

NEW JERSEY CEMETERY BOARD
PUBLIC SESSION MINUTES
NOVEMBER 10, 2005

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 10, 2005. 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. Due to a lack of quorum the meeting was opened in Committee. A roll call was taken and the following attendance of Board members was recorded for these minutes:

Claribel Azcona-Barber Present arrived 9:40 AM
Marion Brozowski Present
Lawrence Colasurdo Present
Frank J. DeGeeter, Jr. Present
Paul M. Desbiens Present
Stephen F. Hehl Present arrived 9:37 AM
Waheed Khalid Absent
June Nikola Present
William Nichols 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; and Jonathan Eisenmenger, Assistant to William Mandeville, Managing Executive Director, Division of Consumer Affairs.

II. APPROVAL OF PUBLIC SESSION MEETING MINUTES OF OCTOBER 13, 2005

A motion was made by Lawrence Colasurdo and seconded by June Nikola to recommend to the full Board that the Public Session Minutes of October 13, 2005 be approved as amended. With the arrival of Board members Claribel Azcona-Barber & Stephen F. Hehl the Board went out of Committee and into the regular Board meeting. A vote was taken and the Public Session Minutes of October 13, 2005 were approved as amended.

III. APPEARANCE CHARLES MANNING, REGULATORY ANALYST
Re: NJAC13:44J-14.3

At the September 8, 2005 Board meeting, the Board reviewed with Chuck Manning, Regulatory Analyst, a new regulation, N.J.A.C. 13:44J-14.3, Sale of 17 or more interment spaces or niches to a person other than a membership or religious corporation or unincorporated association or society. The regulation calls for affidavits to be signed by the purchaser as well as by the cemetery attesting that the purchase is not being made with the intent to re-sell. At today's meeting, the Board reviewed the affidavits prepared by Mr. Manning. Some suggested revisions were made by DAG John Hugelmeyer. A motion was made by Marion Brozowski and seconded by William Nichols to approve the rule with the suggested revisions to the affidavits. A vote was taken and the motion was passed by a unanimous vote. Mr. Manning will prepare the prefatory language for publication in a future New Jersey Register.

IV. 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 of a hearing to determine the amount of compensation to be paid to Greenwood Cemetery by the County of Ocean for taking a portion of the cemetery's property. This matter will be carried over.

B. 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 will be carried over.

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

Sheldon Gould has filed the 2003 Annual Report for the cemetery with the Board office; 2004 has not yet been filed. The report has errors which Lola Lesslie, Board office staff member has been trying to assist Sheldon Gould with. The cemetery name has not been officially changed with the Secretary of State nor have the requirements for the merger of two cemeteries been forwarded to the Board. This matter will be carried over.

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

George Booktor, Board Accountant has prepared an analysis of Hayes Riverview Cemetery's Trust Fund for the period 1998-2004. The analysis shows that over this period of time, \$4,921.05 was removed from the corpus of the Trust. It also appears that the cemetery does not have two separate accounts, one for operating and the Trust Fund. Representatives of the cemetery will be asked to meet with a Committee of the Board along with DAG John Hugelmeyer and Executive Director Dianne L. Tamaroglio on Tuesday, December 13, 2005 for the purpose of going over the Trust Fund and explaining how to establish two separate accounts. This matter will be carried over.

E. Should this cemetery have a Certificate of Authority
Re: Mahwah Cemetery

DAG John Hugelmeyer has received a response to the Demand for Statement in Writing Under Oath from Mahwah Cemetery. Cemetery Chairman Geoffrey Gohlich has advised that the cemetery's land is dedicated for the burial of Protestants but it does not prevent the burial of non-Protestants. Mahwah Cemetery would therefore have to apply for a Certificate of Authority from the Board. As the application for a C/A was previously sent to the cemetery, a letter will be sent advising that it must now complete the application and forward same to the Board. This matter will be carried over.

F. Cedar Heights Cemetery (CA #263)
Re: Withdrawal of \$4,786.00 from Trust Fund

A subpoena has been issued to an officer of Cedar Heights Cemetery to appear before the Board at its December 8, 2005 Board meeting for discussing the withdrawal of \$4,786.00 from the corpus of the cemetery's Trust Fund. This matter will be carried over.

G. Requesting Board approval for sale of land
Re: The Fair Mount Cemetery (CA #176)

This matter will be carried over pending receipt of notification of the sale of the property and the amount of the proceeds realized from the sale.

H. Provisional Orders issued June, 1999 for non-filing of Annual Reports

Pennington African Cemetery (CA #382)

A letter has been sent to the NJ Historical Society requesting a list of designated historical cemeteries to see if by chance Pennington African Cemetery may be on that list. A letter has also been sent to the municipality of Pennington requesting any information it may be able to offer regarding the cemetery. A letter will be sent to the Pennington Tax Assessor for any information it might have in the tax records regarding the cemetery. This matter will be carried over.

Elmwood Cemetery (CA #90)

DAG John Hugelmeyer will prepare a Final Order to be issued to Elmwood Cemetery as it has complied with the Provisional Order.

Garden of Rest Cemetery (CA #350)

David Soulen, President, Fairmount Cemetery Association and Somerset Hills Memorial Park has written to the Board advising that Garden of Rest Cemetery never existed as an operating Cemetery. It was a 2.6 acre parcel of land between Somerset Hills Memorial Park and Holy Cross Cemetery. The parcel of land has a stream running through the middle rendering the land mostly unusable due to stream encroachment zones. It appears that Fairmount Cemetery Association purchased the land from the Roselli family in 1993. Mr. Soulen advises that he didn't think anyone from Somerset Hills Memorial Park was aware that Garden of Rest Cemetery had a C/A. The Board will request that Mr. Soulen meet with a Committee of the Board on Tuesday, December 13, 2005 to discuss this matter.

Deckertown Union Memorial Park Cemetery (CA #155)

Peter Horvath has advised the Board that he is not involved with Deckertown Cemetery and that to his knowledge there is only one remaining Cemetery Board member, Bud Harford. Mr. Horvath further advises that over the years no one wanted to be responsible for the cemetery funds and he was requested to manage the funds. There are two bank accounts at the Bank of New York in Sussex Borough; the Trust account has \$5,000.00 in it and the operating account has \$6,000.00. As a local funeral director, Mr. Horvath has assisted the cemetery in that he has the three record books of the cemetery in his possession. Basically, he assists grave owners in locating their burial plots. The phone number posted at the entrance of the cemetery is that of Mr. Horvath's private residence. Mr. Horvath also advised that there will shortly be a new Cemetery President, Allan Dunn of Dunn & Dunn Well Drillers located in Wantage Township. The Board will write to both Bud Harford and Allan Dunn for information regarding their roles with the cemetery.

Perrinville Cemetery (CA #41)

DAG John Hugelmeyer will issue a subpoena to one of the last known officers of the cemetery as listed on the 1991 Annual Report.

Cherryville Mountain View Cemetery (CA #65)

DAG John Hugelmeyer will prepare a Final Order to be issued to Cherryville Mountain View Cemetery as it has complied with the Provisional Order.

Salem Cemetery (CA #276)

DAG John Hugelmeyer will issue a subpoena to one of the last known officers listed on the cemetery's 2000 Annual Report.

New Asbury Meeting House Cemetery (CA #349)

Judy Welshons, Executive Director, New Jersey Cemetery Association has advised the Board that she will make a visit to this cemetery in the Spring of 2006 to gather any information she can regarding the operation of the cemetery.

Odd Fellows Cemetery (CA #330)

Judy Welshons, Executive Director, New Jersey Cemetery Association has found out the following regarding Odd Fellows Cemetery:the cemetery appears to be an African American Cemetery. The person who conducts the openings and closings at the cemetery is Danny Moore. Mr. Moore has confirmed that the cemetery is not affiliated with the main Odd Fellows Lodge and doesn't know how the cemetery started using the name. Mr. Moore's family has operated the cemetery for generations back to his great-grandfather. Mr. Moore also does all foundation work and is paid directly for his services. There are few graves left in the cemetery and there is no longer a Board. Mr. Moore's mother handles some of the administrative work. All checks are made out to Odd Fellows Cemetery. Executive Director Dianne L. Tamaroglio has written to Mr. Moore as well as to his mother advising both to contact the Board office so that we can discuss the status of the cemetery and bring it back into compliance with cemetery law. This matter will be carried over.

Hainsville Cemetery (CA #262)

A subpoena will be issued to Carol Ayers, Hainsville Cemetery requesting her appearance at the January 12, 2005 Board meeting to discuss the cemetery's Annual Reports. This matter will be carried over.

J. Amended Right of Way Easement Agreement Re: Hillside Cemetery Company (CA #398)

This matter will be held over pending receipt of the Amended Agreement with the Grantee's signature.

K. Seeking advise Re: Cedar Ridge Cemetery Company (CA #54)

David J. Shotwell, Secretary/Treasurer, Cedar Ridge Cemetery Company has provided the Board with an update on the status of the repair of the Jacksonburg Dam. Mr. Shotwell is concerned that if the cemetery is forced to reconstruct the dam, it will be forced to file for bankruptcy and has concerns that if this were to happen, who or what entity would become responsible for the functions of the cemetery. Mr. Shotwell will be advised that as per NJSAA45:27-20, a cemetery is precluded from foreclosure to satisfy a judgement. Also, Mr. Shotwell will be advised that the cemetery should procure an attorney to assist them with this situation using funds from the cemetery's operating account not from the corpus of the Trust. This matter will be removed from future Board meeting agendas bringing it back if we receive more correspondence from Mr. Shotwell.

L. Withdrawal of funds from M&P Trust Fund Re: Stillwater Cemetery (CA #363)

It appears that the 2005 Annual Report filed by Stillwater Cemetery is the first report filed with the Board office since 1990; the cemetery's M&P file in the Board office is void of any other reports. It seems a little odd that the cemetery would all of a sudden start filing its reports. To ascertain as to whether or not the reports have been filed and perhaps have been filed away incorrectly, the cemetery will be asked to provide copies of all reports from 1990 through 2004. This matter will be carried over.

M. Requesting Board Assistance Re: Lake Nelson Memorial Park (CA #99) September 8, 2005 agenda

Daniel L. Pancione, Director, Lake Nelson Memorial Park has written to the Board advising that he does not agree with the Board when it says that neither the Board nor the Attorney General's office participated in the negotiations between Lake Nelson and Castle Group. Mr. Pancione is requesting that the Board review its decision. A letter will go to Mr. Pancione advising that the Office of the Attorney General has never represented Lake Nelson Memorial Park. The continuing controversy regarding the construction of an office for the cemetery is between the two co-defendants to that original complaint and does not involve the Board. Mr. Pancione will also be advised that this matter is a private litigation between Lake Nelson Memorial Park and Castle Group, Inc., for

which no representation shall be provided by the Attorney General. This matter is closed and removed from future Board meeting agendas.

N. Land Sale

Re: Eglington Cemetery (CA #98)

Peter Platten, Attorney representing Eglington Cemetery has advised the Board that on September 15, 2005 the closing for the land sale between Eglington Cemetery and Atlantic Five Development, Inc. took place. Mr. Platten provided the Board with an Amendment to the Agreement of Sale, the Settlement Statement, and confirmation that the sum of \$16,000.00 was deposited into the M&P Trust Fund of Gates of Heaven Cemetery. With the submission of the Amendment to the Agreement of Sale, the Settlement Statement and confirmation of the deposit of \$16,000.00 into the Trust Fund, a motion was made by Stephen F. Hehl and seconded by Marion Brozowski deeming the requirements of the Consent Order dated June 10, 2004 to have been fully consummated. A vote was taken and the motion was passed by a unanimous vote. The Board considers this matter to be closed and removed from future Board meeting agendas.

V. NEW BUSINESS

A. Bulk Sale Approvals

Seaside Cemetery Company, (CA #111), Palermo, NJ to Muslim Community Organization of South Jersey, Atlantic City, NJ

Executive Director Dianne L. Tamaroglio approved the bulk sale of 594 graves for \$120,000.00 (\$202.02 per grave). The required amount will be deposited into the Maintenance & Preservation Trust Fund of Seaside Cemetery Company.

B. Application for the approval of lease of non-dedicated cemetery property

Re: Barnegat Memorial Cemetery Association (CA #361)

Barnegat Memorial Cemetery, Inc. has made an application to the Board to lease a parcel of the cemetery's land that is not dedicated for cemetery purposes to Sprint Spectrum, L.P. for the purpose of erecting a cell tower. The cemetery has provided the Board with all of the requirements of N.J.A.C. 13:44J-13.7. Before a determination can be made, Board member June Nikola will conduct an on-site inspection of the area proposed for the cell tower to be sure that it will not in any way be a hindrance to burials that have taken place, to future interments where graves may have been purchased, or to pathways or access roads. This matter will be carried over.

C. Consumer requesting refund of M&P deposit for purchase of graves

Mr. & Mrs. John Sperry previously purchased 2 single graves at Somerset Hills Cemetery. They requested the cemetery to purchase back the graves; the cemetery has agreed to purchase them giving them a partial refund. The consumers are now requesting the \$630.00 that was deposited into the cemetery's Trust Fund. The Board will ask the cemetery to respond to the consumers's request. This matter will be carried over.

D. Correspondence from Cindy Leip, Bank of America

Re: Ewing Church Cemetery's Maintenance & Preservation Trust Fund (CA #20)

Cindy Leip, Vice-President, Trust Officer, Bank of America has written to the Board advising that the trust agreement for Ewing Cemetery's Maintenance & Preservation Trust Fund, gives the Grantor (in this case, Ewing Church), the right to withdraw money from the corpus of the cemetery's Trust Fund. The Trust is signed with the church as grantor. Ms. Leip advises that in conversations with someone from the cemetery she has learned that there are some rumblings of the church wanting to invade the Trust. Ms. Leip asks if in fact the church can withdraw money from the corpus of the Trust. The Board reviewed a copy of the trust agreement and it appears that the Trust Fund had been set up in a Revocable Trust rather than an Irrevocable Trust which is required by N.J.S.A. 45:27-12b. The cemetery might want to work at having the Trust Fund changed to an Irrevocable Trust.

The Church cannot invade the Trust under any circumstances; the cemetery statute does not allow that. It is the Board's prime responsibility to be sure that the Trust Funds remain in tact and that money is not withdrawn from the corpus. This matter is closed and removed from future Board meeting agendas.

E. Request for extension in filing of 2005 Annual Report
Re: Good Luck Cemetery Association (CA #59)

Michael R. Cort, CPA has written to the Board requesting an extension of 3 months to file the 2005 Annual Report for Good Luck Improvement Association. Mr. Cort advises that the extension is necessary to gather all of the required documentation to complete the report. A motion was made by Marion Brozowski and seconded by Claribel Azcona-Barber to approve the 3 month extension. A vote was taken and the motion was passed by a unanimous vote. This matter is closed and removed from future Board meeting agendas.

F. Application for a Cemetery Salesperson
Re: Herbert C. Norris Greenwood Cemetery (CA #28)

The Board discussed Herbert Norris' application for a Cemetery Salesperson's License during Executive Session. The matter was brought to Public Session to vote as to whether or not a Cemetery Salesperson's License would be issued to Mr. Norris. A motion was made by William Nichols and seconded to Marion Brozowski to issue a Cemetery Salesperson's License to Herbert Norris for Greenwood Cemetery. A vote was taken and the motion was approved by a unanimous vote. This matter is closed and removed from future Board meeting agendas.

VI. Closed Disciplinary Matters reported out from Executive Session 10/13/2005

Settlement letter issued to Richard Bradley, Trustee, The Fair Mount Cemetery (CA #176) for violation of N.J.S.A.45:27-16 (c)

Mr. Bradley resigned as Trustee

Settlement Letter issued to H. Paxson Keates, , President, Laurel Memorial Park, Inc., (CA #360) for violation of N.J.S.A. 45:27-16(c)

H. Paxson Keates resigned as President

VII. PUBLIC COMMENT

Louis Cicalese, President, Ruffin Cemetery briefly addressed the Board regarding the question of who has jurisdiction over the cemetery. Mr. Cicalese advised that members of the Ruffin family contend that they own the land the cemetery is established on and that it is just a family cemetery. However, Mr. Cicalese advises that there are persons other than family members buried at the cemetery.

VIII. FOR YOUR INFORMATION

A. New Jersey State Board of Mortuary Science

Open Session Meeting Minutes--August 30, 2005

Open Session Meeting Minutes--September 12, 2005

B. Internet article

Toppled cemeteries add to Katrin Woes

C. Notification of Civil Action

Re: Franklin DeLa Cruz , Plaintiff v Alpine Cemetery, Gloria Perez, City of Perth Amboy, John Does 1-5 & ABC Companies 1-5

D. The Forum
October/November 2005

All of these matters were considered informational for the Board deeming no discussion or decision making.

VIX. ADJOURNMENT

A motion was made by William Nichols and seconded by Lawrence Colasurdo to adjourn Public Session at 11:30 AM and move into Executive Session at 11:50 AM. 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 and violations of the Board's regulations:

- I. Four (4) new matters or complaints filed with the Board which require review and recommendations in regard to investigation and/or actions.
2. Thirteen (13) 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