

NEW JERSEY CEMETERY BOARD
PUBLIC SESSION MINUTES
MARCH 12, 2009

A regular meeting of the New Jersey Cemetery Board was held at 124 Halsey Street, Newark, NJ, on the sixth floor, on Thursday, March 12, 2009. 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 16, 2008 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 9:30 AM. A roll call was taken and the following attendance of Board members was recorded for these minutes:

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

Also in attendance were: Dianne L. Tamaroglio, Executive Director, New Jersey Cemetery Board and Deputy Attorney General Ginger R. Provost.

II. APPROVAL OF PUBLIC SESSION MEETING MINUTES OF JANUARY 8, 2009

A motion was made by Paul Desbiens and seconded by Lawrence Colasurdo to approve the Public Session Minutes of January 8, 2009 as corrected. A vote was taken and the motion was passed by a unanimous vote.

III. APPEARANCE REGULATORY ANALYST CHARLES MANNING

Re: NJAC13:44J-5.4

Regulatory Analyst Chuck Manning met with the Board to discuss changes in the language of NJAC 13:44J-5.4 which modifies the regulation to be more descriptive of the Prudent Investor Act. A motion was made by Michael Ticktin and seconded by Paul Desbiens to approve the new language of the regulation. A vote was taken and the motion was passed by a unanimous vote.

The Board also discussed with Mr. Manning Assembly, No. 3765, the Bill that would establish an 18 month moratorium on promulgation of new administrative rules and issuance of new policy circular letters by State agencies. The Board opposes this Bill as it would make it very difficult to run the business of the Regulatory Boards and would negate the purpose of Sunsetting.

IV. OLD BUSINESS

A. Provisional Orders issued June, 1999 for non-filing of Annual Reports

Deckertown Union Memorial Park Cemetery (CA #155)

Ed Vandenberg President, Deckertown Union Memorial Park Cemetery has filed the cemetery's 2007 & 2008 Annual Reports. With the cemetery now in compliance, a motion was made by Paul Desbiens and seconded by Lawrence Colasurdo to issue a Final Order to the cemetery finalizing the provisions of the previously issued Provisional Order and to suspend the \$500,000 Civil Penalty due to the financial conditions of the cemetery. A vote was taken and the motion was passed by a unanimous vote.

New Asbury Meeting House Cemetery (CA #349)

This matter will be held over pending receipt of an amended statement, stating that to the best of the Trustees' knowledge, in the past, burial was restricted to members of the United Methodist Church denomination.

Odd Fellows Cemetery (CA #330)

Odd Fellows Cemetery conducted a Lot Owners' meeting on January 31, 2009 for the purpose of electing a new Board of Directors as well as Officers for the cemetery. Roland Hardy, Jr., Attorney representing the cemetery provided the Board with a copy of the minutes from that meeting. Mr. Hardy also supplied the Board with answers to the previously issued Demand for Statement in Writing Under Oath sent to Daniel Moore. Odd Fellows Cemetery has not yet filed any Annual Reports. The cemetery will be asked to provide copies of any & all bank statements for any accounts the cemetery has and they will be advised that a Maintenance & Preservation Trust Fund must be established. A copy of NJSA 45:27-13 will be sent to the cemetery which outlines the deposit requirements to the Trust Fund. A motion was made by Waheed Khalid and seconded by June Nikola to advise the cemetery that if its Annual Reports are not filed, the Trustees & Officers of the cemetery will be asked to appear before the Board at a future Board meeting. A vote was taken and the motion was passed by a unanimous vote. As Mr. Hardy provided answers to the Demand for Statement, the Subpoena Enforcement Action previously approved by the Board will be held up. This matter will be carried over.

B. Old Tennent Cemetery (CA #201)

The Board reviewed with DAG Ginger Provost the Proposed Order Approving Settlement in this matter. DAG Provost advised the Board that the Court as well as all interested parties appear to be in agreement with the terms of the Proposed Settlement. A motion was made by Michael Ticktin and seconded by Paul Desbiens to agree to the provisions of the Settlement subject to Old Tennant Cemetery agreeing to the settlement. A vote was taken and the motion was passed by a unanimous vote. This matter will be carried over.

C. Old Tappan Cemetery

Re: Compliance with State Regulations of Cemeteries

This matter will be held over pending the issuance of a Settlement Letter to Old Tappan Cemetery advising that it must cease and desist from future burials until it receives a Certificate of Authority from the Board to operate as a "cemetery company".

D. Reconstitution of Board

Re: Mercer Cemetery (CA #266)

John Cipriano, President, Mercer Cemetery has provided answers to the previously issued Demand for Statement in Writing Under Oath. Mr. Cipriano advises that Annual Reports for 2006 & 2007 have not been filed as there has been no activity at the cemetery. Mr. Cipriano further advises that he is notifying the two banks where the cemetery's funds are held to remove his name from the accounts and to mail future correspondence to Mayor Palmer. He also advises that the Mayor's office can pick up the cemetery's records from him at their convenience. Staff will reach out to Mayor Palmer as well as the County Executive, sending them a copy of Mr. Cipriano's answers and referring them to what Mr. Cipriano's plans are. Board member Michael Ticktin is requesting a legal opinion as to whether Mercer Cemetery is considered Public Property. This matter will be carried over.

E. Delinquent in filing Annual Reports from 2002 through 2007

Re: Newell Cemetery (CA #375)

The Board has received confirmation of the deposit of \$4787.00 into Newell Cemetery's Trust Fund. This money represents the amount that was not deposited to the Trust for the years 2002-2007. This matter is

closed and removed from future Board meeting agendas.

F. Correspondence from John C. Walker, Superintendent, Cedar Lawn Cemetery
Re: Cemetery renovation

Paul Desbiens was recused from this matter and moved away from the table.

Executive Director Dianne L. Tamaroglio conducted an on-site inspection of the area at Cedar Lawn Cemetery where the cemetery wants to remove a portion of a circular driveway to provide more graves. Ms. Tamaroglio advised the Board that removal of this area will not in any way hinder the operations of the cemetery, but rather will provide a source of revenue for the cemetery. Access to existing graves will not be taken away. The cemetery is making an effort to notify the owners or the heirs of the graves on the front line of the road of the intended projects. Also, a Special Lot Owners Meeting will be held in April for the purpose of discussing and getting approval for the project. Ms. Tamaroglio advised the Board that she sees no reason for the Board to not approve this project. A motion was made by Michael Ticktin and seconded by Lawrence Colasurdo to approve this project subject to receipt of a copy of the publication of the ad in the newspaper noticing the Special Lot Owners Meeting.

G. Correspondence from George Dougherty, Esquire
Re: White Cedars Memorial Park (CA #400)

June Nikola was recused and moved away from the table.

George T. Dougherty, Attorney representing White Cedars Cemetery has provided the Board with more background and clarification to his previous submission for the approval of Certificates of Indebtedness to be issued to Memorial Properties, LLC arising from its outlay of construction costs for the site development of the cemetery and completion of the mausoleum/office construction. A motion was made by Michael Ticktin and seconded Waheed Khalid to go into Executive Session for advice of counsel. A vote was taken and the matter was moved to Executive Session.

Upon review in Executive Session of the additional documentation provided by Mr. Dougherty, it was determined that the Board does not have enough information to make a determination in this matter. A Committee of the Board, William Nichols & Paul Desbiens will meet with DAG Ginger Provost and Executive Director Dianne L. Tamaroglio to determine what other documentation the Board should request for review. This matter will be carried over.

H. Cemeteries delinquent in filing of 2007 Annual Reports

This matter was moved to Executive Session for advice of counsel.

I. Bayview-New York Cemetery (CA # 7)

Re: Reclamation of interment spaces & removal of existing, oversized walkways

Diane S. Smyczynski, Executive Director, Bayview-New York Cemetery, has provided the Board with additional information regarding the cemetery's intended renovation along with a new map of the cemetery for review. Upon review a motion was made by Paul Desbiens and seconded by Lawrence Colasurdo to approve the removal of cartways and reductions to pathways as shown on the cemetery's new map. A vote was taken and the motion was passed by a unanimous vote. This matter is closed and removed from future Board meeting agendas.

J. Correspondence from Claire J. O'Keefe
Re: Mountain Top Cemetery

As requested by the Board, Claire J. O'Keefe has provided the Board with more information regarding Mountain Top Cemetery which the Board reviewed and discussed. Ms. O'Keefe advised that the person

who appears to have taken over the cemetery is Rocque Dameo. Mr. Dameo owns a local trucking company and lives about 5 lots down from the cemetery. As per Ms. O'Keefe's previous claim that Mountain Top Cemetery was designated as historical, she now advises that as per the Somerset Historical Society, the cemetery is not designated historic and never was. In the view of Ms. O'Keefe Mr. Dameo has damaged the historic look and feel of the cemetery by replacing original headstones, dating as far back as 1876, and by installing new, incompatible and inappropriate headstones for his friends and family. A letter will be sent to Mr. Dameo asking who gave him the authority to perform burials at the cemetery and to remove and replace headstones. Also, a letter will be sent to the local Board of Health asking for copies of the burial permits for the last three burials that have occurred at the cemetery. This matter will be carried over.

K. Machpelah Cemetery (CA #200)

Bradley Dickey, President, Machpelah Cemetery has not yet filed the cemetery's delinquent Annual Reports for the years 2006 through the present. Executive Director Tamaroglio will reach out to Mr. Dickey asking for the status of the completion of the Reports as well as the status of the individuals living in the house on the cemetery property. This matter will be carried over.

L. Beth David Memorial Park (CA #308)

Re: Settlement Letter and response from Sanford Epstein

The Board has not yet received the signed acknowledgment of wrongdoing for the Settlement Letter previously issued to him or samples of the new stationery, etc. for Raiken-Epstein Monuments, Inc. showing that his name has been removed. Executive Director Tamaroglio will reach out to Mr. Epstein. This matter will be held over.

V. NEW BUSINESS

A. Proposal from Board member Michael Ticktin to hold Board meetings every other month

Board member Michael Ticktin has proposed that the Board hold its Board meetings every other month rather than every month as scheduled; the Board's governing statute states that the Board meets at least 4 times a year, so Mr. Ticktin's proposal would be in compliance. Executive Director Dianne L. Tamaroglio advised that for administrative purposes, she would ask that we leave it as is with monthly meetings scheduled that could be adjourned if necessary. Having the meetings scheduled for every month, allows all Board members to work their individual schedules around our meeting days. If we schedule for every other month and there is the necessity to call a meeting on the off month, there is no guarantee that all or the majority of Board members would be in attendance and there is no guarantee that we would be able to procure a meeting room. The Board members were in agreement with Ms. Tamaroglio.

B. Application for a Certificate of Authority

Re: Antonacci Family Memorial & Burial Ground

Attorney Richard Schatzman has filed an application for a Certificate of Authority on behalf of the Antonacci Family Memorial & Burial Ground. Upon review of the submitted By-laws, it was determined that they do not conform to the provisions of the Board's statute & regulations. Mr. Schatzman will be advised of same and copies of the Board's statute and regulations will be forwarded to him. Mr. Schatzman will also be advised that municipal approval must be obtained prior to a C/A being issued by the Board. Further, he will be advised that the Maintenance & Preservation Trust Fund must be held in the name of the Antonacci Family Memorial & Burial Ground, Inc. The 60 day review period on this application does not begin until the Board is in receipt of a completed, revised application. This matter will be carried over.

C. Correspondence from Evergreen Cemetery (CA #92)

Re: Establishment of a parking area

The Board of Trustees of Evergreen Cemetery and Crematory is interested in establishing a small parking area that they believe would enhance the cemetery. The new parking area would establish a minimum of 15 parking spaces away from the main office entrance. The spaces would be established off the existing roadway and would not interfere with burial spots. The cemetery has contacted Township engineers who say that the plan as proposed would not cause any drainage problems. The Board will ask that the cemetery provide a map of the area designated for the 15 parking spaces. This matter will be carried over.

D. Correspondence from Sarah J. Fisher
Re: Davis Burial Ground

Sarah J. Fisher has written to the Board regarding the Davis Burial Ground located in the Somerset area. Ms. Fisher advises that in the past the cemetery was being maintained but over the years maintenance has ceased. Ms. Fisher would like to personally care for the cemetery or find a way to be sure that the cemetery is taken care of in the future. The Board will advise Ms. Fischer that this cemetery is not a C/A cemetery and therefore is not under the Board's jurisdiction. Ms. Fisher may want to contact the Historic Preservation Office of New Jersey for assistance and guidance. She may also want to contact the municipality and discuss the possibility of it taking over the maintenance of the cemetery. This matter is closed and removed from future Board meeting agendas.

E. Correspondence from Louis Cicalese
Re: Hoboken Cemetery (CA #183)

Louis Cicalese, President, Cemetery Development Company, Inc. has written to the Board advising that he has developed a plan under which, with the Board's approval he would propose to have Hoboken Cemetery taken out of Receivership and permit a new Board to operate it under a new non-profit corporation that he would form. Executive Director Dianne Tamaroglio will review Hoboken's file to review how and why the cemetery was put into Receivership. This matter will be carried over.

Re: Tree removal ordinances

Mr. Cicalese has also written to the Board to bring to its attention a matter of great concern to him as well as to many cemetery operators throughout the State. As per Mr. Cicalese, tree removal ordinances are being adopted by many municipalities. These ordinances make no allowances for the unique needs and obligations of cemeteries to both maintain existing graves and develop new grave sites. Mr. Cicalese is requesting that the Board promulgate a new regulation clarifying that a cemetery has the right and obligation to remove trees and other plant growth in all areas within its grounds that are plotted for graves and depicted on maps filed with the Board office. A Committee of the Board, Michael Ticktin and Lawrence Colasurdo will review the Board's regulations to determine whether or not a new rule is warranted. This matter will be carried over.

F. Fiscal Year 2009 Budget Report--1st half

The Board reviewed the 1st half of its budget for Fiscal Year 2009. The status of the Board's budget appears to be okay.

G. Correspondence from Richard S. Toone & Charles L. Walton
Re: Eldridge Cemetery

The Board has received correspondence from Richard S. Toone & Charles L. Walton, Trustees of Eldridge Cemetery Association. The cemetery was started in the late 1700's and has operated ever since as a non-religious, non-profit cemetery allowing burial to all. The Trustees have questions pertaining to the cemetery and the Board's governing statute. It appears that when the Cemetery Act was enacted in 1971, Eldridge Cemetery somehow fell through the cracks of the system and never obtained a Certificate of Authority to operate as a "cemetery company." Mr. Toone & Mr. Walton will be advised that it appears as though this cemetery should have a Certificate of Authority and come under the jurisdiction of the Board. An

application for a C/A along with copies of the Board's statute and regulations will be forwarded to the cemetery.

H. Approval of Bulk Sales

Princeton Memorial Park, (CA #134), Robbinsville, NJ to the Taishan Friendship Association, New York, NY

Executive Director Dianne L. Tamaroglio approved the bulk sale of 288 interment spaces for \$216,000.00 (\$750.00 per grave). The required 15% will be deposited into the Maintenance & Preservation Trust Fund of Princeton Memorial Park.

Laurel Grove Cemetery, (CA #30), Totowa, NJ to the Syrian Orthodox Archdiocese of Eastern US, Teaneck, NJ

Executive Director Dianne L. Tamaroglio approved the bulk sale of 202 interment spaces for \$252,500.00 (\$1250.00 per grave). The required 15% will be deposited into the Maintenance & Preservation Trust Fund of Laurel Grove Cemetery.

I. Correspondence from Lawrence B. Sachs, Esquire Re: St. Mary's Coptic Church

Attorney Lawrence B. Sachs represents St. Mary's Coptic Church and has written to the Board to obtain written confirmation that Board approval is not required for the establishment of a marble crypt/mausoleum in a dedicated room with the confines of St. Mary's Church. The purpose of the crypt would be to inter the remains of Father Bishop Demetrious, the head cleric of the church since its inception in the 1980's. Mr. Sachs will be advised that as this is a religious entity, it does not come under the jurisdiction of the Board and therefore, does not need Board approval. Mr. Sachs will be advised however, that he contact the municipality where the church is located as well as the local Department of Health to see if there are any requirements the church must follow. This matter is closed and removed from future Board meeting agendas.

J. Applications for Cemetery Salesperson's Licenses Re: Paul Thomas Restland Memorial Park (CA #117)

Paul Thomas' application for a Cemetery Salesperson's License for Hollywood Memorial Park was reviewed in Executive Session and moved to Public Session for a vote as to whether or not a License should be issued to him. A motion was made by June Nikola and seconded by Paul Desbiens to issue a Cemetery Salesperson's License to Mr. Thomas subject to receipt of proof of completion of Anger Management Course as well as documentation from Probation showing that all conditions of the PTI have been met. A vote was taken and the motion was passed by a unanimous vote.

Susan Rindosh Clover Leaf Memorial Park (CA #14)

Susan Rindosh's application for a Cemetery Salesperson's license for Clover Leaf Memorial Park was reviewed in Executive Session and moved to Public Session for a vote as to whether or not a License should be issued to her. A motion was made by Paul Desbiens and seconded by Lawrence Colasurdo to issue a Cemetery Salesperson's License to Ms. Rindosh. A vote was taken and the motion was passed by a unanimous vote.

VI. PUBLIC COMMENT

With today's changes in and the uses for technology, Leonard Auerbach, General Manager, Floral Park

Cemetery, Oaklawn Cemetery & Washington Cemetery Management Company asked the Board if it is permissible to accept faxed burial transit permits from a funeral director. Mr. Auerbach was advised that yes, it is okay as far as the provisions of the Board's statute and regulations.

VII. FOR YOUR INFORMATION

A. Correspondence from Lawrence DeMarzo, Deputy Director, Division of Consumer Affairs to Anne Milgram, Attorney General

B. Notification of Civil Action

Re: William E. Valentino, Sr. v. Garden State Cemetery Company (CA#120), et al, Superior Court of New Jersey Law Division, Gloucester County
Docket No. L-1795-08

C. Legislative report

D. Newspaper Articles

Cemetery lawsuit is not dead yet Herald News 2/2/2009

Funeral Home owner charged with stealing Medford Central Record 2/4/2009

E. New Jersey Law Journal Articles

Case Tests if Buried Remains Should Be Exhumed Due to Misdeeds by the Living 1/12/2009

High Negligence Threshold Must be Met in Case of Injury from Cemetery Escape 2/2/2009

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

VIII. ADJOURNMENT

A motion was made by Lawrence Colasurdo seconded by Waheed Khalid to adjourn Public Session at 1:00 PM and move into Executive Session at 1:25 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. One (1) new matter or complaint 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 Lawrence Colasurdo and seconded by Michael Tickin to adjourn the Board meeting of March 12, 2009. A vote was taken and the Board meeting was adjourned at 3:30 PM.

Respectfully Submitted,

Dianne L. Tamaroglio
Executive Director