

State of North Carolina
Cemetery Commission Meeting
July 16th, 2014

The North Carolina Cemetery Commission held a meeting on Wednesday, July 16, 2014 in the Wood Oak Building, Suite 242, at 1100 Navaho Drive, Raleigh, North Carolina. Those Members in attendance were President Gantt Stephens, Vice-President Glenn Cutler, Treasurer William "Bill" Gaffney, Commissioners, Angie Thomas, David Brown, Brad Bailey and Richard "Dick" Lagatore. Linda Cotten was absent. Vikki Tollefsen was also present as Administrative Assistant. Members of the public were also in attendance.

The meeting was called to order by President Stephens, who opened the meeting with the news of Michael "Dicky" Powell's sudden passing and a Moment of Reflection in his honor. First item was Agenda approval, Mr. Bailey moved to approve the Agenda, Mr. Cutler seconded the motion, all voted in favor to accept the agenda. Next up for approval were the minutes from the April 16, 2014 meeting, Ms. Thomas moved to approve the minutes, Mr. Brown 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.

President Stephens asked if there were any conflicts of interest. No conflicts of interest were noted.

II. PRESIDENT'S REPORT:

President Stephens began his report with a review of the Commission's financial statements. He asked if there were any questions regarding the financials. Mr. Gaffney asked if the excess funds from the Commission's checking account would be transferred to the Consumer Protection fund (Money Market account), Mr. Stephens said we would need a motion to move the money. Mr. Cutler made a motion to transfer excess funds of \$38,682.92 into the Consumer Protection fund, Mr. Gaffney seconded the motion, all voted in favor. Mr. Gaffney also asked if the Commission would get reimbursed the \$259,000 from the Department of Commerce, Ms. Thomas offered to look into the matter.

President Stephens gave an update on inspections, since the last meeting 20 inspections have been completed; Mr. Stephens noted that in July we have scheduled 6 inspections which make the Commission up to date on the Inspections process. The inspection process is working as designed, but there is always room for improvement and we are now going to work on refining the inspection process.

There have been ten complaints filed since the last meeting, which brings the year to date total to seventeen. Two are unresolved because the 20 day letters have yet to expire. There are 9 Annual reports that still need to be submitted. 20 day notices have been sent to these cemeteries that are delinquent. 161 out of 176 cemeteries have renewed. The 15 cemeteries that have not renewed have been sent reminder notices. 16 New PN Sales applications approved and issued; 18 Additional PN Sales licenses issued; and 112 PN Sales licenses have been renewed so far. This concluded the President's Report.

III. REPORTS FROM SPECIAL COMMITTEES

There were no reports from special committees.

IV. REQUESTS FROM THE PUBLIC TO ADDRESS THE COMMISSION:

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

V. NEW BUSINESS:

- A.** Mr. Stephens asked Mr. Jack Krupicka to stand before the Commission. Mr. Krupicka is the owner of Calvary Memorial Cemetery in Wilmington, NC. The reason Mr. Krupicka is before the Commission is because Calvary Memorial Cemetery has not been submitting the required reports to the Commission. Mr. Krupicka has also failed to respond to 20 day letters sent to him by the Commission. Mr. Krupicka asked for two minutes of the Commission's time to explain. Mr. Gaffney addressed Mr. Krupicka by stating that Mr. Krupicka came before the Commission four years ago regarding the conditions of the cemetery. The cemetery is in worse condition now than it was four years ago. Mr. Stephens asked Mr. Krupicka if he wanted to continue to be in the cemetery business. Mr. Krupicka's response was that it was up to the Cemetery Commission. Mr. Stephens asked a few more questions in relation to the City of Wilmington fining the cemetery for being a Public Nuisance. After more questioning, Mr. Krupicka suggested the NC Cemetery Commission give him weekly and monthly "to do" lists so that he can stay on track. He said he'd give Vikki a check right now to pay for the cemetery's license renewal; he would respond to all letters within a week and he'd rectify the appearance of the cemetery within a month. Mr. Stephens made the following suggestion: that the Cemetery Commission proceed with seeking a permanent injunction to place Calvary in receivership. The final objective would be for Calvary to end up in control of a new owner. In the meantime, and if Mr. Krupicka would like to keep the cemetery, he can get hard at work resolving all the current issues surrounding Calvary Memorial Cemetery. If at the time the Commission gets before a judge about this matter Mr. Krupicka can show that the issues have been resolved the judge may rule in Mr. Krupicka's favor. Mr. Cutler moved to seek a permanent injunction against Calvary and have a receiver appointed as stated in § 65-53(5) with the intention of a new owner taking control of Calvary Memorial Cemetery. Mr. Bailey seconded the motion. All voted in favor.
- B.** Ashelawn Gardens of Memory's is on the agenda due to issue revealed by an inspection, namely a missing merchandise trust fund and shortages to the PC trust fund. Mr. Jeff Gasperson was representing Ashelawn. Mr. Stephens asked what happened to the merchandise trust fund that was discovered missing by the inspector during a routine inspection and also asked why Ashelawn has failed to respond to the Commission's letters. Mr. Gasperson asked if he could give an explanation of how the trust fund became missing and after some explanation the reason was that it was used to pay off a loan made in Jeff Gasperson's name. The loan was taken out for the use of repairing and rebuilding Ashelawn and due to low sales Ashelawn was unable to pay the loan back and the lender took the funds from the Merchandise trust to repay the loan. Mr. Gasperson asked for 60 to 90 days to correct the problem by obtaining a performance bond. Mr. Stephens noted that the bond market is extremely tight right now. Mr. Cutler mentioned that getting a bond wouldn't remedy the legal implications. He also asked if Ashelawn had repaid the \$5000 shortage to the Perpetual Care fund. Mr. Gasperson said not as of yet and that is why he hopes the bond and the possible sale of Ashelawn to Cemetery Solutions would rectify all the concerns the Commission has. After some discussion between the Commissioners and Mr. Gasperson, Mr.

Stephens made a recommendation: That the Commission conducts a special audit, at Ashelawn's expense, to find out what the total liability is. Mr. Gaffney mentioned that the cemetery is in great condition and even though there is not a merchandise trust fund, Ashelawn is still taking care of its customers and fulfilling contracts. Mr. Cutler added to the recommendation that the Commission needs to know that Ashelawn will make payments to the Perpetual Care fund to pay back the deficit by the next meeting. Mr. Gasperson agreed to make the Perpetual Care fund whole by the October Commission meeting. Mr. Cutler made a motion to postpone legal action against Ashelawn, referenced in our attorney's June 12th letter, until the next Commission meeting in October. David Brown seconded the motion, all voted in favor. Mr. Cutler motioned to have a special audit of Ashelawn to determine the total liability at Ashelawn. The audit will be conducted at Ashelawn's expense. The Commission agrees to allow Ashelawn to pay back the Perpetual Care shortage in 90 days. Brad Bailey seconded the motion, all voted in favor.

VI. OLD BUSINESS:

- A. HTCC update: There are two cemeteries owned by HTCC: Scotland County Cemetery and Oak Ridge Memorial Park. The primary concern was the shortage of the trust fund at Oak Ridge. The owner has paid the shortages and is now ready to complete a change of control to give the cemetery to her longtime manager Sharon Foss. The problems with Scotland County cemetery persist. The Commission has not been able to identify a buyer due to the property tax liability. The past due property tax liability and high property tax rate set by the county continue to be prohibitive to any potential new owner. Scotland County has the tax value of the cemetery at \$275,000. Mr. Stephens noted that he has been in contact with the Scotland County commissioners, the Laurinburg City Council, the city and county managers, that district's state senator and state representatives in hopes of finding a solution to the property tax problems there. To date, the county is still unwilling to foreclose or to lower the property tax liability. Regretfully, the Cemetery Commission has done all it can for now. It is an unfortunate situation there and it seems things are going to have to get worse there before Scotland County will be willing to act and bring some relief to the tax liability.
- B. No LandQuest update at this time.

VII. ELECTION OF OFFICERS:

Mr. Gaffney nominated Mr. Stephens to continue as President, no other nominations voiced, Mr. Brown seconded the motion, all voted in favor. Mr. Stephens continues as President of the Commission.

Mr. Bailey nominated Mr. Cutler to continue as Vice-President, no other nominations voiced, Mr. Gaffney seconded the motion, all voted in favor. Mr. Cutler continues as Vice-President of the Commission.

Mr. Cutler nominated Mr. Gaffney to continue as Treasurer, no other nominations voiced, Mr. Bailey seconded the motion, all voted in favor. Mr. Gaffney continues as Treasurer of the Commission.

VIII. REMINDER OF NEXT MEETING:

Next meeting for the Commission will be October 15, 2014, it may not be at this same location and we will keep everyone updated as to the location once we know.

Mr. Lagatore motioned for adjournment, Ms. Thomas seconded the motion, all voted in favor. Meeting adjourned at 10:19 a.m.