

HOOVER, PENROD, DAVENPORT & CRIST

May 13, 1997

Page 3

(h) Disbursement of monies of the Commission consistent with a budget recommended by the Commission and approved by the Town Council;

(i) Preparation of a complete annual report of operations for the information of the Commission prior to each of its annual meetings, including a financial report showing actual receipts and expenditures versus budgeted items and any proposed significant capital projects;

(j) Preparation of a proposed annual budget for consideration of the Commission prior to each of its annual meetings;

(k) Responding to inquiries from the Commission but not from one or more individual commissioners; and

(l) Preparation of recommendations to the Commission concerning changes to policies and rules applying to the cemetery.

New Section 10. Use of Town Resources and Contractors.

In the performance of his delegated authority the Town Manager may use the labor, equipment, supplies and other resources of the Town of Elkton and any contractor as he deems appropriate. In the event that the Town's resources are so used, the Town shall be paid at a hourly rate for labor and equipment and a piece or bulk rate for supplies or other inventories. Such charges may include prorata expense components. In the event contractors are used they may be paid a fair market rate.

New Section 11. Acquisition of Commission Equipment and Inventories.

The Town Manager may purchase or accept donations of equipment, supplies or other inventories useful for the operation of the cemetery.

New Section 12. Employees of the Commission.

The Town Manager may employ, discipline and discharge on behalf of the Commission full-time or part-time employees and determine their compensation, benefits, and duties.

New Section 13. Preservation of Special Funds.

The Town Manager shall ensure that all monetary funds designated for perpetual care of the cemetery are maintained in separate investment accounts or financial products and the principal thereof shall not be used for operational purposes. The Town Manager shall ensure that all monetary funds designated for real estate acquisition purposes are maintained in separate investment accounts or financial products and both interest, dividends and principal thereof shall be used only for the purchase and development of real property for the cemetery and the expenses related thereto.

HOOVER, PENROD, DAVENPORT & CRIST

May 13, 1997

Page 4

New Section 15. Amendment.

The Commission reserves the right to amend these bylaws at any time by a majority vote of all commissioners, but such amendments shall not affect any expenditures previously budgeted pursuant to these bylaws.

New Section 16. Town Council Approval.

The delegation of authority to the Town Manager shall be effective upon the approval of such delegation by the Town Council of the Town of Elkton and shall continue until either rescinded or modified by the Commission or approval thereof is withdrawn by the Town Council.

As you can see, this is as broad a delegation to the Town Manager as you can effect, and still discharge your own fiduciary duty by calling for all of the requisite parts of the job of cemetery operation to be performed. Basically, you set up his duties in new Section 9 and in the following sections you provide, first, for the means to accomplish those tasks, as to Town resources and outside contractors; and, second, you ensure that the perpetual funds are protected; and, last, you make this delegation subject to the Council approval. If you wish, you can withhold from the delegation of authority as much of these duties and areas of responsibility as you see fit. However, to the extent you withhold duties, you will have to make sure as a Commission that they are otherwise performed.

Please let me know if you have any questions about either the broad picture or the details of this matter.

Very truly yours,



Dale A. Davenport
Town Attorney

DAD/lrj

pc: Charles Dean, Mayor
Gerald Monger, Town Manager
All Members of Council

Cemetery

HOOVER, PENROD, DAVENPORT & CRIST

ATTORNEYS AT LAW
342 SOUTH MAIN STREET
HARRISONBURG, VIRGINIA 22801

LAWRENCE H. HOOVER, JR.
DAVID A. PENROD
JOHN N. CRIST
DALE A. DAVENPORT
ROBERT F. KEEFER
RICHARD A. BAUGH
DILLINA W. STICKLEY

June 30, 1997

FACSIMILE
540-433-3916

TELEPHONE
540-433-2444

TO: ALL MEMBERS OF THE ELKTON TOWN COUNCIL
ALL MEMBERS OF THE CEMETERY COMMISSION

Dear Council Members and Commissioners:

Enclosed please find a clean copy of the Amended Bylaws of the Elkton Cemetery Commission consistent, as I understand it, with the action taken by the Commission at its last meeting.

Please review these carefully to ensure that they are accurate. If so, I ask that the Secretary of the Commission and the Chairman of the Commission execute the accompanying certificate, dating it as of the date the proposed revisions were approved, and tender it to Nancy Sours for maintenance in the permanent Town records. A copy should also be maintained in the Commission records.

I understand that this will be brought before Council at the next meeting for consideration of approval of these changes.

If anyone has any questions about this please give me a call.

Cordially,



Dale A. Davenport
Town Attorney

DAD/lrj

Enclosures

pc: Nancy Sours, Clerk
Gerald Monger, Town Manager