

**MINUTES**  
**South Carolina Perpetual Care Cemetery**  
**Board Meeting (conference call)**  
10:00 a.m., Thursday, February 21, 2013  
Synergy Business Park  
110 Centerview Drive, Kingstree Building Room 108  
Columbia, South Carolina

**Thursday, February 21, 2013**

**1. Meeting Called to Order**

J. W. Russ, Chair, of Conway, called the meeting to order at 10:45 a.m. Other members participating during the meeting included: Russel Floyd, Vice Chair, of Spartanburg; John Bartus, of Mauldin; 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; Sara McCartha, Advice Counsel, Office of Advice Counsel; Ernest Adams, Inspector, Office of Investigations and Enforcement; and, Buddy Poole, Inspector, Office of Investigations and Enforcement.

Members of the public attending the meeting included: Stephen Lowe, of Anderson Memorial Gardens; Robin Trivette, of Anderson Memorial Gardens; and, Dean Harbert, of Anderson Memorial Gardens.

**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**

There are no absences at this meeting.

**4. Approval of Minutes for the November 7, 2012**

**MOTION**

Mr. Floyd made a motion the Board approve the minutes of the November 7, 2012, as is.  
Mr. Finch seconded the motion, which carried unanimously.

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

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

**6. Administrator's Remarks – Doris Cubitt**

Ms. Cubitt reminded the Board members that they should have received information regarding the Economic Interest forms and they need to make sure that they have them filed by April 15, 2013. She stated if they fail to meet the April 15, 2013, deadline there will be penalties for not filing timely.

She also explained that due to the breach at the Department of Revenue there will be changes regarding Board member packets. She stated starting in 2013 LLR will no longer mail board packets out to board members. She stated all boards will need to review all

sensitive matter such as board packets from the secure website. She stated that LLR has in house laptops that LLR will provide on board meeting dates for the use of reviewing board packets during the board meeting. She stated that the Board members have used the secure website before and were not pleased because when the board material was uploaded to the secure website it unlinked the material from the agenda. She stated that Ms. Elrod believes she has resolved this problem so we shouldn't have anymore issues.

## 7. Reports

### A. Inspection Report – Buddy Poole

Mr. Poole stated that there have been 38 inspections since November 5, 2012. He also stated that Mr. Adams has now returned to work.

### B. Office of General Counsel – Christa Bell

Ms. Bell distributed the Office of General Counsel case log for the Cemetery Board and informed them there are currently seven open cases. She stated that three cases are pending action, two cases are pending hearing, two cases are to go before the Administrative Law Court (ALC) next week, and two are pending Memorandum of Agreement (MOA) for the Igleheart's cemeteries.

Mr. Floyd stated that several Board members have been approached about a company from Georgia purchasing the Iglehearts cemeteries, which he didn't think could be done since the cemeteries haven't been properly sold to the Iglehearts yet.

### C. Investigative Review Committee (IRC) Report – Sharon Wolfe

#### 1. December 2012 – IRC report

Ms. Wolfe presented the IRC report for December 3, 2012, asking that they be approved with the IRC's recommendations, which are to issue a formal complaint for 2012-4 and 2012-14, and a letter of caution for 2012-9.

#### 2. January 2013 – IRC report

Ms. Wolfe presented the IRC reports for January 25, 2013, asking that they be approved with the IRC's recommendations, which are to issue a formal complaint for three cases 2012-16, 2012-18, and 2012-19.

### **MOTION**

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

### D. OIE Report – Sharon Wolfe

Ms. Wolfe presented the OIE report stating that the cases were received from January 1, 2012, through December 31, 2012. There have been eight closed cases, two cases are do not open, and seven of them are pending board action.

She stated that 21 cases were closed, and two are do not open cases from January 1, 2012, through December 31, 2012. She stated that they have four cases from January 1, 2013 through February 8, 2013, and no cases have been closed.

## 8. New Business

### A. Sunset Memorial Gardens – Betty Bland Dowd (sale of some cemetery land)

Ms. Betty Bland Dowd owns Sunset Memorial Gardens, and she has been approached to sale some of the cemetery property. Sunset Memorial Gardens currently has 26.7 acres of land and wishes to sell four acres. The cemetery is in Edgefield county, which, according to the 2010 US Census record, had a population of 26,978.

The SC Perpetual Care Cemetery board statute states 40-8-90(A)(4)(c) presentation of a description, by metes and bounds, of the acreage tract of the proposed cemetery, with evidence, by title insurance policy or certificate or certification by an attorney at law, that the applicant is the owner in fee simple of the tract of land which must contain not less than thirty acres, and may not mortgage, lease, or encumber it. In counties with a population of less than thirty-five thousand inhabitants according to the latest official United States census, the tract needs to be only fifteen acres.

### **MOTION**

Mr. Floyd made a motion the Board approve the request pending a new deed showing the remaining acreage per 40-8-90(A)(4)(c). Mr. Finch seconded the motion, which carried unanimously.

### B. Anderson Memorial Gardens (manager request)

Ms. Trivette stated that she has Power of Attorney for Ms. Bessie Lowe. She stated that they are coming before the board concerning the management of Anderson Memorial Gardens. She stated that Ms. Lowe owns 60% of the cemetery, and Mr. Lowe owns 30% of Anderson Memorial Gardens, so Ms. Lowe is the majority share holder. She stated that she knows that the annual reports are due, and Ms. Lowe has been ill, and Mr. Harbert has been working with Ms. Lowe on cemetery business.

She stated that Ms. Lowe was admitted to the hospital on November 24, 2012, and is now in rehab and on medication so in the future she will be able to function with some assistance and hope to return to work at the cemetery. She stated that Ms. Lowe speaks with Mr. Harbert on a regular basis, and he has been working with outside cemeteries and funeral homes on Ms. Lowe's behalf.

Ms. Trivette reminded the board that Ms. Lowe came before the board on July 25, 2012, and was denied being manager. She stated that she is aware that Mr. and Ms. Lowe came before the board, and Mr. Lowe stated that he does not work at the cemetery on a regular basis.

Mr. Russ asked if Mr. Harbert has two years of experience to manage the cemetery as required by law. Mr. Harbert stated he doesn't have the two years experience. Ms. Trivette stated that Mr. Harbert doesn't have the two years of experience; however, he has been working at the cemetery on a regular basis since Ms. Lowe's illness. She also stated that Ms. Lowe wishes Mr. Harbert to be manager until she can return to work.

Mr. Lowe stated that the locks on the cemetery were changed, and he has not had access to the cemetery or been allowed to speak with Ms. Lowe since December 10, 2012. He stated that Mr. Harbert has worked as lawn keeper for the cemetery since last summer. Mr. Lowe stated that he come before the board a couple of years ago and

stated that he didn't work at the cemetery on a regular basis at the time, but in a couple of years he may be able to and may be able to take on the role as manager.

Mr. Lowe stated that there is no problem with him and his mother, Ms. Bessie Lowe, working together, but they have not allowed him to see her. He stated he has spoken to Ms. Lowe the night before and she was upset that all parties were coming before the Board for an issue that should have been resolved in-house. He is willing to work with them, but they are not willing to communicate with him. He understands that the annual reports and the agreed upon procedures are coming due, and he needs access to the cemetery to complete them.

Mr. Russ stated that all parties involved need to get together and work this issue out. The cemetery manager needs to have two years of experience and the board can't waive that requirement. Once a manager with the requirements is found then bring that back before the Board for approval.

Ms. Trivette stated the reason she came before the Board is because of blood relation. She is Ms. Lowe's niece, and Ms. Trivette's mother is Ms. Lowe's sister. She stated that Ms. Lowe doesn't have any children unless Mr. Lowe has adoption papers that she is unaware of. She stated she isn't trying to be condescending. She stated they are not dealing with family issues. They are dealing with peoples' loved ones that are being placed in their final resting place.

Ms. McCartha stated this is what she sees. Ms. Lowe was unable to attend the meeting, and Ms. Lowe was denied as manager last year. So until she is present and the Board can decide that Ms. Lowe is capable of being manager or not. She addressed Mr. Harbert stating that she doesn't know him, and he may be qualified in many ways to be manager, however, the law if ever clear stating that the managers much has two years of experience. Ms. McCartha stated that they need to work things out amongst themselves before they appear before the Board.

Ms. Trivette stating that she just wants to make sure that the cemetery is being maintained as it should be and that all reports are being filed properly. She stated she just needs to have access to all cemetery records and that includes what the Board may have. Mr. Russ stated he commends her for that and he believe the power of attorney does allow her to get that information.

Mr. Lowe stated that the CPA that will be doing the Agreed Upon Procedures will be Frances Branyon, and the annual reports will be completed by Kathie Kenny.

### **Executive Session**

#### **MOTION**

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

### **Return to Public Session**

#### **MOTION**

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

A. Approval of alternative methods of merchandise storage

Mr. Russ stated just as a matter of clarification, a question was put to the board. Some cemeteries actually store memorials off site. In other words, they warehouse them. And so the board has no issue with that. It is allowed, they feel like, by the statute, and just as a matter for clarification for those who are doing that, it's not a problem for the Board.

Changes to Bill 4168

Section 21-2(2) – add “within reasonable business hours” so it should read “The Cemetery Board will, as often as it deems necessary, make a physical examination of each cemetery within reasonable business hours to insure compliance with applicable laws”.

Section 21-7(B) – delete “any and all” and replace with “reasonable and necessary” so it should read “the cemetery is responsible for reasonable and necessary costs incurred”.

Section 21-11(C) – delete “The taxes of the trust are to be paid by the cemetery”. So it should read “Pursuant to Section 40-8-110(E), capital gains are not net income, but growth in the corpus. Net income is the current year’s earnings of interest and dividends”.

Section 21-17 – add “authorized to conduct business” and delete “the State of” so it should read “The Cemetery Board will not approve the creation of a merchandise fund unless the same is deposited with a financial institution authorized to conduct business in South Carolina.

Section 21-18(a) – add “authorized to conduct business” so it should read “Any person entering into any such contract as the seller shall deposit into a merchandise fund, established for that purpose with a financial institution authorized to conduct business in South Carolina, one hundred (100) percent of the actual cost, at time of deposit, of the personal property sold for future need”.

21-19(b) – add after the last sentence “This regulation does not apply to lawn crypts”.

**MOTION**

Mr. Floyd made a motion the Board approve the changes to Bill 4168. Mr. Bartus seconded the motion, which carried unanimously.

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

No public comments.

**10. Adjournment**

**MOTION**

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

The February 21, 2013, meeting of the SC Perpetual Care Cemetery Board adjourned at 12:15 p.m.

The next meeting of the SC Perpetual Care Cemetery Board is scheduled for May 15, 2013.