



## 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

December 12, 2013  
10:00 a.m.

**PRESENT:** Robert Winter, Chair; Phyllis Byard; Don Goncy; Rufus Slade; Tony Hughes; James Wright; Jack Lee-Harris; Anne M. Petit, Superintendent; 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 except Phyllis Byard.

**Approval of Minutes:** The minutes from the September 19, 2013 meeting of the Ohio Cemetery Dispute Resolution Commission meeting were reviewed. Tony Hughes moved to approve the minutes. James Wright seconded the motion, which passed unanimously.

**Superintendent's Report:** The Superintendent began her report by discussing the number of new complaints opened, new audits opened, newly registered cemeteries and the number of phone calls received during the last quarter. Discussion continued on speaking engagements attended by Laura Monick and Kelly Neer and their opportunity to visit Robert Winter's cemetery. The discussion concluded with discussion of the modernization of Ohio Revised Code Chapter 4767 and the Ohio Cemetery Law Task Force.

**Phyllis Byard arrived during the Superintendent's Report**

#### II. Old Business

**Case No. 2013-431 James C Foster vs. Crown Hill Burial Park**

Laura Monick presented the complaint to the Commission. The Commission reviewed the cemetery's fees and current contract language. James Wright then moved to close the complaint with no recommendation. Phyllis Byard seconded the motion, which passed unanimously.

**Case No. 2013-492 Michael Robinett vs. Crawford County Memory Garden**

Laura Monick presented the complaint to the Commission. The Commission discussed the cemetery not sending in the requested documentation. Don Goncy 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 March 20, 2014 meeting and to produce a copy of the cemetery's rules and regulations for memorial installation and a copy of the fees and services provided and charged to outside monument dealers. Rufus Slade seconded the motion, which passed unanimously.

#### Jeffersonview 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. Jack Lee-Harris then moved to close the audit. James Wright seconded the motion, which passed unanimously.

#### Lindsey 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. Tony Hughes then moved for the Superintendent to close the audit after the following has been filed with the Division: proof of Lindsey Cemetery Association's dissolution; the Township's resolution accepting the care of Lindsey Cemetery, and the Township's registration of Lindsey Cemetery. Don Goncy seconded the motion, which passed unanimously.

### **III. New Business**

#### Case No. 2013-653 Lester Hall vs. Fairview Memorial Park

Laura Monick presented the complaint to the Commission. The Commission discussed the current status of the memorial installation. Phyllis Byard then moved to have the Superintendent close the complaint after Mr. Hall has notified the Division that he is satisfied with the marker installation and the cemetery has waived the opening and closing fees as indicated in the cemetery's October 25, 2013 response to the complaint. Tony Hughes seconded the motion, which passed unanimously.

#### Case No. 2013-667 David Donachie vs. Tod Homestead Cemetery

Laura Monick presented the complaint to the Commission. The Commission reviewed the case and the information submitted by the parties. James Wright then moved to close the complaint with no recommendation. Rufus Slade seconded the motion, which passed unanimously.

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

#### Case No. 2013-630 Shirley Nuber vs. Green Lawn Cemetery

Laura Monick presented the complaint to the Commission. The Commission reviewed the case and information submitted by the parties. Phyllis Byard then moved to close the complaint with no recommendation. Tony Hughes seconded the motion, which passed unanimously.

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

#### **IV. Audits**

##### Welsh Hills 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. Jack Lee-Harris then moved to leave the audit open until their March 20, 2014 meeting in order to review the bonding of the cemetery to ensure compliance with Ohio Revised Code Chapter 1721. Tony Hughes seconded the motion, which passed unanimously.

##### Fairview Memorial Gardens

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. Phyllis Byard then moved to close the audit. James Wright seconded the motion, which passed unanimously.

##### Allentown 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. Tony Hughes then moved to close the audit. Rufus Slade seconded the motion, which passed unanimously.

##### Zion Bloom 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. Tony Hughes then moved to provide Zion Bloom until February 28, 2014 to adhere fully to O.R.C. 1721.21 with the request that the Superintendent notify the operator that if it fails to cure this violation by the deadline, the Commission will have no choice but to refer this matter for criminal prosecution and that the penalty for a violation of O.R.C. 1721.21 is a fine of up to \$5,000.00 or imprisonment for not more than one year, or both. Don Goncy seconded the motion, which passed unanimously.

##### Columbiana County Memorial Park

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. Don Goncy then moved to leave the audit open until their March 20, 2014 meeting. James Wright seconded the motion, which passed unanimously.

#### **V. Other Business**

2014 Meeting Dates:

March 20, 2014

July 17, 2014

September 18, 2014

December 11, 2014

#### **VI. Adjournment**

Rufus Slade moved to adjourn. Tony Hughes seconded the motion, which passed unanimously.