

**MINUTES**  
**South Carolina Perpetual Care Cemetery**  
**Board Meeting**

10:00 a.m., June 27, 2018  
Synergy Business Park  
110 Centerview Drive, Kingstree Building Room 107  
Columbia, South Carolina

**Wednesday, June 27, 2018**

**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 10:09 a.m. Other members participating during the meeting were: Russell Floyd, Vice Chairperson, of Spartanburg; Jacquelyn Petty, of Union; and Rick Riggins, of Lancaster.

Staff members participating in the meeting included: Mary League, Advice Counsel, Office of Advice Counsel; Tina Brown, Disciplinary Counsel, Office of Disciplinary Counsel; Ashley Thompson, Disciplinary Counsel, Office of Disciplinary Counsel; Amy Holleman, Administrator; Norma McAllister, Program Assistant; Monaca Harrelson, Administrative Assistant; Kathy Meadows, Investigator, Office of Investigations and Enforcement; Eric Thompson, Chief Inspector, Office of Investigations and Enforcement; and William Poole, Inspector, Office of Investigations and Enforcement.

Members of the public attending the meeting: Lawrence Nikola and Dewey Baldwin of Forest Lawn Memory Garden SC, LLC, Inc.; William W. Gaffney, Jr. of Mountain View Memorial and James D. Price President of Parklawn Capital, Limited a holding company for Parklawn Corporation; Park; Donald C. Urquhart and Bobby Sibert of The Evening Star, LLC; Joe L. Owens of Robinson Memorial Gardens; Carmen Austin, Sarah Carter, and Randall Hiller of CES, Inc.; Attorney W. R. Buddy Jennings; Tracey Anderson; Drayna Anderson; William M. Johnson; Louis Anderson; Frank Threadgill; Daryl Threadgill; Michael Driggers; Margaret Wolfe; and Palmyra P. Moore.

**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 and staff attending the meeting introduced themselves.

**3. Approval of Excused Absences**

All members of the Board were present.

**4. Approval of Minutes for March 21, 2018 board meeting**

Mr. Russ called for a motion to approve the minutes.

Mr. Floyd called for a correction in the motion on item 6. C1., to read as, "Mr. Floyd asked that Advice Counsel read the motion, which is to approve the change of ownership subject to amending the trust document Sections XIII and XIV...."

**MOTION**

Mr. Riggins made a motion to approve the minutes with the stated corrections. Ms. Petty seconded the motion, which carried unanimously.

**5. Chairman's Remarks – J. W. Russ**

Mr. Russ thanked everyone for attending.

**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 May 2018 was -\$120,235.63. She informed the Board that renewals will begin in December 2018. Ms. Holleman stated the agency has not provided a response to the presented travel budget.

**B. North America Death Care Regulators Association (DCRA) Annual Conference**

Ms. Holleman informed the Board that the DCRA is holding its annual conference in New Orleans, LA on November 5 – 9, 2018. Ms. Holleman informed the Board that she holds the office of Secretary for the North America Death Care Regulators Association.

Ms. Holleman asked that the Board approve travel for the Administrator to attend the DCRA conference. Ms. Holleman informed the Board that the 2019 proposed budget included the cost for one attendee to the DCRA conference.

The Board determined information obtained at the Conference has been beneficial to the Board. Mr. Russ called for a motion to approve travel for the Board Administrator to attend the North America Death Care Regulators Association (DCRA) annual conference on November 5-9, 2018 in New Orleans, LA.

**MOTION**

Mr. Floyd made a motion to approve the travel for the Board Administrator. 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 March 14, 2018 and June 19, 2018.

**B. Investigative Review Committee (IRC) Report – Amy Holleman**

Ms. Holleman informed the Board that as of May 24, 2018 that the IRC Committee recommended to dismiss cases 2017-24 and 2017-25; file formal complaints for cases 2017-23 and 2018-5; issue a letter of caution to case 2018-3; and reconsider a letter of caution for case 2014-12.

Mr. Russ called for a motion to accept the IRC report.

**MOTION**

Mr. Floyd made a motion to accept the IRC report. Ms. Petty seconded the motion, which

carried unanimously.

- C. Office of Investigations and Enforcement (OIE) Report – Amy Holleman  
Ms. Holleman stated the Office of Investigations and Enforcement (OIE) as of June 14, 2018 had one active investigation; four do not open cases; two cases pending Board action and closed seven cases between January 1, 2018 and May 24, 2018.
- D. Office of Disciplinary (ODC) Counsel – Tina Brown  
Ms. Brown informed the Board that as of June 18, 2018 the Office of Disciplinary Counsel (ODC) had 19 open cases; nine pending actions; one pending IRC; three pending CA/MOAs; one pending a hearing; and seven pending final orders.

Ms. Brown introduced Ms. Ashley Thompson, the recently assigned Disciplinary Attorney for the South Carolina Perpetual Care Cemetery Board.

The Board welcomed Ms. Thompson.

## **New Business**

### **Application Hearings**

#### **8. A. Change of Ownership**

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

##### **1. Forest Lawn Memory Garden, LLC – Abbeville – Nicholas A. Torchia, Jr.**

Mr. Dewey Baldwin and Mr. Lawrence Nikola appeared before the Board on behalf of Forest Lawn Memory Garden, LLC.

Ms. Holleman informed the Board that the application is complete and that the Board approved the Care and Maintenance Trust agreement at its meeting on March 21, 2018.

Mr. Nikola informed the Board that he currently owns other cemeteries in other states, and is asking that the Board approve this change of ownership. Mr. Nikola informed the Board that the name of the new company, upon approval would be Memorial Properties – Forest Lawn Memory Gardens, SC LLC with Nicholas Torchia, Jr. as the manager. Mr. Nikola informed the Board that he plans to maintain the cemetery with few if any changes. He stated that eventually, a mausoleum with Board approval maybe constructed on the site.

The Board reviewed the application and informed Mr. Nikola that the following items are required:

- Rules and Regulations: itemization of the one dollar square inch fee into short term; long term; and trusted amount.
- Sales Contract; requires the same breakdown of the one dollar square inch; as stated in Statute 40-8-35 the vault disclosure must be included in the contract; and in Statute 40-8-100(G) optional charges must be included in the disclosure.
- That the new owner submits to the Board for approval, paperwork indicating the Trustee has agreed to the transfer of the Care and Maintenance agreement under the new ownership.

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

### **Executive Session**

#### **MOTION**

Ms. Petty made a motion to go into Executive Session to receive legal advice in this matter. Mr. Riggins 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, there were no votes taken during executive session.

Mr. Russ called for a motion regarding the disposition in this matter.

#### **MOTION**

Mr. Floyd made a motion to approve the transfer of ownership from Forest Lawn Memory Gardens to Memorial Properties – Forest Lawn Memory Gardens, SC LLC pending the changes to the rules and regulations, sales contract and the transfer of the trust with the Board's approval to be submitted to board staff within 45 days. Ms. Petty seconded the motion, which carried unanimously.

### **2. Mountain View Memorial Park – Travelers Rest – William W. Gaffney, Jr.**

Mr. William W. Gaffney, Jr. and Mr. James Price appeared before the board on behalf of Mountain View Memorial Park.

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

The Board reviewed the application and noted that the purchase agreement did not list the outer burials containers' warranty for the outer burials containers, disclosure for opening and closing charges, optional charges, vault types and warranty, and installation fees.

Mr. Gaffney explained that installation fee is included in the price. The Board informed Mr. Gaffney that according to statute, Section 40-8-100 (G), the installation fees must be shown on the statement as charges separate from the price of a monument, marker, or memorial.

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

### **Executive Session**

#### **MOTION**

Mr. Floyd made a motion to go into Executive Session to receive legal advice in this matter. Mr. Riggins 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, there were no votes taken during executive session.

Mr. Russ called for a motion regarding the disposition in this matter.

#### **MOTION**

Mr. Floyd made a motion to approve the change of ownership pending the changes to the purchase agreement, disclosures, and rules and regulations in accordance with

statute Sections 40-8-35, and 40-8-100 (G), and Regulation 21-4 to be submitted to board staff within forty-five (45) days. Mr. Riggins seconded the motion, which carried unanimously.

3. The Evening Star, LLC – Greenwood – Donald C. Urquhart

Mr. Donald C. Urquhart and Mr. Bobby Sibert appeared before the Board on behalf of The Evening Star, LLC.

Ms. Holleman informed the Board that the application is complete and that Mr. Urquhart is requesting that the Board approves the change of ownership. Ms. Holleman informed the Board that on November 9, 2017 they approved the change of trustee from Park Sterling to County Bank.

Mr. Urquhart explained that Mr. Sibert purchased 100 shares of the business and that he is remaining as manager. Mr. Urquhart stated that the company will not be selling outer burial containers.

The Board informed Mr. Urquhart that the purchase agreement and disclosures must include the disclosure of optional charges and the outer burial container. It must show itemization of the care and maintenance, and installation charges.

Mr. Russ called for a motion to go into Executive Session to receive legal advice in 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. Mr. Riggins seconded the motion, which carried unanimously.

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

Mr. Russ called for a motion regarding the disposition in this matter.

**MOTION**

Ms. Petty made a motion to approve the change of ownership pending that the changes to the purchase agreement, disclosures, and rules and regulations in accordance with statute Sections 40-8-35; and 40-8-100 (G) and Regulation 21-4 is submitted to board staff within forty-five (45) days. Mr. Riggins seconded the motion, which carried unanimously.

**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. Robinson Memorial Gardens – Easley – Joe L. Owens

Mr. Owens appeared before the Board on behalf of Robinson Memorial Gardens.

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

Mr. Owens explained that the former Trust Company without notice closed the trust account, mailed the check to the cemetery and the cemetery accepted the funds. He explained that the cemetery owner attempted to locate a trust company to accept the funds; however, due to an impending tax issue, banks would not accept the trust.

Mr. Owens stated that the tax issues have since been resolved with monies owed paid to the Internal Revenue Service as directed. Thereafter, Thomasville National Bank agreed to serve as trustee for the Care and Maintenance Trust fund if approved by the Board. Mr. Owens is requesting that the Board grant permission for SouthBank to transfer the Care and Maintenance Trust fund to Thomasville National Bank.

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

#### **Executive Session**

##### **MOTION**

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

#### **Return to Public Session**

##### **MOTION**

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

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

Mr. Russ called for a motion regarding the disposition in this matter.

##### **MOTION**

Mr. Riggins made a motion to approve the transfer of the Care and Maintenance Trust Fund for Robinson Memorial Gardens to Thomasville National Bank and that the cemetery may withdraw funds, earnings, or interest from the principle according to the statute. Ms. Petty seconded the motion, which carried unanimously.

#### **Disciplinary**

##### **9. Approval of Consent Agreement (CA) – Tina Brown**

###### **1. Case No.: 2016-43**

Ms. Brown informed the Board that the Office of Disciplinary Counsel removed the Consent Agreement due to a material error that requires correction prior to presenting to the Board.

###### **2. Case Nos.: 2017-16 & 2017-17**

Ms. Tina Brown presented the Consent Agreement to the Board.

The Respondent initially licensed on September 19, 2003 as a Perpetual Care Cemetery by the South Carolina Perpetual Care Cemetery Board. The Respondent was duly licensed at all times relevant to this matter. The Respondent's complaint log list complaints from July and August 2017 regarding needed maintenance and upkeep of the cemetery.

The Respondent admitted that the facts contained in the Consent Agreement were true and admitted that the conduct in this matter constitutes sufficient grounds for disciplinary or corrective actions.

The Respondent agreed and consented to a public reprimand to pay a civil penalty of \$250.00 plus \$160.00 in investigation costs, for a total of \$410.00 in costs, to the Board within thirty (30) days of the effective date of the Consent Agreement. The Respondent also agreed to submit photographic evidence of improvements to the maintenance and care of the cemetery within thirty (30) days of the effective date of the Consent Agreement. If the Respondent fails to comply with the aforementioned penalties within the thirty (30) days, the penalties will increase to a civil penalty of \$500.00 plus \$160.00 in investigation cost, for a total of \$660.00. Further sanctions may result in the immediate administrative suspension of the Respondents' license.

Mr. Russ called for a motion for a disposition in this matter.

**MOTION**

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

Mr. Russ called for a motion for the Board to recess for lunch.

**MOTION**

Mr. Riggins made a motion that the Board recess for lunch. Mr. Floyd seconded the motion, which carried unanimously.

The Board recessed for lunch at 12:00 noon.

**Disciplinary Hearing**

**10. Disciplinary Hearing Case Nos.: 2017-6, 2017-7, 2017-8, 2017-9, 2017-11, 2017-12, and 2017-13 -- Tina Brown**

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

Ms. Brown represented the State while Randall S. Hiller, P.A. represented the Respondent. They then presented evidence and arguments.

Mr. Russ called for a motion to go into Executive Session to receive legal advice in 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. Petty seconded the motion, which carried unanimously.

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

**MOTION**

Mr. Floyd made a motion and asked advice counsel to read the motion. Ms. League read that the State failed to make its case for violations of S.C. Code Ann. Section 40-8-100(B) for all

cases. The State did prove that the Respondent violated S.C. Code Ann. Section 40-8-220(B) for all cases. The Board recommends a public reprimand, a fine of \$500.00 for the statute violation, and investigation costs of \$105.00 for each case for a combined total of \$1,235.00. Mr. Riggins seconded the motion, which carried unanimously.

## **11. Appointment of Hearing Panel**

### **Executive Session**

#### **MOTION**

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

### **Return to Public Session**

#### **MOTION**

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

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

Ms. League noted that a Hearing Panel is needed in the event that a majority of the Board has a conflict of interest. Suggested persons for the panel are Catherine McNiccol, Joe Owens, Brent Caughman, Jeff Riggins, and Andy Cone, if needed, and if his appointment to the IRC would not affect any hearings.

#### **MOTION**

Mr. Floyd made a motion to approve the members of the Hearing Panel. Mr. Riggins seconded the motion, which carried unanimously.

## **12. Discussion of Regulation 21-2**

Ms. League reported that as of May 25, 2018 the regulations were updated so that the Agreed Upon Procedures report would occur every year instead of every three years. This would take effect with 2019 reporting, and the years of 2016, 2017, and 2018 would be the last Agreed Upon Procedures report covering a three-year span.

#### **MOTION**

Mr. Floyd made a motion that if the current AUP guidelines do not remain consistent with the change in reporting periods that any substantive changes be brought before the Board for approval. Staff would need to redline such proposed changes. Mr. Riggins seconded and the motion was approved unanimously.

## **13. Discussion of Expiration Date for Applications**

Ms. Holleman noted that an expiration date is needed for Perpetual Care Cemetery applications.

The Board discussed possible expiration dates and the need to have the most recent financial information for licensure.

#### **MOTION**

Mr. Floyd made a motion that all application will expire after six months. Mr. Riggins seconded and the motion was approved unanimously.



**14. Public Comments (No Vote May Be Taken)**

There were no public comments.

**15. Adjournment**

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

**MOTION**

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

Mr. Russ, after ensuring there being no further business to discuss, adjourned the June 27, 2018 meeting for the South Carolina Perpetual Care Cemetery Board at 4:23 p.m.

The next scheduled Board meeting for the South Carolina Perpetual Care Cemetery Board is September 18, 2018 at 10:00 a. m., at Synergy Business Park, 110 Centerview Drive, Kingstree Building, Room 108, Columbia, South Carolina.