

MINUTES
South Carolina Perpetual Care Cemetery
Board Meeting

10:00 a.m., November 3, 2016
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Thursday, November 3, 2016

1. Called to Order

The regular meeting of the South Carolina Perpetual Care Cemetery was called to order at 10:09 a.m. by J. W. Russ, Chair, of Conway. Other members participating during the meeting were: Russell Floyd, Vice Chair, of Spartanburg; Jacquelyn Petty, of Union; Catherine Oates-Robinson, of Columbia; and Roger Finch, of Easley.

Staff members participating in the meeting included: Emily Farr, Interim Director of South Carolina Department of Labor, Licensing and Regulations; Dean Grigg, Deputy Director, Office of Professional and Occupational Licensing; Amy Holleman, Administrator; Norma McAllister, Program Assistant; Tracey Perlman, Disciplinary Counsel, Office of Disciplinary Counsel; Mary League, Advice Counsel, Office of Advice Counsel; Kathy Meadows, Investigator, Office of Investigations and Enforcement; Buddy Poole, Inspector, Office of Investigations and Enforcement; Ernest Adams, Inspector, Office of Investigations and Enforcement; Lesia Kudelka, Communications Director and Ombudsman, Office of Communications and Governmental Affairs; Sym Singh, Program Coordinator, Office of Communications and Governmental Affairs; and Rebecca Leach, Director of Business and Governmental Affairs, Office of Communications and Governmental Affairs.

Members of the public attending the meeting included: Liz Owens, WRDW News 12; Nick Pittman, WRDW News 12; Tamala Randolph, Stonemor; Bill Gaffney, President, North Carolina Cemetery Commission; David Brown, Florence Memorial Gardens and Mausoleum; Elliot Hayes, CEMDAV Inc.; James M. Williams, Barnwell County; Trent Kinard, Bamberg County Council; Zack Williams, Barnwell County; Pam Satterfield, Sunset Hill Memorial Park; Ralph Patterson, Sunset Hill Memorial Park; Allen Gray Burroughs, Sunset Hill Memorial Park; and Joy Burroughs, Sunset Hill Memorial Park.

A. Public Notice

Mr. Russ announced that public notice of this meeting was properly posted at the South Carolina Perpetual Care Cemetery Board office, Synergy Business Park, Kingstree 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.

B. Pledge of Allegiance

All in attendance recited the Pledge of Allegiance.

2. Introduction of Board Members and Persons Attending the Meeting

The Board members, staff, and all other persons attending the meeting introduced themselves.

3. Approval of Excused Absences

Mr. Rick Riggins was not in attendance.

Mr. Russ called for a motion to approve Mr. Riggins's absent.

MOTION

Mr. Floyd made a motion to approve the absence.

Ms. Petty seconded the motion, which carried unanimously.

Mr. Roger Finch joined the meeting at 11:18 a.m. by teleconference.

4. Approval of Minutes for the August 4, 2016 board meeting

Mr. Russ called for a motion to approve the minutes for the board meeting for August 4, 2016.

MOTION

Mr. Floyd made a motion to approve the minutes with corrections made to page 6, item 2 wording change to "sunset" and the date of next meeting corrected in item 14.

Ms. Oates-Robinson seconded the motion, which carried unanimously.

5. Chairman's Remarks – J. W. Russ

Mr. Russ welcomed everyone.

6. Discussion: Bamberg and Barnwell County Memorial Gardens

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

1. Mr. James Williams and Mr. Trent Kinard, spoke on behalf of the concern citizens regarding the conditions of Bamberg County Memory Garden and Barnwell County Memory Garden. Mr. Williams informed the Board that after he last appeared before them, a group of concerned citizens voluntarily cleaned the cemetery. Mr. Williams told the Board that the owner mowed the lawn once since then.

Mr. Williams and Mr. Kinard, expressed their frustration with the neglectful conditions of the cemetery. Mr. Williams cited information retrieved through his Freedom of Information Act (FOIA) request, which indicated the cemetery owner has not been in compliance since the Board's reinstatement in 2003.

The Board responded that it was sunset in 1990 and reauthorized/seated in 2003.

Ms. League stated that the Board was sunset for a number of years, and there was no oversight of any perpetual care cemeteries in South Carolina. When the Board came back into being, they took cemeteries in the state they were in with the understanding that cemetery companies would bring the cemeteries into compliance once the regulations were re-established. This cemetery has never been in compliance. They never provided the physical records that are

required and that is why this Board revoked the license. They haven't accepted the documentation that has been presented, the minimal documentation as being in compliance, and that is why they are no longer licensed.

Ms. League explained at that time of reauthorization, the Board was instructed to accept the cemeteries in their current conditions. Ms. League stated the management of Bamberg and Barnwell have not complied with the Board, since it was reelected, nor has management complied with the Administrative Law Court's order.

Mr. Kinard asked if a municipality can gain control of a perpetual care cemetery. Mr. Kinard asked if a county council is a municipality. Ms. League stated that the statute does allow for a municipality to gain control of a cemetery; however, the mechanism of that has to be addressed by the municipality's attorney.

Mr. Kinard asked if the cemetery can continue to operate without a license and without any oversight. Ms. League responded that they are not supposed to be operating because the cemetery no longer has a license to operate. Additionally, once the license is suspended, the Board has no authority to take further action.

Mr. Kinard asked who has the authority to stop the revoked licensed cemetery.

Mr. Williams asked for an inspection of the cemetery. Ms. League responded, "they are not licensed the Board has no jurisdiction over it. If they are in violation of a city or county property maintenance ordinance, then that may be a path that could be pursued, but the Board cannot take action against an unlicensed entity beyond what they have done. They have gone to the Administrative Law Court that has ordered them to stop doing the things he is not supposed to be doing and to do the things he supposed to be doing. He has defied those orders. There is no further remedy in this venue with this Board. There is nothing else that can be done. Whether there are other options is something that an attorney can perhaps advise you" as to other forums, other paths to follow, that is what the Board has strongly urge you all to consider.

Ms. League stated that all the facts in this matter are public. Ms. League stated Mr. Kent has not complied with the requirements of the Board and the Administrative Law Court.

The Board expressed its concern that the matter has not been resolved for the concerned citizens; however, the Board exhausted all avenues within its purview.

Mr. Williams thanked the Board for allowing him to address the Board.

Mr. Russ recessed the Board's session.

7. Administrator's Remarks – Amy Holleman

- A. Ms. Holleman presented the financial report informing the Board that the cash balance at the end of September 2016 was -\$91,329.55.

Ms. Holleman informed the Board that renewals have started and the licensees will be able to renew through December 31, 2016, without the license lapsing. The licenses will lapse on January 1, 2017. The licensees have until January 31, 2017 to renew without a penalty. Any licenses not renewed on or before January 31, 2017, will be required to submit a new

application with new materials for licensing. The applicants will be required to meet all the current statutes and regulations for the South Carolina Perpetual Care Cemetery Board. In these circumstances the licensee will be able to keep its same license number.

8. Reports

A. Inspection Report

Mr. Poole informed the Board that he and Mr. Adams conducted 20 inspections from July 28, 2016 through October 26, 2016.

B. Investigative Review Committee (IRC) Report – Kathy Meadows

Ms. Meadows requested the Board review and approve the IRC report and recommendations to send forward for a formal complaint cases, 2015-18; 2015-20; 2016-5; 2016-7; 2016-8; 2016-9 and 2016-11 and dismiss case 2015-17 issuing a letter of caution.

Mr. Russ called for a motion to approve the IRC recommendations.

MOTION

Mr. Floyd made a motion to approve the IRC recommendations.

Ms. Oates-Robinson seconded the motion, which carried unanimously.

C. Office of Investigations and Enforcement (OIE) Report – Kathy Meadows

Ms. Meadows stated the Office of Investigations and Enforcement (OIE) currently has a total of 42 cases. The report shows the following: two active investigations; three closed; two do not open case; 28 opened; and seven pending Board action. There were 12 closed cases and two do not open cases between January 1, 2016 and October 26, 2016.

D. Office of Disciplinary (ODC) Counsel – Tracey Perlman

Ms. Perlman presented the Office of Disciplinary Counsel (ODC) report as follows; three open cases; two pending action and one pending hearing.

Mr. Russ thanked, Ms. Meadows and Ms. Pearlman for the reports.

9. A. Approval of Consent Agreement

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

1. Case No. CEM 2016-4

Ms. Perlman presented the Consent Agreement to the Board. Ms. Perlman informed the Board the Respondent, Graceland East Memorial Park, Stonmor, SC License number CEM.1134, OIE Case No. 2016-4 admitted to the allegations herein and agreed to the sanctions as set forth below, agreed to waive the authorization, filing and service of a Formal Complaint and formal hearing procedures. The Respondent agreed to finding of the facts listed in items 1 through 9.

FINDINGS OF FACT

1. Respondent is currently licensed as a Perpetual Care Cemetery in Simpsonville, South Carolina. Respondent's license was first issued on February 6, 2008.
2. Pursuant to S.C. Code Ann. § 40-8-10 *et seq.* (2002, as amended), the Board has jurisdiction over the Respondent and the subject matter herein.
3. Respondent admits that on or about August 12, 2015, Melvin Holbrook ("Decedent") was buried in his gravesite at Respondent's cemetery.
4. Since the burial, Decedent's family ("Complainant") repeatedly complained about the condition of the gravesite. ON numerous occasions, Complainant notified Respondent that the grass was not being cut or trimmed around the grave, there were tractor prints over the grave, and the lawn was in poor condition. Complainant was told by staff members for Respondent that a seed plot would be placed on the Decedent's plot, yet it was Complainant's responsibility to keep it watered, not the staff. The staff members for Respondent proceeded to show Complainant how to connect three water hoses in order for the water to reach the gravesite of Decedent.
5. On or about April 26, 2016, Complainant filed a complaint against Respondent with the South Carolina Department of Labor, Licensing and Regulation (hereinafter referred to as "LLR"). LLR assigned an Investigator to investigate the allegations in the complaint. On or about June 24, 2016, Investigator Kathy Meadows conducted an on-site inspection of Respondent's property and Decedent's gravesite.
6. Investigator Meadows noted that there was a new seed plot placed on the Decedent's grave. Investigator Meadows also observed that there was black mulch/asphalt on other graves and noted that there were damaged water faucets that were not easily accessible to Decedent's grave. Investigator Meadows took photos during her inspection on June 24, 2016, copies of which are attached hereto and incorporated herein as **Exhibit #1**.
7. During her inspection, Investigator Meadows interviewed Respondent's cemetery manager. Respondent's manager voiced that the Complainant may have unrealistic expectations regarding the quality of the lawn, as the summer heat and sun kills the grass quickly and Respondent does not have a watering system to handle the temperatures. Respondent admits that staff explained the difficulties to Complainant, provided a seed plot for the gravesite, and showed the Complainant where to obtain water for the grave.
8. On July 14, 2016, Respondent submitted a response regarding the complaint. Respondent acknowledged difficulties with maintaining the grass on Decedent's grave. Management denied telling the Complainant that it was their responsibility to water the grass. Respondent explained that improvements have been made including a new grass plot placed on Decedent's grave and repairs to water spigots closest to the grave.
9. Respondent waives any further findings of fact with respect to this matter.

CONCLUSIONS OF LAW

1. Respondent admits that the conduct in this matter is in violation of **S.C. Code Ann. § 40-8-220(b)**, in that the cemetery is not being properly maintained and does not have a cared for appearance.
2. Respondent admits that the conduct in this matter is in violation of **S.C. Code Ann. § 40-1-110(f)**, in that Respondent's failure to properly maintain the cemetery amounts to unprofessional conduct that is a detriment to the clients of the cemetery and the public at large.
3. Respondent waives any further conclusions of law with respect to this matter.

THEREFORE, IT IS AGREED WITH RESPONDENT'S CONSENT THAT:

1. Respondent's license shall be publicly reprimanded.
2. Respondent shall pay a civil penalty of **One Thousand Dollars (\$1,000.00) to the Board within sixty (60) days of the effective date of this Agreement**. Said penalty shall not be deemed paid until received in full by the Board. Failure to pay the fine within (60) days of the effective date of this Agreement may result in an administrative suspension of the Respondents' license until such time as the fine is paid in full.

Mr. Russ called for a motion to accept the Consent Agreement.

MOTION

Mr. Floyd made a motion to accept the Consent Agreement.
Ms. Petty seconded the motion, which carried unanimously.

Old Business

10. Follow-up Regarding License Conditions

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

Mr. Russ recused himself at 11:17 a.m. Mr. Rogers joined the meeting by teleconference at 11:18 a.m. Mr. Floyd presided over the hearing.

1, Sunset Hill Memorial Park – Alan Gray Burroughs

Ms. Pat Satterfield, Mr. Ralph Patterson, Alan Gray Burroughs and Joy Burroughs were present on behalf of Sunset Hill Memorial Park. Ms. Holleman informed the Board the documentation was complete. Ms. Holleman reminded the Board at the November 18, 2015 board meeting, an order was issued with conditions.

The order stated that the applicant, Sunset Hill Memorial Park, submitted a written request to the South Carolina Perpetual Care Cemetery Board by and through his owner Ralph F. Patterson, Jr. dated August 26, 2015, seeking approval of the acquisition of control of the cemetery, and approval of Alan Gray Burroughs as its general manager.

Mr. Patterson, Mr. Burroughs, and Pam S. Satterfield appeared before the Board at its meeting on November 28, 2015 in support of the application, and they were represented by Claude H. Howe, III, Esquire. The applicant presented evidence to support the requests. Documents and information provided to the Board established that approval of the proposed manager was appropriate according to the statutes and regulations of the Board and that approval of the acquisition and change of control was appropriate according to the statutes and regulations of the Board, subject to compliance with certain conditions.

That the applicant shall timely comply with all statutory and regulatory requirements pertaining to acquisition of control, including but not limited to, submission to the Board by June 30, 2016 or sooner, of:

- a. All required Agreed Upon Procedures
- b. Acceptable perpetual care trust agreement documents, to be approved by Board staff in consultation with a member of the Board if necessary
- c. Acceptable updated rules and regulations and
- d. Proof of compliance with all required statutory disclosures

That if necessary, the Board will convene a special called meeting as soon as is practical after the new trust documents are submitted and approved, and all other required documents are also submitted by Applicant, to review the transfer of the trust from the current Trustee to a new Trustee.

Ms. Holleman informed the Board that all of the aforementioned conditions have been met, with the exception that at the August 4, 2016 Board meeting Sunset Hill Memorial Park requested that the Care and Maintenance Trust Funds be transferred from U.S. Trust/Bank of America to Arthur State Bank. Ms. Holleman stated the previous document submitted for the August 4, 2016 Board meeting included the rules and regulations of the cemetery. The Board requested that the applicant remove the rules and regulation verbiage from the trust document and resubmit for the Board's review. The trust document was revised and resubmitted for consideration.

The Board reviewed the revised document and found references to Sunset Memorial Park and Westview in different areas of the document, where the latter was stricken out. The Board stated this matter requires correction. The Board referenced item 3.2.3.1 should include the verbiage "or greater." Wherein the standard charge is eight cents (\$0.08), if more than that amount is charged then the trust amount must be greater. The Board informed the applicant that in the Disclosures to the Purchasers, the perpetual care fee is defined as, installation, short term care, and long term care. The charges are twenty-one cents (\$0.21) for installation; twenty-one cents (\$0.21) for short term care, and eight cents (\$0.08) for long term care. The eight cents (\$0.08) is the amount to deposit into the Care and Maintenance Fund.

Mr. Burroughs inquired regarding the process to transfer ownership of the cemetery to himself and Mrs. Burroughs. Ms. Holleman responded the cemetery's license is currently in renewal, therefore the renewal process would need to be completed on or before December 31, 2016. The acquiring owner(s) are required to submit a change of ownership application with all the necessary documents and fees. The completed application should be submitted at least ten

(10) business days prior to the next meeting or a scheduled Board meeting in order to be placed on the agenda for a change of ownership.

Mr. Floyd called for a motion to approve the trust transfer to Arthur State Bank from Bank of America and to accept the trust documents.

MOTION

Ms. Petty made a motion to approve the trust transfer to Arthur State Bank and to accept the Trust documents.

Ms. Oats-Robinson seconded the motion, which carried unanimously.

Mr. Floyd amended the motion to approve the trust transfer to Arthur State Bank, pending the receipt of the Trustee Affidavit from Arthur State Bank.

MOTION

Ms. Petty made a motion to approve the amendment.

Ms. Oats-Robinson seconded the motion, which carried unanimously.

Mr. Russ returned to the session at 11:35 a.m. Mr. Finch disconnected from the conference call at 11:36 a.m.

11. Review of Trust Transfer Approval and Trust Documents

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

1. Florence Memorial Gardens

Mr. David Brown and Mr. Elliott Hayes were present on behalf of Florence Memorial Gardens

Ms. Holleman informed the Board that they did not address the trust document at the August 4, 2016 meeting. Mr. Floyd stated the definition of income was incorrect in the documentation presented at the previous meeting. Mr. Floyd stated the definition should not include capital gains, and the definition of income should be interest and dividends only. Mr. Brown, prior to the meeting, submitted to staff a new trust document correctly defining income to be included in the current materials.

MOTION

Mr. Floyd made a motion to accept the trust document.

Ms. Petty seconded the motion, which carried unanimously.

Mr. Brown requested an extension of the previous Agreed Upon Procedures (AUP) extension that was granted at the August 4, 2016 Board meeting.

Executive Session

MOTION

Mr. Floyd made a motion to go into Executive Session to receive legal advice in this matter.

Ms. Oates-Robinson seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Floyd made a motion that the Board return to public session
Ms. Oates-Robinson seconded the motion, which carried unanimously.

Mr. Russ stated, for the record, that no votes were taken during executive session

Mr. Russ called for a motion.

Ms. League presented the motions, the first motion is to amend the agenda

MOTION

Mr. Floyd, ask the advice counsel to read the presented motion. Ms. League stated, the first motion is to amend the agenda to add consideration of Florence Memorial Gardens' request for an extension of time to submit the AUPs, and the basis of amending the agenda will be exigent circumstances of a possible fine to the licensee and negative impact to its ability to renew.

Ms. Petty seconded the motion, which carried unanimously.

MOTION

Mr. Floyd made a motion to approve the AUP extension request for Florence Memorial Gardens to December 31, 2017.

Ms. Petty seconded the motion, which carried unanimously.

New Business

12. Election of Officers

Mr. Russ opened the floor for the nomination of officers.

Mr. Floyd made a motion to nominate Mr. Russ for chairperson of the South Carolina Perpetual Care Cemetery Board.

Mr. Russ stated are there any other nominations for Chair, if none, Mr. Russ called for a motion to accept the said nominee.

MOTION

Ms. Petty made a motion to accept J.W. Russ as the Chairperson of the South Carolina Perpetual Care Cemetery Board.

Mr. Floyd seconded the motion which carried unanimously.

Mr. Russ nominated Mr. William Russel Floyd, Jr. as the Vice-Chairperson of the South Carolina Perpetual Care Cemetery Board.

MOTION

Ms. Petty made a motion to accept William Russel Floyd, Jr. as the Vice-Chairperson of the South Carolina Perpetual Care Cemetery Board.

Ms. Oates-Robinson seconded the motion which carried unanimously.

Mr. J. W. Russ was elected the 2017 Chairperson of the South Carolina Perpetual Care Cemetery Board, and Mr. William Russel Floyd, Jr. was elected the 2017 Vice-Chairperson of the South Carolina Perpetual Care Cemetery Board.

13. Approval of Meeting Dates/Calendar for 2017

1. Mr. Russ called for a motion regarding the 2017 meeting dates.

Ms. Holleman presented the proposed 2017 meeting dates.

Mr. Floyd advised the Board he had a conflict with the proposed date, Wednesday, March 22, 2017. The Board agreed on Thursday, March 9, 2017, Room 108 as the replacement date. Ms. Holleman rescheduled the date.

MOTION

Ms. Petty made a motion to approve the 2017 Board meeting dates to be as follows: Thursday, March 9, 2017 Room 108; Wednesday, May 24, 2017, Room 108; Wednesday, September 20, 2017, Rooms 107 & 108, and Tuesday, November 14, 2017, Room, 105.

Mr. Floyd seconded the motion which carried unanimously.

14. Public Comments (No Vote May Be Taken)

15. Adjournment

Mr. Russ called for a motion to adjourn the meeting.

MOTION

Mr. Floyd made a motion to adjourn the meeting

Ms. Petty seconded the motion, which carried unanimously.

Mr. Russ, after ensuring there being no further business to discuss, adjourned the November 3, 2016 meeting for the South Carolina Perpetual Care Cemetery Board at 12:31 p.m.

The next meeting of the South Carolina Perpetual Care Cemetery Board scheduled for March 9 2017 at 10:00 a. m., at Synergy Business Park, 110 Centerview Drive, Kingstree Building, Room 108, Columbia, South Carolina.