

NEW JERSEY CEMETERY BOARD
PUBLIC SESSION MINUTES
JUNE 9, 2005

A regular meeting of the New Jersey Cemetery Board was held at 124 Halsey Street, Newark, N.J., on the sixth floor, on Thursday, June 9, 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 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:

Claribel Azcona-Barber Present
Marion Brozowski Present
Lawrence Colasurdo Present
Frank J. DeGeeter, Jr. Present
Paul M. Desbiens Present
Stephen F. Hehl Absent
Waheed Khalid Present
June Nikola Present
William Nichols Present
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.

Board Chairman Frank J. DeGeeter, Jr. welcomed to the Board the three new Public members and explained that with the addition of the new members, the Board now consists of 12 Board members not ten as stated in the New Jersey Cemetery Act, 2003. Chairman DeGeeter turned the discussion over to DAG John Hugelmeyer to explain this situation as the Board is concerned that with two more Board members than the Cemetery Law calls for the integrity of the Board could be challenged. DAG Hugelmeyer explained that he has been advised that the addition of two more Public members may have come about due to the Reorganization Plan issued in 1995 by then Governor Christie Whitman. This plan called for the transfer and reorganization of the New Jersey Cemetery Board and stated that the Governor shall appoint two additional public members to the Cemetery Board. While some Board members believe that the Reorganization Plan only referred to the time when the Board was transferred from Trenton, DAG Hugelmeyer explained that apparently it did not; that it was to be regarded as Law; and should have been repealed as was Title 8A with the passage of the New Jersey Cemetery Act, 2003. DAG Hugelmeyer advised that we will have to wait for the legal experts to make a determination with regard to this. In the meantime, the Board will consist of 12 members, 5 Industry members, 4 Public members, the Commissioner of Community Affairs or his designee, the Attorney General or his designee, and one member designated from the Commissioner of Health and Senior Services. DAG Hugelmeyer further advised that while no one actually sits for Community Affairs or the Attorney General, their positions are counted as filled positions. Therefore, with a 12 member Board, a majority of 7 members must be present to conduct a Board meeting and a majority of 7 or 4 members are necessary for action to be taken on matters before the Board.

II. APPROVAL OF PUBLIC SESSION MEETING MINUTES OF MAY 12, 2005

A motion was made by Karen Walsh Pappas and seconded by Marion Brozowski to approve the Public Session Meeting Minutes of May 12, 2005 as corrected. A vote was taken and the motion was passed by a unanimous vote.

III. OLD BUSINESS

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

Richard A. Beran, attorney representing Greenwood Cemetery Association appeared before the Board at today's meeting requesting that the cemetery be given Cemetery Board permission to use a portion of the money thus far received from the County of Ocean for the condemnation of a portion of the cemetery's property for the purpose of road widening. Mr. Beran also advised that the cemetery is currently waiting the appraiser's report that will take into account a portion of the land that was taken from the cemetery that the County did not initially realize was dedicated for cemetery purposes. Upon discussion, a motion was made by William Nichols and seconded by Marion Brozowski to approve the cemetery using 50 % of the proceeds of the condemnation thus far received for various improvements at the cemetery, that amount being \$18,500.00. A vote was taken and the motion was passed by a unanimous vote. This matter will be carried over.

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

June Nikola was recused from this matter and moved away from the table.

This matter will be held over.

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

On April 1, 2005, Bruce Lapidus, Vice-President of this cemetery was advised that the cemetery's 2003 & 2004 Annual Reports must be filed with the Board office. On May 31, 2005, a follow up letter was sent to Mr. Lapidus once again advising that the reports must be filed and also advising that the name change for the cemetery must be filed with the Secretary of State. To date, the Board has not received the Annual Reports or confirmation that the name change has been filed. A motion was made by Marion Brozowski and seconded by William Nichols to authorize DAG John Hugelmeyer to subpoena the appearance of Bruce Lapidus at the Board's July 14, 2005 Board meeting. A vote was taken and the motion was approved by a unanimous vote. This matter will be carried over.

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

A letter will be sent to Thomas E. Stover, Esquire requesting an update on the status of this matter. This matter will be carried over.

E. Application for Certificate of Authority
Re: Stafford Township Historical Society, Inc., Stafford Township Township Historic Cemeteries

This matter will be held over pending receipt of amended regulations and Incorporation papers from Stafford Township Historical Society.

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

The Board has received documentation from Richard N. Campisano, Esquire representing Bayview-New York Bay Cemetery regarding the purchase of additional property by the cemetery for cemetery purposes. As the Board just received this documentation this morning, the matter will be tabled to the July 14, 2005 Board meeting affording the Board members the opportunity to review the documentation provided. The Board has not received an appraisal of the property purchased as required by N.J.A.C. 13:44J-13.5(b)2. A motion was made by William Nichols and seconded by June Nikola to request a current appraisal by an Independent Certified Real Estate Appraiser of the value of the 2 pieces of property purchased. A vote was taken and the motion was passed by a

unanimous vote. This matter will be carried over.

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

The Board has received a response from Louis A. Colaguori, the attorney representing Hayes Riverview Cemetery, to a subpoena prepared by DAG John Hugelmeyer regarding the sale of a portion of the cemetery's property that took place without Board approval. As the Board just received this information this morning, the matter will be tabled and a Committee of the Board (June Nikola, Marion Brozowski and William Nichols) will review the provided documentation and report its findings to the full Board at its July 14, 2005 Board meeting. We will send a copy of N.J.A.C. 13:44J-13.4, the requirements for the sale of cemetery property to Mr. Colaguori. This matter will be carried over.

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

Yolanda Romero has provided the Board with a copy of a bank statement for Mt. Peace Cemetery Association's Maintenance & Preservation Trust Fund. The statement shows that no money has been removed from the Trust. This matter is now closed and removed from future Board meeting agendas.

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

The Board has not heard anything further from North Branch Cemetery Association regarding the rescinding of its Certificate of Authority. This matter is closed and removed from future Board meeting agendas.

J. Certification of M&P Trust Funds

The Board is still trying to obtain an answer from Wachovia Securities as to why its legal department has advised trustees and custodians of Trust accounts to discontinue certification of transaction summaries and bank statements. This matter will be held pending a response from Wachovia Securities and from the New Jersey Department of Banking.

K. Ruffin Cemetery (CA #342)
Re: Who has jurisdiction over this cemetery

The Board will ask Louis Cicalese to provide any minutes for Ruffin Cemetery's Lot Owners meetings prior to October, 2003 that would show that he is authorized to take over the management of Ruffin Cemetery. This matter will be carried over.

L. Should this cemetery have a Certificate of Authority
Re: Mahwah Cemetery

This matter will be carried over pending receipt of Mahwah Cemetery's application for a Certificate of Authority. If the Board does not receive this application within the next month, we shall contact the cemetery for the status of its application.

M. Correspondence from the Presbyterian Church Cemetery (CA #208)

The Board previously granted The Presbyterian Church Cemetery a waiver of the \$75.00 filing fee for its 2004 Annual Report due to the financial condition of the cemetery. The Board at that time asked the cemetery if it buries outside its faith wondering if perhaps the cemetery could relinquish its Certificate of Authority. The Board has been advised that burials at the cemetery have always been open to non-members of its church. That being the case, the cemetery cannot relinquish its Certificate of Authority. This matter is closed and removed from future Board meeting agendas.

IV. NEW BUSINESS

A. Request for waiver of Annual Report filing fee

Re: Piney Hollow United Methodist Church Cemetery (CA #341)

Hazel Koehler, Secretary/Treasurer, Piney Hollow United Methodist Church Cemetery has written to the Board to request a waiver of the \$75.00 Annual Report filing fee for Fiscal Year 2005 based upon the poor financial condition of the cemetery. A motion was made by William Nichols and seconded by Marion Brozowski to grant the waiver. A vote was taken and the motion was passed by a unanimous vote. This matter is closed and removed from future Board meeting agendas.

B. Cedar Heights Cemetery (CA #263)

Re: Withdrawal of \$4,786.00 from Trust Fund

It has been brought to the attention of the Board that Cedar Heights Cemetery has removed \$4,786.00 from the corpus of the cemetery's Trust Fund. Cedar Heights Cemetery will be requested to provide the Board with an explanation as to the circumstances surrounding the removal of this money from the corpus of the Trust Fund. This matter will be carried over.

C. Approval of Bulk Sales

1. Princeton Memorial Park (CA #134), Robbinsville, NJ to Yee Shan Benevolent Society, Inc., New York, NY

Executive Director Dianne L. Tamaroglio approved the bulk sale of 240 graves for \$216,000.00 (\$900.00 per grave). The required amount will be deposited into the Maintenance & Preservation Trust Fund of Princeton Memorial Park.

2. Hebrew Free Burial Association, New York, NY, Washington Cemetery, (CA #172), Monmouth Junction, NJ to Young Israel of East Brunswick, Inc., East Brunswick, NJ

Executive Director Dianne L. Tamaroglio approved the bulk sale of 143 graves for \$12,678.00 (\$88.65 per grave). The required amount will be deposited into the Maintenance & Preservation Trust Fund of Washington Cemetery.

D. Correspondence from consumer Erwin M. Jacobs, MD

Re: Donation of graves

Erwin M. Jacobs, MD and his siblings are heirs to 4 plots with 96 graves sites at Floral Park Cemetery. Dr. Jacobs asks if they donate the graves to a charitable organization does a contribution to the cemetery's Trust Fund have to be made? Dr. Jacobs will be advised that if the graves are donated to a charitable organization and the organization provides proof to the cemetery of its charitable status, then no contribution to the Trust Fund is required at that time. However, at the time the organization assigns, sells or transfer a grave, 15% of the current sales price of equivalent graves, less any money previously paid to the cemetery's Maintenance & Preservation Trust Fund on the sale of that grave must then be deposited to the cemetery's Trust Fund. This matter is closed and removed from future Board meeting agendas.

E. Correspondence from Bernard F. Stoecklein, Jr., CMS Mid-Atlantic, Inc.

Re: Restland Memorial Park , (CA #117) & passage of a local ordinance

Bernard E. Stoecklein, Jr., President, CMS Mid-Atlantic, Inc. has written to the Board advising of the passage of a local ordinance in East Hanover that prevents the removal of trees more than six inches in diameter and four and one half feet tall. The cemetery was initially exempt from this ordinance. However, the town is now proposing a new ordinance that would eliminate the exemption for cemeteries. Mr. Stoecklein advises that elimination of the exempt status for cemeteries could materially and fundamentally effect the future of Restland Memorial Park. Also, passage of this new ordinance would prevent the cemetery from using significant portions of land which has already been surveyed and plotted as burial property. Mr. Stoecklein and Richard A. Beran, attorney representing

Restland Memorial Park appeared before the Board to discuss this situation and to ask for Board support. The two discussed the matter with the Board members and DAG John Hugelmeyer. The Board members believe passage of this new ordinance could have an effect on cemeteries throughout the state. Such an ordinance could possibly inhibit cemeteries from performing their basic purpose, that being the burial of human remains. Restland Memorial Park has a Certificate of Authority issued by this Board to operate a "cemetery company" and to carry out the purposes of a "cemetery company". Also, Restland was zoned by the Township of East Hanover as cemetery property. When asked if the Board could intervene in any way, DAG Hugelmeyer advised as the Board has not received any information regarding this ordinance from East Hanover, and having only heard from the cemetery, it would not be appropriate for the Board to intervene at this time. Gary T. Hall, attorney also representing Restland has written to the Mayor of East Hanover and the Township Council Members expressing the cemetery's opposition to the proposed ordinance that would amend the Township tree protection regulations to delete the current exemption for cemetery properties and asked that the ordinance not be adopted. This matter will be closed and removed from future Board meeting agendas pending receipt of any further information regarding this ordinance.

F. Can cemeteries sell bases

Re: Interpretation of NJSA 45:27-13(8) & NJAC 44J-7.1(g)

With regard to deposits to M&P Trust Funds, N.J.S.A. 45:27-13(8), states that for a foundation, base or installation, 10% of the charge for the foundation, base or installation, or \$20.00, whichever is more. Based upon this provision of the law, the Board has been asked if this means that cemeteries can sell bases. As per N.J.A.C.13:44J-7.1(g), Cemetery companies are prohibited from selling commercially available bases of concrete, granite or marble to be attached to a bronze memorial..... In some instances a base could be considered by many cemeteries to be the foundation which is poured on site and not brought in to the cemetery having been manufactured elsewhere which would refer to N.J.S.A.45:27-13(8). This matter is closed and removed from future Board meeting agendas.

G. Dual Licensure

The Board has concerns with an individual being an active, licensed Cemetery Salesperson while also being an active licensed Funeral Director and working in both industries simultaneously, believing this could be a definite conflict of interest. N.J.S.A.45:27-37b(4), states that a license shall be issued if the applicant is not barred from making cemetery sales by other employment. The Board members believe "barred by other employment" refers to the Prohibited Activities in the New Jersey Cemetery Act, 2003, N.J.S.A.45:27c which includes:

1. manufacture or sale of memorials;
2. manufacture or sale of private mausoleums;
3. manufacture or sale of vaults, including vaults installed in a grave before or after sale and including vaults joined with each other in the ground; and
4. the conduct of any funeral home or business or profession of mortuary science

Upon discussion of this matter, a motion was made by Marion Brozowski and seconded by Paul M. Desbiens to promulgate a regulation regarding dual licensure. A vote was taken and the motion was passed by a unanimous vote. The Regulation Committee of the Board will meet along with Charles Manning, Regulatory Analyst, DAG John Hugelmeyer and Executive Director Dianne L. Tamaroglio in the very near future to work on this regulation. This matter will be removed from future Board meeting agendas and brought back to the Board when Mr. Manning has a draft of the regulation ready for Board review.

V. PUBLIC COMMENT

No public comments were made today.

VI. FOR YOUR INFORMATION

A. State of New Jersey, By the Commissioner of Transportation v Romanian Greek Orthodox Congregation

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

B. Letter to Board Members from Kimberly S. Ricketts, Acting Director, Division of Consumer Affairs

Newly appointed Kimberly S. Ricketts, Acting Director, Division of Consumer Affairs sent a letter all Board members to introduce herself and to offer her assistance should it be needed. The Board will thank Ms. Ricketts for her offer of assistance and will invite her to attend a portion of the July 14, 2005 Board meeting and have lunch with the Board members if her schedule permits.

C. Newspaper article

Schoor provides tour of proposed pet cemetery site

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

D. Magazine article

The Forum , a magazine published by the New Jersey Funeral Directors Association for members of the Funeral Industry, features a monthly column devoted to reporting matters discussed at the New Jersey Cemetery Board Public meetings. The June 5, 2005 edition reported out matters from the Cemetery Board's April 20, 2005 Board meeting. One matter regarding Wachovia Securities was reported incorrectly. Pat, Dempsi, from the Funeral Director's Association was in attendance at today's Board meeting and advised that she would be sure to have the correct information reported in a future edition of The Forum. This matter is closed and removed from future Board meeting agendas.

VII. ADJOURNMENT

A motion was made by Paul M. Desbiens and seconded by Karen Walsh Pappas to adjourn Public Session at 1:00 PM. A vote was taken and the motion was passed by a unanimous vote. A motion was made by Marion Brozowski and seconded by June Nikola to move into Executive Session at 1:25 PM to discuss the following matters involving investigations, violations, and/or the Board's regulations:

1. Three (3) new matters or complaints filed with the Board which require review and recommendations in regard to investigation and/or actions.
2. Ten (10) 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