



Department of Commerce

Division of Real Estate &
Professional Licensing
John R. Kasich, Governor
Andre T. Porter, Director

MINUTES OF THE MEETING OF THE OHIO CEMETERY DISPUTE RESOLUTION COMMISSION

Division of Real Estate & Professional Licensing
77 S. High Street, 22nd Floor, Hearing Room
Columbus, OH 43215-6133

July 18, 2014
10:00 a.m.

PRESENT: Robert Winter, Chair; Don Goncy; Rufus Slade; Tony Hughes; James Wright; Jack Lee-Harris; Anne M. Petit, Superintendent; Laura Monick, Registration and Resolution Section Chief; Kelly Neer, External Auditor; and Walter J. McNamara IV, Assistant Attorney General.

EXCUSED: Phyllis Byard

I. Preliminary Matters

Roll Call: Chairperson Robert Winter called the meeting to order with the record reflecting all members of the Ohio Cemetery Dispute Resolution Commission present except for Phyllis Byard who was excused.

Approval of Minutes: The minutes from the March 20, 2014 meeting of the Ohio Cemetery Dispute Resolution Commission meeting were reviewed. Rufus Slade moved to approve the minutes. James Wright seconded the motion, which passed unanimously.

Superintendent's Report: The Superintendent began her report by discussing the continued increase in the number of phone calls and emails received during the last quarter as well as the significant increase in the number of newly registered cemeteries. Discussion continued on the 2014 renewal cycle with 446 cemetery operators receiving renewal notices. Finally, the Superintendent notified the Commission that she would be speaking at the Ohio Catholic Conference – Cemetery Association meeting in October.

II. Old Business

Case No. 2013-744 Juanita Parker vs. Hamden Cemetery – Vinton Co. – Registration
CGR.2013004147

Laura Monick presented the case to the Commission. The Commission discussed the actions taken by the cemetery to resolve the complaint and satisfy the recommendations made by the Commission at the March meeting. Tony Hughes moved to close the complaint with no further action. Jack Lee-Harris seconded the motion, which passed unanimously.

Zion Bloom Cemetery

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor and the actions taken by the cemetery. Rufus Slade moved to close the audit. Don Goncy seconded the motion, which passed unanimously.

Milan Cemetery

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor and the failure of the cemetery to respond to the recommendations. Tony Hughes then moved to provide Milan until September 1, 2014 to adhere fully to O.R.C. 1721.21 with the request that the Superintendent notify the operator that if it fails to cure this violation by the deadline, the Commission will have no choice but to refer this matter for criminal prosecution and that the penalty for a violation of O.R.C. 1721.21 is a fine of up to \$5,000.00 or imprisonment for not more than one year, or both. James Wright seconded the motion, which passed unanimously.

Ohio Valley Memory Gardens

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor and the actions taken by the cemetery. In addition, the Commission reviewed the certified public accountant's audit of the cemetery's financial statements and the supporting documents showing that all current funds required to be deposited and maintained pursuant to ORC Sections 1721.21 and 1721.211 have been deposited and maintained. Such audit was conducted pursuant to ORC 4767.02(B)(8). Jack Lee-Harris moved to close the audit and to approve the Superintendent to issue a new registration certificate to the purchaser upon the purchaser submitting to the Division a complete registration. Tony Hughes seconded the motion, which passed unanimously.

Hope Cemetery

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor and the failure of the cemetery to respond to the recommendations. Don Goncy then moved to provide Hope Cemetery until September 1, 2014 to adhere fully to O.R.C. 1721.21 with the request that the Superintendent notify the operator that if it fails to cure this violation by the deadline, the Commission will have no choice but to refer this matter for criminal prosecution and that the penalty for a violation of O.R.C. 1721.21 is a fine of up to \$5,000.00 or imprisonment for not more than one year, or both. Rufus Slade seconded the motion, which passed unanimously.

Miami Memorial Park

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor and the actions taken by the cemetery. Tony Hughes moved to close the audit. James Wright seconded the motion, which passed unanimously.

III. New Business

Case No. 2014-286 Fred Molai vs. Standing Rock Cemetery

Mr. Molai and his attorney, Douglas M. Kehres, were present. The cemetery was present and represented by Law Director James Silver. The Commission discussed with the parties that some of the complainant's grave decorations in the cemetery appear to be in violation of the cemetery's rules and regulations and that the cemetery has made attempts to compromise with the complainant. After narrowing the issues down to the posters being displayed at the gravesite and attempting to mediate a resolution, the parties reached an impasse. The Commission encouraged the parties to continue trying to find common ground and then James Wright moved to close the complaint with no further action due to the impasse. Rufus Slade seconded the motion, which passed unanimously.

Case No. 2014-147 Keith Ashley vs. Letart Township

Mr. Ashley was present. The cemetery was present and represented by Joan Manuel and Dave Graham. During the hearing the cemetery agreed that employees should immediately report any damage caused during maintenance. The parties also agreed that the cemetery will fix the monument currently off of its base using straps and not chains and the complainant or one of his representatives will be there when the work is done. Tony Hughes then moved to close the complaint with no further action. Jack Lee-Harris seconded the motion, which passed unanimously.

Case No. 2014-282 Michelle Day vs. Woodland Cemetery

Ms. Day was present. The cemetery was present and represented by Assistant Law Director Arcola A. Whatley. After the parties discussed the specific records Ms. Day was requesting and clarifying that Ms. Day should work with David Mitchell to arrange up to 14 days to review the records at the office, Tony Hughes moved to close the complaint with no further action. Rufus Slade seconded the motion, which passed unanimously.

Case No. 2014-324 Rasby Marlene Powell vs. Fairview Memorial Park

Laura Monick presented the complaint to the Commission. The Commission reviewed the case and the information submitted by the parties. After reviewing the actions taken by the cemetery, and upon being informed that the new date plate was ordered and installed, Rufus Slade moved to close the complaint with no further action. Don Gony seconded the motion, which passed unanimously.

Jack Lee-Harris recused himself from the meeting.

Case No. 2014-310 Mr. & Mrs. Robertson vs. Rest Haven Memorial Park

Laura Monick presented the complaint to the Commission. After reviewing the actions taken by the cemetery and upon notice that the complainants were satisfied, James Wright moved to close the complaint with no further action. Rufus Slade seconded the motion, which passed unanimously.

Case No. 2014-368 Minnie Holloway vs. West Memory Garden

Laura Monick presented the complaint to the Commission. After being informed that the parties reached a resolution of a full refund being issued to Ms. Holloway, Tony Hughes

moved to close the complaint with no further action. James Wright seconded the motion, which passed unanimously.

Jack Lee-Harris returned to the meeting.

Case No. 2014-363 Joseph C. Clark vs. Phillip Dreyer Cemetery

Mr. Clark was present. The cemetery was present and represented by Assistant County Prosecutor Douglas E. Ebert. After the parties discussed the lower wooded portion of the land that is currently privately owned, the private landowner agreed that he would keep the wooded portion as it is currently. Tony Hughes then moved to close the complaint with no further action. James Wright seconded the motion, which passed unanimously.

IV. Audits

Poland Riverside Cemetery

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor and the actions taken by the cemetery. Rufus Slade moved to close the audit. Jack Lee-Harris seconded the motion, which passed unanimously.

Grandview Cemetery, Salem Ohio

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor and the actions taken by the cemetery. Tony Hughes moved to close the audit. Rufus Slade seconded the motion, which passed unanimously.

Obetz Cemetery

The cemetery was present and represented by Matthew Dill. Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor. Upon the testimony of Mr. Dill, James Wright moved to continue the audit review to the September 18, 2014 meeting. Tony Hughes seconded the motion, which passed unanimously.

Ashland Cemetery

The cemetery was present and represented by Amy Clark. Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor. Upon the testimony of the cemetery representatives, James Wright moved to continue the audit review to the September 18, 2014 meeting. Don Goncy seconded the motion, which passed unanimously.

Expired Cemetery Registrations

Laura Monick presented to the Commission eleven cemeteries with expired cemetery registrations. Jack Lee-Harris then moved to find that the cemeteries listed in the attached Exhibit A failed to timely renew their annual registration; that those cemeteries have been contacted by Division staff and that there is renewal paperwork pending processing. Based upon those findings, Jack Lee-Harris moved that pursuant to Ohio Revised Code Section 4767.08(A), the Commission requested that the prosecuting attorney of the county in which the alleged violations of R.C 4767.02(A) occurred initiate such proceedings as are appropriate if any of the cemeteries listed in the attached Exhibit A have failed to file their complete

renewal paperwork by July 31, 2014. Tony Hughes seconded the motion, which passed unanimously.

V. Other Business

Cemetery Law Task Force

The Superintendent provided an update on the Cemetery Law Task Force. Updates included the task force's deliberations on criminal penalties; the need for educational outreach, private land rights, the Bureau of Workers Compensation's rating of salespeople and the Ohio Township Association's request for selling merchandise and re-entry on unused graves.

Mr. Wright then took a minute to recognize Jerry Werner and his service to the industry and to the Commission.

The Superintendent also announced the appointment of C. Thomas Pfeifer to the Commission.

VI. Adjournment

Tony Hughes moved to adjourn. Rufus Slade seconded the motion, which passed unanimously.