

Cemetery Care and Maintenance

Township State Called Meeting

2017

IC 23-14-69

Establishment of Public Cemeteries by Townships

- ▶ Land may be purchased (Section 5) or donations accepted (Section 4) to establish a Township Public Cemetery.
- ▶ The public cemetery may be used by the inhabitants of the Township. The Trustee may prescribe regulations governing the use of the cemetery.
- ▶ Duties of the Trustee - (1) lay out the land in lots; (2) plat the land; (3) record the plat in the County Recorder's office.
 - ▶ Lots must be numbered.
 - ▶ Trustee shall appoint one freeholder and one appraiser to fix values on the lots.
- ▶ Trustee may sell lots at a private sale.
 - ▶ Sales shall not be made for less than the value fixed under Section 7.
 - ▶ Proceeds must be used to pay cemetery expenses. Any surplus must be held as a fund for cemetery repair.
- ▶ Expenses for administering Public Cemeteries must be paid out of the Township fund.

IC 23-14-68

Care of Cemeteries by Townships

- ▶ Applies to a cemetery that is without funds; was in existence on 2-28-39; and is operated by a nonprofit organization or no viable organization.
- ▶ Trustee responsible for locating and maintaining all cemeteries listed above. However, if they provide assistance to a cemetery association, then the Trustee is required to get a verified statement of assets and liabilities.
- ▶ For these types of cemeteries maintenance includes:
 - ▶ Resetting and straightening all monuments
 - ▶ Leveling and seeding the ground
 - ▶ Constructing fences or repairing existing fences
 - ▶ Destroying detrimental plants (see IC 15-16-8-1), noxious weeds, and rank vegetation.
- ▶ Trustees shall appropriate enough funds to care for these cemeteries and may levy a Township Cemetery Tax or part of the Township fund may be used.
- ▶ Trustee may sell plots that are not know to be owned. Proceeds shall be maintained in a Cemetery Maintenance fund or if one doesn't exist in the Township Fund.

IC 23-14-64

Conveyance of Cemetery Association Land to Townships

- ▶ Trustees may accept a conveyance of land belonging to a Cemetery Association. After acceptance they must maintain the land as a public cemetery.
- ▶ If the Cemetery Association has endowment funds, cash, securities, or other assets they must be turned over to the Trustee.
 - ▶ Assets turned over may only be used to
 - ▶ Purchase additional land
 - ▶ Make permanent improvements
 - ▶ For upkeep and maintenance
- ▶ Any administration expenses must be paid out of the Township fund.
- ▶ Trustee is not authorized to maintain cemeteries owned or controlled by Cities, Towns, or Cemetery Associations.
- ▶ Trustee is not allowed to make contributions or pay for maintenance from public funds to a cemetery association.

IC 23-14-63

Conveyance of Township Cemeteries to Private Corporations

- ▶ Requires 10 or more heads of families (1) who reside in the Township or in the immediate vicinity of the cemetery; and (2) who own lots in and have dead relatives buried in the cemetery to organize as a corporation for the burial of the dead and the maintenance of a cemetery.
- ▶ Person above may petition the Trustee to convey the cemetery to the corporation. Petitioner must publish a notice per IC 5-3-1-2 at least three weeks before the filing.
- ▶ Petition must state that the corporation will have at least \$1,000 in an endowment or perpetual care fund; and agree to increase the balance in the fund to keep the cemetery in proper condition.
- ▶ When the Trustee is satisfied that the petition is signed by a majority of the lot owners who are residents of the Township or of the immediate vicinity of the cemetery, then they must convey the cemetery to the corporation.

Trustee Compensation for Cemetery Care

- ▶ Our current audit position can be found in the February 2009 (Volume 284) and August 2013 (Volume 302) Township Bulletins.
- ▶ IC 36-6-4-3 list the various duties of a Trustee. Subsection (9) includes “Provide and maintain cemeteries under IC 23-14”.
- ▶ IC 36-6-6-10 requires the Township Board to fix the salaries and wages of all officials and employees. It also includes that salaries for Trustees may not be altered during the year in which they are fixed.
- ▶ The SBOA audit position is that the compensation provided by the Township Board is all inclusive for all duties that they are required to perform. We are not aware of any statutory provision that would allow the Trustee to contract with themselves to provide cemetery care.

Contract for Cemetery Care services

- ▶ The suggested supporting documentation for payments to independent contractors or individual vendors for cemetery care is a service contract. Other option would include a bill/invoice from a licensed business.
- ▶ Contracts should include the frequency in which services will be provided; rate that will be paid; and what documentation will be provided to ensure services are received.
- ▶ Keep in mind that individuals that receive more than \$600 in payments during the calendar year would need to receive a 1099 Misc. Income form.