AGENDA ITEM # 9.2.A

REPORT TO CITY COUNCIL

Report Prepared by: Jason Gorr – Public Works Director

Date: May 5, 2020

Subject: Cemetery – Ordinance Amendment

Report: PW Staff has identified the need to update the Cemetery Ordinance to better accommodate maintenance and allow for the best appearance possible at the City managed property. Proper and clear rules are key for compliance from the community members visiting our cemetery and keeping a well maintained, beautiful property that they deserve.

Attached is the revised ordinance amending Chapter 5, Article 2 of the City Code regarding regulations for operation of the Pequot Lakes Cemetery. Additions are noted in red and deletions are noted as strikethroughs.

Council Action Requested:

1. Council motion amending Chapter 5, Article 2 of the City Code regarding regulations for operation of the Pequot Lakes Cemetery.
2. Council motion authorizing a summary publication. A 4/5ths vote of the Council is required.

ORDINANCE NUMBER 20-__, SECOND SERIES
AN ORDINANCE AMENDING CHAPTER 5 OF THE CITY CODE
REGARDING REGULATIONS FOR OPERATION OF
THE PEQUOT LAKES CEMETERY
CITY OF PEQUOT LAKES
COUNTY OF CROW WING
STATE OF MINNESOTA

The City Council of the City of Pequot Lakes does ordain as follows:

Purpose and Intent: The purpose and intent of this ordinance is to amend Chapter 5 of the Pequot Lakes City Code regarding regulations for operation of the Pequot Lakes Cemetery.

Amendment: Chapter 5, Article 2 shall be amended as follows:

Section 5-2.1. ESTABLISHMENT

A cemetery has been established and is continued upon land acquired by petition of the Pequot Cemetery Association and now owned by the City of Pequot Lakes, and described as follows:

Beginning at the northwest corner of the northwest quarter of the northeast quarter (N.W. corner of N.W. ¼ of the N.E. ¼), Section fifteen (15), Township one hundred and thirty six (136), Range twenty-nine (29); running and thence easterly along the section line twenty-two (22) rods; thence southerly at right angles 22 rods, thence westerly at right angles twenty-two (22) rods; thence northerly and at right angles twenty-two rods to the place of beginning, Crow Wing County, being three and one-fourth (3 ¼) acres. The plat of said cemetery as Jack Curo, surveyor, and placed on file in the office of the City Administrator ~~City Clerk~~ showing all boundaries, sections, lots, divisions, roads, drives, and paths is hereby adopted as the official plat of said cemetery which shall be called the Pequot Lakes Cemetery.

No person shall lay out or establish any cemetery, or use any lot of land within this City for the burial of the dead except in the said City Cemetery, or some other tract of land duly designated as a cemetery by an ordinance of the City Council.

Section 5-2.2. REGULATIONS

These regulations are designed to operate the cemetery in an orderly fashion and to advance the interests and elevate the character of the Pequot Lakes Cemetery. No changes can be made to these regulations without the approval of the Pequot Lakes City Council. Special requests must be presented to the Council and, if granted, will appear on the deed or addendum to the deed.

Section 5-2.3. SALE OF LOTS

The City Administrator~~/Clerk~~ is responsible for collecting fees for the sale of burial lots and issuing receipts therefore. Upon receipt of the entire cost of lots sold, the City Administrator~~/Clerk~~ will

issue deeds as proof of ownership. Attached to the deed will be a set of regulations for the owner's information. The City Administrator~~/Clerk~~ is also responsible for keeping accurate records of the burial lots, ownership and occupancy.

1. Burial lots will be sold in multiples of one.

2. The price of each burial lot will be set by resolution annually by the City Council. A charge will be set by resolution annually by the City Council for staking and clearing snow from lots for winter interments. The charge for staking and clearing snow from lots is applicable beginning on the date of first measurable accumulation of snowfall through April 30th.

3. The owner of a burial lot is not authorized to sell such lot to another person. If for some reason the owner may wish to dispose of a burial lot, it can be re-sold to the City at the price the owner paid for it upon proper proof of such price and presentation of adequate proof of ownership.

Section 5-2.4. <u>INTERMENTS</u>

All interments, disinterments or removals must be made at a time and in a manner approved by the City and upon payment which shall be set by the City Council.

1. No interment shall be permitted in any lot until such lot is fully paid for except as may be provided in the sales agreement.

2. The City reserves the right to require at least forty-eight (48) hours' notice prior to any interment and at least forty-eight (48) hours' notice to any disinterment or removal.

3. The City reserves the right to refuse the interment and to refuse to open any burial lot for any purpose except upon written application by a lot owner of record or his/her authorized representative.

4. In order to assist in maintaining the constant beauty of Pequot Lakes Cemetery no interment shall be made without the use of a concrete steel reinforced vault.

5. When instructions received from a lot owner or his/her legal representative regarding the location in a lot of an interment space are indefinite or when for any reason the interment space cannot be opened where specified, the City may at its discretion open such other location in the lot as is deemed best and proper to avoid delaying the interment service. The City shall not be made liable for payment of damages for such action or for any error that might develop therefrom.

Section 5-2.5. <u>LIABILITY OF THE CITY</u>

The City shall not be held responsible for the execution of any order given by telephone or for any error occurring from lack of the receipt of proper written instructions pertaining to the funeral service or interment.

1. The City reserves and shall have a right to correct without liability for the payment of damages any errors that may be inadvertently made by the City either in making interment, disinterment, or removal, or in the installation of memorial or in the description, transfer or conveyance of burial rights, and to substitute and convey in lieu thereof other interment property of similar nature and location insofar as is possible, or as may be selected by the City or in the sole discretion of the City to refund the amount of money paid on account of its purchase. In the event such an error is in respect to the interment of the remains of the deceased person in such property, the City reserves the right to substitute such other property of similar nature in the location as may be substituted and conveyed in lieu thereof.

2. The City shall not be liable for the payment of any damages for any delay in the interment of a body of a deceased person caused by reason of a protest to the interment of such a body or the violation of the rules and regulations of the cemetery.

3. In making disinterments, the City will exercise reasonable care but will not be liable for payment in connection with any injury to casket or burial case.

4. The City shall incur no liability whatsoever except for its willful acts or malfeasance.

5. The City shall be entitled in all cases to rely upon the statement, written or oral, of any person claiming to have knowledge of the facts and claiming to be authorized to act and shall incur no liability whatsoever by reason of an act committed by it or permitted to be done in reliance on such statement.

Section 5-2.6. <u>NUMBER OF PERSONS INTERRED PER GRAVE</u>

The bodies of two or more persons shall not be interred in one grave unless approved by the City, except in the case of cremation, whereby up to six (6) persons can be buried in one grave.

Section 5-2.7. <u>LOT OWNER'S RIGHTS</u>

In case of a lot owner's death, the rights of the surviving wife or husband and next of kin will be recognized in accordance with the laws of the State of Minnesota insofar as it is able to ascertain who such parties are, but the City will not be responsible for any errors which may be committed due to lack of adequate information.

In the absence of an express direction by the owner of the lot or provision contained in a will, the following will be recognized as having the right to direct interments herein:

1. The original owner may at any time designate whom he/she wishes to have interred in the lot which may be recorded on the books of the cemetery and which will be recognized by the City subject to right of interment upon the part of the surviving spouse.

2. If no such designation is made, the surviving husband or wife shall have the first right.

3. Where there is not a surviving husband or wife, the heirs of the purchaser may by agreement in writing, determine who among them shall have the right of interment.

4. In the event such original purchaser or his/her heirs shall not have arranged for future interments of the direct lineal heirs, then the direct lineal heirs of the purchaser or his/her spouse shall in the order of their death be entitled to interment thereon until the lot shall be filled.

5. In case there are not lineal heirs then the nearest of kin to the owner and their respective spouses have the right to interment in order of their need.

Section 5-2.8. <u>DISINTERMENTS</u>

No disinterments will be allowed except as provided by law, nor without the assent in writing of the surviving husband or wife, or next of kin to the person whose body is to be disinterred or removed together with the written permit or order from the owner of the lot or his/her legal representative or person in control of such lot.

The City shall under no circumstances be held liable in case of disinterment or removal where it acts upon the written order of such persons. The City shall have the right to refuse to permit disinterment while the payments for the cemetery lot have not been completed or are in default.

Section 5-2.9. <u>MONUMENTS, MARKERS, FLOWERS, VASES, ETC.</u>

All monument and markers placed in the cemetery shall be of bronze, granite, or marble and no vertical joints therein will be permitted. All foundation for monuments and other structures must be of sufficient depth and stability to support the proposed structure, and no structure may be erected until the foundation has been approved by the Public Works ~~Supervisor~~ Director or when any marker, monument or other structure to be erected in the cemetery requires, in the opinion of the Public Works ~~Supervisor~~ Director, foundation to support it properly, such foundations shall be installed under the direction of the Public Works ~~Supervisor~~ Director at a proper depth and strength to support the proposed structure at the expense of the person erecting the structure.

1. Emblems or flag holders furnished by the Veterans shall be placed flush with the ground within six (6) inches of the headstone~~, the locations of which shall be directed by the Public Works Supervisor~~.

2. All headstones and/or footstones need approval by the Public Works Director prior to installation. No seats, fences, separate vases, urns or other memorials other than the markers herein, will be permitted. ~~A bench that serves as the monument may be permitted after review and approval by the Public Works Supervisor.~~

3. No planting of any kind in any section of the cemetery is permitted, other than by the Public Works ~~Supervisor~~ Director. The Public Works Director is authorized to remove any planting of any kind in and on cemetery lots.

4. Glass containers, of all kinds, and cans are prohibited on graves. If placed thereon they will be removed by the Public Works ~~Supervisor~~ Director. Metal vases, approved by

the Public Works ~~Supervisor~~ Director, are allowed on the grave lot ~~only~~ within six (6) inches of the headstone and/or footstone. ~~The City will not be responsible for brass vases not removed or tipped before snow covers them.~~

5. ~~Flowers, wreaths or funeral designs will be permitted on the grave lot only. Potted plants must NOT be sunk in the ground. No copings around graves will be permitted.~~ Flowers, wreaths or funeral designs will be permitted on the grave lot within six (6) inches of the headstone and/or footstone only. Potted plants must be in an elevated planter, platform and/or shepherds hook a minimum of three (3) feet in height and within six (6) inches of the headstone or footstone. No copings around graves will be permitted. All artificial flowers must be placed in a metal vase on the headstone or footstone or within six (6) inches of the headstone or footstone. All funeral designs and pots that are not in compliance will be removed by the Public Works Director.

6. ~~The Public Works Supervisor is authorized to remove all decorations including flowers, pots, wires and artificial flowers as they become unsightly or uncared for or that have not been removed by October 1st.~~ All flowers, wreaths or funeral designs, including flower pots, wires and artificial flowers, shall be removed by October 1st. The Public Works Director shall remove all flowers, wreaths or funeral designs after October 1st. Flowers, wreaths or funeral designs that have become unsightly or uncared for shall be removed by the Public Works Director.

7. Flags for graves of Veterans and other organizations will be permitted two weeks before and two weeks following Memorial Day and Veteran's Day.

Section 5-2.10. <u>CEMETERY GROUNDS REGULATIONS</u>

1. No person shall discharge any firearm or have possession of any firearms within the cemetery grounds, except in case of military funeral and on Memorial Day without the written consent of the City Council

2. No person shall obstruct any drive or path in the cemetery or in any way injure, deface or destroy any stone structure, grave, flower, tree, shrub, vine, or any other object in the cemetery.

3. No person shall disturb the quiet of the cemetery by noise of any kind or by improper conduct.

4. No person shall enter or leave the cemetery except through the gates.

5. No person may use the cemetery grounds or any road therein as a public thoroughfare nor drive any vehicle through the cemetery grounds except for the purpose of making deliveries in the cemetery.

Section 5-2.11. <u>SPECIAL CASES</u>

Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The City therefore reserves the right without notice to make exceptions, substitutions or modifications in any of these rules and regulations when in its judgment the same appear advisable and suspension or modification shall in no way be considered as affecting the general application of such rule.

Section 5-2.12. UNOCCUPIED AND UNSOLD LOTS

The City reserves the right to plat and re-plat unoccupied and unsold lots, remove and change the location of trees, shrubs and other objects, lay out and change location of roads, paths and walks and to make such other changes or alterations as it deems necessary or advisable and to correct errors in locations and descriptions in contracts, deeds, and interments without incurring any obligation to or securing the consent of lot owners.

Section 5-2.13. MODIFICATIONS

These rules and regulations may be changed or modified at any time as occasion may require, without notice by the City to the lot owners.

1. The term "person" in this Chapter includes firms and corporations.

Effective Date: This ordinance amendment shall be in full force and effect from and after passage and publication according to state law.

Repeal: This ordinance shall repeal all ordinances inconsistent herewith.

Passed by the Pequot Lakes City Council this 5th day of May, 2020.

_____
James Tayloe
Mayor

ATTEST:

_____
Nancy Malecha
City Administrator