

NEW JERSEY CEMETERY BOARD
PUBLIC SESSION MINUTES
NOVEMBER 4, 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, November 4, 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. 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 any further information.

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

The Board has heard nothing further in this matter. D.J. Moore Craig, attorney for Hillside Cemetery will be contacted for an update on the status of the matter.

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

This matter will be held over pending confirmation of the establishment of the Maintenance & Preservation Trust Fund for Zion Cemetery Association.

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.

This matter appears to be moving forward and will be held over.

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

The Board has heard nothing further from Titusville Methodist Church Cemetery regarding its dissolution nor has it filed any Annual Reports for its Trust Fund. A motion was made by Marion Brozowski and seconded by William Nichols to issue a Settlement Letter to the cemetery for violation of N.J.S.A. 45:27-15 for failing to file

its Annual Reports with the Board office with a Civil Penalty in the amount of \$500.00. A vote was taken and the motion was passed by a unanimous vote. This matter will be carried over.

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

A Committee of the Board comprised of Board Chairman Frank J. DeGeeter, Jr. and Board member William Nichols conducted an on-site inspection of Pleasant Grove Cemetery and met with Rev. June Sievers and Mr. Lindaberry from the Pleasant Grove Presbyterian Church. The Committee reported their findings to the Board. The cemetery has rough terrains, weeds, vegetation and hundreds of broken and fallen monuments. The cemetery began in the late 1700's as a Church cemetery and was disaffiliated from the Church in the 1930's. There was a Board of Directors until 1978 when the Sliker family took over the cemetery's affairs and no further Board meetings were held. Mr. Sliker died several years ago and his son John took over the cemetery. No one in the Church has seen or has any knowledge of any burials, sales books, records, or interments. John Sliker is reported to have been arrested and in jail. Nothing is getting done at the cemetery. The Church is willing to take over the maintenance of the cemetery if records could be obtained and liability issues resolved. There are very few burial spaces available. The Committee proceeded to the Sliker residence where they met Mrs. Sliker who advised that she and John Sliker were separated and he lived elsewhere. Mrs. Sliker advised that the books and records for the cemetery were in the house but she couldn't hand them over. DAG John Hugelmeyer will make some phone calls to try to get the cemetery records. A motion was made by Marianne Panico and seconded by Paul Desbiens to subpoena the records if DAG Hugelmeyer is not successful in his quest. A vote was taken and the motion was passed by a unanimous vote. 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

The Board has heard nothing further regarding this matter. Executive Director Dianne L. Tamaroglio will contact Peter Platten, attorney representing the cemeteries asking for the status of this matter. This matter will be carried over.

H. Evergreen Cemetery (CA #72)

DAG John Hugelmeyer has advised the Board that the petition to the Court for the appointment of Louis Cicalese as Receiver for Evergreen Cemetery as well as for the payment of Receiver fees to Richard L. Berry's estate has been filed and is scheduled to be heard on November 19, 2004. Marie Berry has advised DAG Hugelmeyer that Norman Brewer is current through October with his payments to the cemetery's Maintenance & Preservation Trust Fund. DAG Hugelmeyer also advised the Board that there is an individual who wants to pave the roads of Evergreen Cemetery for free with recycled roofing materials. The Camden City Council has approved this. This project would have to go before the newly appointed Receiver of the cemetery before it can move forward. 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 will contact Geoffrey Schutzbank for an update on the status of the Fortitude Lodge, Knights of Pythias taking over the Tri County Lodge #182 Knights of Pythias, CA #367. This matter will be carried over.

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

The Board has received documentation from John P. Schmergel showing the establishment of Mount Holiness Memorial Park's Maintenance & Preservation Irrevocable Trust Fund with Merrill Lynch. This matter is closed and removed from future Board meeting agendas.

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

DAG John Hugelmeyer will reach out to Thomas E. Stover, Esquire for clarification and a better understanding of this matter. This matter will be carried over.

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

This matter will be held over pending confirmation that \$690.00 has been deposited into Malaga Cemetery Association's Maintenance & Preservation Trust Fund. The \$690.00 represents 15% of \$4600.00 that the cemetery received for condemnation of a portion of its property by the New Jersey Department of Transportation in 2003.

M. 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.

Paul M. Desbiens was recused from this matter and left the room.

These applications will be reviewed at the December 9, 2004 Board meeting pending no written objections from the Public to the applications. This matter will be carried over.

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

This matter will be carried over.

O. Correspondence from Smith Barney Citigroup

John A. Longo, Senior Vice-President, Investments of Smith Barney Citigroup has requested a response from the Board as to whether or not brokerage firms can hold M&P Trust Funds for cemeteries. Mr. Longo will be advised that as per N.J.S.A. 45:27-12(d), M&P Trust Funds shall be established in a State or federally regulated financial institution having and maintaining a principal place of business within this State. The fact that brokerage firms are considered financial institutions, at the present time there is no legal reason as to why cemetery Trust Funds can not be held by brokerage firms as long as the investments are made according to the Prudent investor Act.

II. Appearance Charles Manning, Regulatory Analyst

Re: N.J.A.C. 13:44J-5.3 & 5.4

N.J.A.C. 13:44J-8.4 & N.J.A.C. 13:44J-14.3

N.J.A.C. 13:44J-14.4

N.J.A.C. 13:44J-5.3 & 5.4

The Board previously proposed N.J.A.C. 13:44J-5.3, Trust Funds & N.J.A.C. 13:44J-5.4, Trust fund management/record keeping. Upon receipt of comments to these regulations, the Board voted to reserve these proposed reg's. A Committee of the Board along with Regulatory Analyst Charles Manning, DAG John Hugelmeyer and Executive Director Dianne L. Tamaroglio met at various times for the purpose of revisiting these regulations making changes taking into consideration the comments made from the public. The Board reviewed

these revised reg's at this Board meeting making suggested changes and additions. A motion was made by William Nichols and seconded by June Nikola to re-propose this regulation with suggested changes and additions. A vote was taken and the motion was passed by a unanimous vote. Mr. Manning will now work on preparation for re-proposal in the New Jersey Register.

N.J.A.C. 13:44J-8.4 & N.J.A.C. 13:44J-14.3

June Nikola was recused from discussion of N.J.A.C. 13:44J-14.3 and moved away from the table.

The Board also discussed with Mr. Manning N.J.A.C.13:44J-8.4, Temporary storage prior to final entombment or interment within a single cemetery and N.J.A.C. 13:44J-14.3, Pre-construction sales of mausoleum space. The Board discussed these regulations making suggested changes and additions. Mr. Manning will work on these suggested changes and bring back to the December 9, 2004 Board meeting for review with the Board members.

The Board also brought up the fact that there is a need for a regulation for the selling of graves in an undeveloped area of cemeteries. This will be worked on in the near future by the Regulation Committee of the Board.

III. NEW BUSINESS

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

Upon filing of its Fiscal Year 2004 Annual Report, Hayes Riverview Cemetery advised that in 2000 it received an exemption from the Board for payment of the \$75.00 Annual Report Filing Fee. A review of the cemetery's records in the Board office revealed that the cemetery was given a waiver for Fiscal Year 2000. The cemetery will be advised that it must come to the Board requesting a waiver of the Filing Fee on a yearly basis. Upon review of the cemetery's Annual Reports it was observed that on the 2001 report, the Book Value of the Fund was \$25,217.40 and the report stated that the total acreage of the cemetery was 4 acres. On the 2002 report, the Book Value jumped to \$101,262.08 and the reported acreage of the cemetery was now 2 acres. It would appear that the cemetery may have sold a portion of its property without Board approval. The Board will ask the cemetery if in fact this was the case and if so to please submit to the Board a copy of the closing statement from the sale of the property. If the property was not sold, the cemetery will be asked to provide an explanation of how the value of the Trust Fund jump so drastically. This matter will be carried over.

B. Could this be a violation of the New Jersey Cemetery Act, 2003 Re: Star Ledger article

An article from the Star Ledger regarding the burial of cremains on private property was brought to the attention of the Board by the Press office of the Division of Consumer Affairs. The Press office was inquiring as to whether or not this may be an infraction of the Cemetery Act. The owner of the property would like to set up around 30 such burial sites for cremains on his property and see the remainder of his property preserved for farming. Upon discussion of the contents of the article, it was determined that this is not a violation of Cemetery Law. It appears that the individual who owns the property is not charging anything for the placement of the cremains but rather is doing so out of the goodness of his heart. This matter is closed.

C. Bulk Sale Approval

1. East Ridgelawn Cemetery, (CA #18), Clifton, NJ to Macedonia Orthodox Church St. Kirl & Metodij, Cedar Grove, NJ

Executive Director Dianne L. Tamaroglio approved the bulk sale of 100 graves for \$90,000.00 (\$900.00 per grave). The required amount will be deposited into the Maintenance & Preservation Trust Fund of East Ridgelawn Cemetery.

D. Senate , No. 1930 Re: Attorney General requesting comments from Board

This pending bill which the Board was asked to comment to revises procedures for suspension or revocation of licenses for overdue child support. The Board made no comments to this bill..

E. Third Quarter Legislation Report for 2004

This was informational for the Board advising during the quarter ended September 30, 2004, no action was taken on any of this session's bills submitted to the Board for comment.

F. Withdrawal of \$9,000.00 from M&P Trust Fund Re: Marksboro Cemetery Association (CA #254)

It has been brought to the attention of the Board that Marksboro Cemetery Association has removed \$9,000.00 from the corpus of its Maintenance & Preservation Trust Fund for the purpose of paving the cemetery's roads. It appears from a review of the cemetery's past Annual Reports that the cemetery has been retaining its income in the corpus for many years and may not have an operating account. The cemetery will be advised that money cannot be removed from the corpus and must be replaced or the cemetery may make a request to the Board for a credit for the \$9,000.00 removed. Also, the cemetery will be advised that in the future, any income generated from the Fund should be removed and a separate operating account established for the cemetery for use when the need arises. This matter will be carried over.

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

On October 25, 2004, the Board received an application for a Certificate of Authority submitted by Timothy G. Hart, attorney for the Stafford Township Historical Society, Inc. on behalf of the Stafford Township Historic Cemeteries (Baptist & Methodist). The Board has many questions regarding this application and as such will ask Mr. Hart to attend the December 9, 2004 Board meeting to discuss the application with the Board and answer any concerns it may have. 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. This matter will be held over.

H. State Board of Mortuary Science Re: Proposed Regulations in New Jersey Register–October 18, 2004

The Board members have been provided with a copy of the State Board of Mortuary Science Proposed Regulations for Sunsetting which appeared in the October 18, 2004 New Jersey Register. This will be carried over giving the Board members the time to review the regulations and submit any comments to Executive Director Dianne L. Tamaroglio prior to the December 9, 2004 Board meeting. The Board will review any Board member comments at that time and submit same to the State Board of Mortuary Science. This matter will be carried over.

I. Correspondence from Robert P. Marasco, City Clerk, Newark Re: Woodland Cemetery (CA #49)

Robert P. Marasco, City Clerk, Newark has written to the Board advising that the Newark Municipal Council recently adopted a "Motion", sponsored by Council Member Bessie Walker, "Respectfully requesting the New Jersey Cemetery Board urge the ownership or manager of Newark's Woodland Cemetery, immediately clean the Central Ward- located burial ground of excessive garbage and litter, as well as repair the fence supporting the property, and that the State monitor the clean up effort". Mr. Parasco advises that neighbors and community leaders are complaining about the excessive filth and debris on the cemetery property. Mr. Marasco suggests that perhaps the cemetery would want to consider contracting with the International Youth organization or a local community organization to assist in maintaining a quality cemetery, in respect to the families and loved ones of those interred at Woodland Cemetery as well as the quality of life of the neighborhood. The Board will refer Mr. Marasco's letter to Bruce Barth, President, Woodland Cemetery and Sanford B. Epstein, whose management company carries out the maintenance at the cemetery.

J. Introduction of Assembly, No. 3430 Re: Changes definition of "cemetery company" in the New Jersey Cemetery Act, 2003

The Board reviewed Assembly Bill, No. 3430, which would change the definition of "cemetery company" in the New Jersey Cemetery Act, 2003. In the Act, "cemetery company" means a person that owns, manages, operates or controls a cemetery, directly or indirectly, but does not include a religious organization that owns a cemetery which restricts burials to members of that religion or their families unless the organization has obtained a certificate of Authority for the Cemetery. N.J.S.A.45:27-7(a) states that a "cemetery company" organized in accordance with this act after December 1, 1971 shall not operate a cemetery unless the company is a nonprofit corporation organized and operated in compliance with Title 15A of the New Jersey Statutes and has been issued a certificate of authority to do so by the board. The question as to whether or not management companies and sales management companies must hold a Certificate of Authority issued by the Board and be non-profit has stirred much controversy and as such the Board at its October 14, 2004 directed that we seek an Attorney General's opinion on this matter. Assembly Bill, No. 3430 would change the definition of "cemetery company" by adding that a cemetery company does not include a corporation, partnership, association or any other private entity, whether organized on a for-profit or non profit basis, that managed or operated a cemetery on behalf of a cemetery company prior to January 14, 2004 (the date of the signing of the new Cemetery Act). The Board does not believe that grandfathering these management companies would solve the problem. The Board would like to see that the person(s) operating cemeteries have a Certificate of Authority; whether or not they need to be non-profit or not is another issue. The Board believes that it would serve better to amend N.J.S.A. 45:27-7(a) rather than amend the definition of "cemetery company".

IV. PUBLIC COMMENT

No public comments were made today.

V. FOR YOUR INFORMATION

A. Magazine Article

The best place to die

Bargains to die for

B. New Jersey State Board of Mortuary Science

Open Session Meeting Agenda–October 26, 2004

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

VI. ADJOURNMENT

A motion was made by William Nichols and seconded by Stephen F. Hehl to adjourn Public Session at 12:40 PM and move into Executive Session at 12:50 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. Three (3) new matters or complaints filed with the Board which require review and recommendations in regard to investigation and/or actions.
2. Fifteen (15) 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