

NORTH CAROLINA CEMETERY COMMISSION

April 20, 2011

9:00 A.M.

The North Carolina Cemetery Commission held a meeting on Wednesday, April 20, 2011, in the Wood Oak Building, Suite 242, at 1100 Navaho Drive, Raleigh, North Carolina. The Commission members in attendance were Chairman, Gantt Stephens, Vice-Chairman, Glenn Cutler, and Members Linda Cotten, Ralph Yates, Michael 'Dicky' Powell, William 'Bill' Gaffney, Leonard J. "Boscoe" Fulcher, David Brown, and Frank Rose, Jr. The Commission's Auditor Brenda Jeffers and Administrative Assistant Nancy Waggoner were present. Attorney Faison Hicks from the Department of Justice provided legal representation. Attorney Anne Brown was absent. Numerous interested parties also attended the meeting.

The meeting was called to order by Chairman Gantt Stephens. Commission Members then observed a brief Moment of Reflection in silence. That was followed by the Agenda Approval. Boscoe Fulcher moved to accept the Agenda as presented. Dicky Powell seconded the motion. All voted in favor. Chairman Stephens next announced the Reading and Approval of the Minutes of the January 19, 2011 meeting. Glenn Cutler moved to dispense with the reading of the minutes and to approve them as written. David Brown seconded the motion. All voted in favor

- I. **CONFLICTS OF INTEREST:** The first item on the agenda was a reminder from Chairman Gantt Stephens to the Commission Members that if there were any known conflicts of interest or appearances of conflict in regard to the matters being brought before them to let it be known at that time in accordance with the Governor's Executive Order. There were no known conflicts. Chairman Stephens next reminded Members that according to the Governor's Executive Order that they needed to attend 75% of the Commission meetings.
- II. **ADMINISTRATOR'S REPORT:** The second item on the agenda was the Administrator's Report. Chairman Stephens said that he and Brenda Jeffers would give a joint report. Mr. Stephens began with an update on Forest Lawn Memorial Park of Hendersonville. He reported that the cemetery had made two (2) payments of \$6,000.00 each to the Trust Fund on time, as agreed. He next informed Members that Bethany Memorial Gardens in Chatham County completed part of the New Cemetery process, and the second part remained dormant; and 'could remain that way indefinitely'. Mr. Stephens mentioned then that HB703, a bill to combine the Cemetery Commission with another agency, was in the Rules Review Committee; but that there was little support. Brenda Jeffers brought Members up to date on the Audit program. Nine audits were completed since the last meeting; fourteen cemeteries were at 6 years; 35 were at 5 years; 21 at 4 years; 37 at 3 years, 14 at 2 years; 24 at 1 year; and 22 within the last year, not including the 9 just completed. There were no questions on the Audit report. Chairman Stephens asked Members if anyone had any questions for Nancy Waggoner on the Budget. There were none. There were no other questions or comments. That ended the Administrator's report.
- III. **REQUESTS FROM THE PUBLIC TO ADDRESS THE COMMISSION:** Mr. Jimmy Miller, former Administrator of the Cemetery Commission, asked to

address the Commission regarding personnel matters, which was the reason for his recent resignation. Mr. Miller wanted to put it on the record why he left. Dissolution, discouragement, and disgusting, was how he described it. He said that the Commission was supposed to uphold the law. He watched how the Commission voted one way on a matter and then turned 180 degrees on almost the same set of circumstances on another matter. It was disheartening to him. He explained how he took on the job as the Administrator because he anticipated helping the citizens of North Carolina and the Commission. In his tenure he took the Commission office out of the dark ages of computer technology systems, reduced the mean time between audits by 50%, investigated of his own accord some of the most significant errors made by cemeteries and brought them to the Commission's attention, and even though it wasn't an audit per se, performed an audit on every cemetery each year based on records received in the annual reports. He likened the situation to a 'train going in a direction that he didn't want to go, so he got off'. Mr. Miller thanked the Commission for their time.

There were no other members of the Public to address the Commission.

IV. REPORTS OF SPECIAL COMMITTEES: There were none.

V. OLD BUSINESS:

A. Old Business, With Action:

1. **Item 5.a.1.: Inadequate PC for Two Cemeteries.** This item was tabled from the last meeting. Kent Williard of HTCC was in attendance. Chairman Stephens reported that Mr. Williard had gotten into trouble due to embezzlement by a former employee, but he paid back all of the money he owed to the Perpetual Care Trust Fund. This meeting was to determine any penalties. Bill Gaffney made a motion that fees be waived completely subject to proof of prosecution. Dicky Powell seconded the motion. Glenn Cutler asked that the motion be restricted only to the amounts known at that time, and not apply to any future obligations. Mr. Gaffney amended his motion to apply to monies already paid back. Attorney Faison Hicks suggested that the Commission table the matter until the person responsible is prosecuted by the District Attorney's office and made to pay back. Bill Gaffney withdrew his motion and made a new one. He moved that the issue be tabled subject to the matter being turned over to the District Attorney's office and provided that Mr. Hicks draft a letter to the D.A. requesting that any reimbursements of fees paid come back to the Commission. Dicky Powell seconded the motion. All voted in favor. Mr. Hicks asked Mr. Williard if he would have his Attorney Jim Wade Goodman contact him. Mr. Williard thanked the Commission.

2. **Item 5.a.2.: LQ Trustee Update** was moved to the end of Old Business.

B. Old Business without Action:

1. **Item 5.b.1: Moody Trustee Request for PC Fund Disbursement.** Chairman Stephens reminded Members that this item had been tabled at a previous

meeting due to the Bankruptcy proceedings. Sheila Gahagan, Trustee, sent a letter asking for a decision on her request to disburse PC funds to operate the two Moody cemeteries. Boscoe Fulcher made a motion to deny the request. Glenn Cutler seconded the motion. There was no further discussion. All voted in favor.

2. **Item 5.b.2: Oakwood Memorial Park Audit Appeal** was moved to after Old Business.
3. **Item 5.b.3: Gardens of Gethsemane Audit Penalties.** Chairman Stephens explained to the Commission that the cemetery was late on 48 month accounts at their last audit. They incurred penalties for that. In addition, when the law changed on December 1st, 2004 from \$40.00 per grave space paid to the PC Trust Fund to \$100.00 or 10%, whichever was greater, they started putting in \$100.00 to PC on all grave spaces, even if the contracts were written prior to December 1, 2004. The Commission voted to perform an audit. That revealed they had overpaid the PC account in the amount of \$31,000.00. However the penalties for not making timely deposits to the PC on 48 month accounts amounted to \$33,812.50. The Commission voted to allow Gardens of Gethsemane credit on future deposits for the overfunding, but did not address the penalties. Glenn Cutler made a motion to assess the penalties of \$33,812.50. Boscoe Fulcher seconded the motion. After some more discussion, all voted in favor. The motion carried.

At that time Boscoe Fulcher made a motion to go into Executive Session to receive legal guidance from Attorney General Faison Hicks regarding LQ Trustee Update and Oakwood Memorial Park Audit Appeal. Linda Cotten seconded the motion. All voted in favor. Executive Session began at 9:40 a.m. and ended at 10:07 a.m. During Executive Session legal advice was sought, received, and discussed concerning LQ Update and Oakwood Memorial Park, and members were satisfied. Chairman Stephens called for a ten minute break. Regular session began at 10:17 a.m. Chairman next asked for a motion to table the Oakwood Memorial Park matter until it could be investigated further. Linda Cotten moved to table the Oakwood Memorial Park issue. David Brown seconded the motion. All voted in favor.

There was no other Old Business.

VI. NEW BUSINESS:

- A. **Item 6.a.: Request to Change Trustee-Hills of Neuse Memory Gardens.** Hills of Neuse Memory Gardens of Smithfield requested to change Trustees for BB&T to KS Bank. Attorney Faison Hicks drafted the Trust agreement. No one was in attendance from Hills of Neuse, although they were not required to be there under the law. Ralph Yates made a motion to approve the change of Trustee from BB&T to KS Bank for Hills of the Neuse memory Gardens. David Brown seconded the motion. All voted in favor.
- B. **Item 6.B. Preneed Sales Counselor License Request from Alamance Memorial Park, a StoneMor Partners property for Christopher Williams.** Mr. Williams was in attendance along with his manager, Ronnie Perkins and the StoneMor area sales manager, Mark Guettler. Both men vouched for him. Mr. Williams voluntarily completed a two-year program to redeem himself. Boscoe Fulcher made a motion to issue a provisional license for 1 year. David Brown seconded the motion. Linda Cotten asked him to amend the motion to 6 months. Mr. Fulcher moved it to only 6 months. David Brown seconded the motion. All voted in favor.

C. Item 6.C.: Report on status of New Administrator. Because it was a personnel matter. Chairman Stephens said they needed to go into Executive Session. Ralph Yates moved to go into Executive Session to discuss a personnel matter. Boscoe Fulcher seconded the motion. All voted in favor. Executive Session began at 10:32 a.m. and ended at 10:53 a.m. During Executive Session Members discussed a personnel issue and all were satisfied.

There was no other New Business.

There was no other business.

The next meeting was scheduled for Wednesday, July 20, 2011 at 9:00 a.m.

Glenn Cutler made a motion to adjourn. Dicky Powell seconded the motion. All voted in favor. The meeting adjourned at 11:00 a.m.

CHAIRPERSON

DATE