

MINUTES
South Carolina Perpetual Care Cemetery
Board Meeting

10:00 a.m., May 25, 2017
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Thursday, May 25, 2017

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 10:00 a.m. Other members participating during the meeting were: Russell Floyd, Vice Chair, of Spartanburg; Jacquelyn Petty, of Union; Rick Riggins of Lancaster; and Catherine McNicoll, of Lexington.

Staff members participating in the meeting included: Mary League, Advice Counsel, Office of Advice Counsel; Tina Brown, Disciplinary Counsel, Office of Disciplinary Counsel; Amy Holleman, Administrator; Norma McAllister, Program Assistant; Sharon Cooke, Investigator, Office of Investigations and Enforcement; Buddy Poole, Inspector, Office of Investigations and Enforcement; Ernest Adams, Inspector, Office of Investigations and Enforcement; and Eric Thompson, Program Director, Office of Investigations and Enforcement.

Members of the public attending the meeting included: Robert H. Scruggs of Coleman Memorial Cemetery, Inc.; Anthony B. Britt, Jr., and Tony Cooke of Lake View Perpetual Cemetery; James E. Dangerfield of Oak Hill Cemetery, LLC; Sonny Clardy, William M. Hutson, and Kevin Braswell of Twin City Memorial Gardens, Inc.; W. Glenn Keadle and Tim MacGyver of Arthur State Bank; and Robin Morris of Stonemor;

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.

B. Pledge of Allegiance

All in attendance recited the Pledge of Allegiance.

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 in attendance.

4. Approval of Minutes for the March 9, 2017 board meeting

Mr. Russ called for a motion to approve the minutes for the March 9, 2017 board meeting.

MOTION

Mr. Floyd made a motion to approve the minutes.

Ms. Petty seconded the motion, which carried unanimously.

5. Chairman's Remarks – J. W. Russ

Mr. Russ did not make any remarks.

6. Administrator's Remarks – Amy Holleman

- A. Ms. Holleman presented the financial report, informing the Board that the cash balance at the end of April was -\$84,861.05.

Ms. Holleman reminded the Board that the North American Death Care Regulators Association (DCRA) will be meeting in September 2017 in Portland, Oregon, and that the Board in previous years had approved the Administrator attending the Conference. This year, Ms. Holleman stated that Mary League, Advice Counsel, was interesting in attending. Ms. League informed the Board that the conference is providing regulatory information.

MOTION

Mr. Floyd made a motion to approve sending Mary League, Advice Counsel, and Amy Holleman, Administrator, to the 2017 North American Death Care Regulators Association in Portland, Oregon, September 11 – 15, 2017. Mr. Riggins seconded the motion, which carried unanimously.

7. Reports

- A. Inspection Report

Mr. Poole informed the Board that he and Mr. Adams conducted 36 inspections between February 28, 2017 and May 15, 2017.

- B. Investigative Review Committee (IRC) Report – Sharon Cooke

Ms. Cooke requested the Board approve the IRC report and recommendations to dismiss cases 2015-18 and 2015-20 and to send forward for a formal complaint cases 2016-43 and 2017-4.

Mr. Russ called for a motion to approve the IRC recommendations

MOTION

Mr. Floyd made a motion to approve the IRC recommendations.

Ms. Petty seconded the motion, which carried unanimously.

- C. Office of Investigations and Enforcement (OIE) Report – Sharon Cooke

Ms. Cooke stated the Office of Investigations and Enforcement (OIE) currently have six active investigations; two do not open cases; one opened case, one pending Board action; and one pending further information as of May 25, 2017. Ms. Cooke stated from January 1, 2017 through May 25, 2017 there were two closed cases, and 30 do not open cases.

- D. Office of Disciplinary (ODC) Counsel – Tina Brown

Ms. Brown presented the Office of Disciplinary Counsel (ODC) report as follows; 11 open cases; six pending action; five pending CA/MOAs; zero pending hearings; zero pending Final Order hearings; zero pending Final Orders; and zero closed as of May 22, 2017, and zero closed case on or after March 2, 2017..

Mr. Russ thanked Mr. Poole, Ms. Cooke, and Ms. Brown for the reports.

8. Approval of Consent Agreement (CA) – Tina Brown

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

1. Case No.: 2016-5

Ms. Brown presented the Consent Agreement to the Board.

The Respondent and State agreed to the following:

1. Respondent's license shall be publicly reprimanded.
2. Respondent shall pay a civil penalty of Five Hundred Dollars (\$500.00) to the Board within thirty (30) days of the effective date of this Agreement. Said penalty shall not be deemed paid until received in full by the Board. Failure to pay the fine within (60) days of the effective date of this Agreement may result in an administrative suspension of the Respondent's license until such time as the fine is paid in full

MOTION

Mr. Floyd made a motion to accept the Consent Agreement.
Mr. Riggins seconded the motion, which carried unanimously.

2. Case Nos.: 2016-8, 2016-9 and 2016-10

Ms. Brown presented the Consent Agreement

The Respondents and State agreed to the following:

1. Respondent's license shall be publicly reprimanded.
2. Respondent shall pay a civil penalty of One Thousand Dollars (\$1,000.00) to the Board within sixty (60) days of the effective date of this Agreement. Said penalty shall not be deemed paid until received in full by the Board. Failure to pay the fine within (60) days of the effective date of this Agreement may result in the administrative suspension of the Respondent's license until such time as the fine is paid in full.

MOTION

Mr. Riggins made a motion to accept the Consent Agreement.
Mr. Floyd seconded the motion, which carried unanimously.

3. Case No.: 2016-11

Ms. Brown presented the Consent Agreement.

The Respondent and State agreed to the following:

1. Respondent's license shall be publicly reprimanded.

2. Respondent shall pay a civil penalty of One Thousand Dollars (\$1,000.00) to the Board within sixty (60) days of the effective date of this Agreement. Said penalty shall not be deemed paid until received in full by the Board. Failure to pay the fine within (60) days of the effective date of this Agreement may result in the administrative suspension of Respondents' license until such time as the fine is paid in full.

MOTION

Mr. Floyd made a motion to accept the Consent Agreement.
Ms. Petty seconded the motion, which carried unanimously.

NEW BUSINESS

APPLICATION HEARINGS

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. Coleman Memorial Cemetery, Inc. – Robert H. Scruggs

Ms. Holleman informed the Board that the application is complete, and that Mr. Scruggs is requesting that the Board approve the change of ownership with him as the manager.

Mr. Scruggs was present on behalf of the cemetery. Mr. Scruggs stated the cemetery has been in existence since 1981, with his father, Mr. Seth W. Scruggs, as the owner and manager. Mr. Scruggs stated due to his father's declining health, he manages the daily operations of the cemetery. In addition, Mr. Seth Scruggs conveyed his stocks to Mr. Robert Scruggs, making him the majority stock holder. Mr. Scruggs stated he is asking the Board to approve the change of ownership with him as the manager.

Mr. Russ called for a motion to go into Executive Session to seek legal advice for this matter.

Executive Session

MOTION

Mr. Floyd made a motion to go into Executive Session to receive legal advice in this matter. 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. Ms. McNicoll seconded the motion, which carried unanimously.

Mr. Russ stated, for the record, there were no votes taken during executive session.

Ms. McNicoll moved for Advice Counsel to read the motion. Ms. League read that the motion is to approve the application pending compliance with the following conditions: update the perpetual care documents to comply with the current law regarding Board approval for change of trustee or change in trust agreement, and percentages to be deposited with perpetual care; update the rules and regulations to comply with current laws regarding third party installation of markers including deleting items 22, 23, 24 of the current regulations; and update the

contracts to provide the required disclosures acceptable by current law. These will be submitted to staff for review, approval, and issuance of license.

Mr. Riggins seconded the motion, which carried unanimously.

Mr. Russ explained that once the documents are in compliance the staff would be able to issue the license reflecting the change of ownership.

2. Lake View Perpetual Cemetery – Anthony B. Britt, Jr.

Ms. Holleman informed the Board that the application is complete.

Mr. Anthony B. Britt, Jr., and Mr. Tony Cooke were present on behalf of the Cemetery. Mr. Britt stated the cemetery has been in existence since 1968. Mr. Britt stated his employment with the Lake View Perpetual Cemetery began in 1978. Mr. Britt stated that he purchased Cooke Funeral home in 1994. Mr. Britt stated both of the previous owners are deceased. Being the owner of the adjacent funeral home, he purchased the cemetery. He stated the cemetery continues to serve the citizens of Lake View and the surrounding areas. Mr. Britt is requesting the Board approve the change of ownership with him as the manager.

The Board questioned Mr. Britt, and Mr. Cooke regarding the application.

Mr. Russ called for a motion to go into Executive Session to seek legal advice for this matter.

Executive Session

MOTION

Mr. Floyd made a motion to go into Executive Session to receive legal advice in this matter. Ms. McNicoll 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 stated, for the record, there were no votes taken during executive session.

Mr. Russ called for a motion.

MOTION

Mr. Floyd moved for Advice Counsel to read the motion. Ms. League stated the motion is to approve the application pending compliance to the following conditions: update rules and regulations showing correct itemization of care and maintenance fees charged, and properly defining care and maintenance and installation of bronze memorials in regard to item 18 (b) of the current rules and regulations.

Mr. Riggins seconded the motion, which carried unanimously.

3. Oak Hill Cemetery, LLC – James E. Dangerfield

Ms. Holleman informed the Board that completion of the verification of transfer of trustee would occur after the finalization of purchase. Ms. Holleman informed the Board that the application has submitted a financial statement for the Board to review.

Mr. James Dangerfield was present on behalf of the Cemetery. Mr. Dangerfield informed the Board, that his accountant prepared an unaudited financial statement, which he submitted to the Board for review. Mr. Dangerfield stated that his family owns the property surrounding the cemetery. He stated the Oak Hill Cemetery initially began in 1937 as a family cemetery. He stated in 2009 the property adjacent to the family cemetery opened as perpetual care in 2009. Mr. Dangerfield will own 100% shares at the completion of the purchase, with 50% of the shares already transferred to him by Lois Dangerfield, his mother, and the additional 50% transferred at the completion of the purchase from Ms. Cooper, the other partner. Mr. Dangerfield stated Ms. Lois Dangerfield continues to have voting rights. Mr. Dangerfield is requesting the Board approve the change of ownership, and him as the manager.

Mr. Russ called for a motion to go into Executive Session to seek legal advice for this matter.

Executive Session

MOTION

Mr. Floyd made a motion to go into Executive Session to receive legal advice in this matter. 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. Ms. McNicoll seconded the motion, which carried unanimously.

Mr. Russ stated, for the record, there were no votes taken during executive session.

Mr. Russ called for a motion.

MOTION

Mr. Floyd moved for the Advice Counsel to read the motion. Ms. League stated the motion is to approve the application. The Board suggested that the rules and regulations include the Care and Maintenance breakdown. This is not a requirement.

4. Twin City Memorial Gardens, Inc. – James W. Russ
Mr. Russ recused himself. Mr. Floyd presided.

Ms. Holleman informed the Board that the application is complete.

Mr. Sonny Clardy, Mr. William M. Hutson, and Mr. Kevin Braswell were present on behalf of the cemetery. Established in 1959, Mr. Clardy stated he received the cemetery in 2005 through his non-profit organization. According to Mr. Clardy, he made many improvements in order to maintain the integrity of the cemetery. Mr. Clardy stated the cemetery is in sound financial standings. Mr. Clardy stated Mr. Hutson, the new owner, has a long standing relationship with the community. Mr. Clardy is requesting that the Board approve the change of ownership with Mr. Russ continuing as the manager.

Mr. Floyd called for a motion to go into Executive Session to seek legal advice for this matter.

Executive Session

MOTION

Mr. Riggins made a motion to go into Executive Session to receive legal advice in this matter. Ms. McNicoll seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. Riggins made a motion that the Board return to public session. Ms. McNicoll seconded the motion, which carried unanimously.

Mr. Floyd stated, for the record, there were no votes taken during executive session.

Mr. Floyd called for a motion.

MOTION

Ms. McNicoll made a motion to approve the Change of Ownership application for Twin City Memorial Gardens. Mr. Riggins seconded the motion, which carried unanimously.

Mr. Russ returned to the meeting.

10. Arthur State Bank Concerns Discussion

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

Mr. Tim MacGyver and Mr. W. Glenn Keadle were present on behalf of Arthur State Bank.

Mr. Keadle stated the purpose of appearing before the Board was to request that the Board review the procedures used for calculation and distribution of net income to cemetery companies for maintenance of cemeteries and interpret the statute concerning payment of taxes. Mr. Keadle referenced statutes; Section 40-1-110 (A); Section 40-1-110 (B); and Section 40-8-110 (E). Mr. Keadle stated Arthur State Bank currently manages 28 cemetery trust accounts.

The Board discussed the matter with Mr. Keadle.

Mr. Russ called for a motion to go into Executive Session to seek legal advice for this matter.

Executive Session

MOTION

Ms. McNicoll made a motion to go into Executive Session to receive legal advice in this matter. 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. Ms. McNicoll seconded the motion, which carried unanimously.

Mr. Russ stated, for the record, there were no votes taken during executive session.

Mr. Russ stated the Board tabled the discussion, for further research, and investigation.

11. Public Comments (No Vote May Be Taken)

12. Adjournment

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

MOTION

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

Mr. Russ, after ensuring there being no further business to discuss, adjourned the May 25, 2017 meeting for the South Carolina Perpetual Care Cemetery Board at 1:05 p.m.

The next meeting of the South Carolina Perpetual Care Cemetery Board scheduled for September 20, 2017 at 10:00 a. m., at Synergy Business Park, 110 Centerview Drive, Kingstree Building, Room 108, Columbia, South Carolina.