

State of North Carolina
Cemetery Commission Meeting Minutes
October 15th, 2014

The North Carolina Cemetery Commission held a meeting on Wednesday, October 15, 2014 in The Hilton North Raleigh Midtown located at 3415 Wake Forest Rd, Raleigh, NC 27609. Those Members in attendance were President Gantt Stephens, Vice-President Glenn Cutler, Treasurer William "Bill" Gaffney, Commissioners, Angie Thomas-Daoud, David Brown, Brad Bailey, Linda Cotten and Richard "Dick" Lagatore. New Commissioner, John Winn Graham was absent. Vikki Tollefsen was also present as Administrative Coordinator. Members of the public were also in attendance.

The meeting was called to order by President Stephens, who opened the meeting with a Moment of Reflection. First item was Agenda approval; Mr. Stephens added item 5B, Calvary Memorial Cemetery update and amended item 6, next meeting is January 21, 2015 not January 14th. Ms. Cotten moved to approve the Agenda, Mr. Lagatore seconded the motion, all voted in favor to accept the agenda. Next up for approval were the minutes from the July 16, 2014 meeting, Mr. Cutler moved to approve the minutes, Ms. Cotten 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 an update on inspections: Since the July meeting we have scheduled 26 inspections; 20 have been completed, with the other 5 to be completed in October. We are fully up to date and running on inspections as scheduled. Inspections will be conducted on a target schedule of at-need only cemeteries every 36 months and pre-need cemeteries every 18 months.

There have been fourteen complaints filed since the last meeting, which brings the year to date total to thirty-one. Four are unresolved because the 20 day letters have yet to expire. We expect those to be resolved as well.

Mr. Stephens moved on to the financials. He stated that the format for the financials have been updated to reflect year-to-date comparison from the previous year. Mr. Stephens asked if there were any questions; Mr. Cutler asked about an annual audit of our financials, he made a motion to hire an independent CPA to audit the Commission's finances; Ms. Cotten seconded the motion, all in favor.

Mr. Stephens gave a brief update on Chapel Hill land issue reporting that everything has been resolved and that the cemetery has been restored to 30 acres.. 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:

Mr. Travis from Pisgah View Memorial Park in Candler, NC asked to speak to the Commission. His dad Carl and his grandmother are the board members at Pisgah, he thought he and his sister were also board members, but they are not listed. He would like to give the cemetery to a new owner however, he believes he cannot sell it because it is a non-profit. He wants to identify someone that the NC Cemetery Commission approves of to take over the cemetery. He father is willing to satisfy any liabilities that are outstanding. Mr. Stephens informed him to call the Commission office to obtain the proper change of control forms.

V. NEW BUSINESS:

- A.** Mountain View Memorial Park in Black Mountain, NC- this cemetery is an ongoing problem, we recently learned that they were in bankruptcy and were auctioned off. New owners failed to apply for a Change of Control. There are many issues with the cemetery trust accounts. The cemetery has failed to file reports; they have not paid the cemetery license renewal and have ignored 20 day letters requesting compliance. Mr. Gaffney gave a brief history on the cemetery due to confusion of who the current owners are. There have been three changes of ownership since Madge Milavich owned Mountain View, but none of those changes have been approved with the Commission. Mr. Stephens suggested seeking a permanent injunction to place Mountain View in receivership. After a brief discussion, Mr. Cutler moved to seek a permanent injunction against Mountain View and have a receiver appointed as stated in § 65-53(5) with the intention of a new owner taking control of Mountain View Memorial Park. Ms. Cotten seconded the motion. All voted in favor.
- B.** Oakwood Memorial Park in High Point, NC is on the agenda for similar reasons as Mountain View. The cemetery has not filed any reports, 20 day letters go ignored, and they have yet to pay for the Cemetery's license renewal. Rusty Tysor, mentioned the inspection he just completed for Oakwood, stating that Charlie Dye, the current owner, would be catching up the reports and paying the renewal fee of \$500. Ms. Tollefsen stated that as of this meeting date, he has not submitted any reports, but he has paid the cemetery renewal. Mr. Cutler moved to seek a permanent injunction against Oakwood Memorial Park and have a receiver appointed as stated in § 65-53(5) with the intention of a new owner taking control of Oakwood Memorial Park. Ms. Thomas-Daoud seconded the motion. All voted in favor.
- C.** Crown Memorial Park in Pineville, NC is on the agenda due to a recent inspection that uncovered the Perpetual Care trust fund was short \$41,000 and merchandise trust is short \$287,000. The inspection is incomplete at this time. The inspector discovered enough of a problem to bring it to the attention of the Commission Board. Mr. Bob Hand is here on behalf of the cemetery, he confirmed that he submitted a letter informing the Commission of a proposal to sell some of his property in order to pay the funds back. He also referenced that he is paying \$7500 a month in addition to selling the property to make the funds whole. Since the date of his letter, he has made two payments towards the funds. Mr. Stephens asked Mr. Hand if he knows what the total liabilities are. Mr. Hand said he has been going over the contracts and it will most likely be \$40,000 more than what is currently known for the Perpetual Care fund. Mr. Stephens asked Mr. Hand

how the cemetery got into this situation, Mr. Hand gave an explanation, after some lengthy discussion and questions, Mr. Gaffney asked how long an in depth inspection would take. Based on the amount of time the Ashelawn inspection took, it would take at least a month. It should be concluded by the January meeting. Mr. Stephens asked Mr. Tysor if he had an idea of what the merchandise liability might be, he admitted that it isn't something you can guess, but it would be more than the perpetual care liability. Mr. Gaffney made a motion to conduct the in depth inspection to find what the total liabilities are and Mr. Hand assigns the funds from the sale of both his properties to both funds and for Mr. Hand to continue making the \$7500 monthly payment and will appear at the next cemetery meeting in January, if the funds have been replaced before the sale of his properties, then Mr. Hand is not obligated to use the proceeds to replenish the funds. Ms. Cotten seconded the motion, Mr. Stephens clarified that we are not offering any relief to Crown we are only agreeing to postpone any judgments until the January meeting, in January we should have the total liabilities from the inspection, and we will be closer to the sale of his properties. We will also postpone the pursuit of criminal charges until the January meeting. Ms. Cotton, Ms. Thomas-Daoud, Mr Gaffney, Mr. Brown, Mr. Bailey and Mr. Lagatore voted in favor. Mr. Cutler opposed. The motion carried.

- D. Crawford/Ray Memorial Gardens wants to move trust from Wells Fargo to Pinehurst Funds. Initiated by Wells Fargo, all paperwork in order. Ms. Cotten motioned to approve transfer, Mr. Bailey seconded, all in favor.

VI. OLD BUSINESS:

- A. Ashelawn Gardens of Memory in depth inspection progress. The cemetery is in bad shape and the inspection is not yet completed. We have no other recourse but to place the cemetery in receivership. Mr. Gaffney gave brief history of cemetery owners, it's a corporation made up of family members. Mr. Bailey motioned to finish the in depth inspection and proceed with seeking a permanent injunction against Ashelawn Gardens of Memory and have a receiver appointed as stated in § 65-53(5) with the intention of a new owner taking control of Ashelawn and to notify the District Attorney only if the missing funds total more than \$20,000. Mr. Lagatore seconded the motion. All voted in favor.
- B. Calvary Memorial Cemetery in Wilmington update: the injunction is in place, but is only a temporary one. Next step is to find a new owner to buy the cemetery. In the meantime, the receiver, Boscoe Fulcher, is to run the day to day activities. Mr. Fulcher provided the Commission office with all reports and fees to bring the cemetery up to date. Mr. Fulcher reported that Mr. Krupicka is very organized in the office but the cemetery maintenance is a nightmare. Mr. Krupicka has worked to clean up the trash and cut all the grass. Things at Calvary are improving.

VII. REMINDER OF NEXT MEETING:

Next meeting for the Commission will be January 21, 2015 not January 14 and will be at this same location, but most likely not the same room.

Mr. Cutler motioned for adjournment, Mr. Gaffney seconded the motion, all voted in favor. Meeting adjourned at 10:25 a.m.