

CEMETERY BOARD

TENTATIVE AGENDA

Tuesday, February 2, 2021 - 10:00 a.m.
2nd Floor

Department of Professional and Occupational Regulation
9960 Mayland Drive, Richmond, VA 23233
(804) 367-0010

I. CALL TO ORDER

II. ADMINISTRATIVE ISSUES

1. Approval of Agenda
2. Approval of Minutes:
 - A. September 9, 2020, Board Meeting

III. PUBLIC COMMENT PERIOD*

III. CASES

1. File Number 2021-00376 – Bobby Todd Norman
IFF by Doherty – Licensing
2. File Number 2020-01346 – Gardner Enterprises, Inc.
Pre-IFF Consent Order by Doherty – Disciplinary
3. File Number 2019-02308 – Stitham, LLC
Pre-IFF Consent Order by Doherty – Disciplinary
4. File Number 2020-01347 – Victor Group, LLC
Prima Facie by Doherty – Disciplinary
5. File Number 2020-01318 – Patrick Memorial Gardens, Inc.
Prima Facie by Minter – Disciplinary
6. File Number 2020-02678 – Affiliated Service Group
Pre-IFF Consent Order by Minter – Disciplinary
7. File Number 2020-01687 – Cemetery Management Corporation LLC
Pre-IFF Consent Order by Dudley – Disciplinary

*DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion and are not to be construed as regulation or official Board position.
DRAFT AGENDA*

IV. ADMINISTRATIVE ISSUES

- Board Financial Statement
- Temporary Fee Reduction proposal
- Resolution

V. NEW BUSINESS

VI. OLD BUSINESS

VII. OTHER BUSINESS

VIII. ADJOURN

NEXT MEETING SCHEDULED FOR WEDNESDAY, September 29, 2021

* 5-minute public comment, per person, on those items not included on the agenda with the exception of any open disciplinary files. No other public comment will be accepted by the Board during the meeting.

Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the Department at (804) 367-8552 at least ten days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The Department fully complies with the Americans with Disabilities Act.

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CEMETERY BOARD MEETING

MINUTES

September 9, 2020

The Cemetery Board met on September 9, 2020, at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, Richmond, Virginia. The following members were present:

Randolph Minter, Chair
Michael H. Doherty, Vice-Chair
Armistead Dudley
Judy S. Lyttle (arrived at 10:13 A.M.)
Marx Eisenman, Jr.

Board members absent from the meeting: Enid Butler
James A. Meadows, Jr.

DPOR staff present for all or part of the meeting included:

Mary Broz-Vaughan, Director
Christine Martine, Executive Director
Jim Chapman, Board Administrator
Emily Trent, Administrative Assistant

Elizabeth Peay from the Office of the Attorney General was present.

Randolph Minter called the meeting to order at 10:04 A.M.

Call to Order

A motion was made by Mr. Doherty and seconded by Mr. Dudley to approve the agenda. The motion passed unanimously. Members voting "Yes" were Doherty, Dudley, Eisenman and Minter.

Agenda

A motion was made by Mr. Doherty and seconded by Mr. Eisenman to approve the February 19, 2020, Board Meeting minutes. The motion passed unanimously. Members voting "Yes" were Doherty, Dudley, Eisenman and Minter.

Minutes

There was no public comment.

Public Comment

In the matter of **File Number 2020-01625, Scott Nelson Morgan**, the **File Number 2020-01625,**

Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. A motion was made by Mr. Doherty and seconded by Mr. Dudley to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and approve Scott Nelson Morgan as the compliance agent and officer for Greenlawn Memory Gardens, Inc., t/a Roselawn Memory Gardens. The motion passed unanimously. Members voting "Yes" were Doherty, Dudley, Eisenman and Minter.

Scott Nelson Morgan

In the matter of **File Number 2020-02632, David Ross Dagenhart, Jr.**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. A motion was made by Mr. Eisenman and seconded by Mr. Dudley to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and approve David Ross Dagenhart, Jr. as the trustee for Hanover Memorial Park, LLC. The motion passed unanimously. Members voting "Yes" were Dudley, Eisenman and Minter.

File Number 2020-02632,
David Ross Dagenhart,
Jr.

As the presiding Board member, Mr. Doherty did not vote or participate in the discussion in this matter.

In the matter of **File Number 2020-02779 Roger L. Porter, Jr.**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. A motion was made by Mr. Eisenman and seconded by Mr. Dudley to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and approve Roger L. Porter, Jr. as the trustee for Trinity Cemetery, LLC. The motion passed unanimously. Members voting "Yes" were Dudley, Eisenman and Minter.

File Number 2020-02779
Roger L. Porter, Jr.

As the presiding Board member, Mr. Doherty did not vote or participate in the discussion in this matter.

In the matter of **File Number 2019-02308, Stitham, LLC**, the case was deferred.

File Number 2019-02308,
Stitham, LLC

Board member Judy Lyttle arrived at 10:13 A.M.

Arrival of Board Member

In the matter of **File Number 2020-01341, Historyland Memorial Park, LLC**, the Board reviewed the Consent Order as seen and agreed to by Historyland Memorial Park, LLC. A motion was made by Mr. Dudley and seconded by Mr. Eisenman to accept the proposed Consent Order offer

File Number 2020-01341,
Historyland Memorial
Park, LLC

wherein Historyland Memorial Park, LLC admits to a violation of §54.1-2319 (Count 1) of the *Code of Virginia*, a violation of §54.1-2325.A (Count 2) of the *Code of Virginia*, and a violation of §54.1-2322.A (Count 3) of the *Code of Virginia*, and agrees to a monetary penalty of \$300.00 for the violation contained in Count 1, \$400.00 for the violation contained in Count 2, as well as \$150.00 in Board costs, for a total of \$850.00. Further, for violation of Count 3, Historyland Memorial Park, LLC, agrees to return \$8,555.76 to the perpetual care trust fund. The motion passed unanimously. Members voting “Yes” were Dudley, Eisenman, Lyttle and Minter.

As the Board member who reviewed the file, Mr. Doherty did not vote or participate in the discussion in this matter.

Mr. Minter turned the position of Chair over to Mr. Doherty.

Transfer of Chair

In the matter of **File Number 2019-01444, Stitham, LLC**, the Board reviewed the Consent Order as seen and agreed to by Stitham, LLC. A motion was made by Mr. Eisenman and seconded by Ms. Lyttle to accept the proposed Consent Order offer wherein Stitham, LLC, admits to a violation of 18 VAC 47-20-190.11 (Count 1) of the Board’s 2000 Regulations, and agrees to a monetary penalty of \$2,500.00 for the violation contained in Count 1, as well as \$150.00 in Board costs, for a total of \$2,650.00. In addition, the Board shall waive imposition of the \$2,500.00 monetary penalty for Count 1, provided Stitham LLC completes the work and repairs as listed below: 1) Repair detached stone of a low circular wall surrounding a statue at the Chapel mausoleum; 2) Remove dead tree; 3) Repair potholes in paved drive; and 4) Repair storm drain pipe and erosion of soil. Stitham LLC agrees to provide the Board with proof of completion of the listed work above within six (6) months of the effective date of the Consent Order. If Stitham LLC fails to comply with these conditions, then the full monetary penalty will be automatically imposed and Stitham LLC’s license will be automatically suspended until the listed work is completed. The motion passed unanimously. Members voting “Yes” were Doherty, Dudley, Eisenman and Lyttle.

**File Number 2019-01444,
Stitham, LLC**

As the Board member who reviewed the file, Mr. Minter did not vote or participate in the discussion in this matter.

In the matter of **File Number 2020-01327, Heritage Family Cemetery Incorporated**, the Board reviewed the Consent Order as seen and agreed to by Heritage Family Cemetery Incorporated. A motion was made by Ms. Lyttle and seconded by Mr. Dudley to accept the proposed Consent Order offer wherein Heritage Family Cemetery Incorporated admits to a violation of §54.1-2330 (Count 1) of the *Code of Virginia*, and agrees to

**File Number 2020-01327,
Heritage Family
Cemetery Incorporated**

\$150.00 in Board costs, for a total of \$150.00. The motion passed unanimously. Members voting “Yes” were Doherty, Dudley, Eisenman, and Lyttle.

As the Board member who reviewed the file, Mr. Minter did not vote or participate in the discussion in this matter.

In the matter of **File Number 2019-01759, Maranatha, Ltd. t/a Merchants Hope Memorial Gardens**, the Board reviewed the Consent Order as seen and agreed to by Maranatha, Ltd. t/a Merchants Hope Memorial Gardens. A motion was made by Mr. Eisenman and seconded by Ms. Lyttle to accept the proposed Consent Order offer wherein Maranatha, Ltd. t/a Merchants Hope Memorial Gardens, admits to two violations of §54.1-2319 (Count 1) of the *Code of Virginia*, and two violations of §54.1-2325.A (Count 2) of the *Code of Virginia*, and agrees to a monetary penalty of \$200.00 for the violations contained in Count 1, \$200.00 for the violations contained in Count 2, as well as \$150.00 in Board costs, for a total of \$550.00. The motion passed unanimously. Members voting “Yes” were Doherty, Dudley, Eisenman, and Lyttle.

File Number 2019-01759,
Maranatha, Ltd. t/a
Merchants Hope
Memorial Gardens

As the Board member who reviewed the file, Mr. Minter did not vote or participate in the discussion in this matter.

In the matter of **File Number 2020-01322, Forest Hill Burial Park, Incorporated**, the Board reviewed the Consent Order as seen and agreed to by Forest Hill Burial Park, Incorporated. A motion was made by Ms. Lyttle and seconded by Mr. Eisenman to accept the proposed Consent Order offer wherein Forest Hill Burial Park, Incorporated, admits to a violation of §54.1-2319 (Count 1) of the *Code of Virginia*, and agrees to a monetary penalty of \$100.00 for the violation contained in Count 1, as well as \$150.00 in Board costs, for a total of \$250.00. The motion passed unanimously. Members voting “Yes” were Doherty, Dudley, Eisenman, and Lyttle.

File Number 2020-01322,
Forest Hill Burial Park,
Incorporated

As the Board member who reviewed the file, Mr. Minter did not vote or participate in the discussion in this matter.

In the matter of **File Number 2020-00324, Holston View Cemetery Development Company Incorporated**, the Board reviewed the Consent Order as seen and agreed to by Holston View Cemetery Development Company Incorporated. A motion was made by Ms. Lyttle and seconded by Mr. Eisenman to accept the proposed Consent Order offer wherein Holston View Cemetery Development Company Incorporated, admits to a violation of 18 VAC 47-20-190.12 (Count 1) of the Board’s 2016 Regulations, and three violations of §54.1-2319 (Count 2) of the *Code of*

File Number 2020-00324,
Holston View Cemetery
Development Company
Incorporated

Virginia, and agrees to a monetary penalty of \$500.00 for the violation contained in Count 1, \$1,200.00 for the violations contained in Count 2, as well as \$150.00 in Board costs, for a total of \$1,850.00. The motion passed unanimously. Members voting “Yes” were Doherty, Dudley, Eisenman, and Lyttle.

As the Board member who reviewed the file, Mr. Minter did not vote or participate in the discussion in this matter.

In the matter of **File Number 2020-00497, Rest Vale Cemetery**, the Board reviewed the Consent Order as seen and agreed to by Rest Vale Cemetery. A motion was made by Ms. Lyttle and seconded by Mr. Eisenman to accept the proposed Consent Order offer wherein Rest Vale Cemetery, admits to a violation of §54.1-2322 (Count 1) of the *Code of Virginia*, and agrees to a monetary penalty of \$200.00 for the violation contained in Count 1, as well as \$150.00 in Board costs, for a total of \$350.00. In addition, the Board shall waive imposition of the \$200.00 monetary penalty for Count 1 provided Rest Vale Cemetery completes one or both of the following and provides proof in a manner acceptable to the Board of such completion within twelve (12) months of the effective date of the Order: 1) Acquire “non-profit” status for the cemetery in accordance with §54.1-2312.A of the Code of Virginia; or 2) Deposit back into the Perpetual Care account \$7,778.00. The motion passed unanimously. Members voting “Yes” were Doherty, Dudley, Eisenman and Lyttle.

**File Number 2020-00497,
Rest Vale Cemetery**

As the Board member who reviewed the file, Mr. Minter did not vote or participate in the discussion in this matter.

Mr. Minter returned and assumed the position of Chair.

Transfer of Chair

In the matter of **File Number 2019-01511, The Victor Group, LLC t/a Windsor Gardens Cemetery & Mausoleum**, the Board reviewed the Consent Order as seen and agreed to by The Victor Group, LLC t/a Windsor Gardens Cemetery & Mausoleum. A motion was made by Mr. Doherty and seconded by Mr. Eisenman to accept the proposed Consent Order offer wherein The Victor Group, LLC t/a Windsor Gardens Cemetery & Mausoleum, admits to a violation of §54.1-2319 (Count 1) of the *Code of Virginia*, and agrees to a monetary penalty of \$800.00 for the violation contained in Count 1, as well as \$150.00 in Board costs, for a total of \$950.00. The motion passed unanimously. Members voting “Yes” were Doherty, Dudley, Eisenman, Lyttle and Minter.

**File Number 2019-01511,
The Victor Group, LLC
t/a Windsor Gardens
Cemetery & Mausoleum**

The Board reviewed the Board financial statement as presented. No action was taken by the Board.

Administrative Issues

**Department of Professional and Occupational Regulation
Statement of Financial Activity**

**Cemetery Board
954620**

2020-2022 Biennium

December 2020

	December 2020 Activity	Biennium-to-Date Comparison	
		July 2018 - December 2018	July 2020 - December 2020
Cash/Revenue Balance Brought Forward		0	525
Revenues	1,260	46,130	41,700
Cumulative Revenues			42,225
Cost Categories:			
Board Expenditures	92	2,547	2,625
Board Administration	1,365	9,893	9,577
Administration of Exams	0	0	0
Enforcement	154	1,066	1,107
Legal Services	0	86	120
Information Systems	1,508	6,704	6,373
Facilities and Support Services	411	3,097	2,835
Agency Administration	642	4,518	4,395
Other / Transfers	0	0	0
Total Expenses	4,173	27,910	27,031
Transfer To/(From) Cash Reserves	0	0	0
Ending Cash/Revenue Balance			15,194

Cash Reserve Beginning Balance	79,638	0	79,638
Change in Cash Reserve	0	0	0
Ending Cash Reserve Balance	79,638	0	79,638

Number of Regulants

Current Month	1,302
Previous Biennium-to-Date	1,170

**Cemetery Board
Analysis of Fee Structure and Financial Position**

Callahan Percentage Previous Biennium **55.1%**

Date of Last Fee Increase: 3/1/2014
Date of Last Fee Decrease: 5/1/2018

Fee Structure

<u>Fee Type</u>		<u>Current Temporary Fees</u>	<u>Proposed Temporary Fees</u>	<u>Fees in Regulation</u>
Application	Company	580	580	580
Application	Salesperson	60	60	60
Renewal	Company	250	300	580
Renewal	Salesperson	40	40	60
Bad check	Company	50	50	50
Bad check	Salesperson	50	50	50
Reinstatement	Company	580	580	580
Reinstatement	Salesperson	60	60	60
Add a Cemetery	Company	580	580	580
Misc	Salesperson	0	0	0

Financial Position

	<u>Actual 2016-18 Biennium</u>	<u>Projected 2018-20 Current Temporary Fees</u>	<u>Projected 2020-22 Current Temporary Fees</u>	<u>Projected 2020-22 Proposed Temporary Fees</u>	<u>Projected 2020-22 Regulation Fees</u>
Cash Carryforward	-926	65,462	80,507	80,507	80,507
Revenues	185,163	127,110	122,260	130,060	184,760
Expenditures	118,775	112,065	122,124	122,124	122,124
Balance	65,462	80,507	80,643	88,443	143,143
Projected Callahan Percentage Close of Biennium			66.0%	72.4%	117.2%

NOTES:

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