

**SPECIAL COUNCIL MEETING
GARDINER CITY COUNCIL
Tuesday, October 27, 2009
City Council Chambers
4:00 p.m. Business Meeting**

1. CALL TO ORDER

Mayor MacLean called the meeting to order at 4:05pm.

2. ROLL CALL

Councilor Richard Rambo, Councilor Richard Nickless, Councilor Kendall Holmes, Councilor Philip Hart, Councilor Michael Giberson, Councilor George Trask, Councilor Robert Johnston.

Special Guests included **Attorneys Lee Bragg, Tom Faderly & Sean Farris** as well as many members of the public.

3. PETITIONS, COMMUNICATIONS, RESOLUTIONS, & PUBLIC HEARINGS

3.1 Consideration of Comments from the Public on Issues that Do Not Appear Elsewhere on the Agenda (Please limit comments to five minutes.)

3.2 Public Hearing on Order 09-58, Moratorium on Crematoria

Mayor MacLean stated that this meeting was called to discuss the option of a moratorium on the crematorium issue. If the moratorium passes there will be no action until February 25, 2010. He reminded everyone that we are blessed to have an open government which allows this kind of dialogue. He said we are all neighbors and friends and he wants to make sure that everyone remains respectful. He said that the Council and City staff is trying to be responsive to the communities needs and that is how this meeting came to be. A moratorium allows us time to step back and have a thoughtful exchange about this subject matter. The Mayor said he regrets that the meetings were not better advertised. He understands that people do not regularly read the legal ads. He encourages people who are interested in that sort of information to call City Hall directly so we can mail the information out. He said he was disappointed that people assume the worst about each other. He defended Councilor Johnston who sponsored the ordinance and brought it before the council. Likewise he defended Pat Hart who is Chair of the Planning Board. The Mayor said these are people who are serving their community. He said Rusty Greenleaf and Victor Tessari are in his opinion only trying to fulfill a fiduciary responsibility to the Oak Grove Association and should not be spoken ill of. He asked the members of the public to be brief in their remarks.

Victor Tessari of 25 Karen Drive said he was here on behalf of his role as Director of the Oak Grove Cemetery Association (10 years). He said he owns Staples Funeral home which has been a local business for 80 years. He has a vested interest in this issue. They need the revenue they would get from a crematorium to maintain the plots that are already located at Oak Grove. Victor said that 60% of society request cremation. There are 2100 crematoriums in the U.S. and seven in Maine. It is a widely accepted as a means of disposition.

John White of 96 Lincoln Ave said he has lived in Gardiner for 20 years. His home and property value are important to him. He works at Staples and he also lives in the area that

is under scrutiny. One of his jobs is to visit Gracelawn Crematory. He said he knows this is an uncomfortable subject to talk about, but it is a fact of life. Having seen how a crematory operates he personally believes the impact would be minimal. You would not even know it was there and he is not worried about his property values.

Barbara Cole of 43 Heselton St. said she is closest to Oak Grove. The tombs are 100 yards from her front porch. She has owned her home since 1958. She wants to go on record that both she and her husband are firmly against the crematory. The brook that runs alongside her house will collect all the run off and then go into the Kennebec River. Anyone who uses the Kennebec will be exposed. She asks that the association consider their letter and have it be a part of the permanent record.

Joe Donahue of 74 Lincoln Ave. said he supports the proposed moratorium. He is opposed to the current order before the Planning Board. In thinking over these issues and in looking at the City's motto of "where history and progress meet", he feels that the public health, safety and welfare are at risk. He asks that the Council consider items such as maintaining the historical nature of the cemetery and the current high density residential zoning. He feels the crematory is less about a cemetery, more business and financial. Money making puts in place incentives which run counter to keeping the cemetery historical. Financial capability needs to be looked at in the long term. He asked if anyone has looked at the insurance, emissions or health concerns. A moratorium will allow time to look at those issues. He feels there will be changes made to the historical structure which will detract from it. He went on the site walk and saw what changes are proposed. He feels traffic will increase. He said he knows that everyone on the Planning Board and the Council work hard and he hopes they can come to some agreement.

Earle Shuttleworth of 15 Lincoln Ave, said he has lived there for 30 years and he wants to support a moratorium. He found a great deal of satisfaction in working on the committee to improve the playground on the Common. He wants to see the same process used for the ordinance in regards to a crematorium. Oak Grove came to be in 1844 as a place for people to recreate as well as to visit there loved ones. The two structures abutting the cemetery will be negatively impacted.

William MacDonald (former Mayor) lives at 171 Old Brunswick Road. He said he has reflected on ordinance 09-58 and the wording needs to be changed and corrected.

Lincoln Luken of 22 Elm St. said at one of the meetings it was asked if there would be any odor coming from the crematory. The answer was no but no one explained why and he is curious. He had questions about flame outs and if there is too much smoke will it automatically shut down. He wondered if there is a flare out if you might get an odor from the machine. He said he is opposed to the crematorium.

Peter Hagerman of 102 Washington Ave supports the moratorium. Cemeteries are more than just a place to visit your loved ones. They are indeed a place to recreate. He personally runs through there at least once a day. Children use the cemetery on a regular basis.

Bev LaPlante of 33 Danforth St. favors the moratorium. She wants everyone to take a step back and really think about the issue. Wants to know if there would be a committee put together to do the research and respond to the questions & concerns. Mayor MacLean said he had not spoken with the Interim City Manager about forming a committee yet.

Rusty Greenleaf said he is advocating for the crematorium. He is a member of the Oak Grove Association. He said he wants to emphasize that under the guidelines of the

ordinance after this meeting they will no longer be able to discuss this with the Council. He also wanted to put to rest some of the rumors regarding the structures. Some of the changes were brought to the attention of both the Fire and Police Chief. Mayor MacLean asked Mr. Bragg to look into the resolution as he doesn't interpret it to mean that they cannot discuss the crematory with the Association

Lynn Gerard of 11 Gary St. favors a moratorium. She questions why the council felt the need to put this ordinance through as an emergency. The Mayor said he did not feel that was an appropriate question at this time. She may get to hear each councilors view on why they voted the way they did at some point in the future.

Sean Farris said he is the attorney for Oak Grove Cemetery Association and he is also a resident of Gardiner. He said his clients are not opposed to a moratorium; however he feels like it will postpone the process. Some of these issues have already been addressed. They have already been issued permits and appeared before the board in good faith. He just does not want to have the process stalled or delayed as a result.

Maryann Roth of 139 Dresden Ave said she is relatively new to the area but she wants to go n record as a supporter of a moratorium.

Patty Martin of 1613 Pond Road in West Gardiner said she favors the crematorium. She said she lived on Plummer St for 30 years. She said when her time comes she wants to know that her remains will be handled locally so there will be less chance of a mix up.

Dan Fuller of Gracelawn spoke and said he wanted to assure people that there had never been a mix up of remains at Gracelawn.

Howard Melville of 39 Lincoln Ave. said he moved here because it is an extraordinary city with a lot of architectural charm. He owns a Bed and Breakfast and many people visit and go back with stories of how wonderful Gardiner is. He is concerned about the impact on the quality of life if the crematorium goes through. He is also worried about the property values and feels they will go down. He also feels revenue will go down for the city due to the property values going down.

Public hearing closed at 5:10pm.

4. NEW BUSINESS

4.1 Consideration of Order 09-58, Moratorium on Crematoria

Mayor MacLean returned to the verbiage in the resolution. The intent is to prohibit further discussion with the Planning Board on this matter. He feels they can still have a dialogue with the council.

Mr. Bragg said paragraph one is intended to and does exactly what and nothing more than the Mayor said. It anticipates that the Council and the Association will have discussions moving forward and a process will have to be put in place by which they could. **Tom Faderly** spoke on behalf of the Planning Board regarding the concern about the wording of the ordinance. He suggests striking the provision to preserve the role that the Planning Board plays. They will not hold up the application once the moratorium is lifted should one be imposed.

Councilor Rambo asked if procedurally we would need to amend the order. If so he makes a motion to delete the first two paragraphs.

Mayor MacLean asked **Mr. Bragg** if he would be comfortable with that. He said no, he would recommend modifying but leaving the second paragraph.

Councilor Johnston feels the neighborhood has come in honesty and good faith to ask for a process. He feels the Council has not done their job here today. He feels that a committee should happen in all due haste. He urges the Council to come up with a process where the neighbors, abutters, business community and the cemetery association have an ability to work together.

Councilor Trask said in the second paragraph he suggest taking out the words ‘Planning Board’ and he feels that would solve the issue.

Councilor Hart said right from the beginning he thought there would be a process. He thanked everyone for coming tonight and he feels the Mayor should be thanked for allowing such an open government process. He is concerned about how we will advertise this sort of issue in the future. He said we don’t have the budget to do mailers for something like this. He knows no matter how this turns out someone will be unhappy. He has known Victor for a long time. He hasn’t known Rusty as long but he knows without a doubt that Victor would never intentionally do anything to cause harm to someone. He said he knows if anyone can show proof that this will harm people that Victor would withdraw his application. He supports a moratorium and feels it will be fair to both sides.

Councilor Trask said he has taken grief for asking about Oak Grove’s budget. He feels as a Councilor at Large her represents the entire city. Part of the money that maintains the cemetery comes from the city.

Councilor Rambo asked for clarification from **Councilor Johnston** about what he is looking for tonight. He said he understands why we need to take the Planning Board out of the equation. He just wants to make the process as clear as possible.

Councilor Rambo made a motion to amend Order 09-58 on page to eliminate first paragraph, in the second paragraph eliminate the words “by the Planning Board”, in the third and fourth paragraph change the word “ordinance” to “order”. He makes a motion to approve as amended. **Councilor Trask** seconded the motion, Vote: Unanimous

5. COUNCIL DISCUSSION

Councilor Rambo asked if there is a meeting next week and **Mayor MacLean** said yes. The Mayor said it was challenging to get this meeting together and before everyone tonight. He said always thought that the Council would return to the zoning issue. **Mayor MacLean** proposes allowing himself, the Council and City staff to develop a process for the next step.

Councilor Rambo agreed.

Councilor Trask thanked the Mayor for putting this together. He said he agrees with **Councilor Johnston** that we don’t want to drag this out too long. He said he is glad to see so many people here.

Councilor Nickless reiterated that he has heard clearly tonight that we need more time to work on this.

Councilor Giberson said he is in favor of a moratorium.

Councilor Holmes said he is in favor of a moratorium.

Councilor Hart wanted to thank everyone for coming and keeping it a good meeting.

Councilor Giberson reminded the Mayor and Jason that the turning arrows at the end of Mechanic Street still need to be repainted.

Councilor Trask asked if we had a new heating system at Public Works. He said if so he would like to know where we got the money and what is the cost? Jason said he would look into it and get that information for him

6. ADJOURNMENT

Meeting adjourned at 6:47pm

Respectfully submitted,
Kathy Cutler
Council Clerk