

DIVISION OF CEMETERIES

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

LETITIA JAMES
ATTORNEY GENERAL

MARY T. BASSETT, M.D., M.P.H.
COMMISSIONER OF HEALTH

Cemetery Board Minutes March 8, 2022 Meeting Conducted Virtually

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:

Michael Catena, Division of Cemeteries
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, Department of State
Robert Vanderbles, Department of State
Andrew Hickey, Department of State

GUESTS:

Brendan Boyle, Featherstonhaugh, Wiley & Clyne, LLP, for New York State Ass'n of Cemeteries
Karen Rondinelli, Forest Lawn Cemetery
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
Jay Ivler, Mount Lebanon Cemetery
Matthew Ivler, Mount Lebanon Cemetery
Brandon Le
Justin Locke, Pinelawn Memorial Park
Ashton Matyi, Ostroff Assocs., Inc.
Nate Romagnola, White Haven Memorial Park
Philip Tassi, Ferncliff Cemetery
Eric Tobias
Andrew Clark, D. Tonken Crematory

Some "other attendees" and "guests" attended solely via WebEx phone call-in.



Department
of State

Opening Remarks

Mr. Pattison called the meeting to order.

Mr. Pattison noted that we are meeting remotely. 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.

Mr. Vanderbles explained that today's meeting is per Chapter 1 of the Laws of 2022 and Executive Order 11, which permits public bodies to meet remotely provided that the public has the ability to view or listen to the proceedings and that the proceedings are recorded and later transcribed.

22-03-A-21 Minutes of Previous Meetings

Mr. Pattison explained that the minutes are in a slightly different format. The minutes just record actions taken because we have recordings as backup. Motion was made, seconded, and unanimously adopted approving the minutes of the Board's February 8, 2022 meeting, without change.

22-03-B-22 Legislation and Regulations

1. Legislation

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

2. Regulations

Mr. Vanderbles stated that a notice of adoption of the abandonment regulations will be published in the New York State Register on March 9, 2022.

Mr. Pattison added that the regulations were a result of direction from the previous Governor to consider rule making as part of a veto of a bill that passed the legislature, and thanked the New York State Association of Cemeteries for working with us on this matter.

22-03-C-23 Division Report

Mr. Polishook reported as follows:

1. Annual Report: cemeteries that are on a calendar year must file their annual reports by the end of the month; short extensions are readily given.
2. Staffing: Michael Catena has started as an investigator in our Buffalo office; Karen DeYoung, an accountant in our Buffalo office, has left for another agency.
3. Minutes: we have traditionally prepared detailed minutes so that one can refer back to those minutes at a later date. Now, with recordings, we are including in the minutes the times in the recording for the discussion of each matter in case anyone needs to refer back to that discussion.

22-03-D-24 Vandalism, Abandonment and Monument Repair or Removal Fund Report

Assistant Director Alicia Young was unable to provide the vandalism report because of issues with the Division's building.

Not much has changed since the previous month except for collections, which are coming in during annual report season.

We appear to be getting good participation in using the online annual report form.

Mr. Pattison encouraged filers to use the online form.

There is one application on the agenda for this meeting for \$21,655.00.

Lisle Village Cemetery, No. 04-017 (Broome), \$21,655.00

Lisle Village Cemetery seeks funds to repair hazardous monuments. After discussion, a motion was made, seconded, and unanimously adopted approving the application by this cemetery for funds to repair 21 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 12:55-15:13.

22-03-E-25 15-027 Forest Lawn Cemetery & 15-031 Griffins Mills Cemetery– Merger

Forest Lawn and Griffins Mills Cemeteries in Erie County have proposed to merge and seek approval of the Board.

After discussion, a motion was made, seconded, and unanimously adopted to:

1. recommend approval of the plan of merger, subject to receipt of all other necessary state and local and other approvals; and
2. approve the certificate of merger

The discussion of this application can be found in the video recording of this meeting at 15:25-22:29.

22-03-F-26 52-027 Huntington Rural Cemetery – Land Purchase

Huntington Rural Cemetery seeks approval of a proposed purchase of an adjoining parcel of land for \$500,000, out of its general fund.

After discussion, a motion was made, seconded, and unanimously adopted approving the cemetery's purchase of an adjoining parcel of land, subject to approval by the Suffolk County Legislature and any other state or local permits required.

The discussion of this application can be found in the video recording of this meeting at 22:30-28:05.

22-03-G-27 15-077 D. Tonken Crematory – Retort Replacement

D. Tonken Corp. seeks approval of a major renovation to replace a 1991 retort with a new Facultatieve unit, for a total approximate cost of \$315,000.

After discussion, a motion was made, seconded, and unanimously adopted approving the retort replacement.

The discussion of this application can be found in the video recording of this meeting at 28:05-33:34.

22-03-H-28 41-012 Mt Olivet Cemetery – Notice of Proposed Penalty

Mount Olivet Cemetery seeks a waiver or reduction of a proposed penalty, as described in the Division's April 13, 2021, letter to the cemetery. The total amount of the proposed penalty is \$10,700.

The Board discussed this matter in executive session, pursuant to Open Meetings Law section 105(1)(f), because this matter involves the discipline of a corporation.

After exiting open session, Mr. Pattison reported that the Board had authorized the Division and counsel to convey a settlement offer to the cemetery that addresses board composition and training, future reports from auditors and others on internal controls and insurance proceeds. If accepted and implemented, we would

substantially reduce the penalty and make the amount of the penalty payable to the cemetery's permanent maintenance fund, not the State.

22-03-I-29 48-008 Esperance Cemetery – Restated Certificate of Incorporation

Esperance Cemetery Association, in Schoharie County, seeks approval of a restated certificate of incorporation. Its original certificate of incorporation cannot be located in the Schoharie County Clerk's Office.

After discussion, a motion was made, seconded, and unanimously adopted approving the restated certificate of incorporation.

The discussion of this application can be found in the video recording of this meeting at 35:35-37:29.

22-03-J-30 15-040 Lancaster Rural Cemetery – Certificate of Merger

22-03-K-31 61-002 Attica Cemetery – Certificate of Merger

22-03-L-32 61-027 Quaker Settlement Cemetery – Certificate of Merger

The Board has previously recommended approval of the merger of these three cemeteries with Forest Lawn Cemetery in Erie County, No. 15-027.

These cemeteries and Forest Lawn now seek approval of a certificate of merger; the certificates of merger were revised after the Board recommended approval of the mergers.

After discussion, motions were made, seconded, and unanimously adopted approving all three certificates of merger.

The discussion of these applications can be found in the video recording of this meeting at 37:29-41:45.

Public Comment

David Fleming, Featherstonhaugh, Wiley & Clyne, LLP, for the New York State Association of Cemeteries, addressed the abandonment regulations. He thanked the Board and counsel for working with NYSAC on the abandonment regulations. The notification requirement to municipalities should help with struggling cemeteries. NYSAC's position remains that cemeteries are best run by cemeteries. Also, as cemeteries prepare to do work, cost escalations are massive.

Adjournment

Motion was made, seconded, and unanimously adopted to go into executive session to discuss matters of discipline of Mount Olivet Cemetery.

Motion was made, seconded, and unanimously adopted exiting executive session.

In executive session, the Board voted to direct the Division and counsel to discuss settlement with Mount Olivet Cemetery; the terms of that directive are listed above, under the agenda item for Mount Olivet Cemetery

Motion was made, seconded, and unanimously adopted adjourning the meeting.

The meeting adjourned at 11:48 a.m.

The next Board meeting is scheduled for April 12, 2022 at 10:30 AM.