

MINUTES
South Carolina Perpetual Care Cemetery
Board Meeting

10:00 a.m. March 9, 2023
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Thursday, March 9, 2023

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 10:01 a.m.

Board Members Present:

William Russel Floyd, Jr., Chairperson, of Spartanburg
David Brown, Vice-President, of Florence
Felicia Smith-Charles, of Florence
Pamela P. Turner, 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
James Kemfort, Chief Investigator, Office of Investigations and Enforcement
Michael Smith, Investigator, Office of Investigations and Enforcement
Xavier Kent, Media Resource Technician, Web development Division

Members of the Public:

Richard Brown, of Kingstree Memorial Gardens
Karl H. Smith, Attorney
Azal J. Hutto, III, of Memorial Park Cemetery
Belinda Guinyard, of Hope Memorial Park
Jeffrey Khalfani Hines, of Darlington Memory Gardens
Garneita Myers, of Hope Memorial Park
Robert Eaves, Certified Public Accountant (CPA)
Tina Behles, Capital City Court Reporting, LLC

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

Mr. Floyd called for a motion to approve the agenda.

MOTION: Mr. Brown made the motion, seconded by Ms. Smith-Charles, which carried unanimously that the Board adopt the agenda for the March 9, 2023, 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's absence. The motion carried unanimously.

5. Approval of Minutes for the November 2, 2022 Board Meeting

The Board reviewed the minutes.

MOTION: Mr. Brown made a motion, seconded by Ms. Turner, which carried unanimously that the Board approve the November 2, 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 January 31, 2023 was -\$263,260.66.

Ms. Holleman reminded the Board that the Statement of Economic Interest filing is due by 12:00 noon on March 30, 2023.

8. Reports

A. Investigative Review Committee (IRC) Report

Mr. Kemfort asked that the Board review and approve the Investigative Review Committee Report recommending dismissals of cases 2022-36, 2022-42, 2021-18, 2022-27, and 2022-30 and a letter of caution be issued for cases 2022-44, 2022-45, 2022-49, 2022-50, 2022-53, 2022-54, 2022-55, 2022-56, 2022-57, 2022-58, 2022-59, 2022-60, 2022-64, 2022-65, and 2022-67, and a formal complaint be filed for cases 2022-66 and 2022-68.

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

B. Office of Investigations and Enforcement (OIE) Report

Mr. Kemfort stated that the Office of Investigation and Enforcement received 4 complaints, open one, and closed zero complaints between January 1, 2023 and March 3, 2023.

C. Office of Disciplinary (ODC) Counsel

Ms. Bell informed the Board that as of March 9, 2023, the Office of Disciplinary Counsel (ODC) has 26 open cases; and 17 pending hearings or agreements. Since the last report, three cases were closed.

Application Hearings

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

9. A. Change of Ownership

1. Hope Memorial Park – Barnwell – Belinda Guinyard

Ms. Belinda Guinyard, Ms. Garneitia Myers, and Mr. Robert Eaves, CPA appeared on behalf of Hope Memorial Park.

Ms. Holleman informed the Board that Ms. Guinyard is asking the Board to approve the change of ownership application with Ms. Guinyard as the manager. Ms. Holleman informed the Board that Mr. William Guinyard was the previous owner/operator of the cemetery. During his tenure as owner, the Board suspended the cemetery's license on June 16, 2011 due to failure to comply with the Board order for submitting the required financial annual reports and Agreed-Upon procedures.

Ms. Holleman reminded the Board that in 1991 the legislators sunsetted the Board and reelected the Board on January 1, 2003. Although a Board did not exist between 1991 and January 1, 2003, statute continued to require financial reporting from the cemeteries. The Board, after its reinstatement, in order to comply with statutes that the finances of the cemetery be examined, required each cemetery to submit Agreed-Upon Procedures for the years 1991 through 2006. The Board sanctioned, and ultimately suspended, Hope Memorial Park for failure to comply with financial reporting requirements.

Recently, Ms. Guinyard purchased the cemetery with the purpose of operating an actively licensed perpetual care cemetery in good standing. In regards to the financial history, both, Ms. Guinyard and Mr. Eaves agreed that past financial documentation is inadequate or non-existing; however, Mr. Eaves has been able to locate documentation to provide a 2022 Agreed-Upon Procedure report.

Mr. Eaves, Ms. Guinyard and Ms. Myers responded to questions from the Board. Mr. Floyd, after ensuring there were no further questions from the Board, called for a motion to go into executive session to receive legal advice.

Executive Session

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

Return to Public Session

MOTION: Mr. Brown 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, read by the Advice Counsel, which carried unanimously that the Board, that stated because of the length of time it is questionable if records are available that would allow a calculation of whether or not a Care and Maintenance Trust Fund has been sufficiently funded. However, the submitted 2022 Agreed-Upon Procedures indicates a deficit of \$4,688.00 in the Irrevocable Care and Maintenance Trust Fund. Therefore, the Board approves the change of ownership application pending the updating of the cemetery's Purchase Agreement with disclosures according to Board statutes and regulations, and the revision of the Rules & Regulations to delete prohibition against outside vendors selling and/or installing markers and memorial. In addition, the cemetery must provide documentation of the total deposit of \$5,651.00 to the Care and Maintenance Trust Fund recording the installment payments of \$963.00 and \$4,688.00, respectfully.

The Board recessed for 15 minutes.

B. Transfer of Irrevocable Care and Maintenance Trust Account

1. Kingstree Memorial Gardens – CEM.1061 – Walter H. Brown

Mr. Richard Brown, and Justin Wilson, of Argent Trust appeared before the Board on behalf of Kingstree Memorial Gardens.

Ms. Holleman informed the Board that the application is complete. Mr. Brown addressed the Board. Mr. Floyd, after ensuring there were no further questions from the Board, called for a disposition in this matter.

MOTION: Mr. Brown made a motion, seconded by Ms. Smith-Charles, which carried unanimously that the Board approves the transfer of Irrevocable Care & Maintenance Trust Fund from First Citizens Bank to Argent Trust Company.

2. Darlington Memory Gardens – CEM.1019 – Karl H. Smith

Mr. Jeffery Khalfani Hines, and Mr. Karl H. Smith, Esquire, of Smith Watts & Associates, and the Trustee of the Hines Trust Group and Personal Representative of Mr. Franklin Hines Estates appeared before the Board on behalf of Darlington Memory Gardens.

Ms. Holleman informed the Board that the application is complete and that the applicant is requesting the transfer of the Care & Maintenance Trust Fund from First Citizens Bank to Arthur State Bank. Ms. Holleman informed the Board that the submitted Irrevocable Care and Maintenance Trust Agreement states that funds should be transferred quarterly, however, statute states 60 days.

The Board reviewed the application. Mr. Smith responded to questions from the Board. The Board cited that the verbiage in the Trust must be revised from stating, "depositing quarterly into the trust" to the statutory requirement of 60 days from the final payment or in accordance with statute.

1. Page 2, paragraph 2 s. b. and c, of the submitted document, rewrite from quarterly intervals to the statutory requirement of 60 days from final payment or in accordance with statute.

2. Page 3, paragraph 3, of the submitted document referencing the “net income...” should be changed to comply with the Regulations 21-11(c) and Section 40-811(E), which states respectfully, that capital gains are not net income and if net income is insufficient to pay fees and expenses of the trust fund, they must be paid by the cemetery company.
3. Page 7, paragraph 6(j) of the submitted document which states “grants the trustee....” should be changed to reflect Regulation 21-11 (c) which states that capital gains are not income.
4. Page 7, paragraph 10 should be revised to state that Board approval is required in order to change the trustee [Section 40-8-110 (A) and Regulation 21-14]

Mr. Floyd called for a motion to approve the transfer of trust pending the revised document reflects the changes stated by the Board.

MOTION: Mr. Brown the motion, seconded by Ms. Smith-Charles, which carried unanimously, that the Board approves the transfer of Irrevocable Care & Maintenance Trust Fund from First Citizens Bank to Arthur State Bank pending Board staff’s receipt of the revised Trust Agreement with the stated changes.

C. Agreed-Upon Procedures (AUP) Extension Request

Memorial Park Cemetery – CEM.1071 – Azel J. Hutto, III

Ms. Smith-Charles recused herself. Mr. Azel J. Hutto, III appeared on behalf of Memorial Park Cemetery.

Ms. Holleman stated that Mr. Hutto is asking for an extension to submit the 2021 Agreed-Upon Procedures.

Mr. Hutto responded to questions from the Board. After concluding there were no other statements and/or questions, Mr. Floyd called for a disposition in the matter.

MOTION: Mr. Brown made a motion, seconded by Ms. Turner, which carried unanimously, that the Board grants until April 30, 2023 for the submission the 2021 Agreed-Upon Procedures

Roselawn Memorial Gardens – CEM.1092 – Shannon Barnwell

Ms. Felicia Smith-Charles recused herself.

In the absence of Mr. Bryan Christopher, Personal Representative of the Estate of Mr. Benjamin Christopher, Ms. Holleman presented the AUP extension request to the Board. The Cemetery is asking to submit the 2021 late Agreed-Upon Procedures. The cemetery has not submitted 2019, 2020 and 2021. The Estate of the late owner is currently in Probate.

The Board reviewed the request. After concluding there were other statements and/or questions, Mr. Floyd called for a disposition in this matter.

MOTION: Mr. Brown made a motion, seconded by Ms. Turner, which carried unanimously, that the board grants until April 30, 2023 for the submission of the 2016, 2020, and 2021 Agreed-Upon Procedures.

Sunset Memory Gardens of Florence, Inc. – CEM.1166 – Felicia Smith-Charles

Ms. Charles-Smith appeared on behalf of Sunset Memory Gardens of Florence, Inc.

Ms. Holleman state that Ms. Smith-Charles is asking for an extension to submit the 2021 Agreed-Upon Procedures.

Ms. Smith-Charles responded to questions from the Board. After concluding there were no other statements and/or questions, Mr. Floyd called for a disposition in the matter.

MOTION: Mr. Brown made a motion, seconded by Ms. Turner, which carried unanimously, that the Board grants until May 1, 2023 for the submission the 2021 Agreed-Upon Procedures

Ms. Smith-Charles returned to the regular session.

10. Legislative Contact

Ms. Holleman asked the Board's purview regarding its legislative liaison. Mr. Floyd currently serves as the liaison and if it is the Board desires, he shall continue to serve as the liaison.

MOTION: Ms. Turner made a motion, seconded by Mr. Brown, which carried unanimously that confirmed Mr. William R. Floyd as the Legislative contact/liaison for the South Carolina Perpetual Care Cemetery Board.

11. Public Comments (No Vote May Be Taken)

12. Adjournment

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

MOTION: Ms. Charles-Smith made a motion, seconded by Ms. Brown, which carried unanimously to adjourn the meeting.

Mr. Floyd, after ensuring there being no further business to discuss, adjourned the March 28, 2023, meeting for the South Carolina Perpetual Care Cemetery Board at 12:25 p.m.

The next scheduled Board meeting for the South Carolina Perpetual Care Cemetery Board is **June 8, 2023 at 10:00 a.m.**