

Cemeteries Commission Meeting Summary

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Steve Rankin
Advocacy Planner
steve@jcci.org



What: Fact-finding meeting of the Abandoned and Neglected Cemeteries Commission.

Where: JCCI Headquarters (2434 Atlantic Blvd., Jacksonville, FL)

In attendance: Commission members: Jerry Spinks, Chairman. Brenda Ezell, Jon Ferguson, Emily Lisska, Hazel Mack, Joel McEachin, Richard Mueller, Louise Warren. General Public: Harold Felder, Kay Gilmour, Lois Gray, Bill Jabor, Len Loving, Marsha Oliver, John Pittman, Shorty Robbins, Larry Rosenblatt, Linda Rosenblatt, Robert Sanders, Ann Staley, Bruce Vacce. JCCI Staff: Skip Cramer, Ben Warner, Steve Rankin.

Meeting Time: 8:15 – 9:45 a.m.

Discussion: Mr. Spinks opened the meeting by welcoming the Commissioners and the general public to the first of nine weekly fact-finding meetings of the Cemeteries Commission. He noted that the focus of the Commission's work is to recommend to the Jacksonville City Council an action plan for the preservation and maintenance of unlicensed private cemeteries in Duval County that have been abandoned or neglected.

Mr. Rankin noted that JCCI was retained by the City Council to facilitate the project working closely with the Blue Ribbon Commission. He briefly explained that the JCCI process is based on consensus building, and that everyone is invited to offer his or her input at each meeting. All meetings are open to the public, and all viewpoints are welcomed.

Resource Speaker presentations:

Brenda Ezell, a Commission member and an attorney with the Jacksonville law firm of Edwards Cohen, provided an in-depth presentation on how the law impacts cemetery issues. A complete copy of her power point presentation is posted on the JCCI website (JCCI.org) under the section entitled "Cemetery Preservation Project." Ms. Ezell explained that both local and state laws are applicable in regard to cemeteries, and that in many cases the local ordinances and Florida statutes contradict each other. She suggested that the Commission may wish to consider recommending amendments to the local ordinances to better match state law.

Other points included in Ms. Ezell's presentation were:

- A cemetery for which there is no traceable ownership and which is not being maintained may be declared a "public nuisance" which gives the city or municipality more rights with regard to its maintenance.
- No person shall inter any human remains in any place other than an approved cemetery. This, for example, precludes someone from burying a relative in his/her backyard.
- A "perpetual care and maintenance trust fund" must exist or be established by any person wishing to sell burial sites. The net income of such trust funds must be used solely for the care and maintenance of the cemetery; reasonable costs of administering the care and maintenance; and reasonable costs associated with administering the trust fund. An amount not less than 10% of the purchase price of the burial sites sold must be placed in the trust fund.

- The law permits bringing in private dollars to help supplement public funding of cemetery care and maintenance.
- The City of Jacksonville has an existing trust fund for the maintenance of cemeteries.
- The City can recoup the costs of abatement from cemetery owners.
- Violation of any provision of the Local Ordinance Code 173.112 which governs the above issues is a Class D offense and subject to a \$255 fine per day
- The state may petition the circuit courts for appointment of a receiver for abandoned cemeteries if it deems it advisable.
- Certain classes of cemeteries can be “exempt” from Florida statutes, including religious institution cemeteries of less than 5 acres; county and municipal cemeteries; cemeteries owned and operated by a religious institution prior to 1976; and others.
- State law provides that a county or municipality may provide (but is not obligated to do so) for the maintenance and security of a cemetery that has been abandoned or neglected for a minimum of six months. A county is also entitled to spend public funds for the maintenance of such facilities provided it gives notice to the state.
- Relatives of persons buried in a cemetery have the right to visit the cemetery at reasonable times. The owner of the cemetery may designate the easement for ingress and egress. The relatives can request that the owner provide reasonable maintenance of the cemetery, and if the owner refuses, the relatives have the right to maintain it themselves.
- It is a third-degree felony for any person to willfully destroy, mutilate, deface or remove any tomb, monument, gravestone, or fence protecting the grave; or to remove or damage any trees, shrubs or plants placed within such enclosure. It is a second-degree felony to disturb the contents of a tomb or grave.

Richard Mueller, a Cemeteries Commission member and operator of Jacksonville’s Evergreen Cemetery, served on the Florida State Task Force for Abandoned and Neglected Cemeteries in 1998-99. Mr. Mueller provided the highlights of that group’s report to the State Legislature in January, 1999 (report posted on JCCI website):

- Sufficient information existed for the Task Force to determine that abandoned and neglected cemeteries constituted a problem in the statutory sense, and that the problem of abandonment was sufficiently widespread to warrant government intervention.
- Reasons for neglect and abandonment range from saturation of the cemeteries and economic failure, to lack of interest and changes in societal norms.
- The Task Force determined that 40-50% of the 3,580 cemeteries in the state were abandoned or neglected.
- The Task Force recommended that owners of unlicensed cemeteries be required to care for them in a proper manner.
- It suggested that local governments are the best way to handle the problem caused by abandoned and neglected cemeteries, combined with a statewide approach through a non-profit entity.
- It recommended legislation to establish guidelines, definitions, methods of establishing care for neglected cemeteries, the funding mechanism for such projects, etc.

Mr. Mueller noted that no action was ultimately taken by the state legislature on the recommendations of the Task Force and it was subsequently disbanded.

What we learned today:

The Commissioners shared their thoughts on the salient points coming out of today’s presentations. The general public was invited to provide their input as well:

- It may be important to revise the Local Ordinance Code to better align with Florida statutes on cemeteries.
- There is a need to specifically define what a “city cemetery” is. How do “private cemeteries” relate to city cemeteries?



- The right of ingress/egress for relatives is unspecified. What constitutes “reasonable” access?
- When a cemetery is placed in receivership by the state, the receiver can either sell it off or it continues under the receiver. It is extremely expensive, so the state generally tries everything possible to avoid receivership.
- The most difficult challenge facing the Commission is to identify dedicated funding sources for preservation and maintenance of abandoned cemeteries.
- Unless they are “exempt”, cemeteries are assessed property taxes which, in Jacksonville, are placed in the City’s general fund. Is it possible to designate that property taxes paid by cemeteries be segregated in a separate fund to help defray the cost of ongoing maintenance?
- Of the abandoned cemeteries in Jacksonville, how many of them are assessed property taxes, and how many of them pay. What happens if they don’t?
- It is likely that a sizeable number of abandoned cemeteries have abatement liens against them, but no one seems to be actively engaged in collecting them.
- State law requires perpetual care and maintenance trust funds, but hardly any such trusts are substantial enough to actually cover the cost of perpetual maintenance.

Mr. Spinks noted that the next meeting of the Cemeteries Commission on September 19, 2007 (8:15 a.m.) will focus on mapping and identification of cemeteries in Duval County.

The meeting adjourned at 9:45 a.m.