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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 15, 2016
10:00 a.m.

PRESENT: Rufus Slade, Chair; Jack Lee-Harris; C. Thomas Pfeifer; Jay Russell; Scott Harmon; Robert Winter; Laura Monick, Registration and Resolution Section Chief; Kelly Neer, External Auditor; and Christie Limbert, Assistant Attorney General.

EXCUSED: Don Gony and Kirk Roberts.

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 except for Don Gony and Kirk Roberts.

Election of officers:

Election of Chairperson: Robert Winter nominated Rufus Slade. C. Thomas Pfeifer seconded the nomination. Rufus Slade's nomination passed unanimously.

Election of Vice Chairperson: Robert Winter nominated Jay Russell. The nomination was seconded by Jack Lee-Harris. Jay Russell's nomination passed unanimously.

Election of Secretary: Scott Harmon nominated Robert Winter. Jay Russell seconded the nomination. Robert Winter's nomination passed unanimously.

Appointments to the Crematory Review Board: Rufus Slade, Jack Lee-Harris and C. Tomas Pfeifer were appointed to the Crematory Review Board.

Approval of Minutes: The minutes from the July 21, 2016 meeting of the Ohio Cemetery Dispute Resolution Commission were reviewed. Scott Harmon moved to approve the minutes. C. Thomas Pfeifer seconded the motion, which passed unanimously.

Superintendent's Report: Laura Monick presented the report on behalf of Superintendent Petit. Enforcement statistics were reviewed; noting that complaint numbers were higher than previous years and that there was a significant increase in telephone calls and emails during the previous two months. Ms. Monick also discussed the eleven cemeteries that had failed to renew prior to the July Commission meeting which resulted in only three referrals to County Prosecutors. Finally, Ms. Monick noted that she had presented at the Ohio Cemetery Association Conference.

II. Old Business

Case No. 2015-565 Paul Witherspoon vs. Elk Cemetery

Paul Witherspoon appeared before the Commission. Prosecutor Trecia Kimes-Brown and Keith Haggerty appeared on behalf of the cemetery. The Commission heard testimony from both parties as well as reviewed the documentation from the funeral home and considered that the Department of Veterans Affairs will not issue a veteran's marker without an interment having occurred. Based upon the documentation and that a veteran's marker was installed, Robert Winter moved to find that there was an interment and only two graves remain. Jay Russell seconded the motion, which passed unanimously. Prosecutor Kimes-Brown then noted that it is the practice of the cemetery to allow up to three sets of cremains on the same grave and that this option would be available to the complainant in the future. Jay Russell then moved to close the complaint. Scott Harmon seconded the motion, which passed unanimously.

Jack Lee-Harris recused himself

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

Laura Monick presented the case to the Commission. The Commission reviewed the complaint and the additional information received from the cemetery showing that the total balance paid was the correct amount as noted in the contract. Robert Winter then moved to close the complaint with no further action. C. Thomas Pfeifer seconded the motion, which passed unanimously

Jack Lee-Harris returned to the meeting

Crown Hill Burial Park

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor and reviewed the information from Attorney Rosenacker that reflects the trust account is now fully funded. Scott Harmon then moved to 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. Jay Russell then moved to close the audit with no further action. Jack Lee-Harris 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 cemetery's lack of response since the last meeting. Robert Winter then moved to continue the review to the December meeting and also directed the Superintendent of the Division of Real Estate and Professional Licensing to issue a subpoena to the cemetery operator to appear at the December meeting. Jay Russell seconded the motion, which passed unanimously.

III. New Business

Case No. 2016-435 James Dingess vs. Arlington Field of Honor

James Dingess appeared before the Commission. The Commission heard testimony from the complainant and considered the cemetery's lack of response to the complaint. Robert Winter then moved to continue the case to the December meeting and also directed the Superintendent of the Division of Real Estate and Professional Licensing to issue a subpoena to the cemetery operator to appear at the December meeting and to produce all records related to the marker; including but not limited to proof of the orders made. Scott Harmon seconded the motion, which passed unanimously.

Case No. 2016-444 Kevin Herdman vs. Arlington Field of Honor

Laura Monick presented the case to the Commission. The Commission reviewed the complaint, the request to re-grade and re-seed the graves and the Division's communication with the cemetery operator. Scott Harmon then moved to continue the case to the December meeting and requested that the cemetery send pictures verifying that the re-grading and re-seeding were completed. Jack Lee-Harris seconded the motion, which passed unanimously.

Case No. 2016-329 Janice Turkle Weinberg vs. Lake Park Cemetery

Laura Monick presented the case to the Commission. The Commission reviewed the complaint, the letters from the cemetery operator and the Division's communication with the parties. Jay Russell then moved to close the case. C. Thomas Pfeifer seconded the motion, which passed unanimously.

Case No. 2016-328 Dwight Stout vs. Mansfield Cemetery Association

Dwight Stout and his attorney, Rebecca Hockenberry, appeared before the Commission. The Commission heard testimony from Attorney Hockenberry as well as from Mr. Stout. The Commission also reviewed all of the responses from the cemetery. Discussion revolved around legitimate security reasons for locking the back gate, the proper installation of the flag holder, the tree removal plan and the perpetual care agreements paid on specific lots.

The Commission recommended that the complainant make a border around the monuments per the Rules and Regulations of the cemetery. Rufus Slade then moved to continue the case to the December meeting with the recommendations that the cemetery correctly install the flag holder, remove the hourly sign from the back gate if the gate will be locked on a regular basis not in accordance with the hours listed on the sign, clarify the perpetual care contracts that were purchased and honor those agreements and finally put together a written tree removal plan and present the written plan to the Commission and Mr. Stout. Jay Russell seconded the motion, which passed unanimously.

Case No. 2016-337 Cheye Williams vs. Evergreen Burial Park

Thor Triplett appeared on behalf of the cemetery. The Commission reviewed the complaint and heard testimony from the cemetery operator. Discussion revolved around the cemetery's rule and regulations concerning the decoration policy and clean-up notices. Scott Harmon moved to close the complaint with the finding that the cemetery has a sign posted at its only entrance with the cemetery's clean-up policies and that the cemetery followed its rules and regulations. Jay Russell seconded the motion, which passed unanimously.

Case No. 2016-368 David Johnson vs. Pataskala Cemetery

Laura Monick presented the case to the Commission. The Commission reviewed the complaint, the information from the cemetery and the complainant's letter notifying the commission that he is satisfied with the work completed to move the headstone to the correct location and that grass has been planted. Scott Harmon then moved to close the complaint. C. Thomas Pfeifer seconded the motion, which passed unanimously.

Jack Lee-Harris recused himself

Case No. 2016-338 Veronica Heatherly vs. Butler County Memorial Park

Laura Monick presented the case to the Commission. The Commission reviewed the complaint, the information from the cemetery and the discussions held with Division staff. Jay Russell then moved to continue the complaint to the December meeting in order to provide additional time for the parties to finalize their resolution. Scott Harmon seconded the motion, which passed unanimously.

Case No. 2016-404 Dorsey Butler vs. Crown Hill Cemetery

Dorsey Butler appeared before the Commission. The Commission heard the testimony of the complainant and reviewed the cemetery's response. The Commission noted that complainant did not sign a contract for the additional items. Robert Winter then moved to close the complaint with the recommendation that the cemetery honor the 2007 pricing for the items even though it is not in the original contract. C. Thomas Pfeifer seconded the motion, which passed unanimously.

Case No. 2016-429 Tracy Harris vs. West Memory Gardens

Tracy Harris appeared before the Commission. The Commission heard the testimony of the complainant and reviewed the cemetery's response. Complainant spoke about the disinterment beginning early, that there was a lack of respect from the cemetery and that only one cemetery staff member came to the disinterment but that staff member then left without answering any of complainant's questions. Robert Winter then moved to close the complaint with the recommendations that the cemetery offer a formal apology for the lack of care and customer service and that the cemetery consider having a manager onsite during disinterments to help answer questions and to improve service. C. Thomas Pfeifer seconded the motion, which passed unanimously.

Jack Lee-Harris returned to the meeting

IV. Audits

Union 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. Robert Winter then moved to close the audit. C. Thomas Pfeifer seconded the motion, which passed unanimously.

Woodlawn Cemetery, Lima – Reconsideration

Rick Wagar appeared before the Commission. The Commission heard the testimony of the cemetery and discussed the original plan approved by the Commission. Rufus Slade then moved to leave the original plan intact and clarified that the \$24,760.00 transferred into the endowment care trust offsets from the \$32,706.24 due to be replaced. Scott Harmon seconded the motion, which passed unanimously.

V. Other Business

Review of Minimum Maintenance Guidelines

Scott Harmon moved to continue the discussion of the guidelines to the December meeting. Jay Russell seconded the motion, which passed unanimously.

VI. Adjournment

Scott Harmon moved to adjourn. C. Thomas Pfeifer seconded the motion, which passed unanimously.