

DIVISION OF CEMETERIES

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COMMISSIONER OF HEALTH

TO: NEW YORK STATE CEMETERY BOARD

FROM: LEWIS A. POLISHOOK, Director

CC: ROBERT VANDERBLES, Office of General Counsel

SUBJECT: REPORT ON AT-RISK CEMETERIES

DATE: JANUARY 5, 2024

The Board's 2022 abandonment regulations provide that the Division of Cemeteries (the Division) "may at any time determine that a cemetery is at risk of abandonment and, together with the cemetery, take the following steps, as appropriate, to avoid abandonment" (19 NYCRR § 202.3(a)), and list various steps, including meeting with the cemetery's board and lot owners, local officials, and other cemeteries, and performing audits and inspections, to help avoid abandonment. The regulations also provide that, "[a]t least quarterly, the division shall report to the board any actions taken pursuant" to that section. Id. § 202.3(g).

For brevity, we have not reproduced information that appears in our last report, dated October 17, 2023, and refer the Board to that report for situations where there has been no change since then.

CEMETERIES AT RISK OF ABANDONMENT

Liberty Park, No. 05-021 (Cattaraugus)

This cemetery had previously inquired about the possibility of the Town assuming responsibility for the cemetery, either by conveyance or abandonment, but instead are continuing to operate the cemetery, at an operating surplus in 2021 and 2022.

Willow Brook Park, No. 07-061 (Chautauqua)

This cemetery is located in the City of Dunkirk and is 17 acres, and has struggled to find interested board members and staff. The cemetery failed to obtain a quorum at its last lot owners meeting on September 17, 2023, and has not scheduled another meeting. The cemetery seeks approval of increased service charges for 2024 to improve its financial position. We continue to monitor the situation.

Methodist, No. 13029 (Delaware)

This cemetery has only one active, elderly board member who wishes to retire. This cemetery has under \$20,000 in total assets and is sold out. We will reach out to the board member and Town to discuss options, but it is unlikely that we will have a successful special meeting to identify new board members.

Dolgeville. No. 22-006 (Herkimer)

This cemetery has struggled to get volunteers to maintain and operate the cemetery, and the board members are unable to do so themselves. The board has made diligent efforts to do so and have indicated that they have announced their resignation. Even if new board members could be identified, the cemetery lacks funds to operate for more than a year. We are preparing a determination of abandonment to present to the Board at a future meeting.

Rural Cemetery, No. 35-033 (Ontario)

We met with this cemetery's board on October 27, 2023. The cemetery is low on funds, has thousands of dollars' worth of trees which need to be removed, is losing the person who mows and the cost of a replacement is likely to be very high. The cemetery is almost sold out with only 30 graves remaining. The board believes the cemetery is not viable financially; only two board members are active, and both plan to retire. The Town expressed interest in providing municipal assistance to avoid conveyance or abandonment. The two active board members have agreed to stay on until February 28, 2024, to try to facilitate a special lot owners' meeting in late January or early February to try to elect a new board. This is the second time this process is happening at this cemetery in less than five years. The Town is considering outreach to two other struggling local cemeteries concerning the possibility of consolidation, management agreement or shared services with municipal assistance to all three. The Town has not provided us additional information about which other cemeteries are involved.

Kelly, No. 40-007 (Putnam)

The cemetery has very little activity and limited funds (~\$45,000 of which \$25,000 is restricted PM). The cemetery operates at a \$4,000-\$5,000 loss each year. The cemetery has been in communication with the Town of Carmel regarding the eventuality of the cemetery becoming the responsibility of the Town since 2009. The town had resisted because of issues with title that are now resolved. We are working with the cemetery to notice a special meeting to try to identify board members, but given the low levels of activity we are not optimistic that we can prevent abandonment.

Rockland-Roscoe, No. 53-026 (Sullivan)

A Division audit on September 28, 2023, shows that this cemetery has a small permanent maintenance fund deficit and the cemetery continues to incur operating deficits. The cemetery's treasurer has indicated that the board has considered abandonment or conveyance but has not communicated with the Town. We will meet with the board and Town to discuss steps to avoid abandonment.

Arcade Rural, No. 61-001 (Wyoming)

On January 4, 2022, a small retaining wall within the cemetery collapsed. The cost of repairs will exhaust the cemetery's financial resources. The board wants to resign. We are trying to schedule a meeting with the Town and board to consider steps to avoid abandonment.

VOLUNTARY CONVEYANCES

Lake View, No. 32-012 (Niagara)

This cemetery had an active board but had sold all lots and struggles financially. The Board voted to convey the cemetery to the Town and the Town has accepted the conveyance effective January 1, 2024. It is the Division's understanding that some board members of the cemetery will volunteer for the town to help run cemetery.

Marion, No. 59-023 (Wayne)

This cemetery's board has voted to convey the cemetery to the Town and the Town has accepted that voluntary conveyance effective January 1, 2024.

Warsaw, No. 61-033 (Wyoming)

In April 2023, this cemetery's board indicated that it intended to convey the cemetery to the Town and the Town's attorney indicated that the Town would accept the conveyance. The Town accepted the conveyance in October 2023.