

MINUTES
South Carolina Perpetual Care Cemetery
Board Meeting

10:00 a.m. November 2, 2022
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Thursday, November 2, 2022

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 10:00 a.m.

Board Members Present:

William Russel Floyd, Jr., Chairperson, of Spartanburg
Felicia Smith-Charles, Vice-President, of Florence
Pamela P. Turner, of Florence
David Brown, of Florence

SCDLLR Staff Present:

Mary League, Advice Counsel, Office of Advice Counsel
Alexis Bell, Disciplinary Counsel, Office of Disciplinary Counsel
Amy Holleman, Administrator
Norma McAllister, Program Assistant
Kristina Zepp, Administrative Assistant
Sandra Filipovic, Administrative Assistant
Micheal Smith, Investigator, Office of Investigations and Enforcement
Beverly Gould, Paralegal, Office of Disciplinary Counsel
Xavier Kent, Videographer

Members of the Public:

Carl Hiller, Attorney at Law, HHP Law Group
David Oswald
Terrance Cumming
Kyle Nikola, of Beaufort Memorial Operations, LLC
Gwen Austin, Regional Administrator, for Faithful Heritage Holdings
Gina Strickland Cooper
Jacquelyn Denise Parks

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. Members of the public who wish to attend may do so by live streaming at <https://llr.sc.gov/cem/videos.aspx>.

B. Pledge of Allegiance

All present recited the Pledge of Allegiance.

2. Adopting the Agenda

MOTION: Mr. Brown made the motion, seconded by Ms. Smith-Charles, which carried unanimously that the Board adopts the agenda for the November 2, 2022, South Carolina Perpetual Cemetery Board meeting.

3. Introduction of Board Members and Staff Attending the Meeting

The board members and staff attending the meeting introduced themselves.

4. Approval of Excused Absences

Mr. Jeffrey Riggins was not in attendance.

MOTION: Mr. Brown made a motion, seconded by Ms. Smith-Charles, which carried unanimously that the Board approves Mr. Riggins' absence. The motion carried unanimously.

5. Approval of Minutes for the September 22, 2022 Board Meeting

The Board reviewed the minutes.

MOTION: Mr. Brown made a motion, seconded by Ms. Smith-Charles, which carried unanimously that the Board approve the September 22, 2022 minutes.

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

Mr. Floyd welcomed everyone to the Board meeting.

7. 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 September 30, 2022 was -\$310,658.74.

8. Reports

A. Investigative Review Committee (IRC) Report

Mr. Smith asked that the Board review and approve the Investigative Review Committee Report recommending that a letter of caution be issued for cases 2022-29, 2022-32, 2022-33, 2022-34, and 2022-41.

MOTION: Mr. Brown made a motion, seconded by Ms. Smith-Charles, which carried unanimously that the Board approves the Investigative Review Committee recommendations.

B. Office of Investigations and Enforcement (OIE) Report

Mr. Smith stated that the Office of Investigation and Enforcement received 63 complaints and closed 11 between January 1, 2022 and October 31, 2022. There are currently 21 active investigations.

C. Office of Disciplinary (ODC) Counsel

Ms. Bell informed the Board that the Office of Disciplinary Counsel (ODC) has 29 open cases; four pending hearings or agreements; one three closed since January 1, 2022 and one closed since the last report.

Disciplinary

9. A. Evidentiary Hearing(s)

These proceedings were recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

1. Case Nos.: 2021-40, 2021-42, 2022-15

Both, the State and the Respondent's attorney made opening statements. Ms. Bell, representing the State, then presented the case before the Board. The State presented Michael Smith, Investigator for the State, Terrance M. Cummings, Jacqueline D. Parks, Gina S. Cooper, and David Oswald as witnesses. Carl Hiller, Respondent's attorney, cross-examined

the witnesses. Gwendolyn M. Austin Regional Administrator for Faithful Heritage Holdings, Inc testified as a witness for Respondent. The State cross-examined Respondent's witness.

The State and Respondent's Attorney gave closing arguments. Mr. Floyd called for a motion to go into executive session to seek legal advice.

Executive Session

MOTION: Mr. Brown made a motion and Ms. Smith-Charles seconded that the Board go into executive session to receive legal advice. The motion carried unanimously.

Return to Public Session

MOTION: Ms. Smith-Charles made a motion and Mr. Brown seconded that the Board come out of Executive Session. The motion carried unanimously.

Mr. Floyd noted, for the record, there were no votes taken during Executive Session and called for a motion in this matter

MOTION: Mr. Brown made a motion, seconded by Ms. Smith-Charles, read by the Advice Counsel, which carried unanimously that the Board gives no weight to any of the testimony and evidence comparing the maintenance of the properties and bases its decision solely on the testimony and evidence concerning Bellville Memorial Gardens alone. The motion is that the Board finds that the State has substantially proven the alleged violations. The Board does not expect perfection, but the Board does expect conformant to 40-8-220 requirement for a care for appearance that requires on-going maintenance to be proactive, not reactive to Department of Labor, Licensing and Regulations' consumer complaints. The evidence shows consistence concerns regarding maintenance of Bellville Memorial Gardens mentioned to local staff by various individuals. These complaints and concerns were not addressed or passed on to other management. The failure to ensure regular care or to address valid concerns from individuals were made not subsequent to an LLR complaint is willful failure to comply. The evidence shows cemetery maintenance issues that occurred over time again is a result of a lack of regular maintenance such as dirt and mold on statues, the mausoleum, overgrown grass, weathered flags, broken benches, trip hazards and the sign. The Board recognizes many issues are now corrected, but with appropriate oversight, it would not have occurred. Therefore, a sanction of a public reprimand and a fine of \$500.00 five-hundred dollars to be paid within 30 days of the date of the order for this violation. There were no investigative cost assessed.

Application Hearings

These proceedings were recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

10. A. Transfer of Irrevocable Care and Maintenance Trust Account

1. Darlington Memory Gardens – Darlington – CEM.1019

There were no representatives from the cemetery present; the Board agreed to move the hearing to a later date.

The Board recessed for an hour lunch break.

B. Change of Ownership

1. Beaufort Memorial Operations, LLC – Beaufort

Mr. Kyle Nikola appeared before the Board on behalf of Beaufort Memorial Operations, LLC.

Ms. Holleman informed the Board that Mr. Nikola is asking that the Board approve the change of ownership. Mr. Nikola addressed the Board and responded to questions from the Board.

After concluding there were no further questions and/or statements, Mr. Floyd called for a motion to go into Executive Session to seek legal advice in this matter.

Executive Session

MOTION: Mr. Brown made a motion and Ms. Smith-Charles seconded that the Board go into executive session to receive legal advice. The motion carried unanimously.

Return to Public Session

MOTION: Ms. Turner made a motion and Ms. Smith-Charles seconded that the Board come out of Executive Session. The motion carried unanimously.

Mr. Floyd noted, for the record, there were no votes taken during Executive Session and called for a motion in this matter

MOTION: Mr. Brown made a motion, seconded by Ms. Smith-Charles, which carried unanimously that the Board approves the transfer of ownership.

11. Compliance Update, Case Numbers 2020-9; 2020-20; 2021-9

Ms. Holleman informed the Board that the cemetery's renovations are complete and that the county issued a letter of occupancy to the cemetery owners. The owners have complied with the Board's order.

12. Administrator Authority to grant Agreed-Upon Procedures (AUP) Extension

Ms. Holleman asked that the Board grant the Administrator the authority to grant extensions for the cemeteries to submit the Agreed Upon procedures, if submitted in writing. Ms. Holleman explained that various issues have arisen such as, locating certified accountants that meet the specific requirements of the Board's statute and adhering to the time availability of the certified accountants that are able to perform the Agreed-Upon Procedures.

The Board discussed the matter and made a motion to allow the Administrator to grant an extension until December 31 of each year that the agreed upon procedures are due.

MOTION: Ms. Smith-Charles made a motion, seconded by Mr. Brown, which carried unanimously to grant the Administrator the authority to grant an extension until December 31 of each year that the for agreed upon procedures are due upon receipt of a written extension request submitted by the Cemertarian or Certified Accountant

13. Consent Agreement parameters for late Agreed-Upon Procedures

Ms. Holleman stated that the Board filed formal complaints against the cemeteries that failed to submit the 2020 Agreed-Upon Procedures.

Ms. Holleman asked that the Board determine the disciplinary actions for the cemeteries that failed to timely file the 2020 Agreed-Upon Procedures and those that submitted it after the receipt of the formal complaint, howbeit, according to statute it is a late submission. The Board discussed the issue and sanctions for failure to comply.

Mr. Floyd called for a motion in this matter.

MOTION: Mr. Brown made a motion, seconded by Ms. Smith-Charles, which carried unanimously that the Board sanctions for those cemeteries that are in compliance with the formal complaint; however, submitted late Agreed-Upon Procedures are; first offense for filing a late Agreed-Upon procedures would receive a letter of caution; second offense \$250.00 fine; third offense must appear before the Board. The cemeteries that failed to comply with the formal complaint to file the required Agreed-Upon Procedures must appear before the Board.

14. Regulatory Review

Ms. League stated that according every five years Boards are required to conduct a Regulatory Review. The review should identify any regulation that unnecessarily burden the pursuit of professional and occupational practice in the state or that no longer serve the purpose of promoting the health, safety and economic well-being of the public. It should identify any opportunities to amend the current regulations to better promote the health, safety, and economic well-being of the public and identify those that do not require either repeal or amendment because these will continue to promote the health, safety, and economic well-being of the public in the least restrictive manner.

The Board decided to individually review the current regulations and to submit any recommendations in writing to the Board Administrator.

15. Elections of Officers

Mr. Floyd called for nominations for the Vice-Chairperson.

MOTION: Ms. Smith-Charles made a motion, seconded by Ms. Turner, which carried unanimously nominating Mr. David Brown as Vice-Chairperson of the South Carolina Perpetual Care Cemetery Board.

Mr. Brown called for nominations for Chairperson.

MOTION: Ms. Smith-Charles made a motion, seconded by Ms. Turner, which carried unanimously nominating Mr. William Russel Floyd as Chairperson of the South Carolina Perpetual Care Cemetery Board.

16. Public Comments (No Vote May Be Taken)

17. Adjournment

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

MOTION: Mr. Brown made a motion, seconded by Ms. Turner, which carried unanimously to adjourn the meeting.

Mr. Floyd, after ensuring there being no further business to discuss, adjourned the November 2, 2022, meeting for the South Carolina Perpetual Care Cemetery Board at 4:45 p.m.

The next scheduled Board meeting for the South Carolina Perpetual Care Cemetery Board is **March 9, 2023 at 10:00 a.m.**