

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

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

April 28, 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, Dr. John N. Low, Hon. Cory Noonan, Anne M. Petit, Patrick Piccininni, Jay Russell, David Snyder, James Turner, James Wright, Division Staff Attorney Laura Monick.

Excused: Hon. Keith G. Houts, Stephen George

Review of Meeting Minutes: Co-Chair Petit opened the floor for discussion of the minutes of the April 4, 2014 meeting of the Ohio Cemetery Law Task Force. There being no discussion Mr. Turner moved to approve the minutes of the April 4th meeting. Mr. Russell seconded the motion. The motion passed unanimously.

II. Old Business

Co-Chair Petit opened the floor for discussion of old business. Co-chair Petit noted the correspondence provided to the task force members as received from Kathy Flayler, Manager of WillowView Cemetery Association and from Marcus Winchester, the Tribal Historic Preservation Officer for the Pokagon Band of Potawatomi Indians. Dr. Low requested that the task force permit tribes to submit testimony as they are able to supply the testimony. The task force agreed to hold the historic tribal discussion until later in the summer.

Discussion began on the duties of the Ohio Historic Preservation Advisory Board; the involvement of American Indians on that Board; and the difference between state and federally recognized tribes. The task force concluded that their focus should be on human remains without regard to ancestry in order to achieve the equal protection and treatment of all human remains, cemeteries and burial grounds. Dr. Low recommended that the task force consider proposing the incorporation of NAGPRA into state law, which gained consensus.

Mr. Turner then requested that the task force mission, in crafting recommendations, should remember the relationship between Revised Code and Administrative Code. Specifically, that details sometimes considered for inclusion in law may be more appropriate in the administrative code. The incorporation of federal law into the administrative code enables updating as federal law is updated. It was the recommendation of Mr. Turner that the task force's final recommendation should point out details that should be addressed through adoption of rules with discussion of impact; including the recommendation to incorporate NAGPRA by rule.

III. New Business

Co-chair Noonan brought the task force into new business and discussion began on definitions and reviewing terms as defined by other states.

The first term discussed by the task force was "abandoned." Discussion commenced on a lack of ownership or funding versus using a timeframe for the definition and the differences expressed in other states that Attorney Monick has researched. The task force considered a definition similar to the state of New York with respect to generality and then adding some timeframes plus adequate maintenance. The task force then

debated looking at abandonment from the point-of-view of legal abandonment, ownership issues, neglect (maintenance issues), or preservation.

The task force then agreed to move into discussion revolving around three main groups: upkeep/maintenance, groups of cemeteries, and protection. The first group discussed was maintenance and upkeep. The task force looked at whether registered and inactive cemeteries should be considered separately.

Discussion commenced on proposed revisions of ORC 4767.09 concerning maintenance as proposed by the Division during its testimony. The task force considered adding subparagraph (F) with tentative language to include: “no cemetery, burial ground or burial site whether registered or unregistered will be permitted to become a nuisance (threatens safety or welfare) as defined by applicable law”. With respect to “reasonable maintenance” as written in the draft of ORC 4767.09, the task force clarified that a cemetery in a condition that would rise to the level of a nuisance is not reasonable maintenance. Discussion continued on codifying that Division staff could make nuisance referrals to local building authority with jurisdiction (see building code). With those additions, the task force agreed that maintenance would be defined using the proposal in ORC 4767.09. The idea was also proposed that the Division could offer an education program to cemeteries on record keeping.

The task force requested further research into nature preserves and green/natural burial definitions.

Co-chair Noonan excused himself at 12:20pm.

The task force then turned to the term “inactive.” The task force debated inactivity as it relates to the selling of burial rights versus conducting internments and the purpose of defining inactive. Discussion then returned to abandonment and whether there can be abandonment of occupation, use, or responsibility. The task force then agreed that the definition of abandonment should include: failure to conduct operations and failure to maintain reasonable management by either choice or circumstance. The task force requested that Co-chair Petit and Ms. Monick work on drafting a definition of abandoned based upon meeting discussion and then reach out to the Ohio Township Association and the Ohio municipal League for feedback on the draft definition.

Finally, the task force began discussion of the definition for “human remains.” After debating the definitions used by other states, the task force came to an agreement that the definition of human remains should include: any part of the body of a deceased human being in any stage of decomposition or state of preservation or a body that has been reduced by cremation or alternative disposition. The task force also concluded that the definition of “cremated remains” and “alternative disposition remains” should mimic the definitions from the state of Oregon and include: the remaining bone fragments from the body of a deceased human being after the act of cremation or alternative disposition is completed. The Division will also work to draft a definition of this term for consideration at the next meeting.

Next Meeting Dates:

May 16, 2014 at 9:30am

June 6, 2014 at 9:30am

IV. Adjournment

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