

New Jersey Cemetery Board

Public Session Minutes

May 9, 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, May 9, 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	Present
Marianne Panico	Present
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.

II. PUBLIC COMMENT

Judy Welshons from the New Jersey Cemetery Association inquired as to whether the doors to the Board meeting room could be closed during Public Session because on some occasions the noise from the hallway is distracting. D.A.G. John Hugelmeyer advised that under the Public Meeting Act, during Public Session the doors must remain open. He also advised that perhaps when there is too much noise and disturbance we could close one of the doors. Also, Ms. Welshons asked if perhaps the Board could in the near future put on the Public Session agenda a discussion on the difference between Certificates of Indebtedness and Certificates of Interest as there appears to be much confusion amongst members of the Cemetery Industry regarding the two. The Board agreed to this idea but will put it off until September to make preparation for the meeting, estimate the number of people that would attend the meeting and decide where to hold the meeting. Executive Director Susan H. Gartland will work with Ms. Welshons on this matter.

III. APPROVAL OF PUBLIC SESSION MINUTES OF MARCH 14, 2002

A motion was made by June Nikola and seconded by David Mallach to approve the Public Session Minutes of March 14, 2002 as amended. A vote was taken and the motion was passed by a unanimous vote.

IV. APPROVAL OF PUBLIC SESSION MINUTES OF APRIL 10, 2002

A motion was made by William Nichols and seconded by Marion Brozowski to approve the Public Session Minutes of April 10, 2002 as amended. A vote was taken and the motion was passed by a unanimous vote.

V. OLD BUSINESS

A. Application for a Certificate of Authority

Re: Denville Cemetery Association

Denville Cemetery Association has expressed to the Board that it has an interest in taking over an abandoned cemetery in Denville. The cemetery would like to take over the land and possibly use the remaining area for burials. Howard C. Shaw, President of the cemetery has asked if there is a state procedure that the cemetery must follow to proceed with this process. A letter was forwarded to William J. Lovas, attorney for the cemetery on March 18, 2002 regarding funding to the cemetery's Maintenance & Preservation Trust Fund. To date the Board has not received a reply to this letter. Mr. Shaw will be advised that before the Board can approve this acquisition, Denville Cemetery must finish its application for a Certificate of Authority including establishing its Maintenance & Preservation Trust Fund. Mr. Shaw will be supplied with copies of N.J.S.A. 8A:6-4 & N.J.A.C. 13:44J-13.5, both of which outline the procedure for enlarging the cemetery. 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)

Marion Brozowski, Paul M. Desbiens, & Stephen F. Hehl were recused from this matter and moved away from the table.

Marlboro Memorial Inc. previously requested permission from the Board to withdraw \$9,909.18 from its M&P Trust Fund due to an error in calculations. The Board had requested an explanation of the error. James M. Burke, attorney for the cemetery, provided the Board with a Trust Fund analysis with backup documentation showing the calculations. This matter will be held over to the June 13, 2002 Board meeting. The Board members will review the cemetery's past M&P Reports to determine what is the excess amount in the cemetery's Trust Fund.

C. Application to purchase additional property for cemetery use

Re: Cedar Ridge Cemetery (CA #54)

Cedar Ridge Cemetery Company previously presented to the Board an application for the approval of the purchase of additional land for cemetery use. Bruce A. Jones, attorney for the cemetery has supplied the Board with all of the necessary information required by the Board's regulations for the purchase of additional land as well as an explanation for the financing arrangements of the purchase. The only item missing is an on-site inspection of the property in question. Board member Paul M. Desbiens will do the site-inspection on behalf of the Board. A motion was made by William Nichols and seconded by Marion Brozowski to approve the purchase of the additional lands for cemetery use by Cedar Ridge Cemetery Company subject to the on-site inspection. A vote was taken and the motion was passed by a unanimous vote. Mr. Desbiens will report his findings to the Board at its June 13, 2002 Board meeting.

D. Application for enlargement of cemetery

Re: Ocean County Memorial Park (CA #224)

This matter will be held over pending receipt of additional previously requested information by the Board.

E. Final Orders

First Presbyterian Congregation Brainerd-Westminster Cemetery (CA #311) has advised the Board that it is in the process of complying with the provisions of the Final Order issued by the Board. The Order directed that the cemetery take the necessary steps to place its Maintenance & Preservation Trust Fund in a custodial account in a New Jersey Banking institution. The cemetery has been in contact with Fleet Bank, who in turn has called the Cemetery Board office for guidance in setting up the Fund in the correct manner. The Board will await confirmation from the Bank that the account has been opened and the cemetery's funds deposited.

G Inquiry from Mount Prospect Cemetery (CA #128)

Re: What if all cemetery Trustees resign?

Executive Director Susan H. Gartland has attempted to contact David Jacobs, Treasurer of Mount Prospect Cemetery to discuss this matter with him. but has been unsuccessful in reaching him. Mrs. Gartland will send him a letter regarding the matter. 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 with two contingencies; 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. Charles E. Walton, President of the cemetery provided the Board with an explanation of what the 85% of the proceeds would be used for. However, the explanation was extremely vague. The Board requested a further explanation. Mr. Walton has provided the Board with a further explanation which the Board has accepted. With the contingencies being met, this matter is now finalized and removed from future Board meeting agendas.

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

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

Previously, the Greater Middlesex Jewish Cemetery Management Corporation requested a waiver of the \$75.00 filing fee for the Annual Report for the Workmen's Circle Branch #95. The Board waived the filing fee at its February 14, 2002 Board meeting. A letter was sent to the GMJCMC requesting an explanation of what the Corporation's relationship with the Workmen's Circle Branch #95. To date a response has not been received. A follow up letter will be sent. Board member David Mallach has requested that a copy of the follow up letter be forwarded to him and he will then reach out to the Corporation for an explanation. This matter will be carried over.

J. Approval of Revised and Updated By-laws

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

Tuckerton Old Home Society, Inc. recently submitted to the Board a copy of the cemetery's revised by-laws. While reviewing these by-laws, the Board realized that the cemetery also goes by the name of Greenwood Cemetery. The Board had concerns regarding the two names and was looking for clarification. A review of the cemetery's original application for a Certificate of Authority shows that the cemetery's name was Old Home Society, Inc. d/b/a Greenwood Cemetery from the beginning. This matter is now closed and removed from future Board meeting agendas.

K. Would the Board approve the purchase of extra land?

Re: The Ewing Cemetery Association (CA #20)

Ewing Cemetery Association had previously 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 and asked if the Board would approve such a purchase. A copy of N.J.A.C. 13:44J-13.5, the regulations for the purchase of additional property for cemetery use was provided to the cemetery. To date the Board has not received any additional information from the cemetery. A follow up letter will be forwarded to Alfred O. Bird, Vice-President of the cemetery asking if the cemetery is going to follow through on this matter. This matter will be carried over to the June 13, 2002 Board meeting.

L. Senate Bill No. 1350-replaces Senate Bill No. 1139

The Board reviewed Senate Bill No. 1350 which replaces Senate Bill No. 1139. This bill revises provisions of the law regulating cemetery companies. The Board had provided to the Attorney General's Office comments to Senate Bill No. 1139. The Board's comments to Senate Bill No. 1350 are the same as to Senate Bill No. 1139. A motion was made by June Nikola and seconded by Marion Brozowski to have the comments re-submitted to the Attorney General's office. A vote was taken and the motion was passed by a unanimous vote. The Board's original comments were read to all

present at the Public Session of the meeting.

M. Searching for a trustee for its irrevocable trust

Re: Far & Away, Inc. (CA #401)

Robert G. Forrest, owner for Far & Away, Inc. appeared before the Board to ask for assistance in his search for a trustee for Far & Away's irrevocable trust. He advised that no bank or investment institution is interested in being trustee for a \$25,000.00 custodial trust fund. The Board advised Mr. Forrest that according to N.J.S.A. 4-3(c), if the trust funds of a cemetery company do not exceed \$150,000.00, then the cemetery company need not establish a custodial trust fund. The trust funds for Far & Away, Inc. can be put into an irrevocable trust in the name of the cemetery's M&P without a custodian. Mr. Forrest thanked the Board for its assistance. A letter will be sent to Mr. Forest outlining how the trust should be captioned and referencing N.J.S.A. 8A:4-3(c). This matter is closed.

N. Marlboro Memorial Inc. (CA #395)

Re: Certificates of Indebtedness

Marion Brozowski and Paul M. Desbiens were recused from this matter and left the room.

This matter was discussed in Executive Session and brought to Public Session for a vote. A motion was made by David Mallach and seconded by William Nichols to approve the form for Certificates of Indebtedness as provided by D.A.G. John Hugelmeyer for the amount of \$2,300,000.00 at 6% interest with no time frame for pay down of the Certificates. Also, the Certificates shall be retired by the Cemetery Company from a fund consisting of not less than 10% nor more than 50% of the gross proceeds which the Cemetery Company derives from the sale of interment space. A vote was taken and the motion was passed by a unanimous vote. D.A.G. John Hugelmeyer will issue a letter to James M. Burke advising that the Cemetery Board has approved the form and conditions of the Certificates of Indebtedness and provide him with the form to be used for his review and discussion with the principles of the cemetery. This matter will be carried over.

O. Application for a Cemetery Salesperson's License

Re: Leo Scura Trinity Cemetery Association (CA #396)

June Nikola was recused from this matter and left the room.

Leo Scura's application for a Cemetery Salesperson's License for Trinity Cemetery Association was discussed in Executive Session and brought to Public Session for a vote. A motion was made by Marianne Panico and seconded by David Mallach to grant a Cemetery Salesperson's License to Leo Scura. A vote was taken and the motion was passed by a unanimous vote

VI . NEW BUSINESS

A. Request to take over Mt. Zion Cemetery (CA #206) by the Center for Community Arts, Inc.

Judy Austermiller, Director of the Center for Community Arts, Inc. in Cape May, New Jersey has written to the Board advising that her organization is considering taking over ownership and management of Mt. Zion Cemetery. If the group does decide to take over the cemetery their Community History Program would look for funding to document the history of the Cemetery and have it designated a New Jersey African-American History Site. Ms. Austermiller asks if her group would need to apply for a Certificate of Authority from the Board to take over the cemetery. She also inquires as to the Board classifying the cemetery as a Historic Cemetery and are there any existing New Jersey laws governing such facilities of which they should be aware? Ms. Austermiller will be advised that they could take over the management of the cemetery and the group would not need a C/A as the cemetery already has one. The Historical Preservation Society of the DEP could answer any questions they might have regarding classifying the cemetery as a Historical site. The members of the Board believe that we should encourage this group in its quest as this could prevent the problem of another abandoned cemetery in the state. Executive Director Susan H. Gartland will call Ms. Austermiller to discuss the matter with her and advise her of what taking over the cemetery would entail. This matter

will be carried over.

B. Proposed New Rule: N.J.A.C. 13:36-5.21 State Board of Mortuary Science

The State Board of Mortuary Science has proposed amendments and new rules pertaining to Advertising; Disclosure of Ownership Information; Casket Price List; Outer Burial Container Price List; General Price List; and Embalming Provisions. The Board will not submit a comment on the proposed new rule as it does not pertain to or affect the Board. The Board considered this informational.

C. New Jersey Cemetery Association's suggestions for the Board for pre-need and pre-construction mausoleum sales regulations

The New Jersey Cemetery Association has provided to the Board some suggestions for a pre-need and pre-construction mausoleum sales regulation. A Committee of the Board (Marion Brozowski, Paul M. Desbiens, June Nikola, Executive Director Susan H. Gartland and D.A.G. John Hugelmeyer) will review these suggestions when they meet with Chuck Manning, Regulatory Analyst, Division of Consumer Affairs to put together a new regulation pertaining to these matters.

D. Letter regarding partially cremated remains

Re: Rosedale Cemetery, Orange (CA #42)

The Board has been advised that during the installation of wiring in a crawl space at Rosedale Cemetery crematorium, Orange, NJ, some partially cremated bone fragments processed were discovered in a narrow space between a firewall and some abandoned cremation retorts built in 1953 and replaced by Rosedale Cemetery in 1990. An investigation was conducted at the scene by representatives of the West Orange Police Department and the Essex County Prosecutor's office and referred to the Cemetery Board for further consideration. Thayer Talcott, President of the cemetery has presented to the Board some suggestions to provide final disposition of these remains. The cemetery is looking to the Board for guidance on how to rectify this incident. The Board discussed the matter in depth and made the decision to have Allan Kroboth, associated with the Cremation Association of North America, inspect the abandoned retorts and the surrounding areas at Rosedale. Mr. Kroboth's inspection will enable him to recommend to the Board a resolution to the problem. Executive Director Susan H. Gartland will accompany Mr. Kroboth for the inspection and report his findings back to the Board. This matter will be carried over.

E. PNC Bank's refusal to allow cemetery to move its M&P Trust Funds

Re: Cedar Grove Cemetery (CA #217)

Emery Bittman, President of Cedar Grove Cemetery has advised the Board office that he would like to move the cemetery's M&P Trust Fund, which is held with PNC Bank to either another institution or at the very least to CD's which would have lower fees than the cemetery is paying to PNC Bank, the custodian of the Trust Fund. Cedar Grove Cemetery is not a very active cemetery and therefore not much income is generated for the cemetery. Having lower fees would help the cemetery financially. Mr. Bittman has advised that PNC has refused to allow the cemetery to move the funds and has not responded to inquiries made by the Board office. PNC Bank will be advised that by the provisions of New Jersey Cemetery Law, all cemeteries have the right to move their Trust Funds. The Board will ask that PNC Bank assist Mr. Bittman with his request. If the Bank will not allow the Fund to be moved the Board would like an explanation as to why. The letter will be sent regular and certified mail and will be copied to the State Department of Banking and Insurance.

F. Application for the purchase of additional property for cemetery use

Re: The Fair Mount Cemetery (CA #176)

The Fair Mount Cemetery has made an application to the Board for the approval of the purchase of additional land for cemetery use. The cemetery has supplied to the Board all of the required information as per the provisions of the Board's regulations and an on-site inspection was conducted by Board member Paul M. Desbiens. Upon review of all of the documentation provided a motion was made by Stephen F. Hehl and seconded by David Mallach to approve the purchase of the additional property for the purchase price of \$615,000.00 notwithstanding the fact that the purchase

price is \$2000.00 above the appraisal amount of the property. A vote was taken and the motion was passed by a unanimous vote. This matter is now closed.

VII . FOR YOUR INFORMATION

A. New Jersey State Board of Mortuary Science

- 1. Open Session Meeting Agenda-April 9, 2002**
- 2. Open Session Meeting Minutes-October 30, 2001**
- 3. Open Session Meeting Minutes-December 4, 2001**

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

B. Notification of Complaint

Re: Estate of Leonard Korman, Deceased, by its Executor Marilyn Daniels, Plaintiff, v Locustwood Memorial Park and Diane Korman, Defendants
Docket No. CAM-C

This matter was considered informational for the Board. The Board will not get involved in this complaint.

VIII. ADJOURNMENT

A motion was made by William Nichols and seconded by David Mallach to adjourn Public Session and move into Executive Session at 12:15 P.M.. A vote was taken and the motion was passed by a unanimous vote. The Board will move to Executive Session to discuss the following matters involving investigations, violations and/or the Board regulations:

1. Twelve (12) new matters or complaints filed with the Board which requires review and recommendations in regard to investigation and/or actions.
2. Forty-two (42) matters where additional information has been submitted to the Board pending investigations. A motion was made by William Nichols and seconded by David Mallach to adjourn Public Session. A vote was taken and the Public Session of the May 9, 2002 Board meeting was adjourned at 12:15 P.M.

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.

Respectfully Submitted,

Susan H. Gartland
Executive Gartland