



## Department of Commerce

Division of Real Estate &  
Professional Licensing

John R. Kasich, Governor  
Andre T. Porter, Director

### 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 18, 2014  
10:00 a.m.

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

#### I. Preliminary Matters

**Roll Call:** Chairperson Robert Winter 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: Tony Hughes nominated James Wright. Rufus Slade seconded the nomination. James Wright's nomination passed unanimously.

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

Election of Secretary: Tony Hughes nominated Jay Russell. C. Thomas Pfeifer seconded the nomination. Jay Russell's nomination passed unanimously.

**Approval of Minutes:** The minutes from the July 18, 2014 meeting of the Ohio Cemetery Dispute Resolution Commission meeting were reviewed. Don Goncy moved to approve the minutes. Tony Hughes 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 the Superintendent. Ms. Monick began the report by welcoming Commissioner C. Thomas Pfeifer and Commissioner Jay Russell. Discussion continued on the number of phone calls and emails received during the last quarter as well as the number of newly registered cemeteries. Ms. Monick also noted upcoming outreach: the Superintendent is scheduled to speak at the Ohio Catholic Conference – Cemetery Association meeting in October, Ms. Monick and Mr. Neer are scheduled to speak at the Ohio Cemetery Association fall maintenance seminars and Mr. Neer will be attending the Ohio Municipal League annual conference trade show. Finally, Ms. Monick provided an update on the Ohio Cemetery Law Task Force and the prosecutorial referrals made for cemeteries failing to renew.

## II. Old Business

### Case No. 2014-100 Marion Mitchell-Atkins vs Lakewood Cemetery

Laura Monick presented the case to the Commission. After reviewing the complaint and the information that Ms. Mitchell-Atkins is working on obtaining a probate court order for the disinterment, James Wright moved to close the complaint with no further action. C. Thomas Pfeifer seconded the motion, which passed unanimously. The Commission also stated that Ms. Mitchell-Atkins could file another complaint if she is not satisfied after the disinterment.

### Case No. 2014-367 Patricia Helman vs. Royal Oak Memorial Gardens

Ms. Helman was present. The Commission discussed the complaint with Ms. Helman and reviewed the cemetery's response. James Wright then moved to leave the case open and 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 11, 2014 meeting and to produce documentation reflecting that permits have been requested from either the county or township for installation of a catch basin and drainage line. Don Goncy seconded the motion, which passed unanimously.

### Milan Cemetery

Kelly Neer presented the audit to the Commission. The Commission found that Milan Cemetery failed to properly follow the requirements of O.R.C. 1721.21; that the cemetery operator, Milan Cemetery Association, 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 Association has failed to respond to the Division's repeated attempts to reach the cemetery representative. Jay Russell, based upon the above findings, moved that Milan Cemetery be referred to the prosecuting attorney of Erie County for alleged violations of O.R.C. 1721.21 and that the prosecuting attorney should initiate such proceedings as are appropriate. Jack Lee-Harris seconded the motion, which passed unanimously.

### Hope Cemetery

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

### Obetz Cemetery

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor and the steps being taken by the cemetery to come into compliance. Robert Winter then moved to continue the audit review to the December 11, 2014 meeting. Jack Lee-Harris seconded the motion, which passed unanimously.

### Ashland Cemetery

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor and the steps being taken by the cemetery to come into compliance. Jack Lee-Harris then moved to continue the audit review to the December 11, 2014 meeting. C. Thomas Pfeifer seconded the motion, which passed unanimously.

### **III. New Business**

#### **C. Thomas Pfeifer recused himself from the meeting.**

##### Case No. 2014-392 Inez Derden vs. Spring Grove Cemetery & Arboretum

The cemetery was represented by Jerry Wantz and Jeannette Humphries. The Commission reviewed the information provided by Ms. Derden and discussed the actions taken by the cemetery. Don Goncy then moved to close the complaint with the recommendation that the cemetery has presented two reasonable options to settle this dispute; a cash refund for the amount paid by Ms. Derden to the cemetery or an exchange for the amount paid by Ms. Derden to the cemetery through the International Cemetery, Cremation and Funeral Association. Tony Hughes seconded the motion, which passed unanimously.

After the case was closed Ms. Derden arrived. The Commission permitted her to make a statement and then explained their recommendations.

#### **C. Thomas Pfeifer returned to the meeting.**

##### Case No. 2014-401 Maretta Cottrell vs. Ridgecrest Memory Gardens

Laura Monick presented the case. After reviewing the actions taken by the cemetery, Tony Hughes moved to close the complaint with the recommendation that when the cemetery decides to conduct a roadside service due to safety concerns, the cemetery should call ahead to the family directly in addition to contacting the funeral home. Rufus Slade seconded the motion, which passed unanimously.

##### Case No. 2014-405 M. Joanne Ballway vs. North Lawn Cemetery

Laura Monick presented the case. After reviewing the complaint, the cemetery's response and the pictures submitted by both parties the Commission discussed that it was a wet spring and that many cemeteries spray for weeds in the fall because it can be the most effective time to spray. James Wright then moved to close the complaint with the recommendation that it would be in the best interest of the cemetery to repair the gaps in the stairs in order to make the cemetery safe for pedestrian traffic. Robert Winter seconded the motion, which passed unanimously. The Commission also noted that Ms. Ballway could file another complaint in the future if she is not satisfied.

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

##### Case No. 2014-502 Martha Nicholson vs. Northlawn Memorial Gardens

Laura Monick presented the case. After reviewing the actions taken by the cemetery, Robert Winter moved to close the complaint with no further action. Tony Hughes seconded the motion, which passed unanimously.

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

Case No. 2014-503 W. Steven Dunn vs. Fort Steuben Burial Estates

Laura Monick presented the case. After reviewing the actions taken by the cemetery and the notice from Mr. Dunn that the cemetery had repaired the lot, Rufus Slade moved to close the complaint with no further action. Don Goncy seconded the motion, which passed unanimously.

**IV. Audits**

Venice 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 with no further action. C. Thomas Pfeifer seconded the motion, which passed unanimously.

Grandview Memorial Park

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor. Tony Hughes then moved to continue the audit review to the December 11, 2014 meeting. Jack Lee-Harris seconded the motion, which passed unanimously.

**V. Other Business**

Review of Minimum Maintenance Guidelines

The Commission moved the discussion to the December 11, 2014 meeting.

Cemetery Law Task Force

Laura Monick provided an update on the Cemetery Law Task Force noting that the final report of the Task Force was due at the end of September. The Commissioners requested a copy of the final report once it was completed.

**VI. Adjournment**

Tony Hughes moved to adjourn. Jack Lee-Harris seconded the motion, which passed unanimously.