

MINUTES
South Carolina Perpetual Care Cemetery
Board Meeting

10:00 a.m., Thursday, November 3, 2011
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Thursday, November 3, 2011

1. Meeting Called to Order

J. W. Russ, Chair, of Conway, called the meeting to order at 10:14 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 Specialist; Jeanie Rose, Administrative Specialist; Dean Grigg, Advice Counsel, Division of Legal Services; Christa Bell, Division of Legal Services; Jim Holloway, CPA, Consultant; and, Bobby Taylor, Investigator, Office of Investigations and Enforcement.

Members of the public attending the meeting included: Bill Gaffney, Grandview Memory Gardens; Ralph Harrell, Garden of Devotion; Janet Huff, Greenlawn Memorial Park; Jim Holloway; John Linsey, Grandview Memory Gardens; Ralph Bailey, archeologist, Brockington & Associates; Rivers Stillwell, Esq., of Nelson Mullins, counsel for Provident Bank; Brad Rustin, Esq., counsel for Provident Bank; Hayden Igleheart, Heritage and Greenhaven Memorial Gardens; John Rogers, Esq., for Heritage and Greenhaven Memorial Gardens; Penny Poteat, Heritage and Greenhaven Memorial Gardens; Doug Coleman, StoneMor Parks; and, Tamara Randolph.

A video of this meeting can be viewed at www.llr.state.sc.us/POL/Cemetery. On the Board's home page, click 'Board Information' and follow the link to the video.

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

All present recited the Pledge of Allegiance.

2. Approval of Excused Absences

No excused absence at this time.

3. Introduction of Board Members and Persons Attending the Meeting

The Board members, staff and all other persons attending the meeting introduced themselves.

Agenda Amendment

MOTION

Mr. Floyd made a motion to move agenda items 6, 7 and 8c to the end of the meeting since it will be a long meeting. Mr. Riggins seconded the motion, which carried unanimously.

4. Approval of Minutes for the June 8, 2011 Meeting

The changes are as follows:

1. *On line 417, the sentence that says, "Mr. Floyd stated a specific disclosure is because Dunmore practices to barrel lost" should be deleted and replaced with "Mr. Floyd affirmed that he had reviewed the specific disclosure document".*
2. *On line 771, it says, "document was overlooked". It should read, "document was in violation of the statute".*

MOTION

Mr. Finch made a motion the Board approve the minutes of the June 8, 2011, meeting with changes. Mr. Riggins seconded the motion, which carried unanimously.

5. President's Remarks – J. W. Russ

Mr. Russ welcomed everyone to the meeting. He also thanked staff for all of their hard work and welcomed Mr. Grigg as their new advice counsel.

6. Information Update

Financial Statements- Doris Cubitt

Ms. Cubitt explained to the Board that 2012 is a renewal year; however, she doesn't recommend changes to the licensing fees. She stated that June ends the fiscal year, and a new fiscal year begins in July.

7. Administrator's Remarks – Doris Cubitt

Ms. Cubitt informed the Board that as of August 2010, she was named as administrator for three more boards, Cosmetology, Barber Board, and the Massage Therapy panel. She stated that LLR has now hired a new Administrator for those three boards so she will go back to having just the three boards she originally had, Accountancy, Funeral, and Cemetery.

She then stated that LLR made a change regarding minutes. She stated for now on there will be two different minutes posted to the website. One will be the verbatim transcript by the court reporter, and the other will be a summary prepared by Board staff.

8. Reports

A. Investigative Review Committee (IRC) Report – Bobby Taylor

Mr. Taylor presented the IRC report from July 26, 2011. Four cases were recommended for dismissal pending Board approval: 2011-9, 2011-10, 2011-11, and 2011-15.

MOTION

Mr. Floyd made a motion the Board accept the IRC report. Mr. Bartus seconded the motion, which carried unanimously.

B. OIE Report – Bobby Taylor

Mr. Taylor stated that the Office of Investigations and Enforcement (OIE) received 21 new complaints between January 1, and November 2, 2011. He then stated that seven complaints have been closed.

C. Inspection Report – Doris Cubitt
No inspection report at this time.

D. Division of Legal Services – Christa Bell

Ms. Bell distributed the Office of General Counsel case log for the Cemetery Board and informed them there are currently six open cases. She stated that one case is pending action, and two cases are pending Memorandum Of Agreement, which she hoped to be closed in that meeting. Three cases pending hearings, which she expects to take place at the March 2012, meeting and nine cases, have been closed since January 2010.

9. Discussion Items

No discussion items at this time.

10. Old Business (Application Hearings)

New Ownership/Management

1. Garden of Devotion Cemetery, Inc. – Hemingway, SC - (ownership structure & manager change) – J W Russ

Mr. Harrell requested a change of ownership structure and manager since his parents were owners and left their ownership percentage to him and his siblings. Mr. Harrell is listed as President according to the cemetery meeting documents.

MOTION

Mr. Floyd made a motion the Board approve Mr. Harrell as manager and approve the trust agreement pending changes to the trust agreement clarifying income distributions and that net capital gains are not income to be distributed. Mr. Bartus seconded the motion, which carried unanimously.

11. New Business (Application Hearings)

New Ownership/Management

1. Heritage Memorial Gardens
 - a. Memorandum of Agreement (MOA) - 2010-26
2. Greenhaven Memorial Gardens
 - a. Memorandum of Agreement (MOA) - 2010-25

Mr. Igleheart applied for ownership change for Heritage and Greenhaven Memorial Gardens. These cemeteries were encumbered by the prior owner without the Board's knowledge. Mr. Igleheart agreed to submit a signed MOA along with the licensing application.

The bank agreed to clear any and all mortgages and agreed to fund the accounts to what the SC Perpetual Care Cemetery Board deems correct. They request that the Board grant licensure pending the bank letter funding the accounts and clearing the mortgages.

Mr. Floyd suggested they obtain an independent Certified Public Accountant that both parties can agree on.

Executive Session
MOTION

Mr. Floyd made a motion the Board enter into executive session. Mr. Riggins seconded the motion, which carried unanimously.

Return to Public Session
MOTION

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

MOTION

Mr. Floyd made a motion to accept the Memorandum of Agreement, but continue disciplinary sanctions and licensing matters until an independent CPA completes the Agreed Upon Procedures on the cemeteries accounts. The Agreed Upon Procedures must be done within 30 days of the date the Order is signed. Ms. Petty seconded the motion, which carried unanimously.

3. Grandview Memory Gardens

Mr. Gaffney applied for ownership change for Grandview Memory Gardens.

MOTION

Mr. Floyd made a motion the Board approve change of ownership pending an updated trust document, rules and regulations, Agreed Upon Procedures for the years 2003-2006, and showing Citadel Group is responsible for shortfalls to the accounts. Mr. Riggins seconded the motion, which carried unanimously.

4. Greenlawn Memorial Park (stock sale)

Ms. Huff applied for ownership change for Greenlawn Memorial Park.

MOTION

Mr. Floyd made a motion the Board approve the stock sale pending an updated trust agreement, rules and regulations, sales contracts, Agreed Upon Procedures for the years 2003-2006, and showing that Ms. Huff is responsible for any deficiencies. Ms. Petty seconded the motion, which carried unanimously.

Cemetery Name Change

1. Southern Palms Memorial Gardens (formerly Southeastern Memorial Gardens)

Mr. Richard Leonard submitted a letter to the Board requesting a name change for his cemetery.

MOTION

Mr. Floyd made a motion the Board approve the name change pending a corrected contract showing the statutory right of substitution for contractee when burial vault is no longer available and disclosures on required charges and optional charges. Mr. Riggins seconded the motion, which carried unanimously.

Contract Changes

1. SCI

SCI submitted a request to move to an electronic contract format; however, they submitted their paper version, and the Board cannot tell what is and is not included on every printout a consumer receives.

MOTION

Mr. Floyd made a motion the Board table SCI's contract approval until they receive an electronic version to review. Mr. Bartus seconded the motion, which carried unanimously.

12. Regulation changes

MOTION

Mr. Floyd made a motion the Board resubmit the same regulations the Board submitted last year, 41-68, but delete 20-2(10), which requires cemeteries to store merchandise above ground. Mr. Finch seconded the motion, which carried unanimously.

13. Election of Officers

MOTION

Mr. Floyd made a motion the Board open the floor for nominations. Mr. Finch seconded the motion, which carried unanimously.

Mr. Floyd nominated Mr. Russ for Chair. Mr. Finch seconded the motion, which carried unanimously.

Mr. Riggins nominated Mr. Floyd for Vice Chair. Mr. Bartus seconded the motion, which carried unanimously.

14. 2012 Meeting Dates

The Board reviewed the 2012 Board meeting dates as: March 15, 2012, May 16, 2012, July 25, 2012, and November 7, 2012.

MOTION

Mr. Riggins made a motion the Board accept the Board meeting dates. Ms. Petty seconded the motion, which carried unanimously.

Public Comments

No public comments at this time.

Adjournment

MOTION

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

The November 3, 2011, meeting of the SC Perpetual Care Cemetery Board adjourned at 4:17 p.m.

The next meeting of the SC Perpetual Care Cemetery Board is scheduled for March 15, 2012.