

MINUTES
South Carolina Perpetual Care Cemetery
Board Meeting

10:00 a.m., Thursday, August 29, 2013
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Thursday, August 29, 2013

1. Meeting Called to Order

J. W. Russ, Chair, of Conway, called the meeting to order at 10:20 a.m. Other members participating during the meeting included: Russel Floyd, Vice Chair, of Spartanburg; Roger Finch, of Honea Path; Jacquelyn Petty, of Union; and, Rick Riggins, of Lancaster.

Staff members participating in the meeting included: Doris Cubitt, Administrator; Wendi Elrod, Program Assistant; Amy Holleman, Administrative Assistant; Mary League, Advice Counsel, Office of Advice Counsel; Erin Baldwin, Office of General Counsel; Raymond Lee, Inspector, Office of Investigations and Enforcement; Sharon Cook, Investigator, Office of Investigations and Enforcement; Sharon Wolfe, Chief Investigator, Office of Investigations and Enforcement; and, Buddy Poole, Inspector, Office of Investigations and Enforcement.

Members of the public attending the meeting included: Huger Caughman, of Newberry Memorial Gardens; George Dewey Spring, of Lake City Memorial Park; Bill Gaffney, of Mountain View Memorial Park; John Mungin, of Heavenly Rest Memorial Park; Johnny Calloway, of Heavenly Rest Memorial Park; David Kelley, CPA, for Lake City Memorial Park; Mona Morris, of Lake City Memorial Park; Dewayne E. Kaufholz, Jr.; Faye L. Fant; Cindy Kendrick, of StoneMor; Tamala Randolph, of StoneMor; Tommy Preston, of Nexsen Pruet; and, Bob Coble, of Nexsen Pruet.

a. Public Notice

Mr. Russ announced that public notice of this meeting was properly posted at the S. C. Perpetual Care Cemetery Board office, Synergy Business Park, Kingstree Building, provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act. He noted a quorum was present.

B. Pledge of Allegiance

2. Introduction of Board Members and Persons Attending the Meeting

Mr. Russ introduced himself, all Board members, and advice counsel. Mr. Russ requested that Ms. Cubitt please introduce herself and her staff. Mr. Russ asked that all other persons attending the meeting introduced themselves.

3. Approval of Excused Absences

There are no absences at this meeting.

4. Approval of Minutes for the April 23, 2013, meetings

April 23, 2013

MOTION

Mr. Floyd made a motion the Board approve the minutes of the April 23, 2013, as is. Mr. Riggins seconded the motion, which carried unanimously.

5. Agenda change

MOTION

Mr. Floyd made a motion the Board change the agenda so StoneMor can be heard next. Mr. Riggins seconded the motion, which carried unanimously.

6. New Business

A. StoneMor

Ms. Randolph thanked the Board for allowing her to speak today. She stated they want to address lawn crypts. Standard practice in the state of South Carolina is to install lawn crypts; however, with that being said, there isn't a clear definition on lawn crypts in the South Carolina statute or regulations.

She proposed they offer a definition of Lawn Crypts approved by the Board that consist of an interment space with an underground chamber constructed of reinforced concrete either individual, side by side, or multiple depth with gravel or tile underlay for additional drainage and covered with earth and sod.

In conclusion she stated that in South Carolina the standard practice and across the United States is to use Lawn Crypts.

She stated they are just requesting that Lawn Crypts be defined so they can better serve their families.

Mr. Russ thanked Ms. Randolph for her presentation and stated that the Board is working on a definition for Lawn Crypts.

7. Reports

B. Inspection Report – Buddy Poole

Mr. Poole stated that there were 32 inspections since April 19, 2013.

C. Office of General Counsel (OGC) – Erin Baldwin

Ms. Baldwin reviewed the Office of General Counsel case log for the Cemetery Board and informed them there are currently 14 open cases. She stated that seven cases are pending action, three pending hearing today, and two cases are pending final order. She stated that seven cases have been closed since August 15, 2013, and two are pending appeals.

D. Investigative Review Committee (IRC) Report – Sharon Wolfe

Ms. Wolfe presented the IRC report for May 9, 2013, and July 17, 2013, asking that they be approved with the IRC's recommendations, which are to dismiss case 2013-1, issue a letter of caution for case 2013-4 from the May 9, 2013, report. The IRC's recommendations are to dismiss case 2013-5, and issue a formal complaint for cases 2013-10 and 2013-11. Also, the IRC recommended issuing a letter of cause for case 2013-6 from the July 17, 2013, report.

MOTION

Mr. Riggins made a motion the Board accept the IRC reports. Mr. Floyd seconded the motion, which carried unanimously.

E. OIE Report – Sharon Wolfe

Ms. Wolfe presented the OIE report stating that the cases were received from January 1, 2013, through August 20, 2013. There have been four closed cases, five active cases, four pending board action, one pending IRC, and one do not open.

8. Chairman’s Remarks – J. W. Russ

Mr. Russ welcomed everyone to the meeting. He also thanked staff for all of their hard work.

9. Administrator’s Remarks – Doris Cubitt

Ms. Cubitt briefly reviewed the financial statement with the Board. She stated that the Perpetual Care Cemetery Board is currently charging less than what the statute states.

She informed the Board that the rear entrance to the building is now locked at all times. She stated that the ID badges were collected to make sure they all have access to the building from 8:30 a. m. to 5:00 p. m. from both the front and rear entrance to the building.

Ms. Cubitt informed the Board that LLR no longer uses Granicus, which was the video/audio to watch board meetings.

She stated that she will be attending the Death Care Regulators Conference which will be in St. Louis September 9-13, 2013.

She informed the Board members that they have been given new law books, and the new regulations were added.

10. Disciplinary Hearing

A. Case No. – 2009-2

Lake City Memorial Park

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

Mr. David Kelley is the accountant for Mr. Spring so he spoke on his behalf. Mr. Kelley stated that they request a continuance. Mr. Russ stated that he believes they have requested a continuance in the past.

He stated that Mr. Dickie Guerry, CPA will be working on the annual reports and the agreed upon procedures for the cemetery, but he couldn’t be present that this meeting.

Mr. Russ suggested that present their case then the Board will make a discussion on if the continuance will be granted or not.

Executive Session

MOTION

Mr. Riggins made a motion that the Board enter into executive session for legal advice. Ms. Petty seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Floyd made a motion that the Board return to public session. Mr. Riggins seconded the motion, which carried unanimously. Mr. Russ noted for the record that no official action was taken during executive session.

MOTION

Mr. Floyd made a motion the Board grant the continuance until the next meeting on November 7, 2013. Mr. Riggins seconded the motion, which carried unanimously.

Lunch Break

MOTION

Mr. Floyd made a motion the Board break for lunch at 12:25pm and reconvene at 1:30pm. Mr. Riggins seconded the motion, which carried unanimously.

During the break Mr. Finch had to leave for an appointment.

B. Case No. – 2010-36

Heavenly Rest Memorial Park

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

Ms. Baldwin stated there are two issues with this cemetery. She stated the first issue is the money due to the care and maintenance trust fund by the previous owner, Mr. Paul Simmons, which has never been paid, and the second issue is the fines due for not filing the required reports.

Mr. Mungin stated that he and Mr. Callaway purchased this cemetery from Mr. Smiley in February 2004. He stated that prior to that Mr. Simmons deeded a number of grave spaces to himself but never paid money into the trust fund as required by law. Mr. Mungin stated that they plead their case before a judge in June 2006, but they lost.

Mr. Floyd asked how many acres they have. Mr. Mungin stated they have seven acres behind the cemetery, so that gives them a total of 10 acres.

Executive Session

MOTION

Mr. Floyd made a motion that the Board enter into executive session for legal advice. Mr. Bartus seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Floyd made a motion that the Board return to public session. Mr. Riggins seconded the motion, which carried unanimously. Mr. Russ noted for the record that no official action was taken during executive session.

MOTION

Mr. Floyd made a motion that they come into compliance with the statute. Heavenly Rest Memorial Park must place the sum of \$40.00 per space into the care and maintenance trust fund for the unfunded liability regarding the spaces deeded from the previous owner to himself. The Respondent should provide a plat map with legend to document the exact number of spaces so transferred for which there is perpetual care trust funding liability. The map with legend must be provided to LLR staff by October 21, 2013. The funds shall be deposited into the care and maintenance trust fund within six (6) months of the date of the Order. The previously assessed fine of \$3,850.00 for Respondent's failure to timely provide the agreed upon procedures is reduced to \$1,925.00, which should be paid within sixty (60) days of the date of the Order. Mr. Riggins seconded the motion, which carried unanimously.

C. Case No. - 2011-18, 2013-3 Newberry Memorial Gardens

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

Ms. Baldwin presented a Memorandum of Agreement (MOA) for Newberry Memorial Gardens because, despite Mr. Caughman's efforts, he was unable to come into compliance with the Board's Order

Mr. Caughman stated he will be working with Mr. Shumpert with paving the roads. He also stated that he will be in contact with Mr. Gaffney since he may know someone who may be able to assist with the mausoleum problems.

As for the fountain, he may just fill it in and plant flowers.

Executive Session

MOTION

Ms. Petty made a motion that the Board enter into executive session for legal advice. Mr. Floyd seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Floyd made a motion that the Board return to public session. Mr. Bartus seconded the motion, which carried unanimously. Mr. Russ noted for the record that no official action was taken during executive session.

MOTION

Mr. Floyd made a motion the Board accept the MOA and Stipulation for a public reprimand, make monthly progress reports that must be completed by 12/31/2013. If not in compliance there will be a fine of up to \$10,000. Mr. Riggins seconded the motion, which carried unanimously.

11. New Business

A. Hillcrest Cemetery – Trust Fund transfer

Mr. George H. Goldfinch, Jr., owns Hillcrest Cemetery, and he is requesting to transfer the trust fund from First Citizens Bank to Regions Bank.

MOTION

Mr. Floyd made a motion the Board approve the request to transfer the care and maintenance funds from First Citizens to Regions Bank. Ms. Petty seconded the motion, which carried unanimously.

12. Public Comments (No Vote May Be Taken)

No public comments.

13. Adjournment

MOTION

Mr. Riggins made a motion the Board adjourn. Ms. Petty seconded the motion, which carried unanimously.

The August 29, 2013, meeting of the SC Perpetual Care Cemetery Board adjourned at 4:38 p.m.

The next meeting of the SC Perpetual Care Cemetery Board is scheduled for November 7, 2013.