

**\*NEW JERSEY CEMETERY BOARD\***

**PUBLIC SESSION MINUTES**

**MARCH 11, 2010**

A regular meeting of the New Jersey Cemetery Board was held at 124 Halsey Street, Newark, NJ, on the sixth floor, on Thursday, March 11, 2010. 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 on September 14, 2009 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 Chair William Nichols called the meeting to order at 9:45 AM. A roll call was taken and the following attendance of Board members was recorded for these minutes:

Lawrence Colasurdo	Absent
Paul M. Desbiens	Present
Waheed Khalid	Present
June Nikola	Absent
William Nichols	Present
Genevieve Raganelli	Present
Michael Ticktin	Present

Also in attendance were: Dianne L. Tamaroglio, Executive Director, New Jersey Cemetery Board; Deputy Attorney General John Hugelmeyer; and Ellen Green, Board Secretary.

**II. Investigative Inquiries**

Mount Olive Union Cemetery CA #385

Jason Freund, President, Mount Olive Union Cemetery was served a subpoena for his appearance at today's Board meeting for an Investigative Inquiry regarding the fact that the cemetery has not filed its 2007 & 2008 Annual Reports. Rather than appear, Mr. Freund filed the delinquent Annual Reports on March 10, 2010. Mr. Freund was advised that his appearance would not be adjourned but rather postponed for a later date if necessary. Board Accountant George Booktor will review the Reports and advise the Board if the Reports are in order. This matter will be carried over.

Long Hill Cemetery Association CA #307

Pamela Thievon, Secretary/Treasurer, Long Hill Cemetery Association was served a subpoena for her appearance at today's Board meeting for an Investigative Inquiry regarding the fact that the cemetery has not filed its 2007 & 2008 Annual Reports. Mrs. Thievon appeared before the Board bringing the cemetery's records with her. Mrs. Thievon advised that

she and her husband are volunteers who together operate the cemetery. When asked why the Annual Reports have not been filed, Mrs. Thievon advised that due to personal reasons, she and her husband can no longer take care of the cemetery which would include filing the Annual Reports. The Board suggested to Mrs. Thievon that perhaps she could talk to the municipality or the local church about taking over the operations of the cemetery. The Board then asked Mrs. Thievon that since she had all of the cemetery's records with her, would she be willing to sit with the Board Accountant George Booktor today to assist her in getting the delinquent reports completed and filed. Mrs. Thievon agreed.

*Blawenburg Reformed Church Cemetery CA #271*

Nancy Curtis, Secretary/Treasurer, Blawenburg Reformed Church Cemetery was served a subpoena for her appearance at today's Board meeting for an Investigative Inquiry regarding the fact that the cemetery has not filed its 2007 & 2008 Annual Reports. When asked why the reports have not been filed, Ms. Curtis advised she had no excuse for not doing them. The Board asked Ms. Curtis if she too would be willing to sit with Mr. Booktor to assist her in getting the delinquent reports completed. Ms. Curtis agreed.

**III. OLD BUSINESS**

**A. Reconstitution of Board**  
**Re: Mercer Cemetery (CA #266)**

It appears that no progress is being made with the City of Trenton living up to its obligations regarding the Appellate Court's decision that stated that Trustees for Mercer Cemetery had to be appointed by the City. Board member Michael Ticktin 's theory is that based upon that decision, the cemetery should be treated as a Municipal Cemetery and should not be under the jurisdiction of this Board. Mr. Ticktin as well as Board member Genevieve Raganelli will once again reach out to the Mayor of Trenton to bring this situation to his attention. This matter will be carried over.

**B. White Cedars Memorial Park (CA #400)**  
**Re: Certificates of Indebtedness**

The Committee of the Board, William Nichols & Paul Desbiens reviewed documentation provided by George Dougherty, Esquire wherein Mr. Dougherty advised that White Cedars has made the decision to withdraw the Memorial Properties part of the application for Certificates of Indebtedness in the amount of \$692,288.00 therefore limiting the application to the CIT certificates in the amount of \$550,000.00. There was much discussion as to whether or not a mausoleum is considered a Capital Improvement or not; the Committee members, Mr. Nichols & Mr. Desbiens were not in agreement with regard to this and therefore made no recommendation to the Board. A motion was made by William Nichols and seconded by Michael Ticktin to approve the application for the Certificates of Indebtedness for CIT in the amount of \$550,000.00. A vote was taken but with Paul Desbiens and Genevieve Raganelli voting no without prejudice, the motion did not have enough affirmative votes to be passed. The Board wants to know how both parts of the building, the mausoleum & office building, have been expended upon or written off. This matter will be carried over.

**C. Application for a Certificate of Authority**

**1. Antonacci Family Memorial & Burial Ground**

*This matter will be carried over pending receipt of a copy of the deed showing the transfer of the property from Vanard Realty Co. to the burial ground.*

**2. Eldridge Cemetery**

*Richard S. Toone, Executive Secretary, Eldridge Cemetery submitted to the Board a copy of the cemetery's Incorporation By-laws as well as the cemetery's 2009 financial statement. Upon review of the By-laws, it was pointed out that Article IV, stated that the Township of Mount Laurel, Burlington County, New Jersey will become the successor in interest to maintain the cemetery operation upon the dissolution of Eldridge Cemetery, Inc..... Mr. Toone will be asked if the Township acknowledges its responsibility as successor. Also, upon review of the cemetery's 2009 financial statement, it appears as though the cemetery's M&P Trust Fund is held with Smith Barney; the Board will ask for documentation showing how that account is titled. This matter will be carried over.*

**D. Hoboken Cemetery (CA #183)**

*Sanford B. Epstein, Epstein Management, Inc. & Director of Operations, Hoboken Cemetery has provided the Board with a synopsis of the improvements made at Hoboken Cemetery since Marion Yovan was appointed Receiver for the cemetery and his management company has taken over the operations of the cemetery. Mr. Epstein has also provided the Board with the cemetery's financials for the year 2008. Mr. Epstein believes that Hoboken Cemetery is now prepared to be released from Receivership and should be allowed to continue its positive advancement under Epstein Management, Inc. While the Board is appreciative of Mr. Epstein providing all of this documentation, it is the responsibility of the Receiver, Marion Yovan to provide the Board with an accounting of the activities of the cemetery for the past year. It is also Mrs. Yovan's responsibility to reconstitute a new Board of Directors for the cemetery. Mrs. Yovan will be so advised. This matter will be carried over.*

**E. Riverside Cemetery (CA #43)**

*This matter will be held over pending receipt of a map of the "new" section of the cemetery.*

**F. Correspondence from Charles J. Girard, Esquire**

**Re: Oak Hill Cemetery (CA #154)**

*Charles J. Girard, Attorney representing Oak Hill Cemetery has written to the Board advising that a Special Lot Owners meeting was held to find replacement Trustees for the cemetery as the existing Trustees are all resigning. Unfortunately, the meeting did not bring about any new Trustees. Mr. Girard's letter advises that as of March 1, 2010, Oak Hill Cemetery will no longer be active nor have any Trustees. Kenneth Quay, a resigned Trustee but temporary acting President is in possession of the corporate books, minutes, site plan of the lots and checkbooks. Mr. Girard advised that he has contacted some area cemeteries to see if any would be willing to take over the operations of the cemetery but to no avail. Earl F. Stahl, President,*  
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*Medford Cemetery Association who was in attendance at today's meeting for another matter, volunteered to visit Oak Hill Cemetery and reach out to Mr. Girard and Mr. Quay to discuss the possibility and feasibility of taking over the operations of the cemetery. Mr. Stahl will be given the contact information for Mr. Girard and Mr. Quay. In the meantime, the cemetery will be advised that it must continue to conduct burials should the need arise. This matter will be carried over.*

**G. Application for purchase of land to enlarge cemetery**  
**Re: Medford Cemetery Association (CA #374)**

*On January 7, 2010, the Board approved the purchase of additional property for Medford Cemetery Association contingent upon a satisfactory on-site inspection of the property by a Committee of the Board and proof of the deposit of at least \$200,000.00 in an Operating Account for the cemetery's start up development cost of the expansion. The Committee of the Board, Genevieve Raganelli & Michael Ticktin, conducted an on-site inspection of the property and reported that the land is suitable for cemetery purposes. The Committee provided pictures for the Board's review. Robert Donovan, Attorney representing Medford Cemetery Association provided the Board with confirmation of the \$200,000.00 deposit for start up expansion expenses into the Medford Cemetery Association's Operating Account. With the two contingencies in order, a motion was made by Michael Ticktin and seconded by Waheed Khalid to give final approval for the purchase of additional property for the expansion of Medford Cemetery for the contract price of \$5,485,000.00 and for the issuance of \$5,000,000.00 in Certificates at 8% interest (100 x \$50,000.00). A vote was taken and the motion was approved by a unanimous vote. This matter is closed and removed from future Board meeting agendas.*

**H. Withdrawal of \$158,000.00 from corpus of the Trust Fund**  
**Re: Old Cemetery Improvement Association (CA #207)**

*George Booktor, Board Accountant prepared an analysis of Old Cemetery Improvement Association's Trust Account (which was believed to be a Trust Account, but it wasn't). Representatives from the cemetery were in attendance at today's meeting and advised that a separate account was set up for maintenance many years ago but not in a Trust Fund. The Cemetery Association made the decision in 2006 (after finding out that the cemetery was not in compliance with the provisions of the Cemetery Act), to establish a Trust Fund but it never materialized. The cemetery has been removing money from its Maintenance Account for repairs and restorations to headstones. The cemetery does no more than 1 or 2 burials a year; the Trustees really only maintain the cemetery as there are no grave sales anymore. The cemetery's Funds have to be re-allocated and a Trust Fund established. The Board asked that the cemeteterians come back to the Board with a figure they feel would be substantial enough to generate enough income for maintenance of the cemetery for perpetuity. A motion was made by Michael Ticktin and seconded by Paul Desbiens to approve a prior withdrawal of funds from the cemetery's maintenance account as the account was not set up in a Trust Fund. A vote was taken and the motion was carried by a unanimous vote. This matter will be carried over.*

**I. Cemetery has only one account, rather than an Operating Account & a Trust Fund**  
**Re: Marksboro Cemetery Association (CA #254)**

Previously, the Board reviewed Marksboro Cemetery's 2009 Annual Report along with its supporting documentation and noted that \$150,000.00 was given to the cemetery from the Estate of Marion Vitale. Also, it appears as though the cemetery has only one bank account which is being used as the cemetery's Maintenance & Preservation Trust Fund as well as the cemetery's Operating Account. The Board asked Rita Jones, Secretary for the cemetery for an explanation of the \$150,000.00 donation and to also provide documentation showing account numbers for the cemetery's bank account(s). Ms. Jones has advised the Board that when the cemetery received the donation there were no specifications for its use. The cemetery assumed it was to be used for the care of Ms. Vitale's grave. As Ms. Vitale served on the cemetery association and was therefore aware of the cemetery's financial condition, the cemetery assumed she wanted the money to be used to help keep Marksboro in operation. With regard to the cemetery's bank accounts, Ms. Jones advises that the cemetery has two accounts with Morgan Stanley, the Maintenance & Preservation Trust Fund, #1474 and Other Trust Fund-General, #0008. The Board found Ms. Jones' letter to be contradictory when she states "Other Trust Fund-General"; either the account is a Trust Fund or a general account. Ms. Jones will be asked to provide the latest bank statements/documentation for all/any of the cemetery's bank accounts. This matter will be carried over.

**J. Correspondence from Michael T. Warshaw, Esquire**  
**Re: Old Tennent Cemetery (CA #201)**

Michael T. Warshaw, Attorney representing Old Tennent Cemetery Association has written to the Board advising that the matter between Old Tennent Cemetery Association and Old Tennent Presbyterian Church has been settled. Mr. Warshaw provided the Board with a copy of the Order Approving Settlement along with a new map of the cemetery property. This matter is closed and removed from future Board meeting agendas.

**K. Correspondence from Joyce Antila Phipps, Esquire**  
**Re: Continuation of lease between Bound Brook Cemetery & Casa de Esperanza**

Joyce Antila Phipps, Esquire has provided the Board with a copy of the new lease between Bound Brook Cemetery and Casa de Esperanza, for the period February 1, 2010 through January 31, 2011. Also included was the corporate resolution stating that the Bound Brook Cemetery will not use the leased land for any cemetery purpose and that funds from the lease of the premises will be used to pay for improvements in the cemetery. Upon review of the documentation provided, a motion was made by Michael Ticktin and seconded by Paul Desbiens to approve the lease contingent upon receipt of an addendum to the lease stating that the Casa de Esperanza will not engage in any of the prohibited activities as outlined the Board's statute, most specifically, **NJSA 45:27-16(c)**. Also, the Board will ask that under the individual signatures on the last page of the lease, the names be printed under the respective signatures. A vote was taken and the motion was passed by a unanimous vote. This matter will be carried over.

**H. Historic Green Cemetery (CA #323)**  
**Re: Appointment of new Trustees**

Warren H. Carr, Esquire has provided the Board with a copy of an Order relieving Herbert A. Budd, Jr., & Phyllis G. Budd their responsibilities as Trustees of Historic Green Cemetery and appointing Donald S. Moser, Frederick H. Stigale, & Ellis H. Otto as the new Trustees for the cemetery.

**IV. NEW BUSINESS**

**A. Application for a Certificate of Authority  
Re: Mountain Top Cemetery**

Edwin C. Landis, Jr., Esquire has filed an application for a Certificate of Authority for Mountain Top Cemetery with the Board. As per the Board's regulations, most specifically, **NJAC 13:44J-13.1(i) & (j)**, the application shall be open to the Public for review for any comments for a period of 60 days; no action shall be taken by the Board during this period. The 60 day period ends on April 30, 2010. The documentation provided by Mr. Edwin shows that the cemetery has two bank accounts neither of which is labeled Maintenance & Preservation Trust Fund. The Board will ask Mr. Edwin to provide proof that a Maintenance & Preservation Trust Fund has been established and is being held in the name of cemetery. The Board has been advised that Rocque Dameo, Vice-President of the cemetery is very ill and the concern is, should he pass away before the cemetery gets its Certificate of Authority, will he be able to be buried at the cemetery? A motion was made by Michael Ticktin and seconded by Paul Desbiens to authorize Executive Director Dianne L. Tamaroglio to permit burial in this one case. A vote was taken and the motion was carried by a unanimous vote. This matter will be carried over.

**B. Easement and Right of Way  
Re: Alpine Cemetery (CA #193) & Elizabethtown Gas Company**

William C. Passodelis, Alpine Cemetery Association has written to the Board asking if approval is necessary for an Easement and Right of Way Agreement with Elizabethtown Gas Company which would allow the cemetery to get natural gas service to Alpine Cemetery's new mausoleum building. The Easement would not interfere in any manner with burial property and runs essentially along the northern edge of the cemetery road right to the mausoleum building. A motion was made by Michael Ticktin and seconded by Waheed Khalid to approve the Easement and Right of Way Agreement. A vote was taken and the motion was approved by a unanimous vote. This matter is closed and removed from further Board meeting agendas.

**C. Approval of Bulk Sale**

**Laurel Grove Cemetery, CA #30, Totowa, NJ to the Albanian American Islamic Center of New York & New Jersey, Inc., Garfield, NJ**

Executive Director Dianne L. Tamaroglio approved the bulk sale of 145 interment spaces for \$199,375.00 (\$1375.00 per grave). The required 15% will be deposited into the Maintenance & Preservation Trust Fund of Laurel Grove Cemetery.

Executive Director Dianne L. Tamaroglio approved the bulk sale of 576 interment spaces for \$476,460.00 (\$827.19 per grave). The required 15% will be deposited into the Maintenance & Preservation Trust Fund of Beth El Cemetery.

Executive Director Tamaroglio questioned the language in Bulk Sale approval letter that states that X cemetery will deposit into its Maintenance & Preservation Trust Fund 15% of the current retail gross sales price of comparable graves on a **monthly basis as payments are received** as Ms. Tamaroglio was questioned about this by Beth El Cemetery. The Board said the language is appropriate and should be left in; each cemetery makes the decision as to whether or not they want the entire deposit up front or on a monthly basis.

**D. Request for withdrawal of funds from the Trust Fund**  
**Re: Cedarwood Cemetery of Keyport (CA #113)**

Norman Zweiacher, Secretary/Treasurer Cedarwood Cemetery of Keyport has written to the Board requesting approval to withdraw \$21,847.98 from the cemetery's Trust Fund to replace a concrete block wall bordering the cemetery that has fallen. With the wall deteriorating, the hill behind it is in danger of eroding and a large headstone will be in danger of toppling over and falling into the street. As money cannot by law be withdrawn from the corpus of the cemetery's Trust Fund, the Board discussed other means of revenue that the cemetery can utilize for the repair; if there is retained income in the Trust Fund, that money can be used and the cemetery can then take a credit on its next Annual Report or would there be anyone willing to put the funds needed up for the cemetery, receive a Certificate of Indebtedness and be paid back at a later time. The Board will make these suggestions to Mr. Zweiacher. This matter will be carried over.

**E. Correspondence from Garry J. Miller, Executive Director, Crescent Memorial Park (CA #56)**  
**Re: Chapter 155-Pre-Paid Services**

Garry J. Miller, Executive Director, Crescent Memorial Park has written to the Board with questions relating to Chapter Law 155, Pre-Paid Services. Mr. Miller's questions with the Board's responses are as follows:

1. The law states that the funds are to be kept in a trust fund in an insured Bank or Savings & Loan. Does this exclude Financial Service Companies unless it is their bank owned by the Financial Services Co.?

**Response** Yes, the money is to be deposited in a federally insured State or Federally chartered bank, savings bank, or savings & loan association.

2. It seems that a cemetery could establish a "pooled trust account" for its own use.

**Response** The Pooled Trust Account mentioned in the law refers to a special Pooled Trust for Funeral Directors only; this does not apply to cemeteries.

3. Does an existing “prepaid services fund” that is established and managed by a Financial Services Company now need to be converted into a Trust Account with a Bank or Savings and Loan? Or do we start the Trust Accounts for new customers effective as of the date of the law?

**Response** The amendment of the law is a clarification of a previous law which would then include existing pre-paid services.

4. Line 25 to 26 indicate that these monies (principle and interest) are only a deposit to be used towards the future cost of the service. Is this correct? If so, then the cemetery does not have to or may guarantee the future service at the fixed current price of the services. Is this correct?

**Response** Yes, to the first question. As for the second question, it would depend on what is in the individual contracts.

5. I assume that regardless of whether the cemetery establishes a “pooled trust fund” or individual accounts, that the funds can be established in a “Qualified Cemetery Trust Fund” under current IRS laws and regulations.

**Response** You should seek counsel familiar with IRS laws.

6. Can the cemetery charge and collect a fee for the administrative and overhead cost for the establishment of and for the annual maintenance of these accounts?

**Response** No, the cemetery cannot collect such a fee.

A motion was made by Michael Ticktin and seconded by Waheed Khalid to approve the responses to Mr. Miller. A vote was taken and the motion was passed by a unanimous vote.

**F. Fiscal Year 2010 Budget Report –1st half**

The Board reviewed the 1<sup>st</sup> half of its Fiscal Year 2010 Budget Report. The Board’s account is considered to be okay.

**G. Application for a Cemetery Salesperson’s License  
Re: Ryan Spellman  
Hollywood Memorial Park (CA #101)**

The Board reviewed Ryan Spellman’s application for a Cemetery

Salesperson's License for Hollywood Memorial Park in Executive Session and brought to Public Session for a vote as to whether or not a Cemetery Salesperson's License should be issued to Mr. Ryan. A motion was made by Michael Ticktin and seconded by Paul Desbiens to approve licensure for Mr. Ryan. A vote was taken and the motion was passed by a unanimous vote.

**H. Burial Permit Concern**

**Re: Len Auerbach, General Manager, Oaklawn Memorial park, (CA #171)**

Len Auerbach provided to the Board a copy of what he received from a family coming from Canada for burial at Oaklawn Cemetery and asked if it would be considered an appropriate burial permit. Board member Genevieve Raganelli advised Mr. Auerbach to contact the office of the State Regulators, Office of Vital Statistics.

**V. FOR YOUR INFORMATION**

**A. Passage of Chapter 267**

**B. Senate Bill, No. 1351**

**C. Memorandum from Enforcement Bureau of the Division of Consumer Affairs**

**Re: Jerry F. Smith & Pleasant Hill Cemetery Association**

**D. Notification of Civil Action**

**Re: Judy Albanese Pellegrini, Charles Pellegrini & Elaine Pellegrini, Plaintiff v Gallway & Crane Funeral Home, Inc., E. Haas Gallaway, Jr., Bruce Wilber, R. Michael Gallaway, Somerset Hills Memorial Park, and John Does B-Z (said names being fictitious as their identities are presently unknown), Defendants**

**E. Notification of Verified Complaint**

**Re: State of New Jersey, by the commissioner of Transportation, Plaintiff, vs Hillside Cemetery Association, a Defunct New Jersey Non-Profit Corporation; New Jersey Cemetery Board; Township of Lyndhurst, in the County of Bergen, a Municipal Corporation of New Jersey; Defendants**  
**Docket Number: MRS-L-3302-08**

**F. Notification of a decision by the Appellate Division of the Superior Court of New Jersey**

**Re: Bonnie Hiller, as the Executrix of the Estate of Irving Gottesman, Plaintiff-Respondent, v Washington Cemetery, Defendant-Respondent, & Bert Gottesman, Defendant/Third Party Plaintiff-Appellant, v Young Berger Sick & Benevolent Society, Third-Party Defendant-Respondent**  
**Docket No. A-2510-089T1**

**G. Articles**

**Eco-funerals are increasing in popularity in New Jersey**  
**NJ.com February 14, 2010**

**Gravestones fascinate college student**  
**APP.com February 11, 2010**

**Clearing cemetery sidewalks a tough job**  
**Burlington County Times February 16, 2010**

*All of these matters were considered informational for the Board requiring no discussion or decision making.*

**VI. PUBLIC COMMENT**

*Matt Sweatlock, Cedar Park/Beth El Cemetery explained to the Board that the reason Beth El Cemetery was questioning the language in the Bulk Sale approval letter was because the cemetery requests the whole deposit up front and wanted to be sure they were doing things in an appropriate manner.*

*With regard to Chapter 155, Pre-Paid Service, Judith Welshons, Executive Director, New Jersey Cemetery Association advised that she attended just about work session regarding pre-need trusting and it was her belief that trusting was not meant to be retroactive but rather from the date of the signing of the law. DAG John Hugelmeyer does not agree but rather says the trusting is retroactive in his opinion. Ms. Welshons then asked if the State Association would be prohibited from having a pooled trust; DAG Hugelmeyer 's opinion is that it would be prohibited.*

**VII. ADJOURNMENT**

*A motion was made by Michael Ticktin and seconded by Waheed Khalid to adjourn Public Session at 12:30 PM and move into Executive Session at 1:00 PM. A vote was taken and the motion was passed by a unanimous vote. The Board moved into Executive Session to discuss the following matters involving investigations and/or violations of the Board's regulations:*

- 1. Seven (7) new matters or complaints filed with the Board which required review and recommendations in regard to investigation and/or actions; and*
- 2. Eleven (11) 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. A motion was made by*

*Michael Tickin and seconded by Genevieve Raganelli to adjourn the Board meeting of March 11, 2010. A vote was taken and the Board meeting was adjourned at 2:30 PM.*

*Respectfully Submitted,*

*Dianne L. Tamaroglio  
Executive Director*