

OCA JOURNAL

DECEMBER 2012 • VOLUME 2 • ISSUE 3

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FROM OUR PRESIDENT

***By Jack Lee-Harris, President,
Ohio Cemetery Association***

“This was a great Annual Conference.” That is the comments that I had members telling me throughout the conference. I would have to agree. We had a great subcommittee that put a good many hours in the planning and preparations for the conference. The members of the subcommittee were, Chair, Bob Moses, Crown Hill Burial Park, Dan Applegate, Arlington Memorial Gardens, John Ohnstad, Matthews International, Jan Burrowes, OCA Secretary/Treasurer, Mark Funke, Spring Grove Cemetery & Arboretum,

Safari Golf Club, near the Columbus Zoo.

On Tuesday we started full force with the presentations, Grave Expectations: Trends in the Cemetery Trade, with Gail Rubin, The Doyenne of Death. Her knowledge of the business was very eye opening and enjoyable to hear. She had various slides and movies which made the information very interesting. She left information about her book and website.

Then we went into a panel discussion moderated by Bob Moses. The panel included; Ohio Senator, Richard H. Finan, Ted Hornyak, outgoing person with the Ohio Dispute Resolution Commission, Dave Shanteau, from the Ohio Cemetery Foundation, and Heidi Fought, Director Governmental Affairs/Ohio Township Association. Their discussion was very insightful. Some of the discussion was on Continuing Education legislation proposal for Township Trustee’s, who lead the cemetery duties for a township, the continuing growth in cremations

Rufus Slade, Woodland Cemetery & Arboretum, Greg Villwock, Forest Lawn Cemetery, and myself, Green Lawn Cemetery & Arboretum.

This year, we held the second golf outing at

The OCA Journal is a publication of

**The Ohio Cemetery
Association
Jack Lee-Harris,
President**

**Jan Burrowes,
Secretary/Treasurer
Wes & Elaine Russell, Co-Editors**

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FROM OUR PRESIDENT

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in the cemetery industry and how it affects cemeteries. There were comments being discussed about how a township follows the rules in the Ohio Revised Code, to properly assist residents in a township, as well as protecting the township in operations of a cemetery. Various cemeteries laws and individual cemetery rules and regulation will rule on how vaults and or cremation allowances are determined, not necessarily the Ohio Revised Code. Many rules and regulation determine how many cremation burials can occur on the number of lots. This is not outlined in the Ohio Revised Code as well.

At the end of this panel, we were introduced to the new contacts with the State of Ohio Department of Commerce. This is the department who oversees the Ohio Revised Code sections for cemeteries. The new contacts are Anne Petit, Superintendent, and Laura Monick, Staff Attorney. Anne's phone number is 614-466-3411, and Laura's is 614-466-5384.

To conclude, the Panel discussion was very informative, unfortunately, time expired for this session. We hope to continue the Panel format going into the future.

After the Panel, the conference moved to Field Day at Forest Lawn Memorial Park on the Eastside of Columbus. Greg Villwock, led us by introducing us to the suppliers who were in attendance with booths and demos. Then he led the group through a backhoe demonstration on how his cemetery reviews and determines cor-

rect burial spaces, prior to an interment. Then he cut the group loose to visit our suppliers and an actual hands on backhoe operation. There were a few brave souls who jumped on the backhoe to dig out shrubs.

Tuesday evening was our past Presidents' buffet dinner. We had 19 past presidents' who were acknowledged. This was an interesting group of individuals to go around and talk with after our meal. It is truly amazing, the knowledge that was sitting in the room on that night. Great Group.

After talking with the past presidents', Let the Games Begin, "The Thrill of Victory", began. We had various games around the Embassy Suites. It was a great time to play and talk with all of our colleagues.

The next morning began with a Supplier Meeting. Then we rolled into "Trees & Shrubs for Your Cemetery", presented by Miles T. Penn, from Lexington Cemetery, Ky. He had great comments on the correct trees to use and why with various pictures from his cemetery. It was very helpful to actually see the tree in the setting to visualize how correct that tree was located.

Midmorning we moved our focus to a second Panel discussion with Dan Applegate, Arlington Memorial Park, as mediator. The rest of the panel was Gail Rubin, The Doyenne of Death, Dave Dahl, Milne Mausoleum, Tim Long, OCA Attorney, and Josh Slocum, Executive Di-

rector, Funeral Consumers Alliance. The panel discussion again was very alert to the group, very informative, great conversation. Topics discussed were on consumers, cremations, and the different forms of final disposition, different culture final disposition, Australia, Europe, Canada, and the USA.

The next presentation was by Josh Slocum. He spoke about consumer issues, which our association in the business, fear, at times. But everyone must ac-

Carr, Benefits Management, OCA Workers Comp. programs, and myself. We reviewed the direction of the Association's board, an upcoming survey being completed by the board and OCA Member, Bill Evens, Apex Payroll. The survey will be an online survey to give us better direction as how to best serve our membership, what types of knowledge, events, networking, etc. We will then share the survey to members once completed. Our time frame is to have the results for our board meeting in December 2012, to move forward. We had Tim review various legislation and bills that are working their way thru the process. Bob Carr shared what is going on at the State level of workers comp, so that membership can have a handle on future costs and savings. We discussed that Tim, Bob and myself are going to schedule a meeting with the new director at workers comp. to discuss the Sale Person rates, that were enacted four or five years ago. At the time, the rate was a burden of costs to many of our membership.

Overall, as I stated in the beginning, this was a great conference. Please, the next time you speak with one of our association suppliers, thank them for assisting us with the Annual Conference each year. Without their support, we might not be able to hold the conference each year. Thanks to our membership as well. Without membership, we do not exist. We are here to share our knowledge and expertise, to move the business of cemeteries forward.

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cept that we all play nice to reach all parties goals of memorialization for a family member, neighbor, veteran, etc.

The last event of the conference was held by Tim Long, OCA Attorney, Bob



REST IN PLACE THE NEW IN R.I.P.

By Jacob Kanclerz, *The Columbus DISPATCH*

For the do-it-yourself crowd, add funerals to the list.

A small but growing number of people across the country are forgoing funeral homes and are caring for their deceased relatives on their own. Advocates say it can be therapeutic and provide better closure for families.

It also costs considerably less than traditional funeral arrangements.

in the U.S. was \$6,560 in 2009, according to the most recent numbers available from the National Funeral Directors Association. Surveys aren't conducted every year because the prices don't fluctuate much.

That's up from \$6,195 in 2006 and \$5,180 in 2000. The funeral-home industry brought in \$12.6 billion in 2010, according to the Census Bureau.

Funeral costs vary widely based on the services

desired, but usually start with a minimum fee that averages \$1,817, which covers overhead costs for the funeral home. If burial is chosen, families must factor in the costs charged by cemeteries, including for opening and closing a grave, a vault for the casket and the burial plot itself, said Alice Faryna, president of the Funeral Consumers Alliance of Central Ohio.

Take out the cost of the funeral home services, casket and cemetery plot, and a funeral can cost very little.

A growing number of people are forgoing funeral homes and opting for do-it-yourself home funerals for their dearly departed relatives

Home funeral tips

Plan ahead. Contact the city health department's office of vital statistics to find out the information needed to process the death certificate, which is the official register of death, and the burial-transit permit, which allows transfer of the body in your own vehicle.

The cause of death must be verified by a licensed physician, coroner or other health-care professional. Contact law enforcement for specific regulations for verifying the death at home.

The body should be prepared within a few hours of death. Buy or build your own casket, or use a cloth shroud to wrap the body if burial is planned.

Ohio law requires cremations to be done no sooner than 24 hours after death. If you plan cremation, it's recommended to contact the crematory in advance to let it know you will transport the body there.

Source: *Dispatch* research

"Clearly it's cheaper, thousands of dollars cheaper," said Ann Harr of Circleville, who runs the non-profit Pickaway Home Funeral Services to help families plan home funerals free. Home funerals, as they are often called, are funeral services planned by the family of the deceased, often taking place at home or another place of the family's choosing.

While finances aren't usually the reason for home funerals, advocates acknowledge it's becoming a factor, considering the rising cost of funerals.

The average cost of traditional funeral arrangements

The absolute cheapest way to do it would be to bury someone on family property (in locations where that's allowed), which could cost only the death certificate, \$25 in Ohio, and the burial-transit permit, \$3, Harr said. A burial-transit permit allows transportation of the body by the family's own vehicle and a death certificate is the official record of the death. Another inexpensive option is cremation, provided by a funeral home, estimated to be around \$500, said Char Barrett, president of the National Home Funeral Alliance and founder of A Sacred Moment, a funeral home in Washington state that consults with families on home funerals.

The fact that some of this is news to most people doesn't surprise Harr. Most people don't know they can take care of their own dead or how to do it, she said.

Harr is one of the few home-funeral educators of her kind in Ohio. She said she became interested in home funerals five years ago when her father-in-law died. She described him as a simple man, yet his funeral cost \$10,000.

"The absurdity of it is as if it had to happen," she said. "It didn't." Robin Mayhall of Baton Rouge, La., had a similar situation with her grandmother. "She was always vocal about not spending money. She was always telling us to be careful with

money," she said of her grandmother Annabelle White, who passed away in January at the age of 93. Mayhall and her family planned the funeral. White's body was cremated in California, where she had died, and the remains were flown to Baton Rouge. Mayhall designed and conducted a short ceremony at her family's cemetery plot. Psalm 23 was read and the song *In the Garden* was played — as requested by White. About 10 people attended. Mayhall said the ceremony was fitting for White, and less of a headache. "The cost comparison was huge, and there was less red tape and logistics," she said, adding her mother's and grandfather's funerals were planned by a commercial funeral director. Only a handful of funeral homes across the country specifically advertise providing home funeral services, said Barrett, including her own. Otherwise, people have to inquire about caring for their deceased on their own.

A Sacred Moment-assisted home funeral will cost a family between \$1,600 and \$3,400. However, Barrett will teach families who want to conduct the process on their own, which can significantly cut the cost.

The absolute cheapest way to do it would be to bury someone on family property (in locations where that's allowed), which could cost only the death certificate, \$25 in Ohio, and the burial-transit permit, \$3,

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REST IN PLACE

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The boomer generation...went for natural childbirth, we wrote our own wedding vows, and now we want to create our funeral rituals.

Barrett said funeral homes have been reluctant to provide home funeral help, but some in the industry say they're willing to work with families who are inclined to handle their own arrangements.

"If a family wants to honor their member in their own home, funeral directors are supportive of that," said Jessica Koth, spokeswoman for the National Funeral Directors Association. She said most funeral directors will agree to use home-built caskets, for example.

"It may be services we don't care for, but we're here to serve the family," said Richard Caliman, funeral director at Cali-

man Funeral Services, on Refugee Road in Columbus.

Home funeral advocates say the trend is growing, albeit slowly. Since Barrett started A Sacred Moment in 2007, the number of home funerals she has helped with has grown from half a dozen a year to a dozen a year.

"The boomer generation is the information generation," said Lisa Carlson, executive director of the Funeral Ethics Organization, who has written about death-care laws in the U.S. since 1987. "We went for natural childbirth, we wrote our own wedding vows, and now we want to create our funeral rituals."

But the overall number of home funerals is thought to be small. One of the only possible ways to track home funerals is to check who filed the death documents — the family of the deceased or the funeral-home company, Harr said.

According to the Ohio Department of Health, five disposition reports have been filed by someone other than a funeral director so far this year, out of 62,367 dispositions filed as of Wednesday. Dispositions are records detailing the method of burial, either traditional or cremation. In

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2011, the number of dispositions not filed by a funeral director was 13, out of 111,575 total dispositions.

Harr said families wishing to handle funeral arrangements themselves should begin planning well in advance, considering that most people don't know the laws regulating care for the dead. Embalming, for example, isn't required by the state, and bodies can be preserved for a time with air conditioning or dry ice.

Burials don't necessarily have to be in cemeteries, either. State laws don't lay out specific guidelines for burial location or depth, Carlson said.

In her most-recent book, *Final Rights: Reclaiming the American Way of Death*, published in 2011, Carlson wrote that it's unlikely local zoning or public-health ordinances regulate home burial in most states, but she encourages families to double-check.

Columbus city code prohibits the burial of a person in the city, except for on land zoned as a cemetery. Families can register their private property as a cem-

etery through the state's division of -estate and professional licensing, said Jennifer Baugess, compliance coordinator with the state board of embalmers.

Other cost-cutting tips include building your own casket from wood or cardboard — Harr has some spares in her home — or using a shroud to cover the body instead. Typical caskets, bought through a funeral home or online from retailers such as Costco, can range in price from about \$2,000 to \$10,000, Faryna said.

For Harr, though, home funerals offer grieving families something more than extra money left over.

"As soon as death occurs, we want to hand it off," she said. "(A home funeral's) therapeutic value will let you accept that death has occurred."

Columbus city code prohibits the burial of a person in the city, except for on land zoned as a cemetery. Families can register their private property as a cemetery through the state's division of real-estate and professional licensing.



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AL CAPONE 1899–1947

Famous gravesites and epitaphs

Burial site: Plot 48, Mt. Olivet Cemetery, Chicago (1947–1952)

Epitaph: *Qui Riposa* (Here rests)

Disinterred and reburied 1952 in Mt. Carmel Cemetery, Chicago

Epitaph: "My Jesus Mercy"

Source: www.trivia-library.com

PEOPLE ON THE MOVE

Green Lawn Cemetery & Arboretum, Columbus

Linda Burkey retired at the beginning of August 2012. **Jack Lee-Harris** moved from Kingwood Memorial Park to become the General Manager at Green Lawn.

Kingwood Memorial Park, Lewis Center

Julie Black has been promoted to Administrator, and **John DeLong** has become Superintendent.

Spring Grove Cemetery, Cincinnati

In October 2012 **Gerry Wantz** will move from Lake View Cemetery in Cleveland to become the Vice President of Operations at Spring Grove Cemetery. The current person in that position, **Tom Smith**, will be retiring at the end of December 2012.

Woodland Cemetery & Arboretum, Dayton

Dave Fitzsimmons retired as President and CEO in June 2012. **Sean O'Regan** moved from Mt. Auburn Cemetery, Boston, Massachusetts, to become the new President and CEO.

A note from Deb Bell Cold Spring Memorial Group

I'd like to announce an exciting expansion at Cold Spring Memorial Group. We have consolidated the products and services we provide within one cohesive construction service program, and restructured our geographical sales territories. With these changes, I am pleased to introduce the new sales representative for the state of Ohio, Mike Neu. Mike has been with Cold Spring Granite for over 25 years and is looking forward to sharing his knowledge and experience with the members of the Ohio Cemetery Association.

I am excited to begin my adventure in a new territory; although it is difficult saying goodbye to all my Ohio friends. It has been my pleasure to work with the members of the Ohio Cemetery Association for over 20 years. I know that you will give Mike a warm welcome so he'll understand why Ohio is such an awesome state—it's the people! Thank you for everything you have given me over the years. I wish you continued success in all your ventures.

Deb Bell,
Regional Sales Manager
Cold Spring Memorial Group

PEOPLE ON THE MOVE lets you know about employees of our member cemeteries who have changed position within our industry. If you, or if you know of anyone, who has or will be making a move, please contact yourocajournal@gmail.com

MT. MORIAH IS CROWN JEWEL

Mt. Moriah Cemetery is a hidden treasure of history and beauty, often referred to as the “Crown Jewel” of Union Township, Ohio. The cemetery is currently owned and operated by the Union Township Board of Trustees, Clermont County, Ohio. The original cemetery consisted of fourteen acres, and presently includes over fifty acres of rolling

ments that are a link between the past and present.

Mt. Moriah Cemetery is situated on land rich in history dating back to the 1800s in the village of Withamsville. Withamsville is located on the southern border of Union Township, Ohio. It is on the survey made April 8, 1788, for Churchill Jones of Virginia. Jones was a

captain who served three years in the American Revolution. This survey was made more than seven years before the Indians signed the Treaty of Greeneville, which legally allowed United States citizens into the area. Maurice Witham received the patent to his land from President Thomas Jefferson on November 28, 1803. Reverend Witham was a Baptist preacher from the Saco Valley of Maine.

He left that state in March, 1800, and arrived in the Withamsville area in October of that same year. The village was originally called Witham’s Settlement, in honor of the family. Mt. Moriah Cem-

hills graced with large shade and evergreen trees, sparkling pond, lovely gazebos, chapel, park, and restful meditation areas. Carefully maintained to ensure the beauty and serenity for future generations, the cemetery has stately monu-



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etery was originally a part of the Witham farm. The Witham family, with the exception of Maurice, is buried in Mt. Moriah Cemetery. Originally affiliated with the Methodist Protestant Church of Tobasco (1835), the oldest section of the cemetery is located behind a picturesque little white chapel built in 1842. Some of the narrow, older, paved roads winding through Mt. Moriah Cemetery were originally used by horse and wagon, a reminder of days gone by.

Interred at Mt. Moriah Cemetery are some prominent pioneers and citizens dating back to the early 1800s. The Honorable Dr. William Doan (1792-1847) was an eminent physician. He was also a Representative and Senator in the Ohio Legislature, and from 1839-1843, a member of Congress. Politician Charles Cyrus Kearns (1869-1931) was a Republican and a United States Representative from the Ohio 6th District (1915-1931). Dr. Elisha Bennett (1809-1881) was one of the oldest practitioners of the county. In 1851, he was elected to be a Representative from Clermont to the Fiftieth General Assembly of Ohio by the Democratic Party. Also interred at Mt. Moriah Cemetery is Richard Stockton (1735-1810) who owned some of the land that the cemetery occupies

today. Stockton's grave is the oldest marked grave in the cemetery.

To operate and maintain an historic burial ground in a park-like setting, with a commitment to preserve and honor the heritage of past generations, to serve and respect the needs of the present generation, and to provide a legacy for future generations.

Mt. Moriah Cemetery staff strives to accomplish this mission year round, and this is what sets the cemetery apart as the "Crown Jewel". A major success and goal for Mt. Moriah Cemetery was to be awarded accreditation by the APWA (American Public Works Association) on July 29, 2011. The cemetery is the only township cemetery in North America to achieve this elite status. This challenge could only be accomplished through the overall commitment of the personnel to work together as a team. Ken Geis, Union Township Administrator, states, "We can talk about the service we provide to the folks in our community....and we can say we do that very well, but unless we have independent, unbiased assessment of that, to me, it's really meaningless. The Board of Trustees has continued to make the commitment to have that assessment and to

have these people from various parts of the country come in and benchmark us against the best agencies in the United States, and we continually fare very well.” Mt. Moriah Cemetery was assessed on fourteen practices including interment, mapping blocks, lot numbering, section development and section renovation among others, and was 100% compliant on all fourteen practices. Accreditation is a crowning achievement for this jewel of a cemetery.

the meticulous, park-like jewel of a cemetery that the community has come to appreciate. Each year the budget allows for key expenditures. Major structures are planned and implemented in various sections of the cemetery.

On the east side of Mt. Moriah Cemetery a sparkling pond with two fountains is located. An employee-designed and implemented the construction of a spectacular waterfall into the pond. The cemetery staff

worked diligently together to accomplish this crowning achievement. The hillside was carved away in steps, and tons of rock were cut and fitted exactly together. The rocks were chosen carefully for texture and color to form a natural looking water-



The staff at Mt. Moriah Cemetery is committed to high standards of maintenance and planning goals. The five employees, working on a fixed budget set by the Board of Trustees, are committed to working together as a team to achieve

fall. A small pond at the top of the waterfall is surrounded by green, leafy ferns. Water cascades from the small pond over a four-foot drop to an island

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constructed of layers of rock, topped by a huge, green Tennessee fieldstone. The island divides the water into two sides which eventually flow over a two-foot drop to another ledge of layered rock measuring twenty-five feet across. From here, the water pours over a one-foot drop into the pond. Additional rocks are immersed at the base of the waterfall to further add to the natural appearance. Surrounding the waterfall, beautiful landscape plantings enhance the overall splendor of the area. Purple butterfly bushes, hostas, ferns, pink and white azaleas and ornamental grasses complement the waterfall. This impressive waterfall is a magnificent addition to the cemetery, and is often used by the community as a backdrop for wedding and prom photos.

As with many cemeteries, Mt. Moriah Cemetery faces the challenge to meet the needs of the families to bury their loved ones. The Mt. Moriah Cemetery Cremation Scattering Garden was created by the staff to offer families another alternative for memorializing cremation. The Cremation Scattering Garden is located on the east side of the cemetery, adjacent to a sparkling pond. The garden can be reached by following a winding, stamped concrete walkway through a

graceful gazebo. The walkway continues around the perimeter of the garden. The Cremation Scattering Garden is enhanced with beautiful red rose bushes interlaced with green perennials. Over 850 spring daffodils and tulips are planted throughout the garden. An “Open Book” grey granite memorial is etched at the top “In Loving Memory Of”. Individual bronze name bars with birth and death years are placed on the memorial. Family members are invited to scatter the cremains themselves, or the cemetery staff will respectfully scatter them. The Mt. Moriah Cemetery Cremation Scattering Garden will be carefully maintained to ensure the beauty and serenity for future generations. This innovative Cremation Scattering Garden is another beautiful jewel at Mt. Moriah Cemetery.

Involvement in the community is a paramount goal for Mt. Moriah Cemetery. The cemetery provides a unique and touching ceremony for people to remember and honor their loved ones. The annual “Lantern Lighting Ceremony” begins with the cemetery staff providing guests with materials to create their own lanterns. Plywood platforms, rice paper, stickers, markers, glue, scissors, crayons for the kids, various poems on bright

colored construction paper and candles are available. Many people bring their own mementos like family pictures, poems, music sheets and artificial flowers. The guests assemble their lanterns under a large, white tent strung with lights. The tables are decorated with royal blue tablecloths, yellow mums and vases of floating candles. While a string trio from

photos, family portraits drawn with crayons, poems, and stickers—regardless of what goes onto the lanterns people make at the annual Mt. Moriah Cemetery Lantern Lighting Ceremony, one element accompanies all of them—love. One touching lantern was created for a husband who spent “Eight months in a prison camp—Germany WWII, cap-

tured September 17, 1945, Purple Heart.” A purple heart was colored on the lantern. Children are encouraged to decorate their lanterns. One child decorated her entire lantern with a blue sky, pink flowers, and a beautiful rainbow. Another lantern was decorated entirely in sheet music for a loved one who loved music. All of the lanterns are unique and personal. The event helps people by giving them an outlet to express their feel-



the Clermont Philharmonic Orchestra offers a backdrop of classical music, guests choose their materials and sit down to design personal and artistic messages to loved ones they have lost. The decorated rice paper will later enclose lit candles on the small platforms that will be set out on the pond at sunset.

As diverse as the crowd is, so is the variety of finished lanterns. Black and white

ings for their loved ones. Also, there is an overwhelming display of emotional support for each other. The thought, time and emotion that go into decorating the lanterns is touching to see.

The guests are treated to a catered dinner, followed by the presentation of the colors with a three-volley salute and

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Taps to remember the service men and women buried at the cemetery. Local Boy Scout and Cub Scout troops lead The Pledge of Allegiance and The Star Spangled Banner. In addition, a bugler plays Taps, and a final song of Amazing Grace as the lanterns are placed on the pond.

As the sun descends, guests gather at the pond. The candles are lit and the lanterns are set upon the water to carry their messages. As the lake is slowly illuminated, the individual lanterns join together to transform the darkness of the setting sun with glimmering candlelight.

The Lantern Lighting Ceremony has grown in the past five years from 250 people to 550. Mt. Moriah Cemetery strives to honor and remember those we bury by providing this touching and memorable event. A thank you note sums up the feelings of those who attended; "You helped ease the unbearable heartache by giving us a chance to show our love to our lost ones by expressing thoughts and memories on the lanterns."

Involvement in the community is reflected in the development of a lovely park within Mt. Moriah Cemetery. This truly unique park is known as Heritage Memorial Grove, and is a tremendous addition to the cemetery. The total area for the park is approximately 2.27 acres. The area is carved partially from a grove of oak and maple trees, with the majori-



ty of the grounds left in its natural state. The park is a perfect place for the community to gather, reflect and enjoy. The large main entrance of the park leads to an area described as an Outdoor Wed-

ding Cathedral, which includes a circular area that provides for elevated seating and a majestic, granite altar. This cathedral is incorporated into the natural setting which is spectacular for outdoor weddings. Another area of the park is graced with a stately granite monument with the inscription ““Heritage Memori-

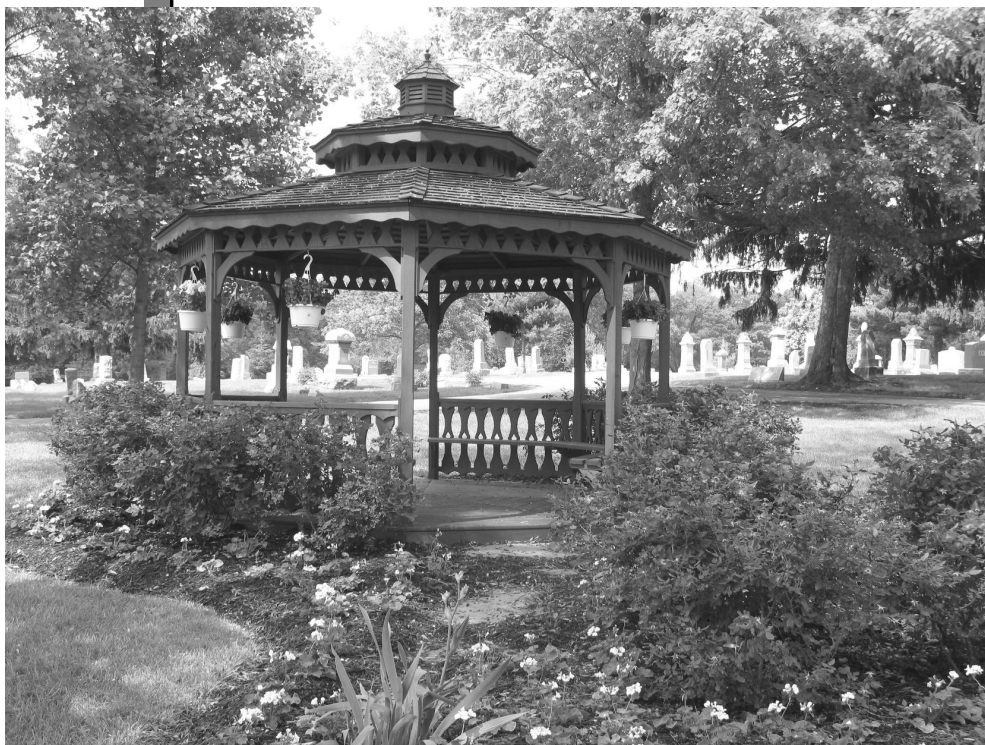
are lighted concrete walking trails. These trails are also handicap accessible. Granite benches are placed for visitors to rest and reflect. The park is available for use by the community for services, weddings and funerals. Park visitors can seek solitude to meditate and remember their loved ones, family and friends, or

simply enjoy the rustic, tree lined environment. Heritage Memorial Grove is another crowning achievement and wonderful addition to Mt. Moriah Cemetery, providing a lasting memorial for future generations to enjoy.

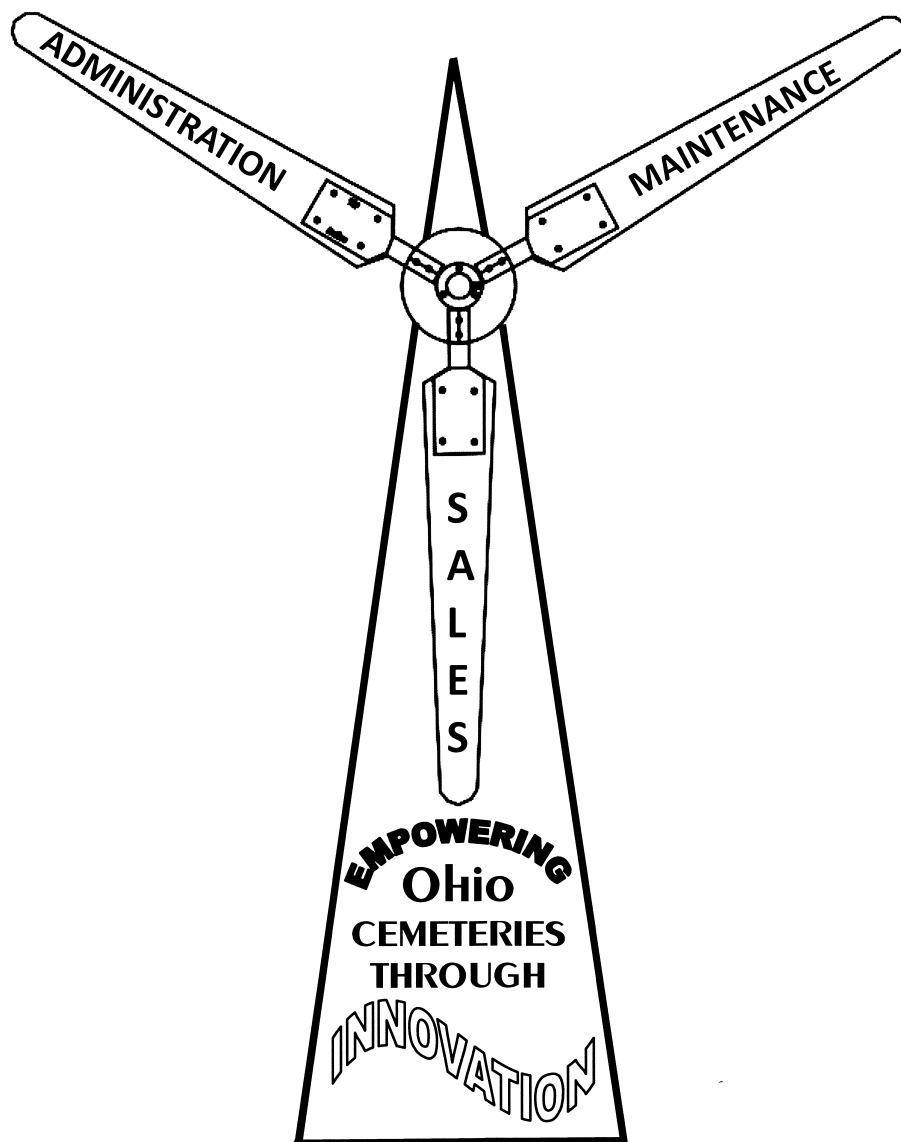
What sets Mt. Moriah Cemetery apart from other cemeteries? It is the commitment of our caring and compassionate team that works diligently to create a place of beau-

al Grove, dedicated to the memory of the pioneer settlers of Union Township, Clermont County, Ohio, by the Trustees of Union Township and Stanley E. Wilfert”. Winding through the woods

ty and serenity not only for those who are buried here, but for those who are paying their respects to their loved ones. This commitment makes Mt. Moriah Cemetery sparkle like a “Crown Jewel”.



OCA 2013 WINTER CONFERENCE



***EMBASSY SUITES
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2012 OCA LAW BOOK NOW ON SALE

The new OCA Law book is a coherent authority of the current laws affecting the operation of Ohio cemeteries. It has been developed with the cemetery operator in mind: It is written in “consumer friendly terminology” with a summary of all the sections from the Ohio Revised Code. It is easy to read and easy to use, which makes it an ideal resource for cemetery operators, cemetery boards, the various

cemetery entities, township, private, non-profit, union, etc. , the public, and cemetery attorneys.

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OVERSIGHT OR OVERKILL?

By Dan Applegate

The proposed Bereaved Consumer's Bill of Rights Act of 2011, also known as HR 900, is a figurative vessel that is dead in the water. Whatever its merits, had the bill passed, cemeteries would have been subjected to regulation through expansion of the Federal Trade Commission's Funeral Rule. But at this juncture, it appears to have fallen victim to a toxic mixture of bad-timing combined with an unsympathetic audience.

The fate of HR 900 is the result of three political threads woven together. First, the Republican controlled House of Representatives is anything but an incubator for new or expanded federal requirements; on the contrary, regulation is clearly antithetical to their view of governance - witness their criticisms of the Dodd-Frank financial regulation. Second, it seems that the bill's sponsorship by Democratic Representative Bobby Rush insured that the bill was dead on arrival, not because of who he is but, because he belongs to the minority party. GovTrak.us, a congressional internet tracking website that analyzes legislation, provided this prognosis on HR 900's chances: "This bill has a 1% chance of being enacted" primarily because "The sponsor is a member of the minority party." And, finally, while HR 900 was introduced early in 2011, the presidential cam-

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*Dan Applegate is
President of
Arlington Memorial
Gardens,
Cincinnati, Ohio*

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paing of 2012 has been raging almost full-throttle since the November, 2010 mid-term election resulting in a gridlocked Washington where not much since then has been accomplished. After all, how could a Congress that could barely muster the votes necessary to raise the national debt ceiling ever be expected to act on anything as mundane as cemetery regulation? So, for opponents of expanding the FTC Funeral Rule, a cohort of most cemetery operators led by the International Cemetery,

Cremation and Funeral Association (ICCFA), the sinking of HR 900 represents a convincing victory. But before the confetti and balloons descend from the rafters, I suggest we take another look at this issue.

In Part 1 of this article (May, 2012, OCA Journal)

I laid out the premises for those pushing federal regulation, an agitation led by point-man Josh Slocum, Executive Director of the Funeral Consumer's Alliance. While the horror show at Burr Oak Cemetery in Chicago was ostensibly the reason for expanding federal regulation to cover cemeteries, Slocum points to what he considers the overarching area of concern: the dearth of standardized record-keeping and the inconsistent "patchwork quilt" of regulation throughout the fifty states. This mish-mash, he says, creates a maze of

hurdles for cemetery consumers who attempt to report unfair, deceptive, unethical or even illegal practices. According to Slocum, the lack of a singular entity empowered with oversight authority tends to suppress the sheer volume of complaints, some that are serious and legitimate, and leaves many consumers so confused and frustrated that they just eventually give up. These constitute what he describes as a plethora of "under the radar" complaints that he often fields.

While researching this article, I interviewed Slocum. As I noted in Part 1, he is witty and articulate but the interview was animated by his passion. Even with long-held biases, I found many of his arguments persuasive and reasonable. But as I began wading through the weeds of the proposed legislation, including Slocum's own testimony to Congress, it became apparent that it would be extremely problematic for the cemetery industry to ever fall in lock-step and get behind HB 900 or any legislation that bore similarities. As I concluded Part 1, I posed the following question:

Even assuming there are problems in the cemetery industry, is responding with the Bereaved Consumer's Bill of Rights Act overkill? The balance of this article attempts to untangle that question.

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While Slocum's razor sharp arguments might sway some, there are still some myths that need to be dispelled. First of all, the decks need to be cleared of the marquee claim that federal regulation would eliminate abuses like those at Burr Oak. While it is a conveniently useful appeal to mobilize support, it is simply a canard. Even Slocum acknowledges that regulation would not prevent blatant acts of criminality. Furthermore, a structure is already in place when such abuses do occur: It's called the criminal justice system – and at least one person at Burr Oak has been sentenced to a long-term prison sentence.

A second myth is that funeral homes and cemeteries are similar and thus both should be regulated similarly. Of course funeral directors, regulated by the FTC since 1984, immediately jumped on board as a key supporter based almost entirely on some misplaced sense of balance. That is, funeral directors claim they have been unfairly singled out and that since funeral homes are regulated, then so too should cemeteries. Yet, this is a feeble line of reasoning that disregards substantive differences between the two; it is also the height of hypocrisy, especially for funeral directors, given how they and their state and national associations smugly assert their

superior uniqueness by waving their banners of “licensing” and “professionalism.” From this, an interesting question arises, one that when honestly answered decimates this “what’s good for the goose” argument: If funeral homes are unique, why would cemeteries be placed under their framework of rules?

But it's another part of the same myth that may have legs and is at least partially of our own doing.

Based on survey data, we have been told that consumers view cemeteries and funeral homes as virtually one and the same. During the past twenty five years, this claim has been repeated with such ubiquity that it is accepted as gospel. But, is it really true just because consumers say it is? Well, maybe - in a very limited context - but even that claim seems overcaffeinated. In Harris survey data from 2010, consumers responding to question after question seemed acutely aware of the distinctions between cemetery and funeral home services.

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common feature in other sectors of the economy. For instance, it would be laughable to claim that consumers are unable to draw a line of distinction between dentists and doctors even though both share in the delivery of health care services. The upshot here is this: Declaring funeral homes and cemeteries as “one and the same” is a case of false equivalence that discredits the argument for symmetrical regulation.

In truth though, the most troubling aspect of HR 900 is that it simply takes too big of a bite for the cemetery industry to swallow. When the ICCFA in-

vokes the specter of the “dead hand of government” assessing “crushing fines” that could “literally put many of us out of business,” it is effectively saying “Not on my watch”! As I reported in Part 1, Slocum

declaims these as scare tactics and “specious” arguments designed to whip up the support of the ICCFA membership. Maybe, but then it’s hard to ignore the fact that he has used Burr Oak as fodder to similarly whip up support in favor of HR 900.

It’s important to pause here and recog-

nize that both Slocum and the ICCFA, primarily through the person and voice of Executive Director Bob Fells, are advocates paid to represent and protect the interests of their constituents by using whatever means they have at their disposal. Slocum did precisely that in late May when he was interviewed by Anderson Cooper on the enormous grandstand that is *60 Minutes*. During the course of that interview, Slocum took dead aim at cemeteries by pointing out a litany of odious abuses and going so far as to say: “It’s not a few bad apples, it’s not isolated incidents; it’s embedded in the fabric of the death business in this country.” Hyperbole like that provokes responses and the ICCFA immediately issued a press release debunking Slocum’s claims calling them “troubling... misstatements of fact” and “unsubstantiated.”

Whether or not that is the case, Slocum’s *60 Minutes* comments were striking. Curiously, my interview with him in May did not portend anything nearly so provocative; and, his presentation at the Ohio Cemetery Association’s convention in August, where he focused primarily on mandatory price disclosures, was measured and restrained, even though his frustration with the process was on full display. This Jekyll and Hyde act seems odd but it might be explained by the fact that Slocum and

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the ICCFA have never been forced beyond the “shouting across the room at each other” phase. In years past, Congress was a place where compromises were struck and deals made. But today’s lawmakers—and calling them that is something of an oxymoron—can barely communicate with each other let alone exercise the knack to bring outside interest groups together to talk rather than shout. Yet, when shouting prevails, the status quo almost always wins—and in this case, it’s the ICCFA that represents the status quo.

But this status quo victory is good for cemeteries, right? In response, it’s probably fair to say that almost all cemetery professionals feel good about the outcome. Yet, for a different take, I spoke with both Tim Long, OCA legal counsel and lobbyist, and Ted Hornyak, former investigator of the Ohio Cemetery Dispute Resolution Commission (OCDRC). Both were pleased that HR 900 seems to be withering on the vine. And, both were adamant that cemeteries in Ohio are adequately regulated—just not overly so. Hornyak, the low-keyed but effective watchdog of many years, went so far as to say that almost all of Ohio’s cemetery problems are of the minor variety that can usually be resolved with a phone call or two—with

the exception of a “knucklehead cemetery operator here or there.” Long added that, in addition to Hornyak’s admirable record as Ohio’s cemetery consumer advocate, and the watchful eye of both the Ohio Department of Commerce and the OCDRC for issues that should be referred to local prosecutors or the Ohio Attorney General, consumers can seek relief in state court under the Consumer Sales and Practices Act. This, he says, might be easier, cheaper and quicker than a federal agency acting on the same complaint. And, not unexpectedly, both Long and Hornyak expressed concern over penalties and fines which would accrue on the uninformed cemetery operator in the event that federal regulation is adopted. Most of all, they questioned why another level of regulation is needed when the efficient process in Ohio is working.

It’s hard to do better than these two expert sources and it’s gratifying to hear that the Ohio system is working so efficiently. But their assurances may unintentionally substantiate Slocum’s central claim: that state cemetery regulation is an inconsistent proposition, adequate in some states and woefully insufficient in others. Thanks to the dedication of Hornyak and the good work of the OCDRC, Ohio does have a damned

good track record. But, can the same be said of the other 49 states? For that matter, a consumer might be forced to resort to civil litigation—even in Ohio. In other states, civil action may quite literally be the only source of consumer relief, a discouraging gap in consumer protection according to Slocum.

Even so, the bottom line appears to be that the ICCFA will again prevail in staving off yet another challenge from regulation provocateurs. With so much at stake Bob Fells and his staff, together

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with the strong support of its members wisely marshaled the association's resources by employing a defensive "circle the wagon" strategy that was a hand-in-glove fit for a politically

gridlocked environment. In the short term, it was genius and seems to have worked.

The longer term may present more difficult challenges. As it turns out, the issue that animated this battle to begin with - Burr Oak - is more than just an issue. It's a message, and what it says is that as horrific as Burr Oak was, it's not big enough by itself to upend the status quo, regardless of how forcefully the case is made. But we live in a fluid world where circumstances change. Burr Oak is only one name on what is a growing list of shocking and headline

grabbing cemetery malfeasance. If that list continues to grow, it is likely to reach a tipping point that will crush even the best defensive strategy.

Commenting in 2011 on the appetite for regulation, the American Enterprise Institute, a conservative, pro-business think tank with unimpeachable free enterprise bona fides, wrote that, "Americans...still want government to watch over business, particularly industries they believe are behaving badly. When an industry is in the news for perceived improper activity, public support for more aggressive regulation is strong." Trying to predict the next big cemetery story and how it will affect public opinion is, of course, impossible. Yet one thing is certain: once public opinion tips against cemeteries, draconian regulatory measures may not be far behind.

Obviously, when HR 900 is unwrapped, many of its contents - things like "crushing fines" - are non-starters for cemeteries and thus it is by definition overkill. But the time might be ripe and the ICCFA might be wise to switch gears and begin working with Slocum to consider a wide array of measures, including such things as mandatory price disclosures. It goes without saying that a broad majority of cemeteries might not like it. But it may be palatable particularly if they come to appreciate that waiting until the next big cemetery story breaks means they have waited too long.



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Bob Moses, Vice President

Crown Burial Park
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Phone: 330-562-5826 • FAX: 330-995-9082
mosesenterprises@msn.com

John Bokas

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bokasj@nsmg.com

Mark J. Bollinger

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Scott Harmon

Dover City Cemeteries
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scott.harmon@doverohio.com

Rufus Slade

Woodland Cemetery & Arboretum
118 Woodland Avenue, Dayton, Ohio 45409
Phone: 937-228-3221 • FAX: 937-222-7259
rufus@woodlandcemetery.org

YOUR OCA STAFF

Jan Burrowes, Secretary/Treasurer

BCS

219 Webbshaw Drive

Centerville, Ohio 45458

Phone: 937-885-0283 • Fax: 937-885-4512

jburrowes@cemeterydata.com

John Ohnstad, Supplier Representative

Matthews International

2071 Summit Row Boulevard

Powell, Ohio 43065

Phone: 614-761-1530 • Fax: 614-798-0085

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