood Cemetery until a proper burial permit has been issued, and until all other legally required permits have been issued by, and filed with, the proper authorities.

City personnel, or its designated contractor, will provide opening and closing of grave, initial and periodic maintenance only, and will not be responsible for handling and lowering vaults or caskets. Tents, lowering devices and other materials shall be furnished by the funeral director or vault company.

No grave shall be dug closer than six (6) inches from the line of any lot.

In all full burial interments, the casket shall be enclosed in a permanent outside container. Such outside container shall be installed by the funeral director, vault company, or the City's designated contractor.

In all interments of cremated remains, the container shall be installed by the City, its designated contractor, funeral director or vault company. The size of the container must be submitted with the request for burial.

All funerals within the cemetery shall be under the supervision of the City or its designated contractor. No burials are to be made on Sunday or legal holidays, except by permission of the Superintendent. Overtime charges will apply.

The City must be notified through the City Clerk or its designated contractor, of the time and exact location of proposed interments in time to allow not less than ten (10) hours of daylight to prepare the grave. If notification occurs less than 10 hours of daylight prior to burial, overtime charges will apply.

Interments that involve preparation or follow-up work during other than regular working hours will be done at an additional charge for the overtime portion of the time required. The maximum charge shall not exceed the normal charges plus the weekend/holiday fee. This fee is in addition to the normal interment or disinterment fee charged during regular working hours.

Interments of the remains of any persons other than the owner or an immediate member of his/her family will be permitted only after the written consent of the owner or the owner's authorized agent has been filed with the City Clerk or the City's designated contractor. In case of a minor being the owner, the guardian may give consent upon proof of this authority to act.

Only one (1) interment in any one grave space shall be permitted, except in the case of a parent and infant child, two (2) children dying at about the same time, or in such other unusual cases as it shall seem to the Superintendent to be proper under the circumstances. Such interments shall adhere to Section VIII Burial Rights Policy.

Up to two cremated remains may be placed in the same space if the owner of the grave space or his/her heirs purchase the right to such inurnments. Should the owner permit the burial of such cremated remains, only one additional memorial shall be permitted on the grave space and such memorial shall not be larger than 24 x 12 x 4 inches and installed at lawn level. Up to three (3) cremated remains (only) may be placed on a single grave space.

## **DISINTERMENTS**

Disinterment of a burial shall be facilitated by a Michigan licensed funeral director. Said funeral director shall obtain a permit for such removal from the local health officer of Oakland County. Said funeral director shall complete the removal form as required by the City or its designated contractor. Disinterment shall not commence until after issuance of the Oakland County permit is presented to the City or its designated contractor, approval for removal is granted by the City or its designated contractor, and

all applicable fees are paid. Such disinterments shall only be scheduled between June 15<sup>th</sup> and October 15<sup>th</sup> each year unless approved by the City. The grave space where the disinterment occurred shall immediately be returned to a safe condition.

## **VIII. BURIAL RIGHTS POLICY**

Lots purchased from the City after October 1, 2014:

Full grave

One casketed remains and two cremated remains

- or -

Up to three cremated remains

Cremation grave

3 x 2 feet      one cremated remains

3 x 4 feet      two cremated remains

Lots purchased prior to October 1, 2014:

Full grave

One burial right per grave (To add a burial right for cremated remains, must purchase each additional right of burial in the grave. Up to two cremated remains.)

- or -

One cremated remains (To add a burial right for cremated remains, must purchase each additional right of burial in the grave. Up to two cremated remains.)

## **IX. LOT RESALE POLICY**

All graves sold by the City after October 1, 2014 can only be returned to the City. Such graves cannot be transferred from the original purchaser to an unrelated third party. Graves can only be transferred to family according to the Rules of Consanguinity with supporting genealogical documentation.

All graves returned to the City shall receive 50% of the original purchase price from the Greenwood Cemetery Perpetual Care Fund. Upon return of the graves, the City may resell the graves.

(For the purpose this policy, immediate family shall mean the immediate family of the purchaser(s) – spouse, children, grandchildren, parents, siblings, nieces/nephews, grandparents, aunts/uncles.)

## **X. SCHEDULE OF FEES AND CHARGES**

Fees and other charges are as set forth in the Schedule of Fees, Charges, Bonds and Insurance.

## **XI. REVISIONS**

The obligations of the City as herein set forth may, from time to time, be modified by the Birmingham City Commission.

- October 18, 1971 Resolution No. 1434-71
- February 13, 1984 Resolution No. 02-97-84
- February 23, 2009 Resolution No. 02-52-09
- December 17, 2012 Resolution No. 12-356-12
- August 10, 2015 Resolution No. 08-174-15

## GREENWOOD CEMETERY RECOMMENDATIONS CHECKLIST

	DATE COMPLETED	SECTION	RECOMMENDATIONS FROM FINAL REPORT
1	10/13/14 Approved by City Commission	4.1	Establish a Perpetual Care Fund to begin to develop the necessary funds derived from the sale of City-owned burial plots and donations to provide for the ongoing maintenance and improvements to Greenwood Cemetery.
2	10/13/14 Approved by City Commission	5.1	Establish a standing advisory board to provide recommendations to the City on rules and regulations governing the cemetery, capital improvements and on future demands for cemetery services.
			<b>ITEMS TO BE CONSIDERED IN THE FIRST SIX MONTHS</b>
3		1.2	The Committee recommends that the City of Birmingham shall promptly commence reclamation proceedings under Public Act 46 of 1931 to acquire title to burial spaces believed to be abandoned for at least 50 years. The City of Birmingham shall complete those reclamation proceedings at the earliest practical time. Thereafter, the City of Birmingham shall review the cemetery records at least every 10 years to determine whether to undertake additional reclamation proceedings.
4	6/19/15	1.4	<p>The Committee recommends that for any future plot sales by the City a restriction be placed upon such sales requiring that the owners wishing to sell these plots may only return the unused plots to the City for resale and that no private sales of those plots may occur. This recommendation does not apply to burial sites privately owned prior to the date the City adopts this recommendation, unless the City subsequently acquires any such burial site.</p> <p><b>GCAB recommended revisions to the Rules and Regulations which include this restriction. – 6/19/15</b></p>
5	6/19/15	1.8	<p>The Committee recommends that letters be sent by first class mail to those on the Interest List to purchase burial rights to confirm that they wish to remain on the List and with the consequence that by not responding within 30 days they will be removed from the Interest List. The Committee further recommends that the sale of City owned plots be sold pursuant to this List in accordance with the following procedure:</p> <ol style="list-style-type: none"> <li>a. Letters are sent to those on the Interest List pursuant to the above recommendation.</li> <li>b. Anyone from the List who did not respond when the time period expires will be allowed to be added back on the List on a first-come, first-serve basis.</li> <li>c. This recommendation does not apply to burial sites privately owned prior to the date the city adopts this recommendation, unless the city subsequently acquires any such sites.</li> </ol> <p><b>GCAB recommended letters be sent once grave space is available. – 6/19/15</b></p>



6		2.1	<p>The Committee recommends that the roadway between Sections K and L be developed to accommodate an estimated 70 traditional casketed spaces and with the possibility of installing a dignified pathway to provide access.</p> <p>Per the Michigan Historic Preservation Manual, pg 140: "The circulation pattern of roads and pathways in the cemetery should remain as originally laid out." - HDC meeting 3/18/15</p>
7	6/19/15 & ONGOING REVIEWS	8.2	<p>The Committee recommends that the City Commission review the Greenwood Cemetery Operational Procedures, Conditions and Regulations to ensure they are fully inclusive.</p> <p>GCAB recommended revisions to Rules and Regulations. – 6/19/15</p>
			<b>ITEMS TO BE CONSIDERED WITHIN THE FIRST TWELVE MONTHS</b>
8	5/1/15	1.1	<p>The Committee recommends the City identifies the unsold/unused burial spaces at the cemetery and offer them for sale.</p> <p>GCAB recommended the graves in the green space of Sections B, C, D, K, L, O be offered for sale with certain restrictions – 5/1/15</p>
9		2.2	<p>The Committee recommends that the City of Birmingham investigate the feasibility of installing columbaria for the inurnment of cremated remains, including but not limited to, the north boundary of Greenwood Cemetery.</p>
10		4.3	<p>The Committee recommends the City develop a donor program for improvements specific to and appropriate to the cemetery.</p>
			<b>ITEMS TO BE CONSIDERED AFTER THE FIRST YEAR</b>
11	6/19/15	1.3	<p>The Committee recommends that any sales occurring as the result of the reclamation process initially be offered to those currently on the Interest List according to the date their name was added to the List and thereafter offered to the general public.</p> <p>GCAB recommended the proposed schedule to offer graves for sale in the green space of Sections B, C, D, K, L, O by contacting the first 20 individuals on the Interest List, then the next 20, and so on. – 6/19/15</p> <p>CC recommended anyone who wants to purchase graves must add their name to the Interest List. – 06/29/15</p>
12	06/30/15 Completed green space in B, C, D, K, L, O	1.6	<p>The Committee recommends the City utilize both existing burial records and Ground Penetrating Radar (GPR) to develop a map of all known burial sites.</p> <p>GCAB recommended an RFP for GPR service be issued on the entire cemetery and the green space in Sections B, C, D, K, L, O. – 4/10/15</p>

			The Contractor offered to pay for GPR service in the green space in Sections B, C, D, K, L, O. GPR completed – June, 2015
13	N/A	8.1	The Committee recommends that the City of Birmingham review the Greenwood Cemetery Management Agreement dated June 24, 2013 in light of the Committee's other recommendations to determine whether to modify the Agreement to be consistent with those recommendations the City Commission adopts or to terminate the Agreement.
			<b>OTHER RECOMMENDATIONS FROM THE FINAL REPORT</b>
14		1.5	The Committee recommends that the City digitize its burial records.
15		1.7	The Committee recommends that the City notify owners whose records reflect no burials (single spaces and within family lots) within the last 50 years to determine if they wish to sell back to the City.
16	N/A	3.1	The Committee recommends <u>against</u> expanding Greenwood Cemetery's boundaries at this time.
17	Completed, 2014	4.3	<p>The Committee recommends the City seek a legal opinion whether the cemetery is or could be classified as a park within the meaning of MCL 129.97a(1) of Public Act 20 of 1943, such that the trust could earn market rate of return.</p> <p>STAFF NOTE: October, 2014 - This review has concluded that despite the title of the property, funds received by the City are subject to the investment rules that are set forth in Act 20 of 1943 (MCL §129.91). Therefore, the City's investment policy conforms to this statute which limits the investment vehicles that are available to municipalities and the reclassification to a park is not advantageous.</p>

August 4, 2015

Birmingham City Commission  
151 Martin Street, P.O. Box 3001  
Birmingham, MI 48012-3001

**Re: *Applicability of the Cemetery Regulation Act of  
Cemeteries Owned and Operated by Municipal Corporations***

Dear Mayor and Commissioners:

At the July 27, 2015, an issue was raised as to whether House Bill 4890 was applicable to the process of reclaiming graves. House Bill 4890, amended Act 251 of 1968 – Cemetery Regulation Act. The House Bill, in its entirety is found at MCL §456.537. The reclamation process described in this Act is substantially shorter than that described in Public Act 46 of 1931 in MCL §128.12 which permits the reclamation of plots which the owners have neglected or failed to maintain for a period of seven years.

Review of the statutory authority makes it clear that Greenwood Cemetery is regulated by the Public Cemetery Act. Section 128.11 of the Public Cemetery Act states as follows:

**“128.11 Definitions.**

Sec. 1.

The term “cemetery” as used herein shall be deemed to refer to any public cemetery owned, managed or controlled by any city, village or township within this state. “Cemetery Board” as used herein shall be construed as referring to and including any board, trustees or public official or officials invested by law with the duty of managing or controlling any public cemetery as herein defined. “Burial space” means a lot or portion thereof in any cemetery as aforesaid designed and intended for the interment of human bodies or of a human body, but not used for such purpose. “Owner” means any person or persons owning or possessing the privilege, license or right of interment in any burial space.”

(Emphasis Added)

Privately owned cemeteries are regulated by the Cemetery Regulation Act. That Act in Section 456.530 states as follows:

**456.530 Commissioner; auditing trust funds; registration of cemeteries; exemptions.**

Sec. 10.

(1) The commissioner shall institute and maintain a system of auditing trust funds required by this act and of registering each cemetery authorized to be created,

maintained, and operated in this state, as well as any other cemetery operating under state law or local ordinance. A cemetery owned and operated by a municipal corporation, church, or religious institution is exempt from this act. However, a municipal corporation may pass ordinances necessary for regulating that municipal corporation's cemeteries.”

(Emphasis Added)

It is clear, therefore, that the faster redemption period set forth in Cemetery Regulation Act Section 456.537 is not applicable to municipally owned cemeteries. Therefore, the provisions regarding the proceedings for the termination and forfeitures of owners’ rights in Greenwood is governed by the Public Cemeteries’ Act Section 128.12, which reads as follows:

**128.12 Failing or neglecting to care for and maintain burial space; proceedings for termination and forfeiture of owner's rights and interest; resolution; petition; service; publication of hearing notice; failure to appear and answer; default.**

Sec. 2.

If the owner of a burial space in a public cemetery, subject to the provisions of this act, fails and neglects for a period of 7 years or more to care for and maintain the burial space in accordance with the laws, rules, and regulations relating to the care and maintenance of burial spaces, the cemetery board may institute proceedings for the termination and forfeiture of the owner's rights and interest in the burial space. If the cemetery board determines that the owner has failed or neglected to care and maintain the burial space, the cemetery board shall adopt a resolution reciting this determination. A certified copy of the resolution shall be served on the owner personally by a competent person or shall be sent by first class mail to the owner's last known address. If within 30 days after the sending of the resolution the owner does not comply or make provisions for complying with the laws, rules, and regulations, the cemetery board may cause a petition to be filed in the circuit court for the county in which the cemetery is located. The petition shall set forth the facts relating to the sale and ownership of the burial space, the owner's failure and neglect to comply with the laws, rules, and regulations for the care and maintenance of the burial space, and shall ask for the termination and forfeiture of the owner's rights to the burial space. The petition shall be noticed for a hearing, on a date not less than 40 days from the date of filing. Within 15 days after filing, a copy of the petition with the hearing notice shall be personally served on the owner or copies of the petition shall be sent by first class mail to the last known address of the owner. Notice of the hearing shall be published once each week for 3 successive weeks in a newspaper of general circulation in the county in which the cemetery is located. The first notice shall be published not less than 30 days before the date of hearing. After the petition and notice have been served or sent, it is the owner's duty to appear and answer to the

# Beier Howlett

Birmingham City Commission  
August 4, 2015  
Page 3

allegations of the petition. If the owner fails to appear and answer on the day noticed for hearing, the owner's default may be entered in the manner provided for by law.”

Therefore, in MCL §128.12 is the section that regulates the reclamation of graves in Greenwood. Section MCL §456.537 (House Bill 4890) is not applicable.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

**BEIER HOWLETT, P.C.**

Timothy J. Currier  
Birmingham City Attorney

TJC/jc

## HISTORIC GREENWOOD CEMETERY 2015

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Second Quarter Report

### **MONTHLY BURIAL SERVICES**

April – 1 Full Casketed Burial  
2 Cremation Burials

May - 3 Cremation Burials

June – 1 Cremation Burial

### **CEMETERY MAINTENANCE**

Mike Shukwit, Director of Operations and his team had the cemetery cleaned up and in good condition for Mother's Day, Memorial Day, and Father's Day visitation. Lawn care completed weekly. All memorials as ordered have been properly installed.

At Pam DeWesse's request we have not removed any of the flags that were put out unless they are broken and/or unsightly. .

### **CUSTOMER SERVICE, RECORD KEEPING AND LONG TERM CARE**

Attended 4 meetings of the Cemetery Advisory Committee.

At the end of the quarter all of the records are up to date at both Elmwood's offices and the City Clerk's Office. No lot owner requests are outstanding and no transfers are pending.

We've spoken with many families regarding space availability at Greenwood. After the Advisory meetings I have either met with or called individuals with updates regarding the sale of spaces. We have also spent time updating funeral directors on the progress of the Advisory Board and City management.

### **FINANCIALS**

Two lot sales in the quarter.

This concluded the eighth quarter (25 months) as the operator of Historic Greenwood Cemetery. To date \$25,625 has been deposited in the Greenwood Perpetual Care Fund representing 75% of lot sales in the period.