



## Department of Commerce

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### 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

September 17, 2015  
10:00 a.m.

**PRESENT:** Jack Lee-Harris, Chair; James Wright; Don Goncy; C. Thomas Pfeifer; Jay Russell; Rufus Slade; Robert Winter; Assistant Superintendent Kimberley Wells; Laura Monick, Registration and Resolution Section Chief; Kelly Neer, External Auditor; and Walter McNamara, Assistant Attorney General.

#### **I. Preliminary Matters**

**Roll Call:** Chairperson James Wright called the meeting to order with the record reflecting all members of the Ohio Cemetery Dispute Resolution Commission present.

#### **Election of officers:**

**Election of Chairperson:** Robert Winter nominated Jack Lee-Harris. Don Goncy seconded the nomination. Jack Lee-Harris' nomination passed unanimously.

**Election of Vice Chairperson:** Robert Winter nominated Rufus Slade. The nomination was seconded by James Wright. Rufus Slade's nomination passed unanimously.

**Election of Secretary:** James Wright nominated Don Goncy. Rufus Slade seconded the nomination. Don Goncy's nomination passed unanimously.

**Approval of Minutes:** The minutes from the July 16, 2015 meeting of the Ohio Cemetery Dispute Resolution Commission meeting were reviewed. Rufus Slade moved to approve the minutes. Robert Winter seconded the motion, which passed unanimously.

**Appointments to the Crematory Review Board:** Rufus Slade, Jack Lee-Harris and James Wright were appointed to the Crematory Review Board.

**Superintendent's Report:** Laura Monick presented the report on behalf of Superintendent Petit. Enforcement statistics were reviewed and Ms. Monick then went on to review the total number of new registrations for 2015. Ms. Monick also discussed the response from County Prosecutors concerning the referrals made at the July Commission meeting. Commissioner Robert Winter was congratulated on his re-appointment to the Commission. Finally, Ms. Monick noted that she had written an article for the Ohio Funeral Directors Association magazine that discussed cemetery registration information and the role of the Commission.

## II. Old Business

### **Jack Lee-Harris recused himself from the meeting.**

#### Case No. 2015-87 Mary Lugar vs. Resthaven Memory Gardens

Laura Monick presented the complaint to the Commission. The Commission reviewed the actions taken by the cemetery to complete the drainage repairs. The Division's External Auditor visited the cemetery and pictures of the work were presented to the Commission. Upon notice that the Complainant was satisfied with the repairs completed, James Wright moved to close the complaint with no further action. Jay Russell seconded the motion, which passed unanimously.

#### Case No. 2015-355 Patricia Hart vs. Resthaven Memory Gardens (New Business)

Laura Monick presented the complaint to the Commission. The Commission reviewed the actions taken by the cemetery to complete drainage repairs in the cemetery. The Division's External Auditor visited the cemetery and pictures of the work were presented to the Commission. Jay Russell then moved to close the complaint with no further action and noted that Ms. Hart could file another complaint if there are additional drainage issues. Don Goncy seconded the motion, which passed unanimously.

### **Jack Lee-Harris returned to the meeting.**

#### Obetz Cemetery

Kelly Neer presented the audit to the Commission. Attorney Adam Rinehart appeared on behalf of the cemetery. The Commission reviewed the payment plan presented by Attorney Adam Rinehart on behalf of the cemetery. Robert Winter moved to approve the payment plan as presented with an initial payment of \$940.00 being made in October 2015 and then 119 subsequent monthly payments of \$640.00; that the cemetery provide proof of the payments made with their annual renewal papers and to close the audit with no further action. C. Thomas Pfeifer seconded the motion, which passed unanimously.

#### Grandview Memorial Park

Kelly Neer presented the audit to the Commission. A letter from the cemetery was also presented. The Commission found that Grandview Memorial Park failed to properly follow the requirements of O.R.C. 1721.21 and potentially O.R.C. 1721.211; that the cemetery operator, Grandview Memorial Park Inc., was duly informed of this illegal conduct and was provided ample opportunity to comply with the recommendations set forth in the compliance audit report and that the operator has failed to come into compliance with O.R.C. 1721.21 and O.R.C. 1721.211.

Robert Winter then moved that Grandview Memorial Park be referred to the prosecuting attorney of Portage County for alleged violations of O.R.C. 1721.21 and O.R.C. 1721.211 and that the prosecuting attorney should initiate such proceedings as are appropriate. Robert Winter also moved that the Superintendent of the Division of Real Estate and Professional Licensing be granted the authority to issue a subpoena to the cemetery operator to produce any and all records she deems necessary concerning the potential violations of O.R.C. 1721.21 and O.R.C. 1721.211. Rufus Slade seconded the motion, which passed unanimously.

#### Fairview Memorial Park

Kelly Neer presented the audit to the Commission. A letter from the cemetery was also presented. The Commission found that Fairview Memorial Park failed to properly follow the requirements of O.R.C. 1721.21 and potentially O.R.C. 1721.211; that the cemetery operator, Fairview Memorial Park Inc., was duly informed of this illegal conduct and was provided ample opportunity to comply with the recommendations set forth in the compliance audit report and that the operator has failed to come into compliance with O.R.C. 1721.21 and O.R.C. 1721.211.

Robert Winter then moved that Fairview Memorial Park be referred to the prosecuting attorney of Portage and Delaware County for alleged violations of O.R.C. 1721.21 and O.R.C. 1721.211 and that the prosecuting attorneys should initiate such proceedings as are appropriate. Robert Winter also moved that the Superintendent of the Division of Real Estate and Professional Licensing be granted the authority to issue a subpoena to the cemetery operator to produce any and all records she deems necessary concerning the potential violations of O.R.C. 1721.21 and O.R.C. 1721.211. Rufus Slade seconded the motion, which passed unanimously.

#### North Lawn 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 to come into compliance. James Wright then moved to close the audit with no further action. Jay Russell seconded the motion, which passed unanimously.

#### West Lawn 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 to come into compliance. James Wright then moved to close the audit with no further action. Jay Russell seconded the motion, which passed unanimously.

### **III. New Business**

#### Case No. 2015-361 Timothy Reardon vs. Tate Township Cemetery

Mr. Reardon appeared before the Commission. The Commission heard from Mr. Reardon and reviewed the information received from the cemetery. The Commission discussed that the cemetery could correct an interment error pursuant to O.R.C. Section 517.23(D). The Commission recommended that the cemetery correct any interment error within thirty days and to notify all family members, via certified mail, of the date the disinterment/re-interment will take place. Mr. Reardon indicated that he would like to be present with a priest during the disinterment/re-interment. C. Thomas Pfeifer then moved to close the complaint with no further action. Jay Russell seconded the motion, which passed unanimously.

#### Case No. 2015-382 Paul Kramer vs. Knollwood Cemetery

Laura Monick presented the complaint to the Commission. The Commission reviewed the actions taken by the cemetery to resolve the complaint. C. Thomas Pfeifer then moved to close the complaint with no further action. Jay Russell seconded the motion, which passed unanimously.

#### Case No. 2015-390 Christine Storts Thomas vs. Lithopolis Cemetery

Laura Monick presented the complaint to the Commission. Jennifer McKenzie appeared on behalf of the cemetery. The Commission heard from Ms. McKenzie and reviewed the information received from Ms. Thomas. The Commission discussed that the name on the deed is the surviving spouse and that the rules and regulations of the cemetery permit the lot owner to improve their lot. Ms. McKenzie noted that based on the complaint, the cemetery board updated the rules and regulations to allow determinations to be made on a case by case basis. The cemetery has posted the new rules and regulations on their website.

The Commission recommended that the cemetery post a sign at the cemetery noting the rules and regulations were updated and to visit the office for more information. Another recommendation from the Commission was for the cemetery to have a separate location in the contract for the family to initial that rules and regulations were received. The final recommendation was for the cemetery to provide a separate one page sheet on the decoration policy to family members in attendance at the funeral. James Wright then moved to close the complaint with no further action. Don Goncy seconded the motion, which passed unanimously.

Pataskala 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 to come into compliance. James Wright then moved to close the audit with no further action. Jack Lee-Harris seconded the motion, which passed unanimously.

Bellbrook Cemetery

Kelly Neer presented the audit to the Commission. Brian Koch and Steve Berryhill appeared on behalf of the cemetery. The Commission discussed the findings and recommendations of the auditor and the actions taken by the cemetery to come into compliance. Rufus Slade then moved to close the audit with no further action. C. Thomas Pfeifer seconded the motion, which passed unanimously.

**IV. Other Business**

Failure to Obtain a New Registration

Laura Monick presented seven cemeteries that have failed to properly register. Upon review, Robert Winter moved to find that the cemeteries listed in the attached Exhibit A had been contacted by Division staff about the cemetery registration requirements in Ohio and that those cemeteries failed to register. Based upon those findings, Robert Winter moved, pursuant to Revised Code Section 4767.08(A), that the Commission request the prosecuting attorney of the county in which the alleged violations of Revised Code 4767.02(A) occurred initiate such proceedings as are appropriate. James Wright seconded the motion, which passed unanimously.

**V. Adjournment**

Jay Russell moved to adjourn. C. Thomas Pfeifer seconded the motion, which passed unanimously.

**Failure to Obtain a New Registration Exhibit A**

Operator	Cemetery	Location	County
Dover Township	Hilltop Cemetery	Millfields	Athens
Glencoe Cemetery Assn	Glencoe Cemetery	Glencoe	Belmont
Brownsville Cemetery Assoc	Brownsville Cemetery	Brownsville	Licking
Oak Hill Cemetery Assoc	Oak Hill Cemetery	Newark	Licking
West Beech Cemetery Assoc	West Beech Cemetery	Beechwood	Stark
West Union United Methodist Church	West Union Cemetery	Tippecanoe	Tuscarawas
Villiage of Beverly	Beverly Cemetery	Beverly	Washington