

## MEETING MINUTES

South Carolina Perpetual Care Cemetery Board  
Board Meeting  
Synergy Business Park  
110 Centerview Drive, Kingtree Building, Room 105  
Columbia, South Carolina  
**10:00 a.m., February 11, 2009**

### 1. Meeting Called to Order

J. W. Russ, chairman, of Conway, called the meeting to order at 10:02 a.m. Other members participating during the meeting included: Russel Floyd, vice chairman, of Spartanburg; John Bartus, of Mauldin; Thomas Johnson, of Charleston; Jacquelyn Petty of Union; and Rick Riggins of Lancaster.

Mr. Finch, of Honea Path, arrived at the meeting at 10:20 a.m.

Staff members participating in the meeting included: Doris Cubitt, Administrator; Sandra Dickert, Administrative Assistant; Amy Holleman, Administrative Specialist; Jeanie Rose, Administrative Specialist; Sheridan Spoon, Assistant General Counsel; and Michael Teague, Administrative Assistant.

Members of the public attending the meeting included: Dr. Mary Baker, Michael Faw, Ruby Point, Fred Porter, and Rob Schmidt.

Mr. Russ announced that public notice of this meeting was properly posted at the S. C. Perpetual Care Cemetery Board office, Synergy Business Park, Kingtree Building, and 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 November 13, 2008 Meeting Minutes

#### MOTION

Mr. Floyd made a motion the minutes from the November 13, 2008 meeting be approved as presented. Mr. Riggins seconded the motion, which carried unanimously.

### Chairman's Remarks – J. W. Russ

Mr. Russ thanked everyone for attending this meeting. He thanked staff for organizing the meeting.

### Administrator's Remarks – Doris Cubitt

Mrs. Cubitt introduced staff to the Board members. She noted staff is testing the Granicus system on today's meeting. She recently attended the cemetery association meeting in Columbia. She has participated in a conference call for the National Cemetery Regulators and was provided with a lot of beneficial information. She noted a recent hot topic has been abandoned cemeteries.

#### A. David Christiansen, III, Assistant Deputy Director, Office of Licensure and Compliance

Mr. Robbie Boland, of OLC, briefed the Board on the Office of Licensure and Compliance and its duties.

#### B. Expungment of Consent and Final Orders – Doris Cubitt and Sheridan Spoon

Mrs. Cubitt stated all consent orders and final orders are posted on the agency's web site. She went on to say staff is not proposing expungment of orders; however, staff is asking for a time frame on

how long board orders and consent agreements should remain on the board's web page. She suggested consent agreements and final orders dealing with practice issues, i.e., trust issues, remain forever and that final orders and consent agreements dealing with non-practice issues, i.e., late renewals, have a time line for posting on the web page. She said would like to see the non-practice issues remain on the web page for two years to five years. She further stated that the agency would like to have consistency among all of the boards.

Discussion on the matter ensued. It was suggested that the non-practice consent agreements and final orders remain on the web page for three years due to the statute of limitations on filing personal law suits in South Carolina.

### **New Business**

#### **A. Board Discussion of Mandatory Disclosure Format [40-8-35 and 40-8-100(G)]**

Mr. Floyd provided the members and staff with a copy of a mandatory disclosure format and recommended changes be made to the mandatory disclosure charges. The suggested changes included, but were not limited to, outer burial container requirements, a manufacturer's warranty on an outer burial container, opening and closing charges, monument/marker installation charges, and disclosures regarding optional charges.

Mr. Spoon some cemeteries may not provide services that other cemeteries provide. He suggested publishing a template on the Board's web page.

### **MOTION**

Mr. Riggins made a motion the Board authorize the mandatory disclosure form as a template. Mr. Riggins seconded the motion, which carried unanimously.

#### **B. Beaufort Memorial Gardens (sell)**

Mrs. Cubitt stated Mr. Gamble did not have the additional documentation requested from the November 2008 meeting and would not appear during this meeting.

#### **C. November 24, 2008 IRC Report**

Mr. Kennedy briefed the Board on the November 24, 2008 IRC report.

Mr. Kennedy stated there are currently five open cases regarding the cemetery profession.

### **MOTION**

Mr. Bartus made a motion the Board approve the November 24, 2008 IRC report. Mr. Riggins seconded the motion, which carried unanimously.

The approved IRC report included the following cases:

Dismissal	Letter of Caution
2008-9	2008-3      2008-4

### **Unfinished Business**

#### **A. Agreed Upon Procedures Status**

- i. Extensions
- ii. Review status
- iii. Penalties

Mrs. Cubitt stated the agreed upon procedures are moving along. She further stated there were approximately 70 on a list. She noted Mr. Jim Holloway has reviewed the agreed upon procedures which have been received and will be presenting a report to the Board at later date. She went on to say some of the Agreed Upon Procedures will need further examination and will be handled during a separate process. She went on to say any improprieties would be handled through the complaint

process. She said at this time 17 cemeteries have asked for extensions and that staff is informing those cemeteries that the Board will not grant extensions past December 31, 2008. She said staff is also informing the cemeteries that the Agreed Upon Procedures should be submitted as soon as possible and that the cemeteries may appear before the Board if there are special circumstances. She said the cemeteries are assessing \$25 fines per day for those cemeteries which have not submitted Agreed Upon Procedures and to those cemeteries which have not responded. She stated 17 cemeteries have requested extensions, 17 cemeteries have not responded, and one cemetery does not know if it is a perpetual care cemetery. She stated she would have a staff inspector visit the cemeteries which have not responded at all. She went on to say 93 cemeteries have submitted the Agreed Upon Procedures. She stated some of the cemeteries submitted two Agreed Upon Procedures, one report regarding perpetual care and one report regarding merchandise.

It was noted during the discussion there are 128 perpetual care cemeteries.

Mrs. Cubitt stated the penalties would be addressed during the next meeting. She recommended cease and desist orders be discussed during the next meeting.

**B. Review changes to final draft of Statute**

The Board reviewed the final draft of the statute. During the discussion the Board requested the word 'lower' be removed in Section 40-8-80(B)1 regarding the license fees. The Board also requested the proposed language for Section 40-8-110(H) be inserted and that the rest of the paragraphs be re-lettered.

**MOTION**

Mr. Bartus made a motion the Board approve the draft statute. Mr. Riggins seconded the motion, which carried unanimously.

**C. Review of Draft Regulations**

The Board reviewed and edited the draft regulations and deferred approval to the next meeting.

**D. Rosemont Cemetery**

Ruby Point, Rosemont Cemetery Association Treasurer, and Dr. Mary Baker, Rosemont Cemetery Association board member, appeared before the Board and offered the following facts regarding the cemetery.

Fred Lester had been handling Rosemont Cemetery for several years; however, Mr. Lester died in February 2007. Ms. Point has been working with the cemetery since 1972. The cemetery is a non-profit organization and the association feels there are several reasons why the cemetery should be exempt from the perpetual care status. The cemetery has been in existence since 1863 and is not perpetual care according to a portion of the statute. There is a sign indicating the cemetery is perpetual care; however, the association has given thought to documenting the by-laws regarding perpetual care in the cemetery to remove perpetual care. Perpetual care in Rosemont Cemetery is an option which individuals have. The cemetery charges \$500 for a cemetery space and an additional \$250 for perpetual care. The cemetery association has a care taker who cuts the grass and will cut the grass on the sites which have paid for perpetual care. When a cemetery lot is sold the deed is recorded with the county courthouse and recorded on the map with the association. The \$250 is charged if the space has already been purchased, is placed into a CD, maintained by the association, for grounds maintenance. The CD is separate from the trust fund for cemetery spaces. The \$500 charged for a space includes the \$250 for perpetual care and goes into the general fund. For \$15 annual individuals may pay for care of a cemetery space. Ms. Point and Dr. Baker are unsure if the \$250 fee covers repairing a grave which may sink. The CD is now worth approximately \$400,000.

The cemetery association is asking that the Board relieve the cemetery from perpetual care status.

**Executive Session**

**MOTION**

Mr. Floyd moved the Board enter executive session to seek legal advice. Mr. Riggins seconded the motion, which carried unanimously.

**9. Return to Public Session to Report on Executive Session**

**MOTION**

Mr. Johnson made a motion the Board return to public session. Mr. Riggins seconded the motion, which carried unanimously.

Mr. Russ noted for the record that no official action was taken during executive session.

*Rosemont Cemetery*

**MOTION**

Mr. Riggins stated that while the Board recognizes the cemetery is exempt status of the 501C13; however, the Board's decision is that the cemetery cannot hold out to the public or to contracted parties that it is a perpetual care cemetery and made a motion that the cemetery take steps to modify any signage the cemetery may have, any advertisements, any marketing, any documents cemetery contracts that the cemetery has with individuals, that the cemetery take affirmative steps to communicate to all interested parties that the cemetery does not, in fact, offer perpetual care, make any modifications which may be necessary to the organization's bylaws to remove perpetual care, and that although the cemetery is not required to be licensed that the monies are to be placed in a limited trust account status rather than the current status and the association document the steps taken to the Board within a period of sixty days. Mr. Floyd seconded the motion, which carried unanimously.

**E. Southeastern Memorial Gardens (trust fund transfer)**

Mrs. Cubitt stated the cemetery could not provide documentation in time for this meeting.

**F. Greenlawn Memorial Park Northeast (corrected consumer contract)**

The members were provided with a revised contract for Greenlawn Memorial Park Northeast.

Mr. Michael Faw of Greenlawn Memorial Park Northeast appeared before the Board at this time and discussed Section 40-8-35, the outer burial container's warranty, and Section 40-8-100(G) with the Board.

The Board informed Mr. Faw he should add wording to the section of the contract regarding outer burial containers, the words category one (protected) and category two (non-protected). In Section (B) add the wording, "If yes, \_\_\_\_\_ name of warrantor (brand)." He must also disclose the required charges as well as the optional charges.

**G. Rock Hill Memorial Gardens (trust fund approval)**

Mrs. Cubitt stated the Rock Hill Memorial Gardens provided an unacceptable letter as the letter did not come from the bank. She further stated as of February 10, 2009 Rock Hill Memorial Gardens did not have the appropriate documentation to submit to the Board. She went on to say she informed the company that the merchandise account could not be reduced and that all funds must be transferred unless the company could provide documented proof that some merchandise had not been delivered. The perpetual care monies have not been transferred as the account has not been established. She stated the monies that have been transferred were monies from the previous owner. She noted staff has not yet issued a license. The Board was also not provided with documentation from SCI.

The Board took no action on this matter since Rock Hill Memorial Gardens was not present during the meeting.

**Public Comments**

There were no public comments made during executive session.

**Adjournment**

**MOTION**

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

The February 11, 2009 meeting of the SC Perpetual Care Cemetery Board adjourned at 2:30 p.m.