



State of North Carolina Cemetery Commission

April 18, 2012

9:00 A.M.

The North Carolina Cemetery Commission held a meeting on Wednesday, April 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. Michael 'Dicky' Powell was unable to attend. 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 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 the Motion to accept the Agenda as presented; Mr. Glenn Cutler 2nd the Motion. All voted in favor.

Chairman Stephens introduced the Reading and Approval of the Minutes of the January 18, 2012, N.C. Cemetery Commission meeting. Mr. Cutler made the Motion to approve the Minutes; Mr. David Brown 2nd the Motion. 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. Gaffney recused themselves from New Business Item V. A, V. B, V. C., and V. F. (In order Evergreen Memorial Cemetery; Sunset Memorial Park; Pisgah Gardens and Pre-Need Sales Applicant Virginia Lee.)

II. ADMINISTRATOR'S REPORT:

Chairman Stephens and Auditor Brenda Jeffers jointly presented the Administrator's Report. Chairman Stephens presented an Administrator hiring update: Ads have been placed on line and in print; over 100 applicants have been filtered to 21 from the Dept. of Commerce; these are in review.

The current budget was presented; there were no questions from the Board.

Ms. Brenda Jeffers then presented the Audit update:

8 Audits have been completed since last mtg.

Reidlawn Cemetery (in Reidsville); Sunset Gardens (in Henderson); Wayne Memorial Park in Dudley; Westlawn Memorial Park in China Grove; Oak Hill Memorial Park in Kinston; Pinelawn Memorial Park in Kinston; East Duplin (in Beulaville); Duplin Memorial Gardens (in Teachey).

Audit progress – 1 cemetery audit remains in progress; specific cemetery status:

(1) 7 years since last Audit

(28) 6 years since last Audit

(19) 5 years since last Audit

(36) 4 years since last Audit

(14) 3 years since last Audit

(31) 2 years since last Audit

(23) 1 year since last Audit

24 cemeteries have been audited within last year. No questions were presented.

III. REQUESTS FROM THE PUBLIC TO ADDRESS THE COMMISSION:

There was no Public Presentation requested.

IV. REPORTS OF SPECIAL COMMITTEES:

Perpetual Care for Private Mausoleum Special Committee report update is not complete. Mr. David Brown appointed Chairman of the Committee with Mr. Fulcher, and Mr. Cutler serving on the Committee.

V. NEW BUSINESS:

A. Evergreen Memorial Cemetery: request to change trustee

Ms. Linda Cotten made the Motion to accept change; Mr. Frank Rose 2nd the Motion. All voted in favor.

B. Name Change for Sunset Memorial Park

As noted, Mr. Fulcher and Mr. Gaffney recused themselves. The issue is the name change request from Citadel Management of Sunset Memorial Park to Eternal Hill Memorial Park. Mr. Brown made the Motion to accept the name change; Mr. Cutler 2nd the Motion. Mr. Ralph Yates inquired re: bonds status. No bond changes involved; the cemetery was recently purchased and name change was recommended. Cemetery identification numbers will remain the same. All voted in favor.

C. Name Change for Pisgah Gardens

Mr. Fulcher and Mr. Gaffney recused themselves. The issue is the name change request from Citadel Management of Pisgah Gardens to Blue Ridge Gardens of Memory. Mr. Cutler made the Motion to approve the change; Mr. Brown 2nd the Motion. All voted in favor.

D. Felicia Billings Pre-Need Sales Application

Ms. Felicia Billings Pre-Need Sales Application request was presented before Board; there was no attendance or representation from the cemetery or Ms. Billings. Mr. Cutler made the Motion to table; Mr. Brown 2nd the Motion. Majority voted in favor with one exception from Ms. Cotten.

E. Scott Peek Pre-Need Sales Application

Mr. Larry Peek presented before the Board regarding Mr. Scott Peek's credentials and past criminal record. Mr. Scott Peek is not in probation at the current time. Last incident was 2006. Inquiries were made regarding criminal situations; Atty. Faison Hicks questioned Mr. Scott Peek and suggested Executive Session. Mr. Cutler made the Motion to approve the application; Mr. Fulcher 2nd the Motion. No Executive Session requested from the Board. Majority voted in favor; Mr. Yates and Ms. Cotten opposed.

F. Virginia Lee Pre-Need Sales Application

Mr. Fulcher and Mr. Gaffney recused themselves.

Ms. Carol Hall, Sales Mgr. of Piedmont Memorial Park presented documents to the Board regarding Ms. Lee's criminal background and general support. Criminal Record explained by Ms. Lee to the Board involved larceny of lottery tickets while employed at a convenience store. Per Ms. Lee the computer system went down and Ms. Lee took additional lottery tickets and retrieved proceeds prior to proper acquisition of funds. Ms. Lee has sold previously for StoneMor Partners and Citadel Management.

Atty. Hicks asked if Ms. Lee is prepared to take an oath that everything is true; and not withholding anything from the N.C. Cemetery Commission. Ms. Lee stated yes. Mr. Cutler made the Motion to approve a provisional license; Mr. Rose 2nd the Motion. Motion approved and carried 3-2; Ms. Cotten and Mr. Yates opposed.

VI. OLD BUSINES

A. New Cemetery Application: Seymour Memorial Park East and West

Mr. David Simmons presented before the Board. Seymour Memorial Park East has now added acreage to include a total of contiguous 33 acres; with West having 14 acres. Mr. Simmons stated that East and West are not adjacent but within the same city. A discussion continued regarding statute requirements, precedent, and annexation requirements – specifically referencing Wake Memorial Park and Chapel Hill Memorial Park as examples. Atty. Hicks noted that the Statute subpart D indicates details regarding how the mortgage would be void. Mr. Fulcher made the Motion to approve Seymour Memorial Park East and not Seymour Memorial Park West; Mr. Cutler 2nd the Motion. All voted in favor. Mr. Cutler requested to revisit January 18, 2012 minutes regarding above decision, specifically page 4, paragraph 4 – the minutes reflect precedents of annexes of approved existing cemeteries. Mr.

Cutler made the Motion to correct previous minutes with sentence “Precedents include . . . removed”; Mr. Gaffney 2nd the Motion. All voted in favor.

B. Beatties Ford Memorial Park/Linders Complaint

Mr. and Mrs. Linder presented before the Commission regarding their pending complaint with Beatties Ford Memorial Park (BFMP) and were hopeful that a final decision can be rendered by the N.C. Cemetery Commission. Mr. Linder stated that Atty. Ryan Rich representing BFMP was to negotiate the fair market value of a replacement. Per Mr. Linder, Atty. Rich addressed only the Pre-Need agreement; not the second part of the complaint which was the breach of contract including the cancellation of two Grave Plots in addition to the Pre-Need without probable cause; and that BFMP responded regarding the Pre-Need compensation only. BFMP refunded the Pre-Need at \$400. Mrs. Linder stated that the BFMP check was returned for the Pre-Need to BFMP. Per Mr. Linder, Atty. Rich communicated via letters regarding Pre-Need situations only. Chairman Stephens inquired what Mr. and Mrs. Linder request was of the N.C. Cemetery Commission. Mr. Cutler noted that it is uncertain what the N.C. Cemetery Commission’s role is in this circumstance.

Atty. Hicks repeated a previous suggestion to file a written formal complaint per the Consumer Protection Division (with the N.C. Dept. of Justice); furthermore, the N.C. Cemetery Commission cannot adjudicate the issue. This circumstance between BFMP and the Linders requires legal representation. Mr. Fulcher stated that this needs be resolved so it does not happen again.

Per the Linders, financial restitution has been released to the complainants with fewer funds than current Opening and Closing costs previously paid. Per Atty. Hicks the Commission has the ability to play a role and gather facts per the Cemetery and that the Linders need to play an active role; the N.C. Cemetery Commission’s role is limited; yet might require investigation at BFMP. Atty. Hicks additionally noted that compensation for legal fees for BFMP is excessive to what compensation to what the Linders could receive in compensation. Mr. Fulcher noted the concern is where -the Linders would be interred currently.

Mr. Gaffney noted that if Pre-Need was sold without a trust that is a criminal violation. Mr. Gaffney suggested a special audit; not the standard audit per the N.C. Cemetery Commission office. Every file would require being reviewed and hiring an outside auditor.

Mr. Fulcher made the Motion to do a full audit of Beatties Ford Memorial Park.. Ms. Cotten 2nd the Motion. All voted in favor.

C. HTCC: Update

HTCC have been paying Perpetual Care (PC) in monthly payments of \$100 per each of two cemeteries. HTCC is proposing a payment plan to pay the PC. HTCC is current on other required documents and reports.

Ms. Gale Barney and Ms. Sharon Foss presented before the Commission to request a payment plan. Mr. Fulcher asked if the PC fees paid are current to the trust. HTCC representatives stated they suspected not. Mr. Fulcher made the Motion to send a 20-day letter requiring full payment; Mr. Yates 2nd the Motion. All voted in favor. Mr. Gaffney

requested that funds due should go to the trust first, then to the fees. Ms. Barney responded that Perpetual Care is caught up except for this year.

D. Anita Davis Provisional Pre-Need Sales Application Update

Provisional Form received and accepted from employer to the N.C. Cemetery Commission.

E. Moody Cemeteries Updates

Prospect buyers are available per future auction. Mr. Rusty Tysor indicated that the receiver, Ms. Shelia Gahagan, had determined there are two prospect buyers for the cemeteries. Atty. Hicks noted that a prospect buyer involves risk considering past history. Mr. Fulcher suggested sending an audit to assess situation prior to any sale/auction. Pre-Need Merchandise purchased through the Funeral Home not included via the Cemetery Act. Atty. Hicks stated that the purchase not contingent on N.C. Cemetery Commission, yet suggested representation at the auction.

F. Administrator Appointment

The Administrator appointment status was previously addressed.

<10 minute Break>

Mr. Fulcher made a Motion to go into Executive Session for further legal representation and discussion. Mr. Brown 2nd the Motion. All voted in favor.

At 11:45 a.m. Mr. Cutler made a Motion to end Executive Session. Mr. Brown 2nd the Motion. All voted in favor. Executive Session began at 11:23 a.m. and ended at 11:55 a.m. During Executive Session legal counsel was presented and all were satisfied.

Mr. Cutler made the Motion to replace LQ Legacy Cemetery Funds Management Company (“LQ”), the current Trustee, with Pinehurst Funds, Inc. (providing that Pinehurst Funds volunteers). Mr. Cutler’s Motion included the proviso that the Cemetery Commission’s legal counsel is to write or otherwise communicate with LQ’s legal counsel and find out whether LQ is still willing to voluntarily step down as the Trustee and be replaced by Pinehurst Funds, assuming that Pinehurst Funds is willing to serve as the Trustee, or, if Pinehurst Funds is not so willing, by Cemfunds. This Motion was seconded by Mr. Brown . All voted in favor.

Mr. Brown made a motion authorizing Faison Hicks and Anne Brown to compose a letter on behalf of the Cemetery Commission addressed to LQ’s attorney, Don Hunt, informing him and his client that, insofar as the Cemetery Commission can determine from its examination of the deeds and other documents of record that exist, including from its examination of the materials provided to the Cemetery Commission’s legal counsel by legal counsel for LQ, Chapel Hill Cemetery is in violation of the 30-acre cemetery subdivision rule set out in the Cemetery Act and that, if LQ believes this conclusion to be incorrect, it should provide the Cemetery Commission’s legal counsel as soon as possible with clear written evidence of that fact in the form of a concise and clear memorandum of fact and law, as well as copies of any documents that LQ’s counsel believes substantiate its own conclusion as to this matter. This Motion was seconded by Mrs. Cotten. All voted in favor.

Mr. Cutler made the Motion to adjourn the N.C. Cemetery Commission; Mr. Brown 2nd the Motion. All voted in favor.

Meeting adjourned at 11:56 on April 18, 2012.

The next meeting is scheduled for Wednesday, July 18, 2012 at 9:00 a.m. at The Woodoak Building, 1100 Navaho Drive, Suite 242, Raleigh, NC 27609.

CHAIRPERSON

DATE