

**APPROVED**

**Cemetery Board Minutes  
February 12, 2015  
One Commerce Plaza  
99 Washington Avenue, Albany, NY**

**BOARD MEMBERS PRESENT:**

Daniel Shapiro, Department of State, Chair  
Paul Ambrose, Department of Health

Christopher Wiles, Office of Attorney General

**OTHER ATTENDEES:**

Antonio Milillo, Department of State, Counsel  
Chester Butkiewicz, Department of State  
Kerry McGovern, Division of Cemeteries

Lewis A. Polishook, Division of Cemeteries  
Leonard Breen, Division of Cemeteries  
Alicia Young, Division of Cemeteries

**GUESTS:**

David Fleming, Featherstonhaugh et al.-NYSAC  
Daniel Hallenbeck, Featherstonhaugh et al.-NYSAC

Bruce Geiger, Pinelawn Cemetery

**15-02-A-10 Minutes of Previous Meetings**

Motion made, seconded, and approved to approve the January 22, 2015 Cemetery Board minutes with the following changes: (1) deletion of a stray reference to the "Mental Hygiene Law"; and (2) changing Ebola Viral Disease to Ebola Virus Disease.

**15-02-B-11 Legislation and Regulation**

1. Pending Legislation

Mr. Milillo reported on various bills pending in the legislature, including a bill to increase penalties for the crime of desecration of a cemetery.

2. Rules and Regulations

Mr. Milillo presented a draft revision of the State Cemetery Board's financial reporting regulations. Salient changes from previous drafts include changes to proposed 19 NYCRR Section 200.6, concerning commercial crime insurance, capping the coverage requirement at \$500,000. Notwithstanding that cap, the Division may require more if necessary and can order a cemetery to increase coverage, and makes clear that a cemetery subject to such an order may contest or challenge the order. Motion made, seconded, and unanimously approved to prepare and seek authority to publish a notice of proposed rule making.

**15-02-C-12 Division's Report**

1. Ebola

The CDC issued new guidelines with detailed procedures on handling the final disposition of the remains of Ebola victims. The Division will update the link on the DOS website to reflect the new guidelines. The revised guidelines appear to address many concerns of funeral directors and cemeterians.

2. Pearl River

This old cemetery, which appears to be a public cemetery, incorporated as a for-profit business corporation in 2010. The Division is working with the cemetery to assist it in dissolving and reconstituting itself as an Article 15 not-for-profit corporation.

3. Grave resales

Article 15 restricts resales of graves if a cemetery offers to repurchase them at the statutory rate. The Division has received numerous calls from individuals interested in reselling graves. Mr. Polishook stated that he has encouraged cemeteries to consider negotiating with lot owners as to repurchases, and inquired whether some type of legislation might be appropriate to address the issue of grave resales. Mr. Shapiro directed Mr. Polishook to consider posting on the Division’s website information about the resale of lots.

4. Staff

Mr. Polishook reported that the Division was prepared to interview candidates to fill the vacant Secretary position in the Albany Office. The Division is also creating a satellite office in Binghamton, which will include the addition of a Senior Accountant and Investigator to the Division of Cemeteries.

5. LEAN and Division Processes.

Mr. Polishook reported that the Division’s investigators had attended sessions applying LEAN principles to try to make inspection and complaint handling more efficient, and will hold similar sessions on the application and auditing processes.

**15-02-D-13 Vandalism Report**

Mr. Polishook summarized the January 2015 vandalism report.

The following vandalism fund applications were approved: the first was for repair of dangerous monuments, and the second is for an abandoned cemetery taken over by a town.

**Vandalism/Hazardous/Abandonment Applications**

Name	Amount	County	ID No.
1. Gilboa Rural Cemetery	\$18,518.49	Schoharie	48-010
2. Town of Whitestown/	\$12,400.00	Oneida	33-000

(Glenside Cemetery, 33-021)

**15-02-E-14 Pinelawn Cemetery (52-044 Suffolk) – Major Renovation – Water Well**

Motion made, seconded and approved to approve a major renovation application by Pinelawn to dig a well to provide for additional capacity for watering and construct a small building and driveway associated with the well. In light of the fact that Pinelawn had not yet presented hard bids for the work, other than digging the well (the bid for which was \$220,000), the Board's approval is conditioned on the total cost of the project not exceeding the projected cost of \$1,041,000.

**15-02-F-15 Pinelawn Cemetery (52-044 Suffolk) – Major Renovation – Interior Roadways**

Motion made, seconded and approved to approve a major renovation application by Pinelawn to reconfigure several interior roadways and construct others to connect with improvements to be made on Wellwood Avenue by Suffolk County. The county is to bear the entire cost of the project.

**15-02-G-16 Fairview Cemetery (29-007 Montgomery) – PM Deficit Repayment**

This cemetery has a deficit its permanent maintenance fund. It agreed to pay it back in 20 years by paying an additional 20% of the total price of lot sales into the PM Fund (on top of the required 10% statutory contribution). A bequest was also used for general cemetery operations; the Board, by Mr. Milillo, directed that the cemetery must submit a payment plan for this bequest. Motion made, seconded and unanimously approved to recommend that Supreme Court approve the PM loan nunc pro tunc and repayment schedule.

**15-02-H-17 Abbott's Corners Cemetery (15-001 Erie) – Columbarium**

Motion made, seconded, and approved to approve a new columbarium at this cemetery. At Mr. Polishook's request, approval is conditioned on the expiration of 60 days following the posting of a sign at the cemetery announcing the proposed columbarium (the sign was posted fewer than 60 days before the State Cemetery Board's meeting), and the State Cemetery Board delegated to the Division was granted discretion in case the cemetery receives any comments concerning the proposed columbarium.

**15-02-I-18 Villenova Cemetery (07-054 Chautauqua) – Land Purchase**

Motion made, seconded, and approved recommending Supreme Court approval nunc pro tunc of the cemetery's acquisition of 10.33 acres of land that were purchased in 2010, conditioned on a recommendation that the Attorney General inform the Supreme Court that this was a related party transaction and that the seller was allowed to retain the current tenant's rent for the term of the lease in effect at the time of the sale.

**Public Comments**

David Fleming, representing the New York State Association of Cemeteries, thanked the Board for the opportunity to work together on the proposed financial regulations and asked for a safe-harbor for cemeteries already adopting the practice of handling pre-need

sales before the regulation takes effect. Mr. Fleming also made reference to Senate Bill 5111A and the development of a process for application of the statute.

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

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

**15-02-J-19     Whispering Maples Cemetery (10-024 Clinton)**

After discussion in executive session, motion made, seconded, and approved to adopt an Order that, among other things, (1) directs Brenda Drown and Sharon Vann to deliver cemetery records to the cemetery's CPA; (2) directs Mses. Drown and Vann to resign as officers, directors, and employees of the cemetery; and (3) referring the matter the Office of the New York Attorney General.

**15-02-G-16     Fairview Cemetery (29-007 Montgomery) – PM Deficit Repayment**

After discussion in executive session, motion made, seconded, and approved to refer the matter of the apparent violation of the terms of the bequest (described above) to the Office of the New York Attorney General.

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