

State of North Carolina
Cemetery Commission Meeting Minutes
October 16, 2019

The North Carolina Cemetery Commission held a meeting on Wednesday, October 16th in the Hilton North Raleigh Midtown located at 3415 Wake Forest Rd., Raleigh, NC 27609.

The members in attendance were President William "Bill" Gaffney, Vice-President Linda Cotten and the following Commissioners: Ebbie Hendren, Lenual Primus, David Simmons, John (Winn) Graham, and Sharon Weaver. Gantt Stephens as Director of Operations was also in attendance, as well as members of the public.

The meeting was called to order by President Gaffney at 10:00 a.m. The President called for a Moment of Reflection.

The next item was the approval of the minutes from the July 17th, 2019 NC Cemetery Commission meeting. Mrs. Cotten proposed various revisions and moved to accept the meeting minutes as corrected. The motion was seconded by Mr. Graham. All voted in favor.

I. CONFLICT OF INTEREST:

President Gaffney declared that, in accordance with the State Government Ethics Act 138 A 15E, it is the duty of every Commission member to avoid both conflicts of interest and appearances of conflicts in regards to the matters being brought before them and to refrain from any undue participation in the particular matters involved.

Mr. Winn Graham and Mr. Lenual Primus recused themselves from the new business Harnett Devotional Gardens Inspection item.

II. OPERATIONS REPORT:

Mr. Stephens reported:

Eighteen (18) complaints have been received since the last meeting, bringing the year to date complaint total to 56. Many of these 56 complaints are regarding Crestlawn Memorial Gardens which will be discussed in more detail later.

Cemeteries late on their monthly reports are Shepherd Memorial Park for July and August, Yadkin Memorial Gardens for May through August, Gardens of Faith late on August and Crestlawn Memorial Gardens for July and August. All annual care and maintenance reports are complete except for Shepherd Memorial Park in Hendersonville which submitted their report but was rejected due to insufficient information. We are awaiting their updated information.

Thirteen (13) inspections have been completed since the last meeting. Forty-six (46) inspections have been completed year to date. The inspection program is current and functioning according to schedule.

Mr. Stephens stated his Operations Report was complete unless there were questions. No further discussion occurred.

III. REQUESTS FROM THE PUBLIC TO ADDRESS THE COMMISSION:

Mr. Parham, Matthews representative, indicated that he has been in close communication with Shepherd Memorial Park and plans to assist them with getting caught up on their reports. The owners of the cemetery have had medical issues that have impacted their delivery of required documentation. Mr. Parham plans to have them caught up within several days if possible.

IV. NEW BUSINESS:

- A. A Resolution Honoring Leonard "Boscoe" Fulcher: Mr. Gaffney read a letter that honors Mr. Boscoe Fulcher. This letter will be presented to Mr. Fulcher's wife, Brenda. A summary of the letter is as follows: The North Carolina Cemetery Commission, on behalf of its members, recognizes the significant contributions of Mr. Fulcher over the course of his forty years of distinguished service in our industry. He worked tirelessly to maintain the highest standards for the cemetery industry and consumers. He was the mentor for countless men and women in the industry. Mr. Fulcher will be missed, and we know his work will continue.
- B. Oak Grove Mausoleum Pre-Construction: Per the NC General Statute § 65-70, construction of a mausoleum in which sales, contracts of sales, are being made must start within 48 months after the date of the first sale and be completed within five years of that same date. Oak Grove first sale occurred in October of 2014.

Steve Vining, one of the principles of Oak Grove is working with a contractor, David Wilson, to construct the mausoleum and is currently finalizing the contract. At the same time, he is preparing the site. The permitting process takes 2-3 months per Durham County. He anticipates having the permit by the first of the year. Then he will start construction shortly thereafter depending on the weather. Mr. Gaffney asked why ground wasn't broken earlier per the statute and Mr. Vining did not know exactly but thought maybe it was an oversight. Mr. Gaffney obtained clarification from Mr. Vining that the contract has not been finalized but should be within the next two weeks. The contract is in draft form currently. Ms. Hendren asked what actions the commission can take per the statute and Mr. Stephens indicated the trustee (Pinehurst) can construct the mausoleum or a committee can be created to oversee the construction. Mr. Gaffney indicated the funds available in the Pre-construction trust account are insufficient to complete the mausoleum due to people still making payments. Ms. Hendren moved to create a committee to oversee the construction of the mausoleum and/or return the funds to the consumers that paid for crypts that monies have been trusted. The committee will consist of Mr. Gantt Stephens, Ms. Sharon Weaver, Mr. Rusty Tysor and Ms. Ebbie Hendren. Mrs. Cotten seconded the motion. Mr. Vining will communicate the progress with the committee, and they will report the progress at the quarterly commissioners' meeting. Mr. Vining anticipates the contract to be completed by November 01, 2019 and the permit to be approved by Durham County by January 01, 2020. All voted in favor.

Mr. Gaffney indicated that Carolina Biblical Gardens mausoleum needs to be constructed as well. Mr. Vining was not aware of this, but he will be working towards getting construction started. This construction is not past the 48 months currently. Mr. Vining will communicate to the committee regarding both mausoleum construction efforts.

- C. Harnett Devotional Gardens Inspection: The inspection outlined financial shortfalls in the Perpetual Care, Merchandise and Opening and Closing Trust funds. Lenual Primus, owner of Harnett, indicated he misunderstood the statute regarding how money should be placed in the Perpetual Care trust fund. He thought he had four years to deposit the funds in the PC trust account. Mr. Gaffney clarified that as payments are made by his clients on a monthly basis, so should deposits be made into the PC trust account on a monthly basis; to be paid in full by the 48th payment regardless of contract length. Some of the Opening and Closing items are still being paid per Mr. Primus and need to be removed from the list of items to be paid per the inspection report, three contracts totaling approximately \$5,700 are in question. Mr. Primus understood that installation related charges did not have to be trusted. Mr. Gaffney indicated that the full retail price is what the statute outlines to be paid to

trust. Mr. Primus indicated that some bronze memorials have been installed, stored or the contract has been cancelled and they should be removed from the list. Mr. Primus recommended he pay \$1,800 per month for three years to make the funds whole. These payments must be made regardless if inventory is delivered until the amount owed is below \$20k. Ms. Hendren made a motion for Mr. Primus to make a payment of \$1,800 per month towards his PC trust deficient until it is paid in full. He will continue making these payments on the other trust deficit until the total owed is less than \$20K. At that time, Mr. Primus will show what has been delivered and the amount owed to the trusts will be reestablished. If he still owes money, he will continue to make his monthly payments until the full amount is paid. Mrs. Cotten seconded the motion. All voted in favor.

- D. NCCC Audit Report: Mr. Stephens reported that NCCC is required to complete an annual audit. The audit report was included in the packet provided to the commissioners. In addition, the financial report was included in the packets. The commission had no questions regarding the reports. The financials were also reviewed at this time. Mr. Stephens pointed out that staff from the CPA firm handling the financials was available in the gallery for questions.

V. OLD BUSINESS:

- A. Update on Crestlawn Memorial Gardens: Mr. Stephens indicated the commissioners made a motion at the last meeting to seek receivership and that process is currently in motion. The court date has been set for October 21, 2019 in Pitt County. It is anticipated the commission will prevail in this case.
- B. Lakeland Special Inspection: Mr. Stephens indicated a special inspection was completed at the request of the commission due to many missing deeds. Following the inspection, 33 deeds remain missing. Procedures were recommended to the cemetery to mitigate this situation.
- C. Crown Memorial Park: Mr. Stephens reported that Mr. Hand is continuing to make payments and the board wanted to continue to seek a receiver. Ms. Hendren moved for Crown to continue to make payments and the commission will continue to seek a receiver until the next meeting. Mrs. Cotten seconded the motion. All voted in favor.
- D. Updated on New Administrative Rule: Mr. Stephens has updated the rule through the office of administration hearing. A hearing is scheduled on November 13, 2019. Mr. Stephens will report whatever comments are received in January and the Commission will make its final decision.

VI. REMINDER OF NEXT MEETING DATE:

January 15, 2020 at 10:00 a.m.

VII. Adjournment:

Mrs. Cotten made a motion to adjourn the meeting and Mr. Graham seconded. All Commissioners voted in favor. Mr. Gaffney adjourned the meeting at 11:08 a.m.