

MINUTES
South Carolina Perpetual Care Cemetery Board
Board Meeting
Synergy Business Park
110 Centerview Drive, Kingstree Building, Room 204
Columbia, South Carolina
10:00 a.m., May 19, 2010

Meeting Called to Order

J. W. Russ, chairman, of Conway, called the meeting to order at 10:07 a.m. Other members participating during the meeting included: Russel Floyd, vice chairman, of Spartanburg; Roger Finch, of Honea Path; Thomas Johnson, of Charleston; Jacquelyn Petty of Union; and Rick Riggins of Lancaster.

John Bartus, of Mauldin, was granted an excused absence.

Staff members participating in the meeting included: Sandra Dickert, Administrative Assistant; Mark Dorman, Investigator, Office of Investigations and Enforcement; Amy Holleman, Administrative Specialist; Tony Kennedy, Investigator, Office of Investigations and Enforcement; Jeanie Rose, Administrative Specialist; Sheridan Spoon, Deputy General Counsel; and Sharon Wolfe, Investigator, Office of Investigations and Enforcement.

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. A quorum is present.

Pledge of Allegiance

All present recited the Pledge of Allegiance.

Approval of March 18, 2010 Meeting Minutes

Mr. Johnson noted he was absent during the last meeting.

Mr. Floyd noted the following corrections:

The last paragraph on page six states Mr. Holloway 'stated Mr. Taylor guaranteed him he would deliver the merchandise and he did not review merchandise trust fund.' He is not sure that statement is accurate and the Board may not want it in the minutes that way. Research the marker price on page seven. On the bottom of page seven Ms. Coe discussed VLX owns the cemetery; however, not an accurate statement as Michael Graham's estate still owns the cemeteries. On page eight under Southeastern Memorial Gardens, the sentence should read, 'She further stated Mrs. Cubitt believes the overage to be growth of the care and maintenance account and that it should be considered principal.' On page nine second motion on page. There would be no waiver for a repeat violation. Also on page nine in regard to the purchase of the eight cemeteries, strike the second ~~Mr. Floyd made a motion~~ and add the word that the Board issue licenses to Mr. Taylor with the stipulation that the ~~bonding shortfall~~ trust account for care and maintenance account shortfalls be bonded in the amounts of strike the word for. The following changes were made to the second sentence: ~~The shortfall is based on Mr. Holloway's estimate.~~ If Mr. Taylor and Ms. Coe can provide the Board with proof the UCCs have now been satisfied, ~~it is now a moot point~~ and add the bond for the UCC lien. The motion will read: Mr.

Floyd made a motion that the Board issue licenses to Mr. Taylor with the stipulation that the trust account care and maintenance account, for at least \$2,000,000.00, that the merchandise account should be bonded in the amount of \$500,000 and the UCCs be bonded in the amount of \$250,000; that the trust account be made good within five years or as soon as possible. If Mr. Taylor and Ms. Coe can provide the Board with proof the UCCs have now been satisfied the bond for the UCC lien can be terminated; the merchandise account would need to be bonded with a time table to be restored within five years and they would need to assume liability for the opening and closing; amend the merchandise document and care and maintenance trust fund document and the rules and regulations.

MOTION

Mr. Riggins made a motion the Board approve as amended and Mrs. Cubitt's research with Mr. Holloway. Mr. Floyd seconded the motion, which carried unanimously.

Chairman's Remarks – J. W. Russ

Mr. Russ welcomed everyone to the meeting. He commended staff for doing a good job during Mrs. Cubitt's absence.

Administrator's Remarks – Doris Cubitt

Mrs. Cubitt made no remarks.

Unfinished Business

Heritage Memorial Gardens – Penny Hoffman-Poteat (sell) - J W Russ

Greenhaven Memorial Gardens – Penny Hoffman-Poteat (sell) - J W Russ

No activity has been reported regarding these two cemeteries.

Roselawn Memorial Cemetery, Inc – James Amaker (new) – J W Russ

Ms. Rose spoke with Mr. Amaker this week. He is in the process of gathering the required documents. She further stated Paul Simmons who was to be the consulting manager is unable to act in that capacity. She went on to say Mr. Amaker is asking if it is okay to use another individual who has 38 years of service with cemeteries.

Mr. Russ stated Mr. Amaker should submit the individual's name for the Board's approval.

Garden of Devotion Cemetery, Inc. (ownership structure & manager change) – J W Russ

Ms. Rose stated the cemetery has submitted documentation; however, the trust document was not an irrevocable trust document. She went on to say she received an email from Mr. Newell on May 19, 2010 reflecting he has submitted the document to the attorney for approval prior to submitting it to the Board.

Stonemor – Contract Approval – J W Russ

Mrs. Cubitt suggested the contract approval for Stonemor be tabled to the next meeting.

MOTION

Mr. Floyd made a motion the Board table the approval of the Stonemor contract to the next meeting. Mr. Johnson seconded the motion, which carried unanimously.

Aiken Memorial Gardens, LLC – Adam Taylor (sale) – J W Russ

Jessamine Memorial Gardens, LLC – Adam Taylor (sale) – J W Russ

Memorial Gardens of Columbia – Adam Taylor (sale) – J W Russ

Plantation Memorial Gardens – Adam Taylor (sale) – J W Russ

Chatham Hill Memorial Gardens – Aday Taylor (sale) – J W Russ
Forest Lawn Memorial Park – Adam Taylor (sale) – J W Russ
Crestlawn Memorial Gardens – Adam Taylor (sale) – J W Russ
Belleville Memorial Gardens – Adam Taylor (sale) – J W Russ

Mr. Taylor is currently out of the country and has not yet closed on the cemeteries. He believes it will be an additional six weeks. Staff has no knowledge on whether or not the bond has been obtained. Mrs. Cubitt believes Mr. Taylor would obtain the bond in correlation with the closing.

Forest Lawn Memory Gardens – Trust Fund Approval – J W Russ

Forest Lawn Memory Gardens' trust fund agreement document has a clause which is not in compliance with the statute.

Evergreen Cemetery Park – Trust Fund Approval – J W Russ
Hillside Memorial Park – Trust Fund Approval – J W Russ
Greenlawn Memorial Park – Trust Fund Approval – J W Russ
Hillcrest Memory Gardens – Trust Fund Approval – J W Russ
Grandview Memorial Gardens – Trust Fund Approval – J W Russ
Crescent Hill Memorial Park – Trust Fund Approval – J W Russ

Scott Woodley of Houston, Texas owns this cemetery. Crescent Hill Memorial Park was brought before the Board in November 2009. Independence Trust Company, located in Tennessee, has offered to be the trustee; however, Independence Trust Company does not have a South Carolina license nor does it have a physical presence within the state. The Board reviewed the trust document to see how income was addressed.

Twin Cities Memorial Gardens – Trust Fund Approval – J W Russ
Sunset Memorial Gardens – Trust Fund Approval – J W Russ

The Board previously approved the transfer of the trust funds but wanted to review the trust fund documents during this meeting. Staff is not sure that all of the affidavits regarding these cemeteries have been received.

Agreed Upon Procedures Update – Doris Cubitt and Jim Holloway

Mrs. Cubitt stated Mr. Holloway has evaluated the documents he has. She further stated 79 of the reports are fine, approximately 23 reports have a perpetual care deficiency, approximately 18 reports have a merchandise account deficiency, and approximately 15 to 20 reports will have should be redone or have not been done. Staff has taken a proactive stance and sent letters to the cemeteries. She noted complaint cases have been opened on the cemeteries which have not submitted reports.

Mr. Bryant stated the agency understands the Board's concern with the non-compliance with the agreed upon procedures reports. He further stated staff has filed complaints against 17 cemeteries which have not complied with their reporting. Staff has prepared affidavits and met with the investigative unit to assist in resolving these issues. He briefed the Board on the process of the complaint and hearing/consent agreement process.

New Business

Mr. Russ turned the meeting over to Mr. Floyd at this time

IRC Report

Mr. Taylor stated there are currently 36 cases in OIE relating to cemetery. He briefed the Board regarding the 20 cases on May 7, 2010 IRC report.

MOTION

Mr. Johnson made a motion the Board approve the May 6, 2010 IRC report as corrected. Ms. Petty seconded the motion, which carried unanimously.

Inspection Report – Raymond Lee

The inspection report was deferred to the next meeting.

OGC Report – Christa Bell

Mrs. Bell stated there are currently 12 cases in OGC for adjudication.

Greenlawn Memorial Park – Stephen M. Shaffer (sale) – J W Russ
Memorial Park – Stephen M. Shaffer (sale) – J W Russ

Stephen M. Schaffer, CEO of Foundation Partners Group, appeared before the Board. On April 21, 2010 Foundation Partners reached an agreement with SCI to acquire 22 funeral homes and five cemeteries, which includes Woodridge Memorial Gardens as well as Greenlawn Memorial Gardens, to be divested from the combined properties of SCI and Keystone Properties. He was CEO of Keystone for 13 years. The company is targeting to close on the properties for the end of June 2010.

MOTION

Mr. Riggins made a motion the Board table action on this matter until a later date to allow the Board time to review all of the documentation.

Floyd Cemeteries Agreed Upon Procedures Due Date Extension Request – J W Russ

Mr. Floyd recused himself from participating in this matter

Mr. Floyd stated his controller has had employee turnover in his department during the past two years and is retiring May 31, 2010. The controller began working on the Agreed Upon Procedures couple of weeks ago and is currently working on the procedures. He is requesting an extension to submit his Agreed Upon Procedures from March 31, 2010 to June 30, 2010.

MOTION

Mr. Johnson made a motion the Board approve Mr. Floyd's request. Mrs. Petty seconded the motion, which carried unanimously.

Consideration of Compliance Statement for Trusts – J W Russ

Mrs. Cubitt stated Mr. Spoon has worked with Mr. Russ regarding a compliance statement regarding trust fund documents. All statements contained within the document were taken from the Board's statute. The document is signed by the institution relinquishing the trust account as well as the institution receiving the trust account.

The Board asked that the statement be notarized.

MOTION

Mr. Riggins made a motion the Board approve the compliance statement for trusts. Ms. Petty seconded the motion, which carried unanimously.

Discussion Items

Pet and Human Remains Buried Together – Russel Floyd

Mr. Floyd stated the SC Cemetery Association has supported the Board pursuing pet and human remains being buried together. He asked Ms. Dantzler in regard to promulgating a

regulation to have pet and human remains buried together and she has indicated a regulation can be promulgated to this effect.

Discussion ensued and included topics such as pets being considered property and the statute having a section supporting a regulation in regard to allowing pet and human remains buried together.

Mrs. Cubitt stated she would ask Ms. Dantzler and Mr. Spoon to attend the next meeting and to possibly draft language regarding pet and human remains buried together for the Board's review and approval during the next meeting.

Public Comments

No public comments were made during this meeting.

Executive Session

The Board did not enter executive session.

Adjournment

MOTION

Mr. Floyd made a motion the meeting be adjourned. Mr. Riggins seconded the motion, which carried unanimously.

The May 19, 2010 meeting of the SC Perpetual Care Cemetery Board adjourned at 11:57 a.m.