

Hart Island Public Hearing Report

INTRODUCTION

On October 24, 2019, the NYC Department of Social Services/Human Resources Administration (DSS/HRA) held a public hearing concerning the future of public burials in New York City. The hearing was convened in accordance with the requirements outlined in Local Law 214 of 2019. DSS/HRA invited members of the public to provide testimony regarding any topic related to public burials in New York City, including but not limited to: the Human Resource Administration's burial assistance program; the feasibility of implementation of a cremation assistance program or providing cremation as an alternative to public burial; the feasibility or potential feasibility of public burial in locations other than Hart Island, both inside and outside of the City; and the plan for the future operation of Hart Island. The Notice of Public Hearing is available on HRA's website.

HRA was joined by representatives of the following City agencies: The Office of the Chief Medical Examiner (OCME), the Department of Health and Mental Hygiene (DOHMH), the Department of Parks and Recreation (Parks), the Department of Correction (DOC), and NYC Health + Hospitals (H+H). Oral and written testimony was received from the following entities: State Senator Brad Hoylman; Hebrew Free Burial Association; The Hart Island Project; International Cemetery, Cremation, and Funeral Association; Merendino Cemetery Care; Historic Districts Council; WAYS OF PEACE Community Resources; Community Board 10; New York State Association of Cemeteries; and New York Civil Liberties Union (NYCLU). Testimony was also given by private citizens, including individuals whose loved ones are buried at Hart Island, a psychotherapist, a City Island resident, and architects. The transcript and written testimony provided by various organizations are available on HRA's website.

SUMMARY

The commenters expressed support for continued use of Hart Island for new burials. They also supported efforts to improve the infrastructure of the island in order to maximize the existing land for future burials in a respectful and environmentally conscious manner. One commenter expressed concerns about Hart Island becoming a public park operated by the Parks Department. Many commenters testified as to the importance of keeping the City's cemetery within New York City and accessible to the public. They expressed concerns about moving public burials outside of New York City due to fear that the cost of transportation would be prohibitive and sever their ties to deceased loved ones. Commenters emphasized that, given the lack of space and the high cost of conventional burials, public burial on Hart Island has been the sole option available to many poor and marginalized New Yorkers.

The New York State Association of Cemeteries advocated for the City to allow the private cemetery industry to assist it in accessing "state of the art technology or training in burial practices or technology," to ensure that "Hart Island has sufficient burial space for many years and at the same time, provides options for public access for parkland and recreation."

The City plans to review the space limitations on Hart Island, transportation challenges and overall accessibility as it assesses the feasibility of keeping the island open to future burials or finding another place for public burials.

I. Ecological Feasibility Study and Use of Space

Commenters testified that redevelopment of Hart Island should include a plan that would expand the Island's capacity for future burials as well as fortification of the Island's infrastructure to prevent erosion and damage from natural disasters, climate change and other weather conditions. A commenter submitted a 2015 report from the Department of Buildings and the Parks Department, which recommended demolition of all but 2 of the buildings on Hart Island. According to their testimony, it is estimated that if these buildings were removed, there would be an estimated 17 acres of new burial space. Commenters

consistently cited data that between 1,000 and 1,200 burials per year are occurring on Hart Island, which is consistent with information released by the Department of Correction. Proponents for continued use of Hart Island for ongoing public burial argued that reevaluating the current use of space could eliminate the need for additional or alternative space off the island, and the demolition of the existing buildings could create space for 96,960 total new burials with an 80-year capacity.

Individuals testified to the need to build upon existing environmental studies and to update land feasibility studies conducted by Ann Sharrock. It was further stated that through the use of natural landscape strategies the island could foster a diverse ecological and culturally dignified burial space that is sustainable and an ecological alternative to cremation which uses large amounts of fossil fuels and releases toxins such as mercury into the air. Moreover, commenters highlighted the importance of exploring the reuse of gravesites and alternate means of managing older remains, stating that exhumations require the opening of the burial site and the practice prevents the planting of trees that help stabilize the soil and prevent erosion, and the use of vaults was proposed as an option in some cases.

It was also noted by the Hart Island Project that “[u]p until 1977, when a fire destroyed burial ledgers stored on Hart Island, reuse of burial sites after twenty-five years was the practice.” The Historical District Council commented that grave recycling had been a practice of the City during the early 20th century. Commenters testified that Hart Island is an important municipal resource that could sustain itself indefinitely by the ongoing recycling of graves after a body has decomposed to skeletal remains. Arguments were made that Hart Island could accommodate burials indefinitely by using a system of green burials or recycled graves, eliminating the need to find new space. Proponents supported recycling of graves once a body is fully decomposed to skeletal remains, after 25 years, with the option to return remains to families prior to recycling.

Furthermore, proponents argued that Hart Island should be a peaceful, park-like, tranquil setting without tombs and that the history of the island could be fused into the new architecture of the island by implementation of a proper and transparent master plan and land management plan. Commenters referred

to active local burial grounds, Woodland and Green-Wood Cemeteries, as examples of transformed park-like recreational hubs that have engaged large audiences in recent years.

The City thanks the commenters on this topic for their feedback. With regard to additional burial capacity on Hart Island, the City notes that the estimates that were provided may not account for new space necessary for new roads, paths, or other new structures to accommodate this capacity. In addition, while the City recognizes the opportunity of increasing capacity through demolition, to date, there has been no assessment of the underlying land to determine which areas may be suitable for burial. Further, it is also important to consider that the existing structures on Hart Island were constructed in the early 1900's when asbestos and lead materials were widely in use for building materials. Demolition would need to take place in accordance with current regulations concerning such structures. There has been no study done to determine the method and cost of demolition. Finally, the soil beneath buildings would require further study and possible remediation before determining future use. Formal studies or assessments would need to be conducted, to determine how much of the land on Hart Island could be suitable for burials and therefore a determination of how long the island can sustain burials.

With regard to grave recycling, the City notes that this is not a practice of the Department of Correction at this time and there is currently no process in place to dispose of skeletal remains. In addition, no study or assessment has ever been conducted to determine the timeline for full decomposition of remains interred on the Island, which can vary dramatically depending on a host of biological and ecological factors, as well as preparation and burial practices.

II. Historical Significance to the LGBTQI and HIV AIDS survivors

Commenters opposed the closure of Hart Island and proposed continued use of the Island for public burials. State Sen. Hoylman expressed strong support for redevelopment that would memorialize the Island's historical significance in the LGBTQI civil rights movement and New York City's fight to end HIV AIDS. He stated: "A generation of LGBTQ New Yorkers was lost, stigmatized in life and in death, but not forgotten. Hart Island was often the only place these bodies could go. Private burials were difficult

to arrange because many funeral homes refused to handle corpses with HIV or AIDS. It is thought that Hart Island is the final resting place for hundreds if not thousands of individuals with AIDS, the largest burial site of its kind in the country. It is important that this opportunity to redevelop the city's public burial program be used to make the site easily accessible for future generations of LGBTQ people to understand and connect with their community's history."

The City thanks those who submitted testimony on this topic for their comments, and agrees that this history is important.

III. Travel and Accessibility

Several commenters testified that Hart Island is inaccessible for many New Yorkers who want to visit loved ones due to the infrequent hours of operation of the ferry and requiring that they make reservations in advance. As noted by the NYCLU: "Most significantly, it remains very difficult for members of the public to gain access to Hart Island because of the 70-person, one-weekend-per month limit on visitors and because the only access to the Island is via a ferry departing from City Island, which itself is far removed from convenient public transportation. Relatedly, while the Department of Correction has made a good-faith effort to fine-tune the reservation system that schedules the limited visits, that system has created an untenable situation in which people claim limited visitation slots but do not show up while those who wish to visit cannot do so because all slots have been reserved in advance."

The City again thanks those who commented for their feedback on this topic. Currently, Hart Island is accessible to all New York City communities by ferry from City Island located in the Bronx, free of charge, and City Island can be accessed by public transportation. The Department of Correction recognizes the importance of visiting the final resting place of a loved one and has worked diligently to make the Island more accessible while maintaining burial and maintenance schedules and necessary security protocols. While in May of 2019 DOC's visitation policy did afford only one weekend day per month for gravesite visits as the commenter noted, DOC has since revised its visit policies and procedures

to make the Island more accessible to anyone wishing to visit a loved one interred on Hart Island. Since July of 2019, the DOC has offered two weekend gravesite visits days per month, one on a Saturday and one on Sunday. Each gravesite visit day consists of two separate visits that can accommodate up to 35 individuals; however, DOC will work to accommodate large groups and special requests when provided with advance notice. There has been no waitlist for a gravesite visits since implementing this new policy.

The City Council recently passed Intro 909 which requires the Department of Transportation, or another agency designated by the Mayor, to develop a transportation plan for public travel, including ferry service, to and from Hart Island. The agency would have to consider factors such as changing conditions and future uses of Hart Island.

IV. Labor

Proponents discussed enhancing staffing at Hart Island as a best practice to improving overall conditions. Commenters opposed continued use of labor from incarcerated individuals from Riker's Island and supported the creation of jobs to provide burial services on behalf of the City. They specifically cited the GI Apprenticeship Program which provides veterans with job skills training for their return to civilian life and burial trainings conducted at Arlington National Cemetery. Representatives from the cemetery industry testified about their professional expertise in developing, building and operating cemeteries, and in training veterans in the areas of self-sustainability plans, burial best practices, management and operational procedures.

The City thanks commenters for their feedback on this topic and is committed to ending the use of labor from incarcerated individuals as we plan for a future state.

V. Grief Process/Integrity of Remains

Testimony was heard about the importance of providing families with the opportunity to grieve the loss of their loved ones interred at Hart Island. Hart Island is a vital part of the mourning process because families are afforded access to visit their loved one's burial site on the Island. Moreover, Commenters supported the importance of providing authorization for burials in hospital policies and forms and full

disclosure of information that clearly discusses and informs parents of the disposition of remains by hospitals and agencies in cases of still-born or deceased infants. The City is committed to working with hospitals and medical providers to ensure best practices are followed for requests for burials.

The continued ability to disinter family member's remains and bury them elsewhere was repeated many times by commenters. Commenters discussed the importance of maintaining graves and keeping remains intact for disinterment as well as preserving critical identification records that are key in resolving a family's search for a missing loved one; confirmation of a suspected death and for establishing evidence for law enforcement purposes.

The City appreciates those who commented for their testimony on this important issue and notes that New York State Not-For-Profit Corporation Law §1510(e) permits the removal of interred bodies at any time, if the deceased's next of kin and the cemetery operator give their consent. In addition to removals requested by next of kin, the Department of Correction reports that currently, they perform nearly 40 exhumations of bodies a year, including some for the purpose of forensics performed by the OCME. The need to unearth gravesites with this frequency will factor into the future land use, including what types of landscaping the City will be able to employ.

VI. Other Issues

Commenters expressed concern about the unavailability of cremation, green burial, and composting options due to the lack of legal consent from the decedent or next of kin.

The New York State Association of Cemeteries provided testimony that its research has “confirmed the significant number of exhumations and removals conducted on [Harts Island] each year” and that “New York State has the most significant consumer protections in the nation related to disposition of human remains [which includes] identification and record keeping, as well as general consumer protections. Should the City seek to locate burials outside of New York, such as New Jersey, the City would encounter serious problems.”

Commenters supported the use of a Task Force and opposed the public hearing process, citing a lack of transparency by the City, and claimed that not convening a task force could mean “reinventing the wheel,” as there is a lot of expertise on the part of interested parties.

NYCLU also urged “the City to develop a mechanism for patients who have lost or ended a pregnancy to identify locations of gravesites (at Hart Island and elsewhere) without including patient identifiers in the publicly available database” in order to protect patient confidentiality.

The City thanks commenters for their testimony on this topic. On public engagement, the City understands the commenter’s concerns and is committed to ensuring public input throughout the process. While a task force would allow certain voices to engage, we believe the public hearing and RFI are a better way to reach a broader group of people.

In response to recent concerns raised over privacy related to the burial records of fetal remains, DOC has removed the names of mothers associated with fetal remains from the public searchable database. DOC maintains an internal database with this information and members of the public who are attempting to find specific fetal remains located on Hart Island can contact DOC for more information and assistance in locating a specific record. It is important to note that (a) the New York City Administrative Code requires that a searchable database be provided so that people can find remains that have been buried, and the City’s database conformed to the law, (b) DOC does not receive cause or manner of death or private medical information associated with those interred on the island, and as such, does not make this information available publicly or otherwise, and (c) public conjecture, or family disclosures, to the effect that any particular pregnancy ended by miscarriage or termination are beyond the control of government. It was in response to such public conjecture and the effect it would have on individual’s privacy that the City has moved the information to an internal database, which we search upon request.

VII. Conclusion

The City appreciates all those that provided oral or written comment for our public hearing on public burials. The City is continuing to review public feedback and exploring options for the future of public burials and burial assistance in New York City. As an immediate next step, the Human Resources

Administration, pursuant to local law, will be establishing the Office of Burial Services, which will function as a complement to its existing burial allowance program. This Office will work to ensure that it assists New Yorkers in need of information, support and financial assistance for eligible next of kin, legally responsible relatives, friends or other designated entities of deceased indigent or unclaimed persons in facilitating the management of decedent remains through public burial as well as accessing public burial, a burial allowance or any similar program. We look forward to continued work with the Council and public to ensure we are embarking on a path forward that is dignified and serves all New Yorkers.