

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

10:00 a.m. December 10, 2020
Columbia, South Carolina

Thursday, December 10, 2020

1. Meeting called to Order

William Russel Floyd, Jr., Chairperson, of Spartanburg, called the regular meeting of the South Carolina Perpetual Care Cemetery to order at 10:08 a.m. Other members participating during the meeting were: Felicia Smith-Charles of Florence; David H. Brown of Florence; Jeffrey W. Riggins of Lancaster; and Pamela P. Turner 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; Kyle Tennis, Advice Counsel, Office of Advice Counsel; Amy Holleman, Administrator; Norma McAllister, Program Assistant; Rodney Pigford, Chief Investigator, Office of Investigations and Enforcement; William Poole, Inspector, Office of Investigation and Enforcement; Matalie Mickens, Inspector, Office of Investigation and Enforcement; and A'Riel Winston, Paralegal, Office of Disciplinary Counsel.

Members of the public attending the meeting were: Randall S. Hiller, Attorney, of Chester Memorial Gardens of SC, LLC, and Lakeview Memory Gardens of SC, LLC; Sandra S. Besnoy and Julian C. Harrison of Clingman Memorial Gardens; Whitney S. Fibich, Attorney for PLC-SC Holdings, LLC; Justin Wilson, Senior Vice President and Legal Counsel, of Argent Trust Bank; James H. Igleheart of Greenhaven Memorial Cemetery and Heritage Memorial Gardens; John R. Alphin, Legal counsel and Gayle C. Suggs of Devotion Gardens, Evergreen Memorial Park and Hillside Memorial Park.

A. Public Notice

Mr. Floyd 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.

Amend Agenda

The Chair called for a motion to amend the order of the agenda, moving items 9:B1-9 after the reports, items 7A-D.

MOTION

Mr. Riggins made a motion that the Board approves the changes to the agenda. Mr. Brown seconded the motion, which carried unanimously.

4. Approval of Minutes for the September 23, 2020 Board Meeting

The Board reviewed the September 23, 2020 minutes.

MOTION

Ms. Smith-Charles made a motion to accept the September 23, 2020 pending the correction to Ms. Fibich's name, corrections to page 13 Code of Ethic, third line and corrections to motion in paragraph regarding W R Floyd Corporations. Mr. Riggins seconded the motion, which passed unanimously.

5. Chairperson's Remarks – W. Russel Floyd, Jr.

Mr. Floyd welcomed everyone to the Board meeting.

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 October 31, 2020 was -\$237,162.58.

7. Reports

A. Inspection Report

Ms. Mickens informed the Board that she and Mr. Poole conducted 29 inspections between September 15, 2020 and December 2, 2020.

B. Investigative Review Committee (IRC) Report

Mr. Pigford asked that the Board review and approve the Investigative Review Committee Report recommending the dismissal of case 2019-18 and a formal complaint for case 2020-15.

MOTION

Mr. Brown made a motion to accept the IRC recommendations. Ms. Smith-Charles seconded the motion, which carried unanimously.

C. Office of Investigations and Enforcement (OIE) Report

Mr. Pigford presented the OIE report to the Board stating between January 1, 2020 and November 3, 2020 there were seven active investigations, 18 closed cases, eight do not open cases, three cases pending Board action, one pending drafting formal complaint, one pending further information, three pending IRC review, six pending respondents agreement and one pending scheduling for a hearing.

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

Ms. Hayes informed the Board that the Office of Disciplinary Counsel (ODC) has 15 open cases; one pending IRC review; five pending rescheduling; three pending a Consent Agreement or a Memorandum of Agreement; six pending Final Order Hearings: and five closed.

New Business

Application Hearings

9. B. 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. Boiling Springs Memorial Gardens
2. Daniel Morgan Memorial Gardens
3. Fort Prince Memorial Gardens
4. Greenlawn Memorial Gardends
5. Lincoln Memorial Gardens
6. Live Oak Memorial Gardens

7. Pacolet Memorial Gardens
8. Sunset Memorial Park
9. Westwood Memorial Gardens

Mr. Floyd recused himself and Ms. Smith-Charles presided. Ms. Whitney Fibich and Mr. Justin Wilson appeared on behalf of the above listed properties of PLC-SC Holdings, LLC.

Ms. Holleman informed the Board that the applicants are asking the Board to approve the Transfer of Trust Fund account to Argent Bank. Ms. Fibich asked the Board to approve the transfer.

Executive Session

MOTION

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

Return to Public Session

MOTION

Ms. Turner made a motion to come out of Executive Session. Mr. Brown seconded the motion, which carried unanimously.

Ms. Smith-Charles noted, for the record, there were no votes taken during Executive Session.

Ms. Smith-Charles called for a motion in this matter

MOTION

Mr. Brown made a motion that the Board approves the applicants Transfer of Trust Fund request. Mr. Riggins seconded the motion, which carried unanimously.

Mr. Floyd returned to the meeting and presided. The Board decided to hear the applicants, Chester Memorial Gardens of SC, LLC, and Lakeview Memory Gardens of SC next.

9. A. Change of Ownership

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

1. Chester Memorial Gardens of SC LLC
2. Lakeview Memory Gardens of SC LLC

Mr. Randall S. Hiller appeared on behalf of Chester Memorial Gardens of SC LLC and Lakeview Memory Gardens of SC LLC.

Ms. Holleman informed the Board that Mr. Hiller is asking the Board to approve the change of ownership applications. Mr. Hiller addressed the Board and answered questions regarding the change of ownership applications.

Executive Session

MOTION

Ms. Smith-Charles 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. 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. Brown asked that Advice Counsel read the motion, which stated that the Board approves the change of ownership for the applicants pending that the applicant submits to Board staff the Cemetery's quarterly BB&T account statements for the 2nd and 3rd quarter of 2019; a revised Cemetery Rules and Regulations regarding the sale and installation of monuments and markers that comply with Board statutes and itemization of service, installation, and continual care charges in the purchase contract; a revised Disclosures to Purchaser Form showing disclosure of optional charges; a revised Cemetery Interment Rights, Merchandise and Service Purchase/Security Agreement with additional itemizations for fees and charges for care and maintenance, including short term care; and the Contract and Bill of Sale Absolute signed by Chester Memorial Gardens, Inc. Mr. Riggins seconded the motion which carried unanimously.

Amend Agenda

The Board recessed for 10 minutes. Prior to the recess, Ms. Holleman asked that the Board consider revising the agenda allowing Clingman Memorial Gardens (09.B10), to present next before the Board.

MOTION

Mr. Riggins made a motion to amend the agenda, moving Clingman Memorial Gardens (09.B10) as the next item on the agenda. Mr. Brown seconded the motion, which carried unanimously.

9. B. 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. Clingman Memorial Gardens

Sandra S. Besnoy and Julian C. Harrison appeared on behalf of Clingman Memorial Gardens.

Ms. Holleman the Board that the applicant is asking the Board to approve the Transfer of Trust Fund account to Arthur State Bank. Ms. Besnoy addressed the Board and concurred with Ms. Holleman's statement.

The Board questioned Ms. Besnoy regarding this matter.

Mr. Floyd called for a motion to approve the transfer of the Irrevocable Care and Maintenance Trust Account Funds pending the receipt of a signed acceptance letter from Arthur State Bank listing the beginning balance.

MOTION

Ms. Smith-Charles made a motion to approve the transfer as stated by Mr. Floyd. Mr. Brown seconded the motion, which carried unanimously.

Disciplinary

Disciplinary Hearings

8. A. Memorandum of Agreements (FOH)

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

1. Case No.: 2019-19
2. Case No.: 2019-20
3. Case No.: 2019-22

Gayle C. Suggs, owner/President, appeared on behalf of the Respondents, Devotion Gardens, Evergreen Memorial Park and Hillside Memorial Park, which were represented by Attorney Mr. John R. Alphin.

Ms. Shayla Hayes, Assistant Disciplinary Counsel, represented the State in the above referenced cases, 2019-19, 2019-20 and 2019-22. Ms. Hayes informed the Board that the Respondent failed to timely submit the 2016, 2017 and 2018 Care and Maintenance Trust Account Agreed-Upon Procedures.

The Board questioned Ms. Suggs and Attorney Alphin regarding this matter. Ms. Suggs agreed with the findings of facts and has introduced measures to correct the issues.

Executive Session

MOTION

Mr. Brown 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. Brown 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.

Upon return to session, the Board further questioned Attorney Alphin regarding this matter. Mr. Alphin reiterated to the Board that Ms. Suggs has instituted corrective measures and accepts full responsibility in this matter.

Executive Session

MOTION

Ms. Smith-Charles 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. Brown 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. Brown asked that Advice Counsel read the motion, which stated that the Board accepts the Memorandum of Agreements and sanctions the Respondent with a public reprimand. Ms. Smith-Charles seconded the motion, which carried unanimously.

Mr. Floyd stated that the Board will simultaneously hear cases 2019-26 and 2019-27.

4. Case No.: 2019-26
5. Case No.: 2019-27

James H. Iglehart, owner/President, appeared on behalf of the Respondents, Greenhaven Memorial Cemetery and Heritage Memorial Gardens.

Ms. Shayla Hayes, Assistant Disciplinary Counsel, represented the State in the above referenced cases, 2019-26 and 2019-27. Ms. Hayes informed the Board that the Respondent failed to timely submit the 2012-2018 Care and Maintenance Trust Account and the Merchandise Account Agreed-Upon Procedures. Ms. Hayes informed the Board that the Respondent admits to the allegations and the stipulation of facts. Ms. Hayes stated that the Respondent does not have any prior disciplinary history with the Board.

The Board questioned Mr. Iglehart regarding this matter. Mr. Iglehart stated that he accepts responsibility for this matter and has instituted corrective measures.

Executive Session

MOTION

Mr. Brown 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. Brown 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

Ms. Turner asked that Advice Counsel read the motion, which stated that the Board accepts the Memorandum of Agreement and sanctions the Respondent with a public reprimand, a \$250.00 disciplinary fine, and the submittal of the previously due Agreed-Upon Procedures on or before March 1, 2021. Mr. Brown seconded the motion, which carried unanimously.

Ms. Holleman informed the Board that according to the Board's statutes, the Merchandise Trust Account does not require the Board's approval. Based on the statutes, the Board agreed to strike item 9C. 1-10 from the agenda

10. Election of Officer – Vice-Chair

Mr. Floyd returned to the meeting and presided. He opened the floor for nominations for the Vice-Chairperson. Mr. Brown nominated Ms. Smith-Charles in the form of a motion. Mr. Riggins seconded the motion, which carried unanimously. Ms. Smith-Charles is the Vice-Chairperson for the South Carolina Perpetual Care Cemetery Board.

11. Public Comments (No Vote May Be Taken)

There were no public comments.

12. Adjournment

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

MOTION

Mr. Riggins made a motion to adjourn the meeting. Ms. Smith-Charles seconded the motion, which carried unanimously.

Mr. Floyd, after ensuring there being no further business to discuss, adjourned the December 10, 2020, meeting for the South Carolina Perpetual Care Cemetery Board at 1:53 p.m.

The next scheduled Board meeting for the South Carolina Perpetual Care Cemetery Board is March 11, 2021 at 10:00 a. m.