

MINUTES
South Carolina Perpetual Care Cemetery
Board Meeting Via Web/Teleconference

10:00 a.m. June 4, 2020
Columbia, South Carolina

Thursday, June 4, 2020

1. Meeting called to Order

J. W. Russ, Chairperson, of Conway, called the regular meeting of the South Carolina Perpetual Care Cemetery to order at 10:15 a.m. Other members participating during the meeting were: William Russell Floyd, Vice Chairperson, of Spartanburg; Rick Riggins of Lancaster and Felicia Smith-Charles, of Florence.

Staff members present for the meeting included: Mary League, Advice Counsel, Office of Advice Counsel; Shayla Hayes, Disciplinary Counsel, Office of Disciplinary Counsel; Georgia Lewis, Advice Counsel, Office of Advice Counsel; Amy Holleman, Administrator; Norma McAllister, Program Assistant; and Rodney Pigford, Chief Investigator, Office of Investigations and Enforcement; Eric Thompson, Chief Inspector, Office of Investigations and Enforcement; William Poole, Inspector, Office of Investigation and Enforcement; Matalie Mickens, Inspector, Office of Investigation and Enforcement, and Steve Gordon, Investigator, Office of Investigation and Enforcement.

Members of the public attending the meeting were: William Kelly Roach for Liberty Memorial Gardens and Oak Hill Cemetery; Joseph B. Cooper, Jr. of Evergreen Perpetual Care Cemetery; Charles J. Richardson of Palmetto Memorial Gardens; Randall S. Hiller, P.A. of Faithful Heritage Holding, Inc.; Terrence Robertson of Kings Mountain Preserve; Brad Smith, Attorney and Lawrence W. Willoughby of Southern Palms Memorial Gardens; and James Aubry Dyal, Jr. of Dorchester Memory Gardens.

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.

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

All Board members were present.

4. Approval of Minutes for the November 19, 2019 board meeting

The Board reviewed the November 19, 2019 minutes.

MOTION

Mr. Floyd made a motion to approve the minutes. Ms. Smith-Charles seconded the motion, which carried unanimously.

5. Chairman's Remarks – J. W. Russ

There were no remarks by the Chairperson.

6. Administrator's Remarks – Amy Holleman

A. Financial Report

Ms. Holleman presented the financial report, informing the Board that the cash balance at the end of April 30, 2020 was -\$180,536.64.

B. U. S. Census

Ms. Holleman reminded everyone to complete and file their census form which provides a guidance for federal funding to the state.

Mr. Eric Thompson introduced the new inspector, Matalie Mickens, to the Board.

7. Reports

A. Inspection Report

Mr. Poole informed the Board that he conducted 24 inspections between November 8, 2019 and May 21, 2020.

B. Investigative Review Committee (IRC) Report

Ms. Holleman asked that the Board review and approve the May 26, 2020 Investigative Review Committee Report recommending the dismissal of cases 2019-28, 2019-29, and 2020-3.

MOTION

Mr. Floyd made a motion to accept the IRC recommendations. Mr. Riggins seconded the motion, which carried unanimously.

C. Office of Investigations and Enforcement (OIE) Report

Ms. Holleman presented the OIE report to the Board stating there are six active investigations, 10 closed cases, seven do not open cases, one case pending Board action, 13 cases pending Board action, one pending IRC review, and one Complaint Analyst Review.

D. Office of Disciplinary (ODC) Counsel – Shayla Hayes

Ms. Hayes informed the Board that the Office of Disciplinary Counsel (ODC) has nine open cases; eight pending rescheduling; one pending a Consent Agreement or a Memorandum of Agreement; and two closed.

New Business

Application Hearings

8. A. **Transfer of Irrevocable Trust Account**

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

1. Liberty Memorial Gardens – Bradley E. Hotzclaw - Liberty

Mr. William Kelly Roach appeared before the Board on behalf of Liberty Memorial Gardens.

Ms. Holleman stated that the application is complete. Ms. Holleman stated that Mr. Roach is asking that the Board approve the transfer of the Care & Maintenance Trust fund from South State Bank to Arthur State Bank. Mr. Roach addressed the Board and concurred with Ms. Holleman's statement requesting the transfer of the Care & Maintenance Trust fund.

The Board reviewed the request and Mr. Russ called for a motion in this matter.

MOTION

Mr. Floyd made a motion to approve the transfer of the Care and Maintenance Trust fund from South State Trust to Arthur State Bank. Ms. Smith-Charles seconded the motion, which carried unanimously.

2. Oak Hill Cemetery, LLC – James E. Dangerfield – Moncks Corner

Mr. William Kelly Roach appeared before the Board on behalf of Oak Hill Cemetery.

Ms. Holleman stated that the application is complete. Ms. Holleman stated that Mr. Roach is asking that the Board approve the transfer of the Care & Maintenance Trust fund from South State Bank to Arthur State Bank. Mr. Roach addressed the Board and concurred with Ms. Holleman's statement requesting the transfer of the Care & Maintenance Trust fund.

The Board reviewed the request and Mr. Russ called for a motion in this matter.

MOTION

Mr. Floyd made a motion to approve the transfer of the Care and Maintenance Trust fund from South State Trust to Arthur State Bank. Mr. Riggins seconded the motion, which carried unanimously.

3. Evergreen Perpetual Care Cemetery – Joseph B. Cooper, Jr. – Dillon

Mr. Joseph B. Cooper appeared before the Board on behalf of Evergreen Perpetual Care Cemetery.

Ms. Holleman stated that the application is complete. Ms. Holleman stated that Mr. Cooper is asking that the Board approve the transfer of the Care & Maintenance Trust fund from First Citizens Bank and Trust Company to Arthur State Bank. Mr. Cooper addressed the Board and concurred with Ms. Holleman's statement requesting the transfer of the Care & Maintenance Trust fund.

The Board reviewed the request, and Mr. Russ called for a motion in this matter.

MOTION

Mr. Floyd made a motion to approve the transfer of the Care and Maintenance Trust fund from First Citizens Bank and Trust Company to Arthur State Bank. Mr. Riggins seconded the motion, which carried unanimously.

4. Palmetto Memorial Gardens – Jerry Richardson – Marion

Mr. Charles J. Richardson appeared before the Board on behalf of Palmetto Memorial Gardens.

Ms. Holleman stated that the application is complete. Ms. Holleman stated that Mr. Richardson is asking that the Board approve the transfer of the Care & Maintenance Trust fund from Wells Fargo Bank to Arthur State Bank. Mr. Richardson addressed the Board and concurred with Ms. Holleman's statement requesting the transfer of the Care & Maintenance Trust fund.

The Board reviewed the request and Mr. Russ called for a motion in this matter.

MOTION

Mr. Floyd made a motion to approve the transfer of the Care and Maintenance Trust fund Wells Fargo Bank to Arthur State Bank. Ms. Smith-Charles seconded the motion, which carried unanimously.

Ms. Holleman informed the Board that Faithful Heritage Holdings, Inc. is the owner of all of the business entities listed in under “item B. Change of Ownership,” therefore the Board could hear the requests jointly. The Board agreed.

B. Change of Ownership

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

1. Aiken Memorial Gardens of SC, Inc. – Ruth A. Thornquest – Aiken
2. Belleville Memorial Gardens of SC, Inc. – Ruth A. Thornquest – Orangeburg
3. Chatham Hill Memorial Gardens of SC, Inc. – Ruth A. Thornquest – Cheraw
4. Crestlawn Memorial Cemetery of SC, Inc. – Ruth A. Thornquest – Orangeburg
5. Forestlawn Memorial Park of SC, Inc. – Ruth A. Thornquest – Greenville
6. Jessamine Memorial Gardens of SC, Inc. – Ruth A. Thornquest – Aiken
7. Memorial Gardens of Columbia, Inc. – Ruth A. Thornquest – Columbia
8. Plantation Memorial Gardens of SC, Inc. – Ruth A. Thornquest – Moncks Corner

Mr. Randall Hiller appeared on behalf of Faithful Heritage Holdings, Inc., the owner of the above eight business entities.

Ms. Holleman informed the Board that the applications are complete. Ms. Holleman explained that Mr. Hiller has submitted applications for change of control for the above entities. Mr. Hiller addressed the Board stating that the business, Cemeteries Equity Solution, Inc. sold its stocks to Faithful Heritage Holdings, Inc. He stated that according to the South Carolina Perpetual Care Cemetery statute, section 40-8-90(B), this action is considered a change of control. Mr. Hill stated that the stock transfer includes all liabilities, whereas an assets sale does not include all liabilities.

The Board questioned Mr. Hiller regarding this matter, and then the Board asked for an Executive Session to seek legal advice in this matter.

Executive Session

MOTION

Mr. Floyd made a motion to go into executive session to receive legal advice. Mr. Riggins seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Floyd made a motion to come out of Executive Session. Mr. Riggins seconded the motion, which carried unanimously.

Mr. Russ noted, for the record, there were no votes taken during Executive Session.

Mr. Russ called for a motion in this matter

MOTION

Mr. Floyd asked that Advice Counsel read the motion, which stated that the Board approves the change of control for the applicants as based upon the testimony and evidence in the record. The applicants have met the change of control requirements. While applicants did not submit a verification of funds in the trust accounts and merchandise accounts because this is a stock purchase and because AUPs or the annual accountings are now required on an annual basis rather than every three years as was the case when regulation 21-25 was promulgated. The fund verifications would not be necessary for these transactions. Mr. Riggins seconded the motion which carried unanimously.

C. Nature Preserve

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

1. Kings Mountain Preserve – Terrence Robertson - Blacksburg

Mr. Terrence Robertson appeared on behalf of Kings Mountain Preserve.

Ms. Holleman stated that Mr. Robertson submitted the application with supporting documents for the Board’s to review as required in regulations 21-27; however, statute 40-8-200 exempts Nature Preserve cemeteries from the governess of the South Carolina Perpetual Cemetery Board. Ms. League further expound that if the Board grants permission for the Nature Preserve cemetery, according to statute the Board is not required to provide oversight of the cemetery.

The Board questioned Mr. Robertson regarding this matter. Mr. Robertson stated he, partnering with Upstate Forever Land Trust, the owner of the preserve, purchased the 36 acre property. Mr. Robertson stated that the pavilion, slated as future construction, will be the site for holding services and meeting. Mr. Robertson informed the Board that the packet provided to the Board contains all the information regarding the site, development plans, and operations of the Kings Mountain Preserve. The Board reviewed the information.

MOTION

Mr. Floyd made a motion to approve the exemption for Kings Mountain Preserve. Ms. Smith-Charles seconded the motion, which carried unanimously.

D. Merchandise Account

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

1. Southern Palms Memorial Gardens – Lawrence W. Willoughby – N. Myrtle Beach

Mr. James Russ recused himself and Mr. William R. Floyd, Jr. presided.

Mr. Lawrence W. Willoughby appeared on behalf of Southern Palms Memorial Gardens.

Ms. Holleman stated that the Cemetery, in pursuant of the 2018 Board order must receive Board approval prior to withdrawal of Merchandise Trust account funds. The cemetery must submit supportive documentation indicating sufficient information for the Board to approve the current request to withdraw \$12,916.00 from the Merchandise Trust Fund.

Mr. Willoughby addressed the Board and stated that in November 2019 he submitted, to Board staff, a spreadsheet identified the name of the purchaser, the date of the purchase agreement, the description of the merchandise, the date of delivery, and the actual cost to the cemetery. Mr. Willoughby stated that the previous owner initiated many of the contracts and that many of the banks that held the trust in the past have changed ownership.

Mr. Willoughby stated that he is asking that the Board approve the transfer of the monies from the merchandise account and that the Board going forth will allow the Cemetery to withdraw monies as provided by the statutes and regulations.

Mr. Floyd called for a motion to go into executive session to seek legal advice.

Executive Session

MOTION

Mr. Riggins made a motion to go into executive session to receive legal advice.

Ms. Smith-Charles seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Riggins made a motion to come out of Executive Session. Ms. Smith-Charles seconded the motion, which carried unanimously.

Mr. Floyd noted, for the record, there were no votes taken during Executive Session.

Mr. Floyd called for a motion in this matter.

MOTION

Mr. Riggins asked that Advice Counsel read the motion, which stated that the motion of the Board is to deny the request at this time, as the applicant has not provided sufficient information for the Board to determine if the cemetery met the terms of the order regarding allowing withdrawal from the merchandise account. Specifically, the information submitted did not provide sufficient information on the deposits made to the account for the specific merchandise for which the withdrawal is being requested. Ms. Smith-Charles seconded the motion, which carried unanimously.

Mr. James Russ returned to the meeting.

E. Land Sale - Undeveloped

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

1. Dorchester Memory Gardens – James Aubry Dyal, Jr. – Summerville

Ms. Holleman stated that the application is complete. Mr. Dyal is the president of Dorchester Memory Gardens and the sole trustee of James Dyal estate. Ms. League informed the Board that the Board has the authority to approve the sale as long as the cemetery maintains 30 acres.

Mr. Dyal stated he is asking the Board to approve the sale of four acres.

MOTION

Mr. Floyd made a motion to approve the sale of four acres from the cemetery with the caveat that the cemetery maintains a total of 30 acres as required in statutes 40-8-90 (A)(4)(c) and 40-8-120(A)(B). Ms. Smith-Charles seconded the motion, which carried unanimously.

9. Legislative Updates

Ms. Holleman stated that there were no legislative updates.

10. Annual Reports and Agreed-Upon Procedures

Ms. Holleman stated that due to the current medical crisis should the Board consider granting an additional extension for the annual fiscal year end, and the Agreed-Upon procedures reports. The Board discussed the matter.

MOTION

Mr. Floyd made a motion that the Board grant a 90 day extension on an individual basis by request from the cemetery or its assigned officer, and that the Board grants Board staff the authority to approve the 90 day extension request.

11. Updated Merchandise Report Approval

Mr. Floyd presented the updated Merchandise Report form to the Board which contained changes to item #2 adding reference to the statute 40-8-110(F1, 2).

MOTION

Mr. Floyd made a motion to approve the updated Merchandise Report form. Ms. Smith-Charles seconded the motion, which carried unanimously.

12. Ratification of Delegation of Authority to Chair to sign Consent Agreements.

Ms. League explained that the ratification of delegation of authority is to approve previously signed Consent Agreements by the Chairperson and to grant authority to the Chairperson to sign Consent Agreements hereafter.

MOTION

Mr. Floyd made a motion to delegate authority for the Chairperson to sign the Consent Agreements retroactively and indefinitely. Mr. Riggins seconded the motion, which carried unanimously.

Mr. Floyd then amended the motion to state the Board delegate authority for the Chairperson retroactively and continue until the Board reconvenes in-person to sign Consent Agreements.

Ms. Smith-Charles seconded the amended motion, which carried unanimously.

13. Public Comments (No Vote May Be Taken)

There were no public comments.

14. Adjournment

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

MOTION

Mr. Floyd made a motion to adjourn the meeting. Mr. Riggins seconded the motion, which carried unanimously.

Mr. Russ, after ensuring there being no further business to discuss, adjourned the June 4, 2020, meeting for the South Carolina Perpetual Care Cemetery Board at 1:15 p.m.

The next scheduled Board meeting for the South Carolina Perpetual Care Cemetery Board is September 23, 2020 at 10:00 a. m.