

DIVISION OF CEMETERIES

STATE OF NEW YORK
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

DRAFT

Cemetery Board Minutes
March 17, 2023
Department of State
One Commerce Plaza, 99 Washington Avenue, Room 1112
Albany, New York 12231

BOARD MEMBERS PRESENT:

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

BOARD MEMBERS ABSENT:

Jill Faber, Office of the Attorney General

OTHER ATTENDEES:

Michael Catena, 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
Kerry McGovern, 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
Alicia Young, NYS Department of State, Division of Cemeteries

GUESTS:

Mike Austin, Elmlawn Cemetery & Crematory
Brendan Boyle, Featherstonhaugh, Wiley & Clyne, for New York State Ass'n of Cemeteries
Nicholas DiBartolo, Mount Hope Cemetery
David Fleming, FWC, for NYSAC
Adam Ginsberg, Cedar Grove Cemetery
Tom Howryletz, The Woodlawn Cemetery
Christopher Jeannopoulos, The Woodlawn Cemetery
Lou Lewis, Esq., for Fairview Cemetery
Rose Story, Fairview Cemetery
Renate Namias, Mount Carmel Cemetery
Scott Olson, Esq., for Verizon
Nate Romagnola, White Haven Memorial Park
Debra Smith
Mark Stempa, Mount Carmel Cemetery
Philip Tassi, Ferncliff Cemetery

Angela Timpone, Ferncliff Cemetery

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

Note that the meeting starts at 5:20 into the video recording.

Opening Remarks

Mr. Pattison opened the meeting at 10:30. He noted that the meeting is being recorded and called the meeting to order. Mr. Pattison reminded people online to mute their lines if not speaking and identify themselves when speaking. Mr. Pattison noted that Jill Faber, representing the Attorney General, is on vacation.

23-03-A-15- Minutes of Previous Meetings

Motion was made, seconded, and unanimously adopted approving the minutes of the February 14, 2023 meeting as distributed.

23-03-B-16-Legislation and Regulation

1. Pending Legislation

Robert Vanderbles, counsel to the Division, noted that the Governor signed a chapter amendment to the natural organic reduction statute.

2. Regulations

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

23-03-C-17-Division Report

Lewis Polishook, Division Director, reported that he, together with Michael Seelman and Robert Vanderbles, participated virtually in a conference on natural organic reduction yesterday.

Mr. Polishook also reported that he and Michael Seelman will travel to Seattle next week to visit three natural organic reduction facilities and one alkaline hydrolysis facility.

Because the Governor signed the chapter amendment on natural organic reduction, that extends the implementation period to 180 days, meaning that in late June cemeteries can apply for approval to operate natural organic reduction facilities.

Mr. Polishook reported that Division staff—Michael Catena, Cindi Craig, Charles Crane, and Sarah Levin met with two cemeteries in Western New York—West Middlebury Cemetery and Gainesville Maple Grove Cemetery, in Wyoming County—that were at some degree of risk of abandonment and that those meetings were successful.

Finally, Mr. Polishook reported that the Division approved three delegated columbarium projects—one at Forest Lawn Cemetery, a second at Gethsemane Cemetery (both of which are part of the Forest Lawn Group), in Erie County, and one at North Syracuse Cemetery in Onondaga County.

Assistant Director Alicia Young reported that we have received 645 annual reports this calendar year, of which 296 (46%) have been submitted online.

23-03-D-18 – Vandalism, Abandonment and Monument Repair or Removal Fund Report

Ms. Young referred to her report that is posted online. As of the writing of the report, we paid out about \$1.5 million in cash, and hope to pay out another \$100,000 or so.

There are four applications this month.

05-007, East Otto Cemetery (Cattaraugus), \$51,640.30

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 41 hazardous monuments for a total cost of \$51,640.30, subject to availability of funds.

The discussion of this application can be found in the video recording of this meeting at 16:30-19:42.

29-003, Canajoharie Falls (Montgomery), \$80,054.14

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 50 hazardous monuments for a total cost of \$80,054.14, subject to availability of funds.

The discussion of this application can be found in the video recording of this meeting at 19:43-21:58.

41-007, Mt. Carmel Cemetery (Queens), \$6,500.00

This cemetery seeks funds to replace a single vandalized headstone. After discussion, a motion was made, seconded, and unanimously adopted approving the application by this cemetery for funds to replace this vandalized headstone for a total cost of \$6,500, subject to availability of funds.

The discussion of this application can be found in the video recording of this meeting at 24:27-28:41.

55-019, Trumbulls Corners Cemetery (Tompkins), \$ 29,292.34

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 for a total cost of \$29,292.34, subject to availability of funds.

The discussion of this application can be found in the video recording of this meeting at 21:59-24:27.

23-03-E-19 – 03-002 - Woodlawn – Major Renovation

This cemetery seeks approval of a major alteration application to renovate an existing historic chapel to add ADA-compliant bathrooms, parking, and a ramp. The City of New York will pay all but \$100,000 of the cost; the cemetery will finance the balance out of its general fund.

After discussion, a motion was made, seconded, and unanimously adopted approving the major renovation 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 28:46-32:30.

23-03-F-20 – 14-006 - Fairview – Long term Lease

Fairview Cemetery seeks approval to enter into an agreement to lease 10,000 square feet to Verizon to construct a monopole cell tower.

After discussion, a motion was made, seconded, and unanimously adopted approving a resolution prepared by counsel as follows:

The New York State Cemetery Board (Board) has reviewed the materials submitted by Fairview Cemetery to lease land and construct a cell tower pursuant to Article 15 of the Not-for-Profit Corporation Law (N-PCL) and 19 NYCRR § 201.16, materials from the division of cemeteries and counsel and hereby resolves that:

1. The Board's determination on this application is subject to Article 8 of the Environmental Conservation Law, the State Environmental Quality Review Act (SEQRA), and its implementing regulations;
2. Pursuant to SEQRA the Board classifies this as an Untyped action and elects to proceed in an uncoordinated review;
3. The Board adopts the Environmental Assessment Form and makes a negative declaration;
4. The Board approves Fairview Cemetery's application to lease land and construct a cell tower in accordance with its application pursuant to the following conditions:
 - a. The approval is contingent upon Fairview Cemetery and Verizon obtaining all other required approvals and permits;
 - b. Fairview Cemetery may retain the cell tower footings at the conclusion of the lease;
 - c. Fairview Cemetery may retain the \$5,000 signing bonus for necessary expenses arising from legal costs;
 - d. Fairview Cemetery may deposit 35% of rent proceeds into its general fund to maintain and preserve the cemetery. All other rent proceeds must be deposited into its permanent maintenance fund.

The discussion of this application can be found in the video recording of this meeting at 32:30-46:00.

23-03-G-21 – 15-005 – Elmlawn Cemetery – Land Sale

Elmlawn Cemetery and Crematory seeks approval to sell to its lessee approximately 30 acres of land that it has leased since about 2004 for approximately \$1.59 million.

The Town of Tonawanda treated the subdivision of this parcel as a Type 1 application for purposes of SEQRA, acted as lead agency (with the Board as an interested agency), and has adopted a resolution issuing a negative declaration.

After discussion, a motion was made, seconded, and unanimously adopted approving the sale, with the caveat that all sale proceeds, less necessary expenses, must be deposited into its permanent maintenance fund.

The discussion of this application can be found in the video recording of this meeting at 46:01-52:48.

23-03-H-22 – 32-014 - Niagara Falls Memorial Park – PM Loan

Niagara Falls Memorial Park previously received Supreme Court approval to borrow from its permanent maintenance fund to purchase a cremation retort. Because of cost increases, it now seeks the Board's recommendation of Supreme Court approval to borrow an additional \$22,439. The cemetery will increase its monthly payment from \$1,320 to \$1,650, as explained in the revised papers submitted by counsel to the cemetery.

After discussion, a motion was made, seconded, and unanimously adopted recommending that Supreme Court approve the additional loan.

The discussion of this application can be found in the video recording of this meeting at 52:49-56:54.

Public Comment

David Fleming, for the New York State Association of Cemeteries, thanked the Senate and Assembly for rejecting the expansion of NOR beyond cemeteries in their budget proposals and expressed willingness to work with the Division on drafting implementing regulations for NOR. Mr. Fleming also mentioned that NYSAC would hold its conference on May 1-3 at the former Desmond Hotel.

The next Cemetery Board meeting is scheduled for April 18, 2023; there may be an additional meeting on March 29, 2023.

Motion was made, seconded, and unanimously adopted adjourning the meeting. The meeting adjourned at 11:26.