

Cemetery Commission Meeting  
Minutes - Friday, June 12, 2015

Present: Susan Brown, Chairman, Andy Kelly, Elizabeth Villard, Debbie Manley-Smith, alternate, Mike Smith, Acting Cemetery Superintendent

Please note Andy Kelly was absent for one half hour in the middle of the meeting, but was fully briefed on what he had missed during that time.

Mike Smith Report

Two Grave plots have been sold; one on 10<sup>th</sup> Avenue and one in cremation area.

Susan asked him for a "To Do List" of things he feels need to be done.

1) Paint fence in New West Side

(Andy reports Working Earth staff will be trimming hedge for cemetery neighbor and they will do both sides.)

2) Lay out 11<sup>th</sup> avenue plots as 10<sup>th</sup> avenue is almost sold out.

3) Bring plot map up to date. It currently goes only go as far as 8<sup>th</sup> avenue.

Debbie Manley requested that New West Side flag be replaced. Smith said he had one in the shed and would use that to replace old one.

Marilyn Wortman gave the Commission a job application from Teo Becke (Sp?). Mike will contact him on Friday and offer him the seasonal position at normal wage. (\$15.95?)

Andy suggested that we talk to the Finance committee early next fall about raising the wage from just under \$16.00 as it is not a competitive salary.

Andy reported that the Cemetery truck is dead. It will go to the Fire Department for training exercises. The Cemetery will share a truck with the Highway Department which will keep the plow. It will be used by the Cemetery Spring-Fall and go back to the Highway Department in the winter to be used as a plow.

It was agreed that the Cemetery Commission computer should be returned to the Cemetery shed. Ultimately, the Commission may agree to follow the suggestion from Adam Darack, Manager of the Information Technology Department, that we move the computer to Town Hall, but at this time, it seemed best to stay with the existing situation of having the Cemetery office in the Shed.

Jack Collins, the Town's Special Labor Counsel, joined the meeting to explain the legal options on how to handle employees whose fitness for duty is questionable. Jack noted that so long as the employer has an objective basis for questioning an employee's fitness, the Town has the right to order an employee to submit to a fitness for duty exam

by a town-designated physician or psychologist, depending on the nature of the injury or illness.

Jack pointed out that if an employee has been out on extended medical leave, the need for such return to duty exam must be included in the Family and Medical Leave Notice provided to the employee. Where the individual is out on other leave, such as a disciplinary suspension, or the person is working, it is generally advisable to place the person on paid administrative leave while a fitness-for-duty exam is scheduled. Whenever sending a person for such exam, a detailed job description, including a list of essential job functions, should be provided to the examiner. If the doctor or psychologist declares the person is fit for duty, he or she should immediately be returned to work. If the report indicates the person is capable of performing the essential duties of the job, but with certain restrictions, a determination must be made to see if the recommended accommodations can be made without placing an undue burden on the town. Limitations, such as lifting restrictions or the need to adjust a schedule or limiting periods of standing, must be evaluated and in most cases provided. Should the report conclude that the employee is not able to perform the essential duties of the position, but might be able to handle those of another available position, the town must consider offering this as a reasonable accommodation.

Some cautionary comments included:

- An employer may not make an employment decision based on a concern that an employee that is currently fit for duty might injure himself or herself;
- Similarly, employment decisions cannot be made on a person's record of a disability;
- If an employee re-injures or exacerbates a pre-existing injury, the individual is likely eligible for Workers' Compensation coverage; and,
- A Town may not require that an employee sign a waiver or promise not to sue the Town or apply for Workers' Comp as a condition of being restored to duty.

After Jack Collins left, the following motion was made by Liz Villard and seconded by Andy Kelly. It passed unanimously

Motion:

*Jennifer Morgan, upon completion of her suspension, will be placed on paid administrative leave. She will be required to be evaluated by a Town-designated physician on her fitness to return to work. The cost of such exam will be paid by the Town.*

*The physician will receive the job description. If the physician determines she is able to return to work, she is to return to work immediately.*

*If the physician determines she is not able to work or is limited in her ability to work, a meeting will be held to discuss the situation.*

Susan will call Jen to tell her of the motion. She will also email and send her copies of the motion. Susan will also give a copy to Marilyn Wortman for Jen's file.