

AGENDA ITEM REQUEST

Requests and backup must be in the Town Office by Noon, Wednesday of the week preceding the Town Board meeting you wish the item presented. Town Board meetings are held on the second and fourth Tuesday of each month at 7:00 p.m. in the Bob Ruud Community Center.

DATE AGENDA ITEM SUBMITTED
2/16/2010

DATE OF DESIRED BOARD MEETING
02/23/10

CIRCLE ONE: Discussion, Action, Decision or XXXXXXXXXX

ITEM REQUESTED FOR CONSIDERATION:

Discussion and Decision on Pahrump Town Ordinance #39, An Amendment to Ordinance No. 39 of the Unincorporated Town of Pahrump, To Revise and Restate the Town's Regulations Concerning the Management and Maintenance of the Town's Cemetery, And Providing for Other Matters Properly Relating Thereto.

If request for funding is approved by the Town Board, an invoice or letter from the requestor to Town of Pahrump/Accounts Payable is required to receive funding.

BRIEF SUMMARY OF ITEM:

See attached copy of PTO #39.

BACKUP ATTACHED: YES NO

SPONSORED BY: Town Manager

NAME OF PRESENTER(S) OF ITEM: Town Manager

William A. Kohbarger

Print Name

William A. Kohbarger 02/16/10
Signature

Town Office

Mailing Address

(775) 727-5107 ext. 305

Telephone Number

11

Cookie Westphal

From: Lance Maiss [lmaiss@ArmstrongTeasdale.com]
Sent: Friday, February 19, 2010 12:16 PM
To: Bill Kohbarger
Cc: Cookie Westphal
Subject: MEMO re PTO 39 and Veteran's SOP
Attachments: Memorandum re PTO 39 and Veteran_s SOP.DOC

Bill

Attached hereto is a memo regarding draft PTO 39 and issues surrounding the previously-adopted Veteran's SOP. As you will see, there are essentially two issues the TB should discuss. Assuming those issues can be easily hashed out, my recommendation is to go with one document. Let me know if you need anything further. Best.

Lance P. Maiss
Armstrong Teasdale, LLP
50 W. Liberty Street, Suite 950
Reno, NV 89501
T 775-322-7400
F 775-322-9049

*****PRIVATE AND CONFIDENTIAL*****

This transmission and any attached files are privileged, confidential or otherwise the exclusive property of the intended recipient or Armstrong Teasdale LLP. If you are not the intended recipient, any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is strictly prohibited. If you have received this transmission in error, please contact us immediately by e-mail (admin@armstrongteasdale.com) or telephone (314-621-5070) and promptly destroy the original transmission and its attachments. Opinions, conclusions and other information in this message that do not relate to the official business of Armstrong Teasdale LLP shall be understood as neither given nor endorsed by it.



Memorandum

To: Town Board and Town Manager
From: Lance Maiss
Date: February 19, 2010
Subject: PTO 39 – Cemetery Ordinance and Veteran’s Memorial SOP

After preparing draft PTO 39, which was based upon a draft of a general operating manual for the Town Cemetery, concerns were raised regarding the previously-adopted Veteran’s Memorial SOP.

Town Staff and counsel had been working through the issues surrounding general operations of the Town Cemetery last summer, when it was evident that the Veteran’s Memorial Advisory Board had put forth a draft operating manual for a veteran’s memorial “Veteran’s Memorial SOP.” In an effort to achieve consistency by having one document cover all aspects of the Town Cemetery, we incorporated nearly all of the provisions of the Veteran’s Memorial SOP. However, the Town Board proceeded to adopt the Veteran’s Memorial SOP separately.

After further review of draft PTO 39 and the Veteran’s Memorial SOP, the only substantive differences are the following:

1. Parking is addressed in the Veteran’s Memorial SOP, but is not addressed in draft PTO 39.
2. The Veteran’s Memorial SOP provides for a fee for a veteran burial in grave of \$450, and placement in a columbarium with one dependent to be \$450. On the other hand, draft PTO 39 sets forth that a fee for burial in a grave is \$900 but the fee for burial in a grave for a veteran dependent is \$650. The fee for a veteran and one dependent placed in a columbarium is \$450.

While the Town Board could have draft PTO 39 incorporate the Veteran’s Memorial SOP, having both documents, which address the same issues using different language (but in several instances using the same language), may cause some confusion and not be as user-friendly as intended. Instead, it is recommended that the Town Board consider going with one document – PTO 39. If the Town Board can reconcile the aforementioned differences, it is recommended that the Town Board adopt draft PTO 39 and provide that PTO 39 will supersede not only the current ordinance but the Veteran’s Memorial SOP. By doing so, there will be one document

February 19, 2010

Page 2

that the Town and its residents can refer to and rely upon for issues regarding the management and maintenance of the Town Cemetery, including the Veteran's Memorial.

LM



2/9/10
Meeting Blu

Memorandum

To: Town Board of Pahrump
From: Lance Maiss
Date: February 4, 2010
Subject: Amending and Restating PTO 39 – Pahrump Cemetery Ordinance

For many months, the Town Board and Town Staff have worked through issues involving the management and maintenance of the Town Cemetery, including the addition of a Veterans Memorial. To that end, efforts focused upon developing and implementing a cemetery operating manual, based in part on PTO 39. However, with such significant additions and changes to the policy and procedures for managing and maintaining the Town Cemetery, although not required, it made sense to have PTO 39 amended and restated to reflect the additions and changes, as well as providing the public full disclosure of them. Set forth below are comments regarding the additions and revisions made for amending PTO 39:

39.000: This section is renamed from “Purpose of Ordinance” to “Declaration of Town Policy” with less language to simplify what PTO 39 is about.

39.100: This section is unchanged.

39.105: This section is added to further explain that the authority to operate the cemetery lies with the Town Board and its designated representatives, if any, whether a sexton or manager or some other position.

39.110: This definitional section is significantly changed by adding many more definitions. The current ordinance only defines “sexton.”

39.200: This section addressing plots has been revised to include the applicability of cremated remains and for a columbarium.

39.210: This section is essentially unchanged.

39.215: This authority section is an important addition, explaining what persons under Nevada law are authorized to order a burial. See, NRS 451.024.

39.220: The provisions of this section (A, B, C) are essentially the same; however, sections D and E are added to further comply with Nevada law. See, NRS 440.510; NRS 440.520; NRS 440.560; NRS 440.570; NRS 440.580.

39.230: This disinterment section is added to address removal of remains. See, NRS 451.045; NRS 451.050; NRS 440.520; NRS 440.530; NRS 440.560.

39.300: This section for grave digging and setting headstones is revised to provide more details for issues such as notice, time of day, special circumstances, practicality of notice, type of headstones and plaques.

39.340: This section is added to address veterans' columbarium services, based upon the intent of the Town to build a columbarium dedicated to veterans.

39.350: This section is added to provide for any new construction at the cemetery in compliance with NRS Chapter 452 and NAC Chapter 452.

39.400: This section is essentially the same but is revised to provide more detail regarding the maintenance of records. See, NRS 440.590.

39.500: This section is slightly modified regarding what persons are to be notified for indigent burials.

39.600: This section is changed entirely. In the current ordinance, this section is the "Miscellaneous Regulations" section. For the amended ordinance, miscellaneous regulations will be moved to 39.760. Instead, this section addresses the eligibility of a veteran for burial.

39.650: This new section addresses indemnification of the Town for burial or removal of remains.

39.700: This section for fees is revised significantly to change current rates and add new rates, including rates for the burial of veterans.

39.710: This new section is added to provide further detail for the maintenance of records.

39.720: This new section is added to address the maintenance of the cemetery grounds.

39.740: This new section is added to provide for the use of the cemetery for gatherings.

39.760: This section is now the "Miscellaneous Regulations" section. There are additional provisions added to such issues as access, trespass, dogs, items placed at plots, and behavior on cemetery grounds.

39.800: This section for violations is unchanged.

39.810: This section for penalties is essentially the same; however, some unnecessary language is removed for better clarity.

39.820: This section is reworded but serves the same purpose and has the same effect as in the current ordinance.

39.825: This section for injunctive relief is added to indicate that the Town has additional authority to seek injunctive relief to protect the integrity of the cemetery.

February 4, 2010

Page 3

39.830: With the exception of a change of the heading from "Repeal" to "No Conflict," this section is unchanged.

LM

ORDINANCE NO. 39

AN AMENDMENT TO ORDINANCE NO. 39 OF THE UNINCORPORATED TOWN OF PAHRUMP TO REVISE AND RESTATE THE TOWN'S REGULATIONS CONCERNING THE MANAGEMENT AND MAINTENANCE OF THE TOWN'S CEMETERY, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO

WHEREAS, the current regulations regarding the management and maintenance of the Town Cemetery must be updated to reflect, among other things, additional definitions, enhancement of cemetery services, maintenance of cemetery grounds, updating burial fees and other related expenses, establishment of burial provisions for veterans, and maintenance of records; and

WHEREAS, to carry this out, it is appropriate to replace, update, or add regulations to this ordinance.

NOW, THEREFORE, the Town of Pahrump, Nevada does ordain:

- 39.000** **Declaration of Town Policy.** It is declared to be the policy of this Town to establish uniform regulations regarding the management and maintenance of the Town Cemetery in a manner consistent with the Nevada Revised Statutes as well as all other applicable law.
- 39.100** **Short Title.** The title by which this ordinance shall be known is the "Pahrump Cemetery Ordinance."
- 39.105** **Authority to Operate.** The Pahrump Cemetery shall operate under the authority of the Town Board of the Town of Pahrump by and through its designated sexton or manager pursuant to this ordinance.
- 39.110** **Definitions.** Definitions within this ordinance shall be understood as follows:

"Cemetery" means any enclosure or plot of land that is or may be used for the burial of the dead and includes an individual plot.

"Cemetery Purpose" means a purpose necessary or incidental to establishing, maintaining, managing, operating, improving, or conducting a cemetery, interring remains, or caring for, preserving, and embellishing cemetery purposes.

“Columbarium” means a durable, fireproof structure, or a room or other space in a durable fireproof structure, containing niches and used or intended to be used to contain cremated remains.

“Crypt” means a chamber in a mausoleum of sufficient size to inter human remains.

“Grave” means a space of ground that is in a burial park and that is used or intended to be used for interment in the ground.

“Human Remains” or “Remains” means the body of a deceased person, and includes the body in any stage of decomposition and the cremated remains of a body.

“Interment” means the permanent disposition of remains by entombment, burial, or placement in a niche.

“Lawn Crypt” means a subsurface receptacle installed in multiple units for ground burial of human remains.

“Mausoleum” means a durable, fireproof structure used or intended to be used for entombment.

“Niche” means a space in a columbarium used or intended to be used for the placement of cremated remains in an urn or other container.

“Plot” means space in a cemetery owned by an individual or organization that is used or intended to be used for internment, including grave or adjoining graves, a crypt or adjoining crypts, a lawn crypt or adjoining lawn crypts, or a niche or adjoining niches.

“Sexton” means the individual assigned by the Town of Pahrump to manage cemetery property and shall not connote any religious affiliation whatsoever.

“Urn” means a vessel in which cremated remains can be placed and which can be closed to prevent leaking or spilling of the remains or the entrance of a foreign material.

“Veteran” means a member or former member of the United States Armed Forces (Army, Navy, Air Force, Marine Corps, Coast Guard) or the Reserve Components and Reserve Officers’ Training Corps, a commissioned officer of the National Oceanic Atmospheric Administration or the Public Health Service, or a World War II Merchant Mariner, subject to certain eligibility requirements.

39.200 **Plots.** Standard plot sizes shall be utilized in the cemetery as follows:

- A. Standard Plot: Ten feet by five feet (10' x 5'). Will fit one (1) standard or one (1) double vault. Ability to place two (2) cremated remains on top of standard or double burial.

- B. Infant Plot: Five feet by five feet (5' x 5')

- C. Cremation Plot: Two feet by four feet (2' x 4'). Each cremation plot will hold four (4) cremated remains.

- D. Columbarium Eleven and one-fourth inches cubed (11 ¼"). A columbarium will hold two (2) cremated remains.

39.210 **Liners Required for Standard and Infant Plots.** A concrete liner shall be required for each burial in a standard or infant plot. The charge of the liner shall be included in the fee for opening and closing of the plot. However, there is no liner required for cremation burials.

39.215 **Authority to Order Burial.** The cemetery must recognize the proper authority to order a burial as follows:

- A. The following persons, in the following order of priority, may order the burial of human remains of a deceased person:
 - 1. a person designated as the person with authority to order the burial of the human remains of the decedent in a legally valid document or in an affidavit executed in accordance with NRS 451.024(5);
 - 2. the spouse of the decedent;
 - 3. an adult son or daughter of the decedent;
 - 4. either parent of the decedent;
 - 5. an adult brother or sister of the decedent;
 - 6. a grandparent of the decedent;
 - 7. a guardian of the person of the decedent at the time of death; and
 - 8. a person who held the primary domicile of the decedent in joint tenancy with the decedent at the time of death.

- B. If the deceased person was an indigent or other person for whom the final disposition of the decedent's remains is a responsibility of Nye County or the State of Nevada, the appropriate public officer may order the burial of the remains and provide for the respectful disposition of the remains.

- C. If the deceased person donated his or her body for scientific research or, before his death, a medical facility was made responsible for his or her final disposition, a representative of the scientific institution or medical facility may order the burial of his or her remains.
- D. A living person may order the burial of human remains removed from his or her body or the burial of his or her body after death.
- E. A person 18 years of age or older wishing to authorize another person to order the burial of his or her remains in the event of death may execute an affidavit in accordance with NRS 451.024(5).

39.220

Burial Permits Required. Prior to burial, a permit must be obtained as follows:

- A. When a death occurs within the boundaries of Nye County, the undertaker, or the person acting as the undertaker, shall be responsible for obtaining and filing the certificate of death with the County Health Officer, or his designee, in the registration district in which the death occurred and for securing a burial or removal permit prior to any disposition of the body.
- B. When a certificate of death is properly executed and completed, the County Health Officer, or his designee, shall then issue a burial or removal permit to the undertaker. Such a permit shall indicate the name of the cemetery, mausoleum, columbarium, or other place of burial where the human remains will be interred or buried.
- C. No Sexton, Town employee, or other person in charge of the cemetery shall inter or permit the interment or other disposition of any body therein, unless it is accomplished by a burial, removal, or transit permit. The permit shall state the name, age, sex, social security number, cause of death, and the name of the place where the human remains will be interred or buried. Such name or location shall be specific as to describing the place for interment of burial. Should there be locations closely associated or commonly named, a more precise description shall be used.
- D. A burial permit shall not be required from the County Health Officer when a body is removed from another district of Nevada for burial in the cemetery.
- E. The funeral director or family must provide any and all paperwork required for burial by the Town of Pahrump.

39.230

Disinterment Permits Required. Prior to disinterment or removal of human remains, these procedures must be followed:

- A. The local health officer must issue a permit for the disinterment or removal of human remains, indicating the name of the cemetery, mausoleum, columbarium or other place of burial where the remains will be interred or buried.
- B. The Sexton or Town shall not disinter or remove or permit disinterment or removal of human remains without a copy of such a permit.
- C. A violation of this section is a misdemeanor under NRS 451.045(3) or NRS 451.050(1).
- D. A written indemnification and hold harmless form is required from the mortuary on an annual basis.

39.300

Grave Digging and Setting of Headstones. Except as otherwise provided by funeral homes or mortuaries as authorized by the Town of Pahrump, it shall be the Town's responsibility to handle grave digging and headstones as follows:

- A. The Town shall open and close all graves in the cemetery.
 - 1. A minimum of two (2) working days or forty-eight (48) hours notice must be provided for all burials.
 - 2. Burials shall not be performed on holidays or weekends without seventy-two (72) hours notice, if the required personnel are available.
 - 3. Except as provided above, all burials will take place during normal working daylight hours (Summertime) (8:00 a.m. – 4:00 p.m.) and Wintertime (8:00 a.m. to 2:00 p.m.).
 - 4. Funeral services may be conducted in designated areas and buildings only, unless written permission is obtained for grave site services.
 - 5. The practice of stacking one occupant on top of another will be permitted. In case of burial of others than the spouse, the person desiring to be stacked must have the written permission from the next of kin of the first person interred prior to the second burial or have prearranged burial instruction prior to first interment.
 - 6. Special circumstances will be considered, but not mandatory, for weekend or holiday burials.
- B. The Town shall set all headstones and markers in the cemetery.
 - 1. Except as otherwise provided below, upright headstones will not be permitted. In the veterans' section, all headstones shall be flush with the ground.
 - 2. Markers and headstones will be permitted in the grassy areas only if flush to the ground with a concrete foundation of four (4) inches

plus four (4) inches of concrete on all sides of the stone as set by the Town of Pahrump.

3. Pursuant to Nye County Resolution 94-28, a portion of the cemetery has been designated as being part of the aboriginal lands of the Pahrump Paiute Tribe and will be perpetually maintained in the “natural” manner of the Southern Paiutes. Headstones and markers of any type may be used in this area, so long as the grave site is maintained in a natural desert condition.
4. Certain areas of the cemetery (generally older, non-grassy sections) have been designated as permitting upright headstones.
5. All headstones will be imbedded to the concrete foundation.
6. All Veteran’s plaques will be set in concrete at the same expense as others. Headstones should be provided for the veteran, at no cost, by the Department of Veteran’s Affairs (brass flat plate style inlaid in concrete with flower holder on each side). Only plaques set in concrete foundation will be recognized as headstones.
7. All temporary markers must be replaced with a permanent marker or headstone within one (1) year from the date of the burial or within thirty (30) days from the time the headstone is ready for placement.

39.340

Veterans Columbarium Services. A special columbarium dedicated to veterans shall have the following interment requirements:

- A. Each niche shall have an interior dimension of 11 ¼ inches cubed (28.5 cm) with a 10 ¼ inches squared (26.0 cm) opening.
- B. The urn shall have the following specifications, which allow for both single and double interment:

<u>Urn Type</u>	<u>Dimension</u>	<u>Measurement</u>
All	Height	10 ¼ inches (26.0 cm) maximum
Round	Girth	6 ½ inches (16.5 cm) diameter maximum
Rectangular	Depth	11 inches (28.0 cm) maximum
Rectangular	Width	5 3/8 inches (13.6 cm) maximum

- C. Marker plaques given by the Department of Veteran’s Affairs for those veterans that choose the columbarium will be placed upon the wall located to the northwest of the memorial.
- D. Only those religious symbols authorized by the Department of Veteran’s Affairs may be placed on the granite face plate covering the columbarium niche.
- E. Purchases of columbarium niches are on a first come basis.

39.350

Construction of Mausoleums, Vaults, and Crypts. Any new construction of mausoleums, vaults, or crypts shall comply with NRS Chapter 452 and NAC Chapter 452 and must be approved by the Sexton.

39.400

Duties of the Sexton. The Sexton shall manage the cemetery property as follows:

- A. Plots in the cemetery will be reserved and assigned only by the Sexton.
 - 1. A person reserving a plot or plots in the cemetery shall be responsible for notifying the Sexton of current contact information.
 - 2. The Sexton shall be notified every five (5) years to reconfirm intentions of plot reservations.
 - 3. In the event that the Sexton determines that a previously reserved plot is untraceable, the Sexton may petition the Town Board for permission to allow the plot to be used or reserved by another person.
- B. The Sexton will keep a record of all plots assigned and reserved. These records will be open to the public.
- C. The Sexton will keep all records relating to the cemetery in accordance with NRS 440.590: name of deceased person, place of death, date of burial, and the name and address of the funeral director. These records will be open to the public.

39.500

Indigent Burials. The burial of indigent remains shall be handled as follows:

- A. Indigent burials shall be coordinated between the Nye County Health and Human Services and the Town of Pahrump.
- B. The Town shall be notified of all indigent burials through Town Staff and the Sexton.

39.600

Eligibility for Burial as a Veteran. The following criteria shall establish eligibility for burial of a veteran:

- A. United States Armed Forces (Army, Navy, Air Force, Marine Corps, Coast Guard)
 - 1. Any member of the Armed Forces who dies while on active duty.
 - 2. Any veteran of the Armed Forces who was discharged under conditions other than dishonorable and entitled to veteran's benefits by the Veteran's Administration. With certain exceptions, service beginning after September 7, 1980, as an enlisted person, and service after October 16, 1981, as an officer, must be for a minimum of 24 months of the full period for which the person was called to active duty. (Examples include those persons serving less

than 24 months in the Gulf War or reservists what were federalized by Presidential Act.)

B. Members of Reserve Components and Reserve Officers' Training Corps

1. Reservists and National Guard members who, at the time of death, were entitled to retire pay under 10 U.S.C. 1223, or would have been entitled, but for being under the age of 60 years. Specific categories of individuals eligible for retired pay are set forth in 10 U.S.C. 12731.
2. Members of reserve components who die while hospitalized or undergoing treatment at the expense of the United States for injury or disease contracted or incurred under honorable conditions while performing active duty for training or inactive duty training, or undergoing such hospitalization or treatment.
3. Members of the Reserve Officers' Training Corps of the Army, Navy, or Air Force who die under honorable conditions while attending an authorized training camp or an authorized cruise, while performing authorized travel to or from that camp or cruise, or while hospitalized or undergoing treatment at the expense of the United States for injury or disease contracted or incurred under honorable conditions while engaged in one of those activities.
4. Members of reserve components who, during a period of active duty for training, were disabled or died from a disease or injury incurred or aggravated in the line of duty, or during a period of inactive duty training, were disabled or died from an injury incurred or aggravated in the line of duty.

C. Commissioned Officers of the National Oceanic and Atmospheric Administration

1. A commissioned officer of the National Oceanic and Atmospheric Administration (fka the Coast and Geodetic Survey and the Environmental Science Services Administration) with full-time duty on or after July 29, 1945.
2. A commissioned officer who served before July 29, 1945, and (i) was assigned to an area of immediate military hazard while in a time of war, or of a Presidentially declared national emergency as determined by the Secretary of Defense; (ii) served in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter; or (iii) transferred to the Army or the Navy under the provisions of the Act of May 22, 1917 (40 Stat. 87; 33 U.S.C. 85).

D. Public Health Service

1. A commissioned officer of the Regular or Reserve Corps of the Public Health Service who served on full-time duty on or after July 19, 1945. If the service of the particular Public Health Service Officer falls within the meaning of activity duty for training, as defined in 38 U.S.C. 101, the person must have been disabled or died from a disease or injury incurred or aggravated in the line of duty.
2. A commissioned officer of the Regular or Reserve Corps of the Public Health Service who performed full-time duty prior to July 29, 1945: (i) in time of war; (ii) on detail for duty with the Army, Navy, Air Force, Marine Corps, or Coast Guard; or (iii) while the service was part of the military forces of the United States pursuant to Executive Order of the President.
3. A commissioned officer serving on inactive duty training as defined in 38 U.S.C. 101(23), whose death resulted from an injury incurred or aggravated in the line of duty.

E. World War II Merchant Mariners

United States Merchant Mariners with oceangoing service during the period of armed conflict, December 7, 1941, to December 31, 1946. Prior to the enactment of Public Law 105-368, United States Merchant Mariners with oceangoing service during the period of armed conflict of December 7, 1941 to August 15, 1945, were eligible. With enactment of Public Law 105-368, the service period is extended to December 31, 1946, for those dying on or after November 11, 1998. A DD-214 documenting this service may be obtained by submitting an application to Commandant (G-MVP-6), United States Coast Guard, 2100 2nd Street SW, Washington, DC 20593. Notwithstanding, the mariner's death must have occurred after the enactment of Public Law 105-368 and the interment not violate the applicable restrictions while meeting the requirements held therein.

F. Persons NOT Eligible for Burial

1. Disqualifying Characters of Discharge: A person whose only separation from the Armed Forces was under dishonorable conditions or whose character of service results in a bar to veteran's benefits.
2. Discharge from Draft: A person who was ordered to report to an induction station, but was not actually inducted into military service.
3. Conviction or Commission of Federal Capital Crime:
 - a. Any person who was convicted of a federal capital crime for which a sentence of imprisonment for life or the death penalty may be imposed and whose conviction is final (other than pardon or commutation by the President); or

- b. Any person who would have been convicted of a federal capital crime but was not because of the person's unavailability for trial due to death or flight from prosecution.
- 4. Conviction or Commission of State Capital Crime:
 - a. Any person who was convicted of the willful, deliberate, or premeditated unlawful killing of another human being for which a sentence of imprisonment for life or the death penalty may be imposed and whose conviction is final (other than a pardon or commutation by the Governor of a State); or
 - b. Any person who would have been convicted of a state capital crime but was not because of the person's unavailability for trial due to death or flight to avoid prosecution.
- 5. Active or Inactive Duty for Training: A person whose only service is active duty for training or inactive duty training in the National Guard or Reserve Component, unless the individual meets the eligibility criteria set forth in Section B(1), B(2), B(3), or B(4) above.
- 6. Other Groups: Members or groups whose service has been determined by the Secretary of the Air Force under the provisions of Public Law 95-202 as not warranting entitlement to benefits administered by the Secretary of Veteran's Affairs.

39.650

Indemnification. Prior to burial or removal of human remains, cemetery must obtain written indemnification from the funeral home, mortuary, undertaker, or other party in charge of said burial or removal that the Town, Town Board, Town Staff, and its employees and representatives shall have no liability and be held harmless from and against any and all claims, liabilities, actions, suits, proceedings, liens, levees, judgments and damages arising from any act or omission in the burial or removal of human remains.

39.700

Fees. All fees shall include liner, plot, opening and closing.

- A. The fee for opening and closing a standard grave shall be nine hundred dollars (\$900.00).
- B. The fee for opening and closing a double grave is one-thousand dollars (\$1,000.00) for the first interment and six-hundred dollars (\$650.00) for the second interment.
- C. The fee for opening and closing an infant or junior grave shall be six hundred fifty dollars (\$650.00) in the children's section.

- D. The fee for opening and closing a cremation plot shall be one hundred fifty dollars (\$150.00).
- E. An additional fee of forty-five dollars (\$45.00) per person, based on a two-person minimum with a three (3) hour per person minimum shall be charged for burials on weekends. An additional fee of seventy-five dollars (\$75.00) per person, based on a two-person minimum, with a three (3) hour per person minimum shall be charged for holidays.
- F. The fee for disinterment shall be nine-hundred dollars (\$900.00) for a single; one-thousand, five-hundred dollars (\$1,500.00) for a double burial. And one & fifty dollars (\$150.00) for remains.
- G. The fee for reserving a plot for the spouse/family members of an interred person shall be two hundred and fifty dollars (\$250.00) per standard plot. The fee shall be credited against the occupancy fee at the time of burial.
- H. The fee for setting headstones, plaques, or other markers shall be one hundred dollars (\$100.00).
- I. All fees shall be paid to the Town of Pahrump. Reservation fees must be paid in full within sixty (60) days of the date of reservation. All other fees must be paid at the time notice is made of an impending burial, but no event later than the opening of the grave.
- J. The fee for opening and closing a standard grave for veterans shall be nine hundred dollars (\$900.00).
- K. The fee for opening and closing a standard grave for an eligible dependent of a veteran (spouse, minor child under the age of 21 years, or unmarried adult child of any age permanently physically or mentally disabled and incapable of self-support before reaching the age of 21 years) shall be six hundred and fifty dollars (\$650.00).
- L. A fee for placement of a Veteran and one (1) dependent inside of a columbarium niche shall be four hundred and fifty dollars (\$450.00).
- M. All fees are non-refundable.
- N. The cemetery portion of the burial for veterans may include use of the chapel for the services, the plot, opening and closing of the site, the concrete vault for caskets, a headstone, and perpetual care, all of which is free of charge.

39.710

Maintenance of Records. The Sexton or Town, as the case may be, shall maintain cemetery records as follows:

- A. An Interment File shall be maintained in alphabetical order listing all persons buried at the cemetery, listing interment number and the information required by NRS 440.590.
- B. A Plot Map shall be maintained depicting all sections, plots, graves, crypts, lawn crypts, and niches, with descriptive names where applicable.
- C. A Cemetery Map shall be maintained depicting all sections of the cemetery to include plots, mausoleums, and columbariums, and the location of halls, rooms, corridors, elevations, and other divisions, with descriptive names where applicable, in conformance with NRS 452.360.
- D. A Receipt Book shall be maintained to track all fees collected for services provided by the cemetery.
- E. Any historical records of the cemetery shall be maintained and made available for the public.

39.720

Maintenance of Cemetery Grounds. The Sexton or Town shall maintain the cemetery grounds as follows:

- A. The Sexton or Town shall direct generally all improvements within the grounds and upon all plots and graves, before as well as after interments have been made therein. The Sexton or Town shall have charge of the planting, sodding, surveying, and improvements generally.
- B. No one other than the Sexton, Town, or designated agent shall be allowed to perform any work on any plot, grave, crypt, or niche within the grounds without a permit by the Town or other regulatory agency.
- C. No person shall pluck or remove any flower or plant, wild or cultivated, from any part of the cemetery.
- D. The Sexton or Town must address all immediate and long-range landscape concerns to ensure a balanced landscape in the future.

39.740

Use of Cemetery for Gatherings. Any gatherings on cemetery grounds, other than funerals, shall be subject to the following:

- A. Families which are interested in the cemetery may hold ceremonies during daylight hours on the cemetery grounds in the areas dedicated for such public use with prior permission.
- B. Such meetings shall be under the supervision of the Sexton or other designated official, and shall conform to accepted standards for taste and decorum.
- C. Proper respect for the burial areas shall be maintained or the group or gathering shall be requested to leave the cemetery grounds.
- D. No alcoholic beverages shall be permitted upon the cemetery grounds.
- E. Any group using the Veteran's Memorial shall clean up the building before leaving, which consists of removal of all food and beverages, all trash and debris placed in outside containers, and removal of all items left on the floor.
- F. Prior to each event at the Veteran's Memorial, the premises shall be inspected by the Town or its representative set forth in a written report.
- G. Tables and chairs may be used at the Veteran's Memorial by request to the Town at least fourteen (14) business days prior to any event.

39.760

Miscellaneous Regulations. The following additional regulations must be followed:

- A. No coping, borders, or other decorative installations shall be allowed in the cemetery without the written approval of the Sexton or Town.
- B. Old and/or faded flowers will be disposed of by the Sexton or other designated official when he or she deems appropriate.
- C. No trees, shrubs, coping, decorations, fences, or stones may be placed on the graves in the cemetery. The Town will approve and designate where any such installations may be set on the cemetery grounds. Submission of plans or drawings must be provided to the Sexton prior to installation.
- D. The cemetery is reserved for the interments of the citizens and residents of the Town who have resided in the Town for a minimum of twelve (12) months and his/her spouse with reservations.

- E. Military honors for veterans may be provided by military units, as coordinated with the funeral director, mortuary, undertaker, or other authorized person.
- F. No person shall be permitted to enter or exit the cemetery grounds except through the public gate or entryway during the designated hours.
- G. Any person found on the cemetery grounds before or after designated hours without proper authorization shall be subject to prosecution for trespass.
- H. No dogs shall be permitted on the cemetery grounds except a dog trained to assist a handicapped person.
- I. The Sexton or other designated official shall have the authority to enter upon any plot and to remove any objectionable item that may have been placed contrary to the regulations of the cemetery or applicable law.
- J. No person shall be permitted to use profane or boisterous language or in any way disturb the quiet and good order of the cemetery.
- K. All persons are to be reminded that the grounds are sacredly devoted to the burial of the dead and that provisions and penalties of the law, as provided by ordinance or statute, will be strictly enforced in all cases of wanton injury, disturbance and disregard of the rules.

39.800 **General Violation.** Any person who violates any of the provisions of this ordinance shall be guilty of a misdemeanor.

39.810 **Penalties.** Any person convicted of a violation of this ordinance shall be punished as provided by the Nevada Revised Statutes for misdemeanors crimes. In addition to being subject to fines and any other penalties which may be assessed by a court of competent jurisdiction, any person who is found guilty of a violation of this ordinance shall be liable for the costs of any subsequent removal and relocation of remains necessitated by the person's violation of this ordinance. Every day that a violation occurs, exists, or is allowed to exist or continue, constitutes a separate offense.

39.820 **Severability.** If any section, subsection, subdivision, paragraph, clause, or provision of this ordinance shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause, or provision shall not affect any of the remaining provisions of this ordinance.

39.825 **Injunctive Relief.** The Town, in addition to the remedies and penalties provided above, may seek injunctive relief against any violator of this ordinance, with or without prior notice, to prevent or correct any cemetery problem.

39.830 **No Conflict.** All ordinances, parts of ordinances, or chapters, sections, subsections, or paragraphs or resolutions previously adopted by the Town which are in conflict herewith are hereby repealed.

PAHRUMP TOWN BOARD MEETING
BOB RUUD COMMUNITY CENTER
150 NORTH HIGHWAY 160
TUESDAY – 7:00 P.M.
FEBRUARY 9, 2010

MINUTES

PRESENT:

Town Board:

Nicole Shupp
Bill Dolan
Vicky Parker
Frank Maurizio
Mike Darby

Staff:

Bill Kohbarger, Town Manager
Brett Meich, Attorney
Michael Sullivan
Chief Scott Lewis

1. Call to Order and Pledge of Allegiance.
Chairman Nicole Shupp called the meeting to order and led in the pledge of allegiance.
2. Discussion and possible decision regarding moving the order of, or deleting an agenda item(s).
(Action)
Bill Dolan motioned to delete Items #8, #9, #14 and #15. Vicky Parker seconded the motion.

Vote passed 5 – 0.
3. Announcements (Non-Action)
Bruce Calley announced the Concerned Citizens for Safe Community meets each Monday at 6:00 p.m. at 110 Emery St.
4. Advisory Board Reports, from Advisory Board Chairpersons and/or Town Board Liaisons on the status of Advisory Boards. (Non-Action)
Don Rust announced the dates for public hearings to answer questions regarding the Incorporation feasibility study will be held February 18, at Nevada Treasures, at 6:00 p.m.; February 22, at Pahrump Nugget, at 7:00 p.m.; March 11, at Artesia Community Center, at 6:00 p.m.; and March 22, at Bob Ruud Community Center, at 6:00 p.m. Frank Maurizio noted there would also be a hearing held at the Pahrump Senior Center on March 3, from 10:00 a.m. until 12:00 p.m.

Alan Bigelow, Pahrump Veteran's Memorial Advisory Board, announced that the columbarium project is progressing. Donation forms are being printed. The cost is approximately \$50,000 and will purchase the first project.

Robert Adams, Public Lands Advisory Board, reported that the Bureau of Land Management had two scoping meeting. One was concerning the Amargosa Power Plant and the other for the Resource Management Plan encompassing all of Southern Nevada.

5. Town Manager Report. (Non-Action)

Bill Kohbarger reported that there had been a problem with the current repeater for Fire and Sheriff's Departments. The Town is currently using a loaner repeater from Motorola. A bid is being prepared for the replacement of this repeater. This is something that is needed as soon as possible. Motorola quoted the cost to replace would be approximately \$7000. It will be brought back to the Board for ratification.

6. Town Board Member's Comments. (Non-Action)

Bill Dolan invited the Board to attend Nellis Air Force Base to watch the change of command as the current Commander is leaving. The event date is March 12.

7. Presentation by Mr. Donald Wall, President of SNORE (Southern Nevada Off Road Enthusiasts) pertaining to holding the SNORE 250 Off-Road Race. (Non-Action)

Donald Snore announced that a SNORE 250 off-road race is being scheduled the weekend of October 23rd at Crater Flats. This race will replace the former Terrible's Town 250 race using the same course.

8. Discussion and possible decision regarding updates from Pahrump Alliance for Valley Economic Development (PAVED) Board. (Action)

This item deleted under Item #2.

9. Discussion and possible decision on approving a contract between the Town of Pahrump and Brian K. Shoemake (Brian K. Media & Design) in regards to designing, operating and hosting the Town of Pahrump's website. (Action)

This item deleted under Item #2.

10. Discussion and possible decision regarding Public Comment to be placed as Item #3 and then again just before Adjournment. (Action)

The Board members discussed options regarding the number of Public Comments, and the amount of time for the agenda item.

**Mike Darby motioned to move public comment to the front and end of the meeting.
Frank Maurizio seconded the motion.**

Bill Dolan asked if the time limit of 30 minutes each was being removed. Mr. Darby replied yes.

Bruce Calley, John Koenig, Dave Stevens commented.

Vote failed 2 – 3. Nicole Shupp, Bill Dolan and Vicky Parker voted nay.

11. Discussion and possible decision on moving the June 8, 2010, Town Board Meeting to another location due to Primary Elections. (Action)

Nicole Shupp suggested only having one meeting in June. Mike Darby agreed with cancelling the June 8th meeting. Bill Dolan suggested a possible different venue may be an option. Vicky Parker concurred with Mr. Darby, or even moves the meeting to Monday or Wednesday.

Mike Darby motioned to cancel the June 8th meeting. Frank Maurizio seconded the motion.

Nicole Shupp clarified that there will only be one meeting at the end of June. Vicky Parker asked if the motion could be amended to include the possibility of another meeting in June depending on the need. Mike Darby noted that a special meeting could be called.

Vote passed 4 – 1. Bill Dolan voted nay.

12. Discussion and possible decision to approve replacement copier lease. (Action)

Nicole Shupp read the staff recommendation to the Board as provided in the backup. Vicky Parker asked for clarification of the copier requested. Bill Dolan replied it is the WC5150 Xerox and is acceptable to staff.

Bill Dolan motioned to accept approval of replacement copier for the Town Office, Xerox WC5150 black and white copier with the stipulation that once the other copiers under the Town control come up for renewal that we move them all to one contract under one payment. Vicky Parker seconded the motion.

John Koenig questioned the Fire Department copier contract. Mr. Dolan responded that he was given information that they recently signed a new contract for a copier which actually happened in 2008.

Tom Saitta commented that he has 3 “like brand new” copiers in Las Vegas and will donate one to the Town free of charge. Mr. Saitta said he has an assistant that works in Pahrump and will bring and install it and it works perfectly. Nicole Shupp thanked Mr. Saitta.

Bill Kohbarger noted that the lease includes maintenance and is not about the copier. What would be paid for is the lease and maintenance of that model. Mr. Kohbarger asked Tom Saitta what model he would be donating. Mr. Saitta did not know, but they cost approximately \$4,000.00 each. Mr. Kohbarger suggested approving the lease contingent on looking at the donated copier; if the lease is not needed it could be denied.

Mr. Saitta said he could get the copier here no later than Monday.

Bill Dolan withdrew his motion and Vicky Parker withdrew her second.

Bill Dolan called a Point Of Order saying he felt it was not properly worded on the agenda. Bill Kohbarger explained that a motion was not needed to accept a donation.

Vicky Parker motioned to table this item until the next meeting. Mike Darby seconded the motion.

Vote passed 5 – 0.

13. Discussion and possible decision on Pahrump Town Ordinance #29 (PTO 29), an amendment to ordinance #29 of the unincorporated Town of Pahrump, providing for a full-service fire department and providing for other matters properly relating thereto. (Action)

Bill Dolan motioned to accept PTO #29 as amended and published for final review. Vicky Parker seconded the motion.

Mike Darby noted that due to economic times that accepting the PTO as amended would be disastrous for the Town. Mr. Darby suggested the PTO be reverted back to its original status and look more toward volunteer efforts to help ease the burden of finances. Nicole Shupp noted that the volunteer base is strong and ongoing.

Comments were made by Andy Alberti, Shirley Matson, Dave Stevens, Bruce Calley, Anthony Grecco and Karen Jackson.

Chief Scott Lewis explained that the changes to the PTO were necessary on the advice of the State Fire Marshall. Bill Dolan confirmed with the Chief that the fees have always been associated with the ordinance.

Frank Maurizio called a point of order. Mr. Maurizio stated that insurance companies pay what the fire company sends to them and is put back on the policy holder.

Bill Kohbarger called a point of order explaining that the ordinance is not setting fees. That took place at the last Board meeting. This PTO establishes the right to do fees and establishes a full service fire department. Fees were already discussed at the last meeting in a Resolution.

Bob Irving commented about NFPA and Nevada statutes as a guide and stated they are not cast in stone. Scott Lewis explained that the NFPA is a collection of good practices. What is being referenced in the PTO is the International Fire Code adopted by the State and is law. Laurayne Murray also commented.

Vote passed 3 – 2. Mike Darby and Frank Maurizio voted nay.

14. Discussion and decision on a Memorandum of Agreement (MOA) between the Town of Pahrump and Nye County, outlining the relationship between the Pahrump Valley Fire-Rescue Service and Nye County Emergency Services. (Action)

This item deleted under Item #2.

15. Discussion and possible decision on Pahrump Town Ordinance #39 (PTO #39), an amendment to Ordinance No. 39 of the Unincorporated Town of Pahrump, to revise and restate the Town's regulations concerning the management and maintenance of the Town's cemetery, and providing for other matters properly relating thereto. (Action)
This item deleted under Item #2.

16. Discussion and possible decision Consent agenda items: (Action)

- a. Action – approval of Town vouchers
- b. Action – approval of Special Town Board meeting minutes of January 19, 2010
- c. Action – approval of Town Board meeting minutes of January 26, 2010
- d. Action – approval of resignation of Kenneth Hoskin from the Pahrump Veteran's Memorial Advisory Board.
- e. Action – approval of 72 hour Liquor permits for the Pahrump Valley Lions Club for February 19th, 2010 at the Pahrump Senior Center.

Bill Dolan motioned to accept consent agenda items as represented. Vicky Parker seconded the motion.

Vote passed 5 – 0.

17. Future Meetings/Workshops: Date, Time and Location. (Action)

The Incorporation Advisory Board public workshops concerning the feasibility study will be held as follows: February 18, at Nevada Treasures at 6:00 p.m., February 22, at the Pahrump Nugget at 7:00 p.m., March 3, at the Pahrump Senior Center from 10:00 a.m. until Noon, March 11, at the Artesia Community Center at 6:00 p.m. and March 22, at Bob Ruud Community Center at 6:00 p.m.

18. Public Comment. Action may not be taken on matters considered during this period until specifically included on an agenda as an action item – NRS241.020 (2)(C)(3). (Non-Action)

Andre "Butch" Harper commented about the Air Force Band performance on February 21st, and talked about his patch project.

John Koenig announced that there is a shoe repair shop on Frontage Road.

Tom Waters announced information regarding the VITA Tax Assistance program.

Isabel Isherwood asked for publication of the Incorporation public workshops.

Dave Stevens thanked the Town Board for a rate reduction of the water bill. Mr. Stevens commented that the Advisory Board was not fair.

Harold Grimmaud commented about how points of order are handled and had questions regarding the Fire Department union.

Dan Schinhofen announced the Blue Grass Festival taking place April 9-11.

19. Discussion and decision regarding closed session for the Town Attorney to advise the Town Board and address legal issues relating to a subpoena issued by the Nevada Commission on Ethics. (Action)

Bill Dolan motioned to close the meeting. Vicky Parker seconded the motion.

Vote passed 5 – 0.

20. Closed session.

21. Discussion and decision regarding issues addressed in closed session. (Action)

Vicky Parker motioned to waive, on a limited basis, attorney/client privilege in response to a subpoena. Mike Darby seconded the motion.

(Frank Maurizio was not in attendance for this item.)

Vote failed 2 – 2. Bill Dolan and Nicole Shupp voted nay.

22. Adjournment.

Meeting adjourned at approximately 8:40 p.m.

Respectfully submitted,

Vicky Parker, Clerk
Pahrump Town Board

/cw