

DIVISION OF CEMETERIES

STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
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KATHY HOCHUL
GOVERNOR

CEMETERY BOARD

ROBERT J. RODRIGUEZ
SECRETARY OF STATE
CHAIR

LETITIA JAMES
ATTORNEY GENERAL

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

TO: NEW YORK STATE CEMETERY BOARD

FROM: LEWIS A. POLISHOOK, Director

CC: ROBERT VANDERBLES, Counsel

DATE: JUNE 26, 2023

SUBJECT: Grove Cemetery Ass'n, No. 51-023

RE: CORRECTED APPROVAL OF DANGEROUS MONUMENT APPLICATION

On May 2, 2023, on the Division's recommendation, the New York State Cemetery Board (the Board) approved the application of Grove Cemetery Association in Steuben County (the Cemetery) for funds to repair or remove monuments or markers that are so badly out of repair or dilapidated as to create a dangerous condition under Section 1507(h)(6) of the New York State Not-for-Profit Corporation Law (N-PCL), subject to availability of funds.

In the Division's April 11, 2023 memorandum concerning this application, the Division indicated that it found only 18 of 20 monuments for which the Cemetery requested funds to repair were in fact hazardous. This decision reduced the recommended total amount for this application from \$23,855.50 to \$21,540.50. In its motion and order, the Board approved the correct amount of funds but indicated that it was approving the repair or removal of 20 monuments, rather than 18.

Additionally, the minutes of the May 2, 2023 meeting, as approved by the Board at its June 13, 2023 meeting, contain an unanswered question concerning this issue.

Consequently, the Division recommends that the Board:

1. correct its May 2, 2023 approval to make clear that it approved \$21,540.50 in funds for 18 monuments, not 20, as identified in the Division's recommendation;
2. sign a corrected Board order in the form accompanying this memorandum; and
3. approve amended minutes eliminating the question included in the May 2, 2023 minutes but including a parenthetical note indicating that the Division had recommended approval of repair or replacement of only 18 monuments, in the form accompanying this memorandum.

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ACTING COMMISSIONER OF HEALTH

Cemetery Board Minutes May 2, 2023

**Crowne Plaza Albany – The Desmond Hotel
660 Albany Shaker Road
Albany, New York 12211**

**Office of the New York Attorney General
44 South Broadway
White Plains, New York 10601**

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, NYS Department of State, Division of Cemeteries
Kathleen Chittenden, NYS Department of State, Division of Cemeteries
Chars Crane, NYS Department of State, Division of Cemeteries
John Fatato, NYS Department of State
Kerry Forezzi, NYS Department of State, Division of Cemeteries
Sarah Levin, NYS Department of State, Division of Cemeteries
Matthew LoBiondo, 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
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 & Crematory
Brendan Boyle, Featherstonhaugh, Wiley & Clyne, for NYS Ass'n of Cemeteries
Nicholas DiBartolo, Mount Hope Cemetery
David Fleming, FWC, for NYSAC
Adam Ginsberg, Cedar Grove Cemetery
Christopher Jeannopoulos, The Woodlawn Cemetery
Nate Romagnola, White Haven Memorial Park

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 10:32 a.m. Mr. Pattison introduced himself and had the other Board members and Division staff introduce themselves.

23-05-A-29- Minutes of Previous Meetings

A motion was made, seconded, and unanimously adopted approving the minutes as distributed.

23-05-B-30-Legislation and Regulation

1. Pending Legislation

Robert Vanderbles, counsel to the Division, indicated that he had not circulated a legislative report because of the quick turnaround from the last meeting.

2. Regulations

Mr. Vanderbles also indicated that he and the Division continue to work on natural organic reduction regulations and had begun work on a possible Type 2 list for Cemetery Board actions.

23-05-C-31-Division Report

Assistant Director Alicia Young reported on delegated duties performed by the Division during the first quarter of calendar year 2023.

Ms. Young also reported on the timing of Board applications from receipt to completion to approval, noting that processing time was shorter in 2022 than in 2021. Mr. Polishook added that one reason for delays in review of applications is that applications come in incomplete or with inconsistent information.

Mr. Polishook stated that he and Michael Seelman had visited natural organic reduction facilities (and one alkaline hydrolysis facility) in the Seattle area and that what we learned will inform our rule making.

Mr. Polishook reported on abandonments and abandonments avoided in 2023. We had five successful special meetings where cemeteries at risk of abandonment instead elected new boards; six more were abandoned, but several of these occurred in previous years. We are still working with nine cemeteries at risk of abandonment.

Mr. Polishook reported on staffing changes in 2022: We hired five Senior Accountants—Charles Crane and Sarah Levin in Buffalo, Kathleen Chittenden and Matthew LoBiondo in Albany, and Steven Troutman in Binghamton. We also have three departures from the Division: Vince Gimondo and Chris Cosco have retired, and Matthew LoBiondo has accepted another position. We currently have four accountant vacancies: an Associate Accountant in Albany and Senior Accountants in Albany, New York City, and Syracuse. We also continue to have no secretary in Albany.

Mr. Polishook added that cemeteries in those regions should contact the Albany office and send any submissions to Albany, either via the cemeteryreports@dos.ny.gov email or by mail.

23-05-D-32 – Vandalism, Abandonment and Monument Repair or Removal Fund Report

Ms. Young referred to the vandalism report posted online but noted that there were not many changes from last month.

There are ___ applications for funds from the vandalism fund to be reviewed at this meeting.

51-040, Pleasant Valley Cemetery (Steuben), \$40,042.25

This cemetery seeks funds to repair 35 dangerous monuments. After discussion, a motion was made, seconded, and unanimously adopted approving the application by this cemetery for funds to repair these dangerous monuments for a total cost of \$40,042.25, subject to availability of funds.

The discussion of this application can be found in the video recording of this meeting at 13:15-15:00.

51-023, Grove Place Cemetery (Steuben), \$21,540.50

This cemetery seeks funds to repair 20 dangerous monuments. Investigator Michael Catena reported that only 18 of the 20 monuments were eligible. After discussion, a motion was made, seconded, and unanimously adopted approving the application by this cemetery for funds to repair 20 monuments for a total cost of \$21,540.50, subject to availability of funds. *Note that the correct number of monuments is 18; the Division found that two were not dangerous.*

The discussion of this application can be found in the video recording of this meeting at 15:01-16:54.

39-033, Roseboom Cemetery (Otsego), \$300.00

The Board previously approved the application of this cemetery to repair dangerous monuments, but there was a \$300 error in the amount approved. After discussion, a motion was made, seconded, and unanimously adopted amending the previous motion approving this application to approve an additional \$300, subject to availability of funds..

The discussion of this application can be found in the video recording of this meeting at 16:55-18:24.

05-035, Pleasant Valley Cemetery (Cattaraugus), Town of Olean, \$64,011.76

The Town of Olean seeks funds for maintenance of this cemetery that the Board previously determined was abandoned and for which the Town has assumed the obligation of maintenance. Mr. Polishook described those items for which the Division recommended approval and those items for which the Division recommended against approval.

After discussion, a motion was made, seconded, and unanimously adopted approving this application in the amount of \$64,011.76 as to the recommended items, subject to availability of funds.

The discussion of this application can be found in the video recording of this meeting at 18:25-23:58.

23-05-E-33 15-005 - Elmlawn Cemetery & Crematory Inc.- Easement

Elmlawn Cemetery and Crematory previously received Board approval to sell to its lessee land it currently leases. The Town of Tonawanda now seeks the grant of an emergency access easement across the Cemetery.

After discussion, a motion was made, seconded, and unanimously adopted approving the application for approval of the easement as presented to the Board.

The discussion of this application can be found in the video recording of this meeting at 24:00-29:18.

Public Comment

David Fleming, for the New York State Association of Cemeteries expressed appreciation for the Board's meeting at the conference and for providing information about applications.

The next Cemetery Board meeting is scheduled for June 13, 2023.

The meeting adjourned at 11:04 a.m.

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COMMISSIONER OF HEALTH

DANGEROUS MONUMENT ORDER

By application dated March 6, 2023, Grove Cemetery Association, Steuben County, Cemetery No. 51-023 requested funds for the repair or removal of 20 monuments or markers that are so badly out of repair or dilapidated as to create a dangerous condition under Section 1507(h)(6) of the New York State Not-for-Profit Corporation Law (N-PCL).

The Cemetery Board has reviewed the application, reports, and appraisals and has determined that *18 of the 20 monuments qualify for funds under the N-PCL and the request for funds is fair and reasonable as to those monuments.*

Therefore, pursuant to N-PCL Section 1507(h)(6), the request is approved as follows, with payments to be made when funds are available:

| REQUESTED AMOUNT | ALLOCATED AMOUNT |
|------------------|------------------|
| \$21,540.50 | \$21,540.50 |

Within 90 days of its receipt of disbursements, the cemetery shall make a report to the Cemetery Board setting forth the repairs or removals and replacements made and by whom, the amount of funds expended, and the amount of funds to be returned to the Cemetery Board, if any. If any monuments or other markers have been removed, the report shall include a statement that they have been replaced with a flush bronze or granite marker suitably inscribed if replacement is appropriate for identification purposes. If the repairs and removals have not been completed, the reason therefor shall be set forth, and the anticipated date for a subsequent, final report shall be disclosed. Such report and any additional report shall be sworn by a cemetery officer.

CEMETERY BOARD

Robert J. Rodriguez, Secretary of State

BY _____
Mark P. Pattison, Chairman

Letitia James, Attorney General

BY _____
Jill F. Faber, Esq.

James V. McDonald, M.D.,M.P.H., Commissioner of Health

BY _____
Thomas W. Fuller

FILED: 07/11/2023