

**DIVISION OF CEMETERIES**

STATE OF NEW YORK  
**DEPARTMENT OF STATE**  
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ANDREW M. CUOMO  
GOVERNOR

**CEMETERY BOARD**

ROSSANA ROSADO  
SECRETARY OF STATE  
CHAIR

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

DR. HOWARD A. ZUCKER  
COMMISSIONER OF HEALTH

**APPROVED**

**Cemetery Board Minutes**  
**March 26, 2018**  
**Department of State**  
**One Commerce Plaza, Albany, NY**

**BOARD MEMBERS PRESENT:**

Daniel Shapiro, Department of State, Chair  
Christopher Wiles, Office of Attorney General

Paul Ambrose, Department of Health

**OTHER ATTENDEES:**

Lewis A. Polishook, Division of Cemeteries  
Mark Pattison, Department of State  
Joseph Ambrose, Division of Cemeteries  
Alicia Young, Division of Cemeteries

Antonio Milillo, Department of State, Counsel  
Chester Butkiewicz, Division of Cemeteries  
Leonard Breen, Division of Cemeteries

**GUESTS:**

David F. Fleming, New York State Association of Cemeteries  
Calum d’Oelsnitz, New York State Association of Cemeteries  
Bruce Geiger, Pinelawn Cemetery  
Justin Locke, Pinelawn Cemetery  
Scott Henderson, New York State Funeral Directors Association  
Randy McCollough, New York State Funeral Directors Association

**18-03-A-13 Minutes of Previous Meetings**

Motion made, seconded, and unanimously adopted approving the minutes of the February 27, 2018, meeting as amended.

**18-03-B-14 Legislation and Regulation**

**1. Pending Legislation**

Mr. Milillo reported the following on updates on pending legislation:

A3083/S829 (A. DenDekker/ S. Funke) This bill would authorize a veteran's close friend or family member who is reasonably familiar with such veteran's wishes to request that such veteran be buried in a

state veterans' cemetery. It would also eliminate the requirement in Public Health Law § 4201 that a written statement be executed when the person who seeks to be in control of disposition of remains is a close friend of the deceased.

**A3785/S2894/A10000** (A. Dinowitz/S. Ranzenhofer/**A. Paulin**): This bill is intended to clarify that state regulated cemetery operations are under the sole jurisdiction of the state cemetery board. It amends N-PCL § 1501 "Declaration of Policy" by deleting "public" from the phrase "public burial grounds" and adds the following sentence: "This vital interest shall be protected and the uniqueness of these entities shall be affirmed by providing the state with the responsibility for sole jurisdiction of the regulation of cemeteries as set forth in this article."

**S1109/A6754** (S. Felder/A. Cusick): This bill would remove the \$250 amount of damage minimum from the crime of cemetery desecration in the second degree; makes cemetery desecration in the second degree a class E felony to apply to any damage or theft regardless of value; adds crime of cemetery desecration in the first degree and makes such crime a class D felony.

**S2390/A7168** (S. Larkin/A. Colton): This bill would amend the General Business Law to prohibit the unauthorized sale, purchase, or transfer of any cemetery marker, flag holder, monument, statue or other physical memorabilia that is over 75 years old and that commemorates the life or death of a veteran or group of veterans. It would make violations a class B misdemeanor. The bill would allow cemetery corporations to engage in such purchase, sale or transfer with permission from the New York State Cemetery Board. The Board could authorize the purchase, sale or transfer of cemetery commemorative statues or monuments at a public hearing of which veterans' groups have been notified.

**S7835** (S. Ranzenhofer) This bill would require cemeteries to give the cemetery board and the municipality where they are located 180 days' notice that they are heading toward abandonment. The cemetery board would have 60 days to report the cemetery's finances to the municipality at which time the parties would work to avoid abandonment.

## **2. Rules and Regulations**

None.

### **18-03-C-15 Division's Report**

Mr. Polishook explained that while annual reports are due March 31<sup>st</sup>, the Division will routinely grant a 30-day extension to file. If a cemetery needs more time to file their annual report additional explanation is required.

### **18-03-D-16 Vandalism Report**

Mr. Butkiewicz presented the vandalism report: In this fiscal year, the Division has collected \$222,289 in vandalism fund fees. As of January 2018, the Board had granted \$886,396 from the vandalism fund. There are \$1,815,561 in applications pending.

Mr. Polishook explained that applications for vandalism funds will not be paid in full up front. Once an application is approved, the cemetery will receive a 25% down payment which is consistent with other state contracts. If there are any concerns with the new payment process, the applicant should call the Division.

The Board approved the following applications for funds for restoration of dangerous monuments:

- o Vestal Park Cemetery (D) \$17,479.85
- o Batavia Cemetery (D) \$35,462.56
- o Elk Creek Cemetery (D) \$42,363.54
- o Mitchellesville Cemetery (D) \$ 6,632.00
- o Caroline Grove Cemetery (D) \$41,586.59
- o Danby Rural Cemetery (D) \$34,638.07

The Board tabled the following application for abandonment funds pending information:

- o Town of Shandaken (A) \$18,249.00

**18-03-E-17 Elmwood Cemetery (19-009 Genesee) – Land Sale/Easement**

The Elmwood Cemetery is seeking approval for a permanent easement involving the entrance gate on Harvester Avenue to the exit gate on Webster Avenue, containing an 11,605-sq. ft. strip of the current driveway. The strip of land is not useable for interment purposes because it is an asphalt roadway currently serving the cemetery. The easement will be used for the Ellicott Trail Project as a bike and walking path, a 4.8-mile path through Batavia (non-motorized travel). The Elmwood Cemetery will receive \$25,600.00 that it will deposit into its PM Fund. The Town of Batavia will also seal the driveway that it proposes to use, carry insurance, provide continual maintenance and have it patrolled by local law enforcement.

Motion made, seconded and unanimously adopted contingent upon the modification of the proposed easement to clarify that it would: (1) not interfere with the public visiting graves; (2) prioritize cemetery needs over the use of the path, inclusive of any funeral processions and maintenance; and (3) allow cemetery to direct the closure of the path for funeral purposes, maintenance purposes or other cemetery needs. Such changes to the proposed easement will be subject to Board’s attorney approval.

**Public Comments:**

Justin Locke, President of Pinelawn Cemetery, seeking guidance from the Board, spoke regarding potential of land lease of 110 acres of undeveloped land not needed for some 200 years. Potential lease income, as light industrial park, to the Pinelawn could range from \$2.5M to \$5M annually. The Board mentioned its concerns about protecting the cemetery from failed projects, resorting land to original state and removing structures to hold the cemetery harmless and discussed methods of addressing these concerns. The Board also advised the cemetery not to invest a lot of money up front as its decision would be based on the merits of a future application.

Board Chair Dan Shapiro announced that this meeting would be his last meeting as Board Chair.

**Motion to go into executive session made, seconded, and unanimously carried.**

**Motion to exit executive session made, seconded, and unanimously carried.**

The Cemetery Board had two board resolutions to report. One regarding Lake Ronkonkoma and one regarding Niagara Falls Memorial Park. The form of the orders to be approved by counsel to the Board and Division of Cemeteries, and will be executed thereafter.

Matter of Lake Ronkonkoma Cemetery, Inc.: Motion made, seconded, and unanimously adopted referring the matter of Lake Ronkonkoma Cemetery to the Attorney General.

Matter of Niagara Falls Memorial Park: Motion made, seconded, and unanimously adopted referring the matter of Niagara Falls Memorial Park to the Attorney General.

**Motion to adjourn made, seconded, and unanimously carried.**

The next Cemetery Board meeting is to be held on April 17, 2018 at 10:30 AM, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231. **Note: The meeting date was subsequently changed to April 23, 2018, at 10:30 AM, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231.**