

# **New Jersey Cemetery Board**

## **Public Session Minutes**

### **March 14, 2002**

A regular meeting of the New Jersey Cemetery Board was held at 124 Halsey Street, Newark, N.J., on the sixth floor, on Thursday, March 14, 2002. 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 Chairman Frank J. DeGeeter, Jr. called the meeting to order at 9:30 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.	Present
Paul M. Desbiens	Present
Stephen F. Hehl	Present
David Mallach	Present
June Nikola	Present
William Nichols	Absent
Marianne Panico	Absent
Gwendolyn Solice	Absent

**Also in attendance were:** Susan H. Gartland, Executive Director for the New Jersey Cemetery Board; DAG John Hugelmeyer and Dianne L. Tamaroglio, Assistant to the Director.

A motion was made by David Mallach and seconded by Stephen F. Hehl to move into Executive Session at 12:00 P.M. to discuss the following matters involving investigations, violations and/or the Board regulations:

1. Thirteen (13) new matters or complaints filed with the Board which requires review and recommendations in regard to investigation and/or actions.
2. Twenty-six (26) 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 from such discussions will be made public at such time as official action is taken on these matters if permitted by law.

## **II. PUBLIC COMMENT**

Leonard Auerbach, a member of the Cemetery Industry, expressed to the Board that he would like to see some form of a brochure or pamphlet made available for consumers that would provide an awareness of the functions of the Board. Executive Director Susan H. Gartland will look into getting the brochure that is distributed from the Division of Consumer Affairs regarding the Boards.

## **III. APPROVAL OF PUBLIC SESSION MINUTES OF FEBRUARY 14, 2002**

A motion was made by Marion Brozowski and seconded by Stephen F. Hehl to approve the Public Session minutes of February 14, 2002 as corrected. A vote was taken and the motion was passed by a unanimous vote.

## **IV. OLD BUSINESS**

**A. Application for a Certificate of Authority****Re: Denville Cemetery Association**

William J. Lovas, attorney for Denville Cemetery Association has provided the Board with a response to its letter of January 16, 2002. Mr. Lovas advises that at present lot owners in Denville Cemetery cannot vote at annual meetings but the cemetery would be willing to amend its by-laws if the Board required this. Mr. Lovas will be advised that the cemetery must amend its by-laws to comply with N.J.S.A.8A:3-15. Also, Mr. Lovas has advised that the cemetery has approximately \$434,000.00 in various accounts and the cemetery would like to propose placing twenty percent of that amount in a Maintenance & Preservation Trust Fund for the cemetery. The Board finds this proposal as unacceptable as depositing 20% into the Fund would not be sufficient for the longevity of the cemetery. A motion was made by Marion Brozowski and seconded by David Mallach that \$282,750.00 should be deposited into the M&P Trust Fund for the cemetery; based upon the limited life of the cemetery, this amount would be necessary for the ongoing maintenance of the cemetery. A vote was taken and the motion was passed by a unanimous vote. Also, as the cemetery has been in violation of Title 8A for the past 30 years, the Board wants to be sure that the cemetery will be secure in the future. If the cemetery is not in agreement with this amount, the Board will request that it be provided with a copy of the cemetery's sales records for the last 30 years, so that it might more accurately determine the amount to be deposited into the Fund. This matter will be carried over.

**B. Request for approval for a credit to M&P Trust Fund for 2001****Re: Marlboro Memorial Inc. (CA #395)**

This matter will be carried over pending a response from the cemetery.

**C. Application to purchase additional property for cemetery use****Re: Cedar Ridge Cemetery (CA #54)**

Bruce A. Jones, attorney for Cedar Ridge Cemetery Company has advised the Board that the cemetery is in the process of getting an appraisal of the property in question which will be forwarded to the Board once he is in receipt of same along with an explanation of the cemetery's financing arrangements for the proposed land purchase. Also, Mr. Jones advises that there is no mortgage contemplated for the purchase of the additional property as was previously reported to the Board. This matter will be carried over.

**D. Application for enlargement of cemetery****Re: Ocean County Memorial Park (CA #224)**

This matter will be held over pending receipt of the requested information from the cemetery.

**E. Request for approval of easement****Re: Mt. Pleasant Cemetery (CA #14)**

Mt. Pleasant Cemetery had previously requested approval from the Board for the granting of an easement for the extension of a sewer line to the City of Newark. Executive Director Susan H. Gartland conducted an on-site inspection of the area in question. Mrs. Gartland reported to the Board that the area of the proposed easement has been used to dump excess bricks, stones, leaves, etc. The land drops for about twenty-five feet down to the fenceline and is not an appropriate area for burials. In exchange for the easement, the City of Newark will undergo improvements to the cemetery property in order to enhance the cemetery's security not to exceed \$5,000.00. Mrs. Gartland recommended that the Board grant the easement. A motion was made by June Nikola and seconded by Stephen F. Hehl to approve the granting of an easement from Mt. Pleasant Cemetery to the City of Newark in exchange for improvements to the cemetery property not to exceed \$5,000.00. A vote was taken and the motion was passed by a unanimous vote. This matter is now closed.

**F. Final Orders****Berry Lawn Charlestown Cemetery Association (CA #204)**

The Board previously issued a Provisional Order to Berry Lawn Charlestown Cemetery Association for failure to file its Annual Reports for the period January 1, 1995 to December 31, 1997. The Provisional Order carried a \$500.00 Civil Penalty. The cemetery has since filed its 1995, 1996, & 2000 reports. The reports for 1997 & 1998 have not been filed. The filing fees have been paid for 1997, 1998, & 2000. A Final Order was issued to the cemetery on January 10, 2002 with a reduction in the Civil Penalty to \$250.00 because of the financial status of the cemetery's M&P Fund. Christopher H. Assenheimer, Secretary for the cemetery has advised the Board that the existing officers of the cemetery were unaware of the Provisional Order as they took over the cemetery in September, 1999 after the Order had been issued and the previous officers did not make them aware of the Order or of any reports that were delinquent. The cemetery has paid the \$250.00 Civil Penalty and has requested that the filing fees for 1997 & 1998 be waived. A review of the cemetery's Annual Reports shows that the filing fees for those two years have been paid but the reports have not yet been filed. The Board will waive the filing fee for 1999 due to the financial status of the cemetery. The cemetery will be advised that the 1997, 1998, & 1999 Annual Reports must be filed with the Board office as soon as possible.

### **Riverview Cemetery Association (CA #318)**

The Board previously issued a Provisional Order to Riverview Cemetery for failure to file its Annual Reports for the periods 1991 & 1992 and 1994-1997 and did not provide proof of deposits having been made to the M&P for 1993 & 1994. The Provisional Order carried a \$500.00 Civil Penalty. The cemetery has since filed its delinquent Annual Reports along with its subsequent reports and has paid the appropriate filing fees. A Final Order was issued to the cemetery on January 10, 2002 with a reduction in the Civil Penalty to \$100.00 and with a directive that the cemetery provide proof of deposits to the M&P to the Board. The Cemetery has paid the Civil Penalty and has provided proof of deposits to the M&P to the Board. This matter is now closed.

### **G Inquiry from Mount Prospect Cemetery (CA #128)**

#### **Re: What if all cemetery Trustees resign?**

Executive Director Susan H. Gartland has made several unsuccessful attempts to contact David Jacobs, Treasurer of Mount Prospect Cemetery to discuss this matter with him. She will continue to try to reach out to him. This matter will be carried over.

### **H. Requesting Board approval to sell a portion of cemetery property**

#### **Re: The Riverview Cemetery (CA #44)**

The Board had previously approved the sale of property from Riverside Cemetery to the New Jersey Department of Transportation for the contract price of \$100,000.00 contingent upon the following: 1) Immediately upon closing, 15% of the gross proceeds of the sale shall be deposited into the cemetery's Maintenance & Preservation Trust Fund with proof of deposit being provided to the Board within 30 days of the deposit and 2) Prior to expenditure of any of the remaining 85% of the gross proceeds, the Board of Directors of Riverview Cemetery shall submit to the Cemetery Board for its review and approval, a statement advising the Board of the intended use of the proceeds.. Also, the cemetery was asked to provide to the Board a copy of the closing statement following the closing. Charles E. Walton, President of the cemetery has advised the Board that the closing occurred on March 1, 2002 and the Board will be provided within 30 days proof of deposit of \$15,000.00 into the cemetery's M&P Fund along with a copy of the closing statement. With respect to the remaining 85% of the proceeds, Mr. Walton advises that the cemetery has reserved funds to cover legal, engineering and other sale related expenses. An additional reserve will be established for Federal and New Jersey corporate income taxes. He also advises that future income from existing discretionary funds along with remaining proceeds from this property will be used primarily to offset an annual operating loss from \$120,000 to \$150,000. The Board believes that Mr. Walton's explanation is very vague. Mr. Walton will be asked to provide the Board with an explanation of and the amount for legal, engineering and other sale related expenses made mention of in his letter. Also, the Board wants an explanation why there is an annual operating loss from \$120,000 to \$150,000 and to please provide the Board with a copy of the current financial statement for each account for the cemetery. The cemetery will be advised that the remaining 85% of the proceeds must be held and not disbursed to cemetery shareholders until the Board received the requested information. This matter will be carried over.

## **I. Request for waiver of \$75.00 filing fee for Annual Report**

**Re: Workmen's Circle Branch #95 (CA #320)**

This matter will be held over pending receipt of a response from the Greater Middlesex Jewish Cemetery Management Corporation regarding their relationship with the Workmen's Circle Branch #95.

## **J. Uniform Enforcement Act**

**Re: Revisions**

This was informational for the Board advising of the recent revisions to the Uniform Enforcement Act and how it impacts the Board.

## **V . NEW BUSINESS**

### **A. Approval of Revised and Updated By-laws**

**Re: Tuckerton Old Home Society, Inc. (CA #138)**

William A. Sooy, President of Tuckerton Old Home Society, Inc., has forwarded to the Board a copy of the cemetery's revision of by-laws for Board approval. Mr. Sooy will be advised that Board approval is not required for the revision of by-laws. The only thing required is that the by-laws be filed with the Board office. Tuckerton Old Home Society, Inc. is also known as Greenwood Cemetery. The Board is seeking a clarification as to why the cemetery has two names. Could Tuckerton Old Home Society, Inc., be a management company? We will review the cemetery's file in the Board office to see if there is anything that could clarify this concern for the Board. Also, we will look to see if in the past the Board had approved any by-laws for the cemetery. This matter will be carried over.

### **B. Would the Board approve the purchase of extra land?**

**Re: The Ewing Cemetery Association (CA #20)**

Alfred O. Bird, Vice-President for The Ewing Cemetery Association has advised the Board that a neighboring property owner of the cemetery is contemplating the sale of approximately 2 acres of her property to the cemetery. Mr. Bird has asked the Board if it would approve this purchase by the cemetery. A copy of N.J.A.C. 13:44J-13.5 which outlines what documentation must be provided to the Board for approval for the purchase of additional property will be forwarded to Mr. Bird. This matter will be carried over.

### **C. Inquiry from City of New Brunswick**

**Re: Planting of trees at Willow Grove Cemetery (CA #322)**

Thomas A. Weingartner, City Engineer, City of New Brunswick has advised the Board that the city has recently received a grant from the Division of Parks & Forestry, NJ Department of Environmental Protection for the planting of trees in the Willow Grove Cemetery. These trees will replace dead or dying trees in the cemetery. Mr. Weingartner wrote to the Board as he wasn't sure whether or not the City of New Brunswick needed Board approval for this project. Mr. Weingartner will be advised that he does not need Board approval to carry out this project. The Board will thank Mr. Weingartner and the City of New Brunswick for taking an interest in the cemetery and also advise that the Board thinks it is wonderful that they have received this grant which makes the plantings possible. This matter is closed.

### **D. Assembly Bill No. 1970**

This bill provides for fingerprinting of certain applicants or employees and exchange of criminal history records. This bill was considered informational for the Board as it already collects this information as part of the Cemetery Salesperson's licensing process.

## **VI . FOR YOUR INFORMATION**

**A. New Jersey State Board of Mortuary Science**

**Open Session Meeting Agenda-March 5, 2002**

**Meeting Cancellation Notice**

**B. Newspaper Article**

Families claim cemetery operator broke promises

Screenplay spotlights lives of Somerset County slaves

**C. Notification of Summary Judgment in favor of Washington Cemetery**

**Re: Neiman vs Washington Cemetery**

**Docket No. C-117-99 A-2506-00T2**

**D. Memo from Anthony Miragliotta, Deputy Director, Division of Consumer Affairs**

**Re: Board Member Recusal**

**E. Notification of Civil Action**

**J. Roberts and Son, Inc. et al v Garden State Cemetery (sic) Company Inc., et al**

**Superior Court of new Jersey, Gloucester County, Law Division**

**Docket No. L-2158-01**

**F. Notification of Complaint filed with Superior Court of New Jersey**

**Re: Roberta McCann et al vs. Jane Doe(s), James Doe(s) and**

**Gates of Heaven Cemetery (CA #96)**

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

**VII. ADJOURNMENT**

A motion was made by David Mallach and seconded by Stephen F. Hehl to adjourn Public Session. A vote was taken and the Public Session of the March 14, 2002 Board meeting was adjourned at 11:45 A.M.

Respectfully Submitted

Susan H. Gartland  
Executive Director