

CEMETERY BOARD MEETING

MINUTES

June 8, 2005

The Cemetery Board met on June 8, 2005, at the Department of Professional and Occupational Regulation (DPOR), 3600 West Broad Street, Richmond, Virginia. The following members were present:

Kenneth R. Bell
Mike Doherty
Delores King
Diane Munn
Anton Stelly

Board members not present

Carol Black
David Mark Farris, II, Chairman

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

Louise Fontaine Ware, Director
Karen W. O'Neal, Deputy Director – Licensing and
Regulation Division
Nick Christner, Deputy Director – Compliance and
Investigations Division
Christine Martine, Executive Director
Terri Wilkins, Director of Funding and Analysis
Herbert Nichols, Investigator
Earlyne Perkins, Legal Assistant
Chris Olson, Administrative Assistant

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

Mr. Bell called the meeting to order at 9:05 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. Doherty and seconded by Mr. Stelly to approve the agenda. The motion passed unanimously. Members voting

Agenda

“Yes” were Bell, Doherty, King, Munn, and Stelly.

A motion was made by Mr. Stelly and seconded by Mr. Doherty to adopt the following minutes: January 19, 2005, Board Meeting; February 24, 2005, Informal Fact-Finding Conference; March 1, 2005, Informal Fact-Finding Conference; and April 27, 2005, Informal Fact-Finding Conference. The motion passed unanimously. Members voting “Yes” were Bell, Doherty, King, Munn, and Stelly.

Mr. Bell introduced new Board Member Delores C. King

In the matter of File Number 2004-05163 Richmond Memorial Parks, Inc. t/a Dale Memorial Park, 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. James Aliff, representative of the respondent, was present and addressed the Board. A motion was made by Mr. Doherty and seconded by Mr. Stelly to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of § 54.1-2339 of the Code of Virginia. The motion passed unanimously. Members voting “Yes” were Bell, Doherty, King, Munn, and Stelly.

A motion was made by Mr. Doherty 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 \$2,000. The motion passed unanimously. Members voting “Yes” were Bell, Doherty, King, Munn, and Stelly.

In the matter of File Number 2004-03682 Washington Memorial Cemetery, Inc. t/a Washington Memorial Park, 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. James Aliff, representative of the respondent, and Tom Evans, complainant, were present and addressed the Board. A motion was made by Mr. Doherty and seconded by Mr. Stelly to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of 18 VAC 47-20-190.11 of the Board’s 2000 regulations. The motion passed unanimously. Members voting “Yes” were Bell, Doherty, King, Munn, and Stelly.

A motion was made by Mr. Doherty and seconded by Mr. Stelly to accept

Minutes

Introduction of Board Member

File Number 2004-05163 Richmond Memorial Parks, Inc. t/a Dale Memorial Park

File Number 2004-03682 Washington Memorial Cemetery, Inc. t/a Washington Memorial Park

the recommendation of the presiding Board member for the violation of the regulation and impose a monetary penalty of \$1,000. The motion passed unanimously. Members voting "Yes" were Bell, Doherty, King, Munn, and Stelly.

In the matter of **File Number 2004-04369 Holston View Cemetery Development Company, 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. A motion was made by Mr. Stelly and seconded by Mr. Doherty to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of § 54.1-2319 of the Code of Virginia. The motion passed unanimously. Members voting "Yes" were Bell, Doherty, King, Munn, and Stelly.

**File Number 2004-04369
Holston View Cemetery
Development Company,
Inc.**

A motion was made by Mr. Doherty and seconded by Mr. Stelly to reject the recommendation of the presiding Board member for the monetary penalty and instead for the violation of the statute impose a monetary penalty of \$500 due to previous disciplinary action of a similar nature against Holston View Cemetery Development Company Inc. The motion passed unanimously. Members voting "Yes" were Bell, Doherty, King, Munn, and Stelly.

In the matter **File Number 2004-02857 Monta Vista Memorial Gardens & Mausoleum, 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. A motion was made by Mr. Stelly and seconded by Mr. Doherty to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of 18 VAC 47-20-190.13 of the Board's 2000 regulations. The motion passed unanimously. Members voting "Yes" were Bell, Doherty, King, Munn, and Stelly.

**File Number 2004-02857
Monta Vista Memorial
Gardens & Mausoleum,
Inc.**

A motion was made by Mr. Stelly and seconded by Mr. Doherty to accept the recommendation of the presiding Board member for the violation of the regulation and impose a monetary penalty of \$500. The motion passed unanimously. Members voting "Yes" were Bell, Doherty, King, Munn, and Stelly.

In the matter **File Number 2005-02041 DD&B Carver Cemetery, LLC**, 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

**File Number 2005-02041
DD&B Carver Cemetery,
LLC**

Board member. A motion was made by Mr. Stelly and seconded by Ms. Munn to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of 18 VAC 47-20-190.13 of the Board's 2000 regulations. The motion passed unanimously. Members voting "Yes" were Bell, King, Munn, and Stelly.

A motion was made by Mr. Stelly and seconded by Ms. Munn to accept the recommendation of the presiding Board member for the violation and impose a monetary penalty of \$2,000. In addition, the Board agrees to suspend \$1,500 of the \$2,000 monetary penalty provided that DD&B Carver Cemetery, LLC reimburses Mrs. Diggs \$1,040 within thirty days of the effective date of the Order. The motion passed unanimously. Members voting "Yes" were Bell, King, Munn, and Stelly.

As the presiding Board member at the Informal Fact-Finding Conference, Mr. Doherty did not participate in the discussion or vote related to this matter.

In the matter **File Number 2005-00240 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 Herrink, the compliance agent, was present and addressed the Board. A motion was made by Mr. Stelly and seconded by Ms. Munn to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find violations of 18 VAC 47-20-200.C of the Board's 2000 regulations (Count 1), § 54.1-2325.A of the Code of Virginia (Count 2), and § 54.1-2330 of the Code of Virginia (Count 3). The motion passed unanimously. Members voting "Yes" were Bell, King, Munn, and Stelly.

File Number 2005-00240
Virginia Memorial
Gardens, Inc.

A motion was made by Mr. Stelly and seconded by Ms. Munn to accept the recommendation of the presiding Board member for the violations and impose the following sanctions: Revocation of license for violation of 18 VAC 47-20-200.C of the Board's 2000 regulations (Count 1) if \$4061.37 is not deposited into the perpetual care trust fund for Stafford Memorial Gardens within 30 days of the effective date of the Order; Revocation of license for violation of § 54.1-2325.A of the Code of Virginia (Count 2) if \$7,989.71 is not deposited into the preneed trust fund for Stafford Memorial Gardens and \$1,009.80 for Historyland Memorial Park within 30 days of the effective date of the Order; and a monetary penalty of \$1000 for violation of § 54 1-2330 of the Code of Virginia (Count 3). In reference to Count 3, \$750 of the \$1,000 monetary penalty will be suspended provided that Virginia Memorial Gardens, Inc. transfers \$781.70 from income to principal in the preneed trust fund within 30 days

of the effective date of the Order. The motion passed unanimously. Members voting "Yes" were Bell, King, Munn, and Stelly.

As the presiding Board member at the Informal Fact-Finding Conference, Mr. Doherty did not participate in the discussion or vote related to this matter.

In the matter **File Number 2005-00853 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 Herrink, the compliance agent, was present and addressed the Board. A motion was made by Mr. Stelly and seconded by Ms. Munn to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find no violation of 18 VAC 47-20-200.C of the Board's 2000 regulations (Count 1) and find violations of § 54.1-2325 A of the Code of Virginia (Count 2), and 18 VAC 47-20-210.C of the Board's 2000 regulations (Count 3). The motion passed unanimously. Members voting "Yes" were Bell, King, Munn, and Stelly.

File Number 2005-00853
Virginia Memorial
Gardens, Inc.

A motion was made by Mr. Bell and seconded by Mr. Stelly to accept the recommendation of the presiding Board member for the violations and impose the following sanctions: A monetary penalty of \$1,000 for violation of § 54.1-2325.A of the Code of Virginia (Count 2). In addition, \$500 of the \$1,000 monetary penalty will be suspended provided that Virginia Memorial Gardens, Inc. transfers \$425 into the preneed trust fund for Stafford Memorial Gardens within 30 days of the effective date of the Order; and a monetary penalty of \$2,500 for violation of 18 VAC 47-20-210.C of the Board's 2000 regulations (Count 3) and suspension of license until Virginia Memorial Gardens, Inc. has provided sufficient proof that the \$79,883.81 has been restored to the Stafford Memorial Gardens Preneed Trust Fund. The motion passed unanimously. Members voting "Yes" were Bell, King, Munn, and Stelly.

As the presiding Board member at the Informal Fact-Finding Conference, Mr. Doherty did not participate in the discussion or vote related to this matter.

In the matter **File Number 2005-02039 Associated Cemetery Consultants, 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. A motion was made by Mr. Doherty and seconded by Ms. Munn to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find violations of

File Number 2005-02039
Associated Cemetery
Consultants, Inc.

18 VAC 47-20-200.C of the Board's 2000 regulations (Count 1), § 54.1-2325.A of the Code of Virginia (Count 2), 18 VAC 47-20-200.E of the Board's 2000 regulations (Count 3), and 18 VAC 47-20-210.D of the Board's 2000 regulations (Count 4). The motion passed unanimously. Members voting "Yes" were Bell, Doherty, King, and Munn.

A motion was made by Mr. Bell and seconded by Mr. Stelly to accept the recommendation of the presiding Board member for the violations and impose no monetary penalty for Count 1 or Count 2, a monetary penalty of \$100 for Count 3, and \$100 for Count 4, for a total monetary penalty of \$200. The motion passed unanimously. Members voting "Yes" were Bell, Doherty, King, and Munn.

As the presiding Board member at the Informal Fact-Finding Conference, Mr. Stelly did not participate in the discussion or vote related to this matter.

Terri Wilkins, Director of Funding and Analysis, discussed with the Board three possible fee proposals. The Board needs to adjust its fees as the result of the biennial review required by Section 54 1-113 of the Code of Virginia.

Cemetery Fee Proposals

After discussion, a motion was made by Mr. Bell and seconded by Ms. Munn to adopt proposal B as the new fee structure. The motion passed unanimously. Members voting "Yes" were Bell, Doherty, King, Munn, and Stelly.

Christine Martine updated the Board on House Bill 2123 and House Bill 1932.

General Assembly Update

The Board took no action.
The meeting adjourned at 11:11 a.m.

Adjourn


David Farris, II, Chairman

Louise Fontaine Ware, Secretary

**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: June 8, 2005

Signature: Anton J. Stelly

**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: _____

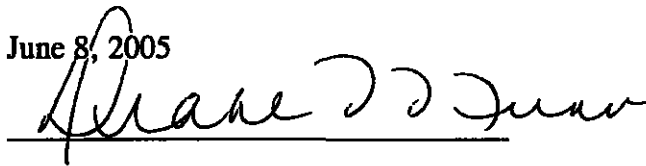
6. I declare that:

(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: June 8, 2005

Signature: _____



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

TRANSACTIONAL DISCLOSURE STATEMENT

1. Name: Delores C. King
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: June 8, 2005

Signature

 _____

**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: _____

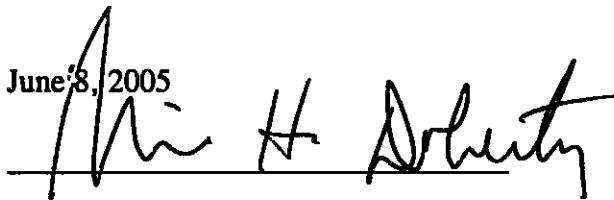
6. I declare that:

(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: June 8, 2005

Signature: _____



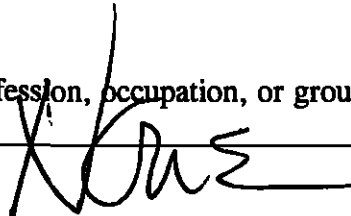
**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

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: _____

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: June 8, 2005

Signature: _____

