

MINUTES
South Carolina Perpetual Care Cemetery
Board Meeting

10:00 a.m., Thursday, May 28, 2015
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Thursday, May 28, 2015

1. Meeting Called to Order

J. W. Russ, Chair, of Conway, called the meeting to order at 10:01 a.m. Other members participating during the meeting included: Russel Floyd, Vice Chair, of Spartanburg; Roger Finch, of Easley; and, Rick Riggins, of Lancaster.

Staff members participating in the meeting included: Wendi Elrod, Program Assistant; Amy Holleman, Administrator; Mary League, Advice Counsel, Office of Advice Counsel; Sharon Cook, Investigator, Office of Investigations and Enforcement; Tracey Perlman, Office of Disciplinary; and, Buddy Poole, Inspector, Office of Investigations and Enforcement.

Members of the public attending the meeting included: Nicole Griff, of Sumter, SC; Cara Prest, of Sumter, SC; Marie Browder, of Sumter, SC; Betty Davis, of Sumter, SC; Ernest Hendrix, of Sumter, SC; Avanelle Hendrix, of Sumter, SC; Trey Griffin, of Sumter, SC; Betty Driggers, of Bennettsville, SC; Elisabeth K. McNeil, of Bennettsville, SC; Tonya Brazier, of Greenlawn & Woodridge Memorial Park; Tamala Randolph, of StoneMor; Brad Covar, of Bradley D. Covar, CPA; David T. Burnett, of Sunset Gardens Memorial Park; Jennifer P. Sumner, of Sumner Law Firm; Brian Gargis, of Thompson Funeral Home; and, Richard Benton, of Foundation Partners Group.

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. Holleman please introduce herself and her staff. Mr. Russ asked that all other persons attending the meeting introduce themselves.

3. Approval of Excused Absences

John Bartus, of Mauldin; and, Jacquelyn Petty, of Union, were granted excused absences.

MOTION

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

4. Approval of Minutes for the March 3, 2015, meeting

The changes are as follows for March 3, 2015:

- A. On page 7, line 320; delete the sentence that reads “The I’On Group could offer perpetual care, however, it cannot charge for perpetual care”.

MOTION

Mr. Floyd made a motion the Board approve the minutes of the March 3, 2015, Board meeting as amended. Mr. Riggins seconded the motion, which carried unanimously.

5. Chairman’s Remarks – J. W. Russ

Mr. Russ thanked everyone for attending the meeting.

6. Administrator’s Remarks – Amy Holleman

A. Financial Statements

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

B. New staff position

Ms. Holleman informed the Board that the Administrative Assistant position, which is her old position, has been posted.

C. North American Death Care Regulators Association (DCRA) Conference

Ms. Holleman stated that the North American Death Care Regulators Association (DCRA) Conference will be in Jackson, MS from October 11, 2015 thru October 16, 2015 if the Board wishes for her to attend.

MOTION

Mr. Floyd made a motion the Board approve for Ms. Holleman to attend the DCRA conference in Jackson, MS. Mr. Riggins seconded the motion, which carried unanimously.

7. Reports

A. Inspection Report – Buddy Poole

Mr. Poole stated there were 38 inspections from February 25, 2015, thru May 21, 2015.

B. OIE Report – Sharon Wolfe

Ms. Cook presented the OIE report since Ms. Wolfe was unable to attend. She stated that the cases were received from January 1, 2015, through May 19, 2015. There are three active investigations, five active cases, four do not open cases, and one open case.

C. Office of Disciplinary Counsel (ODC) – Tracey Perlman

Ms. Perlman reviewed the Office of Disciplinary Counsel case log for the Cemetery Board and informed them that there are currently 18 open cases. She stated that one case is pending action, 15 are pending hearings, 13 cases are closed, and two cases have appealed.

8. Approval of Consent Agreement (CA) - Tracey Perlman

A. Case No. OIE – 2014-8 – Lake City Memorial Park

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

Ms. Perlman reviewed the consent agreement (CA) for the record.

On January 1, 2014, LLR Investigator Ernest Adams conducted a routine inspection of the cemetery. The inspector noted that several potholes on the driveway entering the cemetery were in the process of being repaired.

On June 24, 2014, LLR Investigator Yolanda Rodgers conducted an unannounced visit to the cemetery. Although the office was closed, the investigator observed the following:

- a. Trash, consisting of bricks, cement blocks, yard debris, and pieces of cement piled near the entrance of the office.
- b. Debris, consisting of lumber, bed posts, buckets, and cardboard boxes piled along the outside wall of the storage building.
- c. The driveway entering the cemetery still required repair, although some potholes were patched with cement.

On July 1, 2014, LLR Investigator, Yolanda Rodgers met with the owner/manager of the cemetery. The investigator noticed brown stains on the ceiling of the office and lighting fixtures without covers. The investigator noted that trash piles near the steps had been removed, the debris near the storage shed had been organized and the potholes had been filled with asphalt.

The Respondent and the State agree:

Respondent admits that the conduct in this matter is in violation of Section 40-8-220(B).

Respondents' licenses shall be publicly reprimanded.

Respondents' licenses to practice in this State shall be placed in a probationary status for a period of one (1) year from the effective date of this Agreement.

Respondent shall pay a civil penalty of Five Hundred Dollars (\$500) to the Board within sixty (60) days of the effective date of this Agreement.

Respondent shall, within six (6) months of the effective date of this Agreement, be subject to another inspection by the investigator and/or inspector.

MOTION

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

9. Disciplinary Hearing - Tracey Perlman

A. Case No. OIE – 2011-21 – Rest Lawn Memorial Park of Lake City

Ms. Perlman informed the Board that Rest Lawn Memorial Park of Lake City's attorney is Mr. Ronnie Sabb, Esq. Since he is a state Senator and they are currently in Session they are requesting a continuance until the next board meeting.

B. Case No. OIE – 2014-13 thru 2014-22 – Sunset Hill Memorial Park

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

Ms. Perlman stated that David Evans, the listed owner of Sunset Hill Memorial Park, had been properly noticed of this hearing, but is not present.

Ms. Perlman presented her case for the record.

Witnesses for this case are: Betty Driggers; Betty Davis; Elisabeth Kinney McNeil; Amy Holleman; and, Sharon Wolfe.

During Ms. Davis' testimony it was revealed that the owner of the cemetery is Ralph Patterson, which is the owner of Gray Funeral Home & Crematory in Clinton, SC, not David Evans.

On or about December 29, 2010, Respondent was sanctioned by the Board for failing to provide required financial reports.

On or about June 23, 2011, Respondent's license was suspended for failing to meet the requirements set out in the December 21, 2010 Order. Respondent was required to cease and desist from entering into any new sales or sales contracts until such time it was in compliance with the terms of the December 21, 2010 Order. Further, Respondent was required to maintain all pre-existing contracts and their resulting obligations and comply with all other requirements and laws governing perpetual care cemetery companies.

On or about June 16, 2014, a group of family members buried their family member at Respondent, resulting in the following complaints:

1. As to Case # 2014-13, an initial complaint was filed with the Department of Labor, Licensing and Regulation on or about September 2, 2014. Complainant was troubled by Respondent's lack of upkeep after burying her mother on June 16, 2014. Complainant also visited Respondent on July 13, 2014, and August 17, 2014. Complainant provided that her family maintained the grounds around their family members' plots themselves over the course of approximately two years. Complainant also provided pictures taken by her niece on September 20, 2014, showing the lack of upkeep of the cemetery grounds and members of the community maintaining the grounds.
2. As to Case # 2014-14, an initial complaint was filed with LLR on or about September 2, 2014. Complainant was troubled by Respondent's lack of upkeep after burying her mother on June 16, 2014. Complainant also visited Respondent on July 13, 2014, and August 17, 2014, and found the cemetery grounds were not being properly maintained as the grass was not cut, trash was strewn about the cemetery grounds, fire ants were on grave sites, and trash cans were full.

3. As to Case # 2014-15, an initial complaint was filed with LLR on or about September 2, 2014. Complainant was troubled by Respondent's lack of upkeep after burying his mother at the cemetery on June 16, 2014. Complainant provided that the grass was not cut, trash was strewn about on the grounds, and trash cans were full.
4. As to Case # 2014-16, an initial complaint was filed with LLR on or about September 2, 2014. Complainant was troubled by Respondent's lack of upkeep after burying her grandmother on June 16, 2014. Complainant provided that the grass was not cut, the headstones were not level, and old gravesite flowers were not disposed of properly.
5. As to Case # 2014-17, an initial complaint was filed with LLR on or about September 2, 2014. Complainant was troubled by Respondent's lack of upkeep after burying her mother at the cemetery on June 16, 2014. Complainant provided that the trash cans were full, there was an ant problem, and the grass was not cut.
6. As to Case # 2014-18, an initial complaint was filed with LLR on or about September 2, 2014. Complainant was troubled by Respondent's lack of upkeep after burying his grandmother at the cemetery on June 16, 2014. Complainant and his family revisited the cemetery on July 13, 2014, and found the cemetery's condition had deteriorated. Complainant provided that he contacted Respondent's employee, Forstner Evans, regarding the condition of the cemetery and was told that the man responsible for maintaining the grounds was on vacation.

As to Case # 2014-20, an individual, unrelated to the cases listed above, filed an initial complaint with LLR on or about August 29, 2014. Complainant provided that her family maintained the grounds around their family members' plots themselves over the course of approximately two years. Complainant also provided pictures taken at the cemetery showing that the grounds were not properly maintained.

Between August 2014 and October 2014, another family, unrelated to the cases listed above, visited their family's plot at Respondent, resulting in the following complaints:

1. As to Case # 2014-19, an initial complaint was filed with LLR on or about September 8, 2014. Complainant was troubled by Respondent's lack of upkeep after visiting his mother's grave on August 15, 2014. Complainant provided that the cemetery grounds were overgrown and needed maintenance. Complainant also provided pictures taken at the cemetery showing that the grounds were not properly maintained.
2. As to Case # 2014-21, an initial complaint was filed with LLR on or about October 16, 2014. Complainant was troubled by Respondent's lack of upkeep. Complainant provided that trash was strewn about the cemetery grounds, and the grounds were consistently overgrown. Further, Complainant provided that on October 3, 2014, she attended a graveside service in an area of the cemetery removed from her family's plot and saw that the grounds in that area were overgrown as well.
3. As to Case # 2014-22, an initial complaint was filed with LLR on or about October 16, 2014. Complainant was troubled by Respondent's lack of upkeep after visiting her family's plot on October 10, 2014. Complainant provided that the grounds were overgrown, trash was strewn about the grounds, and the driveway was filled with potholes. Complainant provided that complaints and requests for maintenance have been made locally in the past, with limited results.

On October 10, 2014, LLR Investigator Yolanda Rodgers conducted an unannounced inspection on Respondent and took photographs illustrating the neglect and failure to properly maintain the cemetery including, but not necessarily limited to, the following:

1. Trash consisting of flowers, soda bottles, yard debris, and Christmas ornaments piled beside trees on the cemetery grounds.
2. Marble slabs lying in a field on the cemetery grounds with yard debris piled beside the slabs.
3. A pothole, approximately three feet by three feet, found near the cemetery's entrance.
4. Vases and flowers turned over on the graves.
5. Grass covering the paved sidewalk and curb.
6. Trash piled along the roadside.

During the course of Investigator Rodgers' inspection, she also discovered that Respondent had entered into new sales or sales contracts while Respondent's license was suspended. On or around October 22, 2014, Investigator Rodgers met with Respondent and obtained copies of all sales contracts and associated records entered into by Respondent while Respondent's license was suspended by the Board.

Ms. Perlman stated that Respondent violated Section 40-8-220(B), 40-8-150(2), 40-8-150(6), 40-1-110(1)(e), 40-1-110(1)(f), and 40-1-110(1)(g).

MOTION

Ms. League read the motion for the record, Mr. Floyd made a motion that the Board issue a public reprimand, Respondent's license shall remain suspended until compliance with all terms of the Board's December 21, 2010 Order, and shall pay a civil penalty of Seven Thousand Dollars (\$7,000) to the Board, paid within sixty (60) days of the date of the Order. Mr. Riggins seconded the motion, which carried unanimously.

10. New Business

A. New Ownership

1. Greenlawn Memorial Park – Tonya Brazier
2. Woodridge Memorial Park – Tonya Brazier

Foundation Partners Group (FPG) applied for change of ownership since control is changing from Investment Funds controlled by Sterling Fund Management, LLC to Investment Funds controlled by Access Holdings Management Company, LLC.

Ms. Holleman stated that we have received the updated Agreed Upon Procedures (AUP) through April 15, 2015, but haven't had a chance for staff CPA to review the AUPs.

Mr. Benton and Ms. Brazier appeared before the Board for any questions the Board may have.

Mr. Floyd asked if Sterling Fund Management, LLC sold to Access Holding Management and if they are assuming the liability.

Mr. Benton stated yes they are assuming the liability.

Executive Session

MOTION

Mr. Riggins 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. Riggins seconded the motion, which carried unanimously.

Mr. Russ noted for the record that no official action was taken during executive session.

MOTION

Ms. League read the motion for the record, Mr. Floyd made a motion to grant the license pending approval of the AUPs and written notification of the acquisition agreement between Access Holdings Management Company, LLC and Sterling Fund Management, LLC. Mr. Riggins seconded the motion, which carried unanimously.

Break

Mr. Russ stated that the Board will break for a five minute recess.

Amend Agenda

MOTION

Mr. Riggins made a motion that the Board amend the agenda to move item B. 1., Sunset Memory Gardens, next on the agenda, then revisit item A. 3., Sunset Gardens Memorial Park. Mr. Floyd seconded the motion, which carried unanimously.

B. Update of Rules and Regulations

1. Sunset Memory Gardens – Felicia Smith

Ms. Holleman stated that Ms. Smith submitted an update to the rules and regulations for Sunset Memory Gardens.

Ms. Holleman informed the Board that Ms. Smith isn't currently present.

Mr. Floyd stated that he has reviewed the rules and regulation but they don't reflect part of the statute, Section 40-8-100(C)(D) and (E), which talks about third party sales and installations. He stated that needs to be added to the rules and regulations.

Also number 34 of the rules and regulations states "Our markers have the installation added into our price. If buying elsewhere there is a 65 cent per square inch charge for installation. The installation price may change at any time deemed necessary". He stated the cemetery can't charge third party more than the cemetery customers.

Mr. Floyd suggested that Ms. Smith read the statute and regulations and amend the rules and regulations accordingly.

Mr. Floyd asked if there is a template of the rules and regulations on the cemetery board's website. Ms. Holleman stated there isn't one. She stated staff can review one of Mr. Floyd's locations and send Ms. Smith one of his. He stated that will be fine.

MOTION

Mr. Floyd made a motion to deny the rules and regulations because they do not comply with the statute and regulations as outlined in Section 40-8-100 (C)(D) and (E). Mr. Riggins seconded the motion, which carried unanimously.

A. 3. Sunset Gardens Memorial Park – David T. Burnett

Mr. Burnett stated he is purchasing Sunset Gardens Memorial Park from Ms. Betty Bland Dowd and that Ms. Sumner and Mr. Covar may speak on his behalf. He stated he has worked with Ms. Dowd and her late husband, Avery Bland for many years.

Ms. Holleman stated that Mr. Burnett applied for Ownership and Manager Change for this cemetery.

She stated staff has received a complete application packet except the Agreed Upon Procedures (AUPs), which a Certified Public Accountant (CPA) is working on.

Mr. Floyd pointed out that the plat shows 27.7 acres but the application states 24.96 acres. Ms. Sumner stated that the current owner had previously appeared before the Board to sale the referred acreage.

Ms. Holleman confirmed that they did appear before the board on February 21, 2013, requesting to sale some of the cemetery property. The Board approved the request since they are in a county that has a population of less than 35,000.

Mr. Covar stated for the record that he has been the point person on getting the application packet to the Board, and wanted to thank Ms. Elrod for all her help because she was always available, very helpful, and courteous. He said it is nice working with someone who is nice and willing to help.

Mr. Floyd stated that the Board has been working with her for many years and they appreciate that.

Mr. Riggins stated that they appreciate the comments and they know how well they've got it.

Executive Session

MOTION

Mr. Riggins 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. Riggins made a motion that 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.

Mr. Floyd stated that Mr. Burnett needs to assume the liability of the cemetery, submit updated trust documentation, per statute, updated rules and regulations, per statute, and the AUP.

MOTION

Ms. League read the motion for the record, Mr. Floyd made a motion to approve pending receiving acceptable updated trust documentation, updated AUP, updated rules and regulations, and certification from purchaser assuming the liability of the cemetery. Mr. Riggins seconded the motion, which carried unanimously.

11. Public Comments (No Vote May Be Taken)

No public comments.

12. Adjournment

MOTION

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

The May 28, 2015, meeting of the SC Perpetual Care Cemetery Board adjourned at 12:34 p.m.

The next meeting of the SC Perpetual Care Cemetery Board is scheduled for September 3, 2015.

Mr. Riggins stated for the record that he will be unable to attend the September 3, 2015, Perpetual Care Cemetery Board meeting.