

NORTH CAROLINA CEMETERY COMMISSION

April 21, 2010

10:00 A.M.

The North Carolina Cemetery Commission held a meeting on Wednesday, April 21, 2010 in the Wood Oak Building, Suite 242, at 1100 Navaho Drive, Raleigh, North Carolina. The Commission members in attendance were Chairman, Leonard J. 'Boscoe' Fulcher, Jr., Vice-Chairperson, Linda Cotten, and Members Ralph Yates, David Brown, Michael 'Dicky' Powell, Frank Rose, Jr., William 'Bill' Gaffney, Gantt Stephens, and new member Glenn Cutler. The Commission's Administrator Jimmy Miller and Auditor Brenda Jeffers were present. Administrative Assistant Nancy Waggoner was absent. Attorney Anne Brown and Attorney Faison Hicks from the Department of Justice provided legal representation. Numerous interested parties also attended the meeting.

The meeting was called to order by Chairman Boscoe Fulcher. He read a statement of purpose by the Commission and called for a brief Moment of Reflection in silence. Chairman Fulcher next welcomed new Public Member, Glenn Cutler to the Commission. That was followed by changes in the Agenda order. Chairman Fulcher moved Item 5 (a.) of Old Business to make it Item 6.5. Ralph Yates moved Agenda Item 6, Public Address the Commission to Item 2.5 just after the Administrator's report then made a motion for 'Agenda Approval' with the noted changes. Bill Gaffney seconded the motion. All voted in favor.

The first item on the agenda was a reminder from Chairman Fulcher to the Commission members that if there were any known conflicts of interest or appearance of conflicts in regards to the matters being brought before them to let it be known in accordance with the Governor's Executive Order. Bill Gaffney recused himself from the New Business Item of the Change Of Control because he was the seller. There were no other known conflicts.

The second item on the agenda was the Administrator's Report. Administrator Jimmy Miller began the report by talking about the budget. There was \$14,700.00 in the bank. They were approaching the end of the Fiscal year on June 30th, 2010. Mr. Miller reminded Members that back in August, 2009 when the NC State Legislature passed the Budget, it took *all* of the cash balance on hand in the account that usually would have been carried over to the next fiscal year. That amount was \$259,239+, which left them with a zero balance. The majority of that was collected in May and June as license fees. Mr. Miller further explained that on June 30th of 2010 the Legislature will take 20% (twenty) percent of whatever cash balance is on hand. He stated that a remedy would be to ask the Legislature for an exception or ask to change the license renewal period to January instead of July, which would give them 6 (2) months to spend down the amount. Given the current budget restrictions, he felt that the Commission would not be able to count on the Legislature for any help this year. Mr. Miller next updated the members on sales licenses. There were 584 preneed sales licenses issued so far and 175 of 176 cemetery licenses were issued. Mr. Miller stated that they would talk about the missing cemetery later in the Old Business report. Mr. Miller next gave the Audit report. There was only 1 (one) cemetery left that was in the 8 (eight) years and older category and 8 (eight) that were in the 7-year timeframe. They were slowly, but surely whittling them down. Mr. Miller, subsequently, presented a new item that he came across recently while handling a complaint. He queried Members if they had heard of a cemetery policy on replacing damaged markers, when it's the cemetery's fault. He found that one cemetery's policy was to do

‘nothing’ until someone complained, such as a family member. That bothered Mr. Miller. Members had not heard of this. Dicky Powell said that it sounded like poor business practice to him. Jimmy Miller said that was the first time he had seen it in writing. After that, Mr. Miller reported that there were 2 (two) cemeteries in the western part of the state that were in receivership and it wasn’t of the Cemetery Commission’s doing. It was done through a financial problem. The cemeteries were still sending in their monthly reports and Mr. Miller was working with a CPA firm on the Annual Reports. Chairman Fulcher asked if the mowing was being done. Mr. Miller said he could request that of the receiver if he was so directed. Frank Rose made a motion directing the administrator to send a letter to the receiver regarding the mowing and upkeep of the cemeteries. Gantt Stephens seconded the motion. All voted in favor. The next item discussed was about a cemetery that had gone through a Change of Control in November, 2005. The new owners decided they didn’t want to be in the cemetery business anymore, so they up and left in late January or February of this year. The former owner who had a personal note on the cemetery *business*, not the cemetery *property*, came back to operate the cemetery. The question was, if this was a new Change of Control or a reversion or what. Mr. Miller asked for guidance since there was no precedence in the minutes. After some discussion, members told Mr. Miller to advise the former owner that it was a Change of Control. Then Mr. Miller spoke to reference letters for sales license applications. He described how every month he received many sales license applications. Each one comes with at least 2 (two) reference letters. These reference letters are to speak to the applicant’s ‘character, morals, and habits’ per the sales license application. Mr. Miller told how he reads each and every one of these reference letters to see if they adhere to the standards set by the Commission. One such letter had the same address as the applicant for the referring person, which set off some bills and whistles. Also, the signature was the same exact writing on the letter as the applicant. He brought this to the attention of the referring party. Then he received a second letter with the dates, name, and signature whited-out. He has a high degree of suspicion about many of these reference letters. Some are not signed, have no address or telephone number; some even say ‘Joe is a good person for the job’, which tells nothing about the person. After much discussion, Bill Gaffney made a motion to amend the instruction for the reference letters to include the referring party’s name, address, contact number, place of employment, relationship to the applicant, and send the original copy of the reference letter to the Commission office with the sales license application. David Brown seconded the motion. All voted in favor. With regard to the current applicant, David Brown made a motion to reject the current letter and resend with the new guidelines. Gantt Stephens seconded the motion. All voted in favor. That ended the Administrator’s report.

Then, Chairman Fulcher announced the reading and approval of the minutes of the January 20th, 2010 meeting. Ralph Yates made a motion to accept the minutes as presented. David Brown seconded the motion. All voted in favor.

The next item discussed was Requests from the Public to Address the Commission. Mr. Michael Rulison of the Funeral Consumers’ Alliance urged the Commission to be proactive and send representation to the General Assembly regarding action on Senate Bill 18 and House Bill 587. These bills would benefit consumers. Consumer Advocate, Jody Rentz, addressed the Commission next. She asked how consumers would go about getting information and the names of the cemeteries that were in receivership. Jimmy Miller said that she can send in a Formal Request for Public Information and he will give her all the information he has. Another item of her concern was business practices. She was pleased to hear that Jimmy Miller was addressing the issue of headstone damage and hoped that cemeteries would take complaints from anyone, not just a relative. Another concern of Ms. Rentz was whether cemeteries issued deeds anymore. One of her neighbors has been waiting a long time for a deed

or something. The cemetery owner promised to send her one. Members informed Ms. Rentz that Certificates of Interment Rights are issued now, and yes, she should have received one. The cemetery should also have sent in a 'deed' report, as well, to the Commission. If she furnishes the information to the Commission they will check it out. Attorney Faison Hicks advised Ms. Rentz that she may receive much more information if she goes to the county and speaks to the Clerk of the Superior Court and looks at the reports the receiver has filed. She can then attend the hearings and ask any questions of the Judge and make any complaints. The Superior Court appoints the receiver. Jody Rentz thanked the Commission. There were no other members of the Public to address the Commission.

The next item on the agenda was the reports of special committees. Chairman Boscoe Fulcher said that they have not met, unless they met without him. Bill Gaffney stated that he met with the Cemetery Association members concerning the Recovery Fund. They were working on the framework with an attorney. Committee members Linda Cotten and Ralph Yates were not part that meeting due to lack of notification. The Committee should meet prior to the next meeting in July. Frank Rose told members how successful the funereal directors' fund has been. Chairman Fulcher added Frank Rose to that Committee as well. The Committee to study the Cemetery Act and the Administrative Rules had no action to report.

Item 4 on the agenda was the Report from the North Carolina Cemetery Association. Rusty Tysor, Executive Vice-President, brought greetings from President Bob Case. At last report Mr. Case's wife needed a kidney transplant. The surgery went well and he thanked all for their prayers. Mr. Tysor next announced that the Association's Spring Seminar on Maintenance and Sales and Admin was postponed until fall due to scheduling conflicts. Mr. Tysor said that he really wanted to promote their Annual Summer Convention with South Carolina at the Myrtle Beach Embassy Suites Hotel on July 11-13, 2010. It will be held with the Southern Cemetery Cremation and Funeral Association, involving about 19 (nineteen) southern states. Mr. Tysor had registration forms for all interested parties. Lastly, Mr. Tysor talked about their membership drive. He said that of the 176 licensed cemeteries, only 75 were current members. The Association was putting together a new member program with discounts and incentives. Next Lucius Pullen, Lobbyist and Counsel for the Association gave the legislative update. Mr. Pullen reported on the proposed Budget bill by Governor Beverly Perdue. He was concerned about the part that said the Governor was looking into merging or eliminating the 342 independent Boards and Commissions. He needed to do some further research on this. He mentioned that South Carolina has all of its licensing commissions housed in the Office of Licensing and Compliance within the Department of Labor; and Virginia's Department of Professional and Occupational Regulations regulates more than 30 (thirty) occupations through 19 (nineteen) licensing commissions. Mr. Pullen further told members that the study commissions would not be doing much of anything in this legislative 'short' session. Frank Rose asked for an update on House Bill 587 and Senate Bill 18. Lucius Pullen advised that HB587 was not eligible for consideration by the Legislature and S18 was still in committee and did not have enough votes to bring it out. There were no other questions. Chairman Fulcher thanked the Association for their report.

The next item on the agenda was Old Business, Without Action. The first item was the Administrator's visit to Sylva and Bryson City. Jimmy Miller said that it was on his agenda, but has not happened, yet. The Final item of Old Business, Without Action was the Bond Project. Mr. Miller said that it was ongoing. There was no other Old Business, Without Action.

The next item discussed was New Business, which was the Change of Control of Gardens of Faith Cemetery in Lumberton. Bill Gaffney was recused from this item. Olivia Revels (buyer), Juddie Revels III, and Brenda Lowery, General Manager, were in attendance and Ms. Lowery would remain the general manager. Jimmy Miller told members that he had performed his administrative review and all was in order. Frank Rose made a motion to approve the change of Control. Dicky Powell seconded the motion. All voted in favor.

Chairman Boscoe Fulcher called for a short break before going into the Agenda items that would probably bring about Executive Session(s). Break began at 11:16 a.m. and ended at 11:26 a.m.

After the break, Ralph Yates made a motion to go into Executive Session to receive legal guidance from Attorneys General Anne Brown and Faison Hicks regarding all Items, 1-4 of Old Business, With Action. Frank Rose seconded the motion. All voted in favor. Executive Session began at 11:27 a.m. and ended at 12:20 p.m. During Executive Session, legal advice was sought, received and discussed concerning the LQ Trustee update, the OAH appeal filed by Azalea Memorial Gardens, the Collection of Fees for Late Reports from Laurel Memorial Gardens that was tabled at the last meeting, and Lee Memory Gardens failure to renew cemetery license; and members were satisfied. The matter of the Collection Fees for other cemeteries was under review.

Coming out of Executive Session, Bill Gaffney made a motion to set aside any penalties on Laurel Memorial Gardens since they had sent in the necessary reports and paid the required fees. David Brown seconded the motion. All voted in favor. Gantt Stephens made a motion to accept the renewal of Lee Memory Gardens and to waive any fees and penalties. Ralph Yates seconded the motion. All voted in favor.

Prior to ending the meeting, Glenn Cutler wanted to know where the board stood on S18 and HB587. A discussion ensued regarding the two bills and bonding. Jimmy Miller would furnish each member a copy of the bills and there would be a discussion via teleconference a week or so afterwards. David Brown asked about the Sandunes vaults. Mr. Miller said the last he heard was that Sandunes was ready to deliver the paid vaults to Lee Memory Gardens per the customer contracts. There was no other business.

Chairman Fulcher reminded Members the next meeting date was Wednesday, July 21, 2010 at 10:00 a.m. Frank Rose made a motion to move the meeting start time to 9:00 a.m. Linda Cotten seconded the motion. All voted in favor. So, the next meeting would be at 9:00 a.m. instead of 10:00 a.m.

David Brown made a motion to adjourn. Ralph Yates seconded the motion. All voted in favor. The meeting adjourned at 12:51 p.m.

CHAIRPERSON

DATE