

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

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

Cemetery Board Minutes

September 27, 2023

Department of State

One Commerce Plaza, 99 Washington Avenue Albany, New York 12231

**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:

Kathleen Chittenden, Division of Cemeteries

John Fatato, Department of State Sarah Levin, Division of Cemeteries

Nathan McCarthy, Division of Cemeteries Michael Morris, Department of State Lewis Polishook, Division of Cemeteries Michael Seelman, Division of Cemeteries Brendon Stanton, Division of Cemeteries Steven Troutman, Division of Cemeteries Robert Vanderbles, Department of State Alicia Young, Division of Cemeteries

Kerry Forezzi, Division of Cemeteries

Natesha Salmon, Division of Cemeteries

Leonard Breen, Division of Cemeteries

Joseph Ambrose, Department of State

Valentin Castillo, Department of State

GUESTS:

David Fleming, Featherstonhaugh, Wiley & Clyne, for NYS Ass'n of Cemeteries

Theresa Joyce, Mount Hope Cemetery

Mark Stempa, Mount Carmel Cemetery

Brendan Boyle, Featherstonhaugh, Wiley & Clyne, for NYS Ass'n of Cemeteries

Jay Ivler, Mount Lebanon Cemetery

Pierre Alric

Richard Freiman, Beverly Hills Cemetery

Matthew Ivler, Mount Lebanon Cemetery

Rich Moylan, Green-Wood Cemetery

Nicholas Dibartolo, Mount Hope Cemetery

John Nolan, Wellwood & Beth Moses Cemetery

Justin Locke, Pinelawn Cemetery

Anthony Biolsi, Montefiore Cemetery

Richard Betheil, Beth Moses Cemetery

Tom

Kevin Persico, Beth Moses Cemetery

Phillip F. Rash Flynn, Maple Grove Cemetery

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 introduce themselves.

23-09-A-51- Minutes of Previous Meetings

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

23-09-B-52-Legislation and Regulation

1. Pending Legislation No update.
2. Regulations

The public comment period for regulations about natural organic reduction is open and currently no comments have been received during the public comment period.

23-09-C-54-Division Report

Mr. Polishook reviewed past and upcoming Cemetery 101 sessions across the state. Upcoming sessions include one in Greenwood on either Oct 24th or Oct 26th, one in eastern Suffolk County on Nov 2nd, an unscheduled session in Kensico Cemetery, and one in the second week of November in Glens Falls. Additionally, venues are being scouted in Orange, Sullivan, and Ulster County.

Mr. Polishook introduced Natesha Salmon, Associate Accountant in Albany, and has a Senior Accountant in New York starting September 28th; we are working on filling Senior Accountant vacancies in Albany and Syracuse.

Mr. Polishook added that the Division of Cemeteries' annual report mailing will be coming up early 2024. Emphasis was placed on the importance of maintaining up-to-date contact information and trustee information for all cemeteries under our jurisdiction.

23-09-D-54 – Vandalism, Abandonment and Monument Repair or Removal Fund Report

Ms. Young referred to the vandalism report posted online. She stated that we are not at risk of over-spending the \$2 million appropriation at this time.

There are three new applications for funds from the vandalism fund, two new constructions, a cemetery merger issue, and three amended applications to be reviewed at this meeting. An additional PM Loan repayment modification will be reviewed as well.

23-012, Evergreen Cemetery (Jefferson), \$15,965.36

This cemetery seeks funds to repair 25 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 \$15,965.36, subject to availability of funds. The discussion of this application can be found in the video recording of this meeting at 35:48-38:36.

42-035, Warren Cemetery (Rensselaer), \$15,523.12

This cemetery seeks funds to repair 28 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 \$15,523.12, subject to availability of funds.

The discussion of this application can be found in the video recording of this meeting at 38:37-41:53.

42-047, Pierrepont Hill Cemetery (St. Lawrence), \$17,917.89

This cemetery seeks funds to repair 26 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 \$17,917.89, subject to availability of funds.

The discussion of this application can be found in the video recording of this meeting at 41:54-45:23.

46-015, Greenridge Cemetery (Saratoga), \$29,743.85

This application was removed from the agenda and postponed to the October board meeting.

23-09-E-55 15-016 Mount Calvary Cemetery – Replace Retorts

This cemetery submitted a major renovation application to replace three retorts and associated demolition and construction. The cemetery did not include an engineer's report in the initial application, which is a requirement for approval of this project.

Testimony was provided by David Fleming on behalf of Mount Calvary Cemetery explaining the unique circumstances which add a time-sensitive element to Mount Calvary's application.

After discussion, a motion was made, seconded, and unanimously adopted approving this application, subject to receipt of the certified engineer's report and all municipal approvals.

The discussion of this application can be found in the video recording of this meeting at 46:14-56:04.

23-09-F-56 41-005 Maple Grove Cemetery – Mausoleum

The cemetery seeks approval of a new mausoleum building of 1,252 square feet, for an estimated \$279,050.00

After discussion, a motion was made, seconded, and unanimously adopted approving this application.

The discussion of this matter can be found in the video recording of this meeting at 56:10-59:23.

23-09-G-57 40-003 Beverly Hills Cemetery – Mausoleum Budget Modification

The cemetery previously received approval for a new mausoleum building for just under \$725,000.00 in 2021. The cost has increased since the approval to a total estimate of \$1,158,000.00 due to a large amount of time passing since the initial approval. Additionally, there was an additional requirement placed on the cemetery when the initial application was approved dictating where certain cemetery funds could be held and how they could be used. The cemetery seeks approval of the updated budget and the waiver of the restriction of funds placed upon them at the initial application's approval date.

Testimony was provided by Richard Freiman, council for Beverly Hills Cemetery providing additional context to the project's current status.

After discussion, a motion was made, seconded, and unanimously adopted amending the Board's prior approval for construction of the mausoleum to reflect increased costs and amended work required by the

town to a cost of \$1,158,000.00 and no longer require pre-sales be placed in a restricted fund.

The discussion of this matter can be found in the video recording of this meeting at 59:24-1:05:55.

23-09-H-58 34-053 Woodlawn Cemetery – Mausoleum Extension

The cemetery seeks approval of a new mausoleum extension of 6,787 square feet, for an estimated \$5,376,500.00.

After discussion, a motion was made, seconded, and unanimously adopted stating that the Board's determination on the application is subject to the State Environmental Quality Review Act (SEQRA) and its implementing regulations, pursuant to SEQRA the Board classified the application as an Unlisted action and elected to proceed in an uncoordinated review, the Board adopted the draft Environmental Assessment Form and made a negative declaration, the Board approved Woodlawn Cemetery's application to expand its existing Sunset Chapel Mausoleum by adding 628 crypts and 1,056 niches for the total price of \$5,376,500, paid for through its general fund, in accordance with its application.

The discussion of this matter can be found in the video recording of this meeting at 1:06:00-1:10:55.

23-09-I-59 24-003 Green-Wood Cemetery – Major Alteration Financing Modification

The cemetery previously received approval for a renovation project. The financing of this project was initially attributed to the cemetery's general fund. The cemetery's financial advisor advised that a bridge loan through TD bank would be more appropriate for the funding of this project.

After discussion, a motion was made, seconded, and unanimously adopted amending the Board's November 9, 2022, resolution approving the major alteration and is modified to replace "to be financed from the Cemetery's general fund" with "to be financed through a bridge loan through TD Bank in accordance with the term sheet included with its application."

The discussion of this matter can be found in the video recording of this meeting at 1:10:59-1:15:01.

23-09-J-60 52-005 and 52-059 Beth Moses Cemetery Ass'n and Wellwood Cemetery Ass'n – Merger

This item was taken out-of-order prior to the Vandalism, Abandonment and Monument Repair or Removal Fund Report to accommodate scheduling for Richard Bethel, council for Beth Moses Cemetery.

Lewis Polishook recused himself from discussion for this item.

Mr. Vanderbles reported that Beth Moses Cemetery sought the Board's approval to provide notice to lot owners for a meeting to discuss the proposed merger solely via publication due to undue hardship pursuant to N-PCL section 1506-d.

After discussion, and clarification from Richard Bethel, counsel for Beth Moses Cemetery, a motion was made, seconded, and unanimously requiring first-class mail notice be sent to all burial societies holding plots within Beth Moses Cemetery for which contact information is available and all lot owners who purchased lots within the past ten (10) years but allowing for all other lot owners to be notified solely via publication due to undue hardship.

The discussion of this matter can be found in the video recording of this meeting at 5:19-34:10.

23-09-K-61 24-008 Washington Cemetery Ass'n – Washington Cemetery v. Free Sons of Israel

Mr. Vanderbles advised this item be taken to an executive session.

A motion was made, seconded, and unanimously adopted to move this item to an executive session for the purpose of discussing pending litigation. Returning to open session, the Board reported that it directed counsel to seek representation from the Attorney General.

23-09-L-62 33-063 Forest Hill (Utica) Cemetery – Modification of PM Loan Payback

The Cemetery previously borrowed money for a crematory project. They are seeking a restructuring of the loan's repayment terms, to be brought before the Supreme Court. They are requesting a recommendation from the board that the Supreme Court approve this restructuring to \$100 per cremation per month over a ten-year loan period, at 2% annual interest, with a balloon payment at the end.

After discussion, a motion was made, seconded, and unanimously adopted providing the board's recommendation that Supreme Court approve.

The discussion of this matter can be found in the video recording of this meeting at 1:15:18-1:20:57.

Public Comment

David Fleming expressed his approval for and appreciation of the Division's ongoing Cemetery 101 education classes.

The next Cemetery Board meeting is scheduled for October 18, 2023, at 10:30 a.m. The meeting adjourned at 12:16 p.m.