

NEW JERSEY CEMETERY BOARD
PUBLIC SESSION MINUTES
FEBRUARY 10, 2005

Due to a lack of quorum this meeting was held in Committee

A Committee meeting of the New Jersey Cemetery Board was held at 124 Halsey Street, Newark, N.J., on the sixth floor, on Thursday, February 10, 2005. The meeting was convened in accordance with the schedule filed with the Secretary of State and was conducted in accordance with the provisions of the Open Public Meeting Act, Chapter 321, P.L.. Notice of the meeting was prepared in the office of the Board and mailed out to the Secretary of State, the Attorney General, the Star Ledger, the Record, the Press of Atlantic City, the Asbury Park Press and the Trenton Times. Board Vice-Chairman Marion Brozowski called the meeting to order at 9:50 A.M. A roll call was taken and the following attendance of Board members was recorded for these minutes:

Marion Brozowski Present
Frank J. DeGeeter, Jr. Absent
Paul M. Desbiens Present
Anthony F. DiLorenzo Absent
Stephen F. Hehl Absent
June Nikola Absent
William Nichols Absent
Marianne Panico Absent
Karen Walsh Pappas Present

Also in attendance were: Dianne L Tamaroglio, Executive Director for the New Jersey Cemetery Board; Deputy Attorney General John Hugelmeyer; Alba Jaramillo, Assistant to the Executive Director; and Jonathan Eisenmenger, Assistant to William Mandeville, Managing Executive Director, Division of Consumer Affairs.

II II. APPROVAL OF PUBLIC SESSION MEETING MINUTES OF JANUARY 13, 2005

The Committee of the Board will recommend to the full Board at the March 10, 2005 Board meeting to approve the Public Session Minutes of January 13, 2005 as amended.

III. OLD BUSINESS

A. Advisement that the County of Ocean is taking a portion of cemetery property Re: Greenwood Cemetery (CA #370)

Bernard Stoecklein, President, Friends of Rural Cemeteries has been working on behalf of Greenwood Cemetery with the County of Ocean trying to obtain the best offer from the County for its condemnation of a portion of the cemetery's property. Mr. Stoecklein advises that the cemetery is very well maintained; has a good deal of property left that could be laid out for graves, which would generate more income for the cemetery; and has an 11 person volunteer Board, all of whom are very dedicated to the cemetery. Mr. Stoecklein will meet with the President of the cemetery, Louis Wright and George Watson to discuss the future of the cemetery. He is going to work with the two to come up with a strategy for the cemetery and to try to get younger people involved with the operations of the cemetery. The cemetery would like to use a portion of the money that it has already received from the County to extend the fence that the County has put up around a portion of the cemetery; would like to have a building for caretaker equipment and a meeting place to meet with families; and would like to do some landscaping at the cemetery. DAG John Hugelmeyer will reach out to Laura M. Benson, the attorney representing the County in this matter, to see what the status is in the determination of the total amount of money the cemetery will receive from the County. The Committee of the Board will recommend to the full Board at its March 10, 2005 Board meeting, that if this matter is not resolved by the April Board meeting, the Board will write to the County of Ocean to find out what the hold up is with finalizing the matter. This matter will be held over.

B. Surrender of Certificate of Authority and dissolution of cemetery
Re: Trinity Cemetery Association (CA #396)

This matter will be held over.

C. Titusville Methodist Church Cemetery (CA #259)
Re: Exemption from New Jersey Cemetery Law

A follow up letter will be forward to Jerome Katz, attorney representing Titusville Cemetery requesting the status of the cemetery's request to dissolve the "cemetery company". This matter will be held over.

D. Correspondence from Rev. June D. Sievers
Re: Pleasant Grove Cemetery

Investigator Joseph Trogani of the Enforcement Bureau has picked up Pleasant Grove Cemetery's records from Mrs. Sliker. The records are now in the possession of the Board office; the contents of which have all been inventoried. The Committee of the Board will recommend to the full Board at its March 10, 2005 Board meeting that a vote be taken as to whether or not Pleasant Grove Cemetery should become a "cemetery company" and receive a Certificate of Authority from the Board or whether it should remain a church cemetery. The cemetery's records will remain with the Board office until such time a decision is made by the Board regarding the future of the cemetery. This matter will be carried over.

E. Non-approval of Annual Reports
Re: Eglington Cemetery (CA #98)
Gates of Heaven (CA #96) Hillcrest Memorial Park (CA #127)
Woodbury Memorial Park (CA #097)
Docket L-991-04

This matter will be held over.

F. Cemetery and assets absorbed by new entity
Re: Tri County Lodge #182 Knights of Pythias (CA #367)

The Board has not yet received a response from George Schutzbank regarding this cemetery. We will try to contact the Knights of Pythias, Fortitude Benevolent Association, the Association that has taken over the operations of the cemetery for information regarding the takeover. This matter will be carried over.

G. Correspondence from Thomas E. Stover, Esquire
Re: Mt. Hermon Cemetery Association a/k/a Green's Chapel Cemetery Association

Thomas E. Stover, Esquire has written to the Board advising that he has been attempting to have a meeting between the Trustees of the Mt. Herman Cemetery Association and the Trustees of Mt. Hermon United Methodist Church to see what is taking place. However, as a lot of the Trustees are elderly and no longer active, it has been difficult to arrange a meeting. This matter will be held over.

H. Condemnation of cemetery property without Board approval
Re: Malaga Cemetery Association (CA #196)

The Board has not yet received confirmation of the deposit of \$690.00 (15% of the proceeds from a previous condemnation of a portion of cemetery property by the State) into Malaga Cemetery's Trust Fund. The Committee of the Board will recommend to the full Board at its March 10, 2005 Board meeting that unless we receive the requested documentation, the Board shall authorize the subpoenaing of William Vaughn to appear before the Board for questioning regarding the issue. This matter will be carried over.

I. Applications for Certificate of Authority

Stafford Township Historical Society, Inc., Stafford Township Township Historic Cemeteries

This matter will be held over pending receipt of the Society's Amended Incorporation papers and amended rules and regulations.

J. Purchase of property adjacent to cemetery without Board approval Re: Bayview-New York Bay Cemetery (CA #7)

William T. Jackson, Executive Director, Bayview-New York Bay Cemetery has provided the Board with documentation pertaining to the purchase of additional property by the cemetery for the purpose of enlarging the cemetery which was previously done without Cemetery Board approval. Executive Director Dianne L. Tamaroglio will review the documentation to see if all of the required documentation as per N.J.A.C. 13:44J-13.5 has been provided. This matter will be carried over.

K. Cemetery believes it has an exemption from paying \$75.00 Filing Fee for Annual Reports Re: Hayes Riverview Cemetery (CA #265)

The Board has yet to receive a response from Hayes Riverview Cemetery regarding the sale of a portion of cemetery property that took place without Cemetery Board approval. The Committee of the Board will recommend to the full Board at its March 10, 2005 Board meeting the authorization of a subpoena for the requested documentation from the cemetery. This matter will be held over.

L. Withdrawal of \$9,000.00 from M&P Trust Fund Re: Marksboro Cemetery Association (CA #254)

DAG John Hugelmeier has prepared a subpoena for the appearance of Rita Jones, Secretary, Marksboro Cemetery Association to appear before the March 10, 2005 Board meeting regarding this issue. This matter will be carried over.

M. Correspondence from Yolanda Romero Re: Mt. Peace Cemetery Association (CA #315)

Yolanda Romero has advised the Board office that upon receipt of the cemetery's Trust Fund Bank Statements for the month of February, she will forward copies to the Board showing that money has not been withdrawn from the Trust. This matter will be carried over.

IV. NEW BUSINESS

A. Inquiry from Seaside Cemetery Company (CA #111) Re: Contributions to Maintenance and Preservation Trust Fund

Jay Newman has written to the Board regarding contributions to the Trust Fund for graves that the cemetery gives to the indigent for burial at no cost. Under Title 8A, the cemetery would deposit the minimum of \$25.00 per grave space and the \$10.00 per interment to the cemetery's Trust Fund. With the changes made in the New Jersey Cemetery Act, 2003 regarding deposits to the Trust Funds, Mr. Newman advises that the cemetery does not have a section that could be used as comparable grave space to determine the charges as per the provisions of the new law. Mr. Newman will be advised that pursuant to N.J.A.C. 13:44J-5.3(g), a contribution to the fund by the cemetery company is required for interment spaces given by it free of charge, to be calculated at the existing sales price at the time of the gift. If the cemetery is unable to estimate the reasonable retail value of the donated interment space for purposes of the contribution, the Board will be forced to make that estimate based upon its expertise, and upon the price of other interment space in the cemetery, according to the filed price list. Also, Mr. Newman will be advised that all graves require maintenance and preservation, whether purchased or gifted, and providing for it is a primary obligation of the cemetery company as a matter of public policy as per N.J.S.A. 45:27-12(a).

Mr. Newman also asks what would stop a cemetery company from changing its at need grave prices to \$1.00 and shifting the cost to the interment side to avoid paying the M&P charges? Mr. Newman will be advised the charges set by Seaside Cemetery Company are filed, subject to amendment by subsequent filing, with the Board as per N.J.S.A. 45:27-18 and must be reasonable as per N.J.S.A. 45:27-16(a)2. The required contribution to the Maintenance and Preservation Trust Fund is 15% of the gross sales price reasonably set by the cemetery company, as per N.J.S.A. 45:27-13(c)1. Avoidance of the primary obligation to provide for the maintenance and preservation of any grave by setting its price at \$1 would be directly contrary to the public policy embodied in the New Jersey Cemetery Act, 2003, and would surely prompt corrective action by the Board. This matter is closed and removed from future Board meeting agendas.

B. Condemnation of a portion of Cemetery property
Re: Lawnside Cemetery (CA #89)

John Ford Evans, Esquire has written to the Board on behalf of Lawnside Cemetery advising the Board that the cemetery is currently in negotiations with the NJ Department of Transportation and a commercial developer involved in an expansion of an intersection, which will require the sale or condemnation of a portion of land owned by the cemetery. Mr. Evans advises that while the cemetery will be paid for the land being taken, which includes a buffer as well as at least 250 grave sites, this is not a "sale" of graves as the land being taken by the State will be under asphalt and concrete and is not being purchased, in the classic sense, for burials. Mr. Evans believes that it is for this reason that Lawnside Cemetery should not have to set aside 15% of the condemnation proceeds for deposit into the cemetery's Trust Fund. Mr. Evans will be advised that the cemetery will be required by N.J.S.A. 45:27-34 (e), to deposit into its Maintenance & Preservation Trust Fund not less than 15% of the proceeds received for its land. Further, this transfer of the land is not a bulk sale but rather a transfer of a portion of the principal asset of any cemetery company, its land; whether by negotiated sale or by sale for just compensation determined through the power of eminent domain. The contribution to the Trust Fund mandated by N.J.S.A. 45:27-34(e), is for the perpetual maintenance and preservation of the remaining land, not the land being transferred. This matter is closed and removed from future Board meeting agendas.

C. Installation of a pet crematory
Re: Laurel Memorial Park (CA #353)

H. Paxson Keates, President, Laurel Memorial Park, Inc. has written to inform the Board that the cemetery intends to install a pet crematory on its premises in a separate building with a retort that is made expressly for that purpose. Mr. Keates advises that the reasoning behind this is that due to the acceptance of cremation as an alternative to a traditional burial, non profit cemeteries need to find other avenues of income to fully maintain cemetery property in a manner consistent with the expectations of our present lot owners. Mr. Keates further advises that the cemetery has no intention of creating a pet cemetery. On the advice of counsel, the Committee of the Board will inform Mr. Keates that such an action will be viewed by the Board as contrary to law and public policy. N.J.S.A. 45:27-8 requires that the charter of a cemetery company provide as the purposes for which it exists the procuring and preservation of lands to be used exclusively as a cemetery for the burial or disposition of human remains or cremated human remains. The cremation of animals is not within the purposes permitted by the statute, whether or not a pet cemetery is created. The Committee will also advise Mr. Keates should the cemetery go forward with its plan to install a pet crematory on the cemetery premises, it may require formal disciplinary action by the Board against the cemetery. This matter is closed and removed from future Board meeting agendas.

D. Request to rescind Certificate of Authority
Re: North Branch Cemetery Association (CA #131)

James R. Houston, Jr., Secretary/Treasurer, North Branch Cemetery Association has written to the Board advising that the cemetery is requesting that its Certificate of Authority be rescinded. North Branch Cemetery Association is a Committee of the North Branch Reformed Church and is comprised of church members only. The graveyard property is owned by the NBRC. Mr. Houston advised the Board that the Committee reviewed whether there is any further need for the Certificate, and determined that because grave plots are no longer sold to non-church members, their request should be granted. Further he advises that this request is not one of trying to avoid having

to operate under the regulations, but rather due to having limited funds for operation and management by all volunteer church members. During the past two years, because of very low interest rates and the rising cost of maintenance, the cemetery has been operating at a deficit, which had to be subsidized by asset principal, except for the Maintenance & Preservation Fund and most recently by member contributions. Upon discussion of this matter, the Committee of the Board decided to request that a representative of the cemetery appear before the full Board at its March 10, 2005 Board meeting for discussion of the matter. This matter will be carried over.

E. Bulk Sale Approval

Satanover Benevolent Society, Beth El Cemetery (CA #13), Westwood, NJ to Fair Lawn Jewish Center, Fair Lawn, NJ

Executive Director Dianne L. Tamaroglio approved the bulk sale of 195 graves for \$104,812.00 (\$537.50 per grave). The required amount will be deposited into the Maintenance & Preservation Trust Fund of Beth El Cemetery

F. Correspondence from Jeffrey P. Clapp, Vice-President, Finance, CMS Mid-Atlantic, Inc.
Re: Obligations under New Jersey Cemetery Act, 2003

Jeffrey P. Clapp, Vice-President, Finance, CMS Mid-Atlantic, Inc. has provided the Board with an update on the changes being made by CMS with regard to the 5 cemeteries under its management and how the cemeteries are handling their obligations under the New Jersey Cemetery Act, 2003. This was for the Board's information.

G. Correspondence from Cindy Leip, Bank of America
Re: Greenwood Cemetery Association's M&P Trust Fund (CA #149)

Cindy Leip, Vice-President, Trust Officer, Bank of America has advised the Board that since 1972, Fleet Bank, a Bank of America Company, has been the corporate trustee for the Greenwood Cemetery M&P Trust Fund. Ms. Leip advises that recently, the bank has received a request to replace the bank with two individual trustees and deposit the principal of the account with A.G. Edwards & Son, Inc. Ms. Leip has provided the amendment to the trust requesting the change and has requested that the Board review the amendment and advise her about the use of individual trustees in place of a corporate trustee. The Committee of the Board will table this matter to be discussed with the full Board at its March 10, 2005 Board meeting. This matter will be carried over.

V. PUBLIC COMMENT

Bernard Stoecklein, President, Friends of Rural Cemeteries advised the Committee of the Board that new signs are being made for Cedar Grove Cemetery. Mr. Stoecklein advised that there are about 11 people who have expressed an interest in being on the Board of Cemetery. He is going to have a luncheon with these individuals and hopes out of the 11 to get 6 or 7 people to be on Cedar Grove Cemetery's Board to assist Emery Bittman with the operations of the cemetery. Also, Mr. Stoecklein advises that the bank that holds the cemetery's Trust has agreed to restructure the cemetery's investments to generate more income for the cemetery.

VI. FOR YOUR INFORMATION

A. New Jersey State Board of Mortuary Science

Open Session Meeting Minutes–December 7, 2004

Open Session Meeting Minutes–October 5, 2004

Open Session Meeting Minutes–October 26, 2004

Open Session Meeting Agenda–February 1, 2005

These matters were considered informational for the Committee deeming no discussion or decision making.

B. Newspaper article

Pilot hired by survivors to scatter cremated remains

This was considered informational for the Committee deeming no discussion or decision making.

C. Notification of Verified Complaint and Order to Show Cause

Re: Karl T. Kemm and Jersey State Cemetery Management, Inc., Plaintiff v Joseph Carlino, Anthony Sparno, Delma Benvenuti, Jersey State Memorial Park Association and the Board of Trustees of Jersey State Memorial Park Association, Defendants

This matter is associated with an investigation by the Board and will be moved to Executive Session for discussion.

VII. ADJOURNMENT

The Committee of the Board adjourned the Public Session of the Committee meeting at 11:35PM and moved into Executive Session at 12:00 PM to discuss the following matters involving investigations, violations, and/or the Board's regulations:

1. One(1) new matter or complaint filed with the Board which requires review and recommendations in regard to investigation and/or actions.
2. Seventeen (17) old matters where additional information has been submitted to the Board pending investigations.

The substance of these investigations shall remain confidential until disclosure is permitted by law. Board action arising from such discussions will be made public at such time official action is taken on these matters, if permitted by law.

Respectfully Submitted,

Dianne L. Tamaroglio
Executive Director