

DIVISION OF CEMETERIES

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GOVERNOR

CEMETERY BOARD

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ATTORNEY GENERAL

DR. HOWARD A. ZUCKER
COMMISSIONER OF HEALTH

TO: NEW YORK STATE CEMETERY BOARD

FROM: LEWIS A. POLISHOOK, Director

SUBJECTS: BUFFALO CITY CEMETERY d/b/a THE FOREST LAWN GROUP, NO. 15-027
LANCASTER CEMETREY ASS'N, NO. 15-040

RE: PROPOSED MERGER

DATE: OCTOBER 25, 2021

Buffalo City Cemetery, d/b/a The Forest Lawn Group (Forest Lawn) seeks New York State Cemetery Board (Board) approval to merge with Lancaster Cemetery Association (Lancaster), located in the Town of Lancaster, in Erie County.

The two cemeteries are not contiguous, so Not-for-Profit Corporation Law (N-PCL) section 1506-d applies to this proposed merger.

The Division of Cemeteries (the Division) has reviewed the relevant factors under this statute and recommends that the Board approve the merger, conditioned on the Towns of Amherst, Hamburg, and West Seneca, and giving those towns at least 35 days (i.e., until November 26, 2021) to comment.

Exhibits

1. Report of Senior Accountant Karen DeYoung dated Oct. 22, 2021
2. Letter from Forest Lawn dated August 17, 2021, attaching overview, merger outline, report concerning N-PCL section 1506-d, and the following exhibits:
 - A. Forest Lawn Certificate of Incorporation
 - B. Forest Lawn Bylaws
 - C. Lancaster Rural Cemetery Certificate of Incorporation
 - D. Lancaster Rural Bylaws
 - E. Forest Lawn Trustee List
 - F. Lancaster Rural Trustee list
 - G. Notification of Proposed Merger to Localities
 - H. Notice to Lot Owners
 - I. Posting of Notice for Lot Owners
 - J. Publication of Notices
 - K. Lancaster Rural Equipment Resources
 - L. Plan of Merger
 - M. Merger Agreement
 - N. Forest Lawn Board Approval of Merger
 - O. Forest Lawn Lot Owners Approval of Merger
 - P. Lancaster Rural Board Approval of Merger
 - Q. Lancaster Rural Lot Owners Approval of Merger
 - R. Forest Lawn Annual Financial Report
 - S. Lancaster Rural Annual Financial Report
 - T. Operational Projections

- U. Forest Lawn PM Investment Policy
 - V. Forest Lawn Endowed Care Investment Policy
 - W. Certificate of Merger
 - X. Draft Verified Petition to Supreme Court
 - Y. Proposed Supreme Court Order
3. Email from David Fleming dated September 15, 2021
 4. Email from David Fleming dated October 19, 2021
 5. Email from David Fleming dated October 22, 2021 and affidavit of mailing
 6. Ltr. From Lancaster Rural Cemetery dated October 22, 2021

Background

Forest Lawn is the largest cemetery in Western New York. Its constituent cemeteries comprise a total of 657 acres. It appears to be in compliance with all Division requirements and is consistently well-maintained. Over the last 20 or so years, it has merged with five other cemeteries in Erie County: Buffalo Cremation Co., St. Matthews Cemetery, Williamsville Cemetery, Gethsemane Cemetery, and Lakeside Cemetery. Its operation of these five cemeteries appears to be financially successful and all are well maintained.

Lancaster is a 41.5-acre cemetery in suburban Erie County. It also appears to be in compliance with all Division requirements and is well maintained.

Forest Lawn now seeks to merge with cemeteries somewhat farther from its original location; Lancaster is one of those cemeteries.

Statutory Factors

the plan of merger or consolidation is economically feasible and financially responsible

A merger will clearly be beneficial to Lancaster's funds. Forest Lawn reasonably projects that it can improve the performance of Lancaster's unrestricted and restricted funds. Lancaster is 41 acres, so taking on the obligation to maintain it is non-trivial but, assuming Forest Lawn's projection that it can make Lancaster profitable, its own assets will not be implicated. Plus, Forest Lawn has \$41 million in combined funds.

The more significant question is whether Forest Lawn can make Lancaster's bottom line consistently positive. Forest Lawn asserts that it will increase lot sales by 35 percent over a five-year period, with 10 percent increases in years two and three, but provides little supporting detail. Nor is there sufficient detail to determine how Forest Lawn will achieve significant savings in mowing and maintenance expenses. On the other hand, Forest Lawn has been successful in mergers with other cemeteries near Buffalo, including one—Lakeside—farther from Forest Lawn than Lancaster is, so it is not unreasonable to assume that Forest Lawn can make this successful.

the merger or consolidation does not harm the interests of each cemetery corporation, their lot owners, the communities in which the constituent cemeteries are located, or the state

Lancaster has \$3,750 per acre (about double that per developed acre) in permanent maintenance funds. It seems unlikely to be able to increase its sales significantly on its own. Adding Forest Lawn's \$40 million in general and permanent maintenance funds to its \$215,000 in financial assets will dramatically strengthen its financial position without materially weakening Forest Lawn's financial position even if Lancaster proves not to be profitable. This will benefit the Lancaster lot owners and Town of Lancaster by reducing the risk of abandonment. The merger will not materially benefit the City of Buffalo and towns in which existing Forest Lawn cemeteries are located but it will not have a material negative impact either.

the surviving or consolidated corporation will have the resources, ability and commitment of directors and officers to ensure that all the constituent cemeteries are properly operated and maintained, that they will not fall into disrepair and dilapidation and become a burden upon the community, that they will be operated for the mutual benefit of lot owners, and that they will continue to serve the local communities in which they are located

Properly Operated and Maintained

Forest Lawn successfully operates and maintains several cemeteries in the Greater Buffalo area, and they are properly operated and maintained. We are aware of only one instance of non-compliance at a Forest Lawn cemetery, concerning disinterments and reinterments in a section at St. Matthews' Cemetery.*

Not Become a Burden on the Community

Lancaster is less likely to become a burden on the community if it merges with Forest Lawn than if it were to remain a separate entity. Adding Lancaster to the Forest Lawn Group does not make it appreciably more likely that Forest Lawn or its other constituent cemeteries will become a burden on the community.

Operated for the Mutual Benefit of Lot Owners

In this case, bringing more professional management and additional sales resources to Lancaster will benefit lot owners without adversely affecting the existing lot owners of Forest Lawn.

Continue to Serve the Local Communities

See above. The Division's understanding is that, once merged, it is not possible for a cemetery to be partially abandoned to a town. Thus, this merger means that Lancaster will continue to operate as a not-for-profit cemetery unless the entire Forest Lawn group were somehow abandoned.

Notice to Municipalities

The Town of Lancaster provided the required notice. See Exh. G. It is unclear whether the statute requires notice to the Towns of Amherst (Williamsville and Gethsemane), Hamburg (Lakeside), and West Seneca (St. Matthews); Forest Lawn did not provide notice to those towns until October 22, 2021. No notice is required to the City of Buffalo (cities are not required to maintain abandoned cemeteries).

* In April 2019, Forest Lawn performed a mass disinterment at St. Matthews in April 2019 based on its expressed concern related to erosion in a section adjoining Cayuga Creek. Forest Lawn performed the disinterments and reinterments without consent of the affected families. The Division issued a notice of non-compliance based on these disinterments and reinterments. Forest Lawn has attempted to contact families concerning final resting places. These efforts have been complicated by a lawsuit brought on behalf of several families seeking monetary damages and class certification.

Plan Includes*

a description of the financial assets of each constituent cemetery corporation demonstrating that the surviving or consolidated cemetery will have sufficient financial resources to operate all locations subsequent to merger or consolidation;

The plan submitted to the Board contain a description of both cemeteries' financial assets, which appear sufficient to operate all locations after merger.

a proposal for management of financial assets of the surviving or consolidated cemetery, including management of trust funds of the constituent cemeteries;

The plan submitted to the Board describes in detail how Forest Lawn manages its investments. The combined cemetery will not segregate Forest Lawn and former Lancaster assets.

a proposal for maintenance, storage and availability of all corporate and cemetery records of the surviving or consolidated cemetery including procedures for physical or remote access to such records by persons entitled to access;

As described in the plan submitted to the Board, Forest Lawn will hold Lancaster's records at the Margaret L. Wendt Archive and Research Center at Forest Lawn, digitize them, and make them available electronically or, on request, by paper. Records will be available online or by calling the cemetery; contact information will be posted at Lancaster.

a proposal for maintenance, storage and availability of all corporate and cemetery records relating to the constituent cemeteries, including procedures for physical or remote access to such records by persons entitled to access

As described in the plan submitted to the Board, Forest Lawn will hold Lancaster's records at the Margaret L. Wendt Archive and Research Center at Forest Lawn, digitize them, and make them available electronically or, on request, by paper. Records will be available online or by calling the cemetery; contact information will be posted at Lancaster.

a plan for maintenance and operation of all locations in an equitable manner

Forest Lawn states that it provides the same level of care at all of its existing locations and will continue to do so at any new locations. We have no care complaints from Forest Lawn Group cemeteries. At Lancaster, Western New York Cemetery Services currently provides maintenance. That company is owned by the wife and sons of Craig Wolcott, a Forest Lawn Vice President. Forest Lawn states that it will engage in a competitive bidding process to ensure that whoever maintains Lancaster going forward will provide at least as good services at a similar or better price. Administrative functions will be consolidated at Forest Lawn's Buffalo office.

an agreement that contact information for the surviving or consolidated cemetery will be posted at the entrance to each location of the surviving or consolidated cemetery and on any website maintained by it

Forest Lawn has agreed to do this.

* Forest Lawn interprets N-PCL section 1506-d as requiring that this information be provided to the cemeteries with which it will merge and included in its application to the Board but believes that it is not necessary to include it in the Plan of Merger document pursuant to N-PCL section 902. Lancaster has provided supporting documentation indicating that Forest Lawn provided this information and made these representations to Lancaster. See Exh. 6. The Division believes that it is better practice to include this information in the Plan of Merger pursuant to N-PCL section 902 but believes that the Board can and should still approve this application on the current facts.

a proposal for the conduct of annual and special lot owner meetings that permits lot owners who were lot owners of a constituent cemetery to attend, actively participate in, and vote at such meetings remotely

Forest Lawn will create a website for Lancaster, will publish notice in local papers, and will make online participation available to lot owners unable to travel to Buffalo for the cemetery's annual meeting. This proposal will make it easier for Lancaster lot owners to attend meetings than it is now.

As discussed below, the Division has discussed with Forest Lawn the issue of publishing notice in publications more likely to be seen by the lot owners.

a proposal for providing notice to lot owners who were lot owners of a constituent cemetery of the place, date and hour of the annual and any special lot owner meetings in compliance with section six hundred five of this chapter, and that also provides for: notice to be published in a newspaper located in each county in which any constituent cemetery was located, and notice to be prominently posted on the homepage of any website maintained by the surviving or consolidated cemetery

See above.

Notice of Meeting Concerning Merger

Not By Publication (Unless Undue Hardship)

Lancaster provided notice by mail to lot owners and has provided proof of that notice. See Exh. 5. Forest Lawn published notice of its meetings and has provided proof of that notice. See Exhs. H, J. The Division notes that Forest Lawn published its notice in the Am-Pol Eagle, a newspaper aimed at the Western New York Polish community. The Division will discuss with Forest Lawn publication of notices in publications most likely to reach lot owners.

Posting

Lancaster states that it posted notice of the meeting concerning the merger as required. See Exh. I.

Website

Forest Lawn published notice of the meeting on its website; Lancaster does not have a website.

Meetings and Approvals

The boards of both cemeteries unanimously approved the proposed merger. Forest Lawn's lot owners approved the merger with no opposition, although only two attended the meeting in person (there were 650 proxies voted in favor), Lancaster's lot owners approved the merger by a vote of 54-2. Exh. Q. The Division did not attend either lot owners meeting so it is unable to verify the method of verification of lot ownership, rules for proxies (if any), and the number of votes accorded to each lot owner. The published notice indicates that each lot has one vote, but that is arguably ambiguous. It would be more accurate to state that each deed carries with it one vote, as one might think an eight-grave plot on one deed represents eight lots.

EXHIBIT 1

DIVISION OF CEMETERIES

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DR. HOWARD A. ZUCKER
COMMISSIONER OF HEALTH

TO: NEW YORK STATE CEMETERY BOARD

FROM: KAREN DeYOUNG; SENIOR ACCOUNTANT

SUBJECTS: BUFFALO CITY CEMETERY d/b/a THE FOREST LAWN GROUP. NO. 15-027
LANCASTER RURAL CEMETERY ASSOCIATION, NO. 15-040

RE: PROPOSED MERGER

DATE: OCTOBER 22, 2021

Buffalo City Cemetery, d/b/a The Forest Lawn Group (Forest Lawn) seeks New York State Cemetery Board (Board) approval to merge with Lancaster Cemetery Association (Lancaster), located in the Town of Lancaster (Town), in Erie County.

The cemetery was last audited by the Division in 2017. At that time Lancaster had permanent maintenance liability of \$147,724.15 and funds totaling \$147,724.15 after a deposit due from the General Funds. General funds totaled \$43,620.12. During the audit period the Town provided \$15,000.00 per year to Lancaster under General Municipal Law section 165-a.

I noted the following points in my review of the application:

The application was silent on Lancaster's general funds as of 12/31/2020 which was reported to the Division as \$67,898.00.

The application reports permanent maintenance assets as \$147,347.79 (market per Annual Financial Report) but was silent on the cost valuation of \$170,259.60 as reported to the Division for year ending 12/31/2020. The cemetery's PM assets appear to have an unrealized loss of (\$22,911.81) as of 12/31/2020.

The application indicates increases in sales of 35% in year one (1) of the merger and an additional 10% in year's two (2) and three (3). Additional clarification received was general referring to Forest Lawn's past successes. No additional documentation was provided to support their statement.

The application projects a \$36,000.00 net profit by year five (5) of the merger. Additional clarification received was general referring to Forest Lawn's past successes. No additional documentation was provided to support their statement.

The application is silent on an expense noted on the Lancaster 12/31/2020 annual financial report of \$12,500.00 referenced as "Deposit on Columbarium". The Division is unaware of any pending approval of a new columbarium. Additional information is requested to explain this deposit and resulting expense.

The application is silent on pending future loss of \$15,000.00 per year from the Town. The Town would have no obligation to continue its support under General Municipal Law section 165-a once merged into Forest Lawn.

EXHIBIT 2



**FEATHERSTONHAUGH,
WILEY & CLYNE, LLP**
ATTORNEYS AND COUNSELLORS AT LAW

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ALBANY, NEW YORK 12210
WEBSITE: FWC-LAW.COM
PHONE: (518) 436-0786

**APPLICATION TO THE NEW YORK
STATE CEMETERY BOARD FOR
CONSENT TO THE MERGER OF:**

Lancaster Rural Cemetery Association (15040)

Into:

The Buffalo City Cemetery

(Forest Lawn Cemetery and Crematory 15027)

August 17, 2021



**FEATHERSTONHAUGH,
WILEY & CLYNE, LLP**
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August 17, 2021

New York State Cemetery Board
New York State Department of State
One Commerce Plaza
99 Washington Avenue
Albany, New York 12231

**Re: Merger of Forest Lawn Cemetery & Crematory (15027)
and Lancaster Rural Cemetery (15040)**

Dear Members of the Board:

Attached herewith please find an application package related to the proposed merger of Lancaster Rural Cemetery into The Buffalo City Cemetery (Forest Lawn Cemetery & Crematory). Both cemeteries are regulated by the state and are under the jurisdiction of the State Cemetery Board. The cemeteries respectfully request the State Cemetery Board's consent to this merger for the benefit of all lot owners as outlined in the following documents.

The proposed merger of these operations has been under discussion by both organizations for some time. Subsequent to these talks, the proposed merger and plan of merger have been approved by the boards of each entity as well as the lot owners of the cemeteries. United, the merged cemeteries will create increased financial stability and service for all members of the organizations and will strengthen the long-term resources for all lot owners.

This merger is in keeping with The Forest Lawn Group's strategy approved and outlined by its Board of Trustees to meet the financial needs and long-term sustainability of cemetery operations and endowment while supporting the interests of all lot owners. This proven business model (through mergers dating back to 1998) increases available revenues, reduces maintenance per acre, and increases permanent maintenance funds. The management of clusters of cemeteries in geographic regions is key to the success of this effective business model.

The reality is that many cemeteries, especially smaller, rural cemeteries, are increasingly in financial and operational distress. Many of them, including Lancaster Rural, have told Forest Lawn in plain

terms that they will fail and face abandonment in the very near term unless a solution is found. They face declining revenues, increasing costs, small and often insufficient endowments, and their boards and management are aging with no younger generation stepping in to take over. A new strategy is essential if these cemeteries are going to survive and not become a burden on the tax payers of local municipalities. Industry consolidation, in instances such as this, is the only realistic path forward. Combining with Forest Lawn offers Lancaster Rural enhanced management, operational and financial resources and support, together with operational efficiencies, that will keep these cemeteries (as well as the entire Forest Lawn Group) viable and strong.

As the Board is aware, Forest Lawn has for two decades owned and operated a "cluster" of cemeteries located in Western New York. It has proven that it has the professional management and resources to manage multiple cemeteries, and has demonstrated the operational efficiencies that can result from a group of geographically close cemeteries sharing resources. Forest Lawn is also able to implement common policies and procedures, financial controls and reporting, marketing and promotional resources (including web site and online resources), and other operational efficiencies for the benefit of all of its cemeteries. At the same time, Forest Lawn's management template remains a behind-the-scenes overlay of practices and policies so that the sensibilities and traditions of each local community cemetery is preserved and respected.

These clusters have greatly strengthened Forest Lawn's financial position while also providing enhanced services and engagement for constituent operations.

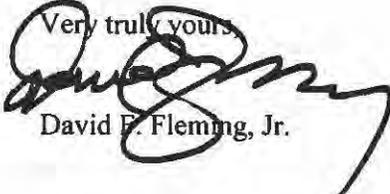
Lancaster Rural Cemetery is 41.50 acres with a Permanent Maintenance Fund (PM) of approximately \$147,347.79. The cemetery has potential sales development of another 3.10 acres of developed land along with another 19.90 acres of undeveloped property. The merger of these cemetery operations will compound market returns and will increase available maintenance resources.

Following this merger, the projected sales operations increase at Lancaster Rural under Forest Lawn's leadership is expected to increase by 35% over the previous five-year average with an additional 10% in years two and three. This will be accomplished in part through operating efficiencies, and opportunities from the Forest Lawn management template (i.e. pre-need term contracts, accepting credit cards, marketing and community engagement).

Simply put, this merger will create stronger services for all lot owners and will significantly improve The Forest Lawn Group's ability to meet the promise of perpetual care while fulfilling the sacred duties associated with cemetery management.

We look forward to working with the State Cemetery Board to answer any questions you may have about this important project and to secure a timely consent to this merger.

Thank you in advance for your consideration of this important project.

Very truly yours,

David F. Fleming, Jr.

Attachments

Forest Lawn Overview:

Forest Lawn (Corporate title of The Buffalo City Cemetery, Inc.), is a regulated not-for-profit cemetery organization. As an organization that welcomes all faiths, they operate five cemeteries and a crematory.

In its 170+ years, Forest Lawn Cemetery has become an enduring chronicle of local history and a cultural landmark to local accomplishment. The cemetery is a national asset with designation in the New York State and National Registers of Historic Places.

With more than 3,500 trees in Forest Lawn, representing 100 different species and varieties, the cemetery is an important arboretum.

The Margaret L. Wendt Archive and Resource Center at Forest Lawn is nationally recognized and is an archival “center of excellence” for protecting, and conserving one of Western New York’s most precious assets – Forest Lawn’s collection of more than 1.2 million historic documents, including the most comprehensive family archives in Western New York.

Forest Lawn has strategically expanded over the years to strengthen the viability of its operations and its service to lot owners. Today, The Forest Lawn Group includes cemeteries in Buffalo, Hamburg, Williamsville and West Seneca. Lakeside Cemetery in Hamburg (south of Buffalo) is a lovely cemetery and also a home for several forms of wildlife. Williamsville Cemetery’s eight acres also represents the rich history of the Village of Williamsville in the Town of Amherst. St. Matthew’s Cemetery showcases the beauty, heritage and tradition of West Seneca. The most recent addition to the Forest Lawn Group is Gethsemane Cemetery in Williamsville. Since its dedication in the early 1900’s, this beautiful, quiet, serene place had been a private cemetery, exclusively for burial of the Sisters of St. Francis of the Neumann Communities. In 2018, the Sisters entrusted ownership of Gethsemane to the Forest Lawn Cemetery and Crematory Group.

Lancaster Rural Cemetery Overview:

Lancaster Rural Cemetery is a regulated not-for-profit cemetery operation in the Town of Lancaster, New York in Erie County. The cemetery is a uniformly laid out, semi-forested cemetery with a combination of monuments and outdoor niches beautifully landscaped and attended by cemetery operations and lot owners. The cemetery has a high visitation rate by lot owners, as evidenced through grave site plantings and adornments.

The roads are gravel and in good condition. There is a long stone walkway leading to a children’s memorial that is bordered by lawn and bench markers. The trees are well maintained with relatively new plantings among mature growth. There is a single maintenance building with an office that was newly painted and had a roof installed three years ago. A 48-unit niche columbarium was installed in December 2017. Two other columbaria have 2-3 available niches each.

Winter burials occur as needed and the cemetery maintains a good working relationship with the funeral directors that service the area.

Forest Lawn Group Merger Outline:

Forest Lawn is aware that many small, rural cemeteries lack the financial, manpower and capital resources to adequately maintain and manage their cemetery properties. Many are surviving day-to-day with little or no ability or resources to do any marketing or promotional activities, raise funds, take advantage of technology, or plan strategically for the future. Forest Lawn, with its professional staff, and substantial resources and infrastructure, has a demonstrated track record and nimble structure to combine resources with groups of smaller cemeteries in a way that will benefit all parties. The strategy can be summarized as follows:

- Creating groupings of multiple, geographically close cemeteries – each a “cluster;”
- That achieve a critical mass of endowment and revenue dollars;
- Which can then be managed more effectively for revenue growth, economies of scale and cost reduction;
- Can leverage the broader geographic area of the “cluster” to draw business from larger population base;
- Thereby enabling both growth in total revenue and a reduction in expense per acre;
- While at the same time creating opportunities to attract and develop new, younger employees for sustaining our business long-term.

Forest Lawn already owns and operates a “cluster” of cemeteries located in Western New York. It has proven that it has the professional management and resources to manage multiple cemeteries, and has demonstrated the operational efficiencies that can result from a group of geographically close cemeteries sharing resources. Forest Lawn is also able to implement common policies and procedures, financial controls and reporting, marketing and promotional resources (including website and on-line resources), and other operational efficiencies for the benefit of all of its cemeteries. At the same time, Forest Lawn’s management template remains a behind-the-scenes overlay of practices and policies so that the sensibilities and traditions of each local community cemetery is preserved and respected. Forest Lawn is confident that these same operational resources and benefits can be implemented in other “clusters” of cemeteries in Western New York.

Forest Lawn and Lancaster Rural Cemetery, based on research, analysis and long-term viability for both operations, have determined that this merger is in the best interests of their operations and therefore respectfully request an expedited review and consent to this strategic plan of merger.

Responses Related to NPCL § 1506-d: Additional Requirements for Cemetery Mergers

(1) The plan of merger or consolidation is economically feasible and financially responsible:

The Forest Lawn Group is a nationally recognized cemetery operation with a significant track record of successful mergers with smaller cemeteries that have strengthened the combined operations financially and from an operations perspective.

The Forest Lawn Group has a successful program of reducing expenses and increasing revenue per acre for all constituent cemeteries.

Lancaster Rural Cemetery would continue this ongoing work.

Forest Lawn's Annual Financial Report for the year ending 3/31/2021 outlines the investments and operational income of the operations. This report is attached as **Exhibit R**.

Lancaster Rural Cemetery's Annual Financial Report for the year ending December 31, 2020 is attached as **Exhibit S**.

Lancaster had 66 reported burials in 2020. The cemetery is 41.50 acres with potential sales development of 3.10 acres Unsold-Developed and 19.90 Unsold-Undeveloped.

Lancaster has no special trust funds and their PM at last report is \$147,347.79.

Based on Forest Lawn's investment policy, the combined investment of these funds alone would cover approximately 13% of the care and maintenance of Lancaster.

Lancaster, as reported in their 2020 Annual Report, has an operational loss of nearly \$4,000. However, Lancaster has seen some improvement due to increased product offerings. The marketing of these products and new offerings based on the Forest Lawn portfolio will further assist the success of operations for this cemetery and the cluster as a whole.

Forest Lawn Group's proven programs of marketing, pre-need and sales are expected to increase sales operations by 35% over the previous five-year average for Lancaster Rural and an additional 10% in years two and three.

Utilizing Forest Lawn's model for cluster cemetery mergers, the net profit of the cemetery is expected to increase annually to \$36,000 by year five of the merger.

This is a marked change from operational losses and demonstrates that this merger is economically feasible and financially responsible.

Lancaster Rural Cemetery's PM appears properly funded and the additional revenue and investments will strengthen both entities.

Please see **Exhibit T** for additional information on operational projections.

(2) The merger or consolidation does not harm the interests of each cemetery corporation, their lot owners, the communities in which the constituent cemeteries are located, or the state:

The merger of Forest Lawn and Lancaster Rural will financially strengthen both cemeteries.

The existing lot owners of Forest Lawn will continue to receive the same renowned services they have expected with increased viability of its PM and operational structure. Lancaster's lot owners will see new technology offerings for access such as websites along with easy access to records, staff, and arrangements. Representatives will be available to lot owners six days a week, with the monitoring of emails on a 24/7 basis. The new website will be a comprehensive source of information and contact for lot owners.

The community of Lancaster will be benefited by a well maintained cemetery that will not be in danger of abandonment. The locality's tax burden would not be increased by this cemetery abandonment since the operations will merge with a strong existing operation. The state would be benefited by protecting scarce cemetery abandonment funds and the consolidation of operations will allow for easier oversight and less deployment of Division of Cemeteries resources to handle struggling operations and the prevention of cemetery reorganization.

The enhanced financial position of these merged entities will provide for long term viability otherwise unattainable by the individual cemeteries.

(3) The surviving or consolidated corporation will have the resources, ability and commitment of directors and officers to ensure that all the constituent cemeteries are properly operated and maintained, that they will not fall into disrepair and dilapidation and become a burden upon the community, that they will be operated for the mutual benefit of lot owners, and that they will continue to serve the local communities in which they are located:

The combined resources of Forest Lawn and Lancaster will greatly strengthen the operations of both entities in ways not possible on their own.

Forest Lawn has a proven track record of cluster cemetery operations that reduces costs and increases revenues which will benefit both operations.

The officers and the directors of both organizations have approved their plan of merger and have enthusiastically supported this merger process as outlined in the Plan of Merger attached as **Exhibit L.**

The maintenance provided by Forest Lawn for constituent cemeteries has been and will remain exceptional. The services provided to lot owners will continue in the same manner as currently exists with a focus on leveraging operational savings and enhanced services and offerings.

The communities served will have greater access to historical documents, research, and varieties of traditional cemetery offerings. These enhancements will serve the community as well as the larger cemetery operations and their lot owners.

(4) The municipalities which would be required to assume the care and control of any part of the cemetery if the surviving or consolidated cemetery corporation were to be abandoned have been notified of the proposed merger or consolidation:

The localities required to assume control of any part of the Lancaster Rural Cemetery should it be abandoned have been notified of the proposed merger.

A copy of the letter to the Town Supervisor of Lancaster, New York, and Affidavit of Mailing and the Certified Receipt are attached as **Exhibit G**.

(5) The plan of merger or consolidation submitted to the cemetery board shall include the following:

(i) A description of the financial assets of each constituent cemetery corporation demonstrating that the surviving or consolidated cemetery will have sufficient financial resources to operate all locations subsequent to merger or consolidation;

Lancaster Rural Cemetery Currently has the following equipment to benefit operations (see **Exhibit K**):

2-John Deere Lawn Mowers

6-wheel drive John Deere Gator

Lancaster Rural Cemetery does not currently have outstanding indebtedness or leases.

Lancaster Rural Cemetery has had no employees since December 2015 and utilizes outside contracting for its general operations.

A full description of Lancaster Rural Cemetery's assets may be found in their Annual Financial Report attached as **Exhibit S**.

A full description of Forest Lawn's assets may be found in their Annual Financial Report attached as **Exhibit R**.

The increase of equipment to the Forest Lawn inventory will contribute to more effective operations for all constituent parts. The added investments of the Lancaster PM and operational cash will further strengthen Forest Lawn's overall financial position for the long-term for all operations.

(ii) A proposal for management of financial assets of the surviving or consolidated cemetery, including management of trust funds of the constituent cemeteries;

There are no specific trusts established for Lancaster Rural Cemetery. The management of financial assets will be governed by Forest Lawn's policies which may be found attached as **Exhibit U**.

(iii) A proposal for maintenance, storage and availability of all corporate and cemetery records of the surviving or consolidated cemetery including procedures for physical or remote access to such records by persons entitled to access;

Forest Lawn has a proven track record related to digitizing documents and providing storage and retrieval of corporate records and historical documents. Forest Lawn intends to make records available to lot owners electronically and, for those lot owners who prefer hard copies of records, Forest Lawn will ensure hard copies are made available by mail or other means requested by persons entitled to access.

Forest Lawn will provide specific contact information, including other important information on its website, to all lot owners of Lancaster Rural Cemetery, to allow lot owners to request copies of applicable records.

Forest Lawn has a professionally staffed office with representatives available six days a week, and monitors incoming emails on a 24/7 basis. Forest Lawn's website, as well as the websites it plans to create for each merged cemetery, will be a comprehensive source of information and contact for lot owners.

Forest Lawn's experience with many smaller and rural cemeteries is that their books and records are not readily available or accessible; many are not maintained on computers or available electronically at all. Forest Lawn intends to implement much more professional and robust recordkeeping at each merged cemetery and is confident that under its ownership, recordkeeping will be complete and accurate and availability of records to all lot owners and other stakeholders will improve considerably.

(iv) A proposal for maintenance, storage and availability of all corporate and cemetery records relating to the constituent cemeteries, including procedures for physical or remote access to such records by persons entitled to access;

Forest Lawn has a proven track record related to digitizing documents and providing storage and retrieval of corporate records. Forest Lawn intends to make records available to lot owners electronically and, for those lot owners who prefer hard copies of records, Forest Lawn will ensure hard copies are made available by mail or other means.

Forest Lawn will provide specific contact information, including other important information on its website, to all lot owners of Lancaster Rural Cemetery, to allow lot owners to request copies of applicable records.

Forest Lawn has a professionally staffed office with representatives available six days a week, and monitors incoming emails on a 24/7 basis. Forest Lawn's website, as well as the websites it plans to create for each merged cemetery, will be a comprehensive source of information and contact for lot owners.

Forest Lawn's experience with many smaller and rural cemeteries is that their books and records are not readily available or accessible; many are not maintained on computers or available

electronically at all. Forest Lawn intends to implement much more professional and robust recordkeeping at each merged cemetery and is confident that under its ownership, recordkeeping will be complete and accurate and availability of records to all lot owners and other stakeholders will improve considerably.

(v) A plan for maintenance and operation of all locations in an equitable manner;

Forest Lawn intends to introduce shared services and manpower as part of its “cluster” model including contractual services as it does currently in its remote operations at other cemeteries. Lancaster Rural Cemetery will be serviced in the same manner as it services its existing constituent cemeteries. These mobile land services are highly efficient and enable the maximization of scheduling services and maintenance.

All administrative services will be centralized. This means that all constituent parts will receive the same equitable services. There will be a significant increase in the accessibility of administrative support and organizational resources for Lancaster based on Forest Lawn’s existing model of operations.

(vi) An agreement that contact information for the surviving or consolidated cemetery will be posted at the entrance to each location of the surviving or consolidated cemetery and on any website maintained by it;

Forest Lawn will provide the necessary contact information for Lancaster Rural Cemetery at the entrance to the cemetery as well as their websites following the merger of the organizations. The access to support services provided by Forest Lawn will represent a significant increase in services for Lancaster Cemetery lot owners.

(vii) A proposal for the conduct of annual and special lot owner meetings that permits lot owners who were lot owners of a constituent cemetery to attend, actively participate in, and vote at such meetings remotely; and

The ongoing pandemic has established new expectations for remote and in-person meetings. Such meetings have been the expectation for more than a year. They foster greater participation and ease of interaction for attendees.

Forest Lawn will manage the logistics of local cemetery meetings using both technology and regular in-person visits of Forest Lawn representatives to the local cemeteries. Forest Lawn will publish notices of annual lot owners’ and any special meetings in each locality in the same manner that it currently publishes notices in its principal location in Buffalo, including by electronic means. As part of its discussions local cemeteries Forest Lawn has committed to creating a website for each local cemetery (many of which have little or no on-line presence currently) and will post meeting notices and other information on those web sites.

Forest Lawn will also facilitate participation by lot owners of remote cemeteries in lot owners' meetings using video conferencing or other web-based meeting tools and/or a local location for such participation. Forest Lawn will also send representatives to attend live, in-person lot owners' meetings at constituent locations as and when necessary or appropriate.

Forest Lawn is confident that lot owners of Lancaster Rural Cemetery will have appropriate notice and opportunity to participate in annual and special lot owner meetings in more ways than they have currently.

(viii) A proposal for providing notice to lot owners who were lot owners of a constituent cemetery of the place, date and hour of the annual and any special lot owner meetings in compliance with section six hundred five of this chapter, and that also provides for: notice to be published in a newspaper located in each county in which any constituent cemetery was located, and notice to be prominently posted on the homepage of any website maintained by the surviving or consolidated cemetery.

Forest Lawn will provide notice to lot owners of Lancaster Rural Cemetery in compliance with NPCL §605. Forest Lawn will send notice to each member that has requested such notice in writing. Forest Lawn will also publish notice of the meeting on their website and the Lancaster Rural Cemetery website and three successive weeks of publication in a newspaper in the county of operation of Lancaster Rural Cemetery.

These forms of notification along with the access to remote meetings will provide the cemetery's lot owners with significant access for participation.

In addition to the requirements of section nine hundred three of this chapter, lot owner approval of the plan of merger or consolidation must meet these requirements:

(1) Notice of the meeting to lot owners by a constituent cemetery corporation that will not be a surviving cemetery corporation may not be served by publication, unless the constituent cemetery demonstrates that notice by means other than publication would cause undue hardship;

Lot owner notice was served by publication and written notice. A copy of the publication and written notice may be found attached as **Exhibits H and J**.

(2) Additional notice of the meeting shall be conspicuously posted at the cemetery at least sixty days prior to the meeting and shall provide the name, telephone number and address of a person from whom a copy of the plan of merger or consolidation may be obtained; and

A copy of the posted notice may be found attached as **Exhibit I**.

(3) Additional notice of the meeting, along with the plan of merger or consolidation or an outline of the material features of the plan, shall be conspicuously posted, by each constituent corporation, on any website it maintains or through which it conducts business.

Lancaster Rural Cemetery and Forest Lawn maintain websites for postings. The website posting may be found attached as **Exhibit J**.

LIST OF EXHIBITS PRESENTED

Forest Lawn Certificate of Incorporation	Exhibit A
Forest Lawn Bylaws	Exhibit B
Lancaster Rural Cemetery Certificate of Incorporation	Exhibit C
Lancaster Rural Bylaws	Exhibit D
Forest Lawn Trustee List	Exhibit E
Lancaster Rural Trustee List	Exhibit F
Notification of Proposed Merger to Localities	Exhibit G
Notice to Lot Owners	Exhibit H
Posting of Notice for Lot Owners	Exhibit I
Publication of Notices	Exhibit J
Lancaster Rural Equipment Resources	Exhibit K
Plan of Merger	Exhibit L
Merger Agreement	Exhibit M
Forest Lawn Board Approval of Merger	Exhibit N
Forest Lawn Lot Owners Approval of Merger	Exhibit O
Lancaster Rural Board Approval of Merger	Exhibit P
Lancaster Rural Lot Owners Approval of Merger	Exhibit Q
Forest Lawn Annual Financial Report	Exhibit R
Lancaster Rural Annual Financial Report	Exhibit S
Operational Projections	Exhibit T
Forest Lawn PM Investment Policy	Exhibit U
Forest Lawn Endowed Care Investment Policy	Exhibit V
Certificate of Merger	Exhibit W
Draft Verified Petition to Supreme Court	Exhibit X
Proposed Supreme Court Order	Exhibit Y

Exhibit A

Forest Lawn Certificate of Incorporation

The following is a true and correct copy of the Certificate of Incorporation of the Buffalo City Cemetery adopted November 21, 1864.

THE CERTIFICATE OF INCORPORATION

of the

BUFFALO CITY CEMETERY

The undersigned, Lewis F. Allen, Chairman, and Orsamus H. Marshall, Secretary, of the meeting herein after named, do hereby certify that on the nineteenth day of November, 1864, at three o'clock in the afternoon, the following named residents of the city of Buffalo and State of New York, to wit: James P. White, Oliver G. Steele, Lewis F. Allen, Orsamus H. Marshall, Elijah Ford, Everard Palmer, Chandler J. Wells, Sidney Shepard, George Truscott, Charles W. Evans, Dewitt C. Weed, Joseph Warren, John D. Shepard, Jabez B. Bull, George Newman, Gibson T. Williams, Walter Cary, James M. Smith, Nelson K. Hopkins and Henry Martin, being desirous of forming an association for the purpose of procuring and holding lands to be used exclusively for a cemetery, or place for the burial of the dead, did meet at the office of said O. H. Marshall, No. 330 Main Street, in said city, the being the time and place agreed upon by said persons, and by a vote of a majority of said persons, did appoint the undersigned, Lewis F. Allen, chairman of the said meeting, and the undersigned, Orsamus H. Marshall, Secretary of said meeting and did thereupon by a like majority determine the corporate name by which the said Association shall be called and known to be

"THE BUFFALO CITY CEMETERY",

and did fix the number of Trustees to manage the concerns of the said Association, to be twelve, and did thereupon proceed to elect by ballot the following named persons as such Trustees, to wit:

Dexter P. Rumsey,
George Truscott,
Lewis F. Allen,
Everard Palmer,
Orsamus H. Marshall,
Russell H. Heywood,

Dewitt C. Weed,
Sidney Shepard,
Oliver G. Steele,
Henry Martin,
Francis H. Root,
George Howard,

and that the undersigned Chairman and Secretary did immediately after such election divide the said Trustees by lot into three classes as follows:

FIRST CLASS.

Francis H. Root,
Sidney Shepard,

Henry Martin,
George Howard,

to hold their office one year.

SECOND CLASS.

Dewitt C. Weed,
Oliver G. Steele,

George Truscott,
Russell H. Heywood,

to hold their office two years.

THIRD CLASS.

Everard Palmer,
Dexter P. Rumsey,

Orsamus H. Marshall,
Lewis F. Allen,

to hold their office three years.

And we further certify that the said meeting determined that the further election of Trustees should be held on the second Monday of November in each

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the Department of State, at the City of Albany, on September 18, 2018.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

982412

CERTIFICATE OF TYPE

of

Not-for-Profit Corporation

of

THE BUFFALO CITY CEMETERY, INC.

Under Section 113 of the
Not-for-Profit Corporation Law

The undersigned, the President and Secretary, respectively of The Buffalo City Cemetery, Inc., do hereby certify pursuant to Section 113 of the Not-for-Profit Corporation Law:

FIRST: The name of the corporation is The Buffalo City Cemetery, Inc.

SECOND: The Certificate of Incorporation of The Buffalo City Cemetery was filed in the Erie County Clerk's Office on November 21, 1864.

THIRD: The post office address to which the Secretary of State shall mail a copy of any notice required by law is c/o Hodgson, Russ, Andrews, Woods & Goodyear, Suite 1800, One M & T Plaza, Buffalo, New York 14203.

FOURTH: That under Section 201 of the Not-for-Profit Corporation Law, the corporation is a Type B not-for-profit corporation as defined in Section 102 of said Law.

IN WITNESS WHEREOF, the undersigned have hereunto subscribed this certificate and affirmed it as true under the penalties of perjury this 14th day of November, 1970.


Laurence R. Goodyear
President


Fred R. Whaley, Jr.
Secretary

2

First Round

CERTIFICATE OF TYPE

of

inc.

868112-3

Not-for-Profit Corporation

7/21/70

of

THE BUFFALO CITY CEMETERY, INC.

JM

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED NOV 16 1970

TAX \$ *None*
FILING FEE \$ *10*

John P. Tompkins
Secretary of State

By *MB*
15 Cris
Type B

*Hodgson, Russ, Andrews, Woods
& Goodyear*

*1800 - One MPT Plaza
Buffalo, NY 14203*

3

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
September 18, 2018.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

CERTIFICATE OF MERGER

88021200046
AIDF-24

AIDF-24

OF
**THE BUFFALO CITY CEMETERY, INC. AND
LAKESIDE MEMORIAL PARK ASSN., INC.**
INTO
THE BUFFALO CITY CEMETERY, INC.
**UNDER SECTION 904 OF THE NOT-FOR-PROFIT
CORPORATION LAW**

The undersigned, Fred R. Whaley, Jr. and Bette M. Rupp, being the President and Secretary of The Buffalo City Cemetery, Inc., and Eugene Hock and Monte Rieflet, being the President and Secretary of Lakeside Memorial Park Assn., Inc., said corporations being domestic corporations organized and existing under and by virtue of the laws of the State of New York, hereby certify:

1. The names of the constituent corporations are The Buffalo City Cemetery, Inc. and Lakeside Memorial Park Assn., Inc. Lakeside Memorial Park Assn., Inc. was formed under the name The Buffalo Rural Cemetery. The name of the surviving corporation is The Buffalo City Cemetery, Inc.

2. There are no holders of capital contribution certificates or subvention certificates. The membership of the constituent corporations is as follows:

The members of The Buffalo City Cemetery, Inc. are the lot owners, as defined in Section 1512 of the Not-for-Profit Corporation Law, of Forest Law Cemetery.

The members of Lakeside Memorial Park Assn., Inc. are the lot owners, as defined in Section 1512 of the Not-for-Profit Corporation Law, of Lakeside Memorial Park.

3. The amendments or changes to the certificate of incorporation of The Buffalo City Cemetery, Inc. to be effected by the merger are:

The time of holding the annual meeting is amended to read as follows:

The time of holding the annual meeting shall be the last or next-to-last Tuesday in April in each year.

A new paragraph is added to read as follows:

The Corporation's cemeteries are situated in the City of Buffalo and in the Town of Hamburg, both in the County of Erie.

4. The merger shall be effective on the date that this Certificate of Merger is filed by the Department of State.

5. The certificate of incorporation of The Buffalo City Cemetery, Inc. was filed in the Erie County Clerk's Office on November 21, 1864, and a certificate of type for The Buffalo City Cemetery was filed by the Department of State on November 16, 1970. The certificate of incorporation of Lakeside Memorial Park Assn., Inc. was filed by the Department of State on October 8, 1907.

6. The merger was authorized with respect to The Buffalo City Cemetery, Inc. in the following manner:

A plan of merger was adopted by the board of The Buffalo City Cemetery, Inc. at a meeting on June 17, 1997, by vote of a majority of the directors present at the time of the vote, a quorum being present at the time. The board submitted the plan to a vote of the members. Notice of meeting was given to each member whether or not entitled to vote. An outline of the material features of the plan of merger accompanied the notice. The plan was approved by a unanimous vote at a meeting of the members on August 26, 1997, at which meeting a quorum was present, blank votes and abstentions not being counted in the number of votes cast.

The merger was authorized with respect to Lakeside Memorial Park Assn., Inc. in the following manner:

A plan of merger was adopted by the board of Lakeside Memorial Park Assn., Inc. at a meeting on June 19, 1997, by vote of a majority of the directors present at the time of the vote, a quorum being present at the time. The board submitted the plan to a vote of the members. Notice of meeting was given to each member whether or not entitled to vote. An outline of the material features of the plan of merger accompanied the notice. The plan was approved by a unanimous vote at a meeting of the members on August 27, 1997, at which meeting a quorum was present, blank votes and abstentions not being counted in the number of votes cast.

2

IN WITNESS WHEREOF, the undersigned have, on behalf of each constituent corporation, subscribed this certificate and hereby affirm it as true under the penalties of perjury this 3rd day of October, 1927

THE BUFFALO CITY CEMETERY, INC.

Fred R. Whaley, Jr.
Fred R. Whaley, Jr., President

Bette A. Rupp
Bette A. Rupp, Secretary

LAKESIDE MEMORIAL PARK ASSN., INC.

Eugene Hock
Eugene Hock, President

Monte Riefler
Monte Riefler, Secretary

At a Special Term of the Supreme Court of the State of New York, held in and for the County of Erie, at 92 ~~Franklin Street~~ ^{20 Delaware Avenue}, Buffalo, New York, on December 23, 1997.

~~FRANKLIN STREET, N.Y.C.~~
STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In the Matter of the Application

of

THE BUFFALO CITY CEMETERY, INC. and
LAKESIDE MEMORIAL PARK ASSN., INC.

In Support of an Order Approving Their
Plan of Merger and Authorizing the Filing
of a Certificate of Merger Pursuant to
Section 901 of the Not-For-Profit
Corporation Law

ORDER APPROVING PLAN OF
MERGER AND CERTIFICATE
OF MERGER FOR FILING

Index No. _____

Upon reading the affidavit of THE BUFFALO CITY CEMETERY, INC. and LAKESIDE MEMORIAL PARK ASSN., INC., signed and duly verified on behalf of The Buffalo City Cemetery on September 26, 1997 and on behalf of Lakeside Memorial Park Assn., Inc. on October 3, 1997, and the exhibits attached thereto, and no votes having been cast by members of either corporation against approval of the Plan of Merger, and the New York State Cemetery Board and the Attorney General having certified no objection to the entry of this order, and the court having given due consideration hereto, and it appearing to the satisfaction of the court that the provisions of Section 907 of the Not-For-Profit Corporation Law have been complied with, and that the interests of the constituent corporations and the public interests would not be adversely affected by the merger of the petitioning corporations.

Now, on motion of Sharon M. Kelly, Esq., attorney for the constituent corporations, it is hereby

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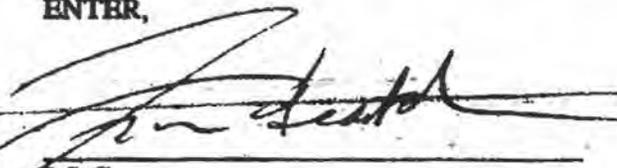
ORDERED, that the plan dated the 1st day of June, 1997, for the merger of **THE BUFFALO CITY CEMETERY, INC.** and **LAKESIDE MEMORIAL PARK ASSN., INC.** into **THE BUFFALO CITY CEMETERY, INC.**, be and hereby is approved, and it is further

ORDERED, that the said corporations be and hereby are authorized to file with the Secretary of State the Certificate of Merger executed and acknowledged by them the 3rd day of October, 1997, in the form annexed to the their affidavit, and it is further

ORDERED, that upon filing of the said Certificate of Merger together with a certified copy of this order as required, all the assets of **LAKESIDE MEMORIAL PARK ASSN., INC.**, shall thereby be transferred and conveyed to **THE BUFFALO CITY CEMETERY, INC.**, and it is further

ORDERED, that the merger of the corporations shall have the effect provided by Section 905(b) of the Not-For-Profit Corporation Law of the State of New York.

ENTER,



I.S.C.

Dated, **DEC 23 1997**, 1997

GRANTED
DEC 23 1997
[Handwritten signature]

The undersigned has no objection to the granting of judicial approval hereon and waives statutory notice.

DENNIS C. VACCO
Attorney General of the State of NY
BY:

[Handwritten signature of William D. Maldovan]
WILLIAM D. MALDOVAN
Assistant Attorney General of counsel

DATED: December 19, 1997

5

AIDF-24

98021200046

CERTIFICATE OF

MERGER

OF

THE BUFFALO CITY CEMETERY, INC.
and
LAKESIDE MEMORIAL PARK ASSN., INC.
into
THE BUFFALO CITY CEMETERY, INC.

Pursuant to §904 of the Not For Profit Corporation Law

cc CT 3. cc File

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34
STATE OF NEW YORK
DEPARTMENT OF STATE
FILED FEB 12 1998
TAXS
BY: ASL
P. 16

FEB 12 11 44 AM '98

RECEIVED

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Filed by:

Christine E. Pedcock
Accelerated Information & Document Filing, Inc.
40 State Street, Suite 838
Albany, New York 12207

M

BILLED

98021200046

STATE OF NEW YORK

DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

WITNESS my hand and official seal of the Department of State, at the City of Albany, on September 18, 2018.



A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

AIDF-24

F010502000625

**CERTIFICATE OF MERGER
OF
THE BUFFALO CITY CEMETERY, INC. AND
WILLIAMSVILLE CEMETERY ASSOCIATION, INC.
INTO
THE BUFFALO CITY CEMETERY, INC.
UNDER SECTION 906 OF THE NOT-FOR-PROFIT
CORPORATION LAW**

The undersigned, Fred R. Whaley, Jr. and Joseph P. DiPasqua, being the President and Secretary of The Buffalo City Cemetery, Inc., and Frederick S. Wood and Cecelia Karpis, being the President and Secretary of Williamsville Cemetery Association, said corporations being domestic corporations organized and existing under and by virtue of the laws of the State of New York, hereby certify:

1 The names of the constituent corporations are The Buffalo City Cemetery, Inc. and Williamsville Cemetery Association. The name of the surviving corporation is The Buffalo City Cemetery, Inc.

2 There are no holders of capital contribution certificates or subscription certificates. The membership of the constituent corporations is as follows:

The members of The Buffalo City Cemetery, Inc. are the lot owners, as defined in Section 1512 of the Not-for-Profit Corporation Law, of Forest Lawn Cemetery.

The members of Williamsville Cemetery Association are the lot owners, as defined in Section 1512 of the Not-for-Profit Corporation Law, of Williamsville Cemetery.

3 The amendments or changes to the certificates of incorporation of The Buffalo City Cemetery, Inc. to be effected by the merger are:

A new paragraph is added to read as follows:

The Corporation's cemeteries are situated in the City of Buffalo, Town of Hamburg and the Village of Williamsville, all in the County of Erie.

4 The merger shall be effective on the date that this Certificate of Merger is filed by the Department of State.

5 The certificate of incorporation of The Buffalo City Cemetery, Inc. was filed in the Erie County Clerk's Office on November 21, 1964 and a certificate of title for The Buffalo City Cemetery, Inc. was filed by the Department of State on November 16, 1970. The

certificates of incorporation of Wilkesville Cemetery Association was filed in the Erie County Clerk's Office in (Book 1) of Blanket Records (records in page 432 on or about November 24, 1871).

6. The merger was authorized with respect to The Buffalo City Cemetery, Inc. in the following manner:

A plan of merger was adopted by the board of The Buffalo City Cemetery, Inc. at a meeting on September 14, 2000, by vote of a majority of the directors present at the time of the vote, a quorum being present at the time. The board authorized the plan in a vote of the majority. Notice of meeting was given to each member whether or not entitled to vote. An outline of the material features of the plan of merger accompanied the notice. The plan was approved by a unanimous vote at a meeting of the members on October 4, 2000, at which meeting a quorum was present, blank votes and abstentions not being counted in the number of votes cast.

The merger was authorized with respect to Wilkesville Cemetery Association in the following manner:

A plan of merger was adopted by the board of Wilkesville Cemetery Association at a meeting on August 17, 2000, by vote of a majority of the directors present at the time of the vote, a quorum being present at the time. The board authorized the plan in a vote of the majority. Notice of meeting was given to each member whether or not entitled to vote. An outline of the material features of the plan of merger accompanied the notice. The plan was approved by at least two-thirds of the members present at a meeting of the members on September 14, 2000, at which meeting a quorum was present. Blank votes and abstentions not being counted in the number of votes cast.

2

IN WITNESS WHEREOF the undersigned have, in behalf of each constituent corporation, subscribed this certificate and hereby affirm it to true under the penalties of perjury this 3rd day of February 2001

THE BUFFALO CITY CEMETERY, INC.

By [Signature]
Fred R. Whaley, Jr. President

By [Signature]
Joseph P. DiSanto, Secretary

WILLIAMSVILLE CEMETERY ASSOCIATION

By [Signature]
Frederick S. Wood, President

By [Signature]
[Name] Secretary

IN WITNESS WHEREOF

As a Special Term of the Supreme Court of the State of New York, held in and for the County of Erie, at Buff 13 Buffalo, New York, on April 12, 2001

STATE OF NEW YORK
SUPREME COURT COUNTY OF ERIE

In the Matter of the Applicants

ORDER APPROVING PLAN OF
MERGER AND CERTIFICATE
OF MERGER FOR FILING

THE BUFFALO CITY CEMETERY, INC. and
PHILADELPHIA CEMETERY ASSOCIATION

Index No. 2001

A Request of an Order Approving These Plans
of Merger and Authorizing the Filing
of a Certificate of Merger Pursuant to
Section 901 of the Not-For-Profit Corporation Law

Upon reading the Affidavit of THE BUFFALO CITY CEMETERY, INC. and
PHILADELPHIA CEMETERY ASSOCIATION dated the 16th day of October, 2000, and
fully verified by each of the petitioners on the 16th day of October, 2000, and the exhibits
attached thereto; and the statements of both corporations having approved the Plan of Merger; and
the New York State Cemetery Board having approved the Plan of Merger; and the Assembly
(several having signed and entered and a hearing and certified no objection to the entry of this Order,
and the Court having given due consideration hereon and it appearing to the satisfaction of the
Court that the provisions of Section 907 of the Not-For-Profit Corporation Law have been
complied with and that the interests of the constituent corporations and the public interests
would not be adversely affected by the merger of the petitioning corporations.

It is hereby ordered that the Plan of Merger and Certificate of Merger for the constituent corporations, it is
hereby:

ORDERED that the Plan dated the 24th day of August, 2000, for the merger of
PHILADELPHIA CEMETERY ASSOCIATION and THE BUFFALO CITY CEMETERY,
as set forth and verified as approved, and it is further

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ORDERED that the said corporations be and hereby are authorized to file with the Secretary of State the Certificate of Merger examined and acknowledged by them the 7th day of February, 2001, in the form annexed to their Affidavit, and it is further

ORDERED, that upon filing of the said Certificate of Merger together with a certified copy of this order as required, all the assets of WILLIAMSVILLE CEMETERY ASSOCIATION shall thereby be transferred and conveyed to THE BUSTALO CITY CEMETERY INC and be it further

ORDERED, that the merger of the corporations shall have the effect provided by Section 905(a) of the Not For-Profit Corporation Law of the State of New York

ENTER,

[Handwritten signature]
1907

Filed Apr 20 2001

GRANTED
APR 20 2001
[Signature]
CLERK

THE CLERK GENERAL RETURN APPEARS HEREBY
THAT NO OBJECTION BY THE MEMBERS OF
ANY OF THE SAID CORPORATIONS
RECEIVED OF STATUTORY NOTICE AND DEMANDS
REPEATED OF ALL PAPERS SUBMITTED HEREON
EXCLUDES ALL OTHER CLAIMS AND
REMEDIES OF THE COURT AND NO OBJECTION
IS CONSIDERED ON SUBMISSION OF THE MATTER
TO THE CLERK GENERAL RETURN HEREBY FILED
[Signature] 4-20-01
CLERK

STATE OF NEW YORK
DEPARTMENT OF STATE
41 BROAD STREET
ALBANY, NY 12242-0000



January 22, 2001

Charles M. Kelly
Hodgson Russ Andrews
Woodis & Woodley LLP
Attorneys at Law
One Fifty Plaza, Suite 2000
Buffalo, NY 14203-2191

Re: Merger of The Buffalo City Cemetery, Inc. and
Westmoreland Cemetery Association

Dear Mr. Kelly:

On behalf of the New York State Cemetery Board, I acknowledge receipt of the application to Suptone Court for approval of the merger of The Buffalo City Cemetery, Inc. and Westmoreland Cemetery Association, the joint affidavits of the presidents of the two corporations and all merger documents to be submitted to Suptone Court. I also acknowledge receipt of the resolution adopted by The Buffalo City Cemetery, Inc. on December 19, 2000 pertaining to the contribution of a reserved fund to be used solely for capital improvements, in an amount equal to one-half of the value of Westmoreland Cemetery Association's general fund as of the date of the merger.

On 1/19/01, at its meeting of November 19, 2000, with the conditions for Cemetery Board approval set forth in a motion reported at the meeting of December 19, 2000. Accordingly, the Cemetery Board concurs in the merger of The Buffalo City Cemetery, Inc. and Westmoreland Cemetery Association.

Very truly yours,

Robert C. Patton
Robert C. Patton
President of the State Cemetery Board

Attest:
Secretary of State
5. Fabroni
34. 122

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Exhibit B

Forest Lawn Bylaws

BY-LAWS
OF
THE BUFFALO CITY CEMETERY, INC.

As Amended: March 11, 1952
December 9, 1952
October 8, 1963
January 10, 1967
October 13, 1970
July 10, 1973
July 20, 1982
January 26, 1988
January 28, 1997
April 29, 1997
December 17, 2002
May 17, 2005
September 26, 2006
December 11, 2018

The Buffalo City Cemetery, Inc.
1411 Delaware Avenue at Delavan
Buffalo, NY 14209

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BY-LAWS
OF
THE BUFFALO CITY CEMETERY, INC.

A corporation governed by the
Not-for-Profit Corporation Law of New York

ARTICLE I
CEMETERY GROUNDS

Section 1. Cemetery Grounds. The cemetery grounds of the corporation may be referred to by the name of FOREST LAWN.

ARTICLE II
MEETINGS OF MEMBERS

Section 1. Annual Meeting. The annual meeting of the members of the corporation, for election of Trustees and for the transaction of such other business as may be set forth in the notice of the meeting and has properly come before the meeting, shall be held each year at the principal office of the corporation or at such other place within the State of New York as the Board of Trustees shall determine and the notice of the meeting shall specify, and shall be held on the last or next to last Tuesday of April of each year.

Section 2. Special Meetings. Special meetings of the members may be called by the Board of Trustees, by the Chairman of the Board, or by the President, acting for the Chairman of the Board, and shall be called by the Chairman of the Board, the President or the Secretary at the request in writing of three or more members of the Board of Trustees. Such request shall state the purpose or purposes for which the meeting is to be called. Each special

meeting of the members shall be held at such time and at such place, within or without the State of New York as the Board of Trustees or the person calling the meeting shall determine and the notice of the meeting shall specify.

Section 3. Notice of Meetings. Notice of each meeting of members shall be given by publication in a newspaper published in the City of Buffalo once a week for three successive weeks next preceding the date of such meeting, and such notice shall state the purpose or purposes for which the meeting is called and the place, date and hour of the meeting, and, unless it is the annual meeting, indicate that the notice is being issued by or at the direction of the person or persons calling the meeting. The corporation shall also prominently post notice of such meeting on the homepage of any website maintained by it continuously from the date of publication pursuant to this Section through the date of the meeting. The corporation shall send notice of any meeting of the members by first class mail to any member who requests in writing that such notices be delivered by such method.

Section 4. Waiver of Notice. Whenever under any provision of these by-laws, the certificate of incorporation, the terms of any agreement or instrument, or law, the members are authorized to take any action after notice to any person or persons or after the lapse of a prescribed period of time, such action may be taken without notice and without the lapse of a prescribed period of time, if at any time before or after such action is completed the person or persons entitled to such notice or entitled to participate in the action to be taken, or by his or her duly authorized attorney-in-fact, submit a signed waiver of such notice or time requirements.

Section 5. Quorum and Qualifications of Voting Members. At each meeting of members for the transaction of any business, a quorum for the transaction of business shall consist of five members entitled to vote at such meeting.

Section 6. Procedure. The order of business and all other matters of procedure at every meeting of voting members may be determined by the presiding officer. The Chairman of the Board, or in his or her absence, the most senior member of the Board of Trustees present at such a meeting, shall preside over such a meeting.

Section 7. Voting. Each member in good standing shall be entitled at every meeting of members to one vote on all matters appropriate for consideration by the corporation's membership. Trustees elected at any meeting of the members shall, except as otherwise provided by law or the certificate of incorporation, be elected by a plurality of the votes cast. All other corporate action to be taken by vote of the members shall, except as otherwise provided by law, the certificate of incorporation or these by-laws, be authorized by a majority of the votes cast. The vote for Trustees, or upon any question before a meeting of members, shall not be by ballot unless the person presiding at such meeting shall so direct or any voting member shall so demand.

Section 8. Written Consent of the Members Without a Meeting. Whenever by law members are required or permitted to take any action by vote, such action may be taken without a meeting on written consent, setting forth the action so taken, signed by all of the members. Written consent thus given by all of the members shall have the same effect as a unanimous vote of the members.

Section 9. Inspectors of Election. Two inspectors of election, neither of whom shall be a candidate for the office of Trustee of the corporation, shall be appointed by the Board of Trustees at a meeting of the Board preceding each meeting at which an election of Trustees is held, or by the presiding officer at each such meeting, such inspectors to serve at such meeting and any adjournments thereof in connection with such election. The inspectors appointed to act at any corporate meeting, before entering upon the discharge of their duties, shall be sworn faithfully to execute the duties of inspectors at such meeting with strict impartiality and according to the best of their ability, and the oath so taken shall be subscribed by them. The presiding officer at any corporate meeting may also appoint at such meeting two inspectors with authority to count and report upon the votes cast at such meeting upon such questions (other than the election of Trustees) as may be voted upon by ballot.

Section 10. Adjournments. The members entitled to vote who are present in person or by proxy at any meeting, whether or not a quorum shall be present or represented at the meeting, shall have power by a majority vote to adjourn the meeting from time to time without further notice other than announcement at the meeting. At any adjourned meeting at which the

requisite number of members entitled to vote shall be present in person or by proxy, any business may be transacted which might have been transacted at the meeting as originally called, and those members present in person or by proxy, and no others, shall be entitled to vote at such adjourned meeting.

Section 11. Proxies. Every member entitled to vote at any meeting may vote by proxy. Every proxy shall be executed in writing by the member, or by his or her duly authorized attorney. No proxy shall be valid after the expiration of eleven months from the date of its execution unless the member executing it shall have specified therein its duration. Every proxy shall be revocable at the pleasure of the person executing it or of his or their personal representatives or assigns.

ARTICLE III BOARD OF TRUSTEES

Section 1. Management of Corporate Affairs. Except as otherwise provided by law, the certificate of incorporation of the corporation or these by-laws, the activities, property and affairs of the corporation shall be managed by the Board of Trustees.

Section 2. Number and Qualifications. The Board of Trustees shall consist of at least eight but not more than twelve persons, who shall be elected by the members at the annual meeting of the members. All of the Trustees shall be at least eighteen (18) years of age, at least one of them shall be a citizen of the United States and at least a majority of them shall be residents of the State of New York. Trustees need not be members of the corporation. As used in these by-laws, the term "entire Board" means the number of Trustees within such range that were elected or appointed as of the most recently held election of Trustees, as well as any Trustees whose terms have not yet expired.

Section 3. Classes of Trustees and Term of Office. The Trustees shall be divided into three classes, each of which shall consist of four Trustees. At each annual meeting of the members, successors to the class of Trustees whose terms then expire shall be elected for terms that shall expire at the third succeeding annual meeting of the members. Newly created Trusteeships or any decrease in Trusteeships shall be so apportioned among the classes of Trustees as to make all classes as nearly equal in number as possible, but in no case will a