

DIVISION OF CEMETERIES

STATE OF NEW YORK
DEPARTMENT OF STATE
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KATHY HOCHUL
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CEMETERY BOARD
ROBERT J. RODRIGUEZ
ACTING SECRETARY OF STATE
CHAIR

LETITIA JAMES
ATTORNEY GENERAL
MARY T. BASSETT, M.D., M.P.H.
COMMISSIONER OF HEALTH

**Cemetery Board Minutes
February 8, 2022
One Commerce Plaza
99 Washington Ave, Albany, NY 12231**

BOARD MEMBERS PRESENT:

Mark Pattison, Department of State, Chair
Thomas Fuller, Department of Health

OTHER ATTENDEES:

Cynthia Craig, Division of Cemeteries
Kerry Forezzi, Division of Cemeteries
Vince Gimondo, Division of Cemeteries
Lewis Polishook, Division of Cemeteries
Michael Seelman, Division of Cemeteries
Brendon Stanton, Division of Cemeteries
Alicia Young, Division of Cemeteries
John Fatato, NYS Department of State
Robert Vanderbles, Department of State

GUESTS:

Anthony Biolsi, New and Old Montefiore Cemeteries
Troy Bishopp
Brendan Boyle, Featherstonhaugh, Wiley & Clyne, LLP, for New York State Ass'n of Cemeteries
Joseph Dispenza, Forest Lawn Cemetery
David F. Fleming, Featherstonhaugh, Wiley & Clyne, LLP, for NYS Ass'n of Cemeteries
Annah Geiger, Bruce W. Geiger & Assocs., Inc.
Bruce Geiger, Bruce W. Geiger & Assocs., Inc.
Adam Ginsberg, Cedar Grove /Mount Hebron Cemetery
Robert Hughes, Huntington Rural Cemetery
Brandon Le
Justin Locke, Pinelawn Memorial Park
Ashton Matyi, Ostroff Assocs., Inc.
Richard J. Moylan, Green-Wood Cemetery
Nate Romagnola, White Haven Memorial Park

Some "other attendees" and "guests" attended solely via WebEx.

Opening Remarks

Mr. Pattison called the meeting to order.



**Department
of State**

Mr. Pattison noted that this is an in-person meeting. One Board member, Jill Faber, representative of the Attorney General, could not attend but might join the meeting later by phone. The meeting is recorded via WebEx. Please mute your line unless you are speaking. When there is an opportunity for public comment, please identify yourself. If you are a lobbyist you are required to identify yourself.

A link to the video recordings of New York State Cemetery Board meetings, including this meeting, can be found on the Division's website, www.dos.ny.gov/cemeteries.

22-02-A-13 Minutes of Previous Meetings

Motion was made, seconded, and unanimously adopted approving the minutes of the Board's January 18, 2021 meeting, without change.

22-02-B-14 Legislation and Regulations

1. Legislation

Mr. Vanderbles referred the Board to his previously-circulated legislative report.

Mr. Polishook added that one bill seeks to do away with our "net appreciation" calculation and replace it with total return investing, where a cemetery could withdraw a certain percentage of the total value of the fund each year. There is discussion in many jurisdictions about the issue of total return investing; several states have moved to total return investing, and several are considering legislation on this subject.

2. Regulations

Mr. Vanderbles stated that he is working on preparing a notice of adoption of the abandonment regulations.

22-02-C-15 Division Report

Mr. Polishook reported as follows:

1. Staffing: We have an accepted offer for the Buffalo Investigator position, starting March 3. A candidate declined our offer for an Albany-based Senior Accountant position to declined the position; we are re-cavassing.
2. Annual Report: the annual report deadline is approaching; thanks to follow-up calls by Bridget Coleman, our compliance rate has improved.

Mr. Pattison encouraged cemeteries to file their annual reports on line.

22-02-D-16 Vandalism, Abandonment and Monument Repair or Removal Fund Report

Assistant Director Alicia Young provided the vandalism report.

The vandalism collections for calendar year 2022 are \$87,296.00. Assessment collections were \$25,818. Fiscal year collections from April 1, 2021 are: Vandalism \$227,823.96; assessment \$103,096.

Payments for this fiscal year total \$393,561.84.

Currently there are seven applications in the pipeline for approval totaling \$239,652.60.

The Board has approved \$543,477.08 in hazardous monument applications this fiscal year.

There are two applications on the agenda for this meeting totaling \$96,920.57.

Mt. Pleasant Cemetery, No. 27-017 (Madison), \$19,295.17

After discussion, a motion was made, seconded, and unanimously adopted approving the application by this cemetery for funds to repair 24 hazardous monuments in the amount of \$19,295,17, subject to availability of funds.

The discussion of this application can be found in the video recording of this meeting at 8:18-10:31.

Resthaven Cemetery, No. 35-029 (Ontario), \$77,625.40

After discussion, a motion was made, seconded, and unanimously adopted approving the application for funds to repair 45 hazardous monuments in the amount of \$77,625.40, subject to availability of funds, and further contingent on waiting for the notice to run for the full 60 days, until February 18, 2022.

The complete discussion of this application can be found in the video recording of this meeting at 10:32-16:07.

In the course of discussing this application, Mr. Pattison noted that there has been a decline in the number of applications for restoration of hazardous monuments and asked whether there had been any uptick in applications. Mr. Seelman reported that monument dealers remain very busy and therefore have limited availability for this type of work.

22-02-E-17 55-026 McLean Cemetery – Major Renovation

Investigator Brendon Stanton stated that in this application, the cemetery seeks approval of a major alteration to repair a mostly disused receiving vault, for a total cost of approximately \$3,000.

A motion was made, seconded and unanimously adopted approving this repair application for a total cost of approximately \$3,000 in general funds.

The complete discussion of this application can be found in the video recording of this meeting at 16:10-19:40.

22-02-F-18 15-027 Forest Lawn and 61-002 Attica—Merger

Forest Lawn Cemetery, based in Buffalo, and Attica Cemetery, in Wyoming County, seek to merge.

After extensive discussion, a motion was made, seconded, and unanimously adopted recommending the approval of the merger of these two cemeteries, but not voting on or recommending approval of the certificate of merger.

The complete discussion of this application can be found in the video recording of this meeting at 19:40-34:28.

22-02-G-19 15-027 Forest Lawn and 61-027 Quaker Settlement—Merger

Forest Lawn Cemetery, based in Buffalo, and Quaker Settlement Cemetery, in Wyoming County, seek to merge.

After extensive discussion, a motion was made, seconded, and unanimously adopted recommending the approval of the merger of these two cemeteries, but not approving or consenting to the certificate of merger at this time.

The complete discussion of this application can be found in the video recording of this meeting at 34:28-42:07.

22-02-H-20 41-012 Mount Olivet Cemetery—Notice of Proposed Penalty

Mr. Polishook stated that we received from the cemetery renewed objections to the Division's proposed penalty on January 28, but that the Division had posed additional questions and awaits an answer. No action was required or taken.

Public Comment

David Fleming, Featherstonhaugh, Wiley & Clyne, LLP, for the New York State Association of Cemeteries, addressed two issues.

First, he stated that NYSAC has encouraged cemeteries to submit applications for restoration of hazardous monuments, but it is very difficult to get people to bid on projects and projects are being put off.

Also, as cemeteries prepare to do work, cost escalations are massive.

Adjournment

Motion was made, seconded and unanimously adopted adjourning the meeting. The board will, after adjourning, meet to discuss legal matters in a meeting exempt from the open meetings law.

The meeting adjourned at 11:18 a.m.

The next Board meeting is scheduled for March 8, 2022 at 10:30 AM.