

CEMETERY BOARD MEETING

MINUTES

January 19, 2005

The Cemetery Board met on January 19, 2005, at the Department of Professional and Occupational Regulation (DPOR), 3600 West Broad Street, Richmond, Virginia. The following members were present:

Kenneth R. Bell
Carol Black
Mike Doherty
David Mark Farris, II, Chairman
Diane Munn
Anton Stelly

Board members not present:

Marcietia S. Glenn

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

Louise Fontaine Ware, Director
Karen W. O'Neal, Deputy Director
Christine Martine, Executive Director
Herbert Nichols, Investigator
Earlyne Perkins, Legal Assistant
Trisha L. Henshaw, Administrative Assistant

No representative from the Office of the Attorney General was present at the meeting.

Mr. Farris called the meeting to order at 9.10 a.m.

Call to Order

William A. Tucker, a member of the Board for Professional and Occupational Regulation, was present to observe the proceedings of the Board meeting. No one addressed the Board during the Public Comment period.

Public Comment

A motion was made by Mr. Bell and seconded by Mr. Doherty to approve the agenda as amended. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Munn, and Stelly.

Agenda

A motion was made by Mr. Bell and seconded by Mr. Doherty to approve the minutes of the October 12, 2004, Board meeting. The motion passed unanimously Members voting "Yes" were Bell, Black, Doherty, Farris, Munn, and Stelly

Minutes

A motion was made by Mr. Bell and seconded by Mr. Doherty to approve the minutes of the October 12, 2004, Informal Fact-Finding Conference. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Munn, and Stelly

In the matter of File Number 2002-02340, R & J Odle, Inc., t/a Greenwood Memorial Gardens, the Board reviewed the record, which consisted of the investigative file, transcripts and exhibits from the Informal Fact-Finding Conferences, and the Summary of the Informal Fact-Finding Conference by the presiding Board member. A motion was made by Mr. Bell and seconded by Mr. Stelly to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of § 54 1-2322 of the Code of Virginia. The motion passed unanimously Members voting "Yes" were Bell, Black, Doherty, Farris, Munn, and Stelly.

File Number 2002-02340,
R & J Odle, Inc., t/a
Greenwood Memorial
Gardens

A motion was made by Mr. Bell and seconded by Mr. Stelly to accept the recommendation of the presiding Board member for the violation of the statute and impose a monetary penalty of \$2000 00, as well as impose suspension of Greenwood Memorial Gardens' license until such time as they have provided proof, satisfactory to the Board, that a deposit of \$23,267 00 has been made to the perpetual care trust fund. The motion passed unanimously Members voting "Yes" were Bell, Black, Doherty, Farris, Munn, and Stelly.

In the matter of File Number 2003-00661, Virginia Memorial Gardens, Inc., the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference by the presiding Board member Louis S. Herrink, compliance agent for the respondent, was present and addressed the Board. A motion was made by Ms. Munn and seconded by Ms. Black to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of § 54.1-2322 of the Code of Virginia. The motion failed due to lack of a majority vote Members voting "Yes" were Farris and Munn Members voting "No" were Black, Doherty, and Stelly.

File Number 2003-00661,
Virginia Memorial
Gardens, Inc.

After discussion, a motion was made by Mr. Doherty and seconded by Mr. Stelly to enter into a Consent Order with Virginia Memorial Gardens, Inc., wherein the respondent neither admits nor denies a violation of the Board's regulations or statutes but agrees to reimburse the perpetual care trust fund for Historyland Memorial Park in the amount of \$1389.00 for the loss on sale of securities. The motion passed unanimously. Members voting "Yes" were Black, Doherty, Farris, Munn, and Stelly. As the presiding Board member at the Informal Fact-Finding Conference, Mr. Bell was not present during the discussion or vote.

In the matter of **File Number 2004-03385, Saber Management-Virginia, LLC**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Doherty and seconded by Mr. Stelly to ratify the proposed Consent Order, which cites a violation of § 54.1-2319 of the Code of Virginia (Count 1) and § 54.1-2325 of the Code of Virginia (Count 2). For these violations, Saber Management-Virginia, LLC agrees to a monetary penalty of \$250.00 for each of the Counts 1 and 2, and reimbursement of investigative costs in the amount of \$300.00, for a total of \$800.00. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Munn, and Stelly.

**File Number 2004-03385,
Saber Management-
Virginia, LLC**

The Board members discussed Senate Bill 1166 and House Bill 1881, which are being considered in the current session of the General Assembly. SB 1166, if passed, would amend § 54.1-2342 of the Code of Virginia relating to cemetery operators, perpetual care trust funds, and preneed burial contracts, and penalties that may be imposed for violations of the statutes relating to the Board. HB 1881, if passed, would amend § 57.26 of the Code of Virginia relating to restrictions on the location of a cemetery and the application for subdivision which contain or are adjacent to a family cemetery.

**General Assembly
Update**

The Board members were provided with an update on the status of the proposed emergency regulations. Ms. Martine briefly explained the regulatory review process and indicated that the proposed regulations were currently undergoing review by the Department of Planning and Budget (DPB). Ms. O'Neal then provided information regarding concerns raised by DPB during their review.

**Update on Status of
Proposed Emergency
Regulations**

In order to address DPB's concerns, the Board made various changes to the proposed emergency regulations. After discussion, a motion was made by Mr. Doherty and seconded by Mr. Bell to adopt the proposed

regulations as amended. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Munn, and Stelly.

Ms. Munn requested an update on previous cases handled by the Board. Old Business
Ms. Martine indicated that affected companies had complied with the Board's decision.

The Board members were provided with the 2002-2004 DPOR Biennial New Business
Report.

The meeting adjourned at 11:11 a.m. Adjourn



Kenneth R. Bell, Vice Chairman

Karw Neal for Louise Fontaine Ware
Louise Fontaine Ware, Secretary

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT

1. Name. Kenneth R. Bell
2. Title Chairman - Virginia Cemetery Board
3. Agency Department of Professional and Occupational Regulation
4. Transaction Board Meeting
5. Nature of Personal Interest Affected by Transaction None

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: _____

NONE

(b) I am able to participate in this transaction fairly, objectively, and in the public interest

Dated: January 19, 2005

Signature: _____

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT

1. Name. Carol W. Black
2. Title. Member - Virginia Cemetery Board
3. Agency. Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction N/A
-

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction N/A

(b) I am able to participate in this transaction fairly, objectively, and in the public interest

Dated January 19, 2005

Signature.

Carol W. Black

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT

1. Name: Mike Doherty
2. Title Member - Virginia Cemetery Board
3. Agency: Department of Professional and Occupational Regulation
4. Transaction Board Meeting
5. Nature of Personal Interest Affected by Transaction _____

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction _____

(b) I am able to participate in this transaction fairly, objectively, and in the public interest

Dated:

January 19, 2005

Signature:

Mike H. Doherty

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT

- 1 Name: David Mark Farris, II
- 2 Title: Vice-Chairman - Virginia Cemetery Board
- 3 Agency: Department of Professional and Occupational Regulation
- 4 Transaction: Board Meeting
- 5 Nature of Personal Interest Affected by Transaction. _____
-

6 I declare that.

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: January 19, 2005

Signature: David Farris II

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT

- 1 Name: Diane Munn
- 2 Title: Member - Virginia Cemetery Board
- 3 Agency: Department of Professional and Occupational Regulation
- 4 Transaction: Board Meeting
- 5 Nature of Personal Interest Affected by Transaction: _____

6 I declare that

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively, and in the public interest

Dated: January 19, 2005

Signature: _____

Diane Munn

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**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT

- 1 Name: Anton J Stelly
- 2 Title: Member - Virginia Cemetery Board
- 3 Agency: Department of Professional and Occupational Regulation
- 4 Transaction: Board Meeting
- 5 Nature of Personal Interest Affected by Transaction none
-

6. I declare that.

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: none

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated January 19, 2005

Signature Anton J Stelly