

DIVISION OF CEMETERIES

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DEPARTMENT OF STATE
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CEMETERY BOARD
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SECRETARY OF STATE
CHAIR

LETITIA JAMES
ATTORNEY GENERAL

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

Cemetery Board Minutes
February 14, 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, was unable to join via two-way video and therefore participated in discussion but did not count toward a quorum.

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
Kerry Forezzi, NYS Department of State, Division of Cemeteries
Vince Gimondo, NYS Department of State, Division of Cemeteries
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:

Mike Austin, Elmlawn Cemetery
Anthony Biolsi, New Montefiore and Old Montefiore Cemeteries
H. John Bopp, Esq., for Breslau Cemetery
Brendan Boyle, Featherstonhaugh, Wiley & Clyne, LLP, for NYS Ass'n of Cemeteries
Nicholas DiBartolo, Mount Hope Cemetery
David F. Fleming, Featherstonhaugh, Wiley & Clyne, LLP, for NYS Ass'n of Cemeteries
Richard Freiman, Esq., for Beverly Hills Cemetery
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
Justin Locke, Pinelawn Memorial Park
Richard Moylan, Green-Wood Cemetery
Nate Romagnola, White Haven Memorial Park
Phil Tassi, Ferncliff Cemetery
Ed McOwen, Northeast Cemetery Services.

Some “guests” attended solely via WebEx phone call-in; their names may not be listed above.

Opening Remarks

Mr. Pattison called the meeting to order at 10:37 a.m. Mr. Pattison noted that we are experiencing technical difficulties and can hear but not see people joining on line, including Board member Jill Faber.

23-02-A-06- Minutes of Previous Meetings

A motion was made, seconded, and unanimously adopted approving the minutes of the Board’s January 10, 2023 meeting as submitted.

23-02-B-07-Legislation and Regulation

1. Legislation

Mr. Vanderbles referred to the legislative report that he circulated to the Board before the meeting.

In response to a question from Mr. Pattison, Mr. Vanderbles stated that a chapter amendment to the natural organic reduction law had passed one house, and that the Governor had introduced a program bill as part of the budget to allow entities other than cemeteries to offer natural organic reduction.

2. Regulations

The Department of State’s regulatory agenda was published in the January 25 edition of the New York State Register.

Mr. Vanderbles and the Division continue to work on regulations implementing natural organic reduction.

23-02-C-08-Division Report

1. Cemeteries at Risk of Abandonment

Mr. Polishook and Investigator Michael Catena reported on two meetings with cemeteries in Western New York at risk of abandonment: Sandusky Cemetery and Arcade Rural. We attended a successful special lot owners meeting at Sandusky Cemetery; Sandusky is preparing a request for assistance from the town. It is unlikely whether Arcade Rural will be able to continue operations as a not-for-profit cemetery corporation and is likely to become the Town’s responsibility. A retaining wall there failed, and the cemetery is looking at repair costs of \$100,000 to \$200,000, and the cemetery operates at a deficit and board members seek to resign, without any likely successors willing to step up.

2. Cremation Authorization

Mr. Polishook reported that the Division is considering further changes to the recently-revised cremation authorization, and have shared it with the New York State Association of Cemeteries to solicit additional feedback.

3. Annual Reports

Assistant Director Alicia Young stated that we have received 283 annual reports, 140 of which were submitted online, representing 49% of the total.

23-02-D-09- Vandalism, Abandonment and Monument Repair or Removal Fund Report

Ms. Young reported we have paid out approximately \$1,000,000 of the Vandalism Fund's \$2 million appropriation but has committed to payments of more than \$2 million. We have provided additional vouchers totaling about \$450,000 to the Bureau of Fiscal Management for payment.

Mr. Polishook added that generally the Division pays 25% up front and 75% upon completion but, to manage cash flow, we are making larger initial payments out of this year's funds.

Mr. Pattison stated that we have four applications for funds for hazardous monuments.

09-013, Maple Grove Cemetery (Chenango), \$39,528.09

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 27 hazardous monuments in the amount of \$39,528.09, subject to availability of funds.

The discussion of this application can be found in the video recording of this meeting at 11:12-13:57.

22-031, Poland Cemetery (Herkimer), \$25,427.94

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 16 hazardous monuments in the amount of \$25,427.94, subject to availability of funds.

The low bidder on this application conditioned its bid on receipt of 50% payment up front.

The discussion of this application can be found in the video recording of this meeting at 13:58-19:17.

33-027, Holland Patent Cemetery (Oneida), \$34,994.26

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 26 hazardous monuments in the amount of \$34,994.26, subject to availability of funds.

The low bidder on this application conditioned its bid on receipt of 50% payment up front.

The discussion of this application can be found in the video recording of this meeting at 19:18-21:37.

51-011, Clearview Cemetery (Steuben), \$36,646.37

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 29 hazardous monuments in the amount of \$36,646.37, subject to availability of funds.

The discussion of this application can be found in the video recording of this meeting at 21:38-24:05.

23-02-E-10 – 40-003 – Beverly Hills Cemetery – Land Donation

Beverly Hills Cemetery Corp., in Putnam County, has received an unconditional offer to donate 55.52 acres of land owned by two board members and a corporation controlled by those board members' family.

Counsel asked whether there were any questions from the board regarding the confidential memo circulated before the meeting and there were none. After discussion, the Board concluded that this proposed unconditional donation is not subject to approval by the Board.

The discussion of this application can be found in the video recording of this meeting at 24:29-30:36.

23-02-F-11 – 60-006 – Ferncliff Cemetery – Columbarium/Mausoleum

Ferncliff Cemetery, in Westchester County, seeks approval of the conversion of an alcove in its Rosewood Mausoleum to provide for 49 double crypts, at an estimated cost of \$324,270.

After discussion, a motion was made, seconded, and unanimously adopted approving this application, subject to receipt of all required local permits.

The discussion of this application can be found in the video recording of this meeting at 30:37-35:35.

23-02-G-12 – 15-005 – Elmlawn Cemetery – Land Sale

This cemetery seeks to sell to its lessee land that it has leased for use as an office park for approximately 20 years.

Mr. Polishook explained that the Division had received additional information about this application after it put the application on the agenda and, with the cemetery's consent, requested that the application be tabled.

The Board took no action on this application.

23-02-H-13 – 05-035 – Pleasant Valley – Abandonment

The Division of Cemeteries has determined that the above-referenced cemetery is abandoned because it lacks a board and insufficient funds for continuing operations.

After discussion, a motion was made, seconded, and unanimously adopted confirming the Division's determination of abandonment of Pleasant Valley Cemetery to the Town of Olean.

The discussion of this application can be found in the video recording of this meeting at 38:31-43:52.

23-02- I- 14 – 52-009 - Breslau Cemetery – Restated Certificate of Incorporation

Breslau Cemetery seeks approval of a restated certificate of incorporation changing the date of the cemetery's annual meeting.

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 43:53-45:50.

At the end of the agenda matters, Mr. Polishook reported that Jerry Hass, former head of the Cemetery Employers' Association and former officer of Cedar Grove/ Mount Hebron Cemetery and Mount Ararat Cemetery, died about 10 days ago, and that Addie Cote, former President of Mount Ararat Cemetery, was injured, and that our thoughts are with their families.

Public Comment

David Fleming, for the New York State Association of Cemeteries, read a statement opposing the Governor's Article VII bill to allow entities other than cemeteries to offer natural organic reduction.

Mr. Fleming's remarks can be found at in the video recording of this meeting at 47:48-51:31

A motion was made, seconded, and unanimously adopted adjourning the meeting at 11:29 a.m.

The Board subsequently convened a meeting exempt from the Open Meetings Law for purposes of receiving advice of counsel.