

**MINUTES OF THE MEETING OF THE
OHIO CEMETERY LAW TASK FORCE**

**77 S. High Street, 22nd Floor Hearing Room
Columbus, OH 43215-6133**

**May 16, 2014
9:30 a.m.**

I. Preliminary Matters

Co-chair Noonan called the meeting to order.

Roll Call: Laura Monick conducted roll call.

Present: Daniel Applegate, Stephen George, Dr. John N. Low, Hon. Cory Noonan, Patrick Piccininni, Jay Russell, David Snyder, James Turner, James Wright, Laura Monick on behalf of Anne M. Petit.

Excused: Hon. Keith G. Houts, Anne M. Petit

Review of Meeting Minutes: Co-Chair Noonan opened the floor for discussion of the minutes of the April 28, 2014 meeting of the Ohio Cemetery Law Task Force. There being no discussion Mr. Turner moved to approve the minutes of the April 28th meeting. Mr. Applegate seconded the motion. The motion passed unanimously.

II. Old Business

Co-Chair Noonan opened the floor for discussion of old business. The task force discussed whether they wanted to take motions on specific definitions or work towards drafting all the recommendations together. The taskforce agreed to finalize all of their recommendations in a draft document prior to entertaining motions.

Laura Monick presented Chief Glenna Wallace's (Eastern Shawnee Tribe of Oklahoma) written testimony that was originally offered to the Ohio Legislative Commission on the Education and Preservation of State History on May 13, 2010. Dr. Low stated that the written testimony from 2010 remains relevant today and asked that it be accepted by the task force. Mr. George moved to accept the written testimony of Chief Wallace. Mr. Turner seconded the motion. The motion passed unanimously.

Mr. Piccininni joined the meeting at 9:46 am.

The task force then moved onto definition of terms and discussed "abandonment". Mr. Turner presented his draft amendments to ORC 4767.12 to include a definition of abandonment. Discussion then moved to the topic of separate protection for family cemeteries on private property and whether the task force should look at increasing criminal penalties and creating a reporting process for discovery of remains on private property for protection of those remains. There was also discussion on incorporating NAGPRA by rule to provide notice requirements for ancestral remains.

The proposed definition of human remains was read into the record as "human remains means any part of the body of a deceased human being in any stage of decomposition or state of preservation or the remaining bone fragments from the body of a deceased human being that has been reduced by cremation or alternative disposition." There was no discussion as the task force agreed with the definition as presented.

The task force moved on to the proposed definition of maintenance; agreeing to the newly proposed additions of paragraphs F & G while taking out the words: "burial ground or burial site" and "building."

(F) Whether registered or unregistered, no cemetery, burial ground or burial site will be permitted to become a nuisance as defined by applicable law. Division staff is authorized to make nuisance referrals to local building authorities with jurisdiction over the cemetery, burial ground or burial site.

(G) For purposes of this section, a cemetery in a condition that would rise to the level of a nuisance is not considered reasonable maintenance.

The task force then deliberated over the term inactive and whether that would include when a cemetery is no longer selling burial rights or no longer conducting burials but where the cemetery is still being cared for by an operator. Mr. Applegate and Mr. Wright provided that the industry would consider a state of inactivity to be when there are no more interments; however, it would be possible for a “full” cemetery to discover land where they could put a columbarium and the cemetery would then be active again. After deliberating further, the task force concluded that at this time they would not define the term inactive unless it comes up in future discussions.

III. New Business

Co-chair Noonan brought the task force into new business and discussion began on natural burial, the Green Burial Council, the Federal Trade Commission rules on advertising “green,” and current Ohio laws that relate to natural burials. The task force wants to encourage cemeteries to be able to offer services that consumers want currently and in the future.

The task force briefly talked about the Ohio Department of Natural Resources, Division of Natural Areas and Preserves having two nature preserve cemeteries. The task force requested more information on what the cost is to maintain those cemeteries and what the management program does to preserve the tombstones. This led to a dialogue on whether there was a way to define, identify and categorize a “history preserve” or whether ORC Chapter 149 and archeological sites is a vehicle to address historical cemeteries. The task force identified two items they may want to address with respect to historic cemeteries - how to recognize their existence and how to protect them. The task force requested more information on ORC Chapter 149 and agreed to table their discussion pending the requested information.

Finally, the task force determined that they will not include a definition for “natural burial” but will instead include a general recommendation that natural burials be permitted to remain legal as long as the natural burial does not violate health codes.

The task force next moved to record keeping. The task force recognized they would like to integrate record keeping in a way that is useful and connects all the different cemeteries. There was discussion on ORC 4767.12 additions to address how a receiver appointed under that statute would handle the cemetery records. Mr. Turner will present a draft at the next meeting. The task force agreed that a draft of ORC 4767.12 should be presented to the Ohio Township Association and Ohio Municipal League after the task force has had an opportunity to fully vet the changes being drafted.

Further discussion on record keeping included digitizing records: the cost and the proper way to store as current electronic storage options may become outdated. The task force determined that a recommendation for a centralized database may be too far reaching and therefore will include in their general recommendations that in the future the General Assembly may consider the method, medium and place for storage of cemetery records for public access due to the historical and genealogical value of those records.

Next Meeting Dates:

June 6, 2014 at 9:30am.

IV. Adjournment

Mr. Turner moved to adjourn. Dr. Low seconded the motion. The motion passed unanimously.