

State of North Carolina
Cemetery Commission Meeting Minutes
April 22, 2015

The North Carolina Cemetery Commission held a meeting on Wednesday, April 22, 2015 in The Hilton North Raleigh Midtown located at 3415 Wake Forest Rd, Raleigh, NC 27609. Those Members in attendance were President Gantt Stephens, Vice-President Glenn Cutler, Treasurer William "Bill" Gaffney, Commissioners, Angie Thomas-Daoud, Brad Bailey, Linda Cotton, John Graham and Richard "Dick" Lagatore. Commissioner David Brown was absent. Members of the public were also in attendance.

The meeting was called to order by President Stephens, who opened the meeting with a Moment of Reflection. First item was Agenda approval; Mr. Stephens added item 5-F, Personnel. Ms. Cotten moved to approve the amended Agenda, Ms. Thomas-Doud seconded the motion, all voted in favor to accept the agenda.

Next up for approval were the minutes from the January 21, 2015 meeting. Mr. Stephens noted that the minutes are longer than typical due to the inclusion of the Ethics letters for all commissioners. Mr. Cutler moved to approve the minutes, Ms. Cotten seconded the motion. All voted in favor.

I. CONFLICTS OF INTEREST:

President Stephens declared that, in accordance with the State Government Ethics Act 138A15E, it is the duty of every Commission Member to avoid both conflicts of interest and appearances of conflict in regard to the matters being brought before them today, and to refrain from any undue participation in the particular matter involved.

Mr. Stephens then asked if there were any conflicts of interest. No conflicts of interest were reported.

II. PRESIDENT'S REPORT:

President Stephens began his report with news that Vikki Tollefsen had resigned from her position with the Commission.

There have been 14 complaints filed calendar year to date. 12 of those have been resolved. The remaining two are in process and are within the 20 day response period.

Mr. Stephens moved on to inspections reporting that 25 inspections had been completed in 2015. Mr. Stephens also reported that 10 annual reports remain outstanding. These ten annual reports were past due as of March 30th.

Mr. Stephens asked if there were any questions regarding the financial statements. There were none.

III. REQUESTS FROM THE PUBLIC TO ADDRESS THE COMMISSION:

There were no requests from the public to address the Commission.

IV. NEW BUSINESS:

- A.** Polk Memorial Gardens Change of Control. Potential owners were asked to come forward. Ms. Robyn Garcia of Premier Funeral Group represented the Buyers and F.K. McFarland represented the seller. Mr. Greene indicated he

would do so. Ms. Cotton moved to approve the Change of Control, Mr. Bailey seconded the motion. All voted in favor.

- B.** LaFayette Memorial Park of Fayetteville. The President noted that this cemetery recently change ownership due to the death of the owner. Over the past 12 months the Commission has received approximately 12 complaints against LaFayette Memorial Park. The President noted the average is less than one complaint per cemetery per year of the 176 cemeteries regulated by the Commission. After some discussion the possibility of suspending LaFayette's cemetery license was considered unless the situation improved at the cemetery.
- C.** NCCC Financial Audit Report. Copies of the report were included in the packets. The President opened the floor to questions or discussions. Some discussion followed about the recommendations made by the auditing firm. The President noted that those recommendations were being implemented.
- D.** Legislative Update. HB 905 proposes to combine the Cemetery Commission with the Mortuary Board and HB 937 which proposes to lower the minimum acreage requirement for perpetual care cemeteries. A draft resolution in opposition to HB937 was presented for consideration. Mr. Stephens noted that in 1975 the population guideline was set at 35,000. HB 937 proposes to change that 35,000 population guideline to 125,000, a 357% increase. The population growth of the state of North Carolina from 1970 to 2010 was 88%. Although no change is desired by the Commission it was noted that a percentage consistent with the population growth, such as 65,000, would make better sense. HB 937 also proposes an increase in fees levied by the Commission. The Commission did not seek an increase in fees. There was discussion about the impetus for HB 937 yet no one had clear answer.

Commissioner Gaffney explained how the formula for Perpetual Care was developed and that one critical element of perpetual care is the size of the cemetery. Revisions to the resolution draft were suggested. Mr. Cutler moved that the resolution be adopted as revised, Ms. Cotton seconded. All voted in favor. None opposed.

The discussion turned to HB 905. Mr. Gaffney noted that after two committee hearings held in Hickory and Raleigh in 2014 by the Joint Regulatory Reform Committee there was no one the gallery in support of this legislation. Mr. Gaffney noted that the Mortuary Board, the Morticians Association, The NC Cemetery Association and the Funeral Consumers Alliance of the Triangle are all in opposition to this bill. A question was raised on why there was no report of those two committee hearings sent to the Chairs of the Regulatory Reform Committee. Non answer was provided. Mr. Gaffney moved that the Cemetery Commission take a position in opposition of HB 905. Ms. Cotton seconded the motion. All voted in favor. None opposed.

VI. OLD BUSINESS:

- A.** Crown Memorial Park update. Mr. Stephens noted that Mr. Hand continues to make his \$7500 monthly payments on time. Mr. Hand continues to work with the Commission inspector to get his reporting up to date. Mr. Hand reported that he did sell a parcel of land referenced in a prior Commission meeting. Mr. Hand believed the proceeds from this sell to be approximately \$66,000. Calvary Memorial Cemetery update. Mr. Cutler noted that Crown is doing exactly as they have said they will do in terms of payments to the trust fund and moved that the Crown matter be tabled to the July meeting and evaluated at that time.

- B. Update on Ashelawn Gardens of Memory. The Commission was awarded an injunction against Ashelawn and Leonard Fulcher was appointed as the receiver. Mr. Fulcher gave a report on the current status of Ashelawn. Mr. Fulcher indicated he would have more to report and propose at the July meeting.
- C. Update on Mountain View Cemetery in Black Mountain. The Commission was awarded an injunction against Mountain View Memorial Park and Leonard Fulcher was appointed as the receiver. Mr. Fulcher gave a report on the current status of Mountain View. There was much discussion about the land ownership of Mountain View. Mr. Fulcher indicated he was actively pursuing a new owner for Mountain View and hoped to have more to report in July. Mr. Stephens noted that the Commission and State were fortunate to have Mr. Fulcher as a receiver and thanked Mr. Fulcher for his efforts.
- D. Update on Calvary Memorial Cemetery. Leonard Fulcher, the receiver, Jack Krupicka, the owner, and Bruce Jackson, Mr. Krupicka's attorney were all present. Mr. Stephens reported that the situation at Calvary have improved greatly. The grounds have been improved. The complaints have stopped. Mr. Fulcher reported that Mr. Krupicka has done everything Mr. Fulcher has instructed him to do. All the required reports and trusts have been made current. Mr. Krupicka provided the commissioners with a packet detailing all he had done to improve the cemetery. Mr. Fulcher made the recommendation that Mr. Krupicka be allowed to continue to own the cemetery. A consent judgment had been included in the meeting packet for consideration by the Commissioners. An extensive discussion followed regarding specific language in the consent judgment. Mr. Cutler moved that the consent judgment be adopted with revised language to define a violation of the Cemetery Act to be a failure to trust or a failure to report and if such a violation occurred within the next 24 months Mr. Krupicka would surrender his license without contest. Ms. Cotton seconded. All voted in favor. None opposed.
- E. Update on Scotland Cemetery. Mr. Stephens reported that Scotland County continues to refuse to be part of the solution to the problems with Scotland County Cemetery. The county has not shown to be willing to lower the past due property taxes or the tax valuation. The county also refuses to foreclose on the cemetery despite the fact that the cemetery is over three years past due on their property tax payments. Mr. Stephens noted that there had been some effort in the legislature to make cemeteries in North Carolina exempt from property taxes as they are in South Carolina but those efforts have not been successful thus far. Mr. Stephens noted that although unfortunate, it seems the situation at that Scotland Cemetery will need to get worse before it will get better. The current tax value for Scotland County Cemetery set by Scotland County is \$275,000. The cemetery performed nine burials in 2014 and had a total revenue of \$14,000 in 2014.

(Break)

- F. Personnel. 10:55AM Ms. Cotten made a motion to enter executive session. Ms. Thomas-Daoud seconded. All voted in favor. Executive session ended at 11:13AM

VII. REMINDER OF NEXT MEETING:

Next meeting for the Commission will be July 15, 2015 at this location.

Mr. Lagatore motioned for adjournment, Ms. Cotten seconded the motion, all voted in favor. Meeting adjourned at 11:17AM.