

**\*NEW JERSEY CEMETERY BOARD\***

**PUBLIC SESSION MINUTES**

**SEPTEMBER 9, 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, September 9, 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 Absent

Also in attendance were: Dianne L Tamaroglio, Executive Director for the New Jersey Cemetery Board; Deputy Attorney General John Hugelmeyer; Regulatory Analyst Charles Manning; and Burt Liebman, Director, Regulatory and Legislative Affairs.

**I. APPROVAL OF PUBLIC SESSION MEETING MINUTES OF JULY 8, 2004**

A motion was made by Marion Brozowski and seconded by William Nichols to approve the Public Session Minutes of July 8, 2004 as corrected. A vote was taken and the motion was passed by a unanimous vote.

**II. APPEARANCE BURT LIEBMAN, DIRECTOR, REGULATORY & LEGISLATIVE AFFAIRS, DIVISION OF CONSUMER AFFAIRS**

Re: Process for amending legislation

Burt Liebman, Director, Regulatory & Legislative Affairs, appeared before the Board today to discuss the legislative process and how legislation that has been passed can be amended. The passage of the Board's new statute, has raised concerns with some of the provisions. As with anything that is new, every time you read the law, you find something questionable; many of the provisions need clarification. For these reasons, the Board requested an explanation of the legislative process. The Board members were very pleased with how Mr. Liebman took them through the process and also by his being candid about how pending legislation can just stop in its tracks and never go anyplace. This was very informative for the Board members as well as for those from the industry who were in attendance during the Public Session.

**III. DISCUSSION WITH CHARLES MANNING, REGULATORY ANALYST, DIVISION OF CONSUMER AFFAIRS**

Re: N.J.A.C.13:44J et seq. Revised

The Board reviewed and discussed with Regulatory Analyst, Charles Manning revisions to its regulations

necessitated by the passage of the New Jersey Cemetery Act, 2003. A Committee of the Board along with Executive Director Dianne L. Tamaroglio and DAG John Hugelmeyer worked on these revisions with Mr. Manning. With a few minor changes made by the Board, a motion was made by Marion Brozowski and seconded by Paul Desbiens to approve the amendments to the regulations. N.J.S.A.45:27-32(c), the section of the new act which requires regulation by the Board regarding the reclamation of bulk sale graves will be discussed at a later date. A vote was taken and the motion was passed by a unanimous vote. Mr. Manning will now prepare the prefatory language for publication in a future New Jersey Register.

N.J.A.C. 13:44J-8.4 & N.J.A.C. 13:44J-14.3 will be discussed at a future date by the Regulation Committee of the Board. Larry Nikola, President, Memorial Properties has forwarded a memorandum to the Board regarding these two regulations. The memorandum will be discussed by the Committee of the Board at its Committee meeting. This matter will be carried over.

#### **IV. OLD BUSINESS**

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

George Watson, Greenwood Cemetery, has expressed his disappointment in that the cemetery cannot at this time use any of the proceeds of the \$37,602.20 received by the cemetery for the condemnation of a portion of the cemetery property by the County of Ocean for the betterment of the cemetery. Board member Paul M. Desbiens will contact Richard A. Beran, the attorney representing the cemetery in this matter and explain why the money cannot be used at this time. This matter will be carried over.

B. Requesting approval for credit taken on Maintenance & Preservation Trust Fund Re: Heavenly Rest Memorial Park (CA #304)

John P. Schmergel has provided the Board with statements from Merrill Lynch for Heavenly Rest Memorial Park's Maintenance & Preservation Trust Fund confirming the establishment of the cemetery's Trust Fund. The cemetery is now in compliance with the Board's statute. This matter is now closed and removed from future Board meeting agendas.

Mr. Schmergel has advised the cemetery if in fact the Trust Account for Heavenly Rest is in compliance, he will proceed to make the arrangements to create an irrevocable Trust Fund for the other cemetery under his management, Mount Holiness Memorial Park (CA # 305). A review of the Annual Report for Mount Holiness Memorial Park has revealed that the cemetery's Trust Fund is not titled correctly; following the cemetery's name is LLC. Mr. Schmergel will be advised that this cannot be a part of the title of the Trust Fund; it must be in the name of the cemetery only and the new irrevocable Trust Fund must be titled correctly. This matter will be carried over.

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

This matter will be held over.

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

Marjorie Rockelman, Treasurer for Zion Cemetery has advised the Board office that the cemetery is in the process of establishing its Maintenance & Preservation Trust Fund. She will forward confirmation of same to the Board upon its establishment. This matter will be carried over.

E. 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 proceeding along. He also advised that he expects to have DCA approval within 60 days 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.

F. Inquiry regarding Maintenance & Preservation Trust Funds

Re: Smith Barney

Frank Abella, Investment Partners Group has written to the Board with a plan surrounding asset management of Maintenance & Preservation Trust Funds for small cemeteries. Mr. Abella's plan would be for smaller cemeteries to combine and outsource the administrative function of asset management by participating on a pro-rata basis in one Maintenance & Preservation Fund. While Mr. Abella's plan may appear to have some merit, he will be advised the Board's statute does not permit the commingling of funds for various cemeteries; each cemetery must manage its own Trust Fund and report & file separately its Annual Report with the Board office.

G. Titusville Methodist Church Cemetery (CA #259)

Re: Exemption from New Jersey Cemetery Law

The Board has not yet received any of the required documentation from Titusville Methodist Church Cemetery regarding the dissolution of the cemetery. A letter will go out to the cemetery advising that it either provide the necessary documentation for dissolution or it must file its Annual Reports with the Board office. This matter will be carried over.

H. Correspondence from Rev. June D. Sievers

Re: Pleasant Grove Cemetery

Consumer Jean Z. Roy has written to the Board advising that Pleasant Grove Cemetery is no longer being maintained; those who have paid for perpetual care are no longer receiving receipts for their payment. Also, neither the caretaker, John Sliker for the cemetery or any members of the Cemetery Association can be reached. DAG John Hugelmeier has issued a Demand for Statement to John Sliker as requested by the Board. Mr. Sliker has not responded to the Demand. Rev. June Sievers has also advised the Board that the cemetery is neither being managed or maintained. Also, Rev. Sievers advises that at a recent meeting of several of the church members, several individuals have volunteered to serve on a properly constituted Board and take over management of the cemetery. However, no one will assume this responsibility without being in receipt of all cemetery records and a full and complete accounting of all perpetual care funds. Rev. Sievers will be asked to provide the names of the individuals who are interested in being on the Board of the cemetery. Upon discussion of this matter, a motion was made by Marion Brozowski and seconded by William Nichols to send an investigator to question Mr. Sliker if he does not respond to the Demand for Statement. A vote was taken and the motion was passed by a unanimous vote. As the Board has been advised that Pleasant Grove Cemetery buries those of all faiths, it must apply to the Board for a Certificate of Authority. This matter will be carried over.

I. 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.

J. Correspondence from Kenneth Pearson

Re: Sale of crematories & Potter's Field

Kenneth Pearson has responded to the Board advising that his interest in "Potter's Field", known as City Cemetery is that a few of his relatives were buried there. Mr. Pearson further says that he has been told the State has important records for cemeteries; he is requesting copies of these records for "Potters Field". He is requesting copies of any information the Board office may have on file. Mr. Pearson will be advised that City Cemetery was not under the jurisdiction of this Board and we therefore haven't any of the cemetery's records. He will also be advised that this cemetery has been the subject of a lawsuit. DAG John Hugelmeyer has provided information to be forwarded to Mr. Pearson regarding the history of the cemetery. This matter is closed and removed from future Board meeting agendas.

#### K. Confirmation of Cemetery Board Meeting dates for 2005

The Cemetery Board confirmed its Board meeting dates for 2005. The dates are as follows:

January 13, 2005  
February 17, 2005  
March 10, 2005  
April 14, 2005  
May 12, 2005  
June 9, 2005  
July 14, 2005  
August 11, 2005  
September 8, 2005  
October 13, 2005  
November 10, 2005  
December 8, 2005

#### V. NEW BUSINESS

##### A. Inquiry from Robert W. Halsey, Springfield Church Re: Memorial Gardens

Robert W. Halsey, Elder, Springfield Church has written to the Board regarding the establishment of a "Memorial Garden" adjacent to the Church. The Church has not decided whether the ashes will be placed in urns, biodegradable packets or dispersed on the ground. Mr. Halsey wants to know if the State mandates any particular method for the interment of cremains. The Church is thinking that only Church members and immediate family members will be placed in the garden; Mr. Halsey asks if someone who does not come under those parameters is placed in the "Garden", would the State say that the "Memorial Garden" must be made available to anyone? Mr. Halsey also asks if the Church in the future expands its building and needs the area of the "Memorial Garden", how does the Church handle the cremains that have been placed there? Mr. Halsey will be advised that the State does not mandate a particular method for the interment of cremains; if the Church inter or disburses those who are not members of the immediate family or who are not members of the faith, the Board would not say that the "Memorial Garden must be open to anyone. However, in the case of burying those who are not members of the faith, the Church would have to apply to the Board for a Certificate of Authority to become a "Cemetery Company". Also, as per the New Jersey Cemetery Act, 2003, "Cemetery" means any land or place used or dedicated for use for burial of human remains or disposition of cremated human remains....In light of this definition, Springfield Church would have to dedicate the property for the Memorial Garden as cemetery property and if it allows the burial or disbursement of those who are not of the faith, it would have to apply to the Board for a Certificate of Authority. If the Church chooses to become a "Cemetery" or "Cemetery Company", it would have to seek guidance from the municipality regarding its zoning laws. If the Church in the future should decide to expand and needs the area of the "Memorial Garden", Mr. Halsey will be advised that after some time (50-100 years) urns are not recoverable as they become corrupted. This matter is now closed pending any further correspondence from Mr. Halsey.

##### B. Bulk Sale Approvals

1. Beth El Memorial Park (CA #100), Pennsauken, NJ to  
Kuan Yin Buddhist Association, Philadelphia, PA

Executive Director Dianne L. Tamaroglio approved the bulk sale of 90 inurnment spaces for \$82,000.00 (\$911.00 per grave). The required amount will be deposited into the Maintenance & Preservation Trust Fund of Beth El Memorial Park.

2. Beth Israel Cemetery Association, (CA #01), Woodbridge, NJ to Temple Beth El. Somerset, NJ

Executive Director Dianne L. Tamaroglio approved the bulk sale of 25 graves for \$17,500.00 (\$700.00 per grave). The required amount will be deposited into the Maintenance & Preservation Trust Fund of Beth Israel Cemetery Association.

3. Laurel Grove Cemetery, (CA #30), Totowa, NJ  
to Abdur Pathan, Clifton, NJ

Executive Director Dianne L. Tamaroglio approved the bulk sale of 50 graves for \$45,000.00 (\$900.00 per grave). The required amount will be deposited into the Maintenance & Preservation Trust Fund of Laurel Grove Cemetery.

4. Osage Cemetery Association, Inc., d/b/a Frost Woods Memorial Park, (CA #381), East Brunswick, NJ to  
American Association of Buddhist Education, Inc., Monmouth Junction, NJ

Executive Director Dianne L. Tamaroglio approved the bulk sale of 48 graves for \$38,400.00 (\$800.00 per grave). The required amount will be deposited into the Maintenance & Preservation Trust Fund of Osage Cemetery Association.

5. Laurel Grove Cemetery, (CA #30), Totowa, NJ to Grace Korean United Methodist Church, Westwood, NJ

Executive Director Dianne L. Tamaroglio approved the bulk sale of 50 graves for \$38,750.00 (\$775.00 per grave). The required amount will be deposited into the Maintenance & Preservation Trust Fund of Laurel Grove Cemetery.

6. Ernst Memorial Cemetery, (CA # 404), Parlin, NJ to New Jersey Fuzhou Association, Hillside, NJ

Executive Director Dianne L. Tamaroglio approved the bulk sale of 2000 graves for \$1,300,000.00 (\$650.00 per grave). The required amount will be deposited into the Maintenance & Preservation Trust Fund of Ernst Memorial Cemetery.

C. Correspondence from Marie B. Berry

Re: Passing of Richard L. Berry, Receiver, Evergreen Cemetery

Marie B. Berry, has advised the Board of the passing of Richard L. Berry, Receiver, Evergreen Cemetery. Mr. Berry passed away on July 30, 2004. All Board members expressed their sympathies. Mr. Berry worked very hard trying to get the cemetery in order. We will ask Mrs. Berry to provide us with any of the cemetery's records she has in her possession. The Board now has the task of having another receiver appointed. This matter will be carried over.

D. Request for Board approval for lease of 150 square feet in the All Faith's Memorial Tower to Sprint PCS

Re: George Washington Memorial Park (CA #26)

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

George Washington Memorial Park has applied for Board approval for the leasing of approximately 150 square feet in the cemetery's ten story All Faiths Memorial Tower to Sprint PCS for \$27,000.00 per year for a five year

term with three consecutive options to renew at a 20% increase in lease amounts at each renewal. A total of up to eight antennas will be placed at the top of the 160 foot structure and will be matched to the building's limestone exterior. This Tower was built as a columbarium in the early 1950's and is the only one of the cemetery's buildings not having a Trust Fund for its maintenance. Mr. DeGeeter has advised that all proceeds of the lease will be placed into an irrevocable Trust Fund for the maintenance of the building, using only the income for such maintenance. A motion was made by William Nichols and approved by June Nikola to approve the lease. A vote was taken and the motion was passed by a unanimous vote. This matter is closed and removed from future Board meeting agendas.

**E. Cemetery and assets absorbed by new entity**

Re: Tri County Lodge #182 Knights of Pythias (CA #367)

Tri County Lodge #182 Knights of Pythias was contacted by the Board office as its 2003 Annual Report which was due on May 1, 2004, had not been filed with the Board office. The Board has been advised by Arnold Adirim, Treasurer that the reason the Annual Report has not been filed is because the Tri County Lodge #182 Knights of Pythias is no longer in existence as an entity; it has been absorbed along with the cemetery and all assets by Fortitude Lodge, Knights of Pythias.. He has advised that Geoffrey Schutzbank is now the person in charge of the cemetery. It appears that the cemetery, Tri County Lodge #182 Knights of Pythias would have to apply to the Board for dissolution according to N.J.S.A. 45:27-8(d) and follow the requirements of N.J.A.C. 13:44J-13.2 and the Fortitude Lodge, Knights of Pythias would have to apply for a Certificate of Authority. There is the concern that Geoffrey Schutzbank is a licensed Funeral Director in New Jersey, and as such he could not be engaged in the management, operation or control of a cemetery owned by a cemetery company as per N.J.S.A. 45:27-16-c(4). DAG John Hugelmeyer will contact Mr. Schutzbank to get a clearer understanding of what has transpired at the cemetery and to discuss his position with the cemetery. This matter will be carried over.

**F. Correspondence from Matthew N. Greller, Esquire**

Re: Requesting interpretation of the New Jersey Cemetery Act, 2003

Matthew N. Greller, Esquire has requested clarification of some of the requirements of the New Jersey Cemetery Act, 2003. Mr. Greller is seeking confirmation that the Act was not intended to prohibit a licensed, non-profit cemetery company, which complies with the trusting and reporting requirements of the Act, from contracting with a for-profit professional manager to manage aspects of the cemetery on behalf of the licensed non-profit cemetery company. According to the New Jersey Cemetery Act, 2003, management companies must have a Certificate of Authority and must be non-profit. Therefore existing management companies would have to apply for a Certificate of Authority and would have to become non-profit. Sales management companies are not included under this provision of the law. The Law must be adhered to; to do otherwise would require a change to the statute. DAG Hugelmeyer will draft a letter to Mr. Greller regarding this matter and will be reviewed by the Board at its October 14, 2004 Board meeting. This matter will be carried over.

**VI. PUBLIC COMMENT**

No Public Comments were made today.

**VII. FOR YOUR INFORMATION**

**A. Disciplinary Matters—reported out from July 8, 2004 Executive Session**

1. Rosedale Cemetery, Orange, NJ, (CA #042)—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);; paid Civil Penalty of \$500.00
2. Franklin Memorial Park, (CA #126)—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); paid Civil Penalty of \$500.00
3. Shoreland Memorial Gardens (CA #146)—Final Order for violation of N.J.S.A. 8A:4-5 (now N.J.S.A. 45:27-

13); paid Civil Penalty of \$500.00

4. Baleville Cemetery, (CA #216)–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); paid Civil Penalty of \$500.00

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 Minutes–May 4, 2004

Open Session Meeting Agenda–August 3, 2004

Open Session Meeting Agenda–September 7, 2004

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

#### C. Notification of Order to Show Cause

Re: Nathan Ellman v Crescent Burial Park, Inc. (CA #056)

This matter was considered informational for the Board. Nathan Ellman has filed a complaint with the Board office against Crescent Burial Park, Inc., which will be discussed in Executive Session.

#### D. Newspaper/Magazine Articles

Visits to cemeteries soothe the soul

Mourners upset by cemetery upkeep

Green Graveyards–A Natural Way to Go

Green burials become option elsewhere

Pet cemetery clients angered by late fees

Originating Funeral Home Must Oversee Final Disposition

Caskets for less, at Costco

The article regarding Pet Cemeteries was of specific interest to the Board as the article mentioned that a person was buried there next to his dog. The Board will write to Pet Lawn Memorial Park asking if in fact this is true and if so, what were the circumstances surrounding the burial. The remaining articles were considered informational for the Board deeming no discussion or decision making.

#### E. Eagleton Institute of Politics

Another Government Success Story–Citizen Volunteers on New Jersey State Boards and Commissions

This was a result of a survey taken a few years ago of members and staff directors of State Boards and Commissions which was conducted by the Eagleton Institute of Politics. The Institute conducted this study to call attention to New Jersey's extensive use of public boards and commissions and to examine their efficacy in lessening the distance between government and the governed. The study also explores whether service on a board or commission changes a member's impressions of government, and suggest changes that could increase the value of these citizen groups. This was considered informational for the Board deeming no discussion or decision making.

F. Notification of Civil Action

Re: William J. Marsden, Jr., Joann Andren, Gloria Stavropoulos, and the Estate of Muriel S. Marsden, Plaintiffs vs. Englewood Cemetery Association d/b/a Brookside Cemetery, (CA #107), John Does I-X

Docket No: L-9415-04

This matter was considered informational for the Board. William Marsden had previously filed a complaint against Englewood Cemetery with the Board office. The Board had closed the complaint as Mr. Marsden stopped responding to the Board's inquiry's regarding the complaint.

**VIII. ADJOURNMENT**

A motion was made by William Nichols and seconded by June Nikola to adjourn Public Session at 12:50 PM and move into Executive Session at 1:35 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. Four (4) new matters or complaints filed with the Board which require review and recommendations in regard to investigation and/or actions.
2. Twenty (20) 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