

NANTUCKET CEMETERY COMMISSION
Posted Meeting of October 11, at 3:00 pm
DPW Conference Room, 188 Madaket Road, with Zoom Connectivity

FINAL AND APPROVED MINUTES

Attendance: Commissioners: Scott McIver, Allen Reinhard (Chair), Lee Saperstein, and Barbara White (3:25 pm); Charlie Polachi and TaKyra Renner, DPW.

Absent: Frances Karttunen.

Note on Zoom connection: The correct link for the Cemetery Commission is <https://us06web.zoom.us/j/85669907430?pwd=UCtfdFIPSE9VTitrU05CVTJyOWkydz09>

TaKyra, please confirm.

1. Call to Order.

Allen Reinhard called the meeting to order at 3:00 pm. He reminded participants that the session was being recorded: A roll-call of attendees showed that a quorum existed.

<https://www.youtube.com/watch?v=rG6x3rJ8HVw&list=PL49sKqpy7VAhlyX1ozdd1bZ3zV8kXFp8M&index=40>.

2. Public and Commissioner Comments.

A. With no member of the public present, there were no public comments. Allen Reinhard, as Chair, did have an important comment, though. With respect to marking lots in Polpis, he heard from Ray Sylvia who, amongst other duties, looks after all public signage on the Island. Ray Sylvia's interest was sparked when he tried to locate a grave site in the existing part of the cemetery and could not locate it. Using other markers, he eventually located the site he wanted. For locating all Island signs, he has a data-base program into which all signs and their specific locations can be entered. He asked if the Cemetery Commission would like to consider using it or something similar to identify all corners in Polpis. Allen Reinhard asked if there was interest in pursuing such a program and there was certainly. He will put the item on the agenda for the next meeting and will invite Ray Sylvia to attend. [Action: **Agenda item on data-base for corner markers.**]

3. Approval of Minutes from September 13, 2023.

Scott McIver moved approval of the minutes of the September 13, 2023, meeting, Lee Saperstein seconded the motion, which passed by unanimous vote of those present.

4. Approval of Lot Sales Since the Last Meeting.

Although Allen Reinhard has spoken to several potential purchasers of lots, none has come forward with an application.

5. Monument Restoration Project Update.

Charlie Polachi reported that the Town has approved the purchase orders for restoration work on the Historic Coloured Cemetery and the Quaker Cemetery. He also reported that the bid for work on the Historic Coloured Cemetery came in around \$20,000 less than estimated. The Quaker Cemetery purchase order is approved and, once final paperwork is cleared, work can begin on both of them. There will be an unexpended balance that we can put toward additional maintenance in the cemeteries or we could get a head start on the next cemetery's monument work.

6. Newtown Cemetery.

Allen Reinhard repeated that we desperately need action from the Town and its Counsel on consolidation of the four lots (40, 42, 44, and 46 Sparks Avenue) that comprise Newtown Cemetery and a declaration that this land is an historic cemetery. He asked Lee Saperstein to provide more detail, which he did. The Cemetery was subdivided in 1998 with the intent to put a road across the southern portion (Lot 42). While this never happened, a footpath was developed. More recent Ground Penetrating Radar, GPR, surveys show that there are graves in each of the three new lots. Massachusetts Law says that if land has been a cemetery for over 100 years and has burials, then it is legally a cemetery. All of this was spelled out in a memorandum (attached) to the Select Board, June 14, 2018. It has been re-sent several times.

Without this declaration of the legal extent of Newtown Cemetery, we cannot

- Clear vegetation;
- Do a GPR on the unsurveyed portions of the Cemetery;
- Obtain a recordable survey of the Cemetery;
- Begin a monument restoration project;
- Erect the flagpole;
- Layout parking and walking paths;
- Plan for new graves;
- Complete needed maintenance in lots 40, 42, and 44.

The need has heightened urgency,

Lee Saperstein added that Ken Beaugrand was working on this with Town Counsel. He asked Charlie Polachi if he could pick up the assignment. He said that he would take the memorandum to the DPW Director, Andrew Patnode, and work with him to re-submit it.

7. Old, New, Other Business and Final Comments.

Allen Reinhard reminded the Commissioners that we now have FY 2024 budget lines and they will provide lines for future budgets.

At this point, Commissioner Barbara White was able to join the meeting and Allen Reinhard took the opportunity to summarize for her discussions held at the meeting.

8. Adjournment.

Adjournment came at 3:31 pm by acclamation.

Next regular meeting: Wednesday, November 8, 2023, at 3:00 pm, in the DPW conference room at 188 Madaket Road. For those who wish to attend virtually, a Zoom link will also be sent to Commissioners.

Respectfully submitted: _____; Date: 10/14/2023
Lee W. Saperstein, Secretary

Nantucket Cemetery Projects List:

- Cemetery monument restoration project: Ongoing, D-2 treatment monuments.
- Fencing at the Historic Coloured Cemetery.
- Fencing, and brush removal at New and Old North Cemeteries.
- Consolidation of lots at Newtown Cemetery with recordable ground survey:
Awaiting action from Town Counsel.
- New map needed for Polpis addition of new lots.

Copied October 14, 2023

From: Lee W. Saperstein
To: Libby Gibson, Erika Mooney, and Andrew Vorce
Cc: Cemetery Commission
Date: June 14, 2018

Libby and Erika: Attached is the formal motion made by the Cemetery Commission at its meeting of Wednesday, June 14, 2018, for the protection of the entirety of Newtown Cemetery. It differs slightly from the printed copy that I gave to Erika in that the "draft" watermark has been removed, the vote recorded, and, in the history section, I have inserted a reference to Town Meeting's authorizations to acquire the three lots, 40, 42, and 44 Sparks Avenue. We stand ready to present the motion to the Board when it is scheduled, although, I personally will not be on Island on July 11.

Also attached are two figures that show the graves: Figure 3 from the Hager-Richter report and an overlay of the Town's GIS onto that figure that shows the lot lines.

Erika's contributions to our meeting are much appreciated.

Lee

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Town of Nantucket Cemetery Commission
MOTION TO PROTECT THE ENTIRETY OF NEWTOWN CEMETERY
Made at its meeting of June 13, 2018, at 3:30 pm at the DPW Conference Room

MOTION:

By an unanimous vote of four to zero, 4 to 0, the Nantucket Cemetery Commission moved to recommend to the Nantucket Select Board that the Town formally define and protect Newtown Cemetery in its entirety, namely all of 40, 42, 44, and 46 Sparks Avenue. It is recommended further that the Town file a record of the property in the Nantucket Registry of Deeds including a recordable survey and a copy of Figure 3 from the recent Hager-Richter Report of Ground Penetrating Radar, GPR, location of burials.

JUSTIFICATION:

- Burials. The location of burials in 40, 42, and 44 Sparks Avenue suggests that these lands may not be used for any other purpose than a cemetery. This opinion was given to the Commission leadership by Town Counsel at a meeting on September 20, 2016, also attended by the Town Manager and (by telephone) the Director of Planning. Burials in these lots have been confirmed by the recent GPR report.
- Existence for more than 100 years. According to Massachusetts General Law, Chapter 114 MGL Section 17 (quoted below), if land has been designated as a cemetery for more than 100 years, then it is a cemetery. A Nantucket Assessor's map from 1913 shows the boundaries of Newtown Cemetery virtually coincident to the boundaries surrounding 40, 42, 44, and 46 Sparks Avenue.

“Section 17: Preservation of ancient burial places
Section 17. A town shall not alienate or appropriate to any other use than that of a burial ground, any tract of land which has been for more than one hundred years used as a burial place; and no portion of such burial ground shall be taken for public use without special authority from the general court. "Burial place", as referred to in this section, shall include unmarked burial grounds known or suspected to contain the remains of one or more American Indian.”
- Abutters: Questions have been raised about continuity of ownership of the southeastern portion of Newtown Cemetery. A report written by Lee Saperstein, Secretary of the Commission, did not resolve the earlier question of ownership (the so-called Coffin Offset) but did confirm the continuity of abutting ownership from modern times to 1913. The owners of the lands shown in the 1913 Assessor's map as abutting Newtown are the same as were found by an historical deed trace of 38 Sparks Avenue. This report has been given to the Planning Department.

History:

- Subdivision. In 1998, in response to a public request for a way from Sparks Avenue to Cow Pond Lane, the Town subdivided the cemetery and created three new lots, 40, 42, and 44 Sparks Avenue. A pedestrian way was laid out inside of lot 42 Sparks Avenue.

- Historical Offset. In 1836, the Proprietors set off land near to Newtown Cemetery to William Coffin in return for 10 sheep commons. Saperstein reported on this offset and suggested that it was outside of the boundaries of Newtown Cemetery. Advice was given, however, during the time of the 1998 subdivision that this offset came out of the cemetery and, sometime later, had been returned to the cemetery thereby confusing its ownership by the Town of Nantucket. This motion seeks to remove this confusion.
- Plans for Renovation of Newtown. In 2010, the predecessors of the Cemetery Commission, then called a working group, commissioned a consultant's report on restoration of the southeast end of the cemetery. When seeking permission to implement this plan, they were told of the ownership impediment described above.
- Approvals for acquisition of the subject lots were passed at Town Meeting: 44 Sparks Avenue in Article 17 of the Special Town Meeting of October 22, 2012, 42 Sparks Avenue in Article 82 of the Annual Town Meeting of April 2, 2013, and 40 Sparks Avenue in Article 83 of the same ATM.
- On November 10, 2016, the Cemetery Commission wrote to the Board of Selectmen (as then so named) to ask for a ruling on the Cemetery's ownership. This memorandum was discussed between Lee Saperstein and Shirin Everett of Town Counsel's law firm (KP-Law) in e-mails of November 10 and 14 and December 20 and 21, 2016. The memorandum of November 10th led to confirmation of the legal opinion that we should first perform a GPR survey, which is non-invasive, to learn about possible burial sites. Several delays meant that it was not done until April of 2018. The finding of burials in these sites has led to this memorandum.
- A discussion on May 31, 2018, among Andrew Vorce, Head of the Planning Department, Allen Reinhard, Chair of the Cemetery Commission, and Lee Saperstein, Secretary, concluded that we should move forward on steps to protect the cemetery. Andrew Vorce agreed that a motion similar to the one above should be given to the Select Board.

Future:

If the ownership question can be resolved, it is the intention of the Cemetery Commission to open up the unused portion of 40 Sparks Avenue to full-body interments. Newtown is the only publicly owned cemetery in which this is possible. Lots will be laid out for the sale of licenses to inter. Other elements of renovation could include a space for cremated remains, landscaping, and a grave-free entrance to the cemetery.

The pedestrian portion of Cow Pond Lane would be moved southward to avoid graves and would exit at the new entry point.

Motion made by Lee W. Saperstein.
2018-06-14