

NEW JERSEY CEMETERY BOARD
PUBLIC SESSION MINUTES
OCTOBER 11, 2007

A regular meeting of the New Jersey Cemetery Board was held at 124 Halsey Street, Newark, NJ, on the sixth floor, on Thursday, October 11, 2007. 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 on September 21, 2006 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 Chair Marion Brozowski called the meeting to order at 9:30 AM. A roll call was taken and the following attendance of Board members was recorded for these minutes:

Marion Brozowski Present
Lawrence Colasurdo Present
Paul M. Desbiens Present
Waheed Khalid Absent
June Nikola Present
William Nichols Present
Genevieve Raganelli Present
Michael Ticktin Present

Also in attendance were: Dianne L. Tamaroglio, Executive Director, New Jersey Cemetery Board and Deputy Attorney General Ginger R. Provost.

II. APPEARANCE CHARLES MANNING, REGULATORY ANALYST
Re: NJAC13:44J-8.4 & 14.3, Pre-Construction Sales of Mausoleum Space

The Board previously adopted amended rule NJAC13:44J-8,4, Temporary storage prior to final entombment or interment within a single cemetery and new rule NJAC13:44J-14.3, Pre-construction sales of mausoleum space. Regulatory Analyst Chuck Manning met with the Board today to advise that the OAL requested that the two changes to the proposed regulations be eliminated as it believes they are substantive changes and would require re-publication. These changes were:

1. In NJAC13:44-8.4, the Board wanted to require that a request for an extension of the four year time frame for temporarily storing human remains be made 120 days prior to the end of the four year term. OAL's position is that the Board did not have a good reason for imposing the 120 day deadline and that it would make it harder for cemeteries to obtain the consent. The Board will have to propose the 120 day requirement at a later time.
2. In NJAC13:44J-14.3(h), the Board wanted to require that a request for a refund be in writing. OAL's position is that it was increasing the burden on consumers who requested the refund and therefore it was a substantive change which could not be made upon adoption. Again, the Board will have to propose this change at a later date

III. OLD BUSINESS

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

Deckertown Union Memorial Park Cemetery (CA #155)

This matter will be held over pending receipt of the cemetery's Annual Reports as well as its revised price list.

Perrineville Cemetery (CA #41)

This matter was moved to Executive Session for advise of counsel.

Salem-Evergreen Cemetery (CA #276)

Executive Director Dianne L. Tamaroglio has advised the Board that Board Accountant, George Booktor has met with Russell Ahlquist, Accountant, Salem-Evergreen Cemetery and Geraldine Patillo, contact person for the cemetery to go over discrepancies found in the cemetery's recently filed Annual Reports. The reports have all been corrected and filed with the Board office and the all fees have been paid. When Mr. Booktor met with the two, he brought to their attention that the Trust Fund appeared to be short funded. Ms. Patillo advised that she would write to the Board regarding this shortage. This matter will be held over pending receipt of Ms. Patillo's letter.

New Asbury Meeting House Cemetery (CA #349)

The Board is in receipt of information regarding the New Asbury Meeting House Cemetery from the Cape May County Board of Taxation. As this information was given to the Board members as a hand out, discussion of this information will be held over to the November 8, 2007 Board meeting affording the Board members adequate time to review the information.

Odd Fellows Cemetery (CA #330)

DAG Ginger Provost has sent copies of the Demand for Statement in Writing Under Oath previously issued to the cemetery, to Charles Curry and Francis Lewis, the individuals listed on the cemetery's Further Statement of Tax Exemption filed with the Township of Deptford but has not yet received a response. Having not received a response, a motion was made by June Nikola and seconded by Board Chair Marion Brozowski to authorize DAG Provost to issue a subpoena for the appearance of Francis Love and Charles Curry at the Board's December 13, 2007 Board meeting. A vote was taken and the motion was carried by a unanimous vote.

B. Delinquent in filing Annual Reports since 1998

Re: Mount Zion Cemetery (CA #206)

Executive Director Dianne L. Tamaroglio spoke with Dan Smith, Manager, Smith Funeral Home, the individual who contacts a burial contractor for any burials that take place at Mt. Zion Cemetery. Upon the completion of a burial, Mr. Smith advises that the contractor is paid directly and then a check in the amount of \$50.00 is sent to Dennis Clowney to be deposited into the cemetery's account. Ms. Tamaroglio questioned how it is determined that \$50.00 is given to the cemetery and Mr. Smith's response was that he has been doing that for years. Mr. Smith offered no further information regarding the operations of the cemetery. The Board has received information from Township of Mantua that shows the property that the cemetery is located on is owned by the Barnsboro United Methodist Church. The Board will ask the Township for any other information it can provide regarding Mt. Zion Cemetery such as a tax map for the property it is located on and the most recently filed tax exempt form. This matter will be carried over.

C. Cemetery has never filed Annual Reports

Re: Barber Burying Ground Association (CA #285)

Board member Genevieve Raganelli has been reaching out to various individuals in the Delaware Township area hoping to find someone or an organization that might be interested in taking responsibility for the Barber Burying Ground Cemetery. Ms. Raganelli will continue her quest. This matter will be held over.

D. Cemetery has no money and no activity

Re: Wantage Cemetery (CA #161)

Executive Director Tamaroglio has reached out to James Kruggman, son of Sylvia Kruggman the last known contact person for the cemetery, to see if he could provide some paperwork for the cemetery such as the deed for the property. This matter will be held over.

E. Old Tennent Cemetery (CA #201)

DAG Ginger Provost had advised the Board that there is another mediation session scheduled for October 22, 2007 which she will try to attend. The Board continues to monitor this matter. This matter will be held over.

F. Hillside Cemetery (CA #398)

The Board has not yet heard from George Pierce, President, Hillside Cemetery with regards to the road paving provision of the Right of Way Easement Agreement. Executive Director Tamaroglio will reach out to him. This matter will be carried over.

G. Diocese of Metuchen

Re: Establishment of crematorium

This matter will be held over pending receipt of the Diocese of Metuchen's application for a Certificate of Authority.

H. Reconstitution of Board

Re: Mercer Cemetery (CA #266)

Amy J. Pena, attorney for the International Association of Lions Clubs has advised that the Trenton Lions Club was cancelled on November 14, 2005 and the Trenton Latin-American Lions Club was cancelled on November 1, 2001. As the current By-laws state that one Trustee must be from the Trenton Lions Club, once a new Board is formed, the By-laws can be amended if necessary or they may use the alternate plan if there is no participation from the Lions to designate individuals. This matter will be carried over.

I. Amended and Restated Certificate of Incorporation

Re: Rosedale Cemetery (CA #42)

Previously, when the Board was reviewing Rosedale Cemetery's Amended and Restated Certificate of Incorporation, the Board questioned why the term Proprietors is being used rather than lot owners. Beth Yingling, attorney representing the cemetery has advised that the term Proprietors has a historic significance for Rosedale Cemetery as well as being part of its corporate name and the cemetery would prefer to continue to use the term. The Board didn't have a problem with this but asked that Executive Director Tamaroglio check the cemetery's original Certificate of Authority to verify that the name of the cemetery does indeed include Proprietors. The Board reviewed with DAG Ginger Provost the cemetery's revised Amended and Restated Certificate of Incorporation. Upon review, the Board made the following suggestions for changes; the second paragraph of the Certificate of Incorporation(B)a, change the last word from "dead" to "human remains" and in the By-laws, there appears to be a limitation on the voting rights of the proprietors; the rights of the proprietors cannot be restricted as per NJSA45:27-10. While the Board does not have to approve revised Certificates of Incorporation, since the cemetery in this case has requested the Board's approval, a motion was made by William Nichols and seconded by Genevieve Raganelli to approve Rosedale Cemetery's Amended and Restated Certificate of Incorporation with the suggested changes. A vote was taken and the motion was passed by a unanimous vote. Ms. Yingling will be so advised and asked to forward a copy of the final revised copy of the Amended and Restated Certificate of Incorporation to the Board office. This matter will be held over pending receipt of same.

J. Application for sale of a portion of cemetery property

Re: Pleasant Hill Cemetery Association (CA #225)

The Board had previously approved this sale and suggested to the cemetery that it deposit 50% from the proceeds of the sale into the cemetery's M&P Trust Fund based upon the financial condition of the cemetery. Jerry F. Smith, Trustee and Treasurer of the cemetery has written to the Board advising that the closing on this property took place on August 27, 2007. Mr. Smith further advised that the cemetery's Board of Trustees opted to deposit the required 15% into the Trust Fund rather than following the suggestion of the Board. Their decision was based upon the cemetery's financial health and stability. Mr. Smith advised that besides the cemetery's Trust Fund

which has a value in excess of \$600,000.00, the cemetery is beneficiary of two Perpetual Trusts; trust one currently has a balance in excess of \$3,900,000.00 and trust two has a balance in excess of \$530,000.00. The cemetery is the income beneficiary of both of these trusts and receives an annual income in excess of \$278,000.00 from them. The Board will advise Mr. Smith that when the Board made its recommendation, it had no knowledge of these other "Trusts" as they were not listed on the cemetery's Annual Report and that in the future they must be listed. This matter is closed and removed from future Board meeting agendas.

K. Correspondence from Thomas E. Stover, Esquire

Re: Green's Chapel Cemetery Association/Mt. Herman Cemetery Association

Mt. Hermon United Methodist Church to Seventh Day Adventis Church March, 2005

This matter will be held over at the request of DAG Ginger Provost.

L. Concerns with Bulk Sale application

Re: Bulk Sale of graves from the Claremore Club, Inc. (Beth El Cemetery, CA #13) to the Temple Sinai Board denied application on July 12, 2007

Robert J. Lenrow appeared before the Board today to discuss the terms and conditions of the bulk sale contract between Temple Sinai and the Claremore Club, Inc.. There was much discussion regarding what the contribution to Beth El Cemetery's Trust Fund should be based upon; whether it should be based upon the purchase of 951 graves as stated in the contract or upon reconfiguring the area to have 790 graves. A Committee of the Board (Board Chair Marion Brozowski, Paul M. Desbiens, and June Nikola), will meet with Mr. Lenrow and a representative of the cemetery to further discuss this matter in the very near future. This matter will be held over.

M. Requesting approval for the sale of a portion of cemetery property

Re: Hollywood Memorial Park (CA #101) & State of New Jersey

Previously, Hollywood Memorial Park submitted to the Board an application for the sale of two parcels of its property to the New Jersey Turnpike Authority. Hollywood Memorial Park will be compensated in the amount of \$22,800.00 and the total of these two parcels is 182 square feet. Board Chair Marion Brozowski and Board Vice-Chair William Nichols conducted an on-site inspection of these two parcels of land and reported to the Board that both parcels of land are unsuitable for burials and that the sale of the land would be a benefit to the cemetery. A motion was made by William Nichols and seconded by Lawrence Colasurdo to approve the sale of 182 square feet of cemetery property for \$22,800.00 with 15% of the proceeds being deposited into the cemetery's Trust Fund. A vote was taken and the motion was passed by a unanimous vote. This matter is closed and removed from future Board meeting agendas.

N. Correspondence from Martin Brothers, Licensed Cemetery Broker

Re: Gravesolutions

Edward, Tumminello, Chief, Enforcement Bureau has advised the Board that this matter has been assigned to an investigator and as soon as information is available, it will be forwarded to the Board office. This matter will be held over.

IV. NEW BUSINESS

A. Transfer of operations of cemetery

Re: Parkview Cemetery–Medford Cemetery Association, Inc. (CA #374)

George T. Dougherty, attorney representing Parkview Cemetery/Odd Fellows Cemetery has written to the Board advising that the cemetery wishes to reorganize its corporation to a newly formed Title 15A corporation. The cemetery is owned by the Medford Lodge #100 of the Independent Order of Odd Fellows. The majority of the remaining Odd Fellows Lodge membership feel as though they can no longer continue to operate the cemetery and would prefer to entrust its future to those of the organization who are willing to do so. For the past few months, a younger member of the community of Medford (location of the cemetery) has taken an interest in the

cemetery and would like to continue to assist in all aspects of the management of the cemetery in its new format. The newly elected Trustees of the cemetery have agreed that the cemetery adopt a new name, the Medford Cemetery. Mr. Dougherty has proposed a new Certificate of Incorporation be drawn up establishing the Medford Cemetery Association, Inc. The Lodge proposes to transfer to the Medford Cemetery its M&P Trust Fund and all cemetery records along with the physical assets of the cemetery. Upon review of the new Certificate of Incorporation, the Board suggested minor changes in the language of the Certificate and requested that the Odd Fellows Lodge provide to the Board a resolution of approval for the new corporation and turning over operations of the cemetery. A motion was made by Michael Ticktin and seconded by Lawrence Colasurdo to approve the transfer of the operations of the cemetery and the formation of a newly formed Title 15A corporation subsequent to receipt the language change and the Lodge's resolution. A vote was taken and the motion was passed by a unanimous vote. This matter will remain on future Board meeting agendas pending receipt of the revised certificate and the Lodge's resolution.

B. Should this cemetery have a Certificate of Authority?

Re: First Presbyterian Church of Springfield

The First Presbyterian Church of Springfield previously wrote to the Board regarding the establishment of a Memorial Gardens on the grounds of the cemetery. The Church has a cemetery on its grounds which is not under the jurisdiction of this Board. In discussion with the President of the Cemetery's Board of Trustees, it was brought to light that the cemetery does not restrict burials to members of the Presbyterian faith. That being the case, it appears that the cemetery will have to apply to this Board for a Certificate of Authority to operate as a "cemetery company". The Board reviewed correspondence from Robert W. Halsey, President, Board of Trustees of the Church regarding the operations of its cemetery. The Board has many questions regarding the operations of the cemetery which it needs to address and will therefore ask that Mr. Halsey meet with the Board at its November Board meeting for a better understanding of how the Church and its cemetery operate. This matter will be carried over.

C. Overpayments to the Trust Fund and a request for credit

Re: The Cemetery at Cold Spring Presbyterian Church (CA #324)

The Cemetery of Cold Spring Presbyterian Church has written to the Board advising that through a recent audit of the cemetery's financial records, it was discovered that previous cemetery officers were depositing significant yearly pre-payments to the cemetery's Trust Fund in addition to the statutorily required deposit to the Trust Fund. The cemetery is requesting that the Cemetery Board award the cemetery a credit for the overpayment which totals almost \$100,000.00, as a newly constructed mausoleum has taken a huge amount of the cemetery's money. Not enough information has been provided to the Board to make a determination in this matter. The Board will ask for more information regarding the finances of the cemetery and the construction of the mausoleum such as a copy of the cemetery's 1998 Annual Meeting minutes; what is the size of the mausoleum referred to in the letter; what was the total cost to build it; how was it funded; how many sales have there been so far; what is the amount of the loan for construction; who is the debtor; do you sell to the general public or just members of the faith; and has a building Trust Fund been established? This matter will be carried over pending receipt of a response from the cemetery.

D. Withdrawal of \$5,000.00 from corpus of Trust Fund

Re: Blawenburg Reformed Church Cemetery (CA #271)

It has been brought to the attention of the Board that Blawenburg Reformed Church Cemetery has withdrawn \$5,000.00 from the corpus of its Trust Fund. The Board will request that Board Accountant George Booktor meet with the cemetery to review its financial records. As this is a church cemetery, the cemetery will be asked if it buries those outside of its faith or if burial is restricted to those of the faith and their families. This matter will be carried over.

E. Withdrawal of Federal taxes and Tax preparation fees from corpus of Trust Fund

Re: Gates of Heaven Cemetery (CA #96)

Eglington Cemetery (CA #98)
Woodbury Cemetery (CA #97)

Upon review of the above named cemeteries' 2007 Annual Reports, Board Accountant George Booktor brought to the attention of the Board that these cemeteries are withdrawing from the corpus of their respective Trust Funds money to pay their Federal taxes as well as the fees for their tax preparations. The Board advised that as these cemeteries are "for-profit" entities, this money must come from the corpus of the fund from their capital gains; they are doing nothing wrong. This matter is closed and removed from future Board meeting agendas.

F. Inquiry from Grace T. Meyer, Esquire
Re: Compliance with State Regulations of Cemeteries

Grace T. Meyer, Esquire has written to the Board seeking guidance regarding a small, family operated cemetery in existence since the 1800's. Approximately 65 bodies are buried on this burial ground with approximately one-third of those interred being members of the owner's family. The balance of the plots now occupied were purchased by local citizens unrelated to the owner's family. The present owner took title to the cemetery from her father over 50 years ago. Other family members hold deeds for plots located throughout the cemetery. The owner is now 91 years old and wishes to convey responsibility for and ownership of the cemetery to her descendants. Ms. Meyer's is questioning whether or not this cemetery needs to apply for a Certificate of Authority from this Board to become a "cemetery company". The intent of the owner and her descendants is that no more burial plots will be sold to individuals who are not direct descendants (or the spouses of those direct descendants of the owner's family). But it is the desire of the owner and her family that current and future family members be able to be interred in the cemetery, as space permits, going forward. There are approximately 15 non-family individuals who currently own deeds to plots and likely to be interred in the cemetery after their deaths. Judging by the information provided to the Board, the Board suspects that this cemetery may need to apply for a Certificate of Authority. The Board needs much more information to come to a conclusive answer such as when were the deeds sold to the 15 non-family members who are likely to be interred in the cemetery after their deaths; how big is the property; when was the last interment; and has the cemetery ever filed for tax exemption? Board member Paul M. Desbiens will conduct an on-site inspection of the cemetery as well as address the Board's concerns to Ms. Meyer.

G. Correspondence from George T. Dougherty, Esquire
Re: Request for clarification of Cemetery Board policy

George T. Dougherty, Esquire has written to the Board requesting a clarification as to how deposits to the Trust Fund are to be collected from religious societies interring members in burial spots previously purchased through bulk sales. The Board also received correspondence from Judith Welshons, Executive Director, Association of Independent Cemeteries and Marcel R. Plaut, Esquire also requesting clarification of this matter. As per the Board's statute, when a religious society sells, transfers, or assigns an interment space in the future, 15% of the current gross sales price of equivalent graves established by the respective cemetery at the time of the resale, transfer, or assignment must be deposited into the cemetery's Trust Fund, less any amount already deposited to the Fund in connection with the sale of that grave. Mr. Dougherty advised that the concern throughout the industry is that deposits to the Fund have to be made for sales that occurred years ago and how could the cemeteries possibly do that. The Board advised that this is a misconception and that this change in the law went into effect on June 5, 2006 when the Board's revised regulations were adopted. Therefore from that point forward the deposits with regard to bulk sales, selling, transferring, & assigning must be made. The Board had quite a few members from the Cemetery Industry in attendance at this meeting to hear this discussion and it appears that the matter has been clarified. This matter is closed and removed from future Board meeting agendas.

H. Approval of Bulk Sale

Laurel Grove Cemetery (CA#30), Totowa, NJ to the Appenzeller Memorial Nairi United Methodist Church, West Paterson, NJ

Executive Director Dianne L. Tamaroglio approved the bulk sale of 50 interment spaces for \$62,500.00

(\$1,250.00 per grave). The required 15% will be deposited into the Maintenance & Preservation Trust Fund of Laurel Grove Cemetery.

Osage Cemetery d/b/a Frost Woods Memorial Park (CA #381), East Brunswick, NJ to the Chun Fai Association, Inc., New York, NY

Executive Director Dianne L. Tamaroglio approved the bulk sale of 503 interment spaces for \$402,400.00 (\$800.00 per grave). The required 15% will be deposited into the Maintenance & Preservation Trust Fund of Osage Cemetery.

Laurel Grove Cemetery (CA #30), Totowa, NJ to the Chinese-American Memorial Gardens, Inc., Paramus, NJ

Executive Director Dianne L. Tamaroglio approved the bulk sale of 640 inurnment spaces for \$750,000.00 (\$1171.88 per grave). The required 15% will be deposited into the Maintenance & Preservation Trust Fund of Laurel Grove Cemetery.

Laurel Grove Cemetery (CA #30), Totowa, NJ to the Chinese-American Memorial Gardens, Inc., Paramus, NJ

Executive Director Dianne L. Tamaroglio approved the bulk sale of 3,824 interment spaces for \$5,200,000.00 (\$1,359.83 per grave). The required 15% will be deposited into the Maintenance & Preservation Trust Fund of Laurel Grove Cemetery.

I. What to do with cemeteries who are late with filing of their Annual Reports

Executive Director Dianne L. Tamaroglio advised the Board that there are many cemeteries that are consistently late with the filing of their Annual Reports and asked if we could come up with the fine to impose upon them for filing late. DAG Ginger Provost advised that this would have to be done through regulation. The Board's Regulation Committee will discuss this at a future regulation meeting with Regulatory Analyst Chuck Manning.

J. Application for a Cemetery Salesperson's License

Re: Yamnia Jaime

Alpine Cemetery (CA #193)

Yamina Jaime's application for a Cemetery Salesperson's License for Alpine Cemetery was reviewed in Executive Session and brought to Public Session for a vote as to whether or not a license should be issued to her. A motion was made by June Nikola and seconded by Lawrence Colasurdo to issue a Cemetery Salesperson's License to Yamnia Jaime. A vote was taken and the motion was passed by a majority vote; Genevieve Raganelli abstained from voting and Michael Ticktin voted no. Also Ms. Jaime will receive a reprimand for non-disclosure on her application. This matter is closed and removed from future Board meeting agendas.

V. DISCIPLINARY ACTION REPORTED OUT FROM PUBLIC SESSION

An Offer of Settlement in Lieu of Filing a Formal Complaint was issued to Hollywood Memorial Park, (CA #101). The cemetery has consented to refund to consumers \$10,050.00, the total purchase price paid for crypt space and has signed the Settlement Letter.

VI. PUBLIC COMMENT

Leonard Auerbach, General Manager, Floral Park Cemetery, Washington Cemetery Management Co., and Oaklawn Cemetery thanked the Board for having the discussion regarding contributions to the Trust Fund with regard to bulk sales.

VII. FOR YOUR INFORMATION

A. Notification to Secretary of State of 2008 meeting dates for New Jersey Cemetery Board

This letter to the Secretary of State advising of the Board's 2008 meeting dates was considered informational for the Board.

B. Notification that Michael Ticktin will serve as the designee from the Department of Community Affairs on the New Jersey Cemetery Board

This was notification to the Board that Michael Ticktin is the Department of Community Affairs designee to the Board.

C. Adopted Amendments: NJAC13:44J-5.6 & 10.2 Adopted New Rule: NJAC 13:44J-10.7

This was notification to the Board that Amended Regulation NJAC13:44J-5.6 & 10.2 and Adopted New Rule NJAC13:44J-10.7 became effective on September 17, 2007.

D. Newspaper articles

Working graveyard shift Asbury Park Press

Natural burials take dead gently to a green good night Star Ledger

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

E. Notification of Civil Action

Re: Aquanetta Harris, Plaintiff v City of Trenton, County of Mercer, The Mercer Cemetery Company a/k/a The Mercer Cemetery at Trenton and John Does(1-5), Defendants Docket No.:MER-L-697-07

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

F. Notification of Civil Complaint

Re: Joseph J. Tiritilli , Plaintiff v Laurel Grove Cemetery Services, Inc., Defendants Docket No.: DC-013675-07

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

VIII. ADJOURNMENT v A motion was made by William Nichols and seconded by Lawrence Colasurdo to adjourn Public Session at 12:40 PM and move into Executive Session at 1:30 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 and/or violations of the Board's regulations:

1. Five (5) new matters or complaints filed with the Board which required review and recommendations in regard to investigation and/or actions.
2. Nine (9) 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. A motion was made by Michael Ticktin and seconded by William Nichols to adjourn the Board meeting of October 11, 2007. A vote was taken and the Board meeting was adjourned at 3:15 PM.

Respectfully Submitted,

Dianne L. Tamaroglio
Executive Director