

Crematorium Review Committee
Findings and Recommendations Report

Submitted to Gardiner City Council
June 25, 2010

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- City Council Resolution 09-66
- Committee Meeting Minutes and Agendas
- Selected Maine Statutes
- Tax Assessor Information from seven Maine Communities with Crematories
- Memo from Kevin Ostrowski to Marc Cone and Lynn Cornfield dated Nov/09 concerning maximum predicted mercury concentrations.
- Department of Environmental Protection license to the Oak Grove Cemetery for the proposed crematorium date filed 10/09.
- Financial Implications for City Ownership of the Cemetery from Anne Davis
- Traffic Estimates
- Letters, Petitions, and E-mail submitted to the Committee
- Planning Board Application and Associated Attachments

Please note that a copy of this report and all documents listed in the Appendix are available online at: http://www.gardinermaine.com/Public_Documents/GardinerME_Depts/CrematoriumCom.

Introduction:

Committee Purpose:

The Crematorium Review Committee was established by the City Council pursuant to Resolution 09-66 in December 2009. The City Council directed the Committee to study the issues regarding the potential establishment of a crematorium in the Oak Grove Cemetery and to make recommendations to the Council on the potential siting of the crematorium including possible alternatives to address the Cemetery Association's future potential financial difficulties.

The Resolution set forth the specific duties of the committee, tasking the Committee to identify and discuss the four issues listed below.

Duty # 1 Identify and consider the public policy implications of siting a crematorium in the Oak Grove Cemetery, located in a high density zone, including but not limited to:

- Environmental and economic impacts on abutters and others living in the vicinity of the Oak Grove Cemetery including byproduct or waste, noise and traffic.
- Compatibility of a crematorium with the use of the cemetery as a place of quiet enjoyment.
- Compatibility of the crematorium with the cemetery as a place of historical significance in the community.
- Compatibility of use of a crematorium with abutting properties in High Density Residential Zone.
- A comparison with reasonably available information about siting of crematoria in similar locations in other parts of the country.

Duty # 2 Invite the Oak Grove Cemetery Association to share its analysis of its financial condition and future financial challenges that caused it to decide upon a crematorium as the preferred option to ensure future financial viability.

Duty # 3 Identify the City of Gardiner's potential liability in the case of the Oak Grove Cemetery Association's financial insolvency.

Duty # 4 Identify potential alternatives to a crematorium as the means of ensuring the long-term financial viability of the Oak Grove Cemetery Association.

The chairman and committee members were appointed by the Mayor, and the first meeting convened by then Acting City Manager Anne Davis on Thursday, February 25th. The Committee established a meeting schedule and met between February and June 2010 to address the specific issues assigned by the City Council.

List of members and supporting staff:

The Committee members are: Thomas Harnett Chair, neutral member; Dorothy Kaloust, neutral member; Kirk Mohny, opponent member; Brian Rines, proponent member; and Ron Trahan, neutral member. Staff and Consultants include: Anne Davis, then Acting City Manager, Jason Simcock Planning and Development Director, David Cichowski Code Enforcement Officer and Consultants, Bill Najpauer and Sarah Flaks.

How the report is organized:

The report is organized to reflect the four duties (findings) assigned to the Committee by the City Council.

Each of the four findings is presented and includes a summary that describes how the Committee discussed and researched the issue. This is followed by a list of conclusions based upon a majority vote of the Committee, that sets forth how the Committee interpreted the information and data pertaining to the particular topic. A minority conclusion is also listed as applicable.

Report Summary:

The Committee held nine meetings, including a tour of the Oak Grove Cemetery, and a site visit to a crematorium in Searsport. An agenda for each of the meetings and meeting minutes are included in the appendix.

Among other matters, the Committee reviewed the effects of siting a crematorium in the Oak Grove Cemetery and discussed the efforts of the Cemetery Association to identify and provide a revenue stream for the financial stability of the cemetery.

The Committee considered each of the duties listed in the City Council Resolution and after discussion on the issues, held ten meetings to establish their conclusions and recommendation to the City Council.

A conclusion based upon the available information discussed for each finding is presented for City Council consideration. Both a majority and minority conclusion are presented as applicable.

Report Findings

Introduction

Each finding presented is taken from the City Council Resolution and is a specific duty for the Committee to discuss, consider and provide feedback to the City Council.

The summary will briefly explain how the Committee researched and discussed items pertaining to the siting of the crematorium and its implications for the City, neighborhood, and Oak Grove Cemetery.

The findings have been decided by a majority vote of the Committee and show how the Committee interpreted and understood the information concerning each finding topic. When applicable a minority conclusion is also presented.

Finding # 1

Identify and consider the public policy implications of siting a crematorium in the Oak Grove Cemetery, located in a high density zone, including but not limited to:

- **Environmental and economic impacts on abutters and others living in the vicinity of the Oak Grove Cemetery, including byproduct or waste, noise and traffic.**
- **Compatibility of a crematorium with the use of the cemetery as a place of quiet enjoyment.**
- **Compatibility of the crematorium as a place of historical significance in the community.**
- **Compatibility of use of a crematorium with abutting properties in High Density Residential Zone.**
- **A comparison with reasonably available information about siting of crematoria in similar locations in other parts of the country.**

Summary

The Committee met with Marc Cone and Lynn Cornfield from the Department of Environmental Protection Air Bureau at their March 9th meeting. DEP staff reviewed the environmental impacts of

crematories, explained their regulatory role and discussed the specific details pertaining to the Oak Grove Cemetery crematorium permit application. DEP staff answered questions pertaining to air quality, smoke, odor, mercury emissions and the enforcement and inspection process at similar crematories already permitted to operate in the State.

The Committee reviewed traffic estimates provided by Renaissance Planning Associates based upon the application submitted to the Planning Board for a crematorium at the Oak Grove Cemetery. The estimated vehicle count is 34 vehicles per day.

The Committee conducted a tour of the cemetery on March 25th. The tour allowed the Committee to learn about history of the cemetery, view the proposed site of the crematorium and to observe the proximity of the proposed activity to the surrounding neighborhood.

The Committee visited a purpose-built crematorium in a rural section of Searsport on April 5th to view an operating facility using equipment similar to that proposed for the Oak Grove Cemetery. The site visit provided practical observations concerning noise, odor, smoke and proximity to neighboring residential structures and mobile homes.

The City's tax assessor surveyed tax assessors from seven other communities with a crematorium concerning any effect upon the property values of properties adjoining a crematorium. The tax assessors from the following communities provided information: Auburn, Bangor, Calais, Freeport, Portland, Presque Isle and Searsport. Each of the tax assessors reported that no effect on property values was noted, and indicated that they were not aware of any complaints concerning the operation of the crematorium in their communities. [However, in Calais no sales had occurred near their cemetery, and there is no actual data to determine an effect] Two of the facilities are located near residential structures, but none is located within a dense residential neighborhood.

Finding # 1 Conclusions:

Each subsection of finding # 1 is discussed individually.

Environmental and economic impacts on abutters and others living in the vicinity of the Oak Grove Cemetery, including byproduct or waste from the crematorium process, noise and traffic impacts.

Smoke:

Site visit observations showed no visible emissions. The operator at the Searsport facility commented that in winter, moisture/condensate would be visible from the stack.

Marc Cone, Director of Air Division, Maine DEP, and N. Lynn Cornfield, DEP Project Engineer presented information to the Committee regarding their review of the proposal. The Air Bureau reviews for three items, use of Best Available Control Technology (BACT), no impact on ambient air standards, and that emissions do not exceed limits established in regulations. DEP noted that several other units of this type have been constructed in state, and no complaints have been received regarding their operation. The DEP representatives also noted that the retort machines conform to all state and federal requirements.

A majority (4/5) of the Committee felt that impact would be minimal, and recalled that the DEP experts noted that middle school produces greater emissions than this proposed facility.

The minority (1/5) conclusion is that any release of new types of emissions will degrade ambient air quality in a high density residential zone that the City should be making every effort to protect.

Noise:

Observations from Searsport site visit indicated the main source of noise is from an exhaust fan. The retort burners are quiet from the exterior. Most committee members commented that at 15 feet, the sound of the fan is equivalent to the noise of a window air conditioner, and would not interfere with a conversation. The operator of the Searsport facility commented that he would install a variable speed fan to further lower the noise level if he were to modify his operation.

One Committee member concluded that the likely noise level would interfere with the Oak Grove Cemetery as a place of quiet contemplation, and was concerned that the retort machine could be heard outside the facility.

Odor:

Based upon site visit observations of the Searsport facility, the committee unanimously concluded that there was no noticeable odor present. A discussion with an adjacent landowner revealed no previous complaints about odor. The Committee noted it would be important that the facility be operated and maintained properly.

Traffic

Traffic counts were provided by the planning consultants, Renaissance Planning Associates. The planning consultant assumed the facility would operate between the hours of 8am to 5 pm., Monday through Friday, and would employ 5 people. It was assumed that there would be 7 bodies processed per day. Based upon these assumptions, it is estimated that the facility will generate approximately 34 trips per day. This is equivalent to the traffic generated by three residential homes. The estimated traffic to the facility would include occasional trips to and from the facility from UPS and propane delivery trucks. A temporary increase in traffic would occur during construction of the facility.

Other Environmental Impacts

One Committee member commented that several additional environmental impacts should be noted in the report, such as impact from an increase in paving/impervious surfaces, additional dust kicked up from travel over dirt paths, and impact from additional lighting.

Economic Impacts

Tax assessors from other Maine communities reported that crematoria in their communities did not affect property values. One neighbor of the cemetery, who is a realtor, noted that prospective tenants/purchasers were very concerned when told of the potential crematorium. The Committee was unable to make a definitive conclusion whether the crematorium would negatively affect property values in the area surrounding the cemetery. An additional study involving the impact on property values of the construction of or change of use of other facilities with great initial concern in other residential areas of the city would need to be undertaken to objectively determine changes in property values due to proximity to a crematorium distinct from any changes in value due to the economic climate, etc. There was a search for comparable information, but none was found in the time period allotted by City Council.

Compatibility of a crematorium with the use of the cemetery as a place of quiet enjoyment

The majority (4/5) conclusion is that the crematorium is compatible with the cemetery as a place of quiet enjoyment in most areas of the cemetery. People in immediate proximity to the crematorium will notice some noise and the presence of the facility. The following are additional comments relating to the issue:

The presence of the crematorium when it is operating could affect people visiting or walking in the cemetery when they are close to the building. The effect would diminish the further away you traveled from the building. The cemetery contains 20 acres, so the majority of the area would not be directly affected.

The placement of the crematorium can be viewed as a question of balance between some noticeable effect from the facility when in close proximity to residential homes and the larger portion of the cemetery which is not affected by the building.

The purpose of the cemetery is to deal with human remains and as such, a crematorium fits within that purpose. The crematorium allows a new revenue source to maintain and improve the cemetery grounds and will help to secure a better financial future for the cemetery.

The crematorium will produce some noise; however, many people using the cemetery grounds for passive recreation will likely become accustomed to the facility. Some people have expressed displeasure with the facility and have strong feeling about how upsetting it will be having the facility in the cemetery. These feeling are real and while their impact cannot be measured as with noise reading, they are nonetheless important and should be noted.

A minority opinion stated the following:

The minority (1/5) conclusion is that based upon the nature and character of the cemetery, the crematorium in the proposed location is incompatible with the use of the cemetery as a place for quiet enjoyment and contemplation; as a place to visit the graves of family members and to pay respects to the dead; and as a place for passive recreation.

Compatibility of a crematorium with the cemetery as a place of historical significance in the community.

The majority (4/5) conclusion is that the proposed modifications to the two existing structures will affect the original features of the structures, however, the buildings are not listed in National Register of Historic Places and are not required to conform to historic rehabilitation standards. The local importance of these structures is recognized and a way needs to be identified to make sure any proposed work to these two structures is mindful of the age, design and local significance.

It is important to recognize that to different degrees, both structures require attention, including significant structural repairs, modifications and extended maintenance. The crematorium proposal to use the receiving building and repair the wood frame building is a way to address the poor condition of the structures. Funds to make necessary repairs without the placement of the crematorium are not available from the Oak Grove Cemetery and further degradation of them is likely without external financial assistance to the Association.

The minority (1/5) conclusion is that the alterations needed to convert the historic receiving tomb (including, but not limited to cutting an opening in the masonry of the side wall for a garage size door, installation of a commercial exhaust fan, and installation of a smoke stack through the roof) and the office

building for uses associated with the crematorium will adversely affect their historical and architectural character. Furthermore, the overall character of the Cemetery, which retains a high degree of its historic design and aesthetic qualities and appears to be eligible for listing in the National Register of Historic Places, will be negatively impacted by the development of a crematorium in the proposed location. These impacts seem to be inconsistent with a promise made in the City Council's Mission Statement that the City will "value and preserve community assets of natural, cultural and social importance."

Compatibility of use of a crematorium with abutting properties in a High Density Residential Zone

Conclusions:

The majority (4/5) conclusion is that the placement of the crematorium within a high density residential district may be problematic for those whose property abuts that of the proposed crematorium. The effects from the facility with respect to certain measurable factors such as noise, smoke, odor, discharges and traffic are negligible and conform to applicable state air emission requirements. However, some adjacent and nearby landowners object to the location of the crematorium based upon a variety of issues, some of which are subjective and unquantifiable, but may be legitimate to a zoning discussion about where to place such a facility.

The minority conclusion (1/5) is that the crematorium use is incompatible with abutting properties in a high density residential zone; that such a use is inconsistent with other uses allowed in this zone and cannot be accommodated by any type of performance standards; and that such a use will erode the character, quality and value of one of the City's most desirable residential neighborhoods.

A comparison with reasonably available information about siting of crematoria in similar locations in other parts of the country.

Conclusions:

Zoning ordinances in other areas of the country typically relegate crematoria to industrial/commercial zones, or undeveloped rural areas, a practice which dates back to times past when such operations released more emissions than at present and were typically considered a commercial use.

The committee's unanimous conclusion is that locating the crematorium on an alternative site in a less populated area would be the ideal solution to the present situation. However, current state law requires the placement of a crematorium within a cemetery containing a minimum of 20 acres of land. Placement of the crematorium at another location would require changes in state law and an alternative would be to find another site within the Oak Grove Cemetery for the facility.

The committee recommends that the City Council discuss such possible remedies with Senate and House members representing Gardiner.

Finding # 2 The financial implications for the cemetery association and the crematorium as a financial vehicle to support future operations.

Summary:

The Oak Grove Cemetery Association discussed the financial operations of the cemetery and their reasons for needing an additional revenue source to continue operating the cemetery. The association reported

that they made an extensive search for financial options to increase their revenue sources and have concluded that a crematorium is the most viable. Their search found a limited number of useful financial opportunities which have additionally been hampered by current economic conditions.

Conclusions:

The majority (4/5) conclusion of the Committee is the following:

The Cemetery Association has faced low revenue yields from its existing investment instruments and explored other revenue sources to provide funds for continued operations, maintenance and capital improvements. A limited number of viable solutions were identified; the only one which provided a new and stable source of income was a crematorium, given the high demand for this type of burial in the State of Maine. The crematorium appears to be an ideal long-term revenue source for the cemetery. However, it is also important to further identify other revenue sources.

The minority (1/5) conclusion is that the Association has not provided a business plan for the crematorium proposal and that despite a short-term revenue shortfall from investments, other strategies may be available to increase revenue, including additional City contributions and a revised financial investment plan.

Finding # 3 The implications upon the City if the cemetery becomes financially insolvent.

Summary:

Anne Davis provided a City Financial Impact Scenario to the Committee for discussion. Jason Simcock provided information about other municipal take-over arrangements in Mount Vernon and related information from the Maine Municipal Association. A number of legal issues pertaining to the cemetery financial assets and obligations, title and transfer of title will need to be researched further to obtain a clearer picture of the legal costs and implications.

The City Council has also determined that a new financial implication study be performed by the Public Works Department to provide the Council with a different source of information. This information will be provided directly to the City Council and will not be reviewed or considered by the Crematorium Committee.

Conclusions:

The unanimous conclusion was that since the City Manager, per a directive from the City Council, has directed the Public Works Director to develop a new financial impact statement of the City taking over the maintenance and operations of the cemetery, the City Council will be able to make a determination of this finding based on its own information.

The Committee recognized the work and effort of the Oak Grove Cemetery Association to determine other financial opportunities to increase the revenue stream and maintain the current level of maintenance and capital improvement to the facility. The City currently appropriates an annual amount of \$6,000 to supplement the Oak Grove operations, though the Association has thus far not requested the 2009 and 2010 fiscal year allocation.

The cost implications for the City to assume a larger or a complete role in cemetery operations will involve additional and unknown legal fees to address transfer of ownership and financial assets, annual costs for operations and maintenance and capital costs for facility improvements such as grave stone

rehabilitation, etc. These costs might be partially offset by the receipt of certain cemetery association assets.

Finding # 4 The other potential alternatives to a crematorium as ensuring the long-term financial viability of the cemetery association.

Summary:

The Oak Grove Cemetery discussed its financial situation with the Committee and indicated that they have explored many options to increase revenue sources for cemetery operations.

Conclusions:

The Committee recognized the efforts of the Cemetery Association to identify new revenue sources for the cemetery to replace lagging and stagnant investment income, and the difficulty they face developing a workable financial strategy for the cemetery. Their situation is similar to many non-profit entities trying to locate reliable revenue streams. The Committee also acknowledged that a crematorium would provide a new revenue source for the cemetery especially considering the growing public choice for cremation instead of burial.

The Committee concluded that in consideration of the efforts undertaken by the Cemetery Association the following alternatives may also be available to increase revenues for their operations.

- Additional contributions from the City as a short or long term revenue source to supplement existing revenue sources.
- Listing the cemetery on the National Register of Historic Places may make grant funds available to the cemetery association.
- Revising the existing financial investment instruments to obtain higher yields.
- Increasing existing cemetery fees to provide revenues.

Final Recommendations

Upon completing its research and review process, as requested by the Gardiner City Council in Resolution 09-66, the Crematorium Committee voted at the June 8, 2010 meeting, three (3) in favor and one (1) opposed, to make the following findings and recommendation to the City Council*:

Summary Recommendation Options

Based on the overall review of the findings, as included in the attached Committee's "Findings and Recommendations Report," a majority (3) of the Crematorium Committee supports having a crematorium located at the Oak Grove Cemetery, with conditions. A minority (1) of the Committee opposes the Final Recommendations. These conditions are:

- Due to proximity to neighborhoods, its location in a High Density Residential Zone, and other findings in the report, the City Council should explore other locations within the Oak Grove Cemetery for siting the crematorium;
- Revenues generated by any crematorium established in the Oak Grove Cemetery, minus salaries and expenses associated with the construction, operation and maintenance of the facility, shall be

dedicated to funding operations at the Oak Grove Cemetery, including maintenance, upkeep and improvement of the cemetery;

- The City Council should contact area legislators to discuss the potential amendment of 13 M.R.S.A. §1341 (1) which restricts the location of crematoria to cemeteries that are at least 20 acres in size and have been in existence and used for burial for at least 2 years preceding the erection of a crematorium. Any such amendment must be introduced and enacted as emergency legislation in the next legislative session. If no amendment is introduced, or if emergency legislation is not possible, this condition is null and void.

** All findings of the Committee were approved by a 4 to 1 margin, unless otherwise noted. Due to the absence of a member at the June 8th, 2010 meeting, the final recommendations were approved by a majority of 3 in favor and 1 opposed.*