

MINUTES
South Carolina Perpetual Care Cemetery
Board Meeting

10:00 a.m., Friday, March 14, 2014
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Friday, March 14, 2014

1. Meeting Called to Order

J. W. Russ, Chair, of Conway, called the meeting to order at 10:21 a.m. Other members participating during the meeting included: Jacquelyn Petty, of Union; and, Rick Riggins, of Lancaster.

Russel Floyd, Vice Chair, of Spartanburg joined the Board meeting via conference call. Roger Finch, of Easley, joined the meeting late due to a car accident.

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; Sharon Wolfe, Chief Investigator, Office of Investigations and Enforcement; Tracey Perlman, Office of General Counsel; and, Erin Baldwin, Office of General Counsel.

Members of the public attending the meeting included: Jim Holloway, LLR Consultant; Brad Rustin, of Nelson Mullins Riley & Scarborough; John Rogers, Ward Law Firm; Dwight Neese, of Provident Commerce Bank; Angie Dugick, of Provident Commerce Bank; Hayden Igleheart, of Carolina Memorial Parks; Tamala Randolph, of StoneMor; Robin Morris, of StoneMor; Cindy Kendrick, of StoneMor; Tommy Preston, of Nexsen Pruet; Randy Morgan, of Bethany Cemetery; Robert Shellhouse, of Bethany Cemetery; Elizabeth Nelson, of Nelson Mullins Riley & Scarborough; 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

John Bartus, of Mauldin, was granted an excused absence.

MOTION

Mr. Riggins made a motion that the Board approve Mr. Bartus's absence. Ms. Petty seconded the motion, which carried unanimously.

4. Approval of Minutes for the November 7, 2013, and February 7, 2014, meetings

November 7, 2013

MOTION

Mr. Floyd made a motion the Board approve the minutes of the November 7, 2013, board meeting as is. Mr. Riggins seconded the motion, which carried unanimously.

February 7, 2014

MOTION

Mr. Riggins made a motion the Board approve the minutes of the February 7, 2014, board meeting as is. Ms. Petty seconded the motion, which carried unanimously.

5. Chairman's Remarks – J. W. Russ

Mr. Russ welcomed everyone to the meeting.

6. Administrator's Remarks – Doris Cubitt

Ms. Cubitt presented the financial statements to the Board for their review.

MOTION

Mr. Riggins made a motion the Board accept the financial statements as information. Ms. Petty seconded the motion, which carried unanimously.

Ms. Cubitt stated that the secure website for the board meeting packet has changed. We are no longer able to link all files to the agenda because the files must be separated instead of one PDF file.

Ms. Cubitt reminded the Board that the new economic interest deadline is March 31, 2014, instead of April 15, as it has been in the past.

Ms. Cubitt informed the Board that LLR sent two letters to the owners of Restlawn Memorial Gardens and their attorney informing them that they still need to be in compliance with the statute even though the cemetery was transferred to the AME Church.

Ms. Cubitt introduced Ms. Perlman to the Board as the new litigating attorney for the Perpetual Care Cemetery Board.

Ms. Baldwin thanked the Board for having her, and she will miss them even though she is not leaving LLR but she will be operating in a different roll.

7. Reports

A. Inspection Report – Doris Cubitt

Ms. Cubitt stated there have been 56 inspections from Nov 1, 2013, thru Mar 7, 2014.

B. Office of General Counsel (OGC) – Tracey Perlman

Ms. Perlman reviewed the Office of General Counsel case log for the Cemetery Board and informed them there are currently 15 open cases. She stated that five cases are pending action; one is pending consent agreement; eight cases are pending final order hearings; and, one case is pending final order.

C. Investigative Review Committee (IRC) Report – Doris Cubitt

Ms. Cubitt informed the Board that there are no IRC reports for this meeting.

D. OIE Report – Doris Cubitt

Ms. Cubitt presented the OIE report stating that the cases were received from January 1, 2014, through March 12, 2014. There were two closed cases, two active cases, and two do not open cases.

8. Discussion – definition of Lawn Crypts

Mr. Russ read the proposed definition.

“Definition for Lawn Crypts

Belowground crypt or lawn crypt: A structure composed of an array or bank of multiple belowground crypts or chambers constructed of concrete, steel or other comparable durable material with a minimum PSI of 3,500, preplaced at the time of land development, and installed as acceptable to the Board, in quantity, adjacent to and abutting one another, on appropriate gravel, rock or tile underlay with adequate drainage away from the structure to ensure no standing water and designed by a certified civil engineer, and covered by at least 18 inches of earth and sod. Belowground crypts or lawn crypts are not allowed in an area where the water table is within 6 feet of the surface”.

Mr. Coble asked if he and his client can have time to go over the definition, respond in writing, and discuss it at the next board meeting.

Ms. Cubitt stated that she has attended the National Death Care Regulators Association meetings and has spoken with Andrew Walters, who is a crypt specialist with the National Veterans Association, and has received a lot of good inform from both. She stated she will gather her information and share with the Board.

Mr. Floyd stated that all designs must be approved by the Perpetual Care Cemetery Board.

MOTION

Ms. Petty made a motion the Board table this issue until the next meeting for final consideration. Mr. Riggins seconded the motion, which carried unanimously.

9. Old Business

A. Carolina Memorial Parks LLC

1. Greenhaven Memorial Cemetery
2. Heritage Memorial Gardens

Mr. Rustin stated that Mr. Terry Lanford owned these cemeteries and mortgaged them. He informed the Board that Mr. Holloway did a review of these cemeteries trust funds and gave a rough estimate of what should be in the trust fund based on the deposits that should have been made according to the statute from 1954 to current.

Mr. Rustin stated that Mr. Mike Menard did the agreed upon procedures, and he got different figures than Mr. Holloway. He stated that Mr. Holloway's figures showed a \$8,000 shortfall but Mr. Menard's showed a \$64,963.90 shortfall for Greenhaven and \$256,800 shortfall for Heritage.

Mr. Rogers argued that Mr. Holloway's numbers should be acceptable since his figures have been accepted by the Board for other cemeteries since the Perpetual Care Cemetery Board inception.

Mr. Russ asked if they have been placing money into the trust fund. Mr. Igleheart stated he has been placing \$100 per month for Greenhaven and \$200 per month for Heritage since the last meeting.

Mr. Rogers requested that the applications be approved for licensure using Mr. Holloway's method.

Mr. Holloway stated that his method was based on the knowledge that there were no records for either cemetery, and he used the number of graves sold and used the statutory requirements for what should have been placed in the trust fund. He stated his understanding is that Mr. Menard went to the cemetery, walked the cemetery, and used the cemetery books to find the required deposit amounts.

Mr. Rogers stated that Mr. Lanford is now in prison, and he used two different sets of books, which is where the problem is.

Mr. Rustin pointed out that using Mr. Holloway's method would not give the correct figures to fund the cemeteries for the future.

Ms. Cubitt reconfirmed that Mr. Holloway's method was only based on the statutory requirements in the absence of records. Mr. Menard's review was based on contracts and books for his figures.

Mr. Rogers stated that Mr. Landford had incorrect books so he should not have sold the cemeteries to Mr. Igleheart for three times their value, which is why they had a law suit.

Mr. Rogers informed the Board that the LLC interest for Mr. Landford and Ms. Sheena Igleheart will revert back to Mr. Igleheart once licensure is complete for the cemeteries.

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

Ms. Petty 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. Riggins made a motion to continue this application hearing because the condition of licensure for Greenhaven and the Heritage must include the appropriate funding of the trust accounts and because questions had been raised by the applicant about the appropriate level of funding of these accounts. The Board needs additional information to make this determination so they will review testimony from Mr. Menard and Penny Poteat on these matters. Ms. Petty seconded the motion, which carried unanimously.

B. No Manager/No annual reports filed/No AUP filed

1. Anderson Memorial Gardens

Ms. Cubitt stated that neither Mr. Lowe nor Ms. Trivette could attend the meeting, but staff received a letter from Ms. Trivette requesting they be placed on the next board meeting agenda.

10. New Business

A. Preconstruction of Mausoleum

1. Bethany Cemetery – Robert Shellhouse

Mr. Shellhouse wishes to start pre-selling mausoleum crypts and wants the Board to review his pre-selling contract.

MOTION

Mr. Riggins made a motion to approve the contract and the pre-selling of mausoleum crypts for Bethany Cemetery. Ms. Petty seconded the motion, which carried unanimously.

B. Extension for annual reports and agreed upon procedures

2. Devotion Gardens, Mullins, SC
3. Evergreen Memorial Park, Sumter, SC
4. Hillside Memorial Park, Sumter, SC

Ms. Gayle Suggs submitted a letter requesting an extension on the deadline of the annual reports and agreed upon procedures.

She stated her father, Harry Connolly, owned and ran these cemeteries alongside his life partner until 2010 when they both passed away 12 days from each other. She stated her husband, Richard Suggs, from a construction background, then took over the operation of the cemeteries. Then, in early 2013, Mr. Suggs passed away leaving the cemetery operation to Ms. Suggs and her son. She stated she was unaware of any required annual reports or agreed upon procedures due until the inspector informed her on a routine inspection.

MOTION

Mr. Riggins made a motion that the Board grant the request for extension until July 1, 2014. Mr. Finch seconded the motion, which carried unanimously.

C. Change of Trustee

1. Clarendon County Memorial Gardens
2. Greenlawn Memorial Park
3. St George Memorial Gardens

Mr. Floyd stated that the terms capital gain cannot be distributed as income and the Board needs an updated trust agreement.

MOTION

Mr. Floyd made a motion that the Board approve pending updated trust documents using the proper language. Mr. Riggins seconded the motion, which carried unanimously.

11. Public Comments (No Vote May Be Taken)

No public comments.

12. Adjournment

MOTION

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

The March 14, 2014, meeting of the SC Perpetual Care Cemetery Board adjourned at 1:15 p.m.

The next meeting of the SC Perpetual Care Cemetery Board is scheduled for May 20, 2014.