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04-8-25-1

AGENDA COVER MEMO

AGENDA DATE: August 25, 2004

TO: LANE COUNTY BOARD OF COMMISSIONERS

DEPT.: LANE COUNTY OFFICE OF LEGAL COUNSEL

PRESENTED BY: Teresa J. Wilson, County Counsel 

AGENDA ITEM TITLE: In the Matter of Granting Permission to the Forestvale Memorial Park, Inc. to Move the Remains of Two Persons

I. MOTION: I MOVE TO PERMIT FORESTVALE MEMORIAL PARK, INC. TO MOVE THE REMAINS OF THE TWO PERSONS AS IDENTIFIED IN THE LETTER.

II. ISSUE OR PROBLEM: Is the Board willing to grant permission to Forestvale Memorial Park, Inc., to move the remains of two persons who have been interred in the wrong plots?

III. DISCUSSION:

A. Background. Forestvale Memorial Park, Inc. is a non-profit cemetery in Oakridge that is managed by a volunteer board of directors. The Park officials contacted Commissioner Hampton in July regarding a problem they have discovered with the interment of two people in the wrong plots. In one case, they know the name of the individual, but cannot locate any heirs; in the other, they have simply discovered remains of an unknown person when they went to prepare the grave for a burial. Forestvale has searched their records for more information on these two deceased individuals, to no avail. They have also placed legal notices in the Register Guard and the Oakridge Dead Mountain Echo of an intent to move the remains, in an effort to locate any otherwise unknown heirs.

B. Analysis. ORS 97.220 addresses the situation when a cemetery needs to move remains. Generally, the consent of heirs is needed. However, in the situation where the consent cannot be obtained, the statutes give the Board of Commissioners the authority to grant it, so long as there has been 60 days notice of the cemetery's intent to seek permission, given personally to anyone who refuses consent and otherwise as determined by the Board. Specifically, the relevant part of the statute provides:

"1) The remains of a deceased person interred in a plot in a cemetery may be removed therefrom with the consent of the cemetery authority and written consent of the person who has the right to control the disposition of the remains of the deceased person. If the consent of any such person or of the cemetery authority cannot be obtained, permission by the county court or the board of county commissioners of the county where the cemetery is situated is sufficient. Notice of application to the court for such permission must be given at least 60 days prior thereto, personally or by mail, to the cemetery authority, to the person not consenting and to every other person or authority on whom service of notice is required by the county court or the board of county commissioners."

The cemetery published notice on July 26 and 27; the 60-day period ends on September 24. The cemetery already has permission to move the remains of a third person; they would like to

perform all three moves at the same time, due to the expense. They have therefore requested permission to do so, in anticipation that there will not be anyone who comes forth as a result of the legal notice.

It appears that the cemetery has taken appropriate steps to identify possible heirs of the deceased, and that, assuming no one comes forth, it would be appropriate for the Board of Commissioners to grant permission for the moves. The cemetery is bearing the expense of the effort as well as donating the new plots for these remains. The Board Order is written to grant such permission to perform the moving of the remains on or after September 25, on the condition that there is no heir or decedent who objects within the intervening time. It provides that if someone does or refuses to give permission, the cemetery should report back to the Board for further direction.

C. Alternatives/Options. The Board could refuse to grant permission; alternatively, it could require additional efforts to locate heirs or decedents of the deceased individuals. Neither of these alternatives seems very practical, but they are certainly within the authority of the Board.

D. Recommendations. I recommend approval of the Order as written.

IV. ATTACHMENTS:

Board Order with attached 7/20/04 letter from Lynette Paddock, Secretary for the Forestvale Memorial Park, Inc.

IN THE BOARD OF COUNTY COMMISSIONERS
OF LANE COUNTY, OREGON

ORDER NO. 04-8-25-

) IN THE MATTER OF GRANTING
) PERMISSION TO THE FORESTVALE
) MEMORIAL PARK, INC. TO MOVE THE
) REMAINS OF TWO PERSONS

WHEREAS, the Forestvale Memorial Park, Inc. has discovered that two persons have been interred in the wrong plots, and

WHEREAS, the deceased have no know descendants or relatives to give permission for disinterment from the erroneous plots, and

WHEREAS, the Forestvale Memorial Park, Inc. is willing to donate plots for reinterment of the remains of these two individuals, and

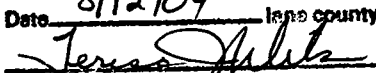
WHEREAS, the Forestvale Memorial Park, Inc. has published legal notice in the Register Guard and the Oakridge Dead Mountain Echo of its intentions to move the remains of these individuals and has requested contact from any interested heirs or descendants, and

WHEREAS, under ORS 97.220, when consent to disinter the remains of a deceased person cannot be obtained from a descendant, the Board of County Commissioners may grant permission, so long as notice of application to do so has been given 60 days prior to the action to every person or authority required by the Board, and

WHEREAS, in the circumstances of this case, as described in the attached letter (Exhibit A) from the Forestvale Memorial Park, Inc., the Board believes that the published notice is adequate to meet the notice requirements,

NOW, THEREFORE IT IS HEREBY ORDERED that permission is granted to the Forestvale Memorial Park, Inc. to move the remains of the individuals as described in the attached Exhibit A at any time on or after September 25, 2004, subject to the condition that if an heir or descendant appears, Forestvale shall first seek permission from such heir or descendant, and failing that, shall report back to the Board of Commissioners for further direction.

DATED this 25th day of August, 2004.

APPROVED AS TO FORM
Date 8/12/04 in and county

OFFICE OF LEGAL COUNSEL

Bobby Green, Sr., Chair,
Lane County Board of Commissioners

JUL 26 2004

July 20, 2004

Lane County Board of Commissioners
125 E. 8th Avenue
Eugene, OR 97401

Attention: Teresa Wilson

Dear Ms. Wilson:

Forestvale Memorial Park, Inc. is a small non-profit cemetery located at Oakridge, OR and is managed by a voluntary board of directors.

In regard to ORS Chapter 97.220 on disinterments, we have 2 interments that we find necessary to disinter and reinter in nearby burial spaces in our cemetery. The first is a Frank Hedger interred in another family's plot in 1967 and the family owning the plot have asked us to have Mr. Hedger moved so that they will have this rightful space for their family. We have not been able to locate anyone through our records who knows who Mr. Hedger is or if there are any relatives. The second interment is in a family plot that we sold to a local family on 1999. We (the present board) were not aware of this unmarked interment. When we went to prepare a grave for the present owners this year we discovered the unmarked interment. The family who purchased these plots have asked us if we can please relocate this grave. I have searched many times through old records and cannot find anything at all relating to this "unknown" interment, either a name or even anything to indicate an interment in this plot.

We also have filed notices (under Legal Notices) with the Eugene Register-Guard and the Oakridge Dead Mountain Echo of the intent to make these two disinterments and reinterments for our 60 day notification. These notices are to be published July 26 and 27, 2004 and ends September 23 and 24, 2004.

We are therefore asking for permission to proceed with this endeavor as the Wilbert Vault Co. has expressed a necessity for their part to do this before fall and winter rains. Also, it will be less expensive for the cemetery for Wilbert Vault to come and move 3 graves at one time for us than to do this separately. (We do have family request and written permission for the third disinterment/reinterment.) *Hoping for end of Sept. or early Oct.*

Thank you, and hoping for a speedy response.

Sincerely,

FORESTVALE MEMORIAL PARK, INC.

Lynette Paddock, Sec.

Lynette Paddock, Sec.

P. O. Box 74

Oakridge, OR 97463

Phone 782-2555

Enc. 1

Oakridge, Oregon 97463

F. L. LITA



Notice is hereby given of the intentions of Forestvale Memorial Park, Inc., a non-profit cemetery located at Oakridge, OR to disinter Frank Hedger from Lot 11 Space 7 and to reinter same Frank Hedger in Lot 41A Space 4; also to disinter an "unknown" from Lot 57 Space 3 and reinter same "unknown" in Lot 41A Space 3. Disinterment/reinterment will take place approximately October 1, 2004 or after. Any heirs or decedants of Mr. Hedger or the "unknown" listed above please call Lynette Paddock at 782-2555.

Please bill to:

FORESTVALE MEMORIAL PARK, INC.
Lynette Paddock, Sec.
P. O. Box 74
Oakridge, OR 97463

Phone for Lynette is 782-2555

Lynette Paddock, Sec.

*This is a copy
of the newspaper
of the notices*