

MINUTES
South Carolina Perpetual Care Cemetery
Board Meeting

10:00 a.m., Thursday, November 7, 2013
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Thursday, November 7, 2013

1. Meeting Called to Order

J. W. Russ, Chair, of Conway, called the meeting to order at 10:19 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; Mary League, Advice Counsel, Office of Advice Counsel; and, Erin Baldwin, Office of General Counsel.

Members of the public attending the meeting included: Dickie Guerry, CPA, of Hicks Guerry Group; George Dewey Spring, of Lake City Memorial Park; Bill Gaffney, of Mountain View Memorial Park; Tamala Randolph, of StoneMor; Wes Killian, of SCI Corporation; Andy Cone, of Stewart Enterprises; Kim Jaskula, of StoneMor; Dowse Rustin, of Nelson Mullins; Reed Teague, Ward Law Firm; Dwight Neese, of Provident Commerce Bank; Angie Dugick, of Digick Consulting; Hayden Igleheart, of Carolina Memorial Parks; and, Mike Menard, CPA, of Gosnell Menard Robinson CPAs of Spartanburg.

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

There are no absences at this meeting.

4. Approval of Minutes for the August 29, 2013, meetings

The changes are as follows for August 29, 2013:

A. On line 43, it should reflect that Mr. Bartus was absent and excused.

MOTION

Mr. Floyd made a motion the Board approve the minutes of the August 29, 2013 board meeting, with changes. Mr. Riggins 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 stated that Ms. Sharon Wolfe, Ms. Sharon Cook, Mr. Ernest Adams, and Mr Buddy Poole, all from the Office of Investigations and Enforcement, are in a mandatory training class today

Ms. Cubitt informed the Board that Cemetery Equity Solutions (Adam Taylor) has filed the agreed upon procedures; however, there is a problem, and it will be discussed at the next board meeting.

Ms. Cubitt briefly reviewed the financial report with the Board and told them to contract her if they have questions.

Ms. Cubitt informed the Board that LLR sent a letter 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.

7. Agenda change

MOTION

Mr. Floyd made a motion the Board amend the agenda to move number 8, 2012-25 and 2010-26, to be the next item before reports. Mr. Riggins seconded the motion, which carried unanimously.

8. Reports

A. Inspection Report – Doris Cubitt

Ms. Cubitt stated that there were 17 inspections since August 27, 2013.

B. Office of General Counsel (OGC) – Erin Baldwin

Ms. Cubitt reviewed the Office of General Counsel case log for the Cemetery Board and informed them there are currently 14 open cases. She stated that seven cases are pending action; two are pending consent agreement; and, three cases are pending final order. She stated that nine cases have been closed since October 24, 2013, and two are pending appeals.

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

Ms. Cubitt presented the IRC report for September 20, 2013, asking that it be approved with the IRC's recommendations, which are to dismiss case 2013-7 and 2013-8, and issue formal complaints for cases 2013-9, 2013-12, 2013-13, and 2013-14.

MOTION

Mr. Bartus made a motion the Board accept the IRC reports. Mr. Finch seconded the motion, which carried unanimously.

D. OIE Report – Doris Cubitt

Ms. Cubitt presented the OIE report stating that the cases were received from January 1, 2013, through November 7, 2013. There were ten closed cases, two pending board action, and two do not open.

9. Disciplinary Hearing

A. Case No. – 2009-2

Lake City Memorial Park

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

Mr. Guerry is the accountant for Mr. Spring so he spoke on his behalf. Mr. Guerry stated that Mr. Spring contacted him in April or May of 2013 to perform the agreed upon procedures for the cemetery. He stated he wasn't engaged until July 2013 to perform the agreed upon procedures and annual reports.

Executive Session

MOTION

Mr. Floyd 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. Riggins made a motion the Board issue a public reprimand for failure to timely submit agreed upon procedures, reports and documents. The \$1,500 remaining balance of the \$3,000 fine may be waived and stated that future compliance is recommended. Mr. Floyd seconded the motion, which carried unanimously.

B. Case No. – 2010-25

Greenhaven Memorial Gardens

C. Case No. – 2010-26

Heritage Memorial Gardens

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

Ms. Baldwin gave her apologies for being late to the meeting due to the Chiropractic Board hearings.

Mr. Teague is representing Carolina Memorial Parks. He stated that the following people are present to speak to the Board if necessary, Mr. Igleheart, one of the owners of Carolina Memorial Parks; Mr. Rustin, attorney representing Provident Community Bank; Mr. Neese, President of Provident Community Bank; Mr. Menard, CPA, who performed the agreed upon procedures; and, Ms. Dugick.

Mr. Menard stated he walked the cemetery so they could trace the graves with the contracts. He stated that they were unable to trace it in the green book. He stated he doesn't know the official term of the book, but that is what the cemetery owners called it. So they had to go file by file to make sure they were recording all the records so they could complete the agreed upon procedures.

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. Riggins 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. Riggins made a motion that the board sanctions both cemeteries, Greenhaven and Heritage, for admitted violations of the Perpetual Care Cemetery Act, as set forth in the November 2011 order. And pay a civil penalty in the amount of \$250, which shall be paid in full to the Board within sixty (60) days of the receipt of this Order. Mr. Floyd seconded the motion, which carried unanimously.

Lunch Break

MOTION

Mr. Floyd made a motion the Board break for lunch at 11:15 a.m. and reconvene at 12:15 p.m. Mr. Riggins seconded the motion, which carried unanimously.

10. Consent Agreement

OIE Case No. – 2012-19

Roselawn Memorial Gardens

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

The respondent admitted that he failed to treat the cemetery for fire ants. As a result, there were numerous fire ant hills throughout the cemetery.

MOTION

Mr. Floyd made a motion the Board accept the consent agreement to publicly reprimand the perpetual care cemetery's license. Mr. Riggins seconded the motion, which carried unanimously.

Mr. Finch had to leave for an appointment at 2:35 p.m.

11. New Business

Change of Ownership/Control

A. SCI

1. Cannon Memorial Park, Funerals and Cremations – Andrew W. Cone
2. Carolina Memorial Park, Funerals and Cremations – Andrew W. Cone
3. Hillcrest Memorial Park – Andrew W. Cone
4. Oconee Memorial Park – Andrew W. Cone
5. Pineview Memorial Park – Andrew W. Cone
6. Sunset Memorial Gardens – Andrew W. Cone

Mr. Killian stated that his is the market manager for Tennessee and the Carolinas. Mr. Cone stated he is the director of operations and manager of record for the SC cemeteries.

Mr. Killian stated in May 2013, Service Corporation International (SCI) entered into negotiations with Stewart Enterprises, Inc. (SEI) to purchase the corporation which owns six cemeteries.

Mr. Floyd stated that the contracts don't have the required disclosures and stated that the contracts seem to be the Stewart Enterprises contracts. He asked if the cemeteries would begin using SCI contracts. Mr. Killian stated she will get an SCI contract and send it to the Perpetual Care Cemetery Board.

Executive Session

MOTION

Mr. Finch made a motion that the Board enter into executive session for legal advice. Mr. Bartus 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 that the Board approve the cemetery ownership transfer pending a copy of the SCI contract with the proper disclosures, and the consummation of the merger between SEI and SCI with notice of the officers of the corporation. Mr. Bartus seconded the motion, which carried unanimously.

12. Election of Officers

MOTION

Mr. Riggins nominated Mr. Russ for Chairman. Mr. Floyd seconded the motion, which carried unanimously.

Mr. Bartus nominated Mr. Floyd for Vice Chairman. Ms. Petty seconded the motion, which carried unanimously.

Mr. Riggins made a motion the Board close nominations. Mr. Bartus seconded the motion, which carried unanimously.

13. Approval of 2014 Board meeting dates

The Board reviewed the 2014 Board meeting dates as: February 11, 2014, May 20, 2014, August 7, 2014, and November 19, 2014.

Mr. Floyd stated he has a conflict with February 11, 2014. The Board selected January 31, 2014 in its place.

MOTION

Ms. Petty made a motion the Board accept the Board meeting dates as January 31, 2014, May 20, 2014, August 7, 2014, and November 19, 2014. Mr. Floyd seconded the motion, which carried unanimously.

14. Public Comments (No Vote May Be Taken)

No public comments.

15. Adjournment

MOTION

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

The November 7, 2013, meeting of the SC Perpetual Care Cemetery Board adjourned at 3:08 p.m.

The next meeting of the SC Perpetual Care Cemetery Board is scheduled for January 31, 2014.