



## Department of Commerce

Division of Real Estate &  
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**John R. Kasich**, Governor

**Jacqueline T. Williams**, Director

**Anne M. Petit**, Superintendent

### 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

March 19, 2015  
10:00 a.m.

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**PRESENT:** James Wright, Chair; Don Goncy; Tony Hughes; Jack Lee-Harris; C. Thomas Pfeifer; Jay Russell; Rufus Slade; Robert Winter; Superintendent Anne M. Petit; Laura Monick, Registration and Resolution Section Chief; and Kelly Neer, External Auditor.

#### **I. Preliminary Matters**

**Roll Call:** Chairperson James Wright called the meeting to order with the record reflecting all members of the Ohio Cemetery Dispute Resolution Commission present except for Jay Russell.

**Approval of Minutes:** The minutes from the December 11, 2014 meeting of the Ohio Cemetery Dispute Resolution Commission meeting were reviewed. Don Goncy moved to approve the minutes. C. Thomas Pfeifer seconded the motion, which passed unanimously.

**Superintendent's Report:** Superintendent Petit presented the report and highlighted the newly registered cemeteries. She also noted the increase in phone calls and emails and that they continue to be handled with excellent customer service. Superintendent Petit discussed the Division's presence at the Ohio Township Association Winter Conference both at the trade show and during the Division's presentation. Finally, it was announced the Commissioner Hughes would not be seeking reappointment after his term expires in July.

**Commissioner Russell joined the meeting.**

#### **II. Old Business**

##### Obetz Cemetery

Kelly Neer presented the audit to the Commission. Attorney Adam Rinehart appeared on behalf of the cemetery. The Commission discussed the findings and recommendations of the auditor, the additional steps being taken by the cemetery to come into compliance such as depositing \$108,000 into the trust account and the possibility of a payment plan for the remaining funds that need to be deposited for the cemetery to come into full compliance. Robert Winter then moved to continue the case until the next meeting to allow the Superintendent and Cemetery to work on a payment plan. Jay Russell 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 taken by the cemetery to come into compliance. Tony Hughes then moved to close the audit. C. Thomas Pfeifer seconded the motion, which passed unanimously.

#### Woodside Cemetery

General Manager Fred Wehr and Attorney Patrick McCausland appeared on behalf of the 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. Discussion proceeded on the cemetery's policy with respect to the preneed merchandise and services trust account and that the cemetery presently takes out the current cost of goods and services instead of the amount permitted by O.R.C. 1721.211. Robert Winter then moved to continue the audit review to the July 18, 2015 meeting in order to allow the auditor to verify for the Commission that the cemetery is working on following O.R.C. 1721.211 and maintaining compliance. Tony Hughes seconded the motion, which passed unanimously.

#### Woodlawn Cemetery, Lima

Rick Wager appeared on behalf of the cemetery. Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor and the December 9, 2014 letter received from Attorney Witter outlining the cemetery's proposal for coming back into compliance. Rufus Slade moved to accept the plan outlined in the December 9, 2014 letter and to close the audit. C. Thomas Pfeifer seconded the motion, which passed unanimously.

#### Reedsburg Cemetery

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor. The audit found that Reedsburg Cemetery failed to properly follow the requirements of O.R.C. 1721.21 and that the cemetery was duly informed of this illegal conduct and was provided multiple opportunities to comply with the recommendations set forth in the compliance audit report. The Commission has previously heard this audit review at the December 11, 2014 meeting. Jay Russell moved to provide Reedsburg Cemetery until July 6, 2015 to adhere fully to O.R.C. 1721.21 and if Reedsburg Cemetery fails to cure this violation by the deadline, the Commission will have no choice but to refer this matter for criminal prosecution. Tony Hughes seconded the motion, which passed unanimously.

#### Amanda Township 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. Robert Winter then moved to close the audit. Jay Russell seconded the motion, which passed unanimously.

### **III. New Business**

#### **Audits**

#### Chapel Heights Memory Gardens

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. C. Thomas Pfeifer then moved to close the audit. Jack Lee-Harris seconded the motion, which passed unanimously.

#### Grandview Memorial Park

Kelly Neer presented the audit to the Commission. Myndi Martin filed a written statement on behalf of the cemetery. The Commission discussed the findings and recommendations of the auditor and the actions taken by the cemetery. Don Gony moved to continue the audit review to the July 16, 2015 meeting to allow the cemetery additional time to come into compliance with O.R.C. 1721.21 and 1721.211. C. Thomas Pfeifer seconded the motion, which passed unanimously. Robert Winter then moved that Grandview Memorial Park be referred to the prosecuting attorney of Portage County for possible falsification of Endowment Care Trust Annual Reports and Affidavits and Pre-need Merchandise and Services Trust Annual Reports and Affidavits filed with the Division from 2009-2013 and that the prosecuting attorney should initiate such proceedings as are appropriate. C. Thomas Pfeifer seconded the motion, which passed unanimously.

#### Fairview Memorial Park

Kelly Neer presented the audit to the Commission. Myndi Martin filed a written statement on behalf of the cemetery. The Commission discussed the findings and recommendations of the auditor and the actions taken by the cemetery. C. Thomas Pfeifer moved to continue the audit review to the July 16, 2015 meeting to allow the cemetery additional time to come into compliance with O.R.C. 1721.21. Jay Russell seconded the motion, which passed unanimously. Robert Winter then moved that Fairview Memorial Park be referred to the prosecuting attorneys of Delaware and Portage County for possible falsification of Endowment Care Trust Annual Reports and Affidavits filed with the Division from 2009-2013 and that the prosecuting attorneys should initiate such proceedings as are appropriate. Tony Hughes seconded the motion, which passed unanimously.

### **IV. Other Business**

#### Review of Annual Report

Discussion began on the draft annual report. The Commissioners deliberated on whether to include new items on the report detailing the outreach and compliance efforts conducted by the Division. Robert Winter then moved to approve the draft annual report with the addition of number of phone calls and emails received, newly registered cemeteries and cases resolved prior to a Commission meeting. C. Thomas Pfeifer seconded the motion, which passed unanimously.

#### Review of Minimum Maintenance Guidelines

The Commission discussed the current guidelines with the focus of the discussion on the third bulleted item under the "Management/Maintenance of Rules, Regulations, and Records" section. C. Thomas Pfeifer then moved to revise the third bullet to read "Effective March 19, 2015, newly developed lots should be pinned and owners' names should be recorded so that family lot positions are clearly identifiable and able to be located." Jack Lee-Harris seconded the motion, which passed unanimously.

There was a brief discussion of Senate Bill 106.

### **V. Adjournment**

Tony Hughes moved to adjourn. C. Thomas Pfeifer seconded the motion, which passed unanimously.