



THE OHIO CEMETERY DISPUTE RESOLUTION COMMISSION AGENDA

**Division of Real Estate & Professional Licensing
77 S. High Street, 22nd Floor, Hearing Room
Columbus, OH 43215-6133**

**December 7, 2017
10:00 a.m.**

PRESENT: Rufus Slade, Chair; Jay Russell; Scott Harmon; Jack Lee-Harris; C. Thomas Pfeifer; Kirk Roberts; Thomas Thompson; Robert Winter; Laura Monick, Registration and Resolution Section Chief; Kelly Neer, External Auditor; and Christie Limbert, Assistant Attorney General.

I. Preliminary Matters

Roll Call: Chairperson Rufus Slade called the meeting to order with the record reflecting all members of the Ohio Cemetery Dispute Resolution Commission present.

Approval of Minutes: The minutes from the September 14, 2017 Ohio Cemetery Dispute Resolution Commission meeting were reviewed. Scott Harmon moved to approve the minutes. C. Thomas Pfeifer seconded the motion, which passed unanimously.

Superintendent's Report: Laura Monick presented the report on behalf of Superintendent Petit. She began the report reviewing the Commission Statistics; including the new category of "Cases resolved prior to meeting". Ms. Monick also reported on the high number of telephone calls due to the Division's ongoing project of updating Political Subdivisions' contact information. Finally, the status of House Bill 168 and a Montgomery County criminal case concerning former cemetery operator Darren Boykin was provided to the Commissioners.

II. Old Business

Case No. 2017-331 Darlene Manolukas vs. Belmont Park Cemetery; Case No. 2017-363 Dan & Daisy Mirjanich vs. Belmont Park Cemetery; Case No. 2017-373 Radmila Stanic vs. Belmont Park Cemetery; Case No. 2017-394 Mary Pryjma vs. Belmont Park Cemetery; Case No. 2017-407 Georgiann Bosiljic vs. Belmont Park Cemetery

Mr. & Mrs. Stanic and Ron Taylor appeared before the Commission. The Commission reviewed the information received from each of the complainants and the cemetery, heard Mr. Taylor's testimony and the testimony of Mr. & Mrs. Stanic. Discussion commenced on the location of the drainage in conjunction to interments, the type of drainage and ways the cemetery might be able to improve the drainage. The Commission discussed running 6" drainage near 291, the 5th tier and one below in the Sunrise section.

Robert Winter then moved to close the case with the recommendation that the Cemetery assess the situation; set-up a meeting to show the families where the 6" drain tile will be put in; and place the drainage as soon as possible with signs in the area stating "under renovation". Scott Harmon seconded the motion, which passed unanimously. The Commission also advised the Complainants that it may take time, possibly up to a year, to see improvements after the drainage is put in and to be patient with the process.

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

Burlington Green Lawn

Kelly Neer presented the audit to the Commission. The Commission discussed the findings and recommendations of the auditor and the failure of the cemetery to attempt to come into compliance with O.R.C. 1721.21. Jay Russell then moved that the Superintendent refer this audit to the Prosecuting Attorney of Lawrence County for alleged violations of failing to properly follow the requirements of O.R.C. 1721.21 with respect to maintaining an Endowment Care Trust account for Burlington Green Lawn Cemetery and that the prosecuting attorney initiate such proceedings as are deemed appropriate. Robert Winter seconded the motion, which passed unanimously.

III. New Business

Jack Lee-Harris recused himself from the meeting.

Case No. 2017-395 David Powell vs. Green Lawn Cemetery

David Powell appeared before the Commission. The Commission heard Mr. Powell's testimony and reviewed the information from the cemetery. The Commission discussed the documentation needed for tax donations, that the registered operator is StoneMor Partners and that the non-profit foundation has not responded to Mr. Powell's requests. Assistant Attorney General Limbert noted that the Green Lawn Cemetery Foundation is registered with the Ohio Attorney General's Charitable Section. Kirk Roberts then moved to close the case with the recommendation that the Superintendent refer this matter to the Ohio Attorney General's Office with respect to the non-profit foundation. Thomas Thompson seconded the motion, which passed unanimously.

Case No. 2017-421 Lisa Holmes Singer vs. Crown Hill Cemetery

Laura Monick presented the case to the Commission. The Commission reviewed the complaint and Ms. Singer's request to continue the review until the next meeting. Jay Russell then moved to continue the case to the March meeting. C. Thomas Pfeifer seconded the motion, which passed unanimously.

Case No. 2017-514 Edward Burgy vs. Hillside Memorial Park

Laura Monick presented the case to the Commission. The Commission discussed that the cemetery offered to either issue a full refund for the granite marker or install the memory vase ring arrangement along with a refund of \$250. C. Thomas Pfeifer moved to close the case with the recommendation that Mr. Burgy accept one of the cemetery's offers. Jay Russell seconded the motion, which passed unanimously.

Case No. 2017-524 Debra Bailey vs. Green Lawn Cemetery

Laura Monick presented the case to the Commission. The Commission discussed that the parties reached a resolution and that Ms. Baily was satisfied the marker has been placed but would like to see the Division's consumer brochure be placed in the cemetery office. Jay Russell then moved to close the case with the recommendation that the cemetery provide room in their office for the Division's consumer brochure. Scott Harmon seconded the motion, which passed unanimously.

Jack Lee-Harris returned to the meeting.

Case No. 2017-420 Michalene & Wade Foltz vs. Brookfield Township Cemetery

Jamie Fredenburg appeared on behalf of the cemetery. The Commission reviewed the information and pictures sent in by the Foltzs and heard testimony from Mr. Fredenburg. The Commission discussed the township's staffing levels, the size of the cemeteries and number of burials completed each year. It was noted that families are responsible for the care of their monuments but that the township does attempt to fix those stones that are knocked over or leaning to help avoid any safety issues. The Commission recognized that the township is doing more than the minimum maintenance requirements but did encourage the cemetery to use a tamper when backfilling graves to help relieve some of the settling that is occurring. Robert Winter then moved to close the case with the recommendation that the cemetery continue its work resetting monuments when it can; tamping graves to help eliminate sinking; review the cemetery's rules and regulations to add rules concerning monument dealers pouring foundations and to have a cemetery representative onsite when the foundations are being poured. Kirk Roberts seconded the motion, which passed unanimously.

Case No. 2017-439 Charlene Williams vs. Glen Rest Memorial Estate

Charlene Williams appeared before the Commission. The Commission reviewed the information from the cemetery and heard testimony from Mrs. Williams and her daughter, Christina Ballinger. The Commission discussed the chain of errors that resulted in Mr. Williams being buried in the wrong plot and the misinformation provided to Mrs. Williams after the error occurred. Mrs. Williams acknowledged that the cemetery did confirm Mr. Williams' identification at no cost, offered her the companion space at no charge and that a recommitment service will be conducted. The Commissioners noted and agreed that due to the errors that occurred it would be reasonable that the cemetery reimburse Mrs. Williams for everything paid. Kirk Roberts then moved to close the case with the recommendation that the cemetery reimburse Mrs. Williams \$4,961.68. C. Thomas Pfeifer seconded the motion, which passed unanimously.

Case No. 2017-486 Lillian Miller vs. Marion Cemetery

Jim Riedl appeared on behalf of the cemetery. The Commission reviewed the information from Ms. Miller and heard testimony from Mr. Riedl. The Commission discussed the decedent's wishes to be buried in the center of her two graves but that she was ultimately buried in the north grave. The Commission noted that O.R.C. 517.23 and the cemetery's rules and regulations would permit the cemetery to correct the interment error. The Commission also discussed the placement of the memorial on the space. Kirk Roberts then moved to close the case with the recommendation that the vault be centered on the space per the instructions of the decedent and that this does not constitute a disinterment and state law provides that a cemetery may correct an interment error. Jay Russell seconded the motion, which passed unanimously.

Case No. 2017-512 Jeffrey DeLong vs. Highland Memorial Gardens

Laura Monick presented the case to the Commission. The Commission reviewed the information provided by Mr. DeLong and the cemetery. The Commission discussed the issue of the moldy odor and that there are no specific state laws related to conditions of mausoleums. It was noted that a company like Ensure-A-Seal would be able to examine the mausoleum to see if there is a specific location the odor might be coming from in the mausoleum. Kirk Roberts then moved to close the case with the recommendation that Highland Memorial Gardens contact Ensure-A-Seal to request an inspection. Scott Harmon seconded the motion, which passed unanimously.

IV. Audits

Hallsville Cemetery

Kelly Neer presented the audit. The Commission discussed the findings and recommendations of the auditor and the actions taken by the cemetery to come into compliance. C. Thomas Pfeifer then moved to continue the audit to allow the cemetery more time to come into compliance. Scott Harmon seconded the motion, which passed unanimously.

Meigs Memory Gardens

Kelly Neer presented the audit. The Commission discussed the findings and recommendations of the auditor and the actions taken by the cemetery to come into compliance. Scott Harmon then moved to close the audit. Jay Russell seconded the motion, which passed unanimously.

Kirk Roberts recused himself from the meeting.

Riverview Memory Gardens Outside Audit Review

Laura Monick presented the outside audits. Mark & Trish Spieser appeared before the Commission. The Commission reviewed the request to issue a new cemetery operator registration to Families of Riverview Memory Gardens for Riverview Memory Gardens. The Commission reviewed the outside audits of the endowment care trust and preneed merchandise and services trust performed by an outside certified public accountant as required by ORC Chapter 4767. Upon review of all the information presented, Robert Winter moved to accept the independent auditor's reports and approved the Superintendent to issue a new cemetery operator registration. Jack Lee-Harris seconded the motion, which passed unanimously.

Athens Memory Gardens Outside Audit Review

Laura Monick presented the outside audits. The Commission reviewed the request to issue a new cemetery operator registration to Hocking Hills Cemetery and Cremation Services for Athens Memory Gardens. The Commission reviewed the outside audit of the endowment care trust and preneed merchandise and services trust performed by an outside certified public accountant as required by ORC Chapter 4767. Upon review of all the information presented, Robert Winter moved to accept the independent auditor's reports and approved the Superintendent to issue a new cemetery operator registration once a complete registration application is received by the Division and to authorize External Auditor Kelly Neer to conduct an in-person Division audit of Athens Memory Gardens. C. Thomas Pfeifer seconded the motion, which passed unanimously.

Kirk Roberts returned to the meeting.

V. Other Business

Failure to Obtain a New Registration

Laura Monick presented four cemeteries that have failed to properly register. Upon review, Jay Russell 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, Jay Russell 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. Scott Harmon seconded the motion, which passed unanimously.

Unregistered Cemeteries to be referred			December 7, 2017 OCDRC Meeting			
Operator	Cemetery	County	1st Ltr	2nd Ltr	Cert Signed	Last contact
Eastern Cemetery Association	Eastern Cemetery	Noble	4/19/2017	7/27/2017	Yes	8/28/2017
Winchester Abbey Crypt Owners Assoc	Winchester Abbey	Franklin	5/3/2017	7/27/2017	Yes	11/14/2016*
Providence Cemetery Association	Providence Cemetery	Gallia	4/24/2017	7/27/2017	Yes	8/14/2017
Oak Grove Cemetery Association	Oak Grove Cemetery	Vinton	4/11/2017	7/27/2017	No	9/7/2017
* First outreach to Winchester Abbey was by a meeting in August 2016.						

Review of Minimum Maintenance Guidelines

Discussion began regarding the minimum maintenance guidelines. The Commissioners were provided a letter sent to the Division by Dave Simms addressing concerns about the removal of flowers. Robert Winter moved to continue the discussion to the March meeting. Scott Harmon seconded the motion, which passed unanimously.

2018 Meeting Dates

The Commission unanimously moved to accept the meeting dates of March 22nd, July 12th, September 13th and December 6th.

VI. Adjournment

Jay Russell moved to adjourn the meeting. Robert Winter seconded the motion, which passed unanimously.