

MINUTES
South Carolina Perpetual Care Cemetery
Board Meeting

10:00 a.m., Wednesday, November 19, 2014 & Thursday, November 20, 2014
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Wednesday, November 19, 2014 & Thursday, November 20, 2014

1. Meeting Called to Order

J. W. Russ, Chair, of Conway, called the meeting to order at 10:43 a.m. on November 19, 2014. Other members participating during the meeting included: Russel Floyd, Vice Chair, of Spartanburg; John Bartus, of Mauldin; Roger Finch, of Easley; and, Jacquelyn Petty, of Union.

Staff members participating in the meeting included: Doris Cubitt, Administrator; Wendi Elrod, Program Assistant; Amy Holleman, Administrative Assistant; John Carroll, Office of Disciplinary Counsel; Mary League, Advice Counsel, Office of Advice Counsel; Sharon Cook, Investigator, Office of Investigations and Enforcement; Tracey Perlman, Office of Disciplinary Counsel; Lamont Gleaton, Office of Disciplinary Counsel; Raymond Lee, Inspector, Office of Investigations and Enforcement; 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: Bill Gaffney, of Mountain View Memorial Park; Tamala Randolph, of StoneMor; Kimberly Sigmon; Carol Sigmon; Gerald Head; Jeffrey Head; Bob Coble, of Nexsen Pruet; Tyrone Robinson; and, Randall S. Hiller, Esq.

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

Rick Riggins, of Lancaster, was granted an excused absence.

MOTION

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

Amend Agenda

MOTION

Mr. Floyd made a motion to amend the agenda to move item # four thru item # seven (approval of minutes; chairman's remarks; administrator's remarks; and, reports) be moved to after item # eight. Ms. Petty seconded the motion, which carried unanimously.

4. Disciplinary Hearings

A. 2012-4 Plantation Memorial Gardens of SC, Inc., CEM 1147

B. 2012-14 Plantation Memorial Gardens of SC, Inc., CEM 1147

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

Mr. Hiller, Esq. appeared on behalf of the respondent, W. Adam Taylor, owner/operator for Plantation Memorial Gardens of SC, Inc.

The witnesses for these cases were: Jeffrey Head, Gerald Head, Kimberly Sigmon, and Carol Sigmon.

Case No. 2012-4

1. Respondent moved several headstones prior to opening and closing the grave site of the Complainant's relative. Respondent failed to replace the headstones on the correct gravesites. Additionally, flower vases left by family members of the deceased were moved from the grave sites and strewn along the fence line. The Complainant contacted the licensee regarding the conditions of the cemetery on June 7, 8, 11 and 12, 2011. As of June 13, 2011, the headstones were put on the correct grave sites.

2. On or about October 4, 2012, an investigator for the South Carolina Department of Labor, Licensing and Regulation visited Respondent and found that the cemetery was not maintained to present a cared-for appearance. There were potholes, the grass was overgrown, and there were large bare spots throughout the cemetery. Additionally, the mausoleum was not being maintained properly.

Mr. Finch was caught in traffic arriving at 11:30 a.m.

Case No. 2012-14

1. The Complainant was unable to find the grave site of their deceased relative upon visiting the cemetery because Respondent placed the wrong name on the grave site marker.

2. Respondent failed to maintain the cemetery to present a cared-for appearance. There were potholes, the grass was overgrown, and there were large bare spots throughout the cemetery.

As a result of the facts above, the Respondent has violated the following laws governing the practice of cemetery and perpetual care in this state:

1. Respondent is in violation of Section 40-8-220(B), in that the cemetery is not being properly maintained and does not have a cared-for appearance.

2. Respondent is in violation of Section 40-1-110(f), in that Respondent committed a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public.

Mr. Finch was excused since he didn't hear the beginning of the case.

Executive Session

MOTION

Ms. Petty 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. Bartus 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, read by legal counsel, Mary League, the Respondent violated both Sections 40-8-220(B) and 40-1-110(f). The Board feels that the appropriate sanctions are for a public reprimand, pay a Five Hundred Dollar (\$500.00) fine for each violation, for a total of One Thousand Dollars (\$1,000) to be paid within sixty (60) days of the date of the Order. Mr. Bartus seconded the motion, which carried unanimously.

Lunch Break

MOTION

Mr. Floyd made a motion the Board break for lunch at 12:45 pm and to reconvene at 2:15 pm. Mr. Bartus seconded the motion, which carried unanimously.

C. 2013-11 Lakeview Memory Garden, CEM 1064

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

Mr. Hiller, Esq. appeared on behalf of the respondent for Lakeview Memory Garden.

1. On or about June 13, 2011, the Board suspended Respondent's license and ordered Respondent to cease and desist from entering into any new sales or sales contracts due to Respondent's failure to comply with the requirements of the Board Order issued on or about November 16, 2010.
2. The South Carolina Department of Labor, Licensing and Regulation (LLR) discovered that Respondent's website contained advertisements for grave spaces after Respondent's license was suspended on June 13, 2011. In response to the advertisements, an LLR Investigator inspected the cemetery office. The inspection revealed that Respondent executed new sales and sales contracts despite the Board's Order requiring Respondent to cease and desist from such transactions.

Executive Session

MOTION

Mr. Bartus 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

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

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

MOTION

Ms. Petty made a motion, read by legal counsel, Mary League, the Respondent violated both Sections 40-8-40 and 40-1-110(1)(f). The Board feels that the appropriate sanctions are for a public reprimand, pay a Two Thousand Dollar (\$2,000.00) fine to be paid within sixty (60) days of the date of the Order. The suspension stands and the Respondent must appear before the Board to seek reinstatement of the license after compliance is met. Mr. Floyd seconded the motion, which carried unanimously.

Ms. Perlman stated that the remaining cases will take at least a few more hours and wanted to make sure everyone is prepared to stay past 5:00 p.m. if need be before we start the remaining hearings. Mr. Hiller stated he is unable to attend the meeting tomorrow so he requested they be heard today.

All Board members stated they are willing to stay so the cases can be heard.

D. 2009-3 Forest Lawn Memorial Park of SC, CEM 1145

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

Mr. Hiller, Esq. appeared on behalf of the respondent, W. Adam Taylor, owner/operator for Forest Lawn Memorial Park of SC.

1. On or about March 19, 2008, during an LLR inspection of Respondent cemetery, the investigator found fourteen complaints about mausoleums in the required complaint book at the facility. Respondent admitted to selling preconstruction spaces for a new mausoleum. These sales began as early as 1999.
2. On or about January 25, 2010, a Complaint was filed regarding the maintenance and upkeep of the cemetery.
3. By Order signed by the Board on March 29, 2010, Respondent purchased Forest Lawn Memorial Park and seven other cemeteries and assumed responsibility for the contracts regarding the mausoleum at Forest Lawn.
4. On or about January 12, 2012, an LLR inspector reported that work on the new mausoleum had begun and was scheduled to be completed within six weeks. On or about March 19, 2012, another LLR inspector reported that the mausoleum was not

complete. The complaint log also contained additional complaints to those noted in the previous inspection.

5. Respondent has failed to provide a response listing the work that has been completed and a timeline for completion of the work. Respondent has failed to make necessary repairs to the existing mausoleum.

Executive Session

MOTION

Ms. Petty 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. Bartus 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.

MOTION

Mr. Floyd made a motion, read by legal counsel, Mary League, the Respondent violated Section 40-8-220(B). The Board feels that the appropriate sanction is for a public reprimand, and pay a Two Hundred and Fifty Dollar (\$250.00) fine to be paid within sixty (60) days of the date of the Order. The license shall not be renewed until the penalty is paid in full. Ms. Petty seconded the motion, which carried unanimously.

- E. 2012-16 Chester Memorial Gardens, CEM 1012
- F. 2012-18 Chester Memorial Gardens, CEM 1012
- G. 2013-2 Chester Memorial Gardens, CEM 1012
- H. 2013-9 Chester Memorial Gardens, CEM 1012
- I. 2013-10 Chester Memorial Gardens, CEM 1012
- J. 2014-7 Chester Memorial Gardens, CEM 1012

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

Mr. Hiller, Esq. appeared on behalf of the respondent for Chester Memorial Gardens.

1. On or about December 21, 2010, the Board issued an Order suspending Respondent's license for failure to submit required reports for various periods to the Board. These reports included financial reports and Agreed Upon Procedures Reports for Respondent's care and maintenance trust fund, as well as Agreed Upon Procedures Reports and financial reports for its merchandise account fund.
2. On or about June 13, 2011, the Board Administrator mailed Respondent a letter detailing its failure to timely comply with the requirements of the December 21, 2010, Board Order. To date, Respondent has failed to comply with the terms of the Order, and its license remains suspended.

3. As to Case # 2013-9, an initial complaint was filed with the Board by a member of the public, and further investigation revealed that Respondent continued to sell internment rights, merchandise, and cemetery services after the December 21, 2010, suspension of its license. LLR Investigator Cook conducted an unannounced records search at the cemetery and observed an estimated one hundred (100) contracts for cemetery services dated after December 21, 2010.
4. As to Case # 2013-10, Respondent advertised cemetery services on Facebook while its license was suspended.

Tomorrow's meeting will reconvene starting with executive session.

5. Adjournment

MOTION

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

The November 19, 2014, meeting of the SC Perpetual Care Cemetery Board adjourned at 5:59 p.m.

November 20, 2014 Meeting

1. The November 20, 2014 Meeting Called to Order

J. W. Russ, Chair, of Conway, called the meeting to order at 10:03 a.m. on November 20, 2014. Other members participating during the meeting included: Russel Floyd, Vice Chair, of Spartanburg; John Bartus, of Mauldin; Roger Finch, of Easley; and, Jacquelyn Petty, of Union.

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 Disciplinary 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: Tamala Randolph, of StoneMor; Felicia Smith, of Sunset Memory Gardens; Judy Lewis, of Sunset Memory Gardens; Robert Thomason, of Westview Memorial Park; and, Robin Thomason, of Westview Memorial Park.

b. 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

Rick Riggins, of Lancaster, was granted an excused absence.

MOTION

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

4. Disciplinary Hearings

- a. 2012-16 Chester
- b. 2012-18 Chester
- c. 2013-2 Chester
- d. 2013-9 Chester
- e. 2013-10 Chester
- f. 2014-7 Chester

Executive Session

MOTION

Mr. Bartus 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

Mr. Floyd made a motion that the Board return to public session. Mr. Bartus 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, read by legal counsel, Mary League, the Respondent violated Sections 40-1-110(1)(F), 40-8-150(6) and 40-8-220(B). The Board feels that the appropriate sanctions are for a public reprimand, pay a fine of Two Thousand Dollars (\$2,000) to be paid within sixty (60) days of the date of the Order. The suspension stands and the Respondent must appear before the Board to seek reinstatement of the license after compliance is met. Ms. Petty seconded the motion, which carried unanimously.

- g. 2011-21 Rest Lawn

Ms. Perlman stated that this will be deferred until the next board meeting.

5. Approval of Minutes for the August 7, 2014, meeting

The changes are as follows for August 7, 2014:

- a. On page 4, line 159; add "any statutory deposits" after reflect that, so it should read, "The reports should reflect that any statutory deposits have been made into the care and maintenance trust fund".
- b. On page 4, line 160; strike "for" and add "in addition to deposits of", so it should read "fund in addition to deposits of \$25,000".

- c. On page 5, line 201; add “s” to “liability”, so it should read “he doesn’t see that the new owner is assuming the liability’s for the cemeteries”.
- d. On page 6, line 281; change “there” to “their”, so it should read “with further completion of their proposal”.

MOTION

Mr. Floyd made a motion the Board approve the minutes of the August 7, 2014, board meeting as amended. Ms. Petty seconded the motion, which carried unanimously.

6. Chairman’s Remarks – J. W. Russ

Mr. Russ welcomed everyone to the meeting.

7. Administrator’s Remarks – Doris Cubitt

Ms. Cubitt stated that the board has gone back to a one year renewal this year because the Board isn’t currently charging the fees as outlined in the statute.

8. Reports

A. Inspection Report – Doris Cubitt

Mr. Adams stated there were 31 inspections from July 25, 2014, thru November 13, 2014.

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

October 30, 2014

Ms Wolfe presented the Investigative Review Committee (IRC) report from the October 30, 2014, IRC meeting. The IRC recommended that the Board issue a formal complaint for case numbers 2014-8, 2014-13, 2014-14, 2014-15, 2014-16, 2014-17, 2014-18, 2014-19, 2014-20, 2014-21, and 2014-22; and to dismiss case 2014-11.

MOTION

Mr. Floyd made a motion that the Board approve the IRC recommendations. Mr. Bartus seconded the motion, which carried unanimously.

C. OIE Report – Doris Cubitt

Ms. Wolfe presented the OIE report stating from January 1, 2014, through November 12, 2014, there were two closed cases, four active cases, one do not open case, and 12 cases pending Board action.

D. Office of General Counsel (ODC) – Tracey Perlman

Ms. Perlman reviewed the Office of Disciplinary Counsel case log for the Cemetery Board and reported there are currently 17 open cases. She stated that seven cases are pending action, and ten are pending hearings.

9. Old Business

A. Westview Memorial Park

Mr. Robert Thomason conveyed his appreciation to the Board for hearing them in August 2014, and again today.

Mr. Thomason stated that they made a proposal to the Board in August 2014; however, the agreed upon procedures (AUP) were taking longer than anticipated.

Mr. Robin Thomason presented to the Board a spread sheet of deposits that have been made. He apologized for the AUP not being completed by this meeting and stated they hope to have them completed by the February 2015 board meeting.

He stated they are looking into changing trustees since the current trustee charges a lot for administering the trust fund.

They are also looking at constructing a columbarium by the end of the year.

He stated he will be happy to provide any documentation the Board needs for the February 2015 board meeting to show the deposits that are made.

Ms. League reviewed the terms and conditions of the Order from June 13, 2011.

1. As a condition of reinstatement of its license, Respondent was required by Board Order dated August 18, 2014 to appear before the Board at its November 2014 meeting to review additional financial information to be submitted by Respondent, including a report from an accountant reconciling paid outs with bank deposits, all to determine if any additional funding of the accounts is required to bring them into compliance with Board statutes and regulations

2. In that Order, Respondent was additionally required to deposit a minimum of \$800.00 a month into its perpetual care and maintenance trust fund account; to deposit into the account monthly any funds received in excess of the \$2,000.00 a month estimated operating expenses; and to deposit all funds from its new plot sales into a third party monitored escrow account, with funds to be approved to be withdrawn from the escrow account only for the purpose of funding normal operating expenses to include ground maintenance, insurance, taxes, utilities and the like.

3. Respondent has made and continues to make all the required contributions and deposits to the Trust and the account; however, seeks modification of the Order reducing the amount of the required continued deposits, in order to be able to make capital expenditures.

4. Respondent asks that the prior Order be modified to relieve it from the requirement to deposit monthly funds into the Trust received in excess of the \$2,000.00 a month estimated operating expenses; however, agrees that the requirements to deposit funds into the escrow account as required by statute from all new sales, and to deposit a minimum of \$800.00 a month into the Trust, will continue.

5. Respondent also requested to modify the prior Order to allow it to present the required financial information at the next regularly scheduled Board meeting, as its accountant has not completed preparation of the requested reports and AUPs

At the August 7, 2014, Perpetual Care Cemetery board meeting the Board lifted the Suspension Order since the Respondent provided evidence of compliance so the license can be reinstated.

Executive Session

MOTION

Mr. Bartus made a motion that the Board enter into executive session for legal advice. Mr. Finch seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Ms. Petty made a motion that the Board return to public session. Mr. Bartus 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, read by advice counsel, Mary League, allowing the modifications of the August 18, 2014, Order. Respondent is to make a deposit of \$800.00 monthly into the trust fund, deposit funds from all new plot sales in accordance with the statutory requirements and appear at the next scheduled board meeting to provide requested financial information. Ms. Petty seconded the motion, which carried unanimously.

B. Amendment of Order to include approval of transfer of trust fund

Ms. League stated that the Order for Heritage and Greenhaven Memorial Gardens from September 25, 2014, should have included transfer of control of the trust fund to Carolina Memorial Park but it wasn't added so the Order needs to be amended.

MOTION

Mr. Floyd made a motion, read by advice counsel, Mary League, that the Board amend the Order to allow transfer of control of the trust fund to Carolina Memorial Park. Ms. Petty seconded the motion, which carried unanimously.

10. New Business

A. New Ownership

1. Sunset Memory Gardens

Ms. Smith stated the corporation owns the cemetery and she had inherited her portion from her late husband. She is now purchasing all shares for the corporation from all other share holders.

Ms. Cubitt stated that the items missing from the application packet are: item 25 was incorrect and items 27 and 28 on the application are missing, needs the amended trust agreement, updated agreed upon procedures (AUP) from 2013 to present, financial documents of the company/owner, sales contract are missing the required disclosures.

Ms. Smith stated that her CPA, Mike Evans, stated that the AUP couldn't be completed in that short period of time, nor does the AUP need to be done since it was completed in 2012 and will be completed again in 2016.

Mr. Floyd stated the AUP still needs to be completed from the last AUP to present for the sale of the cemetery.

Ms. Smith stated she is now the manager of the cemetery and the youngest share holder of the corporation. She stated that one share holder is 93, one share holder is 87, one is terminally ill, and the last share holder wants to relinquish his shares.

Executive Session

MOTION

Mr. Bartus 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. Bartus made a motion that 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 defer granting the license until the application packet is complete and to appear before the Board at its next board meeting. Mr. Bartus seconded the motion, which carried unanimously.

Ms. Smith stated she wanted to say one thing and thanked the Board for hearing her and pointed out that she is a licensed funeral director and is a very notable person in Florence County.

She stated she is very concerned with the communication with the ladies that are on staff with the board as speaking with others. She stated she is very disappointed with the compassion of the Board today. She thought, with the Board knowing that Ms. Lewis is terminally ill and Mr. Young is going into the nursing home at the first of the year, the Board would have more compassion. And Ms. Smith stated she has been working hard enough and putting other Boards she is on aside to make this happen for Sunset Memory Gardens.

She stated she is very concerned and thanked the Board again.

She then stated that the Board is not compassionate at all.

She then asked for a list of all Board members. Ms. Cubitt stated that a list of all Board members is available on the Boards website.

B. Change of Trustee

1. Faith Memorial Gardens

Ms. Cubitt stated that the cemetery is requesting transfer of the trust fund from SCBT to Arthur State Bank.

MOTION

Mr. Floyd made a motion that the Board approve the transfer. Ms. Petty seconded the motion, which carried unanimously.

2. Morning Glory Cemetery Inc

Ms. Cubitt stated that the cemetery is requesting transfer of the trust fund from Wells Fargo to TD Bank.

MOTION

Ms. Petty made a motion that the Board deny the transfer until they provide the letter from TD Bank stating they will accept the funds from Wells Fargo. Mr. Finch seconded the motion, which carried unanimously.

11. Review 2015 Board meeting dates

The Board reviewed the 2015 Board meeting dates as: February 25, 2015, May 28, 2015, September 3, 2015, and November 18, 2015.

Ms. Cubitt stated that she and the inspector have a conflict with February 25, 2015, since there is a Conference in Dallas, TX from February 25, 2015, to February 27, 2015, that they must attend for the Board of Funeral Service. The Board selected March 3, 2015, as replacement.

MOTION

Ms. Petty made a motion the Board accept the Board meeting dates as March 3, 2015, May 28, 2015, September 3, 2015, and November 18, 2015. Mr. Floyd seconded the motion, which carried unanimously.

12. Public Comments (No Vote May Be Taken)

No public comments.

13. Adjournment

MOTION

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

The November 20, 2014, meeting of the SC Perpetual Care Cemetery Board adjourned at 12:57 p.m.

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