

State of North Carolina
Cemetery Commission Meeting Minutes
October 21, 2020

The North Carolina Cemetery Commission held a meeting on Wednesday, October 21, 2020 via teleconference.

The members in attendance were President William “Bill” Gaffney and the following Commissioners: Ebbie Whitley-Hendren, Lenual Primus, David Simmons, Winn Graham, Linda Cotten, Dyane Miller, Bobby Townsend, and Sharon Weaver. Gantt Stephens, as Director of Operations was also in attendance, as well as the following members of the public: Mr. Willard Haithcock with Sunset and Granville Memorial Gardens, Richard Pearce – prospective new owner of Sunset/Granville Memorial Gardens, Margaret Burnham of St. Francis Springs, Inc., and Cynthia Scott of Yadkin Memorial Gardens.

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

The first item of the meeting was the agenda approval. Mrs. Whitley-Hendren moved to approve the agenda. The motion was seconded by Mrs. Cotten. All voted in favor to accept the agenda as written.

The next item for approval was the minutes from the July 15, 2020 NC Cemetery Commission meeting. Ms. Weaver proposed corrections. Mrs. Cotten proposed various revisions as well. Mrs. Whitley-Hendren moved to accept the meeting minutes as corrected. The motion was seconded by Mrs. Cotten. Motion passed.

I. CONFLICT OF INTEREST:

President Gaffney declared that, in accordance with the State Government Ethics Act 138A 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 voting on the topic Harnett Devotional Gardens in old business.

II. OPERATIONS REPORT:

Mr. Stephens began the report by addressing the number of complaints (21) reported for this quarter. He also reported there have been (16) completed inspections with (10) more scheduled, bringing the year to date total to (48). Mr. Stephens informed the Commissioners that inspections have resumed as normal, however, if cemeteries report a concern regarding social distancing protocols related to COVID-19 they have been allowed to reschedule.

All Annual Care and Maintenance reports have been received.

NCCC Financial Reports were provided to the Commissioners for review. Mr. Stephens stated his Operations Report was complete unless there were questions. No further discussion.

III. REQUESTS FROM THE PUBLIC TO ADDRESS THE COMMISSION:

There were no requests from the public to speak.

IV. NEW BUSINESS:

- a. Sunset and Granville Memorial Gardens – Change of Control: The Commissioners were provided with all required documents to review for a change of control request for both cemeteries. Mr. Richard Pearce is the prospective buyer and Mr. Willard Haithcock is the current owner/seller for each individual cemetery. Mr. Gaffney explained to the Commissioners that he traveled to the cemetery property on two occasions to meet with both gentlemen and discuss the change of control. The Commissioners were made aware that the previous owner of 40+ years, Mr. Haithcock, will continue to serve as the manager for the cemetery. Mr. Stephens reports that both required inspections revealed no findings. There were no requests for clarification or further information related to the information provided. Mr. Winn Graham moved to approve the change of control for both Sunset Memorial Gardens and Granville Memorial Gardens. The motion was seconded by Mrs. Miller. No further discussion. The motion passed. The cemetery owners were informed they now have 90 days to complete the change of control.
- b. Declaratory Ruling Request from St. Francis Springs Prayer Center: Ms. Margaret Burnham was present to represent St. Francis Prayer Center. In 2018 the St. Francis requested that the Center be declared by the Commission to be exempt from regulation under Article 9, The North Carolina Cemetery Act. The Commission at that time moved to refer the Center to the NC Attorney General to define a church.(See Commission minutes of July 2018) Ms. Burnham explained now to the Commissioners that they did make such request but were unable to obtain the desired ruling due to regulations regarding proper process in the Attorney General's office. They were instructed to bring the matter back to the Commission in the form of a formal request for a Declaratory Ruling. The request asks that the Commission "issue a Declaratory Ruling that St. Francis Springs Prayer Center, Inc. is exempt from the North Carolina Cemetery Act as a "church" under NC General Statute 65-47(a); and/or refer this request for a Declaratory Ruling to the NC Attorney General as to whether or not St Francis Springs Prayer Center Inc. is exempt as a church under NC General Statute 65-47(a)." Documents with details of the specific request were provided to the Commissioners for review. Mrs. Whitley-Hendren moved to have NCCC administrative staff send a formal letter to the Attorney General's office requesting a declaratory ruling for St. Francis Prayer Center. Mrs. Cotten seconded the motion. No further discussion. Motion passed.

- c. Carolina Biblical Gardens of Guilford: The Commissioners were provided with correspondence between NCCC and Carolina Biblical Gardens of Guilford #14 staff regarding the significant delay in their new construction project. Carolina Biblical Gardens is in violation of NC General Statute §65-70 which states construction must begin within 48 months of the first sale. The first reported pre-need sale for the mausoleum in question was in December of 2015. Mr. Gaffney reminded the Commissioners that the role the Commission is to ensure the cemetery obtains a permit to break ground OR ensures that monies paid to the cemetery for this preconstruction project are refunded to the customers. Mrs. Whitley-Hendren moved to establish a committee to oversee the next steps of construction with updates to be reported to the Commission at the next meeting. The committee will have the ability to recommend that the cemetery produce a building permit or a signed contract. If one is not produced within 90 days, the cemetery will be required to refund the customers who purchased preconstruction spaces. Mr. Winn Graham seconded the motion. No further discussion. Motion passed.
- d. Internal Audit: Copies of the report from the Independent Audit of the NCCC were provided to all Commissioners in their meeting packets. Mr. Gaffney opened the floor for questions or discussion. There were no questions or concerns from the Commissioners.

V. OLD BUSINESS:

- a. Crestlawn Memorial Gardens: Mr. Stephens reported that we continue to work with Ruth Futrell to operate the cemetery and determine the extent of fraudulent activity that occurred during the ownership of Mr. Watson. Mr. Stephens continues to meet with attorneys to complete the receivership process. He reports there is an issue with locating an estranged brother who is also a potential owner by inheritance. Both owners' signatures are required to proceed with signing the cemetery over to Mrs. Futrell. No further discussion.
- b. Harnett Devotional Gardens: The Commissioners were provided with the recent Inspection report completed by Mr. David Drach. This report found Harnett Devotional Gardens having a total deficit of \$135,063 across multiple trust accounts. Mr. Primus states he is aware that monies are due and have not yet been paid. Mr. Primus stated he is able to send ~\$17,000 to his PC account today. Mr. Gaffney clarified that the concern of the Commission is the significant increase in the deficit across each trust account since the last inspection combined with lack of participation in the established payment plan from the previous audit that found these same issues. Mrs. Whitley-Hendren requested clarification from Mr. Gaffney about the options the Commission currently has in this situation. Mr. Gaffney clarified that the options are to extend additional credit to Mr. Primus or place the cemetery in receivership. Mr. Primus states he has a relative or friend who can loan him a sum of money to cover all deficits and avoid receivership. He states he can pay the deficits in full by October 31, 2020. Mrs. Miller moved to place Harnett Devotional Gardens in receivership if the approximate total of \$135,063 due to various trusts is not paid to Cemetery Funds by October 31, 2020. Mrs. Whitley-Hendren seconded the motion. Motion passed.

VI. REMINDER OF NEXT MEETING DATE:

January 20, 2021 at 10:00 a.m.

VIII. Adjournment:

Mrs. Cotten moved to adjourn the meeting. Mr. Winn Graham seconded the motion. Motion passed. Meeting adjourned at 11:35 AM.