

## MEMORANDUM

TO: Susanne Donnelly, Town Supervisor  
FROM: William J. Hamilton  
DATE: July 21, 2014  
SUBJECT: DALE CEMETERY

At the request of the Town of Ossining Board, I have completed a review of the operations of Dale Cemetery, hereinafter the "Cemetery." Included in the review of the various components of the operation of the Cemetery are:

1. Financial records relating to payments received and deposits;
2. Payments received from and due from third parties;
3. Equipment inventory and status of equipment; and
4. Use of Cemetery property and equipment.

### FINANCIAL RECORDS

Financial records including bank records, deposit slips and ledgers were obtained and copied for the preceding twelve (12) months, and computer financial were also obtained and reviewed. Generally, the movement of funds from the Cemetery to the Town occurs with the Cemetery making deposits into a bank account maintained by the Town. Payroll funds for Cemetery employees are transferred by the Town to the Cemetery payroll/checking account. Purchases made by the Cemetery are generally done through the voucher/purchase order system maintained by the Town.

The financial records maintained by the Cemetery include bank statements, deposit

slips, a hand written spiral notebook and computer records. Generally, the hand written transactions agree with the corresponding deposit slips and bank account statements. There appears to be no interruption of funds received by the Cemetery and the subsequent deposit of those funds into the Town bank account. For example, funds received in payment for services or individual plot purchases are readily traceable from acceptance by the Cemetery to deposit.

There are two (2) exceptions noted regarding payments to the Cemetery. During the relevant period of review, the Cemetery leased the residential portion of its building to a former employee. This tenancy was a month to month tenancy, with no written lease, or other type of written agreement. There is no record of a security deposit being held by the Cemetery. It appears that the tenant paid \$1,100.00 per month in rent, and varying amounts for utilities, such as electric and gas service.

Such payments were made in cash and payable to the Cemetery at its offices located at the cemetery.

The ledger indicates that the tenant frequently paid rent in arrears, often missing several months of rent payments. Subsequently, the tenant would make payments in arrears, become current on rent payments, and fall into arrears again.

For the sake of simplicity, the following is a breakdown of rent payments which tenant should have made on an annual basis:

2011: total rent due	\$13,200.00
total rent paid	\$12,100.00
shortfall	\$1,100.00
2012: total rent due	\$13,200.00
total rent paid	\$5,500.00

	shortfall	\$7,700.00
2013:	total rent due	\$13,200.00
	total rent paid	\$13,200.00
	shortfall	\$0.00
2014:	total rent due	\$6,600.00
	total rent paid	\$4,400.00
	shortfall	\$2,200.00

The cumulative shortfall in rent due from tenant is \$11,000.00.

With regard to the tenant's payment for utility service the payment is a bit more confused. Tenant paid approximately \$250.00 in 2011 for utilities, approximately \$850.00 in 2012, \$310.00 in 2013, and made no payments for the first six months of 2014. For a total of approximately \$1,410. The rental property was placed on a utility meter, and therefore actual use could be verified. However, the unpaid utility expense is approximately \$4,000.00, which represents an approximately cost of \$5,400.00 less payments made. There is no support for determine whether payments made by the tenant for utilities were properly documented.

Therefore, the total arrears due and owing from the tenant is approximately \$15,000.00.

The second exception to the financial records of the Cemetery concerns its contract to sell burial plots in bulk to On Hong Senior Center Inc. ("On Hong"). In and around September 24, 2010, the Cemetery entered into a written Agreement to sell 400 burial plots to On Hong. The contract price was set at \$600,000.00, with a down payment of \$201,000.00 upon the execution of the contract, and the remainder to be paid as follows: \$201,000.00, due on July 24, 2011, \$100,000.00 due on January 24, 2012, and \$97,500.00 due on July 24, 2012. The down payment and first two (2) payments were made, however, the final payment of \$97,500.00 which was due

on July 24, 2012, was rescheduled by the Cemetery and On Hong to be paid on or about August 2014. This modification to the purchaser's obligation to pay was an oral modification to the Contract. Absent the oral modification of the Agreement, the purchaser is in default of its obligation to pay under the terms of the Contract. Accepting that the oral modification was made in good faith by both parties, there is no record of any other modifications to the Agreement which might exist and which might impair the Cemetery's ability to enforce its rights under the Agreement.

#### Equipment inventory

A written equipment inventory was obtained from the Cemetery, and a physical inventory was conducted on June 17, 2014. The physical inventory revealed substantial defects in the method of keeping an equipment inventory by the Cemetery, the care and maintenance of its physical inventory, and a blatant disregard for any type of inventory controls.

Included with this report is Exhibit "B" which contains photographs of the present state of the Cemetery's equipment, tools, supplies, and the condition of its workshop.

The state of the workshop building is poor. There are numerous openings through the exterior walls at the right front and right rear; at the right rear the exposure is a predominant feature of the location. Water infiltration is evident throughout the structure both on the right half of the building and the rear left corner, which may cause oil spills and various powdered chemicals, such as fertilizer to be moved from the interior of the building to the exterior of the building. There is no indication of any attempt to remediate this condition.

Beginning outside the workshop there is an abandoned excavator with various external covering panels removed and with its internal mechanisms exposed to the elements. This machine is surrounded by refuse, including residential waste, oil cans, an excavator head and vari-

ous other forms of debris. This machine became inoperable, and presumably unrepairable at some point in time and was replaced by another excavator purchased by the Town for the Cemetery. It is abundantly obvious that absolutely no effort has been made to preserve this equipment for salvage or resale by the Cemetery.

To the right side of the workshop is an electric cart/car which bears a New York Registration. This is an open type vehicle with a minimal roof structure. As can be seen from the photographs, the vehicle is overgrown with weeds/grasses and no effort has been made to protect it from the elements. The ownership of the vehicle should be verified. Here again, if the vehicle has been discarded, then a salvage value should be determined and the vehicle should be sold.

To the left side of the workshop is a shed containing numerous interior doors of unknown origin. Additionally, one lawn mower appears to have been discarded, although it appears fairly new and in good condition. To the left rear are the remains of a small dump style truck containing no engine and open to the elements.

There are two trailers, one small and one large, stored on the pavement to the left of the workshop. The small trailer bears a Maine Registration, and the larger trailer bears a Maine Registration. Both trailers appear to have been recently painted where they are located as evidenced by the paint stains surrounding each trailer and the used paint supplies, brushes, rollers and rags dumped in front of the entrance of the workshop. These trailers do not appear on the equipment inventory, and the ownership of the trailers should be determined as soon as possible. Additionally, it should be determined who painted the trailers and who supplied to the materials for the work done on the trailers.

There is also a portable compressor located near the trailers and to the left of the workshop. It too is not protected from the elements as evidenced by the exhaust cover stuck in the

open position, which allows water and other debris to enter and possibly fill the exhaust pipe system.

The interior of the workshop exhibits a total disregard for the care and maintenance of equipment and supplies. For example, the room located in the right front corner of the building appears to be a work area with tools, supplies, flammable fluids stored in hazzard fashion. Specifically, lacquer ( two (2) one (1) gallon containers ) are stored next to two (2) tanks of welding/soldering gas. All of these containers are located at the point of ingress/egress. Moreover, various pieces of gas powered hand tools are strewn about the area, presumably in need of repair.

A further inventory of the room reveals various pieces of property not related to the operation of the Cemetery. For example, there are two (2) compound bows, chrome exhaust pipes, plumbing products and evidence of alcohol consumption (Guinness Stout bottle caps). Given the condition of this room, no attempt was made to locate and identify inventory items such as hand tools; the condition of the room precluded any reasonable attempt to sort through tools present within the location and condition of items located in the room.

Continuing to the interior left rear of the workshop, it is immediately observed that the building structure itself is in poor condition, with a large opening through the walls of the left corner, and obvious indications of water infiltration throughout the area. There is no evidence of any remedial action taken to safeguard the interior of the building from the elements.

This area contains numerous items not included in the inventory of the Cemetery. These items include:

1. Volkswagen Beetle body parts;
2. Firestone tires, drag racing rear tires;
3. metal refinishing equipment;

4. numerous chrome wheel rims of various styles; and
5. various auto body body panels stored over head.

These items appear to have been stored with the workshop for some time based on the dust and other debris covering most of the items.

As with the repair room, tools and equipment are generally stored in pell mell fashion, with every indication that a particular item was simply left where it was last used. There are tool chests but an examination of their contents revealed the same poor condition as exists in the workshop.

The current condition of the workshop is unsafe because fuel containers are stored in close proximity to chemical fertilizers, engine oils, transmission fluid containers, and hydraulic oil containers. All of these items are either on or near exposed wood shelves or walls. This flammable liquid storage situation is exacerbated by the lack of working fire extinguishers. One (1) small extinguisher is located at the front door, one (1) large extinguisher is located in the back of the work shop, but is empty, and two (2) other extinguishers are located on shelves in the back of the workshop and are not readily accessible.

The concrete floor of the workshop is cracked and has numerous large stains throughout. These stains continue from the interior of the workshop and continue out the large garage door to the left and continue down the driveway headed westward to the Ossining Kill. There is no evidence that these spills were addressed in any fashion.

Based upon the current condition of the workshop, it is impossible to conduct a meaningful inventory of equipment and supplies purchased and their respective end use. The physical inspection reveals that there is the unfettered mingling of Cemetery inventory with what appears to be the property of others. Moreover, the large quantity of personal property completely unre-

lated to the operation of the Cemetery indicates that the workshop is used by unknown persons to conduct personal business in and around the workshop.

It is abundantly apparent that there is no effort to maintain the workshop and the equipment and tools contained therein in any reasonable manner. There appears no justification for the extremely poor condition of the workshop. There is no attempt at safeguarding flammable materials, there is no discernible methodology to the use and storage of tools, including power tools, welding machines, and consumable supplies.

The condition of the workshop, its structure, contents and property items located outside, speaks to the utter disregard by its users. Garbage, such as used painting supplies, fishing equipment, brake pads, a personal gym, latex gloves, are liberally strewn about the workshop.

Based upon statements made by the Director, the Cemetery does not employ anyone who is qualified to perform repairs to any of its equipment or vehicles, including the two (2) excavators. However, repairs are routinely made by an employee with some informal background in making repairs. In short, the Cemetery has no organic ability to professionally repair, maintain and service it's equipment.

It is strongly suggested that all such equipment repairs, service and maintenance be performed by the Town shop located at the Town Highway Department. Under this structure, a formal baseline of the condition of Cemetery equipment can be established and an objective history of the use of such equipment can be maintained.

Following the driveway down to the Ossining Kill, there is substantial evidence of poor inventory control. To the left are two (2) snow plow blades of unknown make and age, but visibly rusting and abandoned. Numerous bags of wood chips/fertilizer are piled together with

weeds growing through and around the bags. Additionally, there are numerous cans of roofing mastic/tar which are stored by a white enclosed trailer and these cans are leaking and rusting. Near the same trailer is an abandoned electrical generator which does not appear on the Cemetery inventory. Additionally, there are numerous auto body components stored at, near or on the white trailer, which are not included in any Cemetery inventory, and include a hard top for a Jeep Wrangler, automobile upholstery, and front end body parts for a Volkswagen.

### RECOMMENDATIONS

1. All cash receipts created by the Cemetery must be signed by an employee of the Cemetery and the payee;
2. All sales of burial plots, as well as payments, must be in writing;
3. All agreements, including the leasing of the residential apartment, and any modifications thereto must be in writing with prior notification given to the Town/Town Board;
4. All personal property currently on Cemetery property must be removed by the owner, and subject to proof by the that he is the legal owner of such property. Furthermore, no such property may be removed without the prior approval of the Town;
5. All repairs to Cemetery equipment, such as lawnmowers, gas powered hand tools, the back hoe, and other vehicles should be done by the repair facility maintained by the Town at the Town Highway Department;
6. The Cemetery should be required to repair and maintain the work shop, and if necessary have the building inspected by the Town Building Code Inspector to develop a baseline of necessary and proper repairs; and
7. The Cemetery should be prohibited from making any purchases related to the repair of Cemetery equipment and/or property, without a written specific request for materials and

written documentation that such items were used for the purpose stated. Under no circumstance should any Cemetery employee be permitted to make any purchase for the repair and/or maintenance of any equipment owned and/or used by the Cemetery.