



Department of Commerce

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THE OHIO CEMETERY DISPUTE RESOLUTION COMMISSION AGENDA

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

July 21, 2016
10:00 a.m.

PRESENT: Jack Lee-Harris, Chair; Don Goncy; C. Thomas Pfeifer; Jay Russell; Rufus Slade; Scott Harmon; Robert Winter; Superintendent Anne M. Petit; Laura Monick, Registration and Resolution Section Chief; Kelly Neer, External Auditor; and Walter McNamara, Assistant Attorney General.

I. Preliminary Matters

Roll Call: Chairperson Jack Lee-Harris called the meeting to order with the record reflecting all members of the Ohio Cemetery Dispute Resolution Commission present.

Approval of Minutes: The minutes from the March 24, 2016 meeting of the Ohio Cemetery Dispute Resolution Commission were reviewed. Rufus Slade moved to approve the minutes. C. Thomas Pfeifer seconded the motion, which passed unanimously.

Superintendent's Report: Superintendent Petit began her report by announcing Commissioner Slade's reappointment and the new appointment of Kirk Roberts. Then it was announced that Assistant Attorney General Walter McNamara was leaving and his replacement, Assistant Attorney General Christie Limbert, was introduced. The Superintendent then proceeded with a review of the Division's compliance efforts and continued outreach. Outreach since the last meeting included attending the Ohio Funeral Directors Association convention, the Funeral Consumers Alliance conference and participating in a national audit with the Death Care Regulators Association. Finally, Superintendent Petit reviewed the increase in new complaints.

Division Counsel Kimberley Wells: Ms. Wells discussed the ethics training requirements for the Commissioners and explained the online training options available.

II. Old Business

Case No. 2015-448 Superintendent vs. Hecla Cemetery

Craig Thomas appeared on behalf of Hecla Cemetery. The Commission reviewed the cemetery's lack of procedures with respect to burials in the cemetery. It was noted that about five burials a year are conducted and a cemetery representative does not help the family locate a grave and does not conduct the opening and closing. There was discussion concerning re-building burial records by contacting local funeral homes and the genealogical society. The Commission also recommended that the trustees place a newspaper ad asking for anyone with a deed to contact the trustees.

Rufus Slade then moved to close the case with the recommendation that the trustees seek assistance from other agencies to compile burial records; to stop allowing people to conduct burials without supervision; to close the cemetery for future burials until there is a better understanding on where existing internments are in the cemetery; to create rules and regulations; and to authorize the Division to work with the cemetery, county prosecutor or local townships to help the trustees in moving forward. Scott Harmon seconded the motion, which passed unanimously.

Case No. 2015-732 Janice Ferguson vs. Brown's Chapel

Ms. Ferguson appeared before the Commission. Prosecutor Jessica Little appeared on behalf of the cemetery and with representatives of the township; Jenny Conrad and Roger Griffith. The Commission heard testimony from both the complainant and cemetery. The discussion revolved around Ms. Ferguson's canceled check that was made out to herself during 2008 when she allegedly purchased four plots for cash. The memo line noted the purpose of the check. The cemetery stated that the trustee overseeing the cemeteries at that time recalled meeting with Ms. Ferguson to look at available plots but that he did not recall her paying. There was also discussion that the four plots Ms. Ferguson thought she purchased are still available.

Robert Winter then moved to close the case with the following recommendation: based upon the extenuating circumstances of the canceled check and that the former trustee acknowledged he met with Ms. Ferguson, that the township issue a deed to Ms. Ferguson for the four plots. Rufus Slade seconded the motion, which passed unanimously.

Case No. 2015-403 Sharyn Sibera vs. Crown Hill Burial Park – Trumbull Co. – Registration CR982680

Sharon Sibera appeared before the Commission. Attorney Frank Rosenacker appeared on behalf of the cemetery. The Commission heard testimony from both the complainant and Attorney Rosenacker as well as reviewed pictures from the external auditor's visit to the cemetery in July. Attorney Rosenacker noted that the cemetery is ready to sign a bid to have the cemetery roads re-done with asphalt and asphalt millings and then double sealed. Robert Winter then moved to close the case after the Division received written and picture verification that the roadwork has been completed. Rufus Slade seconded the motion, which passed unanimously.

Crown Hill Burial Park

Kelly Neer presented the audit to the Commission. Attorney Frank Rosenacker appeared on behalf of the cemetery. After discussing the findings and recommendations of the auditor and hearing from Attorney Rosenacker, Jay Russell moved to continue the review to the September meeting to ensure the trust is fully funded. Scott Harmon seconded the motion, which passed unanimously.

Fairview Cemetery, Galion

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor and the actions of the cemetery to come into compliance. Rufus Slade then moved to close the audit with no further action. Jay Russell seconded the motion, which passed unanimously.

III. New Business

Case No. 2016-157 Daniel Deramo vs. Crown Hill Burial Park

Laura Monick presented the case to the Commission. Attorney Frank Rosenacker appeared on behalf of the cemetery. The Commission heard from Attorney Rosenacker as well as reviewed the information filed by Mr. Deramo. Attorney Rosenacker noted that the cemetery has a written policy concerning how many burials they can accommodate a day and the communications with the funeral home. Attorney Rosenacker also noted the work the cemetery has done to keep the mausoleum clean and that they have limited some

of the access due to thefts from the mausoleum. Scott Harmon then moved to close the case. C.Thomas Pfeifer seconded the motion, which passed unanimously.

Case No. 2016-144 Mark Hutchison vs. Obetz Cemetery

Laura Monick presented the case to the Commission. The Commission reviewed the information filed with the complaint and the information received from the cemetery. Based upon the documentation provided by the cemetery, Jay Russell moved to close the case. Rufus Slade seconded the motion, which passed unanimously.

Jack Lee-Harris recused himself

Case No. 2016-117 Pamela Thomas vs. West Memory Gardens

Pamela Thomas appeared before the Commission. The Commission heard the testimony of Ms. Thomas and reviewed the information received from the cemetery. Robert Winter then moved to continue the case until the September meeting in order to have the cemetery provide a detailed accounting report showing every payment made and any late payments or fees assessed on Ms. Thomas' account and to have Ms. Thomas provide proof of all payments she made on the account. Commissioner Winter also moved to have the cemetery ensure a deed is received by Ms. Thomas. Jay Russell seconded the motion, which passed unanimously

Case No. 2016-190 Marjorie Hudson vs. Crown Hill Memorial Park

Marjorie Hudson appeared before the Commission. The Commission heard the testimony of Ms. Hudson and reviewed the information received from the cemetery. Robert Winter then moved to close the case with the recommendation that Crown Hill Memorial Park provide Ms. Hudson the paperwork she needs to complete in order to allow Ms. Hudson to donate the plot to hospice. Don Gony seconded the motion, which passed unanimously.

Jack Lee-Harris returned to the meeting

Case No. 2016-284 Richard Phillips, Sr. vs. Community Gardens Cemetery (FKA Greenlawn Memory Gardens)

Richard Phillips and Melinda Phillips appeared before the Commission. Robert Howard appeared on behalf of the cemetery. The Commission heard the testimony of both parties. The cemetery discussed that the first burial causing the encroachment on Mr. Phillips' spaces occurred under different ownership. The Commission informed the cemetery that they are permitted to correct interment errors. Scott Harmon then moved to close the case after the Division has been notified that the cemetery has completed the following recommendations: the cemetery moves the Holmes family burial vaults over 12-18 inches to correct the encroachment error as soon as possible; notifies the Holmes family that the correction is going to take place; re-centers the memorial and foundation; and then re-sods or re-seeds. Don Gony seconded the motion, which passed unanimously.

Case No. 2016-295 Sharon Honnert vs. Mount Zion Shoup Cemetery

Laura Monick presented the case to the Commission. The Commission reviewed the information filed by both the Complainant and the cemetery. Robert Winter then moved to have the cemetery send pictures to the Division to confirm that the footstone was properly set and upon receipt of the pictures the case will be closed. Rufus Slade seconded the motion, which passed unanimously.

IV. Audits

Memorial Burial Park

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor and the actions of the cemetery to come into compliance. Scott Harmon then moved to accept the recommendations and close the audit with no further action. Jay Russell seconded the motion, which passed unanimously.

Grand Prairie Cemetery

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor and the actions of the cemetery to come into compliance. C. Thomas Pfeifer then moved to continue the review to the September meeting. Scott Harmon seconded the motion, which passed unanimously.

Arlington Field of Honor

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor and the actions of the cemetery to come into compliance. Scott Harmon then moved to continue the review to the September meeting. Robert Winter seconded the motion, which passed unanimously.

V. Other Business

Failure to Renew

Laura Monick presented eleven cemeteries that failed to file their annual registration. Don Gony moved to find that the cemeteries listed in Exhibit A failed to timely renew their annual registration; that those cemeteries were contacted by Division staff and that there was renewal paperwork pending processing. Based upon those findings, Commissioner Gony moved that, pursuant to Revised Code 4767.08(A), the Commission requests that the prosecuting attorney of the county in which the alleged violations of Revised Code 4767.02(A) occurred initiate such proceedings as are appropriate if any of the cemeteries listed in Exhibit A have failed to file their complete renewal paperwork by July 31, 2016. Scott Harmon seconded the motion, which passed unanimously.

Exhibit A

| | | | |
|----------------|--|------------------------------------|------------|
| CEO.000000505 | East Akron Cemetery Co., The | East Akron Cemetery | Summit |
| CEO.000000523 | Reedsburg Cemetery Association | Reedsburg Cemetery | Wayne |
| CEO.000000303 | Field of Honor | Arlington Field of Honor | Franklin |
| CEO.2006003531 | Welty Cemetery Association | Welty Cemetery | Stark |
| CEO.2011002607 | Ahiska Turkish American Community Center | Islamic Cemetery of Greater Dayton | Montgomery |
| CEO.2014000516 | Augusta Cemetery Association | Augusta Cemetery | Carroll |
| CEO.2014003160 | Greenford Evangelical Lutheran Church | Greenlawn Cemetery | Mahoning |
| CEO.2014004518 | Miltonville Cemetery Association | Miltonville Cemetery | Butler |
| CEO.2015000304 | Emmanuel United Church of Christ | Emmanuel Cemetery | Allen |
| CEO.2015004401 | West Union Methodist Episcopal Church | West Union Cemetery | Tuscarawas |
| CEO.2016001495 | Friends Cemetery Association | Friends Cemetery | Knox |

Failure to Obtain a New Registration

Laura Monick presented eleven cemeteries that have failed to properly register. Upon review, C. Thomas Pfeifer moved to find that the cemeteries listed in 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, C. Thomas Pfeifer 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. Jay Russell seconded the motion, which passed unanimously.

Exhibit A

| Operator | Cemetery | Location | County | 1st Ltr | 2nd Ltr | Last contact |
|-------------------------------------|----------------------------------|----------------|------------|------------|------------|--------------|
| Fairfield Township | Highland Cemetery | Leesburg | Highland | 11/18/2015 | 4/26/2016 | 11/17/2015 |
| Forest Cemetery Association | Forest Cemetery | Fredericktown | Knox | 9/10/2015 | 2/16/2016 | NA |
| Fryburg Cemetery Association | Fryburg Cemetery | Wooster | Holmes | 8/11/2015 | 4/27/2016 | 11/2/2015 |
| Glenmont Cemetery Association | Glenmont Cemetery | Millersburg | Holmes | 8/20/2015 | 4/27/2016 | 1/8/2016 |
| Mount Calvary Community Church | Unity Brick Cemetery | East Palestine | Columbiana | 10/23/2014 | 6/1/2015 | 7/11/2016 |
| Sand Ridge Cemetery | Sand Ridge Cemetery | New Riegel | Seneca | 7/6/2015 | 2/16/2016 | 10/8/2015 |
| St. Stephen Evangelical Lutheran | St. Stephen Evangelical Lutheran | Defiance | Defiance | 1/14/2016 | 6/9/2016 | 4/21/2016 |
| Tranquility Cemetery Association | Tranquility Cemetery | Peebles | Adams | 12/14/2015 | 4/27/2016 | 5/4/2016 |
| Union Cemetery Association | Union Cemetery | Hillsboro | Highland | 9/9/2015 | 4/27/2016 | 5/2/2016 |
| Winesburg Cemetery Association | West Lawn Cemetery | Winesburg | Holmes | 8/18/2015 | 11/25/2015 | 2/22/2016 |
| Wolfcreek Pleasant Valley Cem Assoc | Pleasant Valley Cemetery | Killbuck | Holmes | 8/20/2015 | 2/16/2016 | 2/19/2016 |

Review of Minimum Maintenance Guidelines

Scott Harmon moved to continue the discussion of the guidelines to the September meeting. C. Thomas Pfeifer seconded the motion, which passed unanimously.

VI. Adjournment

Jay Russell moved to adjourn. Rufus Slade seconded the motion, which passed unanimously.