



**Department
of Commerce**

Division of Real Estate
& Professional Licensing

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sheryl Maxfield, Director

THE OHIO CEMETERY DISPUTE RESOLUTION COMMISSION MEETING MINUTES

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

**June 13, 2019
10:00 a.m.**

PRESENT: Rufus Slade, Chair; Jack Lee-Harris; C. Thomas Pfeifer; Jay Russell; Thomas Thompson; Robert Winter; Kirk Roberts, Scott Harmon, Anne M. Petit, Superintendent, Kimberley S. Wells, Division Counsel; Kelly Neer, External Auditor; and Christie Limbert, Assistant Attorney General.

I. Preliminary Matters

Roll Call: Chairperson Rufus Slade 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 21, 2019, Ohio Cemetery Dispute Resolution Commission meeting were reviewed. Correction to the minutes regarding case No. 2019-50 Frankie Brown v. Green Lawn Cemetery, correction of “museum” to “mausoleum”. Scott Harmon moved to approve the minutes with the correction recommended. C. Thomas Pfeifer seconded the motion, which passed unanimously.

Superintendent’s Report: Superintendent Petit began her report noting that the total number of open complaints is 29 which is the most in a while. Superintendent Petit then discussed that in Ms. Monick’s absence, there were less complaints closed prior to the meeting. It was also noted that there were five new audits opened for a total of sixteen and that there are just under 4,200 registered cemeteries. The Superintendent also discussed the fact that number of phone calls and emails has risen significantly. Mr. Neer noted that many of the calls and emails relate to the filing of updated rules and regulations. The cemetery grant program is close to being ready. Ms. Monick drafted the application and instructions and the Division should be able to make the application available by the first week of July. There will be \$80,000.00 available with application caps mostly at \$1,000 per application.

The Superintendent addressed that Ms. Monick, in addition to serving as the Dispute Resolution Chief, is also overseeing the land professional registration program. The Superintendent noted that the financials are in good shape and the transfer of funds from the operating fund to the grant fund will occur through the budget process.

The Superintendent then recognized the two outgoing commission members, Commissioner Pfeifer and Commissioner Winter, and thanked both for their service on the Commission. Jay Russell made a motion to accept the Superintendent’s report as given. Kirk Roberts seconded, the motion which passed unanimously.

Crematory Review Board Vacancy

The Superintendent noted that due to Mr. Pfeifer's term ending on the Commission, Mr. Slade must elect a member of the Commission to serve on the Crematory Review Board. Mr. Slade asked if there were any questions on how the Crematory Board works and asked for volunteers. Rufus Slade made a recommendation of Scott Harmon. The recommendation was seconded by Jack Lee-Harris, the motion passed unanimously.

Cemetery Grant Advisory Committee Appointment

The Superintendent noted that the Commissioners need to determine who will serve on the cemetery grant advisory committee. Mr. Russell already serves as a public member. Mr. Slade requested a description of the duties. The Superintendent explained the duties that would need to be undertaken and noted that the one position left is an appointment from the Cemetery Dispute Resolution Commission. Mr. Slade asked about the frequency of the meetings. The Superintendent stated that it should be a meeting one time a year. Mr. Slade asked for volunteers and Mr. Roberts indicated that he would be willing to serve. Rufus Slade made a motion to appoint Mr. Roberts to the Cemetery Grant Advisory Committee. The motion was seconded by Thomas Thompson and the motion passed unanimously.

II. Old Business

Mr. Winter and Mr. Thompson recused themselves.

Case No. 2018-386 Mark Bellamy vs. Saint Joseph Cemetery

Mr. Bellamy appeared before the Commission. Mr. Finn appeared on behalf of the cemetery. Mr. Bellamy testified that he had been trying to get information concerning his family's gravesite. Mr. Bellamy sought to be cremated and interred above his grandmother and then his son be buried beside all of the family members. Discussion revolved around the cemetery's rules and regulations concerning burials and cremated remains. Mr. Finn testified that all three family graves have interments. There was then discussion on the rights of all eleven grandchildren and the procedures that would have to occur in order for Mr. Bellamy to be interred. The intent of the cemetery's regulation was discussed. Mr. Bellamy then requested to withdraw his claim. Kirk Roberts made a motion to close case 2018-386. Jack Lee-Harris seconded the motion which passed unanimously.

Mr. Winter and Mr. Thompson returned to the meeting. Mr. Lee-Harris recused himself.

Case No. 2019-26 Nancy King v. Resthaven Memorial Garden

Nancy King appeared before the Commission. Jack Omar and Pat Richey appeared on behalf of the cemetery. Ms. King began by requesting that she wanted her parents disinterred, the cost of the disinterment paid by the cemetery and a refund of monies paid for her plot. There was then testimony that an engineer has been hired by the cemetery and approximately \$32,000-\$35,000 has been invested. The cemetery received a letter from the engineering firm on June 12, 2019 providing five recommended next steps. Mr. Omar confirmed that they have met with the family members of which they are aware, and the team is committed to a solution. Mr. Slade asked for a copy of the engineering report and the parties agreed, after the cemetery had time to make appropriate redactions. There was also discussion about a housing development behind the cemetery affecting the diversion of the water. Mr. Omar noted that they anticipate decisions about approval for engineering firm to be made in the next 24-48 hours.

Commissioner Slade noted that the commission could not force the cemetery to pay for a disinterment for Ms. King but could recommend the parties discuss her request. The cemetery

representatives indicated that they would be willing to meet with Ms. King about that matter. The Commission noted the forward progress with the hiring of the engineering firm and asked that the redacted report be available to the complainant. The commission noted that last quarter they asked the cemetery to post information about the progress being made and requested that the cemetery continue to provide updates to the public after the review of the engineering report; representatives agreed to the request. Scott Harmon moved to continue the case to the October meeting. Thomas Pfeifer seconded the motion, which passed unanimously.

Case No. 2018-550 Patricia Hart vs. Resthaven Memory Gardens

Patricia Hart appeared before the Commission. Jack Omar and Pat Richey appeared on behalf of the cemetery. Ms. Hart testified that her son's grave is still flooded and testified that Resthaven lifts the headstone and puts dirt under the headstone. Ms. Hart noted that she just wants the drainage corrected. Cemetery representatives stated that they were not familiar with Ms. Hart's particular situation. The Commission discussed the engineer's report that was recently received by the cemetery and then questioned the cemetery about their lack of knowledge on this particular complaint. Mr. Neer noted that this matter was not on the agenda for the last meeting and that may be why Stonemor was not aware of the matter. Kirk Roberts moved to continue the case to the October meeting. Jay Russell seconded the motion, which passed unanimously.

2019-168 Michele Pavlich v. Resthaven Memory Gardens

Michele Pavlich appeared before the commission. Jack Omar and Pat Richey appeared on behalf of the cemetery. Ms. Pavlich testified as to the conditions of the cemetery and about all the issues that led to filing a complaint. Ms. Pavlich then testified that she is happy to report that her issues have been resolved. She explained that the cemetery representatives have been extremely responsive to her in correcting the matters and a meeting with the cemetery representatives occurred in May. The headstones were corrected within 24 hours and then management placed flowers on the gravesite. Ms. Pavlich wants to be a positive voice and will also be volunteering during the construction period. Kirk Roberts moved to close the case. Scott Harmon seconded the motion, which passed unanimously.

2018-706 Mike Moyer v. Kingwood Memorial Park

Mr. Moyer did not appear. Jack Omar and Pat Richey appeared on behalf of the cemetery. Mr. Moyer originally came in about miscommunication concerning placing a bench. After the March Commission meeting, the cemetery reviewed the matter and the bench has been approved. The bench has not yet been installed. Kirk Roberts moved to close the case pending confirmation from Mr. Moyer that he is satisfied. Jay Russell seconded the motion, which passed unanimously.

2019-50 Frankie Brown v. Green Lawn Cemetery

Ms. Brown appeared before the Commission. Jack Omar and Pat Richey appeared on behalf of the cemetery. Ms. Brown testified she was presented with certificates of ownership for a new space in the mausoleum. Ms. Brown indicated that she signed the paperwork and she is satisfied. Robert Winter moved to close the case. Jay Russell seconded the motion, which passed unanimously.

Jack Lee-Harris returned to the meeting.

2018-131 Carlton and Michell Randall v. Fairmount Cemetery

Carlton and Michelle Randall appeared before the Commission. The Randalls still have not been provided the opportunity to inspect the cemetery's records pursuant to ORC 1721.21(J). They also noted maintenance issues. Mr. Slade clarified what was being requested from the cemetery. According to the case file, the Randalls have made a request to inspect the annual report of the endowment care trust and there is no evidence that an inspection has been arranged or taken place. The Commission recommends that the cemetery arrange the inspection at a mutually agreeable time. It was noted that the division audit has been completed and it is possible that the cemetery believed that the division's audit satisfied the request to inspect the records. Robert Winter moved to continue the case to the October meeting to address the request to review the financials and to allow the cemetery time to respond to the maintenance issues. Kirk Roberts seconded the motion, which passed unanimously.

2019-171 Fairmount Cemetery Audit

External Auditor Kelly Neer presented the audit. The audit covered trust records from 2014 to 2018. Mr. Neer found cemetery has an endowment care trust in place, insurance and that the cemetery regularly deposits 10% into the trust. Mr. Neer did find a shortfall of \$260 but the cemetery had previously deposited \$2,000.00 to cover any shortfall. Mr. Neer recommended to close the matter with no further action. Mr. Slade asked about copies of the audit and Mr. Neer noted that the commission's report could be provided. Scott Harmon moved to close the audit. Jack Lee Russell seconded the motion, which passed unanimously.

2018-667 Claude Smelser v. Batavia Union Cemetery

Mr. Smelser did not appear. Representatives for the cemetery, Donna Amann and Wayne Smith appeared. Mr. Slade asked for information regarding the trimming of the trees. The cemetery representatives testified that they trimmed dead limbs from all the trees that were hanging over the property line and they brought pictures of the work completed. There was discussion that the cemetery is not liable to remove trees not on their property even if the other property owner has provided permission. C. Thomas Pfeifer moved to close the case with the finding that the cemetery did an adequate job of trimming the trees. Scott Harmon seconded the motion, which passed unanimously.

Kirk Roberts recused himself from this matter.

2018-466 Columbiana County Memorial Park Audit

External auditor Kelly Neer presented the audit. Daniel Wolfe appeared on behalf of the cemetery. Mr. Neer noted that the cemetery filed a report for the endowment care trust showing they used principal from the trust fund. The total amount withdrawn from principal was \$118,711.25 and at the last meeting the Commissioners asked for a proposed repayment plan. The cemetery provided a suggested plan. Mr. Daniel Wolf appeared for the cemetery and discussed the repayment plan. Mr. Slade asked Mr. Neer his opinion of the proposed plan. Kelly Neer explained that there have been several complaints filed that will be addressed at the next meeting. Robert Winter moved to accept the cemetery's five year repayment plan as submitted and to close the audit with no further action. Jay Russell seconded the motion, which passed unanimously.

Mr. Roberts returned to the meeting.

III. New Business

2018-747 Dan and Daisy Mirjanich v. Belmont Park Cemetery
Case No. 2018-754 Georgiann Bosiljic vs. Belmont Park Cemetery
2018-755 Darlene Manolukas v. Belmont Park Cemetery
2018-774 Mary Pryima v. Belmont Park Cemetery
2019-124 Radmila Stanic v. Belmont Park Cemetery

Ronald Taylor appeared on behalf of the cemetery. The Commission discussed the drains that were installed and Mr. Taylor brought pictures. Mr. Taylor indicated that he was satisfied the drainage is working. Kirk Roberts moved to close all the cases with the recommendation that the complainants may file a new complaint if they are not satisfied with the new drainage. C. Thomas Pfeifer seconded the motion, which passed unanimously.

2019-134 Ida Armev v. Byron Cemetery

Ms. Armev appeared before the Commission. Ms. Armev indicated that she lives in Florida and would like to be able to place flowers and visit her loved one. The Commission discussed whether Ms. Armev received the decoration policy and that it is common policy across the state that no vases are allowed to be placed on crypt fronts because they could cause damage. Ms. Armev explained that it would be helpful for the cemetery to tell consumers what the policies are before purchase. Scot Harmon moved to close the case with the recommendation that the cemetery include all rules and recommendations at the time of any sale. Jack Lee-Harris seconded the motion, which passed unanimously.

Jack Lee-Harris recused himself from the meeting.

2019-263 Kristi Warner v. Resthaven Memory Gardens

Jack Omar and Pat Richey appeared on behalf of the cemetery. There was discussion about the fact that the recommendation should be the same as the prior matters regarding Resthaven. Mr. Omar indicated that the engineer's report was being redacted and should be to the Division within a day. Robert Winter moved to continue the case to the October meeting. C. Thomas Pfeiffer seconded the motion, which passed unanimously.

Jack Lee-Harris returned to the meeting.

2019-266 Mary Jewell Woodgeard v. Fairview Memorial Gardens

Ms. Woodgeard appeared before the commission. Ms. Woodgeard indicated that the cemetery stated that they were working on the flooring issue but that there is a lack of funding and that the lettering for the crypt was incorrect. There was discussion on the current condition of the mausoleum. Superintendent Petit asked if an audit had been conducted. Mr. Neer explained that it was several years prior. Robert Winter made a motion to continue the case to the October meeting, to have the Superintendent issue a subpoena to have Joann Ellinger testify and to authorize a complete audit to be performed by External Auditor Neer. Jay Russell seconded the motion, which passed unanimously.

2019-23 Sherry Hanes v. Center Baptist Cemetery

No one appeared before the commission to provide testimony. A summary of the matter was read into the record. Discussion among the commissioners regarding the matter took place. There was discussion about how to proceed with disposition. C. Thomas Pfeifer moved to close the case. Scott Harmon seconded the motion, which passed unanimously.

2018-553 Bladensburg Cemetery Audit

External auditor Kelly Neer presented the audit. Mr. Neer explained he has been working with Mr. Hill and that progress has been made to bring the cemetery into compliance. Mr. Neer would like to continue the matter to the next meeting. Jay Russell moved to continue this matter until the October meeting. Kirk Roberts seconded the motion, which passed unanimously.

2019-92 Stephen Herrin v. Graceland Memorial Gardens

No parties appeared to testify. The Commission discussed the fees for opening and closing of the grave. Rufus Slade moved to close the case and to send a letter that the commissioners believe the cost for opening and closing was reasonable. Scott Harmon seconded the motion, which passed unanimously.

2019-116 Al Fay v. St. James White Oak

No parties appeared to testimony. The commission was apprised of the fact that the complainant was satisfied, and the matter was resolved. Scott Harmon moved to close the case. Jay Russell seconded the motion, which passed unanimously.

IV. Audits

2018-758 Hartwood Cemetery Audit

External auditor Kelly Neer presented the audit. Mr. Neer noted that it took time to get the cemetery registered and for the cemetery to open a trust. He recommends closing the audit as the cemetery is now in compliance. Scott Harmon moved to close the audit per the findings of the external auditor. Thomas Thompson seconded the motion, which passed unanimously.

2019-09 Grandview Cemetery Audit

External auditor Kelly Neer presented the audit. Mr. Neer stated he previously audited the cemetery in 2014. After the current audit he recommends the return of \$16,000 to the trust. The cemetery has not presented a repayment plan. Mr. Neer recommends continuing the audit until October to allow the cemetery to create the plan. Robert Winter moved to continue the audit to the October meeting. Thomas Thompson seconded the motion, which passed unanimously.

V. Other Business

Review of five-year compliance audits.

C. Thomas Pfeifer made a motion to close the five-year compliance audits listed in Exhibit A as they are complete and there are no violations. Robert Winter seconded the motion, which passed unanimously.

<u>Case #</u>	<u>Type</u>	<u>Cemetery Name</u>	<u>CRC #</u>	<u>Cemetery Operator</u>	<u>CEO #</u>
2018-759	Mail In	Trissel Cemetery	981827	Trissel Cemetery Association	1392
2019-86	Mail In	Welty Cemetery	2006003532	Welty Cemetery Association	2006003531
2019-165	Mail In	Vinton Memorial Cemetery	2005009438	Vinton Memorial Cemetery Inc	2005008642
2019-172	Mail In	Windsor Park Cemetery	2004019972	Windsor Park Cemetery Association	2004012773
2019-212	Mail In	Welsh Hills Cemetery	981417	Trustees of Welsh Hills Cemetery Assoc	876

VI. Adjournment

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