

**APPROVED**

**Cemetery Board Minutes**

**June 15, 2016**

**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  
Leonard Breen, Division of Cemeteries  
Richard Buske, Division of Cemeteries

Antonio Milillo, Department of State, Counsel  
Monee McAdoo, Division of Cemeteries  
Joseph Ambrose, Division of Cemeteries

**GUESTS:**

David Fleming, Featherstonhaugh et al.-NYSAC  
Dannielle Melendez, NYSFDA

Daniel Hallenbeck, NYSAC  
Bruce Geiger, Pinelawn Cemetery

**16-06-A-35 Minutes of Previous Meetings**

The Board approved the minutes of the May 20, 2016 meeting. Motion made, seconded and unanimously adopted approving the minutes as amended.

**16-06-A-36 Legislation and Regulation**

Pending Legislation

Senate Bill # 2208 – has passed the Senate and delivered to the Assembly. This bill would amend the General Business Law to prohibit the unauthorized sale, purchase, or transfer of any cemetery marker, flag holder, monument, statue or other physical memorabilia that is over 75 years old and that commemorates the life or death of a veteran or group of veterans.

Assembly Bill # 7384 – was amended and recommitted to Corporations, Authorities and Commissions. This bill would allow cemetery corporations to grant qualified veterans' organizations the right to receive the cremains of a veteran which has not been claimed by a relative or friend of the deceased within one hundred twenty days after cremation.

Senate Bill # 5570-A – has passed the Senate and delivered to Assembly. 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.

Senate Bill # 2941-A – has been reported and committed to rules and ordered to the third reading. This bill would add a new section 369 to the Executive Law which would direct the Division of Veterans Affairs to conduct an investigation and study on the issue of the establishment of a New York state veterans cemetery program, and to submit to the federal Veterans Administration cemetery grants program a pre-application for the establishment of one or more veterans cemeteries.

Senate Bill # 2582 has passed the Senate and Assembly. This bill would allow cemeteries to start accepting the interment of pet cremated remains. Note that pets are defined as “domesticated” animals.

Senate Bill # 840-A – has passed the Senate, delivered to Assembly and has advanced to third reading. This bill would add a new section to the Mental Hygiene Law to require the release of patient names and other information for patients who have been buried for fifty years at a state mental health institution.

**16-06-C-37 Division’s Report**

Mr. Polishook reported on Frederick Douglas Cemetery in Staten Island. This cemetery was a victim of theft and placed in receivership. The cemetery does not have sufficient funds to operate and has limited graves to sell. The Attorney General’s office and Mr. Polishook anticipate attending a meeting with concerned officials to provide technical information, background, and assistance. Mr. Polishook has provided a budget of what the cemetery may need for operating funds to make it through the next fiscal year to the Attorney General’s office.

Mr. Polishook reported that the Division met with NYSAC regarding Net Appreciation and Perpetual Care funds.

**16-06-D-38 Vandalism Report**

Mr. Polishook summarized the May 2016 Vandalism Report.

The Board approved the following application(s):

01-001 Albany Rural Cemetery (D)	\$42, 947.59
10-015 Riverside Cemetery (V)	\$10, 049.52

The Board denied the following application(s):

33-063 Utica Cemetery (D)

**16-06-E-39 Mount Olivet Cemetery (Queens – 41-012) – Net Appreciation Application**

The cemetery submitted an application seeking to appropriate a percentage of net appreciation of its permanent maintenance fund on February 8, 2016. In response to questions posed by the

Division, the cemetery submitted a revised application. The Division recommends disapproving the proposed appropriation due to issues with the application including non-compliance and income and operating expenses. The cemetery has agreed to reduce its trustee fees and give back bonuses. The Board recommends the Division to meet with the cemetery to discuss the application in detail. Tabled until next meeting.

**16-06-F-40 Kensico Cemetery (Westchester – 60-010) – Major Renovation**

The cemetery proposes to expand its parking area to include an area for assembly of funeral processions, reconfigure its ingress and egress points, add an employee parking area and separate entrance to that parking area, and add lighting to the parking areas. The current parking area and driveway are small. The proposed expansion of the parking area would create separate areas for visitor parking, employee parking, and funeral assembly. The total cost of this project is estimated to be \$992,800, to be paid for out of the cemetery's general fund. Motion made, seconded and unanimously carried approving the application.

**16-06-G-41 Rosendale Cemetery (Ulster – 56-029) – Columbarium**

The cemetery initially sought approval to install two columbarium, one dedicated to veterans and their spouses (30 niche), and the other to general public (40 niche). The project is to be financed via PM loan with an additional \$7,500 to increase their general fund. The original application was presented to the Board at its December 2015 meeting. The application was tabled pending additional information regarding total project cost, additional information concerning its expenses, the demand for niche space and a set repayment plan to be provided in the application. The cemetery has agreed to limit construction to just the 30 niche columbarium, thus reducing the cost of the project to \$11,636. The Division does not support the request for an additional \$7,500 to increase the cemetery's general fund. Motion made, seconded and unanimously carried approving the 30 niche columbarium and recommending Supreme Court approval of the PM loan in the amount of \$12,000 with a repayment period of \$500 quarterly over six years.

**16-06-H-42 Memory Gardens Cemetery (Albany – 01-018) – Columbarium**

The cemetery requests approval to install a 64 niche columbarium. The total projected cost of this project is \$17,000 and the projected revenue from sales is estimated at \$159,040. The project will be funded by the general maintenance fund of the cemetery. Motion made, seconded and unanimously carried approving the columbarium.

**16-06-I-43 Copake Cemetery (Columbia – 11-010) Land Swap**

The cemetery submitted an application for approval of a 3 acre land swap, also referred to as a lot line adjustment, between Copake Cemetery and Farmland Renewal, LLC. Both of the 3 acre parcels are cleared, level farmland. Both parcels have been appraised at a value of \$12,000. The Cemetery Board has reviewed the application, reports, and appraisals and has determined that the agreed upon value proposed to be given by the cemetery for the real property it will acquire does not exceed its fair and reasonable market value. The Cemetery Board finds that the land to be sold or disposed of is not used for burial purposes; that the sale or disposition will benefit the cemetery corporation and the owners of plots and graves in the cemetery; that the sale or disposition is not to a funeral entity; and that sufficient notice of this application and this meeting has been given to any person who is interested or who may be interested in this matter. The

Cemetery Board approves the exchange of real property. Due to the unique facts of this transaction – an exchange of real property equivalent in value and total area and with no other consideration to be received by the cemetery - the Cemetery Board dispenses with the requirement that the consideration received by the cemetery be deposited into the cemetery's permanent maintenance fund. Motion to approve the land swap was made, seconded and unanimously approved.

**16-06-J-44 Warwick Cemetery (Orange – 36-039) Quick Claim Deed**

The Board previously approved this application at the December 17, 2015 meeting. The approval was for the transfer by quitclaim deed between the cemetery and Domar Homestead, LLC for \$2,000, contingent upon the execution of an easement to the cemetery to assure non development of the parcel. The cemetery was directed to deposit the consideration into the PM fund and the Board had determined that no other persons required notice of the proceeding. The Division is being asked by Domar Homestead, LLC to reconsider its requirement of recodign an easement based on the fact that there is a Town zoning ordinance that says there has to be a least 100ft. setback for any building from any cemetery for construction on. Motion made, seconded, and approved to amend its previous motion to accept the new proposal to include the 100ft. setback to be recorded with the deed or in other appropriate fashion, contingent upon counsel's review.

**Public Comments:**

Mr. Fleming commented on the Community Foundation Bill. NYSAC is opposed to this bill. Mr. Fleming requests that the Division share with NYSAC the legal opinion regarding the issue at Forest Hill Cemetery in Utica concerning an application for dangerous monument funds to restore stairs. Mr. Fleming requests the Division to develop a model form of compliance and conflict of interest policy.

**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 Cemetery Board meeting is to be held on July 20, 2016 at 10:30 AM, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231.