

A BRIEF REVIEW OF LEGAL ISSUES SURROUNDING THE RALEIGH CITY CEMETERIES

Existing State Laws

Chapter 14, Desecration and Damage

Chapter 14, Criminal Law, Article 22, Damages and Other Offenses to Land and Fixtures, covers issues relating to cemetery vandalism.

Section 14-148, Defacing or Desecrating Grave Sites, makes it unlawful to willfully litter in a cemetery, disturb, or vandalize fences, stones, grave artifacts, shrubbery, or plants when the damage is less than \$1,000. In such cases, the act is a Class 1 misdemeanor. If the damage is greater than \$1,000 it becomes a Class 1 felony.

Section 14-149, Desecrating, Plowing Over or Covering Up Graves, Desecrating Human Remains makes it a Class 1 felony to knowingly and willfully disturb or desecrate a casket, or damage other grave markers, ornamentation, or monuments. Desecration of human remains is considered a Class H felony.

Also in this Chapter is a curious 1949 law concerning inscriptions. Section 14-401.3 makes it illegal “for any person to erect or cause to be erected any gravestone or monument bearing any inscription charging any person with the commission of a crime, and it shall be illegal for any person owning, controlling or operating any cemetery to permit such gravestone to be erected and maintained therein.” The section goes on to require the cemetery owner, if such inscriptions exist, to “remove and obliterate” them.

Chapter 65, Cemeteries Generally

The primary governing laws concerning the operation of cemeteries are outlined in North Carolina General Statutes, Chapter 65, Cemeteries. Within this chapter there are 12 articles:

Article 1 - Care of Rural Cemeteries (Repealed, see Article 12, Part 5).

Article 2 - Care of Confederate Cemetery
§ 65-4. State Department of Correction to furnish labor

Article 3 - Cemeteries for Inmates of County Homes
§ 65-5. County commissioners may establish new cemeteries
§ 65-6. Removal and reinterment of bodies

Article 4 - Trust Funds for the Care of Cemeteries. (Repealed, see Article 12, Part 2).

Article 5 - Removal of Graves (Repealed, see Article 12, Part 4).

Article 6 - Cemetery Associations
§ 65-16. Land holdings
§ 65-17. Change of name of association or corporation
§ 65-17.1. Quorum at stockholders' meeting of certain nonprofit cemetery corporations; calling meeting; amendment of charter

Article 7 - Cemeteries Operated for Private Gain
§§ 65-18 through 65-36: Recodified as §§ 65-46 through 65-72

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Article 7A - Funeral and Burial Trust Funds
§§ 65-36.1 through 65-36.8: Recodified as
§§ 90-210.30 through 90-210.37

Article 8 - Municipal Cemeteries (Repealed)

Article 8A - Veterans Cemeteries
§ 65-41. Land acquisition
§ 65-42. Location of cemeteries
§ 65-43. Definitions
§ 65-43.1. Eligibility for interment in a
State veterans [sic] cemetery
§ 65-43.2. Proof of eligibility
§ 65-43.3. Bars to eligibility
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§ 65-43.5. Reinterment
§ 65-43.6. State veterans cemeteries cost
§ 65-44. Days for burial

Article 9 - North Carolina Cemetery Act
§ 65-46. Short title
§ 65-47. Scope
§ 65-48. Definitions
§ 65-49. The North Carolina Cemetery
Commission
§ 65-50. Cemetery Commission;
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§ 65-51. Principal office
§ 65-52. Regular and special meetings
§ 65-53. Powers
§ 65-54. Annual budget of Commission;
collection of funds
§ 65-55. License; cemetery company
§ 65-56. Existing companies; effect of
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§ 65-57. Licenses for sales organizations,
management organizations and brokers
§ 65-58. Licenses for persons selling
preneed grave space
§ 65-59. Application for a change of
control; filing fee
§ 65-60. Records
§ 65-60.1. Trustees; qualifications;
examination of records; enforcement
§ 65-61. Required trust fund for care and
maintenance; remedy of Commission
for noncompliance

§ 65-62. Individual contracts for care
and maintenance
§ 65-63. Requirements for perpetual care
fund
§ 65-64. Deposits to perpetual care fund
§ 65-65. Trust fund; financial reports
§ 65-66. Receipts from sale of personal
property or services; trust account;
penalties
§ 65-67. Applications for license
§ 65-68. License not assignable or
transferable
§ 65-69. Minimum acreage; sale or
disposition of cemetery lands
§ 65-70. Construction of mausoleums
and belowground crypts; trust fund for
receipts from sale of preconstruction
crypts; compliance requirements
§ 65-71. Penalties
§ 65-72. Burial without regard to race or
color
§ 65-73. Validation of certain deeds for
cemetery lots executed by suspended
corporations

Article 10 - Access to and Maintenance of
Private Graves and Abandoned Public
Cemeteries (Repealed, see Article 12, Part 3).

Article 11 - Minimum Burial Depth
§ 65-77. Minimum burial depth

Article 12 - Abandoned and Neglected
Cemeteries

Part 1, General
§ 65-85. Definitions

Part 2, Trust Funds for Care of
Cemeteries
§ 65-91. Money deposited with the clerk
of superior court.
§ 65-92. Separate record of accounts to
be kept.
§ 65-93. Funds to be kept perpetually.
§ 65-94. Investment of funds.
§ 65-95. Clerk's bond; substitution of
bank or trust company as trustee.
§ 65-96. Funds exempt from taxation.

Part 3. Access to and Maintenance of Abandoned or Neglected Cemeteries

§ 65-101. Entering public or private property to maintain or visit with consent.

§ 65-102. Entering public or private property to maintain or visit without consent.

Part 4. Removal of Graves

§ 65-106. Removal of graves; who may disinter, move, and reinter; notice; certificate filed; reinterment expenses; due care required.

Part 5. County Care of Rural Cemeteries

§ 65-111. County commissioners to provide list of public and abandoned cemeteries.

§ 65-112. Appropriations by county commissioners.

§ 65-113. County commissioners to have control of abandoned public cemeteries; trustees.

Article 1, which deals with rural cemeteries, apparently meaning those outside incorporated city boundaries, was enacted in 1917. It requires the various county commissioners to identify all cemeteries within their county limits and identify the owner of the properties. It allows counties to expend funds no greater than \$50 to assist in the marking of these cemeteries, and it places all abandoned cemeteries under the control of the commissioners.

New Article 12, Part 4 details how graves may be moved in North Carolina and does cover municipal entities such as the City of Raleigh. Portions of the law date to 1919, although it has been modified through 2001 and most recently in 2007.

Article 9 – the North Carolina Cemetery Act – excludes from its purview “cemeteries owned and operated by governmental agencies.” Thus the article does not regulate the

actions of the City of Raleigh cemeteries; otherwise it largely directs the licensing and operation of cemetery companies (including requirements for perpetual care) in North Carolina.

Chapter 143B, Advisory Committee on Abandoned Cemeteries

Chapter 143B, The Executive Organization Act of 1973, Article 2, § 143B-128 establishes an Advisory Committee on Abandoned Cemeteries. The North Carolina Legislature has recently expressed additional interest in this issue, but it should not affect the City of Raleigh.

Chapter 70, Unmarked Graves

Indirectly related to the issue of cemeteries is Chapter 70, Indian Antiquities, Archaeological Resources and Unmarked Human Skeletal Remains Protection. Included is Article 3, Unmarked Human Burial and Human Skeletal Remains Protection Act. This regulates how the discovery of unmarked burials will be handled. An “unmarked human burial” is defined by this law as “any interment of human skeletal remains for which there exists no grave marker or any other historical documentation providing information as to the identity of the deceased.” Its application to the identification of human remains in an unmarked grave within a known cemetery, however, is unclear.

Chapter 160A, City and Town Cemeteries

Chapter 160A, Cities and Towns, Article 17, deals with cemeteries. The sections of this article include:

§ 160A-341. Authority to establish and operate cemeteries

§ 160A-342. Authority to transfer cemeteries

§ 160A-343. Authority to abandon cemeteries

§ 160A-344. Authority to assume control of abandoned cemeteries

§ 160A-345. Authority to condemn cemeteries

§ 160A-346. Authority to condemn easements for perpetual care

§ 160A-347. Perpetual care trust funds

§ 160A-348. Regulation of city cemeteries

Section 160A-341 outlines what a city may do and, significantly, provides the City of Raleigh with the ability to "regulate the manner of burial in city cemeteries." This presumably provides the authority to control such as issues as flower arrangements.

Section 160A-348, Regulation of City Cemeteries specifies that a city may, "adopt rules and regulations concerning the opening of graves, the erection of tombstones and monuments, the building of walls and fences, the hours of opening and closing and all other matters concerning the use, operation, and maintenance of city cemeteries." This section provides the City with the opportunity to set forth maintenance policies with regard to its cemeteries.

Existing City Ordinances

Part 9, Parks, Recreation and Cultural Affairs, Chapter 4, Cemeteries

This includes the primary regulations currently enacted by the City of Raleigh to govern activities at city owned cemeteries. Because of the significance of these rules they are provided below in full although the histories of the various sections have been removed.

Sec. 9-4001. SUPERINTENDENT; APPOINTMENT.

There shall be appointed a superintendent to have charge of City cemeteries.

Sec. 9-4002. PURCHASE OF LOTS; PRICES.

(a) Persons desiring to purchase lots in the City's cemeteries must apply to the Director of Finance or his appointed representative whose duty it shall be to execute the sale of lots and receive cash or to assess charges. All fees for lot purchases are to be paid or assessed as provided in §9-4010(d) prior to execution of deed.

(b) The prices for purchases of grave space in the City cemeteries shall be seventy (70) per cent of the local prevailing market price, as determined by the superintendent and according to a schedule of charges approved annually by the City Manager. "Local prevailing market price" shall be the average fee charged by non-church-related, commercial cemeteries in the City as of July first of each year.

(c) A schedule of all cemetery charges (lot prices, inter and disinter fees, etc.) shall be available for inspection in the offices of the Cemeteries Supervisor and the Finance Department. A schedule of all cemetery charges shall be made available to all funeral directors within the City.

(d) A person has the option of purchasing one, two (2), three (3), or four (4) lots. No more than four (4) lots will be sold to an individual. No lot or lots may be resold except back to the City at the original sale price to the owner.

(e) The superintendent may limit the sale of lots to one section at a time.

Sec. 9-4003. SALE OF CEMETERY LOTS TO FUNERAL HOME BUSINESSES.

Sales of cemetery lots will be made to funeral homes only for purposes of interment of a specific individual. Such sales are intended as a convenience to those persons and families suffering the death of a loved one and to allow funeral homes to make arrangements on their behalf. Though funeral home businesses will be responsible for making payment to the City for the purchase of lots under this section, all cemetery lot deeds will be issued in the name of the individual, and not in the name of the funeral home.

Sec. 9-4004. CERTIFICATES AND DEEDS.

(a) On payment of the sum required, the Finance Director or his appointed representative shall validate a receipt (certificate of purchase) and give to the purchaser of any lot, specifying the lot or lots and the price thereof. A copy of the receipt shall be used for the issuance of a deed which shall be properly recorded and indexed (both numerically as to receipt and alphabetically as to purchaser). The superintendent shall be notified of the sale of lots.

(b) A deed signed by the City Clerk and sealed with the legal seal of the City shall be executed and mailed or delivered to the address set forth on the receipt.

(c) In case of the loss or destruction of a deed as provided in paragraph (b) of this section, the City Clerk, on proof satisfactory of such loss or destruction, shall have issued a new deed executed as hereinbefore set out to the original holder upon payment of the required fee as set forth in the schedule of all cemetery charges.

Sec. 9-4005. SUPERVISION OF INTERMENTS AND DISINTERMENTS.

(a) The superintendent shall supervise the digging of all graves in the cemeteries and the exhuming of all bodies therein interred. The interment property is for burial of human remains only.

(b) No interments or disinterments shall be permitted on New Year's Day, Good Friday, Independence Day, Thanksgiving, or Christmas Day and all Sundays, hereafter referred to as excluded holidays.

(c) The cemetery supervisor shall be notified at least twenty-four (24) hours prior to an interment. In the event of a Monday interment such notice must be given on the preceding regular City workday.

(d) The normal operating hours of the cemeteries are 8:00 a.m. to 4:00 p.m., Monday through Friday of each week, except for the holidays noted above.

(e) Interment will be made on Saturday or nonexcluded holidays as observed by the City only upon assessment of an additional charge. All funeral processions entering the cemetery

grounds after 4:00 p.m. on any normal work day will also be required to pay an additional charge. All additional charges are outlined in the schedule of cemetery charges.

Sec. 9-4006. DISINTERMENTS; APPLICATION AND APPROVAL REQUIRED.

A person who desires to have removed from his or her lot or vault the remains of a person interred therein shall apply in writing addressed to the cemetery supervisor, setting forth in such application the name of the deceased, the date and cause of death, relationship of deceased to applicant, number of lot, vault, or space in which then interred, and the number of lot, vault, or space (or name of cemetery, if elsewhere) in which the remains are to be reinterred, and reason for removal. But no such permission for such disinterment shall be granted, nor shall such disinterment be made until the application has been approved by the Health Department.

Sec. 9-4007. REINTERMENT; REQUIREMENTS.

Any person desiring to have reinterred the remains of a person brought from another cemetery or burial place shall furnish the cemetery supervisor with a certificate from the Health Department, setting forth, if possible, the name, age, sex, marital status, cause and date of death, and last residence of deceased, and name and location of former burial place. The cemetery supervisor, upon evidence of payment of charges as set forth in the schedule of all cemetery charges, shall have the remains properly reinterred in such place as may be selected by the person having charge of such remains.

Sec. 9-4008. ENFORCEMENT OF APPLICABLE LAW.

It shall be the duty of the superintendent to see that all laws concerning the cemeteries are duly observed and enforced.

Sec. 9-4009. MAINTENANCE AND CLEANLINESS SPECIFICATIONS FOR GRAVES AND MARKERS.

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- (a) The superintendent shall keep the cemeteries in a neat and clean condition.
- (b) All graves shall be at least five (5) feet deep. Two (2) infants or two (2) cremains may use one lot.
- (c) All gravemarkers and monuments shall be set on foundations. All markers must be set even with the lawn, so that maintenance machines may pass over them safely without damage to the marker or machine. All markers installed after January 1, 1991, shall be size two (2) feet by one and one-half (1-1/2) feet by four (4) inches. All grave markers placed on lots are to read over the ground toward front of lot. Only one marker will be permitted on each lot.
- (d) Monuments will not be authorized in the southeast section of Mt. Hope Cemetery as bordered by Prospect Street and Fayetteville Street.

Sec. 9-4010. WHO MAY INTER AND DISINTER; FEE.

No person other than the regularly appointed superintendent's representative shall dig any grave or disinter any body in the cemeteries belonging to the City. Complete and accurate records are to be maintained on all interments.

- (a) Charges for interments and disinterments of adults shall be based on actual costs as determined annually by the City Manager. For the purpose of this subsection, "actual costs" shall consist of charges for labor and the use of equipment. Records substantiating such actual costs shall be kept by the cemetery supervisor. All fees are to be paid at the office of the Finance Department or assessed, as provided in (d) below, prior to interment or disinterment. The cemetery supervisor shall be notified of payment of fees.
- (b) Any charge based on actual cost shall be established by the City Manager within sixty (60) days following July first of each year.
- (c) Interment or disinterment of infant or child cremains shall be fifty (50) per cent of the fee charged for adult interments as determined in paragraph (a) of this section.
- (d) Payment shall be deemed satisfied either by the payment of cash by the purchaser or an

extension of credit to a funeral director. Funeral establishments handling interments may be extended credit by the Finance Department. The use of such credit shall be deemed as assessment of charges. All credit transactions, billings, and collections shall be accomplished by the Finance Department.

(e) All burials on or after January 1, 1991, will be in a commercially procured graveliner or vault that has been approved by the superintendent. The minimum requirements for concrete liners shall be one and one-half-inch sidewall thickness, two-inch top thickness, two-inch bottom thickness, and three thousand (3,000) PSI. The minimum requirements for a steel vault shall be a twelve-gauge thickness top, sides, and bottom. Wooden or other short-term liners are not allowed. No liners are required for cremations.

(f) Funerals starting after 4:00 p.m. on weekdays, or all day Saturday and nonexcluded holidays as observed by the City shall be charged an additional fifty (50) per cent for interments.

Sec. 9-4011. WORK ON PRIVATE LOTS; CONSENT THERETO.

No person shall dig any grave, put any gravestone or board, or make any erections, or dig up any sod on any private burial lot, except under the direction or by consent of the owner thereof.

Sec. 9-4012. REMOVING OR DEFACING MARKERS, ETC.

No person shall willfully and unlawfully remove the stakes from a burial lot, or any board, gravestone, or other monument which may have been erected at any grave, or deface, injure, or destroy any such board, gravestone, or other monument in any manner.

Sec. 9-4013. INJURING TREES OR SHRUBBERY.

It shall be unlawful for any person to cut, break, remove, or in any other manner injure or destroy any flower, either wild or cultivated, in the cemeteries.

Sec. 9-4014. DEPOSITING FILTH OR RUBBISH.
It shall be unlawful for any person to deposit, or cause to be deposited, any filth or unclean or offensive substance in a City cemetery.

Sec. 9-4015. EXCAVATING OR REMOVING EARTH.
It shall be unlawful for any person to excavate any earth in a City cemetery, or remove the same there from, except by the consent or under the direction of the superintendent, or of some other officer legally authorized.

Sec. 9-4016. USE AS PLAYGROUND.
It shall be unlawful for any person to use the City cemeteries as a playground.

Sec. 9-4017. FENCES AROUND LOTS.
There shall be no fence erected around any lot within the limits of City cemeteries.

Sec. 9-4018. TRESPASSING ON LOTS.
All persons are forbidden to trespass upon private lots or to go across lots, either private or belonging to the City, in the City cemeteries, except in case of a burial, visit to lot by owner, relative, or friend in the course of maintaining the grounds. All noncity employees driving automobiles in the cemeteries shall keep within drives.

Sec. 9-4019. ABANDONED CEMETERY LOTS; PUBLICATION OF NOTICE AND REVERSION TO THE CITY.

(a) A cemetery lot may be determined to be abandoned by the superintendent according to the following standards and procedures:

(1) Upon investigation, the superintendent shall determine that there has been no interment in the lot for a period of fifty (50) years from the date of purchase;

(2) The superintendent shall conduct a reasonable effort to locate the listed owner, including the sending of certified mail inquiries to the owners [sic] last known address, and attempting to contact the owners immediate family by mail or telephone; and

(3) Upon making the investigations outlined above, and if no valid response(s) are recovered, the superintendent shall certify and report these efforts to the City Council and request the Council to publish notice of its intent to determine that the lot has been abandoned once a week for four (4) successive weeks in a newspaper published in the City, such notice requesting the purchaser, his or her heirs, or immediate family members to report to the City that the lot is intended to be used and has not in fact been abandoned. Upon receiving no valid responses to the published notice as described herein, the lot and all rights of burial thereon, shall revert to the City, which may then resell the lot in due course. In the event the original owner reappears after the resale of the lot or lots, a full refund of the original purchase price shall be made by the City.

(b) These provisions, or an accurate summary thereof, shall be included in the provisions of any deed to a cemetery lot sold by the City.

These are fairly standard rules concerning cemetery use and many of them are paralleled among municipal cemeteries across the county. Some provisions echo the state law - making it illegal to damage markers or shrubbery and making it illegal to deposit trash in the cemetery.

Many of the rules regulate the city's operation of the cemetery, establishing the position of superintendent and making that individual responsible for actions in the cemetery. These regulations specify the maximum price of lots and how that price will be determined. It specifies how deeds will be issued, and other business affairs.

There are several more unusual sections. For example, Section 9-4018 makes it illegal to walk across lots in the cemetery. Enforcement of this provision would prohibit genealogists from transcribing stones that are not readable from a walkway; it would prevent anyone who wasn't an owner, relative, or friend from raking leaves or contributing any volunteer effort to the

betterment of the cemetery. And it would prevent a conservator, even it appears under city contract, from working on a lot. Clearly this section is one that requires repealing in its entirety. It would be far more reasonable to prohibit people from being in the cemetery between dusk and dawn.

Cities such as Greensboro, Durham, and Winston Salem have simple regulations concerning hours of operations, but nothing similar to Raleigh's Section 9-4018.

Section 9-4011 prohibits certain activities by non-lot owners on cemetery lots. The specific actions prohibited are digging a grave, erecting a monument, or digging up sod. This section does not in any manner prohibit repair or maintenance activities.

Finally, the ordinance also anticipates, in Section 9-4019, that at least some lots would be abandoned by their owners and specifies how the city may reclaim these lots. This issue of abandonment will be returned to in our discussions below.

Other City Powers and Ordinances Affecting the Cemetery

Article 2, Section 2.14 of the City Charter specifies that the city has certain broad powers, several of which are of special importance in the protection of the cemeteries. Specifically, this section specifies that the city has the power to "prohibit vagrancy and begging" which can be used to control inappropriate behaviors in the city cemeteries, as well as the power to "prevent nuisances," which also provides justification for establishing rules of conduct in cemeteries.

Part 12, Licensing and Regulation, Chapter 3, Animals, Article B, Dogs and Cats, Division 1, Section 12-3011, makes it illegal for a dog to be off leash within the city or on city property - such as the cemeteries. This section also makes it illegal for an owner "to fail to remove feces deposited by the dog on any street,

sidewalk, park or other publicly owned area [or] private property" which would cover all of the three cemeteries.

Durham and Greensboro specifically prohibits dogs in its cemeteries. Winston Salem prohibits dogs in their cemeteries, "whether under leash or in an automobile."

Part 12, Licensing and Regulation, Chapter 4, Alcoholic Beverage Regulation, Section 12-4001, Consumption and Possession of Alcoholic Beverages on City Property provides the city with the authority to prevent alcoholic beverages from the various cemeteries.

Finally, Part 13, Offenses, Chapter 1, Offenses Against Property, Section 13-1001 makes it illegal to damage city property. This can be broadly interpreted to cover at least portions of City Cemetery and Mount Hope, as well as virtually all of O'Rorke Cemetery. Section 13-1002 also allows city council to offer rewards for information leading to the apprehension and conviction of individuals responsible for damage to city property.

The Need and Authority to Undertake Conservation and Repair on Cemetery Lots

The need for conservation treatments at all three cemeteries is clearly documented in the preceding section of this report. While the cost of that work has not yet been fully documented (since no stone-by-stone assessment has been conducted), it will be substantial. Moreover, the cost will continue to escalate as long as the city resists taking definitive action to suspend the deterioration. Deferral of action is the equivalent of accepting escalating damage and costs.

It is also clearly documented that for many - perhaps most - of the lots evidencing the most significant damage, the City has no records to indicate ownership. In fact, it is documented that the records for both City Cemetery and Mount Hope were at least twice lost by the City of Raleigh, both times due to

fire. After the second loss, in 1930, the City suspended the sale of lots in both cemeteries and placed the burden of proof of ownership on individual families.

Without proactive conservation actions, the city's cemeteries will continue to deteriorate. They will lose their historic value, lose the potential to contribute to Raleigh's heritage tourism efforts, and degrade their neighborhoods.

While private groups may be able to raise money to assist the city in the repair of the cemeteries, when those cemeteries are historic and contain monuments for families that no longer exist, there is no question that the responsibility is that of the city - and not some anonymous "family" to care for the resource.

Failure on the part of the city to adequately care for the cemetery has resulted in the deteriorated and dilapidated conditions we see today. The cost of the treatments are directly the result of deferred maintenance and efforts to deflect maintenance onto other, unknown and unidentifiable individuals.

Model Programs

One of the earliest programs was that of Boston. With the approach of the American Bicentennial in 1976, Boston began to recognize not only the decay present in its own city cemeteries, but also that expedient solutions often compounded the problems. Thus, in the mid-1970s the city declared a moratorium on repairs and "restoration." The Boston Parks and Recreation Department, owner of the properties, joined forces with a variety of other groups to begin an ad hoc collaborative effort to address the issues comprehensively - to actually engage in planning rather than "just doing things." A comprehensive master plan was developed by 1985 and in 1986 the city published *The Boston Experience: A Manual for Historic Burying Grounds Preservation* (Atwood et al. 1989).

Boston's success was ensured by careful planning and the infusion of significant amounts of city money - from both the Parks and Recreation Department and the City of Boston Office of Capital Planning. That money was matched by smaller sums from "individuals, historical societies, abutters, [and] corporations." The success continued today with the Parks and Recreation Department employing conservators to continue the process of repairs and monitoring.

The effort has also been continued by the Massachusetts Department of Environmental Management through their Historic Cemeteries Preservation Initiative. The state, seeing the success in Boston, and recognizing the extraordinary pressures on municipally owned cemeteries, developed and published preservation guidelines to help expand the Boston success throughout the state (Chase et al. 2002). In an effort to ensure success, Massachusetts has also developed a grant program to assist in planning and implementation.

At the state level somewhat similar programs are well known from Michigan (King et al. 2004) and Texas.

There are, however, many municipalities that routinely undertake the conservation of historic markers. For example, Chicora Foundation has recently worked with the City of Rock Hill, SC to repair several markers in their municipal cemetery, using city funds. We have also worked with the City of Charlotte, NC to conduct extensive work on the city's Settler's Cemetery - the location of the earliest burials in Charlotte.

The Town of Chapel Hill has also assumed full and complete responsibility for the maintenance of its town cemetery. In 1985 the town appointed a task force that recommended the development of a master plan and phased improvements. That plan was completed in 1987. After ownership was fully clarified with

the state and University of North Carolina turning over all ownership in 1989, the town began repairs on monuments using city funds. A new task force was put together in 2004 and repairs of ironwork were begun.

Recommendations

The city currently has ample state laws and city ordinances to prevent issues such as vagrancy, the consumption of alcoholic beverages, and off-leash dog walking in the cemeteries. These laws should be enforced to reduce nuisances and control problems.

There are adequate laws for the protection of cemetery monuments, fences, and property from vandalism. As previously recommended, the city should adopt a policy that all vandalism will be reported to the police and expect that investigations will be conducted. The city should aggressively seek prosecution.

The city should rewrite Section 9-4018 since as written it prohibits virtually all public interaction in the cemeteries. No similar code I present for cities such as Greensboro, Durham, or Winston Salem.

We note that other North Carolina cities, such as Charlotte and Chapel Hill have assumed responsibility for their cemeteries, recognizing that owners are long dead and that descendants are virtually impossible to locate. A similar situation is also documented from at least one South Carolina city.

Failure to react to the existing crisis of care will result in the loss of such significant amounts of historic fabric that it may be impossible to bring these cemeteries - especially City Cemetery - back from the brink of disaster.

MANAGING CEMETERY DATA

Existing City Records

For City Cemetery the bulk of the data available to the city comes from what is known as the "City Cemetery Black Book." This document appears to date from at least the tenure of Gregory Lawrence and is still in the Cemetery Office at Mount Hope. A note in the book suggests that it was copied from some previous document and is dated 1/22/88, apparently a reference to 1988. Contained in a small black notebook, the document consists of a few typescript pages with names, death dates, and section information. The bulk of the book is in long hand, with at least two different handwritings evident. Typically death dates are not provided. Occasionally, there is also lot information, typically provided as a name. The sections appear to be correlated to those developed by Lawrence and shown in Figure 12. Also included in the book are occasional notes and historical references - as though the book was an accumulation of anything that Lawrence could find or was told concerning burials in City Cemetery.

For Mount Hope Cemetery, the city has a variety of maps stored at the Cemetery Office. All are paper copies, many with hand-written notations concerning the owner of various plots. Depending on the map, this information may be annotated in the margins or actually added on top of the individual plots. There are many plots for which no data is available - these presumably pre-date the 1930 fire when records were lost. It is possible for these lots that some information could be obtained from the actual grave. There are also paper records of deeds. These are actually receipts that indicate a deed number, the date of issue, to whom issued, the number of the lot, the division, the number of square feet, and the amount paid. These represent the primary records for the cemetery.

There are no known records, either held by the city or by the Raleigh Diocese of the Catholic burials in O'Rourke Cemetery. The city does possess a map of the pauper burials in the cemetery, reproduced in this study as Figure 18, and a list, reproduced in this study as Appendix 2. We have identified a very short list of Catholic burials, produced as Table 3. We have been told that there is much more available (presumably beyond Riggs 1996), although we have not seen these data.

These sparse city maintained records have been brought together in a Microsoft Access database maintained by the current Cemetery Superintendent, Mr. Danny Morgan. A screen shot of this database is provided as Figure 68.

This database includes four primary forms - one for owners, representing the purchaser of a lot; one for burials, with a larger number of entries, one for each burial on a lot; one for lots, which allows specific lots to be searched and then link to owner or burial; and one that is a sales invoice form, allowing the cemetery to track invoices for lots and other sales. The database also allows for the generation of a list of owners and a list of burials.

The current database includes about 2,400 owner entries and almost 8,000 burial entries.

The data contained in this database has been gathered from the various paper and map records available to the city. It thus is no better - or worse - than the records previously discussed. Its primary benefit is the ability to quickly search for critical information. When there are problems, however, the Cemetery

STRATEGIC PLAN FOR RALEIGH'S HISTORIC CEMETERIES

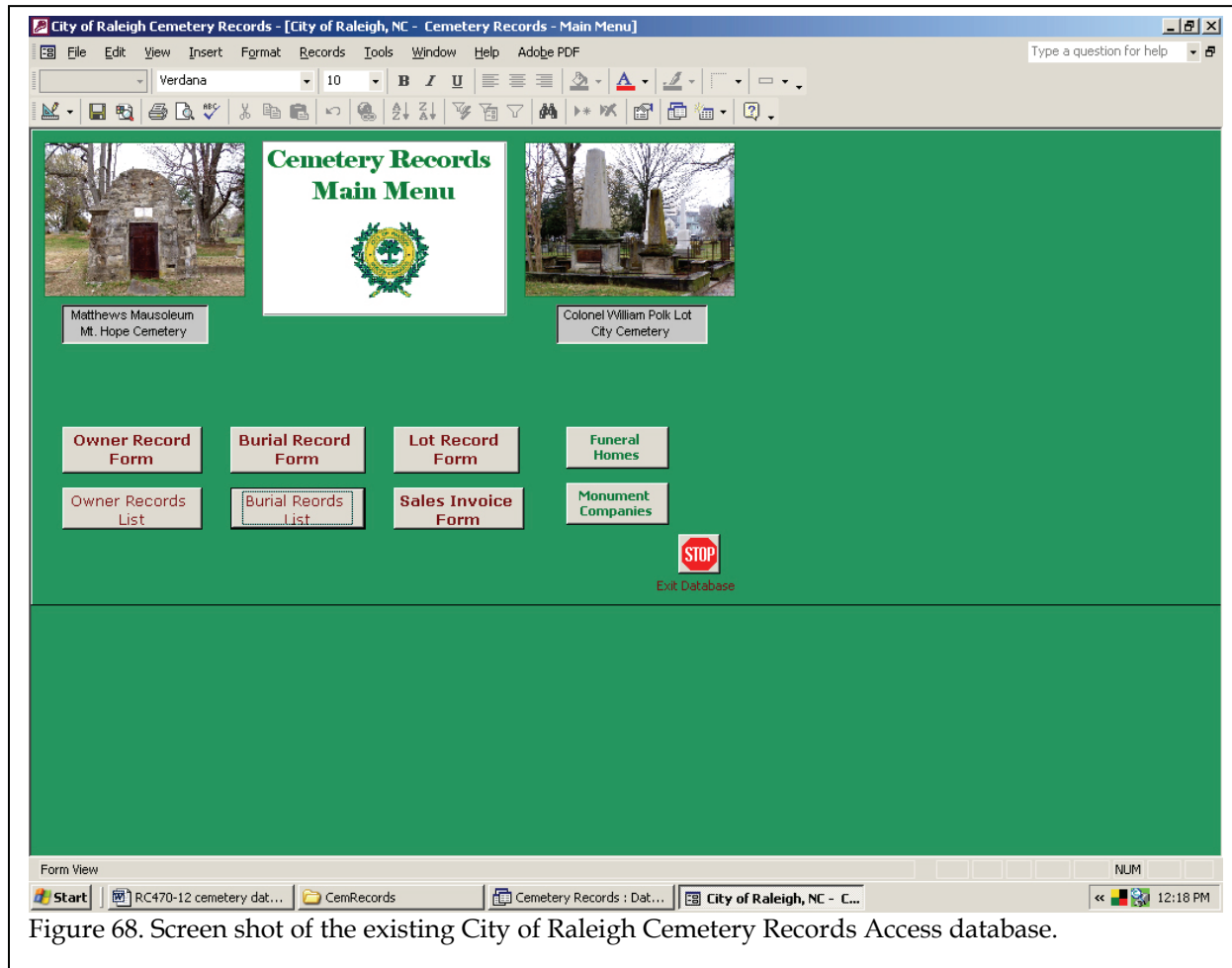


Figure 68. Screen shot of the existing City of Raleigh Cemetery Records Access database.

Superintendent must return to the original paper records, be they maps, deed records, or the “black book.”

Consequently, these original records are of considerable management and legal importance. While there are copies of some records, such as the maps and “black book,” the records are being stored in a building with minimal environmental controls, no fire detection or suppression, and no protection against theft or vandalism.

The Microsoft Access database is housed on a server and we understand that it is periodically backed up with the backups stored off-site. This is, nevertheless, digital data meant to provide access, not long-term preservation.

We recommend that all original records be removed to a facility with archival standards for fire detection/suppression, theft, and environmental controls. Failure to do so will eventually result in the loss of these records, just as the city has lost cemetery records twice before.

Other Data Sources

There are several published sources, for example, the now outdated article concerning O’Rorke Cemetery by Riggs (1996), a similar article on City Cemetery also by Riggs (1995), or the article by Carter (1966). Shaw and Shaw (1979) also listed the identifiable African American burials in the City Cemetery.

Similar sources are available online. For example, the Shaws' article may be found at www.prairiebluff.com/aacemetery/citycemetery.html. A few individuals are listed in The Political Graveyard site for City Cemetery at <http://politicalgraveyard.com/geo/NC/WK.html#RAM018RZ3>. Sites such as Find A Grave (www.findagrave.com) will provide a few additional notable individuals.

There is, however, no comprehensive list. We understand from Ms. Karen-Marie Allen at the Olivia Raney Local History Library that both private genealogists and library volunteers are in the process of compiling lists, but there is no indication of when these will actually be available. Nor is it certain how detailed the efforts have been.

Certainly there are a variety of sources available for reconstructing at least significant portions of the missing data. North Carolina required death certificates beginning in March 1913 and compliance is considered full by 1920. Thus, there is the potential for nearly 18 years of records prior to the 1930 fire. Scanning death certificates and looking for burials in City Cemetery and Mount Hope is a means of quickly filling in at least part of the gap.

There are also newspaper obituaries. Again, this requires intensive efforts to scan period papers and collate information, but it is another source of further compiling missing data for all three cemeteries.

Another source may be the historic grave stone photographs available at the Olivia Raney Local History Library. These may illustrate stones that are no longer present in City Cemetery or no longer legible.

Thus, there are a variety of sources that are readily available to supplement the otherwise meager official records. While most of these will provide no specific lot information, they will at least provide additional information on known burials.

It is crucial that whatever records may exist be identified and compiled into one central database. It is not acceptable to continue to claim that no records exist when, to at least some extent, these records can be recovered. Whether done by volunteers or the city, this is an effort that should not be further delayed. A reasonable time frame for completion of such a study is a year (assuming there is either a contract issued or enthusiastic volunteer support).

Data Presentation Options

How the data are presented depends on the goal of the presentation - what the city wishes to accomplish. In an effort to clarify the goal, two rounds of inquiry have been conducted.

The staff feels the existing Access database is satisfactory, although it lacks both mapping and web interfaces. In particular, there is no public access to genealogical and other data that may relate to the cemeteries.

There is an interest in a web site that would promote the cemeteries, discuss conservation issues, and more. Such as specifically the "Dead Space Project" (<http://cml.upenn.edu/nola/14project/L3projecthome.html>). Funded through grants from the Louisiana Division of Historic Preservation, Office of Cultural Development, and the Samuel H. Kress Foundation, this web site was developed by the University of Pennsylvania's Graduate School of Fine Arts Departments of Historic Preservation and Landscape Architecture with Tulane University's School of Architecture and Preservation Studies. Also participating was the nonprofit Save our Cemeteries, Inc. and the Roman Catholic Church of the Archdiocese of New Orleans. This web site has a vast quantity of information ranging from mapping and conditions assessments to histories and coloring pages.

This is an excellent site to emulate, although we doubt that at present it would be

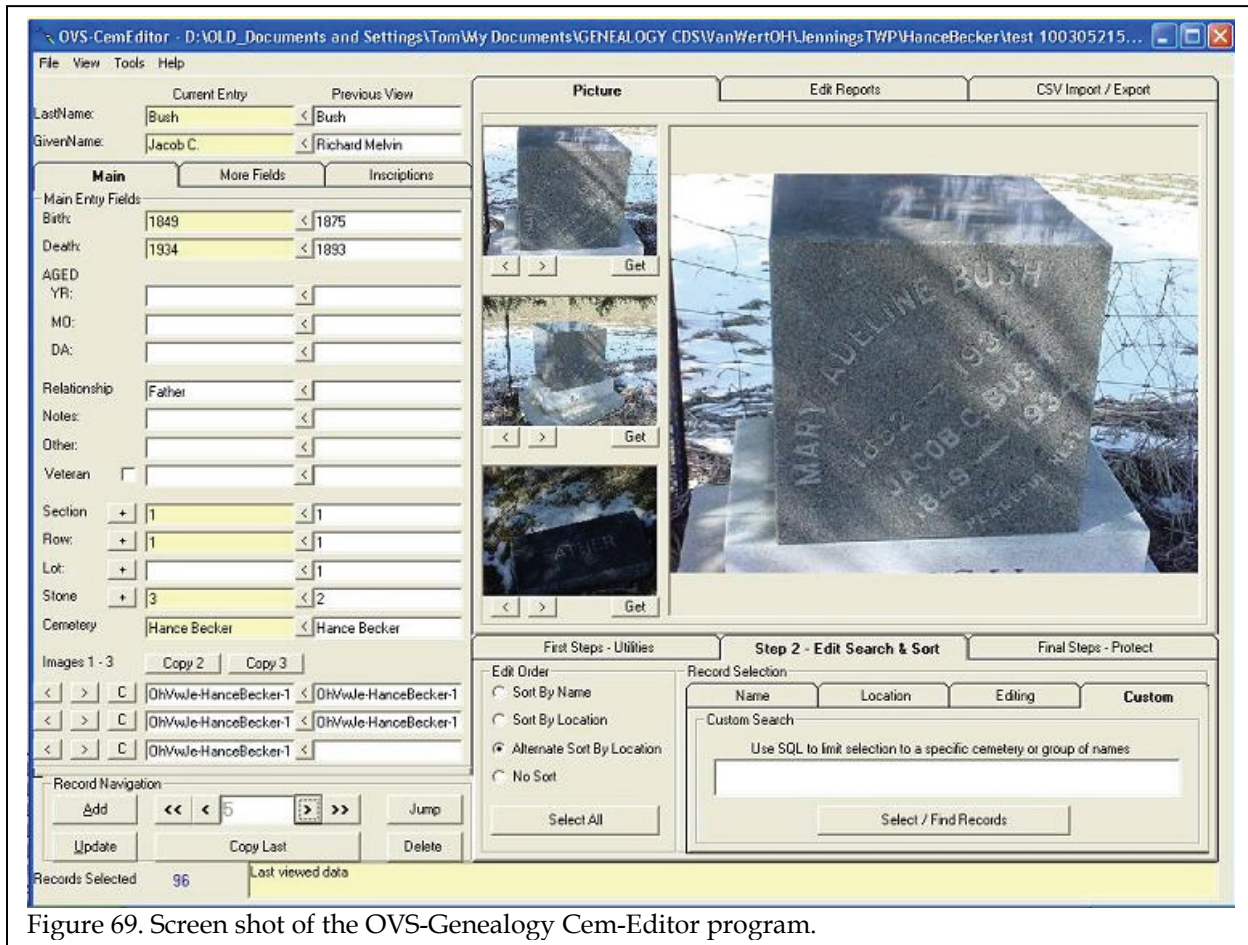


Figure 69. Screen shot of the OVS-Genealogy Cem-Editor program.

feasible to embark on such an ambitious project. A more simple genealogical presentation might be more practical and provide the city's cemeteries with a heightened public awareness at a more modest cost.

Simple Genealogical Presentation

Presentation of "who's buried" in a particular cemetery need be no more complex than a Microsoft Excel spreadsheet converted to a webpage. While entirely lacking in frills, it has the potential to very quickly get basic information in a format that almost anyone with a computer can use. This solution would also allow the city's current Access database to be quickly converted into a more user-friendly format and posted on-line.

A simple example of this is available for the Chapel Hill Cemetery at

http://townhall.townofchapelhill.org/facilities/cemeteries/old_cemetery/search.asp.

The downside of such a site is that it is limited in information. For example, one of the most troubling aspects is that it fails to provide a complete transcription of the stone. Without a complete transcription much important data is lost or at least not accessible. Such a system also typically lacks the ability to post a photograph of the monument - and these visual graphics may provide critical information (especially with no complete transcription).

An alternative is to either develop a more comprehensive Microsoft Access database or to use a proprietary one, such as Cem-Editor from OVS-Genealogy (Figure 69). The Cem-Editor is based on Access, but the work of design is already done. The program allows

MANAGING CEMETERY DATA

Table 7.
Some Commercial Cemetery Management Software Programs

Name	Web Site	Price	Capabilities
Cemetery Management Max	www.cemeterydatabase.com/	Ca. \$1000.00	full accounting, audit data entry with unparalleled sort & search of interred. Record companies your cemetery does business with, purchase and post transactions, protect data entry, view invoices, statements and account balances. Enter and view hundreds of types of data entry for Owner's, Interred and Next of Kin. Include maps, automate Work Order entry, multiple family grave purchases, standard & amount protection deeds, all on-screen and by report.
CIMS eCIMS (allows on-line posting)	www.cimscemeterysoftware.com/	By proposal	CIMS™ links all of your cemetery data to actual computerized maps of your cemetery. This cemetery mapping allows access to data through map interaction and allows queries not possible with standard database tools.
Charon	www.charon.com.au/index.html	By proposal	A fully integrated suite of functions including Accounting & Financials, Records & Resource Management, Property Mapping, Web Applications, PDA Applications, Point of Sale, and Touch Screen Kiosks
HMS	www.hmisinc.com/index.php	By proposal	Fully integrated cemetery, mortuary and crematory software solution.

entry of complete transcriptions, photographs of the monument (perhaps combining a modern photograph with the historic photograph), brief condition information (once an assessment is complete), and custom fields for cemetery specific data. An add-on allows the data to be converted to web pages for publication. Another add-on allows the creation of very simple maps. This likely provides the quickest (and least expensive at less than \$150) route for the city to provide basic information and photography.

Cemetery Management Software

There are far more complex cemetery management software options, although the costs are considerably greater since the programs are designed for the commercial cemetery. Table 7 lists several of the more popular commercial products, the price (if

readily available), and some of the various capabilities.

Since these products are intended for the commercial cemetery they typically have the ability to track trust or perpetual care funds. Most have the ability to produce checks, providing a complete accounting system (which is unnecessary for Raleigh since this function is not handled by Parks and Recreation). Many have the ability to integrate a variety of services, including funeral director activities. As a result virtually all have capabilities that are in excess of what the city needs.

On the other hand, several of the companies provide turn-key work, taking maps, digitizing them and, if desired, integrating them with GIS databases. Several companies provide on-site instruction in the use of the programs.

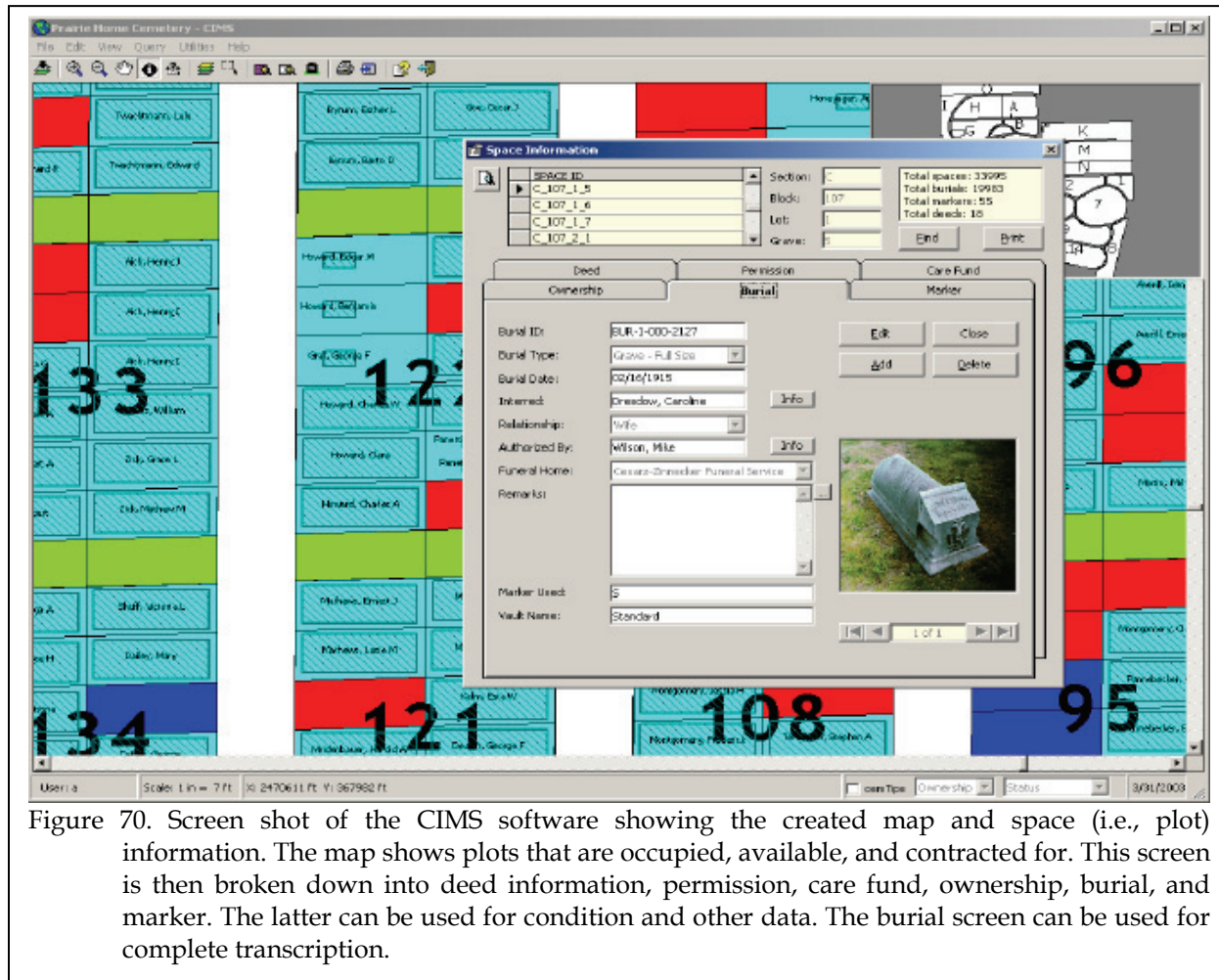


Figure 70. Screen shot of the CIMS software showing the created map and space (i.e., plot) information. The map shows plots that are occupied, available, and contracted for. This screen is then broken down into deed information, permission, care fund, ownership, burial, and marker. The latter can be used for condition and other data. The burial screen can be used for complete transcription.

There are certainly benefits to these programs and we are inclined to look at the eCIMS software as a potentially good choice. Designed for web-based access, the City could determine precisely the information it wishes to be on-line, as opposed to available on in-house computers (thus avoiding family privacy issues).

Although the CIMS Light provides many of the features appropriate to the management needs of the Raleigh cemeteries, including virtually all of the simple genealogical topics covered by Cem-Editor, it does not incorporate interactive digital maps. This feature requires the more elaborate CIMS program.

In-House or Contracted Work

There is another option – the city can either in-house or through a contract develop its own proprietary database. There is no question that such a solution would allow the maximum flexibility. It would, however, take longer than a commercially available option.

We would envision combining mapping and stone-by-stone recordation. The recordation would use a form to collect a complete transcription and combine that information with other pertinent information (either in the field or during data entry). Each stone would have one or more digital photographs taken. The GPS location of marked graves, depressions, coping,

roads, paths, boundaries, and historic features in the cemetery would be collected using a Trimble mapping-grade GPS receivers capable of delivering sub-meter horizontal positional accuracies.

Features that are obstructed by canopy or that could not be obtained within the GPS standards for satellite signal quality would need to be located using a combination of hand-held laser range finders and robotic survey instruments set up along a base line established using GPS control.

All paper record information would be converted into a Microsoft Access database that mirrored the paper form.

The attribute information contained in the Access database would then be merged with the GPS locations to produce an ESRI shapefile. This shapefile would contain all attribute as well as location information for all features collected for that particular cemetery. Integrating the geographic and attribute data into shapefile format will enable for increased capability for analysis and mapping of the information. Digital photographs could be hyperlinked to the shapefile.

By integrating with an internet map server application, it would be possible to display the cemetery data via an internet web browser. It would be possible to have an interactive map of the cemetery that would enable the symbolization and mapping of each of the various data layers collected from the cemetery.

Clearly such a proprietary program has tremendous opportunities for expansion and integration of new data. It could be designed to meet the critical needs of cemetery management, while also providing public access to burial information and plot locations, as well as condition statements, transcriptions, and photographs.

We recognize that the city has its own GIS and IT departments. It could certainly develop a proprietary program. Whether this would be less expensive than contracting the service, however, is difficult to assess. Much of this assessment would depend on the emphasis the city gives to timeliness since it is certain that a contracted product could be up and running long before city staff had the opportunity to develop, test, and implement such a system given their other responsibilities.

Recommendations

It is critical that the city's data concerning its cemeteries currently housed in the Superintendent's office be transferred to a facility meeting modern archival standards. Minimally that would include controlled temperature and relative humidity, security detection, and fire detection and suppression. This should be done as soon as possible.

A simple, first step to provide public access through web access is a program such as Cem-Editor from OVS-Genealogy. This would fulfill the bulk of the city's immediate interests in a simple and cost-effective manner, allowing an immediate on-line presence.

In the long run, it is appropriate to consider cemetery management software. A system such as CIMs offers both business tracking capability as well as genealogical data access.

