



State of North Carolina Cemetery Commission

February 13, 2013

9:00 A.M.

The North Carolina Cemetery Commission held a meeting on Wednesday, February 13, 2013, in The Woodoak Building, Suite 242, at 1100 Navaho Drive, Raleigh, N.C. The Commission members in attendance were President Gantt Stephens, Vice President Michael "Dicky" Powell, Treasurer William W. "Bill" Gaffney, and Members Glenn Cutler, Ralph Yates, Leonard J. 'Boscoe' Fulcher, David Brown, and Linda Cotten (Frank Rose, Jr. was not present); Ms. Molly Lee as Program Assistant from the N.C. Cemetery Commission office. Dept. of Justice Attorneys Faison Hicks and Anne Brown provided legal representation. Numerous interested parties also attended the meeting.

The N.C. Cemetery Commission meeting was called to order by President Gantt Stephens. Commission Members then observed a brief silent Moment of Reflection.

Pres. Stephens presented the Agenda for approval. Pres. Stephens noted that HTCC and Moody Cemeteries will be addressed in the Administrator's Report. Mr. Dicky Powell made a Motion to approve the Agenda as written; Mr. Glenn Cutler seconded the Motion. All voted in favor.

President Stephens introduced the Reading and Approval of the Minutes of the October 17, 2012. Mr. Boscoe Fulcher made a Motion to approve the Minutes as written; Mr. Ralph Yates 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. Ms. Linda Cotten recused herself from Section V Item A.

II. ADMINISTRATIVE REPORT:

Pres. Stephens presented the Administrative Report. Financials were presented for December 2012 and January 2013. Other items addressed: all 176 cemetery licenses current; 0 Provisional Licenses; 3 Complaints in 2013 (2 resolved); 10 Audits performed since last meeting. The Judge has allowed the release of Moody Cemeteries to receiver; and no access to Perpetual Care funds to use to operate. In addition, ownership of HTCC cemeteries is in progress; property tax issues pending. Pres. Stephens asked if there were other questions or comments regarding the Administrative Report. There were none.

III. REQUESTS FROM THE PUBLIC TO ADDRESS THE COMMISSION:

Mr. Michael Rulison read a statement from the Funeral Consumers Alliance of the Triangle to the Commission. A copy of the statement was distributed by Mr. Rulison to the Commissioners. Ms. Jody Rentz addressed the Commission regarding Moody Cemeteries and success of the criminal charges. Ms. Rentz referenced the need for Perpetual Care in contracts and changes in the law. There were no other Public Requests.

IV. REPORTS OF SPECIAL COMMITTEES:

A. Chair of the Perpetual Care Study Committee Mr. Brown reported that the Committee recommended a charge for Perpetual Care on the Building of private Mausoleums. Pres. Stephens noted this recommendation would require a change to the Rules, and then approval by Board.

V. NEW BUSINESS:

A. StoneMor Request to Combine PC and PC A Trusts

Ms. Cotten had recused herself. Ms. Tamara Randolph, Regional Administrator of StoneMor Partners for North Carolina and South Carolina, presented the request to combine the PC and PC A Trusts for greater cost efficiency. If the General Assembly changes the Statute to require separation of PC and PC A, StoneMor would then be required to revert to PC and PC A. Ms. Randolph agreed to restate the request to dissolve PC A and maintain PC Trust. Mr. Boscoe Fulcher made the Motion to accept the request, Mr. Brown seconded. All voted in favor.

B. Heather Seminara PreNeed Sales Application for Lakeview Memorial Park

No representation was present at the Meeting. Application stands unapproved.

C. Lancaster Memorial Park Change of Control

Mr. Ryan Brown, proposed Manager for Lancaster Memorial Park from the Buyer, presented the documents required. Clarification of 2011 Annual Report figures and funding was questioned. The Seller, Mr. Mike Askew, later clarified that certain figures were incorrect on the Annual Report and would be corrected. Mr. Bill Gaffney made the Motion to accept the Change of Control; Mr. Brown seconded. All voted in favor.

D. Northlake Memorial Gardens Change of Control

Mr. Dana Elder as proposed Seller and Mr. Sam James as proposed Buyer presented the request for the Change of Control of Northlake Memorial Gardens. The current Bond status and future Bond was questioned. The N.C. Cemetery Commission asked for a copy of the old Bond and new Bond verification. Motion language was suggested to be to approve the Change of Control subject to Buyer providing to the President, within 30 days of today, a letter from Federated Insurance Co., attached with Bond by number and copy of that Bond. The Commission will provide a copy of the Bonding Insurance to the Insurance Department of the NCDOJ for advice and review. Assuming that the review is approved, the Change of Control approval by the Commission would be unchanged. If the NCDOJ detects a problem approval of Change of Control is voided. Mr. Glenn Cutler made the Motion to accept the Change of Control based on Bond resolution; Mr. Fulcher seconded the Motion. All voted in favor.

E. Harnett Devotional Gardens Change of Trustee

The request to move current Trust from SunTrust to Cemetery Funds was presented. Mr. Fulcher made the Motion to accept request, Ms. Cotten seconded. All voted in favor.

F. Pinelawn Memorial Park

Mr. Jim Williford of Pinelawn Memorial Park addressed acreage requirements and satellite locations – specific to growth of cremations – and the need to change requirements to amend them. As the General Statute exists there are no options for amendments.

<Break>

G. Revisions to Administrative Code

Pres. Stephens noted the Administrative Code has not been updated to match the current Statute and requires clarity. The Board is to consider revisions presented and then the Commission will submit to the Rules and Regulations Committee. Specific language and wording considerations were deliberated, as in “Deed”, etc. In addition, consideration of acreage would allow a baseline for future reference. Mr. Cutler noted that if items are addressed in the Statute, then details in Rules and Regulations do not need to be addressed.

No funds can be removed from a corpus of a Trust account without the approval of the Commission. In regards to Trusts, the Rules should be changed to note that interest income in the PC Account, if not taken and used by the Cemetery, can remain for future deposits. If not used in 12 months it becomes corpus (time frame needs to be based on corporate fiscal year). Mr. Cutler proposed that the modifications discussed be made, and then resubmitted to the Board, then to the Rules and Regulations Committee.

H. Other Business – Legal

At 11:24 a.m., a Motion was made by Mr. Ralph Yates to go into Executive Session to receive legal advice from its counsel; seconded by Mr. Gaffney. All voted in favor.

Mr. Gaffney made the Motion to end the Executive Session; Mr. Fulcher seconded the Motion. All voted in favor. At 12:33 p.m., the Executive Session ended. Legal Advice from the Commissions’ counsel was provided and all were satisfied.

Mr. Fulcher made the Motion to ratify the contractual agreement with Ms. Brenda Jeffers. Mr. Dicky Powell seconded. All voted in favor.

I. Proposed New Business Model – *see supplement attached*

Mr. Cutler referenced the increased involvement of the Commissioners as Special Committees are introduced and that it would be an active “job”. Mr. Cutler will serve for an interim period, estimated at 4 – 6 months, as the Commissioner doing the oversight assignment as outlined. Specifically addressed was the Audit process and developing greater streamlining and efficiency. Mr. Powell made the Motion to begin implementation of the Plan, Mr. Brown seconded. All voted in favor.

Mr. Brown made a Motion to adjourn meeting. Mr. Fulcher seconded the Motion. All voted in favor. Meeting adjourned on February 13, 2013 at 12:42 p.m.

The next meeting is scheduled for Wednesday, May 1, 2013 at 9:00 a.m. at The Woodoak Building, 1100 Navaho Drive, Suite 242, Raleigh, NC 27609.

PRESIDENT

DATE

Proposal for New Organizational/Business Model for the NC Cemetery Commission
SUPPLEMENT 2/21/2013

Audits.

- ❖ **Approximately 90 cemeteries sell pre need; approximately 90 do not sell pre-need**
- ❖ **Audit at-need cemeteries every 3 years or 30/year.**
- ❖ **Audit pre-need selling cemeteries every 18 months or 60/year.**
- ❖ **Contract inspectors audit 60 pre-need selling cemeteries and 30 at-need only cemeteries annually.**

Job Roles & General Descriptions:

- ❖ **Temporary Commissioner Oversight Assignment - as needed (anticipated 4-6 months)**
 - **Reviews annual reports for compliance.**
 - **Oversees audit packet preparation for all audits.**
 - **Coordinates and organizes work assignments of contract inspectors.**
 - **Releases audit reports to audit committee members.**
 - **Oversees collection fees and debts owed to commission from audits.**
 - **Approves trust fund withdrawals.**
 - **Reports to Commission at July 2013 meeting on assessment/recommendation regarding permanent additional long term personnel needs.**
 - **Commissioner doing Oversight Assignment collects per diem maximum of \$100/day; max \$500/week.**
- ❖ **PROGRAM COORDINATOR - Full time/permanent position**
 - **Day to day operation of the office-answer the telephone, process the mail, maintain/procure office supplies, maintain office equipment, make deposits, etc.**
 - **Process monthly reports and license renewals**
 - **Process all applications for sales licenses**
 - **Process/respond to all formal complaints submitted to the NCCC**
 - **Assist/supervise contract bookkeeper. This includes:**
 - **Coordinating schedule**
 - **Approving/managing payables**
 - **Working with bookkeeper to prepare reports required by GS-93B-2**
 - **Report to President and Treasurer any deficiencies or problems with bookkeeper**
 - **Prepare minutes from meetings; prepare meeting room, meeting packets, etc.**
 - **Maintain website content**
 - **Make recommendations of needed office equipment**
 - **Program Coordinator: Compensation package to be determined**
 - **Occasional Temporary Clerical as needed : Approximately \$10,000 year**

❖ **CONTRACT INSPECTORS:**

- Contract inspectors inspect 30 at-need only cemeteries annually. \$700 each. \$21,000 annually. \$45/hour. Inspector is to submit a time and expenses report. Audit cost may be less than \$700 but is not to exceed \$700.
- Contract inspectors inspect 60 pre-need cemeteries annually. \$1,000 each. \$60,000 annually. \$45/hour x 20 hours. Inspector is to submit a time and expenses report. Audit cost may be less than \$1000 but is not to exceed \$1000.
- Contract inspectors are not paid mileage or travel time unless an exception is deemed necessary and prior approved. Inspectors will be paid lodging as necessary and prior approved.

Misc. Policies:

- ❖ All permanent personnel actions require approval of full commission.
- ❖ No board member can hold any one position for more than four years consecutively. This includes committees and officers. After going off for one year they will be eligible for another four years.
- ❖ Contract inspectors do not audit same location more than twice consecutively.
- ❖ Every January 1st, any checking account balance over \$150,000 shall be moved to a Consumer Protection Fund.
- ❖ Current land plat of cemetery is to be collected with every audit and permanently filed with commission. When a new plat is collected it is to be compared to the older plat on file at the commission office. Any changes in the two are to be brought to the attention of the full commission immediately.
- ❖ Commission maintains a running spreadsheet of cemeteries with a response due to NCCC. These would include outstanding complaints, fees not paid, shortages found on audit not paid, etc.

Permanent Committees: Each member appointed by the president at the January meeting for one year terms. These appointments run with the calendar year. Some committee appointments may be vacated before their committee appointments expire. For example, a commissioner with an expiring term may not be reappointed to the Commission. In that event, the president will appoint an interim committee member to finish out the appointment of the vacated appointment.

Sales License Review Committee-3 Members.

1. Applications in question would first be escalated to the Sales License Committee.
2. Each committee member reviews the application and submits a vote to either issue the license or deny the license. Two yes votes are required to issue the license.
3. If there are two or three votes to issue the license, the license will be granted. The committee chairman directs commission staff to issue the license.
4. If there are two or three votes to deny the license, the applicant may appeal before the full commission at the next scheduled meeting.

Complaint Committee-3 Members.

1. Complaints that cannot be resolved by the commission staff without guidance will be escalated to the Complaint Committee. A copy of the complaint will be scanned and emailed to the three Complaint Committee members.
2. The chairman of the committee shall work with the commission staff and other committee members to resolve the complaint. Resolution of the complaint may require visits to the cemetery, phone calls with the complainant and/or cemetery, etc.
3. Committee Chairman shall give an overall complaint report at commission meeting-- total number filed, total number resolved, total number pending. Committee Chairman will also report on total dollar amount of expenses incurred (ie. board member reimbursements.) in the process of resolving complaints.
4. Any unresolved complaints after 90 days should be brought to the full commission.

Compliance Committee-3 Members (President, Vice President, and one other member)

1. Review and adjust audit schedule of contract inspectors.
2. Receive and review all inspection reports.
3. President shall report at regular Commission meetings on total number of inspections completed since the last meeting.
4. Contract with and administer contracts of inspectors.
5. Ensure that contract inspectors do not audit same cemetery more than twice consecutively.
6. May approve additional time and expense for an audit in process.

Consumer Protection Fund Committee-3 Members made up of the officers of the Commission.

1. Review any request from an individual or group for relief related to a breach of contract between a licensed cemetery and a consumer. A breach of contract shall include but not be limited to misappropriation of contract funds, non-delivery of contracted merchandise or services. Any recommendation for relief shall be presented to the full commission for discussion and vote.
2. The Consumer Protection Committee shall oversee the disbursements of all Consumer Protection Funds.
3. Committee Chairman reports to full commission at meeting on funds disbursed since last commission meeting and the financial condition of the Consumer Protection Fund.

This proposal would be effective upon ratification by the full commission and will be implemented over a 60-90 days period post-ratification. Ratification will result in termination of present employment relationship with current existing employee.