

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., May 5, 2009

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; Jacquelyn Petty of Union; and Rick Riggins of Lancaster.

Mr. Finch, of Honea Path, arrived at the meeting at 12:00 p.m.

Thomas Johnson, of Charleston, was granted an excused absence.

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

Members of the public attending the meeting included: Sarah Moseley.

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, 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 February 11, 2009 Meeting Minutes

MOTION

Mr. Floyd made a motion the Board approve the minutes of the February 11, 2009 meeting. Mr. Riggins seconded the motion.

Mr. Floyd noted the following changes to the February 11, 2009 meeting minutes:

Page two under new business - board discussion of mandatory disclosure format [40-8-35 and 40-8-100(G)] the first sentence should read, "Mr. Floyd provided the members and staff with a copy of a mandatory disclosure format and recommended the mandatory disclosure charges be required on the contract and that the optional charges must also be disclosed." In the second sentence remove the word 'changes' and replace with 'charges'. On page three change the sixth sentence to read, "There is a sign indicating the cemetery is perpetual care; however, the association has given thought to changing the bylaws in the cemetery to remove perpetual care." The motion regarding Rosemont Cemetery should read, in part, "and that although the cemetery is not required to be licensed, the monies are to be placed in a limited trust account and that the association document the steps taken to the Board within a period of sixty days."

Mr. Riggins noted that the motion regarding the mandatory disclosure format states he made the motion as well as seconding the motion. Mr. Floyd stated he believes he seconded the motion.

MOTION

Mr. Bartus made a motion to accept the minutes as amended. Mr. Riggins seconded the motion, which carried unanimously.

Chairman's Remarks – J. W. Russ

Mr. Russ welcomed everyone to the meeting.

Mrs. Cubitt stated the agency has created a customer care center, which will be handling a good bit of the telephone calls for the agency. She further stated employees from the customer care area are observing today's meeting.

Administrator's Remarks – Doris Cubitt

Mrs. Cubitt stated she participated in a North American Cemetery Regulators Association conference call. She further stated the association hosts conference calls on a quarterly basis and holds an annual meeting. She said the association informs the participants of similar issues being handled by other states as well as provides insight and helpful information.

- A. Advisory Opinions – Sheridan Spoon
 - a. Checklist

Mrs. Dantzler stated Mr. Spoon has developed a checklist staff could use based upon the applicable statute and lists the minimum requirements for licensure as set by law.

Mrs. Cubitt stated staff would begin using the checklist; however, the members could make additions provided the proposed additions can be tied to the statute and/or regulation.

- b. Bank Letter
- c. Disclaimer

Mrs. Dantzler stated the disclaimer states that any trust fund completed for this purpose should recognize the priority that the statute applies. She went on to say Mr. Spoon is asking that disclaimer be placed on the application. She noted it provides some risk management for the State.

Executive Session

MOTION

Mr. Riggins made a motion the Board enter executive session to seek legal advice. Ms. Perry seconded the motion, which carried unanimously.

Return to Public Session

MOTION

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

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

Unfinished Business

1. Greenlawn Memorial Park Northeast – J W Russ

Michael Faw appeared before the Board at this time.

Mr. Russ asked Mr. Faw if the trust fund agreement would be changed to Greenhaven. Mr. Faw stated SCI has asked that he change the cemetery name by June 4, 2009. He would like to have the name changed within the next 30 days.

He further stated the Regions Bank attorney said it would be best if the trust fund was transferred in the existing name to avoid legal problems and confusion. He said the name could be changed after the transfer. He noted the funds are still with US Bank and are ready to be moved to Regions Bank.

Mr. Faw stated SCI did not attest to the \$15,000.00 originally placed in the trust fund because the corporation did not own the cemetery at that time and could not warrant the deposits which had been made. However, in the Agreed Upon Procedures SCI did warrant the deficiencies and all of the deficiencies were satisfied. He went on to say Regions Bank will handle the merchandise trust fund in order to have the administrated for their fees. He said the cemetery could notify the consumers by letter of the name change.

MOTION

Mr. Floyd made a motion the Board approve the original sale since the trust agreement and the sales contract have been satisfied. Mr. Riggins seconded the motion, which carried unanimously.

MOTION

Mr. Floyd made a motion the Board approve the name change from Greenlawn Cemetery to Greenhaven Cemetery. Ms. Petty seconded the motion, which carried unanimously.

MOTION

Mr. Floyd made a motion the Board approve the transfer of trust funds and merchandise trust funds from Greenlawn Cemetery to Greenhaven Cemetery. Mr. Riggins seconded the motion, which carried unanimously.

2. Southeastern Memorial Gardens (trust fund transfer) - J W Russ

This matter was not discussed during this meeting.

3. Rock Hill Memorial Gardens (trust fund approval) – J W Russ

This matter was not discussed during this meeting.

4. Beaufort Memorial Gardens (sell) – J W Russ

This matter was not discussed during this meeting.

5. Board approval of Mandatory Disclosure Format (40-8-35 and 40-8-100(G))
Template for Board Website – Russel Floyd

This matter was not discussed during this meeting.

6. Agreed Upon Procedures Update – Doris Cubitt

Mrs. Cubitt stated the Board has received 97 Agreed Upon Procedures and is still waiting on 25 Agreed Upon Procedures to be submitted. In the last month staff mailed a letter informing them of the current penalty is and that the amount is still accruing. Mrs. Cubitt stated there would be some cemeteries which would not be able to submit the Agreed Upon Procedures due to unforeseen circumstances, such as a fire or flood. She said she would work with Mr. Holloway on an alternative procedure for those circumstances.

Mrs. Cubitt stated there are approximately 10 cemeteries which have not renewed licensure.

New Business

1. IRC – Tony Kennedy

The IRC has not met since the last Board meeting.

2. Requests to Waive Fines for Late Agreed Upon Procedures – J W Russ

a. Westside Memorial Gardens

Westside Memorial Gardens is asking the Board to return the \$250 fine paid for the late renewal of the cemetery license. No representative from Westside Memorial Gardens was present.

b. Ridge Crest Memorial Park, Inc.

Ridge Crest Memorial Park, Inc. is asking the Board to return the \$250 fine paid for the late renewal of the cemetery license. No representative from Ridge Crest Memorial Park was present.

c. Mount Hope Cemetery & Mausoleum

Mount Hope Cemetery and Mausoleum is asking the Board to rescind the \$250 fine paid for the late renewal of the cemetery license.

Sarah W. Moseley of Mount Hope Cemetery and Mausoleum appeared before the Board.

Ms. Moseley stated the cemetery is asking the Board to rescind the \$250 fine for failing to renew licensure in a timely manner.

Mrs. Cubitt stated the renewal notices were mailed at the end of October 2008. Mrs. Cubitt further stated on March 9, 2009 staff mailed letters to all cemeteries that had not renewed licensure. She went on to say Mount Pleasant renewed its license on March 31, 2009. She noted that the cemeteries which did not renew by April 1, 2009 had to pay the renewal fee and an application fee and those cemeteries which did not renew by May 1, 2009 must now pay an additional \$1,000 fine, enter a consent agreement, and be placed on probation for one year in addition to \$250 licensure fee and application fee.

Staff noted that Mount Hope renewed its license in a timely manner in 2006, 2007 and 2008. Ridge Crest Memorial Park and Westside Memorial Gardens renewed its licenses respectively in a timely manner in previous years.

The Board informed Ms. Moseley it would discuss and inform her of the final decision at a later time.

MOTION

Mr. Riggins made a motion the Board deny the requests of Westside Memorial Park, Ridge Crest Memorial Park, Inc., and Mount Hope Cemetery & Mausoleum to waive the fines. Mr. Bartus seconded the motion, which carried unanimously.

3. South Lawn Memorial Gardens, Inc. (sell) – J W Russ

Wilton Mackey appeared before the Board at this time.

Mrs. Cubitt asked Mr. Mackey if he had submitted an updated Agreed Upon Procedures. She noted staff has received the annual report; however, the Agreed Upon Procedures from 2007 and 2008, as well as trust account and merchandise account reports, and an updated sales contract have not yet been received.

Mrs. Cubitt stated the sale of the cemetery is actually a sale of ownership shares of the corporation, which is different from an asset sale.

Rod Sosebee appeared on behalf of his father, James Sosebee. Mr. Sothsby stated he is a licensed funeral director and works with his father Woodlawn-Sothsby Funeral Home in Anderson.

MOTION

Ms. Petty made a motion the Board table this matter to the next meeting. Mr. Bartus seconded the motion, which carried unanimously.

4. Carl Pennington Trust Money Question – J W Russ

Mrs. Cubitt stated Mr. Pennington was unable to appear during this meeting. He has submitted four questions by email for the Board.

1. To what extent am I allowed to take money out of the trust? I understand I cannot remove from the corpus, but what about the interest and dividends?

He cannot take the money out of the accumulated income as it becomes part of the corpus. He can remove money from the earned income for that year.

2. Can current maintenance expenses be removed from the trust?

The maintenance cannot be removed from the trust but can be removed from the interest.

3. Can the \$4,500 cost of the Agreed Upon Procedures be removed from the Trust?

No, the maintenance expense cannot be removed from the trust.

4. I am having trouble finding a bank or other trust type corporation that is first, willing to handle our small account and second, at a reasonable cost. Any suggestions on how I and all the other small cemeteries can address this?

The Board did not have any suggestions for this question.

Discussion Regarding Licenses

Mr. Russ stated the licenses are now being signed by Mr. David Christian. He said in his opinion Mr. Christian is diluting the Board's authority and feels the licenses should be signed by the chair and vice chair or the administrator.

MOTION

Mr. Bartus made a motion the chairman and the administrator sign licenses as in the past and in the future. Mr. Riggins seconded the motion, which carried unanimously.

Public Comments

No public comments were made during this meeting.

Adjournment

MOTION

Mr. Bartus made a motion the meeting be adjourned. Ms. Petty seconded the motion, which carried unanimously.

The May 5, 2009 meeting of the S.C. Perpetual Care Cemetery Board adjourned at 1:17 p.m.