

Minutes

South Carolina Perpetual Care Cemetery Board Meeting
Synergy Business Park
110 Centerview Drive
Columbia, SC 29210
10:00 a.m., May 29, 2007

Mr. Russ, Chairman, called the meeting to order at 10:15 a.m.

Board members attending the meeting included: J. W. Russ, of Conway; W. Russel Floyd, Jr., of Spartanburg; John E. Bartus, of Mauldin and Rick Riggins, of Lancaster.

Board members granted an excused absents Andrew Cone, of Pickens; Thomas Johnson of Charleston.

Board member not in attendance was Roger Finch, of Honea Path.

Staff members participating included: Wendi Elrod, Administrative Specialist; Doris Cubitt, Administrator; Rick Wilson, General Counsel; Sheridan Spoon, General Counsel and Raymond Lee, BRS Inspections.

Members of the public participating included: Ray Visotski from Aiken, Ron James from James Memorial Gardens in Florence and Kathy & Johnny Bryant from Resthaven Cemetery in Dillon.

Meeting Called to Order – Public notice of this meeting was properly posted at the S. C. Perpetual Care Cemetery Board office, Synergy Business Park, Kingstree Building, provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act. A quorum is present.

Pledge of Allegiance

All present recited the Pledge of Allegiance.

Approval of March 6, 2007 Meeting Minutes

The changes are as follows:

1. *On page 4, 5th paragraph, next to the last sentence, “Mr. Floyd stated no it is the terminology that his is using that is questioning the cemetery” should be deleted because the sentence does not make sense.*
2. *On page 6, last motion should read, “Mr. Riggins made a motion to approve the transfer pending a promissory note for the \$44,917.03 and appropriate documentation that Mr. Clardy assumed the opening and closing grave liability.”*

Motion

Mr. Bartus made a motion for the minutes to be accepted with the changes, seconded by Mr. Riggins and unanimously carried.

Chairman’s Remarks – J. W. Russ

Mr. Russ welcomed all visitors.

Administrator's Remarks, For Information – Doris Cubitt

Ms. Cubitt welcomed everyone and thanked them for attending. Ms. Cubitt stated that Mr. Rick Wilson, Attorney for the board will be leaving and Mr. Sheridan Spoon would be taking his place.

Ms. Cubitt stated that the Board has statues but not regulations, so she suggested that if anyone has any issues arise please make notes of these so the Board may start working on regulations for future use.

Action Items (Vote Required)

New Business

1. Hillcrest Cemetery Inc. - Mausoleum approval

Mr. Russ recused himself from voting since he is the manager at this cemetery.

Mr. Russ requested approval for release of funds for construction of a mausoleum. Mr. Russ stated that for the past two (2) years all money received for crypts that were sold has been placed into a savings account and the account has about \$187,886 the estimated cost for constructing a mausoleum building is about \$391,000. Mr. Russ is requesting the withdrawal of some funds for the construction of the mausoleum. Mr. Floyd referred to Section 40-8-130 (A) (1-4):

(A) (1) A cemetery company is required to start construction of that section of a mausoleum or bank of belowground crypts in which sales, contracts for sale, reservations for sales, or agreements for sales are being made within thirty-six months after the date of the first sale or refund the money. The construction of the mausoleum section or bank of belowground crypts must be completed within sixty months after the date of the first sale. Extensions for completion, not to exceed one year, may be granted by the board for good reasons shown.

(2) After construction has begun on the mausoleum section or bank of belowground crypts, the cemetery company shall certify the progress and expenditures and is entitled to withdraw funds from the mausoleum account to meet construction expenditures.

(3) If the mausoleum section or bank of belowground crypts is not completed within the time limits set out in this section, the board shall contract for and cause the project to be completed and paid for from the funds deposited to the project and the cemetery company must be liable for any shortage.

(4) In lieu of the payments to the mausoleum account the cemetery company may deliver to the board a performance bond in an amount and by surety companies acceptable to the board.

Mr. Floyd stated that the funds should not be withdrawn until the construction has begun. Mr. Russ stated that the cemetery has already hired an architect and has construction plans. Mr. Bartus stated that the pre-construction has started and asked the money that has been paid for this purpose has not come from this account. Mr. Russ stated that is correct the cemetery has paid all cost out of pocket so far.

Ms. Doris Cubitt offered a suggestion since this is for future policies that the Board defines when construction has begun since there are engineering costs that are involved prior to breaking ground, which is a part of construction. She suggested that the Board define what has to take place to withdraw the funds. The Board wants an expenditure report to see what money

is being allocated to the construction of the mausoleum. The funds should not be withdrawn prior to breaking ground for the mausoleum. Mr. Floyd also stated that the staff needs to monitor this when the inspector does his inspections. Staff stated that the pre-construction of a mausoleum is already on the inspection form.

Mr. Wilson stated that there are two issues that the Board is speaking on: (1) Approval for funds for Hillcrest Cemetery (2) Guidelines for future withdrawals for mausoleum construction.

Mr. Wilson stated that the approval for Hillcrest Cemetery couldn't be voted on at this time because a quorum is not present since Mr. Russ recused himself. Mr. Wilson also stated he didn't believe it required a vote at this time since Mr. Russ currently does not have a draw schedule.

Mr. Wilson did state that the Board does need to give guidance to staff for what should be submitted for expenditures.

Mr. Wilson suggested that Mr. Russ give an outline of expenditures to the board at the next meeting to possibly include a draw schedule, down payment to the construction company, foundation and signing of the contract.

2. Resthaven Cemetery – Dillon – Johnny Bryant

Mr. Raymond Lee stated that on a routine inspection in the area he was pointed to Resthaven Cemetery as being a perpetual care cemetery. Mr. Lee suggested that Mr. Johnny Bryant the owner of this cemetery come before the board to determine whether this cemetery falls under the Perpetual Care Cemetery Boards jurisdiction.

Mr. Bryant stated that this is not a perpetual care cemetery and started as a family cemetery then the community wanted burial spaces in the cemetery. Mr. Bryant stated that he and his family have maintained this cemetery for about eighty (80) years and there is about three (3) acres developed and seventeen (17) more acres available. The cemetery was established in 1930. Mr. Bryant also stated that the cemetery is a LLC and is in his wife's name. He stated they have about 35 to 40 interments in the cemetery annually, and about 800 graves spaces have already been used.

Mr. Bartus asked Mr. Lee if he has confirmed that Mr. Bryant doesn't use the term perpetual care or endowment care on his contract. Mr. Lee stated at this time he has not seen a contract. Mr. Bryant provided a contract to the board for review and it does not state perpetual care or endowment care on the contract. Mr. Floyd asked if Mr. Bryant gives a deed to the lot owner or do they understand that they don't own the grave space. Mr. Bryant stated that he gives a certificate for burial.

Mr. Wilson stated that Section 40-8-40 indicates that a sign for perpetual care, endowment care or non-perpetual care should be displayed so it is not misleading to the public. All cemeteries in the state should have a sign at to what type of cemetery it is.

The Board needs further guidance on profit and non-profit cemeteries so staffs to determine if a cemetery is perpetual care or non-perpetual care so they may properly present those cemeteries before the Board can review this issue.

No votes required until a determination for profit or non-profit cemeteries can be defined pending further investigation.

Unfinished Business

1. Southeastern Cemetery's Audit

Ms. Cubitt stated that a draft audit was submitted but the staff is still waiting for the final audit for Southeastern Memorial Gardens. Mr. Richard Leonard was scheduled to appear before the Board but was unable to make it at the last minute.

Motion

The Board tabled the issue until the final audit of the Perpetual Care Trust Fund and the Merchandise Account has been submitted and Mr. Leonard could be present.

2. Jason Tarokh - Columbarium

The Board again reviewed the documentation that Mr. Tarokh submitted when he and Mr. Laplante presented the columbarium to the Board. The Board referred to the March 6, 2007 minutes for facts that Mr. Tarokh and Mr. Laplante stated.

Motion

Mr. Floyd made a motion that this columbarium does not meet the true definition of a Natural Preserve cemetery so the thirty (30) acres will still apply under the Perpetual Care Cemetery law, seconded by Mr. Bartus and unanimously carried.

3. Islamic Society of Greenville - Muslim cemetery

Mr. Russ reviewed with the Board what was submitted for this cemetery. Mr. Floyd stated that the letter that was submitted spells everything out. The cemetery is for a Muslim church cemetery so it does not fall under the Perpetual Care Cemetery Boards jurisdiction.

Motion

Mr. Bartus made a motion that since this cemetery is not a public cemetery then it does not fall under this boards jurisdiction, seconded by Mr. Riggins and unanimously carried.

4. James Memorial Gardens

The Board again reviewed the documentation presented on whether it is a profit or non-profit cemetery. Mr. Ron James asked if the cease and desist can be lifted until it can be clarified the meaning of profit or non-profit.

Mr. Wilson stated that when a violation is found a cease and desist is issued. Mr. Sheridan Spoon asked if Mr. James has received a letter from the IRS that the cemetery is tax exempt by 501c. Mr. James stated he hasn't at this time and he will not be selling perpetual care.

Mr. Wilson stated that Mr. Spoon will investigate profit and non-profit and will work with Mr. James to resolve this issue.

5. IRC

Ms. Cubitt stated that there is no IRC report to be heard before the Board at this time.

Executive Session (To Consider Disciplinary Matters and/or Seek Legal Advice)

Motion

Mr. Riggins moved the Board enter executive session at 11:03 am for discussion. Mr. Bartus seconded the motion, which carried unanimously.

Return to Public Session to Report on Executive Session

Motion

Mr. Bartus made a motion at 11:43 am, seconded by Mr. Floyd and unanimously carried, that the Board return to public session.

Mr. Russ noted for the record that no motions were made and no votes were taken during executive session.

Adjournment

There being no further business to be discussed at this time, Mr. Bartus made a motion that the meeting be adjourned at 12:17 pm, seconded by Mr. Riggins.

The next meeting of the S.C. Perpetual Care Cemetery Board has been scheduled for July 31, 2007.