

**GREENWOOD CEMETERY ADVISORY BOARD  
MEETING AGENDA  
FRIDAY, FEBRUARY 3, 2017 AT 8:30 AM  
MUNICIPAL BUILDING, ROOM 205, 151 MARTIN**

**I. CALL TO ORDER**

Darlene Gehringer, Chairperson

**II. ROLL CALL**

Cheryl Arft, Acting City Clerk

**III. APPROVAL OF MINUTES**

- A. Approval of minutes of December 9, 2016
- B. Approval of minutes of January 3, 2017

**IV. NEW BUSINESS**

- A. Report on Section G, Lot AA, Graves 1-5; DPS Tree Inventory  
Robertson's grave location update  
Re-schedule/cancel April 7, 2017 GCAB meeting
- B. Discussion of Cemetery Management Agreement
- C. Discussion of MCL 456.537 – Public Cemeteries (Public Act 46 of 1931) and  
Cemetery Regulation Act (Public Act 251 of 1968)

**V. UNFINISHED BUSINESS**

Items under Pending will be presented as a verbal status update to the Board and may not require action at this time.

- A. National Historic Designation of Cemetery *(needs approval from State after physical visit)*
- B. Digitization of Cemetery Records *(expecting to hear from BS&A and Pontem)*
- C. Request for RFP for GPR Services in the Cemetery *(has been requested to be included in 2017-18 budget year)*
- D. Request for RFP for Master Plan of the Cemetery *(has been requested to be included in 2017-18 budget year)*
- E. Amendment to the Cemetery Contract with Elmwood *(would need direction from City Commission)*

**VI. CONTRACTOR REPORT**

- A. First Quarter 2016 report (revised to new format)
- B. Second Quarter 2016 report (revised to new format)
- C. Third Quarter 2016 report (corrected)
- D. Fourth Quarter 2016 report (with cemetery map)

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

**VIII. BOARD COMMENTS**

**IX. ADJOURN**

**NEXT MEETING: March 3, 2017**

*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, DECEMBER 9, 2016 AT 8:30 AM  
MUNICIPAL BUILDING, ROOM 205, 151 MARTIN**

**I. CALL TO ORDER**

Chairperson Darlene Gehringer called the meeting to order at 8:32 AM.

**II. ROLL CALL**

Present: Margaret Suter  
Darlene Gehringer  
Laura Schreiner  
Linda Peterson  
George Stern

Absent: Kevin Desmond  
Linda Peterson

Administration: Cheryl Arft, Acting City Clerk

**III. APPROVAL OF MINUTES**

**A. APPROVAL OF MEETING MINUTES OF OCTOBER 14, 2016**

Mr. Stern asked for the following changes: add a letter "s" to the second word Board on page 3, in the first line on the last paragraph; remove the word "on" on page 4 in the last line of the second paragraph under section F.

Mr. Stern suggested that Ms. Suter clarify her statement on page 5 when she said "the contract would have to be changed". Ms. Suter clarified she meant that to be absolutely clear, it should be spelled out in the contract exactly what they should be reporting to us.

Ms. Gehringer asked if the first motion on page two should be changed to "east", rather than "west". After discussion, it was agreed the motion is correct as stated.

**MOTION:** Motion by Suter, seconded by Stern:  
To approve the minutes of October 14, 2016, as amended.

VOTE: Yeas, 5  
Nays, 0  
Absent, 2 (Desmond, Peterson)

**IV. NEW BUSINESS**

**A. UPDATE ON PONTEM AND BS&A**

Ms. Gehringer said neither company could make it for a presentation today. The Clerk's staff will contact their representatives for a future date.

Ms. Gehringer noted that Bruce Chaney from Gateway Mapping has been in contact with her and the Clerk's Office. He offered to do a webinar. The company is registering to be a vendor on the Michigan Inter-Governmental Trade Network, which will enable them to be notified when a Request for Proposal is issued for services the cemetery may need.

## **B. REVIEW OF THE CEMETERY RULES AND REGULATIONS RE: MONUMARK/QR CODES**

Ms. Arft provided some information she had gathered from Ms. Pielack, Museum Director, about Monumark. Ms. Pielack had done some research on Monumark and found that it is a social-media type of service offered to families. A sticker containing a QR code is placed on the monument or marker, and it can be scanned to bring up a page for the deceased individual. On the page, visitors may leave tributes, comments, and share pictures. There is an annual fee associated with the service.

Ms. Buchanan said her concern was the historical designation of the cemetery, and whether that would be considered defacing historical stones.

Ms. Suter suggested the sticker be placed on the map of the cemetery for only the historical monuments.

Ms. Gehringer asked who would pay for that on the historical markers. Ms. Schreiner suggested the museum might undertake it.

Ms. Buchanan suggested we may not be able to mark the historical monuments, and is concerned about doing so.

Ms. Schreiner expressed concern about who would be in control of the location of the Monumark label and changing the character of the cemetery. She suggested it might be something for an interactive map.

Mr. Stern thinks it would enhance the stone. He thinks it could be a huge fundraiser for the Friends and for the cemetery, and it could be a marvelous addition to cemetery services.

Ms. Suter said if we start doing this, what is to stop anyone from adding anything to a monument.

Ms. Gehringer said the headstones that have the QR codes now belong to the family and are not historical monuments.

## **C. APPROVAL OF THE 2017 MEETING SCHEDULE**

Ms. Arft presented the proposed 2017 meeting dates.

**MOTION:** Motion by Suter, seconded by Schreiner:  
To approve the 2017 meeting schedule as presented.

**VOTE:** Yeas, 5  
Nays, None  
Absent, 2 (Desmond, Peterson)

## **V. UNFINISHED BUSINESS**

Items under Pending will be presented as a verbal status update to the Board and may not require action at this time.

### **A. JULY 11, 2016 CITY COMMISSION MEETING COMMENTS**

Mr. Stern asked that the Board change the order of the agenda at this time to discuss the comments made at the City Commission meeting on December 5, 2016. He feels that comments are relevant to the remainder of our discussion.



Ms. Arft briefly reviewed the July 11, 2016 City Commission minutes.

Ms. Suter asked if anything additional has been discussed by the Commission relative to reclamation.

Ms. Arft noted that the Board has not proposed anything further on that topic. She said the Action List which is to be discussed later in this meeting, is close to being presented to the Commission. Once the Commission reviews the Action List, it may choose to re-prioritize the items, giving direction to the Board.

Ms. Gehringer recalled from the July Commission meeting, there was a difference in opinion as to reclamation.

Ms. Suter asked which meeting it might be discussed. Ms. Arft suggested it would be in January or February.

Mr. Stern said that the City Attorney wrote that Public Act 215 does recognize that a municipal corporation may pass ordinances necessary to regulate the municipal corporation cemetery. The question for the Commission therefore, is whether they wish to pass any additional regulations with respect to the cemetery. At the present time, the Commission has not adopted the Public Act. Mr. Stern said the Commission probably will approve adoption of that ordinance, and he imagines that they will then send it to the Board for implementation. The fear that the Commission showed repeatedly, especially by Commissioner Sherman, was that the citizens are hearing lots of rumors because there are no rules as to how it is going to be implemented. Mr. Stern's assumption is that the Commission will simply approve adoption of the ordinance and then say it cannot implement it until such time the rules under which it will be implemented are developed, along with a plan for publicity to the public.

Mr. Stern said the question of resident vs. non-resident fees was discussed during the advisory committee as to whether or not the cemetery was a park. The City Attorney ruled it was not a park and therefore the investment of funds could not be made under the park ordinance, but had to be made under a separate ordinance. The state passed a law which enabled the City to set up a separate perpetual care fund. Mr. Stern said the Board should keep in mind that this is not a park, because when you read the minutes of the July 11<sup>th</sup> meeting, the City Attorney is constantly saying we are under judicial regulation and decision-making on parks. Mr. Stern said we are either a park or we are not a park. Mr. Stern said if we are not a park for the perpetual care fund, then we are not a park for fees.

Mr. Stern said the City Attorney also made the point that there has to be some City expense in order to have differential fees. The City Manager went on to say that, in fact, the City is doing structural maintenance at the cemetery so it does comply with the City Attorney's ruling that there has to be some City expense in order to have differential fees. In both cases, he thinks the Board has permission and, in fact, ruling that we can look at differential fees for residents vs. non-residents.

**MOTION:** Motion by Stern:

To allow Board comments at this time to cover the issue of the Commission meeting of December 5, 2016.

Motion failed for lack of support.

## **B. NATIONAL HISTORIC DESIGNATION OF CEMETERY**

Ms. Buchanan said she has called Dr. Christiansen for a physical visit in order to apply for the national historic designation of the cemetery. She believes the earliest we could apply now is May 2017.

**C. DIGITIZATION OF CEMETERY RECORDS**

Ms. Arft commented that we are in the process of scheduling the software representatives to attend a Board meeting. In the meantime, as burials are taking place, our records are being updated in the BS&A cemetery software program.

**D. DONOR RECOGNITION PROGRAM-FINAL**

Ms. Arft noted that the Board has finalized the donor recognition program, and thereafter, it was given to the City Manager and City Attorney for their review. Both have reviewed it now, and the Board asked to see it one more time.

Mr. Stern said it is a nice first draft that needs a lot of work. Ms. Arft said it was finalized at the last meeting.

Ms. Gehringer noted that the Board has approved this as the final version. She said it is not a draft.

Mr. Stern said he thought it was a concept, but that the Board had not approved every word.

Ms. Arft said the policy was sent to the City Manager and City Attorney after the Board approved it.

Ms. Buchanan expressed satisfaction with the policy.

Ms. Schreiner said we should remember that this policy was based on the City's general donation policy. Ms. Gehringer agreed, and said we adjusted it to fit our needs.

Mr. Stern expressed some of his concerns with the policy. He will not vote to approve it.

Ms. Gehringer said she is happy with the policy.

Ms. Buchanan said she likes the fact that the policy satisfies a true cemetery need.

Ms. Arft said the policy came back to the Board today for a final review as requested, and now will be scheduled by the City Manager for a future City Commission meeting for their consideration.

Ms. Schreiner agreed with Mr. Stern that we might want to consider adding the words "or remove" to Section E.

Ms. Gehringer agreed to the word addition.

Ms. Arft said she will add those words to Section E, and forward it to the City Manager. She asked if the Board wished to review it another time before submission to the Commission.

Ms. Schreiner suggested that she does not need to see the policy again, unless there would be a substantive change suggested by the City Manager.

Mr. Stern expressed a concern about duplication in the policy

Ms. Suter said the statements are different, in that one statement refers to donation categories, and the other refers to donation guidelines. Ms. Schreiner said the statements are not in conflict.

**MOTION:** Motion by Buchanan, seconded by Suter:

To approve the final draft of the Donor Recognition Policy, with the addition of the words "or remove" to Section E of the policy.

VOTE:           Yeas,    5  
                  Nays,   None  
                  Absent, 2 (Desmond, Peterson)

**E.               REQUEST FOR RFP FOR GPR SERVICES IN THE CEMETERY**

**F.               REQUEST FOR RFP FOR MASTER PLAN OF THE CEMETERY**

Ms. Arft explained that the requests for RFPs for these items will be submitted in the upcoming year's budget.

Ms. Gehringer expressed concern that this request has been delayed for a year. She said these are very important items to the Board.

Mr. Stern said it is important to emphasize that the Board would like the cemetery to be a separate budget item. He said that last year the cemetery was dismissed from the budget. He said that the City Manager defined the cemetery structural improvements as being in the Parks budget, and there is no cemetery budget since there is no expense. Mr. Stern said we should encourage the cemetery to be a budget item, and he encouraged the City Manager to allow the cemetery to be a budget item in this year's budget.

Ms. Gehringer agreed, and said that we now have funds and she believes we should have a budget.

**G.               AMENDMENT TO THE CEMETERY CONTRACT WITH ELMWOOD**

Ms. Gehringer explained that the contract will be on the next agenda under Unfinished Business.

<b>VI.       CONTRACTOR REPORT</b>
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<b>A.               THIRD QUARTER REPORT</b>
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Mr. Stern commented that the report notes that there are 14 available plots in Section G. He said that the Annual Report was made to the City Commission that all plots in Sections G and E had been sold and there were no available plots. He said that suddenly we have 14 plots available in Section G.

Ms. Gehringer suggested that those may be the 14 plots that were on hold. Mr. Stern was concerned that the Commission was told one thing and now the report indicates something else. He expressed concern that the plots may or may not exist, and if they do exist, some comments were made last Monday at the Commission that were inaccurate.

Ms. Gehringer asked the Clerk to check on this and determine if those are graves that were on hold.

Mr. Stern said he did not think there were 28 plots in Section G that were discovered. He thinks it was 14, and that they were sold, and does not think they are remaining.

Ms. Gehringer asked about the note regarding a space in Section G that was an existing developed space once occupied by a tree. Ms. Arft explained that the Contractor advised that a family contacted her who had a family member was quite ill. The family asked if there were any plots available near where they had previously purchased in the area. The Contractor looked at the area and determined that a grave could be located where the tree had been removed.

Ms. Gehringer expressed concern that this was done without the knowledge of the Board. She noted that perhaps the City was planning to put another tree there. She said that the Board has plans to have more landscaping put in the cemetery, and this may have interfered with the plans.

Ms. Schreiner said her impression is that it already was an existing space that was owned by the City with a tree on it, so the Contractor did not create a new one.

Ms. Gehringer said if it was an existing grave, the Contractor would not get a Commission on it because it was not a newly designated grave.

Ms. Schreiner said the Contractor would still get the Commission on the sale of the grave.

Mr. Stern said the City Manager ruled some time ago that the Contractor will get paid for anything they can think of, and we are not going to question it.

Ms. Gehringer said it is a violation of the contract. Mr. Stern agreed, and said the City Manager has indicated that he is the superintendent, and he has the right to do that.

Mr. Stern said he expressed his opinion both to the City Manager and the Board at the time that he felt it was wrong for the City Manager to do it, but the City Manager said he had the power to do it, and he did not want to appeal it.

Ms. Suter said the Board seems to be left out of the loop for many things regarding the Contractor, and she expressed concern about it.

Ms. Buchanan said landscaping is a priority; it has to be planned for, and graves cannot be put in every spot. Ms. Suter agreed, and asked if that would be part of the Master Plan.

Ms. Schreiner suggested that over time, there have been many people involved with the cemetery. She added that part of the reason this Contractor was selected was it respects historical characteristics of cemeteries. She hopes the Contractor is coordinating with the City in terms of trees and replacement. She added that, while the Board would like more involvement in those decisions, because of time frames, that is not always practical. She said the Board should be updated, the Board's questions should be answered, and their concerns should be considered.

Ms. Suter suggested that when the Board gets to the Master Plan, the Board could decide on tree placement and replacement.

Ms. Gehringer would like to know if the space was an existing developed space.

Ms. Buchanan said DPS is planning to plant trees along the easement of the fence to shade the area.

Ms. Gehringer commented that the new format of the report is self-explanatory and is orderly; she likes it very much. She asked that previous quarterly information be formatted in this way and the Board can see all activities from the inception of the contract.

Ms. Buchanan said that in addition to the percentage of each grave sale that the Contractor receives, it also gets other fees. Their total income is much higher, and she would like the Board to know that amount.

Mr. Stern said he has reported to the City Commission what he thinks the Contractor is making based on the quarterly reports. He said in some cases, the Contractor is making a 93% profit margin, and making \$1500.00 an hour for their work. He said it is exorbitant, and it should not be allowed. He agrees that the Contractor should be reporting that amount to the Board.

Ms. Buchanan believes we should have a total picture of the financial information.

Ms. Suter commented that she would like to see a map showing which plots are sold and which are pending with the quarterly report to give the Board a clearer idea of the location of graves being sold.

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

## **VIII. BOARD COMMENTS**

Mr. Stern commented about the December 5, 2016 City Commission discussion about Mr. Paul Robertson's request to place a monument on his graves in Section F-North, where only flush markers are permitted. He said the Commission discussed the Board's lack of action in general, and in Section F-North specifically. He said by discussing this, he hopes to help make the Board more productive.

He provided the following suggestions for discussion by the Board: revisit the restriction on monuments in sections other than B & C. He said the restriction is not in keeping with existing formats, and it promotes walking on graves. He suggested removing the roadway between sections K & L for burials with monuments. He suggested the Board recommend the City Commission recommend adopting Public Act 215, Section 456.537, which would allow the City to reclaim lots abandoned for 60 years, and advise the Commission how to implement the law to maximize citizen approval and minimize citizen anxiety. He strongly feels that the Board needs to find spaces for monuments to be erected.

Ms. Suter noted Greenwood has a historical designation, and therefore the road cannot be changed. Mr. Stern suggested that a waiver to that restriction could be filed.

Mr. Stern was asked to provide copies of his comments to the Board members.

## **IX. ADJOURN**

The meeting adjourned at 10:14 AM.

**GREENWOOD CEMETERY ADVISORY BOARD  
MEETING MINUTES  
FRIDAY, JANUARY 6, 2017 AT 8:30 AM  
MUNICIPAL BUILDING, ROOM 205, 151 MARTIN**

**I. CALL TO ORDER**

Chairperson Darlene Gehringer, called the meeting to order at 8:30 AM.

**II. ROLL CALL**

ROLL CALL: Present: Darlene Gehringer  
George Stern  
Kevin Desmond  
Linda Buchanan  
Margaret Suter

Absent: Linda Peterson  
Laura Schreiner

Administration: Acting City Clerk Arft

**III. APPROVAL OF MINUTES**

**IV. NEW BUSINESS**

**V. UNFINISHED BUSINESS**

Items under Pending will be presented as a verbal status update to the Board and may not require action at this time.

**A. NATIONAL HISTORIC DESIGNATION OF CEMETERY**

Ms. Buchanan had no new report. Mr. Christiansen had previously advised Ms. Buchanan that he would be visiting the cemetery. She suggested keeping this item under Unfinished Business for the present time.

**B. DIGITIZATION OF CEMETERY RECORDS**

Ms. Arft reported that both Pontem and BS&A have been contacted to schedule dates for their presentations to the Board.

**C. REQUEST FOR RFP FOR GPR SERVICES IN THE CEMETERY**

**D. REQUEST FOR RFP FOR MASTER PLAN OF THE CEMETERY**

Ms. Arft said the requests will be part of the Budget hearing for the 2017-18 fiscal year. An estimated cost for each RFP was submitted with each request after some investigation was done by City staff. The Board members would like to review the proposed RFP as well as the responses at the appropriate time.

**E. AMENDMENT TO THE CEMETERY CONTRACT WITH ELMWOOD**

Ms. Gehringer suggested we review the contract and the Board members can discuss their thoughts at the next meeting.

Mr. Stern thinks the only amendment the Board should consider is cancellation.

**VI. CONTRACTOR REPORT**

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

## **VIII. BOARD COMMENTS**

Ms. Arft provided a copy in the agenda packet to the Board of the City Commission meeting minutes of December 5, 2016 regarding their discussion of Mr. Paul Robertson's request for an exemption to the flush marker only regulation in Section F North, where he owns two graves.

She noted that the Commission asked that staff conduct some research and investigation of our records and a physical visit to the cemetery, and perhaps include more photos of the area.

Mr. Stern asked how many graves are occupied in Section F-North at this time. Ms. Arft said a member of the staff is involved in that research at the moment. She provided some information from our records that the earliest burial recorded so far in that section was in February 1969. The earliest Rules and Regulations found that reference the flush marker only regulation in Section F North was from 1971.

Ms. Arft noted that the Commission will be seeing the Action List to approve or revise the order. The Board can then work according to the direction of the Commission.

Ms. Gehringer asked that the exact location of Mr. Robertson's graves be made available at the next meeting.

Ms. Buchanan expressed concern about changing the rules, and then people are going to request changes in other flush marker areas.

Ms. Suter raised a concern that if the City decides to bring the cemetery maintenance back, and the regulation is lifted in Section F North, will it then cause a problem.

Ms. Gehringer suggested that the maintenance during the 1970's was by hand, rather than machine. She is not sure why it was an issue.

Mr. Stern added that in those times, there was a big push for memorial garden sections and cemeteries. He thinks that trend has run its course, and we are seeing people who want monuments. He proposed that we remove the restriction in Section F-North and allow monuments. He would like to keep flush markers in B & C because that is what the Historic District Commission recommended. He does not think it makes any sense for K, L, and O to have the restriction, however.

**MOTION:** Motion by Stern, seconded by Desmond:

To allow upright markers to be put in Section F-North and also in the new Sections of D, K, L, and O, but not B & C.

Mr. Desmond agreed, because he looks at Sections B & C differently. They are adjacent to the road, and are visible when people drive and walk by the cemetery. Section F-North has more open space, and if the reason for the restriction was maintenance-driven, the equipment is improved today regardless if the Contractor or the City is maintaining the cemetery in the future. He would suggest that the purchaser be very prudent and work with the manufacturer to consider the ground situation and any warranty provided.

Ms. Suter suggested we need to spend more time on this subject. She would like to see some restrictions in place, however.

Ms. Buchanan expressed concern on the fairness issue.

VOTE:           Yeas,    2  
                  Nays,    3  
                  Absent, 2 (Peterson, Schreiner)

Motion failed.

**MOTION:**    Motion by Stern:  
To review the roadway between Sections K & L and open it up to new gravesites.

Motion failed for lack of support.

Mr. Stern said we can protect the Booth and Rosso families with small pathways.

Ms. Gehringer reminded the Board that once a site is designated as a historical site, it cannot be changed. Mr. Stern said it could be appealed, and the museum is doing that now with the siding on the Allen House.

Ms. Buchanan expressed concern that changing the road could jeopardize the application for national historical designation.

Ms. Suter said we have many graves available now.

Mr. Stern suggested that people are looking for graves that can have monuments.

Mr. Stern asked if the cemetery would be at the Long Range Planning meeting on January 28th. Ms. Arft said she would check and confirm.

Mr. Stern asked if the City Manager was moving forward on MCL 456.537. First, the Commission needs to adopt the law, and then the Board can recommend implementation if the Commission so directs. He said the idea would be that once the Commission recognizes the state law, then direction would come to this Board for a recommendation as to how the law could be implemented.

Ms. Gehringer asked if the City Attorney had addressed it. Mr. Stern said the City Attorney had addressed it, and agreed.

**MOTION:** Motion by Stern, seconded by Desmond:  
To urge the City Commission to adopt MCL 456.537, and send to the Greenwood Cemetery Advisory Board a request for rules of implementation.

Ms. Buchanan asked if this should be included on the Action List with the reclamation.

Mr. Desmond clarified that Mr. Stern is requesting to open the door to discuss action steps for the reclamation. Mr. Stern confirmed.

Ms. Suter asked why the Board is recommending the adoption of the law to the City.



Mr. Desmond said that the intention of the Board with the motion is to bring the law to the City Commission's attention and request consideration of adopting the law.

Mr. Stern agreed, and explained that the Board also urged the City to adopt the Perpetual Care Fund previously.

Ms. Gehringer said the Board has brought the new law to the Commission's attention in previous conversations.

Mr. Desmond said once this is published, there will be some backlash from the public.

Ms. Gehringer asked if the Board would like to review the law before the Board proceeds with anything.

It was agreed to review the law at the next meeting.

VOTE:           Yeas,    2  
                  Nays,     3  
                  Absent, 2 (Peterson, Schreiner)

Motion failed.

Ms. Gehringer clarified that the new law will be discussed at the next Board meeting.

<b>IX.   ADJOURN</b>
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The meeting was adjourned at 9:38 AM.

ca

## MEMORANDUM

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**DATE:** February 2, 2017

**TO:** GCAB

**FROM:** Cheryl Arft, Acting City Clerk

**SUBJECT:** Report on Section G, Lot AA, Graves 1-5

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At the January 6, 2017 GCAB meeting, I received a request to investigate a grave sold and referenced in the Third Quarter Report from the Contractor. There was some confusion as to whether or not this was an existing, developed grave that once had a tree on it. I was asked to investigate the removal of the tree on the space.

I contacted the Contractor who explained that the grave was, in fact, an existing, developed grave in the cemetery. She also explained that the tree was not there when the Contractor took over the cemetery operations. She provided me with the location of the subject grave for my further investigation.

I then contacted Carrie Laird of DPS, who said the City kept no records of tree removal, so she was unable to determine when and why the tree was removed.

I have provided you with a photograph of the page from our burial records for the grave in question, which indicates that the grave has been in existence for many years. You will see a note that indicates that the graves were noted as possible sites for cremations written presumably by a DPS employee in 1970. I have also provided you with a copy of a page from *The Greenwood Cemetery: Its Inscriptions & Burials* publication (updated 7/1/89) identifying the grave as existing at the time.

Ms. Laird also advised that DPS is gathering information for a tree inventory of all City trees, and she has offered to include Greenwood in the inventory. I have informed the City Manager of the program DPS offered, and he concurs with including Greenwood trees. With the Board's concurrence, I will notify Ms. Laird to proceed with the tree inventory in Greenwood as time permits.



cheryl arft <carft@bhamgov.org>

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## Re: Greenwood - Section G, Lot AA, Graves 1-5

1 message

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**Carrie Laird** <claird@bhamgov.org>  
To: cheryl arft <carft@bhamgov.org>

Mon, Jan 30, 2017 at 1:55 PM

Cheryl,

I have looked into this, and we do not have record of this tree removal. For that matter, we do not have any records of tree removals from Greenwood.

FYI, we do have a tree inventory program with all residential City trees and we have started adding trees in parks to it. We could include Greenwood Cemetery to our "things to do" list as far as adding inventory. This program allows us to make updates to inventoried trees, and track any work or removals, etc.

On Fri, Jan 27, 2017 at 1:07 PM, cheryl arft <carft@bhamgov.org> wrote:

Carrie,

At one time, these graves had a tree on one or more of them. At some point, the tree was taken down, and I have confirmed with Cheri that it was down when they took management of the cemetery.

Do you have any records or knowledge of about when the tree was removed?

I also have a handwritten note on the burial page from Ray, saying that the graves could be suitable for cremations. It was dated 7-15-70.

Thanks for any help with this one.

Cheryl Arft, CMC, CMMC  
Acting City Clerk  
City of Birmingham  
151 Martin Street  
Birmingham, MI 48009

248-530-1880

248-530-1080 (fax)

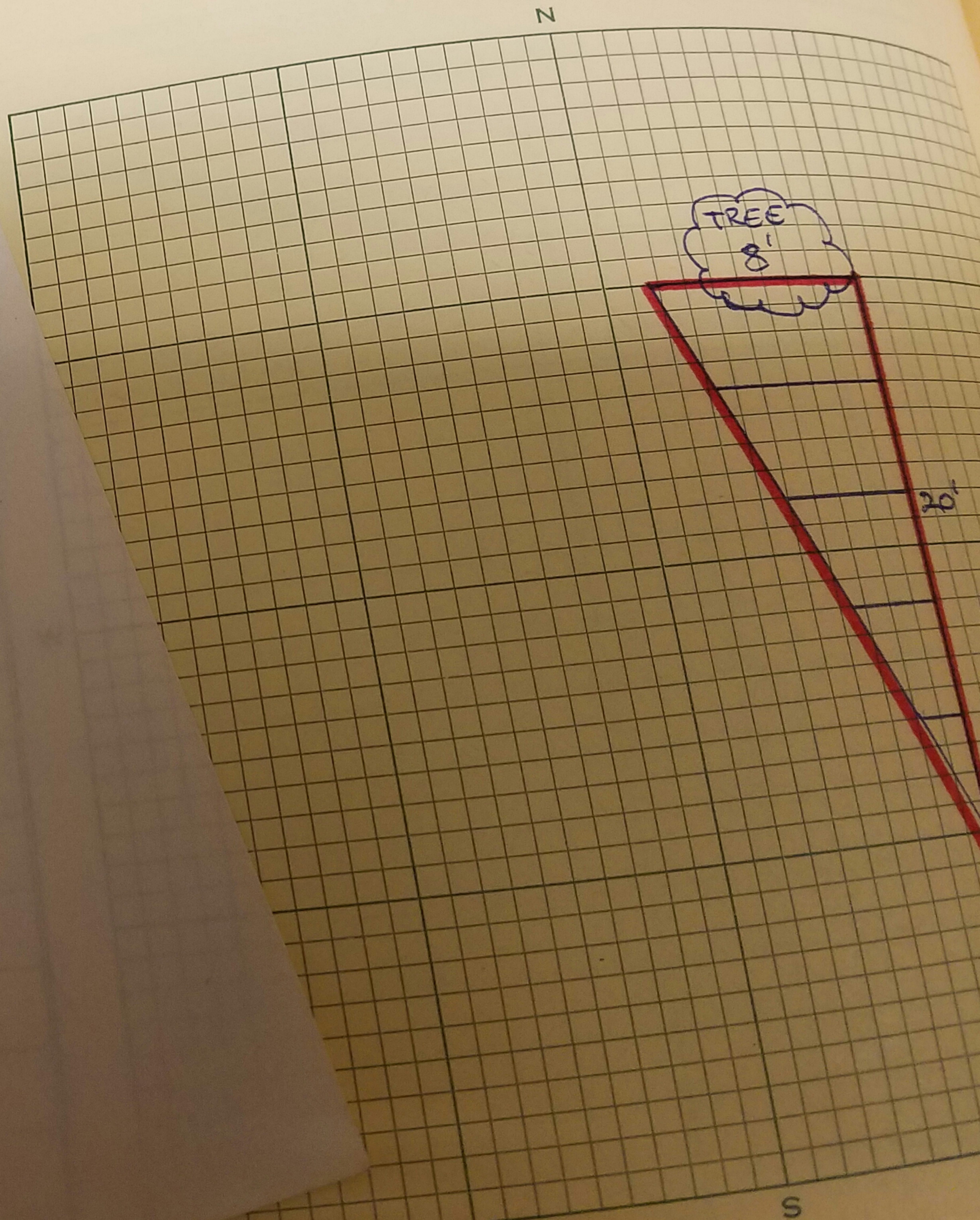
[carft@bhamgov.org](mailto:carft@bhamgov.org)

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Carrie A. Laird  
City of Birmingham  
Parks & Recreation Manager  
851 S. Eton  
Birmingham, MI 48009  
248-530-1714 Phone  
248-530-1754 Fax



G- A A  
possible site for  
cremations Ray





SECTION G

LOT AA Possible sites for cremation.

- 1.
- 2.
- 3.
- 4.
- 5.

LOT BB (One full grave or three cremation sites.)

1. Owner: Ralph Moxley
- 2.
- 3.

LOT CC ALLEN

1. (Marion Clizbe Allen)
2. (Harry Allen)
3. James Clizbe Allen 1918-1981
- 4.

Family marker. West side: ALLEN Marion Clizbe 1884-1973. Harry 1882-1957. East side: First mayor of Birmingham 1933-1936.

LOT DD

Not worth listing. A very small triangle.

LOT FF (1-3 full graves. 4-7 cremations only.)

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.

LOT GG Possible sites for cremations.

- 1.
- 2.

LOT HH HALE (1. & 2.)-LANGERMAN (3-5)

1. George C. Hale 1905-1971.
2. Florence M. Hale 1982.
- 3.
- 4.
- 5.

## MEMORANDUM

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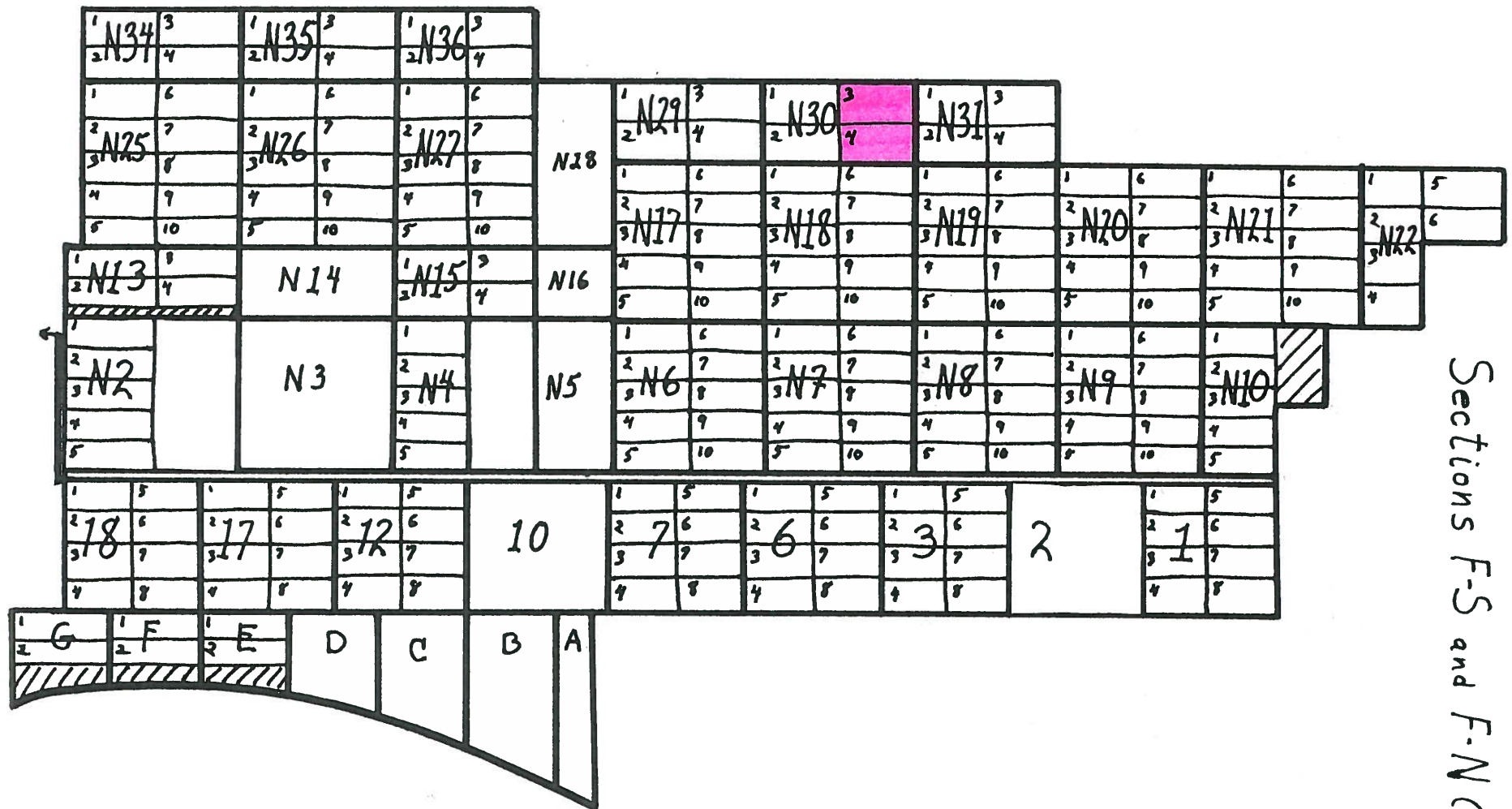
**DATE:** February 2, 2017  
**TO:** GCAB  
**FROM:** Cheryl Arft, Acting City Clerk  
**SUBJECT:** Location of Paul Robertson, Jr.'s graves in Section F-North

---

I was asked at the January 6, 2017 GCAB meeting to advise the Board the location of Mr. Robertson's graves in Section F-North.

I have attached a map with his graves highlighted, and a photo of the burial records page. They are in Lot 30, graves 3 & 4. They were purchased 10/12/12.

# PAUL ROBERTSON'S GRAVES



Sections F-S and F-N (east)



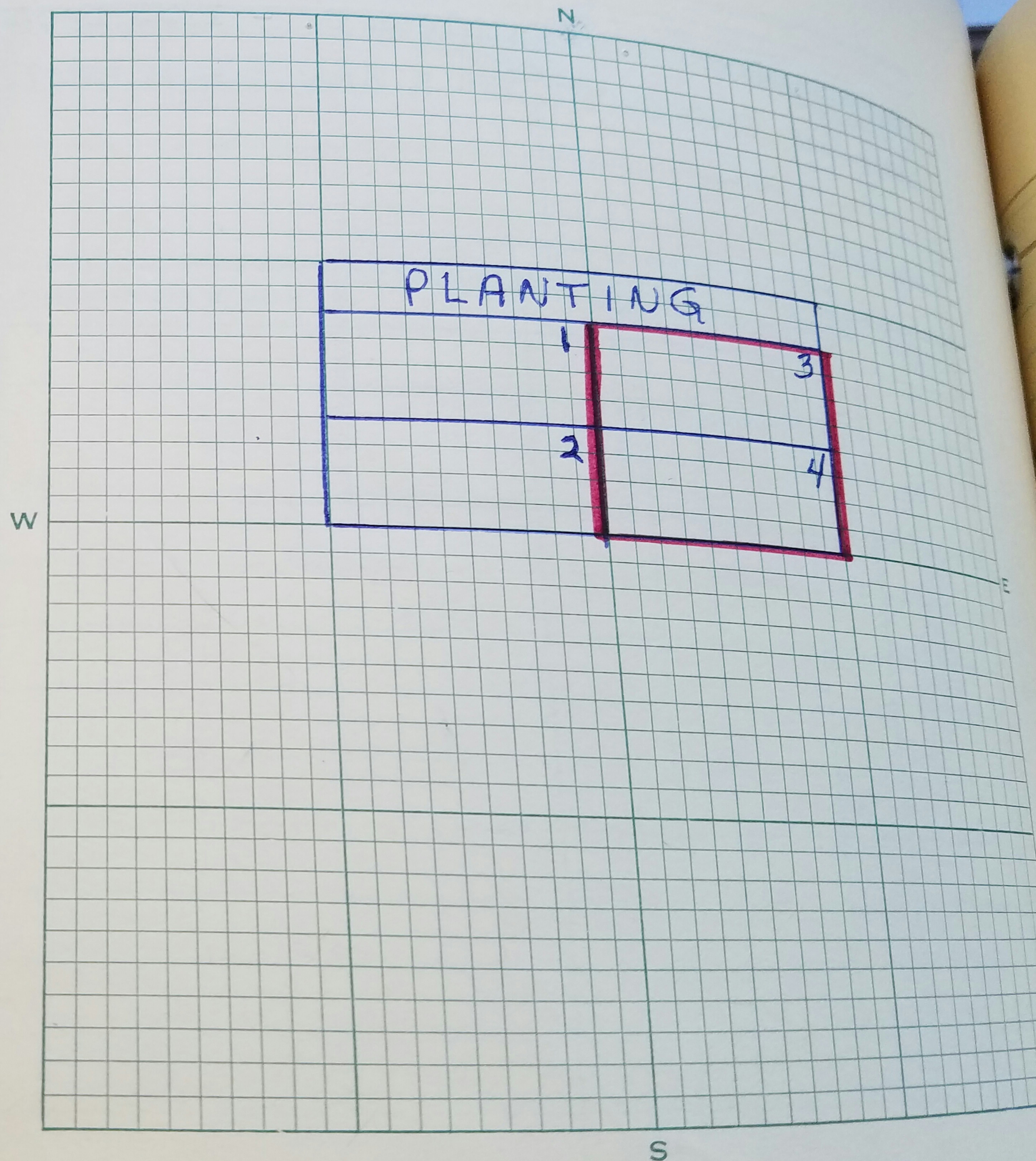
SECTION **F-North** LOT **30** BLOCK **3**

NO. OF BURIAL PLACES 2

DATE PURCHASED 8/14/80 PRICE \$300.00

DEED NO.

R	AMOUNT	DATE PAID	YEAR	AMOUNT	DATE PAID
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[illegible]



## MEMORANDUM

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**DATE:** February 2, 2017  
**TO:** GCAB  
**FROM:** Cheryl Arft, Acting City Clerk  
**SUBJECT:** April 7, 2017 Board meeting

---

I will be on vacation the week that the April 7<sup>th</sup> meeting is scheduled. At this time, it is not known when the City's new Clerk will be hired.

Therefore, I am requesting that the Board consider either re-scheduling or cancelling the April meeting. It is important to note that City offices will be closed on Friday, April 14, 2017 for the Good Friday observance.

**SUGGESTED RESOLUTION:**

To re-schedule the April 7, 2017 GCAB meeting to \_\_\_\_\_.

OR

To cancel the April 7, 2017 GCAB meeting.

## MEMORANDUM

---

**DATE:** February 2, 2017  
**TO:** GCAB  
**FROM:** Cheryl Arft, Acting City Clerk  
**SUBJECT:** Agreement for Greenwood Cemetery Management Services

---

At the January 6, 2017 GCAB meeting, it was agreed to discuss the Management services agreement for Greenwood. I have attached it for your convenience.

I also attached copies of excerpts of material provided to the City Commission previously that shows a comparison of responsibilities of the Contractor vs. the City under the Management Agreement.

## RESPONSIBILITIES OF THE CONTRACTOR

- Financial record keeping
- Meet with families to identify space
- Schedule burials
- Prep grave for burials
- Set up/clean up tents and chairs
- Attend burial
- Lawn care  
(pay for lawn service & weed care, seeding grass if necessary, clear debris)
- Snow removal
- Raise & level markers/monuments
- Repair grave if needed
- Schedule foundations
- Install foundations
- Determine next of kin for burial and sale inquiries
- Respond to ancestry inquires
- Process deeds for sales
- Maintain Grave Interest List
- Update records
- Send records to City Clerk's Office

## COMPARISON OF RESPONSIBILITIES

### ■ CITY

- Forestry Services
- Road maintenance
- Update cemetery records with burial info, foundations, sales & transfers

### ■ CONTRACTOR

- Financial record keeping
- Meet with families to identify space
- Schedule burials
- Prep grave for burials
- Set up/clean up tents and chairs
- Attend burial
- Lawn care  
(pay for lawn service & weed care, seeding grass if necessary, clear debris)
- Snow removal
- Raise & level markers/monuments
- Repair grave if needed
- Schedule foundations
- Install foundations
- Determine next of kin for burial and sale inquiries
- Respond to ancestry inquires
- Process deeds for sales
- Maintain Grave Interest List
- Update records
- Send records to City Clerk's Office

Cemetery Service	Service Provider			
	City			Elmwood
	Clerk	DPS	Private Contractor	
Permanent record keeping	X			
Tree removal		X		
Road improvements		X		
Financial record keeping				X
Meet with families to identify space				X
Coordinate with Funeral Director/Family time & date of service and service type				X
Document next of kin and deceased information				X
Issue work order				X
Excavate grave				X
Set up tent and chairs				X
Perform burial				X
Attend burial				X
Post burial tent and chairs are removed and packed				X
Grave is seeded and top dressed				X
Maps and records are marked to reflect the burial information				X
Records are scanned and emailed to City Clerk				X
Lawn care			X	
Contracting lawn care and weed care/fertilization				X
Inspection of lawn care and weed care contractor's work				X
Raise and level markers/monuments				X
Seeding grass as necessary				X
Repairing graves as needed				X

Address customer service requests				X
Installation of foundations				X
Snow removal				X
Maintain water system				X
General clean- up of grounds, e.g. trimming bushes, picking up branches, trash pick-up				X
Update interest list				X
Mail and/or email interest list to families				X
Issue work orders for customer requests				X
Transfer of Burial Rights - assist both parties with transfer, e.g. identify locations using records and physically, issue forms, assist in form completion, confirm forms and fees received to both parties, update all records, issue deed, scan and email updates to Clerk				X
Assist families with information regarding disinternment and internment				X

## MEMORANDUM

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**DATE:** February 2, 2017  
**TO:** GCAB  
**FROM:** Cheryl Arft, Acting City Clerk  
**SUBJECT:** Public Acts regarding cemeteries

---

At the January 6, 2017 GCAB meeting, the Board added the discussion of Public Act 251, specifically Section 456.357. I have provided the Board with a copy of the entire Act for your review.

I also provided Public Act 46, the Public Cemeteries statute for your review. This is the state law under which the City of Birmingham operates Greenwood Cemetery.

## PUBLIC CEMETERIES Act 46 of 1931

AN ACT to supplement the laws providing for the establishment, control, maintenance and care of public cemeteries by cities and townships within this state; to define the powers and duties of cemetery boards and other public officials invested by law with the management thereof; to provide for the termination and forfeiture of rights in certain unused burial spaces in such cemeteries; to prescribe and regulate the procedure with reference thereto; to authorize the resale of such spaces and to direct the investment and use of the funds received therefrom; and to repeal all acts or parts of acts inconsistent with the provisions hereof.

**History:** 1931, Act 46, Eff. Sept. 18, 1931;—Am. 1947, Act 149, Eff. Oct. 11, 1947.

*The People of the State of Michigan enact:*

### **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.

**History:** 1931, Act 46, Eff. Sept. 18, 1931;—Am. 1947, Act 149, Eff. Oct. 11, 1947;—CL 1948, 128.11;—Am. 1949, Act 107, Imd. Eff. May 17, 1949.

### **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 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.

**History:** 1931, Act 46, Eff. Sept. 18, 1931;—CL 1948, 128.12;—Am. 1989, Act 14, Imd. Eff. May 10, 1989.

### **128.13 Burial space; proceedings for termination of rights; forfeiture; city, village or township may re-sell; copy of order served on owner; redemption.**

Sec. 3. On the day noticed for the hearing of said petition or on any subsequent day to which the hearing of the cause is adjourned, the proofs and allegations of the parties shall be presented to the court and if said court shall determine therefrom that the owner has failed and neglected for a period of 7 years preceding the filing of said petition to comply with the rules and regulations relating to the maintenance and the care of said burial space or spaces, an order shall be entered accordingly, forfeiting and terminating the rights and interest of such owner in and to said burial space or spaces, subject to the provisions of this act, and shall further provide

that the city, village or township, through and by its proper board or other officials shall have the right to re-sell such spaces and to use the proceeds derived from such sale in the manner and for the purposes hereinafter provided. A duly certified copy of such order shall, within a period of 10 days after the entering thereof, be personally served on such owner or shall be sent by registered mail to his last known place of address. Following the entering of such order aforesaid, the owner shall have a period of 60 days in which to redeem the right or interest in and to such spaces by paying the costs incurred in the proceeding, not exceeding \$15.00, and by complying with the rules and regulations provided for the care and maintenance thereof, or by making provision for such compliance. If it shall be made to appear to the court at any time before the expiration of such 60 day period that the owner has so redeemed the right or interest, an order shall be made and entered, setting aside the previous order of termination and forfeiture.

**History:** 1931, Act 46, Eff. Sept. 18, 1931;—Am. 1933, Act 72, Imd. Eff. May 5, 1933;—Am. 1935, Act 18, Eff. Sept. 21, 1935;—Am. 1937, Act 150, Imd. Eff. July 2, 1937;—Am. 1939, Act 257, Imd. Eff. June 15, 1939;—Am. 1941, Act 187, Imd. Eff. June 16, 1941;—CL 1948, 128.13;—Am. 1949, Act 107, Imd. Eff. May 17, 1949.

#### **128.14 Duty of board.**

Sec. 4. It shall be the duty of the cemetery board to keep an accurate account of all expenses incurred by it under the provision of this act and shall charge such expenses against the burial spaces involved. If, at the expiration of 60 days from and after the entering of the order of termination and forfeiture hereinbefore provided for, the owner shall not have redeemed his right or interest, the board is authorized and empowered to maintain and care for the burial space or spaces involved and shall keep an accurate and detailed account of all money expended for such purpose.

**History:** 1931, Act 46, Eff. Sept. 18, 1931;—CL 1948, 128.14.

#### **128.15 Reconveyance; perpetual care trust fund.**

Sec. 5. At any time during the period of 2 years from and after the entering of the order of termination and forfeiture, the owner of any burial space or spaces shall be entitled to a reconveyance to him by the cemetery board on the payment of the costs and expenses incurred in said proceeding, not exceeding 15 dollars, in the care and maintenance of such space or spaces. If such reconveyance is not sought and obtained during said 2 year period, then and thereupon the cemetery board shall be authorized and empowered to offer such spaces for sale in accordance with the rules and regulations of said board governing the sale of lots and spaces in the cemetery concerned. The proceeds derived therefrom shall be used to defray the expenses incurred in accordance with the provisions of this act and the balance, if any, shall be placed in a fund to be known as the "Perpetual care trust fund" of the cemetery. The income therefrom shall be used by the board for the future maintenance, care and upkeep of the cemetery.

**History:** 1931, Act 46, Eff. Sept. 18, 1931;—CL 1948, 128.15.

#### **128.16 Rights not forfeited; conditions.**

Sec. 6. Nothing in this act contained shall be construed to authorize the forfeiture or termination of rights or interest in and to any burial space that has been used for interment nor shall any such space be subject to resale under the provisions hereof.

**History:** 1931, Act 46, Eff. Sept. 18, 1931;—CL 1948, 128.16.



## CEMETERY REGULATION ACT

### Act 251 of 1968

AN ACT to regulate the creation and management of cemeteries; to provide for a cemetery commissioner and to prescribe the powers and duties of the commissioner; to require the registration and audit of cemeteries; to provide standards regarding the long-term care of certain cemeteries and trusting of certain funds; to regulate persons selling burial, entombment, or columbarium rights and certain merchandise; to provide for qualifications for owners, operators, employees, and transferees of cemeteries under certain circumstances; to provide for the abandonment of interment rights; to allow the cemetery commissioner to conduct certain investigations; and to prescribe administrative and civil remedies and penalties.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1972, Act 290, Imd. Eff. Oct. 30, 1972;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009;—Am. 2014, Act 398, Eff. Jan. 1, 2015.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

#### **456.521 Cemetery regulation act; short title.**

Sec. 1. This act shall be known and may be cited as the "cemetery regulation act".

**History:** 1968, Act 251, Eff. Sept. 15, 1968.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.522 Definitions.**

Sec. 2. As used in this act:

(a) "Cemetery" means 1 or a combination of more than 1 of the following:

(i) A burial ground for earth interments.

(ii) A mausoleum for crypt entombments.

(iii) A crematory for the cremation for human remains.

(iv) A columbarium for the inurnment of cremated remains.

(b) "Interment" means the disposition of human remains by earth interment, entombment, or inurnment.

(c) "Burial right" means a right of earth interment.

(d) "Entombment right" means the right of crypt entombment in a mausoleum or in an aboveground vault.

(e) "Columbarium right" means the right of inurnment in a columbarium for cremated remains.

(f) "Mausoleum" means a building or other aboveground structure that is affixed to land and is a permanent repository for human remains.

(g) "Crypt" means a chamber in a mausoleum of sufficient size to entomb the uncremated remains of a deceased person.

(h) "Columbarium" means a building or other aboveground structure that is affixed to land and is a permanent repository for cremated human remains.

(i) "Crematory" means a building or structure, within which the remains of deceased persons are or are intended to be cremated.

(j) "Cremation" means the incineration of the body of the deceased person.

(k) "Cemetery commissioner" or "commissioner" means the director of the department of labor and economic growth or a designee of the director.

(l) "Endowment and perpetual care" means all general work necessary to keep the cemetery property in a presentable condition at all times, including, but not limited to, the cutting of grass at reasonable intervals; the raking, cleaning, filling, seeding, and sodding of graves; the replacement, pruning, or removal of shrubs and trees in order to assure access to interment rights; and the repair and maintenance of enclosures, buildings, drives, walks, and the various memorial gardens.

(m) "Merchandise trust" means trusts required by section 16, composed of deposits made in connection with merchandise and service sales made prior to January 1, 2005.

(n) "Municipal corporation" means a county, city, village, or township.

(o) "Regulated financial institution" means a state or nationally chartered bank, savings and loan association or savings bank, credit union, trust company, or other state or federally chartered lending institution or a regulated affiliate or regulated subsidiary of any of these entities.

(p) "Person" means an individual, group of individuals, sole proprietorship, partnership, limited liability company, association, corporation, government agency, cemetery, or a combination of these legal entities.

(q) "Good moral character" means that term as defined and determined under 1974 PA 381, MCL 338.41 to 338.47.

(r) "Cemetery owner" means the person who has title to the cemetery.

(s) "Operator" means any of the following:

(i) A person, an officer of a person, a partner of a person, or a member or manager of a limited liability company, who holds more than 50% voting rights in a cemetery owner.

(ii) A person who is a member of the board of directors of a cemetery owner, a partner in a cemetery owner, or a member or manager of a limited liability company that is a cemetery owner.

(iii) An administrative official of the cemetery owner or the person described in subparagraph (i), comparable to a chief administrative officer, chief executive officer, or chief financial officer.

(t) "Affiliated person" means a person directly or indirectly controlling the cemetery and includes all of the following:

(i) A person who holds at least a 50% interest in a cemetery.

(ii) A person who is a member of the board of directors or a cemetery owner, a partner in a cemetery owner, or a member or manager of a limited liability company that is a cemetery owner.

(iii) A person who is an officer of the person who holds at least a 10% interest in a cemetery corporation or other entity having control of the cemetery.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1972, Act 290, Imd. Eff. Oct. 30, 1972;—Am. 1978, Act 290, Eff. July 10, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.522a Commissioner, spouse, or child; financial interest in cemetery, cemetery operations, supplier, or funeral establishment prohibited.**

Sec. 2a. The cemetery commissioner, or the commissioner's spouse or child, shall not have a direct or indirect financial interest in a cemetery, cemetery operations, a supplier of cemetery services or cemetery memorials, or a funeral establishment as defined in section 1801 of the occupational code, 1980 PA 299, MCL 339.1801.

**History:** Add. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.523-456.527 Repealed. 1982, Act 132, Imd. Eff. Apr. 20, 1982.**

**Compiler's note:** The repealed sections pertained to the creation and membership of the state cemetery commission.

#### **456.528 Commissioner; rules.**

Sec. 8. (1) The commissioner shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement and administer this act, including, but not limited to, rules regarding all of the following:

(a) The maintenance of records relative to the financial aspects of cemeteries.

(b) Requirements for applications for the granting of permits and registrations required under this act, including, but not limited to, the good moral character and financial security, responsibility, and stability of persons having an interest in the cemetery and all persons with decision-making authority that are employed by the applicant, registrant, or permittee.

(c) The formal and informal procedures governing the conduct of contested cases under this act before the commissioner or a hearing officer designated by the commissioner.

(d) The establishment, control, record keeping, and auditing of endowment care trusts, merchandise trust accounts, and related trust funds.

(e) Requirements for trust agreements, endowment care trusts, and merchandise trust accounts.

(f) The full disclosure of the source, nature, and amount of consideration to be used in the sale or transfer of a cemetery.

(g) Submission of annual reports in accordance with section 16(12) and (13), including requests for extensions.

(2) The commissioner shall update any existing rules that must be changed due to the amendatory act that added this subsection within 12 months after the effective date of the amendatory act that added this

subsection.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1972, Act 290, Imd. Eff. Oct. 30, 1972;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

**Administrative rules:** R 456.101 et seq. of the Michigan Administrative Code.

**456.529 Commissioner; hearings; investigations; oaths; testimony; witnesses; production of books and records; subpoena; abandoned cemeteries; failure to obey subpoena; perjury; violation of act, rule, or order; powers of commissioner; injunction or restraining order; appointment of receiver or conservator; powers; sale of cemetery; notice to creditors and filing of claims; denial of application; suspension or revocation of permit or registration.**

Sec. 9. (1) The commissioner may hold hearings, conduct investigations, administer oaths, take testimony under oath, and request in writing the appearance and testimony of witnesses, including the production of books and records. The commissioner may petition the circuit court for Ingham county for an order to issue, as part of the commissioner's general investigative and enforcement authority, a subpoena or a subpoena duces tecum relating to any person's appearance and testimony and for the production, examination, or copying of books, papers, or other documents pertaining to an investigation or hearing that is within the scope of the commissioner's authority under this act. The court shall issue an order for the issuance of subpoenas when reasonable grounds are shown.

(2) The commissioner has the authority to control, manage, and dispose of or transfer abandoned cemeteries or to require acceptance of responsibility for an abandoned cemetery according to law. The commissioner may promulgate rules that are necessary for the department to carry out its powers and duties under this subsection.

(3) Failure to obey a subpoena issued to any person by the commissioner through an order of the circuit court may subject the person to punishment by the circuit court as a contempt of court.

(4) Any person required by this act to take any oath or affirmation and who knowingly makes any false oath or affirmation is considered to have committed the crime of perjury.

(5) When it appears to the commissioner that a person or registrant has engaged in, or is about to engage in, any act or practice constituting a violation of this act or a rule promulgated or order issued under this act, the commissioner may do 1 or more of the following:

(a) Issue a cease and desist order.

(b) Accept an assurance of discontinuance of the violation.

(c) Bring an action in the circuit court for the county in which the person resides or in the circuit court for the county of Ingham, to enforce compliance with this act or a rule promulgated or order issued under this act.

(6) Upon a proper showing regarding an action brought under subsection (5)(c), a permanent or temporary injunction or a restraining order may be granted and a receiver or conservator may be appointed by the court. A receiver or conservator appointed by the court shall receive compensation from the cemetery as determined by the court. The receiver or conservator may operate the cemetery and take possession of the assets. The receiver or conservator shall have the rights and obligations of the cemetery as to all trust and escrow accounts and may sell, assign, transfer, or convey the cemetery and any of the assets to a municipal corporation or other person other than the holder of a license for the practice of mortuary science or a person who owns, manages, supervises, operates, or maintains, either directly or indirectly, a funeral establishment, under conditions prescribed by the court, in order to discharge outstanding contractual obligations. A receiver or conservator appointed under this section or section 2926a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2926a, has all the powers, authority, and remedies of an assignee for the benefit of creditors under chapter 52 of the revised judicature act of 1961, 1961 PA 236, MCL 600.5201 to 600.5265. The court may allow the receiver or conservator to file for protection under the bankruptcy code.

(7) Subject to court approval, a receiver or conservator may do any of the following:

(a) Take possession of the books, records, and assets of the cemetery or cemetery entity.

(b) Employ employees and agents, legal counsel, actuaries, accountants, appraisers, consultants, and such other personnel as he or she considers necessary.

(c) Fix the reasonable compensation of employees and agents, legal counsel, actuaries, accountants, appraisers, and consultants with the court's approval.

(8) In the order of sale of the cemetery, the court shall make provision for notice to creditors and the filing of claims against the receivership or conservatorship. Money held by the cemetery in trust or in escrow shall not be distributed to the general creditors of the cemetery. This section does not prohibit the court from

allowing the sale of the cemetery to a person other than the holder of a license for the practice of mortuary science or a person who owns, manages, supervises, operates, or maintains, either directly or indirectly, a funeral establishment, or from allowing the sale of the cemetery to a municipal corporation.

(9) In addition to an action taken under this section, the commissioner may deny an application or may suspend or revoke a permit or registration after an administrative hearing as provided for in this act.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2002, Act 550, Imd. Eff. July 26, 2002;—Am. 2003, Act 289, Imd. Eff. Jan. 8, 2004;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.529a Performance of duties of commissioner; assistance from all departments, state agencies, public bodies corporate, committees, commissioners, officers of state, and any political subdivision.**

Sec. 9a. All departments, state agencies, public bodies corporate, committees, commissioners, or officers of this state, and any political subdivision of this state, so far as is compatible with their duties, shall give the commissioner or his or her designee any necessary assistance required by the commissioner in the performance of the duties of the commissioner. All departments, state agencies, public bodies corporate, committees, commissioners, or officers of this state, and any political subdivision of this state, shall provide the commissioner free access to any book, record, or document in their custody relating to the matters within the scope of the commissioner in the performance of his or her duties.

**History:** Add. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

#### **456.529b Consultants; contracts.**

Sec. 9b. The commissioner may enter into contracts to accomplish requirements under this act, including for the engagement of consultants. The commissioner may use an authorized employee or agent, who is an attorney, to represent the commissioner or the department in a contested case proceeding brought under this act.

**History:** Add. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

#### **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.

(2) A cemetery for earth interment of 10 acres or less in size, which is owned and operated entirely and exclusively by an existing nonprofit entity and in which a burial has taken place before September 15, 1968, is exempt from the fee provisions of this act, shall have the trust fund required by this act audited at the discretion of the commissioner, and is exempt from the endowment care trust fund requirements of section 16, except for the report requirements if the cemetery maintains endowment and perpetual care trust funds.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 1982, Act 289, Imd. Eff. Oct. 7, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.531 Commissioner; registration fee; renewal blank and notice.**

Sec. 11. The commissioner shall charge an annual registration fee of \$20.00 per year for each cemetery registered. Not less than 90 days before the expiration date prescribed in section 15, the commissioner shall cause a renewal blank to be mailed to each registrant, together with a notice advising the registrant of the time and procedures for renewal of a registration.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.532 Permit for registration required; acquisition of controlling interest in cemetery**

**company; application for certificate of approval; contents; issuance; fee; noncompliance; escrow of endowment and perpetual care trust fund; prohibited use of funds; "controlling interest" defined.**

Sec. 12. (1) A person shall not establish a cemetery without a valid permit or operate an existing cemetery except under a valid registration issued under this act.

(2) If a person proposes to purchase or otherwise acquire a controlling interest in an existing cemetery company, that person shall first apply to the commissioner for a certificate of approval of a proposed change of control of a cemetery company. The application shall contain all of the following:

(a) The name and address of the proposed new owner or operator.

(b) A sworn statement from the seller attesting to the assets and liabilities related to the cemetery, including all trust accounts and the value of those accounts.

(c) Sworn statements from both the seller and the purchaser stating who will assume the assets and liabilities related to the cemetery.

(d) A sworn statement that the principal from the endowment and perpetual care trust accounts will be held in escrow for 6 months from the later of the following:

(i) The commissioner's approval of the application.

(ii) The close of the sale of a controlling interest in the cemetery owner or the sale of a substantial portion of the assets of the cemetery owner.

(iii) The transfer of title of the cemetery.

(e) Any other information the commissioner requires.

(3) The commissioner shall issue a certificate of approval for a change of control only after he or she is satisfied that the proposed new cemetery owner or operator is qualified by good moral character, experience, and financial stability, responsibility, and security to control and operate the cemetery in a legal and proper manner, and that the interest of the public generally will not be jeopardized by the proposed change in ownership and management. The application for a purchase or change of control must be accompanied by an initial filing or investigation fee of \$1,500.00.

(4) If a person fails to comply with this section, the commissioner may do any of the following if a transfer of controlling interest is found to have taken place without prior commissioner approval:

(a) Suspend or revoke the registration of the cemetery.

(b) Issue a cease and desist order or other order requiring a person to immediately take remedial action as prescribed by the commissioner.

(c) Seek injunctive or other equitable action from a court of competent jurisdiction.

(d) Take other appropriate action until the person purchasing or otherwise acquiring a controlling interest in an existing cemetery, purchasing an existing cemetery, or otherwise acquiring the cemetery demonstrates compliance with this section or divests itself of any interest or control of the cemetery.

(5) After the sale, transfer, purchase, or acquisition of a controlling interest in a cemetery is completed, the endowment and perpetual care trust fund for the cemetery shall be escrowed into an account for the first 6 months of the new ownership. This subsection shall not be construed to prevent or prohibit the cemetery from receiving interest or income from the endowment and perpetual care trust fund to maintain the cemetery.

(6) The endowment and perpetual care trust funds of a cemetery being sold shall not be used by the new owner of an existing cemetery in any manner to purchase or otherwise finance the purchase of that cemetery from the previous owner.

(7) As used in this section, "controlling interest" means the capability to decide the operating and financial policies of the cemetery company or to select the officers or directors with majority control of the cemetery company.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1972, Act 290, Imd. Eff. Oct. 30, 1972;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

**456.532a Examining affairs of cemetery or person; inspection or audit of books, papers, records, and documents; audit charges.**

Sec. 12a. (1) The commissioner or an examiner, investigator, or other person the commissioner may appoint, may visit and examine the affairs of any cemetery or person required to register under this act and shall have free access to the books, papers, records, and documents of the cemetery corporation, person, affiliated person, or agent acting on its behalf that relate to the business of the cemetery or person required to



register under this act.

(2) The books, papers, records, and documents shall be available for inspection or audit at any time during regular business hours with reasonable notice. One or more qualified persons designated by the commissioner shall conduct the audit, whose services shall be charged to and paid by the cemetery.

**History:** Add. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.533 Establishment of cemetery; application for permit; investigation fee; conduct of investigation; notice to commissioner of certain changes; order to void certain appointments.**

Sec. 13. (1) Any person desiring to establish a cemetery shall file with the commissioner, on forms furnished by the commissioner, an application for a permit to establish a cemetery. The application shall be accompanied by a nonrefundable investigation fee of \$1,500.00.

(2) After a receipt of an application, the commissioner shall conduct an investigation pertaining to the physical plans, the community need for the planned cemetery, and pertinent information pertaining to the applicant's experience, financial security, responsibility, and stability, ability, and good moral character and the source, nature, and amount of consideration to be used in the purchase of the cemetery. If the applicant is not an individual, the same investigation shall be made of the owners, directors, officers, partners, members, or any person occupying a similar status or performing similar functions, or any affiliated person.

(3) A cemetery company shall immediately notify the commissioner of any change in its directors, officers, partners, members, affiliated persons, or any persons occupying a similar status or performing similar functions. If after investigation the commissioner determines that any new director, officer, partner, member, affiliated person, or a person occupying a similar status or performing a similar function does not have suitable experience, financial security, responsibility, and stability, ability, and good moral character, the commissioner shall order the cemetery company to void the appointment of the director, officer, partner, member, affiliated person, or any persons occupying a similar status or performing a similar function.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.533a Circumstances causing person to be ineligible as cemetery owner or holder of controlling interest; factors for determining eligibility.**

Sec. 13a. (1) Notwithstanding any other provisions governing eligibility as a cemetery owner, a person may be ineligible to become a cemetery owner or hold a controlling interest in a cemetery company if any of the following circumstances exist:

(a) The person has been convicted of a felony under the laws of this state, any other state, or the United States.

(b) The person has been convicted of a misdemeanor involving gambling, theft, dishonesty, or fraud in any state, or has been convicted under a local ordinance in any state involving gambling, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in this state.

(c) The person has knowingly submitted an application for a license under this act that contains false information.

(d) The person lacks the requisite character, experience, and financial responsibility to control and operate the cemetery in a legal and proper manner, as determined by the commissioner, and the proposed ownership or change in ownership and management is likely to jeopardize the public.

(2) In determining whether to allow a person to become a cemetery owner, the commissioner shall also consider all of the following:

(a) The past and present compliance of the person and its affiliated person with cemetery or cemetery-related licensing requirements, cemetery-related agreements, or compacts with the state of Michigan or any other jurisdiction.

(b) Whether the person has been indicted, charged, arrested, or convicted, has pleaded guilty or nolo contendere, or has forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violations, unless the offense has been expunged, pardoned, or

reversed on appeal or otherwise nullified as determined by the commissioner.

(c) Whether the person has filed, or had filed against it, a proceeding for bankruptcy or has ever been involved in any formal process to adjust, defer, suspend, or otherwise work out the payment of any debt.

(d) Whether the person has been served with a complaint or other notice filed with any public body regarding a payment of any tax required under federal, state, or local law that has been delinquent for 1 or more years.

(e) The person has a history of noncompliance with any regulatory requirements in this state, any other jurisdiction, or the federal government.

**History:** Add. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

#### **456.534 Granting or refusing to grant permit; denial of application; procedures.**

Sec. 14. After receipt of the investigation fee and application, and after investigation, the commissioner shall grant or refuse to grant the permit. If the commissioner decides to deny the application for a permit, he or she shall follow the procedure set forth in section 19.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.535 Registration of cemetery; date; application; form; fee; expiration; procedure for denying registration; late penalty filing fee.**

Sec. 15. (1) Each person owning, managing, or operating a cemetery shall register the cemetery by filing with the commissioner a registration application before June 2 of each year, on a form furnished by the commissioner, and accompanied by the registration fee. A registration expires on July 1 of each year.

(2) If the commissioner intends to deny registration, the procedure set forth in section 19 shall be followed. The commissioner may impose a late penalty filing fee of \$10.00 per day on a person which filed a registration application after June 1.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.535a Witness fee; prohibition.**

Sec. 15a. A registrant shall not charge a fee for witnessing the lowering of a casket into the ground.

**History:** Add. 1996, Act 112, Imd. Eff. Mar. 5, 1996.

#### **456.536 Irrevocable endowment and perpetual care trust fund; establishment and maintenance; commingling prohibited; annual report; application for modification or waiver; expenses; bundling of funds with common ownership; pooling of trust or escrow funds for investment purposes; agreement with regulated financial institutions with trust powers; deposits; agent or seller; deposit requirements; use of interest or income; merchandise trust account; deposit for sale of burial vaults or containers; repayment; installation of vault; contents of cemetery merchandise and services contract; annual reports; deficit in amount of required deposits; penalty; hearing; additional penalty; powers and jurisdiction of attorney general and courts; disposition of fees, charges, and penalties; notice of financial transaction or investment; failure to submit reports under subsections (12) and (13); civil actions.**

Sec. 16. (1) The commissioner shall require each cemetery to establish and maintain an irrevocable endowment and perpetual care trust fund. The amounts deposited into an endowment and perpetual care trust fund pursuant to subsection (5) shall be held in perpetuity by the trustee and may only be distributed to the cemetery upon order of a court following petition by the commissioner. Interest or income shall be used only for endowment care. Except as otherwise provided in subsection (2), money in the endowment and perpetual care trust fund shall not be commingled with any other money or trust accounts. The cemetery shall report annually before July 1 of each year, on forms approved and furnished by the commissioner, endowment and perpetual care trust fund information required to be reported to the commissioner by other statutes and information regarding the funds as the commissioner considers pertinent in the public interest. A cemetery applying to the commissioner as authorized by other statutes for an endowment and perpetual care trust fund

deposit modification or waiver shall be assessed the actual expenses for an examination or investigation by the commissioner.

(2) Notwithstanding subsection (1), bundling of funds held in trust or escrow, for each cemetery or among cemeteries with common ownership, is permissible only under the following circumstances:

(a) Each cemetery maintains separate trust and escrow account records pursuant to statutory and rule requirements for endowed care, merchandise, or prepaid funeral and cemetery sales.

(b) A cemetery, or cemeteries with common ownership, has all its trust or escrow accounts on deposit with 1 or more regulated financial institutions with trust powers in this state.

(c) The trustee, or the trustee's trading block nominee, holds title in the name of each individual trust or escrow account for that trust or escrow account assets and the assets are promptly settled back to the individual accounts by the trustee in the ordinary course of business.

(3) Notwithstanding subsection (2), other comparable methods of bundling or pooling of trust or escrow funds for investment purposes may be permissible upon terms and conditions approved in writing by the commissioner and only after the commissioner is reasonably satisfied that the title to, character of, and accounting for funds held in trust or escrow is preserved.

(4) Not later than January 1, 2010, the irrevocable endowment and perpetual care trust fund shall be established, or reestablished, with 1 or more regulated financial institutions with trust powers that shall be the trustee of the portion of the fund allocated to it. The cemetery shall enter into agreements of irrevocable trust agreements with each trustee. Those agreements shall provide that the investing of the assets are subject to the Michigan prudent investor rule as set forth in sections 1501 to 1512 and 7803 of the estates and protected individuals code, 1998 PA 386, MCL 700.1501 to 700.1512 and 700.7803, except that the agreement shall not be modified or amended, as allowed under sections 1502(2) and 7105 of the estates and protected individuals code, 1998 PA 386, MCL 700.1502 and 700.7105, to provide less than the standard of care in the prudent investor rule. The cemetery shall notify the commissioner, in writing, not later than 14 days before the effective date of an appointment of a trustee. The cemetery may remove and replace a trustee at any time, subject to the consent of the commissioner, and subject to the terms of the cemetery's agreement with the trustee. The fees and costs of the trustee may, in accordance with the terms of the trust agreement, be paid from the principal of the trust. A cemetery that establishes its irrevocable endowment and perpetual care trust with 1 or more regulated financial institutions with trust powers, and that does not reserve, retain, or otherwise exercise any power of direction of specific investments, is not liable for any deficiencies in the irrevocable endowment and perpetual care trust caused by performance of the investments. A cemetery may reserve the right to recommend, to a trustee, an investment advisor, registered with the securities and exchange commission under the investment advisers act of 1940, 15 USC 80b-1 to 80b-21, or under the uniform securities act (2002), 2008 PA 551, MCL 451.2101 to 451.2703, to advise the trustee in the trustee's decisions on asset allocation, investment managers, and investments, except that a trustee is not required to heed such advice. Alternatively, and notwithstanding any other provisions of this section, and at all times subject to the Michigan prudent investor rule, a cemetery may direct the trustees to make certain investments, provided that the trust is a named beneficiary of fiduciary liability insurance covering the cemetery's or other fiduciaries' actions in an amount equal to 100% of the amount so directed. Proof of the fiduciary liability coverage shall be provided not less than annually to the commissioner, in a form to be determined by the commissioner, before any direction being given. The commissioner or the attorney general may prosecute a claim against the fiduciary liability insurance on behalf of the trust. The trustees are not liable, or otherwise punishable, for complying with the direction of investments except that the trustees shall retain custody of all the investments.

(5) Beginning January 12, 2009, an irrevocable endowment and perpetual care trust fund shall be created by the deposit of at least \$50,000.00 into the fund before any sale of burial rights, entombment rights, or columbarium rights is made.

(6) Each month, not less than 15% of all proceeds received during the previous month from the sales of burial rights, entombment rights, or columbarium rights shall be deposited with the trustee for inclusion in the endowment and perpetual care trust fund. No total deposit for a single burial right sale or assignment shall be less than \$20.00. A cemetery may apply to the commissioner for a modification of the minimum deposit requirement. The commissioner shall take testimony and investigate as he or she considers necessary and if the commissioner determines that the applicant's endowment and perpetual care trust fund will generate sufficient income to meet all current costs of keeping the applicant's cemetery in good condition, the commissioner may modify the minimum deposit requirement. A cemetery applying to the commissioner for a modification of the endowment and perpetual care trust fund deposit requirements shall be assessed the actual costs for the commissioner's examination and investigation. Excess money in the fund may be applied by a cemetery against future deposits and shall be annually reported to the commissioner in a manner prescribed



by the commissioner.

(7) The commissioner shall require each person engaged as agent or seller in the selling of burial rights, entombment rights, or columbarium rights owned by a party other than a cemetery or corporation subject to the irrevocable endowment and perpetual care trust fund requirements of this act and other laws, to deposit 15% of all gross proceeds received from the sales of those rights into the irrevocable endowment and perpetual care trust fund of the cemetery in which the rights are located if an irrevocable endowment and perpetual care trust fund exists for that cemetery. A deposit required to be made by those persons shall be modified or waived if the cemetery has received an irrevocable endowment and perpetual care trust fund deposit modification or waiver approved by the commissioner. The total deposit for a single adult burial right sale or assignment shall not be less than \$20.00.

(8) Interest or income from the money in the endowment and perpetual care trust fund shall be used exclusively for endowment and perpetual care. No portion of the interest or income may be used directly or indirectly for salaries or other payments to the officers, directors, partners, members, or managers of the entity owning the cemetery. Withdrawals of accumulated interest or income from the endowment and perpetual care trust fund may be authorized by the trustee, and such withdrawals shall be documented in the manner provided by rule of the commissioner. A cemetery shall maintain records showing that interest from the endowment and perpetual care trust fund is used exclusively for endowment and perpetual care. The trustees are not responsible for ascertaining that money paid to the cemetery is expended for the limited purposes permitted by this subsection.

(9) Subject to subsection (17), a cemetery that is required to register pursuant to this act and an agent authorized by a cemetery or acting on its behalf under an agreement or sales contract to sell cemetery merchandise or cemetery services shall establish a merchandise trust account and deposit a percentage of the gross proceeds received from the sales as determined by the commissioner. The merchandise trust account shall be maintained exclusively for the deposit of the money into a regulated financial institution under the terms of a written trust agreement approved by the commissioner. All documents, reports, and records regarding the trust shall be kept in this state. It shall be the responsibility of each registrant under this act to assure that documents relating to the merchandise trust account are provided to the commissioner upon request. If a subpoena is issued to obtain these documents, the registrant shall pay all costs related to obtaining the documents. The money shall be deposited not later than the month following its receipt.

(10) Subject to subsection (17), the total deposits to a merchandise trust for the sale of cemetery burial vaults or other outside containers, other than crypts installed underground and sold as part of a cemetery lot, shall at all times be not less than the greater of \$100.00 per vault or outside container or 130% of the total costs of the containers covered by the trust. Money deposited in connection with a sale shall be repaid within 30 days upon written demand of the purchaser. A burial vault shall be installed only at need or by separate written authorization of the purchaser. The cemetery shall have the right to withdraw the amount on deposit for the delivered vault or outside container.

(11) Subject to subsection (17), a contract or agreement made with a purchaser of cemetery merchandise and cemetery services shall contain a complete description of the cemetery merchandise purchased and of the cemetery services to be rendered.

(12) The commissioner shall require the cemetery owner or operator to report annually before July 1 of each year on forms provided by the commissioner. The reports shall contain information as the commissioner considers necessary to ascertain that the requirements of this act and rules promulgated under this act are being implemented. Subject to approval of the department, the cemetery owner or operator may ask for an extension not to exceed 90 days to submit the report required by this subsection. All reports required by this subsection and subsection (13) shall include a sworn statement by the cemetery owner or operator that includes the following:

(a) A certification that the signing cemetery owner or operator has reviewed the report.

(b) Based on the operator's or owner's knowledge, that the report does not contain any untrue statement of material fact related to the financial condition of the endowment and perpetual care trust fund or merchandise trust accounts.

(c) Based on the operator's or owner's knowledge, that the report fairly presents all material information regarding the financial condition of the endowment and perpetual care trust fund or merchandise trust accounts.

(d) That the signing operators or owners are responsible for establishing and maintaining internal controls; have designed those internal controls to ensure the accuracy of material information relating to the condition of the endowment and perpetual care trust fund or merchandise trust accounts; have evaluated the effectiveness of the internal controls within 90 days before the issuance of the report; and have included information evaluating the effectiveness of those internal controls.

(13) At a minimum, the commissioner shall require the following information concerning the endowment and perpetual care trust fund, the accuracy of which shall be certified by a certified public accountant:

- (a) Beginning and ending balances.
- (b) Receipts from the sale of burial, entombment, and columbarium rights.
- (c) Deposits to the endowment and perpetual care trust fund.
- (d) Itemized payments of interest or income.
- (e) Documentation that interest was utilized solely for endowment care.

(14) If, after an audit by the commissioner's staff, a deficit in the amount of required deposits to the trust funds is found, the commissioner may assess a penalty in the amount allowed under this act. The cemetery entity may request an administrative hearing before the commissioner or a hearing officer designated by the commissioner within 30 days after being notified of a deficit by the commissioner. If, following the administrative hearing, the commissioner determines that a deficit does exist, an additional penalty may be assessed each month on the unpaid monthly balance until the deficit is paid in full.

(15) In addition to all other remedies at law or in equity, the attorney general and the circuit court of the county in which the cemetery is located have all the powers and jurisdiction granted to the attorney general and court as to trusts covered by 1915 PA 280, MCL 554.351 to 554.353. The remedies granted include all endowment and perpetual care trust funds without regard to uncertainty or indefiniteness of beneficiaries.

(16) All fees, charges, and penalties, or other money from any source, collected under this act, other than fines prescribed in section 21, shall be paid to the commissioner. Upon receipt, the commissioner shall remit money received to the department of treasury for deposit in the general fund of this state.

(17) Any preneed contracts for cemetery merchandise or services entered into on or after January 1, 2005 are subject to the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.

(18) Not less than 7 days before 30% of the endowment and perpetual care or perpetual care funds established under this act are moved from an account or otherwise engaged in some type of financial transaction or investment, the cemetery owner or operator shall notify the commissioner of the transaction on appropriate forms that the commissioner shall authorize. The commissioner may allow the submission of a notification up to 7 days after the transaction, for good cause shown. Failure to comply with this subsection is considered a violation of this act.

(19) The commissioner, upon finding after notice and an opportunity for a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that a cemetery owner or operator has failed to timely submit a report required under subsections (12) and (13), regardless of whether he or she acted alone or through an employee or agent, may impose an administrative fine, payable to the commissioner, for the enforcement of this act. If the commissioner finds that a violation occurred despite the exercise of due care, the commissioner may issue a warning instead of imposing an administrative fine.

(20) The commissioner shall advise the attorney general of the failure of a person to pay an administrative fine imposed under this section. The attorney general may bring an action in a court of competent jurisdiction for the failure to pay an administrative fine imposed under this section.

(21) Applicable provisions of the revised judiciary act of 1961, 1961 PA 236, MCL 600.101 to 600.9947, apply to civil actions filed pursuant to this section.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1972, Act 290, Imd. Eff. Oct. 30, 1972;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2003, Act 89, Imd. Eff. July 24, 2003;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009;—Am. 2010, Act 326, Imd. Eff. Dec. 21, 2010.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.536a Preconstruction sales of crypts or niches.**

Sec. 16a. A person shall not develop or build a mausoleum or columbarium and engage in preconstruction sales of crypts or niches in a mausoleum or columbarium unless that person does both of the following:

- (a) Agrees to complete the mausoleum or columbarium within 4 years after the date of the first sale of an entombment or inurnment right in the proposed mausoleum or columbarium or, if construction is not completed within that time and upon the request of the purchaser, agrees to offer to the purchaser a refund of 100% of the purchase price with interest calculated at the rate of 4% per annum.
- (b) Agrees that if the person for whom the entombment or inurnment right in the proposed mausoleum or columbarium dies before completion of the mausoleum or columbarium, an alternative disposition of the remains shall be provided until completion of the mausoleum or columbarium or until a refund is made of 100% of the purchase price with interest calculated at the rate of 4% per annum.

**History:** Add. 2004, Act 22, Eff. Jan. 1, 2005.

**456.537 Right to possess space within cemetery; presumption of abandonment; certification; notice; record; remedies; transfer; sale; contract; publication on internet website; exception; intent of section; definitions.**

Sec. 17. (1) A person possessing a right to a space within a cemetery is presumed to have abandoned the right if all of the following apply:

(a) During the past 60 years, the person possessing the right to the space or the person's authorized representative has not provided the cemetery owner or operator with an updated address for purposes of contacting the person.

(b) During the past 60 years, the person possessing the right to the space or the person's authorized representative has not contacted the cemetery owner or operator and affirmed possession of the right in any of the following ways:

(i) Requesting an interment or notifying the cemetery owner or operator of an interment under the right to the space.

(ii) Requesting the installation of a memorial or notifying the cemetery owner or operator of the installation of a memorial under the right to the space.

(iii) Indicating or requesting a transfer of the right to the space to another person.

(iv) Making a payment to the cemetery owner or operator relating to the right to the space.

(v) Affirming in writing the possession of the right to the space.

(c) A memorial has not been installed at the cemetery under the right to the space.

(d) Remains have not been interred at the cemetery under the right to the space.

(2) If, after a right to a space is presumed to be abandoned under subsection (1), all of the following requirements are met, the cemetery owner or operator may under subsection (4) certify the right as abandoned:

(a) The cemetery owner or operator posts on the space for 120 consecutive days a written notice of intent to certify the right to the space as abandoned.

(b) If the cemetery owner or operator has a mailing address for the person possessing the right to the space or the person's authorized representative, the cemetery owner or operator sends to that address a written notice of intent to certify the right to the space as abandoned. The notice shall be sent by certified mail with a return receipt requested.

(c) If any of the following conditions apply, the cemetery owner or operator publishes once a week for 2 consecutive weeks a notice of intent to certify the right to the space as abandoned in a newspaper circulated in the county in which the cemetery is located:

(i) The cemetery owner or operator does not have a mailing address for the person possessing the right to the space or the person's authorized representative.

(ii) Whether or not a written notice mailed under subdivision (b) is returned as undeliverable, the person possessing the right to the space or the person's authorized representative has not contacted the cemetery owner or operator and affirmed the person's possession of the right within 60 days after the notice was mailed.

(d) If publication is required under subdivision (c), 60 days have elapsed since the cemetery owner or operator published the second notice and the person possessing the right to the space or the person's authorized representative has not contacted the cemetery owner or operator and affirmed the person's possession of the right.

(3) A notice required under subsection (2) shall state all of the following:

(a) A description of the right to a space affected.

(b) If known to the cemetery owner or operator, the name of the person possessing the right to the space and the person's authorized representative, if any.

(c) The time frame within which a person possessing the right to the space or the person's authorized representative must contact the cemetery owner or operator and affirm the person's possession of the right to the space to prevent the right from being certified as abandoned.

(d) That, if the right to the space is certified as abandoned, a person who possessed the right may be entitled to the remedies set forth in section 17 of the cemetery regulation act, 1968 PA 251, MCL 456.537.

(e) The name, address, electronic mail address, and telephone number of the cemetery owner or operator.

(4) A right to a space is certified as abandoned by any person possessing the right if, after satisfying the requirements of subsections (2) and (3), the cemetery owner or operator creates, signs, and maintains a record that states all of the following:

(a) A description of the right to a space affected.

(b) The names of any persons possessing the right to the space immediately before the right is certified as abandoned, if known to the cemetery owner or operator.

(c) That the right to the space is presumed to be abandoned under the criteria set forth in subsection (1).  
(d) That the cemetery owner or operator provided notice in compliance with subsections (2) and (3).  
(e) That the cemetery owner or operator has not received a response to a notice under subsection (2) from a person possessing the right to the space or the person's authorized representative affirming the person's possession of the right.

(5) A person whose right to a space was certified as abandoned under subsection (4) is entitled only to the following remedies:

(a) Reinstatement of the right to the space if the right has not been resold or otherwise transferred to another person by the cemetery owner or operator.

(b) If the right to the space has been resold or otherwise transferred to another person by the cemetery owner or operator, at the option of the person whose right was certified as abandoned, either of the following:

(i) A different right to a space of comparable value within the cemetery.

(ii) Compensation in the amount that the person whose right was certified as abandoned paid for the right or in an amount equal to 65% of the price for which the right was resold or otherwise transferred by the cemetery owner or operator, whichever amount is greater.

(6) If a person possessing a right to a space within a cemetery or the person's authorized representative is notified by the cemetery owner or operator under subsection (2) and the person or the person's authorized representative does not wish to retain possession of the right, the person or the person's authorized representative may transfer the right to the space back to the cemetery owner or operator for an amount as agreed by the parties.

(7) A contract for the sale of a right to a space entered into by a cemetery owner or operator after the effective date of this section shall contain a written notice of the presumption of abandonment of a right to a space under subsection (1).

(8) A cemetery owner or operator may publish on 1 or more internet websites a notice of intent to certify a right to a space as abandoned under subsection (2). A cemetery owner may use an internet search to attempt to identify for use under subsection (2) the current mailing address of a person possessing a right to a space or the person's authorized representative.

(9) Subsections (1) to (8) do not apply to a right to a space if 1 or more of the following apply:

(a) An inscribed memorial is located on the space to which the right applies.

(b) Both of the following apply to the space to which the right applies:

(i) The space immediately adjoins an inscribed memorial and the adjoining side of the inscribed memorial displays a family surname.

(ii) The space was purchased with another space on which the inscribed memorial that displays the family surname is located.

(c) Both of the following apply to the space to which the right applies:

(i) The space immediately adjoins an inscribed memorial.

(ii) The space immediately adjoins a space that was purchased with the right to a space and includes interred remains.

(10) This section is intended to advance the significant and legitimate public purpose of ensuring the availability and productive use of space within cemeteries and providing security in rights consistent with the health, safety, and welfare of the people of this state.

(11) As used in this section:

(a) "Inscribed memorial" means 1 or both of the following:

(i) A stone or other structure or item that is used for the purpose of memorializing a decedent on a place of interment and that displays the name of a decedent.

(ii) A stone or other structure or item that identifies an area of a cemetery dedicated for the interment of members of a family and that displays a family surname.

(b) "Right to a space" or "right" means the privilege, license, or right of interment in a space in a cemetery.

**History:** Add. 2014, Act 398, Eff. Jan. 1, 2015.

**Compiler's note:** Former MCL 456.537, which pertained to the licensing of salesmen and trainees, was repealed by Act 132 of 1982, Imd. Eff. Apr. 20, 1982.

#### **456.538 Denial, suspension, or revocation of permit or registration, and other disciplinary action; grounds; effect; fulfillment of contractual obligations and agreements; administrative fine.**

Sec. 18. (1) The commissioner may deny an application filed under this act and refuse to issue a permit or registration, or may suspend or revoke a permit or registration, or may reprimand, place on probation, or take other disciplinary action against the applicant if the commissioner's investigation reveals facts which, with

reference to the establishment of a cemetery, show inappropriate physical plans; lack of community need; inadequate experience, financial stability, or integrity to protect the public welfare; or when the commissioner finds that the cemetery owner, operator, or applicant or the officers, cemetery owners, directors, members, affiliated persons, or general manager of those entities has done 1 or more of the following:

- (a) Made a false statement of a material fact in the application.
  - (b) Not complied with this act.
  - (c) Been guilty of an unlawful or fraudulent act in connection with selling or otherwise dealing in cemetery lots and burial rights regulated by this act or funeral or cemetery merchandise and services regulated by the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.
  - (d) Been guilty in the judgment of the commissioner of other conduct whether of the same or different character than specified in this act which constitutes dishonest and unfair dealing or a demonstration of lack of good moral character.
  - (e) Violated article 18 of the occupational code, 1980 PA 299, MCL 339.1801 to 339.1812.
  - (f) Violated the terms of an assurance of discontinuance entered into with the commissioner pursuant to section 9(5).
  - (g) Violated the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.
  - (h) Failed to comply with section 2080 of the insurance code of 1956, 1956 PA 218, MCL 500.2080.
  - (i) Adopted, enforced, or attempted to enforce a regulation of the cemetery that prohibits the installation of a grave memorial or burial vault unless the grave memorial or burial vault was purchased from the cemetery. This subdivision does not prohibit a cemetery from adopting and enforcing consistent rules and regulations to be followed by both the cemetery and outside vendors as to the quality, size, shape, type, installation, and maintenance of the grave memorial or burial vault.
- (2) If the commissioner denies an application for a permit or registration, or suspends or revokes an existing permit or registration required by this act, the denial, revocation, or suspension shall revoke the cemetery operation as to the sale or assignment of burial rights, entombment rights, or columbarium rights, cemetery merchandise, or cemetery services after the date of the suspension, revocation, or denial. The cemetery owner or operator shall fulfill all contractual obligations and agreements entered into before the date of the suspension, revocation, or denial, and shall make required interments for the owners of burial rights, entombment rights, or columbarium rights purchased before the date of suspension, revocation, or denial.
- (3) The commissioner may impose an administrative fine of not more than \$5,000.00 for each separate violation of this act.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.539 Denial, suspension, or revocation of permit or registration; notice of intent; hearing; decision.**

Sec. 19. If the commissioner intends to deny an application for a permit to establish a cemetery, to refuse registration of an existing cemetery, or to suspend or revoke a registration, the commissioner shall give written notice to the person involved of that intent. The notice shall state a time and a place for hearing before the commissioner or a designated hearing officer, and a summary statement of the reasons for the proposed action. The notice of intent shall be mailed by certified mail to the applicant at least 15 days before the scheduled hearing date. The commissioner shall hold a hearing pursuant to the notice in the manner required by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and the rules of procedure adopted by the commissioner. The commissioner shall issue a written decision.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.540 Appeal.**

Sec. 20. Any person aggrieved by the decision of the commissioner rendered under section 19 may appeal to the circuit court as provided in chapter 6 of Act No. 306 of the Public Acts of 1969, as amended, being sections 24.301 to 24.306 of the Michigan Compiled Laws.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982.



**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.541 Violations; penalties.**

Sec. 21. (1) Except as otherwise provided for in subsection (2), a person who violates this act is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00.

(2) If the violator is an individual, the offense is punishable by a fine of not more than \$10,000.00 or imprisonment for not more than 1 year, or both.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1978, Act 215, Imd. Eff. June 5, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.542 Repeal.**

Sec. 22. Act No. 337 of the Public Acts of 1966, being sections 456.501 to 456.514 of the Compiled Laws of 1948, is repealed.

**History:** 1968, Act 251, Eff. Sept. 15, 1968.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.543 Effective date of act.**

Sec. 23. This act shall take effect September 15, 1968.

**History:** 1968, Act 251, Eff. Sept. 15, 1968.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

## HISTORIC GREENWOOD CEMETERY 2016 FIRST QUARTER REPORT

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### **MONTHLY BURIAL SERVICES**

MONTH	CREMATION BURIAL	FULL CASKETED BURIAL	DISINTERMENT
January	3	-	-
February	-	2	-
March	-	2	-

### **CEMETERY MAINTENANCE**

Mike Shukwit, Director of Operations and his team completed all burials. The clean-up from the winter was completed by March 31<sup>st</sup>. All work orders were completed as of March 31<sup>st</sup>.

A number of services for the burial of cremated remains have been scheduled in April up to July currently.

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

Attended 2 meetings of the Cemetery Advisory Committee.

At the end of the quarter all of the records are up to date. No lot owner requests are outstanding and no transfers are pending.

We have been meeting with families several times a week at the cemetery. We continue to work our way through the interest list. New requests to be placed on the interest list are received weekly.

### **GRAVE SALES**

26 lot sales in the quarter.

2016	Purchased one grave	Purchased two graves	Purchased three or more graves	TOTAL SOLD	75% of sale paid to the City	25% of sale paid to the Contractor
Resident	4	2	2	16	\$36,000	\$12,000
Non- Resident	6	2	0	10	\$22,500	\$7,500
<b>TOTAL</b>	<b>10</b>	<b>8</b>	<b>2</b>	<b>26</b>	<b>\$58,500</b>	<b>\$19,500</b>

**NEWLY IDENTIFIED GRAVE SPACES\*\***  
**TOTAL NUMBER OF GRAVES SOLD PER SECTION**

Section	2015 Total 2015	First Quarter 2016	Second Quarter 2016	Third Quarter 2016	Fourth Quarter 2016	TOTAL Number of Graves Sold To Date	Number of Graves Remaining
B	33	14				47*	361
C	11	8				19*	53
D	6	0				6	2
K	14	4				18	2
L	8	0				8	8
O	6	0				6	4
<b>TOTAL</b>	<b>78</b>	<b>26</b>				<b>104</b>	<b>430</b>

\*Per City Commission request, once 200 graves are sold in Sections B & C, the GCAB must review those Sections prior to additional graves being sold. No more than 240 graves can be sold in those two sections prior to GCAB review.

\*\*Only flush memorials are allowed in the newly identified grave spaces.

**AREAS ALONG THE ROAD**  
**TOTAL NUMBER OF GRAVES SOLD PER SECTION**

Section	2015 Total	First Quarter 2016	Second Quarter 2016	Third Quarter 2016	Fourth Quarter 2016	TOTAL Number of Graves Sold To Date
G	14	0				14
E	11	0				11
<b>TOTAL</b>	<b>25</b>	<b>0</b>				<b>25</b>

This concluded the tenth quarter (31 months) as the operator of Historic Greenwood Cemetery.



**HISTORIC GREENWOOD CEMETERY 2016  
SECOND QUARTER REPORT**

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**MONTHLY BURIAL SERVICES**

<b>MONTH</b>	<b>CREMATION BURIAL</b>	<b>FULL CASKETED BURIAL</b>	<b>DISINTERMENT</b>
APRIL	1	-	-
MAY	2	-	-
JUNE	2	2	1

**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.

Again this year 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. No lot owner requests are outstanding and no transfers are pending.

We have been meeting with families several times a week at the cemetery. We continue to work our way through the interest list. New requests to be placed on the interest list are received weekly.

**GRAVE SALES**

27 lot sales in the quarter.

<b>2016</b>	<b>Purchased one grave</b>	<b>Purchased two graves</b>	<b>Purchased three or more graves</b>	<b>TOTAL SOLD</b>	<b>75% of sale paid to the City</b>	<b>25% of sale paid to the Contractor</b>
Resident	10	3	0	16	\$36,000	\$12,000
Non- Resident	5	1	1	11	\$24,750	\$8,250
<b>TOTAL</b>	<b>15</b>	<b>8</b>	<b>4</b>	<b>27</b>	<b>\$60,750</b>	<b>\$20,250</b>

**NEWLY IDENTIFIED GRAVE SPACES\*\***  
**TOTAL NUMBER OF GRAVES SOLD PER SECTION**

Section	2015 Total	First Quarter 2016	Second Quarter 2016	Third Quarter 2016	Fourth Quarter 2016	TOTAL Number of Graves Sold To Date	Number of Graves Remaining
B	33	14	26			73*	335
C	11	8	1			20*	52
D	6	0	0			6	6
K	14	4	0			18	0
L	8	0	0			8	8
O	6	0	0			6	4
<b>TOTAL</b>	<b>78</b>	<b>26</b>	<b>27</b>			<b>131</b>	<b>405</b>

\*Per City Commission request, once 200 graves are sold in Sections B & C, the GCAB must review those Sections prior to additional graves being sold. No more than 240 graves can be sold in those two sections prior to GCAB review.

\*\*Only flush memorials are allowed in the newly identified grave spaces.

**AREAS ALONG THE ROAD**  
**TOTAL NUMBER OF GRAVES SOLD PER SECTION**

Section	2015 Total	First Quarter 2016	Second Quarter 2016	Third Quarter 2016	Fourth Quarter 2016	TOTAL Number of Graves Sold To Date	Number of Graves Remaining
G	14	0	0			14	
E	11	0	0			11	
<b>TOTAL</b>	<b>25</b>	<b>0</b>	<b>0</b>			<b>25</b>	

This concluded the tenth quarter (31 months) as the operator of Historic Greenwood Cemetery.

**HISTORIC GREENWOOD CEMETERY 2016  
THIRD QUARTER REPORT**

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**MONTHLY BURIAL SERVICES**

MONTH	CREMATION BURIAL	FULL CASKETED BURIAL	DISINTERMENT
JULY	1	2	0
AUGUST	0	0	0
SEPTEMBER	0	0	0

**CEMETERY MAINTENANCE**

Mike Shukwit, Director of Operations and his team had the cemetery cleaned up and in good condition for the 4<sup>th</sup> of July holiday. We held off on seeding graves due to the temperatures. Bushes and landscaping were pruned and maintained. Lawn care completed weekly. All memorials as ordered have been properly installed.

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

At the end of the quarter all of the records are up to date. No lot owner requests are outstanding and no transfers are pending.

We have been meeting with families several times a week at the cemetery.

**GRAVE SALES**

**21 lot** sales in the quarter.

2016	Purchased one grave	Purchased two graves	Purchased three or more graves	TOTAL SOLD	75% of sale paid to the City	25% of sale paid to the Contractor
Resident	3	5	0	13	\$29,250	\$9,750
Non- Resident	4	2	0	8	\$18,000	\$6,000
<b>TOTAL</b>	<b>7</b>	<b>7</b>	<b>0</b>	<b>21</b>	<b>\$47,250</b>	<b>\$15,750</b>

**NEWLY IDENTIFIED GRAVE SPACES\*\*****TOTAL NUMBER OF GRAVES SOLD PER SECTION (AS OF SEPTEMBER 30, 2016)**

Section	2015 Total	First Quarter 2016	Second Quarter 2016	Third Quarter 2016	Fourth Quarter 2016	TOTAL Number of Graves Sold To Date	Number of Graves Remaining
B	33	14	26	11		84*	324
C	11	8	1	8		28*	44
D	6	0	0	0		6	6
K	14	4	0	1***		18	0
L	8	0	0	0		8	8
O	6	0	0	0		6	4
<b>TOTAL</b>	<b>78</b>	<b>26</b>	<b>27</b>	<b>20</b>		<b>150</b>	<b>386</b>

\*Per City Commission request, once 200 graves are sold in Sections B & C, the GCAB must review those Sections prior to additional graves being sold. No more than 240 graves can be sold in those two sections prior to GCAB review.

\*\*Only flush memorials are allowed in the newly identified grave spaces.

\*\*\*Space was previously sold. Transferred back to the City and sold again to another family. Space is reflected here to match the total number of spaces sold but does not affect the last two column totals concerning inventory.

Section	2015 Total	First Quarter 2016	Second Quarter 2016	Third Quarter 2016	Fourth Quarter 2016	TOTAL Number of Graves Sold To Date	Number of Graves Remaining
G	14			1		14	
E	11					11	
<b>TOTAL</b>	<b>25</b>			<b>1</b>		<b>25</b>	

**AREAS ALONG THE ROAD****TOTAL NUMBER OF GRAVES SOLD PER SECTION (AS OF SEPTEMBER 30, 2016)**

This concluded the eleventh quarter (34 months) as the operator of Historic Greenwood Cemetery.

The space sold in G is not one of the graves referenced in the number of graves remaining. This was an existing developed space that was once occupied by a tree.

**HISTORIC GREENWOOD CEMETERY 2016  
FOURTH QUARTER REPORT**

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**MONTHLY BURIAL SERVICES**

<b>MONTH</b>	<b>CREMATION BURIAL</b>	<b>FULL CASKETED BURIAL</b>	<b>DISINTERMENT</b>
OCTOBER	4	3	0
NOVEMBER	0	0	0
DECEMBER	1	0	0

**CEMETERY MAINTENANCE**

Lawn care completed weekly. All memorials as ordered have been properly installed.

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

At the end of the quarter all of the records are up to date. No lot owner requests are outstanding and no transfers are pending.

**GRAVE SALES**

20 lot sales in the quarter.

<b>2016</b>	<b>Purchased one grave</b>	<b>Purchased two graves</b>	<b>Purchased three or more graves</b>	<b>TOTAL SOLD</b>	<b>75% of sale paid to the City</b>	<b>25% of sale paid to the Contractor</b>
Resident	1	1	2	11	\$24,750	\$8,250
Non- Resident	1	2	1	9	\$20,250	\$6,750
<b>TOTAL</b>	<b>7</b>	<b>7</b>	<b>0</b>	<b>20</b>	<b>\$45,000</b>	<b>\$15,000</b>

**NEWLY IDENTIFIED GRAVE SPACES\*\*****TOTAL NUMBER OF GRAVES SOLD PER SECTION (AS OF SEPTEMBER 30, 2016)**

Section	2015 Total	First Quarter 2016	Second Quarter 2016	Third Quarter 2016	Fourth Quarter 2016	TOTAL Number of Graves Sold To Date	Number of Graves Remaining
B	33	14	26	11	9	93*	315
C	11	8	1	8	7	35*	37
D	6	0	0	0	0	6	6
K	14	4	0	1***	0	18	0
L	8	0	0	0	4	12	4
O	6	0	0	0	0	6	4
<b>TOTAL</b>	<b>78</b>	<b>26</b>	<b>27</b>	<b>20</b>	<b>20</b>	<b>170</b>	<b>360</b>

\*Per City Commission request, once 200 graves are sold in Sections B & C, the GCAB must review those Sections prior to additional graves being sold. No more than 240 graves can be sold in those two sections prior to GCAB review.

\*\*Only flush memorials are allowed in the newly identified grave spaces.

\*\*\*Space was previously sold. Transferred back to the City and sold again to another family. Space is reflected here to match the total number of spaces sold but does not affect the last two column totals concerning inventory.

Section	2015 Total	First Quarter 2016	Second Quarter 2016	Third Quarter 2016	Fourth Quarter 2016	TOTAL Number of Graves Sold To Date	Number of Graves Remaining
G	14			1		14	0
E	11					11	
<b>TOTAL</b>	<b>25</b>			<b>1</b>		<b>25</b>	

**AREAS ALONG THE ROAD****TOTAL NUMBER OF GRAVES SOLD PER SECTION (AS OF December 31, 2016)**

This concluded the twelfth quarter (37 months) as the operator of Historic Greenwood Cemetery.