full-time or part-time employees and determine their compensation, benefits and duties.

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 for the purchase and development of real property for the cemetery and the expenses related thereto.

SECTION 14 - RULES CONCERNING CEMETERY

(A) For the purpose of preserving the beauty and symmetry of the grounds, and of protecting lot owners from the vagaries of bad taste, the Commission reserves the right to control the character of frames or other ornaments that may be constructed upon any lot; and when, in the opinion of the Commission, such structures are detrimental to the appearance or convenience of the grounds, the same may be removed at the cost of the Commission. No stone, marker, coping or any ornament of any sort may be placed on any lot unless set in concrete which projects at least four inches on all four sides of such coping or ornament. This bylaw will be strictly enforced and the Commission claims the right to change any such markers, copings and ornaments to confirm to this rule at the expense of the lot owner if necessary.

(B) When workmen are engaged in erecting monuments, or doing any other building on the grounds, they must use great care in protecting the neighboring lots from injury, and upon finishing their work must, without delay, clean up all liter and dirt, and remove all machinery, lumber, and materials used by them, and when the workmen fail to comply with the above conditions, the Town Manager, under whose general supervision all such work is done, shall cause the grounds to be cleared of all dirt, etc. and recover the costs thereof from the owner of said lot or lots.

(C) When an owner of a lot shall so neglect to keep the same in order and it shall detract from the general good appearance of the cemetery, it shall be the duty of the Secretary to notify the owner of the condition of his lot, to request him, in the name of the Commission, to put it in good order. Should such request be not complied with, the Commission shall have the right to make such repairs and do such work as may be necessary to put the lot in good order, and charge the cost of same to the owner of said lot.

(D) The Commission may annually assess the owner of each lot with a sum applied to the general improvement of the grounds. The term lot, as used in this section, shall be construed to include all the lands lying contiguous and owned and used as a whole, even though it contains more than one lot as laid down on the plat of the grounds.

(E) When a lot has been purchased, and the purchaser has not paid for said lot, the Commission shall have the right to remove the remains of those who have been buried therein to some suitable place to be provided for this purpose, and after such removal the Commission shall have the right to resell said lot. After such removal the title to said lot shall revert to the Town of Elkton and it may be sold by them in a deed issued therefor as though the lot had never

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February 25, 1998

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Dear Commission Members:

I want to respond to the legal issues raised at your Annual Meeting last week, as reflected in the minutes of your meeting.

Council Member Position - Since Council must appoint all members, amending the Bylaws to require a council member to be a member of the Cemetery Commission would appear unnecessary. If Council chooses for one of its members to serve on the Commission it can make such an appointment, as it has done in the past. If not, then it would not be appropriate for the Commission to have a Bylaw provision requiring the Council to do something it does not wish to do. There could come a time when for a variety of reasons a Council does not have one of its member willing or able to serve. It would be unwise to create a situation in which the Bylaw had to be either changed or ignored. Therefore, I suggest that the present Bylaw be retained.

Time and Place of Annual Meeting - I suggest that Section 2 be amended to read as follows:

The annual meeting of the Commission shall be held during the month of February of each year, at a specific time and place as the officers designate by proper notice to the members.

Quorum Requirement - The provision setting a quorum of three members was adopted by the first Commission. I assume, but do not know, that it was adopted out of concern whether a majority quorum could be obtained consistently. I can find no requirement in state law or the Town Charter for any particular quorum requirement for commissions in general or cemetery commissions (there is a majority quorum requirement for planning commissions). The state law gives towns broad powers to establish commissions and absent a specific limitation as to quorums, it would seem legally valid for the Town to allow the Cemetery Commission to establish a quorum of three members. However, if the Commission wants to require a majority, it certainly can do so.

Call for Meeting Requirement - As with the quorum requirement, this appears to be a matter to be decided by the Commission. It need not be the same as the quorum.

Please let me know if you have further questions concerning these issues or if you have questions on other matters related to the Cemetery Commission.

Very truly yours,

Dale A. Davenport
Town Attorney

DAD/lrj

pc: Gerald Monger, Town Manager
Denise Jenkins, Cemetery Director
Charles Dean, Mayor