



State of North Carolina Cemetery Commission

July 18, 2012

9:00 A.M.

The North Carolina Cemetery Commission held a meeting on Wednesday, July 18, 2012, in The Woodoak Building, Suite 242, at 1100 Navaho Drive, Raleigh, N.C. The Commission members in attendance were Chairman Gantt Stephens, Vice-Chairman Glenn Cutler and Members Ralph Yates, William 'Bill' Gaffney, Leonard J. 'Boscoe' Fulcher, David Brown, Linda Cotten and Frank Rose, Jr. and Michael 'Dicky' Powell. The Commission's Auditor Brenda Jeffers and interim Program Assistant Molly Lee were present. Dept. of Justice Attorneys Faison Hicks and Anne Brown provided legal representation. Numerous interested parties also attended the meeting.

The July 18, 2012 of the N.C. Cemetery Commission meeting was called to order by Chairman Stephens. Commission Members then observed a brief silent Moment of Reflection. Chairman Stephens presented the Agenda for approval. Mr. Boscoe Fulcher made a Motion to move Agenda item VII of Election of Officers to item I A. Ms. Linda Cotten seconded the Motion. All voted in favor.

Chairman Stephens introduced the Reading and Approval of the Minutes of the April 18, 2012, N.C. Cemetery Commission meeting. Mr. Fulcher stated that the Minutes need more accuracy, specifically VI B. Chairman Stephens indicated that the Minutes are distributed in advance and that any engagements are welcome. Mr. Fulcher made a Motion to approve the Minutes with removal of "would" be interred on page 4; paragraph 3; Item VI B. Mr. David Brown seconded the Motion. Mr. Fulcher amended the Motion with removal of Perpetual Care Special Committee paragraph on page 5; after Item VI F. Ms. Cotten seconded. All voted in favor.

I. CONFLICTS OF INTEREST:

Chairman 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. Fulcher and Mr. Bill Gaffney recused themselves from V C. (Sales Applicant Janice Steele for Iredell Memorial Park).

A. Chairman Stephens noted a change of officers per SB-443; N.C. Cemetery Commission officers will be President, Vice-President and Treasurer. Nominations were introduced. Mr. Powell nominated Chairman Stephens as President; Mr. Fulcher seconded. All voted in favor. Mr. Frank Rose nominated Mr. Powell as Vice-President; Mr. Fulcher seconded. All voted in favor.

Mr. Ralph Yates nominated Mr. Gaffney as Treasurer; Mr. Fulcher seconded. All voted in favor. No other nominations were presented.

II. ADMINISTRATOR'S REPORT:

Chairman Stephens and Auditor Brenda Jeffers jointly presented the Administrator's Report. Chairman Stephens stated that the Senate Bill 443 details will be covered under V G.

Ms. Brenda Jeffers then presented the Auditor Report:
8 Audits have been completed since the last mtg.
Lakeview Memorial Park completed; Oaklawn Memorial Gardens; Rocky Mount Memorial Park; Randolph Memorial Park; Evergreen A Quiet Place; Hillside Memorial Gardens; Change of Control Audits Azalea Memorial Gardens and Hills of the Neuse Memory Gardens.

Audit progress:

- (1) 7 years since last Audit (to be completed by end of July)
 - (30) 6 years since last Audit
 - (26) 5 years since last Audit
 - (26) 4 years since last Audit
 - (14) 3 years since last Audit
 - (26) 2 years since last Audit
 - (31) 1 year since last Audit
- 22 cemeteries have been audited within last year. No questions were presented.

Ms. Jeffers presented License activity for both Cemetery and PreNeed Individual Renewals and New PreNeed Individual Licenses:
100 of the 176 Cemeteries have paid for renewal; 151 of the 214 PreNeed Sales Individual have paid for renewals; 9 Traditional (new) Individual Licenses to expire in 2013; 136 to expire in 2014.

Ms. Jeffers presented Complaint activity:
Through 2012 to date:
19 Complaints have been addressed to date.
10 cemeteries have responded with reasonable response; 3 cemeteries are past due the 20-day time required; 4 recent complaints still pending; and 2 are pending for the Commission to review today.
4 of the complaints are for Lee Memory Gardens; 1 is for Oakwood Memorial Park.
Compare to date from previous years: 2011 – 9; 2010 – 39; 2009 – 28.

Annual Care Maintenance

To date, 12 Cemeteries are past due; letters were released and fees assessed.

Mr. Gaffney inquired regarding which cemetery is 7 years since last Audit; Ms. Jeffers responded that it was Sunset Memory Gardens of Charlotte.
Mr. Yates inquired Cemetery Renewal count; 2 recent payments have been submitted to the N.C. Cemetery Commission, bringing the total to 102 of the 176. Mr. Yates inquired about Renewal past due fees; Ms. Jeffers noted that the Cemeteries have until December 31, 2012 to renew.

Mr. Fulcher inquired about budget figures and the source. Ms. Jeffers noted that the Budget Report reflects the beginning balance.

III. REQUESTS FROM THE PUBLIC TO ADDRESS THE COMMISSION:

Ms. Mary Epps addressed the Commission regarding the complaint response from Gardens of Gethsemane and placement/location of her mother. Ms. Epps stated that contracts had been altered. Mr. Fulcher requested review of Cemetery contract and Epps contract. Attorney Faison Hicks noted that this appears to be a breach of contract; and that an attorney could be beneficial. Per Gardens of Gethsemane (not present) an equitable solution was communicated to the N.C. Cemetery Commission. Atty. Hicks would gather complaint documentation and review.

There was no other Public Presentation requested.

IV. REPORTS OF SPECIAL COMMITTEES:

Chairman Stephens requested that Mr. David Brown, Chairman of the Perpetual Care for Private Mausoleum Special Committee defer to the October 17, 2012 Meeting.

V. NEW BUSINESS:

A. Azalea Memorial Gardens Change of Control

Mr. Billy Maitland (potential buyer) and Mr. Frederick Suter (current owner) were present. Chairman Stephens raised a question regarding replatting acreage. Mr. Maitland explained that a previous owner did not legally replat yet Mr. Maitland was of the belief that the 23+ acreage and grandfather clause would allow the Change of Control. Mr. Mauney, a past owner who relinquished control to Mr. Suter, was aware of the replatting but unavailable. Mr. Fulcher made a Motion to accept change per Atty. Hicks input. Mr. Maitland presented that acreage is being added. Atty. Hicks requested confirmation from Mr. Maitland that the application reflects accurate acreage. Mr. Fulcher amended the Motion pending final fees paid and audit completed. Mr. Glenn Cutler seconded the Motion. All voted in favor.

B. Hills of the Neuse Memory Gardens Change of Control

Mr. John Graham, Jr. (potential buyer) and Mr. Othal Minshew (current owner) were present. Audit has been completed per Mr. Graham, Audit report not complete yet per Ms. Jeffers. Mr. Yates asked about potential fees to be paid; Ms. Jeffers noted a rough estimate of \$1800.00 plus total cost of Audit charges; plus Renewal of Cemetery License and Annual Care and Maintenance late fee. Mr. Rose inquired regarding discoveries in recent Audit. Late fees of approx. \$12,000 from last audit still due noted by Ms. Jeffers. Mr. Fulcher asked as the reasoning behind the past audit fees not collected; Ms. Jeffers responded that a ruling from OAH was pending before proceeding and that no ruling was made; no precedent was set and dismissed with prejudice. Attorneys representing Mr. Graham and Mr. Minshew will be present at closing. Mr. Yates made a Motion to table Change of Control until all audit reports and past fees are addressed. Motion failed by vote. Mr. Cutler made a Motion to approve the Change of Control

pending resolution of matters and subject to paid fees and payments due. Mr. Fulcher seconded the Motion. Mr. Yates opposed. All others voted in favor.

C. PreNeed Sales Applicant Janice Steele – Iredell Memorial Park

Mr. Fulcher represented Ms. Janice Steele, PreNeed Sales Applicant with previous criminal record of disorderly conduct and detailed the charges that were presented was when applicant was 16 years old and all the charges were dismissed. Mr. Fulcher requested the N.C. Cemetery Commission’s approval of licensure. Mr. Yates asked was it simple assault? Ms. Steele responded that it was a “group thing”. Mr. Yates asked about any other history. Mr. Yates noted the last charge was 2008. Mr. Yates asked if Mr. Fulcher would hire Ms. Steele; Mr. Fulcher stated yes. Mr. Cutler made a Motion to accept her application. Mr. Brown 2nd the Motion. All voted in favor.

<10-minute Break>

D. PreNeed Sales Application Stephanie Bonham – Crown Memorial Park

Mr. Bob Hand represented Ms. Stephanie “Nicole” Bonham, PreNeed Sales Applicant with previous criminal record. Ms. Bonham has had a PreNeed Sales License previously and currently has a position as Receptionist at Crown Memorial Park. Atty. Hicks and Mr. Yates made inquiries to the specific charges (which were expunged) and to the desire to sell PreNeed. Ms. Bonham responded that the charges stemmed from a family member’s use of her driver’s license. Mr. Cutler made a Motion to approve the application; Mr. Brown seconded; Ms. Linda Cotten requested a Provisional License amendment to the Motion. Mr. Cutler amended the Motion to accept Ms. Bonham’s application as Provisional. Mr. Brown seconded the Motion. Mr. Yates opposed; all others voted in favor.

E. Issue of Unlicensed Cemeteries

Chairman Stephens and Atty. Hicks indicated receipt of letter regarding Unlicensed Cemeteries. Chairman Stephens noted there are cemeteries that sell without trust funds or cemetery license. Letter will be distributed via email by Chairman Stephens. Amount of these cemeteries are unknown. Per Statute 65 these cemeteries are illegal. Atty. Hicks noted that further determination by Ms. Jeffers to be made.

F. Lee Memory Gardens/Oakwood Memorial Park

Chairman Stephens noted to date six complaints received and requested attorney involvement and review statute. Per Chairman Stephens Lee Memory Gardens is the greatest concern. Mr. Fulcher made a Motion to hire an attorney to investigate with a 20-day letter in effect; Mr. Yates seconded the Motion. All voted in favor.

Further discussion continued about Mount Lawn Memorial Gardens in Boone. Mr. Powell inquired about status about Perpetual Care payments due in the contract within 7 years. Ms. Jeffers indicated no payments have been made. Mr. Rusty Tysor presented details regarding bankruptcy details upon purchase of Cemetery. Mr. Fulcher stated that the details of the agreement was based on the purchase of the Cemetery by Mr. Klee Liles and that the N.C. Cemetery Commission agreed to allow for operations of the Cemetery to come out of the PC funds with the agreement that PC funds used would be repaid, upon purchase of Cemetery. Atty. Hicks inquired if the Promissory Note was supported by collateral. Mr. Rose made a Motion to generate a letter requiring regular payments; Atty. Hicks stated that writing a letter makes sense.

Mr. Brown seconded the Motion. All voted in favor. Mr. Fulcher stated that the approach should be that it is a default on a note; Atty. Hicks noted if there are assets that would correct.

G. Items Related to SB-443

Chairman Stephens communicated that the SB-443 was passed, ratified and signed into law on July 28. Changes and answers are still in development and that the N.C. Department of Commerce has been very helpful and amenable and very gracious. Given the unique situation requires time to navigate in the proper way, and the involvement of the Department of State Management, the Department of Treasury and the Department of Personnel. One main concern was in regards to funds available. Funds were released June 28, 2012. There continues to be a lot to do regarding payroll, equipment, leases, etc. Other agencies operate similarly (45 other licensing boards) and that the N.C. Cemetery Commission is more in line with licensing boards.

Chairman Stephens addressed as part of N.C. Department Commerce, the D.O.C. would pay expenses and the N.C. Cemetery Commission would reimburse. The new arrangement requires the N.C. Cemetery Commission to generate payments and checks. Mr. Rose inquired about protection in place; Atty. Hicks stated that liability is being checked.

Mr. Cutler asked about the role of "Inspectors"; Chairman Stephens stated it would be similar to Ms. Jeffers role as Auditor.

Ms. Nancy Waggoner requested opportunity to speak. Ms. Waggoner inquired as to why was it important for employees to be exempt from State Personnel Act. Lucius Pullen noted that construction of the bill was based on other Licensing Boards history and savings of money. Chairman Stephens stated that further details and answers are pending from Ms. Anne Cobb of State Personnel.

Mr. Pullen added that IRA matching is available. Ms. Jeffers noted that benefits and employment status are affected. Atty. Hicks stated that the situation is complex and that answers require further information. Ms. Jeffers questioned how the Bill was developed without the N.C. Cemetery Commission office's knowledge. Chairman Stephens responded that the Bill was a matter of public record.

VI. OLD BUSINESS

A. Beatties Ford Memorial Park/Linder complaint

Chairman Stephens included this in the Agenda to clarify the Board's decision to proceed with a comprehensive Audit, pulling all files. He indicated that the expense could be \$10,000 and reiterated the need for clarity on that motion.

Mr. Yates noted that a Motion was made yet to consider if the N.C. Cemetery Commission can afford to support the Motion. Atty. Hicks inquired if Beatties Ford Memorial Park has the ability to pay.

Chairman Stephens requested a Special Committee formed to assess CPA Audit Process. He nominated Mr. Fulcher and Ms. Cotten serve on that Committee. Mr. Bill Gaffney has knowledge of a CPA firm, Lamar Johnson. Mr. Gaffney will also serve on the Committee.

B. HTCC Update

Chairman Stephens noted that the HTCC Attorney had a conflict and could not attend the N.C. Cemetery Commission July 18 Meeting. HTCC is behind on Perpetual Care.

Atty. Hicks noted that options are limited, receivership being one. Mr. Fulcher inquired about existing liability to a buyer. Atty. Hicks indicated that further research and discussion take place regarding finances and viability of the business; and how many complaining parties exist. Mr. Fulcher noted money was in a Merchandise Trust yet was removed. Mr. Rose suggested pursuit and resolution; Atty. Hicks needs more time to review documents.

C. Moody Cemeteries Update

Chairman Stephens informed that the Moody Cemeteries were put up for auction. Three bids were received were not enough to pay taxes owed, and not accepted. Further decision pending from the Judge involved.

Mr. Fulcher stated a fortunate issue was that Merchandise was run through the Funeral Home; and that the Perpetual Care Trust Fund requires assessment. Atty. Hicks noted that the Receiver has not had benefit of funds and necessary documents. Atty. Hicks suggested that a cemetery license can be issued and that the Judge has the final determination.

At 11:18 a.m., Mr. Yates made a Motion to go into Executive Session. Mr. Fulcher seconded. All voted in favor.

At 11:45 a.m., Mr. Cutler made a Motion to end Executive Session. During Executive Session Legal Counsel was presented all were satisfied.

Meeting adjourned at 11:46 on July 18, 2012.

The next meeting is scheduled for Wednesday, October 17, 2012 at 9:00 a.m. at The Woodoak Building, 1100 Navaho Drive, Suite 242, Raleigh, NC 27609.

CHAIRPERSON

DATE