

**MINUTES**  
**South Carolina Perpetual Care Cemetery Board**  
**Board Meeting**  
**Synergy Business Park**  
**110 Centerview Drive, Kingstree Building, Room 108**  
**Columbia, South Carolina**  
**10:00 a.m., November 13, 2008**

**Meeting Called to Order**

J. W. Russ, Chairman, called the meeting to order at 10:15 a.m. Board members attending the meeting included:

Staff members participating in the meeting included: Doris Cubitt, Administrator; Sandra Dickert, Administrative Assistant; Raymond Lee, Inspector; Jeanie Rose, Administrative Specialist; and Sheridan Spoon, Deputy General Counsel.

Members of the public attending the meeting included: Jim Holloway and Jackie Petty.

Mr. Russ announced that 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.

**Pledge of Allegiance**

All present recited the Pledge of Allegiance

**Approval of August 14, 2008 Meeting Minutes**

Mr. Bartus stated there is a conflict for the board meeting date. He noted the agenda for this meeting states the next meeting is scheduled for February 18, 2009; however, the calendar included in the agenda package states the meeting is scheduled for March 14, 2009 and asked for clarification on the dates. Mr. Russ stated approval of the 2009 dates is an item on the agenda.

Mr. Floyd noted one correction under new business on page two near bottom of page. He stated 'break in down' should read 'broken down'.

**MOTION**

Mr. Floyd made a motion the Board accept the minutes of the August 14, 2008 meeting as amended. Mr. Bartus seconded the motion, which carried unanimously.

**Chairman's Remarks – J. W. Russ**

Mr. Russ welcomed everyone to the meeting. He welcomed Jim Holloway and Jackie Perry to the meeting and noted Ms. Petty would be the new Board member should Governor Sanford make the appointment. He further stated Mr. Cone would be rotating off the Board.

**Administrator's Remarks – Doris Cubitt**

Mrs. Cubitt stated there are some cemeteries, which still have not filed the Agreed Upon Procedures reports and are asking for an extension. She noted the Board would be discussing this matter later in the meeting.

Mrs. Cubitt attended the National Cemetery Regulators meeting in Cleveland in September. She noted other states are having similar problems. She further stated they were taken on a tour of a

cemetery while attending the meeting. She said the cemetery board administrators have a quarterly conference call meeting to discuss cases, etc.

### **New Business**

#### 1. Election of Officers

*Chairman*

#### **MOTION**

Mr. Floyd nominated Mr. Russ as chairman. Mr. Riggins seconded the motion, which carried unanimously.

*Vice Chairman*

#### **MOTION**

Mr. Riggins nominated Mr. Floyd as vice chairman. Mr. Johnson seconded the motion, which carried unanimously.

#### 2. Proposed 2009 Board Meeting Dates

The Board reviewed the following proposed meeting dates for 2009:

February 18, 2009      May 5, 2009                      August 12, 2009                      November 5, 2009

The Board asked that February 18, 2009 meeting be changed to February 11, 2009.

#### **MOTION**

Mr. Floyd made a motion the Board accept the 2009 Board meeting dates. Mr. Bartus seconded the motion, which carried unanimously.

#### 3. Beaufort Memorial Gardens (Sale of Cemetery)

On October 29, 2008 the Board received an application from Beaufort Memorial Gardens. Mr. J. Edward Gamble, III, is purchasing the assets of Copeland Cemetery in Beaufort.

Mrs. Cubitt stated Mims, McDuff & Wood, PA, Certified Public Accountants, conducted an audit of the accounts and found there is currently a \$29,214.00 deficiency in the trust account.

Mr. Gamble stated Mr. Curt Copeland is having health problems, which is why he is selling the cemetery. He made remarks regarding the audit conducted by Mims, McDuff & Wood and stated he would have another audit conducted at the close of purchase. He went on to say the cemetery is currently 11 acres and he is looking at purchasing additional acreage.

Discussion on this matter ensued and included, but was not limited to, made remarks regarding the recalculation of the cost of markers sold, the sell of preneed items by Mr. Copeland, the cemetery's liabilities at the closing, and Mr. Copeland's ability to fund the liabilities.

The Board made the following recommendations to Mr. Gamble regarding the wording in Section Two and Section Five of the agreement.

Section Two:

Strike ~~to the extent funded~~ in the next to the last two sentences and add perpetual care to the last sentence. The last two sentences would read 'Assets shall be conveyed at the time of Closing free and clear of any lien or encumbrance of any nature, other than taxes not yet due and matters of record typical in transactions of this nature and liability to provide pre-need services and merchandise in accordance with applicable laws. Buyer will not assume any liabilities of Seller, and Seller will pay and discharge or otherwise provide for all such liabilities at or prior to the Closing, except liabilities for pre-need services, merchandise and perpetual care.'

Section Five:

Add a contingency clause in regard to unforeseen liabilities.

The Board stated it would need the following items prior to approval of the purchase: 1) clarification on the audit on preneed merchandise, the opening and closing fees, perpetual care and maintenance fund, 2) correct language in section two of the sale agreement, including the addition of a contingency clause regarding unforeseen liabilities; 3) a new irrevocable care and maintenance fund agreement between the bank and Beaufort Memorial Gardens, Inc.; 4) a consumer contract; and 5) a copy of the title insurance.

**MOTION**

Mr. Floyd made a motion the Board conditionally approve the application based on receipt of the requested documentation as noted. Mr. Bartus seconded the motion, which carried unanimously.

4. Rosemont Cemetery (not a perpetual care cemetery)

In a letter dated October 14, 2008 Ruby Point, treasurer for Rosemont Cemetery, is seeking an extension of time to comply with the Board's request and is seeking to be exempt from the liability imposed by the Board. This matter had been before the Board during a previous meeting; however, appropriate documentation was not presented during that discussion.

Mr. Raymond Lee stated when he began conducting cemetery inspections Rosemont was on the list of cemeteries which had not renewed licensure. He was able to get Rosemont Cemetery licensed for one year; however, the cemetery owner has since passed away and the cemetery has not renewed licensure since that time. He considers the cemetery more of a community cemetery than a perpetual care cemetery, although there is an old sign at the entrance stating it is a perpetual care cemetery. He went on to say parts of the cemetery are maintained by family members and some parts of the cemetery are maintained by the community.

Mr. Spoon stated the currently law does not specify not for profit 501(c)3. Discussion ensued on nonprofit status.

Mr. Spoon suggested the Board ask Ms. Point to appear before the Board during the next meeting to discuss this issue.

**MOTION**

Mr. Bartus made a motion the Board delay action on this matter until the next meeting. Mr. Riggins seconded the motion, which carried unanimously.

5. Southeastern Memorial Gardens (trust fund transfer)

On November 4, 2008 the Board received a letter from Vickie Boykin of BB&T acknowledging receipt of correspondence from Richard Leonard of Southeastern Memorial Gardens. Mr. Leonard's correspondence is removing Branch Banking and Trust Company (BB&T) as trustee for Southeastern Memorial Gardens' trust account and naming Bank of America as successor trustee pursuant to the terms of the Thirteenth Article of the trust agreement dated May 11, 1993. Ms. Boykin's letter also states BB&T will act in accordance with Mr. Leonard's request upon receipt of written approval from the Board for the change in trustee and upon written acceptance of the trust from Bank of America.

The Board questioned whether or not they needed to know the amount in the trust fund to ensure all funds were properly transferred and asked to see the new trust agreement. Mrs. Cubitt stated the Board could obtain a statement from the trustees releasing the trust account listing the amount released and a statement from the trustees receiving the trust account listing the amount received.

**MOTION**

Mr. Floyd made a motion the Board approve the transfer based on the receipt of the new trust agreement and statements from the BB&T and Bank of America trustees reflecting the amount transferred and received. Mr. Bartus seconded the motion, which carried unanimously.

6. IRC – Tony Kennedy

Mr. Tony Kennedy reviewed the August 20, 2008 IRC report with the Board members.

<b>Recommendations</b>		
<u>Dismissal</u>	<u>Letter of Caution</u>	<u>Forward to Next IRC</u>
2008-2	2008-8	2008-1

**MOTION**

Mr. Floyd made a motion the Board accept the IRC report as filed. Mr. Bartus seconded the motion, which carried unanimously.

**Lunch**

Mr. Floyd made a motion the Board adjourn for lunch. Mr. Riggins seconded the motion, which carried unanimously.

The Board recessed for lunch at 12:07 p.m. and returned to public session at 1:32 p.m.

**Return to Public Session**

**Unfinished Business**

1. Agreed Upon Procedures Status

*a. Extensions*

Mrs. Cubitt presented the Board with a list of cemeteries that have provided the Agreed Upon Procedures and briefed the Board on the cemeteries which have asked for an extension for filing the Agreed Upon Procedures.

Discussion on this matter ensued.

*b. Review status*

Mr. Jim Holloway, CPA, is employed with the agency to perform audits with various boards. He further stated the review is a work in progress. He said the Board has received 78 reports; however, these reports do not represent 78 cemeteries. He noted there are two reports on some cemeteries, one report for the merchandise account and one report for the perpetual care account. He wants to make sure he uses the same words as the Board. He noted these reports are not audits, but are agreed upon procedures. He stated the reports received comply with the technical procedures and the technical references which they were given. He continued by saying if he finds differences in the cemeteries there will not be differences between the CPAs completing the reports, but differences in the cemeteries. He stated 22 reports cite deficiencies and are equally spread between the perpetual care account and the merchandise account. He noted the largest deficiency was 216,000 and the smallest deficiency was 166. He said approximately 40 cemeteries will be in compliance after the deficiencies have been resolved. Mrs. Cubitt will send a letter to the cemeteries regarding technical standards according to CPAs. He recommended the Board require the cemeteries to notify the Board when the deficiencies have been corrected and provide evidence of such corrections. He noted there may be 40 cemeteries which need additional work in the correction of deficiencies.

*c. Penalties*

**MOTION**

Mr. Floyd made a motion the Board grant an extension of December 31, 2008 to those cemeteries seeking extensions; however, those cemeteries not complying with submitting the Agreed Upon Procedures by that date, would face a penalty of \$25.00 per day, but may go as high as \$100.00 per day, and would begin cease and desist proceedings if the cemetery has not contacted staff with a plan by January 1, 2009. Mr. Riggins seconded the motion, which carried unanimously.

2. Review and changes of Statute

Mr. Russ noted he, Mr. Floyd, and Mr. Riggins held conference call meetings with staff regarding proposed changes to the statute. The Board reviewed draft changes to the statute.

3. Discussion of Regulations

Mrs. Cubitt stated the regulations clarify the statutes. She recommended the Board table work on the regulations until after the proposed changes to the statute has become law.

The Board was presented with an updated sales agreement from Greenlawn Memorial Park Northeast. However, the sales agreement does not include the complete name and address of the cemetery. The sales agreement also does not include approval of substitution and clarification is needed on the warranty. Number 14 on the back page, substitution of merchandise, is information on vault which should be included in definitions.

**MOTION**

Mr. Bartus made a motion the Board still consider this matter pending and that further revision on the sales agreement is needed. Mr. Riggins seconded the motion, which carried unanimously.

**Public Comments**

There were no public comments made during the November 13, 2008 meeting.

**Adjournment**

**MOTION**

There being no further business to be discussed at this time, Mr. Finch made a motion the meeting be adjourned. Mr. Riggins seconded the motion, which carried unanimously.

The November 13, 2008 meeting of the S.C. Perpetual Care Cemetery Board adjourned at 3:10 p.m.