

**Meeting Notes from the Regular Meeting of the Peabody Board of Health,  
November 17, 2022 4:30 pm**

In Attendance: Chairperson Thomas J. Durkin III; Board members Anthony Carli and Julia Fleet, D.O.(remotely); Health Department Director Sharon Cameron, and Recording Secretary Lisa Greene.

The meeting was held in the City Hall Lower- Level Conference Room at 4:30 p.m.  
with public access also available remotely Via Zoom

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**Subject:** Meeting called to order

**Discussion:** At 4:30 Mr. Durkin opened the meeting and read the meeting notice.

**HEARINGS**

**Hearing 1:** Scheduled for 4:30 pm - Hearing re: Request for variance to amend Permit to Keep Certain Animals at 37 N. Central St. Vote anticipated to grant or deny variance.

**Discussion:** Mr. Durkin read the hearing notice and asked if owner Dom Furtado was present to discuss the issue of his request to keep one rooster with a special device to silence it. Ms. Cameron said Mr. Furtado was told by the inspector he did not need to attend. She said she would check to see if anyone was present in person or on zoom to speak. No one was in attendance online or in person to speak on this matter. Ms. Cameron reported that John Yale followed up with Mr. Furtado after the last meeting and saw that the rooster was wearing the collar. Yale said that the rooster does not crow with the collar on and he hasn't received any complaints so he feels comfortable with the board approving the variance. Mr. Durkin asked if the device was painful for the rooster. Mr. Yale said that he could see there were some areas where rooster is losing some feathers, so it might be a little irritant, but the bird didn't appear to be in discomfort or pain and actually seemed unbothered by it. Mr. Carli made motion to allow Mr. Furtado to keep the rooster as long as the device continues to work to keep it quiet. Dr. Fleet seconded the motion. A roll call vote was taken and it was unanimously agreed to grant the variance to keep the rooster.

**Hearing 2:** Scheduled for 4:35 pm - Hearing re: Notice of Violation and Fine issued for 54 Paleologos St. Vote anticipated to uphold, modify, suspend or revoke Notice and penalty.

**Discussion:** Mr. Durkin read the hearing notice and asked if owner Gabe Sade was present. Mr. Sade was present. Mr. Durkin asked Ms. Cameron for a synopsis of the situation. Ms. Cameron reported that they had received complaints from neighbors regarding rats and poor trash management issues at this address. In August after the first complaint Inspector Randy Suckney went out to inspect and issued a ticket after finding trash and debris all along one side of house. Ms. Cameron told that Mr. Sade had then requested a hearing, so one was scheduled and held in September but Mr. Sade did not attend, so the hearing was continued and held again in October, but he did not attend. Inspector Suckney went back on Oct 24 and found that there was still poor management of trash and issued a second ticket for \$300. Cameron said that the first fine was for \$100 and still has not been paid, but tonight's hearing is about the second fine of \$300. Randy received some info and saw some photos that some covered toter barrels had been brought in, but there are also still trash bags there that were uncovered. Mr. Durkin then asked Mr. Sade to speak on the matter. Mr. Sade said that, in his defense, he didn't know of any of the hearings, including today's, but his real estate lady asked him if he was going and he had responded that he was unaware of it happening, but once he knew he came down. Ms. Cameron double checked and read the mailing address to Mr. Sade and he confirmed that it was correct, but he added that he doesn't know where it went but he never received any hearing notices. Mr. Sade explained that he is in the process of evicting a very bad tenant, who hasn't paid rent in a year and a half, and said that the courts have stopped evictions because of covid. He told that they don't even believe that there are working fire alarms in the unit because tenant won't let them into the building to replace the old ones, and added that he hasn't been there in over a year. He explained that this unit has been given 5 trash barrels, but tenant doesn't use them. He added that his real estate lady goes there herself to clean up the trash and she told him to be careful if he goes there and that he should only go there with an escort. Since he can not go there, he is trying to sell it, but needs to clean, needs to get in, but as long as she stays there, there is nothing he can do, and he can't fix the problem as long as courts allow her to stay. Mr. Durkin asked who is responsible to ensure that trash is kept in control. Mr. Sade replied that tenant is. Ms. Cameron confirmed that this is a two unit building so it is the tenant's responsibility,

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but owners are responsible for providing trash receptacles. Mr. Sade added that this tenant blames the guy upstairs for the trash but he doesn't have babies in diapers and she does, and this is part of the uncontrolled trash. Mr. Durkin asked if the board can ticket the tenant. Ms. Cameron replied that there is no way to prove who's trash it is unless we went through the trash bags, which we don't do because it poses a safety risk to inspectors. She added that we can hold the owner responsible for conditions on property they own. She said that there has been improvement, as Randy has said. Mr. Carli said that the improvement apparently came from the realtor. Ms. Cameron said that they can send a letter informing tenant of her obligations, and she asked for the tenant's name and unit. Mr. Sade told that it is Crystal Miller in unit 1. He added that her cars are not registered, she has a lawyer and won't talk to him but texted him saying his realtor is harassing her regarding the car in the driveway, and says it is illegally parked and not registered. She added that the car is going to be her home so please don't take it away. Mr. Durkin said that a citation serves to punish the responsible party and to change behavior, yours or others, but said he doesn't know if the \$300 fine is going to change your behavior, so not sure it is helpful in this situation, so he would be amenable to modify and suspend the \$300, and ask that he continue to try to amend the behavior. Mr. Durkin said that is a public hearing and asked if anyone is present to speak on this matter. No responses were received. Mr. Durkin said rodents are a real problem. Mr. Sade suggested that he can hire an exterminator. Mr. Carli agreed, and said that they should send a letter to the tenant and have Randy go by in a month to check. Ms. Cameron suggested that perhaps the money that would have gone to the fine could go toward the exterminator. Mr. Sade asked if there was anyway the city the police can help with this, disturbing the neighbors, loud music, teenage daughters in the street. Ms. Cameron said he could contact the police to follow up. Mr. Sade said he would call. Ms. Cameron said giving the owner's willingness to try to address the problem, and that he says he did not receive the notifications, she would also be amenable to suspending the \$100 fine as well. Mr. Carli made motion to suspend the first fine of \$100 as well as the second fine of \$300. Dr. Fleet seconded the motion, and a vote was taken and it was unanimously agreed to suspend the fines and that the money should be used to hire an exterminator. Inspector will continue to monitor.

**Hearing 3:** Scheduled for 4:40 pm – Hearing re: Application for Use of Land for Human Burial (Cemetery), 530 Lowell St. Vote anticipated to grant or deny approval for use.

**Discussion:** Mr. Durkin read the hearing notice and asked if the applicants were present. Attorney Jack Keilty was present and noted that Mr. Daly, the cemetery consultant, is here as well. Mr. Keilty started off by explaining that they are working on having the plan revised by a civil engineer, which is something the consultant pointed out was an issue. He said he conferred with his client a bit before the meeting, is familiar with the letter that the consultant supplied, and will address a couple of the issues, which are mostly administrative. One question was whether their special permit has been transferred to the appropriate entity. He explained that they appeared before City Council and the special permit has been transferred from the individual owner to the Boston Muslim Cemetery Corporation. He provided a copy of the new permit. He said the second issue is about easements. He explained and presented a package showing a succession of deeds which delineate the easements and other issues in question and explained that these date back to 1953 when the Jewish cemeteries were founded, and we take as successor a portion of that land so that matter has hopefully been attended to. He said now they would like to move on to other issues, and said that they know they need to get everything on one plan, including the plot numbering, and that the numbers need to be put on the ground as well, as Mass general law requires, but said that they would not be proposing to do that now, but will do this when we have an approval and know that our number of lots has been approved and then they will immediately number the lots on the ground and put those on the new plan. He clarified that the info will all be transferred to the Hayes Engineering plan and that plan will be the plan of record. He went on to say that they had a discussion outside and talked of some practical issues that are going to be presented as we go forward like getting equipment onto the site and grade changes. He told that now that there are fences up, they have essentially fenced themselves out. The plan was to keep those parking on Lowell St from entering the premises that way but now have also fenced ourselves out and now have to create a ramp to allow equipment on the site. He explained that they have had discussions about companies that have experience with grave opening work and said that they will probably also engage independently with Mr. Daly after this process to help ensure their compliance with Mass General Laws. Mr. Durkin asked if there were any questions for Mr. Keilty, but none were put forth.

Mr. Durkin asked Mr. Daly to go through his report that enumerates eleven recommendations to ensure that the board is attending to each one. He stated if you are going to approve as a cemetery a piece of land then you should have all of the information on one plan. He explained that he saw many items, because he also works in reviewing Mass General Law, in this plan that do not adhere to those, for instance how they tried to set up for care which is still not in compliance with Mass General Laws because it is talking about annual care and in 1939 laws around those type of things got completely changed because we know that families are not always there to ask for funds which is why they now set up independent perpetual care funds. He said that he appreciates what Keilty has said, and would like to again go over those earlier recommendations that could then be made conditions.

Mr. Daly said that first at hand is the issue of the definition of a vault as defined in section 1 in MGL chapter 114, because of water tables and other things you have the right to add this condition, that vaults be required for all burials in this cemetery. He said that they should verify that they are using what is actually defined as a vault. The second recommendation, one that he is staying with, is his 760 - grave recommendation. He said that he is basing it on the 3x9 rather than the 3 x 8 foot graves they are now suggesting to allow them to get additional graves in the ground. There is a point to note about the actual land space that they have to create the cemetery, approximately 20,000+ square feet. That is the land that could be designated as cemetery even though they own about an acre and a half. For protection purposes he said that he would suggest that the approval be for that land space only. He said that 760 is an appropriate grave number based on what he feels is manageable on the land to protect from the other health issues that could present at this location even though they are going to be using a vault.

Mr. Daly went on to say that the third recommendation is to include the Mass General Law requirements on how the cemetery is supposed to sell graves.

Next Mr. Daly acknowledged that the special permit has gotten transferred to the appropriate party, so that item has been addressed.

He said that the next item, the Certificate of Compliance from Con Com, is a real big issue, as we don't know how they will proceed. We know that the applicant is working with them and that there have been a lot of discussions going on, because the "As Built" definitely got into areas that it wasn't supposed to. Mr. Keilty acknowledged that there were some encroachments into the buffer zone. Mr. Daly said that since we do not know what Con Com will do, he suggested for the BOH to wait until Con Com decides, adding that if they say we want you to be 10 or 5 feet from the wall wherever there was encroachment that would affect the number of burial spaces that will be able to be created there and could impact their business.

Next he explained that he appreciates that Keilty gave you the paperwork from the original deed showing the rights to access that road, but with a large funeral service going on, and with people only able to park in that very small area, he has some concerns about the adequacy of parking, which is why he asked for it to be an easement that is fully understood and attached to the new documents. Mr. Keilty replied that this is an older deed. Mr. Daly agreed that it is an older deed but said that over time there have been so many changes and subdivisions, that is why he suggested a true easement documented, stamped, and agreed on and placed in the folder just protects them now and then the town can clearly see and understand what is going on there.

Mr. Daly next went on to the issue of the storage building on their plans, explaining that they would need a variance, to which Attorney Keilty replied that is understood. Mr. Daly went on to say that the fence has been installed, adding that we didn't set that as a requirement, but it was a decision that the corporation made. He acknowledged that they have said that they understand that there can be no storage of any excess fill on the site so they accept this requirement, to which Mr. Keilty replied yes we do. He said that they are allowed only one grave open at a time and they are accepting that, to which Mr. Keilty replied yes. Mr. Daly said that they have shown the documents that they have become a 501c13 entity. He said that we are going forward on the basis that they are going to run this cemetery forever, but they do write in their bylaws about what happens if they abolish it or it goes under or changes ownership, and that is his concern. Mr. Keilty said that they will agree to a condition requiring a separate independent perpetual care fund. Mr. Daly went on to say that

he has proposed that the city require that as a condition they have an amount placed in the account ahead of time, and then a portion of every grave sale should be added to this account.

Mr. Daly summarized some of the recommended conditions: use of a vault for all burials; to wait on the receipt of the certificate of completion from the Conservation Commission before issuing approval; that there be a required perpetual care set aside amount; one grave being open at a time; and consider waiting to get a finalized plan that contains all of the information in one place together and numbered correctly since the grave numbers have changed several times and may change again. Attorney Keilty replied that the plan name and date will change and it will be a compilation showing everything.

Ms. Cameron asked Mr. Keilty if they will submit a plan with all of the prior info including groundwater elevations from earlier Hayes engineering report, and will it be a Hayes stamped plan. Mr. Keilty replied yes and we will add the plot numbering.

Ms. Cameron asked if it is even possible to have Hayes do a plan without ConCom's decision because you don't know if they will allow you to encroach on wetlands. Mr. Keilty replied that they didn't put any graves in any of the areas they had encroached on. He said that they had a discussion with Lucia and Stewart, and at first they thought they would have to file for a new order, because of the change from a green burial to vaults, but at the Con Com meeting the board said the addition of the vaults actually works better from Con Com's perspective because with vaults there is no worry about bodies decomposing into soil. He went on to say that they have determined that they will file an amendment to the order and ask to be allowed to go into the encroached area. He said that they can get that updated plan from Hayes in two weeks. He said they will also need to ensure that Hayes has on it the latest soil samples and drilling in regard to water. Mr. Daly interjected and pointed out that there are additional graves on this plan from the number originally proposed. Mr. Keilty replied that this was in response to their using smaller vaults, which would allow more graves. Mr. Daly replied that he knows that they are trying to maximize, but what he is trying to say is that it might be too much for the land. He also asked where they were purchasing these smaller vaults. Mr. Keilty replied that the vaults will be custom made. Mr. Daly replied that has to be a discussion as to still being a vault because there is a custom-built product out there but it is not a vault, but said he does not know the product they are using yet but he does know that there is one company that does liners that are custom made they are not truly a sealed vault. He said that the condition is a sealed vault and that has to be understood because that is going to be a safety issue and that Con Com will be concerned about this issue as well. He said that they might be looking at a manufacturer of a different vault possibly, but it needs to be clarified.

Mr. Keilty said that he now has a list of seven recommendations. Mr. Durkin asked to go back over the conditions being suggested saying that he has made his own list but wants to confirm. Mr. Keilty said that he had gone through the letter as the discussion was occurring and read off what he had heard:

- #1 is the vault recommendation;
- #2 is a question of the number of graves, which depends on the Board, if they will approve the 760 or 828 as the corporation proposed most recently;
- #3 is compliance with placing grave numbers;
- He said that they already satisfied the condition of the transfer of the special permit;
- As to the Certificate of Compliance, he explained that Daly's suggestion was to wait for Con Com to finalize before approving, but said that he does not agree and does not want to make that a condition so he did not number that;
- Next is the issue of an easement but said that he feels that has been addressed. Mr. Daly replied that his recommendation is to obtain a written agreement from both parties allowing passage to and from either property including parking with all limits, restrictions and intents of the easement spelled out. Mr. Daly added that the building also comes into play and said that there are 15 parking spaces and the shed which are on a plan which are presented as if permitted and are not. Mr. Keilty replied that they do not want to agree to that. He said that we

believe that we have the appropriate easement in place, and that they had discussed with closing attorneys and title insurance attorneys and are satisfied that they have the proper easements in place.

- Mr. Keilty went on to say that next recommendation was to install a fence which has already been done;
- #4 is no excess soil stored on site;
- #5 is only one extra grave open at a time which is fine;
- # 6 is the condition of forming the 501c13, and we would agree to that as a condition even though we already did it so that someone can look that over;
- #7 is perpetual care fund and said they would agree to the condition of the establishment of perpetual care fund.

Mr. Keilty said that so that would be seven conditions with an outstanding question of the number of graves to be allowed under #2.

- Mr. Durkin asked if the new plan would be considered a condition as well. Mr. Keilty said that he would say so (#8).

Mr. Durkin asked if any board members had any questions. None were put forth. Mr. Durkin asked Mr. Daly if it is necessary to include in conditions those things required under Mass General Law in the conditions as it seems a bit duplicative. Mr. Daly replied no. Mr. Durkin then said so it is not necessary for the board to include the definition of a vault for example. Mr. Daly replied yes, I think you should, because you want to ensure it is correct because there has been a lot of discussion about the definition of a vault. He said he would resend them the correct written definition.

Mr. Durkin asked about the suggestion of an easement. He said Mr. Daly has suggested that and Mr. Keilty does not think it is a good idea. He asked Mr. Keilty why not, and is it cost. Mr. Keilty replied no not cost and said that the attorneys already feel it has been addressed, it is duplicative, it is the third owner there and we have passed on the easements, these are already on record, we would need to go all the way back to the cemeteries and they feel as though they have already been there and done that. Mr. Keilty said it is not something he is vehemently objecting to and doesn't disagree with Mr. Daly that it would be good to make things clearer, but don't want it to be without this it won't be approved.

Mr. Daly said that the question arose because this land was never designated a cemetery. Mr. Keilty responded that it was actually land included in their cemetery and said he doesn't think anybody in Peabody has ever gotten a cemetery permit from the board of health in Peabody ever. Ms. Cameron replied that there have been no other cemeteries proposed in the years she has been here. Mr. Daly said this was why he brought up the question that he did, because even though they owned this land, it was not designated as cemetery use. He added that this is a nuance that many don't understand. Cemetery corporations have to come before boards of health to designate lands as cemetery land even though it was owned by a cemetery it still has to be designated for cemetery use.

Mr. Durkin said that he has one more question: Are there best practices for the establishment of an amount for perpetual care? He said that he had read in the documents that were part of his package a recommendation of an initial amount of \$40,000, and then \$500 additionally to go to the perpetual care plan from each grave that is sold, plus \$100 membership fee would go toward the perpetual care. He asked if there is some formula that you can recommend to us. Mr. Daly replied that the best practice is that 99.9% of cemeteries have a perpetual care fund because they understand that there will be a time when they will not be getting any more grave sales and they will need to maintain it. What amount that should be is an infinite number because you can never touch that principal. Their plan as of right now has them using that principal now in annual care because other people will be putting funds in later so that is his concern about perpetual care in this case, because usually an amount is taken from every grave sale and it stays there, the interest only gets used. He said in the protection of the City of Peabody, there is not a lot of land there to sell later, so we want it to be funded so that it does not become a burden on the City of Peabody. He said some cemeteries put 50% of a grave sale into the perpetual care amount, some do more, some do a little less, the average is around 50%. They are looking at membership of \$3,000 to be a member to have a right to a grave so he

said he is assuming the \$3,000 is the grave price. A member of the Muslim Cemetery group asked if this is applicable to all cemeteries in Peabody or are we making a special rule for this one. Mr. Daly replied that this is Mass General Law. He said that Mass General Law says that you may have a perpetual care fund, to which the gentleman replied the word is may. Mr. Daly replied that however they all have it. Mr. Durkin asked if we were to survey all of the area cemeteries what percentage have this requirement. Mr. Daly replied that he thinks you will find that they all have it. He said in 1939 it was decided to get away from annual care because families were not taking care of the cemeteries. He added that the concern that he had was that in their bylaws there is a description of what will happen if they dissolve the corporation.

Mr. Durkin said that we have established that there should be a perpetual care account set up, but what is the amount that should be put in it. Mr. Durkin said that he reads their documents that says \$500 from each grave sale is going to go into the perpetual care account. Then the \$100 membership also goes to the perpetual care fund. Mr. Keilty replied that in another document they agree to put that into a perpetual care account. Mr. Durkin said so \$40,000 sets up the perpetual care account, then the \$500 per grave sale goes into perpetual care, and then the \$100 membership fee will also go into the perpetual care account. The representative from the Muslim Cemetery group clarified that this will be provided annually. Another party said he wanted to clarify that Mr. Daly mentioned in MGL that it says may, so are you going to require this of every cemetery applicant. Mr. Durkin replied that they have never had a cemetery approval come before them before, and do not have any in the foreseeable future. Mr. Keilty suggested the Board should state they would require it in the future as well. Mr. Durkin agreed and said yes he would. Mr. Carli agreed and said his biggest concern is the perpetual care issue. He said this has been a very interesting learning process, he has done a lot of reading to learn about this and was concerned if 760 graves at this rate can it be supported in perpetuity. He said that he doesn't know the perpetual care funding for a cemetery like Puritan Lawn, but he knows that with the vast acreage there that they are able to make more graves, but since you are on a small parcel you are limited, and he is concerned that they will not have enough money to maintain it at just \$500 a grave. He agreed with Mr. Daly that you want it at the time of the sale of the grave to get that money in there so it is in the account before the burial takes place. He said the provisions for perpetual care is his biggest concern not just for this project but for any project like this that might come before them.

Another representative from the Muslim Cemetery Group said that he knows that this is pretty much new to everyone. He said that when they bought this land and got a permit from the City Council, the city should have let them know these things. He said he doesn't think they are being treated fairly, so they are frustrated right now, and he has a couple of other board members attending via zoom that have concerns as well. Another gentleman said that we have never had 9 foot graves in Islamic cemeteries, and said that in many they are on top and very close, there is no reason for 9 foot burials. He said do research on green burials, plenty of people do it. Why should we have to make a special rule for Peabody. Mr. Keilty asked by special rule do you mean the sizes. The gentleman replied yes, sizes and why we have to use a vault, said it is for no reason, decomposition never goes beyond a few feet, and said he is asking that they do some research. He said we applied for green burial and the City gave the permit and now you are adding all of these special rules. Another gentleman asked to speak and started out by thanking the board to start off. He said that some of us may be emotional because we have about seven families who have lost family members and couldn't bury them, so he prays every night that no one dies before we can get this done. The custom made vaults will be 2.8 feet. by 6+ foot. He said that we are working with a company that does burials in Roxbury and they said that 3x8 opening would be fine because the grave liner is 3x7, 3x9 is too much. The reason they are concerned is because this is going to be the first cemetery owned by Muslims so there is a lot of demand. When they went to the Conservation Commission we got approval for 936 plots with a special wall that has a very extended footing that will hold that. That is why we hired a special engineer and built that wall to support that. To ask for 3x8 will make it 100 plots less, the 3x9 will allow 100 fewer, so we ask that you not require the 3x9. If you approve the 820 plots that would be ok as well. He said that at the end of the day he knows you are working to protect the city of Peabody and trying to help us as well, and he thanks them and thanks Tom Daly as well because he gave them a lot of good ideas that they hadn't thought about because it is their first time with a cemetery project. He asks that they approve them today and allow them to get moving on this. Mr. Durkin thanked him. He then asked if anyone on Zoom would like to speak on this

matter. Nichole Mossalam was present via zoom. She said that she is a project manager and administrative professional who consults with Islamic organizations. She said it appears that this has been a learning process on both sides. She was very surprised to hear that this is the very first time in Peabody that a cemetery has had to get a permit from the health department. She said that some leniency can be made since everyone is learning, and everyone has the best interest in mind. As they have stated, this will be the very first Islamic cemetery owned and operated by our community in the state of Massachusetts. She said on the perpetual care fund issue, MGL does state may. This means it is not a requirement so it is up to your discretion, so this is where we have to be a little careful. Since it is up to your discretion, and since it is your very first time in Peabody, you need to make it very clear that this is precedent setting, and that if this situation were to ever come up again you are going to set a consistent standard that you will hold all other after us to. She said she is hearing from the board members in the room that there should be a perpetual care fund set up, and the question is what should the amount be. That is going to require some research, and some time and will not be resolved tonight, so rather than setting an amount, what is your goal in setting up a perpetual care fund. She recommends that you instead state your goal in this fund, if you are going to make this a condition, state that it must meet x number of years, this amount of maintenance, whatever your goals are. Next on the burial site dimension issue. Originally 3x7 graves were proposed. That is what is currently practiced for Islamic graves, space that they currently lease from other cemeteries, so this is already in practice, and meets MGL, so she is not concerned with the vault issue. We have special vaults that are 2.8x7, and they do meet the two separate pieces with a lid requirement under MGL, so we know this is not an issue. Secondly, the 3x9 argument, Mr. Daly when he was stating that he said it has to do with the number of graves and the environmental impacts. She said when reading your report she doesn't see anything in there about the concern of the amount of graves and environmental impact; she has only seen the need for approval of Con Com and the areas they can go into. In your report dated April 21 2022, pages 5&6 where it covers Muslim burial rites, at the top of page 6, it says if vaults are required, which we have already conceded, it says that the typical vault size is 2.8 x7.6. We have now established that we have one that is 2.8 x 7. Islamically speaking we are supposed to be body to earth. The only exception to that is with wetlands and when the laws of the land prevent that so we can use the vault. So when I ask where the 3x9 size comes from you reference a document and it says this varies between Islamic communities, but as far as the dimensions of the gravesite it only has to fit the body and in this case it has to fit the vault. She said she is hearing nothing but agreement other than best practice on the perpetual care, so recommends setting out your goals and we can get a financial consultant to figure out how to reach those goals. Our community want to make sur that this cemetery is taken care of in perpetuity. It is part of our faith and id incumbent on every one of us so you are not going to get any arguments. Please meet us on this number of graves for our community. I say please let us use the 3x7, if you are uncomfortable with that then allow the 3x8. Mr. Durkin asked if anyone else would like to speak. Johard Benazi was present via Zoom and introduced himself and said that he is a licensed Muslim funeral director in MA. He thanked everyone for their time and dedication, said it hasn't been an easy path but he thinks there is a path for everyone to come to an understanding. He said he wanted to concur on what Nichole has said. He said that he personally understands the concern about perpetual care but that an amount should not be imposed. There is absolutely nothing in their faith that says the grave should be a certain size; as long as it is the size of the body then it will fit. Grave liners standard size is 3 x7 feet but there are companies that custom make them to meet our needs, and they can make 2.5 x7 feet. In some cemeteries they have used grave liners that are smaller than the standard. Mr. Durkin asked if anyone else would like to speak on this. No responses were received.

Mr. Durkin suggested putting aside the perpetual care issue for a moment and focus on the size of the graves. He asked how does an excavation occur next to a spot where a vault is already in place. Mr. Daly said that they can use a smaller 2 foot bucket. In many cases the outer casing of the grave is a requirement because it becomes part of the shoring for the next excavation. He said that he wanted to discuss some things that the product the speakers were referring to is not a "vault." It is a burial container because the body goes inside it, but are not actual vaults as defined by MGL. Some of the containers are changed to allow the body to still be in contact with the earth. It was the decision of the applicant to go from green burial to a vault use. An outer burial container can be a liner, an unsealed concrete receptacle of two or more pieces that is not water tight but will meet the requirements of earth load and so on. A vault is a two- piece sealed container. What has happened over time on the plans is the change from green

burial to the use of vaults, and he said he stressed the definition of a vault. Everything is constructed with a sealing device and it closes and the seal keeps out the water. He said he has worked with Muslim cemeteries before. Mr. Durkin asked what is the smallest size vault that is reasonable to be purchased. 2.8x7 is what he has heard. Mr. Daly said yes, that is the normal size the companies are making, and companies may also create a smaller one. Mr. Keilty said that we can agree to a size and number and to show the actual specs of the vault they intend to use. Johad was asked if there was a vault that is 2 pieces sealed, 2.8 x 7 feet. No, he did not know a sealed vault was required, he was aware of liners that size, but he would have to do the research to see if there are vaults in this size. Mr. Durkin said he is fine with going to 3x8 plot sizes if they can get a vault in that size. Mr. Daly said that all of his research showed that there were none in smaller sizes. Con Com has already decided on the 20,000 square feet of land for cemetery use. Mr. Durkin asked if there was any more discussion on the size. Nichole agreed that the same gives specific dimensions, so a 3x8 grave is within that. Another cemetery board member said it makes no sense to require 8 feet when 7 feet is the standard. Mr. Durkin said that they haven't been able to identify a vault that is 7 feet long.

Ms. Cameron said it was important to recognize that the Board of Health never put the requirement out for the use of a vault; the applicant submitted plans calling for the use of a vault, and the Board accepted it. All review of these plans was based on the applicant's proposal to use a vault. She added that this is the first time this board and herself as director has had a new cemetery proposal before us in her 17 year tenure. She said that she is not certain that she could find documentation on the process that was undertaken with prior cemeteries because that documentation is not available.

Mr. Durkin said that Johad and Nichole prefer not to have a set amount for perpetual care. How do we ensure that after the last grave is sold that the cemetery is maintained. A member of the Muslim Cemetery board said that they are being asked to do something that no other cemetery is being asked to do. Mr. Durkin asked if he thinks others have perpetual care accounts. The gentleman replied no. Mr. Durkin responded that they absolutely do. Another member responded that he knows that he will care for his family but understands the City wants a fund and thinks they should just tell them how much and they will make it happen.

Nichole suggested the Board say to set up a perpetual care fund according to industries best practices. If over 90% of cemeteries in the commonwealth have such a fund that gives us a big enough sample to learn from. Also in regard to the vault issue, since we are voluntarily doing the vault, do we need to have a sealed vault or can we do a grave liner instead? Johad again replied, the sealed vault can be made, North Shore Vault said that they can custom make them the required size. Mr. Daly said as long as you say that you will have a perpetual care fund, you can prefund it, and add a portion of every grave sale then add it immediately to the perpetual care account, and only the income on that principal can be touched, not for any other use, that will meet the MGL language. It is better to have those funds there rather than ask families to fund them after the fact because family members die. Mr. Keilty asked if we can we say that we will have a perpetual care account and that it will be agreed upon before any body is put into a grave.

Mr. Durkin asked the board's opinion on Attorney Keilty's suggestion. He added that the compliance with Con Com is also forward looking. Mr. Keilty said that he would not want Conn Com approval to be a condition because there is a problem with sequencing. He explained that he can't get a certificate of compliance from Con Com until they get approved on the encroachment. Mr. Durkin said he understands.

Ms. Cameron said that her understanding of the potential conditions would include: the use vaults (not liners); the agreement already made about soil storage; to only open one grave at a time; they will supply us an as-built plan stamped by a civil engineer; they will establish a perpetual care fund; and then whatever we decide on the number of graves, those are the outstanding conditions as she understands them. She asked if that was what Mr. Durkin believes is correct as well. Mr. Durkin replied that he only has one more item about the issue of the easement. He asked Mr. Daly who does the easement serve, is it the city? Mr. Daly replied no. Mr. Durkin said then he is less concerned about that, so he is willing to forego that one, even though it may be a good idea. He then said he thinks Ms. Cameron has them all. He then asked the board if they have a consensus for the 3x8 size of the plots. All agreed that they are fine with 3x8. Mr. Daly said that a standard vault will fit in the 3x8, tightly but it will fit. Mr. Durkin asked

if anyone had anything further to say about the size issue. On Zoom Nichole said that a vault would be fine in the 3x8 grave size.

Another member of the cemetery board asked about the required 20-foot buffer zone. He said that they have the fence that the board required now so they shouldn't need the buffer zone. Mr. Daly replied that he did not require the fence, it was only a recommendation because under the special permit there was a recommendation for shrubs, but he suggested a fence for your protection and for the protection of the residents of the city of Peabody, if cars started parking on Lowell Street they all could be in danger coming in, but we did not require it. He said he was surprised to see the fence. The gentleman said he took it as that it could be the same as the wall. Mr. Keilty clarified that the question he is asking is about a buffer zone. He explained that the buffer zone is not given by the city council, it is given by the conservation commission. He explained that there is the issue of the encroachment, so in some spots we are closer than 20 and in others farther, but we don't have any graves planned for in that buffer zone.

Dr. Fleet apologized for returning to the vault issue, but said that she just wanted to make sure that the land can support the size. She said she is not sure if it is under our purview or if Con Com would address this. Mr. Daly said the standard vault is 32-34 inches by 7 foot 6 inches in length so they will fit in a 3x8 grave tightly so as long as everything goes in evenly you will be fine. Dr. Fleet said so this will require a significant level of precision.

Mr. Durkin asked if there was anyone else who wished to speak on this issue, said on zoom to use the raise hand feature. No responses were received. Mr. Durkin closed the hearing and asked Ms. Cameron if we have documented enough to have a precise motion to be made. Ms. Cameron replied yes, and proposed a motion: vote to approve the use of the land demarcated in the Hayes plan for the purpose of human burial in plots size 3 feet by 8 feet using sealed vaults that conform with the requirements of Mass General Law. And then the conditions we would add would be the agreement to no excess soil storage, to only open one grave at a time, the submission of the new as-built plan, the establishment of a perpetual care fund, with an understanding that, it won't be a condition but, with the understanding that after they complete their work with Con Com that they will return with a certificate of completion.

Mr. Durkin replied that it sounds correct to him and asked if it sounds right to the other board members. Dr. Fleet and Mr. Carli agreed that it sounds correct. Mr. Carli made the motion to approve the human burial site at 530 Lowell Street according to the submitted Hayes plan for 3 foot by 8 foot graves with vaults as defined under Mass General Law 114 section 1, with the following conditions: That there will be no soil or other materials stored on the site, that only one grave at a time is opened, that a perpetual care fund is established, and that there is a submission of a final as-built plan stamped by a civil engineer. There is also an understanding that they will return with a certificate of compliance from the Con Com once that process has been completed. Mr. Durkin asked for clarification if the perpetual care fund is something that we are going to want to review. Ms. Cameron replied that she does not know that we have the expertise to review it. Mr. Carli said to the point that Nichole made, we didn't really want to designate how much money or how they put it in we just wanted to make sure that they had one and it was in accordance with industry best practices. Mr. Daly replied that how they administer it and manage it is in the cemetery's annual filing to the secretary of state so that is not your responsibility but will be part of their responsibility administratively to the secretary of state. Dr. Fleet seconded the motion. Mr. Durkin asked if there was any discussion on the motion. None was put forth. A roll call vote was taken and it was unanimously agreed to approve the designation of the land for human burial at 530 Lowell Street with the aforementioned conditions. Mr. Durkin thanked those in attendance and those on the zoom call. Nichole said thank you so much and that you don't know what this means to our community.

Mr. Durkin called for a five-minute recess.

## BUSINESS

**Subject 1.** Approval of minutes of October 20, 2022 - Vote anticipated to approve or amend minutes.

**Discussion:** Mr. Durkin re-opened the meeting after the recess and asked about the October 20, 2022 meeting minutes received by e-mail. Mr. Carli made a motion to accept the minutes, Dr. Fleet seconded the motion, and a roll call vote was taken and it was unanimously agreed to approve the minutes from October 20, 2022 as submitted.

**Subject 2.** Update on COVID-19 response actions

**Discussion:** Ms. Cameron said that there is still not a lot of official testing going on, but there is still a lot of spread not just of Covid but of other respiratory diseases. We are not seeing a lot of improvement in vaccination numbers other than seeing a small number of people getting the booster. We are continuing to hold covid clinics and are doing flu at the same clinics.

**Subject 3.** Environmental updates: a. Rousselot update

**Discussion:** Ms. Cameron reported that we had a few odor complaints over the month and we have asked Rousselot to provide us information on their filings with SESD as they continue to have violations of their wastewater discharge permit. They have had some issues with the clogging of the clarifier and some problems with the quality of materials supplied. The main issue with them lately has been noise complaints. She asked if the board had seen the news story on them, and the board said they had, and she went back to 2012 when they started the database for complaint tracking. Until the recent news story, they had had 17 complaints about noise since 2012, 15 of which were from the same address and from one another, so really only two complainants in ten years time and no complaints since 2016. Once this story aired then we received a couple more noise complaints. She spoke to one of the complainants who said it happens between 1-3 in the morning, and Ms. Cameron said she is willing to go out so she can hear it herself, and gave the complainant her cell phone number to call her but she hasn't called. After the news story she heard from a woman in Foxborough with no connection to Peabody but had seen the news story and said she has had the same situation and was hearing a humming sound and everyone thought she was crazy, but it turned out that it was some electrical wires that were pulled too tight and any time the wind hit them it made a humming sound like a violin. Cameron said she asked the light company to look into it and had spoken to a councilor who said about two years ago he had heard complaints that the wires were too low so they restrung them, but the Light company went out and didn't see any problems. Mr. Carli added that this also happens on sailboats, the stays that keep the mast up can make a high pitch noise. Ms. Cameron said that Rousselot had sent their staff out a night and they thought the Welch school, at the end of the complainant's street, is under construction, and they are running giant fans all night long which make a lot of noise, but the complainant says that the noise predates the construction project. Cameron said there are several other potential sources of noise in the neighborhood. In terms of condensing units we've got Dunkin Donuts, D'Orsi's, the Welch School – she is not able to pin-point it as being a noise nuisance from Rousselot. The complainants believe it is but she can't confirm. In 2017 the board had a hearing on this matter at the request of the Swampscott Ave complainants, and they wanted the board to declare a public nuisance but since we could not confirm the presence or the source of a noise nuisance, the Board declined to declare it a public nuisance at that time.

**Subject 3.** Environmental updates: b. Rodent control update

**Discussion:** Ms. Cameron reported the most recent number of kills from the kill boxes is 73. There was recently a rat on someone's desk in city hall. This person has a spotless desk, and they exterminator came out and said the rat was acting strangely and they believe the rat had ingested some poison and came in looking for warmth and ended up on this person's desk. A-1 will stop the fertility control boxes for the winter because the liquid freezes but they will put them back out in March.

**Subject 3.** Environmental updates: c. Update from Mac Park, 176 Newbury St.

**Discussion:** Mr. Durkin asked those present representing Mac Park to come forward. The owner Osorno thanked the board for having them. He said that as of Nov. 7 they met with the rent control board about their discontinuation request that was submitted to City Council. He said that there is a meeting of the Council to hear from the rent control board he believes on December 21<sup>st</sup> as to their discontinuation petition, and they will either approve or not that their petition to

discontinue the park. He said that his company Pyramid Holdings had submitted a proposal with a set of drawings for a 72 unit development with Jack Keilty with adding a change of zoning, adding a piece of property that Pyramid owns at 14 Pine Street. That change in zoning was withdrawn prior to them taking a vote because they realized that the first step was to dissolve the park, so they hired attorney Robert Proust. The development was going to add in an adjoining parcel that was not part of the overlay district. He said that he also wanted to give an update of three units that are part of the septic system that are no longer being used, one caught fire a month ago, unit #5, which was a problem unit that we were always pumping and has now been demolished, and unit #18 the owner passed away in June and we have heard from the person who inherited who is out of state and is making monthly rent payments but are not sure what they will do but don't believe they want to move in. Unit #11 moved out of the unit, another one that was on septic so it is no longer a problem. Right now they have unit #4, unit #22, units #7&8, Units #12&13, and unit #21 still on septic. We continue to pump and monitor the tanks on a monthly basis and submit the lists to Sharon each month. We have heard that the council understands the situation there and we are expecting a positive response from them. Mr. Durkin said the issue before us is the six- month extension that ended in November, so the question is what do we do, do we grant another stay or not, and if we do then how long. Ms. Cameron said it would not be another but would be extending the existing stay. Mr. Durkin said how long. Mr. Carli said that it seems that they will know more in December, so he thinks 3 months would be good. He asked if it is still the intention to go for the variance. The owner replied that whether or not they get their approval of adding in the additional lot they are still going to go forward with the development on a smaller scale. Mr. Carli asked if they have rescheduled the variance application. The owner replied that it is actually an amendment to the overlay district, which was put in place to allow more residential units, which right now allows 54 units but by adding in the other lot would allow a little more density. We put it on hold until the dissolution has been completed. Mr. Carli said he thinks three months would be good. Mr. Durkin asked if anyone had anything else to say. No responses were received. Mr. Carli made a motion to continue the stay for another three months and ask Pyramid Holdings to provide the board with an update after the December meeting. Dr. Fleet seconded the motion. A vote was taken and it was unanimously agreed to extend the stay for three months. Ms. Cameron said they do not have to come before the Board after the December meeting but to please let her know the outcome and she would let the Board know and in February you may need to come before the Board again as the three months is ending. They agreed.

**Subject 3.** Environmental updates: d. Release of report from K. Rodgers: "Pollution, People and Powerplants: Health Burdens in Peabody MA"

**Discussion:** Ms. Cameron said this was a more in depth summary of what she presented at the board meeting a few months ago. She said she shared this report with Beverly, Danvers and Salem Health Departments and asked them to share with their boards but doesn't know if anything will come of it. She said she had attended the Mass Health Officers association conference in October and the DEP Commissioner was there giving the keynote speech about environmental justice, so after the speech she approached him saying that we had sent letters to him on this issue and never heard back and he asked her to resend the letters and she did but has still not heard back. She wondered if with the new administration coming we might get a response.

**Subject 3.** Environmental updates: e. Northeast Nursery update

**Discussion:** Ms. Cameron said we had a few nuisance odor complaints over the summer but nothing recently but we continue to monitor.

**Subject 4.** Code enforcement updates: a. Housing: 30 Margin St;

**Discussion:** Reviewed

**Subject 4.** Code enforcement updates: b. Nuisances: 672 Lowell St; 6 Summers St; 17 Shamrock St; 4 Tremont Pl; 120 Foster St; 3 Florence Rd; 5 Bragg St;

**Discussion:** Reviewed

Approved 1/26/23

**Subject 4.** Code enforcement updates: c. Food: Family Fare 474 Lowell St.

**Discussion:** Reviewed

**Subject 5.** Permitting updates: a. List of permits issued in October 2022

**Discussion:** Reviewed

**Subject 6.** Public Health Nursing updates: a. List of permits issued in October 2022

**Discussion:** Reviewed. Mr. Durkin noted that there is no longer a llama listed and wondered if we no longer have one at Brooksby farm.

**Subject 6.** Public Health Nursing updates b. October 2022 surveillance report

**Discussion:** Ms. Cameron told that Chassea Robinson in the last 4 months has run 16 flu clinics and 9 covid clinics so she has been very busy trying to vaccinate folks. Mr. Durkin said to thank her.

**Subject 7.** School Health updates

**Discussion:** Ms. Cameron reported that the SBIRT screening for substance abuse is going well, finishing middle school tomorrow and did half of the high school freshman class and will do the other half in the spring semester. She added that they are experiencing significant staffing challenges and are trying to hire nurses. They currently have 2 nursing vacancies, one vacant for all of last year, and it is very challenging to hire in this environment.

**Subject 8.** Opiate response updates

**Discussion:** Ms. Cameron reported that she, the Healthy Peabody Collaborative staff and the police chief proposed to hire a case manager/social worker with opiate settlement funds, and they are working on the job description for that position. She added that they did receive our registration from the state to participate in the naloxone distribution program center so we are in the process of putting together the logistics of how that is going to work. The board expressed their support for this initiative.

**Subject 9.** Correspondence:

a. From Brown & Caldwell re: Peabody Ash Monofill

b. From DEP re: Republic Services

c. From DEP re: Peabody Ash Monofill

d. From DEP re: Wood Recycling Transfer Station

**Discussion:** Reviewed. One issue is the JRM issue, now Republic. The Mayor convened a meeting with their management. Cameron talked about the early pick up issue; Republic stated they are in the process of setting up a tracking system. The other issue is in regard to the soundness of the vehicles, they said they have a newer fleet of vehicles than JRM did and are upgrading their fleet in stages. JRM had one shift of mechanics but Republic has a 24 staffing for mechanics, and drivers have a form to be completed to check over the truck before they can leave the yard, and do it again when they return so that vehicles can be serviced promptly. Also a lot of food establishments and multifamily housing use JRM dumpsters; when we say they are not in good condition, people say they can't get new ones. Republic management said that is not correct – they have plenty of inventory and staffing to swap out dumpsters. We can call and they can get them a new one. With respect to the fluid leak incidents, the leaking one was an older JRM vehicle that leaked on 17 of our streets. Republic is also proposing two projects at their transfer station. They want to add two pieces of equipment, a compacter, and another to make MSW into a slurry to put into a liquid tanker truck. These processes will happen inside

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closed buildings. They are not looking to change their capacity or the nature of what's going in for processing so she doesn't think it needs a new site assignment and said she wants their opinion, and the Board agreed.

**Other:** Ms. Cameron said she had received a parent complaint today about an operator selling flavored vaping products and Randy Suckney and Joyce Redford went out and found thousands of flavored items for sale in violation of state law. The operator said all the other adult only tobacco retailers do they same thing. Customers come in and have a rubber bracelet or a code word they know to say, to get the illegal product. The complainant in this case said his son was part of the "preferred customer club." The inspectors asked the operator to unlock the drawers under the register, and the operator said he didn't have a key for the drawers, but later admitted he had the key and when he opened it there were dozens of flavored products. Redford called DOR, who confiscated product because they hadn't paid tax on it. Cameron informed the owner that she is issuing an immediate suspension of the tobacco permit; he has the right to appeal to the Board, but must remain closed until then. She also informed him she is going to recommend they revoke the tobacco permit permanently; he replied that he might just voluntarily give up the permit. Cameron asked the Board do we even want to have an adults only permit category anymore? Now that state law has changed to prohibit flavored products, there is very little advantage other than the ability to sell higher level nicotine products. The owner of Peabody Vapors told her the only way stores make money is doing this. He said the markup on flavored products is 300-400% because of the prohibition. Cameron asked the Board if this is the only business model that works for this category of retailers, do we want to be a part of it? This is not a decision to be made today but a seed to plant for a future discussion.

Mr. Carli made a motion to adjourn at 7:46 p.m.; Dr. Fleet seconded the motion and all agreed to adjourn.

**Next\_Meeting\_Date:** December 15th 2022 @4:30

**Adjournment:** 7:46p.m.