

**\*NEW JERSEY CEMETERY BOARD\***  
**PUBLIC SESSION MINUTES**  
**OCTOBER 14, 2004**

A regular meeting of the New Jersey Cemetery Board was held at 124 Halsey Street, Newark, N.J., on the sixth floor, on Thursday, October 14, 2004. 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  
Anthony F. DiLorenzo Present  
Stephen F. Hehl Present  
June Nikola Present  
William Nichols Present  
Marianne Panico Present  
Karen Walsh Pappas Present

Also in attendance were: Dianne L Tamaroglio, Executive Director for the New Jersey Cemetery Board and Deputy Attorney General John Hugelmeyer.

**I. APPROVAL OF PUBLIC SESSION MEETING MINUTES OF SEPTEMBER 9, 2004**

A motion was made by June Nikola and seconded by Marion Brozowski to approve the Public Session Minutes of September 9, 2004 as amended. A vote was taken and the motion was passed by a unanimous vote.

**II. OLD BUSINESS**

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

The Board has received notification that George Watson is resigning as a member of Greenwood Cemetery's Board effective November 30, 2004. Mr. Watson sites his reasons for leaving as follows: the cemetery not receiving the just compensation from the County of Ocean for the condemnation of a portion of the cemetery property; the fact that the New Jersey Cemetery Board has instructed Mr. Watson that no portion of the initial payment from the County may be used at this time; and the fact that under these conditions, Mr. Watson does not believe that he can improve the conditions of the cemetery as he had promised. The attorney representing the cemetery, Richard A. Beran is still attempting to negotiate with the County of Ocean for further compensation for the property. Bernard Stoecklein, Friends of Rural Cemeteries advised the Board that the President of the cemetery, Louis Wright is not always available and for that reason he has asked the cemetery to give him a "Power of Attorney" to negotiate with the County of Ocean for further compensation. This would need approval of Greenwood Cemetery's Board. This matter will be carried over.

B. Request for approval of amended easement agreement Re: Hillside Cemetery Company (CA #398)

This matter will be carried over.

C. Application for a Certificate of Authority Re: Zion Cemetery Association

Terry Esposito, CFM, Sr. Financial Advisor for Merrill Lynch has provided the Board with the fully executed Zion Cemetery Association Irrevocable Maintenance and Preservation Fund Trust. She further advises that as soon as Merrill Lynch's compliance department approves the new account documents, all assets will be transferred into the irrevocable Maintenance & Preservation Trust Fund. The Board will request that Ms. Esposito provide the Board with confirmation of the establishment of the Trust. Upon receipt of the requested confirmation, the Board will be ready to issue the Certificate of Authority to Zion Cemetery Association. This matter will be carried over.

D. 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.

Larry Nikola, President, Memorial Properties has advised the Board that the sale of the property on which Trinity Cemetery was to be is going through. He also advised that he is awaiting approval from DCA for the construction of the mausoleum on the property of Atlantic View Cemetery, the cemetery that is adjacent to Trinity where those who purchased mausoleum space at Trinity will be able to transfer their contracts if they so desire. This matter will be carried over.

E. Titusville Methodist Church Cemetery (CA #259) Re: Exemption from New Jersey Cemetery Law

The Board has not heard anything further from Titusville Cemetery regarding the dissolution of the cemetery. We will follow up with the cemetery on this matter. This matter will be carried over.

F. Correspondence from Rev. June D. Sievers Re: Pleasant Grove Cemetery

John Sliker has not responded to the Demand for Statement issued by DAG John Hugelmeyer. The Board had voted at the September 9, 2004 Board meeting to send an investigator from the Enforcement Bureau of the Division of Consumer Affairs to question Mr. Sliker if he did not respond to the Demand for Statement. Upon further discussion, it was decided that sending an investigator out may not be the right approach. Board Chairman Frank J. DeGeeter, Jr. and Board member William Nichols will conduct an on-site inspection of the cemetery and talk with Rev. June Sievers prior to the Board's November Board meeting and report their findings to the Board. Also, Rev. Sievers has advised Executive Director Dianne I. Tamaroglio that she will be sending the Board names of individuals from the church who would be interested in serving on the Board of Pleasant Grove Cemetery. This matter will be carried over.

G. Non-approval of Annual Reports

Re: Eglington Cemetery (CA #98)

Gates of Heaven (CA #96)

Hillcrest Memorial Park (CA #127)

Woodbury Memorial Park (CA #097)

Docket L-991-04

This matter will be held over pending the results of the court hearing.

H. Evergreen Cemetery (CA #72)

Marie Berry, wife of the late Richard L. Berry, Receiver for Evergreen cemetery is trying to keep up with some of Mr. Berry's duties as the Receiver. As such, she has sent a letter to Norman Brewer advising that she has discovered that he is in arrears in his payments to Evergreen Cemetery's M&P Trust Fund as ordered by a Consent Order executed by the Honorable Theodore Z. Davis. Mr. Brewer is in the arrears in the amount of \$4,000.00 the total for the months of June, July, August & September, 2004. Mrs. Berry will keep the Board apprized of the status of this matter. The Board reviewed and discussed submissions provided by three individuals desiring to be named Receiver for Evergreen Cemetery to replace Mr. Berry in Executive Session and moved to Public Session to vote for the choice of the individual for receiver. A motion was made by Marianne

Panico and seconded by Marion Brozowski to recommend to the Court that Louis Cicalese be appointed as the Receiver for Evergreen. A vote was taken and the motion was carried by a unanimous vote. DAG John Hugelmeyer will prepare the appropriate paperwork to present to the Court. This matter will be carried over.

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

The Board at its September 9, 2004 Board meeting discussed the fact that the Tri County Lodge #182 Knights of Pythias. is no longer in existence as an entity and has been absorbed with the cemetery and all assets by Fortitude Lodge, Knights of Pythias. The Board was advised that Geoffrey Schutzbank, a licensed funeral director in New Jersey, was now in charge of the cemetery. The Board had concerns with Mr. Schutzbank being involved in the management, operation, or control of the cemetery. DAG John Hugelmeyer spoke with Mr. Schutzbank regarding this issue. Mr. Schutzbank advised that he is aware that he cannot become an officer of the cemetery, because he is a funeral director and that as a member of the Knights of Pythias, he was asked to be on the committee dealing with the cemetery because of his background. It would appear that there will probably need to be a name change on the Certificate of Authority. It is possible that some of the officers on the cemetery Board of the Tri County Lodge...remain on the Board and some new ones elected from the Fortitude Lodge, Knights of Pythias. This matter will be carried over.

J. Correspondence from Matthew N. Greller, Esquire Re: Requesting interpretation of the New Jersey Cemetery Act, 2003

The Board at its September 9, 2004 Board meeting requested that DAG John Hugelmeyer prepare a response to Mr. Greller's request asking for an interpretation of various provisions of the New Jersey Cemetery Act, 2003 regarding management companies having to have a Certificate of Authority from the Board and being non-profit. DAG Hugelmeyer shared his response with the Board. Upon discussion of the law as well as of DAG Hugelmeyer's response a motion was made by Marion Brozowski and seconded by June Nikola to request a legal opinion from the Attorney General regarding N.J.S.A. 45:27-7(a). Included in the request will be whether or not sales companies would fall under management companies. A vote was taken and the motion was passed by a unanimous vote. DAG Hugelmeyer's response will not be forwarded to Mr. Greller but rather he will be advised of the Board's decision to request an Attorney General's opinion. The matter of Mr. Greller's request is now closed and removed from future Board meeting agendas.

K. Mount Holiness Memorial Park (CA #305) Re: Establishment of Irrevocable Maintenance & Preservation Trust Fund

George Miller, Jr. attorney representing Mount Holiness Memorial Park has written to the Board confirming the establishment of an irrevocable Maintenance & Preservation Trust Fund for the cemetery. Mr. Miller will be asked to provide the Board with a copy of a bank statement showing that the Fund has been established. This matter will be carried over.

L. Land Sale Re: Eglington Cemetery (CA #98)

Peter Platten, attorney for Eglington Cemetery has provided the Board with notification that Atlantic Five Development, Inc., has exercised its right to extend the approval period for the purchase of a portion of Eglington's property by six months and has deposited with the Escrow Agent \$25,000.00 as the first extension payment. The approval period will terminate on or before March 20, 2005. This matter will be carried over.

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

Thomas E. Stover, attorney representing Mt. Hermon United Methodist Church advises that the church is in the process of selling its building to the Seventh Day Adventist Church . However, before this can be accomplished Mr. Stover is trying to clarify title to the church's property as well as to the cemetery property which is adjacent to the cemetery. Mr. Stover's letter is a little confusing therefore DAG John Hugelmeyer will reach out to him for further clarification as to what is going on. This matter will be carried over.

## N. Piscataway Town Historical Cemetery Re: Ordinance #1397-2004

The Township of Edison previously came to the New Jersey Cemetery Board regarding Piscataway Town Historical Cemetery. The Township of Edison has been maintaining the cemetery for many years. It has never received revenue nor did it sell plots at the cemetery. The Township does not have any records regarding the owners of plots. The Township came to the Board advising that it was getting many requests from individuals requesting to be buried at the cemetery with their families. Many of these people have no paperwork to prove they have ownership to their plots. The township asked the Board if it would be okay for it to request affidavits from those desiring burial in the cemetery and who do not possess deeds to the burial plots. The Board advised the Township that it was up to its discretion as to whether or not it accepts affidavits. The Board received notification that the Township has since passed an ordinance requiring affidavits from those desiring burial at the cemetery which must be accompanied by a \$750.00 plot fee . An article recently appeared in the Home News Tribune regarding the Townships request for the affidavit along with the \$750.00 fee. Piscataway Town Historical Cemetery does not possess a Certificate of Authority from the Board and is a municipal cemetery. As such the Board does not regulate the cemetery or its fees; it is not under the purview of this Board. This matter is closed and removed from future Board meeting agendas.

## O. Correspondence from Grant Duffield, Vice-President, Institutional Investment Group, PNC Advisors

Grant Duffield, Vice-President, Institutional Investment Group, PNC Advisors has provided to the Board for review a proposal to help the cemeteries in New Jersey manage and administer their various trusts. The proposal would combine the assets of several cemeteries and their various trusts. Under the proposal individual cemeteries would adopt PNC's standard investment management or trust agreement. Each cemetery would have an independent investment management or trust agreement and separate accounts for each of its various trusts. PNC would serve as investment manager, trustee and custodian of all assets. Some cemeteries may opt to remain trustees of their various trust accounts, whereby PNC would then act as an investment manager and custodian only. A Committee of the Board reviewed the proposal and recommended to the full Board the following: based upon the information provided, the proposal does not appear to the Board to be prohibited in concept by the New Jersey Cemetery Act, 2003. The Committee also strongly urges that this does not in any way constitute approval of the proposal by the Board. A motion was made by Marion Brozowski and seconded by Stephen F. Hehl to approve the Committee's recommendation. A vote was taken and the motion was passed by a unanimous vote. Mr. Duffield will be advised of the Board's decision. This matter is closed and removed from future Board meeting agendas.

## III. NEW BUSINESS

### A. Periodic Legislative Report

This report was informational for the Board showing the history of this session's bills which the Board had previously been asked to comment.

### B. Request for waiver of \$75.00 Filing Fee for Annual

#### Mt. Laurel Cemetery (CA #331)

Susan D. Weaver, Treasurer/Trustee of Mt. Laurel Cemetery has requested that the Board waive the \$75.00 filing fee for the cemetery's 2004 Annual Report as the cemetery has very little activity and ways of gaining funds for current upkeep. A motion was made by William Nichols and seconded by June Nikola to waive the filing fee for the 2004 Annual Report for Mt. Laurel Cemetery based upon the financial condition of the cemetery. A vote was taken and the motion was passed by a unanimous vote. Ms. Weaver will be so advised and also will be advised that this is not a blanket waiver for future years. The cemetery would have to make the request on a yearly basis pending the status of its financial condition. This matter is closed and removed from future Board meeting agendas.

## Piney Hollow United Methodist Church (CA #341)

Hazel Koehler, Treasurer of Piney Hollow United Methodist Church Cemetery has requested that the Board waive the \$75.00 filing fee for the cemetery's 2004 Annual Report due to the financial condition of the cemetery. A motion was made by William Nichols and seconded by June Nikola to waive the filing fee for the 2004 Annual Report for Piney Hollow United Methodist Church Cemetery based upon the financial condition of the cemetery. A vote was taken and the motion was passed by a unanimous vote. Ms. Koehler will be so advised and also will be advised that this is not a blanket waiver for future years. The cemetery would have to make the request on a yearly basis pending the status of its financial condition. This matter is closed and removed from future Board meeting agendas.

## C. Correspondence from Harry H. Chandless, Jr., Esquire Re: Monmouth Memorial Park (CA #78)

Harry H. Chandless, Jr. is an attorney representing heirs of forty cemetery plots in Monmouth Memorial Park who live in different parts of the country and have no use for the plots. The individuals have attempted to sell the plots on their own but have been unsuccessful. They have asked the cemetery to buy them back. Monmouth Memorial Park has offered to repurchase them at the price they were purchased for in 1936 (\$125.00 per plot). Mr. Chandless asks if the cemetery purchases them back @ \$125.00 a piece and the now selling price is \$1,250.00 does this not violate the "not for profit" requirement under Cemetery Law. Mr. Chandless will be advised that no this is not the case. Mr. Chandless will be advised that there are no provisions in either the New Jersey Cemetery Act or the Board's regulations that mandate that cemeteries must purchase back graves. If a cemetery should offer to repurchase the graves, either the consumer agrees to the pricing the cemetery is offering or not. If the consumer is unsuccessful in selling the graves on his or her own, the graves can be donated to a charitable entity, whereby the sellers would have a tax deduction. Mr. Chandless also asked if there is a list of cemetery salesmen. The Board will advise Mr. Chandless that cemetery salespersons are not independent sales brokers. Salespersons licensed by this Board are licensed for a particular cemetery; their licenses do not mean they are free to go from cemetery to cemetery for the purpose of sales. Mr. Chandless advised that he has requested from the cemetery a list of its officers and for the time and place of its next lot owner's meeting. The Board will supply this information to Mr. Chandless if he puts his request in writing to the Board office. This matter is now closed and removed from future Board meeting agendas.

## D. Condemnation of cemetery property without Board approval Re: Malaga Cemetery Association (CA #196)

The Board has been advised by William C. Vaughn, Secretary/Treasurer Malaga Cemetery Association that in 2003 the New Jersey Department of Transportation through condemnation took a portion of the cemetery's property. The cemetery was compensated \$4,600.00 for this property. At the time Malaga Cemetery did not come to the Cemetery Board for approval for the sale of this property. Mr. Vaughn recently took over managing the cemetery as a result of the passing of his father Carl Vaughn who was President of the cemetery. William Vaughn has advised that he wants to be sure the cemetery is in compliance with the Board's statute and regulations. Mr. Vaughn will be advised that 15% of the \$4600.00 (\$690.00) must be deposited into the cemetery's Maintenance & Preservation Trust Fund and to please provide proof of such deposit to the Board office. This matter is closed and removed from future Board meeting agendas.

## E. Applications for Certificate of Authority

Alpine Cemetery Services, Inc.

Greenwood Cemetery Services, Inc.

Hollywood Memorial Park, Inc.

Laurel Grove Cemetery Services, Inc.

Restland Cemetery Services, Inc.

CMS Mid-Atlantic, Inc., has management companies that manage five (5) cemeteries in New Jersey. Wanting to be in compliance with the Board's new statute, it has made applications to the Board for Certificates of Authority for its five management companies; Alpine Cemetery Services, Inc., Greenwood Cemetery Services, Inc., Hollywood Memorial Park, Inc., Laurel Grove Cemetery Services, Inc., and Restland Cemetery Services, Inc.. The attorneys for these management companies were in attendance during Public Session and heard the Board's discussion regarding management companies and Certificates of Authority and the Board's decision to request an Attorney General's opinion on the matter. They advised the Board that regardless of the outcome of the opinion, they want to move forward with the applications. As per N.J.S.A. 45:27-7(d), the board shall not act upon an application for 60 days after receipt of an application, and shall only act after public notice of the application has been provided. If the board receives a written objection to the application, it shall hold a hearing on notice to the objector and the applicant before its acts upon the application. The applications will now be available to the public for review and comment. Barring any adverse comments to the applications, the Board will review the applications at its December 9, 2004 Board meeting.

F. Requesting Board approval for transfer of cemetery property Re: Estate of Stafflinger v. Marlboro Memorial Cemetery (CA #395)

Marion Brozowski and Paul M. Desbiens were recused from this matter and moved away from the table.

In 1996, Marlboro Memorial Cemetery acquired part of its lands from Emilia Stafflinger and the Stafflinger Trust. The Estate of Stella Stafflinger owned land adjacent to the lands conveyed to the Cemetery. It turned out that part of the Estate's house, garage and side yard were actually located on the property that the cemetery acquired. Although the cemetery obtained title insurance to the lands conveyed to it from Fidelity National Title Insurance Company, apparently there was an error in the survey upon which the company relied. In 2002, the Estate of Stafflinger filed suit against the Cemetery claiming adverse possession to part of the lands conveyed to the cemetery. The cemetery notified the title company of the claim and the title company undertook the defense of the cemetery. After much negotiation, a settlement was reached. Part of the settlement will be that the title company will pay to the cemetery the sum of \$70,00000 as consideration for the cemetery's loss of land. As the settlement contemplates transfer of certain cemetery lands to the Estate and the acquisition of lands by the cemetery from the Estate, James M. Burke, attorney representing Marlboro Memorial Cemetery has come to the Board for approval of the transfer. A motion was made by William Nichols and seconded by June Nikola to approve the transfer of properties with 15% of the \$70,000.00 being deposited into the cemetery's Maintenance & Preservation Trust Fund. 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.

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

The Board has been advised by William T. Jackson, Executive Director, Bayview-New York Cemetery that in 1998 the cemetery purchased a house and property adjacent to the cemetery and in 2002, purchased another home and property also adjacent to the cemetery. For a number of years the cemetery rented out the homes and when they became vacant, they were demolished. The one piece of property has been developed and interments have taken place there. The purchase of these homes and properties were conducted without approval from the New Jersey Cemetery Board. Mr. Jackson will be advised that under both Title 8A and the New Jersey Cemetery Act, 2003, a cemetery company shall not dedicate additional land for cemetery purposes without the Board's approval. Also, under both laws, a cemetery shall not be enlarged in any municipality without first obtaining the consent of the municipality by resolution; property that is contiguous to an existing cemetery is not exempt from this. As interments have taken place on one of the properties, the cemetery must make an application for Board approval for the enlargement of the cemetery area by purchase. Should Bayview-New York Bay Cemetery not comply with the Board's statute and regulations, it could face significant disciplinary action pursuant to N.J.S.A. 45:1-25. This matter will be carried over.

H. Application for a Cemetery Salesperson's License Re: Robert Fitz-Gerald Laurel Grove Cemetery (CA #30)

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

Robert Fitz-Gerald's application for a Cemetery Salesperson's License for Laurel Grove Cemetery was discussed in Executive Session and brought to Public Session for a vote as to whether or not a Cemetery Salesperson's License should be issued to him. A motion was made by Marion Brozowski and seconded by Marianne Panico to issue a Cemetery Salesperson's License to Robert Fitz-Gerald for Laurel Grove Cemetery. A vote was taken and the motion was passed by a unanimous vote.

#### IV. PUBLIC COMMENT

Bernard Stoecklein advised the Board that one of the cemeteries that CMS Mid-Atlantic, Inc. manages is nearing the completion of an underground mausoleum and is in the process of setting up its Trust Fund. Mr. Stoecklein suggested that perhaps the Board could propose a new regulation for one Trust Fund rather than separate funds. Mr. Stoecklein was advised that the statute states the Trust Funds shall be set up for the maintenance of the building thereby not allowing the commingling of various Trust Funds in one cemetery.

#### V. FOR YOUR INFORMATION

##### A. Disciplinary Matters—reported out from September 9, 2004 Executive Session

1. Ruffin Cemetery, Tinton Falls, NJ, (CA #342)—Final Order for violation of N.J.S.A.8A:4-5, (now N.J.S.A. 45:27-13) & N.J.S.A.8A:4- 12, (now N.J.S.A. 45:27-15); Civil Penalty of \$500.00 waived.
2. Sunset Memorial Park, Pennsauken, NJ, (CA #203)—Final Order for violation of N.J.S.A. 8A:4-5, (now N.J.S.A. 45:27-13) & N.J.S.A.8A:4- 12, (now N.J.S.A. 45:27-15); Civil Penalty of \$500.00 waived
3. Lower Bank Cemetery, Lower Bank, NJ, (CA #388)—Final Order for violation of N.J.S.A. 8A:4-5 (now N.J.S.A. 45:27-13); Civil Penalty of \$500.00 waived

These matters were discussed and acted upon in Executive Session and considered informational for the Public.

##### B. New Jersey State Board of Mortuary Science

Open Session Meeting Agenda—October 5, 2004

Open Session Meeting Minutes—June 1, 2004

Open Session Meeting Minutes—July 6, 2004

Open Session Meeting Minutes—August 3, 2004

Open Session Meeting Minutes—September 7, 2004

Open Session Meeting Minutes—September 20, 2004

Open Session Meeting Minutes—October 7, 2004

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

##### C. Cemetery Consumer Service Council Re: 2003 Activity Survey Data

This was considered informational for the Board deeming no discussion or decision making. The Board will however contact the Cemetery Consumer Service Council to ask if we should be reporting the number of and types of consumer complaints that the Board handles each year.

#### VI. ADJOURNMENT

A motion was made by William Nichols and seconded by Paul M. Desbiens to adjourn Public Session at 11:35 PM and move into Executive Session at 12:15 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:

- I. Seven (7) new matters or complaints filed with the Board which require review and recommendations in regard to investigation and/or actions.
2. Seventeen (17) 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