

citing the case of *Walsh vs. Columbus*, 36 O. S. 169. The case of *Walsh vs. Columbus* was decided by the Supreme Court of Ohio in 1880. It went no further than to hold that cemetery trustees acting under Section 367 of the Municipal Code then in force, were not required to advertise for, or receive bids for the work or materials that go into an improvement, for the reason that the requirements of law then in force with reference to letting public contracts upon competitive bidding did not apply to cemetery trustees. Section 367 of the Municipal Code was Section 2522, Revised Statutes, which was codified with the changes noted above, as Section 4162, General Code. Since the codification and the several changes in the statutes to which I have heretofore referred, the provisions of Section 4528, General Code, with respect to public bidding, now apply to directors of public service in their management of cemeteries in cities, and the Walsh case has no application whatever under the present law.

Since the statute provides that when an expenditure within the department other than for the compensation of employes, exceeds \$500.00 in cost, it must first be authorized by council, and since in my opinion, this provision applies to joint cemetery trustees, it becomes pertinent to inquire which council or which board must first make an authorization before the expenditure may be incurred.

The council or councils of any municipal corporation or corporations and the trustees of a township, which own a cemetery in common, are constituted by law a joint board for the control and management of the affairs of the cemetery (Sections 4189 to 4192, General Code). By the terms of Section 4193, General Code, a joint meeting of the boards may be held at any time for the transaction of any business which may legally come before it, and especially for the making of such orders as may be found necessary for the application of moneys arising from the sale of lots, taxes, or otherwise.

It seems clear that this joint board bears the same relation to the board of cemetery trustees that a city council does to the director of public service in cities, and therefore the authorization to expend more than \$500.00 should be made by this joint board of councils and township trustees.

It is therefore my opinion that when an expenditure in excess of \$500.00 is made by union cemetery trustees elected by authority of Section 4193-1, General Code, other than for the compensation of persons employed by such trustees, such expenditure must first be authorized by resolution of the joint board consisting of the council or councils of the municipal corporation or corporations and trustees of the township which own the cemetery in common. When so authorized and directed, the cemetery trustees are required to make a written contract with the lowest and best bidder after advertisement for not less than two nor more than four consecutive weeks in a newspaper of general circulation in the subdivisions owning the cemetery.

Respectfully,

EDWARD C. TURNER,
Attorney General.

2637.

APPROVAL, BONDS OF THE VILLAGE OF MONTPELIER, WILLIAMS
COUNTY, OHIO—\$29,000.00

COLUMBUS, OHIO, September 28, 1928.

Industrial Commission of Ohio, Columbus, Ohio.