

**GREENWOOD CEMETERY ADVISORY BOARD
MEETING MINUTES
FRIDAY, FEBRUARY 5, 2016 AT 8:30 AM
MUNICIPAL BUILDING, ROOM 205, 151 MARTIN**

I. CALL TO ORDER

George Stern, Chairperson

II. ROLL CALL

Present: Laura Peterson
 Kevin Desmond
 Darlene Gehringer
 George Stern
 Linda Buchanan
 Laura Schreiner

Absent: Barbara Thurber

Administration: Clerk Pierce, Deputy Clerk Arft

Guests: Cheri Arcome, Elmwood Cemetery

Mr. Stern noted that beginning with this meeting, a section for Board comments will be added. It will be added following Section VI. Contractor Report.

Mr. Stern announced his resignation as Chair of the Board, and turned over the meeting to the Vice-Chair, Laura Schreiner. She thanked him for his service as chairperson on both this board and the Ad Hoc Advisory Committee.

III. APPROVAL OF MINUTES

A. Approval of meeting minutes of December 4, 2015

Mr. Stern asked that a clarification be made to a statement he made at the December 4, 2015 meeting which is recorded in the minutes on page 3 in the fourth paragraph. He clarified that monuments are not permitted in section F and asked that the clarification be added to these minutes.

Ms. Schreiner asked that a clarification be made to her comment at the meeting which is recorded in the minutes on page 3 in the tenth paragraph. She clarified that she was referring to the cemetery rules and regulations by her reference to Birmingham standards.

MOTION: Motion by Gehringer, supported by Peterson:
To approve the minutes of December 4, 2015.

VOTE: Yeas: 6
 Nays: None
 Absent: 1, Thurber

IV. UNFINISHED BUSINESS

Mr. Stern said that he has asked the City Manager for the legal citation for the two tier pricing system not being allowed under certain circumstances in the city. Ms. Pierce noted that this topic is up for discussion under new business today.

Mr. Stern said he has also asked the City Manager for clarification of the ability of the city to adopt under PA 251 a section of PA 251 relating to abandoned spaces. Ms. Schreiner noted that this subject is also to be discussed under new business today.

V. NEW BUSINESS

A. Donor Recognition Program

Ms. Pierce briefly explained this item, and asked the board to determine what to include on a donor list, and also include potential locations for donated items.

(Mr. Stern left the meeting at 8:38 AM.)

Ms. Peterson asked if we are talking about benches dedicated to individuals or just donating benches or trees. Ms. Pierce stated that would be part of the discussion. Mr. Desmond asked if a memorial bench or a typical park bench would be located on a grave. Ms. Pierce stated a bench would not be located on a grave. There are specific requirements for grave memorials. Ms. Pierce suggested designated locations could be planned.

(Mr. Stern returned to the meeting at 8:41 AM.)

Ms. Buchanan's impression is that all of the new graves must have flat markers, which would rule out people personally buying benches for their grave. She is very cognizant that this cemetery is in a bucolic setting, and doesn't feel we want to add a lot of granite to the cemetery. She is not in favor of constructing a pavilion. She would like to keep it more bucolic. She suggested that donors could earmark donations for preservation.

Mr. Stern suggested adding a sentence from section 1b to section 1c under Donation Categories to the Donor Policy. Ms. Schreiner is not sure that this board is able to modify the city's donor policy. She noted that donors' suggestions are considered by the City and final decisions as to location are to be made by the City.

Ms. Pierce clarified that we are discussing items that would be located on city property, not on individual graves. She clarified that the Parks and Recreation donor policy is included for the Board's reference only during its discussions on a possible donor policy for the cemetery.

Ms. Gehring suggested that trash containers or bike racks are not appropriate for the cemetery and should not be included. She would like to limit the number of park benches in the cemetery. Ms. Pierce noted that the board could decide to not even have a donor recognition policy.

Ms. Schreiner suggested that a donor recognition board in the cemetery might be possible. Ms. Gehring mentioned a tiered giving system.

Ms. Arcome shared feedback that she has received from the public about making a donation to the cemetery to be used as leverage to place a monument on their graves in the sections that permit only flat markers. She suggested that the board may want to address that scenario if it chooses to create a donor policy for the cemetery.

Ms. Buchanan suggested donors could be told that there is a cemetery preservation program in addition to a general donation policy. Ms. Schreiner suggested that we look at the current donation policy, and then modify it to fit the cemetery.

Ms. Pierce asked if the board would include only monetary donations or for specific items. Ms. Gehringer suggested monetary donations, with the board, the parks department, or the clerk to determine how those donations would be used, except in the case of preservation specifically.

Ms. Gehringer suggested modifying the Parks and Recreation donor policy to create a separate policy for the cemetery. She noted the donations are considered free will donations and would be considered with the support of the cemetery's goals in mind and believes that would eliminate any questionable donations. They could be specified to general cemetery operations or to preservation efforts.

Mr. Desmond noted that section 2a of the Donation Guidelines could be modified in a cemetery policy.

Mr. Stern said the committee had thought we should seek advice of the Historic District Commission and asked if we should send this issue to them for any input. Ms. Gehringer did not think it was necessary.

MOTION by Gehringer, supported by Desmond:

For the Clerk to review the City of Birmingham Parks and Recreation Donor Policy to be revised and edited and to create a new Greenwood Cemetery Donation Policy, with the first draft of the policy to be presented at the next meeting for review.

VOTE: Yeas: 6
Nays: None
Absent: 1, Thurber

B. City Clerk's Office Update

Ms. Pierce summarized her report regarding the Perpetual Care Fund for the board. The fund is currently earning less than 1%.

Ms. Gehringer questioned the rate of earning when she is able to earn 2.5% on CDs. Ms. Pierce said the reason for that is the way the funds must be invested.

Mr. Stern informed the board that the state senate under SB 303 entered a new law that allows alternative investments under section 215 which we adopted in the Perpetual Care Fund. That bill has now been unanimously passed by the House of Representatives and is on the Governor's desk. It is possible the Governor may have signed it by now, and Mr. Stern thinks it is imperative that the committee include this under new business for the next meeting to revisit this item in light of the new law. Ms. Schreiner thanked Mr. Stern for the update.

Ms. Pierce said a request for a legal opinion was submitted to the City Manager regarding the one-tier system vs. two-tier system fee schedule. The City Manager responded that a legal opinion is reserved for items currently being discussed by the board, and must be specific and done at the time the board is discussing the topic through a formal motion of the board.

Ms. Schreiner clarified that the time to ask for a legal opinion is when the board is going to discuss an item at a meeting.

Ms. Buchanan asked about the impact on the fee schedule. Ms. Schreiner explained that the legal opinion provided previously stated the difference for purposes of a tiered fee schedule is whether or not the funding is through taxpayers. The golf course is funded by taxpayers, and a two-tier fee system is permitted in that instance. The cemetery is not funded by taxpayers, and currently there is a single fee schedule which was adopted by the City Commission. She noted that the next time the fee schedule is discussed, the board can ask that the legal opinion be reviewed in conjunction with that discussion. Ms. Schreiner noted that the board is in control of when that comes up again.

Ms. Pierce said a question had been asked whether a provision of Act 251 could be adopted for reclamation, and the answer is the same as above.

Mr. Stern said that the one vs. two tiered system fee schedule is still waiting for an answer from the City Manager for the legal opinion. Ms. Gehringer and Ms. Schreiner noted that we have previously received that legal opinion. Mr. Stern stated that it was not a legal opinion, it was an opinion of the City Manager. It was even not a legal opinion. Mr. Desmond said we have already discussed the one tier vs. two tier idea, and we have moved beyond that discussion and so a legal opinion will not be given.

Ms. Schreiner said her understanding is that also applies to the question over PA 251.

Ms. Pierce summarized her update on certification of abandonment vs. reclamation and the legal impact. A legal opinion must be requested at the time the topic is being discussed through a formal motion of the board.

Ms. Gehringer noted that this is not an immediate concern, so when we decide to discuss the issue, the board can request a legal opinion. Ms. Schreiner added it is important to note we will be getting the most current legal opinion at the time of the discussion.

Mr. Stern said his opinion is that this obfuscates the issue. When we discussed the item, we had at the time an opinion from the law firm, and he asked Ms. Schreiner what she thought of it. At the time, the board was told PA 251 did not apply to us, because the City Commission had not made a recommendation to begin reclamation. He thinks this should be listed again since a request for a legal opinion requires that in order to address it. We have a great clamor for monuments. When looking at the sales so far, we see it is in sections where monuments are allowed and we are going to run out of space very quickly. We as a board are not doing our duty to the city and to its citizens by not taking up again this item of reclamation. It is his opinion it is quite obvious that the city is clamoring for the board and for the commission to again look at reclamation because there is such demand for sites. He believes it should again come back to this board very quickly, if that is what is required for the City Manager to give us a clearer legal opinion.

Regarding the comprehensive GPR report of new graves, Ms. Pierce said she and the contractor are working together to create a summarized report excluding the non-public information.

Ms. Pierce said pursuant to the board's resolution to request a Request for Proposal for the development of a master plan for the cemetery, the clerk's office will contact companies for master plan estimates as required for budgeting purposes.

Ms. Pierce noted that the RFP for GPR services is following the same process as the Master Plan RFP. Quotes are already in and she is just waiting for the budget process to begin. Ms.

Gehringer asked if it would be included in the 2016 fiscal year. Ms. Pierce said she is working on that.

Ms. Pierce provided a screenshot of each item the city has of the electronic format of the cemetery files. She explained that some burial records are in an Access database which were converted to a BS&A system in 2010. That was used for a short period of time. All of the cemetery records were scanned into the city's LaserFiche system prior to the contract with Elmwood Cemetery. She noted that none of the formats have the ability to convert to an Excel spreadsheet of the owners. The database contains only the burial information. The hard copy books have been consistently maintained and will continue to be maintained, but there is no easy way to obtain just a list of all the owners.

Ms. Gehringer asked if the database will be public information. Ms. Pierce said we do not have that ability at this time. If the board wants to move in that direction, it can direct the Clerk to do so.

Mr. Stern noted that LaserFiche is not a cemetery friendly program, whereas Ms. Gehringer had brought to us a cemetery specific program. He asked if we had received an IT opinion as to using the LaserFiche program for cemetery use. Ms. Pierce noted that LaserFiche is only a document imaging program used for the city's records retention. Mr. Stern said it is not suitable for the purpose for which we intended it.

Mr. Desmond asked if the board is directed to tell the clerk how to keep their files and do their job. Mr. Stern said it is our duty and at the very least we should be asking for a review by the IT staff as to the suitability of what we are doing.

Ms. Schreiner asked if Mr. Stern is adding this to the priority list. He agreed. Ms. Pierce clarified for Mr. Stern that we use our hard copy files to update any information shared with us by the owners. He said this makes it difficult to query and not the type of program we should have for the cemetery, and certainly not one he would recommend.

Mr. Stern asked where on the agenda is the contractor's report and the annual report to be discussed. Ms. Schreiner the Fourth Quarter Report will be the next section after the Clerk's Office Update is complete.

C. Prioritization of Recommendations Checklist Update

Ms. Pierce hopes to put the Prioritization of the Recommendations checklist before the City Commission in late February or early March, and would like the board to review today what was summarized at the December 4th board meeting.

Ms. Gehringer recalled the order as follows: item #3 on the Priority list was item #1, item #1 on the Priority list was item #2, #2 on the Priority list was item #3, Priority 4 and 5 are correct, and prioritizing Recommendation #13 to Priority #6. She thinks reviewing the management agreement is important because before the advisory committee was created and there was a public meeting at the library, a majority of citizens wanted the agreement to be reviewed. By placing it at #6, it shows we are still giving it attention.

(Mr. Desmond left the meeting at 9:24 AM.)

Mr. Stern agreed with Ms. Gehringer's list. He strongly urged the board to review next month the new legislation on investments that the city can make, and review the contract for renegotiation at the very least because of the new incentives for the city to retain a much higher percentage of the sale of revenue from cemetery plots or cremation inurnments. Ms.

Schreiner asked if the investment topic would be included as part of the review of the management agreement. He stated the new information for the City Commission that he thinks they will have a very high incentive to look at the contract with the new information. He is giving the board advance notice that he thinks Ms. Gehringer is absolutely correct.

Ms. Gehringer completed her priority list with changing Recommendation #15 to Priority Order #7, Recommendation #7 to Priority Order #8, and Recommendation #3 as Priority Order #9.

Ms. Schreiner agrees the board should be cognizant of the contract and be informed of the legal changes. We also have to be aware that there may be ramifications if the board tries to break the contract.

Ms. Gehringer noted that the city can give 90 days notice to void the contract. Mr. Stern added that no reason is required.

Ms. Buchanan suggested that reclamation be moved up a little bit in the order. Ms. Gehringer recalled the city commission generally was not in favor of reclamation. Ms. Buchanan's opinion is that they wanted it to be very cautiously done, but were not necessarily against reclamation.

Ms. Pierce stated that we are not moving forward with reclamation until direction is received from the City Commission.

Mr. Stern's opinion the city commission was given statements that confused and misled them. He wrote a memo to clarify the issues and sent it to the commissioners. He is still waiting for a reply to the letter. He feels that as a private citizen and also a board member, the city manager should at least reply. He should not have to depend on a motion by the board for a personal reply for a memo he wrote. He feels this should be brought up sooner than later.

Ms. Schreiner asked if Mr. Stern prefers to move reclamation higher on the priority list. Mr. Stern replied he wants a reply from the city manager to know what to do.

Ms. Pierce suggested the board decide on the first five priorities and then move on to the next four so we have some kind of direction that we can follow moving forward. It sounds as though most of the discussion now is on the bottom four rather than the top five. Ms. Buchanan noted that progress is underway on the top five items currently.

Ms. Gehringer recalled at the city commission meeting the general overview, if not unanimous overview, was that since we created new graves within the cemetery, the motivation to reclaim graves was lower. Ms. Buchanan thinks we need to initiate the process since reclamation is a long process.

Mr. Stern agreed with Ms. Gehringer, and said the board has a duty to the city commission to make sure that the city commission is aware of the sales that have occurred. He made the city commission aware of the procedure under which the city should move forward. They were confused as to neglect vs. abandonment. It is not an issue that he would expect every person unfamiliar with cemetery operation would understand. The board should take the new information back to them and be made aware of the citizens desires.

Ms. Pierce commented that during the initial discussion on creating the new graves vs reclamation, she and Ms. Arcome had much feedback from people who currently own graves and who were afraid that the city was going to take their family graves. People were very opposed to reclamation.

Ms. Schreiner noted previous discussions by the board agreeing that education is important for ourselves and the public.

Mr. Stern said the city should be responding to new laws passed by the state legislature in response to the reclamation issue.

Ms. Schreiner asked for a decision on where to place reclamation on the priority list. Mr. Stern wants to wait for a response from the city manager.

Ms. Arcome reminded the board that when reclamation was being discussed, the city commissioners as well as she and the clerk's office received many calls and communications who were very passionate about the issue. Based on the city commission meeting when reclamation was discussed, the city attorney prepared a legal opinion regarding Greenwood cemetery and how it is categorized, the city commission decided not to do reclamation.

Ms. Schreiner suggested that we get back to the prioritization discussion and asked for a consensus on the priority list.

Ms. Buchanan's impression was that the city commission did not want to pursue reclamation at that time due to the new sale of graves. Ms. Schreiner said we will deal with the entire topic of reclamation, including education, once we prioritize it on the list.

Ms. Schreiner asked for a motion for the priority order of the items 1 – 5 above the remaining section of items.

MOTION by Gehringer, seconded by Stern:

To adopt the Priority List as follows:

- #1 – To recommend an RFP for GPR services be issued for the entire cemetery to develop a map of all known burial sites;
- #2 - To investigate the feasibility of installing columbaria for the inurnment of cremated remains;
- #3 - To develop a donor program for improvements specific to and appropriate to the cemetery;
- #4 – To digitize the burial records;
- #5 - To recommend an RFP for a Master Plan for Greenwood Cemetery;
- #6 – To recommend that the City of Birmingham review the Greenwood Cemetery Management Agreement;
- #7 – To contact owners whose records reflect no burials in the last fifty years to determine if they wish to sell graves back to the City;
- #8 - To continue to review the cemetery regulations;
- #9 - To commence reclamation and review records every ten years.

Ms. Buchanan suggested switching #8 and #9, since they are similar items. Ms. Gehringer agreed to the amendment.

Mr. Stern seconded the motion as amended.

VOTE: Yeas: 5
Nays: None
Absent: 2, Thurber, Desmond

The amended priority list is as follows:

- #1 – To recommend an RFP for GPR services be issued for the entire cemetery to develop a map of all known burial sites;
- #2 - To investigate the feasibility of installing columbaria for the inurnment of cremated remains;
- #3 - To develop a donor program for improvements specific to and appropriate to the cemetery;
- #4 – To digitize the burial records;
- #5 - To recommend an RFP for a Master Plan for Greenwood Cemetery;
- #6 – To recommend that the City of Birmingham review the Greenwood Cemetery Management Agreement;
- #7 – To contact owners whose records reflect no burials in the last fifty years to determine if they wish to sell graves back to the City;
- #8 - To commence reclamation and review records every ten years
- #9 - To continue to review the cemetery regulations.

VI. CONTRACTOR REPORT

A. Fourth Quarter Report

Mr. Stern asked if the amount of \$122,625.00 and was calculated at the rate of 50% of sales. Ms. Arcome responded that it was calculated at the rate of 75%. Mr. Stern said it was incorrect and should be corrected. As we know 75% is not put into the fund. Only 50% is put into the fund, 25% is returned to the city for its general purposes.

Ms. Pierce and Ms. Arcome stated that is incorrect. Ms. Pierce stated that 75% is deposited into the fund.

Mr. Stern said he will look it up before the next meeting, and stated that it specifically says that 50% goes into the fund, 25% goes to the contractor, and 25% goes to the city for return of capital.

Ms. Pierce stated that 75% goes in to the Perpetual Care Fund.

Ms. Buchanan asked Ms. Arcome if that number is a total for the year. She responded that the reported number does not include October, November, and December. She stated that the reported amount is the total amount.

Ms. Buchanan asked when the 49 lots were sold. Ms. Arcome stated they were sold during the months of October, November and December.

VII. BOARD COMMENTS

Mr. Stern requested listing Senate Bill 303 for the next meeting.

He also commented that in 7 weeks through September 31st, we sold at the rate of 1 per day, which is the rate of 360 per year, so if that rate were to continue, we will be in serious shortage of graves, which makes it incumbent upon us to move forward with reclamation.

He also commented that the report shows that contractor has been paid \$35,198 as sales commission, and \$11,850 for burial and that was in a very short period of time, for a total of \$47,048. He asked Ms. Schreiner whether in light of that, she wished to revise her comments that the contractor was operating at a deficit.

Ms. Schreiner did not wish to comment.

Mr. Stern said he thinks the numbers speak for themselves, and it is incumbent upon us to after reviewing the report to review the cemetery contract particularly in light of the action by the city commission in bringing back emergency services from a contractor to city administration.

Ms. Schreiner stated that since Mr. Stern stepped down as Chairperson, the board needs to conduct an election for Chairperson and Vice-Chairperson, and suggested that be included in new business at the next meeting.

VIII. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

IX. ADJOURN

The meeting adjourned at 9:50 AM.

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