

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., July 22, 2010

Meeting Called to Order

J. W. Russ, chairman, of Conway, called the meeting to order at 10:15 a.m. Other members participating during the meeting included: Russel Floyd, vice chairman, of Spartanburg; John Bartus, of Mauldin; Roger Finch, of Honea Path; Jacquelyn Petty of Union; and Rick Riggins of Lancaster.

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

Staff members participating in the meeting included: Doris Cubitt, Administrator; Sandra Dickert, Administrative Assistant; Amy Holleman, Administrative Specialist; Tony Kennedy, Investigator, Office of Investigations and Enforcement; Raymond Lee, Tracey McCarley, Education Coordinator; Jeanie Rose, Administrative Specialist; Sheridan Spoon, Assistant General Counsel; and Bobby Taylor, Investigator, Office of Investigations and Enforcement.

Public Notice

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. He noted a quorum was present.

Pledge of Allegiance

All present recited the Pledge of Allegiance.

Approval of May 19, 2010 and June 08, 2010 Meeting Minutes

Mr. Floyd noted the following corrections: the first motion on page, remove the phrase ~~Mrs. Cubitt research with Mr. Holloway~~ and insert approve the above stipulations as amended; on page three remove the paragraph regarding Crescent Hill Memorial Gardens. Mr. Riggins noted on page four there was no second to the motion regarding Greenlawn Memorial Park and Memorial Park Mr. Floyd stated he believes Ms. Petty seconded the motion. Mr. Floyd noted on page four under his request for an extension on the Agreed Upon Procedures that the auditor began working on the Agreed Upon Procedures. He then asked that the sentence remain as written.

May 19, 2010 Meeting Minutes

Mr. Floyd asked that the Board accept several edits he submitted to Mr. Russ.

MOTION

Mr. Riggins made a motion to accept the May 19, 2010 minutes as amended. Mr. Floyd seconded carried unanimously.

June 8, 2010 Meeting Minutes

MOTION

Mr. Floyd made a motion the Board accept the June 8, 2010 meeting minutes as amended. Mr. Finch seconded the motion, which carried unanimously.

Chairman's Remarks – J. W. Russ

Mr. Russ welcomed everyone to the meeting.

Administrator's Remarks – Doris Cubitt

Mrs. Cubitt asked that Ms. McCarley and Mrs. Bell be allowed to speak.

Ms. McCarley briefed the Board regarding financial reports. She asked the members if they were interested in receiving financial reports and, if so, what they would like to see in the reports and how often.

The Board asked that Ms. McCarley submit a detailed report during the next meeting and the Board would make a determination during a later Board meeting as to what they would like to include in the report.

OGC Report – Christa Bell

Mrs. Bell stated there are currently 12 cases to be litigated and will be scheduled for November 3, 2010 meeting. She noted all parties have been offered a Memorandum of Agreement.

Mrs. Bell introduced Laura Cook to the members. She noted Ms. Cook would be working with the Board as a litigating attorney.

Mr. Floyd asked that the Board receive the financial reports on a quarterly basis and in detail. He further stated if the Board determined it did not want as much detail they would notify Ms. McCarley.

Mrs. Cubitt stated the Board has previously discussed updating the regulations. She would like to schedule a work session in September to draft the regulations. She asked that the members review the statute prior to the meeting. Staff has reserved a room for September 20-21, September 23-24, or September 28-30.

The Board determined it would meet September 28-29, 2010.

IRC Report – Bobby Taylor

Mr. Taylor noted there are currently 28 open cases in the Office of Investigations and Enforcement (OIE). He noted the majority of the cases involve care and maintenance, Agreed Upon Procedures.

Mr. Taylor spoke to the Board regarding cases he is on which he is working. He noted 2007-27 is being reviewed by Mr. Holloway.

Mr. Kennedy reviewed the July 15, 2010 IRC report with the Board.

MOTION

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

Citation Hearings

Memorial Gardens of Columbia – Cemetery Equity Solutions, Inc. (Adam Taylor) –
Columbia, SC – Raymond Lee

This proceeding was taken by a court reporter in order to produce a verbatim transcript should one be necessary.

The citation was actually written to Memorial Gardens under Michael Graham and Associates. Mr. Lee asked the Board to dismiss the citation since the cemetery is now owned by Adam Taylor.

MOTION

Mr. Riggins made a motion the Board dismiss the citation. Mr. Riggins seconded the motion, which carried unanimously.

Forest Lawn Cemetery – StoneMor Partners, L.P. – Laurens, SC – Raymond Lee

This proceeding was taken by a court reporter in order to produce a verbatim transcript should one be necessary.

Raymond Lee presented testimony. He noted no representative from Forest Law Cemetery would be offering testimony. The citation notes a \$500.00 fine and probation. Mr. Lee suggested a probation period of one year.

MOTION

Mr. Bartus made a motion the Board uphold the citation with a probation period of one year for that location. Mr. Finch seconded the motion, which carried unanimously.

Discussion ensued in regard to the hearing be cancelled if the fine had been paid. The fine was paid prior to the hearing (June 28, 2010).

Unfinished Business

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

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

This proceeding was taken by a court reporter in order to produce a verbatim transcript should one be necessary.

Mrs. Cubit stated Mr. and Mrs. Igleheart were asked to open a separate trust account to deposit funds for the accounts. She noted staff has also discovered there is a mortgage on the cemetery.

Mr. Igleheart stated he was unaware of the law stating there could not be a mortgage on the cemetery. He noted the mortgage was obtained in December 2007.

Executive Session

MOTION

Mr. Floyd made a motion the Board enter executive session to seek legal advice regarding this matter. Mr. Finch seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Floyd 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.

MOTION

Mr. Riggins made a motion the Board deny the license to Heritage Memorial Gardens and Greenhaven Memorial Gardens due to the mortgage. Mr. Floyd seconded the motion, which carried unanimously.

New Business

Inspection Report – Raymond Lee
Mr. Lee's inspection report is attached.

Nature Preserve Guidelines (Policy) - J W Russ

Mrs. Cubitt stated she has gathered materials regarding nature preserves. She further stated in reviewing the material would allow for burial known as green burials. She said she believes nature preserves were placed in the statute for a reason. She went on to say a nature preserve there are limited spaces for plots. She noted the individuals buried in nature preserves are placed in a shroud and sometimes in a pine box. She further stated the nature preserves may allow for a bush or a small stone with engraving on it to be placed at the burial plot. She said nature preserves allow for walking trails. She said staff will have more information for the Board's review during the September work session meeting.

Mrs. Cubitt referred to Section 40-8-200 allows for an exemption for nature preserve cemeteries; however, Section 40-8-240 states all new cemeteries should be perpetual care. She further stated nature preserve cemeteries are not kept pristine and will have an endowment or nonprofit association linked with the preserve. She noted there are currently two nature preserve cemeteries in South Carolina. She said there is one cemetery in Oconee County and one proposed green burial cemetery in Lexington County. She stated progress is being made.

Mrs. Cubitt stated there are some cemeteries that are under funded and the Board will have to make a determination on what is to be done. Discussion ensued regarding the Board setting up guidelines in regard to how to handle the cemeteries which have under funded trust accounts.

New Way Cemetery (Exemption Request) – Chester - Sam Hartis & Mitch Hooper – J W Russ

Sam Hartis, Mitch Hooper and Mr. Jeff Clemens, Esq. appeared before the Board. Mr. Clemens referred to the Green Burial Council and its materials regarding green burial cemeteries. He noted New Way Cemetery would be a hybrid burial ground, which is considered a level one according to the Green Burial Council. He noted the most extreme level of conservation is considered to be a level four green burial cemetery. He presented a business plan for the cemetery to the board. He said the cemetery would be located on a 5.2 acre plot in Chester County, which is being restored to its natural state. He went on to say Mr. Hartis and Mr. Hooper will use grid system to divide the property. He noted there would be areas on the property which would not allow plats. He stated traditional burials would be allowed in the cemetery, although green burials would be encouraged. He also stated Mr. Hartis and Mr. Hooper plan to use flat, flush stones to mark the burial plots. He went on to say there would be a sign clearly indicating the cemetery is not a perpetual care cemetery, but a green burial cemetery. He also said the contracts state the plats would not deeded, but licensed for the right to burial and would also state that the cemetery is not a perpetual care cemetery. He said a perpetual care trust fund would not be established and that any monies used for removal of

excessive limbs or treatment of drainage issues would be taken from the operating account. He noted the cemetery would be for-profit cemetery and is seeking a conservation easement.

MOTION

Mr. Floyd made a motion the Board table this request until the Board defines nature preserve. Mr. Finch seconded the motion, which carried unanimously.

Lunch

MOTION

Mr. Bartus made a motion the Board recess for lunch. Mr. Floyd seconded the motion, which carried unanimously.

The Board recessed for lunch at 1:00 p.m. and returned to public session at 2:15 p.m.

Return to Public Session

Roselawn Memorial Cemetery, Inc. – St Matthews – James Amaker (new) – J W Russ
Mrs. Cubitt stated Roselawn Memorial Cemetery is not yet ready to open. She further stated the cemetery still needs a letter regarding a consultant to mentor management; however, the owner is unable to locate a consultant at this time. She went on to state the cemetery also needs a trust document. Mr. Russ agreed to act as an interim consultant until such time a consultant could be found. She said the individual initially asked to be a consultant determined he was too busy and the second individual had issues.

Ms. Holleman noted the cemetery is still being developed.

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

Mrs. Cubitt stated the cemetery needs an irrevocable trust document. She noted the company has complied with all other requirements set by the Board.

MOTION

Mr. Floyd made a motion the Board require the irrevocable trust document be submitted in 30 days or Mr. McKenzie must appear before the Board during its next meeting. Mr. Riggins seconded the motion, which carried unanimously.

Cemetery Equity Solutions – Adam Taylor (sale) – J W Russ
Forest Lawn Memorial Park of SC, Inc. – Camden, SC
Crestlawn Memorial Cemetery of SC, Inc. – Orangeburg, SC
Plantation Memorial Gardens of SC, Inc. – Monks Corner, SC
Chatham Hill Memorial Gardens of SC, Inc. – Cheraw, SC
Belleville Memorial Gardens of SC, Inc. – Orangeburg, SC
Aiken Memorial Gardens of SC, Inc. – Aiken, SC
Jessamine Memorial Gardens of SC, Inc. – Aiken, SC
Memorial Gardens of Columbia – Columbia, SC

Mrs. Cubitt stated staff is waiting on the bond. She further stated staff has received information that the company is working on the bond but they did not have the bond at that point.

Mr. Spoon stated he has been in contact with the bond company in regard to the bond. He further stated he was asked to draft a contract for the bond, to which he responded he did not have such a contract to draft for Cemetery Equity Solutions and did not feel that the agency

should have to draft such a document. He went on to say the bond company would draft the contract. He noted the company is qualified to write a bond and a contract.

MOTION

Mr. Floyd made a motion the Board send a letter to Rosenfeld Einstein informing the company the bond must be submitted in thirty days. Mr. Bartus seconded the motion, which carried unanimously.

Forest Lawn Memory Gardens – Abbeville, SC – Trust Fund Approval – J W Russ
Evergreen Cemetery Park – Columbia, SC – Trust Fund Approval – J W Russ
Hillside Memorial Park – Sumter, SC – Trust Fund Approval – J W Russ
Greenlawn Memorial Park – Easley, SC – Trust Fund Approval – J W Russ
Hillcrest Memory Gardens – Greer, SC – Trust Fund Approval – J W Russ
Grandview Memorial Gardens – Travelers Rest, SC - Trust Fund Approval – J W Russ

Mr. Russ stated in reading through all of these trust documents he has found the trust documents are almost identical and have the same problem. He further stated the company distributed income using capital gains rather than interest income and dividends, which needs to be changed. He said the company also gave themselves the right to go back and use distributions from previous years if not all of the distributions to which they were entitled were used. He noted the Board has determined that could not be done as it becomes part of the corpus.

Mr. Floyd stated on page three under number five, it states ‘shall pay over the net income including capital gains. . . ‘; He noted Harry Conley recently died and assumes George and Margery Conley are managing the cemeteries. He read part of the trust document regarding the payment of taxes from the trust fund as well as paying a compromise. He noted the statute does not allow for cemeteries to pay taxes from the trust fund.

Mr. Russ feels now would be a good time for them to sign the letter regarding the trustee or trustor.

MOTION

Mr. Floyd made a motion the trust documents for Forest Lawn Memory Gardens, Evergreen Cemetery Park, Hillside Memorial Park, Greenlawn Memorial Park, Hillcrest Memory Gardens, and Grandview Memorial Gardens are in violation of the statute and must be rewritten to comply with the statute. Ms. Petty seconded the motion, which carried unanimously.

Mr. Russ asked if the Agreed Upon Procedures been submitted and if they have noted any differences. Mr. Floyd noted the Agreed Upon Procedures would not note any differences.

MOTION AMENDMENT

Mr. Floyd amended the motion to state that the modifications to the trust documents for Forest Lawn Memory Gardens, Evergreen Cemetery Park, Hillside Memorial Park, Greenlawn Memorial Park, Hillcrest Memory Gardens, and Grandview Memorial Gardens are due within 60 days or the cemeteries will subject to penalties, which ranges from \$25.00 to \$100.00 per day. Mrs. Petty seconded the motion, which carried unanimously.

Mr. Floyd stated since the trust documents have been allowing the cemeteries to take out profits in contradiction to the statute does the Board need to conduct an audit of the trusts. Mrs. Cubitt

stated she, Mr. Holloway and Mr. Spoon will address this issue and will bring information to the Board.

Crescent Hill Memorial Park – Columbia, SC – Trust Fund Approval – J W Russ
Mr. Russ asked Ms. Petty to review the trust document for Crescent Hill Memorial Park.

This matter was carried to the next meeting.

Twin Cities Memorial Gardens – Loris, SC – Trust Fund Approval – J W Russ
Mr. Russ asked Mr. Finch to review the trust document for Twin Cities Memorial Gardens.

This matter was carried to the next meeting.

Sunset Memorial Gardens – North Charleston, SC – Trust Fund Approval – J W Russ
This matter was carried to the next meeting

Mr. Russ asked Mr. Riggins to review Sunset Memorial Gardens.

Greenlawn Memorial Park – Columbia, SC – Stephen M. Shaffer (sale) – J W Russ
Mr. Russ asked Mr. Bartus Floyd to review the trust documents for this cemetery.

This matter was carried to the next meeting.

Woodridge Memorial Park – Lexington, SC – Stephen M. Shaffer (sale) - J W Russ
Mr. Russ asked Mr. Floyd to review the trust documents for this cemetery.

This matter was carried to the next meeting.

Ms. Holloman stated she believed Mr. Russ had already stated these trust documents were updated.

Agreed Upon Procedures Update – Doris Cubitt and Jim Holloway
Mrs. Cubitt stated some cemeteries have submitted the Agreed Upon Procedures and some cemeteries have not. She further stated some of the cemeteries are now considered complaint cases and are currently in the Office of General Counsel.

Mrs. Cubitt stated Mr. Holloway has reviewed one cemetery's Agreed Upon Procedures and found it to be similar to one where he went to the cemetery in an attempt to do an estimation because there were no records. She went on to say the Agreed Upon Procedures from the past three years are now due. She further stated some cemeteries have requested an extension which is under new business.

Trust Transfer Request – Stewart Enterprises, Inc. – J W Russ
Cannon Memorial Park – Fountain Inn, SC
Carolina Memorial Gardens – North Charleston, SC
Oconee Memorial Gardens – Seneca, SC
Pineview Memorial Park – North Augusta, SC
Sunset Memorial Gardens – Graniteville, SC
Hillcrest Memorial Park – Pickens, SC

Mr. Floyd stated he has reviewed one of the trust documents and found it was not in compliance; however he does not know if all of the trust documents are written the same. He noted the company defined income, used 8¢ a square inch when it should read a minimum of 8¢ per square inch, and if a space is sold and returned it cannot be trusted again when it is trusted every time the space is sold. He would be comfortable accepting the transfer of the trust documents.

Ms. Holleman stated not all of the documents are written the same. She went on to say she and Ms. Rose reviewed the Pineview Memorial Park trust document and could not find that the trust document was irrevocable.

Mr. Russ asked Mr. Floyd to review the trust document for Cannon Memorial Park, Ms. Petty to review the trust document for Sunset Memorial Gardens, Mr. Finch to review the trust document for Carolina Memorial Gardens, Mr. Riggins to review the trust document for Oconee Memorial Gardens, and Mr. Bartus to review the trust document for Pineview Memorial Park. Mr. Russ will review the trust document for Hillcrest Memorial Park

Agreed Upon Procedures Extension Requests – J W Russ
Bush River Memorial Gardens – Columbia, SC
Elmwood Cemetery – Columbia, SC
Southland Memorial Gardens – West Columbia, SC
Red Hill Memorial Gardens – Mullins, SC
Riverview Memorial Park – Charleston, SC
Six Oaks Cemetery – Hilton Head Island, SC
St Joseph's Cemetery – Cheraw, SC
Evergreen Memorial Gardens – Walhalla, SC
Clingman Memorial Gardens – Blacksburg, SC
Resthaven Memorial Gardens, Inc. – Piedmont, SC
Crescent Hill Memorial Gardens – Columbia, SC

Bush River Memorial Gardens, Elmwood Cemetery, and Southland Memorial Gardens have a year end date of December 31. The Agreed Upon Procedures would have been due June 30 and are asking for an extension date of July 31, 2010. Six Oaks Cemetery is asking for an extension of three months. Clingman Memorial Gardens is requesting an extension of six months, which will make the submittal of their documentation one year late. Crescent Hill Memorial Gardens' year end date is December 31. The company submitted the Agreed Upon Procedures on July 12, 2010, which is 12 days past the due date and is asking that they not be penalized for being late in the submittal of the document. Riverview Memorial Park submitted the Agreed Upon Procedures on June 29, 2010. The year end date for Riverview Memorial Park was September 30, 2009 and the Agreed Upon Procedures would have been due March 31, 2010.

MOTION

Mr. Riggins made a motion for this year only the Board grant a 90 day extension for Bush River Memorial Gardens, Columbia; Elmwood Cemetery, Columbia; Southland Memorial Gardens, West Columbia; Red Hill Memorial Gardens, Mullins; Riverview Memorial Park, Charleston; Six Oaks Cemetery, Hilton Head Island; St. Joseph's Cemetery, Cheraw; Evergreen Memorial Gardens, Walhalla; Clingman Memorial Gardens, Blacksburg; Resthaven Memorial Gardens, Piedmont; and Crescent Hill Memorial Gardens, Columbia with a reasonable excuse. Mr. Bartus seconded the motion, which carried unanimously.

Discussion Items

Pet and Human Remains Buried Together – Russel Floyd

Mrs. Cubitt stated Mr. Spoon has drafted language although she does not have a copy. She further stated Mr. Spoon feels it will require a statute change; however, the Board can work on this matter during the work session meeting. She noted the regulations clarify or spell out the direction of the statute and if there is a change to the statute then the regulations can be rewritten according to the statute change.

Mrs. Cubitt briefed the Board regarding the regulation approval process.

Public Comments

No public comments were made during this meeting.

Adjournment

MOTION

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

The July 22, 2010 meeting of the S.C. Perpetual Care Cemetery Board adjourned at 3:40 p.m.