

CEMETERY BOARD MEETING

MINUTES

May 21, 2003

The Cemetery Board met on May 21, 2003, at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. The following members were present:

Kenneth R. Bell, Chairman  
Carol W. Black  
Mike Doherty  
David Mark Farris, II  
Marcietia S. Glenn  
Randy Minter  
Anton Stelly

Also present were:

Karen W. O'Neal, Deputy Director  
Christine Martine, Executive Director  
Camille C. Palmer, Administrative Assistant

Present for a portion of the meeting were:

Louise Fontaine Ware, Director  
Sandra Whitley Ryals, Chief Deputy Director  
Herbert Nichols, Investigator  
Earlyne Perkins, Legal Assistant

Mr. Bell called the meeting to order at 10:10 a.m.

During the **Public Comment** period, Mr. Bell requested the public to introduce themselves to the Board. **Public Comment**

A motion was made by Mr. Doherty and seconded by Mr. Minter to approve the **agenda** after correcting the presiding Board member of agenda item four (4), File Number 2002-03687, SCI Virginia Funeral Services, Inc. The presiding Board member's name should be Mr. Stelly instead of Mr. Minter. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, Minter and Stelly. **Agenda**

A motion was made by Mr. Stelly and seconded by Mr. Doherty to approve the **minutes of the February 6, 2003** IFF Conference. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, Minter and Stelly.

Minutes

A motion was made by Mr. Doherty and seconded by Mr. Minter to approve the **minutes of the February 26, 2003** Board Meeting. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, and Minter. Due to his absence from the previous meeting, Mr. Stelly abstained from the vote.

A motion was made by Mr. Minter and seconded by Mr. Doherty to approve the **minutes of the April 8, 2003** IFF Conference. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, Minter and Stelly.

In the matter of **File Number 2002-02322, Trinity Memorial Gardens, Inc.**, the Board reviewed the record which consisted of the disciplinary file, transcript, exhibits from the IFF, and the presiding Board member's summary. Mr. Mark Monroe, Trustee for Trinity Memorial Gardens, Inc. was present and addressed the Board. A motion was made by Mr. Bell and seconded by Mr. Stelly to accept the recommendation contained in the Summary of Informal Fact-Finding Conference finding a violation of § 54.1-2322 of the Code of Virginia for Count I. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, and Stelly. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

File Number 2002-02322  
Trinity Memorial Gardens, Inc.

A motion was made by Mr. Bell and seconded by Mr. Stelly to accept the recommendation contained in the Summary of Informal Fact-Finding Conference finding a violation of § 54.1-2319 of the Code of Virginia for Count II. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn and Stelly. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

A motion was made by Mr. Bell and seconded by Mr. Stelly to accept the recommendation contained in the Summary of Informal Fact-Finding Conference finding a violation of § 54.1-2319 of the Code of Virginia for Count III. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn and Stelly. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this

matter.

A motion was made by Mr. Bell and seconded by Ms. Black to accept the recommendation contained in the Summary of Informal Fact-Finding Conference imposing a monetary penalty of \$500.00 for the violation of § 54.1-2322 of the Code of Virginia for Count I. In addition, based upon its reading of § 54.1-2322 of the Code of Virginia, the Board finds Trinity in violation and places Trinity on 60 day probation pursuant to the following:

Trinity is required to return to the perpetual care trust fund the amount of \$6,694.00. If Trinity fails to return the monies within the 60 day period, its license will be suspended until such time Trinity does deposit the monies.

The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, and Stelly. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

A motion was made by Mr. Doherty and seconded by Mr. Farris to reject the recommendation contained in the Summary of Informal Fact-Finding Conference and to impose no monetary penalty for the violation of § 54.1-2319 of the Code of Virginia for Count II based on precedent set by the Board. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, and Stelly. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

A motion was made by Mr. Bell and seconded by Mr. Doherty to reject the recommendation contained in the Summary of Informal Fact-Finding Conference and to impose no monetary penalty for the violation of § 54.1-2319 of the Code of Virginia for Count III based on precedent set by the Board. Further, the Board voted to remove the last paragraph of the Summary, in the Conclusion and Recommendation, and directed staff to open an investigation to examine Trinity's perpetual care trust fund. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, and Stelly. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

In the matter of **File Number 2002-03687, SCI Virginia Funeral Services, Inc.**, the Board reviewed the record which consisted of the Consent Order. Mr. Jack Wilson, Attorney for SCI Virginia Funeral Services, Inc. was present and addressed the Board. A motion was made by Mr. Bell and seconded by Mr. Doherty to ratify the

**File Number 2002-03687**  
**SCI Virginia Funeral Services, Inc.**

Consent Order, finding a violation of the Board's 2000 Regulation 18 VAC 47-20-190(1) for Count I; the Board's 2000 Regulation 18 VAC 47-20-190(1) for Count II; the Board's 2000 Regulation 18 VAC 47-20-190(1) for Count III; the Board's 2000 Regulation 18 VAC 47-20-190(1) for Count IV; the Board's 2000 Regulation 18 VAC 47-20-190(1) for Count V; the Board's 2000 Regulation 18 VAC 47-20-190(1) for Count VI; the Board's 2000 Regulation 18 VAC 47-20-190(1) for Count VII; the Board's 2000 Regulation 18 VAC 47-20-190(1) for Count VIII; the Board's 2000 Regulation 18 VAC 47-20-190(1) for Count IX; the Board's 2000 Regulation 18 VAC 47-20-190(1) for Count X; the Board's 2000 Regulation 18 VAC 47-20-190(1) for Count XI; and the Board's 2000 Regulation 18 VAC 47-20-190(1) for Count XII. On Counts I-XII, a monetary penalty of \$1,000.00 is imposed for violation of the Board's 2000 Regulation 18 VAC 47-20-190(1) for each Count, for a total monetary penalty of \$12,000.00. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, and Minter. Mr. Stelly, who conducted the Informal Fact Finding Conference did not participate in the discussion or vote in this matter.

In the matter of **File Number 2003-00484, Riverview Cemetery Company, Inc.**, the Board reviewed the record which consisted of the disciplinary file, transcript, exhibits from the IFF, and the presiding Board member's summary. Mr. Ralph Traylor, CPA for Riverview Cemetery, Inc., Mr. Mark Nelson, Attorney for Riverview Cemetery, Inc. and Mr. Mark Monroe, Trustee for Riverview Cemetery, Inc. were present and addressed the Board. A motion was made by Mr. Doherty and seconded by Mr. Farris to accept the recommendation contained in the Summary of Informal Fact-Finding Conference finding a violation of § 54.1-2319 of the Code of Virginia for Count I. The motion passed by majority vote. Members voting "Yes" were Bell, Black, Doherty, Farris, and Glenn. The member voting "No" was Mr. Stelly. Mr. Minter, who conducted the Informal Fact Finding Conference did not participate in the discussion or vote in this matter.

**File Number 2003-00484**  
**Riverview Cemetery Company, Inc.**

A motion was made by Mr. Doherty and seconded by Mr. Farris to accept the recommendation contained in the Summary of Informal Fact-Finding Conference finding a violation of § 54.1-2319 of the Code of Virginia for Count II. The motion passed by majority vote. Members voting "Yes" were Bell, Black, Doherty, Farris, and Glenn. The member voting "No" was Mr. Stelly. Mr. Minter, who conducted the Informal Fact Finding Conference did not participate in the discussion or vote in this matter.

A motion was made by Mr. Doherty and seconded by Mr. Stelly to reject the recommendation contained in the Summary of Informal Fact-Finding Conference and instead to find no violation for Count III based upon the Board's belief that the events were beyond the control of the cemetery, due to changes in the trustees during that time period. The motion passed by majority vote. Members voting "Yes" were Black, Doherty, Farris, Stelly and Glenn. The member voting "No" was Mr. Bell. Mr. Minter, who conducted the Informal Fact Finding Conference did not participate in the discussion or vote in this matter.

A motion was made by Mr. Doherty to defer a decision for Count IV in this matter until the Board gets an opinion from the Attorney General's Office. The motion failed because there was no second to the motion.

A motion was made by Mr. Bell and seconded by Ms. Black to accept the recommendation contained in the Summary of Informal Fact-Finding Conference finding a violation of § 54.1-2322 (A) of the Code of Virginia for Count IV. The motion passed by majority vote. Members voting "Yes" were Bell, Black, Farris, Stelly and Glenn. The member voting "No" was Mr. Doherty. Mr. Minter, who conducted the Informal Fact Finding Conference did not participate in the discussion or vote in this matter.

A motion was made by Mr. Doherty and seconded by Mr. Farris to reject the recommendation contained in the Summary of Informal Fact-Finding Conference and to impose no monetary penalty for the violation of § 54.1-2319 of the Code of Virginia for Count I, based on precedent set by the Board. This is the first instance this issue with Riverview has arisen with the Board and that Riverview has taken corrective measures to ensure the issue is resolved for future compliance. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, and Stelly. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

A motion was made by Mr. Doherty and seconded by Mr. Farris to reject the recommendation contained in the Summary of Informal Fact-Finding Conference and to impose no monetary penalty for the violation of § 54.1-2319 of the Code of Virginia for Count II, based on precedent set by the Board. This is the first instance this issue with Riverview has arisen with the Board and that Riverview has taken corrective measures to ensure the issue is resolved for future

compliance. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, and Stelly. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

A motion was made by Mr. Bell to amend the recommendation contained in the Summary of the Informal Fact-Finding Conference to remove certain language. The motion failed because there was no second to the motion.

A motion was made by Mr. Bell and seconded by Mr. Stelly to accept the recommendation contained in the Summary of Informal Fact-Finding Conference, finding a violation of § 54.1-2322(A) of the Code of Virginia for Count IV, imposing a monetary penalty of \$1,500.00 and based upon the Board's reading of § 54.1-2322(A) of the Code of Virginia placing Riverview Cemetery Company, Inc. on 60 day probation pursuant to the following:

Riverview is required to return to the perpetual care trust fund the amount of \$75,000. If Riverview fails to return the monies within the 60 day period, its license will be suspended until such time Riverview does deposit the monies.

The motion passed by majority vote. Members voting "Yes" were Bell, Black, Farris, Glenn, and Stelly. The member voting "No" was Mr. Doherty. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

In the matter of **File Number 2002-00541, Carriage Cemetery Services, Inc.**, the Board reviewed the record which consisted of the disciplinary file, transcript, exhibits from the IFF, and the presiding Board member's summary. Ms. Diane Munn, Manager, Carriage Cemetery Services, Inc. was present and addressed the Board. A motion was made by Mr. Bell and seconded by Mr. Doherty to accept the recommendation contained in the Summary of Informal Fact-Finding Conference finding no violation and to close Count I. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, and Stelly. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

**File Number 2002-00541**  
**Carriage Cemetery Services, Inc.**

A motion was made by Mr. Bell and seconded by Mr. Stelly to accept the recommendation contained in the Summary of Informal Fact-Finding Conference finding a violation of § 54.1-2322 of the Code of Virginia for Count II. The motion passed by majority vote.

Members voting "Yes" were Bell, Black, Farris, Glenn, and Stelly. The member voting "No" was Mr. Doherty. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

A motion was made by Mr. Bell and seconded by Mr. Farris to accept the recommendation contained in the Summary of Informal Fact-Finding Conference finding a violation of § 54.1-2325(A) of the Code of Virginia for Count III. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, and Stelly. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

A motion was made by Mr. Bell and seconded by Ms. Black to accept the recommendation contained in the Summary of Informal Fact-Finding Conference finding a violation of § 54.1-2325(A) of the Code of Virginia for Count IV. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, and Stelly. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

A motion was made by Mr. Bell and seconded by Ms. Black to amend the recommendation contained in the Summary of Informal Fact-Finding Conference imposing a monetary penalty of \$1500.00 for the violation of § 54.1-2322 of the Code of Virginia for Count II. In addition, based on its reading of § 54.1-2322 of the Code of Virginia, the Board finds Carriage in violation and places it on 60 day probation pursuant to the following:

Carriage is required to return to the perpetual care trust fund the amount of \$70,528.00. If Carriage fails to return the monies within the 60 day period, its license will be suspended until such time Carriage does deposit the monies.

The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, and Stelly. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

A motion was made by Mr. Bell and seconded by Mr. Doherty to accept the recommendation contained in the Summary of Informal Fact-Finding Conference imposing no sanctions for the violation of § 54.1-2325(A) of the Code of Virginia for Count III. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, and Stelly. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the

discussion or vote in this matter.

A motion was made by Mr. Bell and seconded by Mr. Stelly to accept the recommendation contained in the Summary of Informal Fact-Finding Conference imposing a \$750.00 monetary penalty for the violation of § 54.1-2325(A) of the Code of Virginia for Count IV. The total monetary penalty imposed was \$2,250.00. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, and Stelly. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

In the matter of **File Number 2003-00620, Oak Hill Cemetery, Inc.**, the Board reviewed the record which consisted of the disciplinary file, transcript, exhibits from the IFF, and the presiding Board member's summary. A motion was made by Mr. Bell and seconded by Mr. Stelly to accept the recommendation contained in the Summary of Informal Fact-Finding Conference Summary finding a violation of the Board's 2000 Regulation 18 VAC 47-20-190(13). The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, and Stelly. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

**File Number 2003-00620**  
**Oak Hill Cemetery, Inc.**

A motion was made by Mr. Bell and seconded by Mr. Stelly to accept the recommendation contained in the Summary of Informal Fact-Finding Conference imposing a \$500.00 monetary penalty for the violation of the Board's 2000 Regulation 18 VAC 47-20-190(13). The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, and Stelly. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

In the matter of **File Number 2003-01837, Greenwood Cemetery Company, Inc.**, the Board reviewed the record which consisted of the application file, transcript, exhibits from the IFF, Summary of the Informal Fact-Finding Conference and the Recommendation. Mr. J. Dennis Fox, President, Greenwood Cemetery Company, Inc. was present and addressed the Board. A motion was made by Mr. Bell and seconded by Mr. Stelly to accept the recommendation contained in the Summary of Informal Fact-Finding Conference approving Greenwood's application for a cemetery company license with the stipulation that Mr. Fox is required to furnish a fidelity bond for the trust as established in § 54.1-2317.B of the Code of Virginia in the amount of \$173,331.19. The motion passed

**File Number 2003-01837**  
**Greenwood Cemetery Company, Inc.**



unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, and Stelly. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

In the matter of **File Number 2003-02080, Angela McFadden Byrum**, the Board reviewed the record which consisted of the application file, transcript, exhibits from the IFF, Summary of the Informal Fact-Finding Conference and the Recommendation. Ms. Byrum was not present. A motion was made by Mr. Doherty and seconded by Mr. Farris to accept the recommendation contained in the Summary of Informal Fact-Finding Conference to approve Ms. Byrum's application for a sales personnel registration. The motion passed by majority vote. Members voting "Yes" were Black, Doherty, Farris, Glenn and Stelly. The member voting "No" was Mr. Bell. Mr. Minter, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

**File Number 2003-02080**  
**Angela McFadden Byrum**

The Board recessed at 12:15 p.m. and reconvened at 12:30 p.m.

**Recess**

Mr. Minter distributed a memorandum regarding the Use of Capital Gain/Losses within Perpetual Care Trust Accounts. The Board discussed the matter. No Board Action was necessary.

**Use of Capital Gain/Losses within Perpetual Care Trust Accounts**

Mr. Stelly left the meeting at 1:00 p.m.

The Board distributed and discussed the 2004 Legislation Wish List. A motion was made by Mr. Bell and seconded by Mr. Farris to include the aforementioned wish list with the agency's legislative package and to rearrange the items, in the priority order of 2, 1, 4, and 3. The motion passed unanimously. Members voting "Yes" were Bell, Black, Doherty, Farris, Glenn, and Minter.

**Legislation 2004**

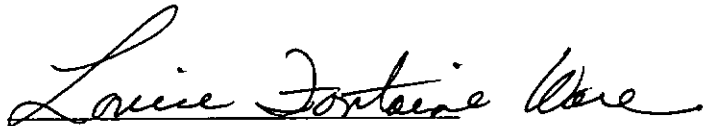
The Board discussed and agreed to change the Board meeting time to 9:00 a.m. beginning August 13, 2003.

**New Business**

The meeting adjourned at 1:20 p.m.

**Adjourn**

  
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Kenneth R. Bell, Chairman

  
Louise Fontaine Ware, Secretary

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Custodian of the Records