

# **DIVISION OF CEMETERIES**

STATE OF NEW YORK  
**DEPARTMENT OF STATE**  
ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001  
TELEPHONE: (518) 474-6226  
FAX: (518) 473-0876  
WWW.DOS.NY.GOV

KATHY HOCHUL  
GOVERNOR

**CEMETERY BOARD**  
ROBERT J. RODRIGUEZ  
SECRETARY OF STATE  
CHAIR

LETITIA JAMES  
ATTORNEY GENERAL

JAMES V. McDONALD, M.D., M.P.H.  
ACTING COMMISSIONER OF HEALTH

## **DRAFT**

**Cemetery Board Minutes**  
**January 10, 2023**  
**Department of State**  
**One Commerce Plaza, 99 Washington Avenue**  
**Albany, New York 12231**

### **BOARD MEMBERS PRESENT:**

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

### **OTHER ATTENDEES:**

Joseph Ambrose, NYS Department of State, Division of Cemeteries  
Michael Catena, NYS Department of State, Division of Cemeteries  
Chris Cosco, NYS Department of State, Division of Cemeteries  
Charles Crane, NYS Department of State, Division of Cemeteries  
Cindi Craig, NYS Department of State, Division of Cemeteries  
John Fatato, NYS Department of State  
Sarah Levin, NYS Department of State, Division of Cemeteries  
Michael Morris, NYS Department of State  
Lewis Polishook, NYS Department of State, Division of Cemeteries  
Robert Vanderbles, NYS Department of State  
Michael Seelman, NYS Department of State, Division of Cemeteries  
Brendon Stanton, NYS Department of State, Division of Cemeteries  
Steven Troutman, NYS Department of State, Division of Cemeteries  
Alicia Young, NYS Department of State, Division of Cemeteries

### **GUESTS:**

Douglas Arena  
Mike Austin, Elmlawn Cemetery  
Brendan Boyle, Featherstonhaugh, Wiley & Clyne, LLP, for NYS Ass'n of Cemeteries  
David F. Fleming, Featherstonhaugh, Wiley & Clyne, LLP, for NYS Ass'n of Cemeteries  
Bruce Geiger, Bruce W. Geiger & Assocs., Inc.  
Adam Ginsberg, Cedar Grove/Mount Hebron Cemetery  
David Goldstein, Certilman Balin Adler & Hyman, LLP  
Jay Ivler, Mount Lebanon Cemetery  
Matthew Ivler, Mount Lebanon Cemetery  
Richard Moylan, Green-Wood Cemetery  
Nate Romangnola, White Haven Memorial Park

### **Opening Remarks**

Mr. Pattison called the meeting to order at 10:30 a.m. Mr. Pattison reminded online participants to mute their lines when they are not speaking.

Mr. Vanderbles, counsel to the Board, stated that when we noticed the meeting we noted that a board member might participate remotely because of extraordinary circumstances, but all board members were present in person.

### **23-01-A-01- Minutes of Previous Meetings**

A motion was made, seconded, and unanimously adopted approving the minutes of the Board's December 13, 2022 meeting as submitted.

### **23-01-B-02-Legislation and Regulation**

#### **1. Legislation**

The Governor signed A.382 allowing Natural Organic Reduction (NOR) in New York. The Governor included a signing statement that there will be a chapter amendment to address technical issues. The Governor directed the Department of State and Department of Health to ensure that NOR is implemented effectively and justly and also indicated that she would introduce a Program Bill that allows others besides cemetery corporations to offer NOR.

#### **2. Regulations**

Mr. Vanderbles reported that his understanding is that the Department of State will publish its 2023 regulatory agenda soon. He added that he would work with the Division to draft regulations implementing NOR.

### **23-01-C-03-Division Report**

#### **1. Cemeteries at Risk of Abandonment**

Mr. Polishook referred to the report he shared yesterday, which is available on the Division's website. Mr. Polishook noted that there are 13 cemeteries listed as at risk of abandonment, of which three or four are well in process of becoming the Town's responsibility; we are working with the rest to see whether new board members can be identified to keep running the cemeteries.

Mr. Polishook also reported that the Division had successfully intervened in about 16 cases where the Division helped facilitate special lot owners meetings to keep the cemeteries from abandonment.

Maplecrest Cemetery in Greene County is the only new one on the list. We have been informed that the cemetery was turned over to the Town without previous notice to us, and are working to see if it can be saved from abandonment.

There are two special lot owners meetings scheduled for this month, both in Western New York.

Mr. Pattison asked what the Division has learned from this data.

Mr. Polishook responded that it appears that the Division's process for preventing abandonment is effective. He added that boards often need to learn how to operate cemeteries, which the Division provides via "Cemetery 101 sessions."

Ms. Faber asked whether the AG providing basics of not-for-profit law to cemeteries would help.

Mr. Polishook suggested it would be useful to have the AG participate in regional Cemetery 101 sessions and perhaps record a web module for use by cemeteries.

In response to a question from Mr. Pattison, Mr. Polishook stated that the pressures causing abandonment, such as inflation in labor and fuel costs, remain.

Finally, Mr. Polishook recognized the success of the Division's Western New York staff in preventing abandonment.

## 2. Cremation Authorization

On Friday, the Division published a new version of the Cremation Authorization to provide a third alternative for gender and making some other minor changes.

We have received some feedback, which we are considering incorporating into a further revised version of the form.

## 3. Delegated Duties

Assistant Director Alicia Young referred to the Division's report on delegated duties, which has been shared with the Board and posted on our website. She noted that we have received 363 rate applications and granted 344, and received 45 applications to amend rules and regulations and have approved 39.

Mr. Polishook added that the Division has not approved any delegated columbarium projects or retort replacements since the last meeting.

### **23-01-D-04- Vandalism, Abandonment and Monument Repair or Removal Fund Report**

Ms. Young reported we have paid out approximately \$700,000 of the Vandalism Fund's \$2 million appropriation, but has committed to payments of more than \$2 million.

We received 1,472 annual reports; 576 were submitted online.

New reports have begun coming in for 2022.

Ms. Young stated that we do not yet have forms, either paper or online, for reporting on certificates of indebtedness or land share certificates.

Mr. Pattison stated that we have one application for funds for hazardous monuments this month.

#### 34-018, Jacksonville Cemetery (Onondaga), \$35,368.64

This 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 31 hazardous monuments in the amount of \$35,368.64, subject to availability of funds.

The discussion of this application can be found in the video recording of this meeting at 19:02-21:12.

### **23-01-E-05 23-053- Frederick Brothers Crematory – Retort Replacement**

This grandfathered standalone crematory seeks to replace one of its two retorts, for a total estimated cost of \$107,026, to be paid for out of its general fund (with a loan from the crematory's principal, which will be paid off from unrestricted funds).

After discussion, a motion was made, seconded, and unanimously adopted approving the application, subject to receipt of stamped plans from an engineer.

The discussion of this application can be found in the video recording of this meeting at 21:22-27:40.

**Public Comment**

David Fleming, for the New York State Association of Cemeteries, indicated that NYSAC would host regional events again in 2023 and welcomed Division participation.

Mr. Fleming also commented at length on the anti-combination statute, final disposition, and the prohibition on cemeteries selling vaults. The full text of his comments can be found in the video recording of this meeting at 29:56-34:35.

Mr. Pattison stated that the Board would take NYSAC's request under advisement. Mr. Pattison further stated that he has asked the Division to review its strategic operating plan for the next fiscal year and welcome NYSAC's continued input. Mr. Pattison acknowledged that we are dealing with diverse constituents in terms of size and skills.

A motion was made, seconded, and unanimously adopted adjourning the meeting at 11:07 a.m.