

DIVISION OF CEMETERIES

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DEPARTMENT OF STATE
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CEMETERY BOARD

ROSSANA ROSADO
SECRETARY OF STATE
CHAIR
LETITIA JAMES
ATTORNEY GENERAL

DR. HOWARD A. ZUCKER
COMMISSIONER OF HEALTH

Cemetery Board Minutes

April 9, 2019
Department of State
One Commerce Plaza, Albany, NY

BOARD MEMBERS PRESENT:

Mark Pattison, Department of State, Chair
Thomas Fuller, Department of Health
Jill Faber, Office of Attorney General

OTHER ATTENDEES:

Lewis A. Polishook, Division of Cemeteries
Antonio Milillo, Dep't of State, Counsel
Joshua Beams, Department of State
Alicia Young, Division of Cemeteries
Len Breen, Division of Cemeteries
Brendon Stanton, Division of Cemeteries
Michael Seelman, Division of Cemeteries

GUESTS:

Bruce Geiger, Pinelawn Memorial Park
David Fleming, New York State Association of Cemeteries
Calum d'Oelsnitz, New York State Association of Cemeteries/FWC
Scott Henderson, NYSFDA
Abdul Aziz Baniyan, Long Island Muslim Alliance
Karim Mozawalla, Long Island Muslim Alliance
Nayyar Imam, Long Island Muslim Alliance
Mohammad Farhan, Long Island Muslim Alliance
Suhail Mohammed, Long Island Muslim Alliance

19-02-A-14 Minutes of Previous Meetings

Motion made, seconded, and unanimously adopted approving the minutes of the March 12, 2019 meeting as submitted

19-04-B-15 Legislation and Regulation

1. Pending Legislation

Mr. Milillo addressed several pending bills:

Last year, both houses passed S.1876, which was vetoed by the governor. The Assembly has amended this bill in A. 1605, which tries to address the issues that gave rise to the veto.

A new bill was introduced amending the public health law to allow scattering of cremated remains on cemetery grounds. Mr. Fleming of NYSAC addressed the Board stating that western New York cemeteries are interested in the fact that funeral homes are not disposing of remains. The bill is meant to facilitate the memorialization of the deceased.

S. 5057 was introduced amending the anti-combination law. It proposes to allow grandfathered standalone crematories to be sold, relocated, or expanded. It is an attempt to reverse previous decisions of the Board and a memo on this subject.

Rules and Regulations

None.

19-04-D-16 Division Report

1. Annual Reports –

Mr. Polishook reported the Division has received approximately 984 annual reports, of which approximately 25% were submitted electronically.

2. Statistics on rate applications, annual report reviews, reviews of rules and regulations, net appreciations, and reclamations –

Mr. Polishook reported that in the first quarter of calendar year 2019:

- the Division has reviewed 373 annual reports
- the Division has begun 48 audits and completed 36 of those;
- 18 lot reclamation applications have been logged into the database; none have been approved;
- there are two net appreciation applications. One needed additional information. The other had legal questions for counsel;
- three requests for changes to rules and regulations have been received; one has been approved;
- there is one society reclamation application in the database, which is not complete and needs additional information;
- the Division has received 62 rate applications, three of which are ECI; 47 of the applications have been approved.
- Division staff has visited one cemetery to inspect work performed using vandalism fund money;

The Board requested that Division present the data in a more formal format in advance of the board meeting in the future. The Board discussed specific needs for the reporting.

3. Frederick Douglas Memorial Park-

Mr. Polishook reported the impending end of receivership for the cemetery. The cemetery has been in receivership since 2005. A new board was elected on April 6, 2019. They are beginning the transition from receivership to board operated. The receivership is to end in May or June, and Division staff will meet with the board for technical assistance.

4. NYSAC Regionals

Mr. Polishook also reported that the Division expects to be represented at NYSAC's meetings in both Buffalo and Syracuse in mid-April.

5. Beverly Hills/ Rose Hills

Mr. Polishook reported that the Division has been sued by Beverly Hills Memorial Park in reaction to the Board's previous denial.

19-04-D-17 Vandalism, Abandonment and Monument Repair or Removal Fund Report

Mr. Polishook presented the vandalism report. In the 2018-2019 fiscal year, the Division collected \$451,872 in vandalism fund fees. The Vandalism Fund appropriation amount is \$939,000. For the current fiscal year, the Board has granted applications total \$1,543,515. Applications pending review total \$1,098,505.

Mr. Polishook reported that the current 2019-2020 fiscal year appropriation is \$2,000,000. Of that, no applications have been approved, with a pending amount of \$1,098,505.

The Board approved the following applications for funds for restoration, subject to the availability of funds:

- 09-034 West Bainbridge Rural Cemetery - \$20,732.56
- 25-009 Glendale Cemetery - \$21,352.32
- 33-061 Townsend Cemetery - \$11,635.85
- 45-001 Bayside Cemetery - \$6,302.00
- 59-004 Savanna Butler Cemetery - \$63,366.76

19-04-E-18 Woodland Cemetery (43-009 Richmond) – Permanent Maintenance Loan

Woodland Cemetery has been minimally maintained for the past 30 years. This has resulted in much of the cemetery to become overgrown. The cemetery has one active section. However, the cemetery has had difficulty selling graves due to the need for maintenance. The cemetery sold a parcel of land for development of houses in 2016, and largely as a result, its permanent maintenance fund currently. The cemetery is requesting a permanent maintenance loan of \$150,000 to maintain the cemetery. The payback period consists of \$10,000 per year over ten years with a \$50,000 balloon payment at the end of the payback period. The cemetery is seeking recommendation of approval for the permanent maintenance loan from the Board. A motion was made, seconded, and unanimously adopted recommending that Supreme Court approve the requested loan, subject to counsel's review of the draft petition, which must include a start and end date for repayments, and further subject to Division approval for use of \$35,000 of the requested \$150,000.

19-04-F-19 Bedford Union Cemetery (60-002 Westchester) – Permanent Maintenance Loan

In 2017, the Board approved the purchase of a parcel of land adjoining the cemetery. The cemetery decided to use its general fund to complete the purchase. It now does not have enough unrestricted funds to develop the piece of land. The cemetery is seeking approval for a permanent maintenance loan to pay for the development of the section in the amount of \$150,000 is being requested. The repayment would be over 5 years at \$30,000 a year. There would be no interest, and no balloon payment at the end. A motion was made seconded, and unanimously approved the proposed major renovation and recommending that Supreme Court approve the requested loan, subject to counsel review of a draft petition that must include start and end dates for the loan, receipt of all required local permits, and Division confirmation that the cemetery is not engaging in related party transactions that violate the Not-for-Profit Corporation Law.

19-04-G-20 Chenango Valley Cemetery (04-003 Broome) – Merger

Buffalo City Cemetery a/k/a the Forest Lawn Group in Erie County proposes to merge with Chenango Valley Cemetery in Broome County. The Board and counsel discussed legal issues concerning this merger in executive session at the February meeting. Counsel received written responses to legal questions from Buffalo City Cemetery. The legal review is still ongoing.

David Fleming, representing Buffalo City Cemetery, stated that both regulated and unregulated cemeteries function in this manner across the state by sharing various services, such as landscaping and openings. The goal is ultimately to create a cluster of cemeteries in the region to create economies of scale. If legislative change is needed, Mr. Fleming stated that it behooves the board to immediately notify the cemeteries involved. Buffalo City Cemetery is fiscally sound and is proposing to use the same mechanism that it has used in other cemeteries in Erie County in cemeteries across the State of New York. Chenango Valley approached Buffalo City for a discussion regarding a merger. The issues related to community focus have been answered by Buffalo City Cemetery. Mr. Fleming asked for a decision to be made as quickly as possible.

19-04-H-21 Marcellus Cemetery (34-029 Onondaga) - Columbarium

The cemetery is requesting permission to install a 32-niche columbarium. The cemetery feels there is a need in the area. The columbarium is being purchased directly from distributor and will be shipped to the cemetery. The cemetery is doing all the prep work themselves and is saving money. The cemetery predicts a 51% annual return and that it will sell out in four years. Counsel requested that the Division develop a specific format for what is required of the sign notifying lot owners of the project. The Division recommends approval. Motion made, seconded, and unanimously adopted to approve the application.

Public Comments:

The Long Island Muslim Alliance is buying a cemetery from a church. The land has been approved for a cemetery but has never been used. The alliance is requesting an arrangement for a presentation to the community on forming the cemetery. The Board stated that religious cemeteries are not under the Board's jurisdiction. However, the Office of the New York Attorney General and the Division offered to provide assistance.

David Fleming of NYSAC spoke regarding the signage requirements. He requested the requirements be about content and not presentation as some cemeteries have a specific style and use the signs for marketing purposes.

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

The Board exited executive session without taking any formal actions required to be reported.

The next Cemetery Board meeting is to be held on May 6th, 2019 at 10:00 AM, NYSAC Policy Conference, The Desmond Hotel, 660 Albany Shaker Road, Albany, NY 12211