

**New Jersey Cemetery Board
Public Session Minutes
September 11, 2003**

A regular meeting of the New Jersey Cemetery Board was held at 124 Halsey Street, Newark, N.J., on the sixth floor, on Thursday, September 11, 2003. 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	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

Due to a lack of quorum the meeting began in Committee.

David Maloney, Financial Advisor, with Morgan Stanley asked the Board how can the amount that cemeteries are required to place in a custodial trust account be raised from \$150,000.00 to \$500,000.00? Mr. Maloney was advised that this requirement is part of the Cemetery Board's statute and changes to statute are done through legislation. Mr. Maloney was advised to contact his legislators regarding his concern.

Having a quorum the meeting moved out of Committee

III. APPROVAL OF PUBLIC SESSION MEETING MINUTES OF JULY 10, 2003

A motion was made by William Nichols and seconded by David Mallach to approve the Public Session Minutes of July 11, 2003 as amended. A vote was taken and the motion was passed by a unanimous vote.

IV. OLD BUSINESS

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

This matter will be held over pending receipt of the outcome of the hearing that was to determine the amount of

compensation to be paid to Greenwood Cemetery for the land, premises, property, rights and easements to be purchased by the County of Ocean from Greenwood Cemetery. Previously, George Watson of the cemetery claimed that years ago there was a restriction of 100 feet of the property being sold for future burials. Mr. Watson claimed that this restriction was lifted years ago. Richard A. Beran, attorney representing the cemetery claimed that if this was the case, the cemetery would be losing approximately 200 burial spaces, therefore the appraisal for the property would be much higher. The Board has been advised that Mr. Watson has found the paperwork that he believes lifted the restriction and has forwarded same to the County of Ocean for consideration. This matter will be carried over.

B. Concern regarding a retaining wall

Re: Beth David Cemetery (CA #308)

This matter will be carried over pending a status update from Sandy Epstein regarding the repair of the retaining wall at Beth David Cemetery.

C. Application for a Certificate of Authority

Re: Ernst Memorial Cemetery Corporation

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

The Board has received confirmation that Ernst Memorial Cemetery Corporation has established its initial balance fund of \$50,000.00 with UBS United Financial Services, Inc.. When the account reaches \$150,000.00 it must be placed in a custodial trust account. UBS qualifies to be a custodian of the fund. With all requirements having been met, Certificate of Authority No. 404 has been issued to Ernst Memorial Cemetery Corporation. This matter is now closed and removed from future Board meeting agendas.

D. Requesting Board approval for the alteration of cemetery roads

Re: Evergreen Cemetery and Crematory (CA #92)

As Evergreen Cemetery is requesting Board approval for the alteration of cemetery roads to provide more interment spaces for non-titled graves, Joseph A. Manfredi, Executive Director for Evergreen has advised the Board that the cemetery has exhausted its inventory of non-titled graves during the first week of August. The Board will advise Mr. Manfredi that N.J.S.A. 8A:6-11 that states paths or roadways shall be maintained to the interment spaces already sold is applicable to Evergreen's request. Also, according to N.J.A.C. 13:44J-2.1, roadway means any open way for the passage of vehicles and persons. With these statutory and regulatory provisions in mind, Evergreen Cemetery will be advised that in considering the alteration of its roads the Board determined that the cemetery must maintain the identity of the existing roadways by keeping them wide enough for the passage of a motor vehicle. This matter will be carried over.

E. Transferring ownership and management of a cemetery

Re: Manahawkin Methodist Cemetery Association (not a CA cemetery)

This matter will be held over pending a response from either George M. Cafarelli, Esquire or the Stafford Township Historical Society.

F. Proposed Amendments: N.J.A.C.13:44J-5.2, 5.6 &15.1

Proposed New Rule N.J.A.C.13:44J-5.9

The Board received many comments to the above mentioned proposed rules. Due to the complexity of these rules and the comments received, a motion was made by William Nichols and seconded by June Nikola to refer the comments to the Committee of the Board for review and discussion and to bring a draft of their suggested recommendations to the full Board at either the October 9, 2003 or the November 13, 2003 Board meeting. A vote was taken and the motion was carried by a unanimous vote. The Committee of the Board is made up of Marion Brozowski, Paul Desbiens, Executive Director Susan H. Gartland, DAG John Hugelmeyer, and Regulatory Analyst Charles Manning. This matter will be carried over.

G. Donation of a mausoleum and a cash donation of \$12, 900.00

Re: Rural Hill Cemetery (CA #242)

Previously, Carlton C. Durling advised the Board that a private citizen offered to donate to Rural Hill Cemetery an existing mausoleum together with a cash donation of \$12,900.00. The letter from Mr. Durling was very vague leaving many unanswered questions. DAG John Hugelmeyer contacted Mr. Durling for more information regarding the donation of the mausoleum. It appears that Rural Hill Cemetery, a very small cemetery sold off part of the cemetery's property in 1955 for the construction of a mausoleum. The owners of the mausoleum are now deceased and their estate has offered to donate the mausoleum back to the cemetery along with the monetary donation. There are 20 available crypts for sale in the mausoleum. It was the intent of the cemetery to accept the transfer of the mausoleum and preserve and maintain same by utilizing the cemetery's existing Custodial Trust Account. It was also the intent of the cemetery to deposit the monetary gift into the same Custodial Account. Upon Mr. Durling's conversation with DAG Hugelmeyer, the cemetery has advised the Board that it will establish a separate Maintenance & Preservation Trust Fund for the benefit of this mausoleum depositing the donation of \$12,750 into the account and the cemetery will also dedicate the net proceeds from the sale of the remaining crypts into the same account. Mr. Durling will be advised that 10% of the full proceeds of the sale of the remaining crypts in the donated mausoleum must be deposited into the cemetery's Maintenance & Preservation Trust Fund. This matter is now closed and removed from future Board meeting agendas. As a side note, Mr. Durling has urged the Board to petition the legislature to raise the \$150,000.00 trigger money to \$500,000.00 before requiring a Custodial Trust.

H. Is an application to the Board necessary?

Re: Beth Israel Cemetery Association (CA #01)

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

Ruth Nikola, Trustee for Beth Israel Cemetery Association has provided the Board with an application for the approval of an Easement of Right of Way Agreement between Beth Israel Cemetery Association and Transcontinental Gas Pipe Line Corporation. In consideration for granting the right of way, the Transcontinental Gas Pipeline Corporation will pay to Beth Israel Cemetery Association \$53,985.00. In addition, in the event that TGPC lays one additional pipe line in the easement area, TGPC shall pay to Beth Israel Cemetery Association a sum equal to \$1.00 per lineal rod of such additional line. A motion was made by Marion Brozowski and seconded by David Mallach to approve the easement with 15% of the proceeds of the sale to be deposited into the cemetery's Maintenance & Preservation Trust Fund. A vote was taken and the motion was passed by a unanimous vote.

I. Requesting approval for credit taken on Maintenance & Preservation Trust Fund

Re: Heavenly Rest Memorial Park (CA #304)

John W. Speller, CPA for Heavenly Rest Cemetery has advised the Board that expenses related to the reclamation of graves included salaries, property maintenance expenses, and administrative expenses. Mr. Speller will be advised that at this time the Board will accept his explanation of how the 15% of the gross proceeds of the sale of the reclaimed graves was disbursed. However, in the future the cemetery must track its specific administrative expenses attributed to the reclamation of the graves as per **N.J.A.C. 13:44J-5.7(d)**. Mr. Speller has also advised the Board that the cemetery is in the process of having the name of its Maintenance & Preservation Trust Fund changed to comply with the Board's rules & regulations. The cemetery has also added the cemetery's office manager (a resident of New Jersey) as a Trustee/Director for the cemetery complying with **N.J.S.A.8A:3-16**. This matter will be carried over pending confirmation of the name change for the cemetery's Maintenance & Preservation Trust Fund.

J. Requesting Board approval for sale of property

Re: Flower Hill Cemetery Association (CA #148)

In September, 2001 Anthony DiVincent, President of Flower Hill Cemetery Association made an application to

the Board for the approval of the sale of a portion of the cemetery property to P.C. Richards, Inc. The property will be used to enlarge P.C. Richard's parking lot. An inspection of the property in question was conducted at the time of the application by Board Chairman Frank DeGeeter, Jr.. Mr. DeGeeter advised the Board that he saw no reason why the property should not be sold since the property could never be used for burials. The cemetery was asked to supply the following missing items from its application: an appraisal of the property performed by a licensed real estate appraiser having no interest in the cemetery; a copy of the Contract of Sale; and an affidavit stating that the property will not be developed for business as restricted by N.J.S.A. 8A:5-3, but rather will be used to enlarge P.C. Richards, Inc.'s parking lot. The Board reviewed at today's meeting the contract of sale as well as the appraisal of the property in question. The cemetery is selling 6500 square feet of property for \$50,000.00; the appraisal of the property being \$49,000.00. A motion was made by William Nichols and seconded by David Mallach to approve the sale of the property subject upon receipt of the following:

1. A statement from the Trustees of the cemetery stating that there will not be a business for a monument dealer or a funeral home established on this site;
2. A certified statement by the Board of Trustees or Directors and the officers of the cemetery company attesting as to whether or not any of them has a direct or indirect interest in the purchasing entity as per N.J.A.C. 13:44J-13.4(b)(7); and
3. A certified statement by the purchasing entity, its officers, and its stockholders having a 20 percent or more share of issued voting stock or a 20 per cent or more share of a partnership, attesting whether any of them has a direct or indirect interest in the cemetery company as per N.J.A.C. 13:44J-13.4(b)(8).

This matter will be carried over pending receipt of the above mentioned documents.

K. Hoboken Cemetery (CA #183)

Re: Agreement with Turnpike Authority

George Dougherty, Esquire has provided the Board with a copy of the agreement proposed between the Turnpike Authority and Hoboken Cemetery to terminate the agreement to purchase interment spaces and to refund the funds on hand, and to obtain court authorization to refund the balance of the \$150,000.00 proceeds paid in advance to the Hoboken Cemetery and deposited into the M&P Trust Fund. DAG John Hugelmeier has advised the Board that the agreement has been entered into and money has been refunded to the Turnpike Authority. The Board will continue to investigate the matter of finding of human bones at Hoboken Cemetery with the Enforcement Bureau of the Division of Consumer Affairs.

L. Correspondence from PNC Advisors to Cedar Grove Cemetery Association (CA #217)

Re: Maintenance & Preservation Trust Fund

The Board previously advised PNC Advisors that it could not guarantee to Cedar Grove Cemetery a specific return (3% in this case) for the next three years on its Maintenance & Preservation Trust Fund. Kerry A. Mink, Trust Administrator for PNC Advisors has written to Cedar Grove Cemetery advising him of the inapplicability of the New Jersey Principal and Income Act to the cemetery's Trust Account. Ms. Mink further advises that the cemetery will continue to receive 100% net income on a quarterly basis. Also, PNC will continue to bill Friends of Rural Cemeteries every January and July for fee reimbursement as previously agreed upon. This matter is closed and removed from future Board meeting agendas.

V. NEW BUSINESS

A. Request for approval of amended easement agreement

Re: Hillside Cemetery Company (CA #398) vs. Estate of Susie Romano et als

Docket No. C-152-02

Michael S. Maneri attorney representing the Estate of Susie Romano et als has provided the Board for review and approval a copy of an amended easement agreement which has been entered into by the parties to the above litigation to resolve all issues involved in the above mentioned lawsuit. Consumer Glen Pierce has forwarded to the Board comments regarding the amended easement and appeared before the Board to address his comments. Mr. Pierce's comments will be forwarded to Mr. Maneri as well as to D.F. Moore Craig, Hillside Cemetery's attorney for their review. Both attorneys will be asked to respond to the Board to Mr. Pierce's comments. This matter will be tabled pending receipt of a response from Mr. Maneri & Mr. Craig.

B. Inquiry from David Maloney, Financial Advisor, Morgan Stanley

Re: Can a cemetery Trust Fund be held at Morgan Stanley in a trust account

David Maloney, Financial Advisor with Morgan Stanley has written to the Board inquiring if Morgan Stanley can hold cemetery trust funds in a trust account. Mr. Maloney was advised that Morgan Stanley can hold cemetery trust funds in one of their banks authorized to handle custodial trust accounts..

C. Approval of Bulk Sale

Fidelity Cemetery Association a/k/a Beth El Cemetery, (CA #23), Westwood, NJ to Nanuet Hebrew Center

Executive Director Susan H. Gartland approved the bulk sale of 50 graves for \$40,000.00 (\$800.00 per grave). The required amount will be deposited into the Maintenance & Preservation Trust Fund of Fidelity Cemetery Association.

D. Advertisement for sale of 825 graves

Re: Floral Park Cemetery (CA #170)

The Board has been supplied with a newspaper advertisement offering 825 graves for sale in Floral Park Cemetery. The Board has concerns as to who is selling this many graves; is it an individual selling for speculation; is it a religious society; is it a bulk sale? Leonard Auerbach, Director of Floral Park Cemetery will be provided with a copy of the ad and asked if he knows anything about this advertisement. The Enforcement Bureau of the Division of Consumer Affairs will be asked to call the number listed in the advertisement to see if they can obtain some information regarding this sale. This matter will be carried over

VI. FOR YOUR INFORMATION

A. Letter of appreciation

Re: Barbara Kirby, Maple Groove Cemetery

Consumer Catherine Yelenock has written to the Board expressing her appreciation for Barbara Kirby, Manager of Maple Grove Cemetery assistance in her family's genealogical search. This was considered informational for the Board deeming no discussion or decision making.

B. Notification of Cross Motion for Summary Judgment

Re: Primer Templo Espiritualista de Nueva York v Rosemount Memorial Park Association (CA #160)

Docket No. C-399-02

June Nikola and Marion Brozowski were recused from this matter and moved away from the table.

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

C. Notification of adjournment of Motion and Cross-Motion

Re: Primer Templo v Rosemount Memorial Park, et al

Docket Number C-399-02

June Nikola and Marion Brozowski were recised from this matter and moved away from the table.

This was notification that the pending Motion and Cross-Motion in this matter has been adjourned to September 19, 2003.

D. Correspondence from DAG John Hugelmeyer to Hon. R. Benjamin Cohen, J.S.C.

**Re: Primer Templo Espiritualista de Nueva York, Inc. v Rosemount Memorial Park Association, et als
Docket No. C-300-02**

June Nikola and Marion Brozowski were recused from this matter and moved away from the table.

This is a response from D.A.G. John Hugelmeyer to Judge Cohen to both the defendant cemetery's motion to dismiss the Complaint, based on N.J.S.A. 8A:8-5, and the Plaintiff's cross-motion for summary judgement. D.A.G. Hugelmeyer in his correspondence has advised that he believes the portion of this matter involving disinterments should be moved to the Board as prior rites of disinterment and interment are governed by N.J.S.A. 8A:8-5, and the Board could determine which statutorily mandated remedy is most fitting under the circumstances. The Board may also assess civil monetary penalties against the cemetery for violations of the Act or any prior order of the Board, as may be required.

E. Newspaper articles

Pike wants leeway on potter's field excavation

A graveyard dilemma

Families cite grave injustice

Judge grants exemption on graves

Human remains discovered at turnpike reburial site

Bodies pose problem for state

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

F. Internet articles

A startling find at cemetery halts reburial

NY1 For You: Family Members Fight To Get Tombstones For Loved Ones

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

G. New Jersey State Board of Mortuary Science

1. Open Session Meeting Agenda-August 5, 2003

2. Open Session Meeting Agenda-September 2, 2003

3. Meeting Notification-September 15, 2003

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

VII. MATTERS REPORTED FROM EXECUTIVE SESSION

A. Elmwood Cemetery (CA #90)

Elmwood Cemetery was issued a Uniform Penalty Letter by the Board for violation of N.J.S.A.8A:4-12 with a Civil Penalty of \$500.00. The cemetery has paid the Civil Penalty and has filed its delinquent Annual Reports. This matter is closed.

B. Rosemount Memorial Park (CA #160)

Rosemount Memorial Park was issued a Final Order for violation of N.J.S.A. 8A:9-4 with a Civil Penalty of \$250.00. The cemetery has paid the Civil Penalty. This matter is closed.

VIII. ADJOURNMENT

A motion was made by David Mallach and seconded by William Nichols to adjourn Public Session at 11:30 AM and move into Executive Session at 11:45 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, violations, and/or the Board's regulations:

1. Ten (10) new matters or complaints filed with the Board which require review and recommendations in regard to investigation and/or actions.
2. Twenty-four (24) 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 as official action is taken on these matters, if permitted by law.

Respectfully Submitted,

Susan H. Gartland
Executive Director