

# DIVISION OF CEMETERIES

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CHAIR

LETITIA JAMES  
ATTORNEY GENERAL

DR. HOWARD A. ZUCKER  
COMMISSIONER OF HEALTH

**DRAFT**

## Cemetery Board Minutes February 26, 2021 Via WebEx

### **BOARD MEMBERS PRESENT:**

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

### **OTHER ATTENDEES:**

John Fatato, Dep't of State  
Antonio Milillo, Dep't of State, Counsel  
Lewis Polishook, Division of Cemeteries  
Michael Seelman, Division of Cemeteries  
Brendon Stanton, Division of Cemeteries  
Robert Vanderbles, Dep't of State  
Alicia Young, Division of Cemeteries

### **GUESTS:**

Brendan Boyle, NYSAC, Featherstonhaugh, Wiley & Clyne  
David Fleming, NYSAC, FWC  
Richard Moylan, Green-Wood Cemetery  
Dennis Doyle, County of Ulster  
Jon Simonson, New Paltz Rural Cemetery  
Sue Stegen, New Paltz Rural Cemetery  
Keith Carini, North Otto Cemetery

### **Opening Remarks**

Mr. Pattison explained that this is a special meeting to consider vandalism fund applications and one other application; we will dispense with a legal and Division report.

Mr. Pattison noted that the Governor's executive order on remote meetings had been extended again, and asked participants to mute their lines when not speaking.

Mr. Milillo explained that the meeting is operating pursuant to Executive Order 202.1, which suspends the requirement to appear in person. The notice was posted in accordance with law and notice, agenda, and materials have been posted on the Division of Cemeteries website.

We take attendance; lobbyists must identify themselves and the entity they represent; speakers shall identify themselves.

Mr. Milillo added that this is a special meeting pursuant to N-PCL section 1504, which authorizes the chair to call such meetings.



Department  
of State

Mr. Polishook noted that there was a tragedy at Washington Memorial Park in Suffolk County: a grounds crew member was killed in a grave cave-in. It is our understanding that OSHA is investigating.

Mr. Polishook also noted that cremations are holding steady or declining.

## **21-02-E-11 Vandalism, Abandonment and Monument Repair or Removal Fund Report**

### 05-031 North Otto Cemetery (Cattaraugus) for \$29,152

Mr. Seelman states that the cemetery seeks repair of 24 hazardous monuments, which we inspected.

Mr. Seelman noted that cemetery had obtained two bids but one contractor backed out. They have only one bid for \$28,945. Based on the last 10 bids that resulted in approved applications for hazardous monuments in Western New York, this bid is within that average, albeit on the high side. The range is \$1,085-\$1,279 per monument; the average cost per monument here is \$1,206.

We recommend approval.

Mr. Milillo stated that the low bidder dropped out in June 2020 and that the effort to find bids was at the initial phase; when the low bidder dropped out the cemetery did not reach out to any additional monument companies. Mr. Milillo asked whether there were other companies they could have reached out to.

Keith Carini, President of the North Otto Cemetery, responded that he started out with Riles and Woolley Funeral home who initially bid but indicated that his partner could not do the job.

The cemetery is in a very rural location; there are not a whole lot of places nearby that do this type of work.

Mr. Carrini reached out to Crandall Monuments in Olean and also reached out to another monument dealer, W.S. Davis, which gave only a vague estimate. Another monument dealer, Dave Kepler, indicated that his firm lacked the equipment for such a large job. He also reached out to another monument dealer in Springville, New York, which does not do this type of work. Only Western New York Cemetery Services was willing to bid and perform the work (he believes he learned the name of that firm from East Otto Cemetery).

Mr. Milillo stated that cemeteries have rules and regulations about the type of monuments that may be installed. Mr. Carrini stated that he is still new as President of the cemetery and described work that the new board has done to improve the cemetery.

Mr. Milillo asked whether the cemetery has a list of companies that install monuments at the cemetery so that it could contact them for repairs. Mr. Carrini states that the cemetery does not have such a list.

Motion made, seconded, and unanimously adopted approving the application in the amount of \$29,152, subject to availability of funds, and to thank the cemetery for its efforts.

### 12-006 Elmwood Cemetery (Cortland) for \$13,861

Mr. Stanton reported that we received an application from this cemetery in the Town of Preble, Cortland County. The cemetery received two estimates, totaling \$13,179 and \$17,150, respectively. We verified that the monuments were hazardous.

Motion made, seconded and unanimously adopted approving the application in the amount of \$13,861, subject to availability of funds.

### 35-029 Resthaven Cemetery (Ontario) \$47,593.41

Mr. Seelman reported that only 30 of the 49 monuments identified by the cemetery appear hazardous. The cemetery agreed with our assessment. The original ad run by the cemetery did not list full names or sections for the monuments to be repaired. We asked the cemetery to re-run the ad and it did. The cemetery received no response to the ad.

Mr. Milillo questioned why the estimate was higher than we usually see. Mr. Seelman responded that some of the monuments are large obelisks and that this increases the price.

Motion made, seconded and unanimously adopted approving the application in the amount of \$47,593.41, subject to availability of funds.

## **21-02-F-12 New Paltz Rural Cemetery-Veterans' Section**

Mr. Polishook explained that Ulster County has approached New Paltz Rural Cemetery to create a section within the cemetery for veterans. The county seeks an easement for irrigation, and also wants to build a columbarium in the section. There are many legal issues that we have not been able to resolve. Apparently, the county has a March deadline for seeking funds for the project. The Department has not received a major renovation or columbarium application yet because of the outstanding legal issues as to the structure of the transaction.

Mr. Milillo explained that the county wants to apply for funding for the project. The county asked that a portion be approved at the March meeting so that they can apply for funding. Mr. Milillo wanted the Board to have seen the proposal before the March meeting.

Dennis Doyle from Ulster County explained the project, its proposed investment, and the need for an easement. In particular, the county needs an ownership interest in the structures to be developed to be able to insure them.

Mr. Milillo explained that he and Brendon Stanton had spoken to both the cemetery and the county. The parcel in question is large and unused. Mr. Milillo noted that the County wants to ensure that the veterans' section is maintained to the standards of national cemetery. However, given the size of the section, the cemetery wants to retain ownership in case there is not sufficient demand in in the long run for veterans' burials.

If the cemetery wants to sell the land, it will have to demonstrate that the sale is for fair market value.

Mr. Doyle from the county described the structures to be constructed in the section.

Mr. Polishook asked whether the county will cut the grass, open graves, or maintain records.

John Simonson spoke for New Paltz Rural Cemetery. He indicated that the transaction is not designed to be a transfer of ownership. Rather, the county will maintain the grounds of the veterans' section to national cemetery standards but the cemetery would sell graves, maintain records, and perform burials. The county would build the columbarium, ceremonial structure, water pipes, and a road.

The cemetery would retain the obligation to maintain the cemetery if the county stopped maintaining it.

Mr. Milillo explained that the cemetery cannot sign a management agreement with the county but can enter into an agreement for the county to provide services to the cemetery. Mr. Milillo added that county ownership of the ceremonial structure is not an issue, but only the cemetery can sell mausoleum and columbarium spaces.

Ms. Faber asked whether the only purchase of land would be the sale of an easement. Mr. Simonson confirmed that this is correct. The cemetery believes that the easement will give the County sufficient ownership interest to secure the funding it needs.

Mr. Milillo suggested that the easement is analogous to a utility easement whereby the County would own the irrigation and electrical conduits underground.

Mr. Simonson added that the benefit to the cemetery is that the County will direct an additional cash flow for funding burials to the cemetery.

Mr. Milillo stated that the first things for the Board to consider at the March meeting, if ready, would be the easement and the service agreement giving the County the right to install the columbarium and other structures and other items.

Mr. Fuller asked whether there is an example of something similar. Neither Mr. Polishook, Mr. Seelman, nor Mr. Milillo was aware of any similar arrangement.

No action was taken on this item.

### **Public Comment**

Mr. Fleming spoke on behalf of the New York State Association of Cemeteries. He referenced a statute that allows counties, towns, and cemeteries to seek federal funding for projects like the one at New Paltz Rural Cemetery and stated that such co-location projects provide a good model for other cemeteries in the state.

Mr. Fleming also noted that many monument dealers no longer do foundation work, instead subbing this out to other companies. He also noted that nowadays monuments are fairly standard in size, so many monument dealers are not set up to handle larger obelisks.

Motion made, seconded, and carried to adjourn the meeting at 3:59 p.m.

The next Board meeting is scheduled for March 9, 2021 at 10:30 AM, via Webex.