



## Department of Commerce

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**John R. Kasich**, Governor

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**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 24, 2016  
10:00 a.m.

**PRESENT:** Jack Lee-Harris, Chair; James Wright; Don Goncy; C. Thomas Pfeifer; Jay Russell; Rufus Slade; Scott Harmon; Superintendent Anne M. Petit; Laura Monick, Registration and Resolution Section Chief; Kelly Neer, External Auditor; and Walter McNamara, Assistant Attorney General. Robert Winter was excused.

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

**Roll Call:** Chairperson Jack Lee-Harris called the meeting to order with the record reflecting all members of the Ohio Cemetery Dispute Resolution Commission present except for Robert Winter.

**Approval of Minutes:** The minutes from the December 10, 2015 meeting of the Ohio Cemetery Dispute Resolution Commission meeting were reviewed. Scott Harmon moved to approve the minutes. James Wright seconded the motion, which passed unanimously.

**Superintendent's Report:** Superintendent Petit introduced Kerry Francis, the new Director of Communications. Superintendent Petit then reviewed the high number of new registrations with nearly 400 more actively registered since 2001. Outreach conducted for the Ohio Township Association and Ohio Cemetery Association conferences was discussed. Finally, Superintendent Petit provided a brief update on Grandview and Fairview Memorial Parks.

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

##### Case No. 2015-583 Patricia Caldwell vs. Arlington Field of Honor

Ms. Caldwell appeared before the Commission. Sandy Sharon appeared on behalf of the cemetery. The Commission heard testimony from both the complainant and the cemetery with respect to the marker that was paid for and has not been provided. Ms. Sharon testified that when she took over the cemetery in December, her paperwork provided that the previous owner was liable for any contracts entered into by the previous owner. However, Ms. Sharon also testified that she is attempting fundraising efforts so that she might be able to provide markers not ordered by the previous owner. Upon discussion of the ownership issues and the failure to provide markers to consumers, Scott Harmon moved that both the complainant and cemetery file complaints with the county prosecutor; that the Superintendent be granted the authority to make referrals to the county prosecutor and/or the Attorney General's Office as she deems necessary and that the case be closed. Rufus Slade seconded the motion, which passed unanimously.

### Crown Hill Burial Park

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor and the letter provided by Attorney Rosenacker. C. Thomas Pfeifer then moved to approve the recommendation of the Superintendent that the cemetery fully fund the Merchandise and Services trust and that the review be continued to the July meeting to ensure the trust is fully funded. Jay Russell seconded the motion, which passed unanimously.

## **III. New Business**

### Case No. 2016-77 Kathleen McCarty vs. Arlington Field of Honor

Sandy Sharon appeared on behalf of the cemetery. Laura Monick presented the complaint to the Commission. The Commission reviewed the complaint information and heard testimony from the cemetery. Ms. Sharon testified that when she took over the cemetery in December, her paperwork provided that the previous owner was liable for any contracts entered into by the previous owner. Ms. Sharon also stated that she looked through all the paperwork provided to her when she took over the cemetery but she could not locate any paperwork related to Ms. McCarty's brother. Upon discussion of the ownership issues and the failure to provide markers to consumers, James Wright moved that the Superintendent be granted the authority to make referrals to the county prosecutor and/or the Attorney General's Office as she deems necessary and that the case be closed. Scott Harmon seconded the motion, which passed unanimously.

### Case No. 2015-565 Paul Witherspoon vs. Elk Cemetery

Mr. Witherspoon appeared before the Commission. Prosecuting Attorney Trecia Kimes-Brown and Keith Haggerty appeared on behalf of the cemetery. After discussion with both the complainant and the cemetery concerning whether or not a disinterment may have to be conducted, Prosecuting Attorney Kimes-Brown offered to send a letter to the funeral homes involved to request information about whether the cremains were interred. Jay Russell then moved to continue the case to the July meeting in order to allow the prosecuting attorney time to gather additional information. C. Thomas Pfeifer seconded the motion, which passed unanimously.

### **Rufus Slade recused himself from the meeting.**

### Case No. 2015-658 Cledis Beard vs. Woodland Cemetery

Laura Monick presented the complaint to the Commission. After reviewing the actions taken by the cemetery to resolve the complaint and upon hearing that the complainant was satisfied that the disinterment was completed with no fees charged, James Wright moved to close the case. Scott Harmon seconded the motion, which passed unanimously. It was noted that the complainant would like the cemetery to review their procedures so that this does not happen to future customers.

### **Rufus Slade returned to the meeting.**

### Case No. 2015-718 Sue Ann Wade vs. Springboro Cemetery

Director Rick Tincher appeared on behalf of the cemetery. Laura Monick presented the complaint to the Commission. After reviewing the complaint and hearing the testimony of the cemetery, the Commission found that the Rules and Regulations do require a vault for cremains to ensure the integrity of the remains. The cemetery did note that if a vault is purchased through the cemetery it costs \$105. James Wright then moved to close the case with the finding that a vault is required for cremains. Rufus Slade seconded the motion, which passed unanimously.

#### Case No. 2015-721 Marilyn Jarvis vs. Greenlawn Cemetery

Marilyn Jarvis appeared before the Commission. Village Solicitor James Peifer and Theresa Waring appeared on behalf of the cemetery. The Commission reviewed the cemetery's procedures in laying foundations and whether or not a wood form was used. It was noted that pictures show a large crack in the middle of the foundation. There was also discussion concerning whether or not the cemetery's rules and regulations provide for specific foundation requirements. James Wright then moved to continue the case to the July meeting with the recommendation that both parties inspect the foundation; come up with a plan to replace the foundation and include the Commission on arrangements agreed to by the parties. C. Thomas Pfeifer seconded the motion, which passed unanimously.

#### **IV. Audits**

##### Fairview Cemetery, Galion

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor and the actions of the cemetery to come into compliance. Rufus Slade then moved to continue the review to the July meeting to provide the cemetery time to create and fund the Merchandise and Services trust. Jay Russell seconded the motion, which passed unanimously.

##### Woodlawn Cemetery, Norwalk

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor and the actions of the cemetery to come into compliance. James Wright then moved to close the audit with no further action. Scott Harmon seconded the motion, which passed unanimously.

##### Akron Rural 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 to come into compliance. C. Thomas Pfeifer then moved to close the audit with no further action. Jay Russell seconded the motion, which passed unanimously.

##### St. Clairsville Union 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 to come into compliance. Jay Russell then moved to close the audit with no further action. James Wright seconded the motion, which passed unanimously.

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

##### Failure to Obtain a New Registration

Laura Monick presented seven cemeteries that have failed to properly register. Upon review, C. Thomas Pfeifer moved to find that the cemeteries listed in Exhibit A had been contacted by Division staff about the cemetery registration requirements in Ohio and that those cemeteries failed to register. Based upon those findings, C. Thomas Pfeifer moved, pursuant to Revised Code Section 4767.08(A), that the Commission request the prosecuting attorney of the county in which the alleged violations of Revised Code 4767.02(A) occurred initiate such proceedings as are appropriate. Jay Russell seconded the motion, which passed unanimously.

EXHIBIT A

Operator	Cemetery	Location	County
Belmont County Memorial Park	Belmont County Memorial Park	Bellarie	Belmont
Highlandtown Cemetery Association	Highlandtown Cemetery	Salineville	Columbiana
St. Paul Evangelical Lutheran Church	St. Paul Lutheran Cemetery	Jenera	Hancock
Trinity Lutheran Church	Trinity Lutheran Cemetery	Jenera	Hancock
Chestnut Grove Cemetery Association	Chestnut Grove Cemetery	Hammondsville	Jefferson
Brownsville Cemetery Association	Brownsville Cemetery	Brownsville	Licking
Massillon Cemetery Association	Massillon Cemetery	Massillon	Stark

Review of Annual Report

Discussion began on the draft annual report. Rufus Slade then moved to approve the draft annual report. Jay Russell seconded the motion, which passed unanimously.

Review of Minimum Maintenance Guidelines

The Commission discussed the current guidelines with the focus of the discussion on snow removal and whether to include snow and ice removal as well as salting in the guidelines. Scott Harmon then moved to continue the discussion to the July meeting. Jay Russell seconded the motion, which passed unanimously.

**VI. Adjournment**

Rufus Slade moved to adjourn. Scott Harmon seconded the motion, which passed unanimously.