

**Approved**

**Cemetery Board Minutes**

**February 15, 2017  
One Commerce Plaza  
99 Washington Avenue, Albany, NY**

**BOARD MEMBERS PRESENT:**

Daniel Shapiro, Department of State, Chair  
Christopher Wiles, Office of Attorney General

Paul Ambrose, Department of Health

**OTHER ATTENDEES:**

Lewis A. Polishook, Division of Cemeteries  
Chester Butkiewicz, Division of Cemeteries  
Michael Seelman, Division of Cemeteries  
Brendon Stanton, Division of Cemeteries

Antonio Milillo, Department of State, Counsel  
Joseph Ambrose, Division of Cemeteries  
Leonard Breen, Division of Cemeteries  
Mark Pattison, Department of State

**GUESTS:**

David Fleming, Featherstonhaugh et al.-NYSAC  
Richard Freiman, Richard Freiman & Associates

Dannielle Melendez, NYSFDA  
Bruce Geiger, Pinelawn Cemetery Association

**17-02-A-06 Minutes of Previous Meetings**

Motion made, seconded and unanimously adopted approving the minutes of the January 12, 2017 meeting as amended.

**17-02-B-07 Legislation and Regulation**

Mr. Milillo reported there has been a lot of activity in the Legislature and that many of the bills are carry-overs from the previous years, but there are some new ones.

A3785/S2894 (A. Dinowitz/S. Ranzenhofer): This bill is intended to clarify that state regulated cemetery operations are under the sole jurisdiction of the State Cemetery Board. Mr. Fleming of NYS Association of Cemeteries explained origin was a response to local municipalities interfering with cemetery operations.

A2901/S4215 (A. Dilan/S. Dilan): This bill would create a cemetery disclosure form which would be posted in the cemetery corporation's office and given to every potential customer. The details of the form would be created by the State Cemetery Board and would provide a lengthy list of detailed information to consumers.

A3083/S829 (A. DenDekker/ S. Funke) This bill would authorize a veteran's close friend or family member who is reasonably familiar with such veteran's wishes to request that such veteran

be buried in a state veterans' cemetery. It would also eliminate the requirement in Public Health Law § 4201 that a written statement be executed when the person who seeks to be in control of disposition of remains is a close friend of the deceased. Discussion held that although there are no State veteran cemeteries there are bills pending that would create them.

A3848 (A. Dinowitz): This bill would put the administration of the state cemetery vandalism restoration, monument repair or removal and administration fund under the exclusive control of the State Cemetery Board, with annual expenditure reports from the Board to the Comptroller.

S2606 (S. Little): This bill would amend the N-PCL, the General Municipal Law and the Town Law to prohibit the construction of any mausoleum or columbarium in a cemetery where such mausoleum or columbarium is the only form of interment offered in the cemetery.

S2112 (S. FELDER): This bill would amend the General Business Law to require cemeteries to provide same-day burial if possible consistent with the deceased person's community conscience or culture.

#### **17-02-C-08 Division's Report**

Mr. Polishook reported that information sessions have begun regarding the new Annual Report form and changes in regulation. The first information session was held and well received in Albany, NY. The Division has scheduled five additional sessions to be held across the state.

#### **17-02-D-09 Vandalism Report**

Mr. Butkiewicz summarized the January 2017 Vandalism Report.

The Board informed that the coverage of warranty provided by monument a dealer excludes acts of vandalism or acts of nature. The Board expressed concerns that such exclusions should not apply to heaving due to frost. The Board motioned to approve conditioned upon the Division's confirming exclusion in warranty coverage does not apply to frost heaving in the natural course of events, seconded and unanimously adopted approving the following application:

Greenridge Cemetery (D)	\$40,660.76	Saratoga	46-013
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#### **17-02-E-10 Evergreen Cemetery (Clinton – 10-004) – Columbarium**

The Evergreen Cemetery had previously installed a columbarium and submitted an application seeking Nunc Pro Tunc approval. The Board was concerned that the columbarium was installed by Plattsburgh Memorials in 2014, with no up-front cost to the cemetery. The total cost of this project was \$17,400 with projected revenue from sales of \$55,200. Fifty percent or \$27,600 of this amount is to be paid to monument company and not to share in any possible future price increases. Motion was made as follows:

- Payback in annual payment of \$3,000 but not to exceed ½ of net revenue;
- 10% of the entire sale price must be deposited into Permanent Maintenance;
- Provide Rules and Regulations, services fess, and prices to Division;
- Monument company can have no role in pricing or cross marketing.

Motion made, seconded and unanimously carried approving the columbarium installation nunc pro tunc.

**17-02-F-11 United Hebrew of Lake Placid (16-023 Essex) Amended COI**

The Cemetery application proposes to: (a) reduce the minimum number of board members from five to three; (b) change the annual meeting date from the first Tuesday in September to the third Monday in August; and (c) add a paragraph reflecting the Corporation's tax-exempt status. These changes are beneficial to the Cemetery because they reduce the burden of locating qualified board members, increase the ability for lot owners to participate in the Cemetery's annual meeting, and reflect the Cemetery's IRS status. Concern was raised regarding language pertaining to annual meeting being held, "...within or without the state of New York". Amended COI will be held in escrow by Mr. Milillo as conditioned by the Cemetery Board.

Motion was made, seconded and unanimously adopted to approve certificate of amendment conditioned upon removal of the offensive language, "without the state of New York", delegating authority to counsel for approval for filing.

**17-02-G-12 Warwick Cemetery (36-039 Orange) Land Sale**

The Warwick Cemetery submitted an application to sell via quitclaim deed a parcel of real property, 1.7 acres, for consideration of \$2,000. Deed includes a 100 feet buffer from "commercial, residential structure and/or well".

Motion was made, seconded, and unanimously adopted approving the exchange of real property and directing that any consideration received by the cemetery corporation, less the necessary expenses incurred, shall be deposited into the cemetery's permanent maintenance fund.

**17-02-H-13 Bedford Union Cemetery (60-002 Westchester) – Land Purchase**

The Bedford Union Cemetery submitted an application to purchase a parcel of real property, approximately two acres, for consideration of \$695,000, to be paid from unrestricted funds. Concerns of counsel were addressed regarding number of grave spaces to be developed, future sales, and assurance that prior and current owners of land to be purchased were not affiliated with the cemetery or a funeral director.

Motion was made, seconded, and adopted approving the exchange of real property and directing that any consideration received by the cemetery corporation, less the necessary expenses incurred, shall be deposited into the cemetery's permanent maintenance fund.

**17-02-I-14 Oakwood Cemetery (60-016 Westchester) – Major Renovation**

Oakwood Cemetery (the Cemetery) is an approximately 50-acre cemetery located in Mount Kisco, Westchester County. The Division has received a nunc pro tunc application dated September 29, 2016, from Oakwood Cemetery (the Cemetery) for retroactive approval of a Major Renovation concerning the construction of a new Front Entrance, which was completed in 2015 without State Cemetery Board approval.

Tabled.

**17-02-J-15 Beverly Hills (40-003 Putnam) Land Purchase**

Tabled.

**Public Comments:**

None.

**Motion to go into executive session made, seconded and unanimously carried.**

**Motion to exit executive session made, seconded and unanimously carried.**

**Motion to adjourn made, seconded and unanimously carried.**

The next monthly Cemetery Board meeting is to be held on March 14, 2017 at 10:30 AM, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231.