

New Jersey Cemetery Board

Public Session Minutes

August 15, 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, August 15, 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	Present

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

D.A.G. John Hugelmeyer advised the members of the public that at the September 12, 2002 Board meeting, he would present a discussion on the differences between Certificates of Indebtedness and Certificates of Interest as previously requested by Judy Welshons, of the New Jersey Cemetery Association. Bernard Stoecklein, Jr., President, CMS-Mid-Atlantic, Inc. gave some input regarding the two types of certificates and their importance in the cemetery industry.

III. APPROVAL OF PUBLIC SESSION MINUTES OF JULY 11, 2002

A motion was made by June Nikola and seconded by Marion Brozowski to approve the Public Session Minutes of July 11, 2002 as amended. 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**

Richard T. McConnell, Treasurer for Denville Cemetery Association has advised the Board office that the cemetery would be meeting with a bank on September 9, 2002 for the purpose of setting up its Maintenance & Preservation Trust Fund. Mr. McConnell will advise the Board of the cemetery's progress. This matter will be carried over.

B. Partially cremated remains **Re: Rosedale Cemetery, Orange (CA #42)**

Marion Brozowski was recused from this matter and moved away from the table.

Executive Director Susan H. Gartland has advised that she and Board expert Alan Kroboth have met at Rosedale Cemetery to allow Mr. Kroboth to advise how the recovery process at the crematory should proceed. The process is moving along with the human bones recovered being set aside for a single burial at a designated area in the cemetery. Executive Director Gartland is making periodic visits to the cemetery to be sure that everything is progressing as it should be. When the recovery process is completed, Mrs. Gartland and Alan Kroboth will return to the cemetery to go through the construction debris to make sure no human remains have gone unnoticed. This matter will be carried over.

C. Request for approval for a credit to M&P Trust Fund for 2001

Re: Marlboro Memorial Inc. (CA #395)

This matter will be held over pending receipt of a response from James M. Burke, attorney for the cemetery.

D. Application for enlargement of cemetery

Re: Ocean County Memorial Park (CA #224)

A Committee of the Board (Frank J. DeGeeter, Jr., William Nichols, Executive Director Susan H. Gartland and D.A.G. John Hugelmeyer) recently met with William J. Murphy, Executive Director for Ocean County Memorial Park to review all of the information he provided to the Board necessary to address the concerns the Board had regarding the enlargement of the cemetery. The Committee made the recommendation to the Board to approve the purchase of the additional property by the cemetery notwithstanding the agreement made between the cemetery and the municipality that would restrict the construction of mausoleums on the additional property. The Committee recommends the approval because OCMP has sufficient available land in the current cemetery to construct additional mausoleums. A motion was made by Marion Brozowski and seconded by June Nikola to approve the recommendation of the Committee, noting that nothing in this approval should infer that such restrictions placed on this cemetery will be automatically acceptable in future cases. Each request presented to the Board will be considered individually and prior to approval will be investigated thoroughly with the Board's determination being based upon the circumstances of each application. A vote was taken and the motion was passed by a unanimous vote. This matter is now closed and removed from future Board meeting agendas.

E. Inquiry from Mount Prospect Cemetery (CA #128)

Re: What if all cemetery Trustees resign?

As the Board has not heard any further from David Jacobs, Treasurer of Mount Prospect Cemetery, Board member June Nikola will visit Mount Prospect Cemetery to see if the cemetery has been abandoned or if it appears that the cemetery's trustees are still taking care of the cemetery. This matter will be carried over.

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

Re: The Ewing Cemetery Association (CA #20)

This matter will be carried over pending receipt of additional information from Ewing Cemetery pertaining to the cemetery purchasing additional land for cemetery use.

G. 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 that he has decided to move the cemetery's Trust Fund to Fleet Bank and put the account in CD's sometime this month. When the Board wrote to PNC Bank on behalf of Cedar Grove Cemetery asking for its reasons for refusing to allow Cedar Grove Cemetery to move its Trust Fund, the letter was copied to the State Department of Banking and Insurance. The Board received a letter from Connie L. Ferrigno, of the Division of Banking advising that PNC Bank is chartered by the Federal government and therefore is not subject to the jurisdiction of the New Jersey Department of Banking and Insurance even though the institution is located in New Jersey. The Board considered the letter informational. This matter is now closed and removed from future Board meeting agendas.

H. Request to take over Old Quaker Cemetery

Re: Borough of Rumson

The Board has not received a response from the Borough of Rumson as to whether or not the Borough's intention is for future burials at Old Quaker Cemetery or if its plan is just to maintain the cemetery. A follow up letter will be sent to the Borough of Rumson. This matter will be carried over.

I. What is the legal requirement for retaining cemetery records

Re: The Tranquility Cemetery Association of New Jersey (CA #68)

The Board has not received a response from Virginia A. Smith, Treasurer of Tranquility Cemetery Association regarding what cemetery records she is concerned about. A follow up letter will be forwarded to Mrs. Smith.

J. Senate Bill, No. 1350

The Board reviewed this bill at its July 11, 2002 Board meeting. However, because of its format, there was difficulty in reading the bill. Matt Sweatlock, President of the New Jersey Cemetery Association provided the Board with an edited version of the bill (deleting the areas intended to be omitted in the bill). The Board discussed the pending bill noting that where it says in point 3, N.J.S.A. 8A:4-12(b) should be amended to read \$2.00 per interment in excess of 25 interments is incorrect. This has been changed in the Board's regulations to \$4.00 per interment and \$1.00 per cremation. Also, in point 3, N.J.S.A. 8A:4-12(c) it says The annual report required by this section shall contain a copy of the cemetery company's most recently filed IRS Form 990, Return of Organizations Exempt From Income Tax. The Board believes that this is not necessary as these forms are already public information and can be obtained from the cemetery directly, from the IRS or on the internet. The Board's comments will be forwarded to the Division of Consumer Affairs.

K. Sub-division and sale of excess cemetery property

Re: George Washington Memorial Park (CA #26)

Frank J. DeGeeter, Jr. was recused from this matter and moved away from the table.

The Board has received confirmation from First Union National Bank of the deposit of \$81,000.00 into George Washington Memorial Park's Trust Fund. This deposit was for the sale of 1.834 acres of the cemetery's property to Mattco LLC for the sale price of \$540,000.00. This matter is now closed and removed from future Board meeting agendas.

L. Request for bill analysis

Re: S 1704 The Abandoned Cemetery Maintenance & Preservation Act

Regulatory Analyst, Charles Manning met with the Board and discussed S 1704, a proposed bill which establishes the Abandoned Cemetery Maintenance and Preservation Fund to provide a revenue source for the repair, restoration and maintenance of abandoned cemeteries in the State. The Board believes some important concrete information is needed before the bill is passed. One of the most crucial aspects of this bill is the need to determine the number of abandoned cemeteries throughout the State since the Bill states all abandoned cemeteries not just those under Title 8A would be considered. Also there is the need to define what is meant by abandoned.

M. Advisement that the County of Ocean is taking a portion of cemetery property

Re: Greenwood Cemetery (CA #370)

Board member Paul M. Desbiens conducted an on-site inspection of the cemetery property in question. Mr. Desbiens met at the cemetery with George Watson, past-president of the cemetery. The two inspected the front area approximately 15 feet into the cemetery where the State wants to claim the land. The State has valued the property at \$37,000.00 which is its offer to the cemetery for the purchase. Mr. Watson advised Mr. Desbiens that he was sure that there were no interments in this front area because the old deed to the property had a restriction of no burials in the front 100' of the cemetery. Mr. Desbiens advised Mr. Watson that the cemetery should get legal representation for this

transaction as well as get an independent appraisal of the property in question. Bernard Stoecklein, President of the Friends of Rural Cemeteries believes that the amount offered by the State for the property is very low. He has offered to speak with Mr. Watson regarding this matter. This matter will be carried over.

**N. Passage of an Ordinance Regulating Burials, Interments and Disinterments within the Borough of Totowa
Re: Laurel Grove Cemetery (CA #30), CMS Mid-Atlantic, Inc.**

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

Executive Director Susan H. Gartland spoke with the Totowa Board of Health to find out what prompted the passage of this ordinance. Mrs. Gartland was advised that there was a problem at a mausoleum in a cemetery in the nearby city of Paterson. Following this problem the governing body of Totowa believed the passage of this ordinance was necessary to avoid problems occurring at the mausoleums in their town. The Board believes this ordinance has by-passed drainage concerns which could possibly result in additional problems in mausoleums in cemeteries. The Board will forward a copy of this ordinance to the New Jersey State Department of Health and convey its concerns. A copy of the letter as well as the ordinance will also be sent to Community Affairs who approves the construction of mausoleums. This matter will be carried over.

O. Consumer inquiry

Re: Are there any laws that prohibit the burial of a deceased person without a casket?

Mr. Rabinowitz has advised the Board that the reason for his inquiry regarding burial of a deceased person without a casket, was brought about because someone in the funeral business remarked that such a restriction exists in New Jersey. Board member Gwendolyn Solice as per the Board's request contacted the Office of Legal and Regulatory Affairs (OLRA) of the State Department of Health and Senior Services regarding this inquiry. Michael Kennedy, an attorney from the OLRA advised that this matter was previously researched in response to an informal request from the Cemetery Board. Mr. Kennedy advised the Board that to the best of his recollection the previous research indicated there existed no statutes or regulations that would preclude a burial of this kind. Mr. Kennedy recommends that the Cemetery Board should submit a formal request to the OLRA to have this matter further researched and for the Cemetery Board to receive a formal response from the OLRA. The Board will follow Mr. Kennedy's recommendation and request a formal response from the Office of Legal and Regulatory Affairs. This matter will be carried over.

P. Evergreen Cemetery (CA #72)

Re: Correspondence and pictures form Richard L. Berry, Receiver

Richard L. Berry, Receiver for Evergreen Cemetery has advised the Board that Camden County has completed their grass cutting project at Evergreen Cemetery and for the first time utilized the services of a commercial landscaping company. The Board will write Mr. Berry inquiring about the landscaping company and who has paid for its services. Also, the Board will ask Mr. Berry to supply the Board with copies of any pleadings to the court on behalf of the cemetery and to also supply the Board of the status of the City of Camden taking over control of Evergreen Cemetery.

V . NEW BUSINESS

A. Approval of Bulk Sales

Washington Cemetery Management Corporation (CA #172), Monmouth Junction, NJ to Congregation Beth Joseph

Executive Director Susan H. Gartland approved the bulk sale of 180 graves for \$72,000.00 (\$400.00 per grave). The required amount will be deposited into the Maintenance and Preservation Trust Fund of Washington Cemetery Management Corporation.

B. Inquiry from the United Methodist Church of Linden

Re: Maintenance & Preservation Trust Fund

Marion Brozowski was recused from this matter and left the room.

Doris J. Henel, Chairperson, Finance Committee for the United Methodist Church of Linden has written to the Board advising that over the years the church has received donations of graves in the Rosedale and Rosehill Cemetery. These graves are donated as needed, to members and friends of the church who have unexpected and sudden deaths, and have not been able to afford to purchase a cemetery plot in advance. The cemetery has advised the church that it would now have to pay maintenance fees for a large number of the plots that were donated to the church in the early 1990's, since no fees had ever been paid in the past. The cemetery could not afford the expense and therefore had to sell them back to the cemetery. The balance of the plots gifted to the church were originally purchased in the 1940's and included perpetual care. Any transfer to individuals by the church have only included a transfer fee, and no cost for maintenance and preservation. The church believes that these transfers are just that and are not initial or resale purchases. D.A.G. John Hugelmeyer has written a letter that will be forwarded to Ms. Henel explaining the law as it relates to this matter. D.A.G. Hugelmeyer advises that N.J.S.A.8A:4-5(a) is not intended to apply only to resales affected by the cemetery company. The provision also covers the situation the church describes as a transfer, because the church would in fact be selling the lot to the wife of the person who has been interred. The resale will give the widow interment rights currently vested in the church as owner of the lot. D.A.G. Hugelmeyer further advises that N.J.S.A.8A:4-5 was written to make sure that the money in the M&P Fund is supplemented to keep up with inflation as the cost of lots, and of maintenance, increases over time. Transfers of title are events which are contemplated by the statute to provide an opportunity to upgrade the amount in the Fund for the lot being resold. The Board now considers this matter closed.

VI . FOR YOUR INFORMATION

A. Notification of motions granted

**Re: 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**

B. Magazine Articles

Death Care Business Advisor

1. Pennsylvania cremation bill endorsed by funeral directors
2. Illinois approves crematory rules
3. Arizona death care firms liable for employee misconduct
4. Louisiana mulls at cremation rules

American Cemetery

1. Major League Baseball Diamond Dust
2. Irwin /Shipper Resigns from Menorah Gardens Examiner Post
3. Cremation Consumer Protection Bill Endorsed by FDS
4. Experts Search for Motive in Tri-State Case

C. On-Line Articles

1. Cemetery raises questions--Courier Post Online

2. Families accuse cemetery of desecrating grave sites-Philadelphia Inquirer

**D. Proposed Readoption with Amendments: N.J.A.C. 3:4
Re: Department of Banking and Insurance Division of Banking
Depository Institutions**

**E. Jointly Proposed New Rules: N.J.A.C. 13:1E-2 & 3
Re: Access to Government Records: Confidentiality of Records**

F. New Jersey State Board of Mortuary Science

1. Open Session Meeting Agenda-August 6, 2002

2. Open Session Meeting Minutes-January 22, 2002

3. Open Session Meeting Minutes-February 5, 2002

4. Open Session Meeting Minutes-March 5, 2002

5. Open Session Meeting Minutes-April 9, 2002

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

VII. ADJOURNMENT

A motion was made by June Nikola and seconded by Marion Brozowski to adjourn Public Session and move into Executive Session at 12:00 P.M.. 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 investigation, violation, and/or the Board regulations:

1. Three (3) new matters or complaints filed with the Board which requires review and recommendations in regard to investigation and/or actions.
2. Fifty-two (5) 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.

Respectfully Submitted,

Susan H. Gartland
Executive Gartland