



Grave Happenings



BERKS COUNTY ASSOCIATION FOR GRAVEYARD PRESERVATION

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Check our web site for meeting dates

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BCAGP
Berks County Association
for Graveyard Preservation



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Check the www.bcagp.org website for internet edition newsletter archives.



Sassaman



An area was leveled, and prepared, to set up for the Table stones that have been laying in piles for years.

This last month work began in preparation to bring in a monument professional to straighten and reset the Obelisk. There had been stones standing against it that had to be moved out of the way to clear the path. Karla Hummel and Shawn Hails dug them up to keep them safe. Les, Keith, and Paul worked on the leveling. I did nothing but take pictures because it was way too cold for me!



Shawn carefully dug out the pieces of the stone for Rev. Carl Herman that has been underground for years.



Ownership of the Sassamanhausen/Sassaman Graveyard.



Jost Heinrich Sassamanhausen and his wife came to Maxatawny township in the early 1700s. Here, they established a large homestead encompassing hundreds of acres and raised their family. The main portion of the homestead, complete with the Sassamanhausen stone home and family graveyard, remained in the family for the next 200 years or six generations. It wasn't until 1937 when it was sold out of the family.

Agnes M. E. (Helfrich) Slough, who died on February 12, 1934, devised the homestead to her children, Libbie (Slough) Luckenbach, Joseph Slough and Lulu (Slough) Straub. In 1933, Libbie Slough signed her 1/3 of the homestead over to her brother and sister Joseph and Lulu.

On January 15, 1937 Joseph Slough and Lulu (Slough) Straub sold the homestead to Edgar F. Muth. The property lines were drawn around the graveyard. They reserved the graveyard and access for maintenance; for themselves and their lineal descendents, with the following clause in this 1937 deed:

Reserving and excepting out of the above described premises unto the grantors herein, their heirs and lineal descendants a certain burial tract presently located upon the said premises of a width of thirty (30 feet and a depth of equal width of fifty-six (56) feet, located along the southerly line thereof for the purpose of visitation and maintenance by the said grantors, their heirs and lineal descendants, but not for the purpose of further or future interment or burial.

Joseph Slough died without heirs, except for his sister, Lulu Straub, who then became the sole owner of the burial tract. Lulu died in November of 1958, leaving one son, Donald Beno Straub. Donald died in 1998 at the age of 91. Surviving him were 3 daughters who became owners of the burial place: Lucy (Straub) Blanchfield, Julianna (Straub) Dellefave, and Anne (Straub) Frederick, the lineal heirs who became the owners of the burial place. BCAGP and the Sasaman/Sossaman Family Association of America have worked to clean up the graveyard and would like to restore and preserve it, however we need the help of the heirs. We would be interested in hearing from anyone who has any information on these three ladies or their children, so that we can further our history and work on the graveyard.

Weidner



Work has begun at the Weidner burial ground on Bertolet Mill Road in Oley. A few years ago, we replaced the wall that had caved in. This year we will finish the job, and all four walls will be restored. Special thanks to John Frantz, who owns the property, for his contributions towards its restoration. The ground's maintenance has been done for years by the Lobachsville Cemetery Association. A trust was established at one point for this maintenance, however, as most of these old trusts, there is no money for repairs. You can look forward to seeing the finished job in the next newsletter, which will be the online only edition in April. You will find it on our website.

LETTER FROM LES



Since last summer our newsletters and agendas have announced officer elections and bylaw changes. In November, the bylaw changes were approved and officers, mostly the same ones, elected. The bylaw changes were prompted by a comment in one meeting that one specific change was needed.

However, once a bylaw change was proposed, suggestions for more quickly followed. I think our old bylaws were limited and provided much room for interpretation. The new bylaws have more specificity. Our operations will change very little. The bylaws now document better what we have largely been doing.

Types of membership are now defined as are the privileges of membership. Types of meetings are also defined.

The roles of Officers and Directors change very little. Directors will serve two year terms, whereas their terms were undefined previously. We have fewer duties assigned to officers, and allow the sharing of responsibilities among officers and directors. This reflects the reality that we have a handful of people willing to perform administrative chores. We wanted the flexibility to be able to distribute and balance the workload effectively. Members who have the time and an interest are welcome to join us. Your talents can be utilized even if you never visit a graveyard.

The new bylaws explicitly define two committees: a membership and an audit committee. Rather than having duties assigned to officers, committees provide flexibility to share the work. To conform to what some members felt was common practice in other organizations, our audit committee will review the yearly financial statements and propose a budget for the new year. Its findings will be reported at an annual membership meeting. For this, the audit committee will need our December bank statement and the December report from our accountant. Consequently, one noticeable change for the membership is that the annual membership meeting will move from November when it has traditionally been held to February after the audit committee does its year end analysis. To make this transition, we will follow the November 2014 annual meeting with another in February 2015.



Finally, one of our long time officers, **Cynthia Jimenez**, has relinquished her role as Treasurer. I think it is



fitting, and overdue, that Cynthia along with **Gail Hesser** and **Ralph Lorah**, other long serving board members, are recognized for their commitment to BCAGP. They participated in the founding of BCAGP and have served ever since. They helped to keep BCAGP afloat through many inactive years after Jackie Nein died, and positioned us for much that has been accomplished in the last six years. They are quite worthy of our gratitude.

Les Rohrbach is President of BCAGP and very active in both the organizational aspects and the hands on "down and dirty in the graveyard" activities of the group. Les travels from Pottstown to his "roots" in Berks and is an avid hiker and genealogist.



Rothermel in Maiden creek

The wall repair at the Rothermel burial ground in Maiden creek is complete and went well. The section that was collapsed was completely redone and patchwork was done at various parts of the wall to stabilize it. The gate was repaired so it works properly again. This is rather large and would be very costly to do a complete restoration. We have done work on these walls many years ago.



BEFORE



AFTER



Rothermel in Maiden creek After



When Shawn Hails spent the day with us at the Sassaman burial ground he was a huge help to us! It is no secret that most of us are not exactly in our prime. He was



likely the only one of us that didn't let out as much a one grunt during the day in the wind and cold. On the way back ,I showed him another burial ground in need of some T.L.C. a little closer to home. The

Rothermel, that is located on West Walnut Tree Road, has been on the radar for a while now. Stanley Deeds, a neighbor, has been the caretaker but has encountered some medical issues. The Rothermel Family Association is scattered ,and those that are local are elderly and not up to the task. Shawn asked what needed to be done and I mentioned that the



stones that have fallen from the walls need to be stacked back again off the ground so it can be more easily mowed. Also a few tombstones needed to be raised up, as they have sunk

pretty low. Some of the ground needed leveling from the groundhog holes, as well.

To my surprise, the next Sunday, Shawn and his son Drayke and girlfriend Monique (who took pictures) all went to do a little pick up. Drayke who will be 13 in January, said it felt good to help and pay his respects by helping out, but it felt funny to be standing on the grass on the graves. Yes Drayke, that does takes a little getting used to.

Monique said , " I love the history on these sites. It makes me realize there was life before us. That the land once had families working hard and living simple."

It was a nice family day for them. Some exercise, some interesting things, and some accomplishment. Afterwards ,they visited the nearby Barnet Peter burial ground and walked down to Peter's Creek ,which runs behind the burial ground. Will they do it again? I really hope so! We desperately need the involvement of the young folks.



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Reasons NOT To Work At A Cleanup: By: Karla Hummel

It would have been much more comfortable just to stay in bed; but, as I rolled over and pulled up the covers, I realized that we were scheduled to cleanup 2 graveyards that I'd never yet seen. Three layers of clothes donned, my muck boots on and I was ready to go!



The Kutz has had significant attention in the last 5 years, transforming it from a tree-filled, overgrown mound to an open, inviting plot. It is surrounded by a simple, split-rail fence and has a

handful of head & footstones, including that of Maria Kutz, which in 2010 was a GAD (Groundhog Assisted Discovery), completely buried for decades until the aforesaid Mr. Groundhog revealed it. Cleanup at the Kutz is simple now that only weed-wackers, loppers and rakes are needed, so the 4 of us made short work of it. The Kutz is the perfect candidate for adoption: an easy drive on paved roads, small in size, and no hike involved! Interested in caretaking??



From there we headed to the *Kemp Levan*. This site is well off the beaten path, or *any* path. By the time I'd again pulled on my muck boots and grabbed my tools,

I was alone as far as the eye could see. The rest of our eager band had begun the hike up the slow graded hill, and were completely consumed by the high corn. There is an disconcerting sense of solitude when you walk on, seeing only the high stalks on each side of you, and hearing nothing but the rustle of the sharp-edged leaves as they close across the path behind you. Tripping over the skeletal remains of a deer carcass just added to the chilling atmosphere. But it was so worth the hike!

The Kemp Levan graveyard must have been a rare display of luxury when it was built. No stone wall here; rather, a substantial *brick* wall surrounded the site, with an exceptionally ornate iron gate. Unfortunately, that

situation is past tense. Despite its craftsmanship and ample depth, the wall's limestone mortar is losing the battle against tree roots, encroaching shrubs, and the angle of the hillside. The once elaborate, intricate gate now hangs too crooked from the remains of its hinges to allow access or egress. But the engraved stones are a cemetery explorers dream!



After the long hike and an (uncharacteristically) ungraceful clamor over the dislodged bricks that still protect the graves, I saw that no team of 4 volunteers could make any lasting difference to the Kemp in a morning's work. Alas, we set to our chore with the intent to remove as much growth as we could with the basic tools at hand. I admit that the 3 men on our team provided most of the manual labor, but I stayed after they took the trek, invisibly thru the corn, back to their cars. I knelt to record each stone verbatim (what we have routinely are names & dates, but some headstones hold so much more), and I was delighted to find something intrinsically unique to each. One held a lovely carved wreath of flowers: another carried ornamentation I associate with wood carving rather than stone. Scrollwork and ribbons, Gothic embellishments and Federal lines, all found their way into the carvings.



This was a family of means who built a distinctive and dignified final resting place for their loved ones. This was once a place of great pride and earnest emotion. Now it truly looks abandoned and is, without an association

of equally caring descendents to financially and physically support the effort, beyond our capabilities to restore and preserve. Sometimes, even the most successful cleanups leave me heartbroken.

Doing the Deed

DOING THE DEED (Exceptions and Subject to)

The primary objectives when a deed is written are: to name the grantor and his right of ownership to the property, identify the grantee and what was paid for the property, to describe the property, and give its size and location. Old deeds may also include clauses describing special circumstances, requirements, restrictions, or agreements that are part of the contract of sale. These clauses are prefaced by the terms "Exception or Excepting" and "Subject to."

An "Exception" or "Subject To" clause will describe in as much detail any special terms of the sale to prevent misinterpretation. One of these clauses may be a dower for a widow, where a portion of the sale price is put on interest to provide an annual income for the widow for her natural life. The dower is carried on successive deeds until the death of the widow. Upon her death, the principal becomes due and payable to her heirs.

Another exception may be that water rights from or across a neighboring property have been assigned to the grantor, who is now passing them on to the grantee. Water rights are often carried on deeds that have a mill on them, but sometimes it is merely the right to take water to irrigate fields or water the livestock.

A property may be sold Subject To, special use restrictions, as in the case of a deed written to a church or school trustees. This deed may include a restriction that the property is to be used only to build a church for religious services or a school for educational purposes. It may say that in the event the church or school no longer exists the property reverts to the Grantor. Another restriction might be where the seller owns and operates a certain kind of business and dictates that the grantee shall not operate the same kind of business for a certain period of time.

The Exception or Subject To clause that BCAGP is most interested in is the one that excepts the family graveyard from the larger property being sold. This exception tells the buyer that he does not own the graveyard, only the property surrounding or abutting it. The grantor may retain ownership of the graveyard himself or may write a separate deed to younger family member. With the graveyard exception, the seller may include an access route or right-of-way to the graveyard.

Sadly, these graveyard and access exceptions are often lost in time, even if written as "in perpetuity." They are dropped from successive deeds and the new owner may assume they own the graveyard and/or right-of-way. To find out if such exceptions exist an extensive deed search is required.

Whether the exception written as "in perpetuity" appears in succeeding deeds or not, the exception remains legally enforceable. Ownership of the graveyard and access to it still belongs to the last owner of record or to their legal heirs, no matter how many generations have passed. However, when this occurs many of the generations that follow are not even aware that the graveyard belongs to them. It becomes a real challenge to locate the next of kin or the rightful owners of the graveyard. This is a challenge that BCAP is willing to take on to preserve these final resting places of the early settlers of Berks County.



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Glossary

Orphan's Court - a court that appointed and supervised guardians to orphans and minors fourteen years of age unless specific guardians had been designated by a will. Minors fourteen and older could choose their own guardian, with the approval of the Court. It was also responsible for partitioning the real estate of a person who died without a will.

Owner - The owner is the person who possesses the property at any given time. The owner differs from the patentee. The patentee is the person who first paid the patent fee on a tract of land and the person the patent was issued to. Owners will change as each tract is sold and re-sold. The Patentee will always remain the same person.

Patentee - The individual who receives the patent to a tract of land. This person could be the warrantee, but may not be. The patentee could also be a subsequent owner of the property, who purchased it from the warrantee or another owner. The patentee is often not the original settler of the property, but simply a subsequent owner who paid the patenting fee. The patentee never changes for a tract of land, while ownership changes as the land is bought, sold, inherited and divided and re-sold.

Patent - A land patent is evidence of right to title and/or interest to a tract of land, usually granted by a central, federal or state government to an individual. In PA it would have been the Penn's, also known as the proprietors. Usually referred to as the "first title" deed issued to the original grantee. The patent does not constitute title but is evidence to a right to title. Land may pass through any number of hands until someone decides to pay the fees to have the land patented. [see also Patentee]

Patent, traditional - The traditional process to patent a vacant tract of land in Pennsylvania involved several steps. First, an individual or his agent identifies a piece of vacant property and applies to the land office for a warrant. If approved, a warrant to survey was issued. Next, the land would be surveyed. Once the survey and other patenting fees were paid, the survey was returned and a patent issued.

Patent by settlement and improvement - Another process to patent vacant land based on settlement and improvement. A settler who squatted on a piece of vacant land could apply for a warrant

based on his or her settlement and improvement of the land. This could be several years, even decades after the settler's initially occupied the property. It could also be someone other than the original settler. Based on the application, a survey would be performed and a warrant to accept prepared. After all fees were paid a patent would be issued.

Patented - When a property is patented, a legal title to the property is transferred from the Commonwealth of Pennsylvania or Proprietors, the Penns, to a private individual or corporation. All subsequent transactions between private individuals are done through deeds, not patents.

Perch - a linear measure of distance equal to 16 1/2 feet. There are 160 square perches to an acre.

Perpetuity - forever, an obligation in a deed, such as right of ways, easements and exceptions can be written as "in perpetuity."

Petition - a formal written request or prayer for a certain thing to be done. In the case of an intestate death, a person must petition the court to become the administrator. If the deceased owned real estate, a separate petition is submitted requesting the court allow them to evaluate and sell the land in question. Also petitions to name guardians are submitted for any heirs who are not of legal heirs.

Petition for Partition - A petition presented to Orphan's Court, by an administrator or an Executor, or others asking that the court appoint good persons to survey and evaluate a tract of land of another who is deceased. This is done so that the tract may be divided among the heirs. The petition also asks that if dividing the tract would spoil the tract as a whole, the court appointed viewers should assign a value to the whole tract for the purpose of selling it either to one heir, in a private sale or at an advertised sale, to the highest bidder.

Plaintiff - the one who initially brings the suit against another, who becomes the defendant

Plot plan - A drawing made by a surveyor of a tract of land, based on the meets, bounds and distances. Sometimes attached to a deed or Indenture.

The next meeting of The Berks County Association for Graveyard Preservation will be February 15th 2015. This will be a general membership meeting. It will be at the Oley Legion Hall at 2 PM.



Historic Burial Places Preservation Act (PDF) of April 29, 1994 (P.L. 141, No. 22)

This Act defines "Historic burial place" as "A tract of land that has been in existence as a burial ground for more than 100 years wherein there have been not burials for at least 50 years and wherein there will be no future burials or listed in or eligible for the National Register of Historic Places as determined by the Pennsylvania Historical and Museum Commission."

It further states that municipalities may not use eminent domain to take a historic burial ground for an alternate use. PHMC approval must be given before a burial ground is taken for "public use." If the burial ground is taken for public use, then the burial ground authority must preserve a record of what was removed. This record must be sent to the county and PHMC.

Furthermore, this Act also stipulates that the following actions are illegal: the removals of a fence, tomb, monument, gravestone, or fragment. These actions are legal only if the object(s) is being removed with consent of the owner or descendent **and** a court order for the purpose of "repair or replacement, reproduction or preservation and display in an accredited museum."

"Grave Happenings" is a collection of articles provided by members of our Board about recent and on-going activities. We are always open to your suggestions for future content.

Permission to reprint any materials herein is granted provided they are printed in their entirety and that BCAGP's author is cited.



Our Mission

We strive to preserve and maintain the historic Berks County graveyards in Eastern Pennsylvania. The Commonwealth of Pennsylvania Historic Burial Places Preservation Act (1994) provides for the preservation of historic burial places, tombs, monuments and gravestones and imposes penalties for violations.

Research supports the existence of over 300 historic graveyards in Berks County of which approximately 120 remain with some sort of visible surface evidence. The BCAGP is working aggressively to preserve these historic grave sites for future generations.



JOIN OR DONATE TODAY!

If you're not a current member, please join us in preserving and maintaining our historic graveyards. If you do not wish to be a member at this time but you are interested in contributing support for a specific graveyard, please indicate that graveyard on the form below. We also appreciate contributions to the general fund.

MEMBERSHIP FORM - 2015

NAME: _____

ADDRESS: _____

EMAIL: _____ PHONE: _____

\$ _____ Annual Membership, Individual \$ 15; Family (residing in the same household) \$25

\$ _____ Annual business or municipality membership, \$35

\$ _____ Donation earmarked for the *Association General Fund*

\$ _____ Donation to be used for the _____ gravesite

\$ _____ Donation to be used in _____ municipality



Total Amount enclosed _____ Date _____

Mail Checks to: B.C.A.G.P., PO Box 3707, Reading, PA 19606

Membership runs a calendar year January to December. Membership dues paid after October will be applied to the next membership year. This form is also available on our website in the internet edition of the newsletters which can be printed.

The official registration and financial information of Berks County Association of Graveyard Preservation may be obtained from the Pennsylvania Department of State by calling toll free, within Pennsylvania, 1-800-732-0999. Registration does not imply endorsement.

Berks County Association for Graveyard Preservation is a registered 501 (c) (3). Please check with your tax advisor as to the deductibility of your contribution.

*Please check our website www.bcagp.org
for meetings times*